

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF CALIFORNIA
JOHN GARAMENDI, INSURANCE COMMISSIONER
INVESTIGATORY HEARING ON UNDERINSURANCE AND THE
DETERMINATION OF HOME REPLACEMENT COSTS

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Part 1/2

TRANSCRIPT OF PROCEEDINGS

San Diego, California

Thursday, October 21, 2004

Reported by:

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Hearing Reporter

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TRANSCRIPT OF PROCEEDINGS, taken at
San Diego County Water Authority, Board Room,
4677 Overland Avenue, San Diego, California,
commencing at 1:05 p.m., on Thursday,
October 21, 2004, heard before JOHN GARAMENDI,
Insurance Commissioner, reported by
BRENDA SCHROEDER, Hearing Reporter.

APPEARANCES:

California Department of Insurance Panel:

John Garamendi	California Insurance Commissioner
Jose Aguilar	Assistant Chief Counsel
Risa Salat-Kolm	Senior Staff Counsel
Don Hilla	Senior Staff Counsel
Tony Cignarale	Chief - Consumer Services Division
Jeff Greenfield	Senior Insurance Rate Analyst

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I N D E X

E X H I B I T S

(None)

1 San Diego, California, Thursday, October 21, 2004

2 1:05 p.m.

3
4
5 MR. GARAMENDI: We are here in San Diego for a
6 statewide investigatory hearing for the purposes of trying
7 to understand and finding solutions to a very widespread
8 and very serious problem for California homeowners who
9 have had a complete loss of their home. Perhaps that loss
10 occurred in a firestorm, and that did happen here in San
11 Diego last year, San Bernardino, Riverside County, and in
12 other places in California this year.

13 Homeowners who thought they had sufficient
14 insurance found out in the aftermath of the fires they
15 were seriously underinsured. That created a very
16 difficult problem for those who were underinsured and a
17 serious problem for the community. The rebuilding of
18 the homes were delayed. The taxpayers were similarly
19 delayed and diminished and the community was in many
20 places unable to rebuild as a result of not having
21 sufficient insurance.

22 The problem is not just found in the
23 firestorm regions. The problem is the estimate of
24 organizations that conduct construction costs programs
25 around the United States. This problem affects,
26 perhaps, two-thirds of all the homes in America and in
27 California. So we have what we know to be a very
28 widespread issue, that of underinsurance.

1 The problem is not only found in the case of
2 rebuilding, not having enough money to rebuild, but the
3 fact that there is insufficient insurance also
4 dramatically affects the ability of the homeowner to
5 replace their personal property, as well as to have the
6 additional living expense necessary to sustain the
7 family while they are out of their home.

8 Part of this problem was addressed earlier
9 this year in the Homeowner's Bill of Rights Legislation;
10 that legislation came directly from the experiences of the
11 survivors of the firestorms here in Southern California.
12 One of those pieces of legislation dealt directly with the
13 confusion caused by the current language in the insurance
14 contract. That language has been in the contract since
15 the aftermath of the Oakland Hills fire. It was found
16 that in the intervening years, from 1991 to this year,
17 that the language that was presumed to provide clarity had
18 been turned and over the ensuing years created confusion.

19 The language that was replaced turned out it
20 wasn't replacement. In fact, it was substantially less
21 than replacement. It was replacement up to a limit, but
22 the limit was not specified or at least not dramatized
23 in a way that individuals would understand what it was
24 they were actually purchasing, and that their coverage
25 turned out to be far less than it would be necessary to
26 rebuild.

27 I was in Oakland three days ago, on the
28 anniversary of the Oakland Hills fire, and I talked to the

1 survivors, people who had rebuilt their homes, and
2 we went through their experiences. They talked about
3 their underinsurance problems, how it occurred. We talked
4 about what we thought would solve the problem, in fact, it
5 didn't. And it turns out that what we found here in
6 Southern California is very similar to what happened
7 13 years ago in the Oakland Hill's fire situation.

8 So here we are here today at the Statewide
9 Investigatory Hearing. We have a panel of witnesses
10 composed of survivors and victims of the fire who will
11 tell their story of underinsurance and how it came to pass
12 from their point of view. We will hear from the most
13 prominent cost-estimating company in America, Marshall
14 Swift Boeckh. We will also be hearing from the insurance
15 companies.

16 The purpose of this hearing is to determine
17 the extent of the problem, why the problem exists and
18 what we are going to do to solve the problem. Now,
19 there are those in the industry that say, "no problem at
20 all." Well, hopefully they will never have a total loss
21 because I suspect that they too are underinsured. They
22 say that if there is a problem, people don't want to pay
23 the extra money for the full coverage necessary to
24 rebuild.

25 Well, we ought to have a talk about the
26 premium cost, and will. We'll have a description of
27 premium costs; does that premium dramatically increase
28 as you move towards an adequate amount of coverage? The

1 answer is no, it does not, and we'll get into that. So
2 those in the industry that suggest that somehow people
3 in California want to be left in the dark, and be fed
4 inaccurate and incomplete information, have another
5 thought coming. There is someone in Sacramento who got it
6 all wrong. They don't get it, and I hope they never have
7 to suffer a total loss, as did thousands of people here in
8 Southern California. If those people knew today that they
9 were underinsured, they would be much better off, by their
10 testimony, to have enough insurance to rebuild, whatever
11 the cost might be. So we'll go
12 through that in detail, as we proceed through this day.

13 We want to have a clear understanding of how
14 the insurance companies calculate the replacement cost
15 of the home. I suspect the first issue that will come
16 up will be that they don't do such calculations;
17 baloney. Come on folks. Don't do that to me, that will
18 make me very upset. I want to know what you're doing
19 and I want to know how you're doing it, and we're going
20 to go through that with the insurance company.

21 We want to find out about the valuation. We
22 are going to also look at the cost calculators that are
23 used from Marshall & Swift/Boeckh. We will be looking
24 at other cost calculators that the insurance companies
25 have devised and used themselves.

26 We want to also keep in mind that this
27 hearing has a specific purpose. Actually, it has two,
28 maybe three specific purposes. One is to allow

1 Californians to understand that they may have a problem of
2 underinsurance. If 60 percent of the homes in America are
3 underinsured California needs to know. So heads up folks,
4 take a look at your insurance policy. Do you have enough
5 to rebuild your homes? Make an informed decision. Do you
6 think it is too expensive? That's your decision, but at
7 least know what it is you need to rebuild your home and
8 make an informed decision.

9 Secondly, we will be looking to write
10 regulations to try to provide clarity and assistance to
11 homeowners so they can make that informed decision with
12 accurate information

13 Thirdly, there may be a need for
14 legislation; we'll see what comes of that at the end of
15 the hearing.

16 Now, I would like to start with a
17 description of the problem, in some detail, from
18 Tony Cignarale -- before I do that, let me go through a
19 couple of introductions of people who have worked so
20 long and hard on this. Joining me here on this side of
21 the table to my immediate right is Jose Aguilar. He is
22 the Assistant Chief Counsel who headed up the legal
23 side of this and has worked on many of the legal issues
24 and legislative issues surrounding it. Risa Salat-Kolm
25 is the Senior Staff Counsel. Next to Jose on this side
26 is Don Hilla, the Senior Staff Counsel, and he has been
27 involved in this matter and many others associated with
28 the fire. Tony Cignarale is on my far right. He is the

1 Chief of the Consumer Services Division. Jeff Greenfield
2 is on my far left, and he is the Senior Insurance Rate
3 Analyst, and he will be making a presentation following
4 Tony.

5 Tony, share with us what you have discovered.

6 MR. CIGNARALE: Thank you. My name is
7 Tony Cignarale, Chief of the Consumer Services Division.
8 I will now provide a brief introduction to the issues and
9 provide a few examples to set the stage for the hearing.

10 In October 2003, the wild fires resulted in
11 an estimated 3,600 primary structures being destroyed. The
12 insurance part of that is 18,000 insurance claims filed,
13 and of those about 2,800 were total destructions of the
14 home. As a result of those claims, the Department
15 received hundreds of consumer complaints. The most
16 prevalent of those complaints was the issue of
17 underinsurance, and that is the current issue that we
18 are here to speak about today.

19 I will provide you with a few examples.
20 These are actual complaint cases that the Department is
21 working to resolve or has already resolved, and I will
22 give you some information on them.

23 One company we will call Company "A," and
24 the location of the home is in San Diego. That home had
25 policy limits of \$209,000. The insurer's estimate to
26 rebuild -- and these are all the insurance company's
27 estimates, not the consumer's estimates -- to rebuild is
28 \$466,000, which is a \$257,000 shortfall, or in other

1 words, 122 percent short.

2 One other example, also in San Diego,
3 another insurance company, policy limits \$212,000,
4 insurer's estimate \$386,000; \$174,000 shortfall;
5 82 percent shortfall. And it goes on and on. There are a
6 number of other cases. These particular cases, the policy
7 limits did have extended limits on them but even with
8 those extended limits, they did not come close to
9 rebuilding the homes according to what the insurance
10 companies deemed the cost to rebuild those homes.

11 MR. GARAMENDI: Tony, thank you very much. Those
12 are two of the hundreds of examples, and in fact, actually
13 very destructive situations that homeowners here face.
14 There is a real problem and we have to find a solution.

15 I would like to now ask Geff Greenfield to
16 explain replacement cost methodologies; what they are
17 and how they are used and what the issues are
18 surrounding it.

19 MR. GREENFIELD: Good afternoon. I am
20 Geff Greenfield, Senior Insurance Rate Analyst with the
21 Department of Insurance.

22 We're here to talk about the tools and
23 terminology used in calculating residential replacement
24 costs. I will be touching on five items; replacement cost
25 calculators, inflation factors, demand surge, catastrophe
26 loads, and insurance to value programs.

27 Replacement cost calculators are methods
28 used to arrive at the cost of rebuilding. There are two

1 main replacement cost calculators; the square-footage
2 method and component technology. I will look at the
3 square-footage method. A representative from Marshall
4 Swift Boeck will talk to you a little bit about
5 component technology.

6 The square-footage method to calculate
7 replacement cost starts with the base cost that reflects
8 the cost of the square footage of the living area, plus
9 the garages; fireplaces, decks, and other areas are then
10 added to multiply and then apply a construction plus
11 factor, which takes into account quality of construction,
12 and a location multiplier determined by zip code, which
13 takes into account differences in construction cost by
14 region.

15 Inflation Factors: In addition, each year
16 at the time of renewal, there is an inflation factor,
17 which is based on the increase in construction cost for
18 the zip code area. The inflation factor is an average
19 of the changes in material and labor cost. The
20 inflation factor does not update the value of the dwelling
21 based on specific materials and labor costs of that
22 dwelling. It is based on the average increase of material
23 and labor cost in that zip code.

24 Demand Surge: Another term you will be
25 hearing today is "demand surge." This refers to the
26 increased demand for contractors' labor and materials
27 following a catastrophic loss. The increased demand
28 creates a relative shortage, which drives prices higher.

1 Demand surge is not factored into replacement cost
2 calculators.

3 Catastrophe Loads: The prior approval
4 regulation for the state of California calls for the use
5 of a catastrophe load in those insurer's lives where
6 catastrophes occurred -- California is more prone to
7 drawing forest fires in most areas -- to insure the
8 catastrophe load in the homeowner's insurance to make
9 sure that the loss exposure from catastrophes be included
10 in the rate, and smooth the effect of the catastrophes for
11 a period of years.

12 Catastrophic loss, if anyone acted in a
13 reported period, are replaced by a loading based on a
14 multi-year-long term average of catastrophe claims. How
15 would we calculate catastrophe factors into rates?

16 In California rates are based on the last
17 three years of premiums and losses period. Losses for the
18 three-year period are recorded without catastrophes. The
19 catastrophe load is then calculated.

20 In general, the load is based on the ratio
21 of total catastrophe losses, the total amount of
22 catastrophe losses over a period of years, in which
23 factors spark an actual lawsuit during a three-year
24 period. Here is an example using hypothetical numbers:

25 You will see on the left-hand column the
26 20-year period from 1983 to 2002. The second column is
27 the losses for each of those years without catastrophe.
28 The catastrophe losses are stripped out from those

1 numbers.

2 The third column is a catastrophe loss for
3 each of those years. You can see from 1991 and 1993, what
4 the larger catastrophe losses are than for the
5 other years. Column 4 is the Catastrophe Load, which is
6 just the total of the catastrophe losses for those years
7 in Column 2, the "ex-cat" losses. Column 4 is calculated
8 to just the ratio of the catastrophe losses to the
9 non-catastrophe losses. 17.4 percent, that is the load
10 that would be applied for catastrophes for that column.

11 Insurance to Value Programs: The insurance
12 to value program is a program conducted by an insurer to
13 update the replacement cost calculations in dwellings of
14 the policy holders. This involved obtaining current
15 information from policy holders about the materials and
16 composition of the house and then recalculating the
17 replacement of the dwelling.

18 Many companies conducted ITV programs after
19 the Oakland Hills fire. Some companies conducted these
20 programs with their own agents and staff, other
21 companies used outside vendors.

22 The last topic is the Limit Curve. A table
23 called the "limit curve" is used to determine premiums
24 for dwelling units. The table established its ratios or
25 relativity by calculating premium charges that apply to
26 dwelling coverage limits.

27 Here is the most recent ISO limit curve. As
28 can be seen, \$100,000 is the base limit with the

1 relativity of 1.00. The relativity for \$200,000 is 1.892.
2 So the premium for a \$200,000 policy is about 90 percent
3 higher than the premium for a \$100,000 policy.

4 In general, as the premium goes up -- as the
5 limit goes up -- the rate will go higher for a slightly
6 smaller amount. So if the limit on your policy is
7 raised by 20 percent, you will pay a little less than
8 20 percent additional premium.

9 MR. GARAMENDI: Thank you much, Geff. Hang on for
10 just a moment.

11 You talked about the catastrophe coverage,
12 and in the catastrophe coverage issue, every policy has
13 a certain part of that premium that it assumes that
14 there is going to be a catastrophe. And you said 17-plus
15 percent of the premium assumes that there is a
16 catastrophe. So year after year we are paying with the
17 assumption that something really bad is going to happen;
18 correct?

19 MR. GREENFIELD: That is correct. There is
20 a catastrophe load in the rate for all policy holders
21 for homeowner's insurance.

22 MR. GARAMENDI: And as the amount of coverage goes
23 up, it is -- the premium does not rise proportionally. It
24 rises at a somewhat lower rate.

25 MR. GREENFIELD: That is correct. Premium and
26 limit curve depend upon how much additional premium will
27 be paid as the limits rise.

28 MR. GARAMENDI: Now, what if I had a bigger

1 deductible? Say I start with a \$250 deductible and I am
2 going to a \$2,000 deductible; what happens to my premium?

3 MR. GREENFIELD: Higher deductibles will always
4 result in lower premiums.

5 MR. GARAMENDI: Substantially lower? A little
6 lower?

7 MR. GREENFIELD: That would vary by company, but in
8 general, it is a very good buy to raise your deductible.
9 You can get a substantial premium discount by raising your
10 deductible. Insurers don't have to pay for so-called
11 "nuisance claims."

12 MR. GARAMENDI: So if I wanted to increase
13 my limit, that is the total amount of coverage that I
14 have, and it was going to cost me an extra 20 percent, I
15 might balance that out by increasing my deductible,
16 which would be some percentage reduction from that side.

17 MR. GREENFIELD: It would be a substantial
18 reduction in premium to raise the deductible lower and
19 that is an option that all policy holders should look
20 at.

21 MR. GARAMENDI: Okay. Geff, thank you very much.
22 Some of you are wondering what that is all about. We
23 wanted to have a foundation here so we could go forward.
24 And what really gets off into the never-never land of
25 actually setting rates and how much it's going to cost are
26 the factors involved in that process. But it is really
27 important that we have a foundation of understanding of
28 what the premium costs are there and the other issues

1 associated with it, and that will help us as we move along
2 in this hearing.

3 Our next participant is Bob Dowdell, who is
4 the CEO of Marshall & Swift/Boeckh. They are the
5 providers of the construction cost model -- computerized
6 model.

7 Mr. Dowdell, if you will share with us your
8 insights and understanding of how this whole thing works.

9 MR. DOWDELL: I understood we were going to have a
10 laptop so I could press some buttons.

11 MR. GARAMENDI: Well, I'm sure we can
12 arrange that, if not immediately, then in a few moments.

13 MR. DOWDELL: Okay.

14 MR. GARAMENDI: I understand that we actually have
15 a laptop for you. You are just sitting at the wrong
16 location.

17 MR. DOWDELL: Sorry about that.

18 MR. GARAMENDI: That's okay.

19 MR. DOWDELL: All right. My name is Bob Dowdell.
20 I am the CEO of Marshall & Swift/Boeckh, and this is Larry
21 Welstein (phonetic), who is one of the senior technical
22 people on our staff and hopefully we can get this laptop
23 going.

24 MR. GARAMENDI: Give a little history of your
25 company and what you do and how you go about doing it.

26 MR. DOWDELL: Sure. We are one of the larger -- or
27 maybe the largest -- building cost information providers
28 for the insurance industry. We are a 75-year-old company.

1 We are based in Los Angeles, although we have locations in
2 Wisconsin, New Jersey, and Texas. We do the same type of
3 thing in Canada, so we also have a Canadian office.

4 Our monitor for years has been the building
5 cost people. So some people talk about us being fairly
6 anal about building information, we probably are, but this
7 is what we do.

8 We typically provide cost information to a
9 number of constituents. The one you're most interested
10 would be the insurance industry. We provide to
11 residential underwriters, commercial underwriters, and
12 claims folks; and of course, those are three different
13 sorts of construction, so we will also provide them
14 separately and are unique to their environment.

15 We all provide information to the appraisal
16 industry. Typically, appraisers need to do an evaluation
17 of a property in two different ways. One typically is the
18 construction cost of the property. And the tax assessment
19 industry is a big one for us; not here in California,
20 because of Prop 13, but in a lot of the states they
21 proportion property taxes based on relative replacement
22 cost.

23 We also do a lot of work for the Government,
24 Fanny Mae, and people like that, and we do a great deal of
25 work in the construction industry, obviously. Like I
26 said, we are a 75-year-old company. We are
27 Los Angeles-based so I am somewhat familiar with the
28 environment and we are based in downtown Los Angeles.

1 I was going to take you through the
2 evolution of costing methodology, and to some degree
3 Geff touched on this. This is really kind of a
4 summarization of the evolution of property costs
5 estimating or ITV as Geff called it.

6 Years and years ago products came really out
7 of the appraisal industry, and that is what Marshall &
8 Swift was and that was what Boeckh was at the time;
9 appraisal cost information companies. And the insurance
10 industry started growing a lot as tract housing and
11 residential housing grew -- really after World War II. And
12 we started providing the insurance industry with
13 what became known as "square foot brochures."

14 These were effectively products that were
15 originally used by appraisers to figure out the square
16 foot of a property and the insurance industry was able
17 to use them because they were handy; you know, they came
18 in a brochure package that eventually evolved so it
19 might be information he might have in his pocket. This
20 is the thing that Geff talked about, they did
21 multiplication based on quality of home, the location of
22 home, the year built, and things of that nature.

23 They were always paper based in those days
24 because there was no technology, and they sort of became
25 judgmental as time went by. People tried to refine them
26 more and more and that brought in an element of gold
27 quality, and quality was something that needs to be
28 refined, yes, but at the same time it became very

1 judgmental. So they were sort of obtuse in a way
2 compared to what we do now, but they were quite frankly
3 the state of the art at the time they came into this
4 industry.

5 In a nutshell, what kind of ruined their
6 application is what we call "Lebbot Town" (phonetic),
7 which is the first state tract of housing in New York,
8 where all the houses were pretty much identical -- the
9 front doors were different colors and that was about it --
10 to something like Scripps Ranch. Scripps Ranch is a
11 housing development, but fundamentally every house is so
12 different, it's more like custom homes. The ability for a
13 super-generic application to do a justifiable job of
14 individually valuing those properties is problematic.

15 So we as a provider of information to the
16 industry -- we do an awful lot of surveying of homes.
17 We do that as part of our business, and we have probably
18 done about five million homes across the U.S. We do
19 this typically on behalf of carriers. We not only ask
20 them information about the properties, but we also ask
21 them other information not specific to determine the
22 insurable value.

23 One of the questions we ask is, "Have you
24 put an addition on the house?" It is pretty consistent;
25 about 4 percent of them say, "yes." And the average
26 square foot to that addition is about 450 square feet.
27 Obviously, it ranges but the average is 450 square feet,
28 that is \$100 to \$200 a square foot, and that's a lot of

1 money.

2 The second thing we will typically ask them
3 is "Do you intend on doing any kind of major remodeling
4 with the house?" We don't really ask them specifically
5 what, but 25 percent of them say "yes," they have the
6 intent of doing that.

7 The third question we will ask is "Do you
8 typically, when you do something like this, do you report
9 it to your insurance company?" And 60 percent of them
10 indicate that they don't. So you wind up in this whole
11 underinsurance thing, with the problem really -- I don't
12 know whether it is communication or perception or
13 responsibility or what, but there is a lot of things
14 that go on in housing stock.

15 Our information is about 5 percent of these
16 properties get changed every year, and they change by
17 about \$10,000 on average; it is real problematic to figure
18 out which ones are changing at any point in time.

19 The consumers that we talked to on behalf of
20 insurance companies indicate that they just don't do
21 that for whatever reason. We don't ask them why they
22 don't, but they don't. So you end up with kind of a
23 tool that did not work in this new emerging environment,
24 such as the Scripps Ranch, which is sort of on one end
25 of the spectrum, and you wind up with this remodeling
26 phenomenon; the changing conditions of the home going on
27 at the same time. And you wind up, quite frankly, with
28 a fair amount of underinsurance.

1 You have one other phenomenon here, which is
2 the appropriate way to value a property was new
3 construction or reconstruction. And new construction
4 would effectively be a combination scale your contractor
5 would be able to achieve. In building a tract of houses
6 there are certain purchasing capabilities they have over
7 on the materials side, and it is the money intention of
8 the homeowner which slows the process down a great deal,
9 as opposed to what insurance companies typically deal
10 with.

11 So that problem came along at the same time
12 technology came along. The technology effectively gave it
13 elements that were inherent in the brochures and
14 bring those into a construction estimating system, which
15 became another set of components. What we were able to
16 do is develop software that enabled people, homeowners,
17 agents, whoever, to gather characteristics about any
18 individual house, put them into the software in a manner
19 that they could understand them, and wind up with a
20 reliable estimate. At the same time, we continually
21 revised things in the estimating software to make it
22 apropos to an insurance company's construction
23 environment, which is what we call "Reconstruction," what
24 yourself probably call "total loss."

25 So as we went through the evolution and came
26 up with more sophisticated software, and this software
27 will effectively recognize, by zip code, whether we need
28 to deal with snow, insulation, things of that nature.

1 It will take on building codes and that sort of thing
2 that are relevant to large elements. In Florida wind
3 stress is a big deal; certain types of roofing
4 materials.

5 The second thing that came on through the
6 evolution of the technology was connectivity.
7 Previously it was very difficult for the carriers to
8 effectively get their hands on what elements of
9 information were used to do an insurable value. Was it in
10 a paper file or a filing cabinet, et cetera. It was
11 problematic all the way around. I don't write insurance
12 but it just seems to be difficult to get your hands on
13 what was originally used and then try and find some way
14 to update it to whatever happened subsequent to that.

15 The technology was also able to do a
16 mobilization. The brochures again were three-digit zip
17 codes for the most part, I think our first encounter
18 with a problem in the three-digit zip code was in Arizona,
19 but they ended up making Phoenix and Yuma the same
20 three-digit zip code, and the factors that you were
21 talking about just didn't work. So we needed to break it
22 down in detail.

23 They are now really giving rise to the
24 opportunity to -- with equipment we picked a lot of things
25 that just didn't work for us in the past. And things like
26 Scripps Ranch housing or the Lebbot Town housing sort of
27 gave rise to the need for remodeling.

28 What we went to is risk-specific evaluations,

1 that's the element that we think is appropriate. And we
2 as a provider of construction cost information to any of
3 the industries we serve, we simply believe our
4 responsibility is to get right answers. And we need to
5 get them as right as we can in any particular environment,
6 and as this housing tract became more and more grandular,
7 we need to plan software or data or anything else -- and
8 of course, as technology has improved so much, that's just
9 become more and more achievable.

10 The other thing we were, of course, able to
11 do because we had talked to so many homeowners on behalf
12 of some of the carriers, is figure out how to gather
13 information or ask questions in a way that is
14 consumer-friendly. Some of the anecdotal things were like
15 turn-of-the-century homes or older homes were just more
16 expensive to replace, if you are going to place them in
17 the reproduction environment from the functional
18 replacement environment. So you would get things like
19 is it a plaster wall? Well, one would ask "How would a
20 consumer know that?" And we would typically ask them,
21 "How hard is it to hang a picture? Can you put a nail in
22 the wall? Is it cold when you touch it or is it warm when
23 you touch it? Same thing with brick or brick veneer, the
24 question there is would you put a flower pot outside the
25 window?

26 And there are other ways you can get some of
27 the questions to the consumer if they didn't answer
28 them. Quite frankly, a lot of them know pretty well and

1 they know them very well because they bought the house,
2 they live in the house and they have a great deal of
3 pride in the house.

4 So more and more as we went through these
5 various avenues simultaneously of each other, we just
6 more and more forced the input, what we call "G.U.I."
7 (phonetic, user interface, to be consumer-friendly so it
8 would work in the environment for the people who weren't
9 experts in construction.

10 We have found that homeowner involvement
11 worked quite well. They understand it, and for the most
12 part, they were more than happy to do it.

13 I was asked to talk to you about how we
14 compile data, and I was a little afraid I would bore you
15 to death on this. This is, of course, what most of our
16 people do. I think we have 50 people that just do this. I
17 would tell you that there are a lot of ways to do
18 construction information.

19 We do what we call "bottoms up", which is
20 really the primary way, and that is material, labor,
21 equipment, overhead, profit on the most granular level
22 that you need to do it and build it all up. So we will
23 take labor rates and trades and all the rest of those
24 things and build up what we call a "component." And a
25 component might be wallboard with two-by-fours and
26 everything behind it and we build up to assemblies, and
27 eventually the structure.

28 One of the things we do -- because we will

1 provide products over the various levels, which we will
2 continuously verify that each of those elements work.
3 The way we do it primarily in insurable value is we go
4 find total losses. We have tens and tens of thousands
5 of uses, that is one of the blessings of doing what we
6 do.

7 Looking at this slide here, this is how we
8 localize data. The mantra is "A contractor won't go
9 more than 50 miles to do a job." So we won't violate
10 that and go out of 50 miles. We actually build in
11 natural barriers so we don't have contractors run across
12 the bridge in New York, that is very hard to deal with.
13 The only way you can really do that with acceptability
14 is to have customers who are willing to interchange with
15 you and effectively critique you, and we are fortunate
16 enough to have that capability in the appraisal side, in
17 the insurance side, underwriting and claims. That is a
18 big deal for us to validate the data, because, again, we
19 are building cost people and our purpose for doing them is
20 to get right answers.

21 In essence, that does apply to how we build
22 data -- a lot of people do it -- we have been doing it for
23 75 years, and we have a lot of credit checks, if you will,
24 or quality control checks to make sure we are
25 doing it right.

26 If somebody comes up and says, "I'm in
27 Visalia, and I don't think you folks really understand
28 the nuances here," we take that as an opportunity.

1 That is a way to find out does something -- somebody in
2 the local environment knows something we don't? We need
3 to know that because we need to project that into our
4 level. If it turns out we are right we are happier
5 actually.

6 If I could go back one slide called Cost
7 Information. In our database are about 100,000 different
8 types of materials. We monitor this continuously; the
9 more building, we keep updating and punch up an estimate.
10 We do a lot of work on hard cost and soft construction
11 costs. What that means is the material and labor are
12 essentially considered hard costs. Things like contractor
13 overhead and profit are typically called soft cost. Those
14 vary a lot by area, so you would find differences in
15 downtown San Diego to Scripps Ranch, and in some of the
16 commentary about "cat surge" this is one area where you do
17 get a fair amount of change, particularly in a runaway
18 real estate market like Southern California; contractors
19 do quite well by building new houses. And in an insurance
20 company environment, they need to be sort of diverted away
21 from what they would do very profitably to deal with
22 insurance claims, and probably -- I don't know this for
23 a fact -- but probably there is a higher overhead and
24 cost factor going into a lot these properties than
25 overhead would be in Illinois for instance.

26 We, obviously, have to continue to deal with
27 building codes. We have to continually monitor the
28 reconstruction costs, rather than new construction

1 costs. We need to continually have a relationship with
2 anybody who has good plans on total losses so we can
3 continually re-calibrate the software and look for
4 nuances that might indicate that there are more elements
5 that we need to put into the software. Then, of course,
6 we would just continually have to update the database
7 when we spoke with our people and with our customer
8 list.

9 Going on a little further, some of these
10 things I have touched on a little bit. There are some
11 other nuances going on; turn-of-the-century construction
12 is one obviously. Depending on the terms of the coverage,
13 a carrier may go into a reproduction mode, which is
14 effectively a recordation of what was there, or they go
15 into replacement mode. The software will enable them to
16 do either. And of course we need to go over the total
17 losses and make sure that is appropriate.

18 We need to do all the regional research,
19 things like, mello roos, profit factors, seismic
20 activities, and the things I talked about before, if
21 someone effectively is smart enough to know where it is
22 and therefore what typically needs to be the
23 construction normalcy in that area.

24 MR. GARAMENDI: If I might, that is a good sentence
25 to slow you down and ask you a couple of things that are
26 important to us as we go along.

27 You mentioned that you have been monitoring
28 and updating; will you be doing that in Southern

1 California in these fire zones?

2 MR. DOWDELL: Yes. Our access to that is a total
3 loss file from the insurance companies. They are the ones
4 that have the losses and we have great relationships with
5 a lot of the carriers, so we will typically go to them, as
6 explained, pretty much settled out and billed out and get
7 the files and effectively get the construction cost, the
8 engineering, and that sort of thing.

9 In a lot of cases, the house being rebuilt
10 isn't a house that was being insured. So our purposes
11 of reverse engineering software, that's okay because we
12 just need to figure out how much it costs to build the
13 house in the similar environment in the insurance claim.

14 MR. GARAMENDI: Would you be able to calculate the
15 demand surge?

16 MR. DOWDELL: No. But for an entirely different
17 reason. I think we will be able to in Florida. A demand
18 surge really comes with both partial losses and total
19 losses. What we do on the claim side of the world is we
20 provide the software and data an adjuster would use to
21 settle a claim, and typically that software that is used
22 in partial claims and total losses is usually a different
23 process.

24 One of the things that we do in that is the
25 adjuster is very interested in very granular detailed
26 data. How many two-by-fours are involved? How many
27 feet of wallboard? What labor is involved to do it? It
28 very granular construction estimating. As such, we have

1 some activity, we take very intricate data used to settle
2 that claim. We bring those together in mass quantities
3 and this is -- the capability of doing this has only been
4 about the past year, year-and-a-half.

5 If you take the Florida hurricanes, we were
6 doing this all throughout the year, through August, and we
7 will continue doing it in September, October, November,
8 and December. We work at a very grandular detail as to
9 what material cost was used by each zip code. And so what
10 we are hoping to provide, we would probably provide points
11 of information -- the increased pricing from the scarcity
12 of labor and material supplies in any kind of
13 catastrophe -- but I don't have it for San Diego.

14 MR. GARAMENDI: Well, I think what I would like to
15 do is ask my staff to come back and have a longer
16 discussion with you. It seems to me that the information
17 might be available. If you have the data from the
18 insurance companies on the construction cost or new
19 construction cost for San Diego in the fire zone versus
20 data of new construction in a non-fire zone for the
21 previous year, we might be able to have some sense of what
22 the demand surge is.

23 It is important to us in that we know that
24 we are going to have disasters in the future, and we
25 need to find out how to separate that demand surge out
26 of the equation of setting the limit and the premium.
27 Let's just hold that for a few seconds.

28 In your program you described it as a very

1 detailed program. Could you just describe the program and
2 then a couple of questions about the way your program is
3 used by your company and by the insurance companies.

4 MR. DOWDELL: Okay. Let me go back one slide.
5 This is the visualization we went through years ago when
6 we were doing this. This is the difference in
7 brochure-based estimating and component-based estimating.
8 The brochure estimating is on the right side of the house
9 (indicating) and the component-based estimating is on the
10 left side of the house. The next slide is the current
11 state of the art and that sort of thing.

12 Now, what this is, the first sheet you see
13 is a product we have called "Residential Component
14 Technology" or "RCT." On the left side it gives you the
15 ability to focus in on different elements of the house.
16 On the right side it lists what you need to get a reliable
17 estimate; style, number of stories, living area, et
18 cetera. If you look at the terminology of some of them --
19 symposiums such as tiers, raised tiers, that sort of
20 thing -- but we feel that those ones are necessary to make
21 a substantial impact on the replacement cost of the house,
22 understanding the fact that they don't really happen all
23 that often.

24 This particular house that we picked is just
25 to give you the necessities of getting a more appropriate
26 evaluation in the event this house would have burned down.

27 MR. GARAMENDI: Now, is this some new product or
28 has it been around from a long time?

1 MR. DOWDELL: Well, both. We have been involved in
2 this for 15 years. This is a current version, and we are
3 on version 8. We probably stopped after we got rid of DOS
4 and started over again when we got to Windows. So we have
5 been involved in this for some period of time as
6 technology keeps evolving, it really gets more --

7 MR. GARAMENDI: Is the first page what is known as
8 the "quick quote" or is there such a thing as a "quick
9 quote"?

10 MR. DOWDELL: A Quick Quote is actually a
11 stand-alone piece of software. It would feed data into
12 this but this is not Quick Quote.

13 MR. GARAMENDI: But there is a Quick Quote?

14 MR. DOWDELL: Do you want me to describe a
15 Quick Quote?

16 MR. GARAMENDI: Yes.

17 MR. DOWDELL: Quick Quote is a product that, quite
18 frankly, not many carriers use. I think it came out in
19 around 2000 or so. It was designed really to enable an
20 agent to get a ballpark estimate of what a property might
21 be insured for without going through the details of this
22 type of thing. Some of the carriers were concerned
23 initially that this was imposing and might take too long
24 or prevent the agent from doing a good job. So Quick
25 Quote was born on kind of that logic.

26 The typical generic house -- what we call
27 the generic house -- Quick Quote usually would be reliable
28 within about 10 percent. In most houses or certainly the

1 Scripps Ranch type high-value homes it is inappropriate
2 for.

3 In our experience, most of the carriers went
4 away from this as fast as they saw it because the agents
5 really weren't inhibited from using this (indicating).

6 MR. GARAMENDI: That raises another question. If
7 you sell your product to carriers, are they able to use it
8 as you presented it or can they modify it?

9 MR. DOWDELL: They can make certain modifications.
10 We sell data to carriers and we sell data and software to
11 carriers. In the ones that we sell data and software to,
12 the software enables the carrier to make certain
13 preference settings. It really is in line with what the
14 terms of their coverage are, and I don't really do
15 insurance coverage; that is really further down the
16 insurance scale than I go.

17 Carriers will offer debris removal as a
18 separate line of coverage. Some of them will offer code
19 upgrades as a separate line of coverage but there aren't a
20 lot of these preferences and they're not really dramatic
21 in their impact as some of the things that I've read in
22 the newspaper clippings. But, yes, there are certain
23 preferences that the carriers will take advantage of, and
24 as I understand it, it is to be consistent with the form
25 of the coverage.

26 MR. GARAMENDI: Very good. Let's wrap up
27 and we'll move along.

28 MR. DOWDELL: Okay. This type of thing has been

1 used by about 5 million policy holders. It typically
2 takes somewhere around ten minutes to do this, and you're
3 wondering "how could it possibly be that quick?" It takes
4 a lot of training to get it done in ten minutes. And in
5 our case, it takes an awful lot of software,
6 infrastructure, and experience too.

7 You will see only fact-based answers in
8 here. We very much try to get away from the judgmental
9 part of things, of quality, or some sort of global
10 overview, which has too dramatic an impact on offer, so
11 we absolutely try to stay away from that sort of thing,
12 so you won't see that here.

13 If you look at the next line (indicating),
14 this is an example of a house. Again, we picked one
15 that wasn't quite so vanilla-oriented so we could show you
16 what the software could do, and to some degree, what it
17 should do. In this case, you go through the software
18 and you decide what are the various features that are
19 important within the house. You get a summary at the end,
20 and you can decide if that's what you think it is or you
21 can go back and override some of those things, and you do
22 that by clicking on the left and overriding it.

23 This particular house has a central vacuum,
24 intercom, designer kitchen, designer bathrooms, and that
25 sort of thing. We did that intentionally just to give you
26 a sense of the magnitude of some of the implications of
27 this house. This is a 2,500 square foot house that sells
28 at about \$550,000. Also, it was built on a hillside,

1 which is another element that has significant construction
2 cost implications.

3 Obviously, I think most people who live in a
4 house would be able to identify with these elements. So
5 that is really kind of the input and the output.

6 MR. GARAMENDI: Just a couple of questions with
7 regard to how the insurance companies use your system.
8 You said that they have -- the system can be modified by
9 an insurance agent, certain elements eliminated or, I
10 suppose, bill into some other system that they had; that
11 wouldn't be your side, would it?

12 MR. DOWDELL: No, that's not my side of it, but in
13 essence what we would do is, for instance, we would
14 indicate what our estimate would be for debris removal for
15 a house like this. They might decide that they would
16 insure this house without debris removal because they
17 offer debris removal as a separate form of coverage.

18 MR. GARAMENDI: Do you still make the Quick Quote
19 available?

20 MR. DOWDELL: Yes, we do, although so few people
21 use it I don't know how long it's going to live. Quick
22 Quote was a good idea for a short period of time but I
23 really don't know of many customers at all who use it.

24 MR. GARAMENDI: Okay. I think we have covered
25 everything.

26 MR. DOWDELL: Let me give you one other thing on
27 technology.

28 MR. GARAMENDI: Sure.

1 MR. DOWDELL: One of the things that has become
2 really good about technology, certainly cost estimating
3 has been very helpful for the customer and the carrier.

4 The second thing that has become really
5 useful is the ability to archive the data. This is stored
6 on what we call a "cell site." So typically, what a lot
7 of carriers do that use both our software and our data,
8 they would use the data in -- pardon the technical term --
9 an ASCII environment, which technically means we host a
10 site when the carrier will run the software. And when
11 they run the software, we will archive the data. We will
12 save it for further use. It could be used in a claims
13 environment. It could be used in the underwriting
14 environment or whatever.

15 MR. GARAMENDI: How long have you been archiving
16 the data?

17 MR. DOWDELL: I think the first customer might have
18 started three years ago but it has really started to take
19 off for the past year-and-a-half. This is something that
20 has been really difficult for carriers to effectively
21 achieve on their own. Some have not been able to do this
22 sort of thing. This is a great vehicle to communicate
23 between carrier and policy holder as to what they think
24 they are really insuring here.

25 It is also a great vehicle, quite frankly,
26 for an insurance company to go back to a file and say,
27 "What did we have on record in the event of a loss?"

28 MR. GARAMENDI: We do mediation and there

1 may be a question, and if it's archived then it becomes
2 useful data. A couple of other questions. In a previous
3 conversation I had with you, you made an estimate of the
4 underinsurance that you believe exists in America. I
5 think I said something about it earlier today. Could you
6 discuss that, since my information came from you and I
7 need to verify in case I did not quite say it correctly.

8 MR. DOWDELL: Sure. We are the building cost
9 people, and our purpose in life is to effectively estimate
10 construction cost correctly. And in that we became aware
11 of what difficulties insurance companies have with getting
12 appropriate coverage.

13 Really, if you want to go all the way back
14 to the third slide, it goes back to the brochure of the
15 component-based estimating scenario. As we saw in the
16 Oakland Hills fires, I think those were the ones that
17 opened everybody's eyes in the insurance industry. If you
18 listened to some of the carriers' stories, there was a
19 one-story house that they had to replace with two
20 stories and critically under premium for what they ended
21 up paying, at least that's what I've heard.

22 And then with Hurricane Andrew there was a
23 lot of underinsurance in that, and we got very interested
24 in effectively helping both our customers and their
25 customers achieve the right answers. In that process we
26 did things like telephone estimating, we do property
27 surveying. We came down hard on this new reconstruction
28 cost, and we started measuring error rates. The first

1 error rate was 73 percent were underinsured by 35 percent.

2 What we started doing in the industry is we
3 started effectively engineering ourselves to remedy
4 that, and our customer base, obviously, is talking to
5 the insurance company, so what we have been working on
6 doing since then is providing softline systems to
7 effectively try to eliminate that 35 percent.

8 The most recent statistic we just published
9 a couple of weeks ago was 61 percent of the houses were
10 underinsured by 25 percent on average. That sounds like a
11 lot, but quite frankly, you're going from 73/35 a few
12 years ago; that's a lot of movement. That is moving at an
13 accelerating rate, and I think it will continue at an
14 accelerating rate because more and more the carriers are
15 getting into component-based estimating. They are almost
16 all into reconstruction cost now. They will be getting
17 into archiving, and probably the next step will be
18 providing that piece of information back to the
19 policy holder. The estimating part of the thing -- and
20 obviously I'm a vendor so I'm prejudiced, but I think
21 that works.

22 MR. GARAMENDI: You just said something: "that
23 piece of information back to the policy holder." This
24 hearing is about finding solutions to the underinsurance
25 problem, and that piece of information, whether it's your
26 model or the model that insurance companies themselves
27 have or your competitors -- and I understand there are
28 few -- what percentage of the market do you have?

1 MR. DOWDELL: You know, I have not measured that.

2 MR. GARAMENDI: You measure everything else. I
3 suspect you have some idea.

4 MR. DOWDELL: It's a pretty good percentage.

5 MR. GARAMENDI: But if that piece of information,
6 which is the components of the house, is accurately filled
7 out, it is your belief that you'll get a reasonably
8 accurate estimate of what it would cost to rebuild that
9 house.

10 MR. DOWDELL: Uh-huh.

11 MR. GARAMENDI: If that information is developed by
12 an insurance company through the agent and questions and
13 sent back to the customer, and the customer is asked, "Is
14 this accurate," would that result in a verifiable and more
15 accurate estimate? That is, the insurance company now has
16 verification of what the customer believed they have?

17 MR. DOWDELL: You spoke in relevant terms.
18 It would be certainly better. My experience with policy
19 holders is they know the information, and are more than
20 willing to share it, and I think as experiences like
21 this go on I think people become aware of the need to
22 protect themselves.

23 So if this process -- this is what we
24 presume our insurance is and verifying that is the case
25 in terms of correctness or incorrectness, but also if
26 you changed anything, it would really behoove you to call
27 your agent or call the carrier and change this piece of
28 paper or whatever it might be, I think it would certainly

1 help improve the appropriateness of the coverage.

2 MR. GARAMENDI: You gave those figures of
3 60 percent, 25 percent, 61 percent --

4 MR. DOWDELL: 61.25.

5 MR. GARAMENDI: 61.25 -- you do like to be accurate.

6 MR. DOWDELL: We are, but it is somewhat like the
7 Bush/Kerry polls; there is a degree of accuracy of plus or
8 minus 3 percent or whatever they say.

9 MR. GARAMENDI: Now, what about California?

10 MR. DOWDELL: I don't have any specifics on
11 California. It is probably similar.

12 MR. GARAMENDI: Any reason to believe it would be
13 different?

14 MR. DOWDELL: No.

15 MR. GARAMENDI: All right. I think you've
16 covered it. Thank you both very much. You have been
17 very helpful and very complete.

18 Okay. We will move on here. As far as the
19 organizations -- consumer assistance organizations that
20 are out there and working for some time with the victims
21 and survivors of the firestorm, the first witness I would
22 like to call forward is George Kehrer, consumer advocate.

23 George, tell us what you have learned from
24 the people you have worked with.

25 MR. KEHRER: Good afternoon, John, and thank you
26 for inviting me here to this meeting. This time I will
27 identify myself instead of just running to the microphone.
28 I am an Oakland firestorm survivor of 1991, and you and I

1 met 13 years ago, and I also met a few of the gentlemen
2 here from the industry 13 years ago, but since then -- my
3 wife and I lost our house in the Oakland fire -- she and I
4 have been working enthusiastically to correct what we saw
5 as an underinsurance problem, and what we see here today
6 as an underinsurance problem.

7 In the last 12 years the Department of
8 Insurance and the state legislature have made significant
9 progress protecting homeowners from the machinations of
10 the insurance industry. But even insurance industries and
11 buyers are becoming more concerned about the duplicity of
12 the insurance claims process and the remaining impact the
13 claims process has on the survivors of these fire losses
14 in a catastrophe.

15 However, the overwhelming problem, as it was
16 over 12 years ago in Oakland when I sat before this
17 Commissioner, in front of this Department on the same
18 issue that we are facing today; underinsurance. At that
19 time, I was faced with the 1991 fire in Oakland Hills that
20 destroyed our home, our neighborhood, and our community.
21 The insurance industry was not fazed then, and it is not
22 fazed today. The industry has not changed its ways since
23 the promise to Commissioner Garamendi 12 years ago.

24 Industry bigwigs said that they were unaware
25 of the problem back then, and underinsurance would never
26 happen again. The only changes we have seen are that the
27 insurance companies have just become more profitable.
28 Allstate had its best quarter yet. They are more clever

1 and more callous in the way they underpay legitimate
2 reasonable claims.

3 In 1991 I didn't think the problems could be
4 worse than Oakland. I was wrong; the patterns we've
5 seen in the insurance industry for the Southern California
6 wildfires being much worse. We have seen the elderly, the
7 infirm, single parents, families devastated by the
8 industry's treachery.

9 What's worse is that our research indicates
10 that this is a deliberate and a nationalized problem. I
11 wish everyone here could see the desperation I see, and
12 the lamentations that I hear from the people I meet
13 every day; maybe profit would be less important. But only
14 living up to one's promises can a person -- can an
15 industry -- evolve into being a good neighbor, evolve into
16 using a good hand to put us all back to where we belong;
17 home. A complete home, not just the foundation, the
18 exterior walls, and a roof, Like I have seen at
19 Lake Arrowhead, Julian, Artison Canyon, every place I've
20 been, but put us back in a complete house with kitchens,
21 bathrooms, and living rooms, not just empty shells.

22 What good is a promise, what good are our
23 premium dollars if not for more than just mere profits? It
24 was interesting -- I have analyzed Marshall & Swift
25 for about eight months now with the program called "RCT,"
26 Residential Component Technology, and the example that
27 Mr. Dowdell used was a Scripps Ranch house valued at
28 \$545,000.

1 On line 18 here (indicating) you can see
2 that the homeowner spoke of loss -- by the way, I have
3 been collecting data for the last nine or ten months and
4 I have compiled 62 houses into a spreadsheet, of which I
5 had 18 houses on which I had a Quick Quote, and Marshall
6 & Swift full quote. The top 18 numbers here from 2 to 19
7 are Quick Quote/full quote comparisons, and the other
8 40-some houses do not have the Quick Quote or a full
9 quote.

10 Column 1, or "A", is what the insurance
11 company covered that wasn't on the homeowners policy at
12 the time of the loss.

13 Column 2, or "B", is the Marshall & Swift
14 Quick Quote for those houses that I have been able to
15 bring together on this spreadsheet.

16 Column 3, or "C", is the insurance company
17 scope of loss. Their scope of loss when they came to
18 the house in November/December after the fire.

19 Column 4, or "D", is the Marshall & Swift
20 full quote.

21 Column 5, or "E", is homeowners scope of
22 loss.

23 Column 6, or "F", in red is the amount the
24 homeowner is uninsured, just under dwelling alone.

25 Column 7, or "G", is the percentage that
26 they were underinsured.

27 So on line 2 where it says, "they were
28 underinsured for \$149,000," they were underinsured

1 70 percent of their actual dwelling loss. The insurance
2 company had only insured them for 30 percent of their
3 house.

4 Go down the list to line 18, and on that
5 house, a \$550,000 home, the insurance company had
6 insured for \$185,000. \$185,000 on a \$550,000 home.

7 I quickly went into a spreadsheet -- on this
8 spreadsheet (indicating) the average policy of the 62
9 homes that I had, the average policy coverage for these
10 folks was \$182,581. The first insurance company's scope
11 of loss was \$250,000. Already they were \$68,000
12 underinsured. The actual loss, the average actual loss
13 was \$440,952, with an average underinsurance of
14 \$258,000 for these 62 homeowners.

15 The total coverage, when you include the
16 house, the personal property, the other structures, all
17 the other coverage in the policy, when we add that,
18 these property owners on average are underinsured by
19 about \$500,000.

20 If I look at my other chart, I would like to
21 point out that the first two columns -- and this is a
22 smaller sample of 18. I have \$135,000 policy on average
23 of these 18 homes. The Marshall & Swift Quick Quote,
24 ironically, or coincidentally, was \$141,000 on these
25 homes.

26 Now, when I interpret back to the fire,
27 which was four months earlier because my Marshall & Swift
28 database was of February 2004, that would translate to

1 approximately \$135,000. So the Marshall & Swift Quick
2 Quote, for some odd reason, equates almost identically to
3 the coverage that the insurance company provided on
4 these homes.

5 Now, the insurance company on these homes
6 averaged only \$197,000 for their quote.

7 The Marshall & Swift full quote on these
8 house is \$310,000, and the actual loss being \$363,000.
9 So the full quote survey was in spitting distance of the
10 actual loss. The Quick Quote is seriously deficient.

11 Now, I will go back to the chart -- the
12 first one (indicating) the insurance company had it
13 insured for \$63,000 and Marshall & Swift would have
14 insured it for \$85,000 just on the Quick Quote. The
15 second home, \$66,000. Marshall & Swift was at \$88,000.

16 Down to the more expensive house. Marshall &
17 Swift would have insured for \$254,000 and insurance
18 company for \$246,000. The actual loss was \$720,000.

19 I think if the Commissioner were to ask the
20 industry to open all its claims for your staff's review, I
21 think that they would find this to be significantly
22 correct on the 3,200 homes that were insured.

23 I think I've made my point.

24 MR. GARAMENDI: Oh, you have made your point.

25 George, I have some questions so you go
26 ahead and wrap first.

27 MR. KEHRER: My recommendation: Reopen all 2003
28 wildfire claims for review and comparison of policy limits

1 to national reconstruction costs. Insurers can and must
2 have the numbers of their policy limits. It's their
3 business. They are the numbers people. They have the
4 data.

5 Use Marshall & Swift for other coverage
6 programs correctly. Marshall & Swift is robust and
7 powerful. It is very clear that when Marshall & Swift is
8 used correctly, Marshall & Swift is very close to the
9 actual loss.

10 One, ask all the questions of home owners.

11 Two, spend 15 minutes to complete the form.

12 Three, every year provide a copy of the
13 numbers to the insured.

14 Four, create a process that includes
15 significant property improvements performed by homeowners
16 over time.

17 MR. GARAMENDI: George, slow down. You went so
18 fast through 2 and 4.

19 MR. KEHRER: Okay. I'm just trying to get
20 it all in before my time is up.

21 One, insurers can and must set accurate
22 policy limits. It's their business. They are the numbers
23 people. They have the data. They know the cost. They
24 make the profit. Let them earn their profit.

25 Two, use Marshall & Swift and other coverage
26 programs correctly.

27 Three, ask approximately 50 questions.

28 Four, spend 15 minutes to complete the form.

1 Five, every year provide a copy of these
2 numbers to the insured.

3 Six, create a process to include significant
4 property improvements performed by the homeowners over
5 time.

6 Mr. Dowdell pointed out that the average
7 homeowner improved his property by about \$10,000, but when
8 you see that house is underinsured by \$342,000,
9 That's 34 home improvement projects. I think there is a
10 greater problem then just homeowners improving their
11 property over time.

12 Seven, use independent licensed contractors
13 to create the scope of loss. Adjusters adjust, they don't
14 build. They are not licensed contractors. Adjusters
15 are generally not qualified and they have a conflict of
16 interest.

17 Eight, provide adequate notice to survivors
18 that the first scope is just the beginning, not the end
19 of the settlement process.

20 One week after the fire, Farmers was
21 delivering completed scopes of losses to survivors. To
22 process that, it takes months. It takes months to
23 figure out what that house was once it's reduced to ash.

24 Nine, claimants must be informed that the
25 scope takes a lot of fine tuning to include all the
26 complexities of rebuilding a home.

27 Ten, and finally, if the insurer is in shape
28 for a scope, they must pay for the cost of the scope for

1 the insurer to develop their own scope of loss with a
2 qualified contractor. Thank you.

3 MR. GARAMENDI: George, couple of questions. On
4 your spreadsheet, you have the actual cost to rebuild. I
5 think you used that word and I don't see it up there.

6 MR. KEHRER: It is not on the spreadsheet. It's on
7 the graph. And the actual cost is the scope of loss by a
8 qualified licensed contractor coming up with a true scope
9 of loss of their dwelling.

10 MR. GARAMENDI: So that is not yet the construction
11 contractor's cost, that is the actual contractor who built
12 their home?

13 MR. KEHRER: Correct. Even as Marshall & Swift was
14 pointing out, building costs are increasing 1.86 percent
15 in the last year -- reinforcing bar is going up 35 percent
16 so the actual cost may be different.

17 MR. GARAMENDI: How did you develop your
18 information on your spreadsheet?

19 MR. KEHRER: What I am going to do is get
20 out of this program. I will go to the Marshall & Swift
21 program to show what I do have. What I've done is I sit
22 down with homeowners at meetings and privately, and went
23 through the Marshall & Swift Residence Component
24 Technology with them. I spent time with them and I have
25 gone through the Quick Quote and then I have gone
26 through the more complete quote. I have written this
27 down. I have recorded it, and they have told me the
28 cost that the insurance company would pay, their

1 coverages, limits, and items of that nature. I compiled
2 this in Chart 52.

3 MR. GARAMENDI: All right. That is helpful to
4 understand that. Your ten recommendations are important
5 for us to know. We will be pondering those and
6 undoubtedly will be part of what is forthcoming from the
7 hearing.

8 MR. KEHRER: If I can point out one more thing.

9 MR. GARAMENDI: Please.

10 MR. KEHRER: This is the foldout menu from
11 Residential Component Technology, and the fifth item
12 says "New Quick Quote." And when I opened it up, it
13 talks about the property address. It asks for only six
14 components; the zip code, the number of family, the year
15 built, the style, the stories, and total living area.

16 All of this gets put into a database that
17 goes on to the file here, and this is generally designed
18 for the insurance industry. If they have information that
19 is different than that, I would certainly like to know
20 that. But all of this is compiled into a database that
21 talks about insurance companies and the -- here
22 (indicating) it says "policy number," it has the insured
23 name -- so this is designed, from my understanding, it
24 says current coverage branch office, agent name, and
25 account name. So in my mind, this is a program that
26 agents use. I see it talking about insurance.

27 MR. GARAMENDI: You might just leave that hanging
28 there for a little while. George, thank you very much.

1 I would like now to hear from two survivors
2 of the fire, Peter Dempsey and Michele Bedard.

3 Peter, you are not a survivor of the current
4 fire, you are a survivor of the fire from 13 years ago;
5 the Oakland Hills?

6 MR. DEMPSEY: Yes.

7 MR. GARAMENDI: Your experiences in the Oakland
8 Hills fire I think will be very instructive for us to see
9 the progress or the lack thereof.

10 MR. DEMPSEY: Yeah. I am Peter Dempsey and
11 I am from Oakland, California, and I lost my home in the
12 1991 Oakland/Berkeley firestorm. Hearing that Southern
13 Californians were suffering from underinsurance, I
14 found myself a little struck. I thought, "Isn't that odd?
15 After all those promises from the insurance industry after
16 the fire -- and also we went to do legislation in
17 Sacramento -- we understand what went wrong and we will
18 make the appropriate changes." They haven't. It's
19 apparent they haven't.

20 After the 1991 firestorm, Allstate policy
21 holders found that they were significantly underinsured,
22 and they started a group called "Unexpectedly Underinsured
23 Allstate Policy Holders." At first I thought, "Oh, dear.
24 This is going to be another one of those self-help groups
25 where we commiserate about the fire." But what it turned
26 out to be were people who were willing to share what they
27 were getting as settlements from their insurance company.

28 With that information, we got Allstate to

1 perform their policy, but they weren't going to do it by a
2 case-by-case basis, we had to come to them as a group and
3 had to force them to recognize that their agents had
4 improperly insured us. They hadn't covered us for a
5 variety of things; the big one being code upgrades. You
6 could build yourself a historical monument but you
7 couldn't move in because you would not be allowed to by
8 the City.

9 One of the greatest problems that created
10 the underinsurance came from the agents. They were well
11 trained as salespeople but they were not well trained as
12 to how to value a home. They never came out to visit my
13 home, they didn't look at it. Yet, after the fire, I went
14 under two days of examination, under oath, as to the exact
15 details of my home, at the conclusion of which we found
16 out that the photographs that they had taken of my home
17 was actually Mike Walker's house two doors down -- in the
18 photographs you see the mailbox and there was an address
19 number on the mailbox and it was not my address.

20 There are big holes in how the they handle
21 getting a correct evaluation with proper levels of
22 insurance. Post disaster, problems are exacerbated in
23 and stretched out. We found that reconstruction
24 slows -- only a third of the people in my neighborhood
25 actually rebuilt. A third of them attempted to rebuild
26 but gave up because of the abuse from their insurance
27 companies and another third took the first offer and
28 ran.

1 It took over 12 years for the final house to
2 be built on my block; that was 15 homes, and it took
3 12 years to get that property space back.

4 One of the things that I am most struck by,
5 as every year I get my statement from Allstate, it's the
6 little pieces of tissue paper that come in with that
7 policy or with that renewal that tell me what new thing
8 Allstate is not going to cover. The one that really
9 struck me the most is that Allstate has pulled back on its
10 additional living expense. I was well taken care of by
11 Allstate in that area -- once I got through the
12 misrepresentations of what they would cover -- but they
13 covered me for the full time that it took me to
14 reconstruct.

15 My reconstruction time was two-and-a-half
16 years. 12 months, you can't do it. There is no way to
17 rebuild a house in 12 months. Even with a full set of
18 plans that I have for my current house, I would have to
19 have them full redone and then resubmitted to my City
20 before I could even start construction, and I would
21 still be about five months on my own under the 12-month
22 ALE.

23 The interesting piece from the man who spoke
24 earlier from Marshall & Swift, he was mentioning that
25 Quick Quote is no longer used. Allstate on several
26 occasions attempted over the telephone to have me describe
27 my home. Each time I demurred. I reminded them that I am
28 not a contractor, and I'm not a lawyer and I didn't know

1 what they were going to do with the information, and they
2 wouldn't promise to provide me a copy of whatever it is
3 you produce so that I could at least comment upon it,
4 "That seems reasonable." Every time I offered them,
5 "Please, come to my home. I am happy to go through the
6 process with you here, but over a telephone it's
7 impossible." Every time they declined.

8 On review just this morning, as I was flying
9 down, I pulled out my Allstate pile and I started
10 reading through it. I pulled the one out that was my
11 most current that I could find, which was last year, to
12 find what my coverage limits were. Every year they do
13 that cost escalating thing. Well, the cost escalator
14 for the past 12 years has risen my coverage, coverage
15 "A" only 9 percent. In the Oakland East Bay 9 percent
16 will not cover what the true cost escalation will be. I
17 am looking forward to making better friends with
18 George Kehrer, and have him do a full Marshall & Swift on
19 me.

20 MR. GARAMENDI: Peter, thank you very much.
21 Apparently, you are not done -- you are done as a
22 witness here but not done with the work trying to make
23 sure that you have adequate insurance. And I'm afraid a
24 large percentage of Californians are in the same
25 situation. Thank you very much, Peter.

26 Some time ago a woman by the name of
27 Michele Bedard contacted us about the problems she was
28 having with getting insurance -- she was being denied

1 insurance -- and then the problems she was having in
2 getting adequate insurance.

3 Michele, please share with us your
4 experience.

5 MS. BEDARD: Hello, I'm Michele Bedard. I did not
6 suffer any losses; however, I did have a lot of issues
7 trying to find a policy, and I think I can possibly help
8 some other people with coming up with some new solutions,
9 so thank you for inviting me to talk about my experience.

10 Basically, after four years of continuous
11 coverage and no claims I received a notice of
12 non-renewal by Allied -- that was my insurance company
13 at the time. The reason listed was "exposure brush."

14 I live in Scripps Ranch so needless to say I
15 know about the fires that happened last year. We were
16 evacuated and 2,400 homes burned. All I can say is
17 thank God for the recent rain because it is hard to tell
18 if an insurance policy can protect me in the event of
19 another fire at this point, based on what I found out.

20 Once I received that letter from them,
21 basically, not insuring me again, I was very concerned;
22 this is my first home. I did not know how to shop for a
23 policy so I did the best I could to find out the issues
24 around it, you know, what do I need to know -- take all
25 the necessary steps.

26 I will tell you what I did in a moment;
27 however, suffice it to say, even with my fairly in-depth
28 research I did, I still ended calling up the insurance

1 commissioner's office and asking for help, and that is the
2 reason I am here today.

3 Here's what I did: First, I talked to my
4 agent at Mercury, who was my insurance and I had Allied as
5 my home insurance policy and my car. I tried to
6 understand why am I dropped. I didn't have a claim. I
7 don't think I have brush. I was being told that Allied
8 was not renewing people with any sort of brush exposure.
9 What's brush exposure?

10 So from the Allied letter I received, I
11 ordered the report from the group that did their
12 underwriting issues to point of concern, and there were
13 two lines: "Access to home, brush." That was it. No
14 explanation. So at that point, I'm like, okay. I am
15 having a hard time getting a new policy here. I don't
16 know what brush exposure is. Where am I going to get a
17 policy?

18 So I went to your website, which had a lot
19 of great information on it, and I read through it. At
20 that point, I thought I was pretty well informed about the
21 issues to go get another home insurance policy. I decided
22 on two cost companies to call; mostly I went by brand
23 name. I had comparison costs on equivalent policies. I
24 reviewed the complaint records to insure and understand
25 how they would service me if I did have a claim, and to
26 understand how replacement writers work, as well as
27 understanding building cost for my area.

28 I researched the finalists for their

1 financial stability and their ability to pay claims.
2 However, having heard a lot in the news about my neighbors
3 in Scripps Ranch, I became more confused about making an
4 informed choice. So I went to consumer reports and read
5 their past information that they had on the underinsurance
6 problem, and they also recently posted something in
7 September J.D. Power and Associates, the insurance journal
8 website and best website to narrow the number of companies
9 that I wanted to call.

10 I was looking for a way to quickly survey
11 the most financially responsible companies that would
12 actually take care of me if I had a claim. I didn't
13 want my only asset to burn and I'm stuck.

14 So I called the following companies:
15 Farmers, Allstate, Clarendon (phonetic), Hartford,
16 American National, Liberty Mutual, and Camberg
17 (phonetic). I called these companies after researching
18 which were the better ones so I could narrow it down.

19 I did even further research; I have a friend
20 who is a claims estimator and he does estimates for
21 insurance companies, so I called him and said "How much
22 per square foot?"

23 Then I read some published articles in the
24 San Diego and Union Tribune to see the how the most
25 intelligent -- or MSN money, and it was there that I got
26 the information about this panel. At that point, I
27 contacted Gary Gardner. I was trying to see -- I still
28 didn't know if had the information that I need to get a

1 policy that is going to cover me. I was confused. The
2 more research I did, the more confused I became. I had
3 trouble understanding all of the policy. What impact is
4 it on me if my new carrier is non-admitted in California?
5 I don't know. I mean, I read a book. I did all this
6 research, and I still don't know. What do the NAC reports
7 or other overall ratings mean if companies can simply pull
8 out of states or areas that have too much exposure; isn't
9 that illegal? Isn't that why companies have reinsurers?
10 I'm a voter. I'll vote for higher rates. Can they do
11 that? Or can they say, "Too bad" when their losses get
12 too high? That has got me very irritated.

13 Also, I couldn't tell if I was getting
14 "apples to apples" quotes. I could not tell if my
15 policy would really cover losses. I had to do the Quick
16 Quote thing and what George was saying, in terms of --
17 well, basically, when I called I got a range of different
18 questions about what my home was and the basic aspects
19 of my home but nobody asked me about my upgrades.

20 Almost every company said that my desired
21 replacement value for a quick price was basically
22 ridiculous and the builders were gouging homeowners
23 because they could get it due to the fires in Scripps
24 Ranch. I said, "Well, if there's another disaster, aren't
25 there going to be supply and demand issues? Aren't they
26 going to, again, be able to charge what they can? So
27 shouldn't I get a high value cost estimate?" And that
28 doesn't even include my custom exotic hardwood floors or

1 any upgrades that I've done that no one's even asking me
2 about.

3 Basically, I did not understand brush
4 exposure. People gave me a range of things. Some said,
5 "We're selling more policies in your area, we'll
6 basically be in there so brush exposure is not going to
7 be a big deal." Others said, "We'll look at your house
8 and your development, not a big deal." Other said, "No
9 policies anywhere in your area." So what's the deal with
10 the cost calculator?

11 Some companies went with a simple cost
12 calculator and asked basic questions. They went from \$140
13 to \$160 per square foot. I had already calculated myself
14 \$200 and \$240 per square foot just based on all these
15 calls that I did and I had upgrades and I had read about
16 the underinsurance problem. And they said basically,
17 "Way, way, too much." And I said, "I'll pay. I'll pay.
18 Give me the higher rate, please." I wanted my floor
19 replaced for sure. My floor was \$5,000 to put in,
20 900 square feet.

21 I ultimately went with the Hartford, which
22 accurately assessed my property to \$230,000 from \$196,000.
23 They appear to be financially stable based on what I could
24 figure out.

25 So I had a couple of recommendations based
26 on my aggravating experiences -- which I'm sure you can
27 pick up from my tone of voice -- basically, how
28 consumers get an "apples to apples" quote. You know,

1 why not have a listing of insurance quotes like people
2 do when they get loans like through HUD; there's numbers
3 and you can actually see what the costs are involved and
4 you can go from quote to quote of an actual form, not just
5 a calculator but the actual quote that the customer gets.
6 Why not?

7 Have mandatory calls to the homeowner --
8 like what George said, basically, look at my house or
9 inspect per square foot or why can't there be a
10 requirement once a year when year when you send me my new
11 policy a month in advance, ask me, "What are your
12 upgrades?" Be required to ask me to make sure that I am
13 keeping up with what you should be insuring me for.

14 Provide all the resources in one place for
15 your web sites or in a brochure or easy-to-use web
16 format and advertise to California residents, obviously,
17 so they know; and a usually agreed-upon realistic cost
18 calculator provided to consumers with true replacement
19 cost policies.

20 MR. GARAMENDI: Michele, a couple of questions.
21 You said that it cost some \$230,000 to rebuild; how did
22 you come to that number? How did you arrive at your
23 estimate as to what it would cost to rebuild your home?

24 MS. BEDARD: Well, just from talking to all the
25 different companies that I spoke with and getting
26 estimates from them and then looking at my upgrades. I
27 only had a couple that actually asked me if I had a
28 porch, or an arbor, or if I had custom skylights; any of

1 these additional things that --

2 MR. GARAMENDI: Your information basically came
3 from the inquiries that you compiled. You mentioned that
4 you talked to a friend who was an estimator?

5 MS. BEDARD: Yes. But he did not give me that
6 rate. I basically insisted on a higher rate based on what
7 I was hearing.

8 MR. GARAMENDI: Okay. And you said that some
9 insurance companies were not willing to cover you at an
10 amount that you thought was necessary to rebuild your
11 home.

12 MS. BEDARD: I would say probably they may have
13 been willing to do that and write the higher policy but
14 most people were saying that I was way overinsured and I
15 was wasting my money.

16 MR. GARAMENDI: You have not yet run the Marshall &
17 Swift or any other cost estimates?

18 MS. BEDARD: No.

19 MR. GARAMENDI: Michele, thank you very much.

20 MS. BEDARD: Thank you.

21 MR. GARAMENDI: Very good example of the
22 frustration one can experience.

23 I think it is about time to hear from the
24 insurance companies. I would like to start with the
25 Auto Club of Southern California, formally known as the
26 Interinsurance Exchange of the Automobile Club.

27 If you just introduce yourself and then give
28 us a quick summary of your experience here with the

1 Southern California fire zone.

2 MR. CHANG: Hello. My name is Tim Chang.

3 I am legislative counsel for the Automobile Club of
4 Southern California Interinsurance Exchange. I have
5 with me Cynthia Duncan, Underwriting Staff Manager.

6 The Automobile Club of Southern California is
7 a nonprofit, nonstock motor club serving over 5.5 million
8 members here in California, primarily located in the
9 southern region of the state.

10 The Auto Club first began selling insurance
11 in 1912 through its interinsurance exchange. It offers
12 many services to its members from our well-recognized
13 roadside assistance to travel services, vehicle
14 purchasing, and other financial products.

15 Among the insurance products that we offer
16 through the interinsurance exchange, we sell auto, home,
17 watercraft and other policies. These policies are sold
18 through our licensed agent through the club's network of
19 over 70 offices located throughout Southern California.

20 We began offering homeowners' insurance in
21 1984. We remained a relatively small carrier through
22 the Northridge earthquake. At that point, we grew
23 rapidly, in part because we, unlike a number of other
24 carriers, did not severely limit or stop offering
25 homeowners' insurance to our members, and in part, we
26 believe because of our excellent product and reputation.
27 Today we are the sixth largest homeowners' insurance in
28 the state.

1 We essentially offer two types of homeowner
2 policies; one is known as a Guaranteed Replacement Cost
3 policy or GRC. Unlike many other policies, it means
4 what it says. We guarantee to replace the home in the
5 event that it is destroyed by fire or any other sort of
6 catastrophe. If the evaluation stated on the policy is
7 lower than the amount needed to rebuild the house, the
8 exchange absorbs the difference. It does not become the
9 obligation of our insurer.

10 Of course, this means that we replace the
11 house as it was before the loss. A homeowner may choose
12 to upgrade during the rebuilding process, but those
13 additional expenses are not covered by the policy and
14 are the homeowners' responsibility.

15 We have been asked how we can continue to
16 offer this type of policy. To begin with, we are
17 non-stock organization, and as such, we can turn our
18 entire focus to our members and our insured, not our
19 stockholders, to carefully set underwriting standards and
20 thoroughly review the home keeping coverage with us.

21 We have built these exchanges through a very
22 financially strong insurer, to enable us to withstand
23 the impact of catastrophic losses that occurred here in
24 California without any adverse impact on our ability to
25 make good on our promise to our policy holders.

26 MR. GARAMENDI: Take a deep breath. I have a
27 question. Somewhere in that four or five sentences
28 you said that you underwrite -- careful review of

1 underwriting. I am not sure at this moment, but I would
2 like to understand how you carefully review and underwrite
3 that?

4 MR. CHANG: I believe that could be addressed
5 better in Ms. Duncan's portion of this segment.

6 Our GRC policy includes contents coverage of
7 up to 70 percent of the amount estimated to be destroyed
8 in the home in the event of a total loss, some people know
9 this as the coverage "A" amount. But this amount
10 increases proportionately with the actual cost to rebuild.
11 If it exceeds the coverage "A" limit, additional living
12 expense to cover the cost of renting or purchasing a new
13 residence during the course of reconstruction is covered
14 up to 20 percent of the coverage "A" amount, and also
15 floats up with the actual cost to rebuild the home.

16 Let me speak for a moment, briefly, about
17 the wildfires here in Southern California. Last
18 October's fires destroyed 73 homes insured by the
19 exchange. As part of our claims handling process, we
20 immediately provided payment of up to \$10,000 to
21 insurers who lost their home to enable them to
22 immediately find alternative residences and to purchase
23 the necessities that were lost in the fire.

24 The policy prescribed a 12-month time limit
25 on payment for additional living expense but we have
26 waived that time limit because the time frame is not
27 feasible for many insurers in their current situation.
28 This is consistent with our past practice of exercising

1 flexibility when warranted. For example, following the
2 1994 Northridge earthquake, we did not adhere to the
3 one-year statute of limitations contained in the policy,
4 but allowed homeowners to file or reopen claims if they
5 discovered new or additional damage.

6 We have streamlined our process to
7 accelerate payment to policy holders who lost their home.
8 Once the loss had been verified, adjusters paid 80 percent
9 of the amount stated on the policy to cover the home's
10 contents.

11 If qualified for additional compensation,
12 insureds were asked to provide some verification of
13 their losses. We did not require insureds to itemize
14 every piece of property for which they sought payment, but
15 simply asked them to identify categories of properties,
16 such as clothing, appliances, food, et cetera, and ascribe
17 a value to each category. We did not ask for the amount
18 of the purchase price, the date of purchase, or a copy of
19 the receipt, but only the amount needed to replace those
20 items.

21 We filed for and obtained approval of an
22 endorsement to provide a discount off the basic coverages
23 for homeowners who had lost their home. The discount was
24 retroactive to the date of the loss and will continue
25 until their new home is ready for occupancy.

26 Finally, we held two town hall meetings, one
27 in San Bernardino, and one in Scripps Ranch, where policy
28 holders were given an opportunity to have all of their

1 questions answered by executive management and
2 claims managers.

3 We also hired a building construction expert
4 to assist our policy holders in the rebuilding process,
5 and to answer their questions regarding selection of
6 materials, selecting reputable contractors, or any other
7 questions they might have.

8 To date, I believe, we have seven homes that
9 have been fully rebuilt. Ten policy holders elected to
10 cash out their policy and not rebuild their home, and that
11 leaves approximately 55 that are still currently in the
12 construction process. I am informed that approximately
13 40 to 45 of those will be completed in the next 90 to
14 120 days.

15 During the course of adjusting the claims
16 resulting from the wildfires, we learned that while none
17 of the destroyed homes were underinsured, because they had
18 guaranteed replacement, most were undervalued. For
19 example, we insured one home that was built 18 months
20 prior to the fire. The policy reflected replacement
21 costs, coverage "A" amount, for \$276,000. The home was
22 totally destroyed in the fire. The homeowner obtained the
23 original claim and hired the original builder to
24 reconstruct their home. It is now complete, and actually
25 cost \$381,000 to rebuild. Of course, since the policy
26 holder did have our GRC coverage the policy holder
27 did not incur any additional expense and the policy
28 holder is now back in his home.

1 The fires occurred prior to the
2 implementation of a new insurance to value program begun
3 by the exchange several years ago. While accepting
4 losses both partial and total prior to the fires, our
5 claims personnel reported that the valuation seemed to
6 be an issue when they recognized that many homes did not
7 fit the characteristic underwriting had used to
8 determine reconstruction cost.

9 Several reasons included extensive home
10 renovations and upgrades by homeowners that we previously
11 have discussed here. Therefore, the exchange began
12 valuing a home that relied on the specific characteristics
13 of a home being insured. This process focuses on painting
14 an accurate description of the specific characteristics,
15 and Ms. Duncan will now tell you what that all involved.

16 MR. GARAMENDI: Thank you. Please proceed.

17 MS. DUNCAN: Since the implementation of our
18 homeowners' product, we've used four methods to
19 determine replacement costs. We used the Boeckh room
20 comp method, the Boeckh living area adjustment, which is
21 a square foot method, an exact dwelling software, and as
22 of July 2002, we have used Marshall Swift Boeckh
23 Residential Component Technology.

24 We promoted MSB's product because MSB
25 specializes in providing building cost information.
26 Their products give them interactive profits between us
27 and the insured to identify specific home
28 characteristics, which are used to estimate the

1 replacement cost. This means we will capture for a
2 specific home if there's wallpaper, paneling, hardwood
3 floors, wool carpeting, a basic kitchen or a designer's
4 kitchen. These individual items determine the
5 replacement cost of the home.

6 MSB also had the infrastructure to contact
7 our existing insureds to obtain their own characteristics.
8 Their system also provided the capability to upload the
9 data characteristics from our coding system to our
10 mainframe system. The mainframe system is used for
11 ongoing maintenance of home characteristics.

12 The MSB product also allowed us to access
13 preferences, factor in architect fees, general
14 contractor overhead and profits, debris removal, and
15 wage rates.

16 Our new business process is an interactive
17 one between the sales agent and the applicant. The
18 agent interviews the applicant and after capturing the
19 home characteristics, provides a copy of the total
20 replacement cost estimate to the applicant.

21 This estimate provides the property
22 description including, among other things, the year the
23 home was built, number of stories, total living area, wall
24 coverings, flooring, number of bathrooms, and type of
25 kitchen. The sales agent must also take pictures of the
26 exterior of the home, and the interior photos of the
27 bathrooms and kitchen. Our agents are not allowed to
28 use MSB's Quick Quote to bind the policy because it does

1 not capture all the required information.

2 The application, the pictures, and a copy of
3 the total replacement cost estimate is forwarded to
4 underwriting. Our underwriters review 100 percent of
5 the application. In the underwriting process, we compared
6 the home pictures with the data characteristics on the
7 cost estimate, and then we follow up with the agent if
8 there is any discrepancy.

9 For our existing policy holders, again, it
10 was an interactive process that relied totally on
11 information obtained from our insureds. To obtain home
12 characteristics from our existing policy holders, MSB
13 mailed notification to our policy holders advising them
14 that a representative would be calling to conduct a five-
15 to seven-minute telephone interview. For those who
16 could not be contacted by telephone, a questionnaire was
17 mailed to their home. Non-respondents to the survey or
18 the questionnaire received a letter advising them of a
19 typical inspection. If no response to either the survey
20 or the inspection, our underwriters attempted to call
21 our insured to complete the survey. As a last resort,
22 underwriting sent a non-renewal notice that stated that
23 the policy would be reconsidered if the survey was
24 completed.

25 After compiling the data, we incorporated it
26 into our renewal process and added a new step to assure
27 that policy holders were aware of the results of the
28 survey. 110 days prior to policy expiration we mailed a

1 pre-notification to the insured asking that they review
2 the enclosed property characteristic profile to ensure
3 that the information accurately represented both the
4 interior and exterior of the home.

5 We advised the insured to contact us at a
6 toll-free number if there was any differences. We also
7 provided a guide, which explained many of the terms used
8 to describe the characteristics. The renewal package
9 was mailed 60 days prior to the policy expiration. The
10 package includes the home characteristics if there were
11 any changes as a result of the prior mailing.

12 In a variety of instances where the new
13 replacement cost is less than the current coverage "A"
14 amount, the package included an authorization to
15 decrease coverage. The insured provided the option of
16 repaying the higher current coverage "A" amount or
17 decreasing to the new replacement cost.

18 At each subsequent policy renewal we
19 recalculated replacement cost that's based on MSB's
20 updated price list. We also mailed the home data
21 characteristics to the insured for review. Throughout the
22 process our renewal rate has remained high. The
23 approximate impact of reevaluation is that 50 percent of
24 our insured experience no change or change up and down
25 within 10 percent. The majority of the remaining policies
26 had a greater increase in replacement value that ranged
27 from minimal to substantial.

28 Because we just implemented the program in

1 April of this year, the full impact on the accuracy of
2 home replacement cost valuation is still unknown.

3 Now, I can answer any questions.

4 MR. GARAMENDI: Well, you have answered many of the
5 questions that I had. You said you began this overall
6 modification of the program this spring. The fire was
7 last fall. What was your experience during the fire; did
8 you find a large number of underinsureds? You have 78
9 total losses, all of them covered by your guaranteed
10 replacement program. How much underinsurance was there
11 among those 78?

12 MR. CHANG: I believe the underinsured ranged from
13 a relatively small amount to quite a substantial amount.
14 I am not exactly sure of the percentage spread or dollar
15 amount but in some instances it was significant.

16 MR. GARAMENDI: Of the 78, what portion of those
17 homes were underinsured?

18 MS. DUNCAN: Let me be clear. We had 73 homes lost
19 in the fire; 72 of those homes had guaranteed replacement.
20 The one home that had a replacement cost policy was
21 reconstructed at very minimal over the replacement cost
22 that had been estimated for it.

23 But in regard to our GRC policy, our GRC
24 policy protects our policy holders so there are no
25 underinsurance problems for our policy holders. Our
26 policy holders get full benefits and full reconstruction.

27 MR. GARAMENDI: What I am trying to get at is, you
28 had set a limit; what are the limits and what caused the

1 limits to be low? You obviously made a major change in
2 your underwriting to address the widespread problem -- I
3 don't know if it was your problem or not -- but the
4 widespread problem of the limits being set far too low to
5 rebuild the home; did you experience that also?

6 MS. VICARIO: We were undervalued on our homes, and
7 I think it was because of our different method we started
8 with. I said we started with the room count method. Some
9 of our policy holders would have been evaluated at that
10 time using that method. From our experience now, that is
11 probably not the best method, and that's why we moved on
12 to RCT, the total component method.

13 MR. CHANG: I think additionally, as it has been
14 pointed out already, there were extensive remodels and
15 renovations done by homeowners that were not
16 reported and, therefore, not accurately calculated.

17 MR. GARAMENDI: I do want to compliment you on what
18 you are now doing, and I think that is exactly what
19 insurance companies should be doing. And maybe there
20 should be more that should be done, but at least for now,
21 that is an excellent improvement; however, I need to get
22 an understanding of what took place historically to be
23 able to judge the changes. There are other companies that
24 are clearly not doing what you are doing today, they have
25 not made any changes, and we need to try to understand.
26 So that is the basis for my question.

27 How much more expensive is it with the
28 upgrades under the new program -- I am using different

1 words than you do -- increase in value under the new
2 program. How much more expensive is it to the policy
3 holders?

4 MR. CHANG: I think as Geff Greenfield pointed out
5 earlier, we have run our books through our ITT process.
6 There really is no way to make generalizations on what
7 kind of correlation there is between an increase in a
8 policy of coverage "A" and a corresponding increase in
9 premium. What we have found, as has your staff person,
10 that the correlation is something less than one to one
11 though.

12 MR. GARAMENDI: At the second half of this hearing
13 tonight I will come back and hit this issue very hard
14 about this whole issue of the increased cost of the
15 consumer to be fully insured.

16 I think in your presentation you've answered
17 virtually all the questions that my staff had prepared
18 to ask you -- perhaps you had some heads up -- in any
19 case, you answered them all.

20 I really thank you, and I want to
21 congratulate your company for the way in which you
22 addressed the underinsurance issues for customers, and
23 particularly, you've gone back through your entire book of
24 business, and probably a rather frightening thing to
25 ask all of those customers and to notify them that there
26 may be something incorrect in their coverage, but you
27 did, and I suspect the result has been satisfactory to
28 the company and to the customer. Thank you very much.

1 All right. We are going to move on now.
2 Point and counterpoint; Allstate.

3 We began the process of hearing from the
4 insurance companies with Southern California Auto Club,
5 and now moving to Allstate. Please introduce yourself and
6 put your name on the record, and then I think you have an
7 opening statement.

8 MR. MC HALE: My name is Dave McHale. I don't
9 really have a opening statement. What I would like to do
10 is have Jodi Vicario, our product manager, take you
11 through the advent of our current process and perhaps
12 questions will emanate as we go.

13 MR. GARAMENDI: Very good. Please proceed.

14 MS. VICARIO: We introduced a component-based
15 technology tool in 1995, and the product itself is called
16 "Home Quote." It is not a Marshall & Swift product, it is
17 a software product created by a company called "Value
18 Quote."

19 At that time in 1995 when we introduced the
20 tool we happened to have a market product exam with the
21 Department of Insurance. At that time, we brought the
22 Department in, they thoroughly looked at the tools, the
23 customer communication, our cost reductions and we
24 incorporated that and moved on.

25 A little bit later we had a lawsuit; Rubin
26 versus Allstate was a class action lawsuit alleging
27 overinsurance. Once again, we went through the settlement
28 process on that. We had a Department of Insurance

1 market-conducted exam. The members of the Department
2 shared again what the settlement profits were going to be,
3 the customer communication, how it would all work, and
4 then we implemented some change based upon the settlement
5 agreement.

6 At that time, we started incorporating all
7 of the characteristics into the declaration page; policy
8 holders started receiving those in October of 1999. Also
9 included in there is a statement that you should contact
10 your agent if you had any questions or concerns, and they
11 got a gold sheet that explained and helped them understand
12 what the definitions are. And then beyond that, a few
13 meetings with your staff and --

14 MR. GARAMENDI: Hold on just a second. I want to
15 go back and cover that again.

16 You began in 1995 to use a computerized
17 system in estimating the cost of -- the value of the
18 building.

19 MS. VICARIO: Correct.

20 MR. GARAMENDI: In that system, you described that
21 the Department reviewed it and made some suggestions.

22 MS. VICARIO: That is correct.

23 MR. GARAMENDI: And you have been using it since
24 that time?

25 MS. VICARIO: That is correct.

26 MR. GARAMENDI: Am I to assume -- I don't think I
27 was around in 1995 to 2003 so I missed those years but do
28 you archive information that you receive on individual

1 policies or claims?

2 MS. VICARIO: We have the information archived
3 mechanically on our mainframe back to 1999. Prior to that
4 it was a paper environment, but now we have everything
5 current from '99 forward.

6 MR. GARAMENDI: So was the methodology of the
7 system similar to what was described with Marshall &
8 Swift?

9 MS. VICARIO: Very similar. There is 30-plus
10 components. There's 150 different variables. They are
11 built into our system's Allstar system, which is just a
12 processing system in our office, and they're forced to
13 go through all the fields, there's no bypassing it.
14 There is no Quick Quote or quick step process. They
15 have to go through the complete tool in order to come up
16 with an estimate of replacement cost and complete an
17 application.

18 MR. GARAMENDI: So you call that the Allstar
19 system. So it went from Value Quote to Allstar?

20 MS. VICARIO: I didn't mean to confuse you. I'm
21 sorry.

22 MR. GARAMENDI: I'm easily confused so think
23 nothing of it.

24 MS. VICARIO: The agents refer to it as an Allstar;
25 it's still a home quote product.

26 MR. GARAMENDI: All right. So you have an online
27 system similar to what we saw on the screen. All of the
28 questions are key questions to be answered as we saw with

1 Marshall & Swift?

2 MS. VICARIO: Yes.

3 MR. GARAMENDI: How do you verify, do you update;
4 how do you go about doing that? We heard from Marshall &
5 Swift how they get updates and presume to be accurate. Do
6 you have a similar situation?

7 MS. VICARIO: We receive our labor and material
8 cost information from a company called RS Means. RS Means
9 is one of the largest suppliers of construction
10 information to actual contractors. They are the ones that
11 feed in the actual cost factors into the software, and
12 that's done on a quarterly basis.

13 MR. GARAMENDI: Do you do this nationwide?

14 MS. VICARIO: This tool is only used in the state
15 of California.

16 MR. GARAMENDI: Why, because we are so much better?
17 Why only in California?

18 MS. VICARIO: I could only guess. After the
19 Oakland fire --

20 MR. GARAMENDI: Is there a different system in the
21 rest of the nation?

22 MR. MCHALE: Given our situation with the
23 overinsurance and the Rubin class action, decisions were
24 made that we worked so hard on getting this system as
25 right as possible, they didn't want bring something into
26 California and start all over again.

27 Our Rubin process is, basically, not unlike
28 what you heard from the Automobile Club, in that we went

1 out and contacted all of our insureds by mail, asked
2 them -- in a letter we set forth what information we had
3 on the house, and they were sent back confirming what we
4 do have or making changes.

5 MR. GARAMENDI: What year was that lawsuit?

6 MR. MC HALE: 2000. I believe the settlement was
7 in 2000, that range.

8 MR. GARAMENDI: Okay. So the lawsuit must have
9 been before that based upon information --

10 MR. MC HALE: In the 1999-2000 range.

11 MR. GARAMENDI: Okay. At that time you went
12 through a process similar to what we heard from the Auto
13 Club querying your consumers and customers and updating
14 the information?

15 MR. MC HALE: Yes.

16 MS. VICARIO: We mailed out to over a million
17 customers a quote file of all the characteristics we had
18 on record about their home. If they did not respond to
19 the first mailing, there was a second mailing that was
20 sent. And obviously, this was all laid out per the
21 settlement agreement.

22 MR. GARAMENDI: Do you do on-site -- do you send
23 somebody out to look at it, photography and so
24 forth that was just described from Auto Club?

25 MS. VICARIO: No, we don't. Not for estimating
26 replacement cost. We do send out inspectors for condition
27 or for brush issues. The only way to complete the tools
28 of the inside of the house, we feel our customers know

1 that best.

2 MR. GARAMENDI: What kind of products do you sell?
3 We heard about guaranteed replacement products.
4 Do you do that? What are the products that are sold?

5 MS. VICARIO: We don't have a home replacement cost
6 guarantee. What we offer is building structure
7 reimbursement extended limits. An extended limit provides
8 an additional 50 percent above the coverage "A" dwelling
9 amount.

10 MR. GARAMENDI: So it is reimbursement up to the
11 limit an extended reimbursement up to the limit?

12 MS. VICARIO: Right.

13 MR. GARAMENDI: And the limit is determined by the
14 computerized program that you have described; Allstar and
15 Value Quote?

16 MS. VICARIO: Right.

17 MR. GARAMENDI: Do you do guaranteed replacement
18 contracts in California replacement policies?

19 MS. VICARIO: No, we don't.

20 MR. GARAMENDI: What is the difference in price
21 between the replacement and the extended replacement?

22 MS. VICARIO: It is a flat fee of \$15 to get the
23 extended limit per policy.

24 MR. GARAMENDI: I have a \$100,000 home and I have a
25 50 percent bump -- it's \$15?

26 MS. VICARIO: That's right.

27 MR. GARAMENDI: If I have a \$500,000 home and it's
28 a 50 percent bump, it's \$15?

1 MS. VICARIO: Yes, \$15.

2 MR. GARAMENDI: That is an interesting pricing
3 policy. Okay. Talk about your experience in the fires;
4 the number of homes insured, the number of total losses.

5 MR. WARING: I'm Ken Waring with Allstate
6 Insurance. The total number of losses was about 3,600
7 claims totally.

8 MR. GARAMENDI: Go through and describe the total
9 losses, the nature of the losses, extended recovery,
10 extended replacement, replacement, and I want to get into
11 the issue of underinsurance among your policy holders.

12 MR. WARING: Out of the 3,627 claims we had 487
13 total losses. Now, of those approximately 267 are still
14 pending.

15 MR. GARAMENDI: Meaning the claim is not yet
16 settled?

17 MR. WARING: Correct. Either one coverage
18 or another and that could be either structure or contents.

19 MR. GARAMENDI: Of those that have been settled,
20 were there questions of underinsurance of those that have
21 been settled?

22 MR. WARING: Yes.

23 MR. GARAMENDI: And what was the resolution of
24 those questions?

25 MR. WARING: Some of them have been resolved, some
26 of them are still pending.

27 MR. GARAMENDI: Well, the pending ones are around
28 267?

1 MR. WARING: Yes.

2 MR. GARAMENDI: It looks like 220 have been
3 resolved?

4 MR. WARING: Yes,

5 MR. GARAMENDI: And of the 220 that have
6 been resolved, were there questions of underinsurance?

7 MR. WARING: On some of them, yes.

8 MR. GARAMENDI: How did you resolve those, learning
9 there was a question of underinsurance?

10 MR. WARING: Depending on what the issue was, we
11 have a process to have the claim reexamined, which
12 involved contacting the insured, going over details and
13 contacting the agent and making sure we had the correct
14 information, and if there were something that we found
15 that was an error on our part, we made a change; otherwise
16 we did not change the policy.

17 MR. GARAMENDI: The kind of concerns that were
18 expressed by Mr. Kehrer, were any of your policy holders
19 among those that have the kinds of concerns that he
20 described; that is a very low limit that was far out of
21 step with what would be required to rebuild? Did you have
22 that problem? I am trying to judge the accuracy of your
23 program.

24 MR. WARING: There were some claims that had a
25 large difference in the amount, yes.

26 MR. GARAMENDI: Now, how did you settle those? Did
27 you increase the limit or not?

28 MR. WARING: Only if we found a problem on our side

1 of the --

2 MR. GARAMENDI: When you had a problem, what was
3 the problem?

4 MR. WARING: We might have received correct
5 information from the customer but in the process that
6 information didn't get processed correctly, and a quote
7 was produced for a dollar value that was totally
8 inaccurate.

9 There was one for instance that really
10 qualified for a high-value program and it was not
11 recognized and that was subsequently redone in the
12 high-value type of system and the policy has now changed.

13 MR. GARAMENDI: I don't think I understand the
14 high-value system. We had a description of the program
15 but I didn't hear -- what's a high-value program?

16 MS. VICARIO: The home quote tool will estimate up
17 to 4,000 square feet. So any home over 4,000 square feet
18 we call a high-value home. In those cases we send out an
19 outside vendor to do an interior and exterior inspection
20 of the home, collect all of the information, and the
21 vendors use "AdvanTeq" which is, I guess, a Marshall &
22 Swift product to calculate the replacement cost. That is
23 done by our outside inspection vendors.

24 MR. GARAMENDI: I have a 2,700 square foot home,
25 and it is really unique. It has arched ceilings, it has
26 marble everywhere. It has all that stuff that makes it
27 really unique. Does your standard program -- it's
28 obviously not 4,000 square feet so it would not go to high

1 value -- does your standard program account for that type
2 of uniqueness?

3 MS. VICARIO: It takes into account the flooring,
4 travertine or marble, it would take into account if you
5 have vaulted ceilings --

6 MR. GARAMENDI: The standard stuff -- what about
7 gold faucets in the bathroom?

8 MS. VICARIO: We have variations of bathrooms so it
9 can be a standard bathroom up to a more deluxe.

10 MR. GARAMENDI: The kind of problems that you found
11 in underinsurance were the result of errors that you found
12 in your analysis of the underquote?

13 MR. GICK: Mr. Garamendi, my name is Robert Gick.
14 I am one of the members with Allstate Insurance. One of
15 the things I oversee and work with is error issues
16 resulting in underinsurance or lack of insurance resulting
17 in litigation, so I am involved with that.

18 But if we had a customer that had some sort
19 of issue with their policy, most often standard insurance,
20 we do have a process in place where those customers will
21 voice those concerns to us.

22 We have a process where we will review the
23 situation without our agents, or whatever department
24 that particular issue may rely on, and we review those
25 facts. Sometimes it's about issues where we have the
26 wrong information. Sometimes it could be a processing
27 issue. It could be errors on our part or errors where
28 the insurer did not provide the correct information, but

1 in those situations where we have found our company had
2 errored (sic), we have taken those steps to reform those
3 policies, and make those adjustments accordingly.

4 MR. GARAMENDI: Now, you have 267 claims pending;
5 is that correct?

6 MR. WARING: Correct.

7 MR. GARAMENDI: Why are they pending? Why have
8 they not been resolved?

9 MR. WARING: We are waiting to obtain additional
10 information from the customer on the content side or a
11 contractor's estimated claim.

12 MR. GARAMENDI: Let's separate them out; contents.
13 How many are contents?

14 MR. WARING: The contents are 154, and the
15 structures are 142.

16 MR. GARAMENDI: Among those 142, is there a debate
17 over coverage limit in any of the 142 or are you just
18 needing the final contract assessment?

19 MR. WARING: The various debates are over
20 the coverage limits.

21 MR. GARAMENDI: How many of the 142?

22 MR. WARING: I don't know offhand.

23 MR. GARAMENDI: I assume you can find out?

24 MR. WARING: Yes, we can.

25 MR. GARAMENDI: Since you don't know offhand how
26 many of 142 are debates over coverage limits, could you
27 then tell me the nature of the debate, even though you
28 don't know the number? Is it over the limit? I assume it

1 must be over the limit.

2 MR. WARING: It is the amount of the limit.

3 MR. GARAMENDI: It is extremely important
4 for us to understand why there is a debate about the
5 limit. Only that way can we figure out what to do about
6 it. That seems to me a particular problem. So we will
7 continue to query you about that issue so that we can
8 come to an understanding.

9 A question on the underwriting. On the
10 renewal you talked about how you go about this. We didn't
11 get into the renewal process in any detail thus far. When
12 it comes up for renewal, did you say you send out an
13 inquiry? Is that standard procedure? Did you make any
14 changes or remodeling?

15 MS. VICARIO: We don't send out an inquiry,
16 Per se; it is part of the declaration page that lists
17 all of the characteristics that we have on record in
18 determining the replacement cost, and then there is a
19 statement stating, "Have you made changes; if you
20 haven't made any changes; if you have any questions,
21 contact your agent."

22 MR. GARAMENDI: I don't believe I've read my
23 declaration page past the first couple of lines. I
24 suspect that's basically somewhere in the renewal policy
25 that's sent out?

26 MS. VICARIO: Page 4 and 5 of the declaration.

27 MR. GARAMENDI: That's a scary place to
28 have it. Not too many of us get past page 1. This is

1 one of the things we need to get out. I am not picking on
2 Allstate but we need to find some methodology so that we
3 keep current. Given the cost of construction, given the
4 dramatic changes that occur zip code to zip code,
5 community to community, we need to find some way for the
6 industry and the customer to keep up to date.

7 One of the fundamental problems is we need
8 to determine whose fault it is. Clearly, some of the
9 blame lies with the insurance industry. Some of it may
10 very well lie with the customer who doesn't bother to
11 tell the insurance, "By the way, I doubled the size of
12 my house." There has to be some methodology in place to
13 keep up to date. And we'll deal with the cost issues
14 this evening.

15 So we have an ongoing issue of about 267
16 pending, of which 142 deal with the structure itself,
17 and that is out of 487. So basically, about one-quarter
18 have been resolved and three-quarters remain open of the
19 total losses.

20 MR. WARING: I think it's a little bit more than
21 that. We closed 220 versus 267.

22 MR. GARAMENDI: My apologies. You are correct. I
23 was looking at the wrong number here.

24 I want to raise the issue with your company,
25 specifically, on the ALE issue. You have been
26 forewarned that this question was going to be raised.

27 Your company has the sad reputation in this
28 community and in fire zones of being the only company that

1 has refused to provide additional living expenses beyond
2 the contracted limit for all who have not yet
3 been able to rebuild their home; why? Why are you the
4 only company?

5 MR. GICK: What Allstate is trying to do is work
6 within our contractual obligation, and we're trying to be
7 flexible with our customers in how we address the ALE, but
8 we do have some concerns, contractually, how, if we do
9 extend limits, how that may impact customers and other
10 issues.

11 MR. GARAMENDI: What other customers?

12 MR. GICK: Customers who we had held the 12-month
13 policy provision in the past.

14 MR. GARAMENDI: How many of your customers is it?

15 MR. GICK: In addition to our policy, it was
16 developed for a 12-month policy period as well.

17 MR. GARAMENDI: Why then are the other insurance
18 companies being flexible with all of their customers?

19 MR. GICK: I cannot speak to the other carriers.
20 The only thing I can tell you is we are trying to work
21 with the customers using the contractual provisions of our
22 policy. We are trying to pay everything we owe within the
23 limitations of our policy, which happens to be 12 months.

24 MR. GARAMENDI: Is Northbrook in tornado country?

25 MR. GICK: Northbrook, Illinois?

26 MR. GARAMENDI: Yes. Northbrook, Illinois.

27 MR. GICK: Yes, I believe it might be.

28 MR. GARAMENDI: If a tornado ripped through your

1 CEO's mansion and totally destroyed it, could he rebuild
2 in one year?

3 MR. GICK: It would depend on circumstances but
4 also the 12-month policy limitations.

5 MR. GARAMENDI: Would you like to take a bet for
6 the potential for extending beyond 12 months?

7 MR. GICK: I am not here to bet, I'm just telling
8 you if I were involved in handling the claim, that is what
9 I would do -- the 12-month policy limitation.

10 MR. GARAMENDI: You know you have a serious
11 problem. Allstate has a very serious problem in this
12 community. A very large number of customers are, within
13 days, going to be out of luck on ALE. Is it that they
14 have run through the total value of the ALE?

15 MR. GICK: What we have tried to do is accommodate
16 the customers on the front end and we have tried to
17 provide advances when we try to determine what the
18 projected additional cost would be on a monthly
19 basis to put them back in a lifetime quality home.

20 What we have done at the customer's wish is
21 we will advance that money up front, and we have done
22 that with most of the claims. What that does is provide
23 the money to the customer up front and it allows them
24 some flexibility to utilize that money in a manner that
25 might best benefit them. It does not extend the
26 12-month limitation.

27 MR. GARAMENDI: How do you determine the total
28 value of the ALE? That is, the total amount of money

1 they're owed?

2 MR. GICK: An example might be if an insured lives
3 in a 2,500 square foot home, we will try to determine what
4 a similar home would cost if they had to rent it during
5 the rebuilding process; that would be one piece of the
6 puzzle. We would also look at any other temporary
7 expenses that they might have beyond building. Maybe they
8 have additional travel to work or whatnot, mileage or
9 whatnot; it could be a situation where they have pet
10 boarding. So we try to determine what the reoccurring
11 expenses are going to be that are over and above their
12 normal living expenses and we come up a monthly allowance
13 that they would obviously agree to, and we will advance
14 that money to them up front and that would allow them,
15 again, some flexibility to utilize that money as they see
16 fit for additional living expenses.

17 So in essence, if they chose to live with a
18 family member, they would still have the money to rent a
19 lifetime quality home during the rebuild process.

20 So in essence, they don't necessarily have
21 to incur the expense; we advance the money based on what
22 the projected cost would be, and they can use it as they
23 see fit.

24 MR. GARAMENDI: So in every case over a 12-month
25 period the total amount of money calculated toward ALE has
26 been dispersed?

27 MR. GICK: Not on every claim. There are a number
28 of claims where I believe we are paying it on an accrued

1 basis. This is just an option that typically would
2 benefit the customer, and if they choose to allow us to
3 advance money, we will do so. It puts the money in the
4 hands on the front end, and they can use it as they see
5 fit.

6 MR. GARAMENDI: How many of your customers fit that
7 model?

8 MR. WARING: Virtually all of them with the
9 exception of five.

10 MR. GARAMENDI: So all but five of your 487 total
11 loss customers, as opposed to an additional number of
12 partial losses, could not be in the house for some months.
13 Let's focus on the total losses. All but five of the
14 total losses have an up front calculation of the expected
15 annual, out of additional living expense that was paid on
16 a monthly basis; is that my understanding?

17 MR. WARING: The problem is we currently would only
18 have customers who are paying on a month-to-month basis,
19 and that is because they prefer to do it that way.

20 MR. GARAMENDI: And they are facing termination of
21 the ALE next week?

22 MR. WARING: Depending on when it started.

23 MR. GARAMENDI: What variation was there when the
24 plan started?

25 MR. WARING: For instance, a customer may elect to
26 go live with a relative the first month and they wouldn't
27 accrue any ALE. If we had a 12-month on this policy, for
28 that first month, there was no ALE involved and it would

1 extend out another month at the end of the 12 months.

2 MR. GARAMENDI: All right. I failed to ask
3 Southern California Auto Club about this and I plan to do
4 so in a moment, and I'm going to ask every insurance
5 company what their policy is; what decisions they have
6 made concerning ALE, and we will compare it to where
7 Allstate is.

8 There is a lot of concern in this community
9 about ALE for Allstate, and I am very hard lined about
10 what Allstate is taking on this matter compared to the
11 other insurance companies. I am hopeful there is not a
12 tornado in Northbrook, but if there is, I bet there is
13 flexibility, and it appears there is precious little
14 flexibility in San Diego.

15 All right. I think we have covered most of
16 the questions that we have here.

17 I did ask a question of inspecting and
18 driving by, and I think the answer was that agents do not
19 do physical inspections; you depend upon the homeowner to
20 provide you with the information; is that correct?

21 MS. VICARIO: That's correct. And then we provide
22 a declaration page for them to verify or notify us about
23 anything that needs to be corrected.

24 MR. GARAMENDI: I have some concerns about the
25 notification being in the declaration page, which I
26 suspect is rather hard to find, am I wrong?

27 MS. VICARIO: You are asking the wrong person. I
28 am very familiar with the declaration page.

1 MR. GARAMENDI: Do you have the declaration page
2 with you?

3 MS. VICARIO: I gave it to your staff last week.

4 MR. GARAMENDI: I bet they did not bring it. All
5 right. We talked about high-value homes and inspections
6 of high-value homes, which you defined, and homes that
7 don't meet that criteria are under 4,000 square feet. Is
8 there a reason why you do not, even though you have my
9 unique home of 2,787 feet with marble everywhere and
10 gold --

11 MS. VICARIO: It is really costly. We spend on
12 average \$250 to \$300 on a high-value home, and that
13 is a very small portion of this property that we write.
14 I would say less than a half a percent of all the homes
15 that we write fall into that range. So everything else
16 would require an additional \$250 to \$300 expense that
17 they would need to incur.

18 MR. GARAMENDI: Out of the 487 total losses, 142
19 remain as -- where there is a conflict over the value. So
20 you're looking, basically, at about 30 percent of the
21 total loss homes have a conflict over the limit.

22 MR. WARING: Commissioner, I did not say that the
23 142 had a conflict. I said some of them have a conflict.
24 I could not give you the exact number of how many were in
25 conflict.

26 MR. GICK: Commissioner, on those issues where the
27 customer has brought forth an alleged error, which comes
28 to a little over 60 where the issue has been insurance to

1 value that we've looked at, we looked through those issues
2 and some we find that it was error in information provided
3 by the customer. There were some we have found that there
4 was an error either in the way that we captured or input
5 the information, and of those, I think there was around
6 62. We have determined in about 43 cases that we had an
7 error possibly on our part. In those 43 cases -- we did
8 it on a case-by-case basis -- we have reformed the policy
9 in some manner.

10 MR. GARAMENDI: And appropriately so.

11 What I am trying to figure out is how to
12 provide a better, more accurate way of determining the
13 limit. And I understand in your declaration page 3 to 4
14 there is some line in there that says, "here is what it
15 is; let us know if it is not this way." Southern
16 California Auto, I think, if I recall correctly, sent
17 the total form and asked if it was correct. That is the
18 M and S form. It seems to me that is a better way of
19 informing the consumer of what the structure is.

20 Have you considered that?

21 MS. VICARIO: It is something that we could
22 consider. We could take it out of the declaration and do
23 it as a separate mailing, but this is no guarantee that
24 the customer is necessarily going to read that. We might
25 work on "Read. Read. Very important" to make sure they
26 get it; that's why we have it in the declaration.

27 MR. GARAMENDI: You might pretend to be a Triple A
28 customer and see how it works.

1 MS. VICARIO: Well, in our experience with the
2 lawsuit settlement we had a 50 percent response rate, and
3 that is after sending out two letters to customers and
4 that was their opportunity to let us know whether they
5 were overinsured or underinsured and there were refunds
6 that they could get.

7 MR. GARAMENDI: Always the case, because maybe the
8 50 percent don't care and maybe 50 percent think they are
9 accurate. There are all kinds of reasons but there were
10 50 percent that found enough out of the situation, plus or
11 minus, good or bad, to respond. That's not a bad response
12 rate.

13 There are many non-profit organizations that
14 would be delighted with a 50 percent response to their
15 solicitations.

16 I want to consider the way in which insurance
17 companies communicate information back to the customer.
18 It is very apparent from Southern California Auto Club and
19 from your organization that you take on the responsibility
20 of setting the limit by filling out the form. You have
21 taken on the responsibility and I think you all have
22 admitted you have the responsibility when the error is
23 yours; you are quick to upgrade the policy when you felt
24 that the error was yours.

25 There is something amiss in the system.
26 There is something amiss in the communication process back
27 and forth, because there should be no discussion after the
28 fact about the correctness of the limits.

1 So we are looking for a way of dealing with
2 that. I am impressed with Southern California Auto Club
3 sending the whole thing back and saying, "Review this
4 and sign it and send it back." We are looking for a
5 solution. What do you think?

6 MS. VICARIO: We could probably live with that.
7 Get their signature, and I guess, potentially non-renew is
8 what they said if we don't get the survey returned.

9 MR. GARAMENDI: Okay. I understand that I'm about
10 to get a workers' comp claim from my court
11 reporter. Let's take our break.

12 (Recess)

13 MR. GARAMENDI: Let's get back to work here. We
14 have a couple more items before we break for our evening
15 session.

16 I have been told that Steve Young has agreed
17 to take his testimony his evening. Steve represents the
18 independent agents, and he will be speaking this evening
19 giving us the perspective of agents.

20 We are now going to go to public comments
21 and consumer testimony, two of whom spoke earlier. I am
22 going to give three names, and if you could kind of
23 position yourselves expeditiously, it will give you more
24 time to talk. Eric Strahb of San Diego. Eric was one
25 who assisted us with the Homeowner's Bill of Rights. We
26 thank him for that. Eric, please come forward.

27 MR. STRAHB: Good to see you. I just basically
28 want to share a little bit of my story.

1 We were insured by State Farm for 20 months.
2 We had one renewal during that period. We did have the
3 periodic adjustment that happened during that time which
4 left us insured for \$250,000 at the time of the fire.

5 The estimate that State Farm gave us to
6 rebuild our home was just over \$400,00 with the various
7 extensions that you get on the bulk of the policy. That
8 left us with \$80,000 underinsured in the event of a
9 catastrophe.

10 I would like to know if they were probably
11 using the software that they seemed to have used. I did
12 not have this policy for a very long time.

13 MR. GARAMENDI: How long did you have it?

14 MR. STRAHB: We had owned the house for 20 months.
15 So not very long. And an interesting thing that happened
16 was we sold our lot and purchased another home in the same
17 neighborhood. We had the same builder in the same time
18 frame but it was bigger house.

19 At the time we thought our only option was
20 to go back to State Farm, and they included us with the
21 information again and wanted to insure our new home for
22 \$200,000. Interestingly enough, we are now insured
23 through Triple A, which makes us very happy.

24 Triple A actually came out and inspected the
25 home. They took on that expense to come out. It was a
26 very detailed inspection. They took pictures of our
27 fences to see what kind of landscaping was on the other
28 side of the fence. It was very detailed. We are now

1 properly insured with Triple A. They assigned a value
2 to set a premium, and that value was right on with the
3 cost to rebuild our home.

4 The interesting thing about that is, our new
5 home is 1,400 square feet bigger than our old house.
6 Again, roughly the same fixtures, the same builder, the
7 same neighborhood. Our policy, properly insured through
8 State Farm, the premium is 40 percent of what they would
9 pay out on the old house with State Farm. And when I --

10 MR. GARAMENDI: It was 40 percent of the cost of
11 State Farm?

12 MR. STRAHB: So when I hear the insurance industry
13 say over and over again that to properly insure my home my
14 per diem would have to be increased dramatically, or
15 whatever other word they want to scare people with today,
16 I want to know how Triple A can do it for so much less.
17 Allstate said they would have to include a cost of \$250 to
18 properly inspect the home. Triple A seems to be able to do
19 it. So I think there is a question I would like to see
20 asked of the other insurance providers.

21 MR. GARAMENDI: I did ask Triple A why the cost
22 included \$300, they shrugged their shoulders and said what
23 is the agency is supposed to do?

24 MR. STRAHB: Exactly.

25 JOHN GARAMENDI: They said if you have that super
26 fancy home you might go through all that, but the standard
27 home --

28 MR. STRAHB: And, again, they spent 10 to

1 15 minutes with me on the phone asking questions, and now
2 I know it is Marshall & Swift or some of the similar
3 pieces of software being used, and the number they came up
4 with to value the construction of our home -- and because
5 I know what the cost is now -- was right on. It can be
6 done.

7 MR. GARAMENDI: I want one more piece of
8 information from you. How do you know what it cost to
9 build a home now?

10 MR. STRAHB: These are only guesstimates,
11 but because we interviewed -- we actually designed a
12 home to build on our lot, and we interviewed many
13 contractors to build that home. Admittedly, they were
14 bids to build a home, but I consider myself far more
15 educated now.

16 MR. GARAMENDI: So you did not actually go out --
17 you had bids or serious estimates from several contractors
18 to build a home in the neighborhood of the same or similar
19 quality of what you now own?

20 MR. STRAHB: Exactly.

21 MR. GARAMENDI: I wanted that on the record. I
22 appreciate that. Anything further?

23 MR. STRAHB: I definitely appreciate that. Thank
24 you.

25 MR. GARAMENDI: I said I would call three of
26 you and I failed to do that. The next three consumers are
27 A.W. Prestridge, then we'll hear from Don Rowe followed by
28 Julie Tunnell. So first, A.W.

1 MR. PRESTRIDGE: My name is A.W. Prestridge and I
2 reside in San Bernardino. I have insurance with the
3 Interinsurance Exchange through the Automobile Club.
4 Unfortunately, I was in the back of the room and part of
5 the legislative council's comments we could not hear. I
6 heard some of it and I want to address those, but my first
7 issue is I am underinsured. My policy is renewed and my
8 home is still underinsured.

9 Like most of the people here today, and what
10 the focus tends to be is I am one of probably thousands in
11 California who have partial losses. I discounted George
12 Kehrer for about five months. I said, "I don't have to
13 listen to this guy." And they finally dragged me down to
14 a meeting and it was just before you spoke in San
15 Bernardino that I was listening to him and making calls,
16 but back to the underinsurance.

17 My home had a policy value of \$147,00 and
18 using the rebuilding construction cost of \$150 to \$155 a
19 square foot, my home has an estimated value of \$255,000.
20 All of my other insurance coverages are all grossly
21 understated. I asked Triple A, I said, "I realize I
22 have a partial loss and you're not going to rebuild my
23 house, but I feel my home is underinsured. What will
24 you do to adjust the other policies?" And they said,
25 "We will not adjust them."

26 MR. GARAMENDI: Do you know if they ran --
27 they talked extensively about -- it is since June of
28 this year -- of a new computerized program system that

1 they are using.

2 MR. PRESTRIDGE: Well, two things that Triple A did
3 mention this morning, one was that they had a meeting that
4 they asked all claimants to attend so they could talk to.
5 I never received an notification of that meeting.
6 Secondly, my home has a anniversary date of August the
7 1st. I did not receive any information about my change in
8 my policy limit, and I never got any phone calls. I have
9 been actively working on this case since October 26th. So
10 if this was universally applied to all policy holders, I
11 did not get any of this information.

12 MR. GARAMENDI: There are people here in white and
13 blue denim; have you contacted them for assistance?

14 MR. PRESTRIDGE: I was holding off on doing
15 an RFA. I will probably be filing an RFA. I have been
16 doing a series of correspondence. One of the things
17 that I did pick up from your conversation and George's, I
18 was concerned about how my claim was being administered
19 and processed so I called Triple A in their Los Angeles
20 office, and I said, "I am not an insurance expert. I am
21 just a homeowner that has a claim, and I'm disturbed how
22 my claim is being processed."

23 MR. GARAMENDI: I would like you to contact the
24 gentleman right there (indicating) and we will get you
25 into the RFA, request for assistance. And we will help
26 you through this. And the issue that was raised by
27 Allstate, how old is your home?

28 MR. PRESTRIDGE: It is 29 years old. It has only

1 been with Triple A for four years.

2 MR. GARAMENDI: Very good. We will work on that.

3 MR. PRESTRIDGE: One of the other things I would
4 like to comment on is I was assigned what Triple A calls a
5 preferred contractor, and we were happy with a preferred
6 contractor and I tried to get assistance by calling
7 Los Angeles and Costa Mesa, and they referred me back to
8 the San Bernardino office and they really didn't want to
9 address those issues.

10 I finally got the name of Mr. Young in
11 Costa Mesa, and I called him on my cell phone. I didn't
12 write him. I said, "I hear about this Homeowners Bill
13 of Rights; I understand that is pending legislation, but
14 can you tell me what the process is?" And also by
15 talking with the claims manager. He said, "We have up
16 to 45 days to pay your claim." I asked him to put it in
17 writing. He hung up on me and I called him back and
18 said, "I need to speak to your supervisor." It took him
19 45 days to respond to me in writing.

20 MR. GARAMENDI: You really need to talk us. These
21 are the kind of things we follow up on, and we can be of
22 great assistance to you getting that claim taken care of.
23 Please do that and we will work our way through it.

24 All right. Don Rowe, you are next.

25 MR. ROWE: I hadn't planned on speaking today but
26 after hearing the Allstate people I found my experiences
27 might be relevant. One thing that really surprised me,
28 they were talking about some of the estimating tools. The

1 only quotes I ever got from Allstate have been Marshall &
2 Swift. The printouts -- anything I have ever gotten from
3 my adjuster -- this is the first time I ever heard
4 anything else mentioned.

5 MR. GARAMENDI: Back up. Back up. Tell me about
6 your situation. You are a fire survivor?

7 MR. ROWE: Yes. Well, my basic situation is I am
8 one of the ones they are still trying to -- well, one of
9 the biggest issues is the underinsurance issue.

10 MR. GARAMENDI: You are a fire survivor and you are
11 with Allstate insurance?

12 MR. ROWE: Yes.

13 MR. GARAMENDI: You must be one of those 267, and
14 yours is a structure issue?

15 MR. ROWE: Yes. I have several RFAs on
16 file with several issues, which I won't go into all of
17 them. On the ALE, the things I heard was about a rental
18 unit. They never said anything -- they paid me what my
19 rent was, which I assume at the time was comparably.
20 They never said anything to me about "Well, you don't have
21 to move into this place if you want to take this money and
22 go someplace else; we don't care." Now, I'm in
23 a cheaper place, now that I have been turned down.

24 I wrote my letter and I have been officially
25 turned down, I am in a cheaper place now, but they never
26 said anything to me at the time. What they gave me for
27 ALE was based on the rental unit, which was what they owed
28 me under the policy.

1 MR. GARAMENDI: You have five RFAs. Do you have
2 one on this particular issue?

3 MR. ROWE: I'm not sure if I filed one on the ALE.

4 MR. GARAMENDI: Are you filing suit?

5 MR. ROWE: I am either outstanding -- they have put
6 me in the mediation program. Allstate has notified me.
7 We have not heard back from Allstate whether Allstate will
8 participate in the mediation.

9 I have one more issue about the declaration
10 page. I did actually find it, I did read it. I am just
11 one of those people who read everything, even before the
12 fire. To me as a non-expert -- I do not have it with me
13 because I didn't plan on speaking -- but it basically says
14 two stories, two bedrooms, one-and-a-half
15 bathrooms, painting, wallpaper, tile, and carpeting. To
16 me as a non-expert that pretty much says it all, and
17 that is on my declaration page. To me, before the fire,
18 that is what my house was. Now I know I have different
19 types of tile; one type is a lot more expensive than the
20 other types.

21 There are a number of structural things in
22 my house that greatly push up the cost to rebuild. They
23 mention like 30 or 40 things that are not on a
24 Marshal & Swift program that nobody but them has ever
25 heard of -- if they would just list those 30 or 40 things
26 and just "X" out those that do not apply, it would really
27 help somebody like me.

28 To me it was complete, you know, as a

1 non-expert, what was there was accurate and it listed
2 everything but there was so much more. There was so
3 much more -- if they just would list "you have not
4 reported this, you have not reported this," that would
5 be a big help to me. I did not know. Now I know a lot
6 more than I ever wanted to know because of working with
7 contractors and things. Now I know what's important but
8 I had no idea then.

9 MR. GARAMENDI: I really appreciate your testimony.
10 We haven't figured out a way and we are headed down this
11 path of finding a way of communicating with the insurance
12 company and the insured customer on what is the house and
13 getting down to the detail.

14 We have to find a way of providing you, the
15 consumer, with information sufficient to make an informed
16 decision about the level of coverage and the limits that
17 you need and want. This hearing is specifically to get at
18 that. You have been very helpful. I appreciate it. Talk
19 to some of our consumer people before you leave. Dave
20 Stolls is right behind you. He is getting very busy.
21 Maybe we could help you with some of the immediate issues
22 you have.

23 MR. ROWE: Okay. Thank you.

24 MR. GARAMENDI: And I would like to get some more
25 information on the ALE issues you are facing.

26 MR. ROWE: Thank you.

27 MR. GARAMENDI: All right. Next we have
28 Julie Tunnell.

1 MS. TUNNELL: Good afternoon. Thank you for being
2 here, Mr. Garamendi. I am a fire victim from Scripps
3 Ranch, and I am unfortunately insured with State Farm. I
4 haven't shed a tear over my home; it has been the
5 underinsurance from my insurance company that has been the
6 worst tragedy and I am not alone.

7 It is a little hard to read in the papers
8 when State Farm reports that 90 percent of their claims
9 are met. Am I with the people who just lost one tree or
10 something? I haven't met a fire survivor from Scripps
11 Ranch who are with State Farm who are happy and settled.

12 This process of having to work with State
13 Farm after the fire has been horrible. All I can do is
14 let people know that I can never recommend State Farm
15 under any circumstances. My mother has switched from
16 State Farm to Triple A. My brother is in the process of
17 switching from State Farm to Triple A. My brother-in-law
18 has switched from State Farm to Triple A. I have friends
19 who are now switching from other big-name insurance
20 companies to Triple A because when it came down to it,
21 Triple A and USA were the only insurance companies who
22 stepped up to do the right thing after fire.

23 This is what this does to a person -- it
24 eats you alive, and there are times when I had to just
25 forget about it and had to step away and forget about it
26 and go back into my normal mode of being a professor and
27 be a mom, and then there are times when I had to wake up
28 to the reality that we are \$150,000 to \$250,000 short.

1 I hear State Farm saying these asinine things
2 in the paper like, "Oh, people are underinsured? Well,
3 that can't be true. Why would people still want to get
4 insurance through us?" And there were other things as
5 well. It's really great to watch the baseball games on
6 Fox and see the State Farm advertisements there.

7 I'm like that young lady who spoke earlier,
8 I fell victim to the brand name. I felt good going to
9 State Farm because they have big money to go out there
10 advertising -- it restores your faith.

11 There are tons of expensive companies out
12 there that will give me the expensive premiums thinking
13 we're getting the best coverage. It turns out, as we just
14 heard from a gentleman who switched from State Farm to
15 Triple A, he now is getting better coverage for less
16 money; how is that?

17 State Farm is one of the most expensive
18 companies to get your insurance through, and I would say
19 one of the worst companies to be insured with.

20 MR. GARAMENDI: Excuse me. You are \$150,000
21 underinsured?

22 MS. TUNNELL: Yes. I would love for George
23 to run a Marshall & Swift on me. I have not had one done.
24 I would love to see -- maybe it would be an educational
25 process for us all. I brought some documents and I can
26 share some things with you.

27 We were in our home since 1992. We were
28 insured at \$105 a square foot. When State Farm sent their

1 contractor out, their own contractor came up with
2 a value of \$181.90 per square foot. We have an
3 unimproved home -- so if I have hear one more time from
4 insurance industry spokespeople, "We have the largest
5 underinsurance because homeowners are not keeping up
6 with their improvements" --

7 This is the face of a person who has an
8 unimproved home. The home we bought in 1992 was freshly
9 painted on the inside and outside. The home that burned
10 last October had nothing else done to it. We may have
11 changed the garbage disposal. We just had taken out a
12 home equity line to start doing some improvements, but
13 we were busy people. We had not done anything. We had
14 no upgrades.

15 So we are talking about being in the hole
16 just with State Farm's -- I hadn't even done my own scope
17 of loss -- but with State Farm's own scope of loss, if
18 we're insured at \$105 a square foot and they put us at
19 \$182 a square foot, that is \$77 per square foot difference
20 times 1,738 square feet; that puts us at \$134,000 short.
21 And that shortage affects everything. We have a \$9,000
22 check for landscaping. What exactly is that \$9,000 going
23 to cover? Nothing.

24 Our contents are affected by the shortage.
25 In Scripps Ranch and in the rest of the community in San
26 Diego, we are not stupid uninformed people. We went to
27 our insurance agent. We let them know that we wanted
28 all of our square feet covered, we wanted full coverage,

1 and we relied on the agent. I don't possess a license
2 to sell insurance in the State of California so I
3 trusted the agent, as did many other people.

4 MR. GARAMENDI: What did the agent do when you
5 spoke to --

6 MS. TUNNELL: My husband had spoken to the agent
7 and the agent asked questions about the home. It's three
8 bedroom and two bathrooms and has one fireplace and it has
9 some brickwork.

10 MR. GARAMENDI: Did the agent come out to take a
11 look at the home?

12 MS. TUNNELL: No. Here's a copy of -- and I guess
13 this is the best thing State Farm could provide -- here's
14 a copy of our application that is completely illegible.
15 And after a few requests this is still the best copy of
16 the application that we have.

17 So the information was taken over the phone,
18 and my husband answered the questions. Our premium has
19 been steadily increasing. It is very interesting
20 because State Farm has kind of put out this message of
21 "People should be looking at their property tax
22 statements to make sure things are in line." We did
23 look at our property tax statements, even though that is
24 not necessarily correlated with what your home is going to
25 sell for, because they asked, I'll go ahead and let you
26 know, on our home of 1,738 square feet -- if you were to
27 take what our property was assessed at through our
28 property tax, which we looked at, and look at the value of

1 the improvements, which \$149,212, if I divide that by my
2 square footage, that would mean that the property tax
3 would be \$85 a square foot. So I guess by State Farm
4 standards my \$105 is okay.

5 MR. GARAMENDI: Does State Farm's special handling
6 unit ask you something about your property tax?

7 MS. TUNNELL: Yes. "Weren't you aware of your
8 property taxes?"

9 MR. GARAMENDI: State Farm is coming up this
10 afternoon. Be prepared. I want to know why the special
11 handling unit is asking that question, as though it had
12 any relevance at all.

13 MS. TUNNELL: I don't understand that either.

14 MR. GARAMENDI: Very well. We will find out a
15 little later this evening.

16 MS. TUNNELL: Well, George, I would be very
17 curious -- if you would like to run a Marshall & Swift on
18 me -- just please note that we did not make any
19 improvements on our home. It was basically the same
20 home we moved into.

21 MR. GARAMENDI: Stand by. Your questions are going
22 to be asked of State Farm.

23 MS. TUNNELL: Okay. Thank you very much.

24 MR. GARAMENDI: Really good example. Thank you
25 very much.

26 All right. Next we have Andy Kotner,
27 Leslie Mukau, and Adam Richardson.

28 MS. KOTNER: Commissioner, Senate Bill 64, the

1 mediation bill that passed this year and became law when
2 it was signed on August 30, it opened up the mediation
3 process to every policy holder who feels that they had
4 been underinsured or has problems. The mediation is
5 initiated through the insurance department, and the
6 insurance department then gets a judge to sit in and hear
7 both sides of the story.

8 The insurance company is supposed to pay up
9 to \$1,500 for the session. The mediation is not binding
10 but, as you know, mediation often resolves the situation
11 without the lawyers' involvement and the lawyers taking up
12 to 40 percent to 50 percent of any settlement away from
13 the consumer as a form of attorney's fees.

14 So my question is, is the Commissioner and
15 his staff overlooking procedures that the State has in
16 place already to help consumers who feel they have been
17 mistreated or underinsured?

18 MR. GARAMENDI: The answer is no. There are
19 numerous procedures available. You heard mentioned a
20 few moments ago the RFA, which is request for assistance.
21 That is a process that we have been using to gather
22 information from consumers and survivors of the firestorm
23 and in many cases -- not every case, but in many cases we
24 are able to resolve and find significant assistance for
25 the survivors. It depends upon the circumstances.

26 So that is not a mediation issue. I think
27 you just heard me refer a couple of folks to our consumer
28 courtesy folks to begin that process of working through

1 different kinds of problems. Mediation is there. It is
2 an option. It is available. A lawsuit is also available.

3 One of the things we cannot do, we cannot be
4 a trier, that is a judge, on the facts. If there is a
5 dispute of the facts -- for example we have just heard a
6 couple of people say, "I asked the insurance company for
7 full coverage." The insurance company comes back and
8 said, "No they didn't." We have a question of fact going
9 on here and we are not allowed to determine the facts of a
10 case. We cannot do that. But we can work to resolve
11 issues, and often we are able to do that. If we are not
12 able to do it, mediation is available. It is relatively
13 quick and I would suggest for anybody that has a question
14 they should go through the mediation process. Maybe they
15 will be able to resolve it, maybe not.

16 But at the same time if there is a
17 significant amount of money involved, my recommendation
18 for every survivor is file a lawsuit. You don't need to
19 proceed with it but the one-year period is rapidly
20 arising -- not for everybody, but most people. Get that
21 lawsuit out there so that you can protect yourself.

22 Now if it is a small amount of money, it may
23 very well not be worth it. But if it is the numbers we're
24 hearing around here, \$100,000 to \$200,000 and \$400,000, I
25 would certainly file that lawsuit. I would then go
26 through mediation and I would then be prepared to go to
27 the wall; there's a lot of money at stake here.

28 However, this Department cannot be a trier

1 of fact; that is, determine who is right and who is
2 wrong of a factual question. Thank you very much.

3 Okay. I know the anti-lawyers will be
4 unhappy with that statement but you have to protect
5 yourself. All right. Next we have Mr. Mukau.

6 MR. MUKAU: Thank you, Commissioner, and thank you
7 consumers for all the work you have been doing.

8 I am a fire victim in Scripps Ranch, and I
9 have the dubious distinction of being the first house to
10 burn down. I really did not come prepared to talk, but
11 after hearing Allstate, who I was insured with -- and I am
12 wondering if the gentleman and lady from Allstate are
13 still here?

14 MR. GARAMENDI: As near as we can determine, they
15 ran. I immediately sent someone to look for them and
16 couldn't find them.

17 MR. MUKAU: Well, I will briefly tell you how I
18 became underinsured. We are underinsured to the tune of
19 \$456,675, which is actually very near your figure. This
20 includes both the structure and the contents. How did we
21 get to be so underinsured? Well, what I have learned in
22 the past year, now, I am really well-informed. Now I know
23 what goes into replacement. Now I know what goes into
24 insurance.

25 We bought our house in 1992, and at that
26 time, this was the first house we bought into, and we
27 really had no clue of what was doing what. We just
28 moved in this area. Before we even moved into the house

1 we remodeled and upgraded. I was insured by Allstate for
2 my car, so I talked to the agent and she said they
3 insure houses too.

4 The agent, she actually came to the house and
5 took pictures of everything that was in it and now one
6 of the things they tell me is that I didn't tell them what
7 was in my house. I said, "Your agent came in and took
8 pictures, what more do you want?"

9 At that time they insured the house for
10 \$311,000. And now looking back I think that was \$100 per
11 square foot. And then they added another bonus of
12 50 percent that you had been talking about, but the
13 problem with that 50 percent is they only give it to
14 you after you sign the contract with the contractor but
15 the problem now -- those of you at Scripps Ranch know --
16 it costs a heck of a lot more to build a 3,000-plus square
17 foot house for \$311,000. So our contractor bid for
18 building the exact same structure. They looked at it and,
19 of course, they did not accept it because it was too high.

20 And what Allstate is doing is they are
21 working backwards to try to satisfy the policy the easiest
22 way. For example, the adjuster who came in looked around
23 at the debris and looked at all the landscaping I did and,
24 of course, we figured way higher than the policy limits.
25 So what they did was they depreciated stuff so that the
26 number would fit exactly to what the policy limits were.

27 The other problem, too, was they were called
28 upgrades. It would cost \$90,000 because the architect has

1 to be involved, and then because it has changed since
2 then, and of course, they did not accept that number
3 because their policy limits were \$70,000.

4 Then we wrote many letters trying to go
5 through mediation and they refused to talk to me.
6 Initially they asked just for the contents. They came and
7 said they are going to do all your contents until the
8 whole house is done. And I said, "Wow, what a great
9 company."

10 The problem is, of course, for every item
11 that I couldn't recreate they had to call across the
12 county to find out what it costs, which is fine, but
13 then of course, after 50 percent of the house was done, we
14 reached over the policy limit and they said bye-bye.
15 I said, "But you promised to do the whole thing." They
16 said, "No. We have reached the policy limits; that is our
17 policy."

18 So what is going on with Allstate is they
19 are not really dealing with us in good faith. I don't
20 know how to build a house. In 1992 I had no clue what
21 it would cost to build the house. \$100 per square foot
22 now, that is not adequate. But, of course, they are
23 saying it is my fault.

24 After listening today with what is going on,
25 I think one of the things -- as a Commissioner, I don't
26 know how much power you have to influence these things --
27 but I think all of us who are fire victims here, we
28 are all very well informed. But there are many millions

1 out there who really have no clue. I think it should be a
2 uniform requirement that every structure, every house that
3 is totally destroyed, should be replaced for full value.
4 And I think that should be a standard for all companies,
5 not just for Triple A.

6 And for those who do not want to insure to
7 that level, then maybe they can sign a stipulation
8 saying that they refuse to accept the full replacement.

9 Before I leave -- the contents are based on
10 a fraction of what the policy limit is. So then why the
11 heck do you have to testify and torture them to write
12 down all the things, the contents? If the insurance
13 companies really want to fix the contents to the ratio
14 of the policy limit, that's fine; then give them whatever
15 that ratio is without torturing them.

16 Now, ALE, I won't go into that. We are aware
17 of what kind of problems we are having with Allstate. At
18 this time --

19 MR. GARAMENDI: I do want to talk to you about ALE.
20 Your ALE policy, was it a percentage of the limit?

21 MR. MUKAU: You know what, I do not know and they
22 refuse to tell me. They figure it is secret -- we really
23 don't know how much it is. Actually, it is funny. What
24 we did, we initially rented a place that was far more
25 superior than what used to live in. Did Allstate say,
26 "No, you have to go rent a comparable apartment"? No. It
27 was a neighbor who told me that we are required to be
28 living in a comparable area. Allstate just kept quiet.

1 And when we tried to ask how much money we had for ALE, no
2 one would tell us the figure. I don't know if there
3 really is a figure or not.

4 MR. GARAMENDI: You mentioned a word a while ago
5 that should strike fear in the Department of Insurance
6 companies. Do you know what that word was -- two
7 actually.

8 MR. MUKAU: Lawsuit?

9 MR. GARAMENDI: Bad faith.

10 MR. MUKAU: My problem is we did ask your
11 Department for mediation. I have been trying to stay away
12 from lawyers, like people before we were trying to avoid
13 lawsuits. I really thought that I would in good faith
14 come to a compromise with Allstate. But the problem is
15 Allstate is not budging; they are keeping their policy
16 limits, and they are not admitting whether they made the
17 mistake or not. They just don't want to hear about it.

18 MR. GARAMENDI: You have nearly half a million
19 dollars involved?

20 MR. MUKAU: Yes.

21 MR. GARAMENDI: I gave some advice a few moments
22 ago. I recommend you take it. Mediation is good, that's
23 fine, but you have a lot of money at stake, and what you
24 have said here is very disturbing to me. You really
25 should get a lawyer. You should file a lawsuit. You
26 should protect yourself. You have a lot of money at
27 stake.

28 MR. MUKAU: And I only have three days; right?

1 MR. GARAMENDI: Actually, in a mediation, if
2 you are indeed in the mediation program, that should
3 stay and give you additional time to file a lawsuit but
4 get on with it.

5 MR. MUKAU: Okay. Thank you.

6 MR. GARAMENDI: There are a whole series of things
7 that we don't have time to go into right now, but I would
8 like to have one of my people come and talk to you about
9 some of the details that you were not able to talk about
10 in your time available. It would be very useful.

11 There are going to be a lot of lawsuits
12 filed and I think appropriately so in many cases.

13 All right. Next, we have Adam Richardson.
14 I think I recognize you, Adam. You are one of the
15 people who helped us in Sacramento with the Homeowners
16 Bill of Rights.

17 MR. RICHARDSON: Yes.

18 MR. GARAMENDI: Thank you for your help with the
19 Homeowners Bill of Rights.

20 MR. RICHARDSON: You're welcome. I am Adam
21 Richardson. I am underinsured for my house structure only
22 for about \$260,000. So if State Farm wants to write a
23 check, I am sitting in the back.

24 I think you are here to talk about how we
25 got here, underinsurance, and how we help folks.

26 My story is not unique. I simply trusted the
27 advice of the largest insurance company, State Farm, when
28 they said that "X" amount would cover my house. I went to

1 the agent's office and bought a policy.

2 Six months before the fire I was doing some
3 other business with my agent for a different policy; I
4 asked it if they could revisit my house in Scripps
5 Ranch, she said, "Of course." I asked if my house in
6 Scripps Ranch is 100 percent covered; she punched up
7 some numbers in the computer, and said, "Yes, you are
8 100 percent covered." So that is how I got here. That
9 number, by the way, is about \$80.50 square foot for a
10 house in Scripps Ranch.

11 What's more surprising is that I can make a
12 phone call today out of the blue to a State Farm agent and
13 still get that same number. What I found, the Quick Quote
14 is exactly the same as the coverage I had, which is less
15 than \$91 a square foot. When I go through the extended
16 interview it comes out to what it should be, which is \$170
17 a square foot. That is the estimate provided by my
18 insurer not by myself.

19 I can still today go out and buy that policy
20 for \$80 a square foot. I know now I wouldn't buy that
21 policy today, but I did not know that a year ago.

22 So where do we go from here? Frankly, I
23 believe they have the correct tools to evaluate the house,
24 and I believe that because of a building contractor who I
25 am working with another house, he builds about five houses
26 a year and he does maybe two million a year in business.
27 He wrote from a set of plans on a piece of paper, signed a
28 contract with me to build a house at a not-to-exceed

1 price. He is willing to put his money at stake and say "I
2 can build based on this blueprint for X amount of
3 dollars."

4 It's hard to believe my contractor who does
5 2 million year, that my 40 billion-dollar-a-year insurance
6 company certainly has the data and the expertise and the
7 wherewithal to correctly value my home. Why they don't do
8 this, I don't know. If it's just to make the sale at the
9 time -- certainly, no one ever came out to my house, and
10 frankly, I am willing to pay for somebody to come out to
11 my house to get it right.

12 So that is how I got here. And have to tell
13 you, Commissioner, that while I think it is a good idea to
14 send me a disclosure in the mail that tells me what
15 my declaration page is and everything, if you would send
16 me that before the fire, I would have said, "Of course,
17 that is what my agent told me would be to cover my house.
18 That's what we talked about." I signed off on it then and
19 I'd sign off on it now, but I didn't know then and I do
20 know now. So I, quite frankly, don't think that is the
21 answer. I think the answer is to get underwriting to do
22 their job to get agents to go and inspect houses. I am
23 not afraid to pay someone to correctly evaluate my home.

24 When my doctor says, "Hey, I think your
25 appendix needs to come out," he's the expert. I wouldn't
26 say, "No. Take out the kidney instead." I believe the
27 guy.

28 I didn't want to become an expert in

1 insurance to learn how to estimate a house, but I know
2 now, but I doubt that everybody out there does.

3 MR. GARAMENDI: Well, there is the reason for this
4 hearing -- two reasons; one, the 3,000 to 4,000 people
5 who lost their homes and are underinsured. It's a very
6 serious problem, but the other couple million that are
7 unaware, that is the real point of this hearing.

8 How do we go about getting that -- I happen
9 to agree with you that disclosures are not a perfect way
10 to do it. God knows we get enough in the mail and we
11 ignore a good portion of it. Is it an improvement? Yes.
12 Also, along the way it is clear to me that the insurance
13 companies are taking on the responsibility and they are
14 not meeting the responsibility. They are assuming
15 responsibility. When you phone and say, "Am I
16 sufficiently insured?" They assume the responsibility.

17 A good example of this, I did a radio talk
18 show talk, the most popular radio talk show in Northern
19 California, we were talking about underinsurance. And
20 he said, "My agent says I have enough." And I said, "I
21 bet you don't." About 30 seconds later he gets an
22 e-mail from his agent, saying, "No problem. You are
23 completely sufficiently insured." And my response to
24 him was, "Don't lose that e-mail."

25 The insurance company has taken the
26 responsibilities. That's the lawsuit you want to take
27 to the Judge.

28 MR. RICHARDSON: Just one more thing.

1 Mr. Garamendi, when you were questioning the insurers
2 about their settled versus not settled claims, I would
3 just like to comment that just because my insurance
4 company stopped talking to me doesn't mean that my claim
5 is settled. I think those numbers are not exactly
6 accurate. Thank you.

7 MR. GARAMENDI: Next is Robert Coffin.

8 MR. COFFIN: First off, I do want to thank you for
9 taking the time to come here and listen to all of us. And
10 I must say I wish you would run for Governor. I also want
11 to thank people like George and Peter, who have gone out
12 of their way to help people, and I think everybody should
13 be grateful that they have done such a good job in
14 steering people along here.

15 I happen to be a lawyer, too. I've been one
16 since 1968. I was a Navy DAG Officer in the Vietnam
17 era, so I thought I knew what was going on, but after we
18 got wiped out -- I live in Wildcat Canyon. We were one
19 of the first hit. I realized that was just the
20 beginning of the nightmare.

21 I look back to see what my wife did and did
22 not do to see if things would have come out differently.
23 We have been married 37 years and have worked together
24 consistently. We moved from San Diego to east county
25 about 12 years ago. We bought a citrus ranch, and we
26 had 14 structures on the property. I had been with USA
27 because of my military service and they had been
28 insuring me in town but they did not want to insure me

1 out in the rural area so we went to the San Diego County
2 BAR Bureau, and they recommended we go to Allied, who
3 was my insurer at the time of the loss.

4 We barely escaped the catastrophe, we only
5 had 20 minutes notice. We live in an area where 14 of our
6 neighbors died. I passed those dead neighbors, four or
7 five of them, when I went back there. They were
8 burned out in their cars still there. Everything we
9 owned, 80 acres, was consumed in five minutes. I know
10 that because I was there. I was the last one out.

11 By the time I got down the road, I looked
12 back and could see that all of my property was in
13 flames. Being a lawyer, I know you have to protect
14 yourself, so we attempted to do that. I listened to all
15 these people who are not lawyers, who do not deal with
16 the litigation system, and I see how disadvantaged they
17 are. I felt that I had some advantage in that area, and
18 did my very best to protect myself.

19 We were referred to a specific agent. We
20 met with the agent. We talked with the agent. We told
21 the agent what we had. We had about seven residential
22 structures in three different locations.

23 We were paying \$12,000 a year for insurance.
24 We were so conscientious that we got earthquake insurance.
25 How many people do you know that have earthquake
26 insurance? We pay \$3,500 a year for earthquake insurance.
27 Now, why would we not want to have full coverage in case
28 of a fire loss? What are the chances of us losing

1 everything due to an earthquake as opposed to a fire loss?
2 We had fire drills two or three time a year. We did
3 everything that we could think of. We had a telephone
4 cable out there and notified all the neighbors. We had
5 sprinklers on the roof. We had fire hoses, we had fire
6 reservoirs, we had pumps to drain our ponds. We did
7 everything that we could think of.

8 When we got the policy and looked at the
9 declaration page, I called my agent, I said, "What is
10 this? Explain this to me." One of our homes was just
11 about 2,000 square feet and had \$161,000 coverage on it. I
12 said, "This is not going to be adequate." He said,
13 "Oh, yeah. There is attachment A that will pick up
14 any increase in cost."

15 This is a farm policy, by the way; even the
16 adjuster after the fire, even Allied's adjuster could not
17 read that policy. They expressed absolutely confusion
18 about what I had. It was utterly unbelievable. I went
19 and hired a public adjuster to interface with the
20 insurance company. He had trouble reading the policy. And
21 I'm convinced my agent probably didn't understand it and
22 Allied didn't understand it.

23 So I came away comforted with the fact that
24 talking to my agent that my coverage of my structures is
25 \$80 a square foot, and the cost to rebuild is \$150 a
26 square foot. It's not going to happen. It's not going to
27 bring me back to where I need to be.

28 This is not somebody who just opened up the

1 policy and sent back a premium. I did my best to find
2 out exactly what that coverage was. It is my opinion
3 that the people who are issuing these policies, they
4 either understand them and don't tell you what the real
5 story is, or they don't understand themselves.

6 Now, either/or, there is a lack in clarity to
7 the consumer as to what they are getting. That is
8 something that I would hope your organization could
9 remedy, and also I hope that I see your organization as an
10 amicus on some of these public briefs that are sure
11 to follow after these lawsuits hit.

12 So thank you very much again for all your
13 effort.

14 MR. GARAMENDI: Thank you. You had a unique policy
15 in the sense that everything was a farm policy.
16 It is not the standard homeowner policy. You and I need
17 to talk because I have that farm policy.

18 MR. COFFIN: That farm policy covered none of my
19 irrigation, the barn that burned up, my trees -- I had
20 about 400 trees -- and none of my farm equipment.
21 So what it did cover, I'm not sure.

22 MR. GARAMENDI: I have often thought that most
23 insurance covers things that are not going to happen.

24 Okay. We are going to break now and come
25 back at 6:30. After the dinner break, we are going to
26 pick up with Farmers Insurance and State Farm. We will be
27 back at 6:30.

28 (Hearing adjourned at 5:20 p.m.)

REPORTER'S CERTIFICATE


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CERTIFIED SHORTHAND REPORTER
FOR THE STATE OF CALIFORNIA

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF CALIFORNIA
JOHN GARAMENDI, INSURANCE COMMISSIONER
INVESTIGATORY HEARING ON UNDERINSURANCE AND THE
DETERMINATION OF HOME REPLACEMENT COSTS

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Part 2/2

TRANSCRIPT OF PROCEEDINGS

San Diego, California

Thursday, October 21, 2004

Reported by:

SARA RICHARDSON
Hearing Reporter

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BEFORE THE DEPARTMENT OF INSURANCE
STATE OF CALIFORNIA
JOHN GARAMENDI, INSURANCE COMMISSIONER
INVESTIGATORY HEARING ON UNDERINSURANCE AND THE
DETERMINATION OF HOME REPLACEMENT COSTS

TRANSCRIPT OF PROCEEDINGS, taken at
San Diego County Water Authority, Board Room,
4677 Overland Avenue, San Diego, California,
commencing at 6:39 p.m., on Thursday,
October 21, 2004, heard before JOHN GARAMENDI,
Insurance Commissioner, reported by
SARA RICHARDSON, Hearing Reporter.

APPEARANCES:

California Department of Insurance Panel:

John Garamendi	California Insurance Commissioner
Jose Aguilar	Assistant Chief Counsel
Risa Salat-Kolm	Senior Staff Counsel
Don Hilla	Senior Staff Counsel
Tony Cignarale	Chief - Consumer Services Division
Jeff Greenfield	Senior Insurance Rate Analyst

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I N D E X

E X H I B I T S

(None)

1 San Diego, California, Thursday, October 21, 2004

2 6:39 p.m.

3
4
5 COMMISSIONER GARAMENDI: Let's get started. We're a
6 few minutes late here. If you can take your seats. We
7 are going to move forward. On the agenda for this evening
8 we intend to hear from -- from Amy Bach who is going to
9 start us off here in just a few moments.

10 Amy, why don't you come up and take the
11 microphone? Farmers Insurance Company and State Farm,
12 and then any other public comment that may be desired.
13 You know, one of the very important things and
14 absolutely critical in all hearings is excellent staff
15 work. So, let me start over. Amy is going to start
16 us. Steve Young was kind enough to delay until this
17 afternoon. He is with the insurance agents. And then
18 we will hear -- Amy is first, David Shaffer, and then
19 Steve Young. And then we are going to go to Curtis
20 Moring.

21 All right? Very good. Thank you, Jose.
22 You know the Commissioner needs help from time to
23 time.

24 Amy, before you give your testimony I want
25 to take up an issue of, "So what does this cost the
26 consumer?"

27 AMY BACH: Excellent question. Are you sure I need
28 this mike? I have been accused by my husband of talking

1 very loudly. And I don't -- all right. I will stand back
2 here and see how we do.

3 COMMISSIONER GARAMENDI: That's a very hot mike.

4 AMY BACH: Good evening, Commissioner, staff,
5 friends, survivors, and industry people. I would like to
6 hope that we are all here for the same purpose. My name
7 is Amy Bach. And I'm the executive director of a
8 nonprofit organization called United Policyholders. And we
9 have been around for 13 years. We actually started as a
10 working group in the summer of 1991 with David Shaffer who
11 plans -- wearing the hat of photographer right now -- but
12 he is actually an independent insurance agent, very, very,
13 knowledgeable about insurance matters, myself a long-time
14 insurance consumer advocate, a woman named Ida DeLong
15 who worked for 22 years for State Farm and retired in
16 protest over the ways that they were adjusting loan
17 remainder claims.

18 We got together with other people who had
19 financial experience and thought, "Gee, you know,
20 policyholders need -- need more information that is
21 geared for them." And there is a lot of information
22 out there that is put out by the insurance industry
23 that has their perspective. And we felt that there was a
24 real gap in information available for policyholders.

25 And we heard today some talk about how hard
26 it is to read and understand insurance policies.
27 That's obviously a fundamental problem that hasn't
28 been solved certainly in the many years I have been

1 watching and participating. But in any event, right
2 after we started talking and thinking, the Oakland
3 firestorm hit, and suddenly we had a big challenge on
4 our hands. There were 2500 plus total losses from
5 that disaster.

6 And fortunately Commissioner Garamendi was
7 in office, and we were able to do a real team effort
8 to -- to help solve the problems for those people who
9 had lost their homes. And we were able to do a lot of
10 information gathering. People got together by
11 insurance company. We had lots of hearings like this.
12 We had meetings. There were some lawsuits filed, a
13 lot of pressure was brought to bear. And the insurers
14 assured everybody at the time, "We hear you. We hear
15 you. We are going to solve this problem. We hear
16 you. You caught us off guard. A lot of you have the
17 same limits on your homes that you had when you bought
18 them, and that's not right. And, you know, everybody
19 is going to fix this."

20 Now, I'm sorry to say that -- that I had to
21 bring Peter Demsey (phonetic) out of retirement --
22 he's somewhere around here -- who flew down here. He
23 lost his home in the Oakland firestorm. I can assure
24 you, it was never our thought at that time that 13
25 years later -- there you are -- that -- that, you
26 know, he was going to have to come out and still be
27 speaking out. I really, you know, commend all of the
28 people who are still midrecovery or taking their time

1 and their emotional energy to come and keep trying to
2 help solve this problem. Obviously, it is a crisis.
3 There is no question. This is a crisis. And I
4 commend you, Commissioner, for doing what you can to
5 help solve it.

6 And, obviously, there are -- there are three
7 groups that are going to have to participate in the
8 solution. You know, the insurers are going to have to
9 participate, agents and brokers are going to have to
10 participate, and consumers are going to have to
11 participate. And, you know, in our view, the primary
12 fault for the under-insurance crisis does lie with
13 insurance companies for three reasons. The insurer sells
14 the promise of full coverage with advertising
15 and slogans that insure consumers, "We'll get you back
16 where you belong."

17 Buyers rely on that promise. What we are really
18 talking about here is you cannot have your cake and eat it
19 too. It's kind of what -- if you want to boil all this
20 down, that's really what this is about. Insurers want to
21 sell their products to people and say, "We have got you
22 covered," but they really aren't fully covering people.
23 And they don't want to be up front enough with their
24 customers to say, "And by the way, actually you're not
25 fully covered. You really need to become -- to spend
26 hours on the phone, as this woman -- hours, it sounds like
27 she spent days on the phone, this woman who testified
28 earlier about all the work she did to shop -- that you

1 have to spend all this time and even, as Adam Richardson
2 testified, even if you called an agent, you still may end
3 up under-insured, even if you push. Obviously, we've got
4 a pretty big problem on our hands here.

5 Insurers -- the second reason, insurers have the
6 information to set limits properly because they are
7 processing fire claims all over the country, all year
8 long. They have full access to construction costs data
9 via their own claims experience, and the replacement cost
10 estimating software we have heard about today. It does
11 appear that the Marshall & Swift/Boeckh System is --
12 provides reliable information. What it looks to --
13 from -- to me, that it requires a lot more training than
14 people are getting in using it. And it's just not being
15 used properly in a lot of situations. That -- that seems
16 to be clear from what I have seen so far. So -- and
17 insurers have been on notice for many years that the
18 software is problematic and -- or that the use of it leads
19 to under-insurance.

20 Third reason, when insurers made the business
21 decision after the Oakland firestorm in 1991 to stop
22 selling guaranteed replacement cost policies in California
23 they had a clear duty and this, I think, is very important
24 to take immediate action to properly train underwriters
25 and agents to set dwelling limits properly and educate
26 their customers on the importance of full coverage. And I
27 really think that is a huge factor in why we are here
28 today, 13 years later.

1 You know, I think -- obviously it is hard to
2 set the limits properly. I don't think anyone is
3 going to argue. I think there are factors, there
4 are -- there are things that are hard to predict, but it
5 can be done at least within a realm of certainty. And
6 when they stop selling that product -- it sounds to me
7 like they sort of threw up their hands and said,
8 "Well, we're going step back here and put the burden on
9 the consumer." But then they forgot to tell the consumer.
10 And the results are, you know, people who are half a
11 million dollars short. It's completely unacceptable.
12 It's not just the money that people are short, it's that
13 it's slowing recovery down so much and making people
14 crazy. And that's just completely the opposite of what
15 insurance is supposed to do.

16 Okay. Fault also lies with the agents/brokers
17 for three reasons. Agents and brokers don't spend enough
18 time making sure limits are properly set. They need
19 better training in using replacement cost estimate
20 software properly. That's clear, I believe. And agents
21 and brokers need to be more candid with applicants if they
22 are not fully covered. They need to give people the bad
23 news so that they know what to do. It's not fair to tell
24 people, mislead them, and leave them in the dark. I
25 mean, you can't have it both ways. You cannot eat
26 your cake and have it too.

27 And consumers have a role here as well. And
28 I would -- I have called upon the insurers, and I have

1 called upon them again, take advantage of the people
2 who are here, the people who have been taking their
3 time to come to these hearings over the last year, to
4 get out and do public information, and spread the word to
5 their fellow homeowners, "Gosh, you guys better take
6 another look at your insurance. There is a problem."
7 Everybody should make sure they are not under-insured.
8 You have been doing a great job of that, at getting out
9 there at every opportunity and saying to everybody, you
10 know, "You are probably under-insured. You ought to look
11 at it."

12 Consumers also have to recognize the
13 importance of buying the right coverage over buying
14 the cheapest coverage and understand that they can
15 increase their coverage and then raise their
16 deductible to offset the premium increase. That is so
17 important.

18 And -- and I have just got a few more points
19 I am going to make here. And, you know, a few of the
20 things that have stood out so far for me today,
21 falsely saying that \$15.00 a year to go from
22 replacement cost to extended replacement costs, I
23 mean, I think that probably blew the minds of a lot of
24 people in this room. I mean, who wouldn't pay \$15.00
25 for extended replacement cost coverage, if they knew
26 it was an option? Okay.

27 COMMISSIONER GARAMENDI: An extra 15 percent
28 coverage.

1 AMY BACH: Right. Right. Okay. And solutions. All
2 right. Insurance is economics. Insurers are businesses.
3 They are motivated by money. It's not a bad thing. It's
4 not a secret. But that is the way it is.

5 The -- to my mind, the simplest, clearest,
6 most straightforward thing to do would be to amend the
7 insurance code to clarify that insurance companies and
8 their agents have a legal duty to recommend coverage
9 limits in homeowners' policies that are adequate to
10 replace, to cover full and reasonable replacement
11 costs including compliance with building codes. And,
12 you know, the existing law already requires insurers
13 to charge fair and adequate rates.

14 And second, then insurers shall clearly and
15 conspicuously notify -- and again this would have to be a
16 codification, I believe, to the law -- conspicuously to
17 notify any consumer who declines full replacement
18 coverage, if they are not fully insured. You know, again,
19 you have got to be straight with people. It's just not
20 fair. You know, the insurers, agents, brokers, and
21 consumers have to recognize their role in this problem and
22 voluntarily change their behavior. That's my Pollyanna
23 recommendation. But obviously, we have got to do this. I
24 mean, we are not going to go here again in ten years. You
25 know, it just can't be.

26 I do very much echo George's suggestions,
27 particularly that you reopen all of the claims from
28 this wildfire and run the numbers and see how many

1 people accepted settlements far below what they should
2 have. And, you know, and finally, you know, I believe
3 in our civil litigation system. It's an incredibly
4 important way of keeping balance in our society. And
5 it's great that there are policyholder lawyers out
6 there that will take these cases, but obviously it's,
7 again, economics. It's not like, you know, these
8 people are going to be able to go to a lawyer, and
9 they are going to magically solve all their problems.
10 It's a long, hard, expensive fight.

11 And I will pass on this bit of wisdom from a
12 woman that was with us earlier this week in
13 commemorating the tenth anniversary of the Oakland
14 firestorm. Her name is Teresa Burketen (phonetic.)
15 She is a sophisticated, educated person. Her husband is
16 an architect. And they were short after the Oakland fire
17 by a quarter of a million dollars, \$450,000, and she
18 remembers she had a conversation with her agent, where
19 they had called her agent and said, "Gosh, you know, we
20 really want to make sure that we have got enough coverage
21 here."

22 And their agent had said, you know, "I am
23 going to review." And, "Looks good to me. Looks
24 good." And she took notes of the conversation, the
25 date, and who said it. And she was so meticulous,
26 that she actually sent them off to a friend with --
27 with even the fax transmittal cover sheet from her
28 notes, where she actually sent them to the insurance

1 company. And said, "I am just sending this to you to
2 confirm our communication."

3 And when she -- after she lost her home and
4 filed her claim, she went to her agent, didn't have any
5 record of that communication. And neither did the
6 insurance company. And just by chance, her friend,
7 somehow, still had it. And she said the day that she
8 presented that information to her insurance company, they
9 voluntarily increased her limits and settled with her.
10 And to me, that is the clearest evidence of why confines
11 of that duty and imposing it clearly on insurance
12 companies would solve the problem.

13 Thank you very much.

14 I am very, very pleased that David Shaffer
15 did come down. He has been a long time advisor to us. We
16 do take exception to one little point in his
17 testimony, but he is great.

18 DAVID SHAFFER: Thank you very much, Amy.

19 COMMISSIONER GARAMENDI: Go ahead, David.

20 DAVID SHAFFER: Mr. Garamendi, thank you for the
21 opportunity to speak tonight on the serious problem of
22 under-insurance for homeowners in California. I commend
23 you for holding these hearings in San Diego. And after
24 seeing Oakland back in 1991, I am surprised that 13 years
25 later we are still talking about this.

26 The main point of my testimony is that
27 under-insurance can be prevented, but only with drastic
28 changes on how we go about insuring homes. First, I

1 would like to give you a little background of my
2 qualifications to present testimony to you tonight.

3 My name is David Shaffer. And I operate a
4 professional, independent insurance agency in Walnut
5 Creek, California. It's called David Shaffer Mortgage and
6 Insurance Services. I have been in business since 1983.
7 And for most of my years in business, I have primarily
8 focused on writing, almost exclusively, insurance for
9 homes and cars.

10 Professional, independent agents like myself,
11 can't offer to the public policies from State Farm,
12 Allstate, Farmers, or Southern California Automobile Clubs
13 because those carriers will only allow their captive
14 agents to sell their policies. Instead we typically have
15 access to anywhere from three to four to anywhere over a
16 dozen insurance companies and help our clients choose from
17 these carriers the best insurance policy for them.

18 On October 20th, 1991, it was 13 years ago to
19 this very day, I came face to face with a fire that
20 destroyed over 2500 homes in the Oakland Hills. On that
21 day, a Sunday, my wife and I left our home to go house
22 hunting and soon we were surrounded by flames on Highway
23 13. Luckily I was able to turn around on the freeway and
24 head back to our apartments where we were out of danger.
25 As I watched, in horror, the news about the fire from my
26 house, I knew that at some point my phone would start
27 ringing because many of my clients owned homes in the area
28 of the fire.

1 Over the next 48 hours, the phone rang. And
2 clients of mine called me to report their homes were
3 total losses. My clients had their claims paid in
4 full for the total loss of their homes and contents
5 within months. I spent hours with them making sure
6 things were going well in the claims process. And
7 also because I wanted to see up close how total losses
8 would be handled. I had never had any clients who
9 suffered catastrophic losses before. I thought it was
10 a unique opportunity to see how the claims process
11 worked and what I might be able to learn from this in
12 order to do a better job as a professional agent to make
13 sure my clients would always have the best insurance
14 coverage possible. And tonight I have a front row seat to
15 keep learning more about this.

16 Several months before the fire I was working
17 with Amy Bach and Ida DeLong to help establish an
18 insurance consumer group to help consumers on
19 insurance issues. The Oakland firestorm gave our
20 organization a chance to really make a difference, and
21 we did. And with your help many homeowners had their
22 policy limits reformed.

23 COMMISSIONER GARAMENDI: David --

24 DAVID SHAFFER: Yeah.

25 COMMISSIONER GARAMENDI: -- back away from that
26 microphone. If one of my staff is here that knows
27 anything at all about that microphone, let's tone it
28 down a little bit.

1 DAVID SHAFFER: Thank you. Keep going.

2 COMMISSIONER GARAMENDI: In addition, I have acted in
3 the past to be a spokesperson on behalf of my professional
4 trade association, the Independent Agents and Brokers of
5 the West, after the Oakland firestorm. And I have
6 presented testimony in 1992 in front of the
7 State Assembly and State Senate. And I helped draft the
8 first ever California residential property insurance
9 disclosure form which everyone gets today.

10 Over the last 13 years I had to work hard to
11 educate myself and my clients and potential new clients on
12 the importance of insuring their home to the full
13 reconstruction costs. I want to share with you tonight my
14 ideas on how we can help solve the problem of
15 under-insurance. I am not now speaking on behalf of my
16 trade association, just on behalf of United Policyholders.

17 First, Mr. Garamendi, I think it would be
18 important if you helped better educate the public on the
19 realities of the under-insurance problem. For example, it
20 would be helpful if you could determine and report to the
21 public the data George Kehrer showed us tonight on the
22 actual fire losses in Southern California. First, what
23 was the home actually insured for, and what was the real
24 cost to rebuild it? And the various news articles about
25 under-insurance, looks like the average shortfall was
26 between -- anywhere between 100,000 and \$300,000. There
27 are some exceptions to that.

28 Many homeowners, I believe, are sold policies by

1 agents who use the standard replacement cost feature to
2 undervalue homes and then tell their clients, "Don't worry
3 with the extra 20 or 50 percent, you will be okay." If
4 either of those extended replacements costs clauses fell
5 short, I think it will be clear from the real facts, that
6 even with the extra 20 or 30 or 50 percent, that the
7 policy limits still fell short. The public needs to know
8 that.

9 Second, by knowing true under-insurance amounts
10 overall, you can publish on the California Department of
11 Insurance website some very interesting cost information.
12 There seems to be a fear among policyholders, that by
13 increasing their coverage to the level of coverage that
14 they really need, it will become unaffordable.

15 On Tuesday when I saw you in Oakland, I
16 presented to you a spreadsheet to help point this out.
17 Not that you and your staff have it up there with
18 them. And in that -- you know, I was looking at the
19 spreadsheet and said, gee, if someone had a \$200,000
20 spreadsheet here, which I shared with you, clearly
21 shows that maybe if I put a dollar extra per day, they
22 could double their coverage. Who among us wouldn't
23 pay a dollar a day to double their coverage? And I
24 think it would be very important that you show that
25 graphic on the Department of Insurance website.

26 Also, in doing some research for tonight, it
27 came to my attention that some of the insurance
28 companies may not offer a deductible of more than a

1 thousand dollars to help offset the cost of raising
2 their coverage. The reason why it's important is, as
3 you know, in California we have a problem with the
4 use-it-or-lose-it policy. And why carry a deductible
5 for \$500 or \$1,000 in small claims if you are going to
6 lose it? It doesn't make sense. Why not raise your
7 deductible, save those dollars, and buy more coverage.
8 And if you show graphically on the website how much --
9 little it would cost to buy extra coverage, it makes a
10 lot of sense to me.

11 Third, I want to propose that your office
12 investigate the feasibility of establishing a uniform
13 appraisal process within the insurance industry.
14 Right now there is no uniform process, it's all over
15 the place. It's up to the consumer to figure out how
16 much coverage they need to get. I think adding a uniform
17 process that works and has to be followed by all insurance
18 carriers or possibly delivered on a uniform basis by an
19 independent third party that is licensed and highly
20 trained should perform this function.

21 We have heard from someone tonight that said
22 that he would be willing to pay for someone to come out
23 there and make that evaluation. I think there is a lot of
24 merit to that. I think it might be the best solution.
25 And I would like the opportunity to explore this concept
26 with you and your staff in the weeks ahead in greater
27 detail. I have shared this concept with my trade
28 association and with Amy Bach of United Policyholders. By

1 having the third party prepare the appraisal, insurance
2 agents can neither be accused of trying to lowball the
3 number to meet sales quotas, or set the value too high to
4 cause higher commissions that aren't really needed.

5 Now, the issue of building code coverage came
6 up. It's interesting to hear about partial truth tonight,
7 Mr. Garamendi. And I want to bring this to your
8 attention. The people at Marshall & Swift said that when
9 they do a cost calculation it includes a home built to
10 building codes. This is something they have been
11 passionate about it for the last 13 years. You know, if
12 you're given an evaluation by an insurance company that
13 says your home needs to be insured for 300 or 400 or
14 whatever that number is, and that's a home built to
15 today's codes, many of these insurance policies have been
16 approved by the Department of Insurance, but on the back
17 end, don't provide full building code coverage.

18 So here if you file a policy that's been
19 calculated to rebuild your house to today's building
20 codes, that you now want to claim, the insurance company
21 will say, "Hey, we have got a legal contract. Our policy,
22 going to the limits, will make a difference of 25,000 or
23 ten percent over the policy limits." But Marshall & Swift
24 says there is no question. I asked the guy outside the
25 room. I said, "Well, does your evaluation mean that that
26 is a home built to code?" He said, "Yeah. Absolutely."

27 Well, then why are insurance companies in
28 their contracts excluding code coverage? They have

1 paid a premium to insure the house for the full
2 replacement of it today. But when the house burns down,
3 the adjuster says, "Sorry. Did you read the policy? We
4 were not going to cover this."

5 The Department of Insurance needs to pay special
6 attention to these cost calculations. If these are homes
7 built to Code, why are policies in California excluded --
8 not all the policies, but some of them do -- the Code
9 coverage. And that's a serious problem because you can't
10 rebuild your house unless it meets current building codes.
11 And so it's interesting to hear Marshall & Swift say that
12 when they do these valuations it's a house built to Code,
13 but I know it's not because I read policies. I tell my
14 clients -- I spend time reading through my vendors'
15 policies, there's a lot of Code exclusions. It doesn't
16 make any sense to me. So hopefully you will pay special
17 attention to that.

18 And also interesting to hear from Allstate
19 tonight. You know, for \$15, you can get an extra
20 25 -- 50 percent. There's a solution. It's not just
21 the value on the house. It's the additional living
22 expense coverage. You know, the companies that I work
23 with -- I recommend to my clients, you need to have as
24 much coverage as possible for additional living
25 expense coverage.

26 For Allstate to charge \$15 to give you
27 50 percent more coverage for building your house, give it
28 two years worth of loss of use. They can give you --

1 who's that gal? If you have your house insured for
2 \$500,000 and for \$15 more they will give a quarter million
3 dollars extra, why can't they charge \$50 more to give you
4 one year extra for your loss of use? Maybe for 20 bucks
5 you get three years, just in case.

6 It doesn't make any sense to me that the
7 policy will not -- is not complete unless you live
8 elsewhere until your house is rebuilt. I am not sure how
9 the Department of Insurance will address the additional
10 living expense issue.

11 Lastly, I want to mention, this is very
12 important, that as an insurance professional this is
13 not my responsibility to set the policy limits for the
14 house or the contents. I have heard tonight, it's my
15 responsibility. It's really not. I am not an expert.
16 I don't build houses. I am not a general contractor.
17 I didn't go to school on how to build homes. What I
18 am an expert on are policy forms and language in the
19 policy.

20 I educate my clients about what makes a
21 policy better than another. And I prepare these
22 lengthy questions. And you know what, maybe you need
23 300,000, maybe you need 400,000. Here are all the
24 options you can have with different deductibles. And if
25 you have an alarm system on how much it will save on your
26 premium. And I think it's not --

27 I insure millions of dollars of artwork and
28 jewelry. My clients don't say, "David, see if you can

1 insure me an extra 21 years. You're an expert on all
2 this, tell me how much is my art worth. How much is
3 my jewelry worth?" I'm not an expert on that but I can
4 tell you to the penny how much the premium is and where
5 the best coverage to insure that is.

6 So, I think it's important that there needs
7 to be an outside source to come up with a valuation.
8 And -- first of all, I also have clients all over
9 California. If someone were to call me and say,
10 "David, I heard about you down in San Diego, I would
11 like to work with you as an insurance person," am I
12 supposed to come down to San Diego, walk around your
13 house, and make measurements, and figure out how much
14 this is going to cost them? It's not practical for me
15 to go out and see everyone's house. It doesn't make
16 any sense. I should be able to be on the phone,
17 gather information. I can't go to everyone's house in
18 California.

19 So there has to be some other solution for
20 consumers to get the best coverage. And if it's the
21 expectation that I have to see the value, I think we have
22 to change the expectation. The bottom line is, consumers
23 do not have a reliable source to get the right information
24 on what it costs to build your house. I, as an agent in
25 the last 21 years, have never been given by an insurance
26 company what I feel is accurate information. I tell my
27 clients I do not trust the information, for the most part,
28 I am given to come up with the value of your house. I am

1 very hesitant to use it. And that's why I prepared the
2 spreadsheet. And you pick the number. Because I can't
3 say that the amount given is accurate. Especially when
4 Marshall & Swift says two out of three times it's wrong.
5 I am not going to use that kind of information.

6 Anyway, I educate my clients on what
7 features to look for in a policy that makes it better
8 than another. I say to my clients, "Do you want a
9 policy that only gives you twelve months loss of use,
10 that is a defective policy. You cannot rebuild your
11 home in twelve months." Why would you want a policy
12 that only gives you that much coverage? Especially
13 when, in the marketplace you can find policies that
14 give you more than twelve months of coverage for loss of
15 use.

16 As a result of my style of helping consumers
17 make appropriate, informed choices, and by giving them
18 many options, I have seen that the insurance system can
19 work. It's not really broken. It just needs to be done
20 differently.

21 Mr. Garamendi, in conclusion, I wish you success
22 in helping solve the problems of under-insurance for homes
23 in California. And I want you to know I am willing to
24 offer my time and years of experience and knowledge to
25 work together with you and your staff on behalf of
26 policyholders and the California consumers to solve this
27 problem. Thank you.

28 COMMISSIONER GARAMENDI: Thank you, David.

1 David, thank you very much. Would you punch that
2 button there? Thank you.

3 We are going to go to Steve Young who represents
4 insurance agents here in just a moment. But I want to take
5 up an issue that you raised, David, and Amy raised, and I
6 raised earlier in the morning -- earlier in the afternoon
7 and that is, what does it cost the consumer to have the
8 additional -- to have sufficient coverage?

9 David, you were providing a spreadsheet that
10 indicated that it's not that much more expensive. You
11 just suggested a dollar a day, some \$300 a year to double
12 your coverage from 200 to 500. State Farm made, what I
13 think is a fascinating and I am not sure exactly how it
14 works, but they will double the coverage on anything using
15 the extended policy for \$15. "Is that for a quarter of a
16 million, for half a million, \$15?" "Yeah."

17 Well, that's interesting pricing. I would like
18 to get into that in more detail. But there is a much more
19 important point here, and I am going to ask that
20 David Diehl who is my deputy for great regulation. And
21 with Proposition 13, we do regulate the overall rates that
22 an insurance company can charge not necessarily the
23 individual rates for individual homes or automobiles.

24 David, you and I were chatting earlier about
25 this issue, so could you grab a microphone, take that
26 one up there. And just share with all of us what you
27 and I were discussing about a zero sum game.

28 DAVID DIEHL: Let me give my background,

1 Commissioner, since I am new to California. I have been
2 in insurance since, like, dirt, you know, 35 years or so.
3 I have been on the company side. I have been on the
4 agency side, and for about the past 20 years I have been a
5 state regulator in North Carolina, Washington, Maryland,
6 and fortunately, Commissioner Garamendi brought me out to
7 California.

8 Having said that, in all recorded history I
9 have no idea why insurance companies would not want to
10 insure people to value. When I started out years and
11 years ago, the theme is insure the value, insure the
12 value so that we get proper premiums for your exposure.
13 The reason you do that is so that when people -- a lot of
14 people put in money and insure their homes properly, it is
15 less expensive for everybody than if it is just this
16 person or this person or this person. I think that it is
17 very, very rarely affordable if people insure to value.
18 And I think from my experience, you know, company side,
19 agent side, I buy insurance. I want to be insured to
20 value. And from what I heard today was that I think
21 people want to be insured for value.

22 And really I can't think of any legitimate
23 reason why insurance companies would not want their
24 policyholders insured to value. You know, can you think
25 of any legitimate reason why they wouldn't want to say,
26 "Insure your home to value" because when there is a total
27 loss, we want to do right by you." Now, having said that,
28 my purpose in life is a great -- that's really all I know.

1 I don't know much else. But usually, as we have heard
2 this evening, it's not outrageously expensive to properly
3 insure your home.

4 The secret to properly insuring your home is
5 not paying the extra premium, the secret is knowing
6 what to insure it for. And I think that's what the
7 Commissioner and the others here are trying to get at
8 tonight. I got money in my pocket. Tell me what I have
9 to pay to get proper insurance. That's what I heard over
10 and over again.

11 COMMISSIONER GARAMENDI: David, hit that red
12 switch there if you would.

13 And the rest of the story is this. Given
14 accurate information about what it really costs or
15 what the real value of the home is to rebuild that
16 home, that the consumer make an informed choice. If I
17 want to save 500 bucks a year and get a lower level of
18 coverage then let me make an informed choice. That's
19 my risk, I will take it. But don't misinform me.
20 Don't tell me that I have replacement coverage -- and
21 then when it happens, and bad things happens, then I'm
22 stuck. That's wrong. That's what we are going to get at.
23 And we are going to go forward.

24 David, thank you very much. It really is a zero
25 sum game. There doesn't have to be winners or losers
26 here, but if every home were insured to full replacement
27 value, it means that we would be spreading the risk and it
28 doesn't mean -- I am going to ask Mr. Dunbar (phonetic) to

1 come up here and get this straight finally, since he seems
2 to misquote this all of the time -- doesn't mean that
3 everybody's rates are going up. It means that we are
4 going to avoid the horrible problems that are occurring
5 and reoccurring and reoccurring, Mr. Dunbar. Get it
6 straight. It's a zero sum game. Everybody insures to
7 value.

8 Amy, I happen to like what you say. There
9 ought to be a law. The fact of the matter is the
10 insurance industry has the information. They have the
11 knowledge. They have the computers. They have the
12 computer knowledge. They have the computer programs.
13 They are not using it properly and misinforming the
14 consumers. So if the law says thou shalt provide --
15 let me go in, very simple, one sentence. Thou shall
16 provide full replacement coverage.

17 AMY BACH: I thought I was done.

18 COMMISSIONER GARAMENDI: I like what you said.

19 AMY BACH: Let's see, legal duty to recommend
20 coverage limits on homeowner's policies that are
21 adequate to cover full and reasonable replacement
22 costs, including compliance with all building codes
23 applicable to replace.

24 COMMISSIONER GARAMENDI: So, if that was the
25 starting point and that's what the insurance industry
26 had to do -- and, David, I think I disagree with you
27 on this -- if that's what the insurance industry had
28 to do, it wouldn't take them long to figure out how to

1 do it right. And then from there, as a consumer, I am
2 going, "No. I don't want that much. I will settle for
3 something less." That's my choice. I made an informed
4 choice. I have taken the risk. But I have done it with
5 full knowledge and accurate information.

6 It is impossible in this state for the
7 consumer to have -- for consumers, generally, surely
8 there is some who don't -- but for consumers
9 generally, they are not in a position to know. The
10 insurance industry is. We have already heard that
11 testimony from two big insurance companies. We are
12 about to hear from two more insurance companies. And
13 I know they are going to say that they have the
14 ability to do this. They are not going to say it
15 directly, of course. But we will get to that.

16 Okay. Steve? Steve Young.

17 STEVE YOUNG: Good evening, Commissioner, esteemed
18 panelists. For the record my name is Steve Young. I am
19 general counsel for the Insurance Brokers Agents of the
20 West. And it's my privilege to represent the independent
21 insurance agents and brokers in this state. As David
22 Shaffer indicated and as you know, Mr. Commissioner, for
23 those in the audience, independent agents and brokers
24 represent multiple companies. We do not represent the
25 State Farms, Farmers, Allstates, the companies that write
26 the predominant share of homeowners insurance in the
27 state, but we do represent a number of companies that do
28 write homeowners. And we are viably interested in this

1 issue.

2 And I would like to join many others who have
3 preceded us on this lectern, thank you, Mr. Commissioner,
4 for this hearing, for helping bring attention to this very
5 critical issue. Plainly we support, and I can't believe
6 anyone in this room would not support your efforts to
7 improve consumer education, so consumers can make informed
8 choices on all insurances, especially here.

9 If there is -- and by the way, I am going to
10 make just a few general comments, and I am going to
11 offer you four bullet point suggestions, and then I am
12 going to turn the rest of our presentation over to
13 Curtis Moring who is a member of IBA West, an agent
14 and broker here in San Diego. Who is very experienced
15 and has some very good ideas about these issues. So
16 you can ask questions that you have of a practitioner.

17 If there is any news in this arena, it is that
18 total losses, anytime an under-insurance problem arises
19 whether it is a total loss, mercifully, total losses are
20 relatively rare and even more rare are the situations that
21 we have heard ample testimony about today where there is a
22 disaster through a neighborhood. That's the good news.
23 But the bad news, obviously, is that when something like
24 this happens, the costs, not only economically, but
25 emotionally as well, they are horrific. And the more we
26 can work to address this issue, the better.

27 I will say this, that an agent or broker
28 from my perspective has absolutely no incentive

1 whatsoever to undersell insurance. And that's true
2 for two reasons. Number one, obviously, the more
3 insurance they sell the higher their commission, but more
4 importantly, if they undersell insurance, they are liable
5 from errors and omissions standpoint for that failure.
6 And I'm about to say something that may sound strange
7 coming from an advocate for independent agents and
8 brokers, but to the consumers who have testified here
9 today, that their agents told them they were fully covered
10 or for the other agents who have made representations that
11 they were fully covered, you know what, you should hire a
12 lawyer. You should sue those agents because if -- if the
13 agents made that representation and left you with that
14 understanding, when in fact you didn't have that coverage,
15 then that is professional negligence. And there are
16 remedies available for that.

17 And when I am fired, when I return to my office
18 tomorrow morning -- I don't eat much and have a strong
19 back. I do want to say though that it's just absolutely
20 incumbent on all of us as homeowners to know what the
21 figures are in our policy and to obtain as much
22 information as we can about the replacement costs. Like
23 David Shaffer said, agents and brokers are not
24 contractors, neither are consumers. None of us really
25 know when we look at this number on a piece of paper how
26 much insurance we really need. It seems to me there are
27 several problems. And I would like to just outline from
28 our perspective and then just suggest some solutions.

1 The first problem is with the disclosures which
2 has been mentioned here previously. After the
3 Oakland Hills fire the legislature, with your leadership,
4 Mr. Commissioner, felt that better consumer disclosure as
5 part of the essence of legislature, you know, took this
6 process of trying to define coverages and came up with
7 this mandatory language. There has been recent
8 legislation to sort of further expand those coverages
9 which you, Mr. Commissioner, were very helpful in getting
10 enacted. But the problem though is that these -- as
11 usually happens when we lawyers get a hold of things --
12 these disclosures are so confusing they're almost
13 illegible. And worse than that is they actually, in my
14 view, misdescribe the policies that are being sold.

15 There was testimony earlier at this hearing
16 from our friends at the Auto Club here in Southern
17 California. And they are doing very good things with
18 the policies they are selling. But even what they
19 describe as a guaranteed replacement cost policy isn't
20 really guaranteed replacement cost because what they said,
21 and this is what the policy provides, it basically puts
22 the homeowner in a position they were in at the time of
23 the fire not where they have to be actually to replace.
24 So to the extent that the appreciation -- just, like kind
25 and conditions.

26 And I am not criticizing the Auto Club at
27 all. What they are doing is wonderful. The point is,
28 that I think it would be very helpful for this

1 Department to sponsor -- and we would certainly help
2 you and the legislature try to enact legislation that
3 would try to simplify and make more specifically
4 accurate the descriptions of these house policies.
5 That's the first bullet.

6 Here's my second point. It is -- I am told
7 by agents and brokers in the field that detailed
8 inspections are done by several insurance companies. I'm
9 referring now to independent agents and companies, but
10 only on higher-end homes, only on higher-end properties,
11 for example, the Chubb, which is a very fine independent
12 agent company. They have a market niche. They want to
13 write the really expensive homes. They want to write the
14 really high value properties. And they offer a very good
15 policy.

16 They also offer a very expensive policy, but one
17 of the things they do as well. They send out a detailed
18 inspector with video camera in hand. They go all around
19 the outside of the properties. They take detailed
20 measurements. But they go inside as well. And they
21 document the contents. They document the finishes. They
22 document the quality. So that there is really very
23 substantial and critical evidence showing the condition of
24 the premises at hand.

25 Now, here's the problem, I don't know why
26 insurance companies don't do that in all properties,
27 but I have to suspect it has something to do with the
28 cost of doing this. It's hard for me to believe that

1 a drive-by assessment is really very accurate. And I
2 can just tell you, in my own case, personally, I have
3 an independent agent in Novato. I live in San Francisco.
4 He's in Novato. And my homeowner's premium is about \$800
5 a year. He makes about \$8 on the sale of that policy.
6 That's all. That's all he makes on the sale of that
7 policy.

8 You know, it's not economically efficient
9 for him to drive into San Francisco to do -- he might
10 be willing to do these things for an additional fee if
11 I want to pay for that. But, of course, being a -- if
12 you will pardon the redundancy here, a sneaky lawyer,
13 I just call him up periodically and try trick him into,
14 you know, making the very type of representation I was
15 just telling this crowd they should sue their agents over.
16 You know, am I fully covered, Jerry? You know, and
17 fortunately he knows me well enough to dodge those
18 questions when I ask.

19 But the point is that I do appreciate Amy's
20 suggestion that right now the duty, if you will, the legal
21 duty to determine these valuations does not presently rest
22 with the insurance company or the insurance agent or
23 broker. It really rests, rightly or wrongly, with the
24 insurance consumer. And while I think it might be helpful
25 to amend the insurance laws to specify perhaps, or
26 clarify, or even change if the legislature sees fit, where
27 that duty should rest. I would respectfully suggest that
28 it may not appropriately rest with the agent or broker

1 because, again, the agent or broker is a salesman in this
2 process largely.

3 And the agent/broker, even if they are fully
4 trained how these software programs work and even if the
5 data the software programs produce is accurate, is not
6 qualified to make those sorts of valuations. Mr. Moring
7 is going to talk to you in just a moment about the key to
8 this supplements our knowledge.

9 Number three, plainly, I think there has to be
10 better disclosure of how these valuations are calculated.
11 Every company that's selling business right now, selling
12 homeowner's and business does some type of calculation
13 whether they use the Marshall & Swift program or whether
14 they use something that they have developed themselves.
15 In talking with agents or brokers -- there are members
16 here who actually sell home insurance I have found,
17 honestly, that the more experienced salespeople among them
18 simply have almost an intuitive sense.

19 What one lady does, for example, who had
20 been selling insurance for 30 some years basically
21 just routinely adds -- and she tells the consumer
22 this -- that she routinely adds, you know, 10 percent
23 or 15 percent or whatever the software program may
24 suggest as appropriate replacement costs in certain
25 neighborhoods. She just knows her neighborhoods. She
26 knows that. There has to be a more -- or better way to do
27 that.

28 So let me just say this, I have got four

1 suggestions for you real quickly. Number one, I
2 already touched on this, but we believe that it would
3 be very appropriate to somehow try to simplify and
4 clarify and make more user friendly these mandatory
5 disclosures that explain to the consumers what policy they
6 have bought, what coverage is and is not, number one.

7 Number two, we believe that it might be very
8 appropriate for the Department of Insurance to
9 promulgate regulations that would require insurance
10 companies or agents and brokers to provide information
11 to homeowners on how the replacement cost was calculated.
12 It shows this many corners. It shows this much work. It
13 shows, you know, this quality of construction, et cetera.
14 It may or may not help a consumer know whether the number
15 is right, but at least they'll have a basis as to whether
16 or not the current rate was considered by the insurance
17 company is accurate and complete.

18 Number three, honestly, there are several
19 ways we could follow the testimony that we have heard
20 today from the consumers who have been so harmed here.
21 That probably would be the most effective thing we could
22 do for all the other promos in the state. There is
23 nothing like that experience. But in the absence of being
24 able to do that, if the Department of Insurance could
25 prepare a pamphlet which would be required to be, you
26 know, distributed -- I agree with disclosure but
27 disclosure in and of itself, isn't the answer to all of
28 these problems. But it sure can't hurt. And it's

1 something that talks about, for example, the importance of
2 having an independent appraisal by a qualified person who
3 is unrelated to the sales process is really a good idea on
4 a periodic basis, number one, that talks about that.

5 That -- that otherwise tells consumers that the
6 methodology which insurers use may or may not factor in
7 things like an enhanced service as happened here. Where
8 it was just a massive area lawsuit in that large area.
9 Which, then, under the laws of supply and demand, drives
10 prices up.

11 You know, one other suggestion for what it's
12 worth. I don't know whether you really have the legal
13 authority to do this or not, Commissioner, but it
14 hasn't stopped commissioners in other states from
15 actually issuing bulletins after disasters warning
16 building trades and suppliers that under the unfair
17 competition laws of their respective state, they may not
18 price gouge, in essence. And you certainly have a very
19 large, loyal pulpit. And you're a very effective speaker
20 and author on that pulpit. And that may be, indeed,
21 another opportunity when things like this happen.

22 And finally, here's my last suggestion, and then
23 I am going to turn this thing over to the expert,
24 Mr. Moring. I take this suggestion from the medical
25 parts, do no harm. Whatever you do, don't make anything
26 worse. And with all due respect, I would suggest this,
27 Commissioner, you will remember from your first term that
28 after the Northridge earthquake, you know, there was and

1 there still is in California law, this requirement that
2 any insurance company which was writing homeowners'
3 insurance must offer at least to sell earthquake coverage.
4 And so after the Northridge earthquake, the insurance
5 companies decided, you know, they didn't want to make that
6 offer, so they just stopped offering homeowners' insurance
7 and created a really substantial crisis in the marketplace
8 and all.

9 I think it's our concern that proposals that
10 would, for example, require insurance companies to offer,
11 you know, certain types of coverage that will eliminate
12 the discretion of companies like Chubb, for example, now
13 have to sort of concentrate on one area of the market or
14 one niche or the other. Ultimately, we don't think that's
15 good for consumers because the more companies we have
16 selling insurance, the more the better. And, you know,
17 for better or for worse our friends in the carriers rank,
18 carrier ranks have kind of a poor record of -- of adapting
19 to mandates in the law that they must write certain types
20 of policies.

21 COMMISSIONER GARAMENDI: Thank you very much,
22 Mr. Young.

23 Mr. Curtis?

24 STEVE YOUNG: Mr. Moring.

25 CURTIS MORING: My name is Curtis Moring. I am a
26 licensed insurance agent/broker here in San Diego
27 County. My --

28 COMMISSIONER GARAMENDI: Curtis, just position

1 yourself in front and back up a foot.

2 CURTIS MORING: Okay. I am a licensed insurance
3 broker and agent here in San Diego County. I have been
4 licensed in insurance since 1983. I also served on
5 one of Garamendi's committees back in 1992 to '95 on the
6 California C.A.R.P. committee, advisory committee, excuse
7 me, for two-and-a-half years. My firm has been writing
8 homeowners' insurance for over 40 years. I have been
9 working in insurance for over 30 years. I have been
10 licensed as a sales rep for 21 years.

11 My experience in dealing with homeowners'
12 insurance, my firm has insured well over 5,000 homes in
13 the San Diego area. And in my experience in building
14 homeowners' insurance, I have found that you have to, as
15 an agent, stay abreast of the changes in the industry --
16 changes referring to the costs of building homes. One of
17 the challenges I have seen at least in the last few years
18 is most agents, unfortunately, are not keeping abreast of
19 that.

20 What we do at my firm to keep abreast of
21 that is we belong to the B.I.A., which is the Building
22 Industry Association of San Diego which provides us
23 information on the law involving the costs associated
24 with building homes.

25 Another thing we have done at my agency is
26 that we spend -- every year we go out and physically
27 look at our properties. I am not referring to the
28 inside of the properties, but the outside of the

1 properties as well as sending letters to clients
2 asking clients to advise us if they have done any changes
3 to their dwelling. Have they added anything to their
4 homes? Or have they done improvements that they should
5 make us aware of? I think what it does, basically, is we
6 put the onus back on the consumer to advise us what
7 changes they have done so we know we have at least
8 accurate information to provide insurance carriers who
9 represent so that the homes, in our opinion, is insured at
10 value so that replacement costs don't make a difference.

11 Not only are we familiar with the
12 replacement costs in our communities, we require homes
13 be insured to value, with a 25 percent kicker. So
14 that means that your home is being increased in value
15 on replacement at a rate of five percent per year.
16 And the agent is going out and doing an inspection
17 every three years or four years. That agent should
18 have a pretty good feel of where your home should be
19 insured at from a value standpoint.

20 In California as we all know, most people
21 who are homeless because of disaster here in
22 California so if they are not paying attention to
23 what's going on in the real estate marketplace, they
24 should at least be paying attention to the value that
25 their home should be insured for or how high your home
26 should be at a certain range as far as coverage is
27 concerned.

28 Steve has asked me more or less -- I don't

1 have a prepared statement. Steve has asked to do more
2 of a question-and-answer-type session. I am here more
3 or less to help answer questions that people might
4 have in the audience or Commissioner in regards to what an
5 agent does in terms of those valuations and so forth.

6 COMMISSIONER GARAMENDI: Hit your red button. This is
7 like a classroom. We take turns here with the little red
8 buttons. What I would like you to do is stand by. And
9 we'll see where the -- where this thing develops -- where
10 the testimony develops from the insurance companies and
11 from other witnesses who will be testifying later on.

12 At this point, Mr. Moring, I do not have any
13 additional questions. I do thank you for the work
14 that you did on the C.A.R.P. Committee, which is not a
15 fish. It's an insurance program here in California
16 for difficult to insure customers. So thank you very
17 much for that. Thank you.

18 We will in a little while come to a couple
19 additional consumers who have had issues here in this
20 area. But I would like now to bring up Farmers Insurance
21 Company and hear from them on their experience of the
22 issues and confront this issue. How we deal with it.

23 WAYNE WILSON: Thank you, Commissioner. Wayne Wilson
24 on behalf of Farmers Insurance. I would like to thank you
25 for including us in this hearing. I'd have to say that,
26 as Amy Bach mentioned, dealing with this issue is not
27 something that's easy. It's not something simple.

28 If I could, I would like to take everybody

1 back a little while because there has been reference
2 to Oakland Hills. And we are at a different point in
3 time now than we were then. And back prior to the
4 Oakland Hills fire, the systems that were used, at
5 least at Farmers, were a lot more rudimentary in terms
6 of looking at valuations on homes. As a matter of
7 fact, it was pretty much square-foot tables. How many
8 square feet you got? And then we will take a look at
9 how much a square foot.

10 Frankly, in 1987 we moved over to Marshall &
11 Swift for the first time. And that was our first use
12 of the component-based system, rather than just looking at
13 square footage. At that migration the agent filled out
14 forms manually, it was a paper-driven system. And the
15 agent identified features of the home on a sheet of paper
16 and then calculated a number. That was the system that was
17 in place at the time of the Oakland Hills fire.

18 Now, I think everybody recognizes there was an
19 issue with under-insurance at that time, so in 1992,
20 which was after the fire, we migrated to Marshall &
21 Swift's, what they call Series 80 program. And that was a
22 computer-driven program. Now, that program, in a
23 different variation, a more modernized system is what we
24 use today. And I can go through some of the iterations
25 with you and the improvements that have been made over the
26 years. The system has grown. It's been refined. And
27 Marshall & Swift has designed it to do a better job over
28 those years. The way our system works is when a customer

1 contacts one of our agents, our agent pulls up an
2 electronic screen on the computer. And --

3 COMMISSIONER GARAMENDI: This is a current system?

4 WAYNE WILSON: Correct. And they will enter data
5 right on the screen in their office. And when the data is
6 entered, they will push a button, and the data will go to
7 our computer. Now, if some of the data is not entered,
8 the screen will light up and say, "You need to enter
9 this," because we can't run this through the Marshall &
10 Swift program without that information.

11 Over the years, the improvements we have made in
12 that Marshall & Swift program have included different
13 elements. For example, when Marshall & Swift started, I
14 was only designed to go to a three level ZIP code. Now
15 it's been implemented and refined to more of the five
16 level ZIP codes, so it's more specific.

17 Labor rates have changed over time. And over
18 time we phased in other elements that have been made by
19 Marshall & Swift. Those would include foundation costs,
20 excavation costs, future permit costs, architect, all of
21 which would be necessary in terms of a serious loss. Now,
22 our agents are instructed, and they have to check a box on
23 the system, that they have made an inspection of the
24 property. That is part of our procedure in writing new
25 business. So when the inspection is done, the box is
26 checked, and the information is filled out, the system
27 inputs go into our computer and the Marshall & Swift
28 program generates a number to assist the customer in

1 determining their value.

2 We have two main policy forms that we write
3 on homeowners' policy form. One is called Protector
4 Plus which is a 125 percent of the coverage A limit
5 that is selected by the customer. That might be the
6 Marshall & Swift number, it might be another number. We
7 also have another product which is our special form
8 product which is 100 percent of coverage A. And the
9 option to purchase up to 125 percent is available.
10 Currently 86 percent of our policyholders have the
11 extended replacement cost in those two categories,
12 86 percent of them have the 125 percent extended
13 replacement cost. Roughly one third of our book in those
14 particular products has a coverage A number that is higher
15 than the Marshall & Swift number, which is obviously then,
16 selected by the insured.

17 So we have continued to work on trying to
18 improve our ability to assist our customers in
19 establishing a good coverage A number. And we will
20 continue to do so. We are in the process now of migrating
21 from the Series 80 system, which I just mentioned, to a
22 newer version of software with Marshall & Swift which is
23 their R.C.T. system. I might add that that will be done
24 sometime early next year.

25 And the other thing that we do, I think,
26 that is a little bit different from some of the other
27 folks is the Marshall & Swift program is run by us on
28 every renewal rather than adding an inflation factor

1 as do some other companies. We run it because the
2 Marshall & Swift program values things based on
3 components. And it's possible that components or labor
4 in a particular area, for example, bathroom tile or
5 different kinds of kitchen appliances and things like that
6 may go up in value at different rates. So when we rerun
7 the program depending on the bathroom configuration or the
8 kitchen configuration the program is more specific in
9 looking at determining what the value should be rather
10 than just saying everything went up at two percent or
11 three percent or whatever number.

12 In addition to moving over to Marshall &
13 Swift's new program R.C.T., we are also going to be
14 changing some of the information that we share with
15 our policyholders. At the current time our policyholders
16 apply for a policy, a new business policy, they are given
17 a memorandum of insurance. We will be modifying this
18 memorandum of insurance on new business in the first
19 quarter to more fully explain all of the factors that are
20 going into the Marshall & Swift program to indicate what
21 things are being used in the Marshall & Swift program to
22 come up with the Marshall & Swift number. And that will
23 be being rolled out with renewal business later in the
24 year.

25 So I would have to say that this have proved to
26 be a challenging exercise, I think, for all involved.
27 We've heard the agents say, "Gee, I don't know anything
28 about the value." We heard the consumer say, "Gee, the

1 consumers don't know anything about the value." And to be
2 honest with you, we don't build houses either. So that's
3 why we buy something like Marshall & Swift rather than
4 going and doing it ourselves.

5 So with that, Commissioner, I would certainly
6 entertain any questions that you might have. I recognize
7 this is a big problem and a big issue, and we are here,
8 obviously, to help you work on that.

9 COMMISSIONER GARAMENDI: Wayne, let's take turns
10 back and forth with our little red lights here so we
11 don't blow people's eardrums with feedback.

12 You're making very major changes in the way in
13 which things are being done at Farmers. I want to just to
14 query you about the iteration of information between
15 Farmers and the consumer. Not looking to the past
16 which -- you're changing, but you are going forward.
17 And Southern California Auto Club, I believe, is sending
18 to the consumers from Marshall & Swift, inquiry, that is
19 the various questions. It seems as though you are going
20 to do something different, maybe a summary of that. Why
21 not just send them the whole thing since you're using
22 Marshall & Swift program itself with the 120 questions or
23 80 questions whatever there are on it?

24 WAYNE WILSON: My turn?

25 COMMISSIONER GARAMENDI: Your turn.

26 WAYNE WILSON: I think that what we will be providing
27 them will be the information that is used in going into
28 the system. And to be honest with you, I don't know

1 whether there is a computer hiccup, I mean, sometimes it's
2 easier to produce one kind of document systemwise than it
3 is to produce another. So I know that we have the ability
4 to give them the memorandum of insurance. And I think
5 it's an iteration of that program rather than
6 reprogramming or doing something different, but it will be
7 a memorandum of insurance that is detailed in terms of the
8 nature of those issues.

9 COMMISSIONER GARAMENDI: The information to the
10 consumer about what is being covered and what is
11 presumed to be in the consumer's house or the
12 construction costs is really very, very important.
13 And I think that's a very good step. I was pleased to
14 hear Southern California Auto Club do it. They are
15 doing it now. Your company doing it is, I think, the
16 right thing to do.

17 There is also something that's taking place here
18 and that is that you are doing it and in so doing it you
19 are, at least in my view and I suspect your lawyer's views
20 would be exactly the same, assuming the responsibility for
21 the limit; is that how you see it?

22 WAYNE WILSON: In a word, no. But what we are
23 doing is we are sharing with the customer the information
24 that goes in the Marshall & Swift program. And if there is
25 something that is incorrect, if there is some missing
26 information, they should be providing it because we will
27 give them the information. They can look at the document.
28 It says, "Do you have three bathrooms?" "Yes. I have

1 three bathrooms." "Do I have a half bath?" "Oh, I forgot
2 about that. I better tell them about the half bath."

3 But we are not going to do anything about
4 the value. We are giving them the information so we can
5 get the Marshall & Swift information to assist them in
6 setting the value.

7 COMMISSIONER GARAMENDI: We can go back and forth
8 on this without resolving it tonight. But at some
9 point, a final description of the building of the home
10 is presented to the insurance company -- to Farmers in
11 this case to Allstate in -- excuse me, to Southern
12 California Auto and I think Allstate is also moving in
13 this direction.

14 At some point there is a final -- a finalization
15 of what is going into that computer program as you said in
16 your situation signed off by the consumer. If you punch
17 the button the computer does its things and a number comes
18 out, say, and that becomes the valuation of the limit, the
19 replacement limit. At that point we then can engage
20 lawyers on both sides of the issues as to who is
21 responsible.

22 Now, to avoid all of that, Amy Bach has
23 suggested that we be explicit about who has the
24 responsibility. Certainly Farmers, Allstate, and Southern
25 California Auto are going to considerable expense to
26 develop a computerized program that develops a number. So
27 would you like me to read the -- what may become proposed
28 legislation and, of course, you would support it, I'm

1 sure.

2 "Insurance companies and their agents have a
3 legal duty to recommend coverage limits in homeowners'
4 policies that are adequate to cover full and
5 reasonable replacement costs including compliance with
6 all building codes applicable to replacement."

7 What do you think?

8 WAYNE WILSON: Well, let me share this with you.

9 COMMISSIONER GARAMENDI: Please do.

10 WAYNE WILSON: Number one, you said first that we
11 push the button and that's the number. That's not true.
12 As I mentioned, 30 percent of our book of business on
13 homeowners has a coverage A limit higher than that
14 established by the Marshall & Smith -- Swift, program. So
15 to say the Marshall & Swift program establishes it is not
16 correct in our situation for a third of our policyholders.
17 So they are making an informed decision using Marshall &
18 Swift as a benchmark, talking with our agents, and coming
19 up in many cases with a different number.

20 So in terms of us recommending, I would just
21 say this, once one recommends it suggests a level of
22 expertise and knowledge which probably doesn't exist
23 with the insurance companies any more than it does
24 with the consumers or the agents. I mean we have got
25 a computer program built by somebody else that we use.

26 However, I would suggest to you that if we
27 recommend all that does is turn a replacement cost policy
28 or an extended replacement cost policy into a guaranteed

1 replacement cost policy under some kind of legal liability
2 system. The company would be sued. We recommended this
3 amount. It was insufficient, therefore, you have to cover
4 whatever amount it takes. So, I don't think that insurers
5 are going to be too favorably taken with that proposal.

6 COMMISSIONER GARAMENDI: Well, it's early. But I
7 do sense strong opposition from incredibly ignorant
8 companies. It's incredible how you would purchase a
9 program, rely upon it to a very extended degree, and
10 then claim that it doesn't work.

11 It's always nice to have clapping, but it's
12 really not necessary. We can go round and round on this.
13 There will be regulations. There may be the introduction
14 of a bill. But we have heard from three companies now
15 that they all use what is a very sophisticated
16 computerized cost estimating system. They are using it in
17 their sales. They are using it their -- in establishing a
18 limit. And they are in an iterative process -- it seems
19 in all three cases -- in an iterative process with the
20 consumer to determine the limit.

21 Now, I have said many times I believe it's
22 the responsibility of the insurance company. And it
23 seems to be proven at least tonight by the extent of
24 the testimony we have heard that the insurance companies
25 need to come up with an accurate coverage limit. And then
26 the consumer needs to be able to make an informed choice
27 as you suggested. Some have chosen higher and undoubtedly
28 some are going to choose lower.

1 That's perfectly okay, at least as far as I am
2 concerned, as long as they have accurate information from
3 which to start that decision-making process. I think it
4 is -- I don't think it's a valid argument for the
5 insurance companies to say they don't know and that they
6 are not in a position to know. We will go through that.
7 I can see where we are going to head next spring. And we
8 will go back and forth on this. We do have a serious
9 problem.

10 I do appreciate the fact that your company is
11 moving forward on trying to solve this problem and clearly
12 you are. Where you're headed today is far better than
13 where you were a year ago or five years ago. And that's
14 good, as is the other two companies also.

15 I want to go through some questions about
16 where you are with regard to the firestorm here in
17 Southern California. My understanding is that you
18 have 491 total-loss claims.

19 WAYNE WILSON: Commissioner, we categorize things a
20 little bit differently. Now, at Farmers we just seem to
21 be doing things a little bit differently sometimes than
22 other folks, but the way we categorize it, we had 491
23 large losses. Our breakpoint for large losses was \$75,000
24 in coverage A, or 100,000 in all coverages combined. So
25 some of those were not total losses, but a goodly portion
26 of them were. But I just wanted to make sure that that
27 was clear.

28 COMMISSIONER GARAMENDI: Now, where are you in

1 settling claims? I am talking not about all of them. I
2 guess you had 3,674 claims of all varieties, automobiles,
3 and whatever else. And then what you call a major loss
4 491. Where are you in resolving those?

5 WAYNE WILSON: Out of those 491 claims, there are 29
6 that are active.

7 COMMISSIONER GARAMENDI: So all but 29 have been
8 resolved?

9 WAYNE WILSON: They have been resolved either
10 through agreement or -- yes, resolved.

11 COMMISSIONER GARAMENDI: Does that mean in
12 litigation?

13 WAYNE WILSON: No. The -- we have -- I think
14 it's three files in litigation. And that's included
15 in the 29.

16 COMMISSIONER GARAMENDI: We have received 50
17 complaints of under-insurance concerning your company. I
18 don't know where they fall in these numbers, perhaps --
19 and we received 92 complaints total. So it must be 42
20 that are not under-insurance complaints. And you say there
21 is only 29 left. Could you provide us with the
22 information settlement suggested?

23 Mr. Kehrer's, I don't know if you were here
24 to see his spreadsheet. It's fascinating. It starts
25 off with the coverage and then has the actual cost of
26 rebuilding and the third column has the shortage between
27 those two. I think there is another column in there
28 somewhere. We may be asking for that. I am sure you will

1 give it to us.

2 WAYNE WILSON: I apologize for not being here, but I
3 did not see his presentation. But, please, you know --

4 COMMISSIONER GARAMENDI: He is sitting there next
5 to you. And he will hand it to you. Check it out.
6 And then I think we are going to get that information.
7 It will be very useful to get a sense of the extent of
8 the problem which we have not yet been able to gather
9 all that information.

10 Any questions from staff here?

11 We appreciate your support on the Amy Bach
12 legislation.

13 WAYNE WILSON: Thank you, Commissioner.

14 COMMISSIONER GARAMENDI: Thank you very much.

15 Okay. The next -- the next witness is State
16 Farm. If their representatives could come forward.
17 We will go through --

18 FLORRIE HUDGKINS: Good evening, Commissioner
19 Garamendi. My name is Florrie Hudgkins. Sorry. I am
20 clearly on now.

21 My name is Florrie Hudgkins. I am claims
22 section manager for State Farm Insurance. I have
23 worked for State Farm for over 22 years in various claims
24 handling capacities. I have had and continue to have
25 responsibility in California for the wildfire claim
26 handling. My office is in San Diego. And I'm here on
27 behalf of State Farm in response to your subpoena
28 requesting the appearance of a person knowledgeable with

1 respect to State Farm's handling of the wildfire claims.
2 I am the person with daily oversight of our San Diego
3 claims operation.

4 On Sunday morning, October 26, we suffered
5 the largest natural disaster in San Diego history.
6 Within hours of the start of our devastating fire,
7 State Farm's catastrophe response team was up and
8 running. On that Sunday morning our local claim
9 representatives were in the office, responding to our
10 customers' needs. We began the process of investigating
11 and paying the approximately 4500 claims received in the
12 months that followed. We have closed 89 percent or
13 approximately 4,050 of those claims.

14 Today, the anniversary of the firestorm,
15 State Farm General Insurance Company has paid over
16 \$308 million claims for our policyholders who suffered
17 damages in the wildfires. Those payments were made as
18 a result of the efforts of hundreds of dedicated State
19 Farm employees working for and with our affected
20 policyholders. We were not content to wait for our
21 policyholders to report fire claims. State Farm ran
22 advertisements beginning the day after the fires in all
23 major communication medias throughout the firestorm area.

24 We encouraged our policyholders to call
25 State Farm's special 800 number and to report any
26 claims to us immediately. We had claims and agency
27 personnel in evacuation centers making advanced
28 payments for our policyholders for additional living

1 expenses. We issued advanced payments to them for
2 personal property losses from the fires that were
3 still burning. We had mobile offices set up in areas
4 convenient for our policyholders. We advertised these
5 locations and the location of the vehicles which
6 allowed our policyholders to reach the company directly
7 when communication services were unavailable to them.

8 We organized and held informational meetings
9 in their communities. We processed emergency payments
10 from these vehicles and also at the community meetings.
11 During the week that followed, we had 200 employees
12 working solely on the fires in San Diego. Some of these
13 employees were local, but because of the magnitude of the
14 disaster, we enlisted the help of our State Farm
15 catastrophe team. Many of the them spent months away from
16 home handling claims, and some of them almost a year in
17 San Diego.

18 One of State Farm's first priorities was to
19 establish a catastrophe induction center, a special
20 facility was in operation within a week of the fires.
21 State Farm provided training to our catastrophe team
22 about policy procedures and construction issues
23 involved with handling claims of this magnitude. In
24 addition, every employee was given training on
25 California fair claims settlement practices regulation
26 act prior to their assignment.

27 These fires caused significantly more damage
28 on average than a typical property damage claim. It's

1 hard enough for a policyholder who suffers an isolated
2 loss to deal with damage to their homes when regular
3 resources, contractors, materials, engineers, and building
4 officials are unavailable for repair. The wildfires
5 caused emotional strain not uncommon in a major disaster
6 as well as the strain on local resources that made prompt
7 relocation and repair almost impossible.

8 We coordinated efforts with local vendors,
9 with city and county agencies, and with engineers to
10 help expedite the rebuilding process. We recognize
11 the difficulties our policyholders face when trying to
12 put their lives back together after such a devastating
13 loss. As a result our contract provides for two years
14 of additional living expenses. Initially, we advanced
15 our insured up to one year of additional living
16 expenses so they would make decisions regarding their
17 temporary housing. In many cases we projected out the
18 cost of living expenses until their homes are rebuilt
19 and have also issued these payments.

20 While State Farm had an obligation to pay the
21 claims of its policyholders, it was not satisfied to wait
22 the weeks and the months that might have been reasonable
23 to honor that commitment. We made payments based upon
24 preliminary estimates or on appraisals obtained during
25 refinancing within weeks after the time the fires
26 occurred. We paid replacements costs on structures
27 without requiring our insureds to replace their homes. We
28 issued advanced payment for personal property with no

1 documentation for these advances so that our policyholders
2 could replace items as they required. We sent teams of
3 claim representative to our insureds' residences such to
4 assist them in completing their personal property
5 inventory lists.

6 We allowed our policyholders up to 24 months
7 to replace their personal property and to obtain the
8 replacement cost benefits. State Farm employees
9 spared no effort and State Farm spared no expense to
10 ensure the best and fastest claim-handling process.
11 The life of the claim's representative is one of the
12 most challenging faced by our State Farms claims
13 staff. But the job is not even now complete. Our
14 fire claims operation is still up and running
15 responding to inquiries.

16 We are proud of the fact that we were prepared
17 to meet the needs of our policyholders. State Farm's
18 contribution helped the community recover quickly from the
19 devastation. Through October of this year inquiries or
20 complaints to the Department of Insurance relating to the
21 wildfires claims were received from less than 100 of our
22 policyholders or on about two percent of the claims that
23 we handled.

24 To date, State Farm has been involved in
25 litigation as the result of these losses only one time.
26 That means that 99.99 percent of our policyholders
27 resolved their claims without litigation. In fact, we
28 have regularly received letters and phone calls from

1 policyholders expressing their gratitude for our service
2 and for assisting them to restore their property as well
3 as their lives. We believe this is the best indication of
4 State Farm's level of service.

5 Our quality claims handling is one of the
6 many reasons that Californians trust State Farm to
7 protect their homes.

8 Thank you. Do you have questions?

9 COMMISSIONER GARAMENDI: Yes. There are some
10 questions. Were you here earlier when several people
11 expressed complaints about State Farm's claims handling
12 and under-insurance issues?

13 FLORRIE HUDGKINS: No, I was not.

14 COMMISSIONER GARAMENDI: Were any of your four
15 other colleagues here?

16 BERNARDO VASQUEZ: I was here, Commissioner.

17 COMMISSIONER GARAMENDI: Let's see if we can move
18 into some of those questions that were raised earlier on.
19 You do have -- I have received 95 under-insurance
20 complaints about State Farm's policies that have been
21 sold, claims that come from the fire. I assume you are
22 aware of those?

23 BERNARDO VASQUEZ: 95 under-insured? We have about
24 100.

25 COMMISSIONER GARAMENDI: We have received 95
26 under-insurance complaints concerning State Farm.

27 BERNARDO VASQUEZ: Commissioner, our records would
28 indicate that we have gotten under a hundred total

1 complaints about 80 of which are under-insurance
2 complaints.

3 COMMISSIONER GARAMENDI: We will debate about 20
4 but nonetheless, 80 is a good starting point for
5 discussion. So let's just take your number for now and
6 tomorrow we will double check each other's numbers.

7 Of those 80 complaints, how do you view
8 those 80 complaints? Why do they exist?

9 BERNARDO VASQUEZ: Mr. Garamendi, my name is
10 Bernardo Vasquez. And I am the local claims team
11 manager that has been involved with the loss of the
12 fires since the day they occurred. I'm sorry, can you
13 repeat your question for me, please?

14 COMMISSIONER GARAMENDI: We have received 95, you
15 said 80 under-insurance complaints. What is your response
16 to the under-insurance complaints? How do you view them?
17 What do you think is the reason or the inappropriateness
18 of the complaints?

19 BERNARDO VASQUEZ: Well, Mr. Garamendi, I will
20 first of all state that we are investigating every one
21 of those complaints. And many of those complaints do
22 have individual reasons why they exist. There are
23 many factors that go into the complaints, many of them
24 which may have to do with the unique circumstances of
25 the wildfire itself. And the fact that there is a
26 limited strain on resources. So that may be part of
27 the reason that we believe that exists.

28 COMMISSIONER GARAMENDI: Well, we heard from -- this

1 is not a claims issue. This is what precedes a claim
2 problem. And that is the under-insurance, the
3 establishment of the limit. We heard from one witness
4 earlier today that made repeated attempts to get a
5 limit or an understanding of the valuation from State
6 Farm. He was repeatedly given the same value which
7 was, I think, twice less than half of the actual cost
8 of construction would be.

9 If anyone of you are prepared or I would
10 hope you are prepared to discuss how is it that you
11 determine the limit? Why is it that somebody would phone
12 and receive a number, I think it was \$85 a square foot
13 when the construction cost is somewhere north of \$160 a
14 square foot? And this was a repeated situation over
15 several -- I guess several different phone calls to you
16 offices.

17 JAMES ROBY: Commissioner, let me respond to that.
18 I'm James Roby, outside counsel to State Farm. That was a
19 complaint that was aired by Adam Richardson a policyholder
20 who is represented by counsel. I am in contact with
21 Mr. Richardson's counsel. We have been trying to get
22 together to have frank discussion about that situation.
23 If, in fact, it was the result of a complete
24 misapplication of the process that claim will be resolved.
25 I can promise you that. Mr. Burns, to my left, has come
26 from Bloomington to explain to you from corporate
27 standpoint how the program is designed to work, how it
28 works, and how it's been modified since the Oakland fire.

1 COMMISSIONER GARAMENDI: Let's go.

2 JOHN BURNS: Good evening, Commissioner. My name
3 is John Burns. And I am a director in the
4 underwriting department and casualties in Bloomington.
5 I have had responsibility and involvement with our
6 insurance valuation program for several years. I have
7 been with State Farm for 32 years. And I'm currently
8 in Bloomington.

9 Let me start by saying that State Farm has a
10 tool that we provide our agents. And we purchased
11 from Marshall & Swift/Boeckh. Initially, we had
12 Boeckh product. Marshall & Swift recently purchased
13 Boeckh so we'll interchange that Marshall & Swift/Boeckh
14 is the current vendor.

15 These tools require various dwelling features
16 and elements of input in order to create an estimated
17 replacement cost. Included are items such as square foot
18 area, garage, foundation, residence type or class, roof
19 type, siding, and a variety of other features, air
20 conditioning, et cetera, et cetera.

21 The establishment or estimating the replacement
22 costs is not an exact science. And we all know that
23 builders can vary by as much as 30, 40, 50 percent from
24 one another when you have a professional builder giving an
25 estimate that they are going to build a house off of.
26 What we try to do is provide our agents a tool purchased
27 from Marshall Swift/Boeckh that we believe is the best
28 tool available at this time. We expect them to use that

1 in a reasonable period of time that's at no cost to the
2 policyholder in order to establish an estimate. From that
3 estimate we always encourage and have for many years now,
4 indicated in our materials, that the agent should have a
5 dialogue with the policyholder.

6 We also encourage the use of what we call an
7 alternate replacement cost. And the fact of that in the
8 event the policyholder has recently built the house and
9 has cost new, or they have a recent appraisal which would
10 be better than an estimating tool which makes assumptions
11 and builds a model of the house. We think those alternate
12 numbers should be used. And we are more than willing to
13 do that. And we plug those, excuse me, and we plug those
14 numbers in frequently. Obviously, an actual appraisal
15 done by an expert of builder's cost is much better than an
16 estimating tool. And we encourage the use of that.

17 If you look at the history, if I may, of the
18 tools from '93 on, we also went through a number of
19 iterations in the process. In 1995 we went to a more
20 objective classification, trying to determine the
21 residence type of property. In essence, that same
22 basic home, a modest home versus an upper rent home.
23 It's more objective than that. You count corners.
24 You get room features. And you ask the policyholder
25 for a lot of data that helps objectify the class,
26 trying to get a more accurate estimate.

27 We introduced that system with agency intro
28 booklets. We have enhanced insurance devalue booklets and

1 worksheets have been provided our agents so that they are
2 in a position to collect this data in order to try to do a
3 more accurate estimate.

4 In 1997 we made additional changes to our
5 calculator and in that case we raised the lower end
6 cost ten to five percent simply because the smaller
7 homes are -- were more expensive and therefore we were
8 trying to generate a higher estimated replacement cost
9 so that the policyholder could make a more informed
10 choice. We also added a hillside grade factor to the
11 replacement cost estimates that was reflecting the
12 fact that many of the homes built in California on
13 steep hillsides have high cost of foundations. And we
14 put that into the process as well.

15 In 2001, we upgraded the system in order to
16 include an interior grade adjustment, use of the
17 alternate replacement cost, and encouraging agents to
18 do that. And -- and our system, once we establish the
19 standard replacement costs, we believe that's when we
20 begin to have the dialogue in order to select the
21 coverage amount that the policyholder is comfortable
22 with. That's what we encourage our agents to do.
23 That's the process that we have tried to build into
24 our system.

25 COMMISSIONER GARAMENDI: Sounds like a very
26 sophisticated system.

27 JOHN BURNS: I think -- I wouldn't describe it as
28 sophisticated in the light of the fact that an agent

1 might spend ten minutes collecting data and input from
2 a policyholder. We do ask our agents to look at the
3 house, get the measurements, also to obtain the
4 accurate square footage. If they can get in the
5 house, that's great. If not, we would like them to
6 have some dialogue to make sure that they have the
7 appropriate features of the home in order to create an
8 accurate estimate, or more accurate estimate.

9 COMMISSIONER GARAMENDI: So you ask the customer
10 to provide you with information and then you plug it
11 into the computer system?

12 JOHN BURNS: Yes. The agent would go out, look
13 at the house, collect the data, visit with the
14 policyholder, and ask about rooms, features,
15 appointments, all of which goes in to creating the
16 estimated replacement costs.

17 COMMISSIONER GARAMENDI: And when that's done you
18 tell the consumer that the replacement cost is 100,
19 200 bucks a square foot, whatever it happens to be?

20 JOHN BURNS: We don't use a flat cost per square
21 foot. We say the estimated replacement cost based on
22 the features of your home is X. How much coverage would
23 you like to buy? And do you want to buy more than that or
24 do you want to buy less than that? And then as we sell
25 the coverage, the coverage A doesn't always match that
26 estimated replacement cost. That is simply an estimate
27 and a beginning point that we start with.

28 COMMISSIONER GARAMENDI: So how is it that -- we

1 heard testimony before and I know there's a lawsuit going
2 on and I can see your outside counsel about ready to
3 pounce on me, but that aside, how is it that we wind up
4 with a quote that is half of what it would take to rebuild
5 a house in this area? What's happening? Leaving aside
6 that specific case. I suspect I am not going to get an
7 answer on that. Just in general, if such a thing were to
8 happen how could it happen?

9 JOHN BURNS: It's not a perfect world, Commissioner.
10 Sometimes -- sometimes people make mistakes. And when you
11 have an agent -- an organization as large as State Farm,
12 an independent agency force as large as State Farm, and as
13 many policies in place as State Farm, you are going to
14 find incidences where --

15 COMMISSIONER GARAMENDI: Mistakes were made.

16 JOHN BURNS: The rules weren't followed, mistakes
17 were made, miscommunications were made.

18 COMMISSIONER GARAMENDI: Undoubtedly true.
19 Sometimes happens in my own typing of memos. What --

20 Do you guys have a quick quote component in
21 this system?

22 JOHN BURNS: We do not have a quick quote.

23 COMMISSIONER GARAMENDI: So no short cuts?

24 JOHN BURNS: No short cuts.

25 COMMISSIONER GARAMENDI: It's all or nothing, right?

26 JOHN BURNS: The system that we devised is a
27 custom system that's built into the agent's computer.
28 So they would enter all that data according to the

1 Marshall & Swift/Boeckh system, it is then programmed
2 into our system, the agent's computer streams to the
3 operation center and processes the information.

4 COMMISSIONER GARAMENDI: Do you make modifications in
5 the Marshall & Boeckh -- we had extensive discussion about
6 this morning -- earlier this afternoon. And I think we're
7 familiar with that. Do you modify, do you change it in any
8 significant way?

9 JOHN BURNS: The modifications that we made to
10 the system have been user-entry modifications, for
11 example, the Marshall & Swift/Boeckh system would ask the
12 user to measure the square foot area of the deck and
13 calculate the cost per square foot. We made a
14 modification that said the smaller houses have a smaller
15 deck and use a flat number. So there have been some user
16 modifications that would match our ease of use versus
17 contract issues as well.

18 COMMISSIONER GARAMENDI: You may have said this,
19 but how long have you been upgrading for the last, it
20 sounded like ten years, and the current system was put
21 in place when?

22 JOHN BURNS: We initially started with Boeckh in
23 the late '60s and early '70s. We have upgraded over
24 the years, I believe the California calculator version
25 currently is number five. And they used the countrywide
26 version prior to that.

27 COMMISSIONER GARAMENDI: Are you comfortable with
28 the accuracy of it?

1 JOHN BURNS: We are very comfortable with the
2 accuracy if the inputs are appropriate. I think one
3 of the things that often times is missed is that in
4 any estimating system, if the home you are attempting
5 to value matches the assumptions of the estimating
6 system, you will get a pretty good, accurate estimate.
7 If you have a unique, one-of-a-kind home, or something
8 that doesn't match any of the assumptions in the tool or
9 isn't similar to the type of home being estimated, you can
10 have some -- some problems because the tool won't work on
11 every home.

12 COMMISSIONER GARAMENDI: Okay. I think you mentioned
13 inspections by the agent. Are they required that the
14 agent go out and inspect, and make sure they've got the
15 right address, and whatever?

16 JOHN BURNS: I don't know that I would say "required"
17 with independent agent, contract agents. I would say that
18 the agents are expected to inspect the property, complete
19 the application, they indicate on the app that they have
20 in fact inspected. That's where they collect the data to
21 enter the inputs in order to create an estimated
22 replacement cost.

23 COMMISSIONER GARAMENDI: I am going to avoid a --
24 what is a lengthy and interminable discussion about
25 whether they are indeed "free agents" or whether they
26 are, in fact, your agents. That's --

27 JOHN BURNS: I agree.

28 COMMISSIONER GARAMENDI: -- for another day when

1 we have some lengthy period of time.

2 Quickly, let's cover the kinds of policies that
3 you sell.

4 JOHN BURNS: In California we have a single
5 policy form that is called our homeowner's governing
6 contract. And in essence you can buy coverage with any
7 range down as low as ten percent of the value if you
8 choose as the consumer. At a hundred percent estimated
9 replacement cost or the appraisal or alternate number, if
10 we agree, we start that at a hundred. That's the
11 attribute that allows you to get option ID which is an
12 additional 20 percent for the coverage A. So I believe a
13 very high percentage of our business is receiving option
14 ID, as we call it, which is the additional 20 because they
15 choose to select the number that meets that criteria.

16 COMMISSIONER GARAMENDI: Where do you get the
17 number?

18 JOHN BURNS: It could be from an appraisal. It
19 could be from the cost of the builder. It could be
20 from the policyholder. Or it could be from our
21 estimated replacement cost.

22 COMMISSIONER GARAMENDI: And the fellow next to
23 you, his job is to determine which of them and get the
24 proper number.

25 JOHN BURNS: We like to think that the policyholder
26 has a dialogue and the best available estimate. We all
27 want the same thing. That is more coverage.

28 COMMISSIONER GARAMENDI: Excuse me. Excuse me. I'm

1 playing games maybe because it's getting towards the end
2 of a long day here.

3 The additional coverages, I want to talk about
4 the price curve here. We have had some discussion about
5 this early on. As a person wants, let's say that it's --
6 how much more expensive is it as you move up towards the
7 full valuation? Let's say a person wants 120 percent of
8 whatever that number is, however that number might have
9 been developed. Is it much more expensive?

10 JOHN BURNS: I don't know that I can properly answer
11 that. I think we would be happy to get an example or two,
12 if you would like, of select areas in California and tell
13 you what an 80 percent valuation would cost and 100 -- we
14 could do that and be more accurate than getting into the
15 actuary sciences which is well beyond my capabilities.

16 COMMISSIONER GARAMENDI: I think we have covered most
17 of this. I am just going to make sure that I have got all
18 the questions here that I want to go over.

19 DON HILLA: Just real quickly, you're system does
20 have some thing built in --

21 COMMISSIONER GARAMENDI: Introduce yourself.

22 DON HILLA: I'm Don, Don Hilla, senior staff counsel.
23 We met the other day.

24 Your system does have some checks and balances
25 built in regarding what's in the apps, and if I'm not
26 mistaken, every piece of new business is reviewed by a
27 human being at your office; is that correct.

28 JOHN BURNS: That is correct. And, in essence,

1 what you are referencing, I believe, is our conversation
2 about the fact that as the agent submits the application
3 with the photo, we have underwriters in the operations
4 centers who look at that data and make sure that
5 application is complete and accurate. If they have any
6 questions they would underwrite the business for
7 acceptability and include in there reports of the
8 evaluation.

9 DON HILLA: Great. I am glad you mentioned the
10 photo. If I am not mistaken you are using digital
11 photography -- digital imaging now that comes in with
12 the app; is that correct?

13 JOHN BURNS: I would have said digital photos.

14 DON HILLA: Something is coming in -- your apps
15 are electronic, and they are streamed to your home
16 office; is that correct?

17 JANE PENNINGTON: Good evening, Commissioner and
18 staff. My name is Jane Pennington. And I am an
19 operations manager for our homeowners' business in
20 California. I will tell you, that's a recent enhancement
21 that we have added. And that was not the situation during
22 any of the policies that we are currently discussing
23 during the fires.

24 DON HILLA: Okay. But we know that is required
25 now as part of the application process?

26 JANE PENNINGTON: If I might clarify, my
27 understanding of your question was are we currently using
28 digital photos to be submitted with the app? Is that

1 required? And that's correct under the current system,
2 but that was not the system that was available to us at
3 that time.

4 DON HILLA: Okay. And the only last related
5 question, you don't have anything that's equatable to
6 the Marshall & Swift/Boeckh quick quote, correct?

7 JOHN BURNS: No. We do not.

8 COMMISSIONER GARAMENDI: Do you use an inflation
9 factor automatically every year inflating the limit?

10 JOHN BURNS: Yes, we do. We use an inflation factor
11 from Marshall & Swift/Boeckh. And we apply that to the
12 coverage. Internally, within our system, we recalculate
13 the face value of the home with the current factors so in
14 essence we're comparing the recalculated replacement costs
15 every year to the coverage amount applying an inflation
16 index to it.

17 COMMISSIONER GARAMENDI: So the key piece is that
18 you have the accurate information about what is there,
19 that is the nature of the building itself?

20 JOHN BURNS: I think that's true of any estimating
21 systems or any builder. If you don't have the right
22 inputs it can be a problem.

23 COMMISSIONER GARAMENDI: I want to go back and make
24 sure I understand how you assure that the information is
25 accurate, the information iteration with your customer.
26 Could you review that for me?

27 JOHN BURNS: Yes. The agent will go out to the home,
28 collect the data, input it into the system, and then it

1 goes into a regional office where an underwriter reviews
2 it in order to make sure that it's an acceptable piece of
3 business and also that the inputs are proper and that the
4 agent has done their fill. In addition to that, agents
5 have an insurance and financial review process where they
6 can contact policyholders and review it at any time
7 relative to all of our coverages.

8 COMMISSIONER GARAMENDI: Good. We didn't really get
9 an answer on this \$85 per square foot, which is
10 whatever -- actually, I guess we won't.

11 Tell me what you think of this as the law in
12 California. Do you want me to repeat it or shall we save
13 some time?

14 JOHN BURNS: I think we can save some time because I
15 believe that Farmers' answer is similar to what most of
16 the industry would say simply because it is not an exact
17 science for insurance agents. I think we have heard
18 insurance agents indicate that they don't know how to
19 build homes and establish the proper values. We believe
20 the dialogue and the interchange and the ability to use
21 alternative replacement tools and the educational piece
22 make a lot of sense.

23 COMMISSIONER GARAMENDI: At some point we are going
24 to debate on this, I'm sure, in great detail, but at this
25 point it says, "The legal duty to recommend coverage
26 limits in homeowners' policies that are adequate to cover
27 clothing and reasonably replace costs and then the
28 building code which -- including building codes." In

1 fact, you do that.

2 JOHN BURNS: I would say that we create an estimated
3 replacement cost in order to create a dialogue so that the
4 policyholder can select the coverage. All of our
5 materials for many years now has reiterated that point to
6 our agency force and indicated that we want them to have a
7 dialogue to help our policyholders make an informed
8 choice.

9 COMMISSIONER GARAMENDI: I am going to go back at
10 this again. In fact, you do recommend a coverage limit
11 that you believe to be adequate and then you have a
12 dialogue?

13 JOHN BURNS: I would say we create an estimate.
14 And we don't tell them they have to have that. We ask
15 them how much they want. We tell the homeowners' they
16 can buy down as low as ten percent of the value and
17 they can buy above 100 percent.

18 COMMISSIONER GARAMENDI: You will get no argument
19 from me. I think I said about a hundred times here
20 today, you know, give them accurate information and
21 let them make a choice, more or less, whatever, just
22 so the information is accurate.

23 And you have described in great detail the
24 effort you go to provide an accurate estimate. And
25 that then becomes a recommendation. You are saying
26 that is what you need, make your choice. So why would
27 you oppose this?

28 Oh, I know it's the general knee-jerk reaction

1 of the industry to oppose whatever I might recommend. I
2 understand that.

3 JOHN BURNS: I simply think that if we start
4 pretending that the 17,000 agents can accurately recommend
5 the replacement cost of every home in the country, when
6 they don't know all the interior features, that's not a
7 reasonable expectation. I think we can try to give them
8 the best possible tools and make sure that we are
9 conversing with our policyholders because we all want the
10 same thing and that's the right value.

11 COMMISSIONER GARAMENDI: I think we are going to
12 have a lot of fun next year. I'm really at a loss to
13 understand. I do understand. I completely understand.
14 The industry is not wanting to admit that it does what it
15 does. In fact, you went through, as did Farmers, as did
16 Southern California Auto, and Allstate to a little less
17 degree, but you went through a very detailed description
18 of how you obtain information that you believe to be
19 accurate as to the valuation of the home.

20 You do that, don't you? You just got through
21 saying that. I've got it back there on my little machine,
22 my reporter there. And now you are telling me that you
23 don't want to do that, but you're spending a gazillion
24 dollars across this nation for 17,000 agents with a --
25 with a correction mechanism built into it that you
26 described. That's okay. Listen, I understand the industry
27 refuses to change, and you allow laws to change, but I
28 don't get it.

1 Anyway, what we have is a serious problem. We
2 have got a problem. You have heard it. You have seen it.
3 We have seen it here tonight. I got what? How many
4 complaints with your company? 95 or 80 complaints of
5 under-insurance. If we add them all up, just the
6 complaints I have, not including the lawsuits that are out
7 there, it's probably a few hundred.

8 We have a serious problem with under-insurance.
9 Marshall & Boeckh comes in and says 62 -- what 61/25 -- I
10 think that was the number -- 61 percent of the homes in
11 America are under-insured by 25 percent. We have got a
12 problem. And we need to find a solution because there
13 will be total losses. We really need to find a solution.
14 And I must say that I am encouraged that the insurance
15 industry is -- since this firestorm and indeed before the
16 firestorm -- going through a process of attempting to
17 improve it's ability to provide an accurate number, or
18 more accurate number as to what the replacement cost is,
19 the valuation.

20 I have heard from all of you. And I don't
21 doubt that you are trying to do it though we haven't
22 gotten there yet. And somebody, I mean everybody is
23 saying, "It's not my responsibility." In fact, I
24 believe it's a shared responsibility. If you're going
25 to go to all the trouble to have a computerized nationwide
26 system that's online, automatic and you're recording all
27 this data in some database somewhere, and you are saying
28 you don't know what it means, give me a break. You do

1 know what it means. You are -- you are, in fact, going
2 through this process. You are, in fact, making a
3 recommendation.

4 I believe the consumer has a role in this also.
5 They need to make an informed decision. And you have
6 described a way in which you can achieve it, but yet you
7 say you don't want the responsibility. Okay. Your lawyer
8 will take care of it. I'm sure some judge or jury will
9 take care of it. And we will see where we are next year
10 with the law. Maybe we will try to change that.

11 Oh, I want to ask a question. Special handling
12 unit, I guess this is yours. One of the earlier witnesses
13 said that your special handling unit asked them for
14 information on their property tax. What relevance does
15 that have to the valuation of construction costs of the
16 building?

17 BERNARDO VASQUEZ: Mr. Garamendi, I will state
18 that I just recently have taken over this special
19 handling unit within the last week.

20 COMMISSIONER GARAMENDI: Let me guess, it's
21 somebody else's fault.

22 BERNARDO VASQUEZ: No. No. Let me answer. And
23 my answer is I don't know why that question would have
24 been asked. But I can speculate though. I would
25 think a few of the reasons we may have asked that
26 question would be to find out whether our policyholder
27 may have added square footage or rooms to the home in
28 an attempt to try to help her come up with an

1 estimated replacement value of the home. It would
2 have been part of our investigation.

3 COMMISSIONER GARAMENDI: So, you did it for the
4 benefit of the consumer? I see. Well, that's as good a
5 guess as I suppose anybody could have come up with. It's
6 pretty farfetched. You understand California property
7 tax, I assume? You know there was a proposition 13?
8 Okay. I'm going to ask one of my lawyers to ask you
9 specifically about that so that we don't have to guess
10 tonight. You will get a letter from us.

11 It just seems to me to be a little off, not
12 a little, but a whole world off the mark and real
13 drastic. I trust that's not the case. But it seems
14 to me that it might just be.

15 Okay. Any other questions here? Let's --
16 Okay. Thank you very much. I appreciate your testimony.

17 I think we are now in the very last phase of
18 this hearing. This is the time for additional public
19 comment. Susan Smith, I believe you want to make a
20 comment. I have got some others. And I am going to go
21 through these names. If three of you could line up at the
22 same time. Let's start with Susan, Dr. Len Troncale, and
23 Lyla Hayes. Let's start with the three of you. First
24 Susan, Troncale, and Hayes. Smith, Troncale, and Hayes.

25 SUSAN SMITH: Hi, I didn't expect to go first. I
26 just have some information about State Farm that really
27 does show that they need to improve their system. I was
28 under-insured. My policy limit didn't cover enough to

1 replace my home. And during the process that State Farm
2 goes through they did an independent scope of loss for
3 scope of loss and determined that the cost to rebuild my
4 house was about \$135,000 more than what they were covering
5 in my policy limits.

6 So knowing that information of what the
7 scope of loss was, I am very, very surprised that in
8 my renewal, which is due October 17th which is -- was
9 one week before the fire, that my coverage began
10 seriously under-insures needs. Not only does it show
11 they under-insured me the first time, but when for my
12 renewal, they are also under-insuring me.

13 COMMISSIONER GARAMENDI: How old is the home?

14 SUSAN SMITH: The home is from 1982, so 22 years old.

15 COMMISSIONER GARAMENDI: Did you lose your home in
16 the fire?

17 SUSAN SMITH: I did.

18 COMMISSIONER GARAMENDI: And what's this policy for?
19 The reconstructive home or --

20 SUSAN SMITH: For my -- well, that's another
21 thing too. I have not been. I have not been
22 communicated with by my agent to take me through this
23 process. I hear other agents working with people who
24 lost their homes. And I have not been assisted by my
25 agent whatsoever. This is my -- my policy to insure
26 my house. But --

27 COMMISSIONER GARAMENDI: The new home that's being
28 built?

1 SUSAN SMITH: I am assuming that's what this
2 coverage will be for.

3 COMMISSIONER GARAMENDI: Where did State Farm go?
4 This is just too much. They ran away? Susan, why
5 don't you step aside. And we will have a little
6 discussion here with State Farm.

7 Let's take up the next -- the next witness. And
8 we will come back to that. Len, Dr. Len Troncale?

9 DR. LEN TRONCALE: Troncale. Garamendi. Troncale.
10 I want to thank you for --

11 COMMISSIONER GARAMENDI: My apologies, Troncale.

12 DR. LEN TRONCALE: Thank you for persevering so
13 long. I know it's been long day. I lost a home in
14 the fire --

15 COMMISSIONER GARAMENDI: That little red button
16 is not on.

17 DR. LEN TRONCALE: 43 out of 46 homes were lost
18 in Fallbrook Canyon. Some of which have been occupied
19 for three generations of family. In any case, I have
20 a small home there. I don't know why this gentleman
21 from State Farm kept saying -- he kept saying
22 "replacement." They don't state that when you talk to
23 them. They talk about the cost of living. There's no
24 such thing as replacement when you talk with them directly
25 when you are trying to get your claim taken care of. With
26 the ten percent overage, that home -- was a \$135,000.
27 Now, the first time we met, after the fire, they brought a
28 construction person to do the estimate. This is their own

1 construction person.

2 Some of the advocacy groups warned me never
3 to get an estimate from the people that come with the
4 insurance company, right? But this person, after a month
5 or two when he came up with an estimate to rebuild the
6 house with the ten percent overage of 272,000. That's
7 more than the coverage limit. In other words, it's over
8 200 percent of what they said that they would be willing
9 to pay. So it's a difference of 137,000. So this worried
10 me because I have two other homes with State Farm, with
11 another agent.

12 So we immediately made an appointment with the
13 other agent because we felt our homes were under-insured.
14 And a State Farm approved and obtained contractor came to
15 our house the one we are living in now, our main home
16 that's under-insured by State Farm, and seeing the house
17 standing, not having to do estimates or anything, he
18 estimated how much it would cost him to rebuild that
19 house. And so we went to the other agent. Our home was
20 insured with them for a 198,000, not 225,000 because I
21 told them I would not leave until they increased my
22 coverage.

23 Now, of course, that increased my premium, but
24 let me tell you about the premium increase. It went up
25 from about \$800 to \$933 per year. That's 33 cents a day
26 to get the coverage that would at least allow us to
27 rebuild that house. And that was a year ago.

28 And I don't know if you have noticed, but

1 two-by-fours, a yard of cement, they have all doubled
2 in price because of all the things that have been
3 happening in our country. So, I think, even now it's
4 under-insured. So I am going to go back the them again.

5 Now, let me tell you what happened when I went
6 to them because I have two houses with them, right? The
7 other house is a smaller house. And we increased that one
8 by 80,000 over what the M & S program said. In other
9 words, it was also under-insured by a considerable amount.
10 So we increased both of them. They said, "You don't have
11 to do that. You have adequate coverage."

12 So they went to the computer program. I
13 understand they said they don't have quick quote, right?
14 It took them less than ten minutes on their computer
15 program to fill out every section. And some of these
16 sections -- I'm a scientist -- some of these sections were
17 laughable saying you have to choose among their four or
18 five categories. And a lot of houses just don't fit into
19 those categories for several of the criteria.

20 One of the recommendations I would make to the
21 Commissioner is to look at this program. There is an
22 overreliance and overdependence on this program. I think
23 it's designed to under-insure people. It's actually
24 designed for that. That's why the industry uses it. You
25 should look at collusion in this case because everyone is
26 using it. And they all depend on each other.

27 But also I want you to protect the company
28 because we have lost business in America, right? So you

1 can't have a couple of companies start really charging the
2 higher premium because then in the marketplace of ideas
3 and people pulling out their wallets, they may decide, you
4 know, people may decide I'll go with the cheaper one I
5 can, the cheapest one I can. So there has to be an
6 education -- to protect the industry too.

7 Let me state something else about this
8 program. It goes by ZIP code. When you get your
9 house appraised, do you go for the entire ZIP code?
10 Or do you go for the block which your house is on?
11 ZIP codes have tremendous variants in the type of
12 houses, tremendous variants. And, in fact, I would
13 like to look at that program and talk about the rich
14 statistics people that they have look at these
15 programs, and ask them a single question, "Do you use a
16 normal distribution, you know, the bell-shaped curve?"
17 Because that's not the way houses are. There is a real
18 distribution. And you are actually cheating consumers by
19 using this other type of distribution.

20 There's lots of little things in this
21 program that can be examined in detail. I think,
22 that's one of the places to attack because it's not
23 what you are putting into the program, the questions
24 you ask. It's the resolution of the those questions. And
25 it's like in the ZIP code matter, the resolution is good
26 enough for always getting an under-insurance problem. And
27 it's part of the program's algorithm to give that kind of
28 answer. Now, I must say for \$933 I didn't drop or

1 increase, actually, the deduction, the deductible.

2 COMMISSIONER GARAMENDI: Do you recall what --

3 DR. LEN TRONCALE: Yes. I went from 500 to 3000.

4 I mean, you know, nowadays, 3000 isn't what -- when I
5 first did this 25 years ago, 500 was a pretty big
6 amount. But now -- so when we don't look at our
7 policies, and we never get advice, remember when I
8 went to them they -- at first -- they didn't want to
9 give me the extra insurance I wanted. I had to insist
10 on it. In fact, the agent actually came out with that
11 point. You know, our agent -- is not always staff members
12 because you never see the agent. The one with the first
13 home where I was under-insured, I have never seen that
14 agent, in 25 years. I spent a year in a burned house, and
15 I still haven't seen that agent. You know, I'm glad he
16 gave me insurance to begin with, but I would sure like to
17 see that there is a person behind it.

18 So another thing that's adjustable, you
19 asked about inflation protection. Now, you -- I think I
20 would have liked to ask him, "What is your percentage?"
21 Because it's not that they are increasing it each year,
22 it's the amount they are increasing it with the current
23 situation in our economy. Housing and construction costs
24 have, you know, gone logarithmically up. But they are
25 increasing it two percent. That's like a savings account
26 now a days, right? It's not doing anything for you. It's
27 not doing enough for you anyway.

28 And so maybe we should have an adjustable

1 inflation like we have adjustable mortgages. If you
2 can do adjustable mortgages in the great marketplace,
3 you can certainly do it for the insurance companies,
4 too, I think. I know it's hard, Mr. Garamendi, to get
5 them to shift at all, but this is -- these are the
6 recommendations I would make.

7 Another thing is a simple thing, when they
8 notify people that they are no longer insured for
9 replacement costs, which you notice I don't know why
10 he didn't say limits, why not send it registered mail.
11 My agent, I had to call them -- the one that has the
12 policy on the burned-out house -- and they didn't know
13 my current address or my current telephone number. It
14 had been 25 years. So they couldn't send me my
15 policy. So one of the times I called them for advice,
16 they said, "Incidentally, can you tell us how we can get
17 in contact with you?" Is this an agent that's supplying
18 you with advice and stuff? Now, some of my colleagues
19 here who have lost homes -- I lost a rental on this first
20 one. And I know it's a devastating thing. 43 out of 46
21 homes in our neighborhood there. And I know it's a
22 terrible thing. And I feel that, you know, I didn't have
23 to lose all those photographs and all those memories. But
24 aside from that we deserve at least to get the cost of the
25 replacement back because that's what we thought we were
26 getting when we bought the policy in the first place.

27 And the last thing is just a little thing,
28 but it irritates me because you said you had a certain

1 number of complaints, you don't have mine yet. I'm an
2 honest man. And I said I would wait until the insurance
3 companies sent this final note to me before I complain to
4 you. Maybe that was a bad thing to do, but now we are
5 going into litigation and your numbers are going to go up
6 in the next couple of weeks, as we get closer to the
7 anniversary of the fire. It's going to go up
8 significantly. And I'm just incredulous at the -- just
9 gave you just now.

10 In one of the cases they asked me for my
11 rental, you know, loss of rental they are supposed to
12 pay, when they first got with me they said, "No problem we
13 will give you two years." Now they are down to one year
14 and they want my schedule E. My lawyers told me, "You
15 don't give them your schedule E. That's part of your tax
16 return. They can't demand that." And they sent me letter
17 after letter that they won't deal with me until they get
18 the schedule E. I think that's bad faith.

19 In any case, I wish you good luck in trying
20 to reform this industry. You have got a lot of owners
21 here who are behind you, right?

22 COMMISSIONER GARAMENDI: Doctor, thank you very much.

23 Susan Smith was making some points that I
24 thought would be very useful for us to have a dialogue
25 between Susan, myself, and State Farm because of the
26 unique situation that she had. I don't know where Susan
27 went. Susan?

28 My understanding is that you have a new --

1 you have a home -- you lost your home, you're rebuilding
2 your home, and your policy continues to be less than the
3 cost of the construction of your new home.

4 SUSAN SMITH: It's less than what the scope of loss
5 is for my previous home. We haven't discussed that
6 earlier State Farm said that if they -- if they knew a
7 replacement cost that that is what they would set the
8 policy limit at. And that they recalculate replacement
9 costs on an annual basis. And I have a scope of loss
10 established by State Farm that is not reflected in my --
11 in the coverage policy declaration that they sent to me.

12 COMMISSIONER GARAMENDI: So where is my State
13 Farm witnesses? Which one of you wants to deal with
14 this thing?

15 JOHN BURNS: Well, in fairness to Mr. Vasquez, if
16 she would contact him, he will sit down and go through
17 the file.

18 COMMISSIONER GARAMENDI: On come on, Mr. Vasquez.
19 Listen --

20 JAMES ROBY: -- was a misquote of Mr. Burns who
21 said that the inflation factor --

22 COMMISSIONER GARAMENDI: Excuse me. Wait. Wait.
23 You are a trained lawyer. I have got a reporter. And
24 I need to get it on the record here. We need to get
25 it on the record.

26 Listen, I am not only interested in whatever
27 lawsuits may be forthcoming here, but what I am interested
28 in is to have a good understanding of how these systems

1 work. Why do these problems exist? What is -- we can be
2 generic about this. Okay. What's -- this woman lost her
3 home, she has a scope of loss, she has a policy that's
4 been renewed, and yet it is undervalued. How can this be?

5 JAMES ROBY: I don't know without looking at the
6 file. And I don't think Mr. Vasquez is going to know
7 without looking at the file.

8 COMMISSIONER GARAMENDI: Thank you, counsel.
9 Mr. Vasquez, do you have any further response?

10 BERNARDO VASQUEZ: No, I don't. But I would add
11 though that Mr. Burns' earlier statement that that number
12 is always the number and is intended to create dialogue.
13 And I would ask Ms. Smith to follow up with her agent and
14 please share that estimate with her agent so that dialogue
15 could be created.

16 COMMISSIONER GARAMENDI: I'm really disappointed.
17 I had that guy from Bloomington here. And he disappeared
18 on me. Okay. We are not going to get anywhere.

19 Thank you very much, Ms. Smith.

20 Don't run away too far guys because, at least, I
21 want you to hear. Okay? Just kind of stick around to
22 hear what people must live with. Lyla Hayes.

23 LYLA HAYES: My mother lost her home in
24 San Bernardino in the 2003 wildfires. And I live here in
25 San Diego. Within a couple of months after the fire, we
26 realized that she was seriously under-insured. But I'm
27 not here to talk about my mother's claim, but I'm here
28 because I realized after that that I was under-insured as

1 well, based on what I was learning.

2 So when my insurance came up for renewal
3 recently, I called the four major carriers that are
4 represented here today and called for quotations to
5 see if I can try to help -- have them help me determine
6 the replacement cost for my home to see if I am properly
7 insured. I ended up making five calls. I called one of
8 them twice because I didn't talk to an agent, I talked to
9 the receptionist and that didn't necessarily satisfy me,
10 so I called a different agent to talk to an actual agent.
11 Interestingly, of the four agents -- of the four carriers,
12 three of them came up with replacement cost numbers that
13 were within \$1,000 to \$2,000 of each other.

14 After I did a Marshall & Swift on my home
15 with George those -- three of those three numbers were
16 basically the same numbers as the quick quote. I did
17 this today. I called one this morning. And I called
18 the others on Friday. So this is not something that
19 happened six months ago, last year, that happened today.

20 COMMISSIONER GARAMENDI: Could you name names?

21 LYLIA HAYES: Yes. Today the person -- the company I
22 called was AAA. Which really surprised me because I heard
23 they were doing such a good job valuing homes. I have the
24 quotes, except for AAA because I only called them today
25 and I asked them to fax it to me, but it didn't come fast
26 enough. I do have written quotes here for State Farm and
27 Allstate which were -- also came in at 36 -- approximately
28 \$36,000.

1 And with the State Farm quote the person I
2 called, I really started grilling them on some of the
3 numbers. And it was interesting the way that she gave the
4 value of my home. She tried to include the numbers -- in
5 the end she said it was 136, but then you have got the
6 extension and because of the age of your home you have 50
7 percent building upgrade. So in the end your home is
8 valued at \$156 a square foot. So I said, "Well, all the
9 other coverages are based on percentages, aren't they?"
10 And she said, "Yes." And I said, "Then, well, then if
11 it's going to cost \$156 a square foot to rebuild my home,
12 why don't we just make coverage A \$156 a square foot?"

13 And she was very resistant to the idea, said
14 I didn't need it. And that -- this was Friday. I
15 want to reiterate that. This was Friday. And that
16 maybe if there was an inspection the person might
17 determine that there was a difference. There might be
18 additional coverage. And that if I really wanted more
19 personal property coverage that I should do a full
20 personal property inventory, turn it in to them to get
21 more personal property coverage. So I said, "Well, I
22 just want to make sure. Wouldn't it be easier just to
23 make the numbers -- overestimate for the numbers and
24 then just to be sure?" I didn't -- I really wanted to
25 get the quote, and I didn't want to upset her, so I
26 just agreed with her and said okay.

27 Interestingly enough, Farmers -- Farmers is the
28 one I called twice. And the person I spoke to on the

1 phone had asked many more questions and kept me on the
2 phone for a lot longer. The quote was \$196,000, I
3 believe, which is much closer with -- practically --
4 actually was very close to the long quote from Marshall &
5 Swift. I found it interesting that the more questions I
6 asked the better -- the higher the coverage.

7 With the AAA agent -- well, they don't call them
8 agents. I don't know what they call them, employees, or
9 whatever. I don't know. But he gave me the \$136,000
10 number, I questioned him because I know I had -- actually
11 several months ago when I first started learning about
12 this and that AAA was doing so well, I had called and he
13 had given me a number in between March, I believe, May --
14 in May of 200,000. So let me give you the number today of
15 136,000. I said, "But in May -- I had actually called
16 today because I was hoping that quote from May was still
17 in the system. And they could just print it out and fax
18 it to me, but they didn't have it in the system, so they
19 redid the quote.

20 Back in May they valued my home at 200,000.
21 And he said, "Well, you know, it will save you money if
22 you insure your home at 136. And we have guaranteed
23 replacement anyway so it doesn't matter to you. We are
24 just saving you money." And I said, "Well, all the other
25 coverages are based on percentages." And he said, "Well,
26 I am really good at this. And I am always within a couple
27 hundred dollars of the -- of the cost when the person goes
28 out to actually value the home." So he said, "And all the

1 other coverages will as well." Which, I was not in a
2 position to know whether or not all the other coverages
3 were as well. And I said, "Well, why don't we just cover
4 it for \$50,000 then while the other coverages float."
5 Anyway, I didn't actually say that. I thought about
6 it later.

7 That is my basic -- that was my experience with
8 the quotes I got in the last couple of business days.

9 COMMISSIONER GARAMENDI: Well, I almost want to
10 call the industry back up say, "Huh? How --

11 Lyla HAYES: Actually, after listening to them I
12 really wish I would have spoken up earlier in the meeting,
13 but --

14 COMMISSIONER GARAMENDI: I wish you had too.

15 Lyla HAYS: -- but here I am.

16 COMMISSIONER GARAMENDI: Let's go on and then -- I
17 think we are just about finished with the people that
18 wanted to testify. Here we go. I guess we are not
19 finished.

20 Karla Carrol, Andy Knutson, and Jonathan
21 Alvarado, and Sara Hodgson. If you can just kind of line
22 up. Did I miss somebody that I called earlier? I guess
23 not.

24 KARLA CARROL: Good evening, Commissioner Garamendi.
25 My name is Karla Carrol. And we suffered a total of loss
26 of our home in Crest. We were covered through State Farm.
27 And I just wanted to share my experience that in March we
28 had thought about the acquiring of a replacement home as

1 opposed to rebuilding. And knowing that no other carrier
2 will cover us because our home sat within a few feet of a
3 cliff, and we have two Rottweilers. I had no choice, but
4 to contact State Farm again as they had written our first
5 policy.

6 And when I phoned the agent to inquire about
7 the possibility of insuring another property, I was
8 concerned because I had heard that people were getting
9 cancellations and nonrenewals in our area due to the
10 fire. And she -- she agreed that they would write the
11 policy for me. And at the time, I didn't really pay
12 attention. I just wanted to make sure that there was
13 going to be coverage available should we decide to go
14 ahead with the purchase. And I was reviewing my notes
15 last week over this conversation. The home we lost was
16 insured at just under \$99 a square foot. The new home she
17 quoted me was \$75.50 a square foot.

18 I think that subsequent to the fires, even
19 though our loss had not been settled at that time, I know
20 that I had heard other people complaining that they were
21 under-insured. I would think the agent would have known
22 what the cost on average was to rebuild a home. And that
23 she should have known that \$75.50 a square foot does not
24 put a house back.

25 COMMISSIONER GARAMENDI: Not in California.

26 KARLA CARROL: And I just have one other comment.
27 I don't know if Mr. Sirola is still here. Well, perhaps
28 one of his colleagues would like to address this for him.

1 On August 31, my husband and I were featured in a
2 New York Times article regarding under-insurance in which
3 Mr. Sirola was quoted as saying that State Farm was
4 working with other contractors to help the Carrol family
5 rebuild. I have not heard from Mr. Sirola, nor have I
6 heard from any of the contractors.

7 AUDIENCE MEMBER: I think he went to the restroom.

8 COMMISSIONER GARAMENDI: Karla, don't run away.
9 We will come back to that in a few moments. I am sure
10 Mr. Sirola will return.

11 Andy Knutson.

12 ANDY KNUTSON: Commissioner, thank you for coming to
13 San Diego today and bringing your staff with you. I just
14 want to compliment the staff on all the work they have
15 been doing and the interaction that they have had with the
16 folks in the San Diego community, and particularly the
17 folks in my community, in Crest. We appreciate everything
18 you have done. We would like to see you do more, of
19 course.

20 Now, I just want to -- I have some questions
21 to you ask you, Commissioner. And one of the
22 questions before we start is are those seats as hard
23 there as they are back here? We have been here since
24 1:00 o'clock, as you have guys have.

25 COMMISSIONER GARAMENDI: I don't know. I haven't
26 sat in your seats.

27 ANDY KNUTSON: Commissioner, when you were in San
28 Diego previously holding your hearings, you made some

1 comments publicly about fining the insurance companies for
2 violation of the Fair Claims Practices Act. And is it
3 appropriate at this time to tell us which companies have
4 been fined and how much money they have been fined in that
5 regard? Because we know you have got at least two or
6 three hundred claims on -- complaints outlining some of
7 the violations that companies have included.

8 COMMISSIONER GARAMENDI: There have been no fines,
9 although the process is a very lengthy one to come to that
10 point. We are in the process of gathering the
11 information. There will eventually be action taken where
12 we find that violations have to have occurred on the Fair
13 Claims Practices Act, but we are not there yet. And it
14 will be some time before we get to the end of that
15 process.

16 ANDY KNUTSON: For those of us that are more
17 active in our communities where the folks are coming
18 to us with some of the -- the alleged violations, how
19 can we help you expedite that process?

20 COMMISSIONER GARAMENDI: First, filing request
21 for assistance and giving us the information. I said
22 it at the very first meeting. I said it at every
23 other town hall meeting, that we cannot take any
24 action until we know that there is something out there
25 and that begins with requests for assistance. So that's a
26 very important point. Go back there and tell your people
27 if they have problems to contact us, get a request for
28 assistance. And then we can get the details. That also

1 allows us to do an investigation. Without that we don't
2 have information to help you.

3 ANDY KNUTSON: Who should we contact on your staff to
4 get the status of the ones that have been filed?

5 COMMISSIONER GARAMENDI: Tony. Tony Cignarale here.

6 ANDY KNUTSON: Tony, we are going to be talking.

7 Thank you.

8 Another issue that's come up in our community is
9 some of our fire folk received their insurance policy the
10 day that they bought their house, the day they closed on
11 their house, the day they finalized the mortgage. And
12 some of the policies are less than the mortgages are on
13 the house. A number of the policies -- and I know some of
14 those complaints have been filed with your office in Los
15 Angeles. Is there any further action that we should do in
16 those regards? And should there be any action brought
17 against these people that have -- when the agents have
18 issued a policy or the mortgage companies issue the
19 mortgages is there some law that precludes that from
20 happening?

21 COMMISSIONER GARAMENDI: Tony, do you have an answer
22 for that? Let me just -- Tony, could you explain the
23 process and how the information can be received at his
24 request.

25 TONY CIGNARALE: For the complaints you're talking
26 about?

27 Yes. Simply you can contact me for any specific
28 details or statuses you want on complaints that have

1 already been filed.

2 Regarding the coverage amount being different
3 than the mortgage amount, you have to understand that the
4 mortgage amount doesn't bear a relation to the coverage
5 amount, but the mortgage amount includes the --
6 conceivably includes a portion of the land which isn't
7 part of the coverage on your policy. So although,
8 sometimes when a home is purchased, the mortgage company
9 will require at least coverage up to your mortgage amount,
10 it is not a requirement that the insurance policy cover
11 that amount.

12 As long as the coverage of the policy, it
13 should still be accurate and adequate to rebuild, but
14 it shouldn't necessarily have to equal that mortgage
15 amount.

16 ANDY KNUTSON: Good. And then the last item I would
17 like to inquire is the A.L.E. issues. Some of the
18 processes that have taken place through the claims process
19 are the insurance company provides an estimate to rebuild.
20 The homeowner looks at it. The insurance company says,
21 "Wait a minute. That's a big number. Can you do this
22 again?" And so the claimant goes out and hires someone to
23 provide a different scope of loss, a contractor to do
24 that. And in that process the insurance company then
25 comes back and says, "No. That's too much too. We are
26 going to take the two of them and think it over a little
27 bit and get back at you."

28 Well, the getting back at you period expires for

1 those folks that don't have any more A.L.E. in a week or
2 so. And so they are up a creek without a paddle, if you
3 will, particularly with the rain we have had here in
4 San Diego.

5 I would like to turn the platform over to
6 Mr. Alvarado now and let him talk.

7 COMMISSIONER GARAMENDI: Thank you.

8 JONATHAN ALVARADO: My name is Jonathan Alvarado.
9 I live in Crest with my family. I wanted to thank you
10 so much for coming. We can now appreciate bringing to the
11 attention the problems that we have here with the
12 under-insurance.

13 My A.L.E. is running out. I know that the
14 agents talked about 5,000 homeowners are under-insured. I
15 know that my answer is, "I don't know. But -- my A.L.E.
16 is running out partly because of the under-insurance issue
17 that has been the basis for what has been the reason for
18 my A.L.E. running out. And Allied-hired contractor. They
19 were there within a few days after the fire. They were
20 going to do a cost estimate. And just off-hand one of the
21 questions I asked the contractor was how long it would
22 take, on average, what it took to build house. He said
23 approximately eight to ten months. And the adjuster
24 looked at me, and I looked him and said, "Oh, goody.
25 That's great, you know, eight to ten months. We should be
26 back in our home. And we should be fine."

27 One thing that the contractor did happen to
28 say in that was that "under normal conditions" it was

1 eight to ten months. Well, obviously, these aren't
2 normal conditions because here it is 12 months down
3 the road, and I still don't have a new house. Not
4 even a stick up yet, let alone my house, don't have a
5 foundation down. My pad is just almost done being
6 prepared. And I am not alone. I go through Crest,
7 and there are a few homes that are -- being complete
8 but not by any means -- on top of that, once the
9 estimate did get to me it was six months down the road.

10 And in the meantime I had conversations with
11 George Kehrner and a few others to find out that I am
12 seriously under-insured. Even without the number that
13 the contractor was coming back with. They had insured me
14 for 181,000 for my loan coverage, but they -- the adjuster
15 was kind enough to send out -- by the way, did I mention
16 that I am with Allied?

17 COMMISSIONER GARAMENDI: Actually, you did.

18 JONATHAN ALVARADO: Okay. Good. But I tell you
19 what, the adjuster said, I mean, he sent me out a cost
20 break down an all customer thing, but he did meet with
21 me initially, which I thought really made me feel
22 good. I thought I was good in good hands.

23 And so I thought everything was going to be
24 fine. I had a couple claims before. They handled
25 them with no problem at all. I just knew this company
26 was great and everything was going to be good. But in
27 this little break down that the agent gave me, it listed
28 right there 181,000 on the coverage. I thought, "Okay."

1 Great." And then the next column said that their value
2 for my house was 291,000. So I got a little worried
3 because right off the bat, I'm short.

4 And so when that estimate did finally come from
5 the contractor, it was \$443,000. I was blown away. Not
6 to mention the fact that these guys were saying that I
7 needed this estimate. It was their contractor who gave to
8 them, then they said "Oh, no, no. That's too much." That
9 guy, their contractor, who is on their preferred list, is
10 gouging me. So they said I should get another estimate.
11 When they called and talked to me about that, I said,
12 "Well, okay. Let's say that this is too much. Can't we
13 just go with these numbers anyway and kind of get things
14 rolling? We'll see what's going on with that and maybe
15 get another one?" But isn't that going to take a lot
16 longer? It took six months for this guy to give me this
17 estimate. I was a little afraid how much longer it was
18 going to be for my other estimate to be done.

19 I heard some other folks said that it was three
20 months to get theirs done. And that put me nine months
21 down the road and then I would find out how much my house
22 was going to take, I mean, what it was going to take to
23 build my house. That just didn't seem to make any sense
24 to me. I thought, to get me going.

25 With regards to the under-insurance and what my
26 policy limits were set at the adjuster just recently was
27 talking to me saying that -- he asked if I had, in fact,
28 went through my records I had -- had a recent refinance,

1 it was just three months before the fire. And so he said,
2 "Well, didn't that give you sort of an indication maybe
3 that you needed to revisit the limit that you had? That
4 you needed to raise your coverage a bit." And I just gave
5 back to him what the agent had said to me over and over
6 again, "Oh, well, I have been told that that cost is
7 market value. And market value has nothing to do with
8 construction costs. And the construction costs -- the
9 market value also includes the land. And we still have
10 the land, so that doesn't fit." Well, I gave that back to
11 him. And he really didn't have anything to say.

12 There is something else here that I wanted to
13 address is that we have been talking about the Marshall &
14 Swift. And George was kind of enough to do a Marshall &
15 Swift for me. We didn't get the whole thing. And even
16 with this -- with that, it was way over what my policy
17 was. Mine said something about a castle report. And they
18 brought back to me something about 40 percent less than
19 what it would cost to rebuild. They did that by what --
20 they normally dropped the value because it depreciated.
21 They depreciated things like value of the stud because
22 they were out, and the walls, the drywalls, because
23 that -- I don't know what they are thinking. But I can
24 understand during your lifetime. Maybe reroof, you are
25 going to reroof. But I don't think I am ever going to
26 replace any of my studs or drywall or any of those sort of
27 things. I don't know what they are talking about. I am
28 not going to take the rafters off of my roof, but that's

1 what they were depreciating, and some up to 40 percent.
2 That was just a little ridiculous.

3 So, I heard some of these folks saying that they
4 don't know what the costs are going to be for contractors
5 and all that sort of stuff. Well, I certainly didn't
6 know. I have no experience with that. I'm a firefighter.
7 I take walls apart looking for a fire. I don't put them
8 up. So, I don't know what that would be, but that's not
9 my job. But it is their job to find out what it's going
10 to cost and have an accurate decision to make. And like
11 you said, purchase what I want to purchase. That's great
12 I will purchase what I want to purchase. Let me know.
13 It's their job to let me know. I would like to know what
14 they are going to do to educate us as to what it costs
15 to rebuild.

16 There was a little blurb that one of a friend of
17 ours got from their architect, somehow they came across, I
18 don't know where, but it was official County stuff,
19 San Diego County, that said \$150 a square foot. I don't
20 know. Finally, I know they use the castle. And I guess
21 it just comes down to the fact that my home is not their
22 castle. Thank you.

23 COMMISSIONER GARAMENDI: Thank you, Mr. Alvarado.

24 Your discussion of the depreciation is
25 probably -- could you hit that little red button --
26 probably known as the depreciation of labor which I got to
27 think -- not think -- I just believe is way over the top
28 and is just a rip off of unbelievable proportions. We

1 attempted to change the law and to eliminate the
2 depreciation of the labor which I don't quite understand
3 how studs and drywall fit that, but nonetheless, insurance
4 industry somehow figures it that way. And the industry
5 just rose up and persuaded the legislature that the
6 current rip-off due to the depreciation of labor is
7 somehow justified.

8 Maybe it will get revisited next year, but it
9 was incredible. The discussion on the depreciation of
10 labor that studs and drywall and floors somehow
11 depreciated.

12 STEVE YOUNG: Mr. Garamendi, how much longer are
13 we going to go?

14 COMMISSIONER GARAMENDI: We are going to finish with
15 the people we have. Otherwise, we're going to be here
16 until sometime tomorrow morning. Take it in writing we
17 will go from there, please.

18 SARA HODGSON: Commissioner, thank you very much.
19 My name is Sara Hodgson. I feel a little out of place
20 here. I did not lose my home in that fire. I didn't
21 know about this hearing until yesterday afternoon when
22 I saw an article in the Union. And it brought to mind
23 that recently I had -- our insurance came due on our
24 home in San Diego. We were not at all threatened by
25 the fire. And I had cause to look at the value of our
26 home to find out we were insured for \$179,000 for a
27 2,000 square foot home.

28 Needless to say, my father-in-law is in

1 construction, and I questioned him on the number. So
2 we called the insurance company. I am not insured
3 with any of the four companies that were here today.
4 My company is outside of California. And we begged
5 them to raise our value. And we convinced them with
6 special permission because it was more than double to
7 raise our value to \$350,000 which, at the time, two
8 months I thought was adequate.

9 With that they sent a gentleman to our home
10 to do a survey. And his -- his letter dated
11 September 21st, states that the replacement value of our
12 home should be \$208,000. According to an article that --
13 I did some quick research before I came here today -- in
14 November of '03, the average rebuild cost for a home in
15 San Diego was between \$150 and \$250 dollars per square
16 foot. At this rate I am only insured for 175,000 which
17 happens to be in the middle, but I desperately fear that
18 is too little.

19 I don't know what good a service the gentleman
20 used, what of kind a program. I know he came out, he took
21 photographs, he took measurements, he came into our home
22 and looked around. I'm not concerned with the personal
23 property value. I am concerned with rebuilding my home
24 should we experience a catastrophic loss like most of the
25 people here today. The reason I came today was because we
26 were concerned about being under-insured.

27 My -- my premium practically doubled when I
28 asked them to up my insurance. They increased my value

1 \$171,000 and that doubled my premium with an increase in
2 my deductible. It's unrealistic for me to continue to
3 afford this. I think it's -- I am sure there are other
4 places I can go. We have gotten other quotes that were
5 also very expensive. It's an important issue. It does
6 affect everyone not just those that were affected by the
7 fire, and that's what brought me here. And thank you very
8 much for this.

9 COMMISSIONER GARAMENDI: You said at the outset
10 something that I just wanted to get some clarification
11 on. You said the company is outside of California.
12 What is the company?

13 SARA HODGSON: Yes, Commissioner, we are insured
14 with U.S.A.A. My husband is active-duty military so
15 we are able to insure with the company out of Texas
16 called U.S.A.A.

17 COMMISSIONER GARAMENDI: Just for clarification,
18 that company is licensed to do business in California.

19 SARA HODGSON: Yes, sir.

20 COMMISSIONER GARAMENDI: There is another
21 category of companies that are not licensed to do
22 business in California. And I thought that might be
23 where you were going to go. Those are called
24 surplus-client companies. It's a different category.
25 Thank you very much for your testimony.

26 SARA HODGSON: Thank you for your time.

27 COMMISSIONER GARAMENDI: We have pretty much run
28 through the list here and 9:30 is approaching. So I

1 am going to cut off the testimony at this point and
2 wrap it up.

3 Just a couple of things that I want to make
4 very, very clear. Throughout the course of this day
5 because we are coming up against the one-year deadline, I
6 have said, for those of you who have got serious problems,
7 serious under-insurance issues, I do recommend that they
8 file a lawsuit to protect themselves going forward.

9 I want to make it clear that they ought to
10 also do something in addition to that. And that is to
11 come to this Department and request mediation. I will
12 tell you, mediation may or may not work, but it's a
13 whole lot quicker than a lawsuit. And it doesn't stop
14 you from pursuing a lawsuit at some point in the future.
15 But it does give you the opportunity to sit down with the
16 insurance company, to put the issues on the table, and to
17 hopefully get things resolved quickly and appropriately
18 for your circumstances.

19 If you do pursue mediation, I want to make
20 it very clear that is the immediate, preferred option.
21 But give up that potential -- particularly if you have
22 a very large claim and one with a very large difference.
23 You do you want to pursue -- you do want to protect the
24 option to go to court at some future date. It's not a
25 happy place to be. And it's unfortunate that people might
26 wind up there. But secondly, we talked to twenty
27 survivors of the fire and others who experienced problems
28 of under-insurance. The -- that is just a very, very

1 small sample of a very widespread problem. I want to go
2 back to the testimony of Marshall & Swift who are
3 repeatedly mentioned by the insurance companies as their
4 expert on the cost of construction. Every -- yes, every
5 insurance company that we have talked to today, and these
6 are the big four, have in one way or the other used
7 Marshall & Swift as the expert on the cost of
8 construction. Marshall & Swift said that 61 percent of
9 the homes in America are under-insured by at least
10 25 percent. That's a very serious issue. It's an issue
11 that is the cause of most or many of the problems that the
12 survivors of the firestorms in Southern California face.

13 I think it is outrageous for the industry to
14 be using Marshall & Swift and investing a large sum of
15 money and creating systems to identify the cost of the
16 construction of the building, that is the value of the
17 building, and then turn around and deny that they have
18 any knowledge of what it costs. Come on folks. That
19 kind of stuff really upsets this commissioner.

20 And I must tell you, I am taken by Amy Bach's
21 suggestion here that you are responsible. The industry
22 has gone through all of this process, contracted with a
23 major nationwide company, created online computerized
24 systems in which information is inputted, data delivered,
25 information collected from the consumer. You go out and
26 in some company's cases they go and do an individual
27 survey. And then to come here before me and say, "But
28 we're ignorant." I don't think ignorance is what you are.

1 But we have got a problem. How best to solve
2 that problem? It's the reason for this hearing. I think
3 everybody got an idea why there is under-insurance.
4 There's a variety of factors at play. Clearly some of
5 those factors are individuals, I think, like our last
6 witness, for reasons that have to do with financial
7 situations is going to choose a coverage less than
8 necessary to rebuild a house. We understand that's going
9 to take place. But that lady deserves accurate
10 information from the insurance company, in her case
11 U.S.A.A., as to what the valuation is because U.S.A.A. is
12 the informed, knowledgeable party in this the transaction.

13 Listen, that record is a public record. If the
14 industry wants to have that public record read in a court
15 of law, it's going to be a very, very sure outcome as to
16 who is responsible. Mr. Lawyer, you know it.

17 So let's get with it folks. There is several
18 of -- few hundred cases here. Let's get those resolved,
19 get them off the books. It's pretty damn clear who had
20 the information. Even as rudimentary as it may have been,
21 the industry had the knowledge. And it gave to the
22 customer the information. If you want to go to court on
23 that, hey, okay, fine. I'm going to ask the court to
24 expedite these hearings because these people are hurting.

25 Now, we will go into -- we will go into
26 mediation I've gotten my record here. Okay. Guys, what
27 do you want to do? I suggest the industry clear the
28 books. Get these things out of the way. I'm pleased the

1 industry has taken steps to improve itself over the last
2 year. That's good. But, doggone it, come on, guys. Take
3 the responsibility.

4 I am going to pursue Amy's Law. We pursued
5 Karen's Law last year, and we got it on the books. We are
6 going to pursue Amy's law this year. And I want this
7 industry to take the responsibility to make an accurate
8 recommendation to the customer. Let the customer make an
9 informed decision. More or less that's up to the
10 customer.

11 We have got a serious problem. 61 percent of
12 the homes in America and probably an equal percentage in
13 California. And we are going to have total wipe outs,
14 total losses are going to occur.

15 Well, this isn't over yet. I want the industry
16 to understand what's happened here. You folks are there.
17 Your lobbyists are here. Your public affairs folks are
18 here. A few of your lawyers are here. Okay. We will go
19 fight it out next year with legislature. And I will bring
20 all of San Diego County if necessary and all of San
21 Bernardino County and all of Alameda County. Okay. Or
22 why don't you just say, "Let's do what's right and fair."

23 Okay. Thank you all very much.

24 (Hearing concluded at 9:31 p.m.)
25
26
27
28

REPORTER'S CERTIFICATE


I, LORI ODELL KENNEDY, CSR NO. 3320, A
CERTIFIED SHORTHAND REPORTER FOR THE STATE OF CALIFORNIA,
DO HEREBY CERTIFY:

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WAS TAKEN BEFORE SARA RICHARDSON ON
THURSDAY, OCTOBER 21, 2004, AT THE TIME AND PLACE SET FORTH,
AND WAS TAKEN DOWN BY HIM/HER IN SHORTHAND, AND THEREAFTER
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I CERTIFY THAT I AM NEITHER COUNSEL FOR NOR
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