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United Policyholders
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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

IN RE UNITED POLICYHOLDERS
REQUEST FOR GENERAL FINDING OF ELIGIBILITY
TO SEEK COMPENSATION AS A CONSUMER INTERVENOR
PURSUANT TO CALIFORNIA INSURANCE CODE §1861.10
AND CALIFORIA CODE OF REGULATIONS, TITLE 10 §2662.2

United Policyholders ("UP") respectfully submits this verified general Request for Finding of Eligibility to Seek Compensation (hereinafter "Request") as a consumer intervenor pursuant to California Insurance Code (hereinafter "Cal. Ins. Code") §1861.10 and California Code of Regulations (hereinafter "C.C.R."), title 10, Ch. 5 §2662.2. UP requests that if the Request is granted, it be valid for a duration of two years. UP represents the interests of California insurance consumers and accordingly, and for the reasons set forth below, respectfully, urges the Commissioner to grant the Request.

LEGAL AUTHORITY

Cal. Ins. Code §1861.10 states, in relevant part:

> Consumer Participation. (a) Any person may initiate or intervene in any proceeding permitted or established pursuant to this chapter, challenge any action of the commissioner under this article, and enforce any provision of this article. (b) The commissioner or a court shall award reasonable advocacy and witness fees and expenses to any person who demonstrates that (1) the person represents the interests of consumers, and, (2) that he or she has made a substantial contribution to the adoption of any order, regulation, or decision by the commissioner or a court. Where such advocacy occurs in response to a rate application, the award shall be paid by the applicant.

C.C.R., title 10, Ch. 5 §2662.2 states, in relevant part:

> (a) A person or group representing the interests of consumers may provide to the Public Advisor a request for finding of eligibility to seek compensation. The request shall be verified and may be verified by the intervenor's or participant's attorney and shall be submitted, at any time, in conjunction with an ongoing proceeding in which the individual or organization seeks to intervene. The request shall comply with sections 2652.1-2652.4 of this subchapter and shall include: (1) a showing by the intervenor or participant that it represents the interests of consumers, including a description of the previous work of the intervenor or participant...

I. UP REPRESENTS THE INTERESTS OF CALIFORNIA INSURANCE CONSUMERS THROUGH EDUCATION AND ADVOCACY PROGRAMS

United Policyholders (hereinafter "UP") is a non-profit, 501(c)(3) public benefit corporation, incorporated under the laws of the state of California (*see* Exhibit A – Articles of Incorporation). UP's mission is "to be a trustworthy and useful information resource and an effective voice for consumers of all types of insurance in all 50 states."[1] UP does not sell insurance or accept financial contributions from insurance companies. "UP give[s] [consumers] the straight scoop on insurance matters; guide[s] [consumers] through the claims process; answer[s] [consumer] questions; and fight[s] for [consumer] rights."[2] UP's website serves as an information clearinghouse for consumers on purchasing insurance, making claims, and policyholders legal rights.

UP was founded in 1991 after the Oakland-Berkeley Hills Firestorm to assist homeowners with insurance claim issues. Through its specialized knowledge of the insurance claims process and subject matter expertise, UP has been successfully guiding homeowners on the path to disaster recovery for almost 25 years. A diverse range of policyholders throughout California communicate on a regular basis with UP, which

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[1] To learn more about UP's mission, resources, and advocacy work, please visit www.uphelp.org.
[2] *See* http://uphelp.org/about/mission.

allows us to provide important and topical information to courts, legislators, regulators, and commentators, regarding insurance principles and reform proposals that are likely to impact large segments of the public and business community.

UP's work is divided in three programs: *Roadmap to Recovery*™, which provides tools and resources for solving insurance problems after an accident, loss, illness or other adverse event; *Roadmap to Preparedness*, which promotes disaster preparedness and insurance literacy through outreach and education in partnership with civic, faith based, business and other non-profit associations; and *Advocacy and Action*, which advances pro-consumer laws, regulations and public policy related to insurance matters, through legislative and regulatory engagement and the submission of *amicus curiae* briefs to appellate courts, which are authored on a *pro bono* basis by experienced insurance attorneys in consultation with UP staff.[3] Among other issues, UP's *Advocacy and Action* program is established to ensure that the rates, rules and forms used by insurance companies operating in California comply with state laws and regulations.

UP has a Board of Directors made up of disaster survivors, insurance lawyers, and claim and financial professionals.[4] It also includes the Executive Director who oversees daily operations and sets policy priorities.[5] UP's funding comes primarily from individual donors and charitable foundations, businesses, and government agencies. UP is based in

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[3] *See, e.g., amicus curiae* brief supporting Commissioner Dave Jones in *ACIC et al v. Dave Jones*, Case No. B248622, California Court of Appeal, Second Appellate District, Division One, 2014 (available at http://uphelp.org/association-california-insurance-companies-et-al-v-dave-jones-his-capacity-insurance-commissioner).

[4] *See* http://uphelp.org/about/board.

[5] *See* http://uphelp.org/about/staff.

San Francisco, California and employs four full-time staff members, including two attorneys. UP works nationally on issues affecting insurance consumers.

A. UP HAS A LONG AND DISTINGUISED HISTORY WORKING WITH THE CALIFORNIA GOVERNMENT ON INSURANCE MATTERS

UP has worked closely with many levels of California government, including the Governor's Office, the Department of Insurance, and the Legislature. UP's Executive Director has testified before the California Senate and Assembly on insurance matters, most recently on the issue of earthquake and catastrophic risk insurance availability and affordability on May 14, 2014 before the Senate Insurance Committee.[6]

UP has also been involved in the crafting and implementation of numerous legislative and regulatory proposals regarding insurance consumer issues over its decades-long history, including: Reforms to Cal. Ins. Code 2071 – Requirements in Case Loss Occurs[7]; Reforms to 790.03 – adoption of Fair Claims Settlement Practices Act; and AB 2064 – Reforms to earthquake insurance mandatory offer letter.[8] UP has recently assisted the Department and Legislature in evaluating industry proposals relating to insuring emerging technologies and risks (*e.g.*, Transportation Network Companies).[9]

UP also works closely with the Department and the Legislature on widespread issues affecting disaster survivors, including cancellations, non-renewals, and regulatory authority pertaining to mitigating pervasive underinsurance.[10] As part of the *Roadmap to*

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[6] UP's governmental advocacy work is catalogued at www.uphelp.org/programs/advocacyandaction.

[7] "...after a covered loss, the insurer shall provide, free of charge, a complete, current copy of this policy within 30 calendar days of receipt of a request from the insured..."

[8] *Supra*, note 3.

[9] *See* http://www.uphelp.org/sites/default/files/u3894/AB%202293%20United%20Policyholders.pdf

[10] *See, e.g.*, Ex. B., *amicus curiae* brief in *ACIC v. Jones*.

Recovery and *Roadmap to Preparedness* programs, UP regularly seeks input from policyholders around the state who face these challenges.[11]

B. UP WILL CONTRIBUTE SPECIALIZED KNOWLEDGE AND EXPERTISE THAT WILL BENEFIT CALIFORNIA CONSUMERS

UP seeks the Commissioner's approval to seek compensation as a consumer intervenor under Cal. Ins. Code §1861.10 and C.C.R. title 10 §2662.2 in order to assist the Department in evaluating property and casualty rate, rule and form filings required under Proposition 103. UP possesses specialized knowledge and expertise, gained through its decades of consumer–oriented advocacy work and a highly qualified staff and team of consultants who possess the legal, procedural, and actuarial knowledge and expertise necessary to effectively assist the Department as an intervenor.

Amy Bach, Esq, UP's Executive Director and lead counsel, has worked on issues affecting insurance consumers in California since 1988. Ms. Bach was involved in the rulemaking proceedings and implementation of Proposition 103 between 1989-1991 and co-founded UP in 1991 with Ina DeLong. Ms. Bach has been appointed for six consecutive terms as an official consumer representative to the National Association of Insurance Commissioners where she works closely with the California Department of Insurance and Commissioner Dave Jones on a variety of consumer issues.

Ms. Bach also served as counsel to a Special Master overseeing reforms at the Department of Insurance during the 1990s; served on the Product Enhancement Advisory Board to the California Earthquake Authority from 2006-2008; and was appointed to the Department's Consumer Advisory Task Force in 2008. Bach is a renowned speaker on

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[11] *See* http://www.uphelp.org/library/resource/survey_results.

consumer and insurance matters appearing in major news outlets, before professional associations, industry groups, and testifies regularly in Sacramento.

Daniel Wade is UP's Staff Attorney and works at the direction of Ms. Bach. UP will retain additional consultants with relevant professional experience as needed.

II. ATTACHED EXHIBITS

C.C.R., title 10, Ch. 5 §2662.2 also requires groups representing the interests of Consumers, such as United Policyholders, to attach the following as exhibits:

- Exhibit A: A copy of United Policyholders' articles of incorporation and by-law (Cal. Code. Regs., Tit. 10 §2662.2(a)(2)(A)).

- Exhibit B: Approximate number of current members of United Policyholders' (Cal. Code. Regs., Tit. 10 §2662.2(a)(2)(B).

- Exhibit C: A list of the names of the members of United Policyholder's current Board of Directors (Cal. Code. Regs., Tit. 10 2662.2(a)(2)(C)).

- Exhibit D: United Policyholders' newsletter circulation and a representative sample (Cal. Code. Regs., Tit. 10 2662.2(a)(2)(D)).

- Exhibit E: United Policyholders' annual or year-end report for the prior year (see above) (Cal. Code. Regs., Tit. 10 2662.2(a)(2)(E)).

- Exhibit F: Statement that United Policyholders has been granted non-profit status under Internal Revenue Service Code 501(c)(3) (No. 94-3162024) (Cal. Code. Regs., Tit. 10 2662.2(a)(2)(F)).

- Exhibit G: A listing, by general category, of United Policyholders' funding sources for the prior 24 months and the approximate total percentage of United Policyholders' annual budget from each funding category. Each foundation, corporate, business, or government agency grant is listed individually Cal. Code. Regs., Tit. 10 2662.2(a)(2)(G).

III. UP RESPECTFULLY REQUESTS THAT THE COMMISSIONER FIND UP ELIGIBLE TO SEEK INTERVENOR COMPENSATION

UP is committed to working on behalf of insurance consumers and accordingly, respectfully, urge that the Commissioner grant the Request. If the Request is granted, UP will review property and casualty rate, rule and form filings and, where appropriate, petition for hearings to in order to represent consumers' interest in ensuring that Applicants' filings comply with California law and regulations. UP may also seek to participate in proceedings other than rate hearings in an effort to assist the Department and represent the interest of consumers in the rulemaking process. UP believes that it has complied with all procedural and filing requirements and accordingly asks that the Public Advisor certify the filing of this Request as complete. Additionally, UP respectfully requests that the Commissioner determine that UP represents the interests of insurance consumers and accordingly shall be awarded reasonable costs and fees for matters in which UP meets the Requirements for Awards pursuant to C.C.R. title 10 §2662.5.

Dated: February 18, 2015

Submitted Respectfully,

Amy R. Bach, Esq.
Executive Director

VERIFICATION

I am the Executive Director of United Policyholders and I am authorized to make this verification on its behalf. I verify that the information contained in these documents, that is based upon my first hand knowledge, is true and correct. TO the extent that the information is not based upon my first hand knowledge, the truth of the matters set forth are based upon information and belief, are of a type easily determined to be true and correct and I believe the information to be true and correct.

Please be advised that United Policyholders has been granted §501(c) status by the Internal Revenue Service (Cal. Code. Regs. §2662(a)(2)(F)).

I declare under penalty of perjury the foregoing is true and correct.

Dated: February 18, 2015

Submitted Respectfully,

Amy R. Bach, Esq.
Executive Director

SERVICE LIST

Via email and U.S. Mail

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