# CONTINGENT INSURANCE COMMISSIONS: IMPLICATIONS FOR CONSUMERS

**A Report by the Consumer Federation of America**

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## BACKGROUND

The ongoing investigations by New York Attorney General Elliot Spitzer of the insurance industry have caused a great uproar among large corporate buyers of insurance and their risk managers. Spitzer has found that brokers misled and overcharged these sophisticated buyers of insurance. (Brokers work for the person or business seeking insurance, as opposed to agents, who are retained by the insurance company and owe their allegiance to the insurers, not the consumer.)

According to Spitzer, some of the largest corporations in the country were cheated by their own insurance brokers in two ways:

A. Insurers paid brokers hidden kickback commissions ("steering commissions") to win insurance contracts, and

B. Brokers orchestrated elaborate bid-rigging schemes, in which insurance companies placed false, high bids so that the insurance buyer would think that competitive bidding was occurring. The sham bidding process was designed so that different insurers, on a rotating basis, would "win" a bid at a preordained – and very high – rate.

These practices have naturally resulted in overcharges to the corporate and governmental consumers who bought policies in this way.

## THE IMPLICATIONS OF THE SPITZER INVESTIGATION FOR INDIVIDUAL AND SMALL BUSINESS CONSUMERS

If large sophisticated consumers of insurance can be easily cheated and overcharged, unsophisticated individual and small business buyers are even more vulnerable to such sharp practices. Financial conflicts-of-interest similar to those at the center of the Spitzer investigation exist in the sales of group life and health insurance and in some personal policies, such as home and automobile insurance.

The contingent commission arrangements in place in America today present significant risks for small consumers. Consumers can be hurt, directly and indirectly, by these practices. Indirect effects include higher taxes if a municipality's insurance has been made more expensive by these practices and higher prices if a corporation's insurance costs rise. Direct effects would include the delay or denial of a claim based on profitability contingency commissions (see below) or increased costs for group health insurance because of higher premiums for that coverage. Even if the employer pays the premium, and not the consumer, the higher cost would leave fewer dollars available for employee needs, for instance, in the form of salaries or benefits.

This report assesses the use of contingency commissions in personal lines of insurance. As defined in detail below, contingent commissions are special payments-- above the amount of the regular commission that insurers pay -- that are based on the amount of insurance sold to a consumer, or the amount of losses that agents or brokers present to insurers to cover. CFA will examine in upcoming reports the impact of all commissions in auto and homeowners insurance to see how overall (not just contingent) commissions affect insurance rates and consumer satisfaction.

## THE ROLE OF AGENTS, BROKERS AND OTHER "MIDDLE PERSONS" IN SELLING PERSONAL LINES OF INSURANCE

Individuals and small businesses buy insurance through several different mechanisms:

Independent insurance agents represent more than one company. They are not consumers' agents but are under contract to insurance companies. They could be influenced by contingent commissions to steer business toward one insurer or another. In personal auto and homeowners insurance, agent-based insurers cover about 40 percent of the market.

Many consumers have been misled into thinking that independent agents represent their interests and not those of the insurance company. Insurers and agents aggressively promote this inaccurate perception in their advertising, often not making it clear that the agent actually represents the insurer. For example, Nationwide Insurance famously advertises that its agents are "on your side." Travelers says in its Yellow Page advertisements that they have "local independent agents working for you." Other agents are "like a good neighbor" or treat you with "good hands." The trade association for independent agents, the Independent Insurance Agents and Brokers of America, claims that their agents are "your" agent who is "your consultant…a value hunter who looks after your pocketbook…serving you is your independent agent's most important concern."[1]

Captive agents are agents of only one insurer. State Farm uses this system. These agents cover about 25 percent of the auto and home insurance market.

Brokers directly represent consumers. However, this arrangement is relatively rare for individual buyers of insurance. Even those who advertise as personal lines "brokers" often offer only high-priced coverage offered through state-mandated assigned risk or FAIR plans, or through non-standard insurance companies. As the Spitzer findings show, even brokers can be swayed by financial conflicts-of-interest.

Direct writers are salaried employees of an insurance company. They receive little commission, if any, and rarely, if ever, are paid contingent commissions. Direct writers cover about 35 percent of the home and auto insurance market in America.

"Producers" is a term that refers to all persons who produce insurance business for an insurer: agents, brokers and others.

[1] Independent Insurance Agents and Brokers of America website.

## HOW CONTINGENT COMMISSIONS WORK

There are two categories of contingent commissions that may apply to individual and small business insurance policies:

A. Steering commissions are additional financial payments made for placing more business with the insurer. Such payments are often made at the end of the year.

B. Profitability-based contingent commissions are rewards paid at the end of the year for placing business with an insurer that results in higher than expected profits for the insurer. This type of commission is usually tied to the loss ratio of particular policies, which is the percentage of the premium dollars that are paid out in claims by the insurer. (The lower the loss ratio, the higher the commission paid.)

These contingent arrangements exist in most lines of insurance sold to consumers. They are paid in addition to regular commissions, which are flat percentage amounts that are part of the rate that insurers pay any agent or broker, and which the agent or broker receives at the time a policy is sold. No matter which agent or broker a consumer sees, the commission percentage paid by each specific insurer remains the same. Contingency commissions, by contrast, vary depending on the contingency involved.

## FINDINGS: STUDY OF CONTINGENT COMMISSIONS PAID IN 2003

For home and auto insurance in 2003, total commissions paid to agents and brokers ranged from 0 percent to over 30 percent of premium. Among the leading writers of insurance, United Services Automobile Association (USAA) had a commission of 0.1 percent; Farmers had a commission of 1 percent, State Farm had a commission of 7 percent and Continental Casualty had a commission of 23 percent. CFA reviews of rates charged in several markets over time show that one insurer could easily charge double the price of another for coverage sold by the same agency to the same consumer. Agents can maximize profit by placing a consumer with a higher priced insurer with a higher percentage commission. Some insurers compete for business by offering brokers higher commissions, with high rates paid by the consumer. This phenomenon, which is known as reverse competition, creates a conflict-of-interest for the producer that is just as severe (or more so) than contingency commissions. Reverse competition is particularly prevalent in the sale of credit insurance. CFA will look at overall commissions and the impact on consumers in later studies. Here we focus on contingency commissions.

Exhibit 1 is a spreadsheet displaying total and contingency commissions paid in 2003 in the insurance industry. Part 1 of Exhibit 1 shows that, overall, commission income for producers was made up of roughly 90 percent regular commissions and 10 percent contingency commissions of the sort criticized by Attorney General Spitzer.

Part 1 also shows that contingent commissions were much more common in the sales of some lines of insurance than in others. For example, contingent commissions represented 24 percent of the commissions paid in credit insurance, and 12 percent for reinsurance and commercial casualty. Commissions overall were over 10 percent for non-standard auto, private passenger and home insurance companies, commercial auto and surplus lines.[2] This study is most concerned with personal lines of insurance.[3]

Credit insurance had the most extensive use of contingency commissions overall, representing over five percent of insurance premium. Insurers specializing in the personal lines sales of both home and auto insurance also had relatively high contingent commissions averaging over one percent of premium.

Part 2 of Exhibit 1 makes it clear that, among the twenty largest providers of personal lines of insurance, some insurers did not use contingent commissions and others did. The direct writers, such as USAA and GEICO (Government Employees Insurance Company), and the captive agent insurers, such as State Farm, tended to not use them, but companies that utilized independent agents, such as Allstate and Hartford did use them, to varying degrees.

Of the leading writers, some reported no contingent commissions. These were State Farm Mutual Auto, State Farm Fire and Casualty, GEICO, USAA and Farmers Insurance Exchange. These were all direct writers except State Farm, which used 'captive' agents that serve only State Farm. The other insurers not paying contingent commissions were direct writers that used salaried employees to sell the insurance.

Among these insurers, Allstate Insurance Company paid relatively high contingent commissions, representing 1.74 percent of premiums and over 14 percent of commissions paid by the company. Nationwide Mutual Insurance Company and other insurers also relied heavily on contingent commissions. Overall, the five companies among the top-selling insurers that paid the highest contingent commissions were:

1. Federal Insurance — 2.31% of premium
2. Travelers C&S — 2.18%
3. Zurich American — 1.94%
4. Allstate Insurance — 1.74%
5. Hartford Fire — 1.67%

Part 3 of Exhibit 1 goes beyond the largest twenty writers to show those insurers with large premium dollars and large contingency commissions either paid or received (the negative numbers). Some of the figures are interesting. Many insurers paid significant contingency commissions. Assurant Solutions paid over 10 percent of premium in contingent commissions, for instance. Arch Capital paid over 2 percent in such commissions yet received high commissions itself, presumably as part of reinsurance arrangements. XL America had similar results. Most of these insurers are commercial insurers of the sort investigated by Attorney General Spitzer. For personal lines, several insurers paid large contingent commissions among

[2] For the leading insurers in each line.
[3] These are most frequently included in the lines identified in Exhibit 1 as non-standard auto predominating, private passenger auto predominating, private passenger auto and homeowners predominating, property predominating and credit predominating.

which were Allstate, Auto-Owners, Berkshire Hathaway (GEICO), California State Auto, Chubb, Hartford, Nationwide, Ohio Casualty, SAFECO and Travelers. The numbers for writers that are listed in both part 2 and part 3 – such as Allstate and Nationwide – are slightly different because part 2 is individual insurer results whereas part 3 is data for insurer groups that will contain more than one company.

Exhibit 2 shows the top five selling insurers within several personal lines of insurance. It is clear that, in each line, some leading insurers paid contingent commissions and some did not.

## THE INSURANCE INDUSTRY'S ANTI-COMPETITIVE CULTURE

To understand how practices that raise costs and premiums could flourish, one must first understand that insurance is not a fully competitive business. Exhibit 3 is a fact sheet explaining why insurance is not as subject to normal competitive pressures as most other businesses. The reasons include the complexity of the product, which is a complicated legal document that few individual and small business consumers understand, and the need to assess the financial soundness of the insurer and service quality sometimes years before a claim is filed. Insurance pricing and underwriting mechanisms are also individualized and exceedingly complex. Also, underwriting -- the ability of an insurer to say "no" or to charge much more at the end of a long application process -- is an extremely unusual aspect of insurance compared to normal products. Moreover, the insurers are legally allowed to employ certain anti-competitive practices that would be illegal in other industries because the business of insurance is exempt from the application of most federal and many state anti-trust laws.

The complexity of the insurance marketplace and the reliance of many consumers on agents or brokers as a result leaves millions vulnerable to sharp sales tactics and hidden commission arrangements that may entice agents to select the wrong insurers for consumers. Many high-priced policies are sold, even when cheaper alternatives are available. Some sellers go so far as to sell products that consumers may not need, such as credit insurance policies, whole life plans for children and singles who do not need the coverage, air travel life insurance, cancer insurance and other inappropriate policies.

The upshot is that many consumers pay too much for insurance. High-priced insurers often maintain significant market share, as people frequently do not shop for insurance, placing their fate in the hands of a single agent or broker. Consumers whom CFA has talked to have a strange combination of feelings when it comes to buying insurance: fear and boredom. Many go to a broker or agent and essentially say, "Take me, I'm yours." Hidden contingent commission arrangements may take advantage of this lack of sophistication.

The Spitzer investigation has highlighted the anti-competitive practices that occur in the industry, such as contingent commissions and bid rigging. These could not occur if insurance were truly competitive. If the industry is not competitive for sophisticated, knowledgeable commercial clients, it is very likely that it is not competitive at the retail consumer level.

**CONCLUSIONS**

The findings of this study raise two crucial questions. Do the financial conflicts-of-interest inherent in contingent commission arrangements mean that consumers would be better off going to insurers who do not pay contingent commissions? What possible harm could consumers suffer from contingency commission arrangements? Several conclusions can be drawn from the findings presented here.

1. **Troubling contingent fee arrangements similar to those being investigated by New York Attorney General Spitzer are quite common in the sales of personal lines of insurance to consumers.** Although the Spitzer findings have so far been confined to the sale of commercial insurance, the findings of this study show that a number of the largest sellers of home and auto insurance use contingent commissions. These commissions are also quite common in the sales of particular lines of insurance, especially credit insurance. The use of contingent commissions is also relatively high in the sales of personal home and auto insurance.

2. **Steering commissions could lead to higher rates for consumers.** Steering commission kickbacks are troubling because they might encourage an agent or broker with several insurance companies from which to choose to place a consumer with a company that increases the income of the producer instead of offering the lowest rates to consumers. The conflicts-of-interest between the producer and the consumer have been documented to be a serious problem in the Spitzer investigation, even for highly sophisticated insurance consumers. Consumers of personal lines should be very wary of contingency commissions that might steer them into an inappropriate insurance policy that costs them more than they should pay.

3. **Profit-related commissions are of even greater concern, as they may entice agents or brokers to delay or discourage legitimate claims.** As described above, under this arrangement, insurers provide agents with a kickback at the end of the year if the agent's (or broker's) clients file a low level of claims. If the seller's loss ratio (the percentage of claims dollars paid out in proportion to the amount of premiums paid by buyers) is better than specified levels, the seller can get more money as a year-end bonus. The lower the seller's loss ratio, the higher the bonus the seller receives. If an agent, for example, has a contingency commission that rewards the agent if the loss ratio is under 50 percent and the agent has $100,000 of premium with the insurer, the agent would lose money if the claims total over $50,000. If a consumer has a fender bender on December 15$^{th}$ and takes the $1,000 damage estimate to an agent, how might the agent react if the agent had already filed $49,500 in claims in the year? Such an arrangement tempts the agent to put his or her financial interest ahead of the consumers. An unscrupulous individual might delay the filing of the claim to the following year or tell the consumer not to file a claim, because the amount is small and the consumer's rates might increase, or the insurer might not renew the consumer's policy. While insurers claim that this is a legitimate form of compensation because it encourages agents to make sure that consumers take steps to reduce their risk of filing a claim (a process known as upfront loss mitigation) that is not the way these commissions work in personal lines. Offering additional compensation to agents who conduct safety assessments of clients' homes or driving safety courses would

be a proper way to encourage upfront loss mitigation. However, by offering additional compensation for lower losses without any evidence of mitigation effort, insurers are encouraging improper forms of loss mitigation, such as dishonest claims procedures designed to delay or eliminate certain legitimate losses. This practice sets up a clear conflict-of-interest between the agent and the policyholder.

4. **Direct-writing insurance companies and captive agent insurers do not pay contingency commissions.** An important finding is that direct-writing insurance companies and captive agent insurers tend to not take contingency commissions. If a consumer fears the effects of such commissions, the consumer could shop among those insurers that do not use contingency commission arrangements.

## TIPS FOR CONSUMERS

CFA warns consumers to be wary of commission arrangements when choosing an insurance policy.

1. **When buying an insurance policy, ask questions to get a complete picture of commission arrangements that your agent or broker is receiving:**

- What commission are you earning as a percentage of the cost of the policy you are suggesting I purchase?
- Am I receiving the lowest price among all the insurance companies that you represent for which I qualify?
- What other insurance companies do I qualify for that you represent? What are the prices I would pay at those insurers and what commission would you get with each company?
- Do you have a contingency commission arrangement with the insurer you are recommending? Please fully explain that arrangement to me.

2. **Be particularly cautious about insurance companies with profit-based contingent commissions.** You do not want to get into a situation where your agent has financial incentives to delay or discourage the filing of a legitimate claim. Ask your agent or broker if the company that sells the policy being recommended to you uses profit-related contingent commissions, and, if so, what are the details of this arrangement.

3. **If an agent or broker is defensive about or reluctant to disclose the commission arrangements in use on the policy being recommended, consider going to another insurance company or producer.**

4. **Make sure you shop carefully for insurance, getting quotes from some companies that do not pay contingent commissions, such as direct writers of insurance.**

## EXHIBIT 1

### CONSUMER FEDERATION OF AMERICA
### STUDY OF CONTINGENCY COMMISSIONS PAID IN 2003

1. BY LINE OF INSURANCE (TOTAL INDUSTRY)

| LINE | CONTINGENT COMMISSION | NET TOTAL COMMISSION | CONTINGENT AS % OF TOTAL |
|---|---|---|---|
| ALL LINES COMBINED | 1.00% | 10.24% | 9.77% |
| REINSURANCE COMPANIES | 2.36% | 20.23% | 11.67% |
| NON-STD AUTO PREDOMINATING | 0.25% | 11.21% | 2.23% |
| PVT PASS AUTO PREDOMINATING | 0.14% | 6.99% | 2.00% |
| PP AUTO & HO PREDOMINATING | 1.10% | 11.28% | 9.75% |
| SURPLUS LINES PREDOMINATING | 0.87% | 10.87% | 8.00% |
| COMM AUTO PREDOMINATING | 0.22%* | 14.01% | 1.57% |
| MED MAL PREDOMINATING | -0.15% | 3.14% | -4.78% |
| WORK COMP PREDOMINATING | 0.57% | 8.39% | 6.79% |
| COMM CASUALTY PREDOM. | 1.34% | 11.32% | 11.84% |
| MISC | -0.14% | 6.87% | -2.04% |
| PROPERTY PREDOMINATING | 0.87% | 12.63% | 6.89% |
| FID & SUR PREDOMINATING | 1.08% | 23.13% | 4.67% |
| CREDIT PREDOMINATING | 5.66% | 23.23% | 24.37% |
| FIN GUAR PREDOMINATING | -0.04% | -4.62% | 0.87% |
| MORTGAGE GUAR PREDOM | -0.04% | -1.01% | 3.96% |
| ACC & HEALTH PREDOM | 0.09% | 2.99% | 3.01% |
| STATE FUNDS PREDOM | 0.28% | 7.09% | 3.95% |

*Policy and membership fees, ratioed to direct writings.

2. BY LEADING 20 WRITERS (BY COMPANY, NOT BY GROUP)

| | | | |
|---|---|---|---|
| STATE FARM MUTUAL AUTO | 0% | 7.48% | 0.00% |
| ALLSTATE INS CO | 1.74% | 12.21% | 14.25% |
| NATIONWIDE MUTUAL | 1.40% | 13.70% | 10.22% |
| STATE FARM FIRE | 0% | 12.14% | 0.00% |
| STATE COMPENSATION FUND CA | 0% | 7.38% | 0.00% |
| CONTINENTAL CAS | 0.84% | 23.20% | 3.62% |
| ZURICH AMERICAN | 1.94% | 1.78% | 108.99% |
| FEDERAL INS | 2.31% | 16.22% | 14.24% |
| NATL UNION FIRE | 0.70% | 8.60% | 8.14% |
| AMERICAN HOME ASSURANCE | 0.68% | 7.78% | 8.74% |
| GOVT EMPLOYEES | 0.00% | 0.27% | 0.00% |
| PROGRESSIVE CASUALTY | 0.28% | 7.35% | 3.81% |
| LIBERTY MUTUAL | 0.29% | -0.11% | -263.64% |
| AMER FAMILY MUTUAL | 0.45% | 11.64% | 3.87% |
| ST PAUL FIRE & MARINE | 1.36% | 16.26% | 8.36% |
| UNITED SERVICES AUTO | 0.00% | 0.12% | 0.00% |

| | | | |
|---|---|---|---|
| FARMERS INS EXCHANGE | 0.00% | 1.11% | 0.00% |
| HARTFORD FIRE | 1.67% | 10.16% | 16.44% |
| ERIE INS EXCHANGE | 0.09% | 12.94% | 0.70% |
| TRAVELERS CASUALTY & SURETY | 2.18% | 14.71% | 14.82% |

3. GROUPS WITH MORE THAN $1 BILLION IN DIRECT WRITINGS AND GREATER THAN +/- 1% CONTINGENCY COMMISSION RELATED TO WRITINGS

| | | | |
|---|---|---|---|
| ALLIANZ OF AMERICA | 1.71% | 15.56% | 10.99% |
| ALLMERICA FINANCIAL | 2.74% | 16.00% | 17.13% |
| ALLSTATE INS | 1.79% | 12.23% | 14.64% |
| ARCH CAPITAL | 2.09% | -21.24% | -9.84% |
| ASSURANT SOLUTIONS | 10.90% | 23.41% | 46.56% |
| ATLANTIC MUTUAL | 2.78% | 16.30% | 17.06% |
| AUTO-OWNERS INS | 1.44% | 16.65% | 8.65% |
| W.R. BERKLEY | 1.52% | 17.78% | 8.55% |
| BERKSHIRE HATHAWAY | 3.27% | 8.76% | 37.33% |
| CALIFORNIA STATE AUTO | 1.21% | 11.71% | 10.33% |
| CHUBB | 2.33% | 16.09% | 14.48% |
| CINCINNATI INS | 2.03% | 17.66% | 11.49% |
| CNA | 1.65% | 14.38% | 11.47% |
| COMMERCE GROUP | 1.29% | 14.43% | 8.94% |
| COUNTRY INS & FINANCIAL | 1.75% | 13.24% | 13.22% |
| EMC INSURANCE | 2.45% | 17.29% | 14.17% |
| FAIRFAX FINANCIAL | 2.20% | 20.13% | 10.93% |
| GRANGE MUTUAL | 1.27% | 17.37% | 7.31% |
| HARLESVILLE INS | 1.61% | 17.11% | 9.41% |
| HARTFORD INS | 1.62% | 10.25% | 15.80% |
| HDI US GROUP | -2.50% | 15.47% | -16.16% |
| KINGSWAY AMERICA | -2.05% | 0.01% | -20500.00% |
| MARKEL CORP | 1.38% | 18.22% | 7.57% |
| NATIONWIDE | 1.41% | 13.97% | 10.09% |
| OHIO CASUALTY | 2.30% | 16.77% | 13.71% |
| ROYAL & SUN ALLIANCE | -2.69% | -16.00% | 16.81% |
| SAFECO INS | 1.89% | 16.04% | 11.78% |
| ST PAUL | 1.45% | 15.15% | 9.57% |
| SELECTIVE INS | 2.24% | 15.57% | 14.39% |
| STATE AUTO INS | 1.56% | 17.04% | 9.15% |
| TRAVELERS PROP/CAS | 2.03% | 15.08% | 13.46% |
| WESTFIELD GROUP | 2.14% | 18.12% | 11.81% |
| WINTERTHUR SWISS GROUP | 2.52% | 16.12% | 15.63% |
| XL AMERICA | 1.89% | -35.40% | -5.34% |

Source: Bests Aggregates and Averages, 2004 Edition

Note: A negative commission means that the insurer received commissions in greater amounts than they paid them. Usually, this is a reinsurance commission being paid to the insurer.

**EXHIBIT 2**

**CONSUMER FEDERATION OF AMERICA**
**STUDY OF CONTINGENCY COMMISSIONS PAID IN 2003**

| LINE | NET PREMIUMS | CONTINGENT COMMISSION | NET TOTAL COMMISSION | CONTINGENT AS % OF TOTAL |
|---|---|---|---|---|
| ALL LINES COMBINED | | 1.00% | 10.24% | 9.77% |
| | | | | |
| REINSURANCE COMPANIES | | 2.36% | 20.23% | 11.67% |
| General Reinsurance Corp | 3,129,032 | 15.53% | 20.99% | 73.99% |
| Everest Reinsurance Company | 2,964,501 | 0.61% | 22.68% | 2.69% |
| Transatlantic Reinsurance Co | 2,945,347 | 0.55% | 24.27% | 2.27% |
| Employers Reinsurance Corp | 2,872,992 | 0.29% | 21.71% | 1.34% |
| National Indemnity Company | 2,740,860 | 0.08% | 13.59% | 0.59% |
| | | | | |
| NON-STD AUTO PREDOMINATING | | 0.25% | 11.21% | 2.23% |
| Infinity Insurance Company | 320,961 | 0.20% | 1.23% | 16.26% |
| Windsor Insurance Company | 218,326 | 1.03% | 8.12% | 12.68% |
| Omni Insurance Company | 216,313 | 0.00% | 13.47% | 0.00% |
| Safeway Insurance Company | 211,148 | 0.00% | 18.85% | 0.00% |
| United Auto Ins Co | 193,224 | 2.37%* | 16.72% | 14.17% |
| | | | | |
| PVT PASS AUTO PREDOMINATING | | 0.14% | 6.99% | 2.00% |
| State Farm Mutual Auto Ins Co | 32,234,412 | 0.00% | 7.48% | 0.00% |
| Govt Employees Ins Co | 5,929,545 | 0.00% | 0.27% | 0.00% |
| Progressive Casualty Ins Co | 5,870,890 | 0.28% | 7.35% | 3.81% |
| Motors Insurance Corp | 2,867,142 | 0.00% | 7.42% | 0.00% |
| Interins Exch of the Auto Club | 1,975,182 | 0.00% | 2.31% | 0.00% |
| | | | | |
| PP AUTO & HO PREDOMINATING | | 1.10% | 11.28% | 9.75% |
| Allstate Insurance Company | 22,961,893 | 1.74% | 12.21% | 14.25% |
| Nationwide Mutual Ins Co | 11,294,096 | 1.40% | 13.70% | 10.22% |
| American Family Mutual Ins Co | 5,541,869 | 0.45% | 11.64% | 3.87% |
| United Services Auto Assn | 4,423,420 | 0.00% | 0.12% | 0.00% |
| Farmers Insurance Exchange | 4,392,734 | 0.00% | 1.11% | 0.00% |
| | | | | |
| SURPLUS LINES PREDOMINATING | | 0.87% | 10.87% | 8.00% |
| Lexington Insurance Company | 2,809,967 | 0.22% | 4.92% | 4.47% |
| Evanston Insurance Company | 699,445 | 0.96% | 16.24% | 5.91% |
| Starr Excess Liability Ins Ltd | 632,243 | 0.22% | 4.92% | 4.47% |
| Admiral Insurance Company | 561,260 | 0.05% | 15.92% | 0.31% |
| Scottsdale Insurance Company | 539,709 | 1.40% | 13.70% | 10.22% |
| | | | | |
| COMM AUTO PREDOMINATING | | 0.22%* | 14.01% | 1.57% |
| Canal Insurance Company | 433,298 | 0.00% | 23.61% | 0.00% |
| Great West Casualty Company | 413,782 | 0.28% | 10.61% | 2.64% |
| Carolina Casualty Ins Co | 312,451 | 0.71% | 17.17% | 4.14% |
| American Transit Insurance Co | 260,406 | 0.00% | 12.81% | 0.00% |

| | | | | |
|---|---|---|---|---|
| Lincoln General Insurance Co | 237,539 | -3.41% | -2.29% | 148.91% |
| | | | | |
| MED MAL PREDOMINATING | | -0.15% | 3.14% | -4.78% |
| Medical Protective Company | 713,505 | 0.00% | 5.36% | 0.00% |
| Medical Liability Mut Ins Co | 620,629 | 0.00% | 1.78% | 0.00% |
| Health Care Indemnity Inc | 377,000 | -2.51% | -2.44% | 102.87% |
| Doctors Company Interins Exch | 336,426 | 0.00% | 2.95% | 0.00% |
| Medical Assurance Company Inc | 297,679 | 0.00% | 4.66% | 0.00% |
| | | | | |
| WORK COMP PREDOMINATING | | 0.57% | 8.39% | 6.79% |
| Zenith Insurance Company | 767,016 | 0.19% | 5.85% | 3.25% |
| Accident Fund Ins Co of Amer | 441,574 | 1.86% | 11.50% | 16.17% |
| FCCI Insurance Company | 395,051 | 1.23% | 21.90% | 5.62% |
| Amerisure Mutual Insurance Co | 380,075 | 1.54% | 11.43% | 13.47% |
| Liberty Northwest Ins Corp | 357,380 | 0.09% | 10.28% | 0.88% |
| | | | | |
| COMM CASUALTY PREDOM. | | 1.34% | 11.32% | 11.84% |
| Continental Casualty Company | 7,403,129 | 0.84% | 23.20% | 3.62% |
| Zurich American Insurance Co | 6,931,391 | 1.94% | 1.78% | 108.99% |
| Federal Insurance Company | 6,625,119 | 2.31% | 16.22% | 14.24% |
| National Union Fire Ins Co PA | 6,113,824 | 0.70% | 8.60% | 8.14% |
| American Home Assurance Co | 6,027,996 | 0.68% | 7.78% | 8.74% |
| | | | | |
| MISC | | -0.14% | 6.87% | -2.04% |
| Virginia Surety Company Inc | 708,238 | -0.74% | 7.24% | -10.22% |
| Alea North America Ins Co | 114,043 | 2.66% | -4.35% | -61.15% |
| Veterinary Pet Insurance Co | 76,763 | 0.00% | 25.40% | 0.00% |
| Courtesy Insurance Company | 70,844 | 0.00% | 5.36% | 0.00% |
| Old United Casualty Company | 61,750 | 0.68% | 9.21% | 7.38% |
| | | | | |
| PROPERTY PREDOMINATING | | 0.87% | 12.63% | 6.89% |
| State Farm Fire & Casualty Co | 9,848,659 | 0.00% | 12.14% | 0.00% |
| Factory Mutual Insurance Co | 2,517,537 | 0.00% | 5.29% | 0.00% |
| State Farm General Ins Co | 1,551,233 | 0.00% | 12.48% | 0.00% |
| State Farm Lloyds | 1,307,730 | 0.00% | 13.71% | 0.00% |
| Foremost Insurance Company | 926,859 | 1.45% | 24.94% | 5.81% |
| | | | | |
| FID & SUR PREDOMINATING | | 1.08% | 23.13% | 4.67% |
| Travelers Cas & Surety of Amer | 776.406 | 1.43% | 20.69% | 6.91% |
| Western Surety Company | 317,253 | 1.94% | 34.18% | 5.68% |
| HEMAR Insurance Corp of Amer | 100,460 | 0.00% | 0.00% | #DIV/0! |
| International Fidelity Ins Co | 60,423 | -0.23% | 45.19% | -0.51% |
| American Contractors Indem Co | 47,918 | 0.32% | 24.42% | 1.31% |
| | | | | |
| CREDIT PREDOMINATING | | 5.66% | 23.23% | 24.37% |
| Wesco Insurance Company | 87,722 | 0.00% | 19.96% | 0.00% |
| Lyndon Property Insurance Co | 74,237 | 2.95% | 17.48% | 16.88% |
| Central States Indemnity Co | 71,201 | 33.12% | 53.35% | 62.08% |
| EULER American Credit Indem Co | 69,889 | 0.00% | -29.11% | 0.00% |

| | | | | |
|---|---|---|---|---|
| Radian Insurance Inc | 69,567 | 0.00% | 0.27% | 0.00% |
| | | | | |
| FIN GUAR PREDOMINATING | | -0.04% | -4.62% | 0.87% |
| Ambac Assurance Corporation | 1,019,164 | -0.28% | -2.83% | 9.89% |
| MBIA Insurance Corporation | 971,917 | 0.03% | -5.85% | -0.51% |
| Financial Security Assur Inc | 409,191 | 0.00% | -26.30% | 0.00% |
| Financial Guaranty Ins Co | 266,033 | 0.00% | 0.15% | 0.00% |
| Radian Reinsurance Inc | 184,255 | 0.70% | 31.00% | 2.26% |
| | | | | |
| MORTGAGE GUAR PREDOM | | -0.04% | -1.01% | 3.96% |
| Mortgage Guaranty Ins Corp | 1,203,761 | 0.00% | -3.93% | 0.00% |
| Radian Guaranty Inc | 629,064 | -0.20% | -1.04% | 19.23% |
| PMI Mortgage Insurance Co | 617,035 | -0.03% | -2.50% | 1.20% |
| United Guaranty Residential | 333,812 | 0.00% | -7.33% | 0.00% |
| Republic Mortgage Insur Co | 300,494 | 0.00% | -5.78% | 0.00% |
| | | | | |
| ACC & HEALTH PREDOM | | 0.09% | 2.99% | 3.01% |
| Community Insurance Company | 2,934,282 | 0.00% | 3.11% | 0.00% |
| Anthem Insurance Companies Inc | 1,974,800 | 0.00% | 2.18% | 0.00% |
| AMEX Assurance Company | 219,594 | 0.00% | 0.82% | 0.00% |
| Avemco Insurance Company | 93,192 | -0.01% | 5.56% | -0.18% |
| BCS Insurance Company | 87,220 | 5.34% | 12.70% | 42.05% |
| | | | | |
| STATE FUNDS PREDOM | | 0.28% | 7.09% | 3.95% |
| State Comp Ins Fund of CA | 7,636,566 | 0.00% | 7.38% | 0.00% |
| Texas Mutual Insurance Co | 665,257 | 1.97% | 9.93% | 19.84% |
| Arizona State Compensation Fund | 341,020 | 0.00% | 0 | #DIV/0! |
| SAIF Corporation | 312,344 | 0.20% | 5.18% | 3.86% |
| Injured Workers Insurance Fund | 260,834 | 1.67% | 7.40% | 22.57% |

*Policy and membership fees, ratioed to direct writings.

## EXHIBIT 3

### *WHY COMPETITION IS WEAK IN INSURANCE*

1. ***Complex Legal Document***. Most products are able to be viewed, tested, "tires kicked" and so on. Insurance policies, however, are difficult for consumers to read and understand -- even more difficult than documents for most other financial products. For example, consumers often think they are buying insurance, only to find they bought a list of exclusions.

2. ***Comparison Shopping is Difficult***. Consumers must first understand what is in the policy to compare prices.

3. ***Policy Lag Time***. Consumers pay a significant amount for a piece of paper that contains specific promises regarding actions that might be taken far into the future. The test of an insurance policy's usefulness may not arise for decades, when a claim arises.

4. ***Determining Service Quality is Very Difficult***. Consumers must determine service quality at the time of purchase, but the level of service offered by insurers is usually unknown at the time a policy is bought. Some states have complaint ratio data that help consumers make purchase decisions, and the NAIC has made a national database available that should help, but service is not an easy factor to assess.

5. ***Financial Soundness is Hard to Assess***. Consumers must determine the financial solidity of the insurance company. One can get information from A.M. Best and other rating agencies, but this is also complex information to obtain and decipher.

6. ***Pricing is Dismayingly Complex***. Some insurers have many tiers of prices for similar consumers—as many as 25 tiers in some cases. Consumers also face an array of classifications that can number in the thousands of slots. Online assistance may help consumers understand some of these distinctions, but the final price is determined only when the consumer actually applies and full underwriting is conducted. At that point, the consumer might be quoted a much different rate than he or she expected. Frequently, consumers receive a higher rate, even after accepting a quote from an agent.

7. ***Producer Compensation is unknown***. Since many people are overwhelmed with insurance purchase decisions, they often go to an insurer or an agent and rely on them for the decision-making process. Hidden commission arrangements may tempt agents to place insureds in the higher priced insurance companies. Contingency commissions may also bias an agent or brokers decision making process.

8. ***Underwriting Denial***. After all that, underwriting may result in the consumer being turned away.

9. ***Mandated Purchase***. Government or lending institutions often require insurance. Consumers who must buy insurance do not constitute a "free-market", but a captive market ripe for arbitrary insurance pricing. The demand is inelastic.

10. ***Incentives for Rampant Adverse Selection***. Insurer profit can be maximized by refusing to insure classes of business (e.g., redlining) or by charging regressive prices.

11. ***Antitrust Exemption***. Insurance is largely exempt from antitrust law under the provisions of the McCarran-Ferguson Act.

Compare shopping for insurance with shopping for a can of peas. When you shop for peas, you see the product and the unit price. All the choices are before you on the same shelf. At the checkout counter, no one asks where you live and then denies you the right to make a purchase. You can taste the quality as soon as you get home and it doesn't matter if the pea company goes broke or provides poor service. If you don't like peas at all, you need not buy any. By contrast, the complexity of insurance products and pricing structures makes it difficult for consumers to comparison shop. Unlike peas, which are a discretionary product, consumers absolutely require insurance products, whether as a condition of a mortgage, as a result of mandatory insurance laws, or simply to protect their home or health.