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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ALUMINIUM BAHRAIN B.S.C,

Plaintiff,

v.

SOJITZ CORPORATION and
SOJITZ CORPORATION OF AMERICA,

Defendants.

Case No. _____

COMPLAINT

Jury Demand

For its Complaint, Plaintiff Aluminium Bahrain B.S.C. (“Plaintiff” or “Alba”) alleges as follows:

NATURE OF THE CASE

This action arises from the fraud perpetrated by Defendants Sojitz Corporation (“Sojitz”) and Sojitz Corporation of America (“SCAmerica”) through a conspiracy of illegal bribery and other criminal acts that allowed Sojitz/SCAmerica to obtain an unfair and anti-competitive advantage in the United States market for aluminum. As part of that scheme, Sojitz and/or SCAmerica (hereinafter, “Sojitz/SCAmerica”) used United States ports to import property fraudulently obtained from Plaintiff into the United States, and the economic benefits obtained from the use of the United States market were a motivation for Sojitz/SCAmerica’s initiation and continuation of the offenses against Plaintiff.

Plaintiff Aluminium Bahrain, B.S.C. (“Alba”) operates the world’s largest modern aluminum smelter, and is principally owned by Bahrain Mumtalakat Holding Co., B.S.C. Defendant Sojitz is a trading company that distributes finished aluminum produced by Alba to end-users. Through a conspiracy involving illegal kickbacks paid by Sojitz to targeted employees and officials of Alba, Sojitz obtained for itself substantial illegitimate discounts on its purchases of Alba aluminum. Those fraudulently obtained discounts took the form of either purchases made at below-market prices or the receipt of so-called “handling fees.” Those discounts and fees either were not authorized by Alba or were authorized unwittingly as the result of fraud.

In exchange for the discounts and fees that Sojitz fraudulently induced, Sojitz bribed the two Alba employees who collaborated with Sojitz in the fraud, by making illegal payments to the bank accounts of offshore entities that the employees beneficially owned. Sojitz and the two

Alba employees thus both profited economically from the unlawful discounts and fees acquired by Sojitz, at Alba's expense. In order to maximize those economic gains, to compound Alba's losses, and to economically fuel continuation of the fraud, Sojitz/SCAmerica imported and sold the fraudulently obtained aluminum in the United States at artificially low prices, enhancing its own position in the United States market while distorting the United States aluminum market and harming competition.

The fraudulent kickback scheme spanned a period of approximately thirteen years, from 1993 through at least the first quarter of 2006. During that time, Sojitz paid more than \$14.8 million to Alba's two employees. By illegally obtaining unauthorized discounted prices and fees, and by paying kickbacks to Alba's former sales and marketing officials, Sojitz/SCAmerica caused millions of dollars in losses to Alba. Among other things, Plaintiff seeks compensatory damages in excess of \$31 million, plus punitive damages, interest, capital costs, and costs and fees, for this massive and long-running fraud.

JURISDICTION AND VENUE

1. The Court has subject matter jurisdiction because Plaintiff's claims arise under the laws of the United States. 28 U.S.C. § 1331.
2. The Court has general personal jurisdiction over Defendant SCAmerica because SCAmerica maintains an office in Houston, is registered to do business in Texas, and maintains regular, continuous, and systematic contacts with the Southern District of Texas.
3. The Court has general personal jurisdiction over Defendant Sojitz pursuant to Fed. R. Civ. P. 4(k)(1)(A) because Sojitz maintains regular, continuous, and systematic contacts with Texas:

- a. SCAmerica, a wholly-owned subsidiary and agent and/or alter ego of Defendant Sojitz, has a branch office in Houston and maintains regular, continuous, and systematic contacts with the Southern District of Texas.
- b. SCAmerica functions as a branch or “principal operating base” through which Sojitz operates in the United States.
- c. SCAmerica is financially dependent on Sojitz.
- d. SCAmerica acts as Sojitz’s agent in Texas and throughout the United States.
- e. The activities in which SCAmerica is engaged on Sojitz’s behalf are sufficiently important to Sojitz’s operations that, but for the existence of SCAmerica, Sojitz would have to undertake those activities itself.
- f. SCAmerica exists solely to serve as the United States importer and distributor of the products that Sojitz buys and sells around the world, including aluminum, and to otherwise serve Sojitz’s business exclusively.
- g. Sojitz exercises pervasive control over SCAmerica, such that SCAmerica is a “mere department” of Sojitz.
- h. Sojitz employees and officers are involved in the daily management of SCAmerica and otherwise exercise control over SCAmerica. Sojitz’s employees are placed at the highest levels of management in SCAmerica, including “rotational” staff from Sojitz in Japan that work at SCA for a term of years.
- i. The Chief Executive Officer and Chief Financial Officer of SCAmerica also serve as executive officers of Defendant Sojitz.

j. Sojitz purposefully chose Houston as the location for an SCAmerica branch because that location served Sojitz's business interests.

k. SCAmerica has six additional offices in the United States – in New York, Washington, D.C., Detroit, Los Angeles, Seattle, and Portland, Oregon – and SCAmerica's annual sales are approximately \$7.5 billion.

l. SCAmerica has engaged lobbyists in New York, Chicago, and Washington, D.C. to represent its interests and Sojitz's interests in the United States.

m. In sum, SCAmerica constitutes Sojitz's substantial and continuous corporate presence in Texas and is permanently dedicated to promoting Sojitz's interests, such that SCAmerica should be considered the alter ego and/or agent of Defendant Sojitz.

n. Through SCAmerica, Sojitz continuously and permanently does business in the Southern District of Texas and throughout the United States and is subject to this court's personal jurisdiction.

4. This Court also has personal jurisdiction over Sojitz pursuant to 18 U.S.C. § 1965(d), because Sojitz transacts business affairs, resides, and may be "found" in this judicial district through the presence of its alter ego and/or agent and wholly-owned subsidiary, SCAmerica, which carries on business here on Sojitz's behalf, and Sojitz transacts business affairs and may be found in the United States.

5. In the alternative, this Court has general personal jurisdiction over Defendant Sojitz pursuant to Fed. R. Civ. P. 4(k)(2), because Sojitz maintains regular, continuous and systematic contacts with the United States and Sojitz is not subject to the jurisdiction of any state's courts of general jurisdiction:

a. In addition to the contacts set forth above, Defendant Sojitz supplied substantial quantities of aluminum, which Sojitz had purchased from Alba, including those at issue here that were obtained through illegitimate and fraudulent means, to companies within the United States including, without limitation, Enron. Such companies in turn distributed the aluminum throughout the United States.

b. Defendant Sojitz sold finished aluminum in the form of billet and ingot, produced by Alba, to numerous customers in the United States including, without limitation, Hunter Douglas and Hydro Aluminum, and imported that aluminum into Houston and other ports including, without limitation, Galveston, Texas; Baltimore, Maryland; Long Beach, California; Los Angeles, California; Mobile, Alabama; Savannah, Georgia; Miami, Florida; and New Orleans, Louisiana. During the period between June 2000 and December 2002, nearly 10 percent of the total aluminum worldwide that Sojitz purchased from Alba was shipped to Houston.

c. As part of its fraudulent scheme, Sojitz made its payments to the two Alba employees' offshore entities in U.S. dollars and by wire transfers made through Chase Manhattan Bank in New York, a correspondent account at HSBC Bank in New York, and, upon information and belief, other United States banks.

d. Defendant Sojitz has been a member of the Chicago Board of Trade since 2004.

e. Defendant Sojitz enjoyed more than \$1.31 billion in net sales in North America during the fiscal year ending March 31, 2009 and derives substantial revenue from United States commerce. While the fraud was ongoing, Sojitz's net sales in North America were approximately \$4.14 billion in FY2006, \$4.32 billion in FY2005, and \$8.18 billion in FY2004.

Sojitz's total trading transactions in North America were approximately \$7.26 billion in FY2003, \$7.21 billion in FY2002, \$7.42 billion in FY2001, \$10.73 billion in FY2000, \$10.49 billion in FY1999, and \$14.57 billion in FY1998.

f. Sojitz's predecessor, Nissho Iwai, has been a party to civil suits in this jurisdiction and in other state and federal jurisdictions in the United States on previous occasions.

g. Upon information and belief, Sojitz's fraudulent conduct caused injury in the United States by artificially depressing market prices in the United States for the sale of aluminum to domestic end-users. In particular, the fraudulent discounts and fees that Sojitz exacted allowed Sojitz to compete illegally and anti-competitively in the United States marketplace by reducing prices without abandoning its profit margin. Aluminum smelters and trading companies in the United States were injured as a result of Sojitz's unfair methods of competition.

h. On information and belief, Sojitz targeted the United States aluminum market to maximize the financial benefit that Sojitz derived from defrauding Alba. That financial benefit and prospect of financial gain (which Sojitz actually realized) was an inducement to Sojitz to initiate and to perpetuate for thirteen years its fraud against Alba.

i. Sojitz used United States channels of commerce and means of communication to perpetrate and conceal the fraudulent scheme described below and thereby to inflict harm directly on Alba.

j. Sojitz should reasonably have expected its fraudulent acts to have economic consequences in the United States and, in fact, intended and desired such effects.

6. There are two sources of venue in this Court:

a. Plaintiff Alba asserts claims under Chapter 96 of Title 18 of the United States Code (RICO), and Sojitz transacts business affairs, resides, and may be “found” in this judicial district through the presence of its alter ego and/or agent and wholly-owned subsidiary, SCAmerica, which carries on business here on Sojitz’s behalf. 18 U.S.C. § 1965(a).

b. Defendant Sojitz is an alien and may be sued in any district. 28 U.S.C. § 1391(d).

THE PARTIES

7. The Plaintiff, Alba, is a stock company organized under the laws of the Kingdom of Bahrain, with its principal place of business in Manama, Kingdom of Bahrain.

8. Alba’s majority shareholder is Bahrain Mumtalakat Holding Company, which holds a 77 percent interest in the company and which is entirely owned by the Government of Bahrain. The remaining shareholders are SABIC Industrial Investments and Breton Investments.

9. Defendant Sojitz Corporation is a Japanese corporation with its principal place of business at 1-20, Akasaka 6-chome, Minato-ku, Tokyo 107-8655, Japan.

10. Defendant Sojitz Corporation of America is a wholly-owned subsidiary of Sojitz that is incorporated in New York, has its principal place of business at 1211 Avenue of the Americas, 44th Floor, New York, NY 10036, is registered to do business in Texas, and maintains a branch office at Three Riverway, Suite 800, Houston, Texas 77056.

11. The Sojitz Group was essentially formed through the business integration between Nichimen Corporation and Nissho Iwai Corporation, two companies with over a century of history. The principal operating arms of the Group, Nichimen Corporation and Nissho Iwai Corporation, were merged to form a new single entity, Sojitz Corporation, on April 1, 2004. On the same date, in the United States, the United States subsidiaries of these companies also

merged to form Sojitz Corporation of America. Upon information and belief, all assets and liabilities of Nichimen Corporation and Nissho Iwai Corporation at the time of the merger passed to Sojitz, and all assets and liabilities of Nichimen America Inc. and Nissho Iwai American Corporation passed to SCAmerica.

12. Nissho Iwai was first established in the United States in 1952 as The Nissho American Corporation.

13. Defendant Sojitz has had regular, continuous, and ongoing contacts through its operation of “principal operating bases” and subsidiaries in the United States, its shipment of aluminum throughout the United States, its use of United States banks and instruments of commerce to facilitate its fraud, and its position as a member of the Chicago Board of Trade. Sojitz used its position and presence in the United States to sell aluminum at fraudulently discounted prices in the United States marketplace, to artificially distort and enhance its own position in and economic gain from the United States aluminum market, to harm competition in the United States, and thereby to increase Sojitz’s own economic benefit at Alba’s expense by inducing, rewarding, and perpetuating the fraud against Alba.

NON-PARTIES INVOLVED IN SOJITZ’S SCHEME

14. Hussain Al Ali (“Al Ali”) served as Marketing Manager of Alba from June 1999 to February 2002. Al Ali has been the subject of an extensive criminal investigation and prosecution by law enforcement authorities in the Kingdom of Bahrain.

15. Khalid Noor (“Noor”) served as Sales Manager of Alba from June 1999 to February 2002 and as Marketing Manager of Alba from February 2002 to September 2007. Noor has been the subject of an extensive criminal investigation and prosecution by law enforcement authorities in the Kingdom of Bahrain.

FACTUAL ALLEGATIONS

16. Plaintiff Alba operates the world's largest modern aluminum smelter.
17. Alba's marketing strategy supports the local economy by maximizing sales of aluminum to local Bahraini and Gulf Cooperation Council companies.
18. Until December 2005, the remainder of Alba's output was sold primarily to international export trading companies located in Asia and Europe.
19. The trading companies, including Sojitz, then sold the aluminum to end-users in the United States and elsewhere for a profit.
20. Alba's most common aluminum products are ingots, billet, liquid metal, and wheel alloy.
21. Defendant Sojitz, its predecessor Nissho Iwai, and its affiliated companies were among the principal customers of Alba.
22. This case arises from the conspiracy of Sojitz, Al Ali, Noor, and other co-conspirators to defraud Plaintiff Alba by obtaining unauthorized discounts and handling fees from Alba in exchange for substantial cash kickbacks paid by Sojitz to the two Alba employees, Al Ali and Noor. That fraud directly caused substantial economic loss to Alba and distorted the market price for aluminum sold in the United States. Sojitz's resultant financial gain from that harm was incentive to initiate and perpetuate the fraud against Alba.
23. Sojitz furthered the scheme through a series of bribes illegally paid to Al Ali and Noor in order to receive and to continue receiving discounts on premium prices.
24. Defendant Sojitz acted individually and in concert with Al Ali and Noor to defraud Alba. Alba has been directly damaged by this conduct.

25. Sojitz deprived Alba of the honest services of its officials, namely Al Ali and Noor.

26. As the alter ego and/or agent of Sojitz in the United States, SCAmerica, upon information and belief, played a critical role in the fraudulent scheme against Alba in that Sojitz used SCAmerica to facilitate the importation of the fraudulently discounted aluminum into the United States and to place it into the United States market. Accordingly, SCAmerica is jointly and severally liable with Sojitz for the conduct described herein.

27. Sojitz's scheme to defraud Alba began in or around 1993 and continued through at least January 2006.

28. Sojitz's scheme was not discovered by Alba until nearly two years later, and fraudulent concealment by Sojitz and affiliated individuals caused Alba's delayed discovery.

29. Fraudulent concealment further prevented Alba from discovering Sojitz's scheme involving the United States marketplace and the role that marketplace played in incentivizing Alba's injuries until in or about August 2008.

30. Sojitz's concealment of the scheme made it impossible for Alba to learn critically relevant details of many of Sojitz's unlawful acts.

Alba's Sales and Marketing Structure and Sojitz's Agreements to Defraud Alba, 1993-1999

31. Prior to June 1999, marketing and sales functions were carried out on Alba's behalf by the Bahrain Saudi Aluminium Marketing Company ("Balco").

32. Balco was a joint venture between the Government of Bahrain and SABIC Industrial Investments and was operated independently of Alba.

33. Al Ali served as Manager of Sales for Balco and Khalid Noor served as his sales assistant.

34. During the period from 1993 to 1998, Balco directed an average of approximately 50 percent of sales to a group of international traders that included Sojitz.

35. Balco had full control over cash profits from the sale of aluminum. Balco marketed and sold aluminum produced by Alba and deposited net cash from sales into a shareholders' account. Alba would make a "cash call" to the shareholders requesting disbursements at a fixed transfer price to cover the cost of production.

36. Sales to traders became increasingly concentrated, as the number of traders declined from sixteen in 1997 to five in 2003.

37. On or about June 19, 1999, Balco was liquidated and Balco's operations were transferred to a newly formed entity called Alba Marketing. Al Ali became Marketing Manager, and a Marketing and Hedging Committee was formed to oversee Alba Marketing.

38. The Marketing Manager was responsible for recommending and implementing the sales price of aluminum.

39. All requests with regards to sales and pricing were to be submitted to the Marketing Manager for approval by the Marketing and Hedging Committee.

40. Typically, Alba calculates the sale price of aluminum by adding a premium payment to the London Metal Exchange ("LME") cash settlement price on a given date.

41. LME prices are determined by LME broker members that execute buy and sell orders for their global clients. The last prices bid and offered at the close of a particular session each day are used to determine the LME settlement price for that day.

42. The premium is then based on three primary components: (1) the type of aluminum product, (2) the delivery destination, and (3) the payment terms.

43. This fluid nature of aluminum prices enabled Sojitz to conspire with Al Ali and Noor to obtain a discounted price without Alba's knowledge or authorization.

Fixed Premium Contracts, 1999-2002

44. Between March and May 1999, Kimikazu Mitsuya, a former officer of Sojitz (Nissho Iwai), negotiated a sales agreement with Alba that provided for a total allocation of 144,000 metric tons of aluminum to Sojitz for three years from 2000 to 2002. The agreement stated that the premium would be negotiated on a quarterly or annual basis.

45. On or about July 4, 1999, the Alba Marketing Committee held its inaugural meeting.

46. At that meeting, the Committee approved the three-year agreement with Sojitz.

47. All sales contracts between Alba and Sojitz from mid-1999 to 2002 stated that the terms of the contracts, including the premium price, had been agreed upon in facsimiles between Alba and Sojitz in April and July 1999.

48. Members of the Marketing Committee, who were not part of the conspiracy to defraud Alba, did not approve discounts for Sojitz and never saw the documents evidencing the proposed or actual discounts to be provided to Sojitz.

49. The Marketing Committee was responsible for reviewing product premiums and should have been informed about and approved any discount to the premium.

50. On or about July 12, 1999, Al Ali sent confirmation of the three-year agreement to Sojitz via facsimile addressed to Kimikazu Mitsuya.

51. Throughout the duration of the three-year agreement, Sojitz continued to buy aluminum from Alba at artificially discounted prices that were set by Al Ali and Noor.

52. The premiums that Sojitz paid for billet and ingot were, on average between 1999 and 2002, approximately \$38 and \$18 lower per metric ton, respectively, than Alba's standard market rates.

53. In exchange for the favorable discount awarded to Sojitz, Sojitz paid a "fee" to the offshore bank accounts of entities beneficially owned by Al Ali and Noor.

54. Upon information and belief, Al Ali and Noor received approximately 44 percent of the discount, through the "fee" – actually a kickback – paid by Sojitz, and Sojitz retained approximately 56 percent of the discount.

55. There was no legitimate business reason for the "fee" that Sojitz paid to the accounts for the offshore entities. Instead, the "fee" was part of a scheme to bribe employees and senior officials of Alba to provide Sojitz discounted prices that, *inter alia*, would increase Sojitz's market strength in the United States at Alba's expense and harm.

56. There was also no legitimate business reason for the discount that Sojitz received.

57. Sojitz's conduct in paying bribes to receive an illegitimate discount on aluminum sold in the United States marketplace substantially affected interstate commerce and foreign commerce with the United States.

58. Sojitz transferred bribe payments through United States financial institutions and imported a substantial portion of the fraudulently obtained aluminum into Houston, Texas and other locations in the United States.

59. Upon information and belief, the discount that Sojitz received allowed Sojitz to sell aluminum to end-users in the United States at artificially low prices, and to thereby realize a superior profit margin and position in the United States aluminum market than Sojitz would have received had Sojitz purchased and sold the aluminum at fair market prices.

60. Upon information and belief, Sojitz intended to affect the United States marketplace and benefit by its resale of discounted aluminum there.

61. Upon information and belief, Sojitz's sales in the United States directly furthered Sojitz's scheme and gave rise to the losses suffered by Alba.

Marketing Alliance Agreements, 2002-2005

62. In early 2002, the co-conspirators revised the discount-for-“fee” arrangement between Sojitz and Alba's marketing manager.

63. In or about February 2002, Sojitz drafted a presentation to the Marketing Committee that promoted a strategic alliance between Sojitz and other traders relating to exporting aluminum.

64. Subsequent negotiations involving Sojitz and other traders resulted in the establishment of a “Marketing Alliance.”

65. On or about April 24, 2002, the Marketing Committee approved implementation of a Marketing Alliance Agreement between Alba and Sojitz, to be effective through December 2005.

66. The Marketing Alliance Agreement provided that Sojitz would perform various marketing services for Alba, including providing market data about end-users, developing markets for new products, and cultivating the Alba brand name.

67. In exchange, Sojitz and the other traders would receive all of Alba's export allocation, and Alba would pay Sojitz a “handling fee” equal to \$18/mt.

68. Alba paid the “handling fee” on the false representation that Sojitz had performed under the Marketing Alliance Agreement, when in fact Sojitz had not performed.

69. There was no legitimate business reason for the “handling fee” that Sojitz obtained, and Alba’s unwitting agreement to pay the handling fee was obtained through fraud. Alba received no benefit in return for the handling fee. Instead, the handling fee was part of the scheme to defraud Alba.

70. Alba was unaware that Sojitz was paying bribes to Alba officials to obtain a discount on aluminum. The approval of the Marketing Committee was obtained through Sojitz’s fraudulent representations that Sojitz had earned the fee by providing services to Alba.

71. In addition to the handling fee, Sojitz continued to receive an unauthorized discount to the market premium of between \$20/mt and \$25/mt.

72. Sojitz also received, through its fraud, preferential payment terms under the Marketing Alliance Agreement. Previous agreements had provided for payment upon delivery and required a premium payment of \$10/mt if Sojitz required an extension to the payment term. The Marketing Alliance Agreement awarded the 30-day extension to Sojitz at no cost. Alba’s agreement to this change, through the Marketing Committee, was obtained through the co-conspirators’ fraudulent representations that such terms were warranted.

73. In exchange for the handling fee, discount, and preferential terms, Sojitz continued to pay bribes into the offshore bank accounts beneficially owned by Al Ali and Noor.

74. On or about October 20, 2004, the handling fee was adjusted to \$8/mt for ingots, \$15/mt for billet and \$12/mt for wheel alloy.

75. Officials of Sojitz attended meetings during the period between 2002 and 2005 with members of Alba Marketing to discuss aluminum allocation and premiums.

76. Sojitz’s conduct in paying bribes to obtain the handling fee substantially affected interstate and foreign commerce.

77. Sojitz/SCAmerica shipped, on average, approximately 20 percent of the aluminum allocation that Sojitz received from Alba to the United States.

78. Upon information and belief, the handling fee that Sojitz received allowed Sojitz/SCAmerica to sell aluminum to end-users in the United States at artificially low prices, and to thereby realize superior profit margins to those Sojitz/SCAmerica would have received had Sojitz/SCAmerica purchased and sold the aluminum at market prices.

79. Upon information and belief, aluminum smelters and trading companies in the United States were injured as a result of Sojitz's/SCAmerica's unfair methods of competition, as were other companies who purchased from Alba at the standard market price and sold the aluminum in the United States.

80. Upon information and belief, Sojitz's/SCAmerica's sales in the United States motivated and furthered Sojitz's scheme, caused Sojitz to continue its relationship with Al Ali and Noor, and thereby caused Plaintiff to suffer ongoing losses for at least thirteen years.

81. Upon information and belief, Sojitz made bribe payments to Al Ali and Noor through United States banks in order to complete and conceal the fraudulent scheme against Alba.

Sojitz's Unlawful Payments and Alba's Losses

82. Between 1993 and 2005, Sojitz, through two predecessor entities, paid at least \$14.8 million to offshore accounts beneficially owned by Al Ali and Noor.

83. Between 1993 and 1996, Sojitz companies made bribe payments to unknown accounts for the benefit of Al Ali and Noor.

84. Nissho Iwai Deutschland GmbH ("Nissho Iwai Germany") made payments into accounts for an offshore entity, Fleming Bay Limited, between January 1999 and May 2001.

See, e.g., Exhibit A (representative account statement for Fleming Bay Limited evidencing transfers from Nissho Iwai).

85. Al Ali and Noor beneficially owned and controlled Fleming Bay Limited.

a. Fleming Bay Limited was registered in the British Virgin Islands on or about September 28, 1998.

b. A fiduciary agent of Al Ali established a Liechtenstein-registered foundation, the Cadogan Foundation, for Al Ali. The Cadogan Foundation, in turn, owned Fleming Bay Limited.

86. Fleming Bay Limited held accounts at Credit Suisse in Zurich and LGT Bank in Liechtenstein, and Nissho Iwai Germany caused substantial amounts to be transferred into these accounts. These payments were made in U.S. dollars and at least some of the bribe payments were intentionally wired through United States banks as part of the fraudulent scheme.

87. Nissho Iwai Europe plc (“Nissho Iwai Europe”) made payments into accounts for an offshore entity, Sterling Trading Company Limited, every month from December 1998 to March 2002, with the exception of July 2001. *See, e.g.*, Exhibit B (representative account statement for Sterling Trading Company Limited evidencing transfers from Nissho Iwai).

88. Al Ali and Noor controlled Sterling Trading Company Limited.

a. Sterling Trading Company Limited was registered in the Bahamas on or about October 23, 1998.

b. The Cadogan Foundation also owned Sterling Trading Company Limited.

89. Sterling Trading Company Limited held accounts at Credit Suisse in Zurich and LGT Bank in Liechtenstein, and Nissho Iwai Europe caused money to be transferred into these

accounts. These payments were made in U.S. dollars and some of the transfers were wired through United States banks as part of the fraudulent scheme.

90. Sterling Trading Company Limited also held a bank account denominated in U.S. dollars at Barclay's Bank Plc. in London, and Nissho Iwai Europe made kickback payments into this account during 1997 and 1998. These payments were made in U.S. dollars and, upon information and belief, at least some of the transfers were wired through United States banks as part of the fraudulent scheme.

91. Nissho Iwai also made payments into the accounts for other offshore companies beneficially owned by Al Ali or Noor, including Aluinvest Europe Limited.

92. Sojitz made kickback payments in U.S. dollars to Aluinvest Europe Limited by transferring money through a correspondent account at HSBC Bank USA in New York between 2002 and 2005.

93. Payments by Sojitz companies to entities beneficially owned by Al Ali and Noor continued through at least January 2006.

94. Sojitz wired payments to the offshore entities' bank accounts in U.S. dollars.

95. Such payments were transferred through Chase Manhattan Bank and other banks in the United States.

96. Sojitz knew that payments were transferred through United States banks and were made to offshore entities as part of the fraudulent scheme and in order to conceal the scheme from Alba.

97. Al Ali and Noor, in turn, transferred proceeds from the kickback payments to the accounts of the Cadogan Foundation and other offshore companies, and also invested proceeds in real estate projects, including a ski resort in Bludan, Syria.

98. Through the payments that Sojitz made to the offshore companies, Sojitz shared its excess profits, which were earned fraudulently as a result of the discount, with Al Ali and Noor.

99. Documents recovered from the computer of Al Ali summarize the scheme involving Sojitz and the sales and marketing employees. These documents calculate the fees and discounts under several different scenarios. As notes in some of the documents indicate, for the customers to pay a particular fee, “they require an equivalent amount for themselves.” *See* Exhibit C.

100. Alba had no knowledge of Al Ali and Noor’s scheme and received no fees from Sojitz.

101. Alba never authorized the discounts that Sojitz received.

102. Alba never saw or received the documents that detailed the discounts provided to Sojitz and the fees paid therefor.

103. Some of the documents that were recovered from Al Ali’s computer included a calculation of the loss to Alba that would result from the “fee”-for-discount scheme.

Co-Conspirators’ United States Conduct, and the United States Effects of Sojitz’s Scheme

104. Conduct material to the fraud against Alba occurred in the United States.

105. Sojitz/SCAmerica deliberately took advantage of the United States aluminum market and banking system in order to carry out the fraud and to maximize Sojitz/SCAmerica’s own economic gain at Alba’s expense and to encourage and reward continuation of the fraud.

106. Sojitz’s/SCAmerica’s conduct in the United States both directly contributed to Alba’s injury and instigated further injury to Alba.

107. Sojitz/SCAmerica imported a substantial portion of the fraudulently discounted aluminum into Houston and other locations in the United States. *See* Exhibit D (representative sales contracts evidencing deliveries of aluminum to Houston and other United States cities).

108. Upon information and belief, Sojitz's alter ego and/or agent, SCAmerica, played a significant role in the scheme in that Sojitz used SCAmerica to, among other things, assist with importing the fraudulently obtained aluminum into the United States marketplace.

109. Sojitz and its co-conspirators used United States banks to transfer the fraudulent payments that were a central part of the scheme and to launder money in order to conceal the scheme.

110. Sojitz made kickback payments in U.S. dollars to the offshore entities beneficially owned by Al Ali and Noor by wire transfer through United States banks, including Chase Manhattan Bank, Aluinvest's correspondent account at HSBC Bank USA, and, upon information and belief, other United States banks. *See* Exhibit E (representative bank record showing payment by Nissho Iwai through Chase Manhattan Bank to the account of Sterling Trading Company Limited). Such payments were central to the fraud and the bribery scheme. But for the illegal payments, Al Ali and Noor would not have allowed Sojitz to continue to receive the unauthorized discounted prices, preferential terms, and handling fees that harmed Alba.

111. The wire transfers through United States banks caused money to which Alba was rightfully entitled to be diverted to Al Ali and Noor, thereby injuring Alba.

112. Sojitz, Al Ali, and Noor used the United States wire transfers as a means to further conceal the scheme from Alba.

113. Sojitz's/SCAmerica's conduct in selling the fraudulently obtained aluminum in the United States market was also a key part of the fraudulent scheme, as described in greater detail below.

114. Upon information and belief, Sojitz's conduct in the United States was part of a systematic pattern of doing business with and in the United States and caused similar, repeated, and substantial effects on the United States market and Alba.

115. Sojitz's/SCAmerica's activities substantially affected interstate and foreign commerce and directly affected United States imports and the United States aluminum market.

116. The United States is the world's largest importer of aluminum and the second largest purchaser of aluminum, consuming approximately 34 percent of total aluminum globally.

117. Upon information and belief, the unlawful discount that Sojitz/SCAmerica received enabled Sojitz/SCAmerica to sell aluminum to end-users in the United States at artificially low prices, without suffering a loss in profit. Sojitz/SCAmerica thereby enjoyed superior profit margins as compared to other trading companies because of the "fee"-for-discount scheme.

118. Although some end-users may have benefitted from Sojitz's/SCAmerica's below-market priced aluminum, competitors of Sojitz/SCAmerica in the United States were injured by the fraud. Upon information and belief, injuries occurred in the form of both (a) lost sales and (b) lost profits on sales that were made at a lower price in order to compete with Sojitz/SCAmerica.

119. Upon information and belief, Sojitz intended its "fee"-for-discount scheme to affect United States commerce and imports.

120. Such effects on the United States and international markets were inevitable, given the nature of the aluminum industry, Alba's business, and the export trading business.

121. Upon information and belief, the effects on United States commerce and the losses suffered by Plaintiff were interdependent components of a conspiracy by Sojitz, SCAmerica, Al Ali, Noor, and others to benefit at Alba's expense and to exploit Alba economically in order to strengthen Sojitz's/SCAmerica's economic position in the United States marketplace.

122. Upon information and belief, Sojitz's/SCAmerica's sales of lower priced and fraudulently obtained aluminum in the United States marketplace, and the profit margin that Sojitz thereby enjoyed, caused Sojitz to initiate and to continue the conspiracy and Alba to suffer losses. In such manner, strengthening Sojitz's/SCAmerica's position in the United States marketplace was a key and essential part of the scheme to harm Alba.

123. Sojitz's/SCAmerica's manipulation of the United States market thereby increased Sojitz's benefit while compounding Alba's injury.

FIRST CLAIM
(Federal Civil RICO, 18 U.S.C. § 1962(c))

124. Plaintiff Alba incorporates by reference all the preceding paragraphs of this Complaint as if set forth, in full, herein.

125. Defendants Sojitz and SCAmerica are both "persons" capable of holding a legal or beneficial interest in property within the meaning of 18 U.S.C. § 1961(3).

126. Defendants Sojitz/SCAmerica violated 18 U.S.C. § 1962(c) by the acts described in the prior paragraphs, and as further described below.

127. The Enterprise. Defendants Sojitz/SCAmerica, together with (1) Al Ali, (2) Noor, and (3) one or more former officers and former directors of Alba, form an association-in-fact for

the common and continuing purpose described herein and constitute an enterprise within the meaning of 18 U.S.C. § 1961(4). The members of the enterprise functioned as a continuing unit with an ascertainable structure separate and distinct from that of the conduct of the pattern of racketeering activity. There may also be other members of the enterprise who are unknown at this time.

128. The enterprise has engaged in, and its activities have affected, foreign and interstate commerce.

129. Pattern of Racketeering Activity. Defendants Sojitz/SCAmerica are associated with the enterprise and did knowingly, willfully and unlawfully conduct or participate, directly or indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5), and 1962(c). The racketeering activity was made possible by Sojitz's/SCAmerica's regular and repeated use of the facilities and services of the enterprise. Defendants Sojitz/SCAmerica had the specific intent to engage in the substantive RICO violations alleged herein.

130. Predicate acts of racketeering activity are acts that are indictable under provisions of the United States Code enumerated in 18 U.S.C. § 1961(1)(B), as more specifically alleged below. Defendants Sojitz/SCAmerica committed at least two such acts and/or aided and abetted such acts.

131. The acts of racketeering were not isolated. Rather, the acts were related in that they had the same or similar purpose and result, participants, victims and method of commission. Further, the acts of racketeering by Defendants have been continuous. Sojitz/SCAmerica and their co-conspirators engaged in repeated conduct since approximately 1993 through at least the beginning of 2006.

132. The association-in-fact enterprise, as alleged herein, was not limited to the predicate acts and extended beyond the racketeering activity. Rather, the enterprise existed separate and apart from the pattern of racketeering activity for the legitimate business purpose of supplying billet, ingots, and other products to Sojitz/SCAmerica. Sojitz/SCAmerica had and has, upon information and belief, legitimate business plans outside of the pattern of racketeering activity.

133. Alba specifically alleges that Defendants Sojitz/SCAmerica participated in the operation and management of the association-in-fact enterprise by overseeing and coordinating the commission of multiple acts of racketeering as described below.

134. Predicate Act: Use of Mails and Wires to Defraud Alba in Violation of 18 U.S.C. §§ 1341, 1343 and 1346. Sojitz/SCAmerica committed acts constituting indictable offenses under 18 U.S.C. § 1341 and § 1343 in that Sojitz/SCAmerica, together with Al Ali and Noor, devised or intended to devise a scheme or artifice to defraud Alba, to obtain money from Alba by means of false or fraudulent pretenses, representations or promises, to deprive Alba of the intangible right of honest services in violation of 18 U.S.C. § 1346, and to fraudulently obtain an advantageous position in the United States marketplace and thereby to maximize Sojitz's benefit and Alba's injury. For the purpose of executing the scheme or artifice, upon information and belief, Sojitz/SCAmerica caused delivery of various documents and things by the United States mails or by private or commercial interstate carriers, or received such therefrom. Sojitz/SCAmerica also transmitted or caused to be transmitted by means of wire communications in interstate or foreign commerce various writings, signs and signals. The acts of Sojitz/SCAmerica set forth above were done with knowledge that the use of the mails or wires would follow in the ordinary course of business, or that such use could have been foreseen, even

if not actually intended. These acts were done intentionally and knowingly with the specific intent to advance Sojitz's scheme or artifice to injure Alba and to promote Sojitz's/SCAmerica's economic gain.

135. Co-conspirators Al Ali and Noor, as officials of Alba, owed Alba duties of loyalty and of honest services, including an obligation to refrain from (a) acting on behalf of a party whose interests are adverse to Alba or (b) otherwise acting against Alba's interests.

136. The misrepresentations made in furtherance of the scheme defrauded Alba (a) of its legal right to the honest services and loyalty of Al Ali and Noor, instead causing Al Ali and Noor to act in their own and in Sojitz's interests and directly against Alba's interests, and (b) of significant amounts of money and property.

137. Sojitz/SCAmerica carried out the scheme using, and could not have done so unless Sojitz used, the United States mails or private or commercial interstate carriers or interstate wires. In furtherance of the scheme alleged herein, Defendants Sojitz/SCAmerica communicated with co-conspirators Al Ali and Noor, communicated with United States customers to arrange the purchase and shipment of its corruptly discounted aluminum, and made payments to Al Ali and Noor in U.S. dollars through United States banks. These communications were typically transmitted by wire (*i.e.*, electronically).

138. Upon information and belief, Sojitz/SCAmerica used the United States' mails and interstate wires to communicate with its United States aluminum customers and to facilitate importation, shipment, purchase and sale of the fraudulently obtained aluminum. Such communications were essential to carrying out the scheme to defraud Alba.

139. For example, in or about October 2000, Ryota Kusaka, a member of Nissho Iwai's raw materials section, exchanged e-mails with customer Hydro Aluminum regarding the

companies' 2001 contract. Mr. Kusaka and Mr. Noor subsequently exchanged e-mails setting the premium charges for shipments to the United States during the first half of 2001.

140. Such communications corruptly and illegally set discounted prices, arranged for shipment of the discounted aluminum into the United States, and thereby furthered the fraudulent scheme.

141. Defendant Sojitz also caused payments to be transmitted by wire through United States bank accounts to the offshore bank accounts beneficially owned by one or more former employees of Alba.

142. By way of example, on or about December 6, 1999, Nissho Iwai Europe transferred by wire from Chase Manhattan Bank the sum of \$77,634.68 to LGT Bank in Liechtenstein for the benefit of Sterling Trading Company Limited.

143. Sojitz made hundreds of other United States wire transfers that were denominated in U.S. dollars to the accounts of the offshore entities.

144. These payments in U.S. dollars were intentionally sent by wire through United States banks before they reached the accounts of the offshore entities.

145. Upon information and belief, Defendant Sojitz also communicated by wire and/or United States mail or private or commercial carriers to facilitate the payment of bribes to one or more employees of Alba.

146. Sojitz/SCAmerica also shipped the fraudulently obtained aluminum by private or commercial interstate carrier to end-users throughout the United States.

147. Sojitz's/SCAmerica's objective, which was shared with Al Ali and Noor, was and is to divert funds from Alba to Sojitz's/SCAmerica's own economic benefit, to deprive Alba of the right to honest services of its officials, to facilitate the payment of bribes in an effort to

defraud Alba, to conceal the scheme from Alba, and thereby to promote Sojitz's/SCAmerica's own economic agenda in, *inter alia*, the United States aluminum marketplace.

148. Upon information and belief, Sojitz's/SCAmerica's interrelated objective was and is to affect United States imports and to gain a competitive advantage in the United States marketplace by its fraudulent activities with respect to Alba.

149. Such effects on the United States market were inevitable, given the nature of the aluminum industry, Alba's business, and the export trading business.

150. Plaintiff reasonably and justifiably relied upon Defendants' false representations, false pretenses and deceptive communications, and continued to rely on the services of Al Ali and Noor and to do business with Sojitz.

151. Plaintiff has been damaged as a direct and proximate result of Defendants' misrepresentations and participation in such corrupt enterprise as alleged herein.

152. Predicate Act: Transport and Receipt of Stolen Money and Sale of Stolen Goods in Violation of 18 U.S.C. §§ 2314 and 2315. Sojitz/SCAmerica committed acts constituting indictable offenses under 18 U.S.C. § 2314 in that having devised or intended to devise a scheme or artifice to defraud Alba or to obtain money from Alba by means of false or fraudulent pretenses, Sojitz/SCAmerica transported or caused to be transported in interstate or foreign commerce money and goods having a value of \$5000 or more, which was stolen, converted or taken by fraud.

153. Sojitz transferred funds exceeding \$5000 in value to Al Ali and Noor through United States banks. Those kickback payments represented a portion of the handling fees paid to Sojitz, which Sojitz obtained by fraud and for which there was no lawful purpose.

154. Sojitz also committed acts constituting indictable offenses under 18 U.S.C. § 2315 in that Sojitz received money in excess of \$5000, in the form of (a) the unauthorized discounts and fraudulently obtained fees that Sojitz received and (b) the additional profits that Sojitz/SCAmerica fraudulently received in the United States market from the sale of aluminum, which crossed a State or United States boundary after being stolen, unlawfully converted or taken.

155. Also in violation of 18 U.S.C. § 2314, Sojitz/SCAmerica transported, transmitted, or transferred in interstate and/or foreign commerce goods having a value of \$5000 or more, knowing that those goods were stolen, converted, or taken by fraud. Sojitz/SCAmerica imported a substantial quantity of aluminum into Houston and other locations in the United States, or caused such aluminum to be imported, and sold it to end-users there. Sojitz/SCAmerica knew that the aluminum had been taken fraudulently from Alba through the “fee”-for-discount scheme between Sojitz and Al Ali and Noor.

156. In violation of 18 U.S.C. § 2315, Sojitz/SCAmerica sold the aluminum, which exceeded \$5000 in value and crossed State and United States boundaries after being stolen, unlawfully converted, or taken. Sojitz/SCAmerica knew that the aluminum sold to United States customers was stolen and taken by fraud.

157. The acts of Sojitz/SCAmerica set forth above were done willfully and with knowledge that the money and goods were stolen, converted or taken by fraud. These acts were done intentionally and knowingly with the specific intent to advance Sojitz’s/SCAmerica’s scheme or artifice.

158. As part of the scheme as alleged herein, Sojitz also facilitated the payment of bribes to one or more senior managers of Alba in order to secure illegitimate discounts and fees

from Plaintiff for the benefit of Sojitz/SCAmerica, Al Ali, and Noor and at the expense of Plaintiff.

159. Predicate Act: Money Laundering in Violation of 18 U.S.C. §§ 1956 and 1957.

Sojitz committed acts constituting indictable offenses under 18 U.S.C. § 1956 in that, having obtained money from Alba by false or fraudulent pretenses in the form of fees and unauthorized discounts, Sojitz then conducted financial transactions that involved the proceeds of its unlawful activity. Sojitz conducted the transactions with the intent to promote the carrying on of its unlawful scheme to defraud Alba and to obtain money by fraudulent pretenses, and with knowledge that the transactions were designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds of Sojitz's and its co-conspirators' unlawful activity.

160. Sojitz committed acts constituting indictable offenses under 18 U.S.C. § 1957 in that Sojitz knowingly engaged in monetary transactions in the United States in criminally derived property of a value greater than \$10,000. Having obtained money from Plaintiff by theft or false or fraudulent pretenses, in the form of fees and unauthorized discounts, Sojitz then transferred the proceeds of its specified unlawful activity in interstate and/or foreign commerce through United States financial institutions, in the form of kickback payments to Al Ali and Noor.

161. The funds that Sojitz caused to be transferred constituted proceeds of specified unlawful activities as defined by 18 U.S.C. § 1956(c)(7)(A) and 18 U.S.C. § 1957(f)(3), in that Sojitz's acts constitute offenses listed in 18 U.S.C. § 1961(1), namely, transport and receipt of stolen money and goods in violation of 18 U.S.C. §§ 2314 and 2315, as described in ¶¶ 152-158, and mail and wire fraud in violation of 18 U.S.C. §§ 1341 and 1343, as described in ¶¶ 134-151.

Sojitz transferred part of the proceeds of its unlawful activities back to Al Ali and Noor in order to continue receiving the unauthorized discount.

162. The funds that Sojitz caused to be transferred also constituted criminally derived property as defined by 18 U.S.C. § 1957(f)(2), in that Sojitz obtained the funds from Alba by theft.

163. Sojitz transferred funds to accounts held by offshore entities in order to conceal the scheme and the nature, source, and control of the funds.

164. Sojitz conducted “financial transactions” as defined by 18 U.S.C. § 1956(c)(4), in that the transactions affected interstate or foreign commerce and involved the movement of funds by wire, and that the transaction involved the use of a financial institution the activities of which affect interstate and/or foreign commerce.

165. The money laundering offenses committed by Sojitz involved financial transactions that occurred in the United States, in that Sojitz wired payments in U.S. dollars through Chase Manhattan Bank in New York, HSBC USA, and, upon information and belief, other United States banks, to offshore companies beneficially owned by Al Ali and Noor.

166. The financial transactions involved funds exceeding \$10,000 in value.

167. For example, on or about December 6, 1999, Nissho Iwai Europe transferred by wire from Chase Manhattan Bank the sum of \$77,634.68 to LGT Bank in Liechtenstein for the benefit of Sterling Trading Company Limited.

168. These acts were carried out intentionally and knowingly with the specific intent to advance Sojitz’s/SCAmerica’s scheme or artifice and to fraudulently obtain an advantageous position in the United States marketplace at the expense of Alba and United States competitors.

169. Predicate Act: Travel in Furtherance of Scheme to Defraud in Violation of 18 U.S.C. § 1952. Sojitz/SCAmerica committed acts constituting indictable offenses under 18 U.S.C. § 1952 in that, having devised or intended to devise a scheme or artifice to defraud Alba or to obtain money from Alba by means of false or fraudulent pretenses, representations or promises, Sojitz then traveled in interstate and/or foreign commerce and used facilities of interstate and/or foreign commerce in order to promote, manage and facilitate the continuation of the scheme with Al Ali, Noor, and other co-conspirators.

170. Upon information and belief, representatives of Defendant Sojitz traveled in interstate or foreign commerce to meet with co-conspirators and carry out the scheme against Alba.

171. Among other things, in October 2004, representatives of Defendant Sojitz traveled to Bahrain to meet with Alba Marketing and renegotiate the handling fees that Sojitz was receiving. While in Bahrain, the Sojitz representatives promoted, managed, and facilitated the scheme to defraud Plaintiff by inducing Alba Marketing to continue to pay Sojitz a handling fee, albeit a reduced handling fee.

172. Upon information and belief, representatives of Defendants Sojitz and SCAmerica engaged in travel between the United States and Japan on a routine basis to conduct business that included carrying on the scheme to defraud Alba.

173. Sojitz/SCAmerica used the facilities of interstate and foreign commerce to further its scheme against Plaintiff and to distribute the proceeds of that scheme. Sojitz caused money to be transferred by wire through United States banks to facilitate bribe payments to Al Ali and Noor and to launder the money in violation of 18 U.S.C. §§ 1956 and 1957.

174. These acts were done intentionally and knowingly with the specific intent to advance the scheme or artifice and distribute the proceeds thereof.

175. The objective that Sojitz/SCAmerica shared with Al Ali, Noor, and other co-conspirators was and is to defraud Alba and to divert funds to their own benefit by negotiating discounts on aluminum in exchange for the payment of bribes, and to conceal the existence of the scheme and the source and nature of the payments.

176. Upon information and belief, Sojitz's/SCAmerica's interrelated objective was and is to affect United States imports and to gain a competitive advantage in the United States marketplace by its fraudulent activities with respect to Alba. Sojitz/SCAmerica did in fact cause such effects in the United States.

177. Alba has been damaged as a direct and proximate result of Sojitz's/SCAmerica's travel in interstate and foreign commerce for purposes of promoting, managing and facilitating the continuation of the scheme.

178. Continuity of Conduct. Sojitz's/SCAmerica's violations of state and federal law as set forth herein, each of which directly and proximately injured Alba and other United States market participants, constituted a continuous course of conduct spanning a period from approximately 1993 through at least January 2006, which was intended to obtain money through false representations, fraud, deceit, and other improper and unlawful means and to deprive Alba of the right to the honest services of its officials. Therefore, those violations were a part of a pattern of racketeering activity under 18 U.S.C. §§ 1961(1) and (5).

179. Upon information and belief, Sojitz/SCAmerica, together with Al Ali, Noor, and others, has conducted and/or participated, directly and/or indirectly, in the conduct of the affairs

of the alleged enterprises through a pattern of racketeering activity as defined herein in violation of 18 U.S.C. § 1962(c).

180. The unlawful actions of Sojitz/SCAmerica have directly, illegally, and proximately caused and continue to cause injuries to Alba in its business. Alba seeks an award of damages in compensation for, among other things, the millions of dollars Sojitz stole from Plaintiff through Sojitz's receipt of unauthorized discounts and handling fees that were obtained through fraud.

181. Upon information and belief, Sojitz's/SCAmerica's racketeering activities were undertaken with the intent to, and in fact did, affect the United States aluminum marketplace and permitted Sojitz/SCAmerica to gain an unfair advantage over other trading companies. The unlawful discount that Sojitz received enabled Sojitz/SCAmerica to sell the aluminum to end-users in the United States at below-market prices without suffering a loss in profit margin. Upon information and belief, aluminum smelters and other entities in the United States, as well as Alba, were injured as a result of Sojitz's/SCAmerica's unfair methods of competition and fraudulent victimization of Alba.

182. Upon information and belief, the substantial economic successes and benefits that Sojitz/SCAmerica gained by affecting aluminum pricing in the United States were a motivation for Sojitz/SCAmerica to initiate and perpetuate the scheme to defraud Alba, along with Al Ali, Noor, and other co-conspirators.

183. Upon information and belief, Alba's losses and the effects on end-users and pricing in the United States were intended and interdependent components of Defendants' conspiracy. Both adverse effects fueled one another and caused the conspiracy to continue, thereby adding to Alba's losses and increasing Sojitz's/SCAmerica's benefits.

184. Likewise, Sojitz's/SCAmerica's conduct in the United States both contributed to Alba's injury and instigated further injury to Alba.

185. Alba accordingly seeks an award of three times the damages that it sustained, and the recovery of reasonable attorneys' fees and costs of investigation and litigation, as well as any other relief as authorized by statute.

SECOND CLAIM
(Conspiracy to Violate Federal Civil RICO, 18 U.S.C. § 1962(d))

186. Plaintiff Alba incorporates by reference all the preceding paragraphs of this Complaint as if set forth, in full, herein.

187. In violation of 18 U.S.C. § 1962(d), Defendant Sojitz/SCAmerica knowingly, willfully, and unlawfully conspired with Al Ali, Noor, and others to facilitate a scheme which included the operation or management of a RICO enterprise through a pattern of racketeering activity as alleged in paragraphs 22 -133 above.

188. The conspiracy commenced at least as early as 1993 and continued through at least January 2006.

189. The conspiracy's purpose was to defraud Alba and to divert funds to the conspirators' own benefit by negotiating discounts on aluminum in exchange for the payment of bribes.

190. Sojitz/SCAmerica committed at least one overt act in furtherance of such conspiracy. Acts in furtherance of the conspiracy included negotiating for discounts, for which there was no legitimate business purpose, on aluminum sales; transferring money through and selling goods in the United States that were obtained by fraud and/or theft; using facilities of interstate and foreign commerce to facilitate and manage the scheme to defraud Alba; paying

bribes to Al Ali and Noor; and laundering money in order to facilitate and conceal the scheme, as described above.

191. The purpose of the acts in which Sojitz/SCAmerica engaged was to advance the overall object of the conspiracy, and the harm to Alba was a reasonably foreseeable consequence of – and indeed, impetus for – Sojitz’s/SCAmerica’s actions.

192. Plaintiff has been injured and continues to be injured in its business and property by Sojitz’s conspiracy with Al Ali, Noor, and others in violation of 18 U.S.C. § 1962(d). The unlawful actions of Sojitz/SCAmerica have directly, illegally, and proximately caused and continue to cause injuries to Alba in its business or property. Alba seeks an award of damages in compensation for, among other things, the millions of dollars that Sojitz stole from Alba. Alba further seeks an award of three times the damages sustained, and the recovery of reasonable attorneys’ fees and costs of investigation and litigation, as well as any other relief as authorized.

THIRD CLAIM
(Federal Civil RICO, 18 U.S.C. § 1962(c))

193. Plaintiff Alba incorporates by reference all the preceding paragraphs of this Complaint as if set forth, in full, herein.

194. Defendants Sojitz and SCAmerica are both “persons” capable of holding legal or beneficial interest in property within the meaning of 18 U.S.C. § 1961(3).

195. Defendants Sojitz/SCAmerica violated 18 U.S.C. § 1962(c) by the acts described in the prior paragraphs, and as further described below.

196. The Enterprise: Alba is an enterprise engaged in interstate and foreign commerce within the meaning of 18 U.S.C. § 1961(3) and as a government-controlled company, is an instrumentality of the government of Bahrain. While Alba is a business enterprise separate and apart from the pattern of racketeering, Defendant Sojitz, together with Al Ali and Noor, through

their continuing pattern of racketeering activity set forth herein, infiltrated Alba, associated with it and managed it for their own illegal purposes.

197. Pattern of Racketeering Activity. Defendant Sojitz is associated with Alba and, without Alba's knowledge or consent, did knowingly, willfully and unlawfully conduct or participate, directly or indirectly, in Alba's affairs through a pattern of racketeering activity with the meaning of 18 U.S.C. §§ 1961(1), 1961(5), and 1962(c). The racketeering activity was made possible by Sojitz's regular and repeated use of Alba's personnel (namely, Al Ali and Noor), facilities and services in a manner that was directly adverse to Alba's interests. Sojitz had the specific intent to engage in the substantive RICO violation alleged herein.

198. Predicate acts of racketeering activity are acts that are indictable under provisions of the United States Code enumerated in 18 U.S.C. § 1961(1)(B), as more specifically alleged below. Sojitz committed at least two such acts or else aided and abetted such acts.

199. The acts of racketeering were not isolated. Rather, the acts were related in that they had the same or similar purpose and result, participants, victims and method of commission. Further, the acts of racketeering by Defendants have been continuous. Sojitz and its co-conspirators have engaged in repeated conduct since approximately 1993 through at least January 2006.

200. Alba specifically alleges that Sojitz/SCAmerica participated in the operation and management of Alba by overseeing and coordinating the commission of multiple acts of racketeering as described below.

201. Predicate Act: Use of Mails and Wires to Defraud Alba in Violation of 18 U.S.C. §§ 1341, 1343, and 1346. Plaintiff repeats and re-avers each and every statement contained in ¶¶ 134-151.

202. Predicate Act: Transport and Receipt of Stolen Money in Violation of 18 U.S.C. §§ 2314 and 2315. Plaintiff repeats and re-avers each and every statement contained in ¶¶ 152-158.

203. Predicate Act: Money Laundering in Violation of 18 U.S.C. §§ 1956 and 1957. Plaintiff repeats and re-avers each and every statement contained in ¶¶ 159-168.

204. Predicate Act: Travel in Furtherance of Scheme to Defraud in Violation of 18 U.S.C. § 1952. Plaintiff repeats and re-avers each and every statement contained in ¶¶ 169-177.

205. Continuity of Conduct. Sojitz's/SCAmerica's violations of state and federal law as set forth herein, each of which directly and proximately injured Alba, as well as other market participants, constituted a continuous course of conduct spanning a period from approximately 1993 through at least January 2006, which was intended to obtain money through false representations, fraud, deceit, and other improper and unlawful means and to deprive Alba of the right to honest services of its officials. Therefore, said violations were a part of a pattern of racketeering activity under 18 U.S.C. §§ 1961(1) and (5).

206. Sojitz/SCAmerica, together with Al Ali, Noor, and others, has conducted and/or participated, directly and/or indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity as defined herein in violation of 18 U.S.C. § 1962(c).

207. These acts were done intentionally and knowingly with the specific intent to advance the scheme or artifice and to fraudulently obtain an advantageous position in the United States marketplace at the expense of Alba and United States competitors.

208. The unlawful actions of Sojitz/SCAmerica have directly, illegally, and proximately caused and continue to cause injuries to Alba in its business. Alba seeks an award of damages in compensation for, among other things, the millions of dollars Sojitz stole from Alba

through Sojitz's receipt of unauthorized discounts and handling fees that were obtained through fraud.

209. Upon information and belief, Sojitz's/SCAmerica's racketeering activities were undertaken with the intent to, and in fact did, affect the United States economy, impact the United States aluminum marketplace, and permit Sojitz/SCAmerica an unfair advantage over other trading companies. The corrupt discount that Sojitz received from Al Ali and Noor enabled Sojitz/SCAmerica to charge artificially low prices for aluminum in the United States. Aluminum smelters and trading companies in the United States were injured as a result of Sojitz's/SCAmerica's unfair methods of competition.

210. Upon information and belief, Sojitz's/SCAmerica's successes in affecting aluminum pricing in the United States and in strengthening its position in the United States market motivated Sojitz to initiate and continue its scheme to defraud Alba, along with Al Ali, Noor, and other co-conspirators.

211. Likewise, Sojitz's/SCAmerica's conduct in the United States both contributed to Alba's injury and instigated further injury to Alba.

212. Plaintiff accordingly seeks an award of three times the damages it sustained, and the recovery of reasonable attorneys' fees and costs of investigation and litigation, as well as any other relief as authorized by statute.

FOURTH CLAIM
(Conspiracy to Violate Federal Civil RICO, 18 U.S.C. § 1962(d))

213. Plaintiff Alba incorporates by reference all the preceding paragraphs of this Complaint as if set forth, in full, herein.

214. In violation of 18 U.S.C. § 1962(d), Defendants Sojitz/SCAmerica knowingly, willfully, and unlawfully conspired with Al Ali, Noor, and others to facilitate a scheme that

included the operation or management of a RICO enterprise through a pattern of racketeering activity as alleged in paragraphs 22-212 above.

215. The conspiracy commenced at least as early as 1993 and continued at least through January 2006.

216. The conspiracy's purpose was to defraud Alba and to divert funds to the conspirators' own benefit by negotiating discounts on aluminum in exchange for the payment of bribes.

217. Sojitz/SCAmerica committed at least one overt act in furtherance of such conspiracy. Acts in furtherance of the conspiracy included negotiating for discounts, for which there was no legitimate business purpose, on aluminum sales; transferring money through and selling goods in the United States that were obtained by fraud and/or theft; using the facilities of interstate and foreign commerce to facilitate and manage the scheme to defraud Alba; paying bribes to Al Ali and Noor; and laundering money in order to facilitate and conceal the scheme, as described above.

218. Even if Sojitz did not agree to harm Alba specifically, the purpose of the acts in which Sojitz engaged was to advance the overall object of the conspiracy, and the harm to Alba was a reasonably foreseeable consequence of Sojitz's actions.

219. Alba has been injured and continues to be injured in its business and property by Sojitz's/SCAmerica's conspiracy with Al Ali, Noor, and others in violation of 18 U.S.C. § 1962(d). The unlawful actions of Sojitz/SCAmerica have directly, illegally, and proximately caused and continue to cause injuries to Alba in its business or property. Alba seeks an award of damages in compensation for, among other things, the millions of dollars that Sojitz/SCAmerica stole from Alba. Alba further seeks an award of three times the damages sustained, and the

recovery of reasonable attorneys' fees and costs of investigation and litigation, as well as any other relief as authorized.

FIFTH CLAIM
(Fraud)

220. Plaintiff Alba incorporates by reference all the preceding paragraphs of this Complaint as if set forth, in full, herein.

221. Defendant Sojitz knowingly and intentionally misled Alba by failing to disclose that Sojitz was receiving unauthorized discounts in exchange for paying bribes to one or more officials of Plaintiff.

222. Defendant Sojitz intentionally concealed the bribes from Alba because Sojitz intended to mislead Alba into relying upon the services of Al Ali, Noor, and other officials to whom bribes had been paid. Sojitz, through concealment of the bribes, further sought to induce Alba to continue selling aluminum to Sojitz so that Sojitz/SCAmerica could continue enjoying the discounted price and the economic benefits and market distortions that Sojitz's/SCAmerica's fraud created in the United States. Sojitz's/SCAmerica's specific fraudulent acts and material omissions include those set forth in paragraphs 27-219 above.

223. Defendant Sojitz's failure to disclose the payment of bribes to one or more officials of Alba was material because Alba relied upon the honest services of its officials in the conduct of its business. In addition, the one or more senior officials of Alba who received bribes were in a position to cause Alba to agree to continue selling aluminum to Sojitz and to continue accepting, without Alba's knowledge, below-market prices for aluminum.

224. Alba justifiably relied upon Sojitz's intentional concealment of the bribes in that Alba continued to use the services of its senior officials, including one or more such individuals who had received bribes, and continued to sell aluminum to Sojitz. Alba did so in the justifiable

belief that it was receiving honest services from its own senior officials and was receiving a fair market price from Sojitz in exchange for the aluminum.

225. Sojitz also obtained the handling fees fraudulently, by falsely representing that Sojitz was providing services to Alba to earn the fee, as set forth with more specificity in paragraphs 62-81 above. In fact, Alba received no benefit in exchange for the handling fee, and there was no legitimate business reason for the fee.

226. In authorizing the fees, Alba justifiably relied upon Sojitz's representations that the handling fee was warranted.

227. Sojitz's/SCAmerica's conduct was willful, wanton, malicious, and oppressive.

228. Sojitz's/SCAmerica's unlawful conduct has directly, legally, and proximately caused injuries to Alba in its business or property. Injury most recently accrued to Alba by Sojitz's fraud in or about January 2006. This injury includes Alba's loss of millions of dollars in unauthorized discounts that Sojitz received by making bribe payments to Alba's former officials. Accordingly, Alba seeks an award of damages in compensation for its losses. Further, Alba seeks the imposition of punitive damages sufficient to deter Sojitz from committing such unlawful conduct in the future.

SIXTH CLAIM
(Civil Conspiracy to Defraud)

229. Plaintiff Alba incorporates by reference all the preceding paragraphs of this Complaint as if set forth, in full, herein.

230. Defendants Sojitz/SCAmerica, together with Al Ali and Noor, combined and agreed with each other and/or others to defraud Alba by intentionally failing to disclose that bribes were paid to one or more senior officials of Alba and that Sojitz received an unauthorized discount in return, as alleged in paragraphs 31-103 and 220-228 above.

231. The conspiracy commenced at least as early as 1993, and the last overt act occurred in or about January 2006.

232. Pursuant to their agreement(s), Defendants Sojitz/SCAmerica, together with Al Ali and Noor, acted in concert to support their common purpose of defrauding Alba in order to cause Alba to continue selling aluminum to Sojitz and to continue relying on the services of Al Ali and Noor.

233. Sojitz/SCAmerica committed at least one overt act in furtherance of such conspiracy. Acts in furtherance of the conspiracy included negotiating for discounts, for which there was no legitimate business purpose, on aluminum sales; transferring money through and selling goods in the United States that were obtained by fraud and/or theft; using facilities of interstate and foreign commerce to facilitate and manage the scheme to defraud Alba; paying bribes to Al Ali and Noor; and laundering money in order to facilitate and conceal the scheme, as described above.

234. Defendants Sojitz/SCAmerica acted with the intent to defraud Alba and understood that Al Ali, Noor, and other officials of Alba shared in that common purpose.

235. Sojitz's/SCAmerica's conduct was willful, wanton, malicious, and oppressive.

236. Sojitz's/SCAmerica's unlawful conspiracy has directly, legally, and proximately caused and continues to cause injuries to Alba in its business and property. This injury includes Alba's loss of millions of dollars in unauthorized discounts that Sojitz received by making bribe payments to Alba's former officials. Alba seeks an award of damages for, among other things, the losses that Alba suffered as a result of Sojitz's/SCAmerica's conduct. Further, Alba seeks the imposition of punitive damages sufficient to deter Sojitz/SCAmerica from committing such unlawful conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Alba respectfully requests that the Court:

- A. Award compensatory, consequential, exemplary and punitive damages to Plaintiff in an amount to be determined at trial;
- B. Award attorneys' fees and costs to Plaintiff; and
- C. Grant to Plaintiff whatever other relief is just and proper.

Jury Trial Demand

Plaintiff demands trial by jury on issues so triable.

Dated: December 18, 2009

Respectfully submitted,

s/ Michael K. Swan
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