

1 Harvey Rosenfield, SBN 123082  
2 Pamela Pressley, SBN 180362  
3 Benjamin Powell, SBN 311624  
4 Ryan Mellino, SBN 342497  
5 CONSUMER WATCHDOG  
6 6330 San Vicente Blvd., Suite 250  
7 Los Angeles, CA 90048  
8 Tel. (310) 392-0522  
9 Fax (310) 392-8874  
10 harvey@consumerwatchdog.org  
11 pam@consumerwatchdog.org  
12 ben@consumerwatchdog.org  
13 ryan@consumerwatchdog.org

14 Attorneys for CONSUMER WATCHDOG

15 BEFORE THE INSURANCE COMMISSIONER

16 OF THE STATE OF CALIFORNIA

17 In the Matter of the Rate Application of

18 State Farm General Insurance Company,

19 Applicant.

20 File No.: 24-1271

21 **CONSUMER WATCHDOG'S  
22 PETITION FOR HEARING,  
23 PETITION TO INTERVENE, AND  
24 NOTICE OF INTENT TO SEEK  
25 COMPENSATION**

26 [Ins. Code §§ 1861.05 and 1861.10; Cal.  
27 Code Regs, tit. 10, §§ 2653.1, 2661.2  
28 and 2661.3]

1 State Farm General Insurance Company’s June 27, 2024 application for a 30%  
2 (\$1 billion) increase to its homeowners insurance rates (File No. 24-1271 [the “Application”]) is  
3 unprecedented in the 36 years since California voters required insurance companies to open their  
4 books and justify their rates. State Farm acknowledges that under the standard regulatory  
5 ratemaking formula that governs rate filings, which mandates that insurance companies set rates  
6 based on reasonable projections of future losses, the company would be required to *reduce* its  
7 rates by at least -9.2%.<sup>1</sup> Instead, State Farm seeks the 30% *increase* “to protect its solvency”  
8 under a special “variance” request from the regulatory formula. The additional *\$1.3 billion* a year  
9 for at least four years, or at least \$5.2 billion in total, it wants to collect from its California  
10 policyholders would be used to “re-capitalize” the company—in other words, to purportedly  
11 rescue the company from what State Farm describes as a deteriorating financial condition.  
12 However, State Farm has failed to adequately support its purported need for such an  
13 extraordinary bail-out by policyholders, especially in light of State Farm’s parent company’s<sup>2</sup>  
14 \$100+ billion surplus in recent years.

15 Therefore, State Farm’s Application raises profound legal and policy issues that demand  
16 extremely close scrutiny and require data that the Application does not contain:

17 First, the Application does not include all of the information needed to determine the  
18 company’s actual financial condition. The Application was submitted by State Farm General  
19 Insurance Company (“State Farm” or “Applicant” or “State Farm General”), an essentially  
20 California-only company that is 100% owned by the State Farm Mutual Automobile Insurance  
21 Company (“SFMAIC”), domiciled in Illinois. State Farm General is California’s largest home  
22 insurance company, insuring approximately 20% of the homeowners insurance market, and  
23 SFMAIC is the nation’s largest insurance company by premium dollars, with surplus of  
24 \$134 billion at the end of 2023. State Farm must meet its burden to show that it is in danger of  
25

26 \_\_\_\_\_  
27 <sup>1</sup> The -9.2% rate decrease is based on State Farm’s calculations under the standard ratemaking  
28 formula without a variance. It is the position of Consumer Watchdog that a much bigger rate  
decrease is indicated under the standard ratemaking formula.

<sup>2</sup> The Applicant is 100% owned by State Farm Mutual Automobile Insurance Company.

1 going insolvent *before* asking California policyholders to step in to rescue it. Weighing against  
2 State Farm’s claims, as set forth in this Petition, there is evidence that State Farm General has  
3 transferred more than \$600 million to the parent company in 2023 in the form of inflated  
4 payments for reinsurance. Based on past State Farm experience, it is likely that a significant  
5 portion of the excess premium charges and inflated underwriting profit that would result if the  
6 Application is granted will be transferred to the parent company in the form of profits resulting  
7 from inflated reinsurance charges.

8 Second, rather than require California policyholders to subsidize the parent company,  
9 why hasn’t the parent company stepped in to assist its affiliate financially, as it did when  
10 SFMAIC’s Texas affiliate writing homeowners insurance encountered financial trouble years  
11 ago?

12 Third, it appears that much of the company’s California losses in recent years came from  
13 commercial and liability policies, not homeowners.<sup>3</sup> Between 2020 and 2023, State Farm had  
14 direct underwriting profits from homeowners insurance of \$1.4 billion. Why are homeowners  
15 being asked to bear State Farm’s losses in commercial and liability policies?

16 Fourth, State Farm has not complied with the variance regulation’s requirements that it  
17 present a “plan to restore [its] financial condition” and a “plan to reduce rates once the insurer’s  
18 condition is restored, in order to **compensate** consumers for excessive charges.” (Emphasis  
19 added.) State Farm’s proposal contains no realistic or enforceable plan to compensate California  
20 consumers—current and former—for the excessive charges.

21 As the company’s withdrawal from the sale of homeowners insurance to new customers  
22 since May of 2023 and more recent nonrenewals illustrate, what happens to State Farm will have  
23 a major impact on the state’s insurance marketplace. Indeed, State Farm has stated in the  
24 Application that it will continue to decrease its sales notwithstanding a policyholder rescue.  
25 Similarly, raising rates by 30% will undoubtedly force some portion of its customers to drop  
26 their coverage or seek it elsewhere. The 30% requested increase, together with the most recently  
27

---

28<sup>3</sup> As discussed later, the affiliate reinsurance purchased by State Farm also drained surplus.

1 approved 20.8% increase to its homeowners rates effective March 15, 2024, would have a  
2 combined impact of +57.0%. What impact will that have on the marketplace? Will a  
3 policyholder-funded infusion of capital actually rescue the company, or will it require further  
4 capital infusions? Before California policyholders can be forced to invest in State Farm,<sup>4</sup> the  
5 company must provide all of the evidence and information that is required to justify its  
6 extraordinary request.

7 For these reasons, based on its initial analysis of the Application and the evidence it has  
8 gathered to date from publicly available sources as set forth below, Consumer Watchdog  
9 requests that the Insurance Commissioner immediately notice a public hearing pursuant to the  
10 requirements of Insurance Code sections 1861.05, subdivisions (a) and (c), and 1861.10,  
11 subdivision (a), on the issues raised in this Petition, at which time Applicant will be directed to  
12 appear and respond to the issues raised in this petition. Because the requested rate change  
13 exceeds 7%, a formal hearing is mandatory under the statute and necessary in light of the serious  
14 and complex issues at stake. Consumer Watchdog also requests that it be granted leave to  
15 intervene in the rate proceeding on the Application.

16 Consumer Watchdog intends to seek compensation in this proceeding, and, pursuant to  
17 California Code of Regulations, title 10 (“10 CCR”), section 2661.3, subdivision (c), Consumer  
18 Watchdog’s proposed budget is attached hereto as Exhibit A.

19 In support of its Petition, Consumer Watchdog alleges:

20 **I. THE APPLICATION**

21 1. On or about June 27, 2024, State Farm filed the Application (File No. 24-1271)  
22 with the California Department of Insurance (“CDI”), seeking approval of an overall 30%  
23 (\$1 billion) rate increase to its California Non-Tenant Homeowners line of insurance based on its  
24 request for a variance under 10 CCR § 2644.27(f)(6) (“Variance 6”) from the maximum  
25 permitted earned premium “to protect its solvency.” This request follows an approved 20.8%  
26 (\$471 million) overall rate increase to Applicant’s Non-Tenant Homeowners line effective

---

27  
28 <sup>4</sup> Even though the rate filing requires policyholders to essentially invest in State Farm, it does not  
grant policyholders any ownership rights.

1 March 15, 2024 (File No. 23-613), for a combined impact of +57%. Without the requested  
2 Variance 6, State Farm's own calculations under the maximum permitted earned premium  
3 formula based on its projections of future losses show that it should be *decreasing* its rates by  
4 9.2%.

5 2. On or about July 5, 2024, the public was notified by the CDI of the Application.

## 6 **II. PETITIONER**

7 3. Petitioner Consumer Watchdog is a nonprofit, nonpartisan public interest  
8 corporation organized to represent the interests of consumers and taxpayers. A core focus of  
9 Consumer Watchdog's advocacy is the representation of the interests of insurance consumers  
10 and policyholders, particularly as they relate to the implementation and enforcement of  
11 Proposition 103, in matters before the Legislature, the courts, and the CDI.

12 4. Consumer Watchdog's founder authored Proposition 103 and led the successful  
13 campaign for its enactment by California voters in 1988. Consumer Watchdog's staff and  
14 consultants include some of the nation's foremost consumer advocates and experts on insurance  
15 ratemaking matters.

16 5. Consumer Watchdog has served as a public watchdog to enforce Proposition  
17 103's protections with regard to property-casualty insurance rates and practices by: monitoring  
18 insurer rollback settlements and the status of the rollback regulations; reviewing and challenging  
19 rate and rule filings made by insurers seeking to implement excessive and/or unfairly  
20 discriminatory rates and/or practices; participating in rulemaking and adjudicatory hearings  
21 before the CDI to implement and enforce Proposition 103's consumer protections; and educating  
22 the public concerning industry underwriting and rating practices, their rights under Proposition  
23 103, and other provisions of state law. Consumer Watchdog has also initiated, intervened, and  
24 appeared as amicus curiae in virtually every action in state court involving the interpretation and  
25 application of Proposition 103 and the Insurance Code.<sup>5</sup>

---

27 5 For example, *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805; *20th Century Ins. Co. v.*  
28 *Garamendi* (1994) 8 Cal.4th 216; *Amwest Surety Ins. Co. v. Wilson* (1995) 11 Cal.4th 1243;  
*Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473; *Spanish*

1       6.     Consumer Watchdog has initiated and intervened in numerous proceedings before  
2 the CDI related to the implementation and enforcement of Proposition 103's reforms, including  
3 over 150 such proceedings in the last twenty years. In every proceeding that has resulted in a  
4 final decision and in which Consumer Watchdog sought compensation from 2003–2022, the  
5 Commissioner found that Consumer Watchdog made a substantial contribution under Insurance  
6 Code section 1861.10(b) and the implementing regulations. Most recently in 2023, the  
7 Commissioner found that Consumer Watchdog made a substantial contribution to his decisions  
8 in two homeowners insurance rate matters and to his adoption of regulations requiring the public  
9 disclosure of wildfire risk models and mitigation discounts to homeowners who take steps to  
10 protect their homes from wildfires.

11 **III. ISSUES AND EVIDENCE TO BE PRESENTED AND POSITIONS OF PETITIONER**

12       7.     In the rate proceeding initiated by Consumer Watchdog's Petition and evidentiary  
13 hearing, Consumer Watchdog will present and elicit evidence to show that the rates proposed in  
14 the Application are excessive and/or unfairly discriminatory in violation of Insurance Code  
15 section 1861.05, subdivision (a), which provides that “[n]o rate shall be approved or remain in  
16 effect which is excessive, inadequate, [or] unfairly discriminatory.” Additionally, Consumer  
17 Watchdog will present and elicit evidence that Applicant's proposed rates violate 10 CCR  
18 § 2644.1, which provides that “[n]o rate shall be approved or remain in effect that is above the  
19 maximum permitted earned premium as defined in section 2644.2.”

20       8.     Based on Consumer Watchdog's preliminary analysis in consultation with its  
21 actuarial experts and the information contained in the Application and publicly available,  
22 Consumer Watchdog has identified the following issues with the Application on which it intends  
23 to present and elicit further evidence as set forth in ¶¶ 9–12 below. Each of these issues is  
24

---

25 *Speaking Citizens' Found. v. Low* (2000) 85 Cal.App.4th 1179; *Donabedian v. Mercury Ins. Co.*  
26 (2004) 116 Cal.App.4th 968; *State Farm Mut. Auto. Ins. Co. v. Garamendi* (2004) 32 Cal.4th  
27 1029; *The Found. for Taxpayer and Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th  
28 1354; *Ass'n of Cal. Ins. Cos. v. Poizner* (2009) 180 Cal.App.4th 1029; *Mercury Cas. Co. v. Jones* (2017) 8 Cal.App.5th 561; *Mercury Ins. Co. v. Lara* (2019) 35 Cal.App.5th 82; and *State Farm General Ins. Co. v. Lara* (2021) 71 Cal.App.5th 197.

1 directly relevant to determining whether State Farm’s proposed 30% rate increase is excessive  
2 under Insurance Code section 1861.05(a) and the prior approval rate regulations, 10 CCR  
3 § 2644.1 et seq., including whether State Farm is entitled to a variance from the maximum  
4 permitted earned premium to protect its solvency. Consumer Watchdog intends to request further  
5 information on these issues through discovery from the Applicant and reserves the right to  
6 develop and refine its positions as more information is made available.

7       9.     Loss and Premium Trends (10 CCR § 2644.7): Consumer Watchdog’s current  
8 position, to the extent now known based on the information in the Application at this time and  
9 publicly available, is that State Farm’s selected 8-point Reported/Paid frequency and severity  
10 trends give too much weight to recent experience. These selections result in an unreasonable and  
11 excessive annual loss trend of +17.2% and an excessive net trend which overstates the projected  
12 losses, causing an inflated rate indication. Consumer Watchdog has analyzed the actual and fitted  
13 net trends on both a numerical and graphical basis for each of the possible trend bases  
14 (Closed/Paid, Reported/Paid, Closed/Total Paid, and Reported/Total Paid). This preliminary  
15 analysis shows that lower trend factors, which reflect recent data while also incorporating  
16 additional historical experience, are more reasonable and “most actuarially sound.” (10 CCR  
17 § 2642.8.) As further support for the use of lower trend factors, the Producer Price Index by  
18 Commodity: Inputs to Industries: Net Inputs to Residential Construction data through May 2024  
19 from the Federal Reserve Economic Data website ([fred.stlouisfed.org](http://fred.stlouisfed.org)) shows the cost of  
20 residential construction materials reaching a high point in June 2022. The PPI has been relatively  
21 flat since that point. Additionally, a report by Verisk from Q2 of 2024 shows that “[t]otal  
22 reconstruction costs in the United States, including materials and retail labor, increased by 4.6%  
23 from April 2023 to April 2024, slightly more than their 4.1% rise from January 2023 to January  
24 2024. The growth rate in reconstruction costs is starting to line up more closely with pre-COVID  
25 rates: average increases during the pandemic were 11% per year, as opposed to the historical  
26 average of 3% to 4%.” Of particular relevance to the case at hand, with respect to residential  
27 reconstruction costs: “California’s rank changed most significantly, falling from the 14th-highest  
28 cost increase in January 2024 to the 44th-highest in April 2024.” The use of lower trend factors,

1 based on Consumer Watchdog's preliminary analysis, contributes to an overall rate indication  
2 that is substantially lower than the 30% increase proposed by State Farm including Variance 6,  
3 and also lower than State Farm's indicated -9.2% decrease based on its standard maximum  
4 permitted earned premium rate calculation without Variance 6. Based on Consumer Watchdog's  
5 findings, State Farm did not support the assertion that its selected trend factors are the most  
6 actuarially sound.

7       10.     Catastrophe Adjustment (10 CCR § 2644.5): The Cat Provision to Non-Cat Loss  
8 + DCCE of 0.451 on page 5 of Exhibit 9 represents a 23% increase over the same Provision from  
9 State Farm General's last CA HO filing (0.366). This appears to be driven by a 17% increase in  
10 current Amount of Insurance Years (AIY), coupled with a 4% decrease in Non-Cat Loss +  
11 DCCE Developed and Trended (both figures also from page 5 of Exhibit 9). State Farm has not  
12 supported the current filing's AIY value of \$846M, a value which seems counterintuitive  
13 considering that ultimate Loss + DCCE is projected to decrease. The resulting Catastrophe  
14 Adjustment Factor contributes directly to State Farm's overall rate indication and causes it to be  
15 overstated. Consumer Watchdog's preliminary analysis shows that a lower Catastrophe  
16 Adjustment Factor, based on tempering the impact of the 23% increase to current AIY, is most  
17 actuarially sound. This reduced Adjustment Factor contributes to an overall rate indication that is  
18 substantially lower than the 30.0% increase proposed by State Farm including Variance 6, and  
19 also lower than State Farm's indicated -9.2% decrease based on a typical rate calculation without  
20 Variance 6. Furthermore, the Application does not document, support, or explain any purported  
21 adjustments (Exhibit 9, page 2, Notes (3) and (6)) made to the calculation of the catastrophe  
22 factor to reflect any changes between the insurer's historical and prospective exposure to  
23 catastrophe due to a change in the mix of business. Based on these findings, State Farm did not  
24 support the actuarial soundness of its selected catastrophe adjustment factor.

25       11.     Improper / Unsupported Excluded Expenses (10 CCR § 2644.10): State Farm has  
26 not shown that the three-year sum of the institutional advertising expenses listed on page 4.1 of  
27 the Prior Approval Rate Template, \$2,436,227,444 (1.2% of premium), is appropriate. This is  
28 particularly questionable since the institutional advertising amounts given for each of the three

1 years on page 4.1 are exactly 75% of total advertising, and clearly not the total of actual  
2 institutional advertising expenditures. Per 10 CCR § 2644.10(f): “Institutional advertising”  
3 means advertising not aimed at obtaining business for a specific insurer and not providing  
4 consumers with information pertinent to the decision whether to buy the insurer’s product.”  
5 Consumer Watchdog’s current position, to the extent now known, is that State Farm has failed to  
6 provide sufficient information in the filing to support its claim that 75% of advertising expenses  
7 over the last three years have been institutional. Further, State Farm has not provided examples  
8 of advertisements it claims fall under the category of non-institutional advertising expenses in  
9 accordance with the CDI’s Prior Approval Rate Filing Instructions. Based on the information  
10 currently available in the Application, and subject to review of additional information that may  
11 be obtained from State Farm during the proceeding through formal or informal discovery on  
12 these and other excluded expenses items, Consumer Watchdog’s current position, to the extent  
13 now known, is that State Farm has not proven that its three-year average excluded expense ratio  
14 of 1.2% shown on page 4.2 of the Prior Approval Rate Template is appropriate. Consumer  
15 Watchdog reserves the right to seek discovery and raise additional issues regarding the accuracy  
16 of the amounts listed in page 4.2 of the Prior Approval Rate Template for other categories of  
17 excluded expenses that should be reflected in the rate calculation but may not be adequately  
18 reflected in the filing, including political contribution and lobbying expenses, excessive  
19 executive compensation, bad faith judgments and associated DCCE, costs of unsuccessful  
20 defense of discrimination claims, and fines and penalties.

21       12. Variance 6 (10 CCR § 2644.27(f)(6)): State Farm filed a variance request under  
22 this provision, which requires it to show “[t]hat the insurer’s financial condition is such that its  
23 maximum permitted earned premium should be increased in order to protect the insurer’s  
24 solvency.” It is Consumer Watchdog’s current position, to the extent now known, that State  
25 Farm has failed to meet its burden to show that (i) the grounds for the variance request are  
26 supported; and (ii) the amount of the variance requested is appropriate. The evidence for these  
27 conclusions, to the extent now known from the information in the Application and publicly  
28 available, is summarized below:

1 a. The dollar amount of the variance request exceeds \$1.3 billion (= 39.2% X  
2 \$3.37 billion<sup>6</sup>) per year starting in 2025. State Farm projects the variance will stay in  
3 effect for at least four years, from 2025 to 2028 (Application, Exhibit 13, Sheet 5).  
4 That represents a total of more than \$5.2 billion dollars in excess charges. There  
5 exists no reasonable basis for State Farm to extract excess premiums charges of more  
6 than \$5 billion from policyholders.

7 b. The variance request is based on an underwriting profit provision of 24.7%.<sup>7</sup> That is  
8 more than five times as large as the underwriting profit without the variance of 4.7%.<sup>8</sup>  
9 State Farm has not provided any reasonable basis for requesting a profit more than  
10 five times as large as the maximum profit permitted under the regulations without a  
11 variance.

12 c. It is anticipated based on past experience that a significant portion of the excess  
13 premium charges and inflated underwriting profit will be transferred to the parent  
14 company, SFMAIC, in the form of profits resulting from inflated reinsurance charges.

15 d. During the ten accident years from 2014 to 2023, State Farm paid reinsurance  
16 premiums related to homeowners insurance of about \$2.19 billion, but only received  
17 (or is expected to receive) reimbursements of about \$0.41 billion.<sup>9</sup> That is, the  
18 Applicant received less than 20% of its reinsurance payments in the form of  
19 reimbursements ( $0.41 / 2.19 = 18.7\%$ ).

20 e. The vast majority of reinsurance premium payments by State Farm for homeowners  
21 insurance are made to its Parent and Other Affiliated Companies. During 2023, the  
22 total reinsurance ceded premiums written were about \$710 million.<sup>10</sup> More than 90%  
23 of the reinsurance premium payments were made to its parent company SFMAIC.

24

25

26 <sup>6</sup> Prior Approval Rate Template (No Variance), Page 2.

27 <sup>7</sup> Prior Approval Rate Template (Variance 6 ), Page 7.

28 <sup>8</sup> Prior Approval Rate Template (No Variance), Page 7.

<sup>9</sup> State Farm General 2023 Annual Statement, Schedule P, Part 1A, Columns (2) and (27).

<sup>10</sup> State Farm General 2023 Annual Statement, Part 1B, Line (4), Columns (4) and (5).

1 f. The reinsurance purchased by State Farm has been extremely unfavorable for the  
2 Applicant. From 2014 to 2023, the average amount of the reinsurance premium that  
3 has been returned to the Applicant in the form of reimbursements has been less than  
4 20%. In every one of the ten accident years from 2014 to 2023, the loss & LAE ratio  
5 on the ceded business has been significantly lower than the loss & LAE ratio on the  
6 direct business.<sup>11</sup> This was the situation even when the year had significant  
7 catastrophes (e.g., 2017). When the reinsurance loss & LAE ratio is lower than the  
8 direct loss & LAE ratio in every year, including years with a catastrophe, that is a  
9 strong indication that the reinsurance agreement is much more favorable to the  
10 reinsurer (SFMAIC) than to the Applicant.

11 g. It appears that the reinsurance agreement between the Applicant and SFMAIC is not a  
12 true transfer of risk, but instead is a mechanism for transferring profits out of the  
13 Applicant and into its Parent Company.

14 h. The reinsurance agreement between the Applicant and SFMAIC has resulted in a  
15 significant drain on the surplus of the Applicant, while at the same time enriching its  
16 parent company.

17 i. Homeowners insurance has not been a significant drain on the surplus, and in fact has  
18 been profitable for the Applicant. During 2020, 2021, 2022, and 2023, the Applicant  
19 had direct underwriting profits from homeowners insurance of \$549 million,  
20 \$319 million, \$304 million, and \$237 million, respectively.<sup>12</sup> That is, the Applicant  
21 had a four-year underwriting profit of \$1.4 billion from homeowners insurance.

22 j. The variance request has an impact on the maximum permitted earned premium  
23 change, as calculated by State Farm, of +43.1%.<sup>13</sup> Despite that huge unjustified  
24 increase, the Applicant actually intends to *decrease* the number of policies written,

25  
26  
27 <sup>11</sup> State Farm General 2023 Annual Statement, Schedule P, Part 1A, Columns (29) and (30).  
28 <sup>12</sup> State Farm General, Insurance Expense Exhibits for 2020, 2021 and 2022, Part III, Line (4),  
Column (33).

<sup>13</sup> Prior Approval Rate Application, Page 11.

1 mostly through nonrenewals, by more than 35% from 2023 to 2028.<sup>14</sup> That is, instead  
2 of using the enormous extra premiums it is requesting through the variance to support  
3 writing business in California, the Applicant actually intends to continue its  
4 moratorium on new business, significantly decrease the number of policies written,  
5 and simply retain the excess premiums.<sup>15</sup>

6 k. The Department’s Prior Approval Rate Filing Instructions require that “[w]hen a  
7 variance filing is submitted, the filing must provide substantial, detailed support and  
8 justification for each variance request in accordance with CCR § 2644.27(b).” The  
9 Applicant has not done that. The Application includes a “Financial Forecast Template  
10 – Baseline” (Exhibit 13, Page 3) and a “Financial Forecast Template - Variance 6”  
11 (Exhibit 13, Page 5). These are based upon various “Five-Year Projection  
12 Assumptions” (Exhibit 13, Pages 2.1 and 2.2) and undocumented calculations. As  
13 discussed in ¶¶ 9–11 *ante*, the values used by the Applicant with regard to loss trends,  
14 catastrophes, and other factors are actuarially unsound. Using those as the bases for  
15 the Financial Forecasts is therefore also actuarially unsound. Furthermore, other  
16 assumptions made and used in the forecast, which are not part of the rate template  
17 calculations, such as “reinsurance premium” and “ceded catastrophe losses,” have  
18 absolutely no support or justification in the Application. In addition, the Financial  
19 Forecasts are based on various calculations and formulas which were not provided in  
20 the PDF file “NT HO Filing Exhibits.” Also, the Excel file “NT Filing Exhibits” does  
21 not include any variance calculations. For all these reasons, the Application does not  
22 comply with the regulation or the CDI’s Prior Approval Rate Filing Instructions and  
23 should be rejected.

24 1. 10 CCR § 2644.27(f)(6)(A) requires the Applicant to provide “[a] showing of the  
25 insurer’s condition, based on generally accepted standards such as the National  
26 Association of Insurance Commissioners’ Insurance Regulatory Information System.”

---

27  
28<sup>14</sup> Application, Exhibit 13, Page 2.1, Policies in Force (1,963,460 / 3,111,820 = 63.1%).

<sup>15</sup> *Ibid.*

1 The Applicant appears to have interpreted the words “such as” to mean “exclusively,”  
2 as that is the only standard included in the Application as purported support. Such a  
3 position is contrary to the instructions contained in the “Insurance Regulatory  
4 Information Systems (IRIS) Manual – 2023 Edition.”<sup>16</sup> Those instructions state, in  
5 part, in the Limitation Section:

6 As previously stated, the results are not, in themselves, determinative of  
7 the financial condition of an insurer. The results are subject to individual  
8 insurer circumstances. The following caveats apply:

- 9 1. No state can rely on the tools’ results as the state’s only form of  
10 surveillance.
- 11 2. Important decisions, such as licensing, should not be based on the tools’  
12 results without further analysis or examination of the insurer.
- 13 3. Valid interpretation of the tools’ results depends, to a considerable  
14 extent, on the judgment of financial analysts and examiners. An insurer’s  
15 ratios may be outside the usual range because of unusual accounting  
16 methods, changes in corporate structure, restatements of prior periods,  
17 correction of errors in prior periods or other circumstances.

18 Thus, the Applicant’s sole reliance on the IRIS ratios is misplaced and contrary to the  
19 applicable guidance from the NAIC.

- 20 m. Another commonly used measure of an insurance company’s financial condition is its  
21 Risk Based Capital (“RBC”). The Applicant’s “Total adjusted capital” is more than  
22 twice as large as its “Authorized control level risk-based capital.”<sup>17</sup> That relationship  
23 is within the acceptable range for the “Total adjusted capital.” The analysis of an  
24 insurance company’s risk-based capital is required by statute.<sup>18</sup>
- 25 n. With regard to the IRIS tests, the Applicant lists four items outside the standard  
26 ranges.<sup>19</sup> Two of those items, “Gross Change in Surplus” and “Change in Adjusted  
27 Surplus,” are actually the same, since the Applicant’s Surplus and Adjusted Surplus  
28 are exactly the same.<sup>20</sup>

---

26 <sup>16</sup> <https://content.naic.org/sites/default/files/publication-uir-zb-iris-ratios-manual.pdf>.

27 <sup>17</sup> State Farm General 2023 Annual Statement, Page 17, Lines (28) and (29).

28 <sup>18</sup> Ins. Code § 739 et seq.

<sup>19</sup> Application, Exhibit 13, Page 1.

<sup>20</sup> State Farm General 2023 Annual Statement, Page 17, Lines (26) and (28).

1       o. With regard to the values outside the usual range, none of those unusual values are  
2       the result of homeowner insurance. With regard to the “Two-Year Overall Operating  
3       Ratio” and the “Change[s] in Surplus,” as previously discussed, homeowners  
4       insurance had a direct underwriting profit of more than \$200 million in both 2022 and  
5       2023. Hence, homeowners insurance would have a “Two-Year Overall Operating  
6       Ratio” under 100 and would contribute to an increase, not a decrease, in surplus. With  
7       regard to the “One-Year Reserve Development to Surplus,” the actual value of 21 is  
8       just barely above the upper range of 20. Furthermore, homeowners insurance  
9       contributed very little to the “One-Year Reserve Development.” Out of Applicant’s  
10      total “One-Year Reserve Development” in 2023 of \$470 million,<sup>21</sup> only \$59 million,<sup>22</sup>  
11      or only about 13%, was due to homeowners insurance.

12      p. The adverse results in 2023 can be attributed to commercial and liability insurance.<sup>23</sup>  
13       The California direct incurred loss ratios reported by the Applicant for commercial  
14       multiple peril (non-liability portion), commercial multiple peril (liability portion), and  
15       other liability – occurrence were 90%, 237%, and 204%, respectively. In total, the  
16       incurred losses for these three lines of insurance exceeded the premiums by  
17       \$419 million. In marked contrast, for homeowners insurance, the loss ratio was 58%,  
18       and premiums exceeded losses by \$1.12 billion. This proves once again that any  
19       adverse experience for the Applicant is not the result of homeowners insurance.

20      q. Furthermore, the actuary retained by the Applicant who prepared the Statement of  
21       Actuarial Opinion confirmed that the adverse experience in 2023 was not the result of  
22       homeowners insurance, stating: “During 2023, the Company has strengthened net  
23       reserves for prior accident years, largely in its Umbrella and Commercial Multi-Peril

27      <sup>21</sup> State Farm General 2023 Annual Statement, Page 18, Line (74).  
28      <sup>22</sup> State Farm General 2023 Annual Statement, Schedule P, Part 2A, Column (11).

27      <sup>23</sup> State Farm General 2023 Annual Statement, Exhibit of Premiums and Losses, California.

1 coverages. Both coverages were impacted by sharp increases in claim severity and an  
2 extended time frame for claim resolution.”<sup>24</sup>

3 r. Despite the indisputable evidence that homeowners insurance has not caused any  
4 financial distress to the Applicant, the Applicant is attempting to capitalize itself on  
5 the backs of homeowners by seeking to charge excessive insurance rates.

6 s. 10 CCR § 2644.27(f)(6)(B) requires the Applicant to provide “[a] plan to restore the  
7 financial condition.” The “plan,” as put forward by the Applicant, would force  
8 policyholders to capitalize the Applicant with over \$5.2 billion in excessive charges  
9 from 2025 to 2028, but would not allow the policyholders to have any ownership  
10 rights in exchange. State Farm Lloyds, Inc. (“SFL”), another subsidiary company of  
11 SFMAIC, previously tried to force policyholders to provide a huge amount of capital  
12 without providing the policyholders with any ownership interest. That scheme by the  
13 SFMAIC and its subsidiary was rejected by both the Texas Commissioner of  
14 Insurance<sup>25</sup> and the Texas Court of Appeals.<sup>26</sup>

15 t. The Texas Commissioner of Insurance Order stated in part:<sup>27</sup>

16 What SFL seeks by insisting on a separate provision for the surplus note is a  
17 rate which will produce something far more than a reasonable return on its  
18 capital; it seeks nothing less than a rate which, in effect, would require its  
19 policyholders to provide new capital to replenish capital previously lost.

20 ...  
21 It should be noted that while a regulated entity is constitutionally entitled to a  
22 return sufficient to attract capital and ensure its continued financial viability, it  
23 has no constitutional claim to any particular rate of return above a rate which  
24 achieves these ends.

25 ...

---

26 <sup>24</sup> State Farm General, Statement of Actuarial Opinion as of December 31, 2023, Page 4 (NAIC  
27 IRIS tests).

28 <sup>25</sup> Tex. Ins. Comr.’s Order No. 09-0927, TDI Docket No. 2562-A, Order Modifying Rate  
Reduction Previously Determined by the Texas Department of Insurance and Directing the  
Payment of Refunds (Nov. 16, 2009), <https://www.tdi.texas.gov/orders/documents/co-09-0927.pdf>.

<sup>26</sup> *State Farm Lloyds v. Rathgeber* (Tex. App. 2014) 453 S.W.3d 87, *review granted, judgment vacated, and remanded by agreement* (Tex., Mar. 6, 2015, No. 15-0023) 2015 WL 13954099.

<sup>27</sup> Fn. 25, *supra*, pp. 62–64.

1       The Commissioner finds that the inclusion of a separate surplus note  
2       provision, in addition to rate provisions that already contemplate SFL's  
3       expected future costs, including its cost of capital "is likely to produce a long  
4       term profit that is unreasonably high in relation to the insurance coverage  
5       provided."

6       u. The Texas Court of Appeals stated in part:<sup>28</sup>

7       Instead, the insurer's contention is that the rate must *also* enable it to build  
8       *additional* surplus at a rate that would increase its total surplus (net of  
9       amounts reserved for surplus-note payments) to a 1:1 premium-to-surplus  
10      ratio within nine years.

11      ...

12      The Commissioner was unpersuaded that State Farm Lloyds was entitled to  
13      recover any costs related to the surplus note beyond the aforementioned return  
14      on its capital secured through underwriting profit.

15      ...

16      He similarly viewed the surplus-note provision as an unjustified attempt by  
17      State Farm Lloyds not only to recoup its legitimate costs of providing  
18      insurance to its then-current policyholders, but also to effectively shift its past  
19      losses to them as well.

20      ...

21      We are unpersuaded that the Commissioner, in refusing to afford State Farm  
22      Lloyds recovery of the full 9% of premium it sought through the surplus-note  
23      provision, has effected such an unreasonable balancing among the interests of  
24      State Farm Lloyds, its investors, ratepayers, and the public as to violate the  
25      constitutional norms. [Footnote omitted.] Consequently, we cannot conclude  
26      this decision renders the rate confiscatory. Accordingly, we overrule State  
27      Farm Lloyd's second point of error.

28       v. 10 CCR § 2644.27(f)(6)(D) requires the Applicant to provide "[a] plan to reduce rates  
1       once the insurer's condition is restored, in order to **compensate** consumers for  
2       excessive charges." (Emphasis added.) The Applicant's "plan" is vague and omits  
3       information required by the regulation and necessary to assess the requested variance.  
4       Furthermore, the "plan" fails to compensate consumers for excessive charges.

5       w. The "plan" is replete with conditions and caveats, which the Applicant has given  
6       itself exclusive authority to interpret. It states, in part: "State Farm General considers  
7       its financial condition to be restored and not reversed when the company can, for the  
8       long-term, generate and maintain capital sufficient to support itself. This is

---

28 Fn. 26, *supra*, pp. 107–112, italics in original.

1                   determined based on metrics and considerations evaluated together that, at a  
2                   minimum, include the following: favorable outlook on ability to have adequate rates,  
3                   risk-based capital sufficient to avoid required company or regulator action under  
4                   insurer solvency regulations, achievement of a surplus-to-net written premium ratio  
5                   of 1.0 or better and giving consideration to then current reinsurance utilization, State  
6                   Farm General’s ability to recover from stresses, favorable ratings by rating agencies,  
7                   and acquiescence by the IL DOI (as State Farm General’s solvency regulator) to any  
8                   filing to reduce rates.” That explanation is so vague, arbitrary, and capricious that it is  
9                   impossible to objectively implement, monitor, or regulate. The Applicant is  
10                   essentially stating that it will reduce rates if, when, and by the amount it decides is  
11                   appropriate in its own opinion. Furthermore, those conditions and caveats illegally  
12                   cede the authority of the California Insurance Commissioner over rates to be charged  
13                   in California to unnamed rating agencies and to the Illinois Department of Insurance.

14                   x. The Applicant further states: “After State Farm General’s financial condition has  
15                   been restored, it will submit an application with a defined future effective date to  
16                   reduce its rates in at least one line of business if [various conditions follow].” An  
17                   unspecified rate reduction, which may keep the rate above the maximum permitted  
18                   earned premium, does *not* “compensate consumers for excessive charges.” To  
19                   “compensate consumers for excessive charges,” the Applicant *must* return the entirety  
20                   of the excessive charges, with interest, to those who paid the excessive rates.  
21                   Anything less will not fully “compensate consumers for excessive charges.”

22                   13. This Petition is based upon Consumer Watchdog’s preliminary analysis of the  
23                   Application. Thus, Consumer Watchdog reserves the right to modify, withdraw, and/or add  
24                   issues for consideration as more information becomes available through discovery or otherwise.

#### 25 **IV. AUTHORITY FOR PETITION AND GRANTING REQUEST FOR A HEARING**

26                   14. The authority for this petition for hearing is Insurance Code section 1861.10,  
27                   subdivision (a), which grants “any person” the right to initiate or intervene in a proceeding  
28                   permitted or established by Proposition 103 and the right to enforce Proposition 103.

1 Specifically, as stated above, Consumer Watchdog initiates this proceeding to enforce Insurance  
2 Code section 1861.05 and the Commissioner’s rate regulations, 10 CCR § 2644.1 et seq.

3 15. Additionally, a hearing is authorized pursuant to Insurance Code section 1861.05,  
4 subdivision (c), which allows “a consumer or his or her representative” to request a hearing on a  
5 rate application and 10 CCR § 2653.1, which provides that “any person, whether as an  
6 individual, representative of an organization, or on behalf of the general public, may request a  
7 hearing by submitting a petition for hearing.” Given that State Farm’s requested rate change  
8 exceeds 7%, Insurance Code section 1861.05(c) requires that the Commissioner “must hold a  
9 hearing upon a timely request.”

10 16. This petition is timely pursuant to Insurance Code section 1861.05, subdivision  
11 (c), and 10 CCR § 2646.4(a)(1) because is filed within forty-five (45) days of the July 5, 2024  
12 public notice date.

## 13 **V. INTEREST OF PETITIONER/INTERVENOR**

14 17. Consumer Watchdog’s interest in the above-captioned proceeding is to ensure that  
15 State Farm’s homeowners insurance policyholders are charged rates and premiums that comply  
16 with the provisions of Insurance Code section 1861.05(a)’s requirement that “no rate shall be  
17 approved or remain in effect which is excessive, inadequate, [or] unfairly discriminatory or  
18 otherwise in violation of this chapter,” and the requirements contained in the regulations  
19 promulgated thereunder. For many homeowners, their home is their most valuable asset and they  
20 are required to purchase homeowners insurance by their mortgage lenders. Consumers who are  
21 overcharged by insurers for this insurance coverage and/or arbitrarily non-renewed, even when  
22 they have undertaken significant wildfire mitigation efforts to protect their homes and lower their  
23 risk of loss, are part of Consumer Watchdog’s core constituency. The specific issues and  
24 positions to be taken by Consumer Watchdog in this proceeding, to the extent known at this time,  
25 are set forth in paragraphs 9–12 *ante*.

26 18. As noted in paragraphs 3–6 *ante*, Consumer Watchdog’s staff and consultants  
27 have substantial experience and expertise in insurance rate matters, which Consumer Watchdog  
28 believes will aid the CDI in its review of the Application and aid the Commissioner in making

1 his ultimate decision as to whether to approve or disapprove the requested rate. As noted in  
2 paragraph 6 above, the Commissioner has found that Consumer Watchdog has made a  
3 substantial contribution to his decisions in every rate proceeding that has resulted in a final  
4 decision and in which Consumer Watchdog sought compensation from 2003–2022, and three  
5 additional proceedings in 2023. If leave to intervene is granted, Consumer Watchdog will  
6 participate fully in all aspects of this proceeding.

7       19. Consumer Watchdog also has an interest in ensuring that Applicant, the CDI, and  
8 the Insurance Commissioner comply with the laws enacted by the voters under Proposition 103,  
9 and the rules and regulations that implement those laws, including that all information submitted  
10 to the CDI in connection with the Application is made publicly available.

11 **VI. AUTHORITY FOR PETITION TO INTERVENE**

12       20. The authority for Consumer Watchdog’s Petition to Intervene is Insurance Code  
13 section 1861.10, subdivision (a), which grants “any person” the right to “initiate or intervene in  
14 any proceeding permitted or established pursuant to this chapter [Chapter 9 of Part 2 of Division  
15 1 of the Insurance Code] . . . and enforce any provision of this article.” This proceeding is a rate  
16 proceeding to enforce Insurance Code section 1861.05 pursuant to Insurance Code section  
17 1861.10(a), and hence is a proceeding both “permitted” and “established” by Chapter 9. Per the  
18 voters’ instruction, the mandatory right to intervene under section 1861.10(a), like all the  
19 provisions of Proposition 103, must be “liberally construed and applied in order to fully promote  
20 its underlying purposes.” (Prop. 103, § 8.) Thus, section 1861.10 must be interpreted and applied  
21 broadly in a manner to fully encourage consumer participation. (*Ibid.*; see also *Ass’n of*  
22 *California Ins. Cos. v. Poizner, supra*, 180 Cal.App.4th at 1052 [stating “the goal of fostering  
23 consumer participation in the administrative rate-setting process” as “one of the purposes of  
24 Proposition 103”].) The broad intervention standard enacted by section 1861.10 ensures that  
25 consumers will be able to participate in proceedings independently of the CDI staff who may  
26 take different positions or emphasize different issues in the proceeding, and with all rights  
27 accorded to any other party, including the right to raise additional issues and/or violations as they  
28 become known during the course of the proceeding through informal or formal discovery.

1       21. This Petition to Intervene is also authorized by 10 CCR § 2661.1 et seq. In  
2 compliance with 10 CCR § 2661.3, the specific issues to be raised and positions to be taken by  
3 Consumer Watchdog, to the extent known at this time, are set forth in paragraphs 9–12 *ante*.  
4 Each of these issues directly relate to specific standards and requirements under the ratemaking  
5 formula and permitted variances at 10 CCR § 2644.1 et seq. and thus are directly relevant to  
6 ultimately determining whether Applicant’s requested rate is excessive or otherwise unjustified.  
7 Although consumer presence in departmental proceedings typically results in significant  
8 reductions to policyholders’ rates, the amount of savings for each individual consumer is  
9 outweighed by the time and expense of hiring individual counsel or an advocacy group to protect  
10 his or her rights. Thus, an independent organization like Consumer Watchdog introduces a voice  
11 that otherwise would be absent from this proceeding.

## 12 **VII. PARTICIPATION OF CONSUMER WATCHDOG**

13       22. Consumer Watchdog verifies, in accordance with 10 CCR § 2661.3, that it will be  
14 able to attend and participate in this proceeding without unreasonably delaying this proceeding  
15 or any other proceedings before the Insurance Commissioner.

## 16 **VIII. INTENT TO SEEK COMPENSATION**

17       23. Consumer Watchdog intends to seek compensation in this proceeding. The  
18 Commissioner has awarded Consumer Watchdog compensation for its reasonable advocacy and  
19 witness fees and expenses in numerous prior departmental proceedings. Consumer Watchdog  
20 filed its most recent Request for Finding of Eligibility (“Request”) on June 3, 2024, which  
21 establishes that it continues to meet the threshold statutory requirement for compensation, that it  
22 “represents the interests of consumers.”<sup>29</sup> Consumer Watchdog was previously found eligible to  
23 seek compensation on July 26, 2022, effective as of July 12, 2022; August 25, 2020, effective as  
24 of July 12, 2020; July 12, 2018; July 14, 2016; July 24, 2014; July 24, 2012; July 2, 2010;  
25 August 25, 2008; July 14, 2006; July 2, 2004; June 20, 2002; October 1, 1997; September 26,

26  
27       29 Consumer Watchdog, Request (June 3, 2024), <https://www.insurance.ca.gov/01-consumers/150-other-prog/01-intervenor/upload/2024-06-03-Request-for-Finding-of-Eligibility.pdf>.

1 1995; September 27, 1994; and September 13, 1993. Nevertheless, on June 6, 2024, the  
2 Commissioner posted a Notice inviting comment regarding Consumer Watchdog's Request on  
3 the "Insurers" section of the Department website.<sup>30</sup> Comments received by the Department  
4 between June 6 and July 3, 2024 were posted on the Department's website.<sup>31</sup> On July 11, 2024,  
5 Consumer Watchdog filed its Response to Industry Comments on Its Request.<sup>32</sup> The  
6 Commissioner has stated he will rule on Consumer Watchdog's Request by August 2, 2024, and  
7 any order granting its request will be effective as of July 12, 2024.<sup>33</sup>

8 24. Pursuant to 10 CCR § 2661.3(c), Consumer Watchdog's estimated budget in this  
9 proceeding is attached hereto as Exhibit A. Consumer Watchdog has based its estimated budget  
10 on several factors including: (1) the technical and legal expertise needed to address these issues;  
11 (2) its current best estimate of the time needed to participate effectively in these proceedings,  
12 taking into account the time already expended by Consumer Watchdog's legal and actuarial staff  
13 and an estimate of time needed to complete remaining tasks through completion of a noticed  
14 evidentiary hearing; and (3) past experience in similar rate proceedings before the CDI. The  
15 estimated budget is reasonable and the staffing level is appropriate, given the expertise that  
16 Consumer Watchdog and its consultants bring to these proceedings when the issues involved are  
17 issues at the very core of its organizational mission and strike at the very heart of Proposition  
18 103 itself. The attorney, paralegal, and staff and consulting actuaries' hourly rates contained in  
19

---

20 <sup>30</sup> Ins. Comr. Ricardo Lara, Notice re Request by Consumer Watchdog (June 6, 2024),  
21 [https://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/Notice-Re\\_Request-for-Finding-of-Eligibility-to-Seek-Compensation-Submitted-by-Consumer-Watchdog-2.pdf](https://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/Notice-Re_Request-for-Finding-of-Eligibility-to-Seek-Compensation-Submitted-by-Consumer-Watchdog-2.pdf).

22 <sup>31</sup> Cal. Dept. of Ins., Requests for and Findings of Eligibility Since 2013 (July 11, 2024),  
23 <https://www.insurance.ca.gov/01-consumers/150-other-prog/01-intervenor/upload/Requests-for-and-Findings-of-Eligibility-7-11-24.pdf>.

24 <sup>32</sup> Consumer Watchdog, Consumer Watchdog's Response to Insurance Industry Comments on Its  
25 Request (July 11, 2024), <https://www.insurance.ca.gov/01-consumers/150-other-prog/01-intervenor/upload/2024-07-11-Consumer-Watchdog-s-Response-to-Industry-Comments-Re-Request-for-Finding-of-Eligibility.pdf>.

26 <sup>33</sup> Order Concerning Consumer Watchdog's Request (June 19, 2024),  
27 <https://www.insurance.ca.gov/01-consumers/150-other-prog/01-intervenor/upload/ORDER-CONCERNING-CW-REQUEST-FOR-FINDING-OF-ELIGIBILITY-TO-SEEK-COMPENSATION-IE-2024-0002.pdf>.

1 the attached budget do not exceed market rates as defined by 10 CCR § 2661.1(c).<sup>34</sup> The budget  
2 presented in the attached Exhibit A is a preliminary estimate, and Consumer Watchdog reserves  
3 the right to amend its proposed budget as its expenses become more certain, or in its request for  
4 final compensation. Further, Consumer Watchdog affirms that it will file an amended budget as  
5 soon as possible when it learns that its total estimated budget amount increases by \$10,000 or  
6 more, in accordance with 10 CCR § 2661.3(d).

7 WHEREFORE, Consumer Watchdog respectfully requests that the Insurance  
8 Commissioner GRANT its petition for hearing and petition to intervene in the proceeding,  
9 having all rights and responsibilities accorded any other party to the proceeding.

10 //

11 //

12 //

13

---

14 <sup>34</sup> 10 CCR § 2661.1(c) defines “market rates” as “the prevailing rate for comparable services in  
15 the private sector in the Los Angeles and San Francisco Bay Areas *at the time of the*  
16 *Commissioner’s decision awarding compensation* for attorney advocates, non-attorney  
17 advocates, or experts with similar experience, skill and ability.” (Emphasis added.) Attached as  
18 Exhibit B and Exhibit C are the two most recent Decisions Awarding Compensation by  
19 Commissioner Lara to Consumer Watchdog in 2023 in rate proceedings, which found that the  
20 same 2024 rates used in the estimated budget set forth in Exhibit A for its attorneys and  
21 paralegal, Mr. Rosenfield, Ms. Pressley, Mr. Mellino, Mr. Powell, and Ms. Gentile, were  
22 reasonable and did not exceed market rates in the private market in Los Angeles and the San  
23 Francisco Bay Area. Those decisions also found Mr. Schwartz’s 2023 hourly rate was reasonable  
24 and did not exceed market rates. (Exh. B [Decision Awarding Compensation, July 12, 2023, *In*  
25 *the Matter of the Rate Applications of Farmers Insurance Exchange, Fire Insurance Exchange,*  
26 *and Mid-Century Insurance Company*, File No. PA-2022-00007], pp. 9–11, 15; Exh. C [Decision  
27 Awarding Compensation, Nov. 8, 2023, *In the Matter of the Rate Application of CSAA Insurance*  
28 *Exchange*, File No. PA-2023-00004], pp. 4–7, 10.) Consumer Watchdog will submit a  
declaration from Mr. Schwartz supporting his 2024 hourly rate when it submits any request for  
compensation in this matter. Mr. Armstrong is Consumer Watchdog’s staff actuary with over 12  
years of professional actuarial experience who joined staff in May 2023. His \$425 hourly rate in  
the estimated budget in Exhibit A is comparable to the \$415 market rate found reasonable by the  
Commissioner in the Decisions attached as Exhibits B and C for one of Mr. Schwartz’s former  
associates who does not have the additional Fellow Casualty Actuarial Society designation that  
Mr. Armstrong does. Since this is a preliminary estimated budget, and section 2661.1(c) defines  
“market rate” as the prevailing market rates at the time of the Commissioner’s compensation  
award, Consumer Watchdog intends to submit further support for its attorneys’ and actuaries’  
market rates at the time it submits any request for compensation.

1 DATED: July 26, 2024

2 Respectfully submitted,  
3 Harvey Rosenfield  
4 Pamela Pressley  
5 Benjamin Powell  
6 Ryan Mellino  
7 CONSUMER WATCHDOG

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

By: 

Pamela Pressley  
Attorneys for CONSUMER WATCHDOG

**VERIFICATION OF PAMELA PRESSLEY IN SUPPORT OF CONSUMER  
WATCHDOG'S PETITION FOR HEARING, AMENDED PETITION TO INTERVENE,  
AND NOTICE OF INTENT TO SEEK COMPENSATION**

I, Pamela Pressley, verify:

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 prepared, in consultation with Consumer Watchdog's actuarial experts, the pleading titled "Consumer Watchdog's Petition for Hearing, Amended Petition to Intervene, and Notice of Intent to Seek Compensation" filed in this matter. All of the factual matters alleged therein are true of my own personal knowledge, or I believe them to be true after conducting some inquiry and investigation.

3. Pursuant to California Code of Regulations, title 10, section 2661.3, Consumer Watchdog attaches as Exhibit A its estimated budget in this proceeding. I affirm that the hourly rates in the estimated budget do not exceed market rates.

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

Executed July 26, 2024 at Los Angeles, California.

Pamela Pressley  
Pamela Pressley

## **EXHIBIT A**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT A**  
**PRELIMINARY BUDGET**

<b><u>ITEMS</u></b>	<b><u>ESTIMATED COST</u></b>
1. <u>Consumer Watchdog Attorneys, Paralegal, and Staff Actuary</u>	
Pamela Pressley (Senior Staff Attorney) @ \$595 per hour, 100 hours .....	\$59,500
• Draft and edit petition for hearing and petition to intervene; supervise Consumer Watchdog counsel; oversee preparation of discovery requests, motions, briefing; confer with Consumer Watchdog counsel and outside experts regarding legal and evidentiary issues; participate in discussions with CDI and Applicant's counsel; assist in all phases of proceeding, evidentiary hearing, and preparation of post-hearing briefing.	
Benjamin Powell (Staff Attorney) @ \$350 per hour, 100 hours .....	\$35,000
• Confer with Consumer Watchdog counsel and outside experts regarding legal and evidentiary issues; participate in discussions with CDI and Applicant's counsel; participate in briefing legal issues; conduct discovery, preparation of motions, and preparation for evidentiary hearing; participate in examination of witnesses and all phases of evidentiary hearing and post-hearing legal briefing; prepare request for compensation.	
Ryan Mellino (Staff Attorney) @ \$250 per hour, 200 hours.....	\$50,000
• Confer with Consumer Watchdog counsel and outside experts regarding legal and evidentiary issues; participate in discussions with CDI and Applicant's counsel; participate in briefing legal issues; conduct discovery, preparation of motions, and preparation for evidentiary hearing; participate in examination of witnesses and all phases of evidentiary hearing and post-hearing legal briefing; prepare request for compensation.	
Kaitlyn Gentile (Paralegal) @ \$200 per hour, 50 hours .....	\$10,000
• Draft and edit petition for hearing and petition to intervene; assist with discovery and preparation of motions and briefs; prepare request for compensation.	
Harvey Rosenfield (Of Counsel) @ \$695 per hour, 50 hours .....	\$34,750
• Supervise Consumer Watchdog counsel and participate in strategy discussions.	
Ben Armstrong, Staff Actuary @ \$425 per hour, 100 hours .....	\$42,500
• Staff actuary to review rate application, all discovery documents; prepare actuarial analysis; participate in meet and confers with the parties as needed; prepare written testimony; testify and assist attorneys in preparation for cross-examination of insurer's expert witnesses.	

## 2. Consumer Watchdog Expenses

Office expenses (photocopies, facsimile, telephone calls, postage, etc.) ..... \$2,000

Travel (ground transportation; airfare; hotel) ..... \$5,000

Consumer Watchdog Subtotal ..... \$238,750

### 3. Expert Witness: AIS Risk Consultants, Inc.

Allan I. Schwartz, President of AIS Risk Consultants @ \$955 per hour, 100 hours .....\$95,500

- Consulting actuary to review rate application and prepare actuarial analysis on variance 6 issues; participate in meet and confers with the parties as needed; assist with preparation of written and oral testimony and cross-examination of insurers' expert witnesses as needed, with a focus on variance 6.

Office expenses (photocopies, facsimile, telephone calls, postage, etc.) ..... \$2,000

Travel (ground transportation; airfare; hotel) ..... \$5,000

AIS Risk Consultants, Inc. Subtotal ..... \$102,500

**TOTAL ESTIMATED BUDGET:** **\$341,250**

## **EXHIBIT B**

**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF CALIFORNIA**

In the Matter of the Requests for Compensation of ) FILE NO. RFC-2023-006  
CONSUMER WATCHDOG, )  
Intervenor. )  
 ) *In the Matter of the Rate Application of*  
 ) *Farmers Exchange, Fore Insurance, and*  
 ) *Mid-Century Insurance Company*  
 ) PA-2022-00007  
 )  
 )  
 )  
 )

## **DECISION AWARDING COMPENSATION**

In this Request for Compensation (RFC) Consumer Watchdog (CW or Petitioner) seeks \$82,814.50 in compensation for its intervention in a Rate Application (RA) filed by Farmers Exchange, Fore Insurance, and Mid-Century Insurance Company (Farmers or Applicant). The RA sought a 24.9 percent increase in its homeowners multiple peril insurance line of insurance, but was ultimately resolved by a stipulation, granting Farmers a 17.7% increase. Farmers did not oppose CW's Request for Compensation arising therefrom. For the reasons explained below, the Request for Compensation is GRANTED.

## **FINDINGS OF FACT**

## Farmers' Rate Application

On June 15, 2022, Farmers filed a Rate Application with the Department of Insurance (Department) seeking a 24.9 percent increase in its homeowners' multiple peril insurance line.<sup>1</sup>

<sup>1</sup> RFC, p. 3.

The Department assigned the RA to Darjen Kuo for investigation.<sup>2</sup> On July 8, 2022, Farmers' RA was made public.<sup>3</sup> Several events occurred on August 22, 2022. The Department requested that Applicant waive the deemer period,<sup>4</sup> Applicant responded by waiving both the 60-day and the 180-day deemer periods,<sup>5</sup> and CW filed a Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation (collectively, "Petition").<sup>6</sup>

In its Petition, CW raised a number of concerns, which may be briefly described as Farmers': (a) failure to demonstrate that its proposal to non-renew 10,000 policies will not create excessive and/or unfairly discriminatory rates;<sup>7</sup> (b) use of only one model for Fire Following Earthquake (FFEQ);<sup>8</sup> (c) use of quarterly rather than annual paid loss development;<sup>9</sup> (d) failure to demonstrate that the use of incurred rather than paid loss development is the most actuarially sound method;<sup>10</sup> (e) failure to demonstrate that the selected trend factors and trend data period used were the most actuarially sound, and how the non-renewal of policies would likely impact the trend;<sup>11</sup> (f) failure to demonstrate that all institutional advertising expenses were accounted for;<sup>12</sup> (g) failure to justify for the loss trend factors proposed in the Variance 7B request;<sup>13</sup> (h) failure to justify the loss trend factors proposed in the variance 8B request;<sup>14</sup> and (i)

---

<sup>2</sup> Rate Applications may be found online at [https://interactive.web.insurance.ca.gov/apex\\_extprd/f?p=186:1:13936543914997](https://interactive.web.insurance.ca.gov/apex_extprd/f?p=186:1:13936543914997). An administrative agency may take official notice of its own records. (See Evid. Code, § 452, subd. (d).) Official Notice is hereby taken of the Rate Application number 22-1617, as well as the related Rate Applications numbered 22-1617-A, and 22-1617-B. Citations in this decision to a Rate Application ("RA") utilize the State Tracking number. Although Rate Applications do not contain continuous internal pagination, page numbers are referenced according to their order of appearance in the .pdf.

<sup>3</sup> RFC, p. 3.

<sup>4</sup> RA #22-1617, p. 17.

<sup>5</sup> RA #22-1617, p. 38.

<sup>6</sup> Exh. 3, attached to Powell Decl., RFC, p. 4.

<sup>7</sup> Petition, ¶ 8.a.

<sup>8</sup> Petition, ¶ 8.b.

<sup>9</sup> Petition, ¶ 8.c.

<sup>10</sup> Petition, ¶ 8.d.

<sup>11</sup> Petition, ¶ 8.e.

<sup>12</sup> Petition, ¶ 8.f.

<sup>13</sup> Petition, ¶ 8.g.

<sup>14</sup> Petition, ¶ 8.h.

failure to comply with filing instructions and submission of exhibits in searchable Excel and PDF format.<sup>15</sup>

On September 6, 2022, the Commissioner granted CW's Petition to Intervene.<sup>16</sup> The Commissioner found that CW complied with the procedural requirements in the Insurance Regulations, and that the issues it sought to address were relevant to the ratemaking process.<sup>17</sup> The decision withheld a ruling on the Petition for Hearing.<sup>18</sup>

On October 4, 2022, the Department issued an Objection Letter asking Farmers to respond to eight concerns. In brief, the concerns raised by the Department seek the following information: (1) how the decision to non-renew 10,000 policies due to wildfire risk will affect the proposed rate and premium; (2) a justification for the use of only one model to calculate FFEQ; (3) a justification for the use of quarterly time rather than annual in calculating catastrophe adjustment; (4) an explanation for why using incurred losses to develop ultimate losses is the most actuarially sound selection; (5) a justification for the use of 12-point for premium trends and 12-point with closed Frequency and Total Paid Severity; (6) a standard exhibit 7 for Smart Plan Home data only; (7) given annual losses and exposures, a correction to the assigned 0% credibility for Smart Plan Home's experiences in calculating the loss trends and loss development factors; and (8) the resubmission of multiple exhibits in Excel and PDF formats according to specifications.<sup>19</sup> Six of the eight Objections raised by the Department had already been raised or partially raised by CW in its August 22 Petition.

On October 11, 2022, Farmers responded to the Department's inquiries by resubmitting

---

<sup>15</sup> Petition, ¶ 8.i.

<sup>16</sup> RFC, p. 6.

<sup>17</sup> Exh. 4, attached to Powell Decl.

<sup>18</sup> *Ibid.*

<sup>19</sup> RA #22-1617, p. 16.

exhibits in Excel and PDF formats.<sup>20</sup> In its response, Farmers rescinded the non-renewal plan and declared that it was not moving forward with any “wildfires non-renewals.”<sup>21</sup> In explanation for its use of only one model to calculate FFEQ, Farmers argued that use of only one model was the commonly accepted practice among its competitors. It referenced other rate applications by various competitors where only one model was used and argued that the RMS model complies with “actuarial statutory standards.”<sup>22</sup> Farmers’ explanation for calculating quarterly, rather than annual, catastrophe ratios, was because the main contributor to catastrophe losses in California—wildfires—occur more frequently in the 4th quarter of the fiscal year. According to Farmers, “this causes the total to [sic] non-CAT factor to be inflated in years experiencing extreme Q4 event[s] and extraordinary CAT losses,” as was the case in years 2003, 2007, 2018, and 2020.<sup>23</sup> To explain its use of incurred losses, Farmers argued that, paid losses are driven by smaller damage claims, while incurred losses more accurately reflect rising inflation and other repair costs and ALE expenses.<sup>24</sup> As explanation for its use of 12-point, rather than 20-point, loss experience, Farmers explained that the shorter period gave greater weight to the pandemic and recent inflation, which it believed would be more suited to prospective rate making.<sup>25</sup> In response to the Department’s request for a standard Exhibit 7 for Smart Plan Home data only, Farmers provided it in an electronic attachment.<sup>26</sup> Farmers did not provide corrected loss trends and loss development factors in response to the Department’s concerns about its use of 0% credibility for Smart Plan Home’s experiences. It did, however, provide a reasoned explanation for its failure to do so. Essentially, Farmers stated its willingness to make the requested changes,

---

<sup>20</sup> RA #22-1617, p. 33; see also Exh. C, attached to Powell Decl.

<sup>21</sup> Exh. C, attached to Powell Decl.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

as soon as sufficient data became available.<sup>27</sup> Finally, Farmers provided Excel files for each exhibit requested by the Department.<sup>28</sup>

On November 21, 2022, CW made a request for information, seeking the following additional information from Farmers: (1) A new table showing competitors' filings where more than one model was used for FFEQ; (2) support for Applicant's claim that inflation has caused longer cycle time on repairs, higher lumber costs, higher material costs, and increasing ALE expenses, and support for the claim that paid losses are driven by smaller damage claims; (3) a complete description and explanation of the impact from the pandemic on California homeowners insurance costs; (4) a basis for the claim that the response to Item 5 was the most actuarially sound choice for frequency and severity analysis; (5) an annual distribution of modeled losses used to obtain the expected average annual losses for the RMS FFEQ model results; (6) which portion of the AAL is attributable to the use of Loss Amplification factors in the RMS FFEQ model results; (7) any analyses performed showing the underwriting and operating results of the Applicants for Homeowners Insurance in California covering 2019 to the present; (8) a description of any changes in operations related to California homeowners insurance that has occurred from 2019 to the present, as well as any such changes anticipated for the future; and (9) a list of the actions taken or expected to be taken by Farmers regarding homeowners insurance in California.<sup>29</sup>

On November 18, 2022, the Department issued an Objection Letter in which it asserted that Farmers, through subsidiaries, was applying the Supergroup Exemption and Multi-policy Discount at the same time.<sup>30</sup> To correct for this error, the Department ordered Farmers to revise

---

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> Powell Decl., ¶ 42; Exh. D, attached to RFC.

<sup>30</sup> RA # 22-1617, p. 15.

its manuals to indicate which companies the multi-policy discounts could be applied to. On November 23, 2022 Farmers responded to the Department's Objections by disputing the Department's apparent contention that the Super Group Exemption applies to all Farmers programs, including Homeowners programs.

On November 26, 2022, the Department issued an Objection Letter, demanding that Farmers provide premiums, losses, and loss ratios information for each peril in Excel format to justify the proposed base rate change by peril, for each policy form.

On November 28, 2022, Farmers responded to the November 26 Objection Letter, stating, "Current base rates used to develop proposed base rates already reflect the latest loss experience by peril; therefore, no further adjustments at the peril level were needed and applied in this filing. As a result, base rates were revised uniformly for each peril to achieve overall rate proposal for each form." In short, Farmers made no changes to its Application, and provided no additional documents.

On December 6, 2022, the Department issued an Objection Letter following up on Farmers' October 11 response. In particular, the Department sought further explanation for: (1) why incurred ultimate loss is the most actuarially sound selection, given that there had been a drastic increase of Average Case Reserve on Open Claims for each of the perils in the three most recent accident years; (2) "why the closed frequencies for 'All Other' peril are so high ranging from 17.9% to 76.98% for Smart Plan Renter, and from 3.9% to 32.92% for Next Generation form. What perils are included in 'All Other' Peril?"; (3) proof that all institutional advertising expenses had been reflected in the excluded expense provision.<sup>31</sup>

On December 7, 2022, Farmers provided a response to CW's November 21 inquiry. In brief, Farmers responded: (1) with a list of other companies using a single model to develop

---

<sup>31</sup> RA #22-1617, p.12.

FFEQ losses, and a list of their SERFF filing numbers; (2) documentation supporting trends toward higher prices for lumber and other repair materials, as well as shortages in those materials resulting in smaller damage claims dominating paid losses, making accurate future predictions more difficult; (3) supply chain issues, increased cost of goods, and a strong demand for building materials in the California market have increased materials costs, as well as putting pressure on labor costs; (4) the basis for this claim is that this approach provides the closest match in terms of timing of when a claim is counted as fully paid and the total dollar amount associated with that claim; (5) Farmers identified the exhibit that shows annual aggregate losses by policy form for various return periods underlying the expected average annual losses; (6) Farmers provided a graph with breakdown of the percentage of total AAL attributable to the demand surge for each policy form; (7) Farmers provided a table showing the results for its most recent five year history; (8) a statement affirming that there have been no significant changes in operations since 2019, and no future changes are planned; and (9) a statement affirming that all major actions have been filed with the Department, with a supporting list of filings/tracking numbers.

On January 19, 2023, the parties participated in a teleconference.<sup>32</sup> In late January and early February 2023, CW and Farmers engaged in a series of communications both seeking and providing additional information and explanation regarding the Rate Application.<sup>33</sup>

On January 31, 2023, CW made two Requests for Information. It sought a list of payments to affiliates for the period 2019-2021, with supporting documentation, and requested a discussion of the loss reserving methods used to derive the values for homeowners insurance reserves contained in the Annual and Quarterly financial statements submitted to the

---

<sup>32</sup> Powell Decl., ¶ 44.

<sup>33</sup> Powell Decl., ¶ 45; Exh. F, attached to Powell Decl.

Department.<sup>34</sup> On February 1, 2023, Farmers partially responded to the January 31 request for information, but also disputed, to some degree, CW's asserted need for the information.<sup>35</sup> CW provided a justification for the requested information on February 3, 2023, followed by its actuarial analysis of the Rate Application on February 6.<sup>36</sup> On February 8, the parties participated in another teleconference, which resulted in Farmers providing additional information regarding its trend selections, loss development method, and management fees.<sup>37</sup> On February 9, 2023, CW sought more data directly arising from the February 8 response by Farmers.<sup>38</sup> Farmers provided the data the same day.<sup>39</sup>

On March 10, 2023, the parties reached a Settlement Stipulation.<sup>40</sup> In it, the parties agreed that a 17.7 percent increase was "supportable" and should be implemented with an effective date of June 17, 2023.<sup>41</sup> In return, CW agreed to withdraw its Petition for Hearing upon the Commissioner's approval of the Settlement Agreement.<sup>42</sup>

On March 14, 2023, the Commissioner gave his approval of the Settlement Stipulation and, accordingly, CW withdrew its Petition for Hearing, effective March 24, 2023.<sup>43</sup>

This Request for Compensation was filed on April 11, 2023. In total, CW seeks \$42,425.50 in fees for its employees' time, and \$40,389 in expert witness fees.<sup>44</sup>

#### CW's Request for Compensation

CW is a non-profit, public interest organization that conducts its education and advocacy

---

<sup>34</sup> Powell Decl., ¶ 45.

<sup>35</sup> Powell Decl., ¶ 46; Exh. G, attached to RFC.

<sup>36</sup> Powell Decl., ¶ 47, Exh. H, attached to RFC.

<sup>37</sup> RFC, p. 8.

<sup>38</sup> RFC, pp. 8-9.

<sup>39</sup> RFC, p. 9; Exh. K, attached to RFC.

<sup>40</sup> Exh. 5, attached to Powell Decl.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

<sup>43</sup> Exh. 6, attached to Powell Decl.

<sup>44</sup> Exh. A, attached to RFC.

efforts as a public interest service.<sup>45</sup> As a result of its intervention in Farmers' RA, CW's attorneys and paralegal incurred 80.6 hours of labor in the proceeding.<sup>46</sup> Attached to Benjamin Powell's Declaration as Exhibit 1.a. are detailed billing records for CW's attorneys Pamela Pressley, Harvey Rosenfield, and Benjamin Powell, as well as for CW Paralegal, Kaitlyn Gentile.<sup>47</sup>

In total, Pressley performed 51.6 hours of work on this matter, for which she billed \$595 per hour.<sup>48</sup> Pressley has over 26 years' experience as a consumer advocate.<sup>49</sup> In that role, she has litigated a number of matters of first impression involving the implementation and enforcement of Proposition 103.<sup>50</sup> She has also participated in a number of rulemaking proceedings involving implementation of Proposition 103's rating factor requirements.<sup>51</sup> Pressley's hourly rate is within the range of rates charged by similarly-qualified attorneys in the Los Angeles area.<sup>52</sup>

CW's attorney Benjamin Powell performed 15.4 hours of work on this matter, at an hourly rate of \$350.<sup>53</sup> Powell began working at CW before he was admitted to the California State Bar in 2016. His employment at CW has included work on civil litigation matters as well as on matters relating to Proposition 103.<sup>54</sup> Powell's hourly rate of \$350 is within the range of rates charged by similarly-qualified attorneys in Los Angeles and the San Francisco Bay Area.<sup>55</sup>

CW's attorney Harvey Rosenfield is an attorney with over 40 years of experience in

---

<sup>45</sup> Powell Decl., ¶ 4.

<sup>46</sup> Powell Decl., ¶ 6.

<sup>47</sup> Exh. 1.a., attached to Powell Decl.

<sup>48</sup> *Ibid.*

<sup>49</sup> Powell Decl., ¶ 13.

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*

<sup>52</sup> Exh. 2, attached to Powell Decl.

<sup>53</sup> Exh. 1.a., attached to Powell Decl.

<sup>54</sup> Powell Decl., ¶ 16.

<sup>55</sup> Powell Decl., ¶ 19; Exh. 2, attached to Powell Decl.

insurance regulatory and litigation matters.<sup>56</sup> He is the founder of CW and author to Proposition 103. As such, he has participated in numerous lawsuits involving the interpretation and enforcement of Proposition 103.<sup>57</sup> He has also participated in numerous rulemaking proceedings implementing Proposition 103.<sup>58</sup> Rosenfield spent 7.3 hours working on this matter, for which he billed his hourly rate of \$695.<sup>59</sup> Rosenfield's hourly rate is within the range of hourly rates charged by similarly-qualified attorneys in Los Angeles and the San Francisco Bay Area.<sup>60</sup>

Finally, CW's paralegal, Kaitlyn Gentile, has over 14 years of professional experience.<sup>61</sup> Gentile worked 6.3 hours on this matter, for which she billed \$200 per hour.<sup>62</sup> Gentile's hourly rate is within the range of hourly rates charged by paralegals in Los Angeles and the San Francisco Bay Area.<sup>63</sup>

In addition to seeking fees for work performed by its own staff, CW seeks fees for 56.6 hours performed by its expert witnesses, AIS Risk Consultants, in the amount of \$40,389.<sup>64</sup> Allan I. Schwarz is an actuary with over 40 years of consulting actuarial experience.<sup>65</sup> He performed 34.3 hours of work on this matter at his rate of \$915 per hour. Data regarding consulting actuarial rates are typically not made public.<sup>66</sup> However, Schwarz's prior approved rates are known. For example, in 2021 and 2022, Schwarz's hourly rate was \$835 and \$870, respectively.<sup>67</sup> In a 2023 request for compensation, Schwarz's hourly rate of \$870 was deemed

---

<sup>56</sup> Powell Decl., ¶ 9.

<sup>57</sup> *Ibid.*

<sup>58</sup> Powell Decl., ¶ 10.

<sup>59</sup> Powell Decl., p. 19.

<sup>60</sup> Exh. 2, attached to Powell Decl.

<sup>61</sup> Powell Decl., ¶ 20.

<sup>62</sup> Powell Decl., p. 19.

<sup>63</sup> Exh. 2, attached to Powell Decl.

<sup>64</sup> Exh. 8, attached to Schwarz Decl.

<sup>65</sup> Schwarz Decl., ¶ 1.

<sup>66</sup> Schwarz Decl., ¶ 2.

<sup>67</sup> Schwarz Decl., ¶¶ 2-3.

reasonable for work performed in 2022.<sup>68</sup> His current rate of \$915 represents a 5.2% increase over his 2022 billing rate. This increase is lower than the rate of inflation in the U.S. for the same period.<sup>69</sup>

Katherine Tollar is an Actuarial Assistant with over 30 years of professional experience.<sup>70</sup> Tollar worked for 17.3 hours on this matter, for which she billed \$415 per hour.<sup>71</sup>

Marianne Dwyer is an Actuarial Assistant with over 30 years of professional experience.<sup>72</sup> She spent 5 hours on this matter, for which she billed \$365 per hour.<sup>73</sup>

## DISCUSSION

### **I. Prior Approval Framework and Public Participation**

The 1988 approval of Proposition 103 by California’s voters added Article 10, “Reduction and Control of Insurance Rates” to Division 1, Part 2, Chapter 9 of the Insurance Code. Proposition 103 establishes a system of “prior approval” for changes to insurance rates in automobile, home, and other property-casualty policies.<sup>74</sup> The application for rate change and any hearings arising therefrom are subject to public notice and scrutiny.<sup>75</sup> Thus, as of November 8, 1989, “insurance rates . . . must be approved by the Commissioner prior to their use.”<sup>76</sup>

Insurance Code section 1861.05(a) prohibits the Commissioner from approving any rate that is “excessive, inadequate, unfairly discriminatory, or otherwise in violation of this chapter,” or from allowing such rates to remain in effect. The primary consideration in the

---

<sup>68</sup> Schwarz Decl., ¶ 8.

<sup>69</sup> Schwarz Decl., fn. 5.

<sup>70</sup> Exh. 6, attached to Schwarz Decl.

<sup>71</sup> Exh. 8, attached to Schwarz Decl.

<sup>72</sup> Exh. 7, attached to Schwarz Decl.

<sup>73</sup> Exh. 8, attached to Schwarz Decl.

<sup>74</sup> Cal. Code Regs., tit. 10, § 1861.05, subd. (b).

<sup>75</sup> Cal. Code Regs., tit. 10, § 1861.05, subd. (c), and §§ 1861.06 – 1861.07.

<sup>76</sup> Cal. Code Regs., tit. 10, § 1861.01, subd. (c).

Commissioner's determination must be "whether the rate mathematically reflects the insurance company's investment income."<sup>77</sup>

In order to encourage consumer participation, Section 1861.10 of the Insurance Code authorizes any person to initiate a proceeding to enforce any provision of Proposition 103.<sup>78</sup> To that end, the Commissioner has promulgated regulations setting forth the substantive and procedural requirements for those seeking compensation under the code.<sup>79</sup> Given the statute's purpose to encourage public participation, the regulations should be liberally construed in favor of compensation.<sup>80</sup> The statute and regulations set forth both procedural and substantive requirements for an award of compensation.

Intervenors who represent the interests of consumers and make a substantial contribution to the adoption of any order, regulation, or decision by the Commissioner are to be compensated for reasonable advocacy and witness fees.<sup>81</sup>

#### **A. CW Met the Procedural Prerequisites to Compensation for Public Participation**

Before an intervenor may file a request for compensation, they must first obtain a finding from the Commissioner's Public Advisor that they are eligible to seek compensation—i.e., that they represent the interests of the consumer.<sup>82</sup> An intervenor is found to represent the interests of the consumer if it represents the interests of individual insurance consumer(s), or the intervenor is a group organized for the purpose of consumer protection as demonstrated by, but is not limited to, a history of representing consumers in administrative, legislative or judicial

---

<sup>77</sup> Ins. Code, § 1861.05, subd. (a).

<sup>78</sup> Ins. Code, § 1861.10, and *State Farm Insurance Co. v. Lara* (2021) 71 Cal.App.5th 197

<sup>79</sup> Cal. Code Regs., tit. 10, §§ 2661.3 – 2661.4.

<sup>80</sup> *State Farm Insurance Co. v. Lara*, *supra*, 71 Cal.App.5th 197.

<sup>81</sup> Ins. Code, § 1861.10, and Cal. Code Regs., tit. 10, § 2662.5.

<sup>82</sup> Cal. Code Regs., tit. 10, § 2662.3.

proceedings.<sup>83</sup>

Once granted, a Finding of Eligibility to Seek Compensation is valid in any proceeding in which the intervenor's participation commences within two years of the finding of eligibility, provided the intervenor still meets all the requirements in the initial request.<sup>84</sup>

In addition to establishing that it represents the interests of the consumer the intervenor must also submit a request for an award of compensation within 30 days after the Commissioner's decision or action in the proceeding for which intervention was sought, or within 30 days after conclusion of the entire proceeding.<sup>85</sup> A "proceeding" is any action conducted pursuant to Proposition 103, including a proceeding other than a rate proceeding.<sup>86</sup>

Failing to comply with the procedural as well as substantive requirements may be fatal to a Request for Compensation. For example, where the Commissioner failed to grant permission to intervene in a particular matter, a later request for compensation by the putative intervenor was denied.<sup>87</sup>

### **1. CW Represents the Interests of Consumers**

On July 26, 2022, the Commissioner issued CW its most recent Finding of Eligibility, effective for two years from July 12, 2022.<sup>88</sup> The Commissioner's finding of eligibility to seek compensation under Insurance Regulation 2662.2 is conclusive on this matter.

### **2. CW Made a Timely Request for Compensation**

CW filed the present RFC on April 11, 2023, less than 30 days from the Commissioner's March 14 approval of the Settlement Stipulation. Accordingly, CW has made a timely Request

---

<sup>83</sup> Cal. Code Regs., tit. 10, § 2661.1, subd. (j).

<sup>84</sup> Cal. Code Regs., tit. 10, § 2662.2

<sup>85</sup> Cal. Code Regs., tit. 10, § 2662.3, subd. (a).

<sup>86</sup> Cal. Code Regs., tit. 10, § 2661.2, subd. (f).

<sup>87</sup> RFC-2021-002.

<sup>88</sup> RFC, p. 2, fn. 3.

for Compensation, per Insurance Regulation section 2662.3, subdivision (a).

## **B. CW Met the Substantive Requirements for Compensation**

Once the intervenor has established that it is eligible to seek compensation, and has made a timely request for compensation, it must then establish that it has made a “substantial contribution” to the proceedings.

An intervenor’s contribution is substantial when, viewed as a whole, their contribution results in more relevant, credible, and non-frivolous information being available than would otherwise have been available to the Commissioner to make a decision.<sup>89</sup> In the context of an application for a rate change, a substantial contribution may be found whether a petition for hearing is granted or denied.<sup>90</sup> Moreover, the intervenor need not be a prevailing party in order to be deemed to have made a substantial contribution.<sup>91</sup>

### **1. CW Made a Substantial Contribution to the Commissioner’s Decision**

In its RFC, CW describes its asserted “substantial contribution” as: initiating the proceeding and raising issues through its Petition; identifying issues regarding Farmers’ payments of management fees and the proper accounting therefor; eliciting Farmers’ responses to its requests for information; teleconferences; and participation discussions leading to the Settlement Stipulation.

Of particular importance to the determination whether CW’s contribution was relevant, were the requests for information that prompted Farmers’ response thereto. In particular, Farmers’ December 7 response to CW’s November 21 request for information resulted in more relevant, credible, and non-frivolous information being available to the commissioner.

---

<sup>89</sup> Cal. Code Regs., tit. 10, § 2661.1, subd. (k).

<sup>90</sup> *Ibid.*

<sup>91</sup> *State Farm Insurance Co. v. Lara, supra*, 71 Cal.App.5th 197.

Specifically, this data came in the form of lists of other companies utilizing similar models for FFEQ losses, documentation of economic factors affecting damages claims, as well as graphic breakdowns and tables justifying the requested increase. Accordingly, CW has made a substantial contribution to these proceedings.

### **C. An Intervenor is Entitled to Reasonable Fees and Expenses**

Reasonable advocacy and witness fees are determined according to 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.<sup>92</sup> This standard is applied to attorney advocates, non-attorney advocates, and experts with similar experience, skill and ability. Reasonable, actual out of pocket costs may also be compensated.<sup>93</sup> Billing rates shall not exceed the market rate.<sup>94</sup>

The requirement that fees be reasonable preserves the Commissioner's discretion to reduce fees for unnecessary, excessive, or duplicative work.<sup>95</sup> For example, when an intervenor seeks contributions for efforts that were not authorized in the ruling on the Petition to Intervene, and when those efforts duplicate the contribution of another party, the request for compensation may be reduced accordingly.<sup>96</sup> An intervenor may not reopen matters that were decided prior to their petition being granted.<sup>97</sup> The intervenor is required to file a "detailed description of services and expenditures," "legible time and/or billing records," and citations to the record of the proceedings.<sup>98</sup>

---

<sup>92</sup> Cal. Code Regs., tit. 10, § 2661.1, subd. (c).

<sup>93</sup> Cal. Code Regs., tit. 10, § 2661.1, subds. (b) and (d).

<sup>94</sup> *Ibid.*

<sup>95</sup> *State Farm Insurance Co. v. Lara, supra*, 71 Cal.App.5th 197.

<sup>96</sup> Cal. Code Regs., tit. 10, § 2662.5, subd. (b).

<sup>97</sup> Cal. Code Regs., tit. 10, § 2661.3, subd. (h).

<sup>98</sup> Cal. Code Regs., tit. 10, § 2662.3, subd. (b).

## **1. Petitioner's Requested Fees are Reasonable.**

CW has provided detailed billing records for the staff and expert witnesses who worked on this matter. Moreover, it has established through the Declarations of Richard M. Pearl and Allan I. Schwarz that the hourly rates charged by its staff and expert witnesses were reasonable and/or comparable to services in the private sector in the Los Angeles and San Francisco Bay Area at the time they were incurred. Accordingly, CW's fees are reasonable.

## **CONCLUSIONS**

CW is entitled to advocacy and witness fees in the amount of \$82,814.50 for its substantial contribution to the *Matter of the Rate Application of Farmers Exchange, Fore Insurance, and Mid-Century Insurance Company*, PA-2022-00007. The award shall be paid by Respondent.

## **ORDER**

1. Consumer Watchdog is hereby awarded \$82,814.50 in advocacy fees in connection with the *Matter of the Rate Application of Farmers Exchange, Fore Insurance, and Mid-Century Insurance Company*, PA-2022-00007.

2. Respondent shall pay the award no later than thirty (30) days after the date of this Decision and shall notify the Department's Office of the Public Advisor<sup>99</sup> upon making payment.

Date: July 12, 2023

RICARDO LARA  
Insurance Commissioner

By:   
Alicia A. Clement  
Administrative Law Judge

---

<sup>99</sup> Jamie Katz, 1901 Harrison Street, 4<sup>th</sup> Floor, Oakland, California 94612 or jamie.katz@insurance.ca.gov.

## PROOF OF SERVICE

Case Name/Number: In the Matter of the Request for Compensation of  
**CONSUMER WATCHDOG**  
File No. **RFC-2023-006**

I, Camille E. Johnson, declare that:

I am employed by the California Department of Insurance, Administrative Hearing Bureau, in the City of Oakland and County of Alameda. I am over the age of eighteen (18) years and not a party to this action. My business address is 1901 Harrison Street, 3<sup>rd</sup> Floor, Oakland, CA 94612.

I am readily familiar with the business practices of the California Department of Insurance for collecting and processing correspondence for mailing, electronic filing and electronic mail. On July 12, 2023, I served the **DECISION AWARDING COMPENSATION** regarding in the **Matter of the Request for Compensation of CONSUMER WATCHDOG**.

X **(By U.S. Mail)** on those identified parties in said action, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013.

X **(By Intra-Agency Mail)** on those identified parties in said action, by placing this correspondence in a place designated for collection for delivery by Department of Insurance intra-agency mail.

       **(By Facsimile transmission)** on those identified parties in said action, by transmitting said document(s) from our office by facsimile machine to facsimile machine number(s) shown below. Following the transmission, I received a "Transmission Report" from our fax machine indicating that the transmission had been transmitted without error.

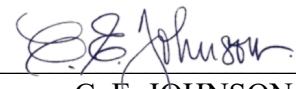
X **(By Email)** on those identified parties in said action, in accordance with Code of Civil Procedure §1013, by emailing true copies thereof at the address set forth below.

### ***SEE ATTACHED PARTY SERVICE LIST***

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed in Oakland, California, on July 12, 2023.

July 12, 2023

DATE



C. E. JOHNSON

## PARTY SERVICE LIST

### Name/Address

Harvey Rosenfield, SBN 123082  
Pamela Pressley, SBN 180362  
Benjamin Powell, SBN 311624  
Ryan Mellino, SBN 342497

### **CONSUMER WATCHDOG**

6330 San Vicente Boulevard, Suite 250  
Los Angeles, CA 90048  
Tel No.: (310) 392-0522  
Fax No.: (310) 392-8874  
[harvey@consumerwatchdog.org](mailto:harvey@consumerwatchdog.org)  
[pam@consumerwatchdog.org](mailto:pam@consumerwatchdog.org)  
[ben@consumerwatchdog.org](mailto:ben@consumerwatchdog.org)  
[ryan.m@consumerwatchdog.org](mailto:ryan.m@consumerwatchdog.org)

### Method of Service

(via Email and U. S. Mail)

Lisbeth Landsman-Smith  
Legal Division, Rate Enforcement Bureau  
**CALIFORNIA DEPARTMENT OF INSURANCE**  
1901 Harrison Street, 6<sup>TH</sup> Floor  
Oakland, CA 94612  
Tel. No.: (415) 538-4111  
Fax No.: (415) 904-5490  
[Lisbeth.Landsman@insurance.ca.gov](mailto:Lisbeth.Landsman@insurance.ca.gov)  
[Tina.Warren@insurance.ca.gov](mailto:Tina.Warren@insurance.ca.gov)

(via Email and Intra-agency Mail)

Richard De La Mora, Esq.  
Victoria McCarthy  
**FARMERS INSURANCE EXCHANGE**  
6301 Owensmouth Avenue  
Woodland Hills, CA 91367  
Tel. No.: (818) 865-0433  
[Richard.delamora@farmersinsurance.com](mailto:Richard.delamora@farmersinsurance.com)  
[Victoria.mccarthy@farmersinsurance.com](mailto:Victoria.mccarthy@farmersinsurance.com)

(via Email and U. S. Mail)

**NON-PARTY**

Jamie Katz

(via Email)

**CALIFORNIA DEPARTMENT OF INSURANCE**

Legal - Enforcement Bureau - Oakland

1901 Harrison Street

Oakland, CA 94612

Tel: (415) 538-4180

Fax: (510) 238-7830

[Jamie.Katz@insurance.ca.gov](mailto:Jamie.Katz@insurance.ca.gov)

## **EXHIBIT C**

**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF CALIFORNIA**

## INTRODUCTION

Consumer Watchdog (“CW” or Petitioner), files this Request for Compensation (RFC) in the amount of \$77,693.50, for its intervention in proceedings initiated by a Rate Application (RA) filed by CSAA Insurance Exchange (CSAA or Applicant). CSAA did not oppose the RFC. Upon consideration of all the facts and evidence in this case, and for the reasons explained below, the Request for Compensation is GRANTED.

## **FINDINGS OF FACT<sup>1</sup>**

On February 1, 2023, CSAA filed a Rate Application<sup>2</sup> with the Department, seeking a 25 percent increase in its Auto Liability and Physical Damage lines. Over the course of the ensuing investigation, the Department issued five objection letters.<sup>3</sup> CSAA responded to each of the Objection Letters in a timely fashion.<sup>4</sup> On April 10, 2023, CW filed a Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation.<sup>5</sup> In its Request for Hearing, CW provided a non-exhaustive list of issues related to the Rate Application that it intended to explore, along with a list of evidence it intended to produce.<sup>6</sup> On April 14, 2023, CSAA filed an Answer to the Request for Hearing, refuting CW's claims that the RA was actuarially unsound.<sup>7</sup> On April 24, 2023, the Department granted CW's Petition to Intervene.<sup>8</sup> In it, the Department found that CW "has raised and seeks to address issues that are relevant to the ratemaking process."<sup>9</sup>

On May 2, 2023, CW submitted a Request for Information to CSAA that sought responses to 24 separate inquiries.<sup>10</sup>

On May 3, 2023, CSAA submitted a "Response to Consumer Watchdog's Petition to

---

<sup>1</sup> All findings of fact in this matter are derived from the Petitioner's filings and attachments, and from the Department's official files. Neither CSAA nor the Department filed a response to the RFC.

<sup>2</sup> Rate applications may be found online at [https://interactive.web.insurance.ca.gov/apex\\_extprd/f?p=186:1:13936543914997](https://interactive.web.insurance.ca.gov/apex_extprd/f?p=186:1:13936543914997). An administrative agency may take official notice of its own records, such as the Rate Application filed with the Department of Insurance on February 1, 2023, and assigned State Tracking Number 23-385. (See Evid. Code, § 452, subd. (d).) Official Notice is hereby taken of the Rate Application number 23-385. Citations in this decision to the Rate Application ("RA") utilize the State Tracking # 23-385. Although the document does not contain continuous internal pagination, page numbers are referenced according to their order of appearance in the .pdf.

<sup>3</sup> RA #23-385, p. 4.

<sup>4</sup> *Ibid.*

<sup>5</sup> Exh. 3 attached to Declaration of Daniel L. Sternberg.

<sup>6</sup> Request for Hearing, ¶¶ 7-9.

<sup>7</sup> Answer to Request for Hearing.

<sup>8</sup> Ruling Granting Consumer Watchdog's Petition to Intervene.

<sup>9</sup> Ruling Granting Consumer Watchdog's Petition to Intervene, ¶ 5.

<sup>10</sup> Exh. B, attached to RFC.

Intervene.”<sup>11</sup> In its response, CSAA included argument and “a detailed explanation for how [it] derived the selected trends for the four largest coverages....”<sup>12</sup> It also provided excerpts of financial statements from 2020 and 2021 to support its variance for loss development.<sup>13</sup>

On May 4, 2023, CSAA provided an extensive “Response to Consumer Watchdog’s Requests for Information.” In its point-by-point response to CW’s information request, CSAA included, among other things, additional annual statements from 2019 through 2022, additional consolidated annual statements from 2019 through 2022, corrected tables of data (upon discovery of an error), and comparison data between the trends filed in the RA compared against the actuarial reserve report for 2022.<sup>14</sup>

On May 16, 2023, CW submitted a “Second Set of Requests for Information” to CSAA.<sup>15</sup>

On May 17, 2023, CSAA provided a detailed “Response to Consumer Watchdog’s Second Set of Requests for Information.”<sup>16</sup> In CSAA’s response to the second set of information requests, CSAA defined its newly-coined phrase, “*reverse catastrophe*” as “a rare phenomenon (once in a century) that led to *fewer* than expected losses.”<sup>17</sup> CSAA also provided additional data justifying its application of annual trends to trend historical losses to 2022 levels.<sup>18</sup>

On May 23, 2023, the parties and the Department participated in the first of two teleconferences.<sup>19</sup>

On June 20, 2023, in advance of a second teleconference scheduled for June 23, CSAA

---

<sup>11</sup> Exh. C, attached to RFC.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> Exh. D, attached to RFC.

<sup>15</sup> Exh. E, attached to RFC.

<sup>16</sup> Exh. F, attached to RFC.

<sup>17</sup> *Ibid.*, emphasis added.

<sup>18</sup> *Ibid.*

<sup>19</sup> Sternberg Decl., ¶ 43.

provided CW with advance copies of its yet-to-be filed updated rate templates.<sup>20</sup> CSAA prefaced its e-mail to which these updated rate templates were attached, with the statement, “These differ from the filing in selected trends, which we’ll be prepared to fully discuss on Friday.”<sup>21</sup> A second teleconference was convened on June 23, 2023.

On July 17, 2023, the parties entered into a settlement stipulation that includes a rate change of 16.7 percent, rather than the 25 percent increase sought in the RA.<sup>22</sup>

The Commissioner approved the Stipulated Settlement on July 20, 2023.<sup>23</sup>

In keeping with the terms of the Stipulated Settlement, CW subsequently withdrew its Petition for Hearing on July 28, 2023.<sup>24</sup>

At various times during their intervention, the attorneys for CW engaged in the following tasks: conferred regarding overall strategy and positions; drafted, reviewed, and edited CW’s filed documents; reviewed CSAA’s RA and updated filings; prepared the requests for information; exchanged correspondence regarding and participated in the two conference calls; consulted with CW’s actuary; negotiated the stipulated settlement; and drafted the Request for Compensation, including supporting declarations and exhibits.<sup>25</sup> In addition to this generalized list, CW includes detailed records of how each attorney, paralegal, and expert witness spent their time on this matter.

An extensive survey of hourly rates charged by attorneys in the Los Angeles area in 2022, correlated to their relative level of experience demonstrates that the rates CW charged in 2022 were comparable and competitive at that time.<sup>26</sup> In April 2023 the Department approved of

---

<sup>20</sup> Exh. G, attached to RFC.

<sup>21</sup> *Ibid.*

<sup>22</sup> RFC, pp.1, 8.

<sup>23</sup> RFC, p. 8.

<sup>24</sup> *Ibid.*

<sup>25</sup> Decl. of Sternberg, ¶ 8.

<sup>26</sup> Exh. 2, attached to Sternberg Decl.

CW's current hourly rates in its Ruling Granting Consumer Watchdog's Petition to Intervene in the Application of CSAA Insurance Exchange, application number 23-385.<sup>27</sup>

Pamela Pressley is an attorney with over 26 years of experience in consumer advocacy. She has spent 16 years as an attorney with CW, focusing primarily on insurance regulatory and litigation matters before the Department.<sup>28</sup> Detailed time records of Pressley's work demonstrate that she was heavily involved in this matter from its inception and continuing until the RFC was filed, from April through August 2023.<sup>29</sup> Pressley spent a total of 33.9 hours on this matter. At her hourly rate of \$595.00, she billed a total of \$20,170.50.<sup>30</sup>

Harvey Rosenfield is an attorney with over 40 years of experience in insurance regulatory and litigation matters.<sup>31</sup> As the author of Proposition 103, he has participated in a number of major lawsuits interpreting and enforcing the statute.<sup>32</sup> Detailed time records of Rosenfeld's work tend to demonstrate that he provided oversight ("review") of CSAA's RA from April through June 2023.<sup>33</sup> Rosenfield spent a total of 2.3 hours on this matter. At his hourly rate of \$695.00, his bill for services amounts to \$1,598.50.<sup>34</sup>

Daniel L. Sternberg is an attorney with seven years of professional experience in litigation and advocacy.<sup>35</sup> He has been with CW for less than a year, but has spent the majority of that time litigating matters before the Department.<sup>36</sup> Detailed records of Sternberg's work reveal that his involvement in this matter was concentrated on reviewing CW's correspondence with CSAA as well as CW's internal work product, including e-mails, requests for information,

---

<sup>27</sup> Exh. 5, attached to Sternberg Decl.

<sup>28</sup> Sternberg Decl., ¶13.

<sup>29</sup> Exh. 1a, attached to Sternberg Decl.

<sup>30</sup> Sternberg Decl., ¶ 7; Exh. 1a, attached to Sternberg Decl.

<sup>31</sup> Sternberg Decl., ¶ 9.

<sup>32</sup> *Ibid.*

<sup>33</sup> Exh. 1a, attached to Sternberg Decl.

<sup>34</sup> Sternberg Decl., ¶ 7; Exh. 1a, attached to Sternberg Decl.

<sup>35</sup> Sternberg Decl., ¶ 16.

<sup>36</sup> *Ibid.*

and settlement offers.<sup>37</sup> Sternberg spent a total of 36.2 hours on this matter. At his hourly rate of \$350.00 his bill for services amounts to \$12,670.00.<sup>38</sup>

Ryan Mellino was admitted to the California State Bar in 2022.<sup>39</sup> His professional experience includes work with the Legal Aid Foundation of Los Angeles, the ACLU, and the Los Angeles Homeless Services Authority, as well as CW.<sup>40</sup> Detailed records of Mellino's work show that he was only involved in this matter during May 2023 with regard to requests for information.<sup>41</sup> Mellino spent a total of 2.1 hours on this matter. At his hourly rate of \$250.00, his bill for services totals \$525.00.<sup>42</sup>

Kaitlyn Gentile is a paralegal at CW with over fourteen years of professional experience in litigation support. Gentile worked a total of 7.1 hours on this matter. Detailed time records of Gentile's work demonstrate that she was primarily engaged in preparing and finalizing the RFC during the month of August 2023.<sup>43</sup> At her hourly rate of \$200.00, her bill for services totals 1,420.00.<sup>44</sup>

Allan I. Schwartz is the President of AIS Risk Consultants, Inc., and is an actuary with over 40 years consulting actuarial experience.<sup>45</sup> He provided consulting actuarial services to CW on this matter, as he has in numerous Proposition 103 matters.<sup>46</sup> Detailed time records of Schwartz's work demonstrate that he spent larger blocks of time reviewing CSAA's initial filings, as well as its responses to CW's information requests in April and May 2023.<sup>47</sup> Schwartz

---

<sup>37</sup> Exh. 1a, attached to Sternberg Decl.

<sup>38</sup> Sternberg Decl., ¶ 7; Exh. 1a, attached to Sternberg Decl.

<sup>39</sup> Sternberg Decl., ¶ 20.

<sup>40</sup> *Ibid.*

<sup>41</sup> Exh. 1a, attached to Sternberg Decl.

<sup>42</sup> Sternberg Decl., ¶ 7; Exh. 1a, attached to Sternberg Decl.

<sup>43</sup> Exh. 1a, attached to Sternberg Decl.

<sup>44</sup> Sternberg Decl., ¶ 7; Exh. 1a, attached to Sternberg Decl.

<sup>45</sup> Schwartz Decl., ¶ 1.

<sup>46</sup> Schwartz Decl., ¶ 2.

<sup>47</sup> Exh. 8, attached to Schwartz Decl.

worked 41.7 hours on this matter.<sup>48</sup> At his hourly rate of \$915.00,<sup>49</sup> his bill for services totals \$38,155.50.<sup>50</sup>

Katherine Tollar is an Actuarial Assistant at AIS Risk Consultants, Inc., with over 20 years of professional actuarial experience.<sup>51</sup> Detailed records of Tollar’s work demonstrate that the majority of her time was spent on “trend and indication,” work, which was primarily performed during May and June 2023.<sup>52</sup> Tollar worked a total of 7.6 hours on this matter at her hourly rate of \$415.00, for which she billed \$3,154.00.<sup>53</sup>

In total, CW has established that its hourly rates, and the hours billed for services rendered in this matter are reasonable.

## DISCUSSION

### I. Prior Approval Framework and Public Participation

In California, insurance rates for automobile, home, and other property-casualty policies must be approved by the Commissioner prior to their use.”<sup>54</sup> Insurance Code section 1861.05, subdivision (a), prohibits the Commissioner from approving any rate that is “excessive, inadequate, unfairly discriminatory, or otherwise in violation of this chapter,” or from allowing such rates to remain in effect. The primary consideration in the Commissioner’s determination must be “whether the rate mathematically reflects the insurance company’s investment income.”<sup>55</sup>

---

<sup>48</sup> Exh. 8, attached to Schwartz Decl.

<sup>49</sup> Schwartz Decl., ¶ 6.

<sup>50</sup> Exh. 8, attached to Schwartz Decl.

<sup>51</sup> Exh. 6, attached to Schwartz Decl.

<sup>52</sup> Exh. 8, attached to Schwartz Decl.

<sup>53</sup> Exh. 8, attached to Schwartz Decl.

<sup>54</sup> Ins. Code, § 1861.01, subd. (c).

<sup>55</sup> Ins. Code, § 1861.05, subd. (a).

In order to foster “consumer participation in the rate-setting process,”<sup>56</sup> section 1861.10 of the Insurance Code authorizes any person to initiate a proceeding to enforce any provision of Proposition 103.<sup>57</sup> Intervenors who represent the interests of consumers and make a substantial contribution to the adoption of any order, regulation, or decision by the Commissioner are to be compensated for reasonable advocacy and witness fees.<sup>58</sup> To that end, the Commissioner has promulgated regulations setting forth the substantive and procedural requirements for those seeking compensation under the code.<sup>59</sup> These regulations are binding on the AHB and have the force of statute.<sup>60</sup> Given the statute’s purpose to encourage public participation, the regulations should be liberally construed in favor of compensation.<sup>61</sup>

#### **A. The Procedural Prerequisites for Compensation are Met**

Before an intervenor may file a request for compensation, they must first obtain a finding from the Commissioner’s Public Advisor that they are eligible to seek compensation—i.e., that they represent the interests of the consumer.<sup>62</sup> Once granted, a Finding of Eligibility to Seek Compensation is valid in any proceeding in which the intervenor’s participation commences within two years of the finding of eligibility, provided the intervenor still meets all the requirements in the initial request.<sup>63</sup> There is no dispute that CW is eligible to seek compensation in this case.

In addition to establishing that it represents the interests of the consumer the intervenor must also submit a request for an award of compensation within 30 days after the

---

<sup>56</sup> See *State Farm General Ins. Co. v. Lara* (2021) 71 Cal.App.5th 197, 215, citing *State Farm Mutual Automobile Ins. Co. v. Garamendi*, *supra*, 32 Cal.4th 1029.

<sup>57</sup> Ins. Code, § 1861.10, and *State Farm Insurance Co. v. Lara* (2021) 71 Cal.App.5th 197

<sup>58</sup> Ins. Code, § 1861.10, and Cal. Code Regs., tit. 10, § 2662.5.

<sup>59</sup> Cal. Code Regs., tit. 10, §§ 2661.3 – 2661.4.

<sup>60</sup> *Agriculture Labor Relations Board v. Superior Court* (1976) 16 Cal.3d 392.

<sup>61</sup> *State Farm Insurance Co. v. Lara*, *supra*, 71 Cal.App.5th 197.

<sup>62</sup> Cal. Code Regs., tit. 10, § 2662.3.

<sup>63</sup> Cal. Code Regs., tit. 10, § 2662.2

Commissioner's decision or action in the proceeding for which intervention was sought, or within 30 days after conclusion of the entire proceeding.<sup>64</sup> CW's RFC was filed on August 18, 2023, less than 30 days after the Commissioner approved the Stipulated Settlement on July 20, 2023. Accordingly, the RFC was timely filed.

## **B. The Substantive Requirements for Compensation are Met**

Once the intervenor has established that it is eligible to seek compensation, and has made a timely request for compensation, as CW has done here, it must then establish that it has made a "substantial contribution" to the proceedings.<sup>65</sup> The only *statutory requirements* for compensation are set out subdivision (b) of Insurance Code section 1861.10.<sup>66</sup> But the statutory language does not encapsulate the whole of the intervenor's obligation. The regulations adopted by the Insurance Commissioner fill in the details not specified by Proposition 103.<sup>67</sup> The regulations state that a "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 the Commissioner's decision than would have been available to the Commissioner had the intervenor not participated. A substantial contribution may be demonstrated without regard to whether a petition for hearing is granted or denied."<sup>68</sup>

---

<sup>64</sup> Cal. Code Regs., tit. 10, § 2662.3, subd. (a).

<sup>65</sup> Ins. Code, §1861.10, subd. (b); Cal. Code Regs., tit. 10, §§ 2661.2, subd. (k), and 2662.3, subd. (b)(3).

<sup>66</sup> *Association of California Insurance Companies v. Poizner* (2009) 180 Cal.App.4th 1029, 1047-1048.

<sup>67</sup> *Association of California Insurance Companies v. Poizner* (2009) 180 Cal.App.4th 1029, 1050.

<sup>68</sup> Cal. Code Regs., tit. 10, § 2661.2(k).

What constitutes a substantial contribution requires a fact-intensive analysis by the tribunal in which the matter originated.<sup>69</sup> And, while the intervenor's substantial contribution may be shown with documents,<sup>70</sup> it is incumbent on the intervenor to provide specific citations to its services and expenditures.<sup>71</sup> There is no question in this case that CW participated in the rate proceedings.

As a direct result of CW's participation in this case, CSAA produced additional analysis and data concerning the Trend Selection for Bodily Injury Property Damage, Comprehensive and Collision;<sup>72</sup> CSAA also provided several years' worth of Annual Statements and Consolidated Annual Statements;<sup>73</sup> and in connection with CW's inquiries, CSAA discovered and corrected several data errors.<sup>74</sup> Accordingly, CW has established that its intervention in this case made a substantial contribution to the Commissioner's ultimate approval of the stipulated settlement by providing more relevant credible, and non-frivolous information than would have been available had the intervenor not participated. Additionally, through detailed time records, rate surveys, and prior findings by the Department, CW has established that it charged market rates, as that phrase is defined by regulation.<sup>75</sup>

---

<sup>69</sup> *Economic Empowerment Foundation v. Quackenbush* (1997) 57 Cal.App.4th 677.

<sup>70</sup> *Association of California Insurance Companies v. Poizner* (2009) 180 Cal.App.4th 1029, 1040.

<sup>71</sup> *Economic Empowerment Foundation v. Quackenbush*, *supra*, 57 Cal.App.4th 677, 681; Cal.Code Regs., tit. 10, § 2662.5, subd. (a)(1).

<sup>72</sup> Exh. C, attached to RFC.

<sup>73</sup> Exh. D, attached to RFC.

<sup>74</sup> Exh. D, attached to RFC.

<sup>75</sup> Cal. Code Regs., tit. 10, § 2661.1, subd. (c).

## CONCLUSION

For the foregoing reasons, CSAA is entitled to expenses and advocacy fees *in the Matter of the Rate Application of CSAA Insurance Exchange*, Prior Approval File No. PA-2023-00004, in the amount of \$77,693.50.

## ORDER

1. Consumer Watchdog is hereby awarded \$77,693.50 in advocacy and expert witness fees in connection with CSAA's Rate Application (Prior Approval File No. *PA-2023-00004*).
2. CSAA shall pay the award no later than 30 days after the date of this Decision and shall notify the Department's Office of the Public Advisor<sup>76</sup> upon making payment.

Date: November 8, 2023

RICARDO LARA  
Insurance Commissioner

By:

  
Alicia A. Clement  
Administrative Law Judge

---

<sup>76</sup> Jon Phenix, Public Advisor, 1901 Harrison Street, 4th Floor, Oakland, CA 94612, or [jon.phenix@insurance.ca.gov](mailto:jon.phenix@insurance.ca.gov).

## PROOF OF SERVICE

Case Name/Number: In the Matter of the Request for Compensation of  
**CONSUMER WATCHDOG**  
File No. RFC-2023-011

I, Florinda Cristobal, declare that:

I am employed by the California Department of Insurance, Administrative Hearing Bureau, in the City of Oakland and County of Alameda. I am over the age of eighteen (18) years and not a party to this action. My business address is 1901 Harrison Street, 3<sup>rd</sup> Floor, Oakland, CA 94612.

I am readily familiar with the business practices of the California Department of Insurance for collecting and processing correspondence for mailing, electronic filing and electronic mail. On August 18, 2023, I served **DECISION AWARDING COMPENSATION** regarding **In the Matter of the Request for Compensation of Consumer Watchdog**.

**X** **(By U.S. Mail)** on those identified parties in said action, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013.

**X** **(By Intra-Agency Mail)** on those identified parties in said action, by placing this correspondence in a place designated for collection for delivery by Department of Insurance intra-agency mail.

**(By facsimile transmission)** on those identified parties in said action, by transmitting said document(s) from our office by facsimile machine Fax Number to facsimile machine number(s) shown below. Following the transmission, I received a "Transmission Report" from our fax machine indicating that the transmission had been transmitted without error.

**X** **(By Email)** on those identified parties in said action, in accordance with Code of Civil Procedure §1013, by emailing true copies thereof at the address set forth below.

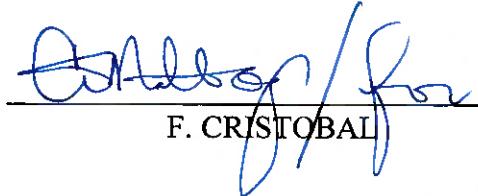
### ***SEE ATTACHED PARTY SERVICE LIST***

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed in Oakland, California, on August 18, 2023

November 8, 2023

(Date)

F. CRISTOBAL



## PARTY SERVICE LIST

<u>Name/Address</u>	<u>Method of Service</u>
Harvey Rosenfield, SBN 123082 Pamela Pressley, SBN 180362 Daniel L. Sternberg, SBN 329799 <b>Ryan Mellino, SBN 342497</b> <b>CONSUMER WATCHDOG</b> 6330 San Vicente Boulevard, Suite 250 Los Angeles, CA 90048 Tel No.: (310) 392-0522 Fax No.: (310) 392-8874 <a href="mailto:harvey@consumerwatchdog.org">harvey@consumerwatchdog.org</a> <a href="mailto:pam@consumerwatchdog.org">pam@consumerwatchdog.org</a> <a href="mailto:danny@consumerwatchdog.org">danny@consumerwatchdog.org</a> <a href="mailto:ryan.m@consumerwatchdog.org">ryan.m@consumerwatchdog.org</a>	via Email & U. S. mail
Lisbeth Landsman-Smith Melissa Wurster Sara Ahn Rate Enforcement Bureau <b>CALIFORNIA DEPARTMENT OF INSURANCE</b> 1901 Harrison Street, 4th Floor Oakland, CA 94612 Tel No.: (415) 538-4500 Fax No.: (510) 238-7830 <a href="mailto:Lisbeth.Landsman@insurance.ca.gov">Lisbeth.Landsman@insurance.ca.gov</a> <a href="mailto:Melissa.Wurster@insurance.ca.gov">Melissa.Wurster@insurance.ca.gov</a> <a href="mailto:Sara.Ahn@insurance.ca.gov">Sara.Ahn@insurance.ca.gov</a>	via Email & Intra-agency
Katherine Evans Vice President, Regulatory & Government Affairs <b>CSAA INSURANCE GROUP</b> 3055 Oak Road Walnut Creek, CA 94597 Tel No.: (925) 279-4152 <a href="mailto:Katherine.Evans@csaa.com">Katherine.Evans@csaa.com</a>	via Email & U. S. Mail

Bob Hoffman  
Dentons US LLP  
1999 Harrison St., Suite 1300  
Oakland, CA 94612-4709  
Tel. No.: (415) 882-5000  
Fax. No.: (415) 882-0300  
[Robert.hoffman@dentons.com](mailto:Robert.hoffman@dentons.com)

via Email & U. S. Mail

**NON-PARTY**

Jon Phenix  
Public Advisor & Attorney III  
Office of the Special Counsel  
**CALIFORNIA DEPARTMENT OF INSURANCE**  
300 Capitol Mall, 17th Floor  
Sacramento, CA 95814  
Tel. No.: (916) 492-3705  
Fax No.: (510) 238-7830  
[Jon.Phenix@insurance.ca.gov](mailto:Jon.Phenix@insurance.ca.gov)

(via Email)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**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 July 26, 2024, I caused service of true and correct copies of the document entitled

**CONSUMER WATCHDOG'S PETITION FOR HEARING, PETITION TO INTERVENE,**  
**AND NOTICE OF INTENT TO SEEK 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 July 26, 2024 at Los Angeles, California.

  
Kaitlyn Gentile

## Service List

1  
2 Nikki McKenna  
3 Rate Enforcement Bureau  
4 **California Department of Insurance**  
5 1901 Harrison Street, 6th Floor  
6 Oakland, CA 94612  
7 Tel. (415) 538-4500  
8 Fax (510) 238-7830  
9 Nikki.McKennedy@insurance.ca.gov

FAX  
 U.S. MAIL  
 OVERNIGHT MAIL  
 HAND DELIVERED  
 EMAIL

10  
11 Jon Phenix  
12 Public Advisor  
13 Edward Wu  
14 Acting Public Advisor  
15 Tina Warren  
16 Office of the Public Advisor  
17 **California Department of Insurance**  
18 300 Capitol Mall, 17th Floor  
19 Sacramento, CA 95814  
20 Tel. (916) 492-3705  
21 Fax (510) 238-7830  
22 Jon.Phenix@insurance.ca.gov  
23 Edward.Wu@insurance.ca.gov  
24 Tina.Warren@insurance.ca.gov

FAX  
 U.S. MAIL  
 OVERNIGHT MAIL  
 HAND DELIVERED  
 EMAIL

25  
26 Nicole Pettis  
27 Pricing Manager  
28 **State Farm**  
One State Farm Plaza  
Bloomington, IL 61710  
Tel. 309-766-2265  
nicole.pettis.m3ht@statefarm.com

FAX  
 U.S. MAIL  
 OVERNIGHT MAIL  
 HAND DELIVERED  
 EMAIL