

1 Harvey Rosenfield, SBN 123082
2 Pamela Pressley, SBN 180362
3 Laura Antonini, SBN 271658
4 CONSUMER WATCHDOG
5 2701 Ocean Park Blvd., Suite 112
6 Santa Monica, CA 90405
7 Tel. (310) 392-0522
8 Fax (310) 392-8874

9 Attorneys for CONSUMER WATCHDOG

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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of the Rates, Rating Plans, or
Rating Systems of

Liberty Mutual Fire Insurance
Company,

Applicant.

File No.: _____

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

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

Consumer Watchdog hereby requests that the Insurance Commissioner ("Commissioner") notice a public hearing on Liberty Mutual Fire Insurance Company's ("Liberty Mutual") homeowner's multi-peril insurance rates pursuant to Insurance Code section 1861.05 because Liberty Mutual's rates are excessive and therefore cannot legally remain in effect. Consumer Watchdog also hereby requests that it be granted leave to intervene in the proceeding before the California Department of Insurance ("CDI"). Consumer Watchdog gives notice that it intends to seek compensation for its participation, pursuant to California Code of Regulations, title 10 ("10 CCR"), section 2661.3, subdivision (c) and Consumer Watchdog's proposed budget is attached hereto as Exhibit A.

This petition is based on the facts as set forth herein and the accompanying verification of Pamela Pressley.

I. PETITIONER

1. Petitioner Consumer Watchdog is a nonprofit, nonpartisan, public interest

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

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

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

17 4. Consumer Watchdog has initiated and intervened in numerous proceedings before
18 the CDI related to the implementation and enforcement of Proposition 103’s reforms, including
19 over 70 such proceedings in the last ten years. In each and every proceeding in the last ten years
20 that has resulted in a final decision and in which Consumer Watchdog sought compensation, the
21 Commissioner found that Consumer Watchdog made a substantial contribution, meaning that its
22 participation was separate and distinct from any other party and that it presented relevant issues,
23

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 evidence and arguments that resulted in more credible, non-frivolous information being available
2 to the Commissioner in making his final decision.

3 **II. EVIDENCE**

4 5. At the requested public hearing, Consumer Watchdog will present and elicit
5 evidence that Liberty Mutual's homeowners insurance rates are excessive in violation of
6 Insurance Code section 1861.05, subdivision (a), which provides that "[n]o rate shall ... remain in
7 effect which is excessive..." and therefore cannot legally remain in effect.

8 6. Consumer Watchdog is informed and believes from its review of the CDI's listings
9 of approved rate filings that Liberty Mutual has not obtained any rate change approvals for its
10 homeowners insurance line for at least 10 years. Liberty Mutual's two most recent rate changes
11 were approved (1) in 2002 when the Commissioner approved a +16.8% rate increase for First
12 Liberty Insurance Corporation's Personal Homeowners Multi-Peril line (File No. 02-5696) and
13 (2) in 2004 where the Commissioner approved a 0% rate change for Liberty Mutual's "Liberty
14 Guard Homeowners Policy" Program (File No. 04-2730).

15 7. During 2011, 2012 and 2013, Liberty Mutual's homeowners insurance lines' loss
16 & DCCE ratios calculated by calendar year were 25.5%, 36.5%, and 40.7%, respectively. At the
17 same time that Liberty Mutual's has experienced low loss & DCCE ratios, they have enjoyed
18 skyrocketing profits. According to Allan Schwartz of AIS Risk Consultants, Inc., Consumer
19 Watchdog's actuarial consultant, Liberty Mutual gained underwriting profits of approximately
20 34% in 2013.²

21 8. It is Consumer Watchdog's position that the combination of these factors, together
22 with the fact that **Liberty Mutual has not sought a rate decrease for its homeowners**
23 **insurance lines in the last three years during the time that its losses have decreased and**
24 **profits have risen**, provides substantial good cause to believe that its in-effect rates are excessive
25 and a rate decrease is warranted.

26
27 ² Liberty Mutual's 2013 profits for its California homeowners insurance lines was calculated as
28 follows: 100% – 25.3% (Liberty Mutual's efficiency standard in 2012) – 40.7% (Liberty
Mutual's 2013 loss & DCCE ratio) = 34% (Liberty Mutual's underwriting profits for 2013).

1 9. Consumer Watchdog reserves the right to modify, withdraw and/or add issues for
2 consideration as more information becomes available.

3 **III. AUTHORITY FOR PETITION AND GRANTING REQUEST FOR A HEARING**

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

9 11. Consumer Watchdog seeks to “enforce” section 1861.05, enacted by Proposition
10 103, against Liberty Mutual. This petition is also authorized by 10 CCR§ 2661.2.

11 **IV. INTEREST OF PETITIONER**

12 12. Consumer Watchdog’s interest in the above-captioned proceeding is, first, to
13 ensure that Liberty Mutual’s homeowners’ insurance policyholders are charged rates that comply
14 with Insurance Code section 1861.05(a)’s requirement that “no rate shall...remain in effect which
15 is excessive....” For most homeowners, their home is their most valuable asset and homeowners’
16 insurance is often required by most mortgage lenders. Consumers who are overcharged by
17 insurers as they attempt to protect their homes are among Consumer Watchdog’s core
18 constituency.

19 13. As noted in paragraphs 1-4 above, Consumer Watchdog’s staff and consultants
20 have substantial experience and expertise in insurance rate matters that Consumer Watchdog
21 believes will aid the CDI in developing the record and assist the Administrative Law Judge and
22 the Commissioner in making their ultimate decisions in this proceeding. As noted in paragraph 4
23 above, the Commissioner has found that Consumer Watchdog has made a substantial contribution
24 in all of the rate proceedings in which it has intervened in the last ten years that have proceeded to
25 a final decision and Consumer Watchdog has sought compensation. If leave to intervene is
26 granted, Consumer Watchdog will submit testimony from actuarial experts and participate fully in
27 all aspects of this proceeding.

1 **V. AUTHORITY FOR PETITION TO INTERVENE**

2 14. The authority for Consumer Watchdog’s petition to intervene is Insurance Code
3 section 1861.10, subdivision (a), which grants “any person” the right to “initiate or intervene in
4 any proceeding permitted or established pursuant to this chapter [Chapter 9 of Part 2 of Division
5 1 of the Insurance Code] . . . and enforce any provision of this article.” This proceeding is a rate
6 proceeding to determine whether Liberty Mutual’s rates are excessive pursuant to Insurance
7 Code section 1861.05, subdivision (a), and hence is a proceeding both “permitted” and
8 “established” by Chapter 9. Moreover, Consumer Watchdog seeks to “enforce” section 1861.05,
9 enacted by Proposition 103, against Liberty Mutual. This petition to intervene is also authorized
10 by 10 CCR § 2661.1 et seq. Although consumer presence in departmental proceedings typically
11 results in significant reductions to policyholders’ rates, the amount of savings for each individual
12 consumer is outweighed by the time and expense of hiring individual counsel or an advocacy
13 group to protect his or her rights. Thus, an independent group like Consumer Watchdog
14 introduces a voice that, otherwise, would be absent from this proceeding.

15 **VI. PARTICIPATION OF CONSUMER WATCHDOG**

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

19 **VII. INTENT TO SEEK COMPENSATION**

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

26 17. Consumer Watchdog intends to seek compensation in this proceeding. Pursuant
27 to 10 CCR § 2661.3(c), Consumer Watchdog’s estimated budget in this proceeding is attached
28 hereto as Exhibit A. Consumer Watchdog has based its estimated budget on several factors

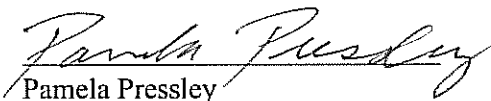
1 including: (1) the technical and legal expertise needed to address these issues; (2) its current best
2 estimate of the time needed to participate effectively in these proceedings, taking into account
3 the time already expended by Consumer Watchdog staff and its consulting actuary and an
4 estimate of time needed to complete remaining tasks; and (3) past experience in similar rate
5 proceedings before the CDI. The estimated budget is reasonable and the staffing level is
6 appropriate, given the expertise that Consumer Watchdog and its consultants bring to these
7 proceedings when the issues involved are issues at the very core of its organizational mission and
8 strike at the very heart of Proposition 103 itself. The budget presented in the attached Exhibit is
9 a preliminary estimate, and Consumer Watchdog reserves the right to amend its proposed budget
10 as its expenses become more certain, or in its request for final compensation. Consumer
11 Watchdog will give notice of such modifications as soon as practicable after it discovers the need
12 to revise its estimates, and shall comply with the budget revision requirements in the relevant
13 intervenor regulations.

14 WHEREFORE, Consumer Watchdog respectfully requests that the Commissioner
15 GRANT its petition for hearing and petition to intervene in the proceeding regarding Liberty
16 Mutual's excessive homeowners' insurance rates.

17
18 DATED: July 21, 2014

Respectfully submitted,

19 Harvey Rosenfield
20 Pamela Pressley
21 CONSUMER WATCHDOG

22 By: 
23 Pamela Pressley
24 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>\$232,625</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>

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PROOF OF SERVICE
[BY OVERNIGHT OR U.S. MAIL, FAX TRANSMISSION,
EMAIL TRANSMISSION AND/OR PERSONAL SERVICE]

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

I am employed in the City of Santa Monica and County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 2701 Ocean Park Blvd., Suite #112, Santa Monica, California 90405, and I am employed in the city and county where this service is occurring.

On July 22, 2014 I caused service of true and correct copies of the document entitled

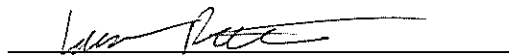
**CONSUMER WATCHDOG'S PETITION FOR HEARING, PETITION TO INTERVENE,
AND NOTICE OF INTENT TO SEEK COMPENSATION**

upon the persons named in the attached service list, in the following manner:

1. If marked FAX SERVICE, by facsimile transmission this date to the FAX number stated to the person(s) named.
2. If marked EMAIL, by electronic mail transmission this date to the email address stated.
3. If marked U.S. MAIL or OVERNIGHT or HAND DELIVERED, by placing this date for collection for regular or overnight mailing true copies of the within document in sealed envelopes, addressed to each of the persons so listed. I am readily familiar with the regular practice of collection and processing of correspondence for mailing of U.S. Mail and for sending of Overnight mail. If mailed by U.S. Mail, these envelopes would be deposited this day in the ordinary course of business with the U.S. Postal Service. If mailed Overnight, these envelopes would be deposited this day in a box or other facility regularly maintained by the express service carrier, or delivered this day to an authorized courier or driver authorized by the express service carrier to receive documents, in the ordinary course of business, fully prepaid.

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

Executed on July 22, 2014, at Santa Monica, California.



Jason Roberts

Service List

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

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_____ U.S. MAIL
_____ OVERNIGHT MAIL
_____ HAND DELIVERED
 EMAIL

Debra Rothmeyer, Product Technician
PO BOX 8017
Wausau, WI 54401-8017
Tel: (877) 792-8728 x 38927
Fax: (715) 842-6828
Debra.Rothmeyer@LibertyMutual.com

_____ FAX
_____ U.S. MAIL
_____ OVERNIGHT MAIL
_____ HAND DELIVERED
 EMAIL

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

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