

**In The Matter Of:**  
*Commonwealth of Massachusetts*  
*Division of Insurance, MPIUA Rate Filings*

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*FAIR Plan Hearing and Prehearing Conference*  
*January 19, 2012*  
*Docket No. R2011-02*

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# **Attorney's Notes**

Volume I  
Pages 1 to 96  
Exhibits: None

COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION  
DIVISION OF INSURANCE  
DOCKET NO. R2011-02  
RATE FILINGS FOR PROPERTY INSURANCE

HEARING: To consider whether the Commissioner of Insurance should approve rate filings for property insured through the Massachusetts Property Insurance Underwriting Association ("MPIUA"), also known as the FAIR Plan, conducted in accordance with the provisions of General Laws, c. 174A, c. 175A, c. 175C, and c. 30A; and 211 CMR 101.00, et seq., -and- Prehearing conference pursuant to 211 CMR 101.08(1) immediately following the conclusion of the public comment portion of the hearing, to address topics listed in 211 CMR 101.8(1) and scheduling matters, held at the Division of Insurance, 1000 Washington Street, Boston, Massachusetts, on Thursday, January 19, 2012, commencing at 10:07 a.m.

BEFORE: Joseph G. Murphy, Commissioner of Insurance  
Jean Farrington, Stephen Sumner,  
Presiding Officers

APPEARANCES:

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(by Michael B. Meyer, Esq.)  
12 Post Office Square, Boston, MA 02109  
-and-  
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Two Center Plaza, Boston, MA 02108,  
for Massachusetts Property Insurance  
Underwriting Association.

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Office of the Attorney General  
(by Monica Brookman, Esq.)  
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(Nancy M. Kingsbury,  
Registered Professional Reporter)

\* \* \*

1 PROCEEDINGS  
2 HEARING OFFICER FARRINGTON: Good morning.  
3 I want to welcome you all to the public comment  
4 hearing on the rate filing submitted by the  
5 Massachusetts Property Insurance Underwriting  
6 Association, more commonly known as the FAIR Plan.  
7 The Docket number for this proceeding is R2011-02,  
8 and today is January 19, 2012. I am Jean  
9 Farrington. I am one of the two presiding officers  
10 in this matter. With me on the bench is Stephen  
11 Sumner, who is also one of the presiding officers,  
12 and we will very shortly be joined by Commissioner  
13 Murphy, who will be right here.  
14 A little background: The FAIR Plan  
15 submitted its rate filing on November 10, 2011, and  
16 it is seeking the following overall statewide  
17 average rate changes:  
18 For all homeowners forms, the statewide  
19 average proposed increase is 7.2 percent, and that  
20 average differs depending on the type of property  
21 that is insured.  
22 For residential property owners, the  
23 statewide average proposed increase is 7.4 percent;  
24 for tenant insurance, the MPIUA recommended a

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1 5.9 percent rate decrease; and for condominium  
2 owners, an increase of 4.8 percent.  
3 For dwelling fire and extended coverage,  
4 the MPIUA is seeking a statewide average increase of  
5 6 percent, and it requests no increase in the  
6 average rates for commercial property. The proposed  
7 effective date of the new rates was December 31,  
8 2011, and that obviously will not happen.  
9 A hearing notice scheduling today's public  
10 comment hearing was issued on November 16, 2011, and  
11 published in The Boston Globe on November 18. A  
12 second hearing notice noting a change in the date  
13 for this public comment hearing was issued on  
14 November 30 and published on December 3, 2011. Each  
15 notice was also posted on the Division's Web site.  
16 The second hearing notice, among other things,  
17 requested people who wish to make oral statements to  
18 notify the Division of their intent to speak by  
19 January 13, 2012. And as of that date, two people  
20 had submitted notices of intent to speak.  
21 If you did not sign up in advance to speak  
22 and still wish to make a statement, we have a list  
23 here that I believe was on the table at the back of  
24 the room. If you didn't happen to put your name

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1 down and decide at the end that you want to say  
2 something, you are certainly welcome to do so.  
3 In addition to the request to offer oral  
4 statements today, the Division has received public  
5 comments in the form of letters. Customarily we  
6 invite representatives of elected and appointed  
7 officials to speak first and then hear statements  
8 from others.  
9 So elected officials. Michael Jackman, who  
10 is appearing on behalf of Congressman William  
11 Keating of the Tenth District of Massachusetts.  
12 **MR. JACKMAN:** Thank you very much and thank  
13 you for allowing me to appear in the Congressman's  
14 absence. Unfortunately he couldn't be here today,  
15 but he asked me to come and make a brief statement  
16 in the form of a letter, which I have copies which I  
17 will leave with you, addressed to the hearing clerk.  
18 "I am writing the behalf of homeowners of  
19 the Tenth Congressional District, including Cape  
20 Cod, the South Shore and Plymouth County, who are  
21 currently insured through the Fair Access to  
22 Insurance Requirements or FAIR Plan.  
23 "As a coastal homeowner myself, I am well  
24 aware of the difficulty many of my constituents face

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1 in purchasing homeowners insurance and required  
2 extended coverage, including flood insurance,  
3 homeowners need to ensure that their primary  
4 investment is protected. As Congressman, I was  
5 pleased to have the opportunity to vote in favor  
6 last month of extending the National Flood Insurance  
7 Program.  
8 "Residents of the Tenth District often must  
9 turn to the FAIR Plan at a disproportionately higher  
10 rate in order to ensure that their homes are  
11 protected up to their maximum values. Approximately  
12 60,000 homeowners on the Cape and Islands --  
13 46.6 percent of homeowners -- are insured through  
14 the FAIR Plan. Therefore, any proposed increase in  
15 FAIR Plan rates will impact my constituents more  
16 than the residents of any other Congressional  
17 District in Massachusetts.  
18 "I would urge the Massachusetts Property  
19 Insurance Underwriting Association to keep in mind  
20 the pressures confronting the people of the Tenth  
21 Congressional District and all similarly situated  
22 citizens of Massachusetts who may be struggling to  
23 pay their mortgages, buy heating fuel, or put food  
24 on their tables. We all understand that the

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1 Association must ensure its financial stability in  
2 the face of historic storm-related damage such as  
3 was witnessed during 2011. However, I would urge  
4 that a balance be found through the strictest  
5 scrutiny of financial resources currently on hand  
6 and that the rates be set to lessen the burden on  
7 the ratepayers who often have no other alternative  
8 to secure insurance for their homes.  
9 "Thank you for the opportunity to appear  
10 before you today and present this letter in  
11 opposition to the proposed rate increases for the  
12 FAIR Plan. Sincerely, William R. Keating, Member of  
13 Congress."  
14 **HEARING OFFICER FARRINGTON:** Thank you.  
15 You do have a couple of copies of your statement?  
16 **MR. JACKMAN:** I do have several, actually.  
17 **HEARING OFFICER FARRINGTON:** Thank you.  
18 Bring them up here, and I will give one to the  
19 stenographer. Thank you.  
20 Is there anybody here who represents a  
21 federal elected official?  
22 Our next category is statewide elected  
23 officials. The Attorney General, Ms. Brookman.  
24 **MS. BROOKMAN:** Good morning. My name is

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1 Monica Brookman. I am an Assistant Attorney General  
2 and the Deputy Chief of the Insurance and Financial  
3 Services Division at the Office of the Attorney  
4 General. I am appearing today on behalf of Attorney  
5 General Martha Coakley to present her views on the  
6 proposed rate change for the Massachusetts Property  
7 Insurance Underwriting Association, also known as  
8 the FAIR Plan. The Office of the Attorney General  
9 represents Massachusetts consumers in matters before  
10 the Division of Insurance.

11 The FAIR Plan is the residual market for  
12 homeowners insurance. This plan was established by  
13 the Massachusetts legislature to ensure that all  
14 property holders in Massachusetts can insure their  
15 properties at a reasonable cost. Most consumers who  
16 are rejected for coverage by voluntary carriers  
17 obtain insurance from the FAIR Plan. The FAIR Plan  
18 is operated jointly by all private insurers who sell  
19 homeowners coverage in Massachusetts; each shares in  
20 the FAIR Plan's profits and losses in proportion to  
21 market share. FAIR Plan rates must be approved by  
22 the Commissioner of Insurance after a full and  
23 public hearing, and rates must not be excessive,  
24 inadequate, or unfairly discriminatory.

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1 As you know, the FAIR Plan submitted a rate  
2 request to the Division of Insurance asking for an  
3 overall 7.2 percent increase. This includes 7.4 in  
4 homeowners form, which includes a 10 percent rate  
5 increase for New Bedford, Fall River, Quincy,  
6 Lawrence, Brockton, Lynn, parts of Boston, parts of  
7 Essex, Suffolk and Plymouth Counties. Other  
8 territories will face significant increases; the  
9 Cape and Islands, which represents roughly  
10 40 percent of FAIR Plan coverage, will see a 6.8  
11 increase if the request is allowed.

12 The FAIR Plan must demonstrate in this  
13 hearing that its proposed rate hikes are fair and  
14 not excessive. Based on the Office of the Attorney  
15 General's preliminary review of the FAIR Plan's  
16 filing, we believe no rate increase is warranted.

17 On March 21, 2007, the FAIR Plan requested  
18 an overall rate increase of 13.6 percent with a  
19 25 percent rate increase in Cape Cod, New Bedford  
20 and Fall River. This request was denied by the  
21 Commissioner because the FAIR Plan failed to meet  
22 its statutory burden of demonstrating that the  
23 proposed increase was not excessive. The  
24 Commissioner found that the MPIUA "failed to provide

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1 the information necessary to enable the Commissioner  
2 to comply with the statutory mandate to consider the  
3 effects of hurricane losses and the cost of  
4 reinsurance on voluntary market rates and MPIUA's  
5 costs of such losses and reinsurance."

6 Since its substantial proposed 2007 rate  
7 increase was disapproved, the FAIR Plan has been  
8 remarkably profitable. During the five-year period  
9 from fiscal year 2007 through fiscal year 2001, the  
10 FAIR Plan's profit totaled over \$200 million, or  
11 about \$40 million a year. This translates to a  
12 growth in equity of nearly 400 percent, which is an  
13 astonishing high growth rate during a period of  
14 economic crisis. This is over and above the roughly  
15 \$350 million in reinsurance premiums paid by the  
16 FAIR Plan during this period, a significant portion  
17 of which is intended to be retained by the reinsurer  
18 as profit on the reinsurance transaction. The FAIR  
19 Plan earns profit from a number of sources,  
20 including investment income which is slightly less  
21 than half of the profit, and the collection of  
22 premium in excess of losses and expenses.

23 Unlike the disapproved 2007 filing and the  
24 currently approved 2006 rates, the current filing

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1 includes an explicit add-on, referred to as a  
2 "profit provision," designed to further add to the  
3 FAIR Plan's profit. Without this add-on, the profit  
4 provision that they are creating which alone would  
5 generate more than \$15 million in an additional  
6 annual profit for the FAIR Plan, the indicated rates  
7 would be about only 2 percent statewide with a  
8 slight decrease for the Cape and Islands.

9 Even if you are not considering this --  
10 even with this 2 percent increase, that would be  
11 unwarranted. The increase is based entirely on  
12 certain "black box" reinsurance hurricane models and  
13 reinsurance expenses, which the FAIR Plan and its  
14 consultants refuse to or are unable to justify. In  
15 this proceeding, the FAIR Plan has the burden of  
16 demonstrating that the models it uses are  
17 appropriate for Massachusetts, produce output  
18 consistent with historical data, and are  
19 scientifically valid. However, the FAIR Plan has  
20 decided to adopt the strategy here of presenting no  
21 witnesses who are experts on hurricane models. The  
22 FAIR Plan has not demonstrated that the hurricane  
23 models are fair and reasonable for use in  
24 Massachusetts. Thus, as in 2007, the proposed rate

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1 hikes should be rejected.  
2 Because the FAIR Plan is the insurer of  
3 last resort, the Commissioner is statutorily  
4 required, when reviewing the rate request, to  
5 consider the intent of the FAIR Plan's creation,  
6 which is to make basic property insurance available  
7 at a reasonable cost. In our view, any increase in  
8 the FAIR Plan's rates is unsupported and would  
9 contravene the statutory intent. Thank you very  
10 much.  
11 (Applause)  
12 **HEARING OFFICER FARRINGTON:** Do you have  
13 copies of your statement?  
14 **MS. BROOKMAN:** Yes.  
15 **VOICE FROM THE AUDIENCE:** Are the  
16 microphones on?  
17 **HEARING OFFICER FARRINGTON:** Sorry?  
18 **VOICE FROM THE AUDIENCE:** Are the  
19 microphones on?  
20 **HEARING OFFICER FARRINGTON:** As far as we  
21 know. The green lights are on. If there is a  
22 problem with the microphones not projecting very  
23 well, just make sure you speak loudly and clearly,  
24 please.

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1 Is there any other statewide elected  
2 official who wishes to make a statement? Elected  
3 officials? Senator Wolf representing the Cape and  
4 the Islands.  
5 **SENATOR WOLF:** Thank you very much. It is  
6 an honor to be here, and I appreciate your  
7 willingness to listen.  
8 I do want to acknowledge my colleagues,  
9 Representative Turner and Representative Madden, who  
10 are here also from my district. On the way over  
11 they received word from the Ethics Commission that  
12 because they have participated in the FAIR Plan,  
13 they are not allowed to actually testify. But there  
14 is a reason we all walked over here together today.  
15 So you won't be hearing from them, but they stand I  
16 guess to escort me back to the State House after the  
17 testimony.  
18 We are going to be submitting written  
19 testimony, and you are going to be hearing a ton of  
20 facts and figures today, so I want to give you a  
21 tiny bit of personal background about why I think I  
22 can bring something to the table here which  
23 hopefully will be instructive.  
24 I started an airline 22 years ago. It's

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1 grown in size significantly. We have 73 airplanes  
2 now, so we are very involved in procuring insurance,  
3 and in fact every year we go over to London to talk  
4 to their reinsurance market to sort of understand  
5 better the process.  
6 And I want to also thank, while I am  
7 talking here, the folks from the FAIR Plan who have  
8 been by my office many times in the year I have been  
9 in office to help me understand the nuances of the  
10 plan and exactly how it works.  
11 And I would like to say that the more I  
12 have understood the plan, the more at ease I am with  
13 the way rates are determined and sort of how it  
14 interplays. It is so important to our region since  
15 a few years ago 60 percent of my constituents were  
16 covered, and now that number is down to about  
17 47 percent. So what is happening is as the cycles  
18 in the free market play out, we see people go in and  
19 out of the FAIR Plan according to their ability to  
20 procure from the commercial underwriters.  
21 We should be clear that the FAIR Plan is  
22 the commercial underwriters, just packaged in a  
23 different way. That's really what is happening. So  
24 we are sort of regulating profit through, and as the

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1 representative from the Attorney General said,  
2 that's problematic to begin with.  
3 I will say that the reason I go to London  
4 every year is so that the secondary market can  
5 really understand the nuances of our business. Part  
6 of my concern in the last year is, I think we are  
7 rated -- and I am specifically talking now about the  
8 Cape and Islands -- by a secondary market without  
9 them having full benefit of really understanding the  
10 region I represent.  
11 Let me give you a couple of examples, and I  
12 have asked the FAIR Plan this. We are all focused  
13 on the computer modeling. I agree it's a "black  
14 box." We actually sat down and had a discussion  
15 about computer modeling. For the last 35 years  
16 since I learned to fly on the Cape, literally I have  
17 gotten up every morning with a huge interest in  
18 meteorology and watching the weather. So it's not a  
19 passive interest of mine; it's an active interest  
20 of, and it's very related to the FAIR Plan rates.  
21 I will tell you that it's good that in the  
22 last year the FAIR Plan seems to have dropped  
23 Category 4 and 5 hurricanes out of the modeling.  
24 That leaves us with 1, 2 and 3 hurricanes. The Cape

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1 and Islands in the last hundred years has not been  
2 significantly hit by the type of hurricane that the  
3 modeling is building into the rates. But let me  
4 just leave the hurricane modeling aside for a second  
5 because you are going to hear more about the  
6 mystique about "black box."  
7 Other meteorological factors which are  
8 built into this, because they are a statewide  
9 phenomenon, are ice storms. And because we exist in  
10 a maritime environment, the likelihood of us getting  
11 a significant ice storm as we saw out in the  
12 Worcester area several years ago is zero. In a  
13 maritime environment you get a boundary layer effect  
14 which warms the air when you have warm air aloft,  
15 which is the scenario of an ice storm, and our  
16 exposure to ice storms is relatively zero on the  
17 Cape and Islands.  
18 Our exposure to severe thunderstorms -- and  
19 again, this is because of our maritime  
20 environment -- severe thunderstorms and tornadoes is  
21 virtually zero. Our exposure to widespread  
22 rain-induced flooding, because of the soil, the  
23 permeable soil that we have on the Cape and Islands,  
24 is zero. So if you look at that, yes, there is

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1 local street flooding which sometimes affects a home  
2 or a small neighborhood, but the type of widespread  
3 flooding we saw when Irene went through, it doesn't  
4 happen on the Cape. We can get five, six, seven  
5 inches of rain, which is unusual but it does happen  
6 out of this storm, and we don't get the kind of  
7 neighborhood flooding that the rest of the state  
8 gets. So if there is an added risk in the Cape and  
9 Islands because of the hurricane modeling, we are  
10 not getting the reduced risk for ice storm,  
11 thunderstorm, tornado, widespread rain-induced  
12 flooding. Yes, we had coastal flooding, but that's  
13 built in, and it's recognized through ridiculous  
14 deductibles.  
15 Representative Madden as we were walking  
16 over, his wind deductible on his house is \$50,000.  
17 Think about that for a minute. Why even have it if  
18 it's \$50,000?  
19 So I sort of look at the big picture. We  
20 need more information. I'm wondering whether the  
21 FAIR Plan or any of the commercial underwriters have  
22 actually invited the secondary market over here to  
23 sit down and have a much more granular approach  
24 regionally throughout the Commonwealth, because

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1 geographically and meteorologically, this is a very  
2 diverse state and we really need the secondary  
3 market to look at each of the risks in each of the  
4 regions before assessing and setting rates based on  
5 that risk.  
6 I am going to argue actually that we  
7 shouldn't freeze it at 6.7 percent. I think we need  
8 to look at reducing the rates on the Cape and  
9 Islands, because -- again, I am going to speak  
10 personally for a second -- I have lived in the same  
11 house for 26 years. When I moved into that house,  
12 my homeowners insurance was \$30 a month, \$360 a  
13 year. My homeowners insurance is now over \$3,000 a  
14 year, almost a tenfold increase, and the deductibles  
15 for wind are approaching \$10,000 now. I look at  
16 sort of what is built into these rates. Do we  
17 understand executive compensation as it's built into  
18 these rates? Do we understand the risk of the  
19 investment? Not the inherent risk of the insurance  
20 losses but the inherent risk of the investment from  
21 the insurance industry? And we know what that  
22 brought us over the last number of years.  
23 So I think that the cover needs to be  
24 peeled back. We need to look at this in a much

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1 broader way. More entrants in the private sector  
2 have come into this market in the last year, which  
3 is good news, but generally when insurance markets  
4 soften and more carriers come in to write, that's  
5 because they see an economic opportunity. And that  
6 economic opportunity exists because if you compare  
7 what's collected in premium and what's paid out in  
8 losses or loss ratio, it's very attractive for the  
9 Cape and Islands region right now.  
10 So one of the things I would like you to  
11 consider is, the good news is we have more  
12 competition coming into our market, but the reason  
13 for that is because it's an attractive business  
14 opportunity. And the reason for that is because  
15 there's a good margin between premiums collected and  
16 losses.  
17 I came in saying I think you should look at  
18 as much as a 20 percent reduction in our region. If  
19 you look at our historic loss ratio over the last  
20 20 years and the profit that has been made both in  
21 the FAIR Plan and out of the FAIR Plan, you will see  
22 a tremendous economic benefit to the insurance  
23 companies and not a lot of payout. And you are  
24 going to hear about "the catastrophic storm," the

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1 "perfect storm" that is the rationale for all this.  
2 And I really, based on all of my understanding about  
3 both historic and looking at the weather patterns  
4 and the exposure on the Cape and Islands, really  
5 question that science and ask that we apply more  
6 good science to it until we fully understand it. So  
7 thank you very much. I appreciate it.  
8 (Applause)  
9 **HEARING OFFICER FARRINGTON:** Thank you very  
10 much.  
11 Ms. Horrigan from Senator Murray's office.  
12 **MS. HERRIGAN:** Hello. My name is Jackie  
13 Horrigan, and I am here on behalf of Senate  
14 President Therese Murray for her remarks on the  
15 proposed rate increase.  
16 Senate President Murray first wants to  
17 thank the DOI for postponing this hearing. She  
18 appreciates your willingness to encourage and  
19 support the public's participation in this process.  
20 Homeowners insurance is a pressing matter  
21 for the Commonwealth of Massachusetts, specifically  
22 for those living on the coast. The Senate  
23 President's district, Plymouth and Barnstable  
24 Counties, is comprised mainly of all coastal

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1 communities, and she is contacted frequently by  
2 constituents with regard to their homeowners  
3 insurance policies.  
4 Throughout the president's tenure in the  
5 Senate, she has been committed to ensuring that her  
6 constituents have access to fair and complete  
7 coverage for their homes. In the 2006 and 2007  
8 legislative sessions, the Senate passed homeowners  
9 insurance bills to set new standards for the  
10 homeowners insurance market and reduce the burden of  
11 storm costs for coastal residents. While neither of  
12 these bills ultimately passed, other changes in the  
13 insurance market have happened since these bills  
14 were considered.  
15 With the deregulation of the auto insurance  
16 industry, we all expected that we would see more  
17 insurers enter the homeowners insurance market; and  
18 while some national insurers have entered the  
19 market, unfortunately not enough have entered to  
20 have a meaningful impact on homeowners insurance.  
21 The Senate President wants to make it clear  
22 that she is not giving up the fight in attempting to  
23 curb the rising cost of homeowners insurance.  
24 Coastal homeowners and residents living close to the

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1 coastline should not be penalized for where they  
2 live and should not have to pay rates based on what  
3 may happen. The Senate President firmly believes  
4 that the data used by insurers should not only be  
5 timely but based on real scientific data and not on  
6 insurance company models.  
7 The FAIR Plan was created to provide  
8 coverage to homeowners unable to secure insurance in  
9 the private market. It was not and is still not  
10 intended to be one of the primary sources of  
11 homeowners insurance for residents in coastal areas.  
12 Homeowners in coastal areas deserve comprehensive  
13 insurance at an affordable price, and a rate  
14 increase could potentially make already unaffordable  
15 insurance practically unattainable.  
16 The Senate President will remain resolute  
17 in her position against excessive rates and will  
18 continue to advocate on behalf of her constituents  
19 for lower homeowners insurance rates. Thank you.  
20 **HEARING OFFICER FARRINGTON:** Thank you. Do  
21 you have a copy of your statement that you could --  
22 **MS. HERRIGAN:** I can get you one.  
23 **HEARING OFFICER FARRINGTON:** That would be  
24 helpful.

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1 And, Senator Wolf, do you have a copy as  
2 well? Did you have a copy of your remarks?  
3 **SENATOR WOLF:** We are going to be  
4 submitting written testimony to you next week.  
5 **HEARING OFFICER FARRINGTON:** Thank you very  
6 much.  
7 Is there anybody else who is an elected  
8 official or representing an elected official at the  
9 state level? Any local officials? Any members of  
10 boards of selectmen or anybody else who wishes to  
11 make a statement at this time? All right. Then we  
12 will move on to our next category of appointed  
13 officials.  
14 Mr. Beagan from the State Rating Bureau.  
15 **MR. BEAGAN:** Thank you. My name is Kevin  
16 Beagan. I am the Director of the State Rating  
17 Bureau within the Division of Insurance. The State  
18 Rating Bureau, which is the technical, actuarial arm  
19 of the Division, reviews proposed insurance rates,  
20 and along with the Attorney General, represents  
21 consumer interests to ensure that the premiums  
22 charged meet the requirements of Massachusetts law.  
23 The role of the Massachusetts Property  
24 Insurance Underwriting Association, also known as



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1 the FAIR Plan, is an important one, for it serves as  
2 insurer of last resort, providing coverage on a  
3 personal and commercial lines basis, including  
4 dwelling fire and extended coverage, homeowners  
5 multi-peril, and commercial fire and allied lines  
6 policies.  
7       Between 2004 and 2007, a number of carriers  
8 stopped writing home insurance in the Cape Cod and  
9 Islands area and others non-renewed all this  
10 business in that area. This included one carrier's  
11 non-renewal of approximately 14,000 Cape Cod and  
12 Islands homeowners policies, citing concerns about  
13 increased hurricane exposure in coastal areas. Many  
14 of the non-renewed policyholders found replacement  
15 coverage in the FAIR Plan with coverage comparable  
16 to what is available in the voluntary market. Due  
17 to these business decisions by its member companies,  
18 the FAIR Plan more than doubled its Cape Cod and  
19 Islands exposures during that period. Although the  
20 number of Cape Cod and Islands policies in the FAIR  
21 Plan has stabilized and even been reduced in the  
22 past few years, the number of policyholders in this  
23 area remains large.  
24       The State Rating Bureau has been reviewing

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1 the MPIUA's recent proposal for rate revisions since  
2 it was filed with the Division of Insurance. State  
3 Rating Bureau staff and consultants have been  
4 examining the filed rate level indications and rate  
5 change proposals, both on a statewide basis and by  
6 territory, in light of the actuarial evidence, so  
7 that we will be in a position to comment during the  
8 hearings on whether the proposals meet all statutes  
9 and regulations that govern the plan.  
10       In relation to this filing, I would like to  
11 comment on the challenges that policyholders are  
12 facing in the Cape Cod and Islands area (composed of  
13 Barnstable, Dukes and Nantucket Counties) in a  
14 market with reduced options for homeowners coverage.  
15 A number of experts have claimed, and various  
16 catastrophe models predict, that the Cape Cod and  
17 Islands area is in a position that is geographically  
18 vulnerable to hurricanes and other wind-related  
19 events. Although most hurricanes do strike in the  
20 Caribbean and Southeastern United States, based on  
21 historic records, hurricanes that proceed beyond  
22 Cape Hatteras in North Carolina may strike New  
23 England. Just last year Tropical Storm Irene did  
24 impact parts of Connecticut, Massachusetts and

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1 Vermont.  
2       Homeowners insurance companies have  
3 factored hurricane and wind risk into their  
4 underwriting and rating decisions, and in order to  
5 reduce their potential exposure and financial  
6 situations, these companies have also purchased more  
7 reinsurance from private reinsurers in order to  
8 maintain their financial strength and ratings.  
9       A review of the MPIUA filing before us  
10 indicates that the costs attributable to the risk of  
11 catastrophic events continue to be a major part of  
12 the rates proposed for MPIUA policyholders. The  
13 State Rating Bureau is therefore conducting a  
14 thorough investigation of the costs claimed to be  
15 attributable to the risk of catastrophic events as  
16 well as costs attributable to reinsurance purchases  
17 and will take particular care in reviewing the  
18 section of the filing applying to the Barnstable,  
19 Dukes and Nantucket Counties. But this does not  
20 exhaust our effort to look at every portion of the  
21 filing from an examination of overall losses and  
22 expenses to the allocation of premiums by territory.  
23       Our recommendations in these proceedings  
24 will reflect the careful inspection of the legal and

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1 technical staff of the State Rating Bureau and a  
2 thorough examination of the witnesses and materials  
3 proposed by the FAIR Plan, including consideration  
4 of the sufficiency of the materials and witnesses  
5 presented in support of the rate hike proposed by  
6 the MPIUA.  
7       Thank you for the opportunity to speak  
8 today.  
9       **HEARING OFFICER FARRINGTON:** Is there  
10 anyone else here who is an appointed official or  
11 representative of an appointed official? All right.  
12 Hearing no response, we will move on to the next  
13 category of speakers, those who signed up in  
14 advance.  
15       Ms. Logan?  
16       **MS. ASCHETTINO:** Could there be permission  
17 that I would speak first?  
18       **HEARING OFFICER FARRINGTON:** Certainly,  
19 yes. You were the second person to sign up, so if  
20 you wish to exchange places, that's fine.  
21       **MS. ASCHETTINO:** I thank the Hearing  
22 Officer for the opportunity to make an oral  
23 statement today regarding the MPIUA rate filing.  
24       Paula Aschettino, Chair of the Citizens for

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1 Homeowners Insurance Reform, and I represent  
2 thousands of coastal citizens of Massachusetts who  
3 are struggling with the cost of excessive homeowner  
4 insurance rates.  
5 I ask the Commissioner of Insurance to deny  
6 this proposed rate increase for all territories. We  
7 are sick of this powerful industry, free of the  
8 antitrust laws, having influence and control over  
9 our politicians, regulatory departments, Division of  
10 Insurance, state government and national government.  
11 The MPIUA holds citizens hostage with high  
12 costs who have no other options for insurance  
13 coverage. We are fed up with the MPIUA, who  
14 manipulates data, inflates rates, shifts risk to the  
15 homeowner, but keeps their hands out to collect the  
16 profits.  
17 The purpose of a rate filing is to furnish  
18 sufficient evidence to enable the Commissioner to  
19 establish that the rates requested comply with the  
20 statutory requirements and fall within the range of  
21 reasonableness.  
22 The FAIR Plan has over \$280 million in  
23 profits. Their loss ratios are low and have been  
24 low. They have 5,000 fewer policies than the year

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1 before, and in 2010 they made over \$24 million in  
2 profits. They have not had a year of a loss since  
3 2003. They received a large rate hike in almost  
4 every territory but the Cape in 2010. How dare they  
5 ask for a 7.2 percent increase?  
6 ISO, which I find very coincidental, sent  
7 out recently a circular on 2011 Advisory Loss Cost  
8 Level Activity for homeowners insurance in  
9 Massachusetts. It showed that it released a  
10 circular in May of this 2011 suggesting that the  
11 insurers lower the loss cost by one percent.  
12 Further, the circular reports that ISO has a filing  
13 pending for a reduction of 7.2 percent; in other  
14 words, rates should be dropping 10 percent, but I  
15 find it very coincidental on this filing for the 7.2  
16 rate increase.  
17 The MPIUA has built a 5.8 percent profit in  
18 this filing. The FAIR Plan is a pool of private  
19 insurers who do not wish to cover coastal citizens.  
20 This is redlining, and to prevent this label, they  
21 come together well insulated from any serious loss  
22 by purchasing huge amounts of reinsurance that the  
23 homeowners pay for. They do not deserve to make any  
24 more profit. \$280 million is already excessive.

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1 Here is another money-making scheme. In  
2 the minutes of the April 2011 meeting, it was  
3 accepted and suggested to continue the "strategic  
4 plan," as they call it, to continue to reinspect  
5 properties frequently and increase the replacement  
6 values. This gives the MPIUA a rate hike and it  
7 shifts more risk to the citizens. This unjustified  
8 practice does not require the Commissioner's  
9 approval.  
10 And at this moment, I will just interrupt  
11 my testimony for a moment just to mention that I  
12 find it interesting that our legislators, according  
13 to the Ethics Committee, were not advised to testify  
14 because they have the FAIR Plan. Well, I am asking  
15 the Division of Insurance to file with the Ethics  
16 Committee the ethics that the FAIR Plan president  
17 has a son and family in one of the largest  
18 reinspection businesses of the state that they use.  
19 And if we are discussing ethics, I am requesting  
20 your full attention to see whether this is an  
21 appropriate relationship for the citizens. I will  
22 go back to my testimony.  
23 (Applause)  
24 This process of reinspecting our homes

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1 raises the total insured value to over \$101 billion,  
2 according to the RMS model in this filing, and that  
3 is for 200,150 policies. The MPIUA takes Parts A,  
4 B, C and D of each policy, adds those together, and  
5 then sends that to the modeler. The homeowners pay  
6 the reinsurance costs on billions of dollars of  
7 excess coverage which will never be paid out and  
8 there will never be a loss.  
9 Part B of the RMS model is approximately  
10 \$750 million. Part D, loss of use, is over  
11 \$3 billion. Part C, contents, over \$5 billion.  
12 This is outrageous.  
13 I don't care how ISO and the whole United  
14 States does their insurance percentages. It is the  
15 responsibility of every state and the Division of  
16 Insurance to make sure that these rates are  
17 reasonable and that unnecessary padding of the  
18 percentages of the policies -- 50 percent of your  
19 Part A replacement value goes to contents. For many  
20 people who have excessive replacement values,  
21 \$400,000, \$500,000 over and above what they feel is  
22 right, the premium is based on that. That's  
23 \$250,000 to cover contents. Most losses are only a  
24 partial loss. That's a huge inflation, 30 percent

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1 in the FAIR Plan on loss of use. 30 percent of  
2 \$400,000. \$120,000. We could be renting the Trump  
3 Towers for people to stay out of their home if they  
4 have a fire.  
5 Most of the policies with our deductibles  
6 will never see the insurance industry ever pay out  
7 of their own pocket for the losses, according to our  
8 historical past and the kinds of storms that we  
9 have. When Tropical Storm Irene came through, there  
10 were people that had trees that came down on their  
11 power service.  
12 I had a 91-year-old friend who came and  
13 stayed with me while her power was out for a week.  
14 Of her \$1,500 bill for her electrician to put her  
15 electrical box back on the house, there's no  
16 insurance coverage for these kinds of things. The  
17 industry and the FAIR Plan has built this up so they  
18 will only make profits, not losses. This goes for  
19 the private insurers as well, but we are here today  
20 on this.  
21 Since the predicted losses have been  
22 intentionally inflated as shown in my example above,  
23 we ask that the Commissioner to deny this rate  
24 filing.

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1 Another reason our predicted losses are so  
2 high is because the models have not been proven that  
3 they use Massachusetts data. Our Northeast region  
4 includes the historical history of Long Island, New  
5 York. And if you go to her database, you will see  
6 that Long Island has had a higher experience of  
7 Category 3 hurricanes. This is not Massachusetts,  
8 and anything out of Long Island is used to skew and  
9 to raise our potential losses and the intensities  
10 and frequencies of the hurricanes which the modelers  
11 are predicting which do not correlate to our  
12 historic past of hurricane events.  
13 In the two models, the AIR model predicts  
14 higher cost of loss at the coast. The RMS model  
15 predicts higher loss of costs inland. The FAIR Plan  
16 blends the two model results and therefore they  
17 result in high predicted losses across the entire  
18 state and use this to justify a rate increase to  
19 all. Sufficient data and proof of accuracy of the  
20 models is not present, so we ask on this basis for  
21 the Commissioner to deny this rate filing.  
22 Of most importance, on the vulnerability  
23 function of the model and the damage of wind to our  
24 homes, both modeling companies emphasize the need

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1 for completeness and accuracy of the information  
2 about our homes to be used in the models. They  
3 state that the degree of details provided or omitted  
4 can have a substantial impact on the model results.  
5 Both models, which show insufficient data about our  
6 homes, has been submitted to the hurricane models by  
7 the MPIUA, leaving our homes to be modeled "weak" in  
8 wind events. This withholding of data by the MPIUA  
9 results in increased predicted losses, thus  
10 increasing the reinsurance costs and our rates.  
11 We ask the Commissioner of Insurance to  
12 deny this rate filing due to the intentional  
13 withholding of information on our homes for the  
14 purpose of inflating losses to justify a rate  
15 increase.  
16 Reinsurance: On the topic of reinsurance,  
17 the MPIUA should not be buying any reinsurance.  
18 This organization, an agency, is comprised of  
19 private insurance companies who will not cover  
20 people in a risk area. Their own companies have  
21 some responsibility, since they are redlining, to  
22 base reasonable rates. And we do not want them to  
23 be insufficient, but there is no reason that the  
24 citizens are insulating these private companies to

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1 only make profit.  
2 We have great concern on how the amounts of  
3 reinsurance are calculated and how they are being  
4 purchased. As shown, there is evidence that the  
5 predicted losses, as I said before, are manipulated  
6 and falsely inflated. The FAIR Plan board is  
7 unilaterally making decisions with the assistance of  
8 a reinsurance broker who benefits with a 10 percent  
9 commission based on the amount of reinsurance that  
10 he says the FAIR Plan should buy. This year the  
11 commission is \$7.9 million, and the FAIR Plan  
12 accepts a \$5 million kickback on the commission from  
13 the broker.  
14 We have a great deal of concern on how this  
15 process goes on, on the amounts that are purchased,  
16 and we say that the citizens should not be paying  
17 the cost of reinsurance.  
18 I will get to the point of ISO. ISO,  
19 Insurance Services Office, acts as the actuary in  
20 this filing and justifies factors, trends, many  
21 different evaluations that go into the rate. We  
22 have a problem in that ISO has not been validated or  
23 audited for its accuracy or data for Massachusetts.  
24 Many of the low incidence of hurricane losses and

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1 claims in this state, the requirement by ISO to  
2 provide loss data to not only to the filing but also  
3 to the modeling companies, is not proven to be  
4 accurate. ISO owns one of the modeling companies,  
5 the AIR modeling company. We find this a terrible  
6 conflict of interest in that the modeling company is  
7 using ISO data, and again, there is just too much  
8 interplay between these very important factors,  
9 which ends up in resulting in the citizens paying a  
10 large part of our rate.  
11 The testimony of Mr. Ericksen I feel should  
12 be discounted. He is hired as the actuary to  
13 evaluate the accuracy of the data used by ISO. He  
14 works for ISO, and the ISO company owns the modeling  
15 company.  
16 In conclusion, due to the lack of validated  
17 information in this filing and the lack of proof of  
18 the models and how reinsurance was calculated, we  
19 ask that the Commissioner of Insurance deny this  
20 rate filing. Thank you.  
21 **HEARING OFFICER FARRINGTON:** Thank you.  
22 (Applause)  
23 **HEARING OFFICER FARRINGTON:** Ms. Logan?  
24 **MS. LOGAN:** Before I start with my

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1 testimony, there was a citizen on the Cape who  
2 couldn't attend today, and she asked if I could read  
3 her letter or just submit it. I don't know. Am I  
4 allowed to read a letter?  
5 **HEARING OFFICER FARRINGTON:** You may read  
6 it if you wish or submit. Either way, it's your  
7 choice.  
8 **MS. LOGAN:** I will read it. This is from  
9 Felicia Penn. The Penn family on Cape Cod owned  
10 Puritan Clothing Company, and they are leaders in  
11 the business community on the Cape as well as  
12 community activities.  
13 "Dear Commissioner Murphy, I am unable to  
14 attend the hearing on January 19 reference the  
15 approval of the rate increase by the Mass. FAIR  
16 Plan, Docket No. R2011-02. Please accept this  
17 letter in lieu of my testimony.  
18 "I have lived in my house in Hyannis,  
19 Mass., on Cape Cod since 1953. My parents build  
20 this house, and I purchased it from them in 1979. I  
21 am in a 'coastal' zone. Up until about seven years  
22 ago, we paid a 'normal' home insurers rate.  
23 Suddenly, my insurance company dumped me, and I had  
24 no choice but to seek insurance from the FAIR Plan,

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1 which is anything but. In the 58 years that I have  
2 lived in this house, my family or I have submitted  
3 exactly one claim for less than \$500. I figured  
4 that since 1953, my family or I have paid Travelers  
5 Insurance over \$60,000 with one claim for \$465.  
6 That is less than one percent payout on their part.  
7 The way I see it, the insurance company owes me  
8 money.  
9 "Since being insured by the FAIR Plan, my  
10 homeowners insurance has almost doubled. There is  
11 no reason for this, other than the greed on the part  
12 of the insurance industry. The insurance industry  
13 uses storm modeling that is not specific to Cape  
14 Cod. It bases its information on substandard  
15 building codes prevalent in Florida but not  
16 applicable to Cape Cod. It does not look at each  
17 home specifically or even consider the 'character  
18 and behavior of storms,' i.e., hurricanes that have  
19 a prevailing wind from the south. In my particular  
20 case, my home is over 6,000 feet from any  
21 south-facing shoreline. However, I am within  
22 550 feet of an inland protected harbor and therefore  
23 ineligible for insurance even though this harbor  
24 lies to the north, not the source of any hurricane.

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1 "The insurance companies have been gouging  
2 the year-round residents of Cape Cod for years. We  
3 ask that you demand on our behalf that they recreate  
4 modeling that is accurate for both Mass. building  
5 codes and Mass. meteorological patterns. We ask  
6 that your office support the efforts of the District  
7 Attorney" -- and I think she means the Attorney  
8 General -- "in assuring rates that are reasonable  
9 and affordable, and practices that are fair and  
10 transparent. We ask that your office stand up and  
11 take responsibility to see that the buck stops with  
12 you and that you put an end to the deceptive  
13 practices by the insurance industry and that you not  
14 approve the pending rate increases as filed. Enough  
15 is enough.  
16 "Thank you for your efforts on our behalf,  
17 Felicia Penn."  
18 I might also want to add that the Penn  
19 family, especially Howard Penn, Felicia's uncle, was  
20 very, very good friends with Ted Kennedy. And if  
21 Ted Kennedy was alive today, I am sure that he would  
22 be working on this for us.  
23 That's her letter. I will submit it later.  
24 **HEARING OFFICER FARRINGTON:** Thank you.

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1       **MS. LOGAN:** So now we are on to me because  
2 this is my testimony. My name is Jane Logan. I  
3 have been a licensed Mass. insurance broker for 32  
4 or 33 years. I have been an insurance auditor and  
5 an insurance loss control inspector, and I am also  
6 an MPIUA policyholder.  
7       I would like to thank the Division of  
8 Insurance for rescheduling this hearing. That being  
9 said, I would like to admonish the MPIUA for the  
10 second time in a row planning to have the rate  
11 filing hearings held the week before Christmas. It  
12 just isn't fair, and I believe it's done  
13 intentionally to limit public participation.  
14       The second thing that I would like to  
15 mention is the 1,500-page rate filing has a table of  
16 contents but no page numbers. And we complained  
17 about that two years ago at the hearing. I actually  
18 have a copy of the rate filing. I read the rate  
19 filing, all 1,500 pages of it, and if you want to  
20 find something in it, you can't go back and  
21 reference it. You have to make a table of contents  
22 yourself. It just isn't right. I have never seen  
23 such a thing, and I believe it's intentionally  
24 obstructive.

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1       I found a wonderful quote when I was  
2 preparing for this hearing today: "With the  
3 explosion in insurance products and the companies  
4 issuing them, the industry was fraught with fraud  
5 and scandal. These range from issuing companies  
6 that did not actually have the capital to pay  
7 claims, running instead like fragile Ponzi schemes,  
8 to insurers demanding unfairly high premiums or  
9 forcing out competitors in an attempt create a  
10 monopoly." That was written the history of  
11 insurance back in the 1890s. Some things never  
12 change. Those practices are still going on today.  
13       So speaking of 1890, I have done a couple  
14 time lines here. The first time line is I took this  
15 off a Mass.gov Web site, and it lists 11 storms that  
16 have hit the New England area dating from August 25  
17 of 1635. The next one is September 23 of 1815, over  
18 200 years later; the September Gale of 9/8/1869; the  
19 Great New England Hurricane, 9/21/1938; the Great  
20 Atlantic Hurricane, 9/14 to 9/15/1944; Hurricane  
21 Dog -- my personal favorite because I am a dog  
22 lover -- 9/11 to 9/12/1950; Hurricane Carol,  
23 August 31, 1954; Hurricane Edna, 9/11/1954;  
24 Hurricane Diane, 9/17 to 9/19/1955; Hurricane Donna,

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1 9/12/1960; Hurricane Gloria, 9/27/1995; Hurricane  
2 Bob, 1991. And since Hurricane Bob, not one  
3 hurricane up until Irene has hit this area. And I  
4 believe by the time Irene got here, it wasn't a  
5 hurricane. It had been downgraded to a tropical  
6 storm, and it hit the western part of the state, not  
7 the coast.  
8       The hurricane models that we have, yes,  
9 they do, they project hurricanes and they have said  
10 that hurricanes are increasing. But part of the  
11 fact that it may seem like hurricanes are increasing  
12 is because we have new, modern technology that can  
13 track storms or become aware of storms that years  
14 and years ago would not have been noticed without  
15 all this technology. So whether or not the storms  
16 are really increasing can be debated. The flip side  
17 of that is we have all this technology to tell us  
18 when the storms are coming, so we have more warning  
19 so people have time to protect their property. So  
20 that's the good side of the hurricane model, is we  
21 do have far more advance warning.  
22       I have got to tell you, for an industry  
23 that expects so much information that they collect  
24 from their policyholders and also all sorts of

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1 things, they don't like to give much back. It's  
2 really, really difficult to get information from the  
3 insurance industry.  
4       So back to hurricane modeling. Hurricane  
5 modeling was basically invented by Karen Clark. She  
6 started the company called AIR. Even Karen Clark  
7 now is criticizing the way that the insurance  
8 industry is using hurricane models. She sold her  
9 company AIR to ISO, which Paula already mentioned is  
10 the Insurance Services Office. So one of the  
11 companies used in this rate filing request is ISO,  
12 which is owned by the insurance industry. The other  
13 company, RMS, that company is run by reinsurance  
14 insiders and venture capitalists. The chief  
15 financial officer, Stephen Robertson, worked for 12  
16 years in investment banking, the global insurance  
17 and reinsurance industry that's part of Citicorp  
18 (Salomon Brothers/Smith Barney), Deutsche Bank and  
19 Lehman Brothers, or in other words, the who's who of  
20 government bailout recipients.  
21       The technology officer, Philippe Stephan,  
22 worked at Moody's KMV, credit risk analysis for  
23 investors. The modeling is outsourced to these  
24 modeling companies as a way to circumvent the

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1 regulatory process because then they can say it's  
2 proprietary information. You know, we can't release  
3 the information on how the hurricane models are  
4 calculated because we don't own it; it's  
5 proprietary. You know, they have the right to their  
6 privacy. So then if they can't release the models,  
7 they shouldn't be allowed to be used in the rate  
8 filing. We need more transparency in this process.  
9 Then on top of ISO, I just realized that  
10 the other day that the FAIR Plans have their own  
11 organization, the Property Insurance Plans Service  
12 Office, Inc. If they weren't exempt from the  
13 antitrust laws, all of this would be illegal, but  
14 they are exempt from it. They are supposed to act  
15 through the highest of character, and they don't.  
16 They use it against the consumer.  
17 That brings us to the fact that this  
18 coastal insurance crisis was created by the  
19 insurance industry. They sponsored a bill, two  
20 bills, in 2003, that eventually became Chapter 436  
21 of the Act of 2004, which allowed the FAIR Plan to  
22 jack the rates in the large share territory. The  
23 Cape was not a large share territory at that time.  
24 The Cape became a large share territory after this

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1 bill was passed and companies like The Andover  
2 Group, Donald Vose, who also runs the FAIR Plan,  
3 non-renewed people. So they act like, oh, we had to  
4 take all these policyholders because the insurance  
5 industry that the private companies non-renewed  
6 people, it was them. It was Donald Vose, and I have  
7 the list here.  
8 These companies colluded. They got the  
9 legislation passed. They got the large share  
10 territory rate cap taken off and then proceeded to  
11 systemically non-renew 46 percent of the  
12 policyholders on Cape Cod. If you follow the time  
13 line, it's obvious what they did.  
14 I believe -- and it isn't just my belief --  
15 that the Massachusetts legislators were misled about  
16 the intent or the eventual impact of that  
17 legislation, and they were so upset about it, so  
18 distraught over it, they filed a legal brief in  
19 Superior Court that basically said that Jack  
20 Golembeski, the president of the FAIR Plan, misled  
21 them in sworn testimony about that filing. So it  
22 isn't just the citizens that think that things are  
23 wrong; it's the legislators. I don't believe that  
24 legislators lightly accuse someone like Jack

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1 Golembeski of lying to them unless they really  
2 believe it's true. That goes on Suffolk County SJC  
3 09966. In that, they specifically said that he was  
4 not truthful, that he misled them to the true impact  
5 of the those bills that were filed. So the bill  
6 that eventually became Chapter 436 was filed in  
7 2003, and it was signed into law by Governor Romney  
8 on December 22, 2004.  
9 From as far back as I could go up until  
10 January of 2004, the FAIR Plan had no lobbying  
11 expenses. They didn't pay lobbyists anything.  
12 Another side note to this is that Jack Golembeski  
13 and Attorney Tommasino are registered lobbyists and  
14 sometimes they get paid by the FAIR Plan as  
15 lobbyists. I don't know what that's all about, but  
16 they get money from the FAIR Plan as lobbyists.  
17 So after that bill that caused all the  
18 rates on the Cape to go up, the FAIR Plan spent in  
19 2005, \$66,124 on lobbying; 2006, \$66,000 on  
20 lobbying; 2007, \$72,000 on lobbying; 2008, \$72,225  
21 on lobbying; 2009, \$72,200; 2010, \$74,730; and 2011,  
22 \$41,024. I don't understand why the FAIR Plan  
23 needs to spend any money on lobbying. They are  
24 supposed to be the insurer of last resort.

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1 So what brought us here today is the  
2 collusion of the industry to systemically non-renew  
3 policies on the Cape, force them into the FAIR Plan  
4 and then jack the rates, and in so doing this risky  
5 pool of business that they claim we are, they have a  
6 loss ratio of about 45 percent. I know a lot of  
7 insurance companies that would love to have a loss  
8 ratio of 45 percent. That is an excellent loss  
9 ratio for any insurance company.  
10 In addition to these rate hikes that they  
11 put through, the FAIR Plan -- I think it was in  
12 2007 -- Paula went to the hearing; I was in on the  
13 hearing on a conference call -- all of a sudden, the  
14 Division of Insurance allowed the deductibles to go  
15 on policies. Like, my deductible went from 1  
16 percent to 2 percent. No rate hearing, no public  
17 comment. It was considered a rule change, not a  
18 rate change, and I don't know how the Division of  
19 Insurance justifies that. They have less exposure  
20 to wind for roughly the same premium. To me, that's  
21 a rate change. They are making more money off that  
22 book of business.  
23 For instance, in my policy now, if I only  
24 had a 1 percent deductible instead of 2, it would

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1 cost me \$25 more a year, and I have got a small  
2 house. My house is only 964 square feet --  
3 864 square feet. It's insured for \$177,000 but my  
4 wind deductible is over \$3,500. Not hurricane, not  
5 in a storm, any kind of wind, any resulting damage  
6 from the wind. If a wind storm rips the wires off  
7 my house and my house burns down, that takes the  
8 wind deductible.

9 Where was I? So in addition to all this,  
10 so we have got the high rates, the fact that every  
11 time if we have the sliding deductibles for wind, 2  
12 percent -- on the Islands, it went from 2 percent to  
13 5 percent, and I will never understand why that  
14 wasn't part of a rate filing. That was just wrong.  
15 That was just wrong that people didn't have the  
16 opportunity to speak to that at a public hearing.  
17 But Paula and I fought it, and we didn't win, but I  
18 still disagree with all that.

19 So while all this is going on with the rate  
20 filing, an increase in the rates, meanwhile the  
21 insurance industry is pushing for building code  
22 changes. So they use the current building code to  
23 estimate the replacement cost of the house. But the  
24 policy isn't written to replace your house with the

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1 new building code; it is written so you replace the  
2 house with like kind of quality of materials. So  
3 there is a big gap in the coverage that you have for  
4 your house versus what you are paying for, so that  
5 is another way that the FAIR Plan is making money on  
6 something they are never going to have to pay out  
7 on.

8 They give you 10 percent building ordinance  
9 coverage on the standard policy. I purchased more  
10 because I am told that the increase cost of  
11 construction due to the new building code of the  
12 110-mile-an-hour wind resistance is about 25 to  
13 30 percent, and a big cost of that is the  
14 shatterproof windows. So none of that, as far as I  
15 can tell, is factored into any of these rates, the  
16 fact that every year your replacement cost goes up  
17 based on the new building code. But they are not  
18 providing apples-to-apples replacement cost, and I  
19 didn't see that anywhere in the rate filing, nor do  
20 I ever expect to, but it should be in there.

21 ISO testifies, or I guess they are going to  
22 testify, about the rate filing, and they say, "In my  
23 opinion" -- this is Paul Ericksen -- "the proposed  
24 rates are reasonable." But before that, he says ISO

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1 has not verified the data. How can you have an  
2 expert witness that hasn't audited or verified the  
3 data testify, saying in his opinion the rates are  
4 reasonable? It doesn't make any sense, yet he is  
5 allowed to testify as a witness.

6 The models they use for the hurricane  
7 modeling, the reinsurance section of the filing,  
8 they talk about the fact that the more details they  
9 have in the filing of the data, the better, the more  
10 reliable the results of the modeling is. Well, the  
11 FAIR Plan collects all kinds of data on your house.  
12 As an agent, when you go in, you have to fill out a  
13 replacement cost estimator, the number of rooms,  
14 square footage, wood floors, vinyl floors, on and on  
15 it goes.

16 Jack Golembeski sends out his son to do the  
17 inspection, which we already talked about as a  
18 conflict of interest. So they collect all this  
19 data, charge the policyholders for collecting the  
20 data as part of the rates, and they don't give it to  
21 the reinsurance company. Then in addition to the  
22 reinsurance which they buy, which we have already  
23 said, in my opinion as an insurance professional, I  
24 don't know why they even need reinsurance, because

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1 all these companies can back up the FAIR Plan. And  
2 I often wonder if a lot of the voluntary companies,  
3 the standard market companies aren't reinsuring  
4 their book to the extent they could be and they are  
5 only doing it through the FAIR Plan and we as  
6 policyholders are paying more than our fair share of  
7 the reinsurance cost, but that's really hard to  
8 trace financially. God knows I have tried.

9 Which brings us to the new product in town,  
10 the CAT bond. In the past few years -- I think this  
11 is the first filing that ever included the CAT bond.  
12 I did some research on CAT bonds, and the first  
13 thing is, CAT bonds aren't insurance products. They  
14 are insurance-linked securities. So I guess it  
15 could be argued that it's not even subject to  
16 insurance regulation, so I don't know why the FAIR  
17 Plan, the insurer of last resort, a  
18 quasi-governmental agency set up by the Mass.  
19 legislature, would be allowed to get into the CAT --  
20 to do a CAT bond, float a CAT bond. If it's legal  
21 and allowed, is it a good idea? And why did they  
22 set it up on the Cayman Islands?

23 It was set up -- it's Shore Re, and it was  
24 set up on the Cayman Islands. Now, you have an

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1 entity set up by Massachusetts General Law. All of  
2 a sudden this \$96 or \$94 million CAT bond was set up  
3 through, I think, Munich Re, and the name of the CAT  
4 bond is Shore Re, S-h-o-r-e, Re, and it's set up on  
5 the Cayman Islands and set up as a -- I had the  
6 legal wording for it, but it's basically from what I  
7 can tell it's a captive set up in the Cayman  
8 Islands, which means it's really the FAIR Plan.  
9 And I don't know how many people are  
10 familiar with CAT bonds. It's a relatively new  
11 thing, but the people who invest in the CAT bonds,  
12 they supposedly put up their money and it's held  
13 somewhere, and if there's a catastrophe loss, they  
14 lose their principal, but if there is no catastrophe  
15 loss, they get about 10 percent interest. So, I  
16 mean, there's a lot of things I can figure out, but  
17 I don't really know if CAT bond versus reinsurance  
18 what the financial implications are for the company,  
19 what it is for the policyholders. All I know is I  
20 don't know why something that has such a -- what's  
21 the word I want for it? Is so important to the  
22 economic security of this state would be allowed to  
23 be domiciled in the Cayman Islands, although I do  
24 know it's got a better tax structure. I don't care

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1 what Mitt Romney says. I know that setting  
2 companies up in the Cayman Islands reduces taxes for  
3 somebody. If I am going too fast, I apologize. I  
4 just...  
5 The homeowner report. When this filing was  
6 filed, the state homeowner report wasn't even  
7 complete yet. I believe that the FAIR Plan should  
8 not be allowed to put a rate filing through until  
9 that homeowner report is complete. Now, we  
10 requested that it be completed before the hearing,  
11 and I guess some people hurried up and got it done,  
12 but they just shouldn't be allowed. And in that  
13 homeowner report is a couple of points, and I  
14 believe it was the report was signed by Commissioner  
15 Murphy, but somewhere in that report it says that  
16 there is new companies writing policies in this  
17 state, an influx of new companies writing policies  
18 in this state, to be exact. And in order to qualify  
19 as a company writing new policies to make it into  
20 the report, they have to write ten policies  
21 somewhere in the state. Well, that's not an influx  
22 of new companies. Not only is that not an influx of  
23 new companies, they are not even all new companies.  
24 Two or three of them and I had the list at home. I

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1 didn't bring it with me. And I would open up my  
2 laptop and read the filing, but we would be hear all  
3 day because there's no page references. I can do it  
4 if you like.  
5 Anyway, so some of those companies, some of  
6 those companies that are new, they are actually  
7 subsidiaries of the other companies already writing  
8 in there. So, I mean, they are not really new  
9 companies. Unless legally the Division of Insurance  
10 considers a subsidiary of Chubb or Chartis to be a  
11 new company, they are not new companies. Some of  
12 the carriers that are considered new aren't rated  
13 financially. Either they haven't been around long  
14 enough, or in Narragansett's case, the Narragansett  
15 does write on the Cape. They have very, very strict  
16 guidelines, and a lot of people don't qualify for  
17 them, but they do write on the Cape. They are not  
18 rated, and they are not going to get rated. We had  
19 a rep come to our office last week that writes with  
20 Narragansett, and they have determined they are not  
21 going to get rated.  
22 So here you have the Division of Insurance  
23 in this homeowner report recommending, saying, well,  
24 we have some new carriers in here, but they are not

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1 even carriers that are financially rated. I mean,  
2 the primary purpose of the Division of Insurance is  
3 to make sure that insurance companies are solvent,  
4 so how can the Insurance Division in their report  
5 recommend at least three or four -- I don't have the  
6 list -- recommend that people go to one of these  
7 companies that aren't rated by any other rating  
8 agencies? Not that I have a lot of faith in rating  
9 agencies because they rated AIG A+ right up to the  
10 day they imploded due to the credit default swap  
11 disaster, but still that is the standard.  
12 The companies are supposed to be rated, and  
13 several of them just aren't. And Narragansett might  
14 not even be available anymore because by not  
15 choosing to get rated, the insurance agents who  
16 write with Narragansett, their errors and omissions  
17 insurance companies are now telling them if you  
18 write with an unrated company, we won't cover you  
19 for errors and omissions. So agents are not going  
20 to write with Narragansett if they can't get -- or  
21 any unrated company -- if they can't be covered for  
22 E&O suits.  
23 So now Narragansett is coming in the back  
24 door and they are coming up with some plan to



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1 provide their agents with reinsurance -- I mean E&O  
2 insurance. I don't know what that is, but I don't  
3 agree with it. I mean, an agent should have one E&O  
4 insurance company for their losses, but Narragansett  
5 has no plan to get rated. I don't agree with that  
6 either.

7 Just a couple of other notes when I was  
8 going through the filing. Dr. -- is it Derrig?  
9 Somewhere in his testimony he writes that the FAIR  
10 Plan has a Constitutional right to return on  
11 investment. That is not the purpose of the FAIR  
12 Plan. The purpose of the FAIR Plan is to provide  
13 basic property insurance at an affordable rate to  
14 policyholders. These companies, you know, Andover  
15 Group, Travelers, all these companies that  
16 non-renewed people on the Cape, they are free to  
17 make their profit at their voluntary companies.  
18 They have left the Cape. A lot of them are mutual  
19 insurance companies. No one stood up and protected  
20 the mutual policyholders from losing their interest  
21 as a mutual policyholder in those companies. They  
22 just took the money and ran, and everyone had to go  
23 into the FAIR Plan, and now the same people that  
24 non-renewed everybody now run the FAIR Plan. So if

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1 you look at the time line, it's obvious, it's  
2 obvious what happened here. And the only hope that  
3 we have is that the insurance industry, the Division  
4 of Insurance really looks into this. And like  
5 Senator Wolf said, not only should we not get a rate  
6 increase, we should get a rate decrease.

7 I just wanted to -- I mean, the FAIR Plan  
8 is obviously making a lot of money, and I don't  
9 know, and I hope this comes out in the hearing, and  
10 I have been trying to find out. What -- I mean,  
11 there has to be -- the industry just doesn't do this  
12 for nothing. Everything that has gone on in the  
13 past eight years -- I have worked in this since  
14 February 2004 -- there is a reason that they  
15 non-renewed all of us on the Cape and the coastal  
16 area and put us in the FAIR Plan. There has to be a  
17 financial reason. They are getting higher premiums  
18 with not as good coverage. The wind deductible,  
19 it's all stacked in their favor. No one stopped it.  
20 No one stopped it from doing this to people.

21 I want to talk a little bit about the board  
22 of directors of the FAIR Plan. The FAIR Plan, as  
23 you know, it's just all the same people that run the  
24 companies that non-renewed everybody and put us all

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1 in the FAIR Plan. On the FAIR Plan there's supposed  
2 to be I think it's six, maybe four, representatives  
3 of the public, and those representatives of the  
4 public are not supposed to have any insurance  
5 affiliation. Well, the former Commissioner of  
6 Insurance, Michael Sabbagh, is one the board of  
7 directors of the FAIR Plan. How is he not  
8 affiliated with the insurance industry? He was the  
9 Commissioner of Insurance I believe during the  
10 Dukakis administration. I forget exactly when, but  
11 he was the Commissioner of Insurance.

12 The board of directors of the FAIR Plan  
13 are -- they have like a gag order. They can't talk  
14 to the public. They won't talk to the public. So  
15 we have no one on the FAIR Plan that actually  
16 represents the interests of the policyholders. It's  
17 all obviously insurance people, and it's all the  
18 insurance people that non-renewed everybody. So in  
19 my opinion as a licensed broker -- I have my CPCU  
20 designation, I have lived on the Cape all my life, a  
21 12th generation Cape Codder -- I don't know why we  
22 are at a rate filing hearing and not some sort of  
23 criminal hearing against the insurance industry for  
24 doing this to people. And I believe we would be if

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1 they were not exempt from the antitrust law. But  
2 back then -- I think it was 1944 when they were  
3 given the exemption from the antitrust laws -- they  
4 were expected to act honorably, and they just  
5 haven't. They just haven't.

6 I just -- I mean, there's a reason that  
7 people want the insurance industry not to be  
8 subject -- you know, they want them to be subject to  
9 the antitrust laws, is because this kind of thing  
10 has happened. It's really easy to see in this  
11 situation the sequence of events. 2003, the  
12 first -- they filed that bill, and you know that  
13 they sponsored it because there isn't one legislator  
14 that I have ever met in the State House that got up  
15 in the morning and said, "I think I will file a bill  
16 today to take off the cap and enlarge their  
17 territory in the FAIR Plan." That just didn't  
18 happen.

19 So they lobbied for the bill, got their  
20 bill, and then systemically non-renewed everyone on  
21 the coast so they end up on the FAIR Plan. Then  
22 they went, "Oh, my God, we have all these people in  
23 this territory. We need to increase our rates."  
24 They caused the problem, and then they use it to

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1 justify their rates, and they are making money hand  
2 over fist. I don't know how they sleep at night; I  
3 have to tell you.  
4 I know if a lot of people on the Cape and  
5 especially the Islands where their deductible is 5  
6 percent, you are talking about people losing their  
7 houses over a wind deductible. I don't know.  
8 Certainly the people running the FAIR Plan or  
9 certainly the people at the top level of insurance  
10 companies probably can't relate to that. But, I  
11 mean, to me, if I have to all of a sudden pay a  
12 \$3,500 wind deductible, I don't pay my mortgage for  
13 two months. I am already working seven days a week.  
14 I work at an insurance agency during the week, and I  
15 have a part-time job on weekends. So if all of a  
16 sudden I have to pay a wind deductible that high,  
17 and I have a little house, again, you are talking  
18 two months I don't pay my mortgage. Two months is  
19 when you go in to start foreclosure proceedings.  
20 But you are talking on like a \$300,000 house, a  
21 \$400,000 house, talking huge wind deductibles for  
22 these people. And it's financially devastating to  
23 them.  
24 So, I mean, I would never -- I am not -- as

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1 I talked about, people say, well, the 99 movement,  
2 people are against profit or capitalism. I am not  
3 against capitalism. I am against greed and  
4 corruption. I don't deny anyone a reasonable  
5 profit. As a matter of fact, I think the FAIR Plan  
6 should be made a nonprofit entity. If the insurance  
7 industry wants to make profits, they can do it in  
8 their standard companies, voluntary companies. But  
9 the FAIR Plan should be nonprofit with caps on  
10 executive compensation so that they can't -- because  
11 I know nonprofits doesn't always mean low-paid  
12 salaries. But I am horrified. I am horrified at  
13 what the insurance industry is doing to people on  
14 the coastal areas. I am horrified. I am  
15 embarrassed for the industry. I am just -- I  
16 haven't fought it for eight years for nothing. I  
17 really believe that they are doing horrible things  
18 to people and they should be stopped.  
19 So, I mean, I don't want to drone on and on  
20 and on, but there is a lot of data here. It's hard  
21 to go through on a rate filing, but this has a huge  
22 impact on people's lives. It's a huge impact on the  
23 local economies, it's a huge impact on the income  
24 that comes into the state, because the FAIR Plan

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1 policies I believe the premium tax is 2.45 percent  
2 and the sales tax is 6.25 percent. So every time  
3 this person pays an insurance company a dollar  
4 instead of buying something out there, the state  
5 loses money and then all this money is going to the  
6 reinsurance companies or off to the Cayman Islands.  
7 So it's -- you know, it's a huge economic impact.  
8 There's a lot of things get pulled into it, and it  
9 can be a little overwhelming to look at it all. But  
10 it's big, big business and it's just -- you just  
11 have got to do something about it. I'm sorry, you  
12 just do, okay?  
13 I would just -- the comment and I did  
14 appreciate the opportunity to speak, but I have to  
15 tell you that comment in the homeowners report  
16 saying that Cape homeowners aren't just shopping  
17 enough, I mean, that -- I will tell you exactly what  
18 it says in a second. Oh, "It appears that consumers  
19 who are assigned to the FAIR Plan may not be  
20 shopping around aggressively for other coverage." I  
21 can't imagine where -- you know, did anyone at the  
22 Division of Insurance call around to try to do that  
23 themselves? Did anyone actually try, make some  
24 calls to the agents and say, "I have property on the

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1 Cape, and I would like to get insurance"? I did.  
2 Amica didn't call me back, and other companies don't  
3 write. I mean, so before you put a statement in  
4 some sort of state report that we are just not  
5 shopping around enough, I think someone on the  
6 Division of Insurance ought to try it. It's not  
7 that easy. It just -- and to me, that one statement  
8 says that the Division of Insurance doesn't have an  
9 open mind about this problem. We are not all a  
10 bunch of rich people on the Cape with waterfront  
11 properties. I don't know; it's just isn't right.  
12 I will be submitting written testimony, and  
13 I will ask maybe someone. I do want to find out  
14 about the process to make some changes in the  
15 process. They need to put the table of contents  
16 with page numbers, having more than like ten days or  
17 whatever after the filing goes in to respond and to  
18 make plans. I mean, everything at the Division of  
19 Insurance is stacked in favor of the industry, in my  
20 opinion, and it just isn't right. So I guess that's  
21 it. I don't know.  
22 **HEARING OFFICER FARRINGTON:** Thank you very  
23 much.  
24 (Applause)

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1       **HEARING OFFICER FARRINGTON:** We are now  
2 going -- we will now -- here is the list of people  
3 who have indicated that they wish to speak today.  
4 Gerald Bender?  
5       **MR. BENDER:** I will be very brief. I just  
6 want to relate my own tale of financial stress on  
7 this issue. He have two properties on Cape Cod.  
8 One is in Harwich where I currently live, and the  
9 other is in South Dennis where I used to live. Both  
10 properties are near Route 6, and they may be two to  
11 three miles from the coast. So to classify these as  
12 coastal properties is just not right.  
13       Between the two properties I have had one  
14 claim in 30 years, and that wasn't even weather  
15 related. So on one of the properties in 2006, I  
16 paid \$565 to insure that property. The next year  
17 the premium was \$1,586. Two years after that it was  
18 \$1,996. That has gone down, I will candidly say, to  
19 \$1,119 this last year, but that's still twice what I  
20 was paying in 2006. Where I live now, in 2006 I  
21 paid \$1,671. I now pay \$2,397, a 50 percent  
22 increase. So I am paying \$1,500 more a year for two  
23 properties. I don't think the risks have changed.  
24       **HEARING OFFICER FARRINGTON:** Thank you.

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1       (Applause)  
2       **HEARING OFFICER FARRINGTON:** Ronald Lasko?  
3       **MR. LASKO:** Thank you to the Insurance  
4 Commissioner's Office for having this hearing today.  
5 And I really want to thank Paula Aschettino and Jane  
6 Logan. I saw them on our Cape Cod cable TV network  
7 I think it was about five years ago, and I fell out  
8 of my chair. It was a meeting. Mr. Golembeski was  
9 part of the meeting, along with some state senators.  
10 I think Rob O'Leary. I fell out of my chair when it  
11 was revealed that there was an inspection service  
12 owned by Mr. Golembeski's family. They have  
13 referenced that before. I am not going to go into  
14 it in any depth. I further fell out of my chair  
15 when it was revealed that the FAIR Plan is  
16 completely controlled by the insurance companies and  
17 the very insurance companies that are pulling out of  
18 Cape Cod. I further fell out of my chair that the  
19 FAIR Plan was purchasing reinsurance. There's no  
20 need for the FAIR Plan buying reinsurance. They are  
21 reinsured by the insurance industry, the rates  
22 business in Massachusetts. It's the same with FAIR  
23 Plans all across the country.  
24       Now, why did I fall out of my chair?

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1 Because I have an extensive insurance background. I  
2 was a property claim officer of an insurance  
3 company. I was a national account executive. I  
4 have been in the home offices of most of the  
5 insurance companies, quite a number of which no  
6 longer exist. Over the last 25 years I have been in  
7 many home offices throughout New England, New York.  
8 I worked in New York City.  
9       By the way, somebody asked me if I was an  
10 attorney. I am not. This is my subway suit for New  
11 York City. And if you have ever had to ride the  
12 subways in New York City, you know why you need a  
13 dark suit.  
14       I spent the last 15 years as a property  
15 general adjuster on Cape Cod, an independent  
16 adjuster. And actually at first, to do some hiding  
17 from the insurance industry from what I saw and  
18 hoping that what I saw would not make its way to  
19 Cape Cod, but it has. And when I saw these  
20 revelations by Paula and Jane, five, six years ago,  
21 I said to myself, you know, those are two very  
22 courageous women, and I don't have that kind of  
23 courage because I know if I spoke out like that, I  
24 would no longer have employment or customers in the

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1 insurance industry.  
2       So I am here today because I am not in the  
3 insurance industry anymore. What I can say to you,  
4 there is no question that reinsurance piece should  
5 not be part of the FAIR Plan. There is a conflict  
6 with the inspection company.  
7       But I will go even bigger than that. I  
8 have worked as a catastrophe manager with the Small  
9 Business Administration, the SBA, as a client. We  
10 sat down and we would look at claims that were  
11 coming in, and we used to call them red flags. You  
12 would like at a claim and say, well, something is  
13 wrong here; that's a red flag. Something is  
14 questionable here; that is a red flag. You go to  
15 about three red flags, you say we have to  
16 investigate this further. Then if further  
17 investigation shows more red flags, you say, hey, we  
18 have to call in bigger guys to investigate this.  
19       It's the same on a claim file. We are a  
20 major claim office operation or the home office of  
21 an insurance company, and when all of these things  
22 keep popping up -- and in fact on the bus up here  
23 today when Jane brought up the Cayman Islands, CAT  
24 bonds, FAIR Plan -- you have red flags to look at,

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1 both as an insurance department and as an Attorney  
2 General's Office. And the red flags are, what is  
3 this inspection company? Why are they buying  
4 reinsurance? What is Cayman Islands? I mean, there  
5 are more red flags popping up here. Why are the  
6 very insurance companies who pulled out of Cape Cod  
7 running the FAIR Plan? Why are these rates so high  
8 when the loss ratios show everything else?  
9 So I don't want to take anything away from  
10 what Paula and Jane have done. They have done  
11 extensive work. I am sure what they submit to you  
12 is accurate. I just want to say there's a lot of  
13 red flags here. Is there wrongdoing? I don't know,  
14 and I am certainly not accusing anybody, but I say  
15 it's about time it really gets looked into and that  
16 we move ahead. We should have an insurance industry  
17 that wants to help the consumers and consumers who  
18 want to work with the insurance industry. That  
19 would be my hope for the future.  
20 I want to see an insurance industry that  
21 existed 30 years ago when I came into it. That's  
22 what existed then. I haven't seen that lately. And  
23 in fact, most people who work on the street handling  
24 claims and most people in the industry look up here

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1 and say, what is going on? They see the red flags.  
2 There's not much you can do in an  
3 employment-at-will state or while you have people in  
4 the insurance industry who are designated as  
5 unprotected employees. If you don't do what you are  
6 told, you are out. So what I want to see happen  
7 here is a change in the insurance industry. Get  
8 back to where you were 30 years ago. Let's get back  
9 to -- we probably need more insurance companies. We  
10 have lost 1,000 insurance companies in America,  
11 dozens in New England, all -- the dozens we lost  
12 used to write on Cape Cod too. So there is  
13 something wrong.  
14 And beyond that and the reinsurance  
15 issue -- and then I will cut this to what I have to  
16 say -- I have witnessed the American reinsurance  
17 companies bought out and sold off to the foreign  
18 reinsurers. It's all Swiss Re and Munich Re and  
19 Lloyd's, and what we have now is we no longer have  
20 an American-owned reinsurance company. So you have  
21 a reinsurance cartel just the same as an oil cartel,  
22 and they are playing the same games with these  
23 costs, which are passed on to the consumer. They  
24 are inflated and they are excessive. So I would ask

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1 that the authorities do what you can to look into  
2 these red flags, make it transparent. It is what it  
3 is, and let's all move on and let's see an insurance  
4 industry that wants to get back to what it once was  
5 and consumers working together. Thank you very  
6 much.  
7 **HEARING OFFICER FARRINGTON:** Thank you.  
8 (Applause)  
9 **HEARING OFFICER FARRINGTON:** Ms. Krouch?  
10 **MS. KROUCH:** Hello. I am Kay Krouch or  
11 Katherine Krouch. I am a Cape Cod resident of  
12 25 years. We purchased our house about 18 years  
13 ago. In the current economic time frame when we  
14 purchased our house, I was only spending one week of  
15 my salary on insurance. With these rate increases  
16 and the current rate that is my policy now, I am  
17 spending two months of my income on insurance. I am  
18 looking into retiring soon, which is not going to  
19 happen because taking two months of my Social  
20 Security check only then leaves me ten months to  
21 eat, pay my mortgage, put gas in the car, even get  
22 clothing, maybe even a haircut once a year. So  
23 retirement is not an option. The policy, as a  
24 consumer I feel that the value of the policy does

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1 not warrant the rate that you are charging.  
2 I had to go through a water pipe break in  
3 my home, and the paperwork of finding all the  
4 receipts, taking pictures of everything that I lost,  
5 I don't know anyone who has gone through and done a  
6 complete inventory of their home listing pens,  
7 paper, items, everyday items that you have in order  
8 to substantiate a claim and then even at that point  
9 you don't get 100 percent; there are deductibles.  
10 My wind deductible is at \$6,900. Now, if I  
11 can't afford the premium, where am I going to get  
12 \$6,900 to even start the repair work? You don't get  
13 paid on a claim until after you put the money out.  
14 So that's not going to be an option for me to even,  
15 when something does get broken, I would then have to  
16 sell my property. And that would put me out of a  
17 home, which would put me out of Massachusetts, and  
18 then I would also lose my career. So we are talking  
19 about a large hardship on my part.  
20 Now, the FAIR Plan did pick up my policy  
21 after Barnstable County refused renewal because of  
22 the leak. I had been with them for 18 years and  
23 one -- I guess they paid off, say, \$1,700. They  
24 canceled me. After the loyalty of 18 years, they

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1 canceled me. I don't think that's right. They have  
2 had quite a bit of my money.  
3 I don't believe the FAIR Plan needs an  
4 increase, not with the stated profits. I think the  
5 FAIR Plan should actually be sending money back to  
6 us. If they made a large amount of money, then they  
7 should send it back to their policyholders. So I am  
8 imploring you to do a reduction in the rates to a  
9 reasonable -- to the value the consumer receives.  
10 Thank you.  
11 **HEARING OFFICER FARRINGTON:** Thank you.  
12 (Applause)  
13 **HEARING OFFICER FARRINGTON:** Chris Zimmer?  
14 **MS. ZIMMER:** That's me, and I guess because  
15 I am coming so late in the lineup of speaking, that  
16 there is going to be a little redundancy, but I will  
17 try to be brief.  
18 I am just going to start out. My final  
19 thing was that I was going to say was that I too  
20 believe that instead of sitting here debating  
21 whether or not there should be an increase, that  
22 there should be a decrease.  
23 I want you to know I work at an insurance  
24 agency on Cape Cod, and I deal with this every day.

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1 I am also a FAIR Plan policyholder. One of the  
2 things I have noticed is that they have been giving  
3 themselves an increase right along. They have  
4 stepped up the inspections and almost, I am going to  
5 say, 90 percent of the time they are coming back,  
6 probably more than that, they are coming back with  
7 an increase. And again, everybody knows that you  
8 increase Coverage A, and guess what? Your wind  
9 deductible goes down, which seems to be they have  
10 been crying wind, wind, wind damage. We haven't had  
11 a whole lot of it, but if we do, you know, they  
12 are -- so they are maximizing their profits.  
13 And I agree with everybody else that has  
14 said that you really -- listen, if you can take in  
15 enough money to pay the salaries of the people that  
16 work at the FAIR Plan and send out the inspectors,  
17 you are performing a service for people that really  
18 don't have any other place to go for their  
19 insurance, because the people that own you behind  
20 the scenes and are supporting you because this was  
21 mandated made the decision to drop us because we  
22 live too close to the water. I don't know. Like  
23 Jane, a lot of things just aren't right.  
24 I think that if we would outlaw -- oh, by

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1 the way, did I say I work in the insurance industry?  
2 Not just in the state of Massachusetts. I had a  
3 broker's license in New York a long time ago. And  
4 at that time, redlining was illegal in New York  
5 state, and as far as I am concerned, shame on  
6 Massachusetts for allowing it, because that's  
7 exactly what this is. They look at the map, and  
8 there are certain places that these insurance  
9 companies don't want to write, so they don't. How  
10 can you be admitted to the state with all the  
11 privileges that -- you know, as well as having to  
12 comply with the regulations and only be allowed just  
13 to pick and choose? Somehow I have a problem with  
14 that. You can change your rates a little bit if you  
15 want to if that helps, according to what you cede  
16 the risk, but the redlining would probably take care  
17 of the problem, and then we wouldn't have to have  
18 the FAIR Plan. And that my be something to consider  
19 as well.  
20 Another problem that I am having with this  
21 is there are no alternatives to the replacement cost  
22 estimator with the MPIUA, and I find that  
23 unacceptable and inexcusable. I think that there  
24 are a lot of certified contractors in the state,

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1 don't have a lot to do, and I am sure that they  
2 would be happy for a small fee to come out and look  
3 at my house and say, you know, I think it would cost  
4 \$135 per square foot to rebuild your house," or,  
5 "Maybe it's only \$90 to rebuild your house," and  
6 then calculate the square footage, and that could be  
7 my replacement cost estimator. What's wrong with  
8 that? These people are competent, trained. That's  
9 an alternative to going through the cost estimator  
10 that -- is it Marshall & Swift/Boeckh, whatever  
11 their name is? And it is something to think about,  
12 something I think that needs to come out.  
13 As long as we are having a little exposé, I  
14 tell you I have a lot to think about. I have  
15 learned things here today that I wish I hadn't  
16 learned. But -- where was I going with this? A  
17 question was asked. I was attending a professional  
18 insurance women's meeting this past fall, and  
19 someone -- which there were representatives of the  
20 FAIR Plan present. And someone said something about  
21 the fact that the frequency and number of  
22 inspections had increased and what happens if you go  
23 out and you inspect a property and it's actually  
24 overinsured. And there's dead silence. And I was,

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1 if anybody here heard about that, I was the one that  
2 quietly said in the background, "nothing," which is  
3 exactly what happens.  
4 You need to know that they will jack up  
5 somebody's coverage arbitrarily. And when I say  
6 arbitrarily, I am beginning to feel that way. Yes,  
7 they have their replacement cost estimator, but I am  
8 even questioning the validity of that. I can tell  
9 you right now that if it costs \$287,000 to rebuild  
10 the box that I live in, there is something wrong,  
11 because it's very basic construction. It's shelter;  
12 that's all I can say. Nothing fancy. And it  
13 wouldn't cost \$287,000 to rebuild the house I live  
14 in. So I would like an alternative method to  
15 calculate the replacement cost of my house, and I am  
16 not the only one.  
17 As I tell the people that they come in,  
18 "What can you do about my insurance rate? What can  
19 you do about my homeowners?" I say, "First of all,  
20 let's insure it to value. You don't want to  
21 overinsure it and you certainly don't want to  
22 underinsure it for all the obvious reasons." But I  
23 said, "Understand that every thousand dollars that  
24 you increase your Coverage A, this is going to hurt

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1 you with your wind deductible in the event that you  
2 have a claim." I have decided that the FAIR Plan  
3 has calculated this so that none of us will ever  
4 have any roof damage covered. We will all be buying  
5 our own new roofs. I have already done that once.  
6 So if it happens, it will happen.  
7 By the way, we came through beautifully  
8 with the wind on the Cape, for the most part. The  
9 worst that we experienced was the lack of response  
10 by the public utility. And unfortunately I didn't  
11 spend the \$10 to buy the refrigerated products  
12 coverage, so I was out \$600 worth of goods for my  
13 refrigerator and freezer, but at the same time,  
14 there was no NSTAR truck in the neighborhood for  
15 seven days, and then suddenly the power comes on.  
16 Well, better that it come on late than not at all.  
17 If I am off topic, I am just going to come back and  
18 I am going to address the reinsurance.  
19 I would like to ask you when in all the  
20 years that you have been buying reinsurance have you  
21 ever had to access it? Has there ever been a year  
22 that the FAIR Plan has had to access their  
23 reinsurance because of the losses on the Cape?  
24 My next question was, if you did, how much

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1 of that was needed, and what percentage did it  
2 represent? And the reason I am concerned about that  
3 is because I am paying for it along with all the  
4 other thousands of people on the Cape that are stuck  
5 with this. And if you can think of the one year  
6 that you did have to access this reinsurance and you  
7 had to use it and you can tell me what percentage  
8 that represented of the whole, could you tell me if  
9 there was another year that it was used? I am not  
10 getting any answers. Nobody is saying, yes, we used  
11 it, so I don't know what to think. So if it wasn't  
12 used, didn't you get anything back on it?  
13 Then another question is, what is the  
14 probability, what is the probability that all of  
15 your policyholders would sustain total losses in the  
16 same year? I don't know. I think there should be a  
17 cap. You want to buy reinsurance? You pay for it,  
18 but I think there should be a cap on how much of  
19 that cost is passed along to the rest of us.  
20 And at the same time, I am asking that the  
21 premium rate be reduced because I don't think that  
22 it's reasonable. I don't think that it's fair for  
23 all the reasons that all these people have  
24 presented, and I think it's time to clean up the

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1 act. You know, it's got to start someplace. Treat  
2 other people the way you want to be treated.  
3 I understand business is business and  
4 everybody does need to make a profit to stay in  
5 business. I don't think the FAIR Plan should be a  
6 profit organization. Again, they are performing a  
7 service that they are benefiting from anyway. So  
8 let's get rid of the profit in the FAIR Plan, give  
9 it back to the people that have been paying the  
10 salaries and the benefits to you, and clean up the  
11 act.  
12 (Applause)  
13 **HEARING OFFICER FARRINGTON:** Thank you.  
14 Daryl Smith? You indicated that you might  
15 want to say something.  
16 **MR. SMITH:** No, it's all been said.  
17 **HEARING OFFICER FARRINGTON:** All right,  
18 thank you.  
19 Mr. Gould?  
20 **MR. GOULD:** Good morning. Just to start  
21 off, I did submit I guess it's a claim or a  
22 grievance, and again, thank you to Paula and the  
23 Patriot Ledger. I didn't know anything about this  
24 until I happened to read about it two weeks ago that

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1 there was actually a hearing. I am not that big on  
2 e-mails and Web sites and all that.  
3 In 1947 my parents bought the house down  
4 in -- and I am not on the Cape -- 2 Cushing Street  
5 down in Hull, which is several miles away as the  
6 bird flies from this place. And in 2002 my mother  
7 passed away. I bought the house off my brother and  
8 sister and moved in. I have been in Hull basically  
9 since 1949, my whole life.  
10 2004 I decided to clean up all the  
11 paperwork and change the first name on the policy  
12 from Quincy Mutual from Phyllis Gould to Randall  
13 Gould. They said wait a minute. A minute later  
14 they came back and told me I was canceled. Didn't  
15 give me a reason why other than have I ever heard of  
16 the hundred year storm. I went through five or six  
17 insurance companies trying to reinsure because I was  
18 coming up with my anniversary of my policy date and  
19 I didn't want to have a house that didn't have any  
20 insurance on it.  
21 The house was built in 1928. It hasn't  
22 changed except for a couple of updates as far as new  
23 heater, some wiring, wallpaper and paint. It's the  
24 same house that was built in 1928. I was told that

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1 because I live within 1,000 feet of the ocean, I  
2 would be in the flood plain. I argued that point.  
3 I was told that I would possibly, because I live in  
4 the coast, I would have wind damage. I started  
5 asking after about the second or third insurance  
6 company if they would come down and look at my  
7 house. I says, "I live between two hills in the  
8 village of Hull. I don't get wind. I hear it, but  
9 I don't get it unless it's westerly. That's the  
10 only way I get wind. There's never been a claim on  
11 that house for wind damage. There's never been a  
12 shingle blown off that house in the 62 years I  
13 know."  
14 I then started asking the insurance people  
15 how old they were because I remember the Blizzard of  
16 '78, the No Name Storm of '91, Hurricanes Donna,  
17 Bob, Gloria and Irene, and the worst one I heard of  
18 was the Hurricane of '38. There has never been any  
19 water or any wind damage to that house. If you look  
20 at the FEMA map for flood hazard, it shows Cushing  
21 Street, which is 60 feet away from the flood plain  
22 according to their map. So I said, "How do you do  
23 this? How do you justify it?"  
24 They said, "We are not insuring anybody in

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1 Hull."  
2 I then went and went into the Fair Share  
3 Plan, which sure is a play on words from what I can  
4 see. I went from a \$490 bill with Quincy Mutual in  
5 2003 to an \$800 bill with Fair Share in 2004. The  
6 next year I went up to \$1,100. The next year I went  
7 up to \$1,600.  
8 In 2007 they thought they should go out and  
9 have my house inspected. Seems fair. Figured they  
10 at least wanted to check if I had smoke detectors  
11 seeing it's a 1928 house. They come down, they  
12 spent more time. That company was Protect, which is  
13 another oxymoron, I guess you want to call it.  
14 Protect. More like they are going to screw you.  
15 They spent more time measuring my foundation than  
16 they did in the house. When they walked in the  
17 house, they looked around the first floor and only  
18 one room, went upstairs to the attic, which is  
19 now -- which had been done over in 1960, looked  
20 around, you know, Sheetrock walls, go downstairs,  
21 see the new furnace, sees the 150-amp electrical  
22 system that I put in in 1988 and then left.  
23 I got my insurance bill. It went up from  
24 \$1,600 to \$2,369. When I called the insurance

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1 company to find out why, they said, "Well,  
2 Mr. Gould, you have plaster walls and woodworking."  
3 "Yeah, but half the woodworking is painted,  
4 and who puts plaster walls back into a house?"  
5 They said I could have my own person come  
6 in, give an estimate, hire somebody and do a  
7 replacement value.  
8 Now, because of this hearing, I went back  
9 yesterday and looked at my premiums and my  
10 valuation. The house was valued at \$128,000 in 2003  
11 by Quincy Mutual Fire out of Quincy. Once I started  
12 with Fair Share, it went up to \$192,000, \$225,000,  
13 \$248,000, and then after the assessment, \$448,000.  
14 That's just the house. That's not the foundation or  
15 the land.  
16 Now, years ago I found out when I was  
17 inquiring about insurance, they say, "Your house  
18 burns down, whatever, you always have the foundation  
19 because it's made out of cement." So I basically  
20 paid for it because my main concern was fire  
21 insurance, because I know goddamn well I am not  
22 going to get hit by any rising of any tide or any  
23 wind that comes through our village. I did tell one  
24 of the people, I says if I have water in my cellar

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1 from a flood, it will be five islands in Hull  
2 because the mainland will be under water, so will  
3 Weymouth Landing, Morrissey Boulevard, the Southeast  
4 Expressway and a host of other places. So that was  
5 my problem with this thing.  
6 And in closing, one of the statements that  
7 I made was on the form -- I had it typed out on the  
8 computer so they could read it in 14 font -- is that  
9 basically this is what we call legal stealing.  
10 That's it. Thank you for your time.  
11 (Applause)  
12 **HEARING OFFICER FARRINGTON:** That concludes  
13 the list of people who indicated that they want to  
14 make a statement. Is there anybody here who would  
15 like to make a statement at this time? You are  
16 allowed to change your mind.  
17 **MS. LOGAN:** May I make one follow-up  
18 comment? Just one sentence?  
19 **HEARING OFFICER FARRINGTON:** One sentence.  
20 **MS. LOGAN:** Right now?  
21 **HEARING OFFICER FARRINGTON:** Promise?  
22 **MS. LOGAN:** I promise. I didn't realize --  
23 these notifications since -- wherever you notify,  
24 the hearing, that there is a hearing happening, it

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1 should be publicized in a large share territory.  
2 The fact that this was only publicized in The Boston  
3 Globe when this is such a significant -- if you have  
4 a large share territory, and so much of all this is  
5 based around large share territory, you should  
6 advertise the hearing in a large share territory  
7 newspaper.  
8 (Applause)  
9 **HEARING OFFICER FARRINGTON:** All right. So  
10 with that, if nobody else wishes to make a  
11 statement -- yes?  
12 **MR. FORTIER:** Good morning. Thank you for  
13 allowing me to speak. My name is Ken Fortier and I  
14 live in New Bedford. I would like to comment on the  
15 availability of information.  
16 The methodology and criteria used for  
17 reconstruction value isn't available to us, the  
18 homeowners, the ones writing the checks for the  
19 insurance policy. Why the veil of secrecy? Why no  
20 disclosure? It does make one wonder about the  
21 possibility of arbitrary estimates or flawed data  
22 being used by inexperienced or ill-trained  
23 appraisers.  
24 As an example, my house has a footprint of

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1 1,100 square feet, relatively small by today's  
2 standards. Two full stories. I live 1,250 feet  
3 from the river's seawall. I am over 800 feet  
4 horizontally away from the flood zone. I am also  
5 12 feet above the flood zone elevation. My neighbor  
6 has virtually the identical house. Both houses were  
7 originally two-family, both were converted into  
8 one-families. He did minor renovations to his house  
9 to make it a one-family. Mine needed a little more  
10 help. Mine was gutted right down to floor joists  
11 and exterior walls and rebuilt as a one-family  
12 inside to my specifications.  
13 Come to find out, we both had appraisals  
14 done in November of 2010, so we compared notes.  
15 Come to find out, it was the same appraisal company.  
16 We each made an identical phone call to the  
17 appraisal company and asked why so high a  
18 replacement value. \$496,000 was placed on my house  
19 as a replacement value. Five years ago before I was  
20 in the FAIR program, my house was insured for  
21 \$223,000, a sizable increase.  
22 When my neighbor called, he was informed  
23 that they have done renovation work to the house,  
24 and improvements and renovations, of course, add

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1 value. I called and asked the same question, and I  
2 was told that, "You have an older house. Older  
3 houses are very expensive to rebuild."  
4 Well, it's interesting that my house is  
5 100 percent new inside from the floorboards up, and  
6 if it was completely being rebuilt, it could not be  
7 built with the balloon framing that the house  
8 currently has. It would have to be built to current  
9 building code. So we are getting conflicting  
10 stories from the same appraisal company, let alone  
11 different appraisal companies, but we have no way to  
12 confirm or check the information being used.  
13 My house will not cost \$496,000 to rebuild.  
14 It may cost approximately \$250,000 to rebuild, and  
15 that includes upscale appliances, fixtures and  
16 accessories. Add another 25 percent profit margin,  
17 if you will, add another \$10,000 for demolition and  
18 removal, assuming the entire house is collapsed in,  
19 and you have a number around \$322,000. These aren't  
20 arbitrary numbers I am pulling out of thin air.  
21 They are based almost on 30 years' experience as a  
22 civil engineer.  
23 How do we get from that number to \$496,000?  
24 The only thing I see in there is that it results in



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1 higher premiums for me as well as the fact that  
2 since the only potential damage I could incur is  
3 wind damage, I am left with virtually the entire  
4 bill for almost any roof repair once my deductible  
5 falls into place.  
6 That's all I have to say. Thank you very  
7 much.  
8 **HEARING OFFICER FARRINGTON:** Thank you.  
9 (Applause)  
10 **HEARING OFFICER FARRINGTON:** So I think  
11 that concludes the period for public comment in this  
12 hearing. If you would like to submit written  
13 commentary, the record will remain open until the  
14 proceeding is concluded. I want to thank you all  
15 for coming.  
16 What we are now going to do is take a  
17 break, and counsel for the parties are requested to  
18 remain for a brief scheduling conference with the  
19 presiding officers.  
20 (Recess taken from 12:03 p.m. to  
21 12:29 p.m.)  
22 **HEARING OFFICER FARRINGTON:** Before we  
23 begin the scheduling process, I need to advise all  
24 of you that at this point I am a policyholder of the

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1 FAIR Plan and the reason that I am a policyholder of  
2 the FAIR Plan, and have been since July of last  
3 year, is that I live in a very old house with very  
4 old knob and tube wiring, and the voluntary market  
5 is not terribly interested. So even as we speak,  
6 there are electricians at my house tearing it apart  
7 and replacing the wiring, and I anticipate that that  
8 work is going to be done probably within the next  
9 five or six weeks. And so I felt it was prudent to  
10 disclose this potential financial interest in the  
11 MPIUA rate, and I disclosed it to Commissioner  
12 Murphy as my appointing authority and have received  
13 from him a statement that he has made a written  
14 determination as permitted by the state Ethics  
15 Commission that my interest is not so substantial as  
16 to be deemed likely to affect the integrity of the  
17 services which I will provide in connection with  
18 this, but I wanted you all to know that.  
19 So we are here, I think as you all know, to  
20 determine the schedule for cross-examination. I  
21 don't know what discussions you may have had. I  
22 don't know what the current status of any discovery  
23 issues may be, and obviously they are linked. So --  
24 **MR. MEYER:** Maybe I could report on behalf

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1 of the three parties?  
2 **HEARING OFFICER FARRINGTON:** Certainly.  
3 **MR. MEYER:** What the three parties have  
4 agreed is that we can schedule Mr. Wackerman's and  
5 Dr. Derrig's testimony today and should hold off  
6 temporarily on scheduling Mr. Ericksen's testimony  
7 pending the resolution of some disputes.  
8 What the parties have agreed on is  
9 Mr. Wackerman, Monday, February 27, and if  
10 necessary, over until Tuesday, February 28;  
11 Dr. Derrig on Tuesday, February 28, and if necessary  
12 over to Wednesday, February 29, with the idea that  
13 we would finish both those two witnesses in those  
14 three days.  
15 **HEARING OFFICER FARRINGTON:** All right.  
16 The dates are fine for me. Hearing room 1E is not  
17 available on the 28th. That is this room.  
18 **MR. McCALL:** That's fine.  
19 **MS. BROOKMAN:** Is there another available  
20 hearing room?  
21 **HEARING OFFICER FARRINGTON:** Well, the  
22 other -- the 28th is a Monday?  
23 **MR. MEYER:** Tuesday.  
24 **HEARING OFFICER FARRINGTON:** It's a

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1 Tuesday. I think in that case, 1F might be  
2 available, which is the one next door. It's  
3 smaller, but I think it's adequate for our purposes.  
4 **MR. MEYER:** I'm sure that will be fine.  
5 **HEARING OFFICER FARRINGTON:** So I will make  
6 sure that we get Room 1F for February 28. That  
7 seems fine. And you will be filing your response to  
8 the Attorney General's motion to compel tomorrow?  
9 **MR. MEYER:** Yes, Madam Hearing Officer, we  
10 will.  
11 **HEARING OFFICER FARRINGTON:** And have any  
12 of those issues been resolved, or is that asking  
13 for --  
14 **MR. MEYER:** None of those issues have been  
15 resolved as of this moment. I could further report  
16 to the Hearing Officers that I made the inquiry as  
17 requested by the Hearing Notice and the regulations  
18 as to whether there are any stipulations possible as  
19 of now, issues or what have you, and the answer is  
20 nothing that we can report to you as of now.  
21 **HEARING OFFICER FARRINGTON:** Okay.  
22 **MR. MEYER:** And with respect to the AG and  
23 SRB witnesses, I think the parties agree that it is  
24 somewhat premature to schedule them as of now

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1 because our action has not yet been scheduled. But  
 2 they have told me who their witnesses probably are,  
 3 and we could probably schedule them relatively soon  
 4 once the Ericksen schedule has been settled, which  
 5 is not settled as of now.  
 6 **HEARING OFFICER FARRINGTON:** And how many  
 7 of them are there?  
 8 **MR. McCALL:** We will have two, most likely.  
 9 **MS. BROOKMAN:** We will have one or two.  
 10 **HEARING OFFICER FARRINGTON:** And this may  
 11 be a little too theoretical as a question, but do  
 12 you have any sense that you would be prepared to  
 13 hear testimony from Mr. Ericksen earlier than  
 14 March or not?  
 15 **MS. BROOKMAN:** We don't think it's likely  
 16 because we need to read the material before.  
 17 **HEARING OFFICER FARRINGTON:** All right. Is  
 18 that --  
 19 **MR. McCALL:** I would think that's  
 20 reasonable. We don't know what the material is that  
 21 is going to be produced.  
 22 **MR. MEYER:** I don't disagree with that, but  
 23 let me add one thing for your information. The only  
 24 materials in our view that the AG and the SRB need


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1 to cross-examine Mr. Ericksen are the materials that  
 2 are subject to a motion to compel, not the materials  
 3 that are subject to the two proposed subpoenas. As  
 4 far as I am aware, the materials that are subject to  
 5 the two proposed subpoenas Mr. Ericksen has not  
 6 seen, has not used, has not reviewed. That is why  
 7 the AG is attempting to subpoena them from the two  
 8 modeling firms; that is, Mr. Ericksen does not have  
 9 them. We can provide those materials, of course, to  
 10 the AG for their preparation of their cross of  
 11 Mr. Ericksen any day, including a month ago, as long  
 12 as this nondisclosure agreement problem is solved.  
 13 So if we could as an interim matter have a  
 14 nondisclosure agreement in place, we could move that  
 15 along and resolve whether those documents should or  
 16 should not be made public at some time in the  
 17 future. I'm only saying there is a way of  
 18 accelerating Mr. Ericksen's cross-examination  
 19 testimony if people wish to do so.  
 20 **HEARING OFFICER FARRINGTON:** Well, I leave  
 21 you to discuss that with the State Rating Bureau and  
 22 the Attorney General.  
 23 **MR. MEYER:** Okay.  
 24 **HEARING OFFICER FARRINGTON:** Is there

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1 anything else that we need to discuss right now,  
 2 then? Or any other issues anyone wishes to raise?  
 3 **MS. BROOKMAN:** No.  
 4 **MR. McCALL:** No.  
 5 **HEARING OFFICER FARRINGTON:** Okay. Thank  
 6 you all.  
 7 (Whereupon, the hearing was  
 8 adjourned at 12:36 p.m.)  
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1 C E R T I F I C A T E  
 2 I, Nancy M. Kingsbury, Registered  
 3 Professional Reporter, do hereby certify that the  
 4 foregoing transcript, Volume I, is a true and  
 5 accurate transcription of my stenographic notes  
 6 taken on January 19, 2012.  
 7  
 8   
 9  
 10  
 11 Nancy M. Kingsbury  
 12 Registered Professional Reporter  
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D I S C L A I M E R

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# **Attorney's Notes**

	\$3,500 (2) 49:4;61:12	53:2	42:13	47:20
\$	\$30 (1) 19:12	\$96 (1) 53:2	1890s (1) 42:11	2009 (1) 47:21
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