

Harvey Rosenfield (SBN 123082)
Pamela Pressley (SBN 180362)
CONSUMER WATCHDOG
2701 Ocean Park Blvd., Suite 112
Santa Monica, CA 90405
Tel. (310) 392-0522
Fax (310) 392-8874
harvey@consumerwatchdog.org
pam@consumerwatchdog.org

Attorneys for CONSUMER WATCHDOG

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of the Rate Application of
CSAA Insurance Exchange,
Applicant.

File No. PA-2014-00005

**CONSUMER WATCHDOG'S REQUEST
FOR COMPENSATION**

TABLE OF CONTENTS

I. INTRODUCTION	1
II. CONSUMER WATCHDOG IS ELIGIBLE TO SEEK COMPENSATION IN THIS PROCEEDING, AND ITS REQUEST IS TIMELY.	2
III.SUMMARY OF THE PROCEEDING	3
A. Consumer Watchdog Petitioned for a Hearing, Identifying Several Issues with CSAA’s Application.	3
B. CSAA and Consumer Watchdog Provided Additional Information and Participated in Discussions with the Parties Regarding the Issues Identified in the Petition and Additional Submissions.	4
C. The Commissioner Approved the Application as Amended.....	6
IV. CONSUMER WATCHDOG IS ENTITLED TO AN AWARD OF ITS REASONABLE ADVOCACY AND WITNESS FEES.	7
A. Consumer Watchdog Made a Substantial Contribution to the Commissioner’s Final Decision.	7
B. Consumer Watchdog’s Requested Fees Are Reasonable.....	9
C. Consumer Watchdog’s Expert Fees Are Reasonable.....	11
V. CONCLUSION	12

I. INTRODUCTION

Consumer Watchdog (“CWD”), Intervenor in the above-entitled proceeding, submits this Request for Compensation (“Request”) pursuant to Insurance Code section 1861.10, subdivision (b), and the intervenor regulations, California Code of Regulations, title 10 (“10 CCR”), § 2661.1 et seq. This Request seeks compensation in the total amount of \$51,774.50¹ for CWD’s substantial contribution to the Insurance Commissioner’s (“Commissioner”) decision to approve the rate application (File No. 14-3851 [“Application”]) of CSAA Insurance Exchange (hereinafter “CSAA” or “Applicant”). Although Consumer Watchdog did not stipulate to the final rate approved, its participation meets the substantial contribution requirements for an award of compensation. This Request includes time spent working on this matter, including preparing this Request, through November 26, 2014. This Request is based on the facts and circumstances of this matter as summarized below, supporting exhibits, the record in this matter, and the accompanying Declaration of Pamela Pressley (“Pressley Decl.”).

CWD initiated this proceeding when it filed a Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation (“Petition”) on July 21, 2014, identifying several issues contributing to the excessiveness of the Application’s proposed overall rate, including an unreasonably high catastrophe provision, use of a loss development method and loss and premium trends that were not the most actuarially sound, the failure to account for any institutional advertising costs as excluded expenses, inappropriate projected yield calculations, an unjustified leverage factor variance request, and the lack of justification for CSAA’s proposed Membership Discount.

CWD represented the interests of consumers and policyholders by raising issues in its Petition and subsequent written analyses that were separate and distinct from those raised by the Department. Moreover, after the Commissioner granted CWD intervention in the proceedings, CWD’s attorneys and actuary actively participated in both telephonic and written discussions with the Department and CSAA regarding the issues in dispute. (CWD, the Department, and CSAA will be collectively referred to as the “Parties.”) In response to the allegations in CWD’s Petition, subsequent written analysis, and issues

¹ CWD seeks advocacy fees and expenses in the amount of \$18,530.00 for the work of CWD’s counsel and paralegal, and seeks \$33,244.50 in fees billed by its consulting actuary and expert witness, Allan I. Schwartz. (See Exh. A (attached) for a summary of the fees and expenses requested.)

1 raised by CWD in discussions with the Parties, CSAA presented additional, relevant information,
2 argument, and analysis to the Department that the Commissioner had available in order to make his
3 decision.

4 As a result, CWD substantially contributed to the Commissioner's decision approving a 3.0%
5 rate increase, which was 3.9% lower than the rate originally requested by CSAA. In light of the
6 substantial contribution CWD made to the Commissioner's decision in this proceeding, as discussed
7 further below, the compensation sought for its advocacy and expert witness fees is abundantly
8 reasonable.

9 **II. CONSUMER WATCHDOG IS ELIGIBLE TO SEEK COMPENSATION IN THIS**
10 **PROCEEDING, AND ITS REQUEST IS TIMELY.**

11 The intervenor regulations provide, in part:

12 A petitioner, intervenor or participant whose Petition to Intervene or Participate has been
13 granted and who has been found eligible to seek compensation may submit to the Public
14 Advisor, within 30 days after the service of the order, decision, regulation or other action
15 of the Commissioner in the proceeding for which intervention was sought, or at the
16 requesting petitioner's, intervenor's or participant's option, within 30 days after the
17 conclusion of the entire proceeding, a request for an award of compensation.

18 (10 CCR § 2662.3(a).) CWD is a long-time participant and intervenor in Department proceedings and a
19 nationally recognized consumer advocacy organization. The Commissioner issued a Finding of
20 Eligibility on July 24, 2014, effective immediately, in which he found Consumer Watchdog eligible for
21 compensation and that CWD "represents the interests of consumers."² The Commissioner granted
22 CWD's Petition to Intervene in this proceeding on or about August 1, 2014. (See Ruling Granting
23 Consumer Watchdog's Petition to Intervene, August 1, 2014, p. 5.) Thus, Consumer Watchdog is
24 eligible to seek compensation in this matter.

25 Pursuant to 10 CCR § 2662.3(a), a request for compensation is due 30 days after service of the
26 Commissioner's decision in the proceeding or 30 days after conclusion of the entire proceeding. The
27 Commissioner issued a Decision Denying CWD's Petition for Hearing on November 7, 2014.

28 ² Consumer Watchdog's current Finding of Eligibility succeeded prior determinations issued on July 24,
2012; July 2, 2010; August 25, 2008; July 14, 2006; July 2, 2004; June 20, 2002; October 1, 1997;
September 26, 1995; September 27, 1994; and September 13, 1993.

1 Accordingly, CWD's Request is timely under 10 CCR § 2662.3(a) by being filed within 30 days of
2 November 7.

3 **III. SUMMARY OF THE PROCEEDING**

4 For the purpose of demonstrating CWD's substantial contribution to the Commissioner's
5 decision in this proceeding and to demonstrate the reasonableness of the advocacy and expert witness
6 fees requested, set forth below is a summary of CWD's participation in this matter.

7 **A. Consumer Watchdog Petitioned for a Hearing, Identifying Several Issues with CSAA's 8 Application.**

9 On or about May 22, 2014, CSAA filed its Application with the Department, seeking approval of
10 a rate change to its personal lines of homeowners insurance Renters Program of 6.9%. (Pressley Decl.,
11 ¶29.) The Department notified the public of the Application on or about June 6, 2014. (*Ibid.*)

12 Upon receipt of the Application, CWD and its actuarial expert, Allan I. Schwartz, reviewed the
13 Application in detail and determined that the rate change, as described in the Application, may result in
14 potentially excessive and/or unfairly discriminatory rates in violation of Proposition 103 and the
15 applicable regulations.

16 On July 21, 2014, pursuant to Insurance Code section 1861.10(a), CWD filed its Petition.
17 (Pressley Decl., ¶31.) In its Petition, CWD specifically identified the following reasons, among others,
18 why CSAA's proposed rates violated Proposition 103 and the applicable regulations: (1) CSAA's
19 catastrophe provision was unreasonably high; (2) CSAA failed to prove that the paid development
20 method used in the filing was the most actuarially sound; (3) CSAA's selected loss trend overstated
21 projected losses resulting in an inflated rate indication, and CSAA failed to prove that these trend
22 selections were the most actuarially sound; (4) CSAA based the excluded expenses on data from the
23 2012 annual statement, even though the filing was submitted after the 2013 Annual Statement was
24 available and failed to account for any excluded institutional advertising expenses; (5) CSAA used
25 inconsistent time periods for calculating its projected yield by using October 2013 bond yields and the
26 April 2014 risk free rate as well as basing the yield calculations on annual statement data from 2012; (6)
27 CSAA's 15% requested leverage factor variance contained insufficient evidence to show that the "mix
28 of business presents investment risks different from the risks that are typical of the line as a whole"; (7)

1 the overall rate change of 6.9% in Exhibit 15 of the Application was inconsistent with the base rate and
2 membership discount changes shown; and (8) Exhibit 16 of the Application failed to provide
3 justification for the size of the proposed Membership Discount (Petition, ¶7).

4 CSAA filed its Answer to CWD's Petition on July 28, 2014. (Pressley Decl., ¶32.) On August
5 1, 2014, the Commissioner granted CWD's Petition to Intervene. (*Ibid.*)

6 **B. CSAA and Consumer Watchdog Provided Additional Information and Participated in**
7 **Discussions with the Parties Regarding the Issues Identified in the Petition and Additional**
8 **Submissions.**

9 On August 26, 2014, after the Commissioner granted CWD's Petition to Intervene but prior to
10 the initial teleconference, CWD sent the Parties its actuary's initial analysis of CSAA's rate application.
11 (Exh. B [AIS Review of CSAA Insurance Exchange, Tenants Homeowners, CDI File No. 14-3851,
12 Dated August 26, 2014].) CWD's analysis showed that a -5.5% rate decrease was indicated taking into
13 account all the issues raised in CWD's petition. (Pressley Decl., ¶33.)

14 On that same day, the Parties engaged in their first teleconference to discuss CSAA's
15 Application and the issues raised by CWD's Petition and analysis. During this conference call, the
16 Parties discussed their respective loss trend and loss development selections and positions on the
17 leverage variance, with the CDI preliminarily agreeing with CWD that the variance request was not
18 supported. Additionally, CWD's actuary raised the issue of institutional advertising expenses by asking
19 questions about the content of some of the exemplar ads CSAA provided to the Department. CWD's
20 actuary agreed to provide a more detailed analysis and CSAA agreed that it would provide additional
21 information responsive to the concerns raised by the Department and CWD in one week. The call
22 concluded with the agreement that the parties would reconvene on September 11, 2014. (Pressley Decl.,
23 ¶34.)

24 On September 2, 2014, CSAA responded to issues raised during the August 26, 2014
25 teleconference and provided additional supporting documents to the Parties. (Pressley Decl., ¶35; Exh. C
26 [CSAA's 9/2/14 email transmitting attachments].)

27 On September 3, 2014, CWD provided the parties with additional written analysis from its
28 actuary regarding issues included in its initial August 26 rate indication analysis and discussed during
the August 26, 2014 teleconference. These issues included (1) loss trends; (2) excluded expenses; (3)

1 loss development; (4) catastrophe adjustment factor; (5) leverage factor variance; (6) AAA membership
2 discount; and (7) inconsistent rating values. (Pressley Decl., ¶36; Exh. D [CWD's 9/3/14 additional
3 analysis].)

4 On September 9, 2014, CSAA provided the Department with additional documents responsive to
5 issues raised during the August 26, 2014 teleconference. CWD was not provided with these documents
6 until September 10, 2014, less than 24 hours ahead of the September 11, 2014 teleconference with the
7 Parties. On the evening of September 10, 2014, CSAA also responded to CWD's September 3, 2014
8 additional analyses addressing the points raised by CWD and providing additional supporting documents
9 to the Parties. (Pressley Decl., ¶37; Exhs. E [CSAA's 9/9/14 email transmitting attachments] and F
10 [CSAA's 9/10/14 email transmitting attachments].)

11 On September 11, 2014, the Parties held their second teleconference. The Department raised
12 several issues and CWD provided some additional analysis and had questions for CSAA on the call
13 based on the limited time it had to review CSAA's September 10 responses. The Department indicated
14 on the call that after its review, it found CSAA would not qualify for its requested variance. CSAA
15 agreed to provide additional information and the Parties decided to reconvene on September 30, 2014.
16 On September 11, 2014, after further review of CSAA's September 10 responses, CWD provided
17 written questions to CSAA regarding (1) an explanation for the large changes in the payment of claims
18 between quarters; (2) information showing the split of total CSAA HO business between forms: HO-3,
19 HO-4 and HO-6 for the first and second quarters of 2014; (3) the numerator and denominator used to
20 calculate the ratios shown in Attachment D-1; and (4) a complete listing and description of the premium
21 charges, along with the corresponding amount of premium, not impacted by base rate change. (Pressley
22 Decl., ¶38; Exh. G [CWD's 9/11/14 email].)

23 On September 23, 2014, CSAA provided responses to CWD's September 3 analysis and
24 September 11 written questions. CSAA addressed issues raised by CWD and provided additional
25 supporting documents to the Parties. (Pressley Decl., ¶39; Exh. H [CSAA's 9/23/14 email transmitting
26 attachments].)

27 On September 30, 2014 the Parties participated in their third teleconference. The Parties
28 reviewed CSAA's breakdown for institutional advertising expenses. CWD stated its concern on how

1 this money was tracked and spent and the Department agreed that there was a lack of clarity, justifying a
2 reduction. The Parties went on to discuss outstanding issues with CSAA's reported claims frequency,
3 loss trends, and discounts for AAA members. The Parties agreed to hold another teleconference on
4 October 9, 2014. (Pressley Decl., ¶40.)

5 On October 9, 2014 the Parties participated in a fourth teleconference. The Department offered
6 the following two proposals to the Parties to resolve the remaining disputes: (A) that CSAA accept an
7 overall 3.9% rate increase, which was approximately the rate indication calculated by CDI's actuary,
8 and be required to submit a new filing in 18 months time; or (B) that CSAA accept a 3% rate increase
9 with no additional filing requirements. The Department asked the Parties to respond to its proposal by
10 October 14, 2014. CSAA replied to the Department in its October 14, 2014 letter accepting the
11 Department's proposal of a 3% increase with no commitment on future homeowners filings. CWD
12 responded in an email dated October 14, 2014 to the Parties stating that it was willing to agree to the 3%
13 rate increase on the conditions that (1) CSAA would file a rate application on its tenant form within 18
14 months to allow for additional data to be included; and (2) CSAA would file a rate application on its
15 remaining homeowners forms within three months. (Pressley Decl., ¶41.)

16 On October 22, 2014, CWD wrote a letter to the Department restating its proposed conditions for
17 CSAA in its October 14, 2014 email to the Parties. CWD raised issue with the fact that (1) CSAA was
18 refusing to provide updated loss data that would show whether the rate increase was justified; and (2)
19 CSAA was making no other filing on its other homeowners policy forms while enjoying loss ratios of
20 less than 40%. CWD urged the Department to require CWD's proposed conditions or to require CSAA
21 to file updated loss data through the 3rd quarter of 2014. The Department responded in its letter dated
22 October 23, 2014 that it had received CWD's proposals and that it would keep them apprised of its
23 decision. Subsequently, the Department determined to approve the Application for an overall 3% rate
24 increase with no additional filing requirements. (Pressley Decl., ¶42.)

25 **C. The Commissioner Approved the Application as Amended.**

26 On November 11, 2014, the Department issued its Decision Denying Petitioner's Petition for
27 Hearing and approving the Application as amended for an overall 3% rate increase. The Decision
28 details each of Consumer Watchdog's allegations and the Department's responses thereto. (Decision, pp.

2-5.) For example, the Department agreed with Consumer Watchdog on several issues, including that the paid severity trend chosen by CSAA was not the most actuarially sound (Decision, p. 3), that CSAA had failed to properly account for excluded institutional advertising expenses (*id.*, p. 4), that CSAA should use a consistent basis for its bond yields and the risk free rate (*ibid.*), that CSAA was not entitled to the leverage variance (*ibid.*), that CSAA needed to provide additional support for its membership discount (*id.*, p. 5). With these adjustments, the Department concluded that a 3.0% increase, rather than the 6.9% increase requested by CSAA, was justified. (*Ibid.*)

The overall rate increase of 3.0% approved by the Commissioner resulted in savings of nearly \$818 thousand for CSAA's tenants insurance consumers, as compared to the original 6.9% increase requested by CSAA.³ (Pressley Decl., ¶44.)

IV. CONSUMER WATCHDOG IS ENTITLED TO AN AWARD OF ITS REASONABLE ADVOCACY AND WITNESS FEES.

A. Consumer Watchdog Made a Substantial Contribution to the Commissioner's Final Decision.

Proposition 103 requires awards of reasonable advocacy and witness fees and expenses for persons who represent the interests of consumers and who make a "substantial contribution" to decisions or orders by the Commissioner or a court. Insurance Code section 1861.10(b), states:

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. (Emphasis added.)

As the emphasized language makes clear, when the statutory criteria are met, an award of reasonable advocacy fees and expenses is mandatory. This provision affords insurance consumers the ability to have their interests represented on an equal basis with the interests of insurers and facilitates consumer participation in the enforcement of Proposition 103. (See *Economic Empowerment Foundation v. Quackenbush* (1997) 57 Cal.App.4th 677, 686 [the purpose of intervenor fees is to encourage consumer

³ +3.0% (approved rate) – 6.9% (requested rate) = -3.9%. \$20.967 million (Year Ending Sept 2013 Premium at Present Level) x 3.0% = \$818 thousand (consumer savings).

1 participation].) Moreover, the courts have held that section 1861.10(b) should be applied in a manner
2 “which best facilitates compensation.” (*Id.* at 686.)

3 Under the intervenor regulations,

4 “Substantial Contribution” means that the intervenor substantially contributed, as a
5 whole, to a decision, order, regulation, or other action of the Commissioner by
6 presenting relevant issues, evidence, or arguments which were separate and distinct
7 from those emphasized by the Department of Insurance staff or any other party, such
8 that ***the intervenor’s participation resulted in more credible, and non-frivolous***
9 ***information being available for the Commissioner to make his or her decision than***
10 ***would have been available to a Commissioner had the intervenor not participated.***

A substantial contribution may be demonstrated without regard to whether a petition
for hearing is granted or denied.

(10 CCR § 2661.1(k), emphasis added.)

11 The detailed summary of this proceeding presented above, the accompanying Pressley
12 Declaration, and the record in this proceeding makes clear that CWD presented relevant issues and
13 arguments that were separate and distinct from those presented by the Department. Among other things:
14 (1) CWD’s Petition and subsequent written analysis and requests for information presented issues
15 and analysis that were separate and distinct from the Department’s; (2) CWD presented arguments and
16 issues during the Parties’ teleconferences that were separate and distinct from the Department; and (3)
17 CSAA provided additional information in response to CWD’s analysis and requests. (See Pressley Decl.,
18 ¶¶29-44.)

19 As a result of CWD’s participation, the Commissioner had more credible, and non-frivolous
20 information available to make his decision in this matter than if CWD had not participated. CWD’s
21 substantial contribution in this proceeding, as detailed in section III above and in the accompanying
22 Pressley Declaration and further evidenced by the record in this matter, is demonstrated by at least the
23 following:

- 24 ➤ CWD’s Petition and subsequent analysis identified several issues with the CSAA’s filing that
25 were potential violations of Proposition 103 and the regulations, including use of an
26 unreasonably high catastrophe provision, use of a loss development method and loss trends that
27 were not the most actuarially sound, the failure to account for any institutional advertising costs
28 as excluded expenses, inappropriate projected yield calculations, an unjustified leverage factor

1 variance request, and the lack of justification for the size of its proposed Membership Discount.
2 (Petition, pp. 3-5.) In response, CSAA provided the Department with additional requested
3 information on its application and exhibits to address most of these issues. (Decision, pp. 2-4.)

- 4 ➤ CWD elicited further explanation and documentation from CSAA regarding its Application and
5 subsequent submissions.
- 6 ➤ CWD attorneys and actuary participated in four teleconferences requested by the Department and
7 communicated to all Parties via numerous emails. CWD requested and obtained additional
8 information from CSAA that was separate and distinct from the information sought by the
9 Department Staff.
- 10 ➤ The Commissioner approved the Application after receiving additional information from CSAA
11 in response to CWD's allegations.

12 In sum, CWD's separate and distinct presentation of relevant issues, evidence, and argument
13 provided in its Petition and written analyses and discussions with the Parties, as well as the additional
14 information it elicited from CSAA in the company's responses to CWD's questions and requests, clearly
15 meets the "substantial contribution" requirement of the Insurance Code and the regulations, having
16 resulted in more relevant, credible, and non-frivolous information being available to the Commissioner
17 in making his final decision approving the Application than if CWD had not participated.

18 **B. Consumer Watchdog's Requested Fees Are Reasonable.**

19 For its substantial contribution, Consumer Watchdog requests reasonable advocacy fees in the
20 amount of \$18,530.00 for the work of its counsel and paralegal. The requested fees, including the total
21 hours of work performed, and the hourly rates of each Consumer Watchdog attorney and paralegal are
22 summarized in the attached Exhibit A, "Summary of Fees." Insurance Code section 1861.10,
23 subdivision (b), requires an award of all "reasonable advocacy and witness fees" once the requirements
24 of the statute are met, including making a substantial contribution. The procedural history of this matter
25 set forth above and supported by the Pressley Declaration demonstrates the reasonableness of the
26 compensation requested in light of the amount of work performed. The procedural history and CWD's
27 time records (Pressley Decl., Exh. 1a) also demonstrate the work CWD performed in this proceeding.

1 As required by the regulations, the specific tasks performed by CWD’s attorneys and paralegal
2 are set forth in its detailed time records attached as Exhibit 1a to the Pressley Declaration. (See Pressley
3 Decl., ¶3 & Exh. 1a.) These time records were maintained contemporaneously, and reflect the actual
4 time spent and actual work performed, billed to the tenth of an hour, by all CWD legal staff who worked
5 on this matter. (Pressley Decl., ¶6.) In preparing their respective time records for this request, CWD’s
6 legal staff exercised billing judgment and eliminated time entries where appropriate. (Pressley Decl.,
7 ¶5.) CWD submits that the time expended and work performed in the proceeding, as reflected in the
8 time records, was reasonable and appropriate, and the minimum required to make a substantial
9 contribution in this proceeding and to achieve the result obtained. (*Ibid.*)

10 The 2014 hourly rates set forth in Exhibit A are also reasonable and consistent with prevailing
11 market rates. The intervenor regulations specify, “[t]he compensation awarded ***shall equal the market***
12 ***rate*** of the services provided.” (10 CCR § 2662.6(b), emphasis added.) “Market rate” is defined as the
13 “prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay
14 Areas ***at the time of the Commissioner’s decision awarding compensation for attorney advocates***, non-
15 attorney advocates, or experts with similar experience, skill and ability.” (10 CCR § 2661.1(c)(1),
16 emphasis added.)

17 The qualifications and experience of CWD’s legal staff who performed work in this matter,
18 Pamela Pressley, Harvey Rosenfield, Laura Antonini, and Jason Roberts, are summarized in the Pressley
19 Declaration. (Pressley Decl., ¶¶9-11, 13-16, 18-20, 22-24.) The 2014 hourly rates of CWD’s attorneys
20 and paralegal are consistent, if not less than, the prevailing market rates for attorneys and paralegals of
21 comparable skills and experience in the Los Angeles and San Francisco Bay Areas. (Pressley Decl.,
22 ¶¶12, 17, 21, 25; see also *id.*, Exh. 2.)

23 The Declaration of Richard M. Pearl (“Pearl Decl.”), attached as Exhibit 2 to the Pressley
24 Declaration, also confirms that the requested rates for CWD’s counsel are consistent with prevailing
25 market rates. The Pearl Declaration was filed in December 2013 in connection to another rate
26 proceeding at the Department, but it is recent and equally applicable to this proceeding given that CWD
27 is using the same billing rates for its legal staff in this proceeding. Mr. Pearl is a recognized expert on
28 attorneys’ fees issues under California law. (See Pressley Decl., Exh. 2 [Pearl Decl.], ¶¶3-6.) The Pearl

1 Declaration shows that CWD counsel's 2014 rates are well within the range of non-contingent rates
2 charged by California attorneys in the San Francisco Bay and Los Angeles areas of equivalent
3 experience, skill, and expertise for comparable services. (See *id.*, ¶¶7-14.)

4 Finally, this Request also includes the time expended preparing the instant Request for
5 Compensation. This is also reasonable because the regulations permit reimbursement for preparation of
6 a request for an award of compensation. (10 CCR § 2661.1(d).) Preparing such a request requires the
7 intervenor to perform a comprehensive review of the record, review the regulations, cite to the record in
8 this proceeding, review billing and expense records, and prepare the Request and supporting documents.

9 **C. Consumer Watchdog's Expert Fees Are Reasonable.**

10 CWD incurred reasonable expert fees of \$33,244.50 for the actuarial consulting services of Allan
11 I. Schwartz and his staff at AIS Risk Consultants, Inc. (See Pressley Decl., Exh. 3 [Bill for Actuarial
12 Analysis of CSAA Tenant HO Rate Filing: CDI # 14-3851].) The specific tasks performed by Mr.
13 Schwartz and his staff are set forth in the detailed billing records of AIS Risk Consultants, Inc. (*Ibid.*)
14 CWD is informed and believes that these time records were maintained contemporaneously and reflect
15 the actual time spent and actual work performed by all billable AIS personnel. (Pressley Decl., ¶28.)
16 Pursuant to 10 CCR §§ 2662.6(b) and 2661.1(c)(1), the expert fees billed for the actuarial consulting
17 services of Mr. Schwartz and his staff at AIS Risk Consultants, Inc. reflect the current market rates for
18 such services, and amount to less than the total expert fees projected in CWD's Petition. (*Ibid.*; see
19 Petition, Exh. A [Preliminary Budget].)

20 Mr. Schwartz's over 30 years of professional actuarial experience includes being President of
21 AIS Risk Consultants, Assistant Commissioner of the New Jersey Department of Insurance, and chief
22 actuary of the North Carolina Department of Insurance. His resume is on file in several other
23 Department rate proceedings, and can be viewed online at http://www.aisrc.com/allan_i_schwartz.htm.
24 (Pressley Decl., ¶ 28.) Consumer Watchdog submits that the time expended and work performed by Mr.
25 Schwartz and his associates in this proceeding, as reflected in their time records, was reasonable and
26 appropriate and the minimum required to achieve the result obtained. (Pressley Decl., ¶¶27-28.)

1 **V. CONCLUSION**

2 In sum, CWD made a substantial contribution to the Commissioner's decision in this proceeding
3 by identifying several issues with CSAA's Application, as set forth in CWD's Petition and expanded
4 upon in CWD's subsequent analysis and discussions with the Parties. In addition, during the course of
5 the proceeding, CSAA submitted additional relevant information, argument, and analysis regarding the
6 proposed rate in response to the issues raised and requests for information by CWD that would not have
7 otherwise been available had CWD not participated, with the result that renters saved \$818 thousand in
8 annual premiums. Accordingly, CWD requests compensation in the total amount of \$51,774.50 for its
9 substantial contribution to the Commissioner's decision in this matter.

10
11 DATED: November 26, 2014

Harvey Rosenfield
Pamela Pressley
CONSUMER WATCHDOG



12
13
14 By: _____

Pamela Pressley
Attorneys for Intervenor

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

2. In November 2014, I personally oversaw the preparation of the attached pleading entitled “Consumer Watchdog’s Request for Compensation” filed in this matter.

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

Pamela Presley

Pamela Pressley

EXHIBIT A

EXHIBIT A
SUMMARY OF FEES
PA-2014-00005

<u>ITEMS</u>	<u>COST</u>
<u>Attorneys and Advocate</u>	
<u>Consumer Watchdog Fees</u> (Detailed in Billing Records attached as Exhibit 1a to Pressley Decl.)	
Harvey Rosenfield @ \$675 per hour, 2.0 hours	\$1,350.00
Pamela Pressley @ \$550 per hour, 25.9 hours	\$14,245.00
Laura Antonini @ \$325 per hour, 7.0 hours	\$2,275.00
Jason Roberts @ \$100 per hour, 6.6 hour	\$660.00
Consumer Watchdog Fees.....	\$18,530.00
 <u>Expert Witness Fees – AIS Risk Consultants, Inc.</u> (Detailed in Exhibit 3 to Pressley Decl.)	
Allan I. Schwartz @ \$675 per hour, 39.8 hours	\$26,865.00
Katherine Tollar @ \$305 per hour, 9.9 hours	\$3,019.50
Marianne Dwyer @ \$280 per hour, 12.0 hours	\$3,360.00
AIS Risk Consultant Fees.....	\$33,244.50
 <u>TOTAL ADVOCACY AND WITNESS FEES:</u>	<u>\$51,774.50</u>

EXHIBIT B

AIS RISK CONSULTANTS, INC.

Consulting Actuaries • Insurance Advisors

4400 Route 9 South • Suite 1200 • Freehold, NJ 07728 • (732) 780-0330 • Fax (732) 780-2706

Date: August 26, 2014

To: Consumer Watchdog

From: Allan I. Schwartz

Re: Review of CSAA Insurance Exchange, Tenants Homeowners, CDI File No. 14-3851

We have reviewed the above captioned rate filing, as well as updates and additional information submitted by CSAA Insurance Exchange (“CSAA”). CSAA proposes a rate change of +6.9% for the renters form. Our analysis shows that a rate decrease of -5.5% is indicated.^{1,2}

With regards to trends our analysis used 12 point reported frequency / paid severity. CSAA used 12 point paid frequency / paid severity. Our loss trend is near the middle of the range of possible values whereas CSAA’s loss trend is among the highest possible values.

The excluded expense factor for CSAA showed values of \$0 for “institutional advertising expenses”. CSAA had about \$105.2M, \$53.3M and \$55.5M in advertising expenses for 2010 to 2012, respectively.³ CSAA has not demonstrated that none of its advertising expense was institutional. We included half of the advertising expenses in calculating the excluded expense factor.

CSAA used paid development in its rate calculation. Paid development is about 3% higher than incurred development. The paid development method can be distorted and inflated by a speed-up in the rate of payment of claims. We used incurred development in our analysis.

CSAA used October 2013 bond yields and the April 2014 risk free rate. A consistent basis should be used for the yield calculation and the risk free rate. We therefore used the April 2014 bond yields in the yield calculation to match the risk free rate. Based upon the information available to us we were unable to verify that other inputs into the yield calculation were correct or to update the yield calculation to include the most recent annual statement data.

¹ This analysis is subject to the limitations imposed on CWD and is based upon the information currently available. We may submit further comments, or modify our analysis, in the future. Furthermore, a lack of comment on particular aspects of the filing should not be taken to mean that we agree with those procedures.

² The rate template calculation is enclosed.

³ Company’s 2010 to 2012 company Annual Statements, Underwriting and Investment Exhibit, Part 3 – Expenses, Line (4)

In our calculation of the catastrophe adjustment factor, we considered the 1991 Eastbay Fire catastrophe to be a one in 50 year event. CSAA assumes that a catastrophe like the 1991 Eastbay Fire will occur once every 27 years.

CSAA requests a 15% leverage factor variance. CSAA has not supported the use of this factor in accordance with the requirements of the applicable regulation. We did not include this variance in our rate calculation.

Please feel free to contact me if there is anything you would care to discuss.

Enclosure

RATE TEMPLATE

Edition Date: 11/18/2013

CDI FILE NUMBER: 14-3851
 COMPANY/GROUP: CSAA Insurance Exchange
 LINE OF INSURANCE: HOMEOWNERS MULTIPLE PERIL
 COVERAGE: 0
 PRIOR_EFF_DATE: 11/4/2010
 PROPOSED_EFF_DATE: 9/18/2014

Completed by: CWD
 Date: 8/25/2014

DATA PROVIDED BY FILER

	Year:	0	41182	41547	
		PRIOR2	PRIOR1	RECENT	PROJECTED/ SUMMARY
WRT_PREM		0	20,521,843	20,832,511	41,354,354
ERN_PREM		0	20,149,658	20,656,760	40,806,418
PREM_ADJ		1.000	1.000	1.000	
PREM_TREND		1.000	1.021	1.015	0.006
MISCELLANEOUS_FEES (& other flat charges)		0	0	0	0
EARNED_EXP		0	87,887	88,981	176,868
LOSSES		0	11,893,897	9,843,324	21,737,221
DCCE		0	0	0	0
LOSS_DEV		1.000	1.009	1.197	
DCCE_DEV		1.000	1.000	1.000	
LOSS_TREND		1.000	1.103	1.072	0.029
DCCE_TREND		1.000	1.000	1.000	0.000
CAT_ADJ		1.000	1.010	1.010	
CREDIBILITY					100.00%
EXPENSE EXCLUSION FACTOR					1.52%
ANC_INC		0	163,028	167,131	330,159
FIT_INV					26.87%
YIELD					4.51%

CDI PARAMETERS:

FIT_UW	35.00%
EFF_STANDARD	33.62%
LEVERAGE	1.15
PREMIUM_TAX_RATE	2.35%
SURPLUS_RATIO	0.87
UEP_RES_RATIO	0.51
LOSS_RES_RATIO	0.76
RISK FREE RATE OF RETURN	1.66%
MAXIMUM RATE OF RETURN	7.66%
MINIMUM RATE OF RETURN	-6.00%

CDI CALCULATIONS:

ADJ_PREM	0	20,565,196	20,959,098	41,524,294
ADJUSTED LOSSES	0	13,366,944	12,758,694	26,125,638
ADJUSTED_DCCE	0	0	0	0
ADJUSTED LOSS+DCCE RATIO	0.00%	65.00%	60.87%	62.92%
TRENDED_CURRENT_RATE_LEVEL_PREMIUM	#DIV/0!	234.00	235.55	234.78
LOSS+DCCE_PER_EXP	#DIV/0!	152.09	143.39	147.71
COMP_LOSS+DCCE_PER_EXP	#DIV/0!	169.50	170.64	170.07
CRED_LOSS_PER_EXP	#DIV/0!	152.09	143.39	147.71
ANC_INC_PER_EXP	#DIV/0!	1.85	1.88	1.87
FIXED_INV_INC_FACTOR				3.86%
VAR_INV_INC_FACTOR				7.02%
ANNUAL_NET_TREND				2.26%
COMP_TREND				9.02%
MAX_PROFIT				10.25%
MIN_PROFIT				-8.03%
UW_PROFIT				-0.18%
MAX_DENOM				0.631
MIN_DENOM				0.814
MAX_PREMIUM				\$221.92
MIN_PREMIUM				\$172.10
CHANGE_AT_MIN				-26.70%
CHANGE AT MAX				-5.48%

Alternate Calculation with Reinsurance

COMMISSION_RATE				0.00%
RE_PREM	-	-	-	0
RE_RECOV	-	-	-	0
RE_PREM_PER_EXP	#DIV/0!	0.00	0.00	0.00
RE_RECOV_PER_EXP	#DIV/0!	0.00	0.00	0.00
COMP_LOSS_RE	#DIV/0!	169.50	170.64	170.07
RMAX_PREMIUM				NA
RCHANGE AT MAX				NA

EXHIBIT C

From: Ju, Lin Lin.Ju@csaa.com
Subject: RE: New Matter No. PA-2014-00005 for CSAA Insurance Exchange - Consumer Watchdog Petition for Hearing - Rate File No. 14-3851
Date: September 2, 2014 at 7:06 PM
To: Harwood, Joshua Joshua.Harwood@csaa.com, Mohr, Elizabeth Elizabeth.Mohr@insurance.ca.gov, Warren, Tina Tina.Warren@insurance.ca.gov, Hemphill, Rachel Rachel.Hemphill@insurance.ca.gov
Cc: harvey@consumerwatchdog.org, pam@consumerwatchdog.org, Jason Roberts jason@consumerwatchdog.org, Wu, Edward Edward.Wu@insurance.ca.gov, Laucher, Joel Joel.Laucher@insurance.ca.gov, Holbrook, Rick Rick.Holbrook@insurance.ca.gov, Ortiz, Raquel Raquel.Ortiz@insurance.ca.gov, Wong, Betty Betty.Wong@insurance.ca.gov, McKennedy, Nikki Nikki.McKennedy@insurance.ca.gov, Gallagher, Emily Emily.Gallagher@insurance.ca.gov, Richmond, John John.Richmond@csaa.com, vanessa.wells@hoganlovells.com, mohre@insurance.ca.gov, Hardin, Matthew Matthew.Hardin@csaa.com, Myers, Christian Christian.Myers@csaa.com, Taber, Mark Mark.Taber@csaa.com

Hi all,

The response for pending CDI objection has been submitted via SERFF. Please refer to attached pdf files for details.

Thanks

Lin Ju, FCAS
Western Region Pricing
CSAA Insurance Group, a AAA Insurer
3055 Oak Road, Walnut Creek, CA 94597-2098
Mail stop: W410
T: 925-279-4522
E: lin.ju@csaa.com

From: Harwood, Joshua
Sent: Monday, August 25, 2014 6:37 PM
To: 'Mohr, Elizabeth'; 'Warren, Tina'; 'Hemphill, Rachel'
Cc: 'harvey@consumerwatchdog.org'; 'pam@consumerwatchdog.org'; 'Jason Roberts'; 'Wu, Edward'; 'Laucher, Joel'; 'Holbrook, Rick'; 'Ortiz, Raquel'; 'Wong, Betty'; 'McKennedy, Nikki'; 'Gallagher, Emily'; 'Richmond, John'; 'vanessa.wells@hoganlovells.com'; 'mohre@insurance.ca.gov'; 'Hardin, Matthew'; 'Myers, Christian'; 'Ju, Lin'
Subject: RE: New Matter No. PA-2014-00005 for CSAA Insurance Exchange - Consumer Watchdog Petition for Hearing - Rate File No. 14-3851

Hi all,

Additional data requested in the most recent CDI objections has been supplied to the CDI via SERFF. Please refer to the attachments for additional details.

Regards,

Joshua Harwood
Actuarial Analyst II
CSAA Insurance Group, a AAA Insurer
3055 Oak Road WS410,
Walnut Creek, CA 94597-2098
925-279-5671

CDI previously asked whether we have any additional information or insights into the drivers of the emerging experience in paid frequencies. We do not. We have reviewed our mix of business and claims process changes over the experience period and do not see anything that would significantly contribute to the increase in the paid frequency trend.

We have now looked into whether we have additional information regarding the reported frequency counts over the experience period. We believe that there are several factors that cause our historical reported frequency counts to be inappropriate for selecting frequency trends.

In Q3 2010, the claims homeowner's department went through an operating model change. Prior to this, one representative would take first notice of loss, while a different claims adjuster would handle the subsequent claims process. Under the new model, both tasks would be handled by the same adjuster. The majority of the adjusters making the transition to the new model were sourced from the group that had not previously handled first notice of loss. Subsequent to the model change, adjusters inexperienced with taking first notice of loss opened files for incidents provided by an insured solely for information or incident reporting purposes. Adjusters experienced with first notice of loss would not open a claim file for those sorts of inquiries. Additionally, CSAA HO4 policies provide named peril coverage for the contents owned by renters. With the lack of experience, some claims were opened where it would have been obvious to a more experienced adjuster that coverage was not provided based on the policy language. Thus, in the initial phase of the new operating model, there was an increase in the reported frequency of claims that would not have been previously opened, resulting in an initial dip in the percentage of CBP claims.

Prior to introduction of the claims operating model, the percentage of closed by payment claims to reported claims was in the low 70%. After the change, the percentage fell to the low 60%. For the accident year ending 9/30/2013, the closed by payment percentage is up to 60.7%, 5.6 percentage points higher than the prior year at the same period of development. This coincides with the increased experience with the new claims operating model. As claims staff became more experienced with the new claims operating model, they no longer opened a claim as an automatic first step simply for information or reporting purposes, and they were more familiar with the by-peril coverage. Claims closed by payment increased in proportion to reported claims. Please see **attachment D1** for triangle of closed by payment claims to reported claims*.

To answer whether or not this is due to increased number of closed without payment or faster settlement of paid claims: The triangle in **attachment D2** contains incremental claims closed without payment on an accident quarter basis. The last four quarters have all trended lower for claims closed without payment at 3 and 6 months of development and trending downward for later months of development. During the period of low closed by payment to reported claims ratios, claims closed without payment increased. Therefore, the main driver of the flatter reported frequency trend relative to the paid claims trend is the recent decrease in the frequency of claims closed without payment.

If we adjust the number of CWP so that the percentage of CBP to reported was 55% for the year ending 9/30/2013 (to be similar to the year ending 9/30/2012), it would require an additional 415 claims reported, a 10% increase over the number that was actually reported.

It is also worth noting that this also has an effect on incurred development. While CSAA and the Department both used paid development, the pattern of the incurred triangle supports the conclusion of using paid frequency as opposed to reported frequency.

The most recent 1 - 2 year link ratio (See **attachment D3** for triangle of link ratios) is lower than historical because the incurred at one year includes additional case reserves related to the extra reported claims that eventually would close without payment. (Please note the extremely low link ratio for accident year ending 9/30/2009 is due to a large fire loss already seen in the severity trends distorting the link ratio). Prior to the most recent year, the link ratios for development between 1 and 2 years would range from 1.18-1.26. We estimate that between 100-150 open claims from accident year ending 9/30/2012 as of 9/30/2012 would not normally have been reported. Assuming the amount is 125 open claims and also that the average case reserves for these claims were \$4,005 (the amount of average case reserves for all open claims at that time), the incurred amount for accident year ending 9/30/2012 as of 9/30/2012 would have been about \$500,000 lower, resulting in a link ratio of 1.2, which is much more in line with prior history. This would also bring the incurred development much more in line with the paid development. As the paid development isn't affected by the additional case reserves resulting from the claims practice change, it is the most appropriate method for loss development.

EXHIBIT D

AIS RISK CONSULTANTS, INC.

Consulting Actuaries • Insurance Advisors

4400 Route 9 South • Suite 1200 • Freehold, NJ 07728 • (732) 780-0330 • Fax (732) 780-2706

Date: September 3, 2014

To: Consumer Watchdog

From: Allan I. Schwartz

Re: Review of CSAA Insurance Exchange, Tenants Homeowners, CDI File No. 14-3851

This memo provides further comments regarding the issues discussed in our August 26, 2014 memo, as well as Consumer Watchdog's Petition for Hearing dated July 21, 2014.

Set forth below are various issues and our current comments on those issues.¹

Loss Trends

We used loss trends based upon the 12 point reported frequency / paid severity. CSAA used 12 point paid frequency / paid severity. Our loss trend is near the middle of the range of possible values whereas CSAA's loss trend is among the highest possible values. There are twenty different loss trend values that can be calculated based upon the various data elements and time periods in the applicable regulation.² The average and median of these values is 3.22% and 2.55%, respectively. The CWD selected annual loss trend of 2.85% falls midway between the average and median values; and is the 9th highest value of the 20 different possible trend values calculated according to the regulations. The CSAA selected annual loss trend of 7.16% is the 3rd highest value.

Our loss trend is also consistent with California Homeowners Fast Track Tenant's trend experience, which shows an annual loss pure premium trend in the range of 3%.³ The inflated loss trend used by CSAA is attributable to the high annual frequency trend used of 5.41%.

¹ This analysis is subject to the limitations imposed on CWD and is based upon the information currently available. We may submit further comments, or modify our analysis, in the future. Furthermore, a lack of comment on particular aspects of the filing should not be taken to mean that we agree with those procedures.

² 2 frequency X 2 severity X 5 time periods = 20 loss trend values; 10 CCR § 2644.7(b)

³ See enclosed 1Q14 CA HO Tenant Fast Track Experience

CSAA was not able to explain why this value was so much higher than the corresponding reported frequency trend of 1.18%.⁴

CSAA claimed that “The increase in frequency is reasonably consistent with the increase in frequency for the industry and our selections closely match the industry trend.”⁵ We have already seen that CSAA’s loss pure premium trend is much higher than the industry trend. The same situation exists for the frequency trend. For the latest 12 points of industry data, the annual frequency trend is about 1%.⁶

It is also worth noting that the paid claim frequency trends show much more variability and instability than the reported claim frequency trends. The annual paid claim frequency trends vary from 1.28% to 10.76%, a range of 9.48%.⁷ The annual reported claim frequency trends vary from 0.27% to 1.52%, a range of only 1.25%.⁸ The large amount of fluctuation in the paid frequency trends shows that the indications from that data are likely unreliable with respect to the current filing.

For all these reasons, it is clear that the annual loss pure premium trend used by CSAA is inflated and will result in excessive rates.

I will also comment briefly on the materials submitted by CSAA late afternoon (PST) on Tuesday September 2, 2014; which I received on Wednesday September 3, 2014; and have only had a limited amount of time to review.

The response document submitted by CSAA stated “In Q3 2010, the claims homeowner’s department went through an operating model change.” However, the 2013 Statement of Actuarial Opinion for CSAA gives a different starting date stating “Homeowners COM [claim operations model] was rolled out in September 2011.”⁹ Hence, one issue that needs to be resolved is whether CSAA’s Homeowners claims operations changed in 2010 or 2011.

CSAA’s response document also takes the position that the change in the homeowner’s claims operations resulted in an increase in reported claims -- “With the lack of experience, some claims were opened where it would have been obvious to a more experienced adjuster that

⁴ “We reviewed our claims handling procedures and distributional shifts within our book of business and we do not have particular insight into the drivers of the increase in paid claims.” CSAA response to item #4

⁵ *Ibid.*

⁶ 1Q14 CA HO Tenant Fast Track Experience

⁷ CSAA filing, Exhibit 8, Page 2

⁸ *Ibid.*

⁹ See enclosed CSAA 12/31/13 Statement of Actuarial Opinion (SAO), page 440.3

coverage was not provided based on the policy language. Thus, in the initial phase of the new operating model, there was an increase in the reported frequency of claims that would not have been previously opened”. While the CSAA SAO does not discuss the impact of the claims operations on homeowners, it does state that for bodily injury coverage the number of reported claims decreased -- “new bodily injury liability claims are much carefully evaluated and are opened only if there is credible evidence of liability, resulting in a lower number of claims closed without payment.”¹⁰ It seems somewhat strange that the new claims system put into place by CSAA would result in more reported claims for one types of business (homeowners) and less reported claims for another type of business (bodily injury liability). This discrepancy should also be explained by CSAA.

Excluded Expenses

CSAA indicated that its advertising / marketing expenses fall into four categories. Briefly those are:¹¹

- Development Funds and marketing allowances provided AAA clubs
- Collateral developed for use by AAA clubs
- Direct marketing
- Agent incentive trips

CSAA has not demonstrated that any of these are allowable advertising expenses that can be passed on to policyholders.

With regard to Development Funds and marketing allowances; a more detailed breakdown and explanation of these expenses should be provided to show how, or if, these amounts are aimed at obtaining business for a specific insurer and if it provides consumers with information pertinent to the decision whether to buy the insurer’s product.

With respect to Collateral developed for use by AAA clubs; CSAA states “Such collateral is disseminated only by the clubs and only to promote their business.” It is not clear from this what business is being promoted, insurance or some other business activity of AAA clubs. For example, the marketing material provided by CSAA for “AAA Insurance” discusses “FREE maps, help with DMV services, savings at thousands of hotels, restaurants and stores, and many other benefits.”

¹⁰ *Ibid.*

¹¹ CSAA response to Objection 1

The Direct Marketing materials provided by CSAA makes prominent reference to “AAA Insurance” and “AAA Auto Insurance”. Neither of these are an insurance company. To the extent that insurance companies are mentioned in the materials, it covered more than one insurance company.¹²

Agent incentive trips clearly are not aimed at obtaining business for a specific insurer and do not provide consumers with information pertinent to the decision whether to buy the insurer’s product. Therefore, those should be reflected as excluded expenses.

Loss Development

CSAA used paid development in its rate calculation. Paid development is about 3% higher than incurred development. It has already been shown in relation to loss trends that the indications from the paid data for this CSAA filing can be unreliable and inaccurate. The paid development method can be distorted and inflated by a speed-up in the rate of payment of claims. The paid trend data shows that there has been a speed-up in the rate of payment of claims in recent periods. Given this, we used incurred development in our analysis.

Catastrophe Adjustment Factor

In our calculation of the catastrophe adjustment factor, we considered the 1991 Eastbay Fire catastrophe to be a one in 50 year event. CSAA assumes that a catastrophe like the 1991 Eastbay Fire will occur once every 27 years.

The 1991 Eastbay Fire resulted from a confluence of events which are unlikely to reoccur once every 27 years. Furthermore, both the insurance industry and government agencies learned lessons from the Eastbay Fire and actions have been taken to mitigate both the frequency and severity of these types of events. For example, CSAA’s California Homeowners Manual contains the following section:

Wildfire and Defensible Space Requirement:

Defensible space is the area around a structure where vegetation has been cleared, or well thinned, pruned and maintained. For risks identified through inspection to have a significant wildfire exposure, defensible space of at least 100 feet must be maintained regardless of property ownership. If the dwelling is located on a hillside, then 100 feet of defensible space is required.

¹² “Insurance provided by AAA Northern California, Nevada & Utah Insurance Exchange and its subsidiaries.” (emphasis added)

Requirements of this nature result in a decrease in the expected frequency and severity of wildfires.

Leverage Factor Variance

CSAA requests a 15% leverage factor variance. CSAA has not supported the use of this factor in accordance with the requirements of the applicable regulation. We did not include this variance in our rate calculation.

Issues that should be considered in evaluating this variance request include:

- CSAA is part of an insurance group which pools the experience of all members of the group and then distributes the business to the various insurance companies in fixed proportions.¹³ Hence, the risk of CSAA is closely related to the risk of all the other companies in the group on a combined integrated basis. This results in a diversification of business with a corresponding reduction in risk.
- On a pooled basis, California business is less than 70% of the premiums for CSAA.¹⁴
- All the companies in the insurance group share a common management.¹⁵ Hence, the activities of all the insurance companies are coordinated in such a way that each individual company does not function independently, but instead as part of larger holistic entity.
- The Company continues to grow outside of California.¹⁶
- The new auto program has been implemented in the vast majority of states.¹⁷
- The CPP program provides a diversification benefit.¹⁸

¹³ CSAA 2013 Management and Discussion, Page 350.1

¹⁴ *Ibid.*, Page 350.2

¹⁵ *Ibid.*, Page 350.12

¹⁶ CSAA 12/31/13 Statement of Actuarial Opinion, page 440.3

¹⁷ *Ibid.*

¹⁸ *Ibid.*

Taking these items into account, CSAA's request for the leverage factor variance is not actuarially justified.

AAA membership discount

The filing proposed a 5% discount for AAA membership, but did not include support for that value.

It should be remembered that implementing a 5% discount for AAA membership on a revenue neutral basis is effectively a surcharge for non-AAA membership policyholders. CSAA estimates that 89% of its premium will be provided the 5% discount.¹⁹ In order to provide a 5% discount below current rates on a revenue neutral basis, the non-AAA membership policyholders would need to be surcharged about 40%.²⁰

An alternate way of implementing the 5% discount for AAA membership is to increase the base rate for all policyholders to offset the impact. According to CSAA, the rate impact of the 5% discount is -4.45%.²¹ Under this scenario, base rates would need to increase by 4.66%.²² The end result of this is that AAA membership policyholders will effectively be receiving a 0.57% discount²³, while non-AAA policyholders will be receiving a 4.66% surcharge.²⁴ In essence, the alleged 5% discount for AAA members is somewhat of a marketing ploy, since in reality the effective reduction in rates for AAA members including both the discount and the base rate offset is only about one-tenth of that value, or 0.57%.

CSAA, subsequent to the initial filing, provided a loss ratio analysis showing a loss ratio relativity of 1.06 for no membership and 0.99 with membership.²⁵ A concern with that analysis is that the experience provided for no membership is very limited and lacks credibility. The no membership experience reflected \$1,090,322 in incurred losses. Based upon an average severity of \$4,200²⁶, the number of claims is about 260. Using a full credibility standard of 3,000

¹⁹ $89\% = 4.45\% / 5\%$; 4.45% from CSAA filing, Exhibit 15, Line (1)

²⁰ $40\% = 5\% \times (89\% / 11\%)$

²¹ CSAA filing, Exhibit 15, Line (1)

²² $4.66\% = 100\% \times (1 / (1 - .0445) - 1)$

²³ $0.57\% = 100\% \times (0.950 \times 1.0466 - 1)$

²⁴ These values still preserve the approximate 8 to 1 ratio of surcharge for non-AAA policyholders to the discount for AAA policyholders. $4.66\% / 0.57\% = 8.2$

²⁵ CSAA response to item #3

²⁶ CSAA filing, Exhibit 8, Page 1

claims²⁷, the credibility is 29%.²⁸ Hence, on a credibility weighted basis, the loss ratio relatively for no membership is about 1.017.²⁹

Therefore, the surcharge that CSAA proposes to apply to non-AAA member policyholders is not supported.

Inconsistent Rating Values

CSAA proposes a rate reduction of -4.45% attributable to the “Impact of Membership Discount” and an increase of 17.79% for the “Overall Base Rate Change”.³⁰ The combined impact of these two items is +12.55%.³¹ This is different than the “Overall Rate Change” of 6.90%. CSAA should explain the discrepancy between these values.

Please feel free to contact me if there is anything you would care to discuss.

Enclosures

²⁷ 10 CCR § 2644.23(b)

²⁸ $0.29 = \text{square root } (260 / 3,000)$

²⁹ $1.017 = 1 + .06 \times .29$

³⁰ CSAA Filing, Exhibit 15

³¹ $12.55\% = 100\% \times (0.9555 \times 1.1779 - 1)$

**FAST TRACK MONITORING SYSTEM
HOMEOWNERS -- CLAIM COST AND FREQUENCY DATA**

EXHIBIT 3
Sheet 32

04 - CALIFORNIA

POLICY FORM 4

YR	QTR	Earned House Years	Paid Losses	Number of Paid Claims	Average Loss	Pct. Change From Same Quarter Prior Year	Paid Claim Frequency	Pct. Change From Same Quarter Prior Year	Pure Premium	Pct. Change From Same Quarter Prior Year
09	1ST	184,718	18,777,858	4,231	4,438	*****	2.29	*****	101.66	*****
09	2ND	189,381	16,361,315	4,346	3,765	*****	2.29	*****	86.39	*****
09	3RD	193,673	14,703,910	4,400	3,342	*****	2.27	*****	75.92	*****
09	4TH	197,595	18,386,021	4,474	4,110	*****	2.26	*****	93.05	*****
10	1ST	200,647	19,114,008	4,545	4,206	-5.2	2.27	-0.9	95.26	-6.3
10	2ND	201,905	17,476,868	4,361	4,008	6.5	2.16	-5.7	86.56	0.2
10	3RD	202,606	18,766,979	4,786	3,921	17.3	2.36	4.0	92.63	22.0
10	4TH	206,878	19,271,354	4,875	3,953	-3.8	2.36	4.4	93.15	0.1
11	1ST	208,210	21,176,290	5,211	4,064	-3.4	2.50	10.1	101.71	6.8
11	2ND	217,523	20,065,602	4,970	4,037	0.7	2.28	5.6	92.25	6.6
11	3RD	227,364	22,009,549	6,859	3,209	-18.2	3.02	28.0	96.80	4.5
11	4TH	232,064	21,472,954	5,692	3,772	-4.6	2.45	3.8	92.53	-0.7
12	1ST	237,903	24,775,627	6,210	3,990	-1.8	2.61	4.4	104.14	2.4
12	2ND	244,344	22,464,283	5,807	3,868	-4.2	2.38	4.4	91.94	-0.3
12	3RD	245,305	24,424,747	6,270	3,895	21.4	2.56	-15.2	99.57	2.9
12	4TH	247,237	24,803,588	6,377	3,890	3.1	2.58	5.3	100.32	8.4
13	1ST	244,015	24,620,207	6,228	3,953	-0.9	2.55	-2.3	100.90	-3.1
13	2ND	248,014	26,060,815	6,023	4,327	11.9	2.43	2.1	105.08	14.3
13	3RD	255,722	25,708,471	7,604	3,381	-13.2	2.97	16.0	100.53	1.0
13	4TH	256,177	25,755,262	5,978	4,308	10.7	2.33	-9.7	100.54	0.2
14	1ST	260,210	25,663,458	5,661	4,533	14.7	2.18	-14.5	98.63	-2.2
Prior 4 Quarters Ending:										
09	4TH	765,367	68,229,104	17,451	3,910	*****	2.28	*****	89.15	*****
10	1ST	781,296	68,565,254	17,765	3,860	*****	2.27	*****	87.76	*****
10	2ND	793,820	69,680,807	17,780	3,919	*****	2.24	*****	87.78	*****
10	3RD	802,753	73,743,876	18,166	4,059	*****	2.26	*****	91.86	*****
10	4TH	812,036	74,629,209	18,567	4,019	2.8	2.29	0.4	91.90	3.1
11	1ST	819,599	76,691,491	19,233	3,987	3.3	2.35	3.5	93.57	6.6
11	2ND	835,217	79,280,225	19,842	3,996	2.0	2.38	6.2	94.92	8.1
11	3RD	859,975	82,522,795	21,915	3,766	-7.2	2.55	12.8	95.96	4.5
11	4TH	885,161	84,724,395	22,732	3,727	-7.3	2.57	12.2	95.72	4.2
12	1ST	914,854	88,323,732	23,731	3,722	-6.6	2.59	10.2	96.54	3.2
12	2ND	941,675	90,722,413	24,568	3,693	-7.6	2.61	9.7	96.34	1.5
12	3RD	959,616	93,137,611	23,979	3,884	3.1	2.50	-2.0	97.06	1.1
12	4TH	974,789	96,468,245	24,664	3,911	4.9	2.53	-1.6	98.96	3.4
13	1ST	980,901	96,312,825	24,682	3,902	4.8	2.52	-2.7	98.19	1.7
13	2ND	984,571	99,909,357	24,898	4,013	8.7	2.53	-3.1	101.48	5.3
13	3RD	994,988	101,193,081	26,232	3,858	-0.7	2.64	5.6	101.70	4.8
13	4TH	1,003,928	102,144,755	25,833	3,954	1.1	2.57	1.6	101.75	2.8
14	1ST	1,020,123	103,188,006	25,266	4,084	4.7	2.48	-1.6	101.15	3.0

**CSAA Insurance Exchange
Statement of Actuarial Opinion
As of December 31, 2013
Page 1 of 9**

IDENTIFICATION

I, Jianlu Xu, am an Actuary with CSAA Insurance Exchange. I am a member of the American Academy of Actuaries and meet its qualification standards for Statements of Actuarial Opinion regarding property and casualty insurance company statutory Annual Statements. I am a member in good standing and a Fellow of the Casualty Actuarial Society. I was appointed by the Board of Directors of CSAA Insurance Exchange (the Company) on September 15, 2010 to render this opinion.

The loss and loss adjustment expense reserves (unpaid claim liabilities) and unearned premium reserves for long duration contracts are the responsibility of the Company's management; my responsibility is to express an opinion on loss and loss adjustment expense reserves and unearned premium reserves for long duration contracts based on my review.

SCOPE

I have examined the reserves listed in Exhibit A, as shown in the Annual Statement of the Company as prepared for filing with state regulatory officials, as of December 31, 2013. The amounts listed in Exhibit A reflect the Loss Reserve Disclosure items (8) through (13) in Exhibit B.

Company management represented to me that it does not have exposure to long duration contracts, defined as being single or fixed premium policies with coverage periods of thirteen months or greater, which are non-cancelable and not subject to premium adjustment (excluding financial guaranty contracts, mortgage guaranty policies, and surety contracts).

In forming my opinion on the loss and loss adjustment expense reserves I relied upon data and related information prepared by the Company. In this regard, I relied on Michael S. Day, Chief Financial Officer of the Company, as to the accuracy and completeness of the data. I evaluated the data used directly in my analysis for reasonableness and consistency. The data has been reconciled to Schedule P - Part 1 of the Company's current Annual Statement as of December 31, 2013. My examination included the use of such actuarial assumptions and methods and such tests of calculations as I considered necessary.

My review was limited to the items included in Exhibit A, and did not include an analysis of any income statement items or other balance sheet items. My opinion on the reserves is based upon the assumption that all reserves are backed by valid assets which have suitably scheduled maturities and/or adequate liquidity to meet cash flow requirements.

CSAA Insurance Exchange
Statement of Actuarial Opinion
As of December 31, 2013
Page 2 of 9

OPINION

In my opinion, the amounts shown in Exhibit A for the sum of items (1) and (2), the sum of items (3) and (4), the sum of items (1), (2) and (5), and items (6), (7), (8) and (9):

- (a). Meet the requirements of the insurance laws of the State of California.
- (b). Are consistent with reserves computed in accordance with generally accepted actuarial standards and principles.
- (c). Make a reasonable provision for all unpaid loss and loss adjustment expense obligations of the Company under the terms of its contracts and agreements.

EXPLANATORY PARAGRAPH AND OTHER RELEVANT COMMENTS

RISK OF MATERIAL ADVERSE DEVIATION

The company writes a variety of coverages whose risk factors expose the Company's reserves to significant variability. I have identified implementation of a new claims administration system, change in risk profile and claims handling with respect to Personal Automobile Bodily Injury Liability coverage, and the reinsurance risk from the Catastrophe PORTFOLIO PARTICIPATION REINSURANCE (CPP) program as the major risk factors impacting the variability of the Company's reserves. The potential impact of these risk factors is described in more detail in the following paragraphs and in the report supporting this opinion. The absence of other risk factors from this listing does not imply that additional risk factors will not be identified in the future as being a significant influence on the Company's reserves.

In 2013, the Company replaced three claims administration systems with a single one for Personal Automobile insurance. In the process of converting claims from three legacy systems to the new one, some business rules for opening/closing claims and case reserves for the legacy systems had to be modified to conform to the new system. As a result, the development patterns of claim count and incurred loss development have deviated from the past. In addition, some temporary process changes in claims handling in preparation for rolling out the new system could also change the pace of closing claims. The accurately account for all the changes in reserving analysis could be difficult as some pattern shift may be temporary and others might be permanent. More uncertainty in the loss and loss adjustment expense reserves is expected in the next several years before more stable and new patterns take place.

CSAA Insurance Exchange
Statement of Actuarial Opinion
As of December 31, 2013
Page 3 of 9

About 75% of the Company's reserves arise from the Personal Automobile Bodily Injury Liability coverage. The bodily injury liability claims typically take longer to settle and thus are susceptible to future inflation change. The Company's exposures with respect to Personal Automobile Bodily Injury Liability have been changing over time, as more policyholders have purchased higher limits and Company continues to grow outside California. The change in risk profiles could impact the loss development patterns and increase the likelihood of large losses and hence reserve variability.

The merger with Mid-Atlantic Insurance Group in 2011 has significantly increased the Company's exposure to challenging regulatory environment and no-fault insurance system. The claim frequency and loss severity for personal injury protection (PIP) coverage are subject to change as states are trying to control the loss cost of PIP coverage by pursuing tort reform and introducing new regulations.

The Company is in the process of rolling out the Signature Series Auto product. Currently the new auto product has been implemented in the vast majority of states. The risk profiles associated with the new product may deviate from those of the current auto product, creating another source of uncertainty to the loss development pattern.

The Company implemented new claims operation models (COM) in the recent years. Both casualty and non-injury COMs were implemented in December 2009, and Homeowners COM was rolled out in September 2011. While such changes may prove ultimately beneficial to the Company, they could cause loss development pattern to deviate from the past and increase the uncertainty in the short term. For example, new bodily injury liability claims are much carefully evaluated and are opened only if there is credible evidence of liability, resulting in lower number of claims closed without payment. The COMs have been continuously tweaked along the way to improve operational efficiency and effectiveness.

In 2007, the Company started assuming property catastrophe risk from an international property reinsurer under the Catastrophe PORTFOLIO PARTICIPATION REINSURANCE (CPP) program. This exposure is quite different from those directly underwritten by the Company and generally does not overlap with the Company in geographical areas. As a result, some diversification benefit should be produced through the CPP program. The losses were small in most years except in 2008 and 2011. The Company incurred significant losses in 2008 from Hurricanes Gustav and Ike in the United States, and in 2011 from several large catastrophes including the 6.3-magnitude earthquake in New Zealand, the 9.0-magnitude massive earthquake in Japan, and the deadly tornado in Alabama. The losses associated with the CPP are subject to more uncertainty than those from the business directly written by the Company since the full extent of catastrophe exposure could take years to determine.

**CSAA Insurance Exchange
Statement of Actuarial Opinion
As of December 31, 2013
Page 4 of 9**

In my opinion, the risk of material adverse deviation from the carried net reserve amounts is remote. In making this determination, I have considered a material adverse deviation to be one in which the actual net outstanding losses and loss adjustment expenses exceed the total of Items 1 and 2 on Exhibit A, by an amount greater than \$383,020,549. This materiality standard, shown as Item 5 in Exhibit B, is equal to 10% of the Company's statutory surplus shown on the Liabilities, Surplus and Other Funds page of the Annual Statement. In selecting this materiality standard I considered several factors, such as the Company's reserve to surplus ratios, the amount of adverse deviation that would cause the Company to fall to the next risk based capital action level or the amount of adverse deviation that would be expected to cause a drop in financial strength ratings. My selection of the materiality standard was based on the fact that this opinion is prepared for the regulatory review of the Company. Other measures of materiality might be used for reserves that are being evaluated in a different context.

My opinion is based on the short-tailed nature of the underlying business and the low amount of historical variability observed relative to our materiality standard. Although I believe the probability of material adverse deviation with respect to the net reserves to be remote, it should not be inferred from this statement that there is no risk of material adverse deviation.

UNCERTAINTY

In evaluating whether the reserves make a reasonable provision for unpaid losses and loss expenses, it is necessary to project future loss and loss adjustment expense payments. Actual future losses and loss adjustment expenses will not develop exactly as projected and may, in fact, vary significantly from the projections. Further, my projections make no provision for extraordinary future emergence of new classes of losses or types of losses not sufficiently represented in the Company's historical database or that are not yet quantifiable, nor do they make provision for the impact of possible changes in legal interpretation or statutory rules applied on a retroactive basis.

TOPICS AFFECTING LOSS & LOSS ADJUSTMENT EXPENSE RESERVES

RETROACTIVE REINSURANCE AND FINANCIAL REINSURANCE

The actuarial report in support of this opinion includes a summary of the Company's ceded reinsurance that is or could be material to the Company's ceded loss and loss adjustment expense reserves as of December 31, 2013. The Company has represented that the summary is materially accurate and complete, and that the Company has determined that these contracts should be accounted for as reinsurance under statutory accounting principles. The assessment of whether a reinsurance contract meets the requirements for

**CSAA Insurance Exchange
Statement of Actuarial Opinion
As of December 31, 2013
Page 5 of 9**

reinsurance accounting is a management and accounting decision. As such, I express no opinion as to whether the Company's ceded reinsurance contracts meet the requirements for reinsurance accounting.

Based on representations made by the Company management and its description of the Company's ceded and assumed reinsurance, I am not aware of any reinsurance transaction that either has been or should have been accounted for as retroactive reinsurance or as financial reinsurance (defined as contractual arrangements that do not include transfer of both timing and underwriting risk).

REINSURANCE COLLECTIBILITY

I reviewed the Company's ceded reinsurance balances as shown in Schedule F – Part 3 & 4 of the Company's Annual Statement. There are no reinsurance recoverables on paid losses that are classified as over 90 days past due. Further, the Company has represented that it knows of no uncollectible reinsurance cessions and no disputed reinsurance balances. I also reviewed the ratings of the Company's reinsurers, using the A.M. Best Insurance Reports published as of February 18, 2014. All reinsurance companies were rated A or better by A.M. Best. Of the total reinsurance recoverable, approximately 96.2% is from an affiliate rated A+ by A.M. Best, with respect to an inter-company pooling agreement, and 3.2% is recoverable from the National Flood Insurance Program.

I have performed no additional work to verify the financial condition of the assuming reinsurance companies or the adequacy of the collateralized balances. Relying on the information cited in this paragraph, I have treated the reported net reinsurance recoverables as collectible for purposes of this Opinion.

ASBESTOS AND ENVIRONMENTAL

Management has represented to me that the Company does not have exposure to either asbestos or environmental impairment liability.

METHODS AND ASSUMPTIONS

There are no significant changes in methods used for reserving analysis from 2012.

I continue to make use of the reserve projection by Renaissance Reinsurance (RenRe) for the CATASTROPHE PORTFOLIO PARTICIPATION REINSURANCE Program. For the past several years, the program has experienced some favorable loss development. The impact of this program on the company's loss reserves has diminished in 2013 because of no major events in 2012 and 2103 and continuing settlement of claims associated with the severe events in 2011. I have reviewed about loss development of major events with RenRe on a regular basis and will continue to assess if a separate analysis is warranted in the future.

MANAGEMENT'S DISCUSSION AND ANALYSIS – 2013

**CSAA INSURANCE GROUP
NAIC Group Number 1278**

The CSAA Insurance Group (Group or Companies; NAIC Group Code 1278) is a group of six property and casualty insurance companies that utilize an inter-company reinsurance pooling agreement. Each subsidiary cedes all of its direct and assumed business to the pool. The Group includes:

- CSAA Insurance Exchange (the Insurance Exchange) (NAIC Company Code 15539)
- Western United Insurance Company (NAIC Company Code 37770)
- ACA Insurance Company (NAIC Company Code 10921)
- Keystone Insurance Company (Keystone), (NAIC Company Code 11681) and its wholly-owned subsidiaries:
 - AAA Mid-Atlantic Insurance Company of New Jersey (NAIC Company Code 42960)
 - AAA Mid-Atlantic Insurance Company (NAIC Company Code 10675).

On January 1, 2011, the Insurance Exchange purchased 100% of the issued shares of capital stock of Keystone from AAA Mid-Atlantic, Inc., allowing the Insurance Exchange to expand its ability to write insurance in the Mid-Atlantic region. Also effective January 1, 2011, the Group entered into a new pooling agreement whereby each subsidiary cedes 100% of its direct and assumed business to the pool with the Insurance Exchange as the lead insurer. The pooling participations are as follows:

- CSAA Insurance Exchange (94.1%)
- Western United Insurance Company (3.0%)
- ACA Insurance Company (0.5%)
- Keystone Insurance Company (1.5%)
- AAA Mid-Atlantic Insurance Company of New Jersey (0.6%)
- AAA Mid-Atlantic Insurance Company (0.3%).

The Insurance Exchange is a reciprocal insurer and was organized under the laws of California on June 20, 1914 with licenses in four states. The Insurance Exchange was created to offer automobile insurance to members of the AAA Northern California, Nevada & Utah ("AAA NCNU" or the "Club"), a motor club incorporated in 1907.

Western United Insurance Company (WUIC) is an Indiana domiciled insurance company with licenses in 26 states and the District of Columbia. WUIC writes private passenger automobile coverage in 22 states and the District of Columbia, and homeowners coverage in Utah and Arizona.

ACA Insurance Company (ACAIC) is an Indiana domiciled insurance company with licenses in 24 states and the District of Columbia. ACAIC writes private passenger automobile coverage in 8 states and homeowners products in California and 15 other states.

ANNUAL STATEMENT FOR THE YEAR 2013 OF THE CSAA INSURANCE EXCHANGE

Keystone is a Pennsylvania domiciled insurance company with licenses in 13 states and the District of Columbia, which includes the addition of Arizona in 2013.

AAA Mid-Atlantic Insurance Company of New Jersey (MANJ) is a New Jersey insurer licensed in only that state.


AAA Mid-Atlantic Insurance Company (MAIC) is a Pennsylvania domiciled insurance company licensed in 4 states.

Keystone, MANJ and MAIC (collectively MAIG) principally write personal automobile, personal accident, homeowners, fire and extended coverage insurance policies in the commonwealths of Pennsylvania and Virginia, and the states of New Jersey, Delaware and Maryland.

This discussion provides an assessment by management of the financial position, results of operations, cash flows and liquidity for the Group. Information presented in this discussion supplements the 2013 financial statements, schedules and exhibits on a combined basis.

Financial Results

Summary of Operations

While currently licensed in 27 jurisdictions, the Group is a California predominant personal lines writer with direct premiums written in California of 67.0% and 69.6% in 2013 and 2012, respectively, followed by: 

	2013	2012
New Jersey	5.6%	5.2%
Nevada	4.9%	5.0%
Oklahoma	4.4%	3.5%
Arizona	3.8%	3.6%
Pennsylvania	2.8%	2.7%
Indiana	1.9%	1.9%

A small percentage of total premiums are written in the states of Colorado, Connecticut, Delaware, Idaho, Kansas, Kentucky, Maine, Maryland, Montana, New York, Ohio, Oregon, South Dakota, Utah, Virginia, West Virginia, Wyoming and the District of Columbia. The acquisition of MAIG in 2011 expanded and diversified both the Group's product offerings as well as its geographic footprint outside of California.

ANNUAL STATEMENT FOR THE YEAR 2013 OF THE CSAA INSURANCE EXCHANGE

To the extent the above comments about future plans constitute forward-looking statements; these statements are not guarantees of future performance. Forward-looking statements are based on current expectations and projections about future events and are subject to risks, uncertainties and assumptions about the company, economic and market factors, judicial rulings and the insurance industry, among other things. Actual events and results may differ materially from those expressed in forward-looking statements.

Submitted by:

Management CSAA Insurance Exchange, Western United Insurance Company, ACA Insurance Company, Keystone Insurance Company, AAA Mid-Atlantic Insurance Company and AAA Mid-Atlantic Insurance Company of New Jersey

EXHIBIT E

From: Ju, Lin Lin.Ju@csaa.com
Subject: RE: New Matter No. PA-2014-00005 for CSAA Insurance Exchange - Consumer Watchdog Petition for Hearing - Rate File No. 14-3851
Date: September 10, 2014 at 11:50 AM
To: Pamela Pressley pam@consumerwatchdog.org
Cc: Hemphill, Rachel Rachel.Hemphill@insurance.ca.gov, Harwood, Joshua Joshua.Harwood@csaa.com, Mohr, Elizabeth Elizabeth.Mohr@insurance.ca.gov, Tina Warren Tina.Warren@insurance.ca.gov, Harvey Rosenfield harvey@consumerwatchdog.org, Jason Roberts jason@consumerwatchdog.org, Edward Wu Edward.Wu@insurance.ca.gov, Laucher, Joel Joel.Laucher@insurance.ca.gov, Holbrook, Rick Rick.Holbrook@insurance.ca.gov, Ortiz, Raquel Raquel.Ortiz@insurance.ca.gov, Wong, Betty Betty.Wong@insurance.ca.gov, McKennedy, Nikki Nikki.McKennedy@insurance.ca.gov, Gallagher, Emily Emily.Gallagher@insurance.ca.gov, Richmond, John John.Richmond@csaa.com, Vanessa Wells vanessa.wells@hoganlovells.com, Hardin, Matthew Matthew.Hardin@csaa.com, Myers, Christian Christian.Myers@csaa.com, Taber, Mark Mark.Taber@csaa.com, Laura Antonini laura@consumerwatchdog.org

Hi Pamela,

Thanks for following up.

Here are the exhibits we provided to CDI late last night. Vanessa Wells is going to send the group CSAA responses regarding issues discussed on the 8/26 conference call and in the subsequent 9/3 submission by CWD shortly.

Thanks

Lin Ju, FCAS
Western Region Pricing
CSAA Insurance Group, a AAA Insurer
3055 Oak Road, Walnut Creek, CA 94597-2098
Mail stop: W410
T: 925-279-4522
E: lin.ju@csaa.com

From: Pamela Pressley [mailto:pam@consumerwatchdog.org]
Sent: Wednesday, September 10, 2014 11:05 AM
To: Ju, Lin
Cc: Hemphill, Rachel; Harwood, Joshua; Mohr, Elizabeth; Tina Warren; Harvey Rosenfield; Jason Roberts; Edward Wu; Laucher, Joel; Holbrook, Rick; Ortiz, Raquel; Wong, Betty; McKennedy, Nikki; Gallagher, Emily; Richmond, John; Vanessa Wells; Hardin, Matthew; Myers, Christian; Taber, Mark; Laura Antonini
Subject: Re: New Matter No. PA-2014-00005 for CSAA Insurance Exchange - Consumer Watchdog Petition for Hearing - Rate File No. 14-3851

Hi Lin,

Just checking if the additional exhibits were provided to CDI yesterday in response to Rachel's 9/3 request. I don't believe we received an email. Please advise on the status. Thanks.

In addition to the exhibits requested by CDI on 9/3, please let us know if CSAA will be providing any additional information on any of the issues discussed on the 8/26 call with all parties or in the subsequent 9/3 submission by CWD prior to our call scheduled for tomorrow, 9/11. Thank you.

Pamela Pressley
Consumer Watchdog

www.consumerwatchdog.org
2701 Ocean Park Blvd., Suite 112
Santa Monica, CA 90405
310-392-0522, ext. 307
310-392-8874 fax
pam@consumerwatchdog.org

This message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think you have received this e-mail message in error, please e-mail the sender at pam@consumerwatchdog.org.

On Sep 4, 2014, at 5:26 PM, Ju, Lin <Lin.Ju@csaa.com> wrote:

Hi Rachel,

We should be able to get you the additional exhibits by 9/9.

Thanks

Lin Ju, FCAS
Western Region Pricing
CSAA Insurance Group, a AAA Insurer
3055 Oak Road, Walnut Creek, CA 94597-2098
Mail stop: W410
T: 925-279-4522
E: lin.ju@csaa.com

From: Hemphill, Rachel [<mailto:Rachel.Hemphill@insurance.ca.gov>]
Sent: Wednesday, September 03, 2014 9:16 AM
To: Ju, Lin; Harwood, Joshua; Mohr, Elizabeth; Warren, Tina
Cc: 'harvey@consumerwatchdog.org'; 'pam@consumerwatchdog.org'; 'Jason Roberts'; Wu, Edward; Laucher, Joel; Holbrook, Rick; Ortiz, Raquel; Wong, Betty; McKennedy, Nikki; Gallagher, Emily; Richmond, John; 'vanessa.wells@hoganlovells.com'; Mohr, Elizabeth; Hardin, Matthew; Myers, Christian; Taber, Mark
Subject: RE: New Matter No. PA-2014-00005 for CSAA Insurance Exchange - Consumer Watchdog Petition for Hearing - Rate File No. 14-3851

Thank you. I have submitted a request for additional information via SERFF. The request is:

“Thank you for the additional information.

For further review of this analysis, please provide Incurred (Reported excluding CWP's):

- 1) Exhibit 7 (Incurred loss and Incurred claim count development triangles), and
- 2) Exhibit 8 (Incurred loss trend).

Please provide these informational exhibits in the same level of detail as the previously submitted Exhibits 7 and 8, in both Excel and PDF format.”

I have set a respond-by day of 9/9/14, so that the CDI and CWD have time to review prior to our

meeting on 9/11/14.

Thank you.

Rachel Hemphill, PhD, FCAS, MAAA
Senior Casualty Actuary
California Department of Insurance
Rate Regulation Branch
300 South Spring Street
Los Angeles, CA 90013
(213)346-6686
Rachel.Hemphill@insurance.ca.gov

From: Ju, Lin [<mailto:Lin.Ju@csaa.com>]

Sent: Tuesday, September 02, 2014 7:06 PM

To: Harwood, Joshua; Mohr, Elizabeth; Warren, Tina; Hemphill, Rachel

Cc: 'harvey@consumerwatchdog.org'; 'pam@consumerwatchdog.org'; 'Jason Roberts'; Wu, Edward; Laucher, Joel; Holbrook, Rick; Ortiz, Raquel; Wong, Betty; McKennedy, Nikki; Gallagher, Emily; Richmond, John; 'vanessa.wells@hoganlovells.com'; Mohr, Elizabeth; Hardin, Matthew; Myers, Christian; Taber, Mark

Subject: RE: New Matter No. PA-2014-00005 for CSAA Insurance Exchange - Consumer Watchdog Petition for Hearing - Rate File No. 14-3851

Hi all,

The response for pending CDI objection has been submitted via SERFF. Please refer to attached pdf files for details.

Thanks

Lin Ju, FCAS
Western Region Pricing
CSAA Insurance Group, a AAA Insurer
3055 Oak Road, Walnut Creek, CA 94597-2098
Mail stop: W410
T: 925-279-4522
E: lin.ju@csaa.com

From: Harwood, Joshua

Sent: Monday, August 25, 2014 6:37 PM

To: 'Mohr, Elizabeth'; 'Warren, Tina'; 'Hemphill, Rachel'

Cc: 'harvey@consumerwatchdog.org'; 'pam@consumerwatchdog.org'; 'Jason Roberts'; 'Wu, Edward'; 'Laucher, Joel'; 'Holbrook, Rick'; 'Ortiz, Raquel'; 'Wong, Betty'; 'McKennedy, Nikki'; 'Gallagher, Emily'; Richmond, John; 'vanessa.wells@hoganlovells.com'; 'mohre@insurance.ca.gov'; Hardin, Matthew; Myers, Christian; Ju, Lin

Subject: RE: New Matter No. PA-2014-00005 for CSAA Insurance Exchange - Consumer Watchdog Petition for Hearing - Rate File No. 14-3851

Hi all,

Loss and DCCE Development Factors

Incurred Loss Development (including DCCE)

<u>Acc Yr</u>	<u>-- Months of Development --</u>									
	<u>12</u>	<u>24</u>	<u>36</u>	<u>48</u>	<u>60</u>	<u>72</u>	<u>84</u>	<u>96</u>	<u>108</u>	<u>120</u>
200409	3304427	3333486	3336912	3287487	3308267	3335108	3333678	3333678	3333678	3335133
200509	2812787	3368010	3619506	3399029	3392535	3392556	3393700	3393704	3393704	
200609	3490502	4100718	4330791	4341419	4360954	4363525	4361757	4361757		
200709	4322023	5421430	5967609	5966392	6008124	6032515	6037271			
200809	5601687	6805052	7095886	7155305	7150494	7183503				
200909	7954974	8660505	8932079	8956226	8934982					
201009	6745809	8684589	8483879	8437427						
201109	8931457	11131437	11511397							
201209	9979398	11893897								
201309	9843324									

Incurred Loss Development Factors

	-- Months of Development --								
<u>Acc Yr</u>	<u>12-24</u>	<u>24-36</u>	<u>36-48</u>	<u>48-60</u>	<u>60-72</u>	<u>72-84</u>	<u>84-96</u>	<u>96-108</u>	<u>108-120</u>
200409	1.01	1.00	0.99	1.01	1.01	1.00	1.00	1.00	1.00
200509	1.20	1.07	0.94	1.00	1.00	1.00	1.00	1.00	
200609	1.17	1.06	1.00	1.00	1.00	1.00	1.00		
200709	1.25	1.10	1.00	1.01	1.00	1.00			
200809	1.21	1.04	1.01	1.00	1.00				
200909	1.09	1.03	1.00	1.00					
201009	1.29	0.98	0.99						
201109	1.25	1.03							
201209	1.19								
LDF	1.236	1.016	1.002	1.001	1.003	1.000	1.000	1.000	1.000
CDF	1.264	1.022	1.006	1.005	1.004	1.001	1.000	1.000	1.000

<u>Acc Yr</u>	<u>Inc Loss</u>	<u>CDF</u>	<u>Ult Loss</u>
201109	11,511,397	1.006	11,585,033
201209	11,893,897	1.022	12,159,481
201309	9,843,324	1.264	12,437,345

Loss and DCCE Trend: CA HO-4, Frequency/Severity on All Bases

Quarter	Net Paid Loss	Closed Claims	Earned Exposures	Reported Claims*	Total incl Partial	Paid Rolling Yr Avg Freq	Reported Rolling Yr Avg Freq	Paid Rolling Yr Avg Sev	Total Rolling Yr Avg Sev
2007Q1	1,082,671	322	13,034	309	1,037,790				
2007Q2	1,440,332	355	13,716	368	1,441,747				
2007Q3	1,214,197	379	14,273	380	1,094,119				
2007Q4	1,889,689	404	14,578	367	1,840,274	0.0263	0.0256	3854.03	3708.17061
2008Q1	1,442,519	377	14,757	396	1,416,792	0.0264	0.0264	3951.64	3823.71662
2008Q2	1,778,654	407	15,187	403	1,636,464	0.0267	0.0263	4036.41	3821.089662
2008Q3	1,670,758	482	15,747	504	1,530,325	0.0277	0.0277	4060.85	3846.619228
2008Q4	1,958,298	475	15,938	448	1,881,225	0.0282	0.0284	3934.65	3713.271419
2009Q1	1,770,727	414	15,774	442	1,704,237	0.0284	0.0287	4037.37	3797.666687
2009Q2	1,907,786	454	16,498	451	1,896,164	0.0285	0.0288	4004.15	3842.165151
2009Q3	2,552,673	517	17,170	548	2,404,688	0.0284	0.0289	4402.95	4239.953849
2009Q4	1,952,773	473	17,592	500	1,919,326	0.0277	0.0290	4404.71	4265.024403
2010Q1	2,051,719	484	17,776	478	1,980,368	0.0279	0.0286	4390.53	4253.395441
2010Q2	2,082,740	479	18,807	492	1,924,918	0.0274	0.0283	4423.91	4213.671685
2010Q3	2,069,615	528	19,712	557	2,023,714	0.0266	0.0274	4153.18	3996.093106
2010Q4	2,257,226	542	20,445	596	2,220,531	0.0265	0.0277	4161.98	4008.62363
2011Q1	2,627,324	626	20,477	574	2,556,882	0.0274	0.0279	4154.90	4011.974947
2011Q2	2,453,221	600	21,292	606	2,394,791	0.0280	0.0285	4097.29	4005.190819
2011Q3	2,604,207	553	21,739	581	2,422,252	0.0276	0.0281	4283.49	4133.759479
2011Q4	2,046,822	521	21,797	618	2,162,657	0.0270	0.0279	4231.12	4146.339822
2012Q1	2,729,888	647	21,744	613	2,532,407	0.0268	0.0279	4237.03	4098.27941
2012Q2	2,449,872	603	22,001	644	2,232,251	0.0266	0.0281	4230.12	4023.04929
2012Q3	3,280,944	668	22,345	710	3,138,632	0.0278	0.0294	4308.13	4127.079287
2012Q4	2,942,288	700	22,312	650	2,739,175	0.0296	0.0296	4355.61	4065.112269
2013Q1	2,796,292	680	21,807	634	2,629,854	0.0300	0.0298	4326.44	4051.267627
2013Q2	2,934,958	682	22,280	654	2,908,829	0.0308	0.0298	4378.93	4181.864007
2013Q3	3,105,369	721	22,582	806	2,729,519	0.0313	0.0308	4232.45	3955.219583
Fitted						10.76%	5.96%	1.18%	-1.06%
Trends						5.41%	3.62%	1.66%	0.27%
(Rolling Year Data)						3.02%	1.87%	-0.02%	-0.79%
						1.28%	0.94%	0.93%	0.70%
						1.45%	1.70%	1.46%	1.33%
Selected						5.41%	3.62%	1.66%	0.27%
									5.34%

Rate-making Year	<u>2010</u>	<u>2011</u>	<u>2012</u>
Average DOL	4/1/2011	4/1/2012	4/1/2013
Average DOL, Future Rating Period	9/18/2015	9/18/2015	9/18/2015
Trend Period (years)	4.47	3.47	2.47
Selected Trend Factor	1.261	1.197	1.137

Justification of Trend Period

Please see filing memo for justification of loss trend selection.

***Excluding Closed Without Payment Claims as of 09/30/2013**

EXHIBIT F

From: Wells, Vanessa vanessa.wells@hoganlovells.com

Subject: CSAA Insurance Exchange, CDI File PA-2014-00005 (Rate File No. 14-3851)

Date: September 10, 2014 at 6:00 PM

To: Joel.Laucher@insurance.ca.gov, Holbrook, Rick (Rick.Holbrook@insurance.ca.gov) Rick.Holbrook@insurance.ca.gov, Hemphill, Rachel Rachel.Hemphill@insurance.ca.gov, Elizabeth.Mohr@insurance.ca.gov, Gallagher, Emily (Emily.Gallagher@insurance.ca.gov) Emily.Gallagher@insurance.ca.gov, Nikki.McKennedy@insurance.ca.gov, Ortiz, Raquel (Raquel.Ortiz@insurance.ca.gov) Raquel.Ortiz@insurance.ca.gov, Wong, Betty (Betty.Wong@insurance.ca.gov) Betty.Wong@insurance.ca.gov, Warren, Tina (Tina.Warren@insurance.ca.gov) Tina.Warren@insurance.ca.gov, pam@consumerwatchdog.org, Laura Antonini (laura@consumerwatchdog.org) laura@consumerwatchdog.org, Harvey Rosenfield (harvey@consumerwatchdog.org) harvey@consumerwatchdog.org, Jason Roberts (jason@consumerwatchdog.org) jason@consumerwatchdog.org, Allan Schwartz (actuary999@aol.com) actuary999@aol.com

Cc: Richmond, John (John.Richmond@csaa.com) John.Richmond@csaa.com, 'Ju, Lin' (Lin.Ju@csaa.com) Lin.Ju@csaa.com, Hardin, Matthew (Matthew.Hardin@csaa.com) Matthew.Hardin@csaa.com, Taber, Mark (Mark.Taber@csaa.com) Mark.Taber@csaa.com, Myers, Christian (Christian.Myers@csaa.com) Christian.Myers@csaa.com

CONFIDENTIAL -- SENT PURSUANT TO CALIFORNIA EVIDENCE CODE SECTION 1152

All: Attached is a memo setting forth CSAA's comments in response to Consumer Watchdog's 9/3 memorandum, for our discussion tomorrow at 10 am.

Vanessa Wells
Partner
Hogan Lovells US LLP
4085 Campbell Avenue
Suite 100
Menlo Park, CA 94025
Tel: +1 650 463 4000
Direct: +1 650 463 4022
Fax: +1 650 463 4199
Email: vanessa.wells@hoganlovells.com

www.hoganlovells.com

Please consider the environment before printing this e-mail.

About Hogan Lovells

Hogan Lovells is an international legal practice that includes Hogan Lovells US LLP and Hogan Lovells International LLP. For more information, see www.hoganlovells.com.

CONFIDENTIALITY. This email and any attachments are confidential, except where the email states it can be disclosed. It may also be privileged. If received in error, please do not disclose the contents to anyone, but notify the sender by return email and delete this email (and any attachments) from your system.



CONFIDENTIAL – SUBMITTED PURSUANT TO EVIDENCE CODE § 1152

CSAA INSURANCE EXCHANGE'S RESPONSE TO CONSUMER WATCHDOG'S 9/3/2014 MEMO

FREQUENCY TREND

CW argues that we should use reported losses in determining the frequency trend. Their principal argument for this is that doing so at the 12 point fit is near the mean and median of all possible loss trend values that can be calculated based upon the various data elements and time periods in the applicable regulation. The argument is flawed. An implicit assumption of the logic employed in this argument is that each of possible outcomes is equally likely, an assumption that is false on its face when all parties are in agreement that the 12 point trend is the "most actuarially sound". Moreover, the argument also ignores the likelihood that some claims practice changes will bias some methods and not others. Indeed, the rank order of the 20 different possible trend values is highly correlated with the methods selected because the frequency based on reported trends is biased low. Further, when there are facts that explain the observed data, as there are here, it is not true that each of the possible outcomes is equally likely.

If we do look at the mean and average trend values, it is true that CSAA has selected the third highest and that CW has selected the ninth highest of the twenty pure premium selections permitted by regulation. But as communicated in previous responses and discussed on the phone on 8/26/2014, there was a large fire loss impacting multiple units in the first quarter of 2009 that lowers the 16, 20, and 24 point severity trend fits. The 16, 20, and 24 point trend lines should not be considered valid trend lines. Therefore, the most actuarially sound selection should come from the 8 and 12 point fits. Of the eight remaining selections CSAA has selected the third highest and CW has selected the seventh highest. It should also be noted that CSAA's selection is closer to the average of that subset than CW's selection.

Number of points	Frequency type	Severity Type	Frequency	Severity	Pure Premium
8	CBP Frequency	Paid Severity	10.76%	1.18%	12.07%
12	CBP Frequency	Paid Severity	5.41%	1.66%	7.16%
8	Reported Frequency	Paid Severity	1.10%	1.18%	2.29%
12	Reported Frequency	Paid Severity	1.18%	1.66%	2.86%
8	CBP Frequency	Paid on closed severity	10.76%	-1.06%	9.59%
12	CBP Frequency	Paid on closed severity	5.41%	0.27%	5.69%
8	Reported Frequency	Paid on closed severity	5.96%	-1.06%	4.83%
12	Reported Frequency	Paid on closed severity	3.62%	0.27%	3.90%
Average			5.52%	0.51%	6.05%

CSAA also disagrees with the use of reported frequency *without adjustment* due to the fact that the proportion of claims closed without payment (CWP) to reported claims has recently decreased, therefore artificially lowering any frequency trend relying on reported claim counts. There are 10 possible selections that can be made for a frequency trend. Selections based on unadjusted reported frequency represent four of the five lowest possible trends for frequency. The main driver of this is in fact a lowering of the percentage of CWP to reported claims, due to a decrease in CWP, which results in a lower number of reported claims. As requested by the CDI, we have calculated reported frequency excluding any known CWP (adjusted reported claim counts) as of 9/30/2013*. The resulting twelve point frequency trend based on this data is 3.62%. Revising CSAA's frequency selection from 5.41% to 3.62% would result in a rate level indication of 9.81%, which still supports a rate change of 6.9%. While this indication still relies on paid loss development, it is worth pointing out that incurred loss development, adjusted to remove CWP data, is in very close agreement in total for the two years of experience required to be used based on the regulation. In total the two years of developed losses sum to \$24.6 M.

While a comparison with California Homeowners Fast Track Tenant's trend experience should be done as part of any review, CSAA tenant's trends should not be expected to be completely in line due to different market place footprints (i.e. CSAA writes only in Northern California) where loss experience varies by territory.

Regrettably, CSAA did communicate the wrong date for the change in the homeowners operating model. The operating model was changed in third quarter of 2011 rather than the third quarter of 2010. This does not, however, invalidate the explanation we previously provided for the increase in reported CWPs during 2011. [While an increase in CWPs occurred during 2010, it did accelerate initially following the operating model change and didn't start decreasing until the end of 2012. Reviewing the percentage of CBP to reported by accident year evaluated at 12 months highlights that 10/2011 to 9/2012 is significantly lower than the recent historical average, and that the drop off from the prior year is more significant. The homeowners operating model contributed to this temporary dip in CBP / Reported ratios.

Accident Year Evaluated at 12 months	CBP / Reported Ratio	Deviation from 5 Year Average
10/08 – 9/09	67.82%	6.32%
10/09 – 9/10	63.48%	1.98%
10/10 – 9/11	60.38%	-1.12%
10/11 – 9/12	55.11%	-6.39%
10/12 – 9/13	60.69%	-0.81%
5 Year Average	61.50%	0.00%

CATASTROPHE FACTOR

Consumer Watchdog (CW) supported its indication in part by spreading the 1991 Oakland Hills fire over a 50-year period. CW offered no support for selecting that return period. More importantly, CW's approach is an incorrect application of the Catastrophe Adjustment regulation, 10 CCR §2644.5.

The Catastrophe Adjustment regulation prescribes that the insurer's actual data be used to derive the catastrophe load, with a minimum period of 20 years of data for property lines. CSAA used 27 years of data, which is all of the data in CSAA's records for its HO-4 product. CSAA's approach therefore is consistent with the regulation.

Rather than use CSAA's actual data, CW has taken CSAA's data and treated it as though it were a catastrophe model. A true catastrophe model, however, would include all catastrophe exposures to which the insurer is subject, not just to brush fire. That sort of model has been developed by several recognized modelers, and CSAA uses these models in the management of its business. These models consistently show that our modeled catastrophe load is significantly higher than the load we used in our filing and runs closer to the catastrophe loads used by most other filers in California.

VARIANCE 3

CW argues that CSAA is not entitled to a concentration variance (§2644.27(f)(3)). They offer a number of considerations. First, they argue we don't meet the 90% test because the CSAA Insurance Group as a whole generates 30% of its premiums outside California. The regulation, however, states that the test is met when **the applicant** writes 90% of its **direct** written premium in California. In other words, the regulation explicitly states that the group experience is not the measure but rather the experience of the filer. In our case, the Exchange writes 100% of its direct business in California. The fact that the Exchange participates in the Group pooling arrangement does not affect the amount of the direct written premium for the Exchange.

CW argues further that CDI should consider a new auto product being rolled out by the Group in other states. The relevance of this activity to a California HO-4 filing is not immediately apparent and should not be considered absent CW clarifying the relevance. Finally, CW invites CDI to take into account an assumed reinsurance contract (called a Catastrophe Portfolio Participation, or CPP) entered into by the Exchange and Renaissance Re. The CPP contract is an example of exactly what the concentration variance is attempting to get at; namely, steps that highly concentrated companies take in order to mitigate concentration risk. In other words, we participate in RenRe's global catastrophe reinsurance portfolio as a mitigation strategy precisely because we are so highly California exposed.

CDI has not questioned the 90% test, but has questioned whether the Exchange has demonstrated that it meets that part of the regulation that requires that the filer's "mix of business presents investment risks different from the risks that are typical of the line as

a whole". As we have previously shown, the intent of the regulation is to provide a variance for highly concentrated carriers. Consistent with that intent, the quoted language requires highly concentrated insurers to show how their risk profile differs from carriers who are not highly concentrated. For the Exchange, this shows up in a number of impacts, of which two are illustrative.

First, our overall investment strategy is driven in part by our exposure to California catastrophes. The way in which it does so can be shown as a cascade of consequences flowing from our catastrophe exposure:

- We start with our Probable Maximum Loss (PML) which, as will appear below, is higher than it would be were our business spread over a larger geography and therefore atypical when compared to writers who are not highly concentrated.
- We then model our liquidity needs based on historic claims payout patterns following widespread catastrophes.
- There are fundamentally three methods to meet liquidity needs following a large scale catastrophe: Hold the requisite cash, liquidate assets following the event, or borrow the liquidity.
- Our analysis concluded that borrowing is the cheapest alternative. Of the lenders with the requisite capabilities, the ones best suited to our needs are the Federal Home Loan Banks, and so we are members of two FHLBs and have credit facilities with them.
- In order to borrow from FHLBs, specific collateral is required, namely home mortgages and derivatives of home mortgages. The level of such securities we hold is a direct output of our elevated PML.

Second, our reinsurance costs more because of our California catastrophe exposure. There are different approaches that demonstrate this, of which we have selected cost of capital. We began by asking Aon Benfield to model our property PML by reallocating our business such that 50% of the business is spread throughout California and the balance throughout our footprint. We then converted that notional PML into the capital required to support it. The capital differential at various return periods is attached as Exhibit A. The difference varies by return period but is significant regardless of the return period selected.

The cost of capital is most easily shown by what reinsurers charge for it, since reinsurance is conceptually just rented capital. Our actual program is somewhat complex and difficult to price so we asked XL Re to price a simplified program in which 100% of the required capital is rented at the 625 return period (\$3 billion for our actual business, \$765 million for our business when reallocated). The difference in reinsurance premium is around \$55 million (\$135 million v. \$80 million). Recasting that

as a percentage, the reallocated business costs just 60% of what our actual business costs. Had we used different return periods, the dollars and, to a lesser extent, the percentages would have changed but the general concept would not – it's simply more expensive having a book of business concentrated in California rather than spread more evenly throughout the country.

We do not, of course, rent the entirety of our capital but rather use a blend of reinsurance and retained surplus to provide the capital necessary to support our business. Our program currently buys \$550 million in total limits at an aggregate charge of \$28 million. At the pricing provided by XL Re, this would translate into a charge in the \$15-\$20 million range were our business more evenly spread throughout our footprint.

INCONSISTENT BOND YIELDS

We recalculated the indication based on 2014 April bond yield. The new indication is 15.67%. Please refer to the **attachment E-1** for details.

AAA MEMBERSHIP DISCOUNT

Our business model is built on providing insurance to AAA members and we require all new business customers to hold active memberships. We would expect 100% of customers to be eligible for the membership discount, and we use the discount as part of a larger effort to encourage customers to understand their eligibility. It is important to note that AAA membership is not restrictive and is available to all comers for the nominal price charged. We currently have 11% of our HO-4 customers with lapsed memberships and the membership discount will be used as a strategy tool to help us bring them back.

We extended the dataset to two years (2012 & 2013) to address the credibility issue. The revised loss ratio analysis still supports 5% discount we proposed. Please refer to **attachment E-2** for details of the calculation.

INCONSISTENT RATING VALUES

According to our rating algorithm, only part of premium is related to base rates. Non base rate related premium Includes Coverage E/F Premium and all Endorsements except HO51 and HO29. Below is an example for demonstration purpose:

Assuming 70% premium is base rate related and 30% is not base rate related, in order to achieve 5% increase at overall level, we would need to increase base rate 7% instead of 5%.

$$1.07 \times 0.7 + 0.3 = 1.05$$

Please refer to the exhibit below for the premium breakdown of this filing.

	Current Premium Impacted By Base Rates	Current Premium Not Impacted By Base Rates*	Total Premium
Current Written Premium: (1)	\$14,025,609	\$7,511,884	\$21,537,493
Impact of Membership Discount: (2)	-4.5%	-3.8%	-4.2%
Premium with Membership: (3) = (1)*[1+(2)]	\$13,400,798	\$7,227,345	\$20,628,143
Targeted Premium: (4)	\$15,794,693	\$7,227,345	\$23,022,038
Difference: (4)/(3) - 1	17.9%	0.0%	
Total Difference: (4)/(1) - 1			6.9%

*Includes Coverage E/F Premium and all Endorsements except HO51 and HO29.

EXHIBIT A

CSAA Insurance Group
2/28/14 Exposure in AIR v1.5
PML Comparison of Re-Distributed Portfolio vs. Current Portfolio

Probability of Non-Exceedance	Return Period (Year)	Current Portfolio	Re-Distributed Portfolio	Percentage Difference
-------------------------------	----------------------	-------------------	--------------------------	-----------------------

Occurrence Loss

99.90%	1,000	4,642,172,840	832,250,846	-82.1%
99.84%	625	3,015,697,226	766,652,173	-74.6%
99.80%	500	2,838,150,024	669,049,272	-76.4%
99.60%	250	1,507,785,824	548,891,211	-63.6%
99.50%	200	1,420,161,467	508,675,253	-64.2%
99.00%	100	1,006,945,672	399,020,200	-60.4%
98.00%	50	704,553,624	278,464,065	-60.5%
96.00%	25	473,378,132	204,368,366	-56.8%
90.00%	10	257,875,693	131,380,225	-49.1%
80.00%	5	150,581,023	87,305,992	-42.0%
Average Annual Loss		224,670,221	115,128,992	-48.8%
Standard Deviation		348,201,490	107,887,361	-69.0%

ATTACHMENT E-1

VARIANCE: 3

RATE TEMPLATE

Edition Date: 11/18/2013

(No input by filer)

CDI FILE NUMBER:
 COMPANY/GROUP:
 LINE OF INSURANCE:
 COVERAGE:
 PRIOR EFF DATE:
 PROPOSED EFF DATE:

0
 CSAA Insurance Exchange
 HOMEOWNERS MULTIPLE PERIL
 0
 11/4/2010
 9/18/2014

Completed by: Joshua Harwood
 Date: 5/22/2014

DATA PROVIDED BY FILER

	Year:	1/0/1900	9/30/2012	9/30/2013	PROJECTED/ SUMMARY
		PRIOR2	PRIOR1	RECENT	
WRT_PREM		0	20,521,843	20,832,511	41,354,354
ERN_PREM		0	20,149,658	20,656,760	40,806,418
PREM_ADJ		1.000	1.000	1.000	
PREM_TREND		1.000	1.020	1.015	0.006
MISCELLANEOUS_FEES (& other flat charges)		0	0	0	0
EARNED_EXP		0	87,887	88,981	176,868
LOSSES		0	11,365,130	8,179,463	19,544,593
DCCE		0	0	0	0
LOSS_DEV		1.000	1.095	1.485	
DCCE_DEV		1.000	1.000	1.000	
LOSS_TREND		1.000	1.271	1.186	0.072
DCCE_TREND		1.000	1.000	1.000	0.000
CAT_ADJ		1.000	1.015	1.015	
CREDIBILITY					100.00%
EXPENSE EXCLUSION FACTOR					0.13%
ANC_INC		0	163,028	167,131	330,159
FIT_INV					26.87%
YIELD					4.51%

CDI PARAMETERS:

FIT_UW	35.00%
EFF_STANDARD	35.01%
LEVERAGE	0.98
PREMIUM_TAX_RATE	2.35%
SURPLUS_RATIO	1.02
UEP_RES_RATIO	0.51
LOSS_RES_RATIO	0.76
RISK FREE RATE OF RETURN	1.66% April 2014
MAXIMUM RATE OF RETURN	7.66%
MINIMUM RATE OF RETURN	-6.00%

CDI CALCULATIONS:

ADJ_PREM	0	20,552,651	20,966,611	41,519,263
ADJUSTED_LOSSES	0	16,055,501	14,624,015	30,679,516
ADJUSTED_DCCE	0	0	0	0
ADJUSTED_LOSS+DCCE_RATIO	0.00%	78.12%	69.75%	73.89%
TRENDED_CURRENT_RATE_LEVEL_PREMIUM	#DIV/0!	233.85	235.63	234.75
LOSS+DCCE_PER_EXP	#DIV/0!	182.68	164.35	173.46
COMP_LOSS+DCCE_PER_EXP	#DIV/0!	190.62	192.07	191.35
CRED_LOSS_PER_EXP	#DIV/0!	182.68	164.35	173.46
ANC_INC_PER_EXP	#DIV/0!	1.85	1.88	1.87
FIXED_INV_INC_FACTOR				3.86%
VAR_INV_INC_FACTOR				7.80%
ANNUAL_NET_TREND				6.53%
COMP_TREND				27.74%
MAX_PROFIT				12.07%
MIN_PROFIT				-9.45%
UW_PROFIT				1.11%
MAX_DENOM				0.607
MIN_DENOM				0.822
MAX_PREMIUM				\$271.54
MIN_PREMIUM				\$200.51
CHANGE_AT_MIN				-14.59%
CHANGE AT MAX				15.67%

Alternate Calculation with Reinsurance

COMMISSION_RATE				0.00%
RE_PREM	-	-	-	0
RE_RECOV	-	-	-	0
RE_PREM_PER_EXP	#DIV/0!	0.00	0.00	0.00
RE_RECOV_PER_EXP	#DIV/0!	0.00	0.00	0.00
COMP_LOSS_RE	#DIV/0!	190.62	192.07	191.35
RMAX_PREMIUM				NA
RCHANGE AT MAX				NA

ATTACHMENT E-2

2012 & 2013 Combined										
member	EP	IL	Claim Count	Credibility **	Loss Ratio	Raw Relativities	Complement Relativities	Credibility Weighted Relativities	Rebased Relativities	Selected Relativities
N	\$4,736,303	\$2,514,845	851	28%	53%	1.16	1.00	1.05	1.00	1
Y	\$35,610,837	\$15,943,923	5044	100%	45%	0.98	1.00	0.98	0.94	0.95
	\$40,347,140	\$18,458,768	5895	100%	46%	1.00	1.00	1.00	0.96	

* *Credibility standard is 3000 claim count

EXHIBIT G

From: Pamela Pressley pam@consumerwatchdog.org
Subject: Re: CSAA Insurance Exchange, CDI File PA-2014-00005 (Rate File No. 14-3851)
Date: September 11, 2014 at 4:18 PM
To: Vanessa Wells vanessa.wells@hoganlovells.com
Cc: Joel.Laucher@insurance.ca.gov, Holbrook, Rick (Rick.Holbrook@insurance.ca.gov) Rick.Holbrook@insurance.ca.gov, Hemphill, Rachel (Rachel.Hemphill@insurance.ca.gov) Elizabeth.Mohr@insurance.ca.gov, Gallagher, Emily (Emily.Gallagher@insurance.ca.gov) Emily.Gallagher@insurance.ca.gov, Nikki.McKennedy@insurance.ca.gov, Ortiz, Raquel (Raquel.Ortiz@insurance.ca.gov) Raquel.Ortiz@insurance.ca.gov, Wong, Betty (Betty.Wong@insurance.ca.gov) Betty.Wong@insurance.ca.gov, Tina Warren Tina.Warren@insurance.ca.gov, Laura Antonini laura@consumerwatchdog.org, Harvey Rosenfield harvey@consumerwatchdog.org, Jason Roberts jason@consumerwatchdog.org, Allan Schwartz actuary999@aol.com, Richmond, John (John.Richmond@csaa.com) John.Richmond@csaa.com, 'Ju, Lin' (Lin.Ju@csaa.com) Lin.Ju@csaa.com, Hardin, Matthew (Matthew.Hardin@csaa.com) Matthew.Hardin@csaa.com, Taber, Mark (Mark.Taber@csaa.com) Mark.Taber@csaa.com, Myers, Christian (Christian.Myers@csaa.com) Christian.Myers@csaa.com

After further review of the materials provided by CSAA on 9/10, in addition to the questions and requests for information discussed on today's call, CWD has some additional questions and requests that we would like CSAA to respond to by 9/18/14. Please see the attached. Thank you.

Pamela Pressley
Consumer Watchdog
www.consumerwatchdog.org
2701 Ocean Park Blvd., Suite 112
Santa Monica, CA 90405
310-392-0522, ext. 307
310-392-8874 fax
pam@consumerwatchdog.org

This message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think you have received this e-mail message in error, please e-mail the sender at pam@consumerwatchdog.org.



Additional Questions for
CSAA HO T...Filing.docx

On Sep 10, 2014, at 6:00 PM, Wells, Vanessa <vanessa.wells@hoganlovells.com> wrote:

CONFIDENTIAL -- SENT PURSUANT TO CALIFORNIA EVIDENCE CODE SECTION 1152

All: Attached is a memo setting forth CSAA's comments in response to Consumer Watchdog's 9/3 memorandum, for our discussion tomorrow at 10 am.

Vanessa Wells
Partner
Hogan Lovells US LLP
4085 Campbell Avenue
Suite 100
Menlo Park, CA 94025
Tel: +1 650 463 4000
Direct: +1 650 463 4022
Fax: +1 650 463 4199
Email: vanessa.wells@hoganlovells.com

www.hoganlovells.com

Please consider the environment before printing this e-mail.

About Hogan Lovells
Hogan Lovells is an international legal practice that includes Hogan Lovells US LLP and Hogan Lovells International LLP. For more information, see www.hoganlovells.com.

CONFIDENTIALITY. This email and any attachments are confidential, except where the email states it can be disclosed. It may also be privileged. If received in error, please do not disclose the contents to anyone, but notify the sender by return email and delete this email (and any attachments) from your system.

Additional Questions for CSAA HO Tenant Filing

1. The large fire claim occurring in the first quarter of 2009 and paid in the third quarter of 2009 has been referenced as a possible source of distortion in the trend data. There was a large increase in payments from 2Q09 to 3Q09, of about \$645,000. However, there have been other periods with similar or larger changes between quarters. For example, from 2Q12 to 3Q12 payments increased by about \$831,000. So an issue is whether there have been other large claims that have influenced the paid losses for given periods? If not, what is the explanation for these other large changes in payments between quarters?
2. Provide the information in Attachment B-2 (i.e., split of total CSAA California HO business between forms: HO-3, HO-4 and HO-6) for the first and second quarters of 2014.
3. Provide the numerator and denominator used to calculate the ratios shown in Attachment D-1.
4. Provide a complete listing and description of the premium charges, along with the corresponding amount of premium, not impacted by a base rate change, as set forth in the 2nd 9/11/14 submission from CSAA.

EXHIBIT H

From: Altamirano, Ramona ramona.altamirano@hoganlovells.com

Subject: CSAA Insurance Exchange, CDI File PA-2014-00005 (Rate File No. 14-3851)

Date: September 23, 2014 at 5:01 PM

To: Joel.Laucher@insurance.ca.gov, Holbrook, Rick Rick.Holbrook@insurance.ca.gov, Rachel.Hemphill@insurance.ca.gov, Elizabeth.Mohr@insurance.ca.gov, Gallagher, Emily Emily.Gallagher@insurance.ca.gov, Nikki.McKennedy@insurance.ca.gov, Ortiz, Raquel Raquel.Ortiz@insurance.ca.gov, Wong, Betty Betty.Wong@insurance.ca.gov, Warren, Tina Tina.Warren@insurance.ca.gov, pam@consumerwatchdog.org, Laura Antonini laura@consumerwatchdog.org, Harvey Rosenfield harvey@consumerwatchdog.org, Jason Roberts jason@consumerwatchdog.org, Allan Schwartz actuary999@aol.com

Cc: John Richmond (John.Richmond@csaa.com) John.Richmond@csaa.com, Ju, Lin Lin.Ju@csaa.com, Hardin, Matthew Matthew.Hardin@csaa.com, Taber, Mark Mark.Taber@csaa.com, Myers, Christian Christian.Myers@csaa.com, Wells, Vanessa vanessa.wells@hoganlovells.com

CONFIDENTIAL – SENT PURSUANT TO CALIFORNIA EVIDENCE CODE SECTION 1152

All: At the request of Vanessa Wells, attached is the memorandum responding to Consumer Watchdog's inquiries.

Regards,
Ramona

Ramona Altamirano

Senior Paralegal

Hogan Lovells US LLP

4085 Campbell Avenue

Suite 100

Menlo Park, CA 94025

Tel: +1 650 463 4000

Direct: +1 650 463 4057

Fax: +1 650 463 4199

Email: ramona.altamirano@hoganlovells.com

www.hoganlovells.com

Please consider the environment before printing this e-mail.

About Hogan Lovells

Hogan Lovells is an international legal practice that includes Hogan Lovells US LLP and Hogan Lovells International LLP. For more information, see www.hoganlovells.com.

CONFIDENTIALITY. This email and any attachments are confidential, except where the email states it can be disclosed; it may also be privileged. If received in error, please do not disclose the contents to anyone, but notify the sender by return email and delete this email (and any attachments) from your system.



CONFIDENTIAL – SUBMITTED PURSUANT TO EVIDENCE CODE § 1152

CSAA INSURANCE EXCHANGE'S RESPONSE TO CONSUMER WATCHDOG'S WRITTEN QUESTIONS

1. The large fire claim occurring in the first quarter of 2009 and paid in the third quarter of 2009 has been referenced as a possible source of distortion in the trend data. There was a large increase in payments from 2Q09 to 3Q09, of about \$645,000. However, there have been other periods with similar or larger changes between quarters. For example, from 2Q12 to 3Q12 payments increased by about \$831,000. So an issue is whether there have been other large claims that have influenced the paid losses for given periods? If not, what is the explanation for these other large changes in payments between quarters?

After Reviewing our data for the losses in 2012Q2-Q3, the highest paid losses in 2012Q3 were \$200,000 and one for \$190,000 and the highest payment made in 2012Q2 was \$110,563. These 2 losses account for less than half of the increase between the periods, while the single loss in 2009Q3 accounted for nearly 75% of the increase. Additionally, the single large loss has a greater impact on severity than the two losses in 2012Q3. For these reasons, we do not believe it is appropriate to remove the losses in 2012Q3.

2. Provide the information in Attachment B-2 (i.e., split of total CSAA California HO business between forms: HO-3, HO-4 and HO-6) for the first and second quarters of 2014.

We don't believe the request for 2014 is relevant or proper. The data supporting the application is as of third quarter 2013 and 2014 partial-year results are not at issue in this application.

3. Provide the numerator and denominator used to calculate the ratios shown in Attachment D-1.

The numerator is the number of claims that have been closed by payment, the denominator are the claims that have been reported.

4. Provide a complete listing and description of the premium charges, along with the corresponding amount of premium, not impacted by a base rate change, as set forth in the 2nd 9/11/14 submission from CSAA.

Please find the breakdown below:

		Current	Proposed	Impact
Non Base Rate Impacted Premium	Coverages E&F	708,912	688,405	
	Endorsement HO75	10,582	10,108	
	Endorsement HO71	494	482	
	Endorsement HO70	4,080	3,892	
	Endorsement HO61	891,572	852,145	
	Endorsement HO43	56	54	
	Endorsement HO164	335	319	
	Endorsement HO42	9,224	8,663	
	Endorsement HO210	273,507	261,452	
	Endorsement HO90	461,235	461,235	
	Endorsement HO29	5,153,800	4,942,424	
Total		7,513,797	7,229,179	-3.8%

*There is a difference of \$1,913 and \$1,834 for Current and Proposed Non Base Rate Impacted Premium from original submission. The source of the discrepancy has not been uncovered but the impact is immaterial.

CSAA INSURANCE EXCHANGE'S RESPONSES TO EXCLUDED EXPENSE FACTOR CONCERNS RAISED IN CONSUMER WATCHDOG'S SEPTEMBER 3, 2014 COMMENTS

In CW's comments of September 3, 2014, CW argued that CSAA failed to demonstrate that certain expenses included in its "advertising expense" should not be excluded under 10 CCR §2644.10. There are four categories of expense CSAA classifies as advertising expense for financial reporting purposes. We address each.

Development Funds and Marketing Allowances

These are terms we use in our producer agreement to describe payments to AAA clubs in the nature of commissions. Development Funds are lump sum amounts and Marketing Allowances are calculated as a percentage of premiums written by the club. In both cases, the amounts are paid to the club with no requirement that the club account for their expenditure. In this respect, they are treated the same as the base and contingent commissions, for which no accounting is required either. The difference with Development Funds and Marketing Allowances is that the clubs are required by the producer agreement to expend those funds on activities calculated to increase sales of CSAA insurance by the club in its territory. While clubs often expend these funds on insurance advertising, they are permitted to expend the funds on opening new offices, subsidizing new sales reps and the like. While we account for these amounts as advertising, the amounts are not in fact advertising expense within the contemplation of the regulation.

Collateral Developed for Use by AAA Clubs

CW objects to collateral produced by CSAA because it also promotes club products, such as maps, DMV services and the like. Fundamental to the CSAA value proposition is that its insurance is for AAA Members. AAA Members enjoy benefits beyond the protection afforded by our insurance. We intend for the benefits of membership and of our insurance to be linked in the minds of our customers since they are part and parcel of the same membership experience. The fact that we mention these other matters in our collateral does not alter the fact that the collateral is designed and intended to promote our insurance. Section 2644.10 was not intended to penalize affinity-type programs in which there is some element to the value proposition that goes beyond the insurance itself.

Direct Marketing

CW also objects to our collateral because we describe the product offered as AAA Insurance or AAA Auto Insurance. Nowhere in the regulation does it require that the product offered be identified by the legal name of the offering insurer, just that the collateral be intended to promote the products of a specific insurer. Ours clearly satisfy that criteria.

Agent Incentive Trips

We agree that agent incentive trips do not constitute promotion of a specific product. That is because agent incentive trips are not advertising at all as contemplated by Section 2644.10. We classify them in our accounting records as advertising expense but that doesn't make them advertising within the contemplation of the regulation any more so than any other form of incentive compensation we might provide.

State of California, City of Santa Monica, County of Los Angeles

On November 26, 2014 I caused service of true and correct copies of the document entitled

-DECLARATION OF PAMELA PRESSLEY IN SUPPORT OF CONSUMER WATCHDOG'S REQUEST FOR COMPENSATION

2. If marked EMAIL, by electronic mail transmission this date to the email address stated.

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

Executed on November 26, 2014, at Santa Monica, California.

Jason Roberts
Jason Roberts

Service List

Vanessa Wells
HOGAN LOVELLS US LLP
4085 Campbell Ave., suite 100
Menlo Park, CA 94025
Vanessa.wells@hoganlovells.com

☐ FAX
☐ U.S. MAIL
☐ OVERNIGHT MAIL
☐ HAND DELIVERED
☒ EMAIL

John Richmond
CSAA INSURANCE EXCHANGE
3055 Oak Rd.
Walnut Creek, California 94597
John.richmond@csaa.com

☐ FAX
☐ U.S. MAIL
☐ OVERNIGHT MAIL
☐ HAND DELIVERED
☒ EMAIL

Elizabeth Mohr
Nikki McKennedy
Emily Gallagher
Rate Enforcement Bureau
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, California 94105
Tel. No.: (415) 538-4111
Fax No.: (415) 904-5490
mohre@insurance.ca.gov
mckennedyn@insurance.ca.gov
gallaghere@insurance.ca.gov

☐ FAX
☐ U.S. MAIL
☐ OVERNIGHT MAIL
☐ HAND DELIVERED
☒ EMAIL

Edward Wu
Staff Counsel and Public Advisor
Office of the Public Advisor
California Department of Insurance
300 South Spring Street, 12th Floor
Los Angeles, CA 90013
Tel. No.: (213) 346-6635
Fax No.: (213) 897-9241
edward.wu@insurance.ca.gov

☐ FAX
☐ U.S. MAIL
☐ OVERNIGHT MAIL
☐ HAND DELIVERED
☒ EMAIL

1 Harvey Rosenfield (SBN 123082)
2 Pamela Pressley (SBN 180362)
3 CONSUMER WATCHDOG
4 2701 Ocean Park Blvd., Suite 112
5 Santa Monica, CA 90405
6 Tel. (310) 392-0522
7 Fax (310) 392-8874
8 harvey@consumerwatchdog.org
9 pam@consumerwatchdog.org

10 Attorneys for CONSUMER WATCHDOG

11
12 BEFORE THE INSURANCE COMMISSIONER
13 OF THE STATE OF CALIFORNIA
14

15 In the Matter of the Rate Application of
16
17 CSAA Insurance Exchange,
18
19 Applicant.

File No.: PA-2014-00005

20 **DECLARATION OF PAMELA PRESSLEY**
21 **IN SUPPORT OF CONSUMER**
22 **WATCHDOG'S REQUEST FOR**
23 **COMPENSATION**
24
25
26
27
28

1 I, Pamela Pressley, declare:

2 1. I am over eighteen years of age and the Litigation Director for Intervenor in this matter,
3 Consumer Watchdog (“CWD”). This declaration is submitted in support of CWD’s Request for
4 Compensation in the above-captioned matter. I have personal knowledge of the matters set forth herein,
5 and if called as a witness, I could and would testify competently to the facts stated herein.

6 2. Consumer Watchdog is a non-profit, tax-exempt consumer research, education, litigation,
7 and advocacy organization. CWD advocates on behalf of consumers before regulatory agencies, the
8 Legislature and the courts.

9 **Consumer Watchdog’s Billed Hours Are Reasonable and in Compliance with the Regulations.**

10 3. Attached as Exhibit 1a are true and correct printouts of detailed time billing reports
11 showing the tasks performed and hours expended by each CWD attorney in this matter, including Pamela
12 Pressley, Harvey Rosenfield, and Laura Antonini, and by CWD’s paralegal, Jason Roberts.¹

13 4. As a non-profit, public interest organization, Consumer Watchdog conducts its education
14 and advocacy efforts as a public interest service. Therefore, consistent with the decisions of the
15 California Supreme Court and the United States Supreme Court and the intervenor regulations applicable
16 to this proceeding (see 10 CCR § 2661.1(c)), CWD’s policy is to seek prevailing market rates in all fee
17 award applications. CWD has consistently been awarded prevailing market hourly rates in fee awards and
18 negotiations.

19 5. I have reviewed CWD’s time billing records and believe that the hours and fees listed were
20 necessary and reasonable. In preparing their respective time records for this submission, CWD’s
21 attorneys exercised billing judgment and eliminated time entries where appropriate. The time expended
22 and work performed in the proceeding, as reflected in the time records, was reasonable and appropriate,
23 and the minimum required to achieve the result obtained.

24 6. Based upon CWD’s time billing reports attached hereto as Exhibit 1a, CWD attorneys and
25 paralegal have incurred 41.5 hours in this matter through November 26, 2014. The billing reports detail

26 ¹ Pursuant to a prior request of the Public Advisor, I have also included a list of all persons identified in
27 the billing reports as Exhibit 1b.

1 the tasks performed, are based on contemporaneous daily time records maintained by CWD attorneys, and
2 are billed in tenth of an hour increments.

3 7. The 2014 hourly rates sought by CWD for its attorneys and paralegal are: \$550 for Pamela
4 Pressley, \$675 for Harvey Rosenfield, \$325 for Laura Antonini, and \$100 for Jason Roberts. The hourly
5 rates for CWD's attorneys and paralegal who worked on this matter are consistent with the 2014
6 prevailing market rates for attorneys of similar experience, qualifications, and expertise in insurance
7 regulatory law. CWD arrived at these hourly rates based on the experience and qualifications of its
8 attorneys and paralegal, information obtained from other attorneys working at several reputable law firms
9 in Los Angeles and San Francisco, the opinion of attorneys' fees expert Richard M. Pearl, and historical
10 rates awarded or paid for CWD attorneys' and paralegal's professional services in civil and administrative
11 proceedings. Mr. Pearl is a recognized expert on attorneys' fees issues in the California market.² His
12 declaration, attached as Exhibit 2, evidences the reasonableness of CWD's 2013 hourly rates, which
13 continue to be CWD's current 2014 hourly rates. (See Pearl Decl. *passim*.) In his declaration Mr. Pearl
14 concludes that CWD's 2013 rates are "eminently reasonable in light of the information I have gathered as
15 an attorneys' fees specialist" (*Id.* at ¶7) and "well in line with, but *lower* than" rates charged by attorneys
16 in the Los Angeles and San Francisco Bay areas (*Id.* at ¶8). Mr. Pearl's declaration contains substantial
17 details on attorneys fees and shows that CWD's hourly rates are within the rates charged by attorneys
18 with similar experience level and skill.

19 8. In this matter, CWD attorneys performed the following general tasks:

- 20 • Conferred regarding overall strategy and positions;
- 21 • Drafted, reviewed, and edited CWD's Petition for Hearing, Petition to Intervene and Notice of
22 Intent to Seek Compensation;
- 23 • Reviewed and conferred with CWD's actuarial experts regarding the CSAA Insurance
24 Exchange's (CSAA) tenants rate filing and updated rate filing information;

26 ² Richard M. Pearl is the author of the Continuing Education of the Bar's treatise on attorneys' fees in
27 California.

- Reviewed and conferred with CWD’s actuarial experts regarding CWD’s written analyses, requests for information, and CSAA’s responses;
- Participated in discussions and additional email communications with the Parties regarding issues raised by CWD’s Petition;
- Drafted, reviewed, and edited CWD’s Request for Compensation, including this supporting declaration and exhibits.

Pamela Pressley

9. I am Consumer Watchdog’s lead staff attorney and Litigation Project Director with 19 years professional experience advocating on behalf of consumers. For the past fifteen years, my legal work with CWD has focused primarily on insurance regulatory and litigation matters before the California Department of Insurance (“CDI”) and the courts, and particularly on the enforcement and implementation of Proposition 103. Examples include:

a. *Association of California Insurance Companies v. Poizner* (2009) 180 Cal.App.4th 1029, in which I served as lead counsel representing CWD as Intervenor to successfully defend against a petition for writ of mandate by insurance trade associations seeking to invalidate the Commissioner’s amendments to the intervenor regulations clarifying the scope of a rate proceeding.

b. *Allstate Insurance Co. v. Poizner* (Super. Ct. S.F. County, 2008, No. CPF-08-50821) in which I served as lead counsel representing CWD as Intervenor to successfully defend against Allstate’s petition for a stay of the Commissioner’s order requiring Allstate to lower its private passenger auto insurance rates by 15.9%, and serving as supervising counsel in the rate proceeding that led to that rate decrease order, *In the Matter of the Rate Application of Allstate Insurance Co. and Allstate Indemnity Co.*, File No. 2007-00004 (Cal. Ins. Comm’r, Mar. 14, 2008).

c. *American Insurance Association v. Garamendi* and *California Farm Bureau Federation v. Garamendi* (Super. Ct. Sacramento County, 2007, Nos. 06AS03053 and 06AS03036 (consolidated)) in which I served as lead counsel representing CWD as an intervenor in a successful motion for summary judgment against insurer plaintiffs upholding the Insurance Commissioner’s regulations (see paragraph

1 (f), below) enforcing Insurance Code section 1861.02(a), which requires that automobile insurance
2 premiums be based primarily on one's driving safety record, and not where one lives.

3 d. A successful writ of mandate action to invalidate an insurer-sponsored amendment to
4 Proposition 103 that purported to allow a rating factor based on prior insurance with any carrier in
5 violation of Insurance Code section 1861.02(c) (*The Foundation for Taxpayer and Consumer Rights v.*
6 *Garamendi* (2005) 132 Cal.App.4th 1354). In that proceeding, I participated in overall strategy
7 discussions, drafted and edited pleadings and the appellate brief, performed legal research, appeared at all
8 court hearings, and argued the case before the Court of Appeal, among other tasks.

9 e. Class action and representative lawsuits to enforce Insurance Code section 1861.02(c)'s
10 prohibition against surcharging motorists with an absence of prior insurance (*Proposition 103*
11 *Enforcement Project v. GEICO*, Case No. BC266220; *Proposition 103 Enforcement Project v.*
12 *Interinsurance Exchange of the Automobile Club*, Case No. BC266218; *Landers v. Interinsurance*
13 *Exchange of the Automobile Club*, Case No. JCCP No. 4438; and *Donabedian v. Mercury Ins. Co.* (2004)
14 116 Cal.App.4th 968), which resulted in a settlements that required the insurers to make refunds to
15 affected auto policyholders.

16 f. *Mitchell v. Allstate Ins. Co.* (Super. Ct. L.A. County, 2003, No. BC212492) in which I
17 drafted all CWD pleadings submitted to the Court and the Department of Insurance and made court
18 appearances on CWD's behalf, successfully objecting to the class action settlement.

19 g. The appeal in writ of mandate challenge to a regulation promulgated by Insurance
20 Commissioner Quackenbush, which authorized insurers to use ZIP code as the primary determinant of
21 automobile insurance premiums in violation of Insurance Code section 1861.02(a). (*Spanish Speaking*
22 *Citizens Foundation v. Low* (2000) 85 Cal.App.4th 1179.)

23 h. A successful writ of mandate action against former Insurance Commissioner Quackenbush
24 to require that the Commissioner not approve any insurer's rate application prior to the expiration of the
25 45-day period in which a consumer may petition for a rate hearing as required by Insurance Code section
26 1861.05. (*Proposition 103 Enforcement Project v. Chuck Quackenbush* (Super. Ct. L.A. County, 1999,
27 No. BC202283).)

i. *In the Matter of the Rates, Rating Plans, or Rating Systems of Farmers Insurance Exchange; Fire Insurance Exchange; Mid-Century Insurance Company* (Cal. Ins. Comm'r, Aug. 8, 2007) in which I served as CWD's lead counsel representing CWD as Intervenor in a "non-compliance" administrative proceeding against Farmers Insurance, alleging that the company had been misapplying its own rating guidelines to overcharge certain homeowners policyholders based on the number of claims they made or how far they live from a fire hydrant. The CDI and CWD reached a settlement with Farmers that was approved by the Commissioner in August 2007. According to the settlement, Farmers refunded its policyholders \$1.4 million for the overcharges, was ordered to pay a \$2 million penalty to the CDI, will use rating practices that comply with the law, had to review its computer data to find and refund any other policyholders that were overcharged, and was subject to another review of its practices in 2008.

j. Successful rate challenges before the CDI to insurers' earthquake and homeowners rate hikes in which I served as lead counsel for CWD, resulting in combined savings of over \$790 million, including PA-04041210, PA-2007-00008, and PA-2007-00019, regarding the earthquake insurance rates of Safeco, GeoVera, and Fireman's Fund; and PA06093080, PA06093078, PA06092759/PA-2006-00016, PA-2006-00006, and PA-2007-00017, regarding the homeowners rates of Safeco, Fire Insurance Exchange, State Farm, Allstate, and Fireman's Fund.

k. Numerous other successful challenges to automobile, homeowners, and medical malpractice insurers' rate applications, including *In the Matter of the Rate Application of Mercury Casualty Company*, PA-2009-00009 (Cal. Ins. Comm'r 2013), resulting in savings of over \$16 million per year in homeowners insurance premiums; *In the Matter of the Rate Application of State Farm General Insurance Company*, PA-2011-00010 (Cal. Ins. Comm'r 2013), resulting in savings of over \$157 million per year in homeowners insurance premiums; *In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club*, PA-2012-00009 (Cal. Ins. Comm'r 2013), resulting in annual auto insurance premium savings of \$70 million; *In the Matter of the Rate Application of Federal Insurance Company, et al.*, PA-2012-00002 (Cal. Ins. Comm'r 2012), resulting in savings of over \$4.2 million per year in earthquake insurance premiums; *In the Matter of the Rate Application of Chartis Property and Casualty*, PA-2011-000015 (Cal. Ins. Comm'r, 2012), resulting in savings of over \$7.6 million per year in

1 earthquake insurance premiums; *In the Matter of the Rate Application of NORCAL Mutual Insurance Co.*,
2 PA-2011-00007 (Cal. Ins. Comm'r, 2012), resulting in savings of \$2.8 million per year in medical
3 malpractice insurance premiums; *In the Matter of the Rate Application of The Doctors Company*, PA-
4 2011-00006 (Cal. Ins. Comm'r, 2012), resulting in savings of \$5.6 million per year in medical
5 malpractice insurance premiums; *In the Matter of the Rates of California State Automobile Association*
6 *Inter-Insurance Bureau*, PA-2010-00014 (Cal. Ins. Comm'r, 2012), resulting in annual homeowners
7 insurance premium savings of \$52 million; *In the Matter of the Rate Application of Medical Protective*
8 *Company*, PA-2011-00008 (Cal. Ins. Comm'r, 2011), resulting in annual premium savings of \$2.5
9 million; *In the Matter of the Rate Application of Explorer Ins. Co.*, PA-2007-00013 (Cal. Ins. Comm'r,
10 2008), resulting in annual auto insurance premium savings of \$8.2 million; *In the Matter of the Rate*
11 *Application of the Medical Protective Company*, PA-05045074 (Cal. Ins. Comm'r, 2005), resulting in
12 savings of \$2 million per year in medical malpractice insurance premiums; *In the Matter of the Rate*
13 *Application of American Casualty Company*, File No. PA-04039736 (Cal. Ins. Comm'r, 2005), resulting
14 in savings of \$1.6 million per year in medical malpractice insurance premiums; *In the Matter of the Rate*
15 *Application of Medical Protective Company*, PA-04036735 (Cal. Ins. Comm'r, 2004), resulting in savings
16 of \$3.9 million per year in medical malpractice insurance premiums; *SCPIE Indemnity Co.* ("SCPIE");
17 PA-02025379 (Cal. Ins. Comm'r, 2004), resulting in savings of \$23 million per year in medical
18 malpractice insurance premiums; and *In the Matter of the Rate Application of: NORCAL Mutual*
19 *Insurance Co.*, PA 03032128 (Cal. Ins. Comm'r, 2003), resulting in savings of \$11.6 million per year in
20 medical malpractice insurance premiums. In these proceedings, I was responsible for overall strategy,
21 briefing, communication with expert witnesses and parties, discovery, and settlement negotiations, among
22 other tasks.

23 1. Several rulemaking proceedings implementing Proposition 103's prior approval and
24 automobile rating factor requirements including: (1) the Mileage Verification rulemaking matter (RH-
25 06091489) implementing amendments to the Automobile Rating Factors regulations to provide
26 requirements for verified mileage programs; (2) the Prior Approval rulemaking matter (RH-05042749)
27 adopting, among other amendments, the generic determinations included in the prior approval ratemaking
28

1 formula pertaining to profit and expense provisions; (3) the Automobile Rating Factors rulemaking matter
2 (RH-03029826, Cal. Dept. of Ins., June 2, 2005) in which CWD and other groups successfully petitioned
3 for and the Commissioner adopted amendments to section 2632.8 of title 10 of the California Code of
4 Regulations requiring that insurers base automobile insurance premiums primarily on how one drives and
5 not on other optional factors such as zip code and marital status as required by Insurance Code section
6 1861.02(a); (4) the Persistency Rulemaking matter (*Persistency Rulemaking*, RH-402 (Cal. Dept. of Ins.
7 April 18, 2003)); and (5) a rulemaking matter adopting regulations to prevent insurers from requiring that
8 motorists show proof of prior insurance to verify their accident record in violation of Insurance Code
9 section 1861.02(c) (*Accident Verification Rulemaking*, RH 01015532 (Cal. Dept. of Ins. September 3,
10 2003)), among others. In these proceedings, I acted as CWD's lead counsel, participating in all strategy
11 discussions, workshops, and preparing and presenting written and oral testimony at hearings, among other
12 tasks.

13 10. I have also served as CWD's lead counsel in matters involving issues of first impression
14 before the courts in which I was primarily responsible for litigating the matters through trial and on
15 appeal.

16 11. Prior to my employment with CWD, I served for two years as CALPIRG's lead consumer
17 attorney and for one year as a staff attorney for The Center for Law in the Public Interest in Los Angeles
18 litigating in the areas of civil rights, justice, and consumer issues. I am a 1995 graduate of Pepperdine
19 University School of Law and was admitted to the California State Bar in November 1995.

20 12. I am informed through the Pearl Declaration and conversations with attorneys in the Los
21 Angeles and San Francisco Bay Areas discussing their billing rates that a \$550 per hour is a very
22 reasonable rate in 2013 for the professional services of an attorney with experience and qualifications
23 comparable to mine.

24 Harvey Rosenfield

25 13. Harvey Rosenfield is an attorney with over 35 years experience in insurance regulatory and
26 litigation matters, counsel to and founder of CWD, and the author and proponent of Proposition 103. He
27 has participated in every major lawsuit to enforce the initiative's provisions, including, *Calfarm Ins. Co.*
28

1 v. *Deukmejian* (1989) 48 Cal.3d 805, *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216, *Amwest*
2 *Surety Ins. Co. v. Wilson* (1995) 11 Cal.4th 1243, *Proposition 103 Enforcement Project v. Quackenbush*
3 (1998) 64 Cal.App.4th 1473, *Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th 968, *The*
4 *Foundation for Taxpayer and Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th 1354, and
5 *Association of California Insurance Companies v. Poizner* (2009) 180 Cal.App.4th 1029, among others.

6 14. Mr. Rosenfield has also acted in the capacity of supervising attorney to provide his
7 considerable expertise as the author and lead proponent of Proposition 103 in numerous other insurance
8 matters before the courts and CDI since the passage of the measure by the voters in 1988. These include:

9 a. *American Insurance Association, et al v. Garamendi* and *California Farm Bureau*
10 *Federation v. Garamendi* (Super. Ct. Sacramento County, 2007, Nos. 06AS03053 and 06AS03036
11 (consolidated)). In that proceeding, Mr. Rosenfield served as supervising attorney representing CWD as
12 an intervenor in the intervenors' successful motion for summary judgment against insurer plaintiffs who
13 challenged the Insurance Commissioner's regulations enforcing Insurance Code section 1861.02(a). That
14 statute requires that automobile insurance premiums be based primarily on the policyholder's driving
15 safety record, and not where one lives.

16 b. A class action lawsuit in which CWD appeared in an amicus curiae role to successfully
17 prevent the approval of a settlement on the merits that would have allowed the insurer defendant to
18 continue to violate Insurance Code section 1861.02(c). (*Mitchell v. Allstate Ins. Co.*, Super. Ct. L.A. Cty.,
19 2003, No. BC212492.)

20 c. A successful writ of mandate challenge by CWD and other groups to former Insurance
21 Commissioner Chuck Quackenbush's approval of rating plans submitted by insurers that violated §
22 1861.05(c). (*Proposition 103 Enforcement Project v. Quackenbush*, Super. Ct. S.F. County, Feb. 10,
23 1997, No. 982646.)

24 d. Class action and representative lawsuits to enforce Insurance Code section 1861.02(c)'s
25 prohibition against surcharging motorists with an absence of prior insurance (*Proposition 103*
26 *Enforcement Project v. GEICO*, Case No. BC266220; *Proposition 103 Enforcement Project v.*
27 *Interinsurance Exchange of the Automobile Club*, Case No. BC266218 and *Landers v. Interinsurance*
28

1 *Exchange of the Automobile Club*, Case No. JCCP No. 4438), which resulted in a settlements that
2 required the insurers to make refunds to affected auto policyholders.

3 e. A writ of mandate challenge to a regulation promulgated by Insurance Commissioner
4 Quackenbush, which authorized insurers to use ZIP code as the primary determinant of automobile
5 insurance premiums in violation of Insurance Code section 1861.02(a). (*Spanish Speaking Citizens*
6 *Foundation v. Low* (2000) 85 Cal.App.4th 1179.)

7 15. Mr. Rosenfield has also acted as supervising attorney in numerous other rollback, rate, and
8 rulemaking proceedings before the Department of Insurance utilizing his substantial expertise in insurance
9 rating and regulatory matters, including, but not limited to those listed in paragraphs 9.i-l, *supra*, and the
10 following: (a) REB-5184, regarding State Farm's rollback liability, (b) RH-318 and IH-93-3-REB,
11 regarding regulations to implement Insurance Code section 1861.02's provisions on rating factors for
12 personal automobile insurance; (c) RH-339 and RH-341, regarding procedural rules for rate hearings and
13 for intervention; (d) PA-95-0057-00, regarding Safeco's Earthquake Rate Application; (e) Consolidated
14 hearing numbers PA-97-0078-00, and PA-97-007900, regarding State Farm, Allstate, and Farmers'
15 automobile class plans; (f) PA-97-0072, regarding the California Earthquake Authority's rate application;
16 (g) RH-346, regarding regulations governing Advisory Organization Manuals; (h) IH-97-0017-REB,
17 regarding prior approval regulations, and IH-0017-TF, Prior Approval Task Force; (i) IH-97-0018-REB
18 III; and (j) File No. PA-98-0099-00, regarding Allstate's Private Passenger Automobile Insurance Rate
19 Application, among others.

20 16. Prior to founding CWD in 1985, Mr. Rosenfield served for three years as Program Director
21 for CALPIRG and two years as a Staff Attorney and Legislative Advocate for Public Citizen's Congress
22 Watch in Washington, D.C. He is a graduate of Georgetown University, from which he earned both a
23 J.D. and a M.S.F.S. degree in 1979. Mr. Rosenfield is admitted to the Bar in D.C. and California.

24 17. I am informed through the Pearl Declaration and conversations with attorneys in the Los
25 Angeles and San Francisco Bay Areas discussing their billing rates that a \$675 per hour is a very
26 reasonable rate in 2013 for the professional services of an attorney with experience and qualifications
27 comparable to Mr. Rosenfield's.

1 Laura Antonini

2 18. Ms. Antonini is a staff attorney at Consumer Watchdog with 3 years experience in
3 litigation and regulatory matters. Ms. Antonini's work at CWD includes enforcement and implementation
4 of Proposition 103 in proceedings before the CDI and the courts.

5 19. Prior to joining CWD, Ms. Antonini tutored and mentored law students and recent law
6 school graduates for the California Bar Exam, and also co-authored a "How To" book for law students,
7 focused on legal writing.

8 20. Ms. Antonini is a 2009 graduate of Pace University School of Law, where she completed
9 the Pace University School of Law's Environmental Law Program and the specialization in
10 Environmental Law. She was admitted to the California Bar in 2010.

11 21. I am informed, through the Declaration of Richard M. Pearl, which details his extensive
12 familiarity with the billing practices and schedules for numerous private law firms in San Francisco and
13 Los Angeles, and conversations with attorneys in the Los Angeles and San Francisco Bay Areas regarding
14 their billing rates, and believe that a rate of \$325 per hour is a very reasonable rate in 2013 for the
15 professional services in comparable matters of an attorney with experience and qualifications comparable
16 to Ms. Antonini's.

17 Jason Roberts

18 22. Mr. Roberts is a legal assistant and certified paralegal at Consumer Watchdog with over 2
19 years experience in litigation matters. Mr. Roberts provides legal support to all members of the litigation
20 department.

21 23. Prior to joining CWD, Mr. Roberts worked as a legal assistant at the Law Offices of
22 Michael Kelley.

23 24. Mr. Roberts is a 2009 graduate of San Francisco State University, where he earned a
24 Bachelor of Arts degree in Political Science. In 2012, Mr. Roberts received his paralegal certificate from
25 the University of California, Los Angeles, paralegal program.

26 25. I am informed, through the Declaration of Richard M. Pearl, which details his extensive
27 familiarity with the billing practices and schedules for numerous private law firms in San Francisco and
28

Los Angeles, and believe that a rate of \$100 per hour is a very reasonable rate in 2013 for the professional services in comparable matters of a paralegal with experience and qualifications comparable to Mr. Roberts's.

Consumer Watchdog's Fees

26. In accordance with the well-established standards set forth by the California Supreme Court for private-attorney-general statutes, the "lodestar" is the product of each attorney's reasonable hours, at that attorney's prevailing market rate, plus expenses. Consumer Watchdog's attorneys are responsible for entering their contemporaneous time billing records into the organization's time billing software. The time billing software is then used to multiply each attorney's billed hours by that individual's prevailing market rate. The lodestar component of CWD's attorney fees for work performed in this matter (which does not include the fees incurred by CWD's experts, which are accounted for separately), totals \$18,530.00 as follows:

Attorney	Total Hours	Hourly Rate	Total Lodestar
Pamela Pressley	25.9	\$550	\$14,245.00
Harvey Rosenfield	2	\$675	\$1,350.00
Laura Antonini	7	\$325	\$2,275.00
Jason Roberts	6.6	\$100	\$660.00
Total	41.5		\$18,530.00

Consumer Watchdog's Expert Witness Fees

27. Consumer Watchdog has incurred \$33,244.50 in fees for its consulting actuaries as set forth in the detailed time billing records of AIS Risk Consultants, Inc., attached as Exhibit 3. As detailed in the time billing records of AIS Risk Consultants, Inc., CWD's consulting actuaries performed the following tasks in this proceeding:

- Reviewed and provided analysis regarding CSAA's rate filing and updates;

- Consulted with CWD regarding actuarial issues in the proceeding and requests for information;
- Participated in all teleconferences with the Parties;
- Provided additional written analysis of the issues raised in CWD's Petition;
- Consulted with CWD regarding this Request for Compensation.

28. I am informed and believe that the time billing reports for AIS Risk Consultants, Inc. detail the actual tasks performed in this matter, are based on contemporaneous time records, and accurately represent the total time spent by CWD's experts on this matter. I am informed and believe that the rates charged are each billing person's 2014 hourly rate. Pursuant to 10 CCR §§ 2662.6(b) and 2661.1(c)(1), the expert fees billed for the actuarial consulting services of Mr. Schwartz and his staff at AIS Risk Consultants, Inc. reflect the current market rates for such services, and amount to less than the total expert fees projected in CWD's Petition. Mr. Schwartz's over 30 years of professional actuarial experience includes being President of AIS Risk Consultants, Assistant Commissioner of the New Jersey Department of Insurance, and chief actuary of the North Carolina Department of Insurance. His resume is on file in several other Department rate proceedings, and can be viewed online at http://www.aisrc.com/allan_i_schwartz.htm.

Facts Regarding this Proceeding and Consumer Watchdog's Substantial Contribution

29. On or about May 22, 2014, CSAA filed its Application with the Department, seeking approval of a rate change to its personal lines of homeowners insurance Renters Program of 6.9%. The Department notified the public of the Application on or about June 6, 2014.

30. Upon receipt of the Application, CWD and its actuarial expert, Allan I. Schwartz, reviewed the Application in detail and determined that the rate change, as described in the Application, may result in potentially excessive and/or unfairly discriminatory rates in violation of Proposition 103 and the applicable regulations.

31. On July 21, 2014, pursuant to Insurance Code section 1861.10(a), CWD filed its Petition. In its Petition, CWD specifically identified the following reasons, among others, why CSAA's proposed rates violated Proposition 103 and the applicable regulations: (1) CSAA's catastrophe provision was

1 unreasonably high; (2) CSAA failed to prove that the paid development method used in the filing was the
2 most actuarially sound; (3) CSAA's selected loss trend overstated projected losses resulting in an inflated
3 rate indication, and CSAA failed to prove that these trend selections were the most actuarially sound; (4)
4 CSAA based the excluded expenses on data from the 2012 annual statement, even though the filing was
5 submitted after the 2013 Annual Statement was available and failed to account for any excluded
6 institutional advertising expenses; (5) CSAA used inconsistent time periods for calculating its projected
7 yield by using October 2013 bond yields and the April 2014 risk free rate as well as basing the yield
8 calculations on annual statement data from 2012; (6) CSAA's 15% requested leverage factor variance
9 contained insufficient evidence to show that the "mix of business presents investment risks different from
10 the risks that are typical of the line as a whole"; (7) the overall rate change of 6.9% in Exhibit 15 of the
11 Application was inconsistent with the base rate and membership discount changes shown; and (8) Exhibit
12 16 of the Application failed to provide justification for the size of the Membership Discount (Petition, ¶7).

13 32. CSAA filed its Answer to CWD's Petition on July 28, 2014. On August 1, 2014, the
14 Commissioner granted CWD's Petition to Intervene.

15 33. On August 26, 2014, after the Commissioner granted CWD's Petition to Intervene but
16 prior to the initial teleconference, CWD sent the Parties its actuary's initial analysis of CSAA's rate
17 application. CWD's analysis showed that a -5.5% rate decrease was indicated taking into account all the
18 issues raised in CWD's petition.

19 34. On August 26, 2014, the Parties engaged in their first teleconference to discuss CSAA's
20 Application and the issues raised by CWD's Petition and analysis. During this conference call, the Parties
21 discussed their respective loss trend and loss development selections and positions on the leverage
22 variance, with the CDI agreeing with CWD that the variance request was not supported. Additionally,
23 CWD's actuary raised the issue of institutional advertising expenses by asking questions about the content
24 of some of the exemplar ads CSAA provided to the Department. CWD's actuary agreed to provide a
25 more detailed analysis and CSAA agreed that it would provide additional information responsive to the
26 concerns raised by the Department and CWD in one week. The call concluded with the agreement that the
27 parties would reconvene on September 11, 2014.

1 35. On September 2, 2014, CSAA responded to issues raised during the August 26, 2014
2 teleconference and provided additional supporting documents to the Parties.

3 36. On September 3, 2014, CWD provided the parties with additional analysis regarding issues
4 included in its initial August 26 rate indication analysis and discussed during the August 26, 2014
5 teleconference. These issues included (1) loss trends; (2) excluded expenses; (3) loss development; (4)
6 catastrophe adjustment factor; (5) leverage factor variance; (6) AAA membership discount; and (7)
7 inconsistent rating values.

8 37. On September 9, 2014, CSAA provided the Department with additional documents
9 responsive to issues raised during the August 26, 2014 teleconference. CWD was not provided with these
10 documents until September 10, 2014, less than 24 hours ahead of the September 11, 2014 teleconference
11 with the Parties. On the evening of September 10, 2014, CSAA also responded to CWD's September 3,
12 2014 additional analyses addressing the points raised by CWD and providing additional supporting
13 documents to the Parties.

14 38. On September 11, 2014, the Parties held their second teleconference. The Department
15 raised several issues and CWD provided some additional analysis and had questions for CSAA on the call
16 based on the limited time it had to review CSAA's September 10 responses. The Department indicated
17 on the call that after its review, it found CSAA would not qualify for its requested variance. CSAA
18 agreed to provide additional information and the Parties decided to reconvene on September 30, 2014. On
19 September 11, 2014, upon further review of CSAA's September 10 responses, CWD provided written
20 questions to CSAA regarding (1) an explanation for the large changes in the payment of claims between
21 quarters; (2) information showing the split of total CSAA HO business between forms: HO-3, HO-4 and
22 HO-6 for the first and second quarters of 2014; (3) the numerator and denominator used to calculate the
23 ratios shown in Attachment D-1; and (4) a complete listing and description of the premium charges, along
24 with the corresponding amount of premium, not impacted by base rate change.

25 39. On September 23, 2014, CSAA provided responses to CWD's September 3 analysis and
26 September 11 written questions. CSAA addressed issues raised by CWD and provided additional
27 supporting documents to the Parties.
28

1 40. On September 30, 2014 the Parties participated in their third teleconference. The Parties
2 reviewed CSAA's breakdown for institutional advertising expenses. CWD stated its concern on how this
3 money was tracked and spent and the Department agreed that there was a lack of clarity, justifying a
4 reduction. The Parties went on to discuss outstanding issues with CSAA's reported claims frequency,
5 loss trends, and discounts for AAA members. The Parties agreed to hold another teleconference on
6 October 9, 2014.

7 41. On October 9, 2014 the Parties participated in a fourth teleconference. The Department
8 offered the following two proposals to the Parties to resolve the remaining disputes: (A) that CSAA
9 accept an overall 3.9% rate increase, which was approximately the rate indication calculated by CDI's
10 actuary, and be required to submit a new filing in 18 months time; or (B) that CSAA accept a 3% rate
11 increase with no additional filing requirements. The Department asked the Parties to respond to its
12 proposal by October 14, 2014. CSAA replied to the Department in its October 14, 2014 letter accepting
13 the Department's proposal of a 3% increase with no commitment on future homeowners filings. CWD
14 responded in an email dated October 14, 2014 to the Parties stating that it was willing to agree to the 3%
15 rate increase on the conditions that (1) CSAA would file a rate application on its tenant form within 18
16 months to allow for additional data to be included; and (2) CSAA would file a rate application on its
17 remaining homeowners forms within three months.

18 42. On October 22, 2014, CWD wrote a letter to the Department restating its proposed
19 conditions for CSAA in its October 14, 2014 email to the Parties. CWD raised issue with the fact that (1)
20 CSAA was refusing to provide updated loss data that would show whether the rate increase was justified;
21 and (2) CSAA was making no other filing on its other homeowners policy forms while enjoying loss
22 ratios of less than 40%. CWD urged the Department to require CWD's proposed conditions or to require
23 CSAA to file updated loss data through the 3rd quarter of 2014. The Department responded in its letter
24 dated October 23, 2014 that it had received CWD's proposals and that it would keep them apprised of its
25 decision. Subsequently, the Department determined to approve the Application for an overall 3% rate
26 increase with no additional filing requirements.

27 43. On November 11, 2014, the Department issued its Decision Denying Petitioner's Petition
28

1 for Hearing and approving the Application as amended for an overall 3% rate increase. The Decision
2 details each of Consumer Watchdog's allegations and the Department's response thereto. (Decision, pp.
3 2-5.) For example, the Department agreed with Consumer Watchdog on several issues, including that the
4 paid severity trend chosen by CSAA was not the most actuarially sound (*id.*, p. 3), that CSAA had failed
5 to properly account for excluded institutional advertising expenses (*id.*, p. 4), that CSAA should use a
6 consistent basis for its bond yields and the risk free rate (*ibid.*), that CSAA was not entitled to the leverage
7 variance (*ibid.*), that CSAA needed to provide additional support for its membership discount (*id.*, p. 5).
8 With these adjustments, the Department concluded that a 3.0% increase, rather than the 6.9% increase
9 requested by CSAA, was justified. (*Ibid.*)

10 44. The overall rate increase of 3.0% approved by the Commissioner resulted in savings of
11 nearly \$818 thousand for homeowners insurance consumers, as compared to the original 6.9% increase
12 requested by CSAA.³

13
14
15 I declare under penalty of perjury under the laws of the State of California that the foregoing is
16 true and correct.

17 Executed on November 26, 2014, at Santa Monica, California.

18
19 

20 _____
21 Pamela Pressley
22
23
24
25

26 _____
27 ³ +3.0% (approved rate) – 6.9% (requested rate) = -3.9%. \$20.967 million (Year Ending Sept 2013
28 Premium at Present Level) x 3.0% = \$818 thousand (consumer savings).

EXHIBIT 1a

LEGAL FEES BY ATTORNEY

Pamela Pressley

Date	Detail	Hours	Amount
7/10/14	teleconference with Allan Schwartz re CSAA tenants filing;	0.1	\$55.00
7/13/14	email to Jason Roberts re petition for hearing (.1); email to Allan Schwartz re petition (.1);	0.2	\$110.00
7/16/14	edit Petition for Hearing;	0.7	\$385.00
7/17/14	edit petition for hearing (.3); teleconference with Allan Schwartz re petition for hearing (.3); finalize petition for hearing (.1);	0.7	\$385.00
7/21/14	review and finalize press release and petition (.2); email to Jason Roberts re petition, and conference with Jason Roberts re same (.2);	0.4	\$220.00
7/28/14	review and forward CSAA's answer;	0.1	\$55.00
8/7/14	emails re call (.2);	0.2	\$110.00
8/13/14	Email to E Gallagher re CSAA call;	0.1	\$55.00
9/8/14	email to Allan Schwartz re call status (.2); review and reply to Allan Schwartz email re call and CSAA response (.1); review Laura Antonini's notes re 8/26 call, email and Allan Schwartz analyses (.3);	0.6	\$330.00
9/9/14	teleconference with Allan Schwartz, conference with Laura Antonini re issues (.5); review AAA/CSAA websites (.3); email to Laura Antonin and Allan Schwartz re ads (.2);	1	\$550.00
9/10/14	review emails (.1); email to Lin Ju and CSAA re additional information due on 9/9 (.1); review and forward CSAA 9/9 response (.2); review emails (.2);	0.6	\$330.00
9/11/14	teleconference with Allan Schwartz re 9/9 CSAA response (.2); teleconference with parties (1.0); teleconference with Allan Schwartz (.5); review additional AIS questions and email same to parties (.3);	2	\$1,100.00
9/17/14	review Nikki McKennedy email and forward to Allan Schwartz (.1); review and reply to CSAA and CDI emails re CSAA response (.2); review Allan Schwartz email (.1) email to Nikki McKennedy re updated indications (.1);	0.5	\$275.00
9/25/14	review CSAA 9/23 responses;	0.2	\$110.00
9/29/14	review CSAA responses (.2); teleconference with Allan Schwartz re same (.2);	0.4	\$220.00

Date	Detail	Hours	Amount
9/30/14	review CSAA email re ad expenses and forward to Allan Schwartz (.3); prep for call (.1) teleconference with Allan Schwartz (.1); teleconference with parties (.8); teleconference with Allan Schwartz (.2);	1.5	\$825.00
10/6/14	review CSAA letter to CDI;	0.2	\$110.00
10/7/14	email A Schwartz and telephone conference with A Schwartz re next steps;	0.2	\$110.00
10/8/14	review A Schwartz analysis, telephone conference with A Schwartz re same, and email analysis to parties;	0.5	\$275.00
10/9/14	telephone conference with parties and follow up call with A Schwartz re filing, trend issues;	1	\$550.00
10/13/14	review options re settlement;	0.2	\$110.00
10/14/14	draft email to parties and email A Schwartz re same (.7); review/edit email to parties (.3); review CSAA letter and email Harvey Rosenfield, Laura Antonini re same (.2);	1.2	\$660.00
10/15/14	review analysis, CSAA letter;	0.3	\$165.00
10/17/14	telephone conference with A Schwartz re letter to CDI;	0.1	\$55.00
10/20/14	draft letter to B Mohr re settlement proposal/status;	1.3	\$715.00
10/22/14	telephone conference with A Schwartz (.3); edit letter to CDI and email to Harvey Rosenfield (.5); review Harvey Rosenfield edits to letter and conference with Harvey Rosenfield re same (.3); edit, finalize and email letter to CDI , CSAA counsel (2.0);	3.1	\$1,705.00
10/23/14	edit email to parties (1.2); review and reply to B Mohr email (.2); conference with Harvey Rosenfield re trend issue (.2); review Harvey Rosenfield edits (.1);	1.7	\$935.00
10/23/14	conference with H Rosenfield re call with CDI (.2); review J. Richmond email and draft response (.5); conference with Harvey Rosenfield re same (.2);	0.9	\$495.00
10/24/14	telephone conference with N McKennedy;	0.4	\$220.00
10/30/14	telephone conference with J Laucher; review N McKennedy email;	0.2	\$110.00
11/19/14	review Request for Compensation; email A Schwartz and conference with Jason Roberts re same;	0.3	\$165.00
11/21/14	review Request for Compensation; conference with Jason Roberts re same;	0.3	\$165.00
11/24/14	review and edit Request for Compensation;	1.8	\$990.00
11/25/14	review and edit Request for Compensation (.9); review A Schwartz email re calculation of savings, A Schwartz bill (.2).;	1.1	\$605.00

Date	Detail	Hours	Amount
11/26/14	review and edit final Request for Compensation (.8); review and edit Pressley declaration, conference with J Roberts re exhibits (.5);	1.3	\$715.00
11/26/14	review and edit time billing records;	0.5	\$275.00
		25.9	\$14,245.00
Legal Fee Subtotal:			\$14,245.00

Subtotal | \$14,245.00

Total due by Nov 26, 2014 **\$14,245.00**

LEGAL FEES BY ATTORNEY

Harvey Rosenfield

Date	Detail	Hours	Amount
10/9/14	discussion with Pam Pressley re issues, status.;	0.1	\$67.50
10/14/14	discussion with Pam Pressley, J Flanagan and Laura Antonini re status;	0.1	\$67.50
10/20/14	email from Pam Pressley with draft letter to CDI, and reply (.1) ;	0.1	\$67.50
10/22/14	review and revise draft letter to CDI (.4) discussion with Pam Pressley re same; (.2) review final version and discussion with Pam Pressley re same (.3);	0.9	\$607.50
10/23/14	review email from CSAA and email Pam Pressley re same (.2); discussion with Pam Pressley re same (.1); further discussion with Pam Pressley (.1) review B Mohr letter and discussion with Pam Pressley (.2); review further email from/to B Mohr at CDI;	0.6	\$405.00
10/29/14	review CDI email to Pam Pressley re approval;	0.1	\$67.50
11/11/14	review denial of petition;	0.1	\$67.50
		2	\$1,350.00

Legal Fee Subtotal: \$1,350.00

Subtotal | \$1,350.00

Total due by Nov 26, 2014 **\$1,350.00**

LEGAL FEES BY ATTORNEY

Laura Antonini

Date	Detail	Hours	Amount
8/18/14	Review emails from Emily Gallagher and Vanessa Wells re conference call; emails with Pam Pressley and Allan Schwartz re same;	0.1	\$32.50
8/19/14	Review and respond to emails from Allan Schwartz re proposed conference call and rate filing documents needed for review; discuss same with Jason Roberts; review rate filing for references to documents needed for review; review emails and Consumer Watchdog files for same; review and respond to Emily Gallagher email re conference call; review Allan Schwartz email re leverage variance; review Pam Pressley email re same;	0.5	\$162.50
8/21/14	Review Pam Pressley email re documents needed for CWD's review of rate filing; email Emily Gallagher re same;	0.1	\$32.50
8/22/14	Review and respond to Vanessa Wells email re Excel docs attached to rate filing; email Allan Schwartz re same; review Pam Pressley email re same; review Allan Schwartz email re 2006 rulemaking document referenced in CSAA attachment; search CWD files for same; email Allan Schwartz same;	0.3	\$97.50
8/26/14	Telephone conference and emails with Allan Schwartz re CWD analysis and telephone conference with parties; review Allan Schwartz memo; telephone conference with parties; review emails from parties; email Pamela Pressley re institutional advertising issue;	1.8	\$585.00
8/27/14	Review Pam Pressley email re institutional advertising; review CSAA direct marketing ads and rules re institutional advertising expenses; email Pam Pressley re same;	0.4	\$130.00
9/3/14	Review draft of A Schwartz's CWD's 9/3/14 Additional Comments; email A Schwartz edits to same; review and respond to A Schwartz emails re same; email parties same; review Rachel Hemphill, A Schwartz and Pam Pressley emails re CSAA's 9/9/14 submission;	0.3	\$97.50
9/8/14	Review and respond to A Schwartz email re deadline for CSAA to submit additional information; review notes from 8/26/14 telephone conference with parties re same; review Pam Pressley email re CSAA 9/2/14 submission;	0.2	\$65.00
9/9/14	Telephone conference with A Schwartz and Pam Pressley re CWD issues and information needed from CSAA; review notes from 9/26/14 telephone conference with parties;	0.4	\$130.00

Date	Detail	Hours	Amount
9/11/14	Telephone conference with Pam Pressley and A Schwartz re issues to raise on 9/11/14 telephone conference with parties; telephone conference with the Department and CSAA; telephone conference with A Schwartz and Pam Pressley re same; discuss same with Pam Pressley; review CWD's 9/11/14 request for additional information;	1.8	\$585.00
9/30/14	Lin Ju email re advertising expenses; telephone conference with parties; telephone conference with Pam Pressley and A Schwartz;	1.1	\$357.50
		7	\$2,275.00
Legal Fee Subtotal:			\$2,275.00

Subtotal | \$2,275.00

Total due by Nov 26, 2014 **\$2,275.00**

LEGAL FEES BY ATTORNEY

JasonR

Date	Detail	Hours	Amount
11/17/14	confer with Pam Pressley re request for compensation (.2); review file and begin drafting request for compensation (1.3);	1.5	\$150.00
11/18/14	review emails and pleadings (.3); draft request for compensation (3.0);	3.3	\$330.00
11/25/14	confer with Pam Pressley re request for compensation and declaration in support (.1); edit request (.5); draft and edit declaration in support (.7); prepare exhibits for request and declaration (.5);	1.8	\$180.00
		6.6	\$660.00
Legal Fee Subtotal:			\$660.00

Subtotal | \$660.00

Total due by Nov 26, 2014 **\$660.00**

EXHIBIT 1b

Identification and Association of Individuals Referenced in Billing Records

Consumer Watchdog

Pam Pressley, Litigation Director
Harvey Rosenfield, Of Counsel
Laura Antonini, Staff Attorney
Jerry Flanagan, Staff Attorney
Jason Roberts, Paralegal

AIS Risk Consultants, Inc. (consulting actuary for Consumer Watchdog)

Allan Schwartz
Katherine Tollar
Marianne Dwyer

CDI

Joel Laucher, Deputy Commissioner, Rate Regulation Branch
Elizabeth Mohr, Attorney, REB
Nikki McKennedy, Attorney, REB
Emily Gallagher, Attorney, REB
Adam Cole, Attorney, REB
Rachel Hemphill, Senior Casualty Actuary

CSAA Insurance Exchange

Vanessa Wells, counsel for CSAA Insurance Exchange
John Richmond, counsel for CSAA Insurance Exchange
Lin Ju, CSAA Actuary

EXHIBIT 2

1 Harvey Rosenfield (SBN 123082)
2 Pamela Pressley (SBN 180362)
3 CONSUMER WATCHDOG
4 2701 Ocean Park Blvd., Suite 112
5 Santa Monica, CA 90405
6 Tel. (310) 392-0522
7 Fax (310) 392-8874
8 harvey@consumerwatchdog.org
9 pam@consumerwatchdog.org
10

11 Attorneys for CONSUMER WATCHDOG
12

13 BEFORE THE INSURANCE COMMISSIONER
14 OF THE STATE OF CALIFORNIA
15

16 In the Matter of the Rate Application of
17
18 CSAA Insurance Exchange,
19
20 Applicant.
21

22 FILE NO.: PA-2014-00005

23 **DECLARATION OF RICHARD M.**
24 **PEARL IN SUPPORT OF CONSUMER**
25 **WATCHDOG'S REQUEST FOR**
26 **COMPENSATION**
27
28

1 I, RICHARD M. PEARL, hereby declare the following:

2 1. I am a member in good standing of the California State Bar. I am in private
3 practice as the principal of my own law firm, the Law Offices of Richard M. Pearl, in
4 Berkeley, California. I specialize in matters related to court-awarded attorneys' fees, including
5 the representation of parties in fee litigation and appeals, serving as an expert witness, and
6 serving as a mediator and arbitrator in disputes concerning attorneys' fees and related issues. In
7 this case, I have been asked by Consumer Watchdog counsel to render my opinion on the
8 reasonableness of the hourly rates they are requesting in this matter.

9 2. Briefly summarized, my background is as follows: I am a 1969 graduate of
10 Boalt Hall School of Law, University of California, Berkeley, California. I took the California
11 Bar Examination in August 1969 and passed it in November of that year, but because I was
12 working as an attorney in Atlanta, Georgia for the Legal Aid Society of Atlanta (LASA), I was
13 not admitted to the California Bar until January 1970. I worked for LASA until summer of
14 1971, when I then went to work in California's Central Valley for California Rural Legal
15 Assistance, Inc., (CRLA), a statewide legal services program. From 1977 to 1982, I was
16 CRLA's Director of Litigation, supervising more than fifty attorneys. In 1982, I went into
17 private practice, first in a small law firm, then as a sole practitioner. Martindale Hubbell rates
18 my law firm "AV." I also have been selected as a Northern California "Super Lawyer" in
19 Appellate Law for 2005, 2006, 2007, 2008, 2010, 2011, 2012, and 2013. A copy of my
20 Resume is attached hereto as **Exhibit A**.

21 3. Since 1982, my practice has been a general civil litigation and appellate
22 practice, with an emphasis on cases and appeals involving court-awarded attorneys' fees. I
23 have lectured and written extensively on court-awarded attorneys' fees. I have been a member
24 of the California State Bar's Attorneys' Fees Task Force and have testified before the State Bar
25 Board of Governors and the California Legislature on attorneys' fee issues. I am the author of
26 California Attorney Fee Awards (3d ed. Cal. CEB 2010) and its February 2011, 2012, and
27 2013 Supplements. I also was the author of California Attorney Fee Awards, 2d Ed. (Calif.
28 Cont. Ed. of Bar 1994), and its 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004,
2005, 2006, 2007, and 2008 Supplements. California appellate courts have cited this treatise on

1 more than 35 occasions. *See, e.g., Lolley v. Campbell* (2002) 28 Cal.4th 367, 373; *Chacon v.*
2 *Litke* (2010) 181 Cal.App.4th 1234, 1259. I also authored the 1984, 1985, 1987, 1988, 1990,
3 1991, 1992, and 1993 Supplements to its predecessor, CEB's California Attorney's Fees
4 Award Practice. In addition, I authored a federal manual on attorneys' fees entitled Attorneys'
5 Fees: A Legal Services Practice Manual, published by the Legal Services Corporation. I also
6 co-authored the chapter on "Attorney Fees" in Volume 2 of CEB's Wrongful Employment
7 Termination Practice, 2d Ed. (1997).

8 4. More than 90% of my practice is devoted to issues involving court-awarded
9 attorneys' fees. I have been counsel in over 180 attorneys' fee applications in state and federal
10 courts, primarily representing other attorneys. I also have briefed and argued more than 40
11 appeals, at least 25 of which have involved attorneys' fees issues. In the past several years, I
12 have successfully handled four cases in the California Supreme Court involving court-awarded
13 attorneys' fees: 1) *Delaney v. Baker* (1999) 20 Cal.4th 23, which held that heightened
14 remedies, including attorneys' fees, are available in suits against nursing homes under
15 California's Elder Abuse Act; 2) *Ketchum v. Moses* (2001) 24 Cal.4th 1122, which held, *inter*
16 *alia*, that contingent risk multipliers remain available under California attorney fee law, despite
17 the United States Supreme Court's contrary ruling on federal law (note that in *Ketchum*, I was
18 primary appellate counsel in the Court of Appeal and "second chair" in the Supreme Court); 3)
19 *Flannery v. Prentice* (2001) 26 Cal.4th 572, which held that in the absence of an agreement to
20 the contrary, statutory attorneys' fees belong to the attorney whose services they are based
21 upon; and 4) *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, which I handled, along
22 with trial counsel, in both the Court of Appeal and Supreme Court. I also successfully
23 represented the plaintiffs in a previous attorneys' fee decision in the Supreme Court, *Maria P.*
24 *v. Riles* (1987) 43 Cal.3d 1281, and represented *amicus curiae*, along with Richard Rothschild,
25 in *Vasquez v. State of California* (2009) 45 Cal.4th 243. I also have handled numerous other
26 appeals, including: *Davis v. City & County of San Francisco* (9th Cir. 1992) 976 F.2d 1536,
27 *Mangold v. CPUC* (9th Cir. 1995) 67 F.3d 1470, *Velez v. Wynne* (9th Cir. 2007) 2007
28 U.S.App.LEXIS 2194; *Camacho v. Bridgeport Financial, Inc.* (9th Cir. 2008) 523 F.3d 973;
Center for Biological Diversity v. County of San Bernardino (2010) 185 Cal.App.4th 866; and

1 *Environmental Protection Information Center v. California Dept. of Forestry & Fire*
2 *Protection et al* (2010) 190 Cal.App.4th 217. For an expanded list of my reported decisions,
3 see Exhibit A.

4 5. I also have been retained by various governmental entities at my then current
5 rates to consult with them regarding their affirmative attorney fee claims.

6 6. I am frequently called upon to opine about the reasonableness of attorneys' fees,
7 and numerous federal and state courts have cited my declarations on that issue favorably. The
8 reported cases referencing my testimony include the following California appellate courts: *In*
9 *re Tobacco Cases I* (2013) 216 Cal.App.4th 570; *Heritage Pacific Financial LLC v. Monroy*
10 (2013) 215 Cal.App.4th 972, 1009; *Children's Hospital & Medical Center v. Bonta* (2002) 97
11 Cal.App.4th 740 (challenge to government decision); *Wilkinson v. South City Ford* (2010)
12 2010 Cal.App.Unpub. LEXIS 8680; *Church of Scientology v. Wollersheim* (1996) 42
13 Cal.App.4th 628 (anti-SLAPP case). My declaration also has been favorably referenced by the
14 following federal courts: *Prison Legal News v. Schwarzenegger* (9th Cir. 2010) 608 F.3d 446,
15 455, in which the expert declaration referred to in that opinion is mine); *Antoninetti v. Chipotle*
16 *Mexican Grill, Inc.* (9th Cir. 2012) Order filed Dec. 26, 2012; *In re TFT-LCD (Flat Panel)*
17 *Antitrust Litigation* (N.D.Cal. 2013) No. M 07-1827 SI, MDL, No. 1827, Report and
18 Recommendation of Special Master re Motions for Attorneys' Fees etc., filed Nov. 9, 2012,
19 adopted in relevant part, 2013 U.S.Dist.LEXIS 49885; *Stonebrae v. Toll Bros.* (N.D. Cal.
20 2011) 2011 U.S.Dist.LEXIS 39832, at *9 (thorough discussion), *aff'd* (9th Cir. 2013) 2013
21 U.S.App.LEXIS 6369; *Hajro v. United States Citizenship & Immigration Service* (N.D.Cal
22 2012) 900 F.Supp.2d 1034, 1054; *Armstrong v. Brown* (N.D. Cal. 2011) 2011 U.S.Dist.LEXIS
23 87428; *Californians for Disability Rights, Inc. v. California Dept. of Transportation* (N.D. Cal.
24 2010) 2010 U.S.Dist.LEXIS 141030; *Prison Legal News v. Schwarzenegger* (N.D. Cal. 2008)
25 561 F.Supp.2d 1095 (an earlier motion); *Oberfelder v. City of Petaluma* (N.D. Cal. 2002) 2002
26 U.S.Dist.LEXIS 8635 (an individual police misconduct action), *aff'd* (9th Cir. 2003) 2003
27 U.S.App.LEXIS 11371; *Bancroft v. Trizechahn Corp.*, C.D. Cal. No. CV 02-2373 SVW
28 (FMOx), Order Granting Reasonable Attorneys' Fees etc., filed Aug. 14, 2006; *Willoughby v.*
DT Credit Corp., C.D. Cal. No. CV 05-05907 MMM (Cwx), Order Awarding Reasonable

1 Attorneys' Fees After Remand, filed July 17, 2006; *A.D. v. California Highway Patrol*
2 (N.D.Cal. 2009) 2009 U.S.Dist.LEXIS 110743 (police misconduct action), *rev's'd on other*
3 *grounds* (9th Cir. 2013) 636 F.3d 955; *National Federation of the Blind v. Target Corp.*
4 (N.D.Cal. 2009) 2009 U.S.Dist.LEXIS 67139. In addition, trial courts have relied upon my
5 testimony in numerous unpublished fee orders.

6 7. Through my writing and practice, I have become familiar with the non-
7 contingent market rates charged by attorneys in California and elsewhere. I have obtained this
8 familiarity in several ways: (1) by handling attorneys' fee litigation; (2) by discussing fees
9 with other attorneys; (3) by obtaining declarations regarding prevailing market rates in cases in
10 which I represent attorneys seeking fees; and (4) by reviewing attorneys' fee applications and
11 awards in other cases, as well as surveys and articles on attorneys' fees in the legal newspapers
12 and treatises.

13 8. I am aware of the hourly rates being charged by Consumer Watchdog's
14 attorneys in this case, their experience and expertise, and the nature of the work they
15 performed. I have reviewed the billing rates claimed by Consumer Watchdog's counsel in this
16 case. The attorneys at Consumer Watchdog are seeking compensation at 2013 rates as follows:

- 17 • Harvey Rosenfield, admitted to California Bar in 1986 and DC Bar in 1979 (34
18 years professional experience): \$675;
- 19 • Pamela Pressley, admitted to California Bar in 1995 (18 years professional
20 experience): \$550;
- 21 • Todd M. Foreman, admitted to California Bar in 2003 (10 years professional
22 experience): \$450;
- 23 • Jerry Flanagan, admitted to California Bar in 2010 (3 years professional
experience): \$350; and
- Laura Antonini, admitted to California Bar in 2010 (3 years professional
experience): \$325.

24 The 2013 rates being sought by Consumer Watchdog's counsel are eminently reasonable in
25 light of the information I have gathered as an attorneys' fees specialist (see ¶¶9-11 below). The
26 information I have gathered, some of which is summarized below, shows that the rates that
27 Consumer Watchdog's counsel are claiming in this matter are well in line with, but lower than
28 many of, the non-contingent market rates charged by California attorneys in the San Francisco
Bay and Los Angeles areas of equivalent experience, skill, and expertise for comparable

1 services, as shown by the following facts regarding the non-contingent rates charged by
2 attorneys for comparable services.

3 a. Harvey Rosenfield. A rate of \$675 per hour in 2013 for an attorney with Mr.
4 Rosenfield's 34 years of experience is quite reasonable. For example, at Steyer, Lowenthal, an
5 attorney with 31 years of experience charged \$820 in 2012; at Hadsell, Stormer, Keeny,
6 Richardson & Renick, the prevailing market rate in 2012 for an attorney with 33 years of
7 experience was \$775 per hour; and at Lewis Feinberg Lee, Renaker & Jackson, P.C., the
8 prevailing market rate in 2012 for an attorney with 29 years of experience was \$750 per hour.
9 At Rosen, Bien, Galvan & Grunfeld LLP, the prevailing market rate in 2013 for an attorney
10 with 33 years of experience was \$780 per hour.

11 b. Pamela Pressley. A rate of \$550 per hour in 2013 for an attorney with Ms.
12 Pressley's 18 years of experience is quite reasonable. For example, at Altshuler Berzon LLP,
13 the prevailing market rate in 2012 for an attorney with 18 years of experience is \$700 per hour;
14 and at Reed Smith LLP, the prevailing market rate in 2013 for an attorney with 17 years of
15 experience was \$610-615 per hour. At Goldstein, Borgen, Dardarian & Ho, the prevailing
16 market rate in 2012 for an attorney with 18 years of experience was \$650 per hour. At Spiro
17 Moore LLP, the prevailing market rate in 2012 for an attorney with 17 years of experience was
18 \$600 per hour.

19 c. Todd M. Foreman. A rate of \$450 per hour in 2013 for an attorney with Mr.
20 Foreman's 10 years of experience is quite reasonable. For example, at Morrison Foerster, LLP,
21 the prevailing market rate in 2011 for an attorney with 10 years experience was \$620; at
22 Knapp, Petersen & Clarke, the prevailing market rate in 2012 for an attorney with 9 years of
23 experience was \$554 per hour; and at Altshuler Berzon LLP, the prevailing market rate in 2012
24 for an attorney with 10 years of experience was \$520 per hour. At Rosen, Bien, Galvan &
25 Grunfeld LLP, the prevailing market rate in 2013 for an attorney with 10 years of experience
26 was \$480 per hour. At Schneider Wallace Cottrell Brayton Konceky LLP, the prevailing
27 market rate in 2012 for an attorney with 9 years of experience was \$500 per hour.

28 d. Jerry Flanagan. A rate of \$350 per hour in 2013 for an attorney with Mr.
Flanagan's 3 years of experience is quite reasonable. For example, at Lewis Feinberg Lee,

Renaker & Jackson, P.C., the prevailing market rate in 2012 for an attorney with 3 years of experience was \$375 per hour, and at Litt, Estuar, & Kitson, LLP, the prevailing market rate in 2011 for an attorney with 3 years of experience was \$375 per hour. At O'Melveny & Myers, the prevailing market rate in 2012 for an attorney with 4 years of experience is \$495 per hour. At Rosen, Bien, Galvan & Grunfeld LLP, the prevailing market rate in 2013 for an attorney with 3 years of experience was \$355 per hour. At Morrison Foerster, LLP, the prevailing market rate in 2011 for an attorney with 1 year of experience is \$335 per hour.

e. Laura Antonini. A rate of \$325 per hour in 2013 for an attorney with Ms. Antonini's 3 years of experience is quite reasonable. For example, at Lewis Feinberg Lee, Renaker & Jackson, P.C., the prevailing market rate in 2012 for an attorney with 3 years of experience was \$375 per hour, and at Litt, Estuar, & Kitson, LLP, the prevailing market rate in 2011 for an attorney with 3 years of experience was \$375 per hour. At O'Melveny & Myers, the prevailing market rate in 2012 for an attorney with 4 years of experience is \$495 per hour. At Rosen, Bien, Galvan & Grunfeld LLP, the prevailing market rate in 2013 for an attorney with 3 years of experience was \$355 per hour. At Morrison Foerster, LLP, the prevailing market rate in 2011 for an attorney with 1 year of experience is \$335 per hour.

9. The following hourly rates have been found reasonable by various courts for reasonably comparable services:

2013 Rates

(1) *In re Pacific Bell Late Fee Litigation*, Contra Costa County Superior Ct. No., MSC10-00840, Order Awarding Attorneys' Fees, Costs and Expenses and Authorizing Payment of Incentive Award to the Class Representative, filed October 18, 2013, a consumer class action, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
36	\$675
32	675
28 (assoc.)	620
17	850
16	680
11 (partner)	680
4	400

3 390
Paralegals and Litigation Support 160-180

2012 Rates

(1) *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D.Cal. 2013) No. M 07
1827 SI, MDL, No. 1827, the court found the following **blended** hourly rates reasonable:

Zelle Hofman

<u>Bar Admission</u>	<u>Rate</u>
1967	\$1000
1978	861
2001	619
2002	525
2005	500
2006	472
2009	417

Steyer, Lowenthal et. al.

<u>Bar Admission</u>	<u>Rate 2012</u>	<u>Rate 2011</u>	<u>Rate 2010</u>
1981	\$820	\$770	\$730
1995	660	640	590
2007	380	360	320
2008	380	360	320
1982	750	710	680
Paralegal	190		

Cooper & Kirkham

<u>Bar Admission</u>	<u>Rates 2010-2012</u>
1964	\$950
1975	825
2001	550

(2) *Williams v. H&R Block Enterprises, Inc.* Alameda County Superior Ct. No.
RG08366506, Order of Final Approval and Judgment filed November 8, 2012, a wage and
hour class action, in which the court found the following hourly rates reasonable:

<u>Year of Bar Admission</u>	<u>Rate</u>
1970	\$785
1976	775
1981	750
1993	650-700
1994-1997	500-650
2004	500
2005	470
2006	445-475

2007	450
2008	400
2009	350

(3) *American Civil Liberties Union v. Drug Enforcement Administration*, N.D. Cal. No. C-11-01977 RS, Order Granting Motion for Attorneys' Fees and Litigation Costs Pursuant to 5 U.S.C. §552, filed November 8, 2012, a Freedom of Information Act case, in which the court found the following hourly rates reasonable:

<u>Year of Bar Admission</u>	<u>Rate</u>
1970	\$700
1996	595
1999	575
Law Clerks	150

(4) *Luquetta v. The Regents of the Univ. of California*, San Francisco Superior Ct. No. CGC-05-443007, Order Granting Plaintiff's Motion for Common Fund Attorneys' Fees and Expenses, filed October 31, 2012, a class action to recover tuition overcharges, in which the court found the following hourly rates reasonable:

<u>Year of Bar Admission</u>	<u>Rate</u>
1977	\$850
1986	785
1991	750
1994	700
1998	625
2000	570
2001	550
2002	520
Law Clerks	250
Paralegals	215

(5) *Vasquez v. State of California*, San Diego Superior Ct. No. GIC 740832, Order re Attorney Fees, filed October 31, 2012, a fee award for appellate work defending a prior fee award, in which the court found the following hourly rates reasonable:

<u>Year of Bar Admission</u>	<u>Rate</u>
1977	\$850
1995	550-575
2008	375
2009	325
Law Clerk	150
Paralegal	115
Litigation Assistant	115

(6) *Davis v. Prison Health Services* (N.D. Cal. 2012) 2012 U.S. Dist. LEXIS 138556, an individual Fair Employment and Housing Act case, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
33	\$750
29	675
4	300
6	265

(7) *Charlebois v. Angels Baseball LP* (C.D. Cal. 2012) 2012 U.S. Dist. LEXIS 91069, filed May 30, 2012, a disability access class action, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
27	\$600-695
22	630
7	460
6	450
3	375
2	325
Paralegals	150

2011 Rates

(1) *Pierce v. County of Orange* (C.D. Cal. 2012) 905 F.Supp.2d 1017, a civil rights class action brought by pre-trial detainees, in which the court approved a lodestar, including appellate fees, based on the following 2011 rates:

<u>Years of Experience</u>	<u>Rate</u>
42	\$850
32	825
23	625
18	625
Law Clerks	250
Paralegals	250

(2) *Holloway et. al. v. Best Buy Co., Inc.* (N.D. Cal. 2011) No. 05-5056 PJH (Order dated November 9, 2011), a class action alleging that Best Buy discriminated against female, African American and Latino employees by denying them promotions and lucrative sales positions, in which the court approved a lodestar award based on the following rates:

<u>Years of Experience</u>	<u>Rate</u>
37	\$825
Associates	
8	490
6	405
Law Clerks	225
Paralegals	215

(3) *The Grubb Co. v. Dept. of Real Estate*, Alameda County Superior Court No. RG08364823, Order Motion for Attorney Fees Granted, filed March 7, 2012, an individual Writ of Mandate challenging a license suspension, in which the court found the following hourly rates reasonable (before applying 1.2 and 1.5 multipliers):

<u>Years of Experience</u>	<u>Rate</u>
42	\$625-675

(4) *Molina, et al. v. Lexmark International, et al.*, Los Angeles County Superior Court No. BC339177, Order Granting Petitioners' Motion for Attorneys' Fees and Costs in the Amount of \$5,722,008.07, filed October 28, 2011, a class action to recover forfeited vacation pay, in which the court found the following hourly rates reasonable (before applying a 2.0 multiplier):

<u>Years of Experience</u>	<u>Rate</u>
42	\$675
25	550
24	655-675
23	625
20	550
17	600
9	475
6	350
Paralegals	210

2010 Rates

(1) *Armstrong v. Brown* (N.D. Cal. 2011) 2011 U.S.Dist.LEXIS 87428, an action involving fees for monitoring a consent decree, in which the court found the following 2010 hourly rates reasonable for monitoring and enforcement work:

<u>Years of Experience</u>	<u>Rate</u>
Partners	
49	\$800
31	700
27	575
14	560
Associates	
18	510
14	490
10	430
9	415
8	390
6	360
4	325
2	285
Paralegals	200-240
Litigation support/Paralegal clerks	150-185

The same rates also were subsequently found reasonable in another consent decree monitoring case, *Valdivia v. Brown* (E.D. Cal. 2011) 2011 U.S.Dist.LEXIS 103935.

(2) *Stonebrae v. Toll Bros.* (N.D. Cal. 2011) 2011 U.S.Dist.LEXIS 39832, a commercial action, in which the court found the following 2010 hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
46	\$800
35	675
30	630
18	515
13	520
9	550
2	330
Paralegals	225-275

(3) *Wren v. RGIS Inventory Specialists* (N.D.Cal. 2011) 2011 U.S.Dist.LEXIS 38667, a class action in which the court found the following 2010 hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
40	\$725
29	675
17	650
15	500
14	625
12	465
	12

11	440
8	375
5	365-450
4	400
3	350-375
Paralegals/Legal Assistants	100-200

(4) *Californians for Disability Rights, Inc., et al. v. California Department of Transportation, et al.* (N.D.Cal. 2010) 2010 U.S.Dist.LEXIS 141030, adopted by Order Accepting Report and Recommendation filed February 2, 2011, a class action in which the court found the following 2010 hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
49	\$835
34	730
26	740
25	730
19	660
10	570
9	560
7	535
6	500
5	475
3	350
2	290
1	225-265
Senior Paralegals	265
Law Clerks	175
Case Clerks	165

(5) *Credit/Debit Card Tying Cases*, San Francisco County Superior Court, JCCP No. 4335, Order Granting Plaintiff's Motion for Attorneys' Fees, Expenses, and Incentive Awards, filed August 23, 2010, an antitrust class action, in which the court found the following 2010 hourly rates reasonable (before applying a 2.0 lodestar multiplier):

<u>Years of Experience</u>	<u>Rate</u>
43	\$975
46	950
38	850
32	850
35	825
26	740
13	610
9	600

1	9	590
	9	535
2	12	535
	5	485
3	4	460
	3	435
4	10	420
	7	420
5	2	420
	1	395
6	Paralegals	220-260
7		

8 (6) *Savaglio, et al. v. WalMart*, Alameda County Superior Court No. C-835687-7,
9 Order Granting Class Counsel's Motion for Attorneys' Fees, filed September 10, 2010, a wage
10 and hour class action, in which the court found the following hourly rates reasonable (before
11 applying a 2.36 multiplier):

12	<u>Years of Experience</u>	<u>Rate</u>
13	51	\$875
	39	750
14	38	600
	33	775
15	25	550
	23	650
16	21	625
	19	610
17	18	600
	17	585
18	16	570
	15	560
19	14	550
	13	525
20	12	515
	11	510
21	10	505
	9	500
22	7	460
	4	435
23	Law Clerks	125-260
24		
25		

26 (7) *McCoy v. Walczak*, San Francisco Superior Court No. CGC-09-493150, Order
27 Granting Defendant Kenneth Walczak's Renewed Motion for Reasonable Attorneys' Fees and
28 Costs Following Successful Motion to Strike Petitioners' Complaint Pursuant to Code of Civil

1 Procedure § 425.16, filed August 24, 2010, *aff'd* (2011) 2011 Cal.App.Unpub.LEXIS 7999, an
2 anti-SLAPP case, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
48	\$760
26	520
5	330

6 (8) *Anderson v. Nextel Retail Stores, LLC*, (C.D.Cal. 2010) U.S.Dist. LEXIS 71598,
7 a wage and hour class action, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
35	\$600
14	655
8	515
8	475
6	485
6	350
7	475
3	350
2	300-350
5	375
Other Partners	675-750
Other Associates	450-495
Paralegals	225-250

17 **Rate Information from Surveys**

18 10. I also base my opinion on several surveys of legal rates, including the
19 following:

20 • In an article entitled “On Sale: The \$1,150-Per Hour Lawyer,” written
21 by Jennifer Smith and published in the Wall Street Journal on April 9, 2013, the author
22 describes the rapidly growing number of lawyers billing at \$1,150 or more revealed in
23 public filings and major surveys. A true and correct copy of that article is attached
24 hereto as **Exhibit B**. The article also notes that in the first quarter of 2013, the 50 top-
25 grossing law firms billed their partners at an *average* rate between **\$879** and **\$882** per
26 hour.

27 • On August 12, 2012, the San Francisco Daily Journal published an
28 article summarizing the findings in the Valeo 2012 Halftime Report, a survey of legal

1 billing rates conducted by Valeo Partners LLC. A true and correct copy of that article is
2 attached hereto as **Exhibit C**. That survey showed the average partner and associate
3 rates in Los Angeles (\$797 and \$550 respectively), San Diego (\$568 and \$394), and
4 San Francisco (\$750 and \$495).

5 • In an article published April 16, 2012, the Am Law Daily described the
6 2012 Real Rate Report, an analysis of \$7.6 billion in legal bills paid by corporations
7 over a five-year period ending in December 2011. A true and correct copy of that
8 article is attached hereto as **Exhibit D**. That article confirms that the rates charged by
9 experienced and well-qualified attorneys have continued to rise over this five-year
10 period, particularly in large urban areas like the San Francisco Bay Area. It also shows,
11 for example, that the top quartile of lawyers bill at an *average* of “just under \$900 per
12 hour.”

13 • Similarly, on February 25, 2011, the Wall Street Journal published an
14 on-line article entitled “Top Billers.” A true and correct copy of that article is attached
15 hereto as **Exhibit E**. That article listed the 2010 and/or 2009 hourly rates for more than
16 125 attorneys, in a variety of practice areas and cases, who charged \$1,000 per hour or
17 more. Indeed, the article specifically lists *eleven* (11) Gibson Dunn & Crutcher
18 attorneys billing at \$1,000 per hour or more.

19 • On February 22, 2011, the ALM’s Daily Report listed the 2006-2009
20 hourly rates of numerous San Francisco attorneys. A true and correct copy of that
21 article is attached hereto as **Exhibit F**. Even though rates have increased significantly
22 since that time (see Exhibits B and C), Class Counsel’s rates are well within the range
23 of rates shown in this survey.

24 • The Westlaw CourtExpress Legal Billing Reports for May, August, and
25 December 2009 (attached hereto as **Exhibit G**) show that as far back as 2009, attorneys
26 with as little as 19 years’ experience were charging \$800 per hour or more, and that the
27 rates requested here are well within the range of those reported. Again, current rates
28 are significantly higher.

• The National Law Journal’s December 2010, nationwide sampling of law firm billing rates (**Exhibit H**) lists 32 firms whose highest rate was \$800 per hour or more, eleven firms whose highest rate was \$900 per hour or more, and three firms whose highest rate was \$1,000 per hour or more.

• On December 16, 2009, The American Lawyer published an online article entitled “Bankruptcy Rates Top \$1,000 in 2008-2009. That article is attached hereto as **Exhibit I**. In addition to reporting that several attorneys had charged rates of \$1,000 or more in bankruptcy filings in Delaware and the Southern District of New York, the article also listed 18 firms that charged **median** partner rates of from \$625 to \$980 per hour. Since by law, bankruptcy rates must be no higher than the rates charged for other types of similar work, these rates are probative here.

Rates Charged by Other Law Firms

11. The standard hourly rates for comparable civil litigation stated in court filings, depositions, surveys, or other sources by numerous California law firms or law firms with offices or practices in California also support counsel’s rates. These include, in alphabetical order:

Adams Broadwell Joseph Cardoza

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	29	\$700
	20	650
	15	550
	11	495
	6	375
	3	300
	Paralegals	145

Altshuler Berzon LLP

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	34	\$850
	26	785
	21	750
	18	700
	14	625
	12	570
	11	550

1	10	520
	6	410
2	5	385
	4	335
3	Law Clerks	250
4	Paralegals	215

5	<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
		43	\$825
6		17	675
		12	575
7		10	520
8		Law Clerks	225
		Paralegals	215

Bernstein Litowitz Borger & Grossman LLP (San Diego Office)

11	<u>2009 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
		Partners	\$725
12		Associates	490-550

Bingham McCutchen

14	<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
15		30	\$780

16	<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
17		13	\$655
		4	480
18		2	400

Bird, Marella, Boxer, Wolpert, Nessim, Drooks & Lincenberg Law Firm

20	<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
21		25	\$550
		24	625
22		17	600
		9	475
23		6	350
24		Paralegals	210

Blood Hurst & O'Reardon

26	<u>2012 Rates</u>	<u>Years of Experience</u>	<u>Rate</u>
27		22	\$655
		17	585
28		6	510
		5	410

1	1	305
2	Paralegals	260

Chavez & Gertler

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	32	\$725
	28	700
	10	550
	9	510
	5	425
	Paralegals	225

Cooper & Kirkham

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	48	\$950
	37	825
	11	600

Everett De Lano

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	18	\$650

Farella Braun & Martel LLP

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	31	\$715

Richard Frank

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	36	\$700

Furth Firm LLP

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	51	\$875
	39	750
	38	600
	33	775
	25	550
	23	650
	21	625

1	19	610
	18	600
2	17	585
	16	570
3	15	560
	14	550
4	13	525
	12	515
5	11	510
	10	505
6	9	500
7	7	460
	4	435
8	Law Clerks	125-260

9
10 **Goldstein, Borgen, Dardarian & Ho**

11	<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
12		Partners	
		42	\$785
13		36	750
		31	700
14		18	650
		Associates	
15		7	470
16		6	445

17	<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
18		Partners	
		41	\$725
19		35	725
		30	700
20		24	650
		18	600
21		17	600
22		16	550

23	<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
24		Partners	
		40	\$700
25		34	700
		29	675
26		23	625
		17	575
27		16	575
		Of Counsel	
28		40	725
		Associates	

1	15	\$500
	11	440
2	6	375
	5	365
3	4	355
	3	340
4	2	325
	1	305
5	Law Clerks	195
6	Paralegals	150-225

Greenberg, Taurig, LLP

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	22	\$850

Greines, Martin, Stein & Richland

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	39	\$850
	27	850
	17	650
	15 (associate)	500
	8	450
	6	450
	Law Clerks	100

Hadsell, Stormer, Keeny, Richardson & Renick

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	38	\$825
	33	775
	22-23	625
	17	600
	12	525
	10	425
	4	275
	3	250

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	36	\$800
	31	750
	20-21	600
	15	575
	10	475-500
	8	425
	4	325
	2	275

Howard, Rice, Nemerovski, Canady, Falk & Rabkin (now Arnold Porter)

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	45	\$840
	34	725
	25	695
	9	525
	Paralegal	250

K& L Gates LLP

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	25	\$640

Kaye, McLane, Bednarski & Litt

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	44	\$925
	27	725
	24	725
	7	525
	5	475

Keker & Van Nest, LLP

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	32	\$775
	Other Partners	525-975
	Associates	340-500
	Paralegals/ Support Staff	120-260

Kingsley & Kingsley

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	14	\$655
	8	475-515
	7	475
	6	485
	5	375
	3	350
	2	300

Knapp, Petersen & Clarke

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	36	\$753
	9	554
	6	383

Knobbe Martin Olson & Bear LLP

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	\$395-710
	Associates	285-450

Lawson Law Offices

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	23	625
	20	550

Lewis Feinberg Lee, Renaker & Jackson, P.C.

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	38	\$825
	29	750
	24	725
	21	700
	8	450
	7	425
	3	375
	Senior Paralegals	250
	Law Clerks	225

Litt, Estuar, & Kitson, LLP

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	42	\$850
	18	625
	17	625
	5	425
	3	375
	Paralegals	125-235
	Law Clerks	225

Lozeau/Drury LLP

<u>2010 Rates:</u>	<u>Years Experience</u>	<u>Rate</u>
	21	\$650
	3	350

Luce, Forward, Hamilton & Scripps

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	\$350-670
	Associates	\$245-445

2009 Rates:

<u>Years of Experience</u>	<u>Rate</u>
Partners	\$360-650
Associates	\$240-540

Manatt, Phelps & Philips

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	\$525-850
	Associates	\$200-525

Minami Tamaki LLP

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	36	\$750
	15	525
	5	395
	Paralegal	175

Morrison Foerster, LLP

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	22	\$775
	11	625
	10	620
	1	335

<u>2009 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	24	\$750

O'Melveny & Myers

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	12	\$695
	4	495

Patton Boggs

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	14	\$830
	29	750
	20	750
	33	700
	27	700
	13	575
	24	550
	14	530
	Of Counsel	
	30	600
	15	500
	Associates	
	5	475
	9	450
	7	425
	3	340
	2	315
	Senior Paralegals	200-265
	Paralegals	170

Pillsbury Winthrop Shaw Puttman LLP

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	30	\$705-775
	Other Partners	595-965
	Associates	320-650
	Paralegals/ Support Staff	85-380

Reed Smith LLP

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partner	
	36	\$830
	30	805
	17	610-615
	14	570
	Associates	
	8	450-535
	6	495

Rosen, Bien, Galvan & Grunfeld LLP

2013 Rates:

<u>Years of Experience</u>	<u>Rate</u>
Partners	
51	\$875
33	780
29	660
16	630
Of Counsel	
30	580
Associates	
20	550
10	480
9	465
8	445-450
7	440
6	435
5	405
4	375
3	355
Paralegals	220-280
Litigation support/Paralegal clerks	170
Law clerks/Students	250
Word Processing	80

2012 Rates:

<u>Years of Experience</u>	<u>Rate</u>
Partners	
50	\$860
32	760
28	640
15	610
Of Counsel	
29	570
Associates	
19	540
10	470
9	460
7	400
6	400
5	380
4	360
3	340
Paralegals	215-280
Litigation support/Paralegal clerks	150
Law clerks/Students	240

1	Word Processing	80
2	<u>2011 Rates:</u>	<u>Years of Experience</u>
3	Partners	
4	49	\$840
5	31	740
6	27	625
7	14	590
8	Of Counsel	
9	28	540
10	Associates	
11	18	525
12	11	465
13	10	450
14	9	440
15	8	420
16	6	385
17	5	365
18	4	350
19	3	325
20	2	315
21	Paralegals	205-275
22	Litigation support/Paralegal clerks	140-220
23	Law clerks/Students	225
24	Word Processing	75
25	<u>2010 Rates:</u>	<u>Years of Experience</u>
26	Partners	
27	48	\$800
28	30	700
29	26	575
30	13	560
31	Of Counsel	
32	27	520
33	Associates	
34	17	510
35	13	490
36	9	430
37	8	415
38	7	390
39	5	360
40	3	325
41	1	285
42	Paralegals	200-275
43	Litigation support/Paralegal clerks	135-220
44	Law clerks/Students	190
45	Word Processing	70

Rudy, Exelrod, Zieff & Lowe LLP

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	42	\$725
	32	725
	15	625
	Associates	
	21	495
	13	485
	8	450

Schneider Wallace Cottrell Brayton Konecky LLP

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	20	\$650-700
	18	675
	16	675
	Associates	
	9	500
	8	500
	6	450-475
	4	400
	3	350
	Paralegals and Law Clerks	150-250

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	22	\$675
	19	650-675
	17	650
	15	650
	Associates	
	15	500
	12-13	575
	9	525
	8	500
	7	475
	6	450
	5	425
	4	400

Schonbrun, DeSimone, Seplow, Harris & Hoffman

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	27	\$695
	22	630

Sheppard, Mullin, Richter & Hampton

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	\$495-820
	Associates	\$270-620

Sidley Austin

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	33	\$900
	Sr. Partners	1100
	Legal Assistants	120-280

Spiro Moore LLP

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	30+	\$700
	17	600

Townsend and Townsend and Crew

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	\$470-475
	Associates	260-460

Wilson Sonsini Goodrich & Rosati PC

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	28	\$875
	Other Partners	650-975
	Associates	290-610
	Paralegals/Litigation Support Staff	120-300

Zelle Hofmann Voelbel & Mason, LLP

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	Up to \$950
	Associates	Up to \$540
	Paralegals	Up to \$290
	Law Clerks	Up to \$250

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	38	\$800
	26	\$685
	23	650
	22	640
	Associates	
	9	500
	4	435
	3	415
	2	405
	1	395
	Paralegals	210-290

12. The rates filed in July 2012 by counsel in *Apple Inc. v. Samsung Electronics Co. Ltd.*, N.D. Cal. No. 11-cv—01846-LKK (PSG), support the rates requested here. In that case, Quinn Emanuel Urquhart & Sullivan LLP, counsel for defendant Samsung, charged median partner rates of \$821 per hour and median associate rates of \$448 per hour.

13. The hourly rates set forth above are those charged where full payment is expected promptly upon the rendition of the billing and without consideration of factors other than hours and rates. If any substantial part of the payment were to be contingent or deferred for any substantial period of time, for example, the fee arrangement would be adjusted accordingly to compensate the attorneys for those factors.

14. In my experience, fee awards are almost always determined based on current rates, *i.e.*, the attorney's rate at the time a motion for fees is made, rather than the historical rate at the time the work was performed. This is a common and accepted practice to compensate attorneys for the delay in being paid.

15. Attorneys who litigate on a wholly or partially contingent basis expect to receive significantly higher effective hourly rates in cases where compensation is contingent on success, particularly in hard-fought cases where, like in the case at bar, the result is uncertain. As the case law recognizes, this does not result in any "windfall" or undue "bonus." In the legal marketplace, a lawyer who assumes a significant financial risk on behalf of a client

1 rightfully expects that his or her compensation will be significantly greater than if no risk was
2 involved (i.e., if the client paid the bill on a monthly basis), and that the greater the risk, the
3 greater the "enhancement." Adjusting court-awarded fees upward in contingent fee cases to
4 reflect the risk of recovering no compensation whatsoever for hundreds of hours of labor
5 simply makes those fee awards consistent with the legal marketplace, and in so doing, helps to
6 ensure that meritorious cases will be brought to enforce important public interest policies and
7 that clients who have meritorious claims will be better able to obtain qualified counsel. In my
8 opinion, based on what I know of the legal marketplace, a contingent case with at least a 50%
9 chance of not prevailing should recover a fee that is at least twice the lodestar as compensation
10 for the attorney's risk and loan of services.

11 16. The expense and risk of public interest litigation has not diminished over the
12 years; to the contrary, these cases are in many ways more difficult than ever. As a result, fewer
13 and fewer attorneys and firms are willing to take on such litigation, and the few who are
14 willing to do so can only continue if their fee awards reflect true market value.

15 If called as a witness, I could and would competently testify from my personal
16 knowledge to the facts stated herein. I declare under penalty of perjury that the foregoing is
17 true and correct. Executed this 5th day of December 2013, in Berkeley, California.

18 
19 RICHARD M. PEARL
20
21
22
23
24
25
26
27
28

EXHIBIT 3

AIS RISK CONSULTANTS, INC.

Consulting Actuaries · Insurance Advisors

4400 Route 9 South · Suite 1200 · Freehold, NJ 07728 · (732) 780-0330 · Fax (732) 780-2706

Date: November 25, 2014

To: Pam Pressley
Consumer Watchdog

From: Allan I. Schwartz

Re: Bill for Actuarial Analysis of
CSAA Tenant HO Rate Filing: CDI # 14-3851

<u>Name</u>	<u>Time</u>	<u>Hourly Rate</u>	<u>Time Charges</u>
Allan Schwartz	39.8	\$675	\$26,865.00
Katherine Tollar	9.9	\$305	\$3,019.50
Marianne Dwyer	12.0	\$280	\$3,360.00

Time Charges	\$33,244.50
---------------------	--------------------

Time for Allan I. Schwartz

Actuarial Analysis of
CSAA Tenant HO Rate Filing: CDI # 14-3851

<u>Date</u>	<u>Description</u>	<u>Time</u>
6/20/2014	Initial review of filing, work on analysis, work on PFH issues	4.6
6/23/2014	Initial review of filing, work on analysis, work on PFH issues, e mail with CWD	1.7
7/17/2014	Review Filing, work on PFH, Call with PP	0.4
8/19/2014	Review filing, work on analysis, e mails with CWD	3.8
8/22/2014	Review docs from CSAA, work on analysis	3.7
8/25/2014	Review docs from CSAA, work on analysis	4.3
8/26/2014	Review docs from CSAA, work on analysis / memo dated 8/26	0.8
	Conf Call with CDI, CSAA, CWD	0.6
	Call with LA (CWD)	0.2
9/2/2014	Work on additional comments	3.7
9/3/2014	Review additional materials from CSAA, work on additional comments dated 9/3/14, e mails with CWD (LA)	3.2
9/11/2014	Review CSAA additional submissions, work on analysis of overall loss experience and leverage variance -- review prior insurance company filings and CDI decisions on leverage variance, calculate standard deviation of CSAA HO business, work on analysis / response to CSAA for Conf Call	3.4
	Conf Call with CDI, CSAA, CWD	0.9
	Call with CWD (LA & PP)	0.5
	Work on additional RFIs for CSAA	0.7
9/24/2014	Review additional info from CSAA, work on analysis	1.8
9/29/2014	Call with CWD (PP)	0.3
9/30/2014	Review materials in preparation for conf call	0.9
	Conf call with CDI, CSAA, CWD	1.0
	Calls with CWD (PP)	0.3
10/8/2014	Review documents, work on additional comments dated 10/8/14, Calls with CWD (PP)	1.7
10/9/2014	Conf Call with CDI, CSAA, CWD	0.5
	Call with CWD (PP)	0.3
10/22/2014	Work on letter to CDI, e mails with PP	0.5
Total		39.8

Katherine Tollar

Consumer Watchdog
CSAA Tenants

Time Spent

Date	Activity	Time
06/19/2014	Began analysis of rate filing.	1.5
06/20/2014	Continued analysis of rate filing.	1.8
06/23/2014	Continued analysis of rate filing and wrote petition.	2.3
08/15/2014	Reviewed responses to petition.	1.1
08/25/2014	Reviewed responses to petition.	1.3
08/26/2014	Reviewed responses to petition.	1.9
Total		9.9

Marianne Dwyer

Consumer Watchdog
CSAA Tenants

<u>Date</u>	<u>Activity</u>	<u>Time</u>
19-Aug-14	Work on Analysis	4.2
25-Aug-14	Work on Analysis	3.5
	Wrote Memo Dated Aug 26	0.6
26-Aug-14	Wrote Memo Dated Aug 26	2.5
11-Sep-14	CA HO Company Loss Ratios	1.2
Total		12.0

Service List

Vanessa Wells
HOGAN LOVELLS US LLP
4085 Campbell Ave., suite 100
Menlo Park, CA 94025
Vanessa.wells@hoganlovells.com

☐ FAX
☐ U.S. MAIL
☐ OVERNIGHT MAIL
☐ HAND DELIVERED
☒ EMAIL

John Richmond
CSAA INSURANCE EXCHANGE
3055 Oak Rd.
Walnut Creek, California 94597
John.richmond@csaa.com

☐ FAX
☐ U.S. MAIL
☐ OVERNIGHT MAIL
☐ HAND DELIVERED
☒ EMAIL

Elizabeth Mohr
Nikki McKennedy
Emily Gallagher
Rate Enforcement Bureau
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, California 94105
Tel. No.: (415) 538-4111
Fax No.: (415) 904-5490
mohre@insurance.ca.gov
mckennedyn@insurance.ca.gov
gallaghere@insurance.ca.gov

☐ FAX
☐ U.S. MAIL
☐ OVERNIGHT MAIL
☐ HAND DELIVERED
☒ EMAIL

Edward Wu
Staff Counsel and Public Advisor
Office of the Public Advisor
California Department of Insurance
300 South Spring Street, 12th Floor
Los Angeles, CA 90013
Tel. No.: (213) 346-6635
Fax No.: (213) 897-9241
edward.wu@insurance.ca.gov

☐ FAX
☐ U.S. MAIL
☐ OVERNIGHT MAIL
☐ HAND DELIVERED
☒ EMAIL