

3. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 3 of the Complaint.

4. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 4 of the Complaint.

5. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 5 of the Complaint.

6. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 6 of the Complaint.

7. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 7 of the Complaint.

8. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 8 of the Complaint.

9. Travelers denies the allegations contained in Paragraph 9 of the Complaint.

10. Travelers denies the allegations contained in Paragraph 10 of the Complaint.

JURISDICTION AND VENUE

11. The allegations contained in the first and third sentences of Paragraph 11 of the Complaint constitute conclusions of law to which no response is required. With regard to the allegations contained in the second sentence of Paragraph 11, Travelers admits that it removed the Plaintiff's prior New York State action to the United States District Court for the Southern District of New York.

12. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 12 of the Complaint.

13. Travelers admits the allegations contained in Paragraph 13 of the Complaint.

14. Travelers admits the allegations contained in Paragraph 14 of the Complaint.

15. The allegations contained in Paragraph 15 of the Complaint constitute conclusions of law to which no response is required.

SUBSTANTIVE ALLEGATIONS

16. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 16 of the Complaint.

17. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 17 of the Complaint.

18. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 18 of the Complaint.

19. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 19 of the Complaint.

20. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 20 of the Complaint.

21. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 21 of the Complaint.

22. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 22 of the Complaint.

23. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 23 of the Complaint.

24. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 24 of the Complaint.

25. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 25 of the Complaint.

26. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 26 of the Complaint.

27. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 27 of the Complaint.

28. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 28 of the Complaint.

29. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 29 of the Complaint.

30. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 30 of the Complaint.

31. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 31 of the Complaint.

32. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 32 of the Complaint.

33. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 33 of the Complaint.

34. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 34 of the Complaint.

35. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 35 of the Complaint.

36. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 36 of the Complaint.

37. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 37 of the Complaint.

38. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 38 of the Complaint.

39. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 39 of the Complaint.

40. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 40 of the Complaint.

41. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 41 of the Complaint.

42. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 42 of the Complaint.

43. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 43 of the Complaint.

44. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 44 of the Complaint.

45. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 45 of the Complaint.

46. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 46 of the Complaint.

47. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 47 of the Complaint.

48. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 48 of the Complaint.

49. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 49 of the Complaint.

50. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 50 of the Complaint.

51. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 51 of the Complaint.

52. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 52 of the Complaint.

53. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 53 of the Complaint.

54. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 54 of the Complaint.

55. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 55 of the Complaint.

56. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 56 of the Complaint.

57. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 57 of the Complaint.

58. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 58 of the Complaint.

59. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 59 of the Complaint.

60. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 60 of the Complaint.

61. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 61 of the Complaint.

62. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 62 of the Complaint.

63. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 63 of the Complaint.

64. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 64 of the Complaint.

65. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 65 of the Complaint.

66. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 66 of the Complaint.

67. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 67 of the Complaint.

68. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 68 of the Complaint.

69. Travelers admits the allegations contained in Paragraph 69 of the Complaint.

70. Travelers admits that the excerpted policy language contained in Paragraph 70 of the Complaint accurately depicts the language contained in the Travelers Policy.

71. Travelers denies the allegations contained in Paragraph 71 of the Complaint, which seek to characterize a writing that speaks for itself, but admits that the Travelers Policy contains the policy forms listed therein.

72. Travelers admits the allegations contained in Paragraph 72 of the Complaint.

73. Travelers admits that the excerpted policy language contained in Paragraph 73 of the Complaint, accurately depicts the language contained in the Travelers Policy.

74. Travelers admits that the excerpted policy language contained in Paragraph 74 of the Complaint, accurately depicts the language contained in the Travelers Policy.

75. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 75 of the Complaint. By way of further response, Travelers also denies the allegations contained in Paragraph 75 of the Complaint because they constitute conclusions of law to which no response is required.

76. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 76 of the Complaint. By way of further response, Travelers also denies the allegations contained in Paragraph 76 of the Complaint because they constitute conclusions of law to which no response is required.

77. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 77 of the Complaint.

78. Travelers denies the allegations contained in Paragraph 78 of the Complaint.

79. Travelers admits the allegations contained in Paragraph 79 of the Complaint.

80. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 80 of the Complaint.

81. Travelers denies the allegations contained in Paragraph 81 of the Complaint as stated, but admits that Travelers received a Proof of Loss from the Plaintiff dated September 5, 2013.

AS AND FOR PLAINTIFF'S FIRST CLAIM FOR RELIEF

82. Travelers repeats, and expressly incorporates by reference Paragraphs 1-81 of its Answer, as if fully set forth at length here.

83. Travelers admits the allegations contained in Paragraph 83 of the Complaint.

84. Travelers denies the allegations contained in Paragraph 84 of the Complaint.

85. Travelers denies the allegations contained in Paragraph 85 of the Complaint.

86. Travelers denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 86 of the Complaint.

87. Travelers denies the allegations contained in Paragraph 87 of the Complaint.

WHEREFORE, Travelers respectfully requests that the Complaint filed by the Plaintiff be dismissed with prejudice, and that such other and further relief be granted in favor of Travelers.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Plaintiff has failed to state a claim for relief upon which judgment may be granted.

SECOND AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred or limited by the equitable doctrines of laches, waiver and estoppel.

THIRD AFFIRMATIVE DEFENSE

The Plaintiff has failed to take reasonable steps to mitigate its alleged loss or damages.

FOURTH AFFIRMATIVE DEFENSE

The Commercial Crime Policy issued by Travelers to the Plaintiff provides, in part, the following:

B. GENERAL CONDITIONS

* * *

5. Duties in the Event of Loss: After you discover a loss or a situation that may result in loss of, or loss from damage to, Covered Property you must:

- a. Notify us as soon as possible.
- b. Submit to examination under oath at our request and give us a signed statement of your answers.
- c. Give us a detailed, sworn proof of loss within 120 days.
- d. Cooperate with us in the investigation and settlement of any claim.

The alleged loss sustained by the Plaintiff is not covered under the Commercial Crime Policy issued by Travelers because the Plaintiff has failed to comply with each of the foregoing conditions precedent to coverage under the applicable Commercial Crime Policy.

FIFTH AFFIRMATIVE DEFENSE

The Commercial Crime Policy issued by Travelers to the Plaintiff provides, in part, the following:

A. COVERAGE

We will pay loss of, and loss from damage to, Covered Property resulting directly from the Covered Cause of Loss.

- 1. Covered Property:** "Money", "securities", and "property other than money and securities".
- 2. Covered Cause of Loss:** "Employee dishonesty".

- 3. Coverage Extension Employees Temporarily Outside Coverage Territory:** We will pay for loss caused by any "employee" while temporarily outside the territory specified in the Territory General Condition for a period not more than 90 days.

The Plaintiff has, to date, failed to specify and submit proof establishing its alleged loss. To the extent that the alleged loss sustained by the Plaintiff does not constitute a direct loss resulting directly from "Employee dishonesty", it is not covered under the Commercial Crime Policy issued by Travelers.

SIXTH AFFIRMATIVE DEFENSE

The Commercial Crime Policy issued by Travelers to the Plaintiff provides, in part, the following:

C. DEDUCTIBLE

1. We will not pay for loss in any one "occurrence" unless the amount of loss exceeds the Deductible Amount shown in the DECLARATIONS. We will then pay the amount of the loss in excess of the Deductible Amount, up to the Limit of Insurance.

The Plaintiff has, to date, failed to specify and submit proof establishing its alleged loss. The Travelers Policy is subject to a \$10,000 Deductible Amount. Therefore, any alleged loss sustained by the Plaintiff shall be subject to the Deductible Amount.

SEVENTH AFFIRMATIVE DEFENSE

The Commercial Crime Policy issued by Travelers to the Plaintiff provides, in part, the following:

A. GENERAL EXCLUSIONS

We will not pay for loss as specified below:

* * *

3. Indirect Loss: Loss that is an indirect result of any act or “occurrence” covered by this insurance including, but not limited to, loss resulting from:
 - a. Your inability to realize income that you would have realized had there been no loss of, or loss from damage to, Covered Property.
 - b. Payment of damages of any type for which you are legally liable. But, we will pay compensatory damages arising directly from a loss covered under this insurance.
 - c. Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this insurance.

The Plaintiff has, to date, failed to specify and submit proof establishing its alleged loss. To the extent that the alleged loss sustained by the Plaintiff constitutes an “indirect loss”, Travelers shall have no obligation to indemnify the Plaintiff for such loss.

EIGHTH AFFIRMATIVE DEFENSE

The Commercial Crime Policy issued by Travelers to the Plaintiff provides, in part, the following:

A. GENERAL EXCLUSIONS

We will not pay for loss as specified below:

* * *

4. Legal Expenses: Expenses related to any legal action.

The Plaintiff has, to date, failed to specify and submit proof establishing its alleged loss. To the extent that the Plaintiff seeks to be indemnified under the Travelers Policy for “legal expenses,” Travelers shall have no obligation to indemnify the Plaintiff for the same.

RESERVATION OF RIGHTS

Travelers expressly reserves the right to amend its Answer and Affirmative Defenses to assert any additional defenses that may be applicable.

WHEREFORE, Travelers respectfully requests that the Complaint filed by the Plaintiff be dismissed with prejudice, and that such other and further relief be granted in favor of Travelers.

MC ELROY, DEUTSCH, MULVANEY & CARPENTER, LLP

s/ Richard S. Mills

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Dated: New York, New York
June 29, 2015