

RECEIVED
IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

2013 JUN -7 A 11: 06

EAGLE MOTOR FREIGHT, INC., an
Alabama corporation, individually
and on behalf of all others similarly
situated,

Plaintiff,

vs.

PILOT CORPORATION; PILOT
TRAVEL CENTERS, LLC, d/b/a
PILOT FLYING J; JAMES A.
HASLAM, III; JOHN FREEMAN;
BRIAN MOSHER and MARK
HAZELWOOD,

Defendants.

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
Civil Action No. 13-114-393
MIDDLE DISTRICT

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT

Plaintiff Eagle Motor Freight, Inc. ("Plaintiff") brings this nationwide class action on behalf of itself and all similarly situated Class Members who, like the Plaintiff, entered into a diesel fuel discount and/or rebate agreement with Pilot Flying J, and who were thereafter victimized by the Defendants' and their co-conspirators' scheme to secretly and unlawfully withhold diesel fuel price rebates and/or discounts promised and owed to Plaintiff and Class Members.¹

BACKGROUND

1. Plaintiff is pursuing this class action against Defendants Pilot Corporation, ("Pilot Corp."), Pilot Travel Centers, LLC, *dba* Pilot Flying J, ("Pilot Flying J"), James A. "Jimmy"

¹ Plaintiff asserts the allegations herein based upon personal knowledge as to the facts pertaining to itself and upon information and belief as to all other matters, and based upon the investigation by its counsel.

Haslam, III ("Haslam"), John Freeman ("Freeman"), Brian Mosher ("Mosher"), and Mark Hazelwood, ("Hazelwood") (Freeman, Mosher and Hazelwood are referred to herein jointly as the "Individual Defendants") for their misconduct described herein and seeks damages, declaratory, injunctive and all other appropriate relief per Rule 54(c), Fed. R. Civ. P., pursuant to, *inter alia*, federal racketeering laws, state deceptive trade practices statutes, and the common laws of unjust enrichment and/or breach of contract, intentional and negligent misrepresentation, and suppression.

2. Defendant Pilot Flying J owns and operates the country's largest chain of truck stops with hundreds of travel centers nationwide. It is a privately held company with annual revenues of \$29 billion dollars. Pilot Flying J is the nation's number one retailer of diesel fuel, and one of the country's largest restaurant operators. Pilot Flying J has thousands of trucking and fleet customers.² It is reported to be the sixth largest privately owned company in the United States. Pilot Flying J's owners include Defendants Pilot Corp. and Haslam.³

3. To build and maintain that leading market share, Pilot Flying J, through its national sales team, courts long-haul trucking companies with offers for discounted diesel fuel. As described in more detail below, those discounted fuel contracts may take the form either of a discount on the invoiced price at the pump, or a monthly rebate on purchases. However, the same salespeople who strike the deals with customers also are able, with the aid of their Co-Conspirators, to control what discounts or rebates are, in fact, paid to their trucking clientele.

² Pilot's customers are primarily trucking companies or individual owner/operators of commercial motor vehicles, e.g., long-haul trucks, 18-wheelers, or tractor-trailer rigs.

³ As privately held companies, publicly available information regarding the current ownership and interrelationship of Pilot Corp. and Pilot Flying J is sparse, and media accounts have been conflicting. Such information is, of course, known to Pilot Corp. and Pilot Flying J, discoverable, and once obtained, Plaintiff will seek to add or correct any material and necessary information by amendment.

To boost Pilot Flying J's purported profits, to earn themselves higher commissions and/or bonuses, and to pad the profits flowing through to Haslam (the CEO and Chairman of both Pilot Flying J and Pilot Corp.) and Pilot Corp., the Defendants and their Co-Conspirators have systematically shortchanged certain trucking companies having discount or rebate agreements with Pilot Flying J.

4. The Defendants' conspiracy to shortchange trucking customers of Pilot Flying J first came to light this spring when the affidavit of a Federal Bureau of Investigation ("FBI") agent participating in a criminal investigation of Pilot Flying J and its affiliates and employees was unsealed. On February 18, 2013, Special Agent Robert Root's affidavit (the "FBI Affidavit") was filed in the U.S. District Court for the Eastern District of Tennessee in support of an application for search warrants related to the Pilot fuel discount and rebate scheme. *See* Ex. A, "FBI Aff." The FBI Affidavit was filed to demonstrate probable cause that "Pilot employees engaged in a conspiracy and scheme to defraud by deceptively withholding diesel fuel price rebates and discounts from Pilot customers, without the knowledge or approval of the customer, for the dual purposes of increasing the profitability of Pilot and increasing the diesel sales commissions of the Pilot employees participating in the fraud, in violation of 18 U.S.C. §§ 371 (conspiracy), 1341 (mail fraud), 1343 (wire fraud), and 1349 (conspiracy)." (Ex. A at ¶ 93).

5. The FBI sought search warrants of three residences and three commercial property locations, namely:

- a. 5508 Lonas Drive, Knoxville, TN, which according to the Tennessee Secretary of State's corporation database, is the address for the following entities:
 - i. Pilot Corporation;
 - ii. Flying J Transportation LLC; and
 - iii. Pilot Travel Centers, LLC.

- b. 5500 Lonas Drive, Knoxville, TN, which according to the FBI Affidavit, is the commercial building where Pilot Corp. and/or Pilot Flying J regional account representatives work.
 - c. 1339 E. Weisgarber Road, Knoxville, TN, which according to the FBI Affidavit, is the business service center housing Pilot Corp. and Pilot Flying J's computer servers.
 - d. [REDACTED], Hebron, KY, which according to the FBI Affidavit, is the residence of Co-Conspirator Arnold Ralenkotter ("Ralenkotter"). The FBI Affidavit states that Ralenkotter is a Pilot Corp. and/or Pilot Flying J employee and his title is Director of Sales for the Northeast Region. The FBI Affidavit further states that Ralenkotter is supervised by Vice President of Sales, Defendant Freeman. On May 24, 2013, Ralenkotter entered into a plea agreement in the case of *United States v. Ralenkotter*, 3:13-cr-63 (E.D. Tenn.), in which he entered a plea of guilty to one count of conspiracy to commit mail fraud and wire fraud in violation of 18 U.S.C. § 1349, all in connection with the scheme(s) alleged herein.
 - e. [REDACTED], Bettendorf, Iowa, which according to the FBI Affidavit, is the residence of Defendant Mosher. The FBI Affidavit states that Mosher is a Pilot Corp. and/or Pilot Flying J employee and his title is Director of Sales National Accounts. The FBI Affidavit further states that Mosher was formerly the Director of Sales for the Midplains Region and was supervised by Defendant Freeman.
 - f. [REDACTED], Nashville, TN, which according to the FBI Affidavit, is the residence of Kevin Hanscomb, ("Hanscomb"). The FBI Affidavit states that Hanscomb is a Pilot Corp. and/or Pilot Flying J employee and his title is Director of Sales for the Southeast Region. The FBI Affidavit further states that Hanscomb is supervised by Defendant Freeman.
6. Plaintiff, for itself and Class Members, incorporates herein by reference, adopts and alleges the detailed facts set forth in the FBI Affidavit in support of its claims and causes of action.
7. The FBI Affidavit details systematic cheating of Pilot Flying J customers who purchased diesel fuel for commercial use from Pilot Flying J's fuel stations and travel plazas across the country. The scheme was given the blessing of Haslam and was conducted by, among others, the Individual Defendants and other Pilot Corp. and/or Pilot Flying J executives and employees, who are listed in the FBI Affidavit as having participated in the scheme, but who are not named as defendants herein ("Co-Conspirators").

8. Pilot Flying J sells a tremendous volume of diesel fuel to commercial trucking customers through the efforts of its Regional Sales Directors, Regional Sales Managers, Regional Account Representatives and Inside Sales Representatives. Regional Sales Directors are employees of Pilot Corp. and/or Pilot Flying J who make sales calls on customers within their assigned region and who manage the Regional Sales Managers within their region. *See Ex. A.* Regional Sales Managers are Pilot Corp. and/or Pilot Flying J sales employees who make sales calls on customers within their assigned sales region. *See Ex. A.* Regional Account Representatives are Pilot Corp. and/or Pilot Flying J sales employees who work at the combined Pilot Corp./Pilot Flying J business headquarters in Knoxville, TN. Regional Account Representatives support Regional Sales Managers and Regional Sales Directors. *See Ex. A.* Inside Sales Representatives are Pilot Corp. and/or Pilot Flying J sales employees who work at the Pilot Corp./Pilot Flying J combined headquarters in Knoxville. Inside Sales Representatives supervise Regional Account Representatives. *See Ex. A.*

9. Defendants described the fuel discount offer as either "cost plus" or "retail minus". For "cost plus", the trucking customer would purchase diesel fuel at Pilot Flying J's "cost", plus x cents per gallon. The "cost" of the diesel to Pilot Flying J varied daily, depending on market conditions. For "retail minus", the trucking customer would purchase diesel fuel from Pilot Flying J at the pump price retail amount, less x cents per gallon. Whether "cost plus" or "retail minus", the "x" amount was negotiated by Pilot Corp./Pilot Flying J salespersons with each customer.

10. Once the "x" amount of discount was negotiated and agreed upon, the customer would choose whether to receive the benefit of the bargain struck by either a discount or a rebate. The customer would thereafter purchase diesel fuel from various Pilot Flying J locations and pay

the retail price of the fuel at the pump. If the customer chose a discount, the customer would see the discount by way of daily, weekly or monthly fuel statements. These statements reflected the purportedly discounted amount charged to the customer.

11. These statements would emanate from either a third-party credit company, *i.e.*, a fuel card, the customer would use to purchase the Pilot Flying J fuel, or a statement directly from Pilot Flying J if the customer purchased the Pilot Flying J diesel fuel on credit extended by Pilot Flying J.

12. If the customer chose a rebate, the customer would pay the retail price for the fuel and thereafter receive a monthly rebate check. The amount of the rebate check was supposed to be for the difference between the pump price at the time of purchase and the fuel discount the customer had agreed to accept. However, for Plaintiff and the Class Members, Pilot Flying J would, rather than honoring the fuel-rebate deals struck with the customer, unilaterally withhold a portion of the rebate from the customer without the customer's knowledge and consent. The result was a rebate check to the Pilot Flying J customer that was less than what the customer should have received or a discount reflected on the fuel statement that was less than what the customer was supposed to receive. Similarly, if the customer entered into a cost-plus or retail-minus discount agreement, the Defendants would manipulate their spreadsheets to provide a lower discount than agreed.

13. Pilot Flying J systematically and intentionally targeted what it considered to be customers who might not have the manpower or financial sophistication to discover that Pilot Flying J was cheating them. The Defendants' scheme to shortchange Pilot Flying J customers was so pervasive that it became a part of the Pilot/Pilot Flying J culture. Recorded conversations among the Individual Defendants and their Co-Conspirators recounted in the FBI Affidavit

demonstrate the extent and nature of their efforts to cheat Pilot Flying J customers out of their agreed discounts or rebates. As described by Pilot Flying J's Vice President for Sales, Defendant Freeman, while leading a meeting of Pilot Flying J regional sales directors, the idea of Defendants' ongoing scheme to cheat their trucking customers out of their fuel rebate/discounts was to, "Fuck'em early and fuck'em often..." See Ex. A, at ¶ 63, p. 50.

14. Defendants' scheme to cheat Pilot Flying J customers out of their full rebates and discounts was conducted with the knowledge and approval of Defendants Haslam and Pilot Corp. and the Individual Defendants and Co-Conspirators regularly taught this scheme to defraud to all of their sales personnel both in casual or one-on-one mentoring and in formal sales meetings.

15. For example, at a November 20, 2012 diesel sales meeting at which Defendant Haslam and all regional directors, regional sales managers and regional account representatives were present, Defendant Hazelwood joked about introducing a customer "to a guy named Manuel," which was the company nickname for references to "manual" discounts, i.e., manually changing the agreed discounts. Ex. A at ¶ 71.

16. According to the FBI Affidavit, a confidential informant advised that Defendants Haslam and Freeman had been "looking carefully at every Customer's profit and loss report and consolidating duplicate entries," and further that with such information, the "Rebate Fraud would be clearly evident to Jimmy Haslam and John Freeman." Ex. A at ¶ 78.

17. In a recorded conversation between a confidential informant and Defendant Freeman, Freeman recounted a conversation with Defendant Haslam demonstrating Haslam's knowledge of the fraud:

CHS-2: What does Mark [Hazelwood] and Jimmy [Haslam] say about shit like that? Do they even catch it or do they know?

FREEMAN: Fuckin' A. I mean, I called Jimmy and told him I got busted at Western Express.

CHS-2: What'd he say?

FREEMAN: Oh he knew it.

CHS-2: Oh did he?

FREEMAN: Absolutely. I mean, he knew all along that I was cost-plussin' this guy. He knew it all along. Loved it. We were makin' \$450,000 a month on him—

CHS-2: Holy shit!

FREEMAN: -- why wouldn't he love it?

CHS-2: Yeah.

FREEMAN: Did it for five years, cost us a million bucks. I mean, we made \$6 million on the guy, cost us a million bucks.

CHS-2: Great investment.

Ex. A at ¶ 81.

18. Co-Conspirator Cathy Giesick advised the FBI that three to four years before, she participated in a meeting at which Defendants Mosher, Hazelwood and Haslam were present. She heard Haslam thank Mosher for saving the company money. Thereafter, Mosher told Defendant Hazelwood, and Hazelwood acknowledged, that Mosher was making money for Pilot by fraudulently reducing customer rebates. Ex. A at ¶ 23.

19. Defendant Haslam and other Individual Defendants and Co-Conspirators had all the information before them to see the difference between what was being promised to customers versus what they were actually provided. Pilot Flying J, the Individual Defendants and the Co-Conspirators maintained spreadsheets and other records detailing the agreed upon discounts or rebates for each customer, and the amounts Pilot Flying J actually provided to such customers.

Accordingly, Defendants and their Co-Conspirators have records specifically identifying each putative Class Member, the amount each such Class Member was shortchanged, and the timing of each underpayment.⁴

20. Although the Pilot insiders had access to spreadsheets and other documents that not only revealed but detailed the fraud, the nature of the Defendants' scheme was difficult for customers without those internal spreadsheets and other documents to detect due to constantly fluctuating diesel fuel prices. To know whether Defendants were manipulating the discounts or rebates owed to them, customers would—at a minimum—have to obtain daily pricing for every truck stop location in the country serving their trucks, then compare those prices to what they were invoiced, and then compare the discounts or rebates they received based on those purchases to the amounts they agreed to accept. Fearing that larger trucking companies with the manpower and software necessary to undertake such an audit might catch onto their fraud, Defendants instead targeted smaller companies and those they arrogantly considered to be “unsophisticated” (Ex. A at ¶¶ 13, 75), a “dumbass” (*id.* at ¶ 66), “dumb shit” (*id.* at ¶ 72), or “lazy” (*id.* at ¶ 68). Defendants also targeted Latinos in the hopes that language barriers might make discovery of their fraud more difficult, or easier to explain away if caught. *Id.* at ¶ 82.

21. Two Co-Conspirators – Arnold Ralenkotter, a regional sales director (whose home was searched pursuant to a search warrant obtained with the FBI Affidavit), and Ashley Judd, a regional account executive – have entered guilty pleas to one count of conspiracy each to commit mail and wire fraud in connection with the discount and rebate fraud alleged herein. The FBI's investigation is ongoing.

⁴ See, e.g., Ex. A at ¶¶ 9, 25, 32, 41, 48, 49, 53, 57, 77, 96.

22. Plaintiff, for itself and Class Members, seeks to recover from Defendants their actual, consequential and incidental damages, punitive damages, RICO treble damages, equitable relief in the form of disgorgement of gross revenues earned on the unilaterally reduced and withheld fuel rebates and/or discounts, injunctive relief to stop Defendants from continuing their scheme to defraud and/or obtaining money by false promises, pre- and post-judgment interest, attorneys' fees, litigation expenses, costs, and such other relief as the Court under Rule 54(c) may find just and appropriate.

THE PARTIES

23. Plaintiff Eagle Motor Freight, Inc. ("Plaintiff") is an Alabama corporation with its principal place of business in Montgomery County, Alabama. Plaintiff was a party to a fuel rebate and/or discount contract with Pilot Flying J between approximately February 2009 and the present day, under which Flying J was and is required to credit or refund a certain percentage of Plaintiff's fuel purchases on a monthly basis. The fuel rebate agreement and/or discount was reached with Pilot employee, Kevin Hanscomb, whose home was searched by the FBI pursuant to a search warrant issued based upon the FBI Affidavit. That affidavit further ties Hanscomb to the conspiracy and fraud to cheat Pilot Flying J customers of their discounts and/or rebates. Hanscomb's direct supervisor is Defendant Freeman, who was, prior to being promoted, Regional Sales Director of the South/Southeastern Region. Freeman is also tied to the fraud in the FBI Affidavit. Plaintiff has, on information and belief, been damaged by the Defendants' herein-described scheme of intentionally, unilaterally and fraudulently reducing and withholding fuel rebates and/or discounts owed to the Plaintiff.

24. Defendant Pilot Corporation ("Pilot Corp.") is a Tennessee corporation with its principal place of business in Knoxville, Tennessee. Pilot Corp. (*fka* Pilot Oil Corporation) was

founded by Defendant Haslam's father in 1958 with his purchase of a single existing gas station. By the late 1990s, Pilot Corp. had grown to operate truck stops across the country. In or about 2001, Pilot Corp. formed Pilot Travel Centers, LLC with Marathon Oil and transferred ownership of most, if not all, of its truck stops to Pilot Travel Centers, LLC. In 2008, Pilot Corp. bought out Marathon's interest in Pilot Travel Centers, LLC. Some reports state that Pilot Corp. still operates the Pilot Food Mart convenience stores in Tennessee. At all relevant times, Pilot Corp., by and through Haslam, the Individual Defendants and Co-Conspirators, owned, operated, managed and directed Pilot Flying J, and continues to do so. Pilot Corp., through Defendants Haslam and Hazelwood, among other Co-Conspirators, conducted or participated in, directly or indirectly, in the conduct of Pilot Flying J's affairs through a pattern of racketeering activity. Pilot Corp. is engaged in interstate commerce.

25. Defendant Pilot Travel Centers, LLC *dba* Pilot/Flying J ("Pilot Flying J") is a Delaware limited liability company with its principal place of business in Knoxville, Tennessee. Pilot Corp. and Pilot Flying J are both headquartered at, and operated from, the same address—5508 Lonas Drive, Knoxville, TN 37909. At all relevant times, Pilot Flying J owned and operated (and continues to own and operate) an extensive number of truck stops, travel centers and travel plazas in forty-four states nationwide under the Pilot Flying J brand that were patronized by Plaintiff and Class Members in reliance upon the Plaintiff and Class Members' discount and/or rebate agreements with Pilot Flying J. At all relevant times, Pilot Flying J, through the Individual Defendants, Haslam, Pilot Corp. and their Co-Conspirators, engaged in the above-described scheme to fraudulently and intentionally reduce and withhold the fuel rebates and/or discounts owed to Plaintiff and Class Members, without their knowledge or approval, for the purposes of increasing Pilot Corp. and Pilot Flying J's profitability, increasing Pilot Corp.'s and Haslam's

return on investment, and increasing the compensation of Haslam, the Individual Defendants and their Co-Conspirators. Pilot Flying J is engaged in interstate commerce.

26. Defendant James A. "Jimmy" Haslam, III ("Haslam") is a citizen and resident of Knoxville, Tennessee or the surrounding metropolitan area. At all relevant times, Haslam was (and continues to be) Chairman and CEO of Pilot Corp. and Pilot Flying J. In this position, Haslam exercised control, authority, responsibility and/or supervision over the Individual Defendants and their Co-Conspirators, Pilot Corp. and Pilot Flying J (and their officers, employees, agents and representatives), including establishing and modeling corporate culture, and approving the operations, policies, procedures, the fuel rebate/discount program and the scheme to defraud Plaintiff and Class Members (and continues to do so). Haslam participated or conducted, directly or indirectly, in the conduct of Pilot Flying J's affairs through a pattern of racketeering activity by approving and countenancing the Individual Defendants' and Co-Conspirators' frauds.

27. Defendant Mark Hazelwood, ("Hazelwood") is a citizen and resident of Knoxville, Tennessee or the surrounding metropolitan area. At all relevant times, Hazelwood was (and continues to be) President of Pilot Corp. and Pilot Flying J and was and is directly supervised by Haslam. In this position, Hazelwood exercised control, authority, responsibility and/or supervision over certain Pilot Corp. and/or Pilot Flying J employees, officers, agents and representatives, including establishing and modeling corporate culture, and approving operations, policies, procedures, the fuel rebate/discount program and the scheme to defraud Plaintiff and Class Members (and continues to do so). Hazelwood also engaged in and/or caused Pilot Flying J to engage in the above-described scheme to fraudulently and intentionally reduce and withhold the fuel rebates and/or discounts Pilot Flying J owed to Plaintiff and Class Members, without their knowledge or approval, for the purposes of increasing Pilot Flying J's profitability, increasing its

and Haslam's return on investment, and increasing his and the compensation of other of Individual Defendants and/or Co-Conspirators. Hazelwood thereby conducted or participated in the conduct of Pilot Flying J's affairs through a pattern of racketeering activity.

28. Defendant Brian Mosher ("Mosher") is a resident of Bettendorf, Iowa or the surrounding area. At all relevant times, Mosher was the Director of National Accounts and Director of Sales-Midplains of Pilot Flying J. Mosher was at all times under the supervision of Defendants Haslam and Hazelwood. Mosher exercised control, authority, responsibility and/or supervision over other Pilot Flying J employees, officers, agents and representatives, including setting and modeling corporate culture, and approving or establishing operations, policies, procedures, the fuel rebate/discount program and the scheme to defraud Plaintiff and Class Members (and continues to do so). Mosher engaged in and/or caused Pilot Flying J to engage in the above-described scheme to fraudulently and intentionally reduce and withhold the fuel rebates and/or discounts Pilot Flying J owed to Plaintiff and Class Members, without their knowledge or approval, for the purposes of increasing Pilot Flying J's profitability, increasing its return on investment, and increasing his and the compensation of other Individual Defendants and/or Co-Conspirators. Mosher thereby conducted or participated in the conduct of Pilot Flying J's affairs through a pattern of racketeering activity.

29. Defendant John Freeman ("Freeman" or "Stick") is a citizen and resident of Knoxville, Tennessee or the surrounding metropolitan area. At all relevant times, Freeman was Vice President of Sales for Pilot Corp. and Pilot Flying J, and a former Director of Sales for the South/Southeast Regions, and directly supervised the three Regional Sales Directors in the United States, including Co-Conspirator Arnie Ralenkotter (Northeast), who entered a guilty plea to a count of conspiring to commit wire and mail fraud in connection with the scheme described herein,

and Co-Conspirator Kevin Hanscomb (Southeast), with whom Plaintiff entered into its rebate/discount agreement. The FBI Affidavit alleges that Freeman, Pilot's Vice President of Sales and former Director of Sales for the South/Southeast Regions, had "for years" engaged in defrauding Pilot's customers out of their agreed-upon fuel rebates/discounts. *See* Ex. A, ¶ 9. Freeman is supervised by Hazelwood. *Id.* Freeman exercised control, authority, responsibility and/or supervision over certain Pilot Corp. and Pilot Flying J employees, agents and representatives, including setting and modeling corporate culture, and approving and implementing operations, policies, procedures, the fuel rebate/discount program and the scheme to defraud Plaintiff and Class Members. Freeman also engaged in and/or caused Pilot Flying J to engage in the above-described scheme to defraud and/or obtain money from Plaintiff through commercial fraud for the purpose of increasing Pilot Flying J's profits and increasing his and other Co-Conspirator or Defendants' compensation. Freeman thereby conducted or participated in the conduct of Pilot Flying J's affairs through a pattern of racketeering activity.

30. Other executives and/or employees of Pilot Corp. and/or Pilot Flying J (the "Co-Conspirators"), most, if not all, of whom are named in the FBI Affidavit, participated, directed, conducted and/or conspired with Pilot Corp. and the Individual Defendants to conduct or participate in, directly or indirectly, the conduct of Pilot Flying J's affairs through a pattern of racketeering activity but are not named herein at this time as Defendants.

JURISDICTION AND VENUE

31. This Court has subject matter jurisdiction over Plaintiff's claims under: (i) 18 U.S.C. § 1961, *et seq.*, and 18 U.S.C. § 1964(a), (c) (RICO); (ii) 28 U.S.C. § 1332(a) because the matter in controversy exceeds \$75,000, exclusive of interest and costs; and the Parties are citizens of different states and/or foreign states (diversity); (iii) 28 U.S.C. § 1332(d) (CAFA), because (a)

there are 100 or more Class Members, (b) at least one Class Member is a citizen of a state that is diverse from the citizenship of at least one of Defendants, and (c) the matter in controversy exceeds \$5,000,000, exclusive of interest and costs; and (iv) 28 U.S.C. § 1367 (supplemental jurisdiction).

32. This Court has *in personam* jurisdiction over Defendants pursuant to 28 U.S.C. § 1965(d) and/or 28 U.S.C. § 1965(b). Moreover, Pilot Flying J operates truck stops within this district and all Defendants have either directed their fraudulent scheme toward or have communicated with and/or made in-person trips to visit the Plaintiff and others in this district.

33. At all relevant times, Defendants were found, had agents, directly and/or indirectly conducted business and/or committed a substantial amount of the wrongful actions made the basis of this suit in the Middle District of Alabama. Accordingly, venue is proper in the Northern Division of the Middle District of Alabama pursuant to 28 U.S.C § 1391 and 18 U.S.C § 1965.

FACTUAL ALLEGATIONS

34. At all relevant times—since as early as 2005 and continuing indefinitely into the future absent Court intervention—the Defendants have intentionally devised, engaged in, condoned and/or ratified the above-referenced nationwide scheme to defraud and cheat Plaintiff and Class Members and/or obtained money from Plaintiff and Class Members under false promises (*i.e.*, the unilaterally reduced monthly fuel rebates and/or discounts), thereby damaging Plaintiff and Class Members in their businesses and property. *See* Ex. A.

35. As set forth in Exhibit A, at all relevant times, Pilot Flying J, acting by and through and under the direction of its members, officers, directors, employees, and/or agents, including Haslam, the Individual Defendants, Co-Conspirators, and Pilot Corp., knowingly, intentionally, and repeatedly engaged in the above-referenced scheme to defraud and cheat Plaintiff and Class

Members and/or obtained money from Plaintiff and Class Members under false promises (*i.e.*, paying unilaterally reduced monthly fuel rebates and/or discounts), without their knowledge or approval, for the purposes of increasing Pilot Flying J's profitability, increasing Haslam and Pilot Corp.'s return on investment, and increasing the Individual Defendants' and Co-Conspirators' compensation (and the compensation of other of Pilot Corp. and/or Pilot Flying J's current and/or former employees).

36. As set forth in Exhibit A, at all relevant times, Haslam, the Individual Defendants and their Co-Conspirators, along with Pilot Corp., intentionally devised, instigated, engaged in, perpetrated, executed, condoned and/or ratified the above-referenced open-ended and unlawful scheme to defraud and cheat Plaintiff and Class Members and/or intentionally engaged in efforts to obtain money from Plaintiff and Class Members under false promises, that is, by paying unilaterally reduced monthly fuel rebates and/or discounts, without the knowledge or approval of Plaintiff and Class Members, for the purposes of increasing Pilot Flying J's profitability, increasing Haslam and Pilot Corp.'s return on investment, and increasing the Individual Defendants and Co-Conspirators' compensation (and the compensation of other of Pilot Corp. and/or Pilot Flying J's current and/or former employees).

37. As set forth in Exhibit A, at all relevant times, Defendants knowingly, intentionally, and repeatedly misrepresented, concealed, hid, and/or caused to be misrepresented, concealed, and hidden, the above-described wrongful acts and practices, and the purposes of their wrongful acts and practices, committed in furtherance of the above-referenced scheme to defraud and cheat Plaintiff and Class Members and/or efforts to obtain money from Plaintiff and Class Members under false promises (*i.e.*, paying unilaterally reduced monthly fuel rebates and/or discounts).

38. The Individual Defendants, their Co-Conspirators and Pilot Corp. pursued and accomplished this detailed unlawful scheme to defraud by engaging in repeated and systematic mail fraud and/or interstate and/or foreign wire fraud (described in detail in the FBI Affidavit) in violation of 18 U.S.C. §§ 1341, 1343. Specifically, Haslam, the Individual Defendants, their Co-Conspirators and Pilot Corp., individually and/or on behalf of Pilot Flying J (and possibly others), used and/or caused Pilot Flying J (the RICO enterprise) to use the USPS and/or private or commercial interstate carriers and/or interstate and/or foreign wires in interstate and/or foreign commerce to devise, engage in, condone and/or ratify the above-referenced open-ended and unlawful scheme to defraud and cheat Plaintiff and Class members out of the full amount of their monthly fuel rebates and/or discounts.

39. Although a number of the specific acts of wire and/or mail fraud are detailed in the FBI Affidavit, the dates and substance of all of Defendants' fraudulent communications by and between themselves via the mails and/or interstate and/or foreign wires in furtherance of the above-referenced scheme to defraud, as well as their fraudulent communications to Plaintiff and Class Members in furtherance of their efforts to obtain money from Plaintiff and Class Members by false promises via the mails and/or interstate and/or foreign wires, are in Defendants' possession, custody, and control, to the exclusion of Plaintiff and Class Members, and await discovery.

40. The above-referenced wrongful acts violated all concepts of moral uprightness, fundamental honesty, fair play and right dealing in the general and business life of the members of society. The above-referenced wrongful acts unfairly betrayed the confidences Plaintiff and Class Members placed in Defendants by and/or through the corruption of the Individual Defendants, Haslam, Pilot Corp. and Co-Conspirators. The above-referenced wrongful acts also were a

consistent, regular and dominant part of the corporate culture and manner in which the Individual Defendants, their Co-Conspirators, Haslam and Pilot Corp. participated in and conducted the day-to-day business affairs of Pilot Flying J (the RICO enterprise).

41. By their unlawful actions, the Individual Defendants, their Co-Conspirators, Haslam, and Pilot Corp., (i) conducted and/or participated in the affairs of Pilot Flying J (the RICO enterprise) in violation of 18 U.S.C. § 1962(c) and/or (ii) conspired to violate 18 U.S.C. § 1962(c) in violation of 18 U.S.C. § 1962(d), and thereby defrauded and injured the business interests of Plaintiff and Class Members in the process.

42. The Individual Defendants, their Co-Conspirators, Haslam and Pilot Corp. caused Pilot Flying J (the RICO enterprise) to (i) engage in the fraudulent scheme with the intent, *inter alia*, to defraud and cheat Plaintiff and Class Members by covertly and unilaterally reducing and withholding the fuel rebates and/or discounts owed to Plaintiff and Class Members, and/or (ii) engage in efforts to obtain money from Plaintiff and Class Members by false promises (*i.e.*, paying unilaterally reduced monthly fuel rebates and/or discounts)—all without Plaintiff's and Class Members' knowledge or approval, for the purposes of increasing Flying J's profitability, increasing Haslam's and Pilot Corp.'s return on investment, and increasing the Individual Defendants' and Co-Conspirator's compensation—to the financial detriment of Plaintiff and Class Members. The above wrongful actions of the Individual Defendants, their Co-Conspirators, Haslam and Pilot Corp., conducted over the telephone, cell phones and the U.S. mails, constitute repeated mail fraud and/or interstate and/or foreign wire fraud in violation of 18 U.S.C. §§ 1341, 1343.

43. The above multiple, repeated and continuous acts of mail fraud and/or interstate and/or foreign wire fraud by the Individual Defendants, their Co-Conspirators, Haslam and Pilot

Corp., constitute a pattern of unlawful racketeering activity pursuant to 18 U.S.C. § 1961(1), (5).

44. Nothing in the nature of the above-described intentional scheme to defraud and cheat Plaintiff and Class Members and/or intentional efforts to obtain money from Plaintiff and Class Members by false promises demonstrates that their wrongful actions would ever have terminated but for the United States Government's or court intervention. Moreover, and independent of the duration of the scheme, the wrongful acts of the Individual Defendants, their Co-Conspirators, Haslam and Pilot Corp. were a consistent, regular and dominant part of the manner in which they conducted and/or participated in the day-to-day business and financial affairs of Pilot Flying J (the RICO enterprise).

CLASS ACTION ALLEGATIONS

45. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiff brings this action against Defendants as a national class action for itself and all members of the following Class of all others similarly situated ("Class Members"):

All individuals and entities that were parties to fuel rebate and/or discount contracts with Pilot Corporation or Pilot Travel Centers, LLC, *dba* Pilot Flying J, from January 1, 2005 to the present.

Excluded from the Class are Defendants; the Co-Conspirators; any entity in which any Defendant or Co-Conspirator has a controlling interest; the members, officers, directors, employees, shareholders, agents and legal representatives of Pilot Corporation and Pilot Travel Centers, LLC; any local, state or federal government agency; the Court and Court personnel.

46. There are hundreds, if not thousands of Class Members, who are so numerous and geographically dispersed that their joinder is impracticable. The precise number and identities of Class Members are currently unknown to Plaintiff, but can easily be derived from the fuel rebate and/or discount contracts between the Defendants and Class Members and/or Defendants'

spreadsheets and other records of the trucking companies defrauded and cheated by Defendants' above-described wrongful actions.

47. There are questions of law and fact common to the Class as a whole that predominate over any questions affecting only individual Class Members including, *inter alia*:

- a. whether Defendants' above-described wrongful actions violated 18 U.S.C. § 1962 (c) and/or (d);
- b. whether Defendants' above-described wrongful actions constitute breach of contract at common law;
- c. whether Defendants' above-described wrongful actions constitute tortious interference with a contract at common law;
- d. whether Defendants' above-described wrongful actions constitute negligent misrepresentation at common law;
- e. whether Defendants have been unjustly enriched by their above-described wrongful actions;
- f. whether Defendants' above-described wrongful actions constitute commercial fraud in the performance of a contract;
- g. whether Plaintiff and Class Members sustained damages because of Defendants' above-described wrongful actions;
- h. whether Plaintiff and Class Members are entitled to recover actual damages, consequential damages, incidental damages, punitive damages and/or RICO treble damages, and pre- and post-judgment interest, and attorneys' fees;
- i. whether Plaintiff and Class Members are entitled to disgorgement and/or other forms of equitable relief; and
- j. whether Plaintiff and Class Members are entitled to injunctive relief and in what form.

48. Plaintiff's claims are typical of Class Members' claims because Plaintiff and Class Members are all victims of Defendants' above-described wrongful actions.

49. Plaintiff and its counsel will fairly and adequately represent the interests of Class Members. Plaintiff has no interests antagonistic to, or in conflict with, any of the Class Members'

interests. Plaintiff's lawyers are highly experienced in prosecuting class actions and complex commercial litigation, including successful class actions asserting RICO and deceptive trade practices violations.

50. A class action is superior to all other available methods for fairly and efficiently adjudicating Plaintiff's and Class Members' claims. Plaintiff and Class Members have been irreparably harmed as a result of Defendants' above-described wrongful actions. Litigating this case as a class action is appropriate because (i) it will avoid a multiplicity of suits and the corresponding burden on the courts and Parties, (ii) it would be virtually impossible for all Class Members to intervene as parties-plaintiff in this action, (iii) it will allow numerous individuals and entities with claims too small to adjudicate on an individual basis because of prohibitive litigation costs to obtain redress for their injuries, and (iv) it will provide court oversight of the claims process once Defendants' liability is adjudicated.

51. Certification of the Class, is appropriate under Fed. R. Civ. P. 23(b)(3) because the above common questions of law or fact predominate over any questions affecting individual Class Members, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

52. Defendants' wrongful actions are generally applicable to the Class as a whole, for which Plaintiff seeks, *inter alia*, damages and equitable remedies.

53. Absent a class action, Defendants will retain the benefits of their wrongdoing despite their serious violations of the law and infliction of harm on Plaintiff's and Class Members' businesses and property.

TOLLING OF STATUTES OF LIMITATION

54. Defendants took active steps to conceal the fact that they wrongfully, improperly, illegally, unilaterally and repeatedly defrauded Plaintiff and Class Members by reducing and withholding the fuel rebates and/or discounts owed to them. The details of Defendants' efforts to conceal their above-described unlawful conduct are in their possession, custody and control, to the exclusion of Plaintiff and Class Members, and await further discovery. When this material information was first revealed to Plaintiff during April 2013—when the FBI Affidavit was unsealed by the United States District Court for the Eastern District of Tennessee in Case No. 3:13-MJ-2028 (Dkt. #4)—Plaintiff exercised due diligence by investigating the situation, retaining counsel and pursuing its claims. Defendants fraudulently concealed their above-described wrongful acts. Should such be necessary, therefore, all applicable statutes of limitation (if any) are rightfully tolled.

55. Defendants took active steps to conceal the fact that they wrongfully, improperly, illegally, unilaterally and repeatedly defrauded Plaintiff and Class Members by reducing and withholding the fuel rebates and/or discounts owed to them. The details of Defendants' efforts to conceal their above-described unlawful conduct are in their possession, custody and control, to the exclusion of Plaintiff and Class Members, and await further discovery. When this material information was first revealed to Plaintiff during April 2013—when the FBI Affidavit was unsealed by the United States District Court for the Eastern District of Tennessee in Case No. 3:13-MJ-2028 (Dkt. #4)—Plaintiff exercised due diligence by investigating the situation, retaining counsel and pursuing its claims. Defendants concealed their above-described wrongful acts.

Should such be necessary, therefore, all applicable statutes of limitation (if any) are rightfully tolled under the doctrines of equitable estoppel and/or equitable tolling.

RESPONDEAT SUPERIOR/AGENCY

56. Pilot Corp. and Pilot Flying J are liable under the doctrines of *respondeat superior* and/or agency for the above-described wrongful acts committed by the Individual Defendants, Co-Conspirators and/or their current or former officers, directors, employees, agents, and/or representatives during the course and scope of their employment by, or representation of, Pilot and Pilot Flying J. More specifically, Pilot Corp. and Pilot Flying J are liable because such wrongful acts were committed (i) within their general authority, (ii) in furtherance of their business, and (iii) to accomplish the objective for which such officers, directors, employees, agents, and/or representatives were hired—all of which directly and/or proximately caused (and continue to cause) Plaintiff and Class Members to suffer damages to their businesses and/or property to Defendants' financial benefit.

COUNT I
VIOLATIONS OF 18 U.S.C. § 1962(c)
(AGAINST THE INDIVIDUAL DEFENDANTS AND PILOT CORP.)

57. The preceding factual statements and allegations are incorporated by reference.

58. Pilot Flying J is an "enterprise" within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c) and, at all relevant times, was engaged in, and the activities of which affected, interstate and/or foreign commerce within the meaning of 18 U.S.C. §§ 1961(4), 1962(c), and 1962(d).

59. The Individual Defendants, Haslam and Pilot Corp. are "persons" "employed by or associated with" Pilot Flying J within the meaning of 18 U.S.C. §§ 1961(3) and 1962(c).

60. The Individual Defendants, Haslam and Pilot Corp. conducted and/or participated in the business and financial affairs of Pilot Flying J (the RICO enterprise) through a pattern of unlawful activity within the meaning of 18 U.S.C. §§ 1961(1)(B), 1961(5), and 1962(c), that is, the above-described multiple, repeated, and continuous acts of mail fraud and/or interstate and/or foreign wire fraud in violation of 18 U.S.C. §§ 2, 1341, and 1343.

61. The Individual Defendants', Haslam's and Pilot Corp.'s pattern of unlawful activity and corresponding violations of 18 U.S.C. § 1962(c) directly and/or proximately caused Plaintiff and Class Members to suffer injury to their businesses and/or property within the meaning of 18 U.S.C. § 1964(c) in that Plaintiff and Class Members were damaged (and will continue to be damaged) by the Individual Defendants', Haslam's and Pilot Corp.'s (i) reduction and withholding of fuel rebates and/or discounts owed to Plaintiff and Class Members, without their knowledge or approval, for the purposes of increasing Pilot Flying J's profitability, increasing Haslam's and Pilot Corp.'s return on investment, and increasing the Individual Defendants' and their Co-Conspirators' compensation; and (ii) the lack of earnings and profits Plaintiff and Class Members would and should have received on their unilaterally reduced and withheld fuel rebates and/or discounts but for the Individual Defendants', Haslam's and Pilot Corp.'s above-described wrongful acts.

62. The Individual Defendants, Haslam and Pilot Corp. committed these substantive RICO offenses by using Pilot Flying J (the RICO enterprise) to engage in multiple predicate acts of mail fraud and/or interstate and/or foreign wire fraud to defraud and cheat Plaintiff and Class Members and/or obtain money from Plaintiff and Class Members by false promises by covertly and unilaterally reducing and withholding fuel rebates and/or discounts owed to Plaintiff and Class Members, without their knowledge or approval, for the purposes of increasing Pilot Flying J's

profitability, increasing Haslam's and Pilot Corp.'s return on investment, and increasing the Individual Defendants' and their Co-Conspirators' compensation, all to the financial detriment of Plaintiff and Class Members.

63. The Individual Defendants, Haslam and Pilot Corp. knew or should have known their above-described tactics, misrepresentations and/or unlawful actions were fraudulent, misleading and illegal and would cause Plaintiff and Class Members to suffer damages in the form of, *inter alia*, reduced fuel rebates and/or discounts, business destruction, lost profits and/or lost business opportunities. All of Plaintiff's and Class Members' damages were reasonably foreseeable by the Individual Defendants and Pilot Corp. and/or anticipated as a substantial factor and a natural consequence of their pattern of unlawful activity.

COUNT II
VIOLATION OF 18 U.S.C. § 1962(d) BY
CONSPIRING TO VIOLATE 18 U.S.C. § 1962(c)
(AGAINST THE CO-CONSPIRATORS & PILOT CORP.)

64. The preceding factual statements and allegations are incorporated by reference.

65. Pilot Flying J is an "enterprise" within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c) and, at all relevant times, was engaged in, and the activities of which affected, interstate and/or foreign commerce within the meaning of 18 U.S.C. §§ 1961(4), 1962(c), and 1962(d).

66. The Individual Defendants, Co-Conspirators, Haslam and Pilot Corp. are "persons" "employed by or associated with" Pilot Flying J (the RICO enterprise) within the meaning of 18 U.S.C. §§ 1961(3) and 1962(c).

67. The Individual Defendants, Co-Conspirators, Haslam and Pilot Corp. conspired with each other within the meaning of 18 U.S.C. § 1962(d) to conduct and/or participate in the

business and financial affairs of Pilot Flying J (the RICO enterprise) through a pattern of unlawful racketeering activity in violation of 18 U.S.C. §§ 2, 1341, and 1343.

68. The Individual Defendants', Co-Conspirators', Haslam's and Pilot Corp.'s conspiracy to conduct or participate in the conduct of the affairs of Pilot Flying J through pattern of unlawful racketeering activity, and their corresponding violations of 18 U.S.C. § 1962(d), directly and/or proximately caused Plaintiff and Class Members to suffer injury to their businesses and/or property within the meaning of 18 U.S.C. § 1964(c). Specifically, Plaintiff and Class Members were damaged (and will continue to be damaged) by the Defendants' and Co-Conspirators' (i) reduction and withholding of fuel rebates and/or discounts promised and owed to Plaintiff and Class Members, without their knowledge or approval, for the purposes of increasing Pilot Flying J's and Haslam's profitability, increasing Pilot Corp.'s return on investment, and increasing the Individual Defendants' and Co-Conspirators' compensation, (ii) inducing them to become and remain customers, and (iii) the lack of earnings and profits Plaintiff and Class Members should and would have earned on their unilaterally reduced and withheld fuel rebates and/or discounts, but for and proximately and directly Defendants' above-described wrongful acts that constitute predicate acts under 18 U.S.C. § 1961(1) and (5).

69. The Defendants and their Co-Conspirators committed these substantive RICO offenses by using Pilot Flying J (the RICO enterprise) to engage in multiple predicate acts of mail fraud and/or interstate and/or foreign wire fraud to defraud and cheat Plaintiff and Class Members and/or obtain money from Plaintiff and Class Members by false promises by covertly and unilaterally reducing and withholding fuel rebates and/or discounts owed to Plaintiff and Class Members, without their knowledge or approval, for the purposes of increasing Pilot Flying J's profitability, increasing Haslam and Pilot Corp.'s return on investment, and increasing the

Individual Defendants' and Co-Conspirators' compensation, to the financial detriment of Plaintiff and Class Members.

70. The Defendants and their Co-Conspirators knew their above-described tactics, misrepresentations and/or unlawful actions were fraudulent, misleading, and illegal, and would cause Plaintiff and Class Members to suffer damages in the form of, *inter alia*, reduced fuel rebates and/or discounts, business destruction, lost profits and/or lost business opportunities. All of Plaintiff's and Class Members' damages were reasonably foreseeable by the Defendants and/or anticipated as a substantial factor and a natural consequence of their pattern of unlawful activity.

COUNT III
BREACH OF CONTRACT
(AGAINST PILOT FLYING J)

71. The preceding factual statements and allegations are incorporated by reference.

72. Plaintiff and Class Members, on the one hand, and Pilot Flying J, on the other hand, mutually intended to form and, in fact, entered into valid and enforceable fuel rebate and/or discount contracts under which Pilot Flying J was required to credit or refund a certain percentage of Plaintiff's and Class Members' fuel purchases in the form of rebates and discounts on a regular basis.

73. All conditions precedent to Pilot Flying J's liability under these contracts were performed by Plaintiff and Class Members. Plaintiff and Class Members performed all of their obligations under the contracts by, *inter alia*, patronizing Pilot Flying J truck stops, purchasing fuel and/or purchasing other goods and services.

74. Pilot Flying J, however, breached its contracts with Plaintiff and Class Members by knowingly, maliciously, fraudulently, willfully, wantonly, unilaterally, negligently and/or wrongfully reducing and withholding Plaintiff's and Class Members' monthly fuel rebates and/or

discounts as required under the terms of their contracts with the Plaintiff and Class Members. Pilot Flying J's wrongful actions constitute breach of contract at common law.

75. Pilot Flying J's above wrongful actions directly and/or proximately caused Plaintiff and Class Members to suffer damages in the form of, *inter alia*, reduced fuel rebates and/or discounts, business destruction, lost profits and/or lost business opportunities.

COUNT IV
DECEPTIVE TRADE PRACTICES
(AGAINST ALL DEFENDANTS)

76. Plaintiff incorporates by reference each of the preceding paragraphs as if fully set forth herein.

77. During the Class Period, Defendants engaged in unconscionable, false, and deceptive acts or trade practices by engaging in the Fuel Rebate Fraud scheme as alleged herein. Defendants' conduct in instituting the Diesel Fuel Rebate Fraud scheme constitutes a deceptive trade practice in violation of states' Deceptive Trade Practices Acts.

78. Defendants misled and deceived Plaintiff and Class Members by reducing diesel fuel rebates and discounts without their knowledge or consent. Defendants' profited from rebate funds and discounts wrongfully withheld from Plaintiff and Class Members.

79. Defendants' unfair and deceptive trade practices are the type of misconduct that the states' Deceptive Trade Practices Acts are designed to remedy.

80. Plaintiff and the members of the Class have been damaged as a proximate result of the conduct complained of herein.

81. Defendants knowingly engaged in the deceptive practices, which constitute unfair and deceptive conduct in trade or commerce.

82. The conduct described above constitutes unfair or deceptive trade practices predominately and substantially affecting the conduct of trade or commerce throughout the United States in violation of the states' Deceptive Trade Practice Acts, including:

Alabama	Ala. Code § 8-19-5
Arkansas	Ark. Code Ann. § 4-88-101, <i>et seq.</i>
Arizona	Ariz. Rev. Stat. § 44-1522, <i>et seq.</i>
California	Cal. Civ. Code §§ 1780-1784, Business and Profession Code § 1720, <i>et seq.</i> , § 1750, <i>et seq.</i>
Connecticut	Conn. Gen. Stat. Ann. §§ 42-110a-42-110g
Colorado	Col. Rev. Stat. §§ 6-1-101 to 6-1-114
District of Columbia	D.C. Code Ann. §§ 28-3801 to 28-3819
Florida	Fla. Stat. Ann. §§ 501.201 to 501.213
Georgia	Ga. Stat. § 10-1-393, <i>et seq.</i>
Idaho	Idaho Code §§ 48-601 to 48-619
Illinois	815 ILCS 505/2
Indiana	Ind. Code § 24-5-0.5, <i>et seq.</i>
Iowa	Iowa Code § 714.16
Kansas	Kan. Gen. Stat. Ann. §§ 50-623 to 50-644
Kentucky	Ky. Rev. Stat. Ann. §§ 367.110 - 367.990
Louisiana	La. Rev. Stat. Ann. §§ 13:1401 - 13:1418
Maine	Me. Rev. Stat. Ann. §§ 206-214
Maryland	Md. Code Ann. §§ 13-501
Massachusetts	Mass. Gen. L. Ann. Ch. 93A, §§ 1-11
Michigan	Mich. Stat. Ann. § 19.418(8)
Minnesota	Minn. Stat. Ann. §§ 325D.09-325D.16
Missouri	Mo. Ann. Stat. §§ 407.010-407.701
Montana	Mont. Rev. Code Ann. §§ 30-14-101 to 30-14-224
Nebraska	Neb. Rev. Code §§ 59-1501 to 59-1623
Nevada	Nev. Rev. Stat. §§ 590A.010-590A.280
New Hampshire	N.H. Rev. Stat. Ann. § 358-A:2
New Jersey	N.J. Rev. Stat. §§ 56:8-1 to 56:8-24
New Mexico	N.M. Stat. Ann. § 57-12-10
New York	N.Y. Gen. Bus. L. §§ 349-350
North Carolina	N.C. Gen. Stat. §§ 75-1 to 75-56
North Dakota	N.D. Cent. Code § 51-15-02
Ohio	Ohio Rev. Code Ann. § 1345
Oklahoma	Okla. Stat. Tit. 15 § 753
Oregon	Ore. Rev. Stat. §§ 646.605 - 646.642
Pennsylvania	73 Pa. Stat. § 201, <i>et seq.</i>
Rhode Island	R.I. Rev. L. Ann. §§ 6-13.1-1 to 6-13.1-11
South Carolina	S.C. Code § 39-5-20, <i>et seq.</i>
South Dakota	S.D. Comp. L. §§ 37-24-1 to 37-24-35
Tennessee	Tenn. Code Ann. § 47-18-101, <i>et seq.</i>

Texas	Tex. Rev. Civ. Stat. §§ 17.41 - 17.63
Utah	Utah Code Ann. § 13-11-19
Virginia	Va. Code § 59.1-200, <i>et. seq.</i>
Washington	RCW § 19-86-010, <i>et seq.</i>
West Virginia	W.Va. Code Ann. § 46A-6-104
Wisconsin	Wis. Stat. Ann. § 100.18
Wyoming	Wyo. Stat. § 40-12-105, <i>et. seq.</i>

83. As a proximate result of the Defendants' deceptive trade practices, Plaintiff and the members of the Class have suffered actual damages in an amount to be proven at trial.

84. Defendants' conduct complained of herein renders it liable under the states' Deceptive Trade Practices Acts for damages for the consequences of such conduct.

85. Defendants' actions were willful, wanton, malicious, and in total disregard for the rights of Plaintiff and Class Members. Defendants knew or should have known, in light of the surrounding circumstances that their conduct in violation of states' Deceptive Trade Practices Acts would naturally and probably result in damages to Plaintiff and Class Members. Defendants continued their wrongful conduct with malice or in reckless disregard of the consequences, from which malice may be inferred. Further, Defendants intentionally pursued their course of conduct for the purpose of causing Plaintiff and Class Members damages. Punitive damages should be awarded to deter the actions of Defendants and others who might engage in similar action or conduct.

86. Plaintiff and Class Members are entitled to any and all penalties and/or multipliers of damages as may be provided for in the states' Deceptive Trade Practices Acts.

87. Plaintiff and Class Members are entitled to an award of reasonable attorneys' fees, costs of this action, plus pre and post judgment interest as may be allowed by law.

COUNT V
UNJUST ENRICHMENT
(AGAINST ALL DEFENDANTS)

88. The preceding factual statements and allegations are incorporated by reference. With respect to Pilot Flying J only, this count is brought in the alternative to Count III.

89. This Count is brought as a subclass under the unjust enrichment laws of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, D.C., Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Virginia, and Washington (collectively, the "Unjust Enrichment Jurisdictions"), on behalf of all individuals and entities that were parties to fuel rebate and/or discount contracts with any of Defendants, from January 1, 2005 to the present.

90. Defendants have been (and continue to be) unjustly enriched by, *inter alia*, (i) the above-described unlawfully reduced and withheld fuel rebates and/or discounts; (ii) using and/or investing the fraudulently obtained revenues in connection with other enterprises; and (iii) generating a return on the amounts described in (i) and (ii). Accordingly, Plaintiff, for itself and Class Members, seeks to impose a constructive trust over (and recover) all amounts by which Defendants (and other persons, including Defendants' current and/or former employees identified in Exhibit A and possibly others, the identities of whom are known only to Defendants at this time) have been (and continue to be) unjustly enriched.

COUNT VI
FRAUDULENT MISREPRESENTATION
(AGAINST ALL DEFENDANTS)

91. The preceding factual statements and allegations are incorporated by reference.

92. As set out in detail in the preceding paragraphs, Defendants made misrepresentations to the Plaintiff and Class Members.

93. These representations concerned material facts.

94. These representations were false.

95. Defendants knew these representations were false when they were made to the Plaintiff and Class Members.

96. Defendants wantonly, willfully, recklessly, oppressively, outrageously, and/or intentionally made the above-described representations to the Plaintiff and Class Members without regard for the truthfulness or falsity of the representations.

97. Defendants made these representations with the intention that the Plaintiff and Class Members would rely on them.

98. Plaintiff and Class Members reasonably relied on these representations to their detriment.

99. Plaintiff and Class Members were damaged as a direct and proximate result of Defendants' misrepresentations.

COUNT VII
NEGLIGENT MISREPRESENTATION
(AGAINST ALL DEFENDANTS)

100. The preceding factual statements and allegations are incorporated by reference.

101. As set out in detail in the preceding paragraphs, Defendants made misrepresentations to the Plaintiff and Class Members.

102. These representations concerned material facts.

103. These representations were false.

104. Defendants' knew or negligently disregarded the fact that these representations were false when they were made to the Plaintiff and Class Members.

105. Defendants made these representations with the intention that the Plaintiff and Class Members would rely on them.

106. Plaintiff and Class Members reasonably relied on these representations to their detriment.

107. Plaintiff and Class Members were damaged as a direct and proximate result of Defendants' misrepresentations.

COUNT VIII
SUPPRESSION
(AGAINST ALL DEFENDANTS)

108. The preceding factual statements and allegations are incorporated by reference.

109. Defendants had a duty to disclose and pay to Plaintiff and Class Members the proper amount of fuel rebates and/or discounts that they were actually owed pursuant to their fuel rebate and/or discount agreements.

110. Defendants uniformly, wantonly, willfully, recklessly, oppressively, outrageously, and/or intentionally and concealed their intention to withhold, and acts of withholding, the fuel rebates and/or discounts owed to Plaintiff and Class Members, without their knowledge or approval, for the purposes of increasing Pilot Flying J's profitability, increasing the Entity Defendants' return on investment, and increasing the Pilot Flying J Executives' compensation (and the compensation of other of Defendants' current and/or former employees)—to the financial detriment of Plaintiff and Class Members.

111. Defendants' concealment and suppression of their payment of less monies to Plaintiff and Class Members than they were owed caused the Plaintiff and Class Members to

continue to do business with the Defendants, not realizing the Defendants were not living up to their promises.

112. The Plaintiff and Class Members were damaged as a direct and proximate result of the Defendants' intentional, reckless and/or negligent suppression.

RELIEF REQUESTED

WHEREFOR, Plaintiff, for itself and Class Members, respectfully requests that:

- 1) This action be certified as a class action;
- 2) Plaintiff be designated as the Class Representative;
- 3) Plaintiff's counsel be appointed as Class Counsel;
- 4) With respect to Counts I-II (violations of RICO, 18 U.S.C. § 1961, *et seq.*):
 - i) threefold the actual, consequential and/or incidental damages sustained by Plaintiff and Class Members along with costs of suit, attorneys' fees, litigation expenses, and court costs, all pursuant to 18 U.S.C. § 1964(c), together with pre- and post-judgment interest at the highest legal rates;
 - ii) equitable relief, as may be appropriate, pursuant to 18 U.S.C. § 1964(a), including an equitable accounting for all benefits, consideration, and gross revenues received, directly or indirectly, including the imposition of a constructive trust, the voiding of unlawful transfers, the disgorgement of all ill-gotten gross revenues and/or all amounts by which Defendants have been unjustly enriched; and
 - iii) injunctive relief;
- 5) With respect to Counts III-VIII:
 - i) actual, consequential and/or incidental damages to be determined by the trier of fact;
 - ii) punitive damages;
 - iii) all amounts by which Defendants have been unjustly enriched;
 - iv) an equitable accounting for all benefits, consideration, and gross revenues received, directly or indirectly, by any of the Defendants, including the

- imposition of a constructive trust, the voiding of unlawful transfers, and the disgorgement of all ill-gotten gross revenues;
 - v) injunctive relief (as set forth above);
 - vi) pre- and post-judgment interest at the highest legal rates;
 - vii) attorneys' fees and litigation expenses incurred through the trial and any appeals of this case; costs of suit; and
- 6) For all Counts, such other and further relief that the Court deems just and proper.

JURY DEMAND

Plaintiff, for itself and all others similarly situated, respectfully demands a trial by struck jury on all claims so triable.

Dated June 6, 2013.

Respectfully Submitted,



David J. Guin (ASB-3461-g67d)
Tammy M. Stokes (ASB-6084-k69t)
Rex W. Slate (ASB-6934-a63r)
GUIN, STOKES & EVANS, LLC
505 20th Street North, Suite 1000
Birmingham, Alabama 35203
Tel: (205) 226-2282
Fax: (205) 226-2357
davidg@gseattorneys.com
tammys@gseattorneys.com
rexs@gseattorneys.com

Charles R. Watkins
GUIN, STOKES & EVANS, LLC
300 South Wacker Drive, Suite 1700A
Chicago, IL 60606
Telephone: (312) 878-8391
charlesw@gseattorneys.com

PLEASE SERVE DEFENDANTS BY CERTIFIED MAIL AT THE FOLLOWING ADDRESSES:

**PILOT TRAVEL CENTERS, LLC,
d/b/a PILOT FLYING J
c/o C T CORPORATION SYSTEM
2 NORTH JACKSON STREET, SUITE 605
MONTGOMERY, ALABAMA 36104**

**PILOT CORPORATION
c/o C T CORPORATION SYSTEM
2 NORTH JACKSON STREET, SUITE 605
MONTGOMERY, ALABAMA 36104**

**JAMES A. HASLAM III
c/o PILOT CORPORATION
5508 LONAS DRIVE
KNOXVILLE, TENNESSEE 37909**

**JOHN FREEMAN
c/o PILOT CORPORATION
5508 LONAS DRIVE
KNOXVILLE, TENNESSEE 37909**

**MARK HAZELWOOD
c/o PILOT CORPORATION
5508 LONAS DRIVE
KNOXVILLE, TENNESSEE 37909**

**BRIAN MOSHER
c/o PILOT CORPORATION
5508 LONAS DRIVE
KNOXVILLE, TENNESSEE 37909**