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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

CITY AND COUNTY OF DENVER acting by and through its BOARD OF WATER COMMISSIONERS, on behalf of itself and on behalf of all others similarly situated, Plaintiff, vs. GENERAL CHEMICAL PERFORMANCE PRODUCTS, LLC; CHEMTRADE LOGISTICS INCOME FUND; and DOES 1- 10, Defendants.	Case No. CLASS ACTION COMPLAINT JURY TRIAL DEMANDED
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Plaintiff City and County of Denver, acting by and through its Board of Water Commissioners, on behalf of itself and all others similarly situated, brings this action under the federal antitrust laws, Section 1 of the Sherman Antitrust Act of 1890 (“Sherman Act”), 15 U.S.C. § 1, and Section 4 of the Clayton Antitrust Act of 1914, 15 U.S.C. § 15 (“Clayton Act”). The allegations herein are made on information and belief, except those as to Plaintiff which are made with personal knowledge.

NATURE OF THE ACTION

1. This action arises from a long-standing conspiracy to constrain or eliminate competition in the sale and distribution of liquid aluminum sulfate in the United States. In furtherance of their conspiracy, the cartel members agreed to, *inter alia*, fix prices, rig bids, and allocate customers. The purpose and effect of the conspiracy was to fix, raise, maintain and stabilize the prices paid for liquid aluminum sulfate throughout the United States. On October 27, 2015, the U.S. Department of Justice (“DOJ”) disclosed that one of the participants in the cartel agreed to plead guilty to a violation of Section 1 of the Sherman Act for engaging in a conspiracy from 1997 until July 2010 (“the relevant time period”) to fix prices, rig bids, and allocate customers for liquid aluminum sulfate. As a result of the conspiracy, Plaintiff and the other members of the class defined herein (the “Class”) paid artificially inflated prices for liquid aluminum sulfate during the relevant time period. Such prices exceeded the amount Plaintiff and other members of the Class would have paid if the price for liquid aluminum sulfate had been determined by a competitive market.

JURISDICTION AND VENUE

2. This Complaint is filed under Section 4 of the Clayton Act, 15 U.S.C. § 15, seeking damages for violating Section 1 of the Sherman Act. This Court has jurisdiction over Plaintiff’s federal antitrust claim under 28 U.S.C. §§ 1331, 1337.

3. Venue is proper in this judicial district pursuant to Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. §§ 1391 (b), (c) and (d) because a substantial part of the events giving rise to Plaintiff’s claims occurred in this district, a substantial portion of the affected interstate trade and commerce discussed below has been carried out in this district, and Defendants

reside, are licensed to do business in, are doing business in, had agents in, or are found or transact business in this district.

PARTIES

4. Plaintiff City and County of Denver, acting by and through its Board of Water Commissioners, is a municipal corporation of the State of Colorado with its principal place of business at 1600 West 12th Avenue, Denver, Colorado. During the relevant time period, Plaintiff purchased liquid aluminum sulfate directly from Defendant General Chemical Performance Products, LLC (“General Chemical”).

5. Defendant General Chemical is a Delaware limited liability corporation with its principal place of business at 99 East Halsey Road, Parsippany, New Jersey 07054. During the relevant time period, General Chemical was the largest producer of liquid aluminum sulfate in North America. General Chemical produces, markets, and sells liquid aluminum sulfate in the United States.

6. Defendant Chemtrade Logistics Income Fund (“Chemtrade”) is a publicly traded company, incorporated under the laws of Canada. Chemtrade has its principal place of business at 155 Gordon Baker Road, Toronto, Canada. In 2014, Chemtrade purchased General Chemical for approximately \$858 million. As a potential legal successor in interest to General Chemical, Chemtrade may assume the liability for damages caused by General Chemical’s participation in a conspiracy to fix prices, rig bids, and allocate customers for liquid aluminum sulfate.

7. Does 1-10 (the “Doe Defendants”) are described as other liquid aluminum sulfate producers whose names are presently unknown to Plaintiff who were co-conspirators with General Chemical and Chemtrade in a conspiracy to fix prices, rig bids, and allocate customers for liquid aluminum sulfate. General Chemical, Chemtrade, and the Doe Defendants are referred to herein

collectively as “Defendants.” Defendants have facilitated, adhered to, participated in, and/or communicated with each other regarding the conspiracy. While the Doe Defendants have yet to be identified by Plaintiff, their identities will be revealed either prior to or during the period of discovery that will occur in this action.

8. In its annual report on Form 10-K for the fiscal year ending December 31, 2008, GenTek, Inc. (General Chemical’s parent company during part of the alleged conspiracy) identified its major competitors in the market for water treatment chemicals—which includes liquid aluminum sulfate—as GEO Specialty Chemicals, Kemira Water Solutions, and U.S. Aluminates. In its annual report on Form 10-K for the fiscal year ending December 31, 2001, GEO Specialty Chemicals described itself as “a leading U.S. manufacturer of several flocculants and coagulants, including aluminum sulfate which is used as both a flocculant and coagulant for the treatment of water in the industrial and municipal markets.” In its Annual Report for calendar year 2009, Kemira Oyj (parent company of Kemira Water Solutions) advised it was one of the three largest global providers of “chemical solutions for the entire process from pulp manufacture to paper coating to water treatment.” And, U.S. Aluminates Co. currently represents itself on its website as “a leading manufacturer of aluminum-based chemicals, such as sodium aluminate and aluminum sulfate to industrial and municipal markets.”

INTERSTATE TRADE AND COMMERCE

9. Throughout the relevant time period, Defendants produced and/or marketed, sold and shipped substantial quantities of liquid aluminum sulfate in a continuous and uninterrupted flow of transactions in interstate commerce throughout the United States, including in this District.

10. Defendants' alleged unlawful conduct was within the flow of, and has had a direct and substantial effect on interstate trade and commerce.

CLASS ACTION ALLEGATIONS

11. Plaintiff brings this action both on behalf of itself, and as a class action pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3), on behalf of the following Class:

All persons and entities who purchased liquid aluminum sulfate in the United States directly from Defendants, or their affiliates from January 1, 1997 until July 31, 2010. Excluded from the Class are Defendants and their parents, subsidiaries and affiliates.

12. Members of the Class are so numerous and geographically dispersed across the United States that joinder is impracticable. While the exact number of Class members is unknown to Plaintiff at this time, Plaintiff believes that there are hundreds, if not thousands of members of the Class and that their identities can be learned from Defendants' books and records.

13. Plaintiff's claims are typical of the claims of the other members of the Class. Plaintiff and the members of the Class have all sustained damage in that they purchased liquid aluminum sulfate in the United States at artificially maintained, non-competitive prices resulting from Defendants' conduct in connection with the restraints of trade alleged herein.

14. Plaintiff will fairly and adequately protect the interests of the members of the Class. Plaintiff's interests are consistent with, and not antagonistic to, those of the Class.

15. Plaintiff has retained counsel competent and experienced in class action and antitrust litigation.

16. Common questions of law and fact exist as to all members of the Class and predominate over any questions affecting solely individual members of the Class. Among the questions of law and fact common to the Class are:

- a. Whether Defendants engaged in a contract, combination or conspiracy to fix, maintain, or stabilize the price of liquid aluminum sulfate sold in the United States;
- b. Whether Defendants engaged in a contract, combination or conspiracy to rig bids for the sale of liquid aluminum sulfate in the United States;
- c. Whether Defendants engaged in a contract, combination or conspiracy to allocate customers for liquid aluminum sulfate in the United States;
- d. Whether Defendants' conduct caused the prices of liquid aluminum sulfate purchased in the United States to be artificially inflated;
- e. The duration of the conspiracy alleged herein; and
- f. Whether Defendants' conduct caused injury to the members of the Class and, if so, the proper measure of damages.

17. A class action is superior to other available methods for the fair and efficient adjudication of this controversy since joinder of all Class members is impracticable. The prosecution of separate actions by individual Class members would impose heavy burdens upon the courts and Defendants, and would create a risk of inconsistent or varying adjudications of the questions of law and fact common to the Class. A class action would achieve substantial economies of time, effort and expense, and would assure uniformity of decision as to persons similarly situated without sacrificing procedural fairness. There will be no material difficulty in the management of this action as a class action.

FACTS

The Liquid Aluminum Sulfate Market

18. Liquid aluminum sulfate is a chemical compound that has the ability to attract and coagulate certain aquatic contaminants, allowing them to be filtered out. Liquid aluminum sulfate is primarily used for water treatment and pulp and paper manufacturing.

19. To produce liquid aluminum sulfate, aluminum ore—usually bauxite, bauxite clays, or alumina hydrate—is mixed with sulfuric acid and water.

20. The vast majority of the aluminum sulfate sold in the United States is sold in liquid form. For instance, in 1999, approximately 96% of all aluminum sulfate was sold in liquid form.

21. According to findings by the U.S. International Trade Commission, while various grades of liquid aluminum sulfate are available, standard grade liquid aluminum sulfate is sufficient for the overwhelming majority of users. Only a small number of users require high grade liquid aluminum sulfate, which has a lower aluminum and iron content than standard grade liquid aluminum sulfate.

22. Liquid aluminum sulfate is primarily purchased by: (1) municipalities, who use it for purifying drinking and waste water; (2) pulp and paper manufacturers, who use it in their manufacturing processes; and (3) chemical distributors who sell liquid aluminum sulfate to end users.

23. To procure liquid aluminum sulfate, municipalities typically engage in a publically advertised bidding process. The winning bidder generally enters into a one-year contract with the municipality at a fixed price. The results of municipal bidding processes are usually made public.

24. Pulp and paper manufacturers acquire their liquid aluminum sulfate privately. They submit requests for quotes to suppliers and, once price is agreed upon, the terms of the resulting contract are negotiated. These contracts may last for a year or longer.

25. Chemical distributors purchase liquid aluminum sulfate directly from producers as needed.

26. The purchasing processes used by municipalities, pulp and paper manufacturers, and chemical distributors reflect that liquid aluminum sulfate is an undifferentiated commodity product. Price is the primary criterion used by purchasers to select a supplier.

27. The U.S. International Trade Commission found that, in water treatment, liquid aluminum sulfate cannot be easily substituted with other chemicals. While other chemicals (such as ferric chloride or polyaluminum chloride) are also used in water treatment, each water treatment facility is configured to use a specific chemical. Once a facility is designed to use liquid aluminum sulfate, it cannot switch to another chemical without undergoing a costly and time-consuming overhaul of its chemical handling equipment. Further, other water treatment chemicals are typically more expensive than liquid aluminum sulfate.

28. Because water treatment is a vital public service and because water treatment facilities cannot easily switch to other chemicals, demand for liquid aluminum sulfate is inelastic and is not significantly impacted by changes in price.

29. During the relevant time period, General Chemical was the largest producer of liquid aluminum sulfate in North America. In 2002, General Chemical had 35 manufacturing plants producing liquid aluminum sulfate throughout the United States and Canada.

30. From 1999 through 2009, General Chemical was wholly owned by, and functioned as the chemical division of, GenTek, Inc. In 2008, approximately 56% of GenTek's chemical division's revenue came from sales to the water treatment market.

31. During the conspiracy, General Chemical (as GenTek's wholly-owned subsidiary) experienced significantly increased revenues which were attributable, in part, to higher selling prices for its water treatment chemicals. For instance, between 2007 and 2008, GenTek's sales to the water treatment market rose 34% due to, *inter alia*, higher prices for its water treatment chemicals.

32. During the relevant time period, General Chemical (through its then-parent company, GenTek) increased its share of the liquid aluminum sulfate market through acquisitions of smaller competitors. For instance:

- a. In September 2006, GenTek, acquired the liquid aluminum sulfate manufacturing assets of GAC MidAmerica, Inc.
- b. In February 2007, GenTek acquired the assets of Chalum, Inc., which included a liquid aluminum sulfate manufacturing facility in Arizona.
- c. In December 2007, GenTek acquired Bay Chemical and Supply Co., which included a liquid aluminum sulfate manufacturing facility in Odem, Texas.

33. At least one other major producer of liquid aluminum sulfate also embarked upon an acquisition of a smaller producer during the relevant time period, thereby reducing the number of competitors in the liquid aluminum sulfate industry. In 1997, Geo Specialty Chemicals, Inc. ("GEO"), another large liquid aluminum sulfate producer, acquired Henkel Corporation's Paper Chemicals and Construction & Process Chemicals division, which included liquid aluminum sulfate manufacturing plants located in Cedartown, Georgia, and Harrison, New Jersey.

**A General Chemical Executive Pled Guilty to Participating in a
Conspiracy Regarding Liquid Aluminum Sulfate**

34. On October 27, 2015, the DOJ disclosed that Frank A. Reichl, a former General Chemical executive, agreed to plead guilty to his role in a conspiracy to fix prices, rig bids, and allocate customers for liquid aluminum sulfate in the United States. According to the terms of the guilty plea, Mr. Reichl has agreed to cooperate with the current federal investigation of violations of federal antitrust and related criminal laws involving the sale and marketing of liquid aluminum sulfate in the United States.

35. From 1993-2005, Reichl worked at General Chemical as the General Manager of Water Treatment. From 2007-2010, Mr. Reichl was the Vice President of Sales & Marketing at General Chemical. As both General Manager and Vice President, Reichl oversaw the sale and marketing of liquid aluminum sulfate. He was responsible for pricing and strategy, analyzing proposals, determining prices, approving bid and price proposals, and supervising other sales and marketing employees.

36. The DOJ charged Mr. Reichl with engaging in the following actions to facilitate the liquid aluminum sulfate conspiracy during the period 1997-July 2010:

- a. Participating in meetings and conversations specifically to discuss each other's liquid aluminum sulfate business;
- b. Agreeing to "stay away" from each other's "historical" customers by not pursuing those customers;
- c. Using bid and pricing histories to determine which accounts were the "historical" customers of each co-conspirator;
- d. Submitting intentionally losing or "throw away" bids to co-conspirators' "historical" liquid aluminum sulfate customers;

- e. Discussing the price to be quoted to a customer by the intended contract winner in order to determine the amount of intentionally losing bids;
- f. Upon a co-conspirator's request, withdrawing inadvertently winning bids submitted to a co-conspirator's "historical" customers;
- g. If a co-conspirator could not withdraw its inadvertently winning bid, intentionally losing on bids to one of its own customers to compensate for the loss of that "historical" customer; and
- h. Instructing new employees on how and when to bid on liquid aluminum sulfate customers in compliance with the agreement not to compete with co-conspirators.

37. These acts in furtherance of the conspiracy substantially reduced competition in the liquid aluminum sulfate market and caused Plaintiff and members of the Class to pay higher prices for liquid aluminum sulfate than they would have paid in a competitive market.

FRAUDULENT CONCEALMENT

38. Throughout the Class Period, Defendants affirmatively and fraudulently concealed their unlawful conduct from Plaintiff and members of the Class.

39. Plaintiff and members of the Class did not discover and could not have discovered through the exercise of reasonable diligence the existence of the conspiracy until October 27, 2015, when the United States Department of Justice disclosed that Frank A. Reichl agreed to plead guilty to fixing prices, rigging bids and allocating customers for liquid aluminum sulfate.

40. Because Defendants' conspiracy was actively concealed until October 27, 2015, Plaintiff and members of the Class were unaware of Defendants' unlawful conduct and did not know that they were paying artificially high prices for liquid aluminum sulfate.

41. The affirmative acts of Defendants alleged above, including acts in furtherance of the conspiracy, were wrongfully concealed and carried out in a manner that precluded detection, and could not have been discovered through the exercise of due diligence, which Plaintiff exercised.

42. Defendants agreed among themselves not to discuss publicly or otherwise reveal the nature and substance of the acts and communications in furtherance of their illegal conspiracy.

43. Defendants met and communicated secretly concerning the pricing and bidding of liquid aluminum sulfate so as to avoid detection.

44. By its very nature, Defendants' price-fixing conspiracy was inherently self-concealing.

45. Defendants gave false and pretextual reasons for their liquid aluminum sulfate prices during the Class Period.

COUNT I: VIOLATION OF SECTION 1 OF THE SHERMAN ACT, 15 U.S.C. § 1

46. Plaintiff incorporates by reference the allegations in the above paragraphs as if fully set forth herein.

47. Defendants entered into and engaged in a contract, combination or conspiracy in unreasonable restraint of trade in violation of Section 1 of the Sherman Act.

48. The contract, combination or conspiracy has resulted in an agreement and understanding between and among Defendants to raise, fix, stabilize and maintain prices for liquid aluminum sulfate, rig bids for liquid aluminum sulfate, and allocate customers for liquid aluminum sulfate during at least the period from January 1997 until July 2010. Such contract, combination or conspiracy constitutes a *per se* violation of the federal antitrust laws.

49. This contract, combination, or conspiracy occurred in or affected interstate and international commerce.

50. Defendants' unlawful contract, combination or conspiracy has had at least the following effects:

- a. Prices charged to Plaintiff and the members of the Class for liquid aluminum sulfate were fixed, raised, stabilized, and maintained at artificially high and non-competitive levels in the United States;
- b. Price competition in the sale of liquid aluminum sulfate was restrained, suppressed and eliminated in the United States; and
- c. As a direct and proximate result of the illegal combination, contract or conspiracy, Plaintiff and the members of the Class have been injured and financially damaged in their businesses and property, in amounts to be determined.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

A. A declaration that this action is a proper class action under Federal Rule of Civil Procedure 23(b)(3) on behalf of the Class defined herein, and an Order directing that reasonable notice of this action, as provided by Federal Rule of Civil Procedure 23(c)(2), be given to each member of the Class;

B. A declaration that Defendants have committed the violation of Section 1 of the Sherman Act (15 U.S.C. § 1) as alleged herein;

C. An award to Plaintiff and each member of the Class of damages, as provided by law, and joint and several judgments in favor of Plaintiff and each member of the Class against Defendants in an amount to be trebled in accordance with the antitrust laws;

D. An award to Plaintiff and the Class for the costs of this suit (including expert fees), and reasonable attorneys' fees, as provided by law; and

E. An award for such other and further relief as the nature of this case may require or as this Court deems just, equitable, and proper.

JURY TRIAL DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a jury trial as to all issues triable by a jury.

Dated: November 10, 2015

/s/ Peter S. Pearlman

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CERTIFICATE OF NON-ARBITRABILITY
PURSUANT TO L.CIV.R. 201.1(d)(3)

I certify, pursuant to L.Civ.R. 201.1(d)(3), that the above-captioned matter is not arbitrable because the damages recoverable exceed the sum of \$150,000 exclusive of interest and costs and any claim for punitive damages.

I certify under penalty of perjury that the foregoing is true and correct. Executed
On this 10th day of November, 2015

COHN LIFLAND PEARLMAN
HERRMANN & KNOPF LLP

By: /s/ Peter S. Pearlman

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

I certify that to the best of my knowledge, the matter in controversy is the subject of other actions pending in this court: *United States of America v. Frank A. Reichl*, Criminal. No. 15-cr-554; *Central Arkansas Water, et al. v. Frank A. Reichl, et al.*, Case No. 15-7827 (SRC/CLW); *Detroit Water and Sewerage Department, et al. v. Frank A. Reichl, et al.*, Case No. 15-7896 (JLL/JAD); and *Chester Water Authority, et al. v. Frank A. Reichl, et al.*, Case No. 15-7928 (JLL/JAD).

I certify under penalty of perjury that the foregoing is true and correct. Executed on this
10th day of November, 2015

COHN LIFLAND PEARLMAN
HERRMANN & KNOPF LLP

By: /s/ Peter S. Pearlman