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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF SACRAMENTO  
15  
16

17 **THE PEOPLE OF THE STATE OF**  
18 **CALIFORNIA EX REL. EDMUND G.**  
19 **BROWN JR.,**

20 **v.**

21 **STATE STREET CORPORATION, STATE**  
22 **STREET CALIFORNIA INC., STATE**  
23 **STREET BANK AND TRUST COMPANY,**  
24 **STATE STREET GLOBAL MARKETS,**  
25 **AND DOES 1 THROUGH 100, INCLUSIVE.**

Case No. 34-2008-00008457-CU-MC-GDS

**COMPLAINT IN INTERVENTION**

Violation of the California False Claims Act  
(Cal. Gov. Code, § 12651)

Unlawful Business Practices  
(Bus. & Prof. Code § 17200)

Demand for Jury Trial

1 Plaintiff, the People of the State of California, by and through California Attorney General  
2 Edmund G. Brown Jr., allege as follows:

### 3 **INTRODUCTION**

4 1. This action is brought against State Street Corp., State Street California Inc.  
5 (“State Street California”), State Street Bank and Trust Company (“State Street Bank”), and State  
6 Street Global Markets (“Global Markets”) (collectively “State Street”). For years, State Street,  
7 led by a group of its internal “risk traders,” raided the custodial accounts of California’s two  
8 largest public pension funds, in a total amount exceeding \$56 million, by fraudulently pricing  
9 foreign currency (“FX”) trades State Street executed for the pension funds. State Street Bank is  
10 the custodial bank and fiduciary for the California Public Employees’ Retirement System  
11 (CalPERS) and the California State Teachers’ Retirement System (CalSTRS) (collectively “the  
12 Pension Funds”). State Street Bank executed FX trades for the Pension Funds when notified that  
13 the Pension Funds required foreign currency to close foreign securities trades, or when the  
14 Pension Funds requested that State Street convert foreign currency held in the Pension Funds’  
15 custodial accounts into U.S. Dollars.

16 2. Beginning in 2001, State Street Bank’s contracts with the Pension Funds  
17 guaranteed that the Pension Funds would receive the most competitive rates available for all FX  
18 transactions, regardless of size, currency, or contract type because, as State Street represented, all  
19 trades would be priced based upon the Interbank Rate (“Interbank Rate”) at the time the trades  
20 were executed. The Interbank Rate is the price at which major banks that operate within the  
21 interbank market buy and sell currency. The Interbank Rate fluctuates throughout each day and is  
22 tracked and published by various industry sources. However, rather than price the Pension  
23 Funds’ custody FX trades at the Interbank Rate, State Street consistently “marked-up” the prices  
24 using rates far in excess of the Interbank Rate at the time State Street executed the trades.  
25 Conversely, when State Street executed custody FX trades to convert or “repatriate” foreign  
26 currency held in the Pension Funds’ custodial accounts into U.S. Dollars, State Street “marked-  
27 down” the price the Pension Funds received to an amount far below the Interbank Rate at the time  
28 State Street executed the trades.

1           3.       State Street concealed its fraudulent pricing practices by entering false exchange  
2 rates into its electronic trading databases, which automatically debited the Pension Funds'  
3 custodial accounts, and by reporting false exchange rates in numerous documents, including FX  
4 Spot Purchase Activity Reports and account statements submitted to the Pension Funds and the  
5 Pension Funds' outside investment managers. State Street also entered false exchange rates into  
6 its on-line reporting database, MyStateStreet.com, from which the Pension Funds obtained reports  
7 detailing their account activity. State Street further disguised its fraudulent scheme by pricing the  
8 FX trades within the interbank high and low rate of the day and by failing to provide time stamp  
9 data for the trades that would reveal when State Street actually executed the trades.

10           4.       State Street's concerns about revealing its fraudulent custody FX pricing practices  
11 are reflected in its internal e-mails. When discussing inquiries by the Pension Funds about  
12 providing "transparency" in FX execution costs, one Senior Vice President with State Street  
13 California commented to other State Street executives that, "[i]f providing execution costs will  
14 give [CalPERS] any insight into how much we make off of FX transactions, I will be shocked if  
15 [a State Street V.P.] or anyone would agree to reveal the information." Another State Street  
16 California executive sought help from State Street executives in formulating a strategy to deflect  
17 the Pension Funds' attention away from custody FX "transparency," writing, "[a]ny help you can  
18 offer would be appreciated. The FX question is touchy and if we can't provide any further  
19 information, we have to somehow get [CalPERS] comfortable with that since our RFP response  
20 indicated we could provide execution cost transparency."

21           5.       State Street's false claims for unauthorized custody FX "mark-ups" and their  
22 concealment of their obligation to pay the Interbank Rate for repatriation trades, which began in  
23 2001 and persist to the present day, have resulted in damage to the Pension Funds in an amount  
24 exceeding \$56 million.

25           6.       On April 14, 2008, Associates Against FX Insider Trading, filed this action  
26 pursuant to the *qui tam* provisions of the California False Claims Act. (Gov. Code § 12652, subd.  
27 (c).) The People have filed this Complaint in Intervention pursuant to the Attorney General's  
28

1 Notice of Election to Intervene and proceed with the action as authorized by Government Code  
2 Section 12652, subdivision (c)(6)(A).

3 **PARTIES**

4 7. Attorney General Edmund G. Brown Jr. is the Chief Law Officer of the State of  
5 California. He brings this action in the name of the People of the State of California as Plaintiff  
6 and real party in interest (hereinafter "the People").

7 8. Associates Against FX Insider Trading is the *qui tam* and a Delaware general  
8 partnership.

9 9. Defendant State Street Corporation is a financial holding company, incorporated in  
10 Massachusetts and headquartered in Boston. It provides custodial banking and FX services to the  
11 Pension Funds through several of its subsidiaries. It touts itself and its subsidiaries as the "No. 1  
12 servicer of U.S. pension plans," and as of mid-2009, had \$16.4 trillion in assets under custody and  
13 \$1.6 trillion under management.

14 10. Defendant State Street California, a subsidiary of State Street Corp., is  
15 incorporated in California, is headquartered in California and has an office in the CalPERS  
16 headquarters in Sacramento. It provides custodial banking and FX services to the Pension Funds.  
17 State Street California maintains an office in Alameda, which services the Pension Funds'  
18 accounts for State Street Bank and Global Markets. State Street California is the entity  
19 responsible for the overall business relationship, including client satisfaction, service delivery,  
20 quality standards, business profitability and business growth with the Pension Funds.

21 11. Defendant State Street Bank and Trust Company, a subsidiary of State Street Corp,  
22 is incorporated in Massachusetts, is headquartered in Boston, Massachusetts and has offices in  
23 California. It also provides custodial banking and FX services to the Pension Funds and is the  
24 signatory to the custodial agreements with the Pension Funds.

25 12. Defendant State Street Global Markets, LLC, a subsidiary of State Street Corp., is  
26 incorporated in Delaware and is headquartered in Boston, Massachusetts. It provides specialized  
27 investment research and trading in foreign exchange, equities, fixed income and derivatives for  
28 the Pension Funds.

1           13.     The true names and capacities, whether corporate, associate, individual,  
2 partnership or otherwise of Defendants Does 1 through 100, inclusive, are unknown to the People,  
3 which therefore sues said Defendants by such fictitious names. The People will seek leave of  
4 court to amend this Complaint to allege their true names and capacities when the same are  
5 ascertained.

6           14.     At all relevant times each of the Defendants, including Doe defendants, was and is  
7 the agent, employee, employer, joint venturer, representative, alter ego, subsidiary, and/or partner  
8 of one or more of the other defendants, and was, in performing the acts complained of herein,  
9 acting within the scope of such agency, employment, joint venture, or partnership authority,  
10 and/or is in some other way responsible for the acts of one or more of the other defendants.

11           15.     CalPERS is an agency of the State of California and the nation's largest public  
12 pension fund, providing benefits to more than 1.6 million public employees, retirees, and their  
13 families.

14           16.     CalSTRS is an agency of the State of California and the nation's second largest  
15 public pension fund, providing retirement related benefits to over 800,000 members and  
16 beneficiaries.

### 17                                   **JURISDICTION AND VENUE**

18           17.     Venue is proper in this Court because Defendant State Street California maintains  
19 an office in Sacramento County, and because State Street engaged in conduct directed at the State  
20 of California and residents of the State of California.

21           18.     Furthermore, much of State Street's misconduct took place in this county, and the  
22 acts complained of, including the submission of false statements and records, occurred in and  
23 were directed at government offices and officials located within this county.

### 24                                   **STATE STREET'S FRAUDULENT SCHEME**

#### 25                                   **Contracts with CalPERS/CalSTRS**

26           19.     State Street has served as master custodian over CalPERS' assets since 1992 and  
27 over CalSTRS' assets since 1986.

1           20.     In 2000, CalPERS issued a Request for Proposal (“RFP”) soliciting responses  
2 from various banking institutions interested in becoming CalPERS’ master custodian. In 2001,  
3 CalPERS re-selected State Street as its custodial bank. The 2001 contract took effect on  
4 September 1, 2001, and incorporated by reference State Street’s 2000 RFP response (the contract  
5 and RFP response are collectively referred to as “the CalPERS contract”). This contract expired  
6 on June 30, 2006.

7           21.     Also in 2000, CalSTRS issued an RFP soliciting responses from various banking  
8 institutions interested in becoming CalSTRS’ master custodian. In 2001, CalSTRS re-selected  
9 State Street. The 2001 contract took effect on July 1, 2001, and incorporated by reference State  
10 Street’s 2000 RFP response (the contract and RFP response are collectively referred to as “the  
11 CalSTRS contract”). This contract is currently in effect.

12           22.     Collectively, the CalPERS and CalSTRS contracts are referred to as “the Pension  
13 Fund Contracts.”

14           23.     The Pension Fund Contracts explicitly controlled how State Street could charge  
15 the Pension Funds for custody FX transactions stating that all “trades are priced based on the  
16 Interbank Rates at the time the trade is executed.” The Interbank Rate is tracked and published  
17 by industry sources, such as Reuters.

18                           **State Street’s Processing of FX Orders**

19           24.     The Pension Funds initiated FX trades with State Street in one of two ways:  
20 directly or indirectly.

21           25.     With direct FX trades, the Pension Funds or their outside investment managers  
22 (“OIMs”) communicated the trade information to a State Street salesperson who quoted a rate that  
23 the Pension Fund or the OIM could choose to accept or reject. If the rate was accepted, the trade  
24 was executed at the agreed upon price.

25           26.     With indirect FX trades, also called custody FX trades, neither the Pension Funds  
26 nor their OIMs negotiated rates with State Street and State Street did not quote rates. Instead, the  
27 Pension Funds or their OIMs instructed their custody group representative within State Street to  
28 execute FX transactions for the Pension Funds. When a security trade included a request to



1 execute the required FX to fund the transactions, or repatriate foreign currency, the FX trade  
2 request was routed electronically via State Street's Market Order Management System (MOMS)  
3 from the custody side of State Street for execution and pricing by a group of "risk traders"  
4 working at State Street's FX trading desk.

5 27. After receiving custody FX requests through the MOMS system, at some time  
6 during the trading day State Street's risk traders executed the custody FX trades by entering the  
7 trade information, including the false exchange rates into the MOMS system. The MOMS system  
8 automatically fed the trading data into State Street's former accounting network called the IBS  
9 system which was later upgraded to a system called Wall Street Systems ("WSS"). IBS/WSS  
10 automatically released the custody FX trades to State Street's Multi-Currency Horizon system  
11 which debited or credited the Pension Funds' custodial accounts utilizing the false exchange rates  
12 entered into MOMS by State Street's risk traders. Sometime in 2005, State Street created a new  
13 business group that relieved State Street's risk traders of responsibility for executing and pricing  
14 custody FX trades with the Pension Funds. However, State Street's new business group  
15 continued the same scheme of executing and pricing custody FX trades with the Pension funds  
16 utilizing false exchange rates.

17 28. State Street derived its false exchange rates by taking the Interbank Rate at the  
18 time the trades were executed and adding or subtracting "basis points" or "pips" from the rate  
19 depending upon whether the Pension Funds were acquiring or repatriating foreign currency. A  
20 basis point, or pip, is a unit equal to 1/100th of a percentage point. For example, the smallest  
21 move the USD/CAD (U.S. Dollar/Canadian Dollar) currency pair can make is 1/100 of a penny  
22 (\$0.0001), or one basis point. When the Pension Funds acquired currency through State Street's  
23 custody FX program, State Street's false exchange rates often ranged 25 pips above or below the  
24 Interbank Rate and, in some cases exceeded the Interbank Rate by 144 pips. The cumulative  
25 effect of these overcharges and underpayments by State Street resulted in over \$56 million in  
26 damages to the Pension Funds.

**State Street's False Claims, Records, and Statements**

29. As the custodian bank for the Pension Funds, State Street had direct access to the Pension Funds' custodial accounts. With the Pension Funds' money on account with State Street, State Street routinely made false claims for payment from the Pension Funds' custodial accounts by entering fictional FX exchange rates into State Street's MOMS, IBS, WSS and Multi-Currency Horizon System.

30. These claims were false because, despite the language in the Pension Funds Contracts, State Street claimed funds using fictional exchange rates substantially outside the prevailing Interbank Rates at the time State Street executed the trades.

31. State Street provided both Pension Funds with monthly "FX Spot Purchase/Sale Activity Reports," detailing all custody FX transactions executed for the Pension Funds in order to settle any underlying securities transactions, including repatriation. State Street also downloaded custody FX trading detail onto its on-line reporting database, MyStateStreet.com. These reports and database identified each FX transaction executed by State Street for the Pension Funds. The reports and trading detail were false because the exchange rate they identified and recorded was not the Interbank Rate at the time State Street executed the trades but, rather, an inflated and fictional rate disguising State Street's undisclosed and unauthorized "mark-up" or a reduced rate disguising State Street's undisclosed and unauthorized "mark-down" depending on whether the transaction was a purchase or a sale of foreign currency.

32. State Street used these false reports and fraudulent reporting systems for the purpose of obtaining payment or approval of State Street's withdrawal of funds from the Pension Funds' custodial accounts and for the purpose of avoiding payment of the Interbank Rate to the Pension Funds when State Street repatriated the Pension Funds' foreign currency holdings into U.S. Dollars.

33. The fraudulent requests, false reports and fraudulent reporting systems alleged herein concealed millions of dollars in State Street's overcharges and underpayments to the Pension Funds, and were material to the Pension Funds' payment and approval of State Street's



1 false claims and material to State Street avoiding its obligation to pay the Pension Funds at the  
2 Interbank Rate when converting foreign currency to U.S. Dollars.

3 **The State Street Conspiracy**

4 34. State Street has, through their agents, subsidiaries, and/or associated companies,  
5 participated in a common law conspiracy to violate Government Code Section 12651, subdivision  
6 (a)(7), and a conspiracy in violation of Government Code Section 12651, subdivision (a)(3), by,  
7 among other things, creating, servicing, maintaining, and participating in a fraudulent custody FX  
8 trading system that State Street used to: (1) generate false claims to funds held in the Pension  
9 Funds' custodial accounts; (2) generate false documents to obtain payment and/or approval of  
10 debits from the Pension Funds' custodial accounts; (3) generate false documents and records to  
11 avoid State Street's obligation to pay the Interbank Rate at the time they executed repatriation  
12 trades to convert foreign currency held in the Pension Funds' accounts into U.S. Dollars; and (4)  
13 conceal State Street's use of fictitious custody FX rates when executing FX trades for the Pension  
14 Funds.

15 35. State Street agreed among themselves that: (1) State Street would route all  
16 custody FX trade requests State Street received from the Pension Funds through Global Markets  
17 for execution; (2) Global Markets would "mark-up" the custody FX exchange rate above the  
18 Interbank Rate at the time it executed custody FX trades with the Pension Funds; (3) Global  
19 Markets would "mark-down" the custody FX exchange rates below the Interbank Rate when it  
20 executed repatriation trades converting foreign currency held in the Pension Funds' custodial  
21 accounts into U.S. Dollars; and (4) Global Markets would enter these false exchange rates into  
22 State Street Bank's MOMS system and other electronic trading platforms.

23 36. State Street further knew, intended and agreed that, in direct violation of Pension  
24 Fund Contracts, their fraudulent pricing scheme generated false claims for funds held in the  
25 Pension Funds' custodial accounts and improperly debited those accounts for custody FX trades  
26 using exchange rates substantially outside the Interbank Rate at the time State Street executed the  
27 trades. State Street further knew, intended and agreed that, in direct violation of Pension Fund  
28 Contracts, their fraudulent pricing scheme generated false records and reports that State Street

1 submitted to the Pension Funds and used to avoid paying the Interbank Rate when State Street  
2 executed repatriation trades converting foreign currency held in the Pension Funds' custodial  
3 accounts into U.S. Dollars.

4 37. State Street further knew, understood and agreed that this fraudulent pricing  
5 scheme would have a material effect on the Pension Funds' decision to continue paying the false  
6 claims alleged herein and that the purpose of the scheme was to get the Pension Funds to pay  
7 and/or approve State Street's false claims. State Street thereby conspired to, intended and did,  
8 defraud the Pension Funds by getting false claims allowed and paid by the Pension Funds in  
9 violation of Government Code section 12651, subdivision (a)(3). State Street thereby also  
10 conspired to, intended and did, create and use false statements, records and reports to conceal,  
11 avoid and decrease their obligation to pay the Pension Funds in violation of Government Code  
12 Section 12651, subdivisions (a)(7) and (a)(3).

13 **FIRST CAUSE OF ACTION**

14 **False Claims Act - Government Code § 12651, subd. (a)(1)**

15 **(Against All Defendants)**

16 38. The People incorporate herein by reference the allegations in paragraphs 1 through  
17 33 of this complaint.

18 39. This is a claim for treble damages and penalties brought by the People under the  
19 California False Claims Act, Government Code Section 12650 *et seq.*

20 40. State Street knowingly presented or caused to be presented to the Pension Funds  
21 false claims for payment of money and false claims to approve debits from the Pension Funds'  
22 custodial accounts.

23 41. As a proximate result of the State Street's actions, the Pension Funds suffered  
24 damages in a specific amount to be determined at trial.

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1 **FOURTH CAUSE OF ACTION**

2 **False Claims Act Conspiracy - Government Code § 12651, subds. (a)(7) and (a)(3)**  
3 **(Against All Defendants)**

4 50. The People incorporate herein by reference the allegations in paragraphs 1 through  
5 37 of this complaint.

6 51. This is a claim for treble damages and penalties brought by the People under the  
7 California False Claims Act, Government Code Section 12650 *et seq.*

8 52. Defendants, and each of them, conspired to conceal, avoid and decrease an  
9 obligation to pay the State in violation of Government Code Section 12651, subdivisions (a)(7)  
10 and (a)(3).

11 53. Defendants, and each of them, intended to defraud the People, and acted in  
12 furtherance of the conspiracy to defraud the People by participating in the schemes, set forth  
13 above, to falsely report the Interbank Rate at the time State Street executed custody FX  
14 transactions with the Pension Funds and to conceal State Street's fraudulent custody FX pricing  
15 scheme.

16 54. As a proximate result of the above-described acts, the Pension Funds have been  
17 injured and suffered damages in a specific amount to be determined at trial.

18 **FIFTH CAUSE OF ACTION**

19 **Violation of Business & Professions Code §17200, et seq.**

20 **(Against All Defendants)**

21 55. The People incorporate herein by reference all the allegations in paragraphs 1  
22 through 37 of this complaint.

23 56. The above described acts by State Street constitute unfair competition within the  
24 meaning of Business & Professions Code Section 17200, in that they include, but are not limited  
25 to the following fraudulent business practices:

26 a. State Street falsely represented that custodial FX trades executed by State  
27 Street for the Pension Funds would be priced at the Interbank Rate at the time the trades were  
28 executed;

b. State Street executed tens of thousands of custody FX trades for the Pension Funds at rates other than the contractually-allowed Interbank Rate at the time that the transactions were executed, reaping an undisclosed profit.

c. State Street knowingly presented or caused to be presented to the Pension Funds false claims for payment of money and false claims to approve debits from the Pension Funds' custodial accounts by falsely reporting Interbank Rates to the Pension Funds;

d. State Street knowingly made, used, or caused to be made or used false records and statements to get false claims for funds from the Pension Funds' custodial accounts paid and approved by the Pension Funds.

e. State Street knowingly made, used, and caused to be made or used false FX Spot Purchase/Sale Activity Reports, false MyStateStreet.com database entries, false statements in their electronic custody FX trading platforms and accounting databases, and other false documents and statements to conceal, avoid and decrease their obligation to pay the Interbank Rate when State Street executed repatriation trades converting foreign currency held in the Pension Funds' custodial accounts into U.S. Dollars.

57. These acts and practices constitute unfair competition within the meaning of Business & Professions Code section 17200 in that they violate Government Code Section 12650, *et seq.* as more particularly described in paragraphs 1 through 37.

58. As a proximate result of State Street's unlawful business practices, State Street obtained and wrongfully retained monies that rightfully belonged to the Pension Funds in a specific amount to be determined at trial.

## PRAYER FOR RELIEF

Wherefore, Plaintiff, the People pray for relief against all Defendants as follows:

1. Three times the damages which the Pension Funds sustained as a result of Defendants' false claims in an amount to be determined;

2. Civil penalties in the amount of \$10,000 for each false claim pursuant to Government Code Section 12651, subdivision (a);

1           3.       Civil penalties in the amount of \$2,500, pursuant to Business & Professions Code  
2 Section 17206, for each act by Defendants in violation of Business & Professions Code Section  
3 17200;

4           4.       For a permanent injunction pursuant to Business & Profession Code Section 17203  
5 restraining and enjoining Defendants, and each of them, and all those acting under, by through or  
6 on behalf of them, from engaging in or performing directly or indirectly, any or all of the  
7 following:

8                 a.       Making, or conspiring to make, any false claim as set forth in paragraphs 1  
9 through 37;

10                b.       Making, conspiring, using, or causing to be made or used false statements,  
11 documents or records to avoid the obligation to pay the Pension Funds amounts owed for  
12 repatriation of foreign currency as set froth in paragraphs 1 through 37;

13                c.       Engaging in any acts of unfair competition described in paragraphs 1  
14 through 37, or any other act of unfair competition.

15           5.       That Defendants be ordered to make full restitution, pursuant to Business &  
16 Professions Code Section 17203, of any money that may have been acquired and/or wrongfully  
17 retained by means of their violation of Business and Professions Code Section 17200;

18           6.       For costs of suit incurred herein.

19           7.       Such further or additional relief as the Court deems proper.

20  
21 Dated: October 20, 2009

Respectfully Submitted,

22 EDMUND G. BROWN JR.  
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24 MARK J. BRECKLER  
25 Senior Assistant Attorney General  
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27 Supervising Deputy Attorney General

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