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BEFORE THE INSURANCE COMMISSIONER

OF THE STATE OF CALIFORNIA

In the Matter of the Rate Application of State Farm General Insurance Company, Applicant.	File No.: PA-2019-00006 **CONSUMER WATCHDOG'S REQUEST FOR COMPENSATION**

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I. INTRODUCTION

Consumer Watchdog ("CWD"), Intervenor in the above-entitled proceeding, submits this Request for Compensation ("Request") pursuant to Insurance Code section 1861.10, subdivision (b), and the intervenor regulations, California Code of Regulations, title 10 ("10 CCR"), § 2661.1 et seq.

Prior to Proposition 103, insurance companies engaged in price gouging and discrimination in home, auto, and other forms of property-casualty insurance. During repeated "crises," insurance often became unaffordable and, in some cases, completely unavailable as insurance companies withdrew from and refused to service many communities in California. Finding that the "existing laws inadequately protect consumers and allow insurance companies to charge excessive, unjustified and arbitrary rates," on November 8, 1988 California voters declared that "insurance reform is necessary," and that henceforth "insurance rates shall be maintained at fair levels by requiring insurers to justify all future increases." (Prop. 103, § 1.)

Proposition 103 requires insurance companies to justify their rates and premiums in order to prevent price gouging and discrimination in home, auto, and other forms of property-casualty insurance. (Insurance Code sections 1861.01 and 1861.05.) To ensure that this and other Proposition 103 reforms were properly and fully enforced, the voters accorded themselves powerful public participation tools. Among these is the right to challenge excessive, inadequate, or unfairly discriminatory rates, and, to enable consumers to exercise that right, the requirement that insurance companies publicly disclose all information they provide to the Insurance Commissioner under Proposition 103—Insurance Code section 1861.07.

State Farm is well aware of this provision of Proposition 103: in 2004, the California Supreme Court unanimously rejected an effort by the company to keep data on its sales of auto insurance in various zip codes secret. (*State Farm Mutual Auto. Ins. Co. v. Garamendi* (2004) 32 Cal.4th 1029.) Moreover, an Opinion Letter by the General Counsel of the California Department of Insurance ("CDI") confirmed that an insurance company's underwriting guidelines—rules that determine whether an applicant gets a policy, and at what price—which are required to be

submitted as part of a rate application under Insurance Code section 1861.05, must be publicly disclosed.[1]

Notwithstanding these unequivocal legal requirements imposed on every insurance company doing business in California, State Farm General Insurance Company ("Applicant" or "State Farm") failed to publicly disclose its complete underwriting guidelines with its May 30, 2019 application for an overall rate increase of 6% to its personal lines of homeowners insurance. (File No. 19-2063 ["the Application"]).

Indeed, State Farm had failed to file its underwriting guidelines with its August 31, 2018 application for a 6.7% increase in its homeowner, condo, and renter insurance rates (File No. 18-4896, Proceeding No. PA-2018-00005).[2] It had also failed to do so with its February 15, 2018 application for a 6.7% increase in its homeowner, condo, and renter insurance rates (File No. 18-1196, Proceeding No. PA-2018-00002.) And it failed to do so in its 2018 auto symbols class plan (File No, 18-4906-CP, Proceeding No. PA-2018-00004). State Farm also failed to file its *complete* underwriting guidelines in its 2019 auto rate and symbols class plan applications (File Nos. 19-544 and 19-3657-CP).

The requirement that insurance companies justify their rates and disclose their underwriting practices is especially critical, as State Farm has contended that climate change, and in particular wildfire risk, requires companies like State Farm to seek significant rate increases and refuse to sell new policies, or renew existing policies, in certain communities throughout California.

Invoking the authority the voters accorded themselves to enforce the provisions of Proposition 103, Consumer Watchdog initiated this proceeding on August 5, 2019 by filing a

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[1] https://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf

[2] Proceeding No. PA-2018-00005 ultimately became the primary vehicle for resolution of the disclosure issues raised by Consumer Watchdog in this Proceeding No. PA-2019-00006 and Proceeding No. PA-2018-00004. Consumer Watchdog sought compensation separately for its time and expenses incurred in PA-2018-00005 and PA-2018-00004. Accordingly, this Request only seeks fees for the additional time it incurred in this proceeding.

Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation ("Petition") in order to remedy State Farm's repeated public disclosure violations. As discussed further below, Consumer Watchdog represented the interests of consumers and policyholders throughout this proceeding by raising issues and arguments in its Petition, and during subsequent communications with State Farm and the Department of Insurance (the "Department" or "CDI") in defense of the right of consumers to review State Farm's underwriting guidelines. Eventually in July 2020, the parties were able to reach a stipulation in Proceeding No. PA-2018-00005 that resolved State Farm's Proposition 103 violations and obtained State Farm's agreement to comply with Proposition 103's disclosure requirements prospectively, including with respect to its 2019 homeowners rate application at issue in this proceeding. Subsequently, it remained for Consumer Watchdog to ensure that State Farm carried out its obligations to file its complete underwriting guidelines with its 2019 homeowners rate application in this proceeding, and to review subsequent amendments to those guidelines. The rate review process could not be completed until State Farm had filed its complete guidelines as amended, and the parties had a chance to review and comment on those updates to ensure there were no violations of law. As a result, Consumer Watchdog substantially contributed to the Commissioner's decision to approve the Application.

This Request seeks compensation in the total amount of $23,223.00 for Consumer Watchdog's substantial contribution to the Commissioner's decision to approve State Farm's Application, resulting in the enforcement of Proposition 103's public disclosure and prior approval requirements. This Request includes all of the reasonable fees Consumer Watchdog spent working on this matter, including preparing this Request, through December 18, 2020. This Request is based on the facts and circumstances of this matter as summarized below, supporting exhibits, the record in this matter, and the accompanying Declaration of Pamela Pressley ("Pressley Decl."). In light of the substantial contribution Consumer Watchdog made to the Commissioner's decision in this proceeding pursuant to the Parties' Stipulation, as discussed further below, the compensation sought for Consumer Watchdog's attorneys' fees and expenses is unquestionably reasonable.

II. CONSUMER WATCHDOG IS ELIGIBLE TO SEEK COMPENSATION IN THIS PROCEEDING AND ITS REQUEST IS TIMELY

The intervenor regulations provide, in part:

> A petitioner, intervenor or participant whose Petition to Intervene or Participate has been granted and who has been found eligible to seek compensation may submit to the Public Advisor, within 30 days after the service of the order, decision, regulation or other action of the Commissioner in the proceeding for which intervention was sought, or at the requesting petitioner's, intervenor's or participant's option, within 30 days after the conclusion of the entire proceeding, a request for an award of compensation.

(10 CCR § 2662.3(a).) Consumer Watchdog is a longtime participant and intervenor in Department proceedings and a nationally recognized consumer advocacy organization. The Commissioner issued Consumer Watchdog's latest Finding of Eligibility on August 25, 2020, effective July 12, 2020, in which he found Consumer Watchdog eligible to seek compensation "for its representation of consumers' interests[.]"[3] The Commissioner granted Consumer Watchdog's Petition to Intervene in this proceeding on the Application on or about September 17, 2019, specifically finding "CW has raised and seeks to address issues that are relevant to the ratemaking process and has satisfied at least the minimum statutory requirements to exercise CW's right of intervention in rate applications." (Ruling Granting Consumer Watchdog's Petition to Intervene, Sept. 17, 2019, p. 4.) Thus, Consumer Watchdog is eligible to seek compensation in this matter.

Pursuant to 10 CCR § 2662.3(a), a request for compensation is due 30 days after service of the Commissioner's decision in the proceeding in which intervention was sought or 30 days after conclusion of the entire proceeding. On November 24, 2020, Consumer Watchdog submitted a letter to the Department, stating that "Consumer Watchdog considers its principal concern resolved and its participation in this matter completed." (Consumer Watchdog Letter to Department, Nov. 24, 2020, p. 2.) On November 25, 2020, the Commissioner issued his Decision Denying Petition for Hearing. (Decision Denying Petition for Hearing, Nov. 25, 2020.)

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[3] Consumer Watchdog's current Finding of Eligibility succeeded prior determinations issued on July 12, 2018; July 14, 2016; July 24, 2014; July 24, 2012; July 2, 2010; August 25, 2008; July 14, 2006; July 2, 2004; June 20, 2002; October 1, 1997; September 26, 1995; September 27, 1994; and September 13, 1993.

Accordingly, Consumer Watchdog's Request is timely pursuant to 10 CCR § 2662.3(a), as it is submitted within 30 days of the Commissioner's final decision.

III. SUMMARY OF THE PROCEEDING

To demonstrate Consumer Watchdog's substantial contribution to the Commissioner's decision in this proceeding and to demonstrate the reasonableness of the advocacy and witness fees requested, set forth below is a summary of Consumer Watchdog's participation in this matter.

A. Consumer Watchdog Petitioned for Hearing, Identifying Several Issues with the Application.

On or about May 30, 2019, Applicant filed the Application with the Department seeking an overall rate increase of 6% to its personal lines of homeowners insurance. (Pressley Decl., ¶ 25.) On or about July 19, 2019, the Commissioner notified the public of the Application. (Pressley Decl., ¶ 26.)

After reviewing the application, Consumer Watchdog filed a Petition on August 5, 2019 identifying the issues on which it would provide evidence and arguments to show why the Application violated Insurance Code sections 1861.05 and 1861.07. (Petition for Hearing, ¶¶ 6–22; see also Pressley Decl., ¶ 27.) As alleged in CWD's Petition, Proposition 103 requires insurance companies to open their books and justify applications for rate changes before they go into effect. A critical component of this "prior approval" framework is public scrutiny of the regulatory system established by the voters. Thus, the measure authorizes and encourages consumers to monitor, initiate and participate in all rate proceedings at the Department and in the courts. (Ins. Code §§ 1861.05(a); 1861.10(a).) And section 1861.07 requires that "[a]ll information provided to the commissioner pursuant to this article shall be available for public inspection.")

California law states that "No rate shall be approved or remain in effect which is excessive, inadequate, unfairly discriminatory or otherwise in violation of this chapter." (Ins. Code section 1861.05(a).) Section 1861.05(b) states that "[t]he applicant shall have the burden of

proving that the requested rate change is justified and meets the requirements of this article" (emphasis added).

Insurance Code section 1861.05(c) requires that the Commissioner notify the public of an application submitted by an insurance company seeking a rate change. Section 1861.05(c) also provides consumers with the right to request within 45 days of public notice that the agency conduct a hearing on any application for a rate change.

Insurance Code section 1861.05(b) requires any insurance company seeking a rate change to file a "complete rate application," including specified data and "such other information as the commissioner may require." An insurance company's underwriting guidelines and rules—which determine whether an insurance company will sell insurance to a person, and how much that person will pay—are essential for a consumer and the Commissioner to determine whether the proposed rate is "excessive, inadequate, unfairly discriminatory or otherwise in violation of this chapter." (Ins. Code § 1861.05(a).)

The operative Rate Filing Instructions specified that "a complete copy of the underwriting guidelines must be submitted with all rate filings, regardless of line of business, whether or not a change to those guidelines is being proposed." (Prior Approval Rate Filing Instructions, State of California Department of Insurance, April 29, 2016 Edition, p. 9 [emphasis in original].) An application is not "complete" absent compliance with this requirement. (*Id*. at 3; *see also* 10 CCR § 2648.8 incorporating the Rate Filing Instructions by reference.)

The above legal analysis was confirmed by the Department in a legal opinion issued pursuant to Insurance Code section 12921.9 on August 10, 2018. In that opinion, the Department reiterated that "[i]f an insurer fails to submit its underwriting rules with each rate application or denominates its underwriting rules as confidential and not subject to public disclosure, such rate application would not include and make available for public inspection all information required by the Commissioner…to evaluate fully the requested rate change."[4] The opinion concluded that

[4] https://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf

"underwriting rules filed in connection with a rate application pursuant to Insurance Code section 1861.05(b) must be available for public inspection pursuant to Insurance Code section 1861.07 regardless of whether such underwriting rules are marked 'confidential,' 'proprietary,' or 'trade secret.'"[5]

Importantly, State Farm had repeatedly sought significant increases in rates for homeowners insurance, and there were widespread reports that State Farm was selectively refusing to renew existing policyholders, or sell insurance to new policyholders, who it claimed were "too risky." State Farm's underwriting guidelines were essential to assessing its rates, its overall compliance with Proposition 103, and whether State Farm's sales and renewal practices were justified and/or lawful. (Pressley Decl., ¶ 28.)

Consumer Watchdog's Petition noted that the Application could not be approved because it was not "complete" until at least November 9, and the public was not given the full 45 days to review the Application. As Consumer Watchdog alleged, this process therefore (1) fails to "meet[] the requirements of this article" and (2) violates the chapter. (Pressley Decl., ¶ 29.)

As alleged in Consumer Watchdog's Petition, while the Application submitted by State Farm on or about May 30, 2019 included a set of underwriting guidelines, on July 22, 2019, State Farm submitted *updated* underwriting guidelines in connection with its 2018 homeowners rate application in Proceeding No. PA-2018-00005. Those updated guidelines differed from those submitted in connection with the instant Application in this proceeding. Therefore, the underwriting guidelines submitted with *this* Application were plainly incomplete, and were certainly incomplete when Consumer Watchdog filed its Petition on August 5, 2019, if not earlier. (Pressley Decl., ¶ 30.)

In fact, as of August 5, 2019, State Farm had yet to establish, in connection with its 2018 homeowners rate application in Proceeding No. PA-2018-00005, that its July 22, 2019 guidelines were its complete underwriting guidelines for its homeowners business. The Petition thus alleged

[5] *Id.*

that the public had therefore not been afforded the full 45-day statutory review period to properly scrutinize State Farm's complete rate application. (Pressley Decl., ¶ 31.)

Consumer Watchdog's Petition requested that State Farm must be required to submit the same updated underwriting guidelines in this Application as it did in the 2018 rate application. Additionally, because State Farm had not confirmed whether *those* updated guidelines were in fact current, Consumer Watchdog reserved the right to contest any underwriting guidelines until they are established to be complete and final. (Pressley Decl., ¶ 32.)

Consumer Watchdog's Petition stated that it would present and elicit evidence during the proceeding to show that State Farm's Application was in violation of multiple provisions of the Insurance Code as noted above. Without adequate time to review the underwriting guidelines, Consumer Watchdog and the public were deprived of their right to fully evaluate whether State Farm's rates and rating practices were in full compliance with Proposition 103's statutory and regulatory requirements. Consumer Watchdog therefore petitioned for a hearing on this issue. (Pressley Decl., ¶ 33.)

In the alternative, Consumer Watchdog petitioned the Commissioner to deny the Application and re-notice the Application pursuant to the required procedures as set forth above. (Pressley Decl., ¶ 34.)

State Farm filed its Answer to Consumer Watchdog's Petition for Hearing on August 22, 2019, in which it admitted that as of the date Consumer Watchdog filed its petition for hearing on August 5, it had not submitted its complete updated underwriting guidelines that were filed in its 2018 rate application on July 22. (State Farm's Answer to Consumer Watchdog's Petition for Hearing, Aug. 22, 2019, at 1:18–19; Pressley Decl., ¶ 35.) The Commissioner granted Consumer Watchdog's Petition to Intervene on September 17, 2019, finding that "CW has raised and seeks to address issues that are relevant to the ratemaking process." (Ruling Granting Consumer Watchdog's Petition to Intervene at 4:12–13; Pressley Decl., ¶ 36.)

B. Consumer Watchdog Successfully Negotiated a Settlement that Required State Farm to Publicly Disclose its Complete Underwriting Guidelines in This Proceeding, and Reviewed and Commented on Updated Underwriting Guideline Submissions.

At the time the Petition was filed, Consumer Watchdog was Intervenor in two other State Farm proceedings, File Nos. PA-2018-00004 and PA-2018-00005 (Pressley Decl., ¶ 37) and had already engaged in eight months of lengthy discussions with the CDI and State Farm, holding numerous teleconferences and exchanging email communications, multiple draft stipulations, and rounds of edits to attempt to resolve the issues raised by Consumer Watchdog's petitions. The parties continued to prioritize discussions in those proceedings for almost another year from August 2019 through July 2020. (*Ibid.; see* Consumer Watchdog Request for Compensation, PA-2018-00005, filed Sept. 17, 2020, pp. 9–14.) The process was greatly prolonged by State Farm: it submitted at least four "updated" versions of its underwriting guidelines, each of which it said were "complete." Each iteration necessitated review by Consumer Watchdog and the Department. (Pressley Decl., ¶ 38; Stipulation, PA-2018-00005, executed July 22, 2020, at ¶¶ K–Q.) (A copy of the executed July 2020 Stipulation filed in PA-2018-0005 is attached hereto as Exhibit B.)

Under the Stipulation, State Farm agreed to use only underwriting guidelines that have been publicly filed with the Department, and to publicly file its complete underwriting guidelines contemporaneously with all future rate and rule applications, including in its homeowners rate application No. 19-2063 at issue in this proceeding. (Pressley Decl., ¶ 39; Stipulation at ¶ 4.) Additionally, State Farm agreed to publicly file all documents provided to the Commissioner as part of its future homeowners rate filings, including underwriting guidelines, without marking such documents as confidential, proprietary, or trade secret. (*Ibid.*; Stipulation at ¶ 6.)

State Farm subsequently publicly filed the complete underwriting guidelines that were attached to the July 2020 Stipulation in in its homeowners rate application No. 19-2063 subject to this proceeding on or around August 20, 2020. (Pressley Decl., ¶ 40.)

Once State Farm entered into the July 2020 Stipulation, it remained for Consumer Watchdog, as Intervenor in this matter, to confirm that the company had publicly filed its current, complete underwriting guidelines in this proceeding, and that any updated guidelines it may file

did not run afoul of Proposition 103. State Farm then filed two sets of updated underwriting guidelines on October 21 and November 4. (Pressley Decl., ¶ 41.) Consumer Watchdog reviewed each version and confirmed that each had been made publicly available in compliance with the disclosure requirement of Proposition 103 and the stipulation. (Pressley Decl., ¶ 42.)

During the process of inspecting the underwriting guidelines for compliance with the stipulation and Prop 103, Consumer Watchdog also noted several underwriting guidelines that were ambiguous and potentially improper. Consumer Watchdog requested and received clarification from State Farm concerning those provisions. (Pressley Decl., ¶ 43.)

On November 24, 2020, Consumer Watchdog submitted a letter to the Department notifying the Department that its principal concern in the matter had been State Farm's refusal to file its underwriting guidelines in the proceeding. Consumer Watchdog stated that it considered its "principal concern resolved and its participation in this matter completed." (CWD Letter to the Department, Nov. 24, 2020, p. 2; Pressley Decl., ¶ 44.)

On November 25, 2020, in light of the letter submitted by Consumer Watchdog noting that its issues were resolved, the Department issued its Decision Denying Petition to Intervene. (Decision Denying Petition to Intervene, Nov. 25, 2020, p. 3; Pressley Decl., ¶ 45.)

IV. CONSUMER WATCHDOG IS ENTITLED TO AN AWARD OF ITS REASONABLE ADVOCACY AND WITNESS FEES

A. Consumer Watchdog Made a Substantial Contribution to the Commissioner's Final Decision.

Proposition 103 requires awards of reasonable advocacy and witness fees and expenses for persons who represent the interests of consumers and who make a "substantial contribution" to decisions or orders by the Commissioner or a court. Insurance Code section 1861.10(b), states:

> The commissioner or a court ***shall award*** reasonable advocacy and witness fees and expenses to any person who demonstrates that (1) the person represents the interests of consumers, and, (2) that he or she has made a substantial contribution to the adoption of any order, regulation or decision by the commissioner or a court.

(Emphasis added.) As the emphasized language makes clear, when the statutory criteria are met, an award of reasonable advocacy fees and expenses is mandatory. This provision affords insurance consumers the ability to have their interests represented on an equal basis with the

interests of insurers and facilitates consumer participation in the enforcement of Proposition 103. (*See Econ. Empowerment Found. v. Quackenbush* (1997) 57 Cal.App.4th 677, 686 ("*EEF*") [the purpose of intervenor fees is to encourage consumer participation].) Per the voters' instruction, the mandate of Section 1861.10(b), like all of the provisions of Proposition 103, must be "liberally construed and applied in order to fully promote its underlying purposes." (Prop. 103, § 8.) Thus, the courts have held that section 1861.10(b) should be applied in a manner "which best facilitates compensation." (*EEF*, *supra*, 57 Cal.App.4th at 686.)

When they established Proposition 103's public participation system, the voters were well aware that the Department staff (as distinct from the Commissioner) would become a party to a proceeding such as this. However, the voters recognized that agency personnel would participate subject to the command of the elected Insurance Commissioner and the laws governing civil servants. Further, the voters recognized that the agency might be subject to budgetary or even political considerations that might influence the discretionary decisions of the Commissioner and/or his staff in a particular proceeding. The voters therefore created a system in which consumers would have their own advocates, able to as zealously protect consumers' interests before any tribunal as lawyers for the insurance industry protect their client's interests—and be compensated accordingly. As the Ballot Argument in Favor of Proposition 103 explained, the initiative sought to establish "a permanent, *independent* consumer watchdog system [that] will champion the interests of insurance consumers" (emphasis added). The broad substantial contribution standard enacted by Section 1861.10, subd. (b), ensures that consumers will be able to participate in proceedings *independently of the Department staff*.

Regulations promulgated by the Commissioner provide guidance for the compensation of consumer representatives in departmental proceedings. The "substantial contribution" requirement is explicated by the intervenor regulations as follows:

> "Substantial Contribution" means that the intervenor substantially contributed, as a whole, to a decision, order, regulation, or other action of the Commissioner by presenting relevant issues, evidence, or arguments which were separate and distinct from those emphasized by the Department of Insurance staff or any other party, ***such that the intervenor's participation resulted in more relevant, credible, and non-frivolous information being available for the Commissioner***

> ***to make his or her decision than would have been available to a Commissioner had the intervenor not participated.*** A substantial contribution may be demonstrated without regard to whether a petition for hearing is granted or denied.

(10 CCR § 2661.1(k), emphasis added.)

The detailed summary of this proceeding presented above, the accompanying Pressley Declaration, and the record in this proceeding make clear that Consumer Watchdog has met the substantial contribution requirement. CWD's counsel are veterans of over a hundred administrative proceedings concerning Proposition 103 since the law's passage. They have also litigated challenges to Proposition 103 in the civil courts and participated in all of the cases that led to landmark judicial decisions. Consumer Watchdog offered that unique, decades-long expertise to the Department in this proceeding on all substantive and procedural issues as they arose. Consumer Watchdog counsel were able to provide an effective professional balance to State Farm's highly qualified team of in-house and outside counsel. (Pressley Decl., ¶¶ 9–19.)

Consumer Watchdog's substantial contribution in this proceeding, as detailed in section III above and in the accompanying Pressley Declaration and further evidenced by the record in this matter, is demonstrated by at least the following:

- Consumer Watchdog's Petition for Hearing raised the issue of State Farm's failure to publicly file a complete set of its most recent underwriting guidelines contemporaneously with its rate application in violation of sections 1861.05 and 1861.07.
- Consumer Watchdog's review of State Farm's updates to its rate applications, including at least two versions of State Farm's revised underwriting guidelines, and providing comments to the parties on ambiguous and potentially improper provisions in those amended guidelines.
- The parties' final July 2020 Stipulation, which requires State Farm to publicly file all underwriting guidelines contemporaneously with its future rate and rule applications and to publicly disclose all documents submitted as part of its rate filings, <u>including expressly by reference the rate application at issue in this proceeding</u>, without any markings as confidential and the Commissioner's subsequent decision to approve the Application.

(Pressley Decl., ¶ 8.)

In sum, Consumer Watchdog's separate and distinct presentation of relevant issues, evidence, and argument provided in its Petition and written analyses and discussions with the Parties, as well as the additional information elicited from State Farm in response to issues raised by Consumer Watchdog, resulted in more relevant, credible, and non-frivolous information being available to the Commissioner in making his final decision approving the Application as revised than if Consumer Watchdog had not participated. Thus, Consumer Watchdog clearly meets the "substantial contribution" requirement of the Insurance Code and the regulations.

Indeed, Consumer Watchdog's participation went beyond the threshold established by statute for compensation of consumer representatives. Consumer Watchdog ultimately achieved all of the relief it sought in its Petition, by enforcing Proposition 103's requirement that State Farm file complete rate applications, including underwriting guidelines, and to ensure that all documents filed with the Department as part of future applications are publicly available.

B. Consumer Watchdog's Requested Advocacy Fees Are Reasonable.

When a consumer representative makes a "substantial contribution," as here, Insurance Code section 1861.10(b) requires payment of all of a consumer representative's "reasonable advocacy and witness fees and expenses." This is consistent with the general rule, under California law, that once a decisionmaker determines that a party is entitled to attorneys' fees, "absent circumstances rendering the award unjust, fees should ordinarily include compensation for *all hours reasonably spent*." (*See Serrano v. Unruh* (1982) 32 Cal.3d 621, 624, emphasis added.)

For its substantial contribution, Consumer Watchdog requests reasonable advocacy fees in the amount of $23,223.00 for the work of its counsel and paralegal. The requested fees, including the total hours of work performed, and the hourly rates of each Consumer Watchdog attorney are summarized in the attached Exhibit A, "Summary of Fees" and the accompanying Declaration of Pamela Pressley. The lengthy procedural history of this matter set forth above and supported by the Pressley Declaration demonstrates the reasonableness of the compensation requested in light of the amount of work performed. Consumer Watchdog's time records (Pressley Decl., Exh. 1a)

also demonstrate the work Consumer Watchdog performed in this proceeding and the reasonableness of the fees requested.

As required by the regulations, the specific tasks performed by Consumer Watchdog's attorneys are set forth in its detailed time records attached as Exhibit 1a to the Pressley Declaration. (*See* Pressley Decl., ¶ 3 & Exh. 1a.) These time records were maintained contemporaneously and reflect the actual time spent and actual work performed, billed to the tenth of an hour, by all Consumer Watchdog legal staff who worked on this matter. (Pressley Decl., ¶ 6.) In preparing their respective time records for this request, Consumer Watchdog's legal staff exercised billing judgment and eliminated time entries where appropriate. (Pressley Decl., ¶ 5.) Consumer Watchdog submits that the time expended and work performed in the proceeding, as reflected in the time records, was reasonable and appropriate, and the minimum required to make a substantial contribution in this proceeding and to achieve the result obtained. (*Ibid.*)

The intervenor regulations specify, "[t]he compensation awarded ***shall equal*** the market rate of the services provided." (10 CCR § 2662.6(b), emphasis added.) "Market rate" is defined as the "prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay Areas ***at the time of the Commissioner's decision awarding compensation*** for attorney advocates, non-attorney advocates, or experts with similar experience, skill and ability." (10 CCR § 2661.1(c)(1), emphasis added.)

The qualifications and experience of Consumer Watchdog's attorneys and paralegal who performed work in this matter, Harvey Rosenfield, Pamela Pressley, Benjamin Powell, and Kaitlyn Gentile, and their corresponding hourly rates are summarized in the Pressley Declaration. (Pressley Decl., ¶¶ 9–23.) The 2020 hourly rates of Consumer Watchdog's attorneys and paralegal are consistent with, if not less than, the prevailing market rates for attorneys of comparable skills and experience in the Los Angeles and San Francisco Bay Areas. (Pressley Decl., ¶¶ 7, 11, 15, 19, 23; *see also id.*, Exh. 2.)

The Declaration of Richard M. Pearl ("Pearl Decl.") also confirms that the requested 2020 rates for Consumer Watchdog's counsel and paralegal are well within, if not below, the range of non-contingent rates charged by California attorneys in the Los Angeles areas of equivalent

experience, skill, and expertise for comparable services. (See Pressley Decl., Exh. 2 [Pearl Decl.], ¶¶ 8–11.)[6] Mr. Pearl is a recognized expert on attorneys' fees issues under California law. (See Pressley Decl., Exh. 2, ¶¶ 3–10.) The Commissioner has also approved fee awards for Consumer Watchdog based on the same hourly rates Consumer Watchdog's legal staff is currently using in 2020 for work done in 2017–2019. (Pressley Decl., ¶ 7.)

This Request also includes the time expended preparing the instant Request for Compensation. This is also reasonable because the regulations permit reimbursement for preparation of a request for an award of compensation. (10 CCR § 2661.1(d).) Preparing such a request requires the intervenor to perform a comprehensive review of the record, review the regulations, cite to the record in this proceeding, review billing and expense records, and prepare the Request and supporting documents.

V. CONCLUSION

In sum, Consumer Watchdog made a substantial contribution on behalf of California consumers to the Commissioner's decision to approve State Farm's Application. Indeed, Consumer Watchdog achieved its goal of enforcing Proposition 103 to require State Farm to publicly file its underwriting guidelines contemporaneously with all future rate applications and to not mark any of its documents submitted in conjunction with rate applications as confidential. Accordingly, Consumer Watchdog requests compensation in the total amount of $23,223.00 for its substantial contribution to the Commissioner's decision in this matter.

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[6] The Pearl Declaration was filed on October 8, 2019 in connection with a Writ of Administrative Mandamus by Mercury Insurance Company arising out of a CDI noncompliance proceeding and is equally applicable to this proceeding, given that Consumer Watchdog's 2020 rates are within the range of rates considered reasonable for attorneys with comparable experience at that time.

DATED: December 18, 2020

Respectfully submitted,

Harvey Rosenfield
Pamela Pressley
Benjamin Powell

CONSUMER WATCHDOG

By: Pamela Pressley
Pamela Pressley
Attorneys for CONSUMER WATCHDOG

VERIFICATION OF PAMELA PRESSLEY

1. I am Senior Staff Attorney for Consumer Watchdog. If called as a witness, I could and would testify competently to the facts stated in this verification.

2. I personally oversaw the preparation of the attached pleading entitled "Consumer Watchdog's Request for Compensation" filed in this matter.

3. All of the factual matters alleged therein are true of my own personal knowledge, or I believe them to be true based upon the information available to me from Consumer Watchdog's files regarding this matter.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 18, 2020, at Los Angeles, California.

Pamela Pressley

Pamela Pressley

EXHIBIT A

EXHIBIT A

SUMMARY OF FEES AND EXPENSES

File No. PA-2019-00006

ITEMS	**COST**
1. **Consumer Watchdog's Fees**	
(Detailed in Billing Records attached as Exhibit 1a to Pressley Decl.)	
Pamela Pressley @ $595 per hour, 21.1 hours	$12,554.50
Harvey Rosenfield @ $695 per hour, 7.3 hours	$5,073.50
Benjamin Powell @ $350 per hour, 10.9 hours	$3,815.00
Kaitlyn Gentile @ $200 per hour, 8.9 hours	$1,780.00
Subtotal of Consumer Watchdog's Fees	**$23,223.00**
TOTAL ADVOCACY FEES:	**$23,223.00**

EXHIBIT B

CALIFORNIA DEPARTMENT OF INSURANCE
LEGAL DIVISION
Rate Enforcement Bureau
Daniel Goodell, SBN 124502
Jennifer McCune, SBN 160089
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Attorneys for The California Department of Insurance

BEFORE THE INSURANCE COMMISSIONER

OF THE STATE OF CALIFORNIA

In the Matter of the Rate and Rating Plan Application of State Farm General Insurance Company, Applicant.	File No. PA-2018-00005; 18-4896 SETTLEMENT STIPULATION

State Farm General Insurance Company ("Applicant"), Petitioner Consumer Watchdog ("Petitioner") and the California Department of Insurance ("Department") (collectively, the "Parties") stipulate as follows:

RECITALS

A. Applicant is licensed by the Department to transact homeowners ("HO") insurance business in California.

B. On or about August 31, 2018, Applicant filed rate application 18-4896 (the "Application") with the Department through the System for Electronic Rates and Form Filing ("SERFF") requesting a 6.7% rate increase (the "New Rate") for its HO line of insurance.

C. The Department has determined that the law requires Applicant to publicly file underwriting guidelines with rate applications. (California Insurance Code ["CIC"] §§ 1861.05(a) and (b); 1861.07.) (*See also* Prior Approval Rate Filing Instructions [reference 1/25/2019 Version pp. 6-7 of 40]; General Counsel Opinion Letter re: Confidentiality of Underwriting Rules Filed

with Rate Applications Pursuant to California Insurance Code section 1861.05(b), August 10, 2018.)

D. The Department has determined that the law requires Applicant to publicly file any changes to its underwriting guidelines prior to their use. (*Id.*)

E. On October 5, 2018, pursuant to California Insurance Code ("CIC") section 1861.05(c), the Department notified the public of the Application. The Application as publicly noticed on October 5, 2018 did not contain any underwriting guidelines.

F. On November 9, 2018, Applicant publicly filed in SERFF a document describing the California New Business Underwriting Guidelines Applicant proposed to use in connection with the New Rate, at which time those guidelines were made available for public inspection in SERFF and through the Department's Web Access to Rate and Form Filing ("WARFF"). (CIC § 1861.07.)

G. On November 19, 2018, Petitioner submitted a timely Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation, Or, Alternatively, Petition to Re-Notice the Application (the "Petition").

H. On December 6, 2018, Applicant filed an answer to the Petition.

I. On December 10, 2018, the Commissioner granted Petitioner's Petition to Intervene.

J. On December 10, 2018, Petitioner demanded in writing that Applicant file and disclose to the public its *complete* underwriting rules as required by CIC section 1861.05 and 1861.07.

K. On January 4, 2019, Applicant publicly filed in SERFF a document describing re-underwriting criteria Applicant proposed to use in connection with the New Rate.

L. On January 11, 2019, the Department re-noticed the Application.

M. On May 16, 2019, Applicant publicly filed in SERFF updated underwriting guidelines.

N. On July 22, 2019, Applicant publicly filed in SERFF further updated underwriting guidelines.

O. On September 3, 2019, Applicant publicly filed in SERFF a document which combined the New-Business Guidelines and the Re-underwriting Guidelines into one document (Hereafter "State Farm's Complete California HO Underwriting Guidelines").

P. On April 20, 2020, Applicant publicly filed in SERFF a revised version of State Farm's Complete California HO Underwriting Guidelines that removed prior language suggesting the guidelines were confidential, and included, among other things, information on Applicant's managed growth areas by Zip Code.

Q. On July 16, 2020, Applicant publicly filed in SERFF a further revised version of State Farm's Complete California HO Underwriting Guidelines that clarified various provisions and modified consideration of loss history in new business underwriting. On the same day, Applicant filed as part of its underwriting guidelines the criteria Applicant will use to determine whether to refer a California HO policy to underwriting for possible non-renewal (collectively attached hereto as Exhibit A).

R. Applicant represents and warrants that Exhibit A is a true, correct and complete copy of the underwriting guidelines that Applicant uses when deciding whether to issue or renew a California HO policy, or whether to refer a California HO policy to underwriting for possible non-renewal. Applicant further represents and warrants that Applicant will use only the criteria set forth in Exhibit A to determine whether to issue or renew a California HO policy or whether to refer a California HO policy to underwriting for possible non-renewal.

S. The Parties have engaged in discussions regarding the Application and additional information and analysis which the Parties provided.

STIPULATION

1. This Stipulation represents the complete and final settlement resolving all issues between the Parties regarding the Application.

2. Based upon the Application and additional information which the Parties provided, CDI has determined the overall 6.7% increase (New Rate) is supportable and should be implemented. Consumer Watchdog takes no position on whether the New Rate is justified.

3. Upon full execution of this Stipulation, the Department will approve the Application. Applicant shall begin issuing policies using the New Rate within 90 days of the date of this approval. Applicant may implement this approval earlier if it is able to do so. Regardless of the implementation date, Applicant shall implement the New Rate with the same effective date for both new and renewal business and shall offer this product to all eligible applicants as of the implementation date.

4. Applicant will use only underwriting guidelines that have been publicly filed with the Department. Applicant will publicly file its complete underwriting guidelines contemporaneously with all future rate and rule applications, and with Applicant's currently pending rate filing 19-2063. For purposes of this stipulation, "underwriting guidelines" include, but are not limited to, any criteria Applicant uses to refer or determine whether to refer a policy to underwriting for possible non-renewal, including criteria used in any automated system.

5. For purposes of this rate application only, the Department has not required State Farm to file and publicly disclose resources such as job aids, reference materials and examples, process guides, and training materials ("Resources"). Applicant represents that any such Resources used by Applicant are, and at all times will remain consistent with its underwriting guidelines. The Department reserves its right to require Applicant to file and publicly disclose such Resources with future filings. Consumer Watchdog reserves its right to challenge State Farm's failure to publicly file such Resources in the future. For purposes of clarity, Applicant does not by this stipulation agree to provide such Resources in other and future filings.

6. Applicant will publicly file all documents, including underwriting guidelines, provided to the Commissioner as part of future HO filings, and will not mark any of the documents as confidential, proprietary or trade secret or otherwise suggest that the filing or material contained therein cannot be made available to the public in California. The requirements

contained in the preceding sentence apply to Applicant's currently pending rate filing 19-2063.

7. State Farm and the Department reserve the right to terminate the agreements stated in paragraphs 4, 5, and 6 of this Stipulation in the event of a change in statute or the Department's interpretation of the law, or in the event of a final order of a court, that renders those paragraphs invalid, obsolete or superseded. For purposes of this paragraph, a "change in the Department's interpretation of the law" means changes set forth in a regulation, public notice (including instructions to insurers regarding rate, class plan and other filings as posted on the Department's website or otherwise communicated publicly to the insurance industry), order, bulletin, decision or an opinion letter issued pursuant to CIC 12921.9. Notice of termination must be made in writing to all other parties ten days before the effective date of the termination. Consumer Watchdog does not agree that the Department may effect a substantive change in its interpretation of the law other than by regulation. (See Govt. Code § 11342.600; 1 CCR § 250.) In the event of a notice of termination by State Farm or the Department under this paragraph, Consumer Watchdog reserves its statutory rights to challenge State Farm's failure to publicly file underwriting guidelines with the Department and/or the Department's failure to enforce State Farm's obligation to do so.

8. Nothing herein shall be construed as an admission by State Farm that all records produced in the course of a rate hearing noticed and held in accordance with CIC section 1861.08 are subject to public disclosure under CIC section 1861.07. Consumer Watchdog and the Department maintain that State Farm's position that section 1861.07 does not apply to hearings held in accordance with section 1861.08 is lacking any basis in law.

9. Applicant does not agree that it is required by generally applicable law to publicly disclose proprietary and confidential software systems, or models, that are used to aid in the operation or management of Applicant's and its affiliates' business. Applicant maintains that its

only legal obligation to so disclose is as specifically derived from, and limited by, its agreement in paragraph 4. The Department and Consumer Watchdog disagree. The Department reserves its right to require Applicant to publicly disclose software systems or models used in rate setting, rating, or underwriting that Applicant may claim are confidential, proprietary, or trade secret. Consumer Watchdog retains its right to challenge any such claims by Applicant.

10. Applicant understands the Commissioner may at any time take any action allowed by law if the Commissioner determines that any filed underwriting guidelines conflict with any applicable laws or regulations. Consumer Watchdog does not stipultate to the validity of the underwriting guidelines and retains its right to challenge any underwriting guidelines that conflict with any applicable laws or regulations.

11. Consistent with 10 CCR sections 2656.1(b) and 2662.3(c), no agreement regarding Petitioner's compensation has been made. However, the Parties agree that the Commissioner's approval of the Application, consistent with this Stipulation, will be a decision or order within the meaning of CIC section 1861.10(b). Petitioner agrees to submit any request for compensation to the Public Advisor within 30 days after receipt of the Commissioner's approval letter.

12. Petitioner will withdraw its Petition for Hearing within 10 days after receipt of the Commissioner's approval letter.

13. This Stipulation is made solely to reach a compromise among the Parties. Discussions, admissions, concessions or offers to stipulate or settle made by any party in negotiating this stipulated settlement, are confidential and are not discoverable or admissible for any purpose in any proceeding.

14. The Commissioner retains jurisdiction to ensure the Parties comply with this Stipulation.

15. This Stipulation may be executed in counterparts.

Dated: July 22, 2020

By: _____

Nicole Forziati
Vice President Operations
STATE FARM GENERAL INSURANCE CO.

Dated: July _____, 2020

By: _____

Kenneth Allen
Deputy Commissioner, Rate Regulation Branch
CALIFORNIA DEPARTMENT OF INSURANCE

Dated: July _____, 2020

By: _____

Pamela Pressley, Esq.
Senior Staff Attorney
CONSUMER WATCHDOG

Dated: July _____, 2020

By: _____

Nicole Forziati
Vice President Operations
STATE FARM GENERAL INSURANCE CO.

Dated: July 22, 2020

By: Kenneth Allen

Kenneth Allen
Deputy Commissioner, Rate Regulation Branch
CALIFORNIA DEPARTMENT OF INSURANCE

Dated: July _____, 2020

By: _____

Pamela Pressley, Esq.
Senior Staff Attorney
CONSUMER WATCHDOG

Dated: July _____, 2020

By: _____

Nicole Forziati
Vice President Operations
STATE FARM GENERAL INSURANCE CO.

Dated: July _____, 2020

By: _____

Kenneth Allen
Deputy Commissioner, Rate Regulation Branch
CALIFORNIA DEPARTMENT OF INSURANCE

Dated: July 22, 2020

By: Pamela Pressley

Pamela Pressley, Esq.
Senior Staff Attorney
CONSUMER WATCHDOG

EXHIBIT A

Eligibility

These definitions apply to property risks for a Homeowners Policy, Renters Policy or Condominium Unitowners Policy.

A. Homeowners Policy
    1. A dwelling occupied by the owner and used principally for private residential purposes. The dwelling can have one or two living units.
    2. A single living unit within a row house, town house, condominium or cooperative occupied by the owner and used principally for private residential purposes.
    3. A new dwelling that is under construction for one or two living units to be occupied by the owner.
    4. A secondary dwelling, including seasonal dwellings, occupied by the owner and used principally for private residential purposes.
B. Renters Policy
    1. The tenant of any dwelling, apartment, condominium or cooperative unit.
    2. The owner, who is also an occupant, of a dwelling or building containing an apartment that is not eligible for another Homeowners form.
    3. The owner of a cooperative unit, provided:
        a. The portion of the premises occupied as living quarters is used principally for private residential purposes.
        b. This portion does not contain more than one additional living unit.
        c. This portion is designated by an apartment number or other positive identification.
C. Condominium Unitowners Policy
    1. Owner occupied units, including seasonal units, which are part of a community association organized under condominium, cooperative, town house or planned development form of ownership and where provision has been made for a master policy covering the residential building(s) real property exposure. The unit must be used principally for private residential purposes.
    2. Rental or investment units in an association as described in 1. if occasionally occupied by the owner. The named insured must be an individual. Partnerships, corporations or similar legal entities are not eligible for Homeowners coverage.

NOTE: The term "owner" includes persons purchasing a dwelling, such as under a mortgage agreement or contract of sale.

Underwriting Philosophy

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To the extent that any guideline in this manual is in conflict with the applicable state law, the law of the state will apply. These guidelines supersede any previously filed guidelines. All guidelines within this manual must be adhered to for a risk to be acceptable. These underwriting guidelines apply to both new and renewal business unless stated otherwise.

Risks where there is damage, deterioration, improper installation, improper maintenance or other deficiency in respect to any component or system, described throughout this guideline are unacceptable. In addition, conditions or hazards on or in respect to an insured location increasing the liability exposure render the risk unacceptable.

Principles Supported

As a matter of company policy, State Farm fully supports these principles: (1) No request for Homeowners insurance will be denied and no policy canceled or non-renewed solely because of age of a residence, location of a residence (unless in an area of inadequate fire protection or an area of excessive risk of loss including losses from a catastrophic event such as a hurricane or earthquake), type of construction (brick or frame), because another insurer declined, canceled, or non-renewed insurance, or because the applicant was insured by a FAIR Plan or other residual plan; (2) In no case will Homeowners insurance be denied because of age, sex, race, color, religion, sexual orientation, genetic information, medical condition or disability, national origin, ancestry, familial or marital status of the owner or residents of the dwelling; (3) In all cases, eligible business will be offered with terms most favorable (broadest coverage and lowest premium) to the policyholder.

Each application for insurance will be considered on its individual merits. No application for insurance will be declined due to the physical condition of the property without a timely inspection of the property and a clear explanation of the reasons for declination. If the property can be improved to prevent declination, the applicant will be told what needs to be done.

Application (New Business Only)

Fully completed applications are essential to evaluate the risk and to identify special coverage needs. In addition to the fully completed application, a deposit equal to two (2) months of the annual premium is required, unless the initial premium will be paid by the mortgage company, SFPP, credit card or this is a rewrite transaction.

Insurance Coverage Amount

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The customer is responsible for selecting the insurance coverage amount. The agent's role is to assist and provide guidance, but the decisions on coverage and insurance amounts must be made by the customer. Selecting the proper coverage limit is similar to other decisions the customer needs to make regarding the size of their deductible or the need for optional coverage or endorsements.

Use of Replacement Cost Estimates

It is our desire that our customers use an estimate that the customer feels is appropriate for their home. Since the customer will always know more about their home than an agent or agent's team member, the estimating process should be customer driven rather than tool driven.

High Value Requirements

New Business High Value Requirements ($1,500,000 or greater – Dwelling or Contents Amount)

- Risks must have a central station reporting fire and burglar alarm system, deadbolt lock, and fire extinguisher.
- HO-W only - Seasonal and Secondary Homes – A whole house water leak detection system with automatic shut off is required.

Definitions

"Unacceptable" means that if the described condition or situation exists, the entire risk or particular item will not be accepted for insurance coverage by the company.

Applicant (New Business Only)

Unacceptable

- Applicant with a prior conviction for arson, fraud, or other insurance related offenses
- Application with more than four named insureds
- Applicant having any loss within the last three years. (Identity Restoration losses are not to be considered for eligibility or rating purposes.)*

  ***Exceptions**

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- An applicant already insured with State Farm for their personal residential insurance (Homeowners, Renters, Condominium Unitowners, Manufactured Home, Farm Ranch – Form 3) where underwriting action (nonrenewal, deductible increase, or coverage reduction) has not been company initiated under the existing in-force policy.
- A single loss, weather related or not, within the last three years meeting the following criteria:
  - Subrogation, in whole or in part; OR
  - The risk of future loss has been eliminated or is substantially reduced. Examples include but are not limited to: structure or property damage that has been repaired, installation of a monitored alarm system, or elimination of a maintenance issue, etc.

    Documentation will be required with the application indicating the cause of loss and/or increased exposure has been remediated or subrogation recovered. Examples include but are not limited to: inspection from a licensed contractor, certificate for monitored alarm system, or letter from prior carrier regarding subrogation, etc.

This exception does not apply to the following losses:

- Open claim(s); OR
- Two or more losses within the last 3 years regardless of loss mitigation and/or subrogation; OR
- Losses involving negligence, carelessness, or where the applicant contributed to the loss; OR
- Theft of personal property from an automobile.

Buildings and Related Structures

Unacceptable

- Dwelling exhibiting interior or exterior deficiencies including but not limited to:
  - Deteriorated utility systems.
  - Roof, siding, or foundation in poor condition.
  - Steps or stairs that are unsafe and unsupported.
  - Porches and decks that are rotted, uneven, or obstructed.
  - Railings that are missing, not maintained, not properly anchored or installed or with defective vertical supports.

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    - Home does not have a smoke detector (This requirement does not apply to Renters or Condominium Unitowners policies.)
- Shell home and/or "do-it-yourself" construction unless the dwelling is built in compliance with established building codes
- Dwellings under construction and applicant is acting as the general contractor.
- Dwelling with non-continuous, open foundation.
- Outbuilding or structure not in good condition.
    - Unacceptable structure may be excluded if remainder of risk is acceptable.
- Basement dwelling without means of exit (ex. egress windows)
- Manufactured Home
- Houseboats and float homes
- Risk undergoing extensive remodeling including but not limited to:
    - Changing structure through partial or complete demolition.
    - Dwellings being purchased and remodeled for immediate resale.
    - Structural changes that increase the chance for loss
- Defects in construction or material.
- Dwelling with unacceptable adjacent exposure that increases the risk to the insured property
    - An exception may be considered if the adjacent exposure is confined so as not to present an increased risk of loss to the dwelling insured.
- Dwelling built on landfill (i.e. waste dump)
    - An exception may be considered based on favorable information about methane gas monitoring and control.
- Vertically Stacked Unit
    - An exception may be considered when a legal document exists which clearly details ownership rights, responsibility of each owner in case of loss, and the amount of coverage each owner is required to carry.
- Dwellings elevated on stilts or piers
- Dwellings located on hillsides of greater than 30 degree grade
- Dwellings with evidence of prior earthquake damage
- Dwellings of frame construction elevated on cripple stud walls that are not braced and/or supported (i.e. plywood, bolted to the foundation every six feet).
    - NOTE: A cripple stud wall is a short, unreinforced, wood frame, stud wall connecting the masonry foundation to the first floor.
- Dwellings not anchored to the foundation at least every six feet, unless an Earthquake Activated Automatic Gas Shut-off device is installed.

Building Service Equipment

Unacceptable

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A dwelling with any of the following characteristics:

- Unvented gas space heaters:
  - Used a primary source of heat.
  - Used in sleeping areas.
  - Not installed to the manufacture's specifications.
  - Prohibited by local or state code requirements.
  - Does not have an Oxygen Depletion Safety (ODS) device installed and listed by a recognized testing laboratory.
- An electric space heater as the only or primary source of heat.
- Portable kerosene heaters exhibiting any of the following characteristics:
  - Not listed by UL or other nationally recognized testing laboratory
  - Does not have warning labels regarding ventilation and proximity to combustibles
  - Not permitted by state or local codes
  - Not filled with a siphon pump away from living area and equipped with a fuel gauge
  - Used as the sole source of heat
- Utilities that do not comply with code requirements or are not properly maintained
- Knob & tube wiring
- Single strand (solid) aluminum wiring, unless the policyholder provides a certificate from a licensed electrician stating that all connections including fixtures, outlet switches, junction boxes and electrical panel connections have been repaired using methods approved by the U.S. Consumer Product Safety Commission.
- Two or more sewer or drain losses in the past three years
- Solid Fuel appliances exhibiting any of the following characteristics:
  - Homemade solid fuel burning appliances
  - Chimneys consisting of metal single wall stovepipe or unlisted metal chimneys
  - Unlined masonry chimneys
  - Wood burning appliances vented into the same flue or stovepipe with any other appliance (solid or fossil fuel)
  - Installed in a garage, detached structure used as a garage, or any detached structure where gasoline or any other flammable vapors or gasses are present
  - Used as the sole source of heat
    - Auger-fed and thermostatically controlled solid-fuel furnaces are acceptable as the sole source of heat.
  - Not listed by Underwriter's Laboratories (UL) or other nationally recognized testing laboratory
  - Not installed to manufacturer's or National Fire Protection Association (NFPA) specifications
    - If manufacturer allows reduced clearances, factory specifications are required.

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- Appliance and venting system are not properly maintained, including frequent cleaning of chimney.

Catastrophes

Binding Authority

During a period of imminent danger from a natural disaster, coverage should not be written, bound, or endorsed to existing policies in the areas involved. Policy coverage's should not be increased, decreased, endorsed and deductible decreases should not be permitted. This restriction remains in effect until the passing of the emergency is announced by the National Weather Service or State Farm leadership.

Coverage should be declined during a period of imminent danger. Underwriting will communicate additional catastrophe related binding restrictions as appropriate. This does not relieve you of the responsibility for taking independent action in declining coverage during a period of imminent danger from a disaster.

Condominium Risks

Unacceptable

A dwelling with any of the following characteristics:

- No master policy
- Condominiums rented to others on a daily or weekly basis.
- The condominium unit rented 100% of the time. (Can be considered under the Rental Condominium Unitowners Program).

Fire Protection

Protected Risks

Protected risks are eligible and may be bound. A protected risk is any risk that:

- Is within ten road miles of a servicing fire department,
- Has water available for firefighting, and
- Is accessible by fire department equipment year round.

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If fire department service requires subscription to an assessment fire department, the risk may be bound if the applicant(s) subscribes and payments are current. If there is a solid fuel appliance in the dwelling and the installation meets State Farm underwriting standards, the risk may be bound.

Unprotected Risks

An unprotected risk is any risk that does not meet the standard to be classified as protected.

Occupancy

Unacceptable

A dwelling with any of the following characteristics:

- Rooming/boarding houses with more than two roomers or boarders
- Fixed mounted burglar bars in dwellings occupied by more than one family or with roomers or boarders
    - Risks with quick release burglar bars are acceptable.
- Unacceptable Child Care (See Child Care Liability Endorsement)
- Unacceptable Adult Family Home (See Adult Family Home Endorsement)
- Adult /Senior Day Care
- Farming activity on premises
- The extent of the business emanating from the residence alters the character of the private residence so the business occupancy increases the risk of liability or property damage loss to resemble that of a business.
- Occupied by more than one family, without a second means of exit from each unit, including basement units.
- Vacant

Roof (New Business Only)

Risks with damaged or deteriorated roofs increase the potential for loss and are unacceptable. A visual and physical inspection, as required by Underwriting, will allow assessment of the roof condition. Dwellings with the following roof coverings installed over any living space are ineligible for Non-Tenant Homeowners:

- Asphalt composition over wood shake/shingle
- Asphalt composition roll roofing
- More than two layers of asphalt shingles

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- Roofing products deemed obsolete, including but not limited to:
    - Asbestos shingles
    - T-Lock shingles

If the applicant is a named insured on an existing State Farm Non-Tenant Homeowners, Renters, Condominium Unitowners, Manufactured Home, Farm/Ranch or Rental Dwelling policy and agrees to replace the roof within the first policy term, coverage may be bound with a minimum 2% all-peril deductible (or its equivalent where percentage deductibles are not available). The roof must be otherwise well maintained and in good condition. The deductible can only be reduced if the roof is replaced with an eligible roof type. If the roof is not replaced, the policy must be non-renewed. In states where non-renewal for failure to comply with requirements is not permitted, the roof is ineligible and the policy must be declined.

For new business and existing customers with T-lock shingles, coverage may be bound with a minimum 2% all-peril deductible (or its equivalent where percentage deductibles are not available). The roof must be otherwise well maintained and in good condition. The deductible can only be reduced if the roof is replaced with an eligible roof type. A roof replacement is not required for T-lock roofs in good condition at time of issuance. However, the 2% minimum deductible must be maintained until the roof is replaced.

Seasonal Risks

Unacceptable

A dwelling with any of the following characteristics:

- Beach properties
- Used primarily as rooming or boarding houses
- Not easily accessible, except for periodic heavy snow conditions
- Rented to others more than occasionally

Coastal Consistency (New Business Only)

Unacceptable

Dwellings inside the setback are ineligible. The setback is defined as follows regardless of elevation:

- Dwellings located within 500 feet (approximate) from the coastline.
- Dwellings located in the “front” or “first” row and within 750 feet from the coastline.

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The setback is designed to mitigate the exposure that exists along the coast. Dwellings exposed to elements on the coast are subject to more weather, corrosion, wave action from storms, landslides, and potential tsunamis from ocean earthquakes.

Note: Exceptions apply to new business risks that meet the following criteria:

- A policyholder with a State Farm General residential policy currently insured inside the coastal setback replaces that dwelling with a dwelling located in the coastal setback **and** the coverage amount does not exceed 25% from the current primary coverage amount (e.g. Coverage A Homeowners/Rental Dwelling, Coverage B for Renters/Condominium Unitowners).

Wildfire

Unacceptable

Non-Tenant Homeowners, Renters and Condominium Unitowners with the following are ineligible for new business:

- High or Very High Wildfire risk exposure

Note: Exceptions apply for new business risks that meet either of the following criteria:

- A policyholder with a State Farm General residential policy currently insured in an unacceptable wildfire area replaces that dwelling with a dwelling located in the unacceptable wildfire area **and** the coverage amount does not exceed 25% from the current primary coverage (e.g. Coverage A Homeowners/Rental Dwelling, Coverage B for Renters/Condominium Unitowners).
- Community-wide clearing of vegetation in a newly-developed community.

High and Very High risk are determined using data from a vendor (CoreLogic®) based upon the following risk components: (1) fuel/vegetation, (2) slope, (3) aspect (i.e. whether a sloped area is north or south facing, which can affect how hot or dry it is), and (4) fire history.

Wildfire Survey/Checklist

Homeowners with the following require a wildfire survey and completion of the wildfire checklist for new business:

- High or Very High Wildfire risk exposure

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Dwellings located in areas exposed to wildfire, whether rural or urban, can be submitted bound. However, non-tenant homeowners, renters, and condo unitowners policies require a wildfire inspection and completion of the wildfire checklist. The inspection results and wildfire checklist will be evaluated to determine acceptability.

Dwellings not meeting the following guidelines are ~~generally~~ unacceptable (new and renewal business):

- Risk must be accessible to emergency vehicles year round.*
- All structures must be accessible by at least one paved or gravel road consisting of two or more lanes (minimum width of 25 feet) capable of accommodating emergency vehicles. The paved or gravel road must be accessible and unobstructed from both directions.*
    - Is the address posted at the beginning of the driveway and clearly marked with light reflective material? Driveways must be able to accommodate emergency vehicles
- According to CA law (PRC 4291), 100 feet of defensible space around the structure must be maintained as noted:
    - Within 30 feet:
        - Removal of all flammable vegetation and any dead or dying plants. (Well pruned single trees or other vegetation trimmed of all dead and dying foliage may be kept.)
    - Within 70 feet:
        - Removal of surface litter to not exceed a depth of three inches (i.e., fallen leaves, twigs, pods, small branches, needles, pinecones, bark, etc.)
        - Removal of logs and stumps unless embedded.
        - Removal of snags (standing dead trees) in excess of one per acre.
        - Separation of fuels based on property characteristics (slope, vegetation size/type, grass, trees, etc.)
        - Grasses should not exceed four inches in height except where separated from other fuels and necessary to stabilize soil in which case grasses may be up to 18 inches in height.
        - Clearance between trees and shrubs should be between 4 and 40 feet depending on slope, size, and type of vegetation.
    - Additional information is available from the CA Department of Forestry and Fire Protection.
- Tree branches must not extend within 10 feet from the ground, from the roof structures, and/or from chimneys/stovepipes.
- Firewood and all other combustible materials must be stored at least 30 feet from the dwelling. If the structure is on a slope these items must be stored uphill from the structure.

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- Wooden Yard Structures: The presence of wooden yard structures (e.g. arbors, pergolas, trellises, playground equipment) should be considered in relationship to the overall exposure. Yard structures, by themselves, should not be the sole basis of an eligibility decision.
- All dead trees within 50 feet of a structure must be removed (including beetle-kill trees).
- Above ground fuel storage tanks (including propane and fuel oil) should maintain an area of 10 feet clear of debris and combustible materials around the tank.
- An approved Class A (composition, tile, metal, concrete) roof is required for all structures. Wood shake and shingle roofs are not approved.
- All roof eaves on structures must be enclosed.*
- Roofs and gutters must be clear of debris
- Spark arrestors must be installed on all chimneys and stovepipes and be constructed of metal screening with openings not exceeding ¼ inch.
- Raised decks must be kept clear of accumulations of combustible materials.
- Wood Siding: The presence of wood siding on the exterior of the home should be considered in relationship to the overall exposure. Wood siding, by itself, should not be the sole basis of any eligibility decision. Log homes are not considered being built with wood siding for purposes of these guidelines.
    - Wood Siding may become chipped or cracked to expose untreated wood. Additionally, wood siding exposed to weather elements over time may lose any fire retardant coating. Consider the condition of the wood siding.
    - Wood siding may be more likely to ignite if there is fuel closer to the dwelling. Consider the proximity of fuel sources to exterior walls covered by wood siding.

***** The guidelines denoted with an asterisk do not apply to a new application for a current State Farm General residential policyholder insuring the same dwelling (e.g. Rental Dwelling converting to Homeowners) and/or renewal business.

NOTE: Risks must be served by a recognized fire department located within ten miles and fire hydrant within 1000 feet.

Managed Growth Areas (New Business Only)

Non-Tenant

As a result of growth and sustainability planning, Non-Tenant Homeowners are ineligible in the following Managed Growth Areas. Managed Growth Areas are reviewed on a regular basis and can be defined as areas with concerns stated below as examples.

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- Rate Inadequacy
- High Market Penetration
- High Loss Frequency

Counties	**ZIP codes**
Amador	95640, 95669, 95629
Butte	95942, 95954, 95966
Calaveras	95222, 95228, 95249, 95251, 95252,
Colusa	95979
Contra Costa	94548
Del Norte	95543
El Dorado	95623, 95664, 95672, 95682
Fresno	93602, 93619, 93626, 93641, 93651, 93664, 93675, 93667
Humboldt	95549
Imperial	92259
Kern	93205, 93222, 93225, 93226, 93238, 93240, 93255, 93285, 93287, 93518, 93528, 93531, 93554, 93561
Lake	95423, 95426, 95443, 95457, 95461, 95467
Lassen	96117, 96119, 96128
Los Angeles	90056, 90290, 90704, 91759, 93532
Madera	93614, 93636, 93645, 93653

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Marin	94924, 94929, 94933, 94938, 94940, 94946, 94956, 94963, 94970, 94971, 94973
Mariposa	95306, 95311, 95338, 95345
Mendocino	95494
Merced	95369
Modoc	96015, 96116
Mono	93512, 93517
Monterey	93426, 93920, 93925, 93953
Napa	94508, 94515, 94567, 94576
Orange	92657
Placer	96143
Riverside	92320, 92549, 92561, 92590, 92882
Sacramento	95638, 95683, 95693
San Benito	95075
San Bernardino	92305, 92314, 92315, 92317, 92321, 92322, 92325, 92333, 92339, 92341, 92352, 92359, 92373, 92378, 92382, 92385, 92386, 92391, 92397
San Diego	91905, 91935, 92003, 92061, 92082
Santa Barbara	93013, 93067, 93103, 93108, 93111, 93440, 93441, 93460, 93463
Santa Cruz	95017, 95060, 95064

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Sonoma	94922, 94923, 94951, 94972, 95450, 95442, 95452
Stanislaus	95329
Trinity	96024, 96046, 96048
Tulare	93207, 93244, 93260, 93265, 93271, 93603
Tuolumne	95321, 95327, 95346
Ventura	91361, 93022, 93023
Yolo	95679

Exception: New Business applications can be submitted non-bound in Managed Growth Areas if the conditions below are met:

- The applicant(s) are existing Homeowners, Renters, Condo Unitowners, Manufactured Home, or Farm/Ranch 3 State Farm policyholder(s) who have had continuous coverage with us for the last 36 months or
- The applicant(s) are existing Rental Dwelling State Farm policyholders(s) who have had continuous coverage with us for the last 36 months and are converting risk to a Homeowners (must be same named insured(s) or spouse at same location)
- The risk is not in a wildfire **High or Very High** risk area
- The risk is not in the coastal setback area

FAIR Plan Companion Policy

State Farm FAIR Plan Companion Policy

State Farm FAIR Plan Companion Homeowner applications submitted in conjunction with California FAIR Plan coverages may be written for new business meeting the following requirements:

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- Low or Moderate Wildfire risk is located in California Designated ISO Brush within Los Angeles, San Bernardino, Ventura, Santa Barbara, and Orange counties.
- Approved roof (i.e. tile, composition, rock, concrete, etc.).
- Nearest flammable native brush must be no closer than 100 feet to any building on the property.
- The FAIR Plan policy must have replacement cost, Inflation Coverage, and Building Ordinance coverages.
- Dwellings must be insured 100% to value with the FAIR Plan.
- The FAIR Plan policy must be in force for the entire policy term.

A copy of the California FAIR Plan Declarations page will be required at issuance of the State Farm FAIR Plan Companion Policy

Liability

Unacceptable

A dwelling with any of the following characteristics:

- Landscape hazards and inadequate maintenance of sidewalks
- Inoperable vehicles, appliances, trash or other debris around the exterior of the dwelling
- Outdoor fuel tanks showing evidence of deterioration, spills or leaks.
- Liability exposures which are not limited to usage by the owner, tenant, and guest.
- Swimming pools that do not have the following safety features:
    - In ground: Pool or yard fencing including self-closing and locking gates
    - Above ground: Stairs/ladders that can be removed, secured or locked to prevent access
- Trampolines, skateboard ramps and playground equipment which are not in good condition or working order or are not securely anchored or are not regularly maintained
- Uncommon recreational equipment, including but not limited to zip lines, roller coasters, and Ferris Wheels
- Dogs, if the dog:
    - Has a history of biting.
    - Is trained as an attack, guard, personal protection or fighting dog.
    - Demonstrates high levels of anxiety or temperament.

- Animals, if the animal:

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- Is a wild animal.
- Is not kept in a secured enclosure.
- Arrived outside the U.S. entering the country illegally absent the proper permits, inspection and quarantine period.

Note: Risks with approved service or assistance animals are eligible. This includes:

- Certified service animals
- Emotional support animals
- Any other animal that:
  - Works, provides assistance or performs tasks for the benefit of a person with a disability;
  - Provides emotional support that alleviates one or more identified symptoms or effects of a person's disability

Adult Family Home Endorsement

Liability coverage for operations in the home providing 24-hour care for elderly and functionally disabled adults (not related to the named insured by blood or marriage), may be considered on a non-binding basis subject to the following underwriting criteria:

- The applicant must be licensed by the state as an adult care provider/home, if required.
- Care is provided for no more than six adults.
- No unusual or extraordinary modifications to the premises, other than disability accessible features, that would distinguish the home from other residential dwellings in the area.
- No medical care is provided other than dispensing "over the counter" medication or help with physician-prescribed, self-administered medication.
- The Adult Care business must be operated under a personal name (it cannot be a corporation or LLC) and it must be located in the insured's primary residence.

If an Adult Family Home business that is unacceptable for our liability endorsement is operated in the home, the risk is unacceptable for a Homeowners policy.

The above guidelines apply in addition to the regular Homeowners underwriting requirements.

Child Care Liability Endorsement

Agents may bind coverage if no more than six children are cared for and if the applicant is licensed where required by law. The only situations where exemptions will be allowed are:

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1. Children cared for are related by blood or marriage to the caregiver.
2. Children cared for are from one family in addition to the caregiver's children.
3. The care provided is part of a cooperative arrangement between parents and no payment is involved.

Natural, adopted, or foster children who are members of the household should not be counted. The care of foster children is normally not considered either a business pursuit or a child care operation.

Coverage for this endorsement is unacceptable if:

- More than six children are cared for at any one time.
- The applicant is not licensed according to state law.

The risk is unacceptable for Homeowners coverage if the child care operation does not meet the above criteria or is not insured.

Renewal Business Only

Midterm Cancellations

Policies may be canceled mid-term only for the following reasons:

- Nonpayment of premium
- Conviction of a crime increasing any hazard insured against
- Fraud or material misrepresentation
- Grossly negligent acts or omissions increasing any of the hazards insured against
- Physical changes making the property uninsurable

Non-Renewal

Policies that meet one or more of the following will be non-renewed:

- Does not meet the eligibility requirements for the Homeowner program.
- Does not meet the existing business underwriting criteria delineated in this Underwriting Guide.
- Failure to meet or comply with policy conditions as specified in the policy contract.
- Policies that demonstrate:
    - History of unrepaired damage to the structure.
    - Lack of maintenance of the structure and property.

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- Situations where facts of loss indicate customer behavior contributed to loss through carelessness, indifference or negligence.

Reunderwriting Based on Loss History

Policies that have the following loss history in the last 10 years will be non-renewed*:

- A non-weather related loss with policy tenure of three years or less
- A claim on a property that has been reported as vacant
- A seasonal/secondary residence that has two or more fire/smoke or water losses
- A claim involving bodily injury or medical payment caused by dogs
- Two or more water losses on a Renters or Condominium Unitowners policy
- Two or more crime losses on a Renters policy
- Two or more losses due to the same or similar cause of loss with a policy tenure of five years or less
- Two or more unrelated losses with policy tenure of five years or less
- Two or more negligent fire losses
- Three or more unrelated losses

Policies that have experienced a recent loss and have the following loss history in the last 10 years will be reviewed for removal of sewer back-up coverage:

- A sewer back-up loss with policy tenure of three years or less
- A sewer back-up loss on a Renters policy

*Renewal or conditional renewal (e.g. increased deductible, pet exclusion, etc.) will be offered if facts of loss or additional information received indicates that the risk of future loss has been eliminated or is substantially reduced. (Examples: structure or property damage has been repaired, there is no longer a maintenance issue, etc.)

*For purposes of determining whether the stated loss history applies, claims closed without payment that are inquiry only, opened in error or are based on losses not covered under the policy will not be considered.

Customers with a loss within the last three years are ineligible for a deductible decrease.

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Adverse Action

A policy that has been determined to meet one of the reasons for adverse action listed in the Underwriting Guidelines as applicable to existing business will be referred to an underwriter to review for possible adverse action.

File Development

File Development or Manual Review means review by the underwriter for any actions necessary to assure proper servicing, rating and underwriting of the policy. A policy will be referred to an underwriter for File Development/Manual Review if it has experienced any of the following:

- Any loss that impacts the condition of the dwelling or occupancy. For example: Fire/Smoke, Water, Earthquake/Earth Movement, Liability and significant building or property damage
- Policy in force more than three years that has a single loss due to:
    - Sewer Back-up
    - Negligent Fire Loss – i.e. Grease/Cooking or Careless Smoking
- Policy in force more than five years that has two or more or a combination of the following types of loss: Crime, Fire/Smoke, Sewer back-up, Water, and Weather
    - For Weather losses - the five year tenure does not apply. The first weather related loss will not be referred, but two or more losses will be
- Underwriting Reviews from claims that can indicate ineligibility situations inclusive of potential fraud, misrepresentation, increased liability, business on premises, occupancy, and maintenance issues

A policy that has been referred to an underwriter for File Development or Manual Review is also subject to possible adverse action if the underwriter's review determines the policy does not meet the eligibility standards of the Underwriting Guidelines.

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PROOF OF SERVICE
BY OVERNIGHT OR U.S. MAIL, FAX TRANSMISSION,
EMAIL TRANSMISSION AND/OR PERSONAL SERVICE

State of California, City of Los Angeles, County of Los Angeles

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 6330 San Vicente Boulevard, Suite 250, Los Angeles, California 90048, and I am employed in the city and county where this service is occurring.

On December 18, 2020, I caused service of true and correct copies of the document entitled

CONSUMER WATCHDOG'S REQUEST FOR COMPENSATION

upon the persons named in the attached service list, in the following manner:

1. If marked FAX SERVICE, by facsimile transmission this date to the FAX number stated to the person(s) named.

2. If marked EMAIL, by electronic mail transmission this date to the email address stated.

3. If marked U.S. MAIL or OVERNIGHT or HAND DELIVERED, by placing this date for collection for regular or overnight mailing true copies of the within document in sealed envelopes, addressed to each of the persons so listed. I am readily familiar with the regular practice of collection and processing of correspondence for mailing of U.S. Mail and for sending of Overnight mail. If mailed by U.S. Mail, these envelopes would be deposited this day in the ordinary course of business with the U.S. Postal Service. If mailed Overnight, these envelopes would be deposited this day in a box or other facility regularly maintained by the express service carrier, or delivered this day to an authorized courier or driver authorized by the express service carrier to receive documents, in the ordinary course of business, fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 18, 2020 at Los Angeles, California.



Kaitlyn Gentile

Service List

Daniel Goodell, Chief Counsel Jennifer McCune, Attorney IV Daniel Wade, Staff Counsel Rate Enforcement Bureau **California Department of Insurance** 1901 Harrison Street, 6th Floor Oakland, CA 94612 Tel. (415) 538-4111 Fax (415) 904-5490 Daniel.Goodell@insurance.ca.gov Jennifer.mccune@insurance.ca.gov Daniel.wade@insurance.ca.gov	☐ FAX ☐ U.S. MAIL ☐ OVERNIGHT MAIL ☐ HAND DELIVERED ☒ EMAIL
David Grow **State Farm** 1201 K Street, Suite 1200 Sacramento, CA 95814 Tel. (916) 321-6914 david.grow.jhns@statefarm.com	☐ FAX ☐ U.S. MAIL ☐ OVERNIGHT MAIL ☐ HAND DELIVERED ☒ EMAIL
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Edward Wu Staff Counsel and Public Advisor Office of the Public Advisor **California Department of Insurance** 300 South Spring Street, 12th Floor Los Angeles, CA 90013 Tel. (213) 346-6635 Fax (213) 897-9241 Edward.Wu@insurance.ca.gov	☐ FAX ☐ U.S. MAIL ☐ OVERNIGHT MAIL ☐ HAND DELIVERED ☒ EMAIL