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American Century
Investments

The Division of
Investment Management

FEDERAL EXPRESS

August 6, 2009

Securities and Exchange Commission
450 Fifth Street, NW
Washington, D.C. 20549

Re: American Century Global Investment Management, Inc. ("ACGIM")
American Century World Mutual Funds, Inc.
d/b/a American Century International Discovery Fund

SEC
Mail Processing
Section
AUG 07 2009
Washington, DC
122

Ladies and Gentlemen:

Accompanying this letter for filing pursuant to Section 33 of the Investment Company Act of 1940, as amended, is a copy of the Verified Class Action and Derivative Complaint and Jury Demand as filed by the plaintiff in the United States District Court, Eastern District of California, Sacramento Division styled as Nelson Gomes v. American Century Companies, Inc.

If you have any questions or concerns regarding this filing, please contact me at (816) 340-4047.

Very truly yours,

Jennie Clarke
Vice President and
Assistant General Counsel
American Century Services, LLC

MVC:ce

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7

8 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF CALIFORNIA
9 **SACRAMENTO DIVISION**

10 NELSON GOMES, individually, derivatively and on
behalf of all others similarly situated,

11 Plaintiff,

12 - against -

13 AMERICAN CENTURY COMPANIES, INC., AMERICAN
14 CENTURY GLOBAL INVESTMENT MANAGEMENT, INC.,
JAMES E. STOWERS, JR., JAMES E. STOWERS, III,
15 JONATHAN S. THOMAS, THOMAS A. BROWN, ANDREA
C. HALL, DONALD H. PRATT, GALE E. SAYERS, M.
16 JEANNINE STRANDJORD, TIMOTHY S. WEBSTER,
WILLIAM M. LYONS, ENRIQUE CHAN, MARK
17 KOPINSKI, and BRIAN BRADY,

18 Defendants,

19 - and -

20 AMERICAN CENTURY WORLD MUTUAL FUNDS, INC.,
doing business as AMERICAN CENTURY
21 INTERNATIONAL DISCOVERY FUND,

22 Nominal Defendant.
23

CASE NO.

**VERIFIED CLASS ACTION AND
DERIVATIVE COMPLAINT**

and

JURY DEMAND

24 Plaintiff alleges:

25 **OVERVIEW**

26 1. This lawsuit arises from criminal acts committed by the defendants
27 ("Defendants") when they unlawfully invested money entrusted to them by the plaintiff
28

1 (“Plaintiff”) in an illegal gambling business. These unlawful investments suffered significant
2 losses when the government began arresting principals of illegal gambling businesses during a
3 law enforcement crackdown beginning in the summer of 2006.

4 2. Plaintiff is a shareholder in Nominal Defendant American Century World
5 Mutual Funds, Inc. (“ACWMF”), through its American Century International Discovery Fund
6 (the “Fund”).

7 3. Defendants caused ACWMF to illegally invest, repeatedly and over a
8 significant period of time, in an entity whose primary business constituted illegal gambling under
9 the laws of one or more of the United States. The market value of these investments plunged
10 when law enforcement officials began criminal enforcement proceedings against such illegal
11 gambling businesses and their principals. Defendants’ illegal investments, all of which were
12 purchased for the Fund’s portfolio, directly injured ACWMF, Plaintiff and other investors in the
13 Fund because the value of shares in the Fund is calculated daily on the basis of the net asset value
14 of the Fund’s portfolio. Each dollar lost by Defendants’ investments in an illegal gambling
15 business resulted in a dollar loss to ACWMF and to the investors in the Fund on a *pro rata* basis.

16 4. The losses suffered by ACWMF and its investors were a direct and proximate
17 result of Defendants causing ACWMF to own or finance illegal gambling businesses. The
18 government law enforcement actions, and the investment losses that followed those enforcement
19 actions, were reasonably foreseeable and part of the risk that Defendants knowingly took when
20 they invested in illegal gambling businesses.

21 5. Plaintiff asserts claims under the Racketeer Influenced and Corrupt
22 Organizations Act, 18 U.S.C. §§ 1961-68 (“RICO”), as well as common law claims for breach of
23 fiduciary duty, negligence, and waste.

24 6. Defendants, each of whom is a person or entity employed by or associated with
25 ACWMF, conducted the affairs of ACWMF through a pattern of racketeering. Specifically, each
26 of the Defendants knowingly developed and implemented (or conspired to develop and
27 implement) an investment strategy pursuant to which Defendants caused ACWMF, through the
28 Fund, repeatedly and over a significant period of time to purchase shares in an “illegal gambling

1 business” as that term is used in 18 U.S.C. § 1955 (“§ 1955”), which makes it a felony to finance
2 or to own “all or part of an illegal gambling business.” When Defendants caused ACWMF to
3 purchase stock in an illegal gambling business, ACWMF financed and became an owner of part
4 of an illegal gambling business in violation of § 1955.

5 7. A violation of § 1955 is a predicate crime under RICO. 18 U.S.C.
6 § 1961(1)(B). Thus, by causing ACWMF to purchase stock of an illegal gambling business
7 repeatedly and over a significant period of time, Defendants conducted the affairs of ACWMF
8 through a pattern of racketeering in violation of 18 U.S.C. § 1962(c). They also conspired to
9 violate 18 U.S.C. § 1962(c) within the meaning of 18 U.S.C. § 1962(d).

10 8. Because Defendants’ unlawful conduct injured ACWMF itself, Plaintiff has
11 named ACWMF as a nominal defendant, and Plaintiff asserts derivative claims on behalf of
12 ACWMF.

13 9. Because Defendants’ wrongdoing injured numerous investors in the Fund in
14 exactly the same way, this action is also brought as a class action.

15 **THE PARTIES**

16 **Plaintiff**

17 10. Plaintiff Nelson Gomes (“Plaintiff”) is a citizen of California and resides in
18 Solano County. He first acquired shares in the Fund in 1997 for investment purposes and still
19 owns shares in the Fund.

20 11. Plaintiff sues derivatively on behalf of ACWMF.

21 12. Plaintiff also seeks to represent a class of investors in ACWMF (the “Class”)
22 who first purchased shares in the Fund before July 17, 2006 and still held shares after July 17,
23 2006 (the “Class Period”).

24 **Nominal Defendant**

25 13. ACWMF is a corporation organized under the laws of the State of Maryland. It
26 has its principal place of business at 4500 Main Street, Kansas City, Missouri 64111. It is
27 registered under the Investment Company Act of 1940 (the “1940 Act”) as an open-end
28 management investment company.

1 14. ACWMF is a "series" mutual fund. A series mutual fund is one that has two or
2 more portfolios of securities, each offering a separate series or class of stock to investors. Each
3 portfolio of a series mutual fund generally has different investment objectives, policies, practices,
4 and risks. The shareholders of each portfolio do not participate in the investment results of any
5 other portfolio and must look solely to the assets of their portfolio for most purposes, including
6 redemption, liquidation, earnings, and capital appreciation. Each series of stock represents a
7 different group of stockholders with an interest in a segregated portfolio of securities. Each
8 separate portfolio is commonly referred to as a "fund."

9 15. ACWMF offers a "series" of shares known as American Century International
10 Discovery Fund, which is referred to herein as the "Fund," though it is not a separate legal entity.
11 In addition to the Fund, ACWMF also comprises 10 other funds, none of which is a separate legal
12 entity. ACWMF has a single board of directors, which manages all 11 of its funds.

13 16. ACWMF, through its managers, is hostile and antagonistic to the enforcement
14 of the claims set forth herein, such that it is properly aligned as a defendant for purposes of
15 diversity of citizenship.

16 **Defendants**

17 17. Defendant American Century Companies, Inc. ("ACC") is incorporated in the
18 state of Maryland and has its principal place of business at 4500 Main Street, Kansas City,
19 Missouri 64111.

20 18. ACC is an investment management company that controls ACWMF and the
21 Fund through its subsidiary, American Century Global Investment Management, Inc.
22 ("ACGIM"), and through its selection and appointment of the executives and the entire board of
23 directors of ACWMF. The Fund does not have a board of directors separate from the board of
24 ACWMF.

25 19. Defendant ACGIM is incorporated in the state of Delaware and has its
26 principal place of business at 666 Third Avenue, New York, New York 10017.

1 20. ACGIM serves as the investment adviser to dozens of investment companies
2 controlled by ACC, including ACWMF and the Fund. ACGIM was responsible for management
3 of the Fund and implementing the investment strategy complained of herein.

4 21. Defendant James E. Stowers, Jr. ("Stowers Jr.") is Chairman of ACWMF, a
5 director and controlling shareholder of ACC, and a director of ACGIM. Stowers is responsible for
6 overseeing the investment strategy complained of herein.

7 22. Defendant Jonathan S. Thomas ("Thomas") is the President and Chief
8 Executive Officer of ACWMF and has been since January 2007. He was the Executive Vice
9 President of ACWMF from November 2005 through February 2007. Thomas exercised
10 operational or managerial oversight over the portfolio holdings of the Fund, including the
11 investment strategy complained of herein.

12 23. Defendants James E. Stowers, III ("Stowers III"), Thomas A. Brown
13 ("Brown"), Andrea C. Hall ("Hall"), Donald H. Pratt ("Pratt"), Gale E. Sayers ("Sayers"), M.
14 Jeannine Strandjord ("Strandjord"), and Timothy S. Webster ("Webster") (collectively and
15 together with Stowers Jr. and Thomas, the "Directors") are members of the board of directors of
16 ACWMF, with the exceptions of Stowers III and Webster, who ceased serving as directors in
17 2007 and 2008, respectively. Each of the Directors allowed ACWMF, through the Fund, to invest
18 or continue its investments in an illegal gambling business. Each of the Directors had a fiduciary
19 duty to act in the best interests of the shareholders of the ACWMF and the Fund. To an even
20 greater degree than the directors of corporations that are not mutual funds, the directors of mutual
21 funds are responsible for protecting the funds they serve under a unique watchdog role.

22 24. Defendant William M. Lyons ("Lyons") was President of ACWMF from
23 September 2000 through January 2007. Lyons also served as the Chief Executive Officer of ACC
24 from September 2000 through January 2007. He was primarily responsible for the day-to-day
25 management of the Fund and implementing the investment strategy complained of herein.

26 25. Defendant Enrique Chan ("Chan") at all relevant times was the Chief
27 Investment Officer of the International Equity group within ACC. He was responsible for
28 implementing the investment strategy complained of herein.

1 33. Defendants caused ACWMF repeatedly to violate § 1955 within a ten-year
2 period by causing ACWMF to purchase shares of an “illegal gambling business” within the
3 meaning of § 1955.

4 34. Each time ACWMF purchased stock of an illegal gambling business, it
5 violated § 1955.

6 35. Each of the Defendants knowingly developed and implemented (or conspired
7 to develop and implement) an investment strategy pursuant to which ACWMF, through the Fund,
8 was caused repeatedly and over a significant period of time to purchase shares in BWin
9 Interactive Entertainment AG (formerly BETandWIN.com Interactive Entertainment AG)
10 (“BWin”).

11 36. At various times, in or about February 2006, Defendants caused ACWMF,
12 through the Fund, to purchase millions of dollars worth of shares of BWin. At various times
13 between March 1, 2006 and May 31, 2006, Defendants caused ACWMF, through the Fund, to
14 purchase additional shares of BWin. At various times between June 1, 2006 and August 31, 2006,
15 Defendants caused ACWMF, through the Fund, to purchase additional shares of BWin.

16 37. At the time of the investments complained of herein, BWin was an “illegal
17 gambling business” as that term is used in 18 U.S.C. § 1955.

18 38. At the time of the investments complained of herein, it was well-established
19 that gambling businesses operating outside the United States violate US criminal law when they
20 take wagers from gamblers in the US. For example, Jay Cohen (“Cohen”) was convicted in
21 February 2000 of running an Internet sports book. On appeal, the Second Circuit held that Cohen
22 and his organization, an Antiguan corporation that took bets over the Internet from gamblers in
23 New York, violated the Wire Gambling Act, 18 U.S.C. § 1084, whenever there “was a telephone
24 call or an internet transmission between New York and [defendant] in Antigua” that facilitated a
25 bet or wager on a sporting event. *U.S. v. Cohen*, 260 F.3d 68 (2d Cir. 2001).

26 39. At the time of the investments complained of herein, it was also well-
27 established that gambling businesses operating outside the United States may violate the criminal
28 laws of individual states when they take wagers from gamblers in those states. For example, in

1 *U.S. v. Gotti*, 459 F.3d 296 (2d Cir. 2006), in upholding a conviction under § 1955 predicated on
2 a violation of N.Y. Penal Law § 225.00, the court held that it is “irrelevant that Internet gambling
3 is legal in Antigua. The act of entering the bet and transmitting the information from New York
4 via the Internet is adequate to constitute gambling activity within New York State.” *Accord*
5 *People ex rel. Vacco v. World Interactive Gaming Corp.*, 185 Misc.2d 852 (N.Y. Co. Sup. Ct.
6 2000).

7 40. On June 11, 2003, the United States Department of Justice issued a public
8 warning letter reminding the public that “Internet gambling and offshore sportsbook operations
9 that accept bets from customers in the United States violate Sections 1084, 1952, and 1955 of
10 [Title] 18 of the United States Code, each of which is a Class E felony. Additionally, pursuant to
11 [18 U.S.C. § 2], any person or entity who aids or abets in the commission of any of the above-
12 listed offenses is punishable as a principal violator of those statutes.”

13 41. There is also no question that Defendants, particularly the Directors, knew that
14 companies such as BWin were illegal gambling businesses. Prior to the investments in BWin, the
15 Directors had also caused another fund controlled by ACC and managed by American Century
16 Investment Management Inc., the sub-advisor to ACWMF, to purchase shares that at one point
17 were worth almost \$100 million in PartyGaming Plc, an illegal gambling business similar to
18 BWin. In a June 2005 prospectus, in connection with an initial public offering (“IPO”) of its
19 securities, PartyGaming had warned prospective investors that “in many countries, including the
20 United States, the Group’s activities are considered to be illegal by relevant authorities.” In the
21 same prospectus, PartyGaming disclosed to prospective investors that it “generates most of its
22 revenues from customers in the US (approximately 87 per cent. in the first quarter of 2005).” On
23 June 26, 2005, The New York Times reported that, for PartyGaming, the “potential illegalities
24 aren’t just a secret hidden in its business plan – they are the centerpiece of its business plan.”

25 42. Additionally, prior to the investments in BWin, the Directors had also
26 authorized another fund controlled by ACC and managed by ACGIM to purchase shares of
27 NETeller Plc (“NETeller”), another illegal gambling business similar to BWin. Like
28

1 PartyGaming, in connection with an IPO of its securities, NETeller disclosed in its April 8, 2004
2 prospectus that its operations violated US federal and state gambling laws.

3 43. Prior to the investments complained of herein, Defendants each knew, or
4 was reckless in not knowing, that BWin was taking bets from gamblers in the United States and
5 that law enforcement agencies in the United States considered its activities to be illegal gambling.

6 44. In addition to the foregoing, before Defendants first caused the ACWMF to
7 invest in BWin, it was public knowledge in the United States, based on various news media
8 reports and public press releases from the United States Department of Justice, that:

- 9
- 10 • In 1997, a Missouri court held that Interactive Gaming & Communications Corp.
11 violated state law by accepting bets through the Internet.
 - 12 • In October 2001, New Jersey filed enforcement proceedings against various online
13 gaming entities, including Sportingbet, for violating New Jersey's gambling laws.
 - 14 • In October 2001, Gold Medal Sports, an online sportsbook located in Curacao, and
15 its principals, pleaded guilty to racketeering in a criminal case brought by the
16 United States Attorney for the Western District of Wisconsin.
 - 17 • In April 2002, based on pressure brought by the Attorney General of New York,
18 PayPal, the world's largest electronic payment processor, agreed to halt financial
19 transactions on behalf of online gambling companies such as Sportingbet, BWin
20 and PartyGaming, which were taking bets from gamblers in New York in violation
21 of New York state law. Banks, including Citibank, also settled claims brought by
22 the New York State Attorney General by agreeing to halt payment processing for
23 unlawful Internet gambling businesses.
 - 24 • In March 2003, the United States brought suit against PayPal in Missouri for
25 facilitating unlawful gambling activity. In July 2005, PayPal agreed to pay the
26 federal government \$10 million in penalties.
 - 27 • The DOJ seized millions of dollars from cable TV stations that accepted
28 advertising money from illegal Internet gambling businesses, including over \$6
million from the Discovery Channel in April 2004.
 - In 2006, Sporting News agreed to pay a \$7.2 million fine because it promoted
unlawful gambling businesses by publishing ads for Internet gambling sites.

1 45. When Defendants caused ACWMF to purchase stock in an illegal gambling
2 business, ACWMF financed and became a part owner of an illegal gambling business in violation
3 of § 1955.

4 46. On June 1, 2006, a US grand jury indicted London-based BetOnSports Plc
5 (“BetOnSports”) – an unlawful Internet gambling business similar to BWin – for racketeering,
6 mail fraud and running an illegal gambling enterprise because it was accepting wagers from US
7 bettors in violation of US law. The indictment was filed under seal, so investors did not learn
8 about it until July 16, 2006 when its Chief Executive Officer, David Carruthers, was arrested.

9 47. After the public disclosures of the BetOnSports indictment, the share prices of
10 publicly held gambling companies that had been taking bets from gamblers in the US – including
11 BWin – fell dramatically.

12 48. There was no other material cause for the drop in BWin share price other than
13 BWin’s anticipated loss of illegal US-based gambling revenue due to government enforcement
14 efforts. That drop was the direct, proximate, natural, probable and reasonably foreseeable
15 consequence of Defendants’ actions in causing ACWMF to invest in an illegal gambling business
16 in violation of federal criminal law. The government law enforcement actions, and the investment
17 losses that followed those enforcement actions, were reasonably foreseeable and were part of the
18 risk that Defendant created by investing in illegal gambling businesses.

19 49. Soon after the commencement of the law enforcement actions, BWin shut
20 down its US operations and took an impairment charge of approximately \$680 million.

21 50. On or after August 31, 2006, ACWMF sold all of its shares of BWin, suffering
22 millions of dollars in losses. But for the events described above, Defendants would have
23 continued the racketeering activities described above.

24 51. Each of the Defendants agreed to cause, and participated in a scheme to cause,
25 ACWMF to purchase stock in an illegal gambling business.

26 52. Pursuant to the foregoing agreement and scheme, one or more of the
27 Defendants did in fact cause ACWMF repeatedly and over a significant period of time or in an
28

1 open-ended scheme, to purchase stock in an illegal gambling business which was illegal under
2 federal law and the laws of one or more of the United States.

3 53. ACWMF is an open-ended investment company whose activities affect
4 interstate or foreign commerce.

5 54. ACWMF is an enterprise within the meaning of RICO.

6 55. Each of the Defendants is a person employed by or associated with ACWMF.

7 56. Each of the Defendants had operational or managerial control over ACWMF.

8 57. In causing ACWMF to purchase stock of an illegal gambling business, each of
9 the Defendants exercised operational or managerial control over ACWMF.

10 58. At the time Defendants caused ACWMF to purchase stock in BWin, BWin
11 was an illegal gambling business because the business of the company (a) violated the laws of
12 one or more of the United States, including, without limitation, the laws of the state of New York;
13 (b) involved five or more persons who conduct, finance, manage, supervise, direct, or own all or
14 part of such business; and (c) had been or remained in substantially continuous operation for a
15 period in excess of thirty days or had a gross revenue of \$2,000 in any single day.

16 59. Defendants' activities causing ACWMF to make investments in an illegal
17 gambling business constituted an open-ended, continuous pattern of racketeering activity under
18 28 U.S.C. § 1962(c).

19 60. Defendants conducted or caused to be conducted, or were reckless in failing to
20 conduct or to cause to be conducted, due diligence before ACWMF purchased stock in an illegal
21 gambling business. Accordingly, Defendants each knew, or is deemed to have known, that they
22 were causing ACWMF to purchase stock of a company that was taking wagers from gamblers in
23 the United States, including, without limitation, the State of New York.

24 61. In or about 2006, federal and state law enforcement agencies began a
25 crackdown on illegal gambling businesses such as the one in which Defendants had caused
26 ACWMF to invest. Thereafter, the stock prices of illegal gambling businesses, including the one
27 that ACWMF owned, fell substantially, as the market re-priced the value of the shares of the
28

1 illegal gambling businesses to account for the loss of illegal revenues derived from activities that
2 violated anti-gambling laws in the United States.

3 62. As a direct, foreseeable, and proximate result of Defendants' acts in causing
4 ACWMF to invest in an illegal gambling business, ACWMF and Plaintiff were injured in their
5 business or property.

6 63. Each purchase of shares by ACWMF in BWin caused ACWMF to own part of
7 an illegal gambling business.

8 64. Each purchase of shares by ACWMF in BWin caused ACWMF to finance an
9 illegal gambling business.

10 65. In addition to conducting or participating in the conduct of ACWMF's
11 activities through a pattern of racketeering, Defendants also agreed and conspired to violate
12 18 U.S.C. § 1962(c) by conducting or participating in the conduct of the affairs of ACWMF
13 through a pattern of racketeering activity within the meaning of 18 U.S.C. § 1962(d).
14 Specifically:

15 (a) Defendants agreed to cause ACWMF to invest in an illegal gambling
16 business.

17 (b) In furtherance of such conspiracy, Defendants caused ACWMF to make
18 investments in an illegal gambling business.

19 66. ACWMF and Plaintiff have been injured in their business or property through
20 Defendants' violation of 18 U.S.C. § 1962.

21 67. Said injuries were proximately caused by Defendants' racketeering activities
22 and the overt acts taken in furtherance of Defendants' racketeering conspiracy.

23 68. Said injuries were the foreseeable, direct and natural consequence of unlawful
24 investments in an illegal gambling business.

25 69. Defendants' actions breached their fiduciary duties to ACWMF.

26 70. Defendants' actions also breached their fiduciary duties to each of the
27 shareholders of the Fund.

28

1 71. Defendants' actions also constituted negligence in that they breached a duty of
2 care owed to ACWMF.

3 72. Defendants' actions also constituted negligence in that they breached a duty of
4 care owed to each of the shareholders of the Fund.

5 73. Plaintiff has been injured as a result of Defendants' breaches of fiduciary
6 duties and negligence.

7 74. ACWMF and Plaintiff have been injured in their business or property as a
8 result of Defendants' racketeering, breach of fiduciary duty, negligence and waste of assets.

9 **ALLEGATIONS COMMON TO ALL DERIVATIVE CLAIMS**

10 75. Plaintiff was a shareholder of ACWMF at the time of the transactions of which
11 he complains.

12 76. Plaintiff is a shareholder in ACWMF at the present time.

13 77. This action is not a collusive one to confer jurisdiction on this Court which it
14 would not otherwise have.

15 78. No effort has been made to obtain the desired action from the board of
16 directors of ACWMF because (a) the entire board of directors of ACWMF have an inherent
17 conflict in determining a demand against Defendants; and (b) in addition, a majority of the board
18 of directors have a disabling interest because they are exposed to a substantial likelihood of
19 criminal and civil liability. In particular:

20 (a) The entirety of the board of directors of ACWMF is inherently conflicted
21 because any decision to vindicate the rights of investors in the Fund against ACC
22 and ACGIM would be contrary to the interests of shareholders of other funds on
23 whose behalf the directors also serve and to whom they owe a duty of undivided
24 loyalty;

25 (b) The defendant Directors, who compose a majority of the board of directors,
26 also have disabling interests and lack independence because they face a substantial
27 likelihood of criminal and civil liability for wrongs that constitute, among other
28

1 things, crimes, bad faith, gross negligence, willful misfeasance, reckless disregard
2 of duty, and violation of defendant Directors' duty of loyalty.

3 79. The board of directors for ACWMF each have fiduciary duties to
4 independently represent the best interests of the investors in each of the funds that compose
5 ACWMF. The Directors therefore are charged with separate and independent fiduciary duties to
6 the investors in the Fund as well as to the investors in the other funds that constitute ACWMF.

7 80. The interests of the investors in the other funds that constitute ACWMF are
8 contrary to the interests of the investors in the Fund with respect to the claims set forth in this
9 complaint against Defendants. The interests of the investors in the other funds that constitute
10 ACWMF are antagonistic to those of the investors in the Fund because the fees paid to ACC and
11 ACGIM by ACWMF and allocated by Defendants to the Fund help cover the expenses or losses
12 of the other funds that compose ACWMF.

13 81. According to ACWMF's official filings with the United States Securities and
14 Exchange Commission ("SEC"), ACGIM is responsible for providing or arranging for all services
15 necessary for the operation of all the separate funds that compose ACWMF. ACGIM obtains the
16 funds to pay for all such operation expenses in substantial part from the fees allocated to the
17 Fund.

18 82. Were the Plaintiffs to prevail in this litigation, ACGIM would be liable to pay
19 an amount equal to three times all capital losses suffered by ACWMF and all of the fees ACGIM
20 has received on account of its management of the Fund's portfolio from the time that Defendants
21 first caused ACWMF to purchase shares in illegal gambling businesses. In that event, ACGIM
22 would be unable to continue covering the operational expenses of the other funds that compose
23 ACWMF as well as other funds to which the board of directors also have fiduciary duties. As a
24 result, it is contrary to the interests of investors in the other funds for Plaintiff to succeed in this
25 action. All of the directors therefore have an irreconcilable conflict of interest with respect to this
26 action because they owe a duty of undivided loyalty to multiple groups of investors whose
27 interests directly and irreconcilably conflict.

28

1 83. Because of the inherent conflict of interest faced by the entire board of
2 directors of ACWMF, demand on them to bring suit against Defendants would be futile as a
3 matter of law.

4 84. In addition, a majority of the board of directors also have a disabling interest in
5 assessing a demand to sue Defendants – including themselves – on behalf of ACWMF because
6 they face a substantial likelihood of personal criminal or civil liability.

7 85. To an even greater degree than the directors of ordinary corporations, mutual
8 fund directors, including the Directors, are responsible for protecting mutual funds' investors
9 under a unique watchdog role. Thus, each of the Directors had a special duty to ensure that
10 ACWMF did not invest in criminal activities and enterprises, including illegal gambling
11 businesses.

12 86. The Directors also had a duty to ensure that ACWMF had proper control
13 mechanisms to ensure that it did not make any investments in any illegal gambling businesses.

14 87. As part of its role as investment adviser, ACGIM selects with ACC the persons
15 who serve on ACWMF's board of directors, including the Directors. Accordingly, the
16 relationship between ACC, ACGIM, ACWMF and the Directors is fraught with conflicts of
17 interest.

18 88. Because of the widespread publicity given by the international news media to
19 the illegality of investments in companies such as BWin, the Directors knew or were reckless in
20 not knowing that ACWMF's investments in BWin were illegal.

21 89. Because a demand in this case would require the board of directors of
22 ACWMF to cause ACWMF to sue ACC, ACGIM and the Director defendants, the Directors are
23 inherently conflicted from exercising independent and disinterested business judgment.

24 90. Therefore, pre-suit demand upon the Directors would have been futile because
25 a majority of the directors could not have properly exercised their independent and disinterested
26 business judgment in responding to a demand. Not only do the Director defendants face a
27 substantial threat of civil and criminal liability, but the relationship between ACC, ACGIM,
28

1 ACWWMF and the Directors creates a conflict of interest that creates a strong presumption against
2 board independence and disinterest.

3 91. Pre-suit demand upon the board of directors of ACWWMF is also excused
4 because the wrongdoing of which Plaintiff complains in this complaint constitutes inherently
5 illegal criminal activity that is *ultra vires* and a *per se* violation of the business judgment rule.

6 **CLASS ALLEGATIONS**

7 92. Plaintiff seeks to represent a class of investors in ACWWMF who purchased one
8 or more shares in the Fund during the Class Period.

9 93. Excluded from the Class are Defendants, members of their immediate families
10 and their legal representatives, heirs, successors, or assigns, and any entity in which Defendants
11 have or had a controlling interest.

12 94. The requirements of Fed. R. Civ. P. 23(a) are met because:

13 (a) The members of the Class are so numerous that joinder of all members is
14 impracticable.

15 (b) There are questions of law and fact common to the Class, including
16 whether:

17 (i) Defendants' acts and conduct as alleged herein violated RICO;

18 (ii) Defendants breached their fiduciary and other duties to
19 Plaintiff;

20 (iii) Defendants committed negligence;

21 (iv) Defendants' wrongful conduct proximately caused the injuries
22 complained of; and

23 (v) Defendants are required to forfeit all fees, commissions or other
24 profits received from the time that they first violated their fiduciary duties.

25 (c) Plaintiff's claims are typical of the claims of the members of the Class
26 because all members of the Class were injured by Defendants' wrongful conduct
27 in exactly the same way.

28

1 (d) Plaintiff will fairly and adequately protect the interests of the Class because
2 Plaintiff's attorneys are qualified, experienced, and generally able to conduct the
3 proposed litigation. Moreover, Plaintiff has no interests antagonistic to those of the
4 Class.

5 95. The requirements of Fed. R. Civ. P. 23(b)(3) are met because:

6 (a) A class action is superior to all other available methods for the fair and
7 efficient adjudication of this controversy because:

8 (i) The Class members' individual interests are small, such that
9 they would have no interest in individually controlling the prosecution of
10 separate actions;

11 (ii) No other litigation concerning this controversy has been
12 commenced;

13 (iii) It would be desirable to concentrate the litigation of these
14 claims in this forum; and

15 (iv) It is unlikely that there will be significant difficulties in
16 managing this case as a class action.

17 **FIRST CLAIM FOR RELIEF**
18 **(INDIVIDUAL AND CLASS CLAIMS)**
19 **(CIVIL RICO, 18 U.S.C. § 1962(c))**

20 96. Plaintiff repeats and realleges all paragraphs above as if fully set forth herein.

21 97. This claim is brought by Plaintiff individually and on behalf of the Class
22 pursuant to RICO, 18 U.S.C. §§ 1961, *et seq.*, against Defendants.

23 98. ACWMF is an enterprise engaged in and whose activities affect interstate and
24 foreign commerce. Defendants are the Directors, investment advisers and executives of ACWMF
25 and therefore occupy managerial or operational positions with respect to the racketeering acts
26 alleged herein.

27 99. Defendants agreed to and did conduct or participate in the conduct of
28 ACWMF's affairs through a pattern of racketeering activity and for the unlawful purpose of
investing in illegal gambling businesses in violation of 18 U.S.C. § 1962(c).

1 100. Pursuant to and in furtherance of their unlawful scheme, Defendants
2 committed multiple racketeering acts by making numerous investments in an illegal gambling
3 business on several occasions extending over a year.

4 101. The foregoing acts constitute a pattern of racketeering activity pursuant to 18
5 U.S.C. § 1961(5).

6 102. As a direct and proximate result of the Defendants' racketeering activities and
7 violations of 18 U.S.C. § 1962(c), Plaintiff and the Class have been injured in their business or
8 property.

9 **SECOND CLAIM FOR RELIEF**
10 **(INDIVIDUAL AND CLASS CLAIMS)**
11 **(CIVIL RICO, 18 U.S.C. § 1962(d))**

12 103. Plaintiff repeats and realleges all paragraphs above as if fully set forth herein.

13 104. This claim is brought by Plaintiff individually and on behalf of the Class
14 pursuant to RICO, 18 U.S.C. §§ 1961, *et seq.*, against Defendants.

15 105. Each Defendant violated 18 U.S.C. § 1962(d) by conspiring and agreeing to
16 conduct or participate in the conduct of ACWMP's affairs through a pattern of racketeering
17 activity and for the unlawful purpose of investing in illegal gambling businesses, in violation of
18 18 U.S.C. § 1962(c).

19 106. Pursuant to and in furtherance of their unlawful conspiracy, one or more
20 Defendants committed one or more overt acts in furtherance of the conspiracy.

21 107. As a direct and proximate result of Defendants' conspiracy and the overt acts
22 in furtherance of such conspiracy, Plaintiff and the Class have been injured in their business and
23 property.

24 **THIRD CLAIM FOR RELIEF**
25 **(INDIVIDUAL AND CLASS CLAIMS)**
26 **(BREACH OF FIDUCIARY DUTY)**

27 108. Plaintiff repeats and realleges all paragraphs above as if fully set forth herein.

28 109. This claim is brought by Plaintiff individually and on behalf of the Class
against all Defendants.

1 110. Defendants owe a fiduciary duty to shareholders of ACWMF who invested in
2 the Fund.

3 111. Defendants have breached their fiduciary duties to Plaintiff and the Class by
4 causing ACWMF, through the Fund, to invest in an illegal gambling business.

5 112. Plaintiff and the Class have been injured as a direct, proximate and foreseeable
6 result of such breach on the part of Defendants and have suffered substantial damages thereby,
7 including the loss in value of their investments and the payment, directly or indirectly, of
8 commissions, fees and other compensation received by Defendants from the time that they first
9 breached their fiduciary duties to Plaintiff and the Class.

10 113. Plaintiff, individually and on behalf of the Class, also seeks special injuries not
11 belonging to ACWMF. In particular, Plaintiff and the Class seek the recoupment of fees,
12 commissions and other compensation that Plaintiff and each Class member paid to Defendants.

13 **FOURTH CLAIM FOR RELIEF**
14 **(INDIVIDUAL AND CLASS CLAIMS)**
15 **(NEGLIGENCE)**

16 114. Plaintiff repeats and realleges all paragraphs above as if fully set forth herein.

17 115. This claim is brought by Plaintiff individually and on behalf of the Class
18 against all Defendants.

19 116. Defendants owe a duty to the shareholders of ACWMF who invested in the
20 Fund to exercise reasonable care with respect investments by the Fund.

21 117. Defendants breached their duty of care to shareholders of ACWMF who
22 invested in the Fund by causing ACWMF, through the Fund, to invest in an illegal gambling
23 business.

24 118. As a proximate result of Defendants' negligence, Plaintiff and the Class have
25 been damaged.

26 **FIFTH CLAIM FOR RELIEF**
27 **(DERIVATIVE CLAIM)**
28 **(CIVIL RICO, 18 U.S.C. § 1962(c))**

119. Plaintiff repeats and realleges all paragraphs above as if fully set forth herein.

- 1 e) Punitive damages;
2 f) Recovery of Plaintiff's attorneys' fees, expert witness fees, and costs and
3 disbursements of suit;
4 g) Pre-judgment and post-judgment interest; and
5 h) Such other and further relief to which Plaintiff is deemed entitled by the
6 Court and/or the jury.

7 **JURY DEMAND**

8 Plaintiff demands a trial by jury on all issues to triable.

9 Dated: June 26, 2009

10 

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VERIFICATION

Nelson Gomes, pursuant to 28 U.S.C. § 1746, hereby verifies, under penalty of perjury, that the foregoing complaint is true and correct to the best of his knowledge information and belief, formed after reasonable inquiry.

Executed: June 27, 2009



Nelson Gomes