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UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

|                                   |   |                         |
|-----------------------------------|---|-------------------------|
| UNITED STATES OF AMERICA,         | ) |                         |
|                                   | ) |                         |
| Plaintiff,                        | ) |                         |
|                                   | ) |                         |
| v.                                | ) | Civil Action No. 338-73 |
|                                   | ) |                         |
| THE NATIONAL ASSOCIATION OF       | ) |                         |
| SECURITIES DEALERS, INC.;         | ) | Filed:                  |
| MASSACHUSETTS INVESTORS GROWTH    | ) | Feb. 21, 1973           |
| STOCK FUND, INC.;                 | ) |                         |
| FIDELITY FUND, INC.;              | ) | Antitrust               |
| WELLINGTON FUND, INC.;            | ) | Equitable Relief Sought |
| THE CROSSBY CORPORATION;          | ) |                         |
| VANCE, SANDERS & COMPANY, INC.;   | ) |                         |
| THE WELLINGTON MANAGEMENT         | ) |                         |
| COMPANY, INC.;                    | ) |                         |
| MERRILL LYNCH, PIERCE FENNER &    | ) |                         |
| SMITH, INC.;                      | ) |                         |
| BACHE & COMPANY, INC.;            | ) |                         |
| REYNOLDS SECURITIES CORPORATION;  | ) |                         |
| F. I. duPONT, GLORE FORGAN, INC.; | ) |                         |
| E. F. HUTTON, INC.;               | ) |                         |
| WALSTON & COMPANY, INC.;          | ) |                         |
| DEAN WITTER & COMPANY, INC.;      | ) |                         |
| PAINE, WEBBER, JACKSON &          | ) |                         |
| CURTIS, INC.;                     | ) |                         |
| HORNBLOWER & WEEKS-HEMPHILL,      | ) |                         |
| NOYES, INC.,                      | ) |                         |
|                                   | ) |                         |
| Defendants.                       | ) |                         |

COMPLAINT

The United States of America, plaintiff, by its attorneys,  
acting under the direction of the Attorney General of the United

States, brings this civil action against the above-named defendants, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted under Section 4 of the Act of Congress of July 2, 1890 (15 U.S.C. § 4), as amended, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, in order to prevent and restrain continuing violations by the defendants, as hereinafter alleged, of Section 1 of the Sherman Act.

2. Each of the defendants in each of the Counts hereinafter alleged, except Fidelity Fund, Inc., Massachusetts Investors Growth Stock Fund, Inc., and Wellington Fund, Inc., transacts business or is found within the District of Columbia.

II

DEFINITIONS

3. As used herein:

(a) "mutual fund" means an open-end management investment company as that term is defined in the Investment Company Act of 1940 (15 U.S.C. § 80a-(3), (4), and (5));

(b) "principal underwriter" means a principal underwriter of a mutual fund as that term is defined in the Investment Company Act of 1940 (15 U.S.C. § 80a-2(29));

(c) "broker/dealer" means a securities broker/dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. § 78o);

(d) "brokerage transaction" means a securities transaction executed by a broker/dealer as agent for the account of others;

(e) "dealer transaction" means a securities transaction executed by a broker/dealer as principal for its own account;

(f) "primary distribution system" means the purchase of mutual fund shares by an investor through (1) a broker/dealer which has a sales agreement with the principal underwriter, (2) the principal underwriter, and (3) the mutual fund;

(g) "secondary dealer market" means an inter-dealer market in mutual fund shares and a market in which any dealer can purchase mutual fund shares from investors at more than the redemption price; and

(h) "brokerage market" means the transfer, by means of a brokerage transaction, of already issued and outstanding mutual fund shares between investors, acting through broker/dealers.

#### COUNT I

#### I

#### DEFENDANTS

4. The Crosby Corporation (hereinafter "Crosby"), a corporation organized under the laws of the State of Delaware and having its principal place of business in Boston, Massachusetts is made a defendant herein. Crosby is the principal underwriter of the following mutual funds, hereinafter collectively called the Fidelity Funds:

Everest Fund, Inc.  
Fidelity Trend Fund, Inc.

Fidelity Capital Fund, Inc.  
Fidelity Fund, Inc.  
Essex Fund, Inc.  
Salem Fund, Inc.  
Puritan Fund, Inc.  
Fidelity Bond Debenture Fund

The Fidelity Funds have combined net assets in excess of \$3.4 billion.

5. Vance, Sanders & Company (hereinafter "Vance, Sanders"), a corporation organized under the laws of the State of Maryland and having its principal place of business in Boston, Massachusetts is made a defendant herein. Vance, Sanders is the principal underwriter of the following mutual funds, hereinafter collectively called the Vance, Sanders Funds:

Vance, Sanders Special Fund  
Massachusetts Investors Growth Stock Fund  
Massachusetts Investors Trust  
Century Shares Trust  
Boston Common Stock Fund  
Boston Fund  
Massachusetts Income Development  
Massachusetts Capital Development Fund  
Massachusetts Financial Development Fund

The Vance, Sanders Funds have combined net assets in excess of \$3.7 billion.

6. The Wellington Management Company (hereinafter "Wellington"), a corporation organized under the laws of the State of Delaware and having its principal place of business in Philadelphia, Pennsylvania, is made a defendant herein. Wellington is the principal underwriter of the following mutual funds, hereinafter collectively called the Wellington Funds:

W. L. Morgan Growth Fund, Inc.  
Explorer Fund, Inc.  
Invest Fund, Inc.  
Trustees Equity Fund, Inc.  
Windsor Fund, Inc.  
Wellington Fund, Inc.  
Wellesley Income Fund

The Wellington Funds have combined net assets in excess of \$2.2 billion.

7. The following broker/dealers, each of which is a corporation, and which hereinafter are called collectively "defendant broker/dealers," are made defendants herein:

| <u>Broker/Dealer</u>                       | <u>Principal Office</u>   |
|--------------------------------------------|---------------------------|
| Merrill Lynch, Pierce Fenner & Smith, Inc. | New York, New York        |
| Bache & Company, Inc.                      | New York, New York        |
| Reynolds Securities Corporation            | New York, New York        |
| F. I. duPont, Glore Forgan, Inc.           | New York, New York        |
| E. F. Hutton, Inc.                         | New York, New York        |
| Walston & Company, Inc.                    | New York, New York        |
| Dean Witter & Company, Inc.                | San Francisco, California |
| Paine, Webber, Jackson & Curtis, Inc.      | New York, New York        |
| Hornblower & Weeks-Hemphill, Noyes, Inc.   | New York, New York        |

8. The National Association of Securities Dealers, Inc. (hereinafter "NASD"), an incorporated association of broker/dealers registered under the Securities Exchange Act of 1934 (15 U.S.C. 78o-3), and having its principal place of business in Washington, District of Columbia, is made a defendant herein. More than 4400 broker/dealers and principal underwriters are members of the NASD. Each of defendant principal underwriters and defendant broker/dealers is a member of the NASD.

## II

### TRADE AND COMMERCE

9. Mutual funds are investment management companies which invest in securities of other corporations and issue shares representing interests in the assets of the mutual fund.

Shares of the mutual fund are continuously issued and redeemed by the mutual fund. Numerous mutual funds distribute their shares through a principal underwriter which generally has the exclusive contractual right to distribute shares of the mutual fund. Many principal underwriters enter into sales agreements with broker/dealers which then sell the mutual fund shares to investors. Shares are usually redeemed either through the primary distribution system or are sent directly to the mutual fund or an agent of the fund for repurchase or redemption. Mutual funds are required by law to redeem their shares on demand. There is a constant flow of the purchase, sale, and redemption of mutual fund shares in interstate commerce distributed by principal underwriters, including defendant principal underwriters, and sold to investors by broker/dealers, including defendant broker/dealers. More than 2400 broker/dealer and principal underwriter members of defendant NASD throughout the United States distribute mutual fund shares.

10. During 1971 shares of mutual funds valued at more than \$5.1 billion were sold in the United States and mutual fund shares valued at more than \$5.0 billion were redeemed. From 1940 to 1971 the total assets of mutual funds in the United States increased from less than \$1 billion to more than \$55 billion and the number of mutual fund shareholder accounts increased from 300,000 to nearly 11 million. As estimated 8.5 million individuals and more than 260,000 institutions, such as pension and profit-sharing funds, colleges, churches, hospitals, and social and labor organizations, own mutual fund shares. Individual mutual fund investors tend to be small investors, the average mutual fund transaction amounting to \$2,900.

11. Mutual fund shares are sold at a public offering price described in the mutual fund prospectus which is based on the net asset value of the fund plus a sales load (commission). The sales load, in most cases, is 7 1/2 percent - 8 1/2 percent of the offering price, depending upon the amount of the purchase and the rates set by the individual mutual fund. Lower rates usually apply on larger purchases. Mutual funds generally redeem their outstanding shares at their current net asset value.

12. When a mutual fund share is sold the principal underwriter retains a portion of the sales load, generally 1-1 1/2 percent and the broker/dealer retains the remainder. During 1971, approximately \$240 million in mutual fund sales loads were charged to investors in the United States. During 1970, sales load charges on mutual fund shares distributed by defendant principal underwriters amounted to more than \$32 million, of which defendant broker/dealers received in excess of \$8 million.

13. Section 22(d) of the Investment Company Act of 1940 (15 U.S.C. § 80a-22(d)) provides that a broker/dealer engaged in a dealer transaction in mutual fund shares must sell the mutual fund share at the current public offering price described in the prospectus unless the sale is to another dealer, the principal underwriter or the mutual fund.

14. A broker/dealer is authorized by the securities laws to engage in both brokerage transactions and dealer transactions. Section 22(d) of the Investment Company Act of 1940 applies only to dealer transactions. Thus, when a broker/dealer executes a brokerage transaction between two

investors, or when two broker/dealers, one acting for the purchasing investor and one acting for the selling investor, execute a brokerage transaction in mutual fund shares, the public offering price need not be maintained. In such a situation the broker/dealer is not prohibited by the Investment Company Act from independently establishing the commission for the transaction.

### III

#### VIOLATION ALLEGED

15. For many years, up to and including the date of filing of this complaint, defendant NASD and the members of defendant NASD, including defendant broker/dealers and defendant principal underwriters, have entered into and maintained a combination and conspiracy among themselves in restraint of the aforesaid trade and commerce in the purchase and sale of mutual fund shares in violation of Section 1 of the Sherman Act.

16. The aforesaid combination and conspiracy has consisted of a continuing understanding and concert of action, the substantial terms of which have been, and are, to prevent the growth of a secondary dealer market and a brokerage market in the purchase and sale of mutual fund shares.

17. In effectuating said combination and conspiracy NASD and the members of the NASD have done the following things, among others:

(a) established and maintained rules which inhibited the development of a secondary dealer market and a brokerage market in mutual fund shares;

(b) established and maintained rules which induced broker/dealers to enter into sales agreements



with principal underwriters,, with knowledge that sales agreements contained restrictive provisions which inhibited the development of a secondary dealer market and brokerage market in mutual fund shares;

(c) induced member principal underwriters to include restrictive provisions in their sales agreements;

(d) discouraged persons who made inquiry about the legality of a brokerage market from participating in a brokerage market and distributed misleading information to its members concerning the legality of a brokerage market in mutual fund shares; and

(e) suppressed market quotations for the secondary dealer market.

18. The unlawful combination and conspiracy hereinbefore alleged has had the following effects, among others:

(a) sales of mutual fund shares have been confined to a primary distribution system and the growth and development of a secondary dealer market and a brokerage market in mutual fund shares has been inhibited; and

(b) the public has been deprived of the benefits of free and open competition in a secondary dealer market and a brokerage market in mutual fund shares.

## COUNT II

### I

#### DEFENDANTS

19. Crosby, as described in paragraph 4 hereof, is made a defendant herein.

20. Each of defendant broker/dealers, as described in paragraph 7 hereof, is made a defendant herein.

## II

### TRADE AND COMMERCE

21. Paragraphs 9 through 14 hereof are realleged in full.

## III

### VIOLATION ALLEGED

22. For many years up to and including the date of the filing of this complaint, defendant Crosby has entered into and maintained contracts, and combinations with each defendant broker/dealer, and other broker/dealers, in unreasonable restraint of the aforesaid trade and commerce in the purchase and sale of mutual fund shares in violation of Section 1 of the Sherman Act.

23. The aforesaid contracts and combinations have consisted of continuing understandings and agreements, the substantial terms of which have been, and are, that:

(a) each broker/dealer must maintain the public offering price in any brokerage transaction in which it participates involving the purchase or sale of shares of the Fidelity Funds; and

(b) each broker/dealer must sell shares of the Fidelity Funds only to investors or the fund and purchase such shares only from investors or the fund.

24. The effects of the aforesaid unlawful contracts and combinations have been, and are, among others, that:

(a) the price of brokerage transactions in shares of the Fidelity Funds has been fixed and maintained at artificial and noncompetitive levels;

(b) the purchase and sale of shares of the Fidelity Funds has been confined to a primary distribution system and the growth and development of a secondary dealer market and a brokerage market in the purchase and sale of such shares has been inhibited;

(c) the public has been deprived of the benefits of free and open competition in the purchase and sale of shares of the Fidelity Funds by means of brokerage transactions; and

(d) broker/dealers with whom Crosby does not have sales agreements have been deprived of opportunities to purchase and sell shares of the Fidelity Funds.

### COUNT III

#### I

#### DEFENDANTS

25. Fidelity Fund, Inc., a mutual fund organized under the laws of the State of Massachusetts, is made a defendant herein. Fidelity Fund, Inc., has net assets of \$1.86 billion and in 1970 issues shares having a value of \$40 million.

26. Crosby, as described in paragraph 4 hereof, is made a defendant herein.

#### II

#### TRADE AND COMMERCE

27. Paragraphs 9 through 14 hereof are realleged in full.

#### III

#### VIOLATION ALLEGED

28. For many years up to and including the date of the filing of this complaint, defendant Crosby has entered into

and maintained contracts and combinations with each of the Fidelity Funds, including defendant Fidelity Fund, Inc., in unreasonable restraint of the aforesaid trade and commerce in mutual fund shares in violation of Section 1 of the Sherman Act.

29. The aforesaid contracts and combinations have consisted of continuing understandings and agreements, the substantial terms of which have been and are, that the dealer agreements entered into between Crosby and broker/dealers would contain the restrictions set forth in paragraph 23(a) and 23(b) hereof.

30. The effects of the aforesaid unlawful contracts and combinations have been and are, among others, that:

(a) the price of brokerage transactions in shares of the Fidelity Funds has been fixed and maintained at artificial and noncompetitive levels;

(b) the purchase and sale of shares of the Fidelity Funds has been confined to a primary distribution system and the growth and development of a secondary dealer market and a brokerage market in the purchase and sale of such shares has been inhibited;

(c) the public has been deprived of the benefits of free and open competition in the purchase and sale of shares of the Fidelity Funds by means of brokerage transactions;

and

(d) broker/dealers with whom Crosby does not have sales agreements have been deprived of opportunities to purchase and sell shares of the Fidelity Funds.

#### COUNT IV

##### I

##### DEFENDANTS

31. Vance, Sanders, as described in paragraph 5 hereof, is made a defendant herein.

32. Each of defendant broker/dealers, as described in paragraph 7 hereof, is made a defendant herein.

##### II

##### TRADE AND COMMERCE

33. Paragraphs 9 through 14 hereof are realleged in full.

##### III

##### VIOLATION ALLEGED

34. For many years, up to and including the date of the filing of this complaint, defendant Vance, Sanders has entered into and maintained contracts and combinations with each defendant broker/dealer, and other broker/dealers, in unreasonable restraint of the aforesaid trade and commerce in the purchase and sale of mutual fund shares in violation of Section 1 of the Sherman Act.

35. The aforesaid contracts and combinations have consisted of continuing understandings and agreements, the substantial terms of which have been and are, that:

(a) in all sales of shares of the Vance, Sanders Funds to the public, the broker/dealer would act as dealer for its own account; and

(b) the broker/dealer would not purchase shares of Vance, Sanders Funds from other broker/dealers and would not sell such shares to other broker/dealers, or, in the alternative, would sell such shares to other broker/dealers only at the public offering price.

36. The effects of the aforesaid unlawful contracts and combinations have been and are, among others, that:

(a) the purchase and sale of Vance, Sanders Funds has been confined to a primary distribution system and the public has been deprived of the benefits of a secondary dealer market and a brokerage market in the purchase and sale of shares of the Vance, Sanders Funds; and

(b) broker/dealers with whom Vance, Sanders does not have sales agreements have been deprived of opportunities to purchase shares of the Vance, Sanders Funds, or, in the alternative, to purchase and sell shares of the Vance, Sanders Funds at competitive prices.

#### COUNT V

#### I

#### DEFENDANTS

37. Massachusetts Investors Growth Stock Fund ("MIG Fund"), a mutual fund organized under the laws of the State of Massachusetts, is made a defendant herein. MIG Fund has

net assets in excess of \$1.2 billion and in 1970 issued shares having a value of \$62 million.

38. Vance, Sanders, as described in paragraph 5 hereof, is made a defendant herein.

## II

### TRADE AND COMMERCE

39. Paragraphs 9 through 14 hereof are realleged in full.

## III

### VIOLATION ALLEGED

40. For many years, up to and including the date of the filing of this complaint, Vance, Sanders has entered into and maintained contracts and combinations with each of the Vance, Sanders Funds, including defendant MIG Fund, in unreasonable restraint of the aforesaid trade and commerce in the purchase and sale of mutual fund shares in violation of Section 1 of the Sherman Act.

41. The aforesaid contracts and combinations have consisted of a continuing understanding and agreement, the substantial terms of which have been and are, that in all sales of shares of the Vance, Sanders Funds to the public, Vance, Sanders would act as principal for its own account.

42. The effects of the aforesaid combinations and conspiracies have been and are, among others, that Vance, Sanders is prohibited from executing brokerage transactions in shares of the Vance, Sanders Funds, thereby depriving investors of a brokerage market in such shares.

## COUNT VI

### I

### DEFENDANTS

43. Wellington, as described in paragraph 5 hereof,

is made a defendant herein.

44. Each of defendant broker/dealers, as described in paragraph 7 hereof, is made a defendant herein.

## II

### TRADE AND COMMERCE

45. Paragraphs 9 through 14 hereof are realleged in full.

## III

### VIOLATION ALLEGED

46. For many years up to and including the date of the filing of this complaint, Wellington has entered into and maintained contracts and combinations with each defendant broker/dealer, and other broker/dealers, in unreasonable restraint of the aforesaid trade and commerce in mutual fund shares in violation of Section 1 of the Sherman Act.

47. The aforesaid unlawful contracts and combinations have consisted of continuing agreements and understandings, the substantial terms of which have been and are, that:

(a) the broker/dealer must sell shares of the Wellington Funds only as principal, for its own account;

(b) the broker/dealer must not purchase shares of the Wellington Funds from other broker/dealers and must not sell such shares to other broker/dealers; and

(c) in all transactions involving Wellington and the broker/dealer, Wellington would act only as agent for the appropriate Wellington Fund.

48. The effects of the aforesaid unlawful contracts and combinations have been and are, among others, that:

(a) the purchase and sale of Wellington Funds



has been confined to a primary distribution system and the public has been deprived of a secondary dealer market and a brokerage market in the purchase and sale of shares of the Wellington Fund; and

(b) broker/dealers with whom Wellington did not have sales agreements have been deprived of opportunities to purchase and sell shares of the Wellington Funds.

#### COUNT VII

##### I

#### DEFENDANTS

49. Wellington Fund, Inc., a mutual fund organized under the laws of the State of Delaware, is made a defendant herein. Wellington Fund, Inc., has assets in excess of \$1.2 billion, and in 1971 issued shares having a value in excess of \$33 million.

50. Wellington, as described in paragraph 6 hereof, is made a defendant herein.

##### II

#### TRADE AND COMMERCE

51. Paragraphs 9 through 14 hereof are realleged in full.

##### III

#### VIOLATION ALLEGED

52. For many years up to and including the date of the filing of this complaint, Wellington has entered into and maintained contracts and combinations with each of the Wellington Funds, including defendant Wellington Fund, Inc., in unreasonable restraint of the aforesaid trade and commerce in the purchase and sale of mutual fund shares in violation of Section 1 of the Sherman Act.

53. The aforesaid unlawful contracts and combinations have consisted of continuing understandings and agreements, the substantial terms of which have been and are, that:

(a) Wellington must forward all orders from investors or broker/dealers to the appropriate Wellington Fund for sale only at the public offering price; and

(b) Wellington would arrange for the purchase of shares only from the appropriate Wellington Funds.

54. The effects of the aforesaid unlawful contracts and combinations have been and are, that:

(a) the public has been deprived the benefits of a secondary dealer market and a brokerage market in the purchase and sale of shares of the Wellington Funds; and

(b) broker/dealers have been deprived of the benefits of free and open competition in a secondary dealer market in shares of the Wellington Funds.

#### COUNT VIII

##### I

#### DEFENDANTS

55. Each broker/dealer defendant, as described in paragraph 7 hereof, is made a defendant herein.

##### II

#### TRADE AND COMMERCE

56. Paragraphs 9 through 14 hereof are realleged in full.

##### III

#### VIOLATION ALLEGED

57. For many years, up to and including the date of

filing of this complaint, each defendant broker/dealer has entered into and maintained contracts and combinations with numerous principal underwriters in addition to defendant principal underwriters, in unreasonable restraint of the aforesaid trade and commerce in the purchase and sale of mutual fund shares in violation of Section 1 of the Sherman Act.

58. The aforesaid unlawful contracts and combinations have consisted of continuing understandings and agreements, the substantial terms of which have been and are, that with respect to sales and purchases of shares of the funds distributed by the principal underwriter concerned, one or more of the following restrictions would be in effect:

(a) the broker/dealer must act as principal (dealer) only in the sale of such shares;

(b) if the broker/dealer acted as agent (broker) in the sale of such shares, it must maintain the public offering price;

(c) the broker/dealer must purchase such shares only from the principal underwriter, investors or the fund; and

(d) the broker/dealer must sell such shares only to the principal underwriter, investors, or the fund.

59. The effects of such unlawful contracts and combinations have been and are, among others, that:

(a) the public has been deprived of the benefits of competition in a secondary dealer market and a brokerage market in the purchase and sale of mutual fund shares; and

(b) the public has paid artificial and non-competitive sales load charges for the purchase and sale of mutual fund shares.

PRAYER

WHEREFORE, plaintiff prays:

1. That the contracts, combinations and conspiracies alleged in Counts I through VIII hereof be adjudged and decreed to be unlawful and in violation of Section 1 of the Sherman Act.

2. That the defendants and each of their officers, directors, agents, managers, employees, successors, assigns, members, and all other persons acting or claiming to act on behalf of the defendants be perpetually enjoined and restrained from directly or indirectly continuing, maintaining, enforcing, or renewing the aforesaid contracts, combinations, and conspiracies and from engaging in any practices, contracts, combinations, or conspiracies having like or similar purposes or effects.

3. That the defendant mutual funds, principal underwriters and broker/dealers and their officers, directors, agents, representatives, and all persons acting or claiming to act on their behalf be perpetually enjoined from entering into or maintaining any agreement containing:

(a) any limitation or restriction as to (i) the persons from whom any registered broker/dealer may purchase, or to whom any registered broker/dealer may sell, mutual fund shares (ii) a registered broker/dealer's right to act as broker in the purchase or sale of mutual fund shares; or

(b) any requirement as to the number of mutual fund shares that must be purchased from, or redeemed, liquidated or repurchased through, the mutual fund or its principal underwriter.

4. That each defendant mutual fund be required prominently to display in its prospectus a statement that shares of the fund may legally be purchased at less than the public offering price and sold at more than the redemption price if a broker/dealer acts as broker for another investor rather than dealer in the transaction.

5. That each defendant broker/dealer be required to inform prospective customers that mutual fund shares may legally be purchased for less than the public offering price if the broker/dealer agrees to act as agent rather than principal.

6. That defendant NASD and each of its officers, governors, agents, managers, employees, successors, assigns, and all other persons acting or claiming to act on behalf of the defendant NASD be perpetually enjoined from establishing, maintaining, or adhering to any rule or regulation, formal or informal, or suggesting any course of action for its members, which:

(a) requires or induces any member (i) to enter into any agreement or course of action enjoined by other paragraphs of this Prayer for Relief, (ii) to act as principal in the purchase or sale of mutual fund shares, or (iii) to refrain from purchasing mutual fund shares from, or from selling such shares to, any other broker/dealer;

(b) fixes the price for a brokerage transaction in mutual fund shares; or


(c) otherwise unreasonably impedes a secondary dealer market or a brokerage market in mutual fund shares.

7. That defendant NASD be required to display in all manuals, training guides and other literature distributed to members relating to the sale of investment company shares, a statement that any member broker/dealer, including any member principal underwriter which is also registered as a broker/dealer, is legally free to arrange for the purchase and sale of mutual fund shares at less than the public offering price by acting as broker between two customers.

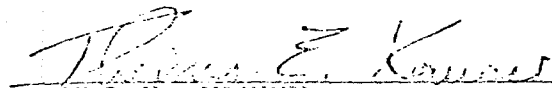
8. That pursuant to Section 5 of the Sherman Act an order be made and entered herein requiring defendants Fidelity Fund, Inc., Massachusetts Investors Growth Stock Fund, Inc., and Wellington Fund, Inc., to be brought before this Court in this proceeding and directing the United States Marshals of the appropriate Districts to serve a summons on each of such defendants.

9. That the plaintiff have such other and further relief as the nature of the case may require and the Court may deem just and proper.

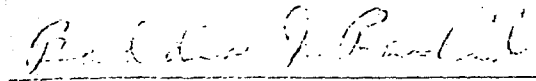
10. That plaintiff recover its taxable costs.

  
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