

1 NIKKI S. McKENNEDY (SBN 184269)  
JENNIFER McCUNE (SBN 160089)  
2 DANIEL WADE (SBN 296958)  
DUNCAN MONTGOMERY (SBN 176138)  
3 CALIFORNIA DEPARTMENT OF INSURANCE  
1901 Harrison Street, Sixth Floor  
4 Oakland, CA 94612  
Tel: (415) 538-4162  
5 Fax: (510) 238-7829  
Email: [nikki.mckennedy@insurance.ca.gov](mailto:nikki.mckennedy@insurance.ca.gov)  
6 [jennifer.mccune@insurance.ca.gov](mailto:jennifer.mccune@insurance.ca.gov)  
[daniel.wade@insurance.ca.gov](mailto:daniel.wade@insurance.ca.gov)  
7 [duncan.montgomery@insurance.ca.gov](mailto:duncan.montgomery@insurance.ca.gov)

8 *Attorneys for The California Department of Insurance*

9 **BEFORE THE INSURANCE COMMISSIONER**  
10 **OF THE STATE OF CALIFORNIA**  
11

12 In the Matter of the Rate Applications of

13  
14  
15 STATE FARM GENERAL  
16 INSURANCE COMPANY,

17 Applicant.  
18  
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File Nos. PA- 2024-00011, PA-2024-00012,  
PA-2024-00013

**THE DEPARTMENT'S OPPOSITION TO  
CONSUMER WATCHDOG'S MOTION  
TO EXCLUDE TESTIMONY AND  
FURTHER BRIEFING REGARDING RBC  
CALCULATIONS**

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

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## INTRODUCTION

The Department respectfully requests that the Court deny the Motion to Exclude Evidence and Testimony regarding RBC (“risk-based capital”) ratios filed by Consumer Watchdog on April 9, 2025 (Motion), and that the Court deny CW’s request to strike portions of the Declaration of Tina Shaw, Department Chief Actuary.

As set forth in Applicant State Farm General’s Opposition to the Motion (Applicant’s Opposition), which the Department incorporates herein by reference, RBC ratios are public information, and there is no basis in law to exclude this evidence. Ms. Shaw’s declaration is admissible and Ms. Shaw will provide further testimony at hearing establishing the admissibility of her statements. CW’s interpretation of Insurance Code section 739.8<sup>1</sup>, in particular subsection (c), is wrong as a matter of statutory interpretation, overly restrictive and wholly inconsistent with CW’s previous positions.

## ARGUMENT

**A. The Insurance Code Allows the Use of Publicly Available Annual Statements, and Does Not Exclude RBC Ratios**

As set forth in Applicant’s Opposition, RBC ratios are publicly available and there is no basis to exclude evidence of RBC ratios or Ms. Shaw’s testimony under section 739, subdivision (a). (See § 739.8, subd. (a) [“All RBC Reports, *to the extent the information within those reports is not required to be set forth in a publicly available annual statement schedule*, . . . shall be kept confidential by the commissioner.” (emphasis added)].)

Section 739.8 subdivision (b), refers to the State Legislature and “RBC Levels.” Section 739.8, subdivision (c), only excludes “RBC Instructions, RBC Reports, Adjusted RBC Reports, RBC Plans, and Revised RBC Plans,” none of which are at issue here. It is silent on RBC ratios, which is a math calculation.

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<sup>1</sup> Unless otherwise specified, all further statutory references are to the Insurance Code.

1 **B. Ms. Shaw’s Declaration Does Not Include Any Information Disallowed By Statute**

2 CW moves to strike several paragraphs of Ms. Shaw’s Declaration, which it argues are  
3 prohibited by law. (See Motion at 4:10-19, citing Shaw Decl. ¶¶ 9-13, 16-18.) Not so.

4 Ms. Shaw expressly acknowledges, “RBC Reports . . . are not permitted to be used in  
5 California ratemaking per Insurance Code section 739.8, subdivision (c).” (Shaw Decl. ¶ 10.)  
6 Accordingly, she explains, “in making this declaration *I have not reviewed or relied upon any*  
7 *RBC Report that Applicant may have submitted to the Illinois Commissioner or to any other*  
8 *state regulator.*” (Shaw Decl. ¶ 10 [emphasis added].)

9 While affirming she received no confidential information, Ms. Shaw’s declaration  
10 testimony does show she independently calculated Applicant’s RBC ratio based on publicly  
11 available information – Applicant’s Annual Statements. (Shaw Decl. ¶ 12.) This is permitted  
12 under section 739, subdivision (a). Ms. Shaw uses the RBC ratios she independently calculated to  
13 conclude Applicant’s financial condition has significantly deteriorated since 2022, that its  
14 estimated RBC ratio as of the end of the first quarter of 2025 is so low as to support authorized  
15 control by the Illinois Department of Insurance, and that an emergency interim rate increase,  
16 subject to refunds with interest following a full rate hearing, should be granted as a sound “first  
17 step” to begin addressing its deteriorating financial condition. (Shaw Decl. ¶ 13.) The RBC ratio is  
18 a math calculation, and not excluded by the plain terms of section 739.8, subdivision (c), which only  
19 excludes “RBC Instructions, RBC Reports, Adjusted RBC Reports, RBC Plans, and Revised RBC  
20 Plans.” By the plain language of the statute, the math calculations Ms. Shaw performed using publicly  
21 available information are not excluded.

22 **C. By Its Own Admission, CW’s Argument “Misconstrues” The Statute**

23 CW’s motion to exclude Ms. Shaw’s RBC ratio testimony is wholly inconsistent with  
24 CW’s prior positions on this issue.

25 For example, during the 2015 State Farm General rate hearing (PA-2015-00004), CW  
26 submitted a declaration from actuary Allan Schwartz wherein Mr. Schwartz, in support of CW’s

position, provided evidence of State Farm General's – at the time – strong Risk-Based Capital levels as part of his testimony regarding the company's financial integrity. (See Exhibit A to McKennedy Decl. at pp. 29-32.) SFG attempted, unsuccessfully, to strike Mr. Schwartz's testimony.<sup>2</sup> When SFG's counsel, on cross examination, stated section 739.8 provides, "Risk-based capital information is not supposed to be used by the Commissioner for rate-making nor considered or introduced as evidence in any rate proceeding," CW objected, noting the description by SFG counsel was a "a mischaracterization of the statute." The Administrative Law Judge did not strike the testimony. (See Exhibit B to McKennedy Decl. at pp. 1176-1178.)

Similarly, here Ms. Shaw's RBC testimony should be admitted. To exclude Ms. Shaw's RBC testimony would be inconsistent and prejudicial to the Department and to Applicant.

**D. Ms. Shaw's Hearing Testimony Will Establish Her Permissible Use**

Here, the Court should allow Ms. Shaw to provide testimony as to her calculations and how she reached her opinions regarding the stipulated interim rate. During her direct exam, counsel for the Department anticipates Ms. Shaw will provide testimony to allow the Court to further evaluate the admissibility of this evidence, including the following:

- The RBC ratio is basic knowledge and a math calculation that appears on the syllabus for a regulation and financial reporting exam that actuaries take as part of obtaining their credentials;
- Ms. Shaw did not consult any confidential information to determine Applicant's RBC ratios. Her calculations were performed using only publicly available data in Applicant's annual statements;
- Ms. Shaw did not use the RBC Instructions, or any other delineated exclusions in section 739.8, subdivision (c), to perform her calculations;

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<sup>2</sup> Importantly, the protections of section 739.8 are to maintain the confidentiality of insurer's confidential information required to be provided to regulators. Here, no confidential information is being used, and Applicant supports the introduction of testimony regarding RBC ratios. To the extent any protections of section 739.8 flow to the insurer's benefit, and Applicant does not object to the use of RBC ratios in these proceedings, that is further basis to admit the testimony.

