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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of the Rate Applications of
State Farm General Insurance
Company,
Applicant.

File Nos.: PA-2024-00011, PA-2024-00012,
PA-2024-00013

**CONSUMER WATCHDOG'S NOTICE
OF AND MOTION IN LIMINE NO. 3 TO
EXCLUDE EVIDENCE REGARDING
RBC CALCULATIONS**

**Hearing Date/Time: April 8, 2025
10:00 a.m.**

1 **TO THE ADMINISTRATIVE LAW JUDGE AND TO ALL PARTIES:**


2 PLEASE TAKE NOTICE that Consumer Watchdog hereby moves to strike all portions
3 of the Declaration of Tina Shaw that rely upon, calculate, or reference Risk-Based Capital
4 (“RBC”) values, ratios, for State Farm General Insurance Company (“Applicant” or “SFG”), on
5 the grounds that:

- 6 1. Insurance Code section 739.8(c) expressly prohibits the use of RBC Instructions or any
7 RBC-derived material in ratemaking or in evidence in a rate proceeding;
- 8 2. Ms. Shaw admits she relied on and used the RBC Instructions published by the National
9 Association of Insurance Commissioners (“NAIC”) to independently calculate RBC
10 ratios for Applicant;
- 11 3. Her calculations and analysis based on RBC values thus violate the statutory bar of
12 section 739.8(c), which applies regardless of whether the RBC Report itself was reviewed
13 or submitted;
- 14 4. The portions of Shaw's declaration discussing RBC values are therefore inadmissible as a
15 matter of law, and must be excluded from the hearing record; and
- 16 5. Permitting this evidence would prejudice Consumer Watchdog by introducing statutorily
17 prohibited content into the ratemaking process and undermining the legislative judgment
18 that RBC materials are not to be used in rate proceedings.

19 This Motion is made pursuant to 10 CCR § 2656.1 and the ALJ’s inherent authority to regulate
20 the admission of evidence and ensure a fair and lawful hearing. (See also 10 CCR §§ 2654.1,
21 2655.1.) Consumer Watchdog requests that this motion be heard **as soon as practicable, but in**
22 **no event later than April 8, 2025**, the date of the scheduled interim rate hearing.

23
24 DATED: April 7, 2025

Respectfully submitted,
CONSUMER WATCHDOG

25
26 By: 
27 Ryan Mellino
28 Attorneys for CONSUMER WATCHDOG

1 INTRODUCTION

2 Insurance Code section 739.8(c) states, in full:

3 It is the further judgment of the Legislature that the **RBC Instructions**, RBC
4 Reports, Adjusted RBC Reports, RBC Plans, and Revised RBC Plans are intended
5 solely for use by the commissioner in monitoring the solvency of insurers and the
6 need for possible corrective action with respect to insurers, and **shall not be used**
7 **by the commissioner for ratemaking nor considered or introduced as**
8 **evidence in any rate proceeding, nor used by the commissioner to calculate**
9 **or derive any elements of an appropriate premium level or rate of return** for
10 any line of insurance that an insurer or any affiliate is authorized to write.”
11 (Emphasis added.)

12 Tina Shaw expressly states in her April 2, 2025 declaration that: “I have independently
13 calculated Applicant’s RBC ratios based upon publicly available information in its annual
14 statements, using the same formula set forth in the RBC Instructions that are published by the
15 NAIC for property and casualty insurers.” (Shaw Decl. ¶ 10; emphasis added.)

16 Although Ms. Shaw did not submit a formal RBC Report from the Illinois Department of
17 Insurance, her “independent” RBC analysis is wholly derived from the RBC Instructions and
18 from an estimated ACL, both of which are part of the statutory prohibition. Section 739.8(c)
19 contains no exception for “independent” analysis based on the same instructions. If this path
20 were permitted, it would circumvent the statute entirely.

21 ARGUMENT

22 I. Section 739.8(c) Prohibits Use of RBC-Based Analysis in Rate Proceedings,
23 Regardless of the Source

24 Ms. Shaw’s RBC calculations are inextricably linked to the RBC Instructions. Her
25 testimony includes:

- 26 • Estimated RBC ratios for Applicant or discussions of these ratios (Shaw Decl.
27 ¶¶ 9–13, 15–18)
- 28 • Definitions and interpretations of the RBC Action Control Level (*id.*)
- Tables applying the RBC or ACL to derive post-wildfire ratios (*id.* at ¶ 12, 16–18)

Each of these statements constitutes the use of the RBC framework, and each is specifically
barred from inclusion in a ratemaking proceeding under section 739.8(c). The Legislature’s
intent is unequivocal: RBC data is for solvency monitoring—not for ratemaking. By using the
RBC Instructions to reverse-engineer Applicant’s ratios, Ms. Shaw invites exactly the use the

Legislature intended to foreclose. Outside of a variance, rate considerations must remain independent of insurer's financial circumstances, even for the Commissioner or his Chief Actuary.

II. Ms. Shaw's "Independent Calculation" Does Not Cure the Violation

That Ms. Shaw did not rely on a submitted RBC Report does not change the analysis. As she admits, her calculations use the RBC Instructions and structure. (Shaw Decl., ¶ 10.) If the statutory bar could be avoided simply by replicating the RBC formula with public data, the prohibition in section 739.8(c) would be rendered meaningless. Any insurer could introduce financial condition evidence through this backdoor means through reverse engineered RBC rations.

The Legislature did not limit the prohibition to official filings. It extended it to anything "considered or introduced as evidence in any rate proceeding." (Ins. Code § 739.8(c).) While the proposed rate here may be interim, this is a proceeding determining rates. It is too clever by half to attempt to bring in financial condition into ratemaking through RBC, and that is exactly what Shaw has done.

CONCLUSION

For the reasons stated above, Consumer Watchdog respectfully requests that the Administrative Law Judge issue an order:

1. **Striking** all paragraphs of Tina Shaw's declaration that reference, rely on, or derive content from RBC values, RBC ratios, Action Control Levels (ACLs), or the RBC Instructions;
2. **Excluding** all argument or evidence from State Farm and the Department of Insurance at the April 8, 2025 hearing that references or depends upon such material; and
3. **Admonishing** the parties that section 739.8(c) bars such materials from consideration in this rate proceeding.

This motion should be heard as soon as practicable, and no later than April 8, 2025.

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1 DATED: April 7, 2025

Respectfully submitted,

2 Harvey Rosenfield
3 Pamela Pressley
4 William Pletcher
5 Benjamin Powell
6 Ryan Mellino
7 CONSUMER WATCHDOG

8 By: 
9 Ryan Mellino
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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 City and 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 South San Vicente Boulevard, Suite 250, Los Angeles, California 90048, and I am employed in the city and county where this service is occurring.

On April 7, 2025, I caused service of true and correct copies of the document entitled

**CONSUMER WATCHDOG'S NOTICE OF AND MOTION IN LIMINE NO. 3 TO
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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 April 7, 2025 at Los Angeles, California.


Kaitlyn Gentile

Service List

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