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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF CALIFORNIA

In the Matter of the Requests for  
Compensation of:

CONSUMER WATCHDOG,

Intervenor

File Nos. RFC-2023-004; RFC-2023-009; RFC-2023-008; RFC-2023-002; RFC-2023-001; RFC-2023-003; RFC-2023-012; RFC-2023-010; RFC-2023-014; RFC-2023-013; RFC-2024-002; RFC-2023-015; RFC-2024-003; RFC-2024-004; RFC-2024-005; RFC-2024-007; RFC-2024-001; RFC-2024-006; RFC-2024-008; RFC-2024-009; RFC-2024-010; RFC-2024-011; RFC-2024-012; RFC-2024-013; RFC-2024-014; RFC-2024-015

**CONSUMER WATCHDOG'S  
OBJECTIONS AND RESPONSE TO  
INSURANCE COMMISSIONER'S ORDER  
WITHDRAWING NOTICES OF EX  
PARTE COMMUNICATION AND  
VACATING HEARING**

Intervenor Consumer Watchdog objects to Insurance Commissioner Ricardo Lara's December 9, 2024 Order Withdrawing Notices of Ex Parte Communication and Vacating Hearing ("Order Vacating Hearing"). The Order Vacating Hearing, among other flaws, violates Insurance Code section 21.5 and exceeds the Commissioner's authority under the Insurance Code to vacate public hearings set by an administrative law judge.

1 As detailed below, the circumstances surrounding this Order raise significant concerns.  
2 The Commissioner’s actions suggest improper supervision over administrative law judges—  
3 conduct explicitly prohibited by the Insurance Code. Furthermore, the ex parte communication at  
4 issue involves communications concerning contested matters by an agency head to an  
5 administrative law judge barred by the Government Code. By purporting to cancel a hearing  
6 intended to scrutinize his own legal noncompliance, including improper ex parte  
7 communications and failures under Proposition 103’s transparency and public access  
8 requirements, the Commissioner is attempting to sidestep accountability. Such actions are  
9 impermissible under both the Insurance Code and the Government Code.

10 Unless the administrative law judge removes the December 13 hearing from the calendar,  
11 Consumer Watchdog plans to attend, provide public comment, and address the Commissioner’s  
12 unlawful ex parte communication with the administrative law judges.

13 **I. Procedural Background**

14 The Commissioner issued a Delegation and Appointment Order to Supervising  
15 Administrative Law Judge (“ALJ”) Kristin Rosi in the Administrative Hearing Bureau (“AHB”) on  
16 November 21, 2024 (“Delegation”), closely followed on November 25 by a Commissioner’s  
17 Order Granting Reconsideration (“Reconsideration Order”) of certain ALJ orders related to  
18 Consumer Watchdog’s compensation requests in six separate rate proceedings. In these requests  
19 for compensation, Consumer Watchdog presented evidence establishing its substantial  
20 contribution by its role in developing the record, providing actuarial analysis, and engaging in  
21 discussions with all parties, leading to total savings to consumers of approximately \$537 million,  
22 based on the initial proposed rate increase, and the eventual agreed-upon rates. (See, generally,  
23 Consumer Watchdog’s Requests for Compensation in file nos. RFC-2023-015, PA-2021-00004,  
24 *In the Matter of Garrison Property and Casualty Co. and USAA Casualty Ins. Co.*; RFC-2024-  
25 001, PA-2023-00014, *In the Matter of Allstate Northbrook Indem. Co.*; RFC-2024-002, PA-  
26 2020-00009, *In the Matter of Pacific Specialty Ins. Co.*; RFC-2024-003, PA-2023-00006, *In the*  
27 *Matter of State Farm Gen. Ins. Co. (Renters)*; RFC-2024-004, PA-2023-00007, *In the Matter of*  
28

1 *State Farm Gen. Ins. Co. (Homeowners)*; and RFC-2024-005, PA-2023-00012, *In the Matter of*  
2 *State Farm Mutual Auto. Ins. Co.*)

3 On December 3, 2024, Administrative Law Judge Karl Seligman and Chief  
4 Administrative Law Judge Kristin Rosi gave notice of the Delegation as an ex parte  
5 communication, entering the Delegation into the record in twenty-six matters concerning  
6 requests for compensation that were pending before AHB at the time the Delegation was issued  
7 to AHB, and giving the parties in those matters an opportunity to respond and appear at a case  
8 calendar call before AHB currently set for December 13, 2024.

9 **II. Consumer Watchdog’s Objections**

10 **A. The Government Code Prohibits the Ex Parte Communication**

11 The Commissioner’s argument that the Delegation complies with the Government Code  
12 is flawed. He relies on Government Code section 11430.20, claiming it authorizes the  
13 communication. (Order Vacating Hearing at 1:28–2:3.) But section 11430.20 permits only “[a]  
14 communication otherwise prohibited by Section 11430.10.” And Government Code section  
15 11430.10 governs communications from agency employees, addressing situations where an  
16 agency employee or other interested person communicates with an administrative law judge.

17 The Commissioner, however, is not just an agency employee—he is the head of the  
18 agency. The more specific statute, Section 11430.80, directly applies and is unequivocal: “There  
19 shall be no communication, direct or indirect, while a proceeding is pending regarding the merits  
20 of any issue in the proceeding, between the presiding officer and the agency head.” (Gov. Code  
21 § 11430.80, subd. (a).)

22 Even if Section 11430.20, subdivision (b) were somehow relevant, the Order Vacating  
23 Hearing omits critical language showing it is inapplicable here. The Order claims the  
24 Government Code “authorizes communications when they concern a matter of procedure or  
25 practice.” (Order Vacating Hearing at 1:28–2:3.) But Section 11430.20 only allows such  
26 communications if “the communication concerns a matter of procedure or practice . . . *that is not*  
27 *in controversy.*” (Gov. Code, § 11430.20, subd. (b), emphasis added.)  
28

1 The Delegation indisputably addresses issues—including procedural matters—that have  
2 been in controversy during the pendency of the 26 RFC matters before AHB.<sup>1</sup> The  
3 Reconsideration Order confirms this, noting that Consumer Watchdog has raised concerns about  
4 “the integrity of the agency, the authority and independence of the administrative law judges, and  
5 the laws [the Commissioner is] required to uphold.” (Reconsideration Order at 6:3–4.)

6 Consumer Watchdog is prepared to address these matters at the hearing currently set for  
7 December 13, where Consumer Watchdog has been given an opportunity to appear and respond.

8 **B. The Insurance Code Prohibits the Commissioner from Supervising ALJs**

9 Consumer Watchdog also objects to the Order Vacating Hearing because it violates  
10 Insurance Code section 21.5, which prohibits the Commissioner from directly supervising  
11 administrative law judges within the Department of Insurance. The statute is explicit: “An  
12 administrative law judge appointed by the commissioner pursuant to civil service rules shall be  
13 employed within the administrative law bureau and shall not be supervised directly by the  
14 commissioner.” (Ins. Code § 21.5, subd. (b).)

15 The Order Vacating Hearing constitutes direct supervision of ALJs by the Commissioner.  
16 The order bears his signature. (Order Vacating Hearing at 2:7–11.) The order purports to  
17 withdraw notices “issued by the AHB.” (Order Vacating Hearing at 2:4.) The order also micro-  
18 manages basic case management by “vacat[ing] the in-person case calendar call scheduled for  
19 December 13, 2024.” (Order Vacating Hearing at 2:5–6.) These actions directly interfere with  
20 ALJ functions. Managing dockets, including setting hearings to give parties an opportunity to  
21 address ex parte communications, is a core administrative judicial function that Insurance Code  
22 section 21.5 places beyond the Commissioner’s statutory authority.

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25 <sup>1</sup> Nineteen of these matters remain pending before AHB, including eighteen matters on  
26 Consumer Watchdog’s outstanding requests for compensation. (RFC-2023-001, PA-2022-00006;  
27 RFC-2023-002, PA-2022-00004; RFC-2023-003, PA-2022-00008; RFC-2023-004, PA-2021-  
28 00003; RFC-2023-008, PA-2022-00002; RFC-2023-009, PA-2021-00005; RFC-2023-010, PA-  
2023-00003; RFC-2023-013, PA-2023-00009; RFC-2023-014, PA-2023-00008; RFC-2024-007,  
PA-2023-00013; RFC-2024-008, PA-2023-00021; RFC-2024-009, PA-2023-00017; RFC-2024-  
010, PA-2024-00004; RFC-2024-011, PA-2023-00011; RFC-2024-012, NC-2018-00001; RFC-  
2024-013, PA-2024-00006; RFC-2024-014, PA-2023-00016; RFC-2024-015, PA-2023-00023.)

1 The Commissioner’s justification for the order further underscores his improper  
2 interference. He asserts that the “Delegation was not sent as part of any adjudicative matter  
3 before AHB.” (Order Vacating Hearing at 2:3.) Yet the ALJs had ample grounds to connect the  
4 Delegation to the 26 matters at issue and to include it in the record. The Delegation was issued  
5 before the Reconsideration Order. It impacted the issues addressed in that order and other related  
6 matters impacting pending requests for compensation.

7 At the case calendar call on December 13, Consumer Watchdog will present arguments  
8 that the Delegation Order itself is improper, because it is inconsistent with the applicable  
9 regulations, and with Prop 103.

10 **C. The Commissioner Does Not Have the Power to Vacate the Hearing**

11 Finally, under both the Insurance Code and the Government Code, the Commissioner  
12 lacks authority to vacate a hearing scheduled by an ALJ. The law prohibits the Commissioner  
13 from supervising ALJs. (Ins. Code, § 21.5, subd. (b)). It also forbids the Commissioner from  
14 communicating with ALJs about the merits of an issue in any proceeding—including procedural  
15 matters—when those procedural matters are in controversy. (Gov. Code, §§ 11430.20,  
16 11430.80.)

17 Logic and law offer no basis for concluding that an agency head who cannot supervise an  
18 ALJ and is barred from communicating with ALJs about contested matters—including  
19 procedural ones—could have the power to vacate a hearing convened to address such matters.

20 **III. Conclusion**

21 Based on this objection, unless an ALJ within the AHB vacates the December 13 case  
22 calendar call, Consumer Watchdog respectfully intends to appear and participate. It will offer  
23 public comment on the Commissioner’s ex parte communication.

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DATED: December 10, 2024

Respectfully submitted,  
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