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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

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

File No.: 14-3851

**CONSUMER WATCHDOG'S PETITION
FOR HEARING, PETITION TO
INTERVENE, AND NOTICE OF INTENT
TO SEEK COMPENSATION**

[Ins. Code §§ 1861.05(c) and 1861.10; Cal.
Code Regs, tit. 10, §§ 2653.1, 2661.2 and
2661.3]

Consumer Watchdog hereby requests that the Insurance Commissioner notice a public hearing pursuant to Insurance Code sections 1861.05, subdivision (c), and 1861.10, subdivision (a), on the above-referenced rate application of CSAA Insurance Exchange ("Applicant" or "CSAA") at which time Applicant will be directed to appear and respond to the issues raised in this petition. Consumer Watchdog also hereby requests that it be granted leave to intervene in the proceeding on Applicant's rate filing. Consumer Watchdog intends to seek compensation in this proceeding, and, pursuant to California Code of Regulations, title 10 ("10 CCR"), section 2661.3(c), Consumer Watchdog's proposed budget is attached hereto as Exhibit A.

In support of its petition, Consumer Watchdog alleges:

I. THE APPLICATION

1. On or about May 22, 2014, Applicant filed a Prior Approval Rate Application with the California Department of Insurance ("CDI"), seeking approval of an overall rate increase to its personal lines of homeowners insurance Renters Program of 6.9% (File No. 14-3851 ["the

1 Application”)]. On or about June 6, 2014, the public was notified of the Application.

2 **II. PETITIONER**

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

8 3. Consumer Watchdog’s founder authored Proposition 103 and led the successful
9 campaign for its enactment by California voters in 1988. Consumer Watchdog’s staff and
10 consultants include some of the nation’s foremost consumer advocates and experts on insurance
11 ratemaking matters.

12 4. Consumer Watchdog has served as a public watchdog with regard to insurance
13 rates and insurer rollback liabilities under Proposition 103 by: monitoring rollback settlements
14 and the status of the rollback regulations; reviewing and challenging rate filings made by insurers
15 seeking excessive rates; participating in rulemaking and adjudicatory hearings before the CDI;
16 and educating the public concerning industry underwriting and rating practices, their rights under
17 Proposition 103, and other provisions of state law. Consumer Watchdog has also initiated and
18 intervened in actions in state court and appeared as amicus curiae in matters involving the
19 interpretation and application of Proposition 103 and the Insurance Code.¹

20 5. Consumer Watchdog has initiated and intervened in numerous proceedings before
21 the CDI related to the implementation and enforcement of Proposition 103’s reforms, including
22 over 70 such proceedings in the last ten years. In each and every proceeding in the last eight
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24 ¹ For example, *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805; *20th Century Ins. Co. v.*
25 *Garamendi* (1994) 8 Cal.4th 216; *Amwest Surety Ins. Co. v. Wilson* (1995) 11 Cal.4th 1243;
26 *Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473; *Spanish*
27 *Speaking Citizens’ Foundation v. Low* (2000) 85 Cal.App.4th 1179; *Donabedian v. Mercury*
28 *Insurance Co.* (2004) 116 Cal.App.4th 968; *State Farm Mutual Automobile Ins. Co. v. Garamendi*
(2004) 32 Cal.4th 1029; *The Foundation for Taxpayer and Consumer Rights v. Garamendi* (2005)
132 Cal.App.4th 1354; and *Association of California Insurance Companies v. Poizner* (2009) 180
Cal.App.4th 1029.

1 years that has resulted in a final decision and in which Consumer Watchdog sought compensation,
2 the Commissioner found that Consumer Watchdog made a substantial contribution, meaning that
3 its participation was separate and distinct from any other party and that it presented relevant
4 issues, evidence and arguments that resulted in more credible, non-frivolous information being
5 available to the Commissioner in making his final decision.

6 **III. EVIDENCE**

7 6. At the requested public hearing, Consumer Watchdog will present and elicit
8 evidence that the rates proposed in the Application are excessive and/or unfairly discriminatory in
9 violation of Insurance Code section 1861.05, subdivision (a), which provides that “[n]o rate shall
10 be approved or remain in effect which is excessive, inadequate, [or] unfairly discriminatory.”
11 Additionally, Consumer Watchdog will present and elicit evidence that Applicant’s proposed
12 rates violate 10 CCR § 2644.1, which provides that “[n]o rate shall be approved or remain in
13 effect that is above the maximum permitted earned premium as defined in section 2644.2.”

14 7. Based on Consumer Watchdog’s preliminary analysis and the information
15 contained in the Application, Consumer Watchdog will present and seek evidence during the
16 noticed hearing on each of the following issues to show that Applicant’s proposed rates are
17 excessive and/or unfairly discriminatory in violation of Insurance Code section 1861.05,
18 subdivision (a), and the prior approval rate regulations, 10 CCR § 2644.1, et seq.:

- 19 a. Catastrophe Adjustment (10 CCR § 2644.5): The Applicant’s catastrophe provision is
20 unreasonably high. The 1991 Eastbay Fire catastrophe experience should be spread
21 over at least 50 years.
- 22 b. Loss Development (10 CCR § 2644.6): The Applicant failed to prove that the paid
23 development method used in the filing is the most actuarially sound. Paid
24 development is about 3% higher than incurred development.
- 25 c. Loss and Premium Trends (10 CCR § 2644.7): The Applicant’s selected loss trend
26 was the third highest of the twenty indications and was based upon shorter term paid
27 frequency trends, which shows an unusual increase since the year ending June 2012.
28 The Applicant admits that the increase in paid frequency is inconsistent with the

1 change in reported frequency. The 12-point paid frequency trend selected by the
2 Applicant is much higher than the 16, 20 and 24 paid frequency trends and the 8, 12,
3 16, 20 and 24 point reported frequency trends. The Applicant provided no explanation
4 for the disparity between the paid frequency trend it relied upon compared to the other
5 lower frequency trends. The 7.2% pure premium loss trend selected by the Applicant
6 overstates the projected losses resulting in an inflated rate indication. The Applicant
7 failed to prove that its trend selections are the most actuarially sound.

8 d. Excluded Expenses (10 CCR§ 2644.10): The Applicant based the excluded expenses
9 on data from the 2012 annual statement, even though the filing was submitted after the
10 2013 Annual Statement was available.² The Applicant did not show any excluded
11 expenses in the category of “Institution advertising expenses”. During 2013, the
12 Applicant spent about \$54 million on advertising, which is about 16% of its total
13 general plus other acquisition expenses. The Applicant has not shown that none of
14 that amount was for “Institution advertising expenses”. There may also be excluded
15 expenses for other categories that should be reflected in the rate calculation but were
16 not reflected in the filing.

17 e. Projected Yield (10 CCR§ 2644.20): The Applicant used October 2013 bond yields
18 and the April 2014 risk free rate. A consistent basis should be used for the yield
19 calculation and the risk free rate. In addition, it appears that the Applicant based the
20 yield calculations on annual statement data from 2012, even though the filing was
21 submitted after the 2013 Annual Statement was available. The rate filing instructions
22 require the use of “the insurer group’s most recent consolidated statutory annual
23 statement.”³

24 f. Leverage Factor Variance (10 CCR§ 2644.27(F)(3)): The filing requests a 15%
25 leverage factor variance. While the Applicant does appear to meet the first
26 requirement of the variance – writing more than 90% of its direct earned premium in
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28 ² The rate filing was submitted on May 22, 2014.

³ Rate Application page 14a footnote.

1 one state – the Applicant does not meet the other requirement of the variance – that
2 their “mix of business presents investment risks different from the risks that are typical
3 of the line as a whole.” The filing contains insufficient evidence regarding the second
4 requirement for this variance.

5 g. The overall rate change in Exhibit 15 of +6.9% appears to be inconsistent with the
6 base rate and membership discount changes shown. The Applicant needs to provide a
7 reconciliation of these values. This overall rate increase will adversely impact
8 approximately 11% of CSAA Renters who are not currently AAA members with
9 higher rate increases. (See Exh. 20, stating that 89% of CSAA Renters are currently
10 AAA members.)

11 h. Exhibit 16, page 3 fails to provide justification for the size of the Membership
12 Discount. The Applicant needs to supply the justification for the 5% discount.

13 8. Based upon its initial analysis, Consumer Watchdog submits that the
14 Commissioner should reject the requested overall 6.9% rate increase in compliance with the
15 regulations and take such further corrective action as necessary.

16 9. This petition is based upon Consumer Watchdog’s preliminary analysis of the
17 Application. Thus, Consumer Watchdog reserves the right to modify, withdraw and/or add issues
18 for consideration as more information becomes available

19 **IV. AUTHORITY FOR PETITION AND GRANTING REQUEST FOR A HEARING**

20 10. The authority for this petition for hearing is Insurance Code section 1861.10,
21 subdivision (a), which grants “any person” the right to initiate or intervene in a proceeding
22 permitted or established by Proposition 103 and the right to enforce Proposition 103.
23 Specifically, as stated above, Consumer Watchdog initiates this rate proceeding to enforce
24 Insurance Code section 1861.05, subdivision (a), and the prior approval rate regulations.

25 11. Additionally, a hearing is authorized pursuant to Insurance Code section 1861.05,
26 subdivision (c), which allows “a consumer or his or her representative” to request a hearing on a
27 rate application and 10 CCR § 2653.1, which provides that “any person, whether as an
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1 individual, representative of an organization, or on behalf of the general public, may request a
2 hearing by submitting a petition for hearing.”

3 12. This petition does not involve a rate that has been approved by the Insurance
4 Commissioner after a hearing within the preceding 12 months.

5 **V. INTEREST OF PETITIONER**

6 13. Consumer Watchdog’s interest in the above-captioned proceeding is to ensure that
7 Applicant’s homeowners insurance policyholders are charged rates that comply with Insurance
8 Code section 1861.05(a)’s requirement that “no rate shall be approved or remain in effect which
9 is excessive, inadequate, [or] unfairly discriminatory.” For most homeowners, their home is their
10 most valuable asset and mortgage lenders generally require homeowners’ insurance. Consumers
11 who might be overcharged by insurers as they attempt to protect their homes are part of
12 Consumer Watchdog’s core constituency.

13 14. As noted in paragraphs 2-5 above, Consumer Watchdog’s staff and consultants
14 have substantial experience and expertise in insurance rate matters that Consumer Watchdog
15 believes will aid the CDI in its review of the Application and aid the Commissioner in making his
16 ultimate decision as to whether to approve or disapprove the requested rates. As noted in
17 paragraph 5 above, the Commissioner has found that Consumer Watchdog has made a substantial
18 contribution in all of the rate proceedings in which it has intervened in the last eight years that
19 have proceeded to a final decision and Consumer Watchdog has sought compensation. If leave to
20 intervene is granted, Consumer Watchdog will submit testimony from actuarial experts and
21 participate fully in all aspects of this proceeding.

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

23 15. The authority for Consumer Watchdog’s petition to intervene is Insurance Code
24 section 1861.10, subdivision (a), which grants “any person” the right to “initiate or intervene in
25 any proceeding permitted or established pursuant to this chapter [Chapter 9 of Part 2 of Division
26 1 of the Insurance Code] . . . and enforce any provision of this article.” This proceeding is a rate
27 proceeding to determine whether Applicant’s proposed rates are excessive pursuant to Insurance
28 Code section 1861.05, subdivision (a), and hence is a proceeding both “permitted” and

1 “established” by Chapter 9. Moreover, Consumer Watchdog seeks to “enforce” section 1861.05,
2 enacted by Proposition 103, against Applicant. This petition to intervene is also authorized by
3 10 CCR § 2661.1 et seq. Although consumer presence in departmental proceedings typically
4 results in significant reductions to policyholders’ rates, the amount of savings for each individual
5 consumer is outweighed by the time and expense of hiring individual counsel or an advocacy
6 group to protect his or her rights. Thus, an independent group like Consumer Watchdog
7 introduces a voice that, otherwise, would be absent from this proceeding.

8 **VII. PARTICIPATION OF CONSUMER WATCHDOG**

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

12 **VIII. INTENT TO SEEK COMPENSATION**

13 17. The Commissioner has awarded Consumer Watchdog compensation for its
14 reasonable advocacy and witness fees and expenses in past departmental proceedings. The
15 Commissioner issued Consumer Watchdog’s most recent Finding of Eligibility on July 24, 2012,
16 effective immediately. Consumer Watchdog was previously found eligible to seek compensation
17 on July 2, 2010, August 25, 2008, July 14, 2006, July 2, 2004, June 20, 2002, October 1, 1997,
18 September 26, 1995, September 27, 1994, and September 13, 1993.

19 18. Consumer Watchdog intends to seek compensation in this proceeding. Pursuant
20 to 10 CCR § 2661.3(c), Consumer Watchdog’s estimated budget in this proceeding is attached
21 hereto as Exhibit A. Consumer Watchdog has based its estimated budget on several factors
22 including: (1) the technical and legal expertise needed to address these issues; (2) its current best
23 estimate of the time needed to participate effectively in these proceedings, taking into account
24 the time already expended by Consumer Watchdog staff and its consulting actuary and an
25 estimate of time needed to complete remaining tasks; and (3) past experience in similar rate
26 proceedings before the CDI. The estimated budget is reasonable and the staffing level is
27 appropriate, given the expertise that Consumer Watchdog and its consultants bring to these
28 proceedings when the issues involved are issues at the very core of its organizational mission and


1 strike at the very heart of Proposition 103 itself. The budget presented in the attached Exhibit is
2 a preliminary estimate, and Consumer Watchdog reserves the right to amend its proposed budget
3 as its expenses become more certain, or in its request for final compensation. Consumer
4 Watchdog will give notice of such modifications as soon as practicable after it discovers the need
5 to revise its estimates, and shall comply with the budget revision requirements in the relevant
6 intervenor regulations.

7 WHEREFORE, Consumer Watchdog respectfully requests that the Insurance
8 Commissioner GRANT its petition for hearing and petition to intervene in the proceeding
9 initiated on Applicant's rates.

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11 DATED: July 21, 2014

Respectfully submitted,
Harvey Rosenfield
Pamela Pressley

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13 CONSUMER WATCHDOG

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15 By: 
16 Pamela Pressley
17 Attorneys for CONSUMER WATCHDOG
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**EXHIBIT A
PRELIMINARY BUDGET**

<u>ITEMS</u>	<u>ESTIMATED COST</u>
1. <u>Attorneys</u>	
Pamela Pressley @ \$550 per hour, 200 hours	\$110,000
• Confer with Consumer Watchdog counsel and outside experts regarding legal and evidentiary issues; participate in discussions with CDI and Applicant’s counsel; participate in all phases of proceeding, evidentiary hearing, and preparation of post-hearing briefing.	
Harvey Rosenfield @ \$675 per hour, 15 hours	\$10,125
• Supervise Consumer Watchdog counsel and participate in strategy discussions.	
<u>Consumer Watchdog Expenses</u> (Photocopies, facsimile, telephone calls, postage, etc.).....	\$2,000
<u>Consumer Watchdog Travel</u>	
Ground transportation; airfare; hotel	\$3,000
<u>Consumer Watchdog Subtotal</u>	<u>\$125,125</u>
2. <u>Expert Witness- AIS Risk Consultants, Inc.</u>	
Allan I. Schwartz, President of AIS Risk Consultants @ \$650 per hour, 200 hours	\$130,000
• Lead actuary to review all discovery documents, prepare rate analysis, participate in meet and confers with the parties as needed; prepare written testimony; testify and assist attorneys in preparation for cross-examination of insurers’ expert witnesses.	
Katherine Tollar @ \$295 per hour, 50 hours	\$14,750
• Assist Mr. Schwartz in document review, rate level analysis, preparation of testimony	
<u>Travel by Mr. Schwartz</u>	
Ground transportation; airfare to SF hearing; hotel	\$5,000
<u>AIS Risk Consultants Subtotal</u>	<u>\$149,750</u>
TOTAL ESTIMATED BUDGET:	<u>\$274,875</u>

Service List

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