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U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Department of Justice, Antitrust Division 1401 H Street, NW Suite 4000 Washington, DC 20530 Plaintiff, v. **MANULIFE FINANCIAL CORPORATION** 200 Bloor St. East Toronto, Ontario M4W 1E5, Canada Defendant.	CASE NUMBER 1:04CV00722 JUDGE: Reggie B. Walton DECK TYPE: Antitrust DATE STAMP: 05/03/2004

COMPLAINT

The United States of America, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to obtain civil penalties from the Defendant Manulife Financial Corporation ("Manulife"), alleging as follows:

I. NATURE OF THE ACTION

1. Manulife, a leading Canadian-based insurance and financial services group, failed to comply with the notice and waiting requirements of the Hart-Scott-Rodino Act, before making certain acquisitions of stock issued by its competitor John Hancock Financial Services, Inc. ("John Hancock"), a leading U.S.-based insurer and financial services company, and is liable for a civil penalty.

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II. JURISDICTION AND VENUE

2. The United States files this Complaint and institutes these proceedings under Section 7A of the Clayton Act, 15 U.S.C. § 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("HSR Act" or "the Act"), to recover civil penalties for violations by the Defendant of the Act.

3. This Court has jurisdiction over the Defendant and over the subject matter of this action pursuant to 15 U.S.C. § 18a(g) and 28 U.S.C. §§ 1331, 1337, 1345 and 1355.

4. Venue is proper in this judicial district by virtue of Defendant's consent, in the Stipulation relating hereto, to the maintenance of this action and entry of the Final Judgment in this district.

III. THE DEFENDANT

5. Manulife is, and was at all times relevant to this Complaint, a corporation organized and existing under the laws of Canada, with its principal executive offices in Toronto, Ontario, Canada. The company sells insurance and investment products in the United States through its Manulife USA division.

6. At all times relevant to this Complaint, Manulife had total assets in excess of $100 million.

7. At all times relevant to this Complaint, Manulife was engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12 and Section 7A(a)(1) of the Act, 15 U.S.C. § 18a(a)(1).

IV. NON-PARTY JOHN HANCOCK

8. At all times relevant to this Complaint, John Hancock was a corporation organized under the laws of the State of Delaware, with its principal executive offices located in Boston, Massachusetts.

9. At all times relevant to this Complaint, John Hancock had total assets in excess of $100 million.

10. At all times relevant to this Complaint, John Hancock was engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12 and Section 7A(a)(1) of the Act, 15 U.S.C. § 18a(a)(1).

V. THE HART-SCOTT-RODINO FILING REQUIREMENTS

11. The HSR Act requires certain acquiring persons and certain persons whose voting securities or assets are acquired to file notification with the Department of Justice and the Federal Trade Commission ("federal antitrust agencies") and to observe a waiting period before consummating certain acquisitions of voting securities or assets. 15 U.S.C. § 18a(a) and (b). The notification and waiting period are intended to give the federal antitrust agencies prior notice of, and information about, proposed transactions. The waiting period also is intended to provide the federal antitrust agencies with an opportunity to investigate proposed transactions and to determine whether to seek an injunction to prevent the consummation of transactions that may violate the antitrust laws.

12. The HSR Act requires, *inter alia*, any person with total assets or annual net sales in excess of $100 million who, as a result of an acquisition, would hold an aggregate total

amount of voting securities in excess of $50 million of an issuer with total assets in excess of $10 million to file premerger notification and report forms with the federal antitrust agencies, and to observe the required waiting period before making the acquisition, unless otherwise exempted. 15 U.S.C. § 18a(a)(2)(B).

13. Acquisitions of voting securities are exempt from the filing and waiting requirements of the HSR Act if they are "solely for the purpose of investment" and if the voting securities acquired or held do not exceed 10 percent of the outstanding securities of the issuer. 15 U.S.C. § 18a(c)(9).

14. Any person, or officer, director, or partner thereof, who fails to comply with the Act is liable to the United States for a civil penalty of not more than $11,000 for each day during which such person is in violation of the Act. 15 U.S.C. § 18a(g)(1), *amended by* Pub. L. No. 101-410 (28 U.S.C. § 2461 note), *amended by* § 31001(s), Pub. L. No. 104-134, 110 Stat. 3009 *et seq.* (1996), and Federal Trade Commission Rule 1.98, 16 C.F.R. § 1.98, 61 Fed. Reg. 54,548 (Oct. 21, 1996).

VI. MANULIFE'S ACQUISITIONS OF JOHN HANCOCK VOTING SECURITIES AND VIOLATIONS OF THE HSR ACT

15. As of February 2003 Manulife held approximately 57,292 shares of John Hancock common stock valued at approximately $1.6 million.

16. On March 5, 2003, Manulife commenced open-market purchases of John Hancock common stock.

17. As a result of an acquisition occurring on or before March 24, 2003, Manulife held an aggregate total amount of John Hancock voting securities in excess of $50 million, thereby triggering the HSR Act's filing requirements.

18. Manulife continued to acquire John Hancock voting securities through June 20, 2003, at which point it held around $150 million or approximately 1.5 percent of the stock.

19. Manulife's acquisitions described in paragraphs 17 and 18 required the filing of a premerger notification and report form pursuant to the HSR Act, unless otherwise exempted.

20. Manulife's acquisitions described in paragraphs 17 and 18 were not exempt from the filing and waiting requirements of the HSR Act. At the time it made those acquisitions in the spring of 2003, Manulife was considering a Manulife-John Hancock combination, and its intent was not "solely" for the purpose of investment, as evidenced by several factors, including: (i) the companies were competitors who had previously discussed the possibility of combining in November 2002; (ii) Manulife's CEO contacted John Hancock's CEO regarding a possible business combination in April 2003; (iii) in early July 2003 the CEOs of both Manulife and John Hancock held preliminary conversations regarding a potential business combination, which led to an agreement by the companies to merge that was announced on September 28, 2003; and (iv) the statement by John Hancock's CEO in a September 29, 2003 conference call with investors that the merger agreement with Manulife "was not a sudden engagement."

21. Manulife failed to file a premerger notification and report form with the federal antitrust agencies and failed to observe the statutory waiting period before its acquisitions of John Hancock voting securities described in paragraphs 17 and 18.

22. On September 25, 2003, Manulife made a corrective premerger notification filing with the federal antitrust agencies to cover its previous acquisitions of John Hancock voting securities. The HSR waiting period expired October 27, 2003.

23. Manulife was in continuous violation of the HSR Act during the period beginning on or before March 24, 2003 through October 27, 2003, for a total of at least 218 days.

VII. PRAYER

WHEREFORE, Plaintiff prays:

1. That the Court adjudge and decree that Defendant's acquisitions of voting securities of John Hancock during the period beginning on or before March 24, 2003 through June 20, 2003 were in violation of the HSR Act, 15 U.S.C. § 18a; and that defendant was in violation of the HSR Act each day from on or before March 24, 2003 through October 27, 2003;

2. That the Court order Defendant to pay to the United States an appropriate civil penalty as provided by the HSR Act, 15 U.S.C. § 18a(g)(1), the Debt Collection Improvement Act of 1996, Pub. L. 104-134, § 31001(s) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note), and Federal Trade Commission Rule 1.98, 16 C.F.R. § 1.98, 61 Fed. Reg. 54548 (Oct. 21, 1996);

3. That the Court order such other and further relief as the Court may deem just and proper; and

4. That the Court award the Plaintiff its costs of this suit.

Dated: May 3, 2004.

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CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing COMPLAINT to be served by facsimile this 3rd day of May 2004 upon the party listed below:

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May 3, 2004

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