

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

In re: POOL PRODUCTS DISTRIBUTION	*	MDL Docket No. 2328
MARKET ANTITRUST LITIGATION	*	
	*	SECTION R(2)
	*	
	*	JUDGE VANCE
	*	
This document relates to All Cases	*	MAG. JUDGE WILKINSON
	*	
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**JOINT REPORT FOR AUGUST 14, 2014 STATUS CONFERENCE**

Pursuant to Pretrial Order No. 23, the parties respectfully submit this Joint Report identifying all issues the parties wish to discuss at the August 14, 2014 status conference and their positions concerning those issues.

**I. Request to File Class Certification, Summary Judgment, and *Daubert* Briefing Under Seal With Redacted Public Versions to Follow.**

**A. Direct Purchaser Plaintiffs’ (“DPPs”) Position**

On September 10, 2014, the parties will file their respective class certification, summary judgment, and *Daubert* motions. Based on the briefing structure that the Court adopted at the last pretrial conference, Defendants may submit as many as five motions for summary judgment. Opposition papers to all motions will be filed on November 10, 2014, and reply papers will be filed on December 10, 2014.

DPPs anticipate that all of these motions will rely heavily on documents, data, and testimony that have been designated as “Confidential” or “Highly Confidential” under the operative protective order. Thus, in the interest of avoiding a proliferation of accompanying motions to seal the individual motions, DPPs respectfully request that the Court enter a single Order at this time, which allows the parties to file their respective papers on these forthcoming

motions, including any associated declarations with exhibits, under seal. DPPs further propose that the Court direct the party filing the sealed paper to prepare and file on the public docket, within 20 days thereafter, a redacted version of the paper, which deletes only the Confidential or Highly Confidential parts.

**B. Indirect Purchase Plaintiffs' ("IPPs") Position**

IPPs support and are in agreement with the DPPs .

**C. Defendants' Position**

Defendants have no objection.

**II. DPPs' Request For Leave to Submit Additional Material from Dr. Gordon Rausser**

**A. DPPs' Position**

The parties exchanged their expert reports on April 10, 2014, and their reply expert reports on June 11, 2014. On July 7, 2014, DPPs served a supplemental report by Dr. Gordon Rausser. On July 9, 2014, the Court issued an Order and Reasons, which granted the defendants' motion to strike Dr. Rausser's supplemental report. DPPs request that the Court revisit that ruling. DPPs believe that permitting service of Dr. Rausser's supplemental report will assist the Court in resolving issues presented – particularly ones associated with class certification – on their merits on a more informed basis.

As this Court anticipated at page 5 of its Order and Reasons, filed July 9, Dr. Rausser testified early in his deposition (page 48 lines 5 to 15) to the results from the analysis presented in his supplemental report. Defendants then had more than a day to cross-examine him about the basis for those results. Dr. Rausser said, “[W]hat that particular multivariate regression does is then put actual monetary numbers on what is the nature of the injury. . . . [T]he actual injury

turns out, as I've shown once the data's corrected, to be . . . a point estimate for all members of the class [of] 4.97 percent.”

If the Court is disinclined to revisit its prior ruling, then DPPs seek leave to submit in support of class certification a limited additional declaration from Dr. Gordon Rausser, based on material already provided by Dr. John H. Johnson IV, PoolCorp's expert, and Dr. Vandy Howell, one of the Manufacturer Defendants' experts, which would address two points. Briefly:

(1) As Dr. Rausser testified at his deposition and as set forth in Dr. Rausser's supplemental report (p. 3), there was a miscommunication between PoolCorp and him regarding price entries in some of the transaction data that PoolCorp produced. Dr. Rausser believed that these particular price entries needed to be divided by the quantity sold in order to determine the transaction's unit price. In fact, as Dr. Rausser first learned from Defendants' expert rebuttal reports, served in mid-June, the price entries were already stated as unit prices. Thus, the division that Dr. Rausser performed on these entries was unnecessary. It has the effect of understating unit price for these transactions and understating PoolCorp total dollar sales. Dr. Johnson adjusted these transactions entries in presenting his rebuttal report. Dr. Rausser is prepared to adopt Dr. Johnson's approach.

(2) As Dr. Rausser testified at his deposition and as set forth in Dr. Rausser's supplemental report (pp. 4-5), unit-of-measure information in some PoolCorp transactions is missing, or, for some products, is stated in different units of measure (*e.g.*, both bottles and cartons). In presenting her rebuttal report, Dr. Howell described a process that adjusts the PoolCorp data to take these data limitations into account. Dr. Rausser proposes to adopt Dr. Howell's approach.

Thus, DPPs are prepared to proceed on class certification by accepting the regressions presented by Dr. Johnson, who used Dr. Rausser's methodology but corrected for unit prices, and by Dr. Howell, who used Dr. Rausser's methodology but corrected for unit prices and unit-of-measure values. However, while DPPs will adopt the overcharge calculated by the defendants' experts, neither Drs. Johnson and Howell did the necessary arithmetic to calculate class-wide damages by applying the overcharge to the amount of PoolCorp sales to Class Members. Dr. Rausser's proposed declaration would also set forth this arithmetic using the data submitted as backup to Dr. Johnson and Dr. Howell's rebuttal reports, as well as the effect on individual class members using the identical methodology described in Dr. Rausser's previous reports. In addition, DPPs seek leave for Dr. Rausser to present the corresponding common factor regressions, which are the same as Dr. Johnson's and Dr. Howell's regressions, except the common factor regressions do not include the overcharge variable and the results of the calculations concerning individual customers.<sup>1</sup>

There is no merit to Defendants' contention below that Dr. Rausser merely made "mathematical errors," and that correcting these supposed "mathematical errors" is mostly what this dispute is about. There was miscommunication regarding whether certain PoolCorp data entries represented the aggregate price charged for the quantity of product sold (as Dr. Rausser believed), or the unit price of that product (as Defendants' experts first explained in their rebuttal

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<sup>1</sup> Specifically, Dr. Rausser's declaration would be based on: (1) Dr. Johnson's regression presented in column (c) (entitled "Dr. Rausser's Model with Some Corrections to His Data<sup>2</sup> (Using PPIs)"; footnote in original) of Exhibit 44 of Dr. Johnson's rebuttal report, and (2) Dr. Howell's regression presented in Exhibit V.2B of Dr. Howell's rebuttal report under the column entitled Prof. Rausser's Regression Model with Unit Price Errors Corrected (applicable to the "Coefficient" and "P-Value" columns).

reports). The miscommunication was about what the data meant, not about anything mathematical.

PoolCorp's data also was ambiguous in some transactions where the same product was sold using different units of measure (both as individual bottles or as cartons of bottles, for example). Moreover, for some transactions, units of measure were missing altogether. Dr. Howell developed a process, described in her rebuttal report, to address these data limitations, which Dr. Rausser is prepared to adopt. Again, this is not merely math.

Likewise, Defendants are incorrect in asserting that Dr. Rausser changed his methodology in his supplemental report. The analysis in his supplemental report uses the same methodology as that in Dr. Rausser's prior reports, corrects the pricing data as suggested by Drs. Johnson and Howell, and responds to Defendants' experts' criticism of the proxies used for supply and demand.

**B. IPPs' Position**

IPPs support and are in agreement with the DPPs .

**C. Defendants' Position**

Defendants oppose "revisiting" the Court's prior ruling regarding Dr. Rausser's Supplemental Report for the reasons stated in (1) the Memorandum in Support of Defendants' Expedited Motion to Strike Plaintiffs' Expert's Supplemental Report, or in the Alternative, for Other Relief filed on July 7, 2014 (Dkt. # 425-1) ("Defendants' Motion to Strike") and (2) the Court's Order and Reasons dated July 9, 2014 (Dkt. # 432) (the "July 9 Order").

Since July 9, 2014, no new facts or legal authority have come to light that would warrant the relief that the DPPs are now seeking—about which Defendants learned only yesterday. To the contrary, the record of the July 10-11, 2014 deposition of Dr. Rausser shows why the Court should *not* revisit its July 9 Order. The July 9 Order observed that "[n]othing in the motion to

strike or response thereto informs the Court as to whether the ‘misunderstandings’ that Dr. Rausser seeks to correct in his new report could be satisfactorily cleared up in his deposition, scheduled to begin tomorrow.” At the outset of his deposition on July 10, 2014, Dr. Rausser produced errata sheets that corrected various errors in his prior reports. These were marked as deposition exhibits so that counsel for all parties had the opportunity to examine Dr. Rausser about any changes to his opinions. *See* Errata to Initial Expert Report of Gordon Rausser, Ph. D. (Ex. 3022-A) (attached as **Exhibit A**) and Errata to Expert Report of Gordon Rausser, Ph. D. (Ex. 3022-B) (attached as **Exhibit B**). The errata identified in these exhibits included correction of various numerical and/or mathematical errors contained in the body of these reports and various tables and figures. Dr. Rausser’s errata sheets that were produced and marked at his deposition, however, did *not* address the mathematical errors that were a relatively small part of his proposed Supplemental Report, a document which consisted mostly of new and revised opinions that Dr. Rausser had sought to express.

Once counsel for Defendants had completed their initial examination of Dr. Rausser, he was then examined by counsel for the DPPs. During the course of that examination, which consumed nearly seven pages of transcript, Dr. Rausser admitted to having made certain mathematical errors and described the nature of those errors. Counsel for the DPPs made no attempt to try to establish on the record what impact these errors would have on his previously submitted calculations. Defendants’ experts whose rebuttal reports had previously identified Dr. Rausser’s mathematical errors were present for this testimony and thus were available to assist Defendants’ counsel if the DPPs sought to have Dr. Rausser correct any additional errors.<sup>2</sup> Yet

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<sup>2</sup> In the case of the Manufacturer Defendants’ expert, the testifying expert herself (Dr. Vandy Howell) was there. PoolCorp’s expert witness had a senior staff member present.

rather than ask Dr. Rausser any questions about the mathematical errors that were addressed in the rebuttal reports of Defendants' experts, the DPPs apparently made a strategic decision not to do so. In short, if Dr. Rausser simply wanted to correct mathematical errors, he could and should have done so at his deposition.

Mere correction of mathematical errors would not require supplemental expert witness reports, dueling affidavits, or any other submissions that would be likely to cause delays and increase costs if the Court were to "revisit" its July 9 Order as the DPPs now seek. Moreover, any such mathematical errors would have no bearing on the soon to be filed motions for class certification, motions for summary judgment, and motions challenging expert witness calculations under *Daubert*. Counsel for Defendants certainly would not contend that mere mathematical errors would provide any basis for excluding Dr. Rausser's testimony under *Daubert*.

On the other hand, if Dr. Rausser wants to change the methodology reflected in his prior reports—as he sought to do by way of the July 7, 2014 Supplemental Report that was the subject of the prior motion and ruling—permitting him to do so at this late date, after his deposition has been completed and one month before various motions must be filed, would be even more prejudicial to Defendants now than it would have been in early July. After Dr. Rausser was deposed, the DPPs had two more opportunities on the record to establish what corrections would be necessary to address the mathematical errors identified in Defendants' experts rebuttal reports. PoolCorp's expert, Dr. Johnson, was deposed in Washington, D.C. on July 16, 2014—one week after the Court granted Defendants' Motion to Strike. The Manufacturer Defendants' expert who devoted the most attention to Dr. Rausser's mathematical errors—Dr. Howell—was deposed in San Francisco approximately two weeks after Dr. Rausser's deposition, on July 22,

2014. If the DPPs simply wanted to establish on the record what effect the mathematical errors had on Dr. Rausser's damage calculations, to the extent that this was not already clear from the rebuttal reports submitted by Defendants' experts, the DPPs had ample opportunity to do so on the record at either or both of these two depositions. They made no such effort.

Just as Dr. Rausser's Supplemental Report previously sought to blame PoolCorp for his mistake, the DPPs seek to justify their extraordinary request by continuing to argue—as they did in opposition to Defendants' Motion to Strike—that Dr. Rausser did not receive the data in question until June when rebuttal reports were exchanged. In fact, Dr. Rausser had the data in question back in March and saw how it was used by Defendants' experts in their initial reports in April. Moreover, Dr. Rausser himself referenced the data in its correct form in his reply report in June but did not correct the mathematical errors that resulted from his prior misinterpretation of the data. Further, mere correction of mathematical errors would not change the fundamental flaws in Dr. Rausser's regression analysis and other methodology. As Defendants' experts established in their rebuttal reports, Dr. Rausser simply cannot prove impact or damages on a class-wide basis by common evidence, with or without mathematical errors. Permitting Dr. Rausser to change his methodology after the fact in response to these critiques would be prejudicial and would only serve to delay briefing of the various impending motions. Depending upon the outcome of these motions, the mathematical errors in Dr. Rausser's calculations may become moot. They certainly do not need to be addressed by the Court at this stage in the proceedings.

### **III. Communication With Putative Settlement Class Members By Individuals Not Representing Such Individuals.**

#### **A. Defendants' Position**



PoolCorp believes that, if preliminary approval is granted to either or both settlements, the language of the notices to putative settlement class members should be clarified, in order to avoid confusion among putative settlement class members and to make clear that no defendant other than Hayward has agreed to a settlement. The Manufacturer Defendants have no objection to this proposal.

### **B. DPPs' Position**

PoolCorp asserts that “the notices to putative class members should be clarified, in order to avoid confusion among putative class members and to make clear that no defendant other than Hayward has agreed to a settlement.” But the Notice, as drafted, makes this very point.

The first two bullet points on page 1 of the Notice state:

- A class action lawsuit on behalf of direct purchasers from Pool Corporation (“Plaintiffs”) of Pool Products is currently pending. A Proposed Settlement has been reached between Plaintiffs and Hayward Industries, Inc. (“Hayward” or “Settling Defendant”).
- The litigation is continuing against the following Defendants: (1) Pool Corporation, SCP Distributors LLC, Superior Pool Products LLC (collectively "PoolCorp"); (2) Pentair Water Pool and Spa, Inc. (“Pentair”); and (3) Zodiac Pool Systems, Inc. (“Zodiac”). These companies are together referred to as the “Non-Settling Defendants.” The Settling Defendant and Non-Settling Defendants are referred to as “Defendants.” Pentair, Hayward and Zodiac are referred to as “Manufacturer Defendants”.

Bullet point 4, also on page 1, states that “A settlement has been reached with the Settling Defendant.”

Thus, at the very beginning of the Notice, Hayward is expressly identified as the Settling Defendant. The others defendants are identified as the Non-Settling Defendants. Thereafter, the Notice continues to distinguish Hayward, as the Settling Defendant, from the other defendants.

Under Basic Information:

“Hayward, the Defendant that has agreed to this Proposed Settlement, is called the Settling Defendant.” Section 1, page 5.

“The case is proceeding against the Non-Settling Defendants.” Section 5, page 5.

“Hayward will also provide cooperation in Plaintiffs’ continuing litigation against the Non-Settling Defendants.” Section 8, page 5.

PoolCorp offers no basis for contending that more needs to be done. Accordingly, the Notice already is clear.

### C. IPPs’ Position

The IPPs believe their notice is sufficiently clear regarding the fact that Hayward is the only party making a settlement in the class notice.

Dated: August 7, 2014

Respectfully submitted,

*/s/ Russ M. Herman*

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***Manufacturer Defendants' Liaison Counsel***

**CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing Joint Report for August 14, 2014 Status Conference has been served on Defendants' Liaison Counsel, William Gaudet, Manufacturer Defendants' Liaison Counsel, Wayne Lee, and Indirect Purchaser Plaintiffs' Liaison Counsel, Thomas H. Brill, by e-mail, and upon all parties by electronically uploading the same to LexisNexis File & Serve in accordance with Pretrial Order No. 8, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF System, which will send a notice of electronic filing in accordance with the procedures established in MDL 2328, on this 7<sup>th</sup> day of August, 2014.

/s/ Adam H. Weintraub

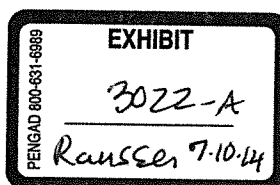
**Errata to Initial Expert Report of Gordon Rausser, Ph.D.**  
**IN RE: POOL PRODUCTS DISTRIBUTION MARKET ANTITRUST LITIGATION**  
**USDC, Eastern District of Louisiana, MDL Docket No. 2328**

Location	Correction / Clarification
Footnote 75	Remove “(c)(1)”
Footnote 171	Replace “ZPS08025200” with “ZPS080025200”
Footnote 192	Insert “, at pp.112-113.” After “ <i>id.</i> ”
Footnote 193	Replace “98” with “99”
Footnote 198	Replace “Complaint” with “Amended Complaint”
Footnote 209	Remove “, at 334”
Footnote 221	Add “; HAY-MDL-0182842”
Footnote 233	Insert “; POOLMDL-005-0000050 – 52, at 51” after “at 933”
Footnote 249	Replace “at 052” with “at 051”; Insert “; POOLMDL-013-0022993 – 994, at 993” after “at 051”
Page 76, line 4	Replace “?” with “[?]”
Footnote 317	Insert “POOLMDL-012-0037425 – 428, at 425;” before “Postoll”
Footnote 341	Replace “HAY-MDL-0430936” with “HAY-MDL-0182842”
Page 89, lines 12-13	Delete “or contract “C” ”
Page 91, line 2-3	Remove “for which transaction data is available (“ and “)”
Page 91, line 3	Replace “July 2006” with “January 2007”
Footnote 368	Replace “July 1, 2006” with “January 1, 2007”
Footnote 373	Replace “330” with “333”
Footnote 376	Insert “...” after “matrix update.”
Footnote 377	Replace “POOLMDL-010-0005988 – 996, at 990” with “Dwyer Deposition, at p.52:11 – 23; p.60:11 – 18”
Footnote 378	Replace “p.25” with “p.177”
Page 97, last line	Replace “July 2006” with “January 2007”
Page 102, line 14	Replace “July 2006” with “January 2007”
Footnote 418	Replace “3” with “2”

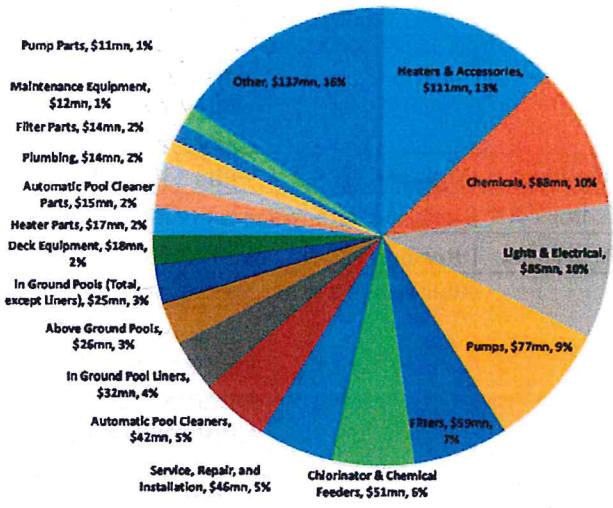
July 10, 2014

*Gordon Rausser*

Gordon Rausser, Ph.D.



**Errata to Expert Report of Gordon Rausser, Ph.D.  
In Re: Pool Products Distribution Market Antitrust Litigation**

Location	Correction																																				
Pg. i, section heading III.D	Replace "\$316 million" with "\$317 million".																																				
Pg. 7, 2nd paragraph, 2nd line	Replace "59 different manufacturers" with "61 different manufacturers".																																				
Pg. 13, section III.D	Replace "\$316 million" with "\$317 million".																																				
Pg. 14, 1st paragraph, 5th line	Replace "8.96%" with "8.98%".																																				
Pg. 14, 1st paragraph, last line	Replace "\$315,977,774" with "\$316,624,954".																																				
Pg. 20, Figure 4	Replace with the figure below: 																																				
Pg. 38, footnote 144	Replace "76 vendors" with "75 vendors".																																				
Pg. 61, Figure 17	Replace "Orders With Freight Charges" with "Orders Without Freight Charges".																																				
Pg. 87, Table 22	Replace with the table below: <table border="1" data-bbox="576 1218 1372 1564"> <thead> <tr> <th></th> <th>Pentair (October 2005 – June 2012)</th> <th>Hayward (January 1998 – May 2012)</th> <th>Zodiac (October 2008 – September 2012)</th> </tr> </thead> <tbody> <tr> <td></td> <td>Log (Price per Unit)</td> <td>Log (Price per Unit)</td> <td>Log (Price per Unit)</td> </tr> <tr> <td>PoolCorp Indicator Variable</td> <td>-0.0165***</td> <td>-0.0289***</td> <td>-0.0130*</td> </tr> <tr> <td>Month Indicators</td> <td>Yes</td> <td>Yes</td> <td>Yes</td> </tr> <tr> <td>State Indicators</td> <td>Yes</td> <td>Yes</td> <td>Yes</td> </tr> <tr> <td>FOB Type Indicators</td> <td>No</td> <td>Yes</td> <td>No</td> </tr> <tr> <td>Product Indicators</td> <td>Yes</td> <td>Yes</td> <td>Yes</td> </tr> <tr> <td>Observations</td> <td>3,691,508</td> <td>4,910,756</td> <td>949,873</td> </tr> <tr> <td>R-squared</td> <td>0.996</td> <td>0.989</td> <td>0.995</td> </tr> </tbody> </table>		Pentair (October 2005 – June 2012)	Hayward (January 1998 – May 2012)	Zodiac (October 2008 – September 2012)		Log (Price per Unit)	Log (Price per Unit)	Log (Price per Unit)	PoolCorp Indicator Variable	-0.0165***	-0.0289***	-0.0130*	Month Indicators	Yes	Yes	Yes	State Indicators	Yes	Yes	Yes	FOB Type Indicators	No	Yes	No	Product Indicators	Yes	Yes	Yes	Observations	3,691,508	4,910,756	949,873	R-squared	0.996	0.989	0.995
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Pg. 87, 2nd paragraph, lines 5-6	Replace "2.2%" with "1.6%", "1.6%" with "2.8%", and "1.1%" with "1.3%".																																				
Pg. 98, 1st paragraph, line 3	Replace "72,358,067" with "72,382,873".																																				
Pg. 98, Table 24	Replace with the table below: <table border="1" data-bbox="779 1669 1226 1879"> <thead> <tr> <th colspan="2">Common Factors Regression</th> </tr> </thead> <tbody> <tr> <td colspan="2">Dependent variable: Log (price per unit)</td> </tr> <tr> <td>Independent variable:</td> <td>Coefficient</td> </tr> <tr> <td><b>Demand</b></td> <td></td> </tr> <tr> <td>Sum of log (building permits)</td> <td>0.0309***</td> </tr> <tr> <td><b>Supply (costs)</b></td> <td></td> </tr> </tbody> </table>	Common Factors Regression		Dependent variable: Log (price per unit)		Independent variable:	Coefficient	<b>Demand</b>		Sum of log (building permits)	0.0309***	<b>Supply (costs)</b>																									
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**EXHIBIT**  
3022 B  
Rausser, 7.11.14

PENGAD 800-631-6889

**Errata to Expert Report of Gordon Rausser, Ph.D.**

		<table border="1"> <tr><td>Sum of log (production costs)</td><td>1.5248***</td></tr> <tr><td>Log (retail wage)</td><td>1.445***</td></tr> <tr><td><b>Customer size</b></td><td></td></tr> <tr><td>2nd tercile</td><td>-0.113***</td></tr> <tr><td>3rd tercile</td><td>-0.215***</td></tr> <tr><td><b>Product characteristics</b></td><td></td></tr> <tr><td>Indicators for each product</td><td>✓</td></tr> <tr><td><b>Seasonality</b></td><td></td></tr> <tr><td>Indicators for each month of year</td><td>✓</td></tr> <tr><td><b>Price codes</b></td><td></td></tr> <tr><td>Indicators for each price code</td><td>✓</td></tr> <tr><td>Constant term</td><td>-15.22***</td></tr> <tr><td>Number of observed transactions</td><td>72,382,873</td></tr> <tr><td><b>R-squared</b></td><td><b>88%</b></td></tr> </table>	Sum of log (production costs)	1.5248***	Log (retail wage)	1.445***	<b>Customer size</b>		2nd tercile	-0.113***	3rd tercile	-0.215***	<b>Product characteristics</b>		Indicators for each product	✓	<b>Seasonality</b>		Indicators for each month of year	✓	<b>Price codes</b>		Indicators for each price code	✓	Constant term	-15.22***	Number of observed transactions	72,382,873	<b>R-squared</b>	<b>88%</b>																		
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Pg. 103, 2nd paragraph, 2nd line	Replace "318,317" with "361,629".																																															
Pg. 104, 2nd paragraph, lines 7-8	Replace both instances of "89.5%" with "88.5%".																																															
Pg. 105, 2nd paragraph, 3rd line	Replace "8.96%" with "8.98%".																																															
Pg. 106, Table 25	Replace with the table below: <table border="1"> <tr><th colspan="2">Overcharge Regression</th></tr> <tr><td colspan="2">Dependent variable: Log (price per unit)</td></tr> <tr><td>Independent variable:</td><td>Coefficient</td></tr> <tr><td><b>Overcharge indicator</b></td><td></td></tr> <tr><td>Estimate</td><td>0.0860***</td></tr> <tr><td>Implied overcharge</td><td><b>8.98%</b></td></tr> <tr><td><b>Demand</b></td><td></td></tr> <tr><td>Sum of log (building permits)</td><td>0.0332***</td></tr> <tr><td><b>Supply (costs)</b></td><td></td></tr> <tr><td>Sum of log (production costs)</td><td>0.6244***</td></tr> <tr><td>Log (retail wage)</td><td>1.392***</td></tr> <tr><td><b>Customer size</b></td><td></td></tr> <tr><td>2nd tercile</td><td>-0.132***</td></tr> <tr><td>3rd tercile</td><td>-0.259***</td></tr> <tr><td><b>Product characteristics</b></td><td></td></tr> <tr><td>Indicators for each product</td><td>✓</td></tr> <tr><td><b>Seasonality</b></td><td></td></tr> <tr><td>Indicators for each month of year</td><td>✓</td></tr> <tr><td><b>Price codes</b></td><td></td></tr> <tr><td>Indicators for each price code</td><td>✓</td></tr> <tr><td>Constant term</td><td>-10.62***</td></tr> <tr><td>Number of observed transactions</td><td>51,494,415</td></tr> <tr><td><b>R-squared</b></td><td><b>88.5%</b></td></tr> </table>		Overcharge Regression		Dependent variable: Log (price per unit)		Independent variable:	Coefficient	<b>Overcharge indicator</b>		Estimate	0.0860***	Implied overcharge	<b>8.98%</b>	<b>Demand</b>		Sum of log (building permits)	0.0332***	<b>Supply (costs)</b>		Sum of log (production costs)	0.6244***	Log (retail wage)	1.392***	<b>Customer size</b>		2nd tercile	-0.132***	3rd tercile	-0.259***	<b>Product characteristics</b>		Indicators for each product	✓	<b>Seasonality</b>		Indicators for each month of year	✓	<b>Price codes</b>		Indicators for each price code	✓	Constant term	-10.62***	Number of observed transactions	51,494,415	<b>R-squared</b>	<b>88.5%</b>
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Pg. 106, footnote 412	Replace "and statistically significant" with ", but not statistically significant" and replace "9.4%" with "9.04%".																																															
Pg. 108, first line	Replace "\$316 million" with "\$317 million".																																															
Pg. 108, Table 26	Replace with the table below: <table border="1"> <thead> <tr> <th>Year</th> <th>Revenue</th> <th>Damages</th> </tr> </thead> <tbody> <tr> <td>2007 (from November 22)</td> <td>\$58,115,542</td> <td>\$4,788,746</td> </tr> <tr> <td>2008 (until June 28)</td> <td>\$553,675,510</td> <td>\$45,623,104</td> </tr> <tr> <td>2008 (from June 29)</td> <td>\$441,326,962</td> <td>\$36,365,536</td> </tr> </tbody> </table>		Year	Revenue	Damages	2007 (from November 22)	\$58,115,542	\$4,788,746	2008 (until June 28)	\$553,675,510	\$45,623,104	2008 (from June 29)	\$441,326,962	\$36,365,536																																		
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## Errata to Expert Report of Gordon Rausser, Ph.D.

	2009	\$903,348,694	\$74,436,328
	2010	\$941,662,958	\$77,593,440
	2011 (until November 21)	\$944,385,719	\$77,817,800
	<b>Total: from November 22, 2007 to November 21, 2011</b>	<b>\$3,842,515,384</b>	<b>\$316,624,954</b>
Pg. 108, footnote 416	Replace "\$265.7 million" with "\$266.2 million".		
Pg. 111, 4th paragraph, first line	Replace "318,317" with "361,629".		
Pg. 113, Table A.1	Replace with the table below:		
		<b>Common Factors</b>	<b>Overcharge</b>
	Dependent variable: log (price per unit)	(1)	(2)
	<b>VARIABLES</b>	logPrice	logPrice
	<b>Overcharge</b>		
	Indicator for November 2011 and earlier	-	0.0860***
		-	(0.00461)
	Implied overcharge	-	8.98%
	<b>Demand</b>		
	Log of building permits issued in the state in the prior 1-12 months	0.00185	0.0528***
		(0.00672)	(0.00603)
	Log of building permits issued in the state in the prior 13-24 months	0.0291***	-0.0196***
		(0.00612)	(0.00549)
	Linear combination that sums the two previous coefficients	0.0309***	0.0332***
		(0.0044)	(0.0035)
	<b>Supply</b>		
	Log of the 6- to 18-month lagged moving average of the PPI for electrical equipment manufacturing (PCU3353)	2.103***	-0.639***
		(0.196)	(0.169)
	Log of the 6- to 18-month lagged moving average of the PPI for paint, coating and adhesive manufacturing (PCU3255)	0.0522	2.656***
		(0.131)	(0.148)
	Log of the 6- to 18-month lagged moving average of the PPI for plastics product manufacturing (PCU3261)	-0.798***	-2.179***
		(0.116)	(0.115)
	Log of the 6- to 18-month lagged moving average of the PPI for primary metal manufacturing (PCU331)	0.167***	0.786***
		(0.0272)	(0.0378)
	Linear combination that sums the four previous coefficients	1.5248***	0.6244***
		(0.1515)	(0.1135)
	Log retail wage	1.445***	1.392***
	(0.0438)	(0.0290)	
<b>Customer size</b>			
Indicator for customer in 2nd tercile of total value purchased from PoolCorp in the observed month	-0.113***	-0.132***	
	(0.00335)	(0.00279)	
Indicator for customer in 3rd tercile of total value purchased from PoolCorp in the observed month	-0.215***	-0.259***	
	(0.00782)	(0.00622)	
<b>Product Characteristics</b>			
Indicators for each product	✓	✓	
<b>Seasonality</b>			
Indicators for each month of year	✓	✓	
<b>Price codes</b>			
Indicators for each price code	✓	✓	
Observations	72,382,873	51,494,415	
R-squared	0.878	0.885	

May 2, 2014



Gordon Rausser, Ph.D.

