

Public Hearing

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before

SENATE COMMERCE COMMITTEE

"Testimony on the underwriting guidelines and rates of Allstate Insurance Company and Allstate Indemnity Company pursuant to the Stipulation and Agreement entered into by the New Jersey Department of Insurance and Allstate"

LOCATION: Committee Room 7
Legislative Office Building
Trenton, New Jersey

DATE: September 13, 1993
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Gerald Cardinale, Chairman
Senator Jack G. Sinagra, Vice-Chairman
Senator John O. Bennett
Senator C. William Haines
Senator John J. Matheussen
Senator John P. Scott
Senator Raymond J. Lesniak
Senator Edward T. O'Connor, Jr.

New Jersey State Library



ALSO PRESENT:

Dale C. Davis, Jr.
Office of Legislative Services
Aide, Senate Commerce Committee

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, CN 068, Trenton, New Jersey 08625



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EDWARD T. O'CONNOR, JR.

New Jersey State Legislature

SENATE COMMERCE COMMITTEE

LEGISLATIVE OFFICE BUILDING, CN-068

TRENTON, NEW JERSEY 08625-0068

(609) 984-0445

NOTICE OF PUBLIC HEARING

The Senate Commerce Committee will hold a public hearing on the underwriting guidelines and rates of Allstate Insurance Company and Allstate Indemnity Company pursuant to the Stipulation and Agreement entered into by the New Jersey Department of Insurance and Allstate.

The hearing will be held on **Monday, September 13, 1993 at 10:00 A.M. in Committee Room 7, Legislative Office Building, Trenton, New Jersey.**

The public may address comments and questions to Dale Davis, Committee Aide, and persons wishing to testify should contact Arlene H. Bezek, secretary, at (609) 984-0445.

Those persons presenting written testimony should provide 15 copies to the committee at the hearing.

Issued 09/01/93

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SENATOR GERALD CARDINALE (Chairman): Let me start off this hearing by clarifying, to some extent, its purpose. I have heard speculation that this hearing has somehow been called to take a hatchet to Allstate Insurance Company. That is not the case.

The realistic approach to whatever went on when this stipulation was entered a year ago is such that I think we can all understand the circumstances. That Allstate Insurance Company was trying to make the best bargain for its company that it could, with the Department of Insurance. Its responsibility is a responsibility to its stockholders; to its corporate entity. We have a system in New Jersey by which the consumers are supposed to be protected, and it is the job of the Department of Insurance to protect and uphold the interests of the consumers.

What we have been hearing -- many of us have been getting complaints from consumers -- is that suddenly, for no apparent reason, their rates are going up. As we begin -- several of us -- to look into what the basis is for these apparent increases that do not seem to have been approved by the Department, we find that, in fact, in a somewhat indirect fashion, these rate increases have, indeed, been approved by the Department. Further, we find that this was a secret arrangement. The protestations of the Governor's Office and the Department recently prove contrary, notwithstanding that it has come to my attention that the way that this stipulation was released was not in the normal, ordinary course of business, but because The Trenton Times brought a suit under the Freedom of Information Act. It wasn't until filings with respect to that suit were made that the Department released that stipulation, back several months ago.

Still, the impact wasn't felt by our consumers until more recently. It threatens to be felt even more substantially in the near term. What we are here for today, is to determine

exactly -- and put out before the public -- what all of the facts surrounding this secret deal are, and, in fact, to see what it is that we can do to protect the consumers from the fallout that is already in store for them, those who have not already been impacted and, certainly, to relieve -- if there is any possibility of so doing -- the consumers who would be impacted by this transaction.

There are some things that we clearly understand about this, and there are some things that will, I am sure, be brought out at the meeting so we will begin to learn more of the circumstances with respect to that.

The first witness I would like to call is an Allstate policyholder who has come here to tell us her story, Lori Mount. Is Lori here? (affirmative response from audience) Please come up, Lori.

I just want to say, we have individuals here who have not previously been used to testifying. Most of the people who come to testify at these hearings are here all the time. We give you wide latitude. We are your friends. We want you to feel very comfortable. No one is going to jump down your throat. You are going to be given an opportunity to tell your story in your own words.

L O R I S U E H. M O U N T: All right, thank you. I have prepared a statement, and I have given copies of it to Mr. Davis (Committee Aide).

Again, my name is Lori Mount. Today I am here to share with you my experience with the Allstate Insurance Company, automobile insurance in the State of New Jersey, and my feelings of anger and frustration as they relate to the system and the abuse that goes on within it.

To better understand my situation, allow me first to give you some background information. I first purchased automobile insurance in 1981, and was insured with Selective Risk. Approximately one year later, I enrolled with Allstate.

Unfortunately for me, I had just been inducted into the "Insurance Hall of Horrors -- the New Jersey JUA." I thought at the time that I had purchased regular insurance just like everyone else. I was told that this was just a category that they placed young, new, and inexperienced drivers in.

Around 1987-1988, I found out what JUA was really all about. That is about the time my insurance costs started skyrocketing with unexplained costs. I inquired about them and found they were appropriate charges for JUA customers, only now I was referred to as a CSC customer. I was told that this was a new name for JUA policyholders. At that time, I asked to be taken out of JUA/CSC. I was informed that open market policies were again not available to me.

I received two moving violation tickets within the course of those years, and my husband was involved in one at-fault accident and received one moving violation ticket. Now, in order for us to obtain insurance in the open market, we needed spotless driving records for the next three years. In April of 1991, our driving records were spotless and we were able to purchase an open market policy with Allstate Insurance Company. Our premium dropped by approximately 50 percent. However, we were still driving the same vehicles, a 1983 Ford Mustang and a 1986 Nissan pickup truck. This has been the situation for the past two and a half years.

However, the other day we received our renewal notice and two things changed: We were now to be insured with Allstate Indemnity Company, and our premium increased by 50 percent. Why? Fifty percent, from nearly \$1100 to over \$1600, a substantial increase for the same exact coverage on the same exact automobiles. I questioned Allstate immediately as to the reason for the changes. Their answer was that they were permitted by the New Jersey Department of Insurance to create a new policy group known as Allstate Indemnity. All persons currently insured with Allstate through the open market for

less than three years could be placed in this newly created group. Allstate, again with the approval of the New Jersey Department of Insurance, would be permitted to charge these customers rates previously charged to drivers assigned to the JUA/CSC, now MTF pools.

Ladies and gentlemen, to me this makes no sense at all, and suggests the following questions:

1) Why should Allstate be permitted to increase my policy by 50 percent, while I have maintained -- as well as my husband -- a perfect driving record for more than five and a half years? Is it because I am subsidizing other persons' poor driving records?

2) Was this done by the administration and the Department of Insurance solely for the purpose of negotiating with Allstate to remain in New Jersey?

3) Did the administration and the Department of Insurance have the authority to negotiate these terms with Allstate?

4) And bottom line, who sold out to whom?

Frankly, I think whoever is responsible did a poor job for the New Jersey consumer who happened to have their policy with Allstate.

The information that I have just presented today to you are the facts as accurately as I can best present them. I have a few other points to ponder:

I was told that I could purchase insurance with other companies for the same reasonable rates that I currently now have. Why, then, in today's economy would Allstate be trying to scare away its customers? Could they be trying to drop their market share to such a low that it betters their case to leave New Jersey? Again, who sold out to whom?

Thank you for your time today. I hope the frustration and anger you see and hear in me today can be quickly and

effectively transformed by you into corrective action for all New Jersey motorists.

SENATOR CARDINALE: Thank you very much. Are there any questions from the members of the Committee?

SENATOR LESNIAK: Mr. Chairman, may I?

SENATOR CARDINALE: Senator Lesniak?

SENATOR LESNIAK: Thank you.

In April of '91, your premium dropped by 50 percent?

MS. MOUNT: Yes.

SENATOR LESNIAK: And then two and a half years later it increased by 50 percent? Is it less than it was in '91 then?

MS. MOUNT: In 1991, our premium was somewhere in the area of \$1500 to \$1600. We were then able to enroll in Allstate through the open market. That dropped our coverage down to-- It was \$1075, or something dollars. Now what I am being hit with is, we are going right back--

SENATOR LESNIAK: To?

MS. MOUNT: To the \$1500-- It's \$1605.

SENATOR LESNIAK: Okay. So what you are talking about is paying what you were paying back in April of '91?

MS. MOUNT: Correct.

SENATOR LESNIAK: Okay. Since you can get the regular rates from another insurance--

MS. MOUNT: Yes?

SENATOR LESNIAK: --carrier, because they will take all comers provisionally that they like, do you object to that?

MS. MOUNT: I object to the fact that-- I follow the rules. I was dumped into a nightmare situation. I had to crack my driving record. I did that. I paid. And now I am being forced out of a company. I am basically being discriminated against, I feel, by being thrown out. Why do I have to go search?

SENATOR LESNIAK: Do you have an allegiance to Allstate?

MS. MOUNT: No, I don't have any allegiance to any insurance company. It is just, why do I have to be thrown out? Why am I being forced to shop somewhere else? Why can't I remain where I am now?

SENATOR LESNIAK: Okay. So you want to remain with Allstate. You don't want to take advantage of the opportunity to get a lower rate with another insurance company?

MS. MOUNT: No, I intend to take advantage of being able to receive a lower rate. I have to; I do not have a choice.

SENATOR LESNIAK: Well, why wouldn't you?

MS. MOUNT: Why wouldn't I is correct, but why is a company in the State of New Jersey able to do this? That is why I am here today: Why are they being permitted to do this?

SENATOR LESNIAK: I don't know your individual circumstance in terms of why it affects you, but I am just confused about why you would object to being able to get lower rates in the marketplace?

MS. MOUNT: I don't object to being able to receive lower rates in a different insurance company. I object to the fact that I am in with a company where I have obeyed the rules; I have gotten insurance. I went out and I purchased open market insurance. Now I am being forced to turn around and go seek another insurance company. I didn't do anything wrong.

SENATOR LESNIAK: So you have no objection to going to get lower rates as allowed in the open market?

MS. MOUNT: No. I am going to get lower rates. I object to the fact that I am being forced to go and do that.

SENATOR CARDINALE: Senator O'Connor?

SENATOR O'CONNOR: Yes. Are you aware that the action that Allstate took is something that all the insurance writers in New Jersey have the option of doing?

MS. MOUNT: Again, this is new to me. I just started really pursuing this when I received my renewal last week. I

did have questions when I was in the JUA. I was told when I was put into what they call the CSC that there was something new that had been implemented with the Florio administration which allowed these rates to be charged by the companies. I am now told today that Allstate did not take advantage of those rates at that time, and now they are doing just that.

SENATOR O'CONNOR: Okay. But if you knew that under the FAIR Act what they did was an option that all the companies that write business in New Jersey have the option of doing, would you--

SENATOR CARDINALE: Senator O'Connor--

SENATOR O'CONNOR: Well, may I finish the question?

SENATOR CARDINALE: I think you are asking this witness a question that is both hypothetical and not the case. You are creating a situation: One, you are asking her something that is fairly technical, and she should not be expected to know. And two, you are posing a hypothetical which is not true.

SENATOR O'CONNOR: Well, then, if it is not true, Mr. Chairman, I will stand corrected. But perhaps the--

SENATOR CARDINALE: Not every company has been given the option that Allstate has been given. The papers that were sent to you, you know -- I believe you got a packet from the Committee -- would indicate that there is a difference between what was done with Allstate and what was done with all of the other companies, in that the Allstate Indemnity Company was given as a rate base the MTF rates. That was not done for other companies.

SENATOR O'CONNOR: If you are correct, Mr. Chairman, I will stand corrected, but I would like to hear that from the Department of Insurance. Then I have been misinformed.

MS. MOUNT: Sir, may I tell you what I do know about that? When I questioned that the other day, I was told that they are now able to charge these MTF rates. But in 1992,

there was an amendment made to the FAIR Act law. I believe it was Senate Bill No. 513, but again, I have not seen a copy of this. This is all new to me. The amendment changed as to how these rates came about, or on the basis of what they could be charged.

The Governor, I am told, conditionally vetoed that. However, that was later overruled. To some degree, I believe that covers -- so I am told -- how they cannot then be able to charge these rates. Now, I don't know. As I have said, I have gone from my Assemblyman to Senators. I have not seen it, but that is what I have been told. I don't know enough about that. I didn't bring that into discussion here, but since you did ask the question, that is the little bit I have been told about that. I don't know.

SENATOR CARDINALE: Is there any question on this side of the aisle? (no response)

Let me just ask a question or two, if I may. Senator Lesniak has told you that you had to take the all comers provision and that you can go out and shop in the market. And I think you may have heard commercials by the Governor saying that you can do that. That happens to be true; you can go out and shop in the market.

What has been your experience? Is that something of an inconvenience for you, to go out and shop in the market? Is it as readily available as Senator Lesniak would seem to indicate; that you can just go and-- I mean, I have a list of the rates from various companies. Can you go, for instance--

SENATOR LESNIAK: I understand, Senator, that you are against free competition in the open market, but this is taking it a little too far. (laughter)

SENATOR CARDINALE: Can you go, for instance, to Reliance Insurance or to National General, whose rates are approximately 50 percent of the MTF rate, which is the regular rate for Allstate Indemnity-- Can you find them, and are they

willing to insure you? Can you go to New Jersey Manufacturers? Can you find them, and are they willing to insure you?

MS. MOUNT: That is what I was going to say. My husband and I have tried to contact New Jersey Manufacturers, and you can't even get through to them on the phone. They are just being hit with so many new people. Basically what they do is tell you to write in to them, give them your name and address, and they will mail you an application. The approval could be 60 days. I don't have 60 days. I was notified by Allstate last week that my insurance is due for renewal in October, and I have to have automobile insurance.

Yes, I guess I could go through the Yellow Pages and I could pick out this one and I could call that one, but I feel like I am being greatly inconvenienced. I have met the rules and now I am being forced to play by another set of rules for no apparent reason. Again, I didn't do anything wrong.

SENATOR CARDINALE: Senator Lesniak also made the point -- which at first blush might seem to be a very important point -- that you were paying a certain rate, then you got a reduction, and now you are going back up to that rate.

Now, as I understood your testimony -- correct me if I understood it incorrectly -- when you were paying that higher rate, it was when you were considered a high-risk driver because of at-fault accidents and lots of points. But now, with five and a half years of a spotless driving record for both yourself and your husband, you are now being charged the same rate that you were being charged when you were a high-risk driver. Is that correctly stating your point?

MS. MOUNT: That is correct, yes.

SENATOR CARDINALE: If there are no other questions from other members, I want to thank you very, very much for your testimony; for coming here, for taking time out of your day. We don't often have individual consumers who are willing

to do that. I think we should have more of them. We would have better hearings if we did.

Thank you very much.

MS. MOUNT: Thank you.

SENATOR CARDINALE: The next witness I would like to call is Derry Becker, who is another Allstate policyholder. Is Derry Becker here? (affirmative response from audience)

D E R R Y B E C K E R: Hi. I don't have a prepared statement. This all came about rather quickly. I am not as well researched as the woman before me, but I will do my best.

SENATOR CARDINALE: You heard what I said to her?

MS. BECKER: Yes.

SENATOR CARDINALE: We will give you a much wider latitude than we are going to give Jasper Jackson, because we expect him to be prepared. He is an expert.

MS. BECKER: Well, first I would like to start by saying that this is the first time I have ever dealt with government in any form. I have been very happy with what I have been greeted with; first with Senator Bennett's office, and then with Dale (Mr. Davis, Aide to the Committee).

Basically, I signed up with Allstate in April of '91. I, too, in '81, had an accident and was put in Selected Risk. Well, I changed from the JUA in 1991 because I realized I could. They gave me-- I have my contract; I didn't make copies -- sorry. I have a contract from when I switched because my home owners is with Allstate and my family has been with Allstate for 30 years -- the "Good Hands" people.

My policy was written about \$900, and last Saturday I received a renewal saying that it had gone up to \$1550. They changed the structure of my payment plan and made it a one-year policy, as opposed to a six-month policy. Basically, they were expecting me to dish out \$500 next month. I haven't had an accident. In 1981, I had the accident. I have had no points on my license. I have a clean driving record. I think I got a

ticket in 1985, but otherwise I have not had any problems. I pay my bills on time. This was a total surprise to me.

When I went to deal with my agent it was, like: "Well, we suggest you shop around." I started shopping around, and because they put me in this category of MTF-- I have not dealt with the firms; I have been going through agents, because I am ignorant as to how to deal with it. Basically, they told me \$1500, \$1600 because I am with this MTF. I don't understand it. I don't know why I'm with it. I haven't had a ticket since 1985. I haven't had an accident since 1981. I didn't know where else to turn, because I really wasn't getting any answers.

Then I called the Senator's office. Your assistant, Joe, was very helpful, and I thank him for that.

SENATOR LESNIAK: Did he get you an agent or get you a regular rate?

MS. BECKER: Well, he brought me here, and it's--

SENATOR LESNIAK: That is what we have to do. I think it is more important that you get somebody who can get you a regular rate.

MS. BECKER: Absolutely; absolutely. But as the woman-- It is time-consuming, you know, to spend time on the phone. I was on the phone for two hours as soon as I found out. I thought this was a computer error -- \$1550. It was over the holiday weekend. When I found out that this was actually happening, I got right on the phone. I was told by one person \$1600, another person \$1300. My insurance has never been high. I was with Amgro and it was \$1140. I wasn't happy with my agent, so I switched. I said, "I am not paying \$1140," I went with Allstate, and they wrote me out this policy. I really object to the fact that I pay my bills on time. I pay my home owners on time; I pay my car insurance on time. They didn't give me any written notice. Basically, they're saying, you know, "You can shop around, or you can pay us," and it is

almost \$500 in a month. Where does the average citizen come up with \$500 in one month?

SENATOR LESNIAK: No, they shouldn't have to.

MS. BECKER: Not in 1993.

SENATOR LESNIAK: They shouldn't have to.

MS. BECKER: Right.

SENATOR LESNIAK: They should not have to.

MS. BECKER: So, you know, to me it is an injustice that I just can't live with. That's why I am here.

SENATOR LESNIAK: I just don't understand why we can't get an agent to-- Well, I guess we can wait for Jasper for that.

SENATOR CARDINALE: Well, Senator, I think, you know, it would be a little bit suspect if only those who complained to a legislator -- if we developed a list of agents of some sort in our legislative offices, and if only those who complained to a legislator were able to, in fact, do this. I think you are hearing the difficulty. We don't have that kind of difficulty, so it is a little hard for us perhaps to relate to what this consumer is saying. If I go to get insurance, I have never been turned down. That is not something that I can relate to.

SENATOR LESNIAK: I have.

SENATOR CARDINALE: Well, you may have to-- (laughter makes remainder of comment indiscernible to transcriber)

But I have been getting mail from consumers who have said -- and it is a little far for them to come-- I have been getting mail from consumers who have said very similar kinds of things. I understand that this policy has just begun.

SENATOR LESNIAK: I think that is-- I mean, the point I am trying to make, Senator, is that we ought to find out from the Department why consumers are not getting the information necessary.

SENATOR CARDINALE: Well, they are on the list. You'll get to ask your questions. You will get the opportunity to ask those questions.

SENATOR LESNIAK: Okay.

SENATOR SINAGRA: May I just add something to that?

SENATOR CARDINALE: Sure.

SENATOR SINAGRA: I think a lot of it is emotional? A lot of people have been with Allstate for many, many years. They have their house, they have many of their other insurances with them, and they have grown accustomed. It is a matter of trust. I think many of them-- Not to bring a personal matter up, but my mother-in-law called to complain. She does that all the time about everything (laughter). But she called to--

SENATOR LESNIAK: I know your mother-in-law.

SENATOR SINAGRA: She called to complain that her rate went up 40 percent with Allstate. So, I mean, I know it to be factual. She didn't want to change. She wants something to be done because she doesn't want to change her house insurance and the rest of the insurance, to go to someone else.

UNIDENTIFIED MEMBER OF COMMITTEE: It is refreshing that somebody else's mother-in-law calls.

MS. BECKER: Well, I thought I was in a lower driving group. I drive a couple of miles to work. I don't use my car-- I average about 8000 to 9000 miles a year on my car, and I really think I am a good customer to Allstate. That is the bottom line: I am a consumer, and, you know-- In talking to people, I am hearing from 21-year-old kids who have had accidents and have points, and they are paying less than Allstate is asking me to pay now. Go figure.

SENATOR CARDINALE: Are there questions from any other member of the Committee? (no response)

Again, thank you very much for taking the time to come here to help us.

New Jersey State Library

MS. BECKER: I was wondering if they do have a list of insurance companies (laughter), or if I could have a note from you guys saying, "Hey, please give this woman some cheap insurance." Would that be okay? Or if there is anyplace I can go for a list? I mean, I do want cheaper insurance. That is why I came down here. Is there anybody who can help me with this, or anyone you can refer me to?

SENATOR CARDINALE: I am sure there are some representatives of insurance companies and some insurance agents and so forth in the audience. They are generally here.

MS. BECKER: Are the Allstate people here?

SENATOR CARDINALE: If anyone wants to get a customer, here's a hot one.

MS. BECKER: Thank you for your time.

SENATOR CARDINALE: Thank you very much.

The next witness will be Ed Collins, Associate Counsel, Allstate Insurance Company.

E D W A R D T. C O L L I N S, ESQ.: Good morning. My name is Edward T. Collins, and I represent Allstate Insurance Company.

Last December, as you know, Allstate had the pleasure of announcing that it had reached an agreement allowing it to suspend its withdrawal application and to dismiss a myriad of litigation relating to auto insurance.

The agreement reflected Allstate's renewed hope in the New Jersey market. The market appears to be in better shape now than it has in many years. As a result of the constructive dialogues in which we have engaged with the Department, we believe the State has made a serious commitment towards improving and stabilizing the market further. We believe the attitude is truly one of cooperation, rather than confrontation.

Other developments have contributed to our renewed sense of hope as well. For example, the courts have issued several important decisions affecting insurers' and their

shareholders' rights to a fair rate of return. Moreover, the Legislature has taken important action relating to cost-based pricing and appears committed to additional reforms.

Although I am sure you have a copy of the agreement itself, I would be delighted to outline its most salient features. I am delighted because I was a direct participant in this process. As such, I sincerely believe all parties had as their primary motivation saving jobs and improving the marketplace as a whole.

The agreement provided that:

1) Allstate would suspend its withdrawal application for two years.

2) Allstate would dismiss all pending litigation involving its rate filings, the depopulation orders, and the mandatory producer assignment program.

3) Allstate would implement a rate change equivalent to approximately 6.5 percent effective January 1, 1993, based upon increases for uninsured motorist coverage and bodily injury coverage for policyholders selecting the zero threshold.

4) Allstate would implement a revised standard/nonstandard rating system in which Allstate would activate the Allstate Indemnity Company. This structure is similar to marketing plans Allstate has in place in 45 states. Allstate Indemnity has been licensed in New Jersey since 1966. Under the new regulations that permit companies to use affiliates as part of their standard/nonstandard rating plans, Allstate decided to activate its Indemnity Company to better manage higher risk business, including prior JUA/MTF insureds, previously uninsured drivers, and new applicants with eligibility points or claim activity. After three years with a clean record, insureds may qualify for transfer to Allstate. Countrywide, the average rate in Allstate Indemnity is 75 percent higher than in Allstate. In New Jersey, the average rate is currently 30 percent higher in Allstate Indemnity.

Incidentally, this is the approach that several other companies have reportedly taken in New Jersey, and one that Allstate may have taken sooner had it not filed its withdrawal application.

5) Allstate would pay a total of \$75 million to the State in order to terminate the JUA servicing carrier litigation. Of this, \$65 million was paid to the MTF as a partial payment towards the deficit, for which Allstate agreed not to seek recoupment. Several other former servicing carriers had also settled this litigation, and we wanted to reach the same general terms and put the case behind us rather than expend enormous resources into the indefinite future over such a complex matter.

6) Allstate was able to resolve a number of operational issues as part of a market conduct examination.

7) Allstate agreed to appoint additional producers under the producer assignment program and to dismiss our challenge to the program, primarily because we were not confident in prevailing on the legal merits, and because we wanted to terminate this litigation and the expenditure of resources to support it. In total, we took on approximately 200 additional producers.

8) Allstate was encouraged that the Department was interested in participating in discussions regarding additional lasting market reforms that eliminate or reduce costs that might allow consumers to purchase lower cost policies to better suit their insurance needs in a more competitive marketplace.

Although the suspension of Allstate's Plan of Withdrawal is temporary, Allstate continues to have hope and remains optimistic that the market will continue to stabilize and become even healthier.

Consumers appear to be shopping for the best product, price, and service as never before, but auto insurance remains far too expensive in this State. Allstate is, therefore, committed to working with you to pursue the legislative reforms

needed to make available to consumers a more affordable product that better suits their needs in a market where companies aggressively compete for business.

Thank you for your time and consideration.

SENATOR CARDINALE: Thank you very much, Ed.

I would like to ask you a few questions, if I may?

MR. COLLINS: Sure.

SENATOR CARDINALE: Did you personally participate in the agreement and negotiations leading to the stipulation of settlement?

MR. COLLINS: Yes, I did, Chairman.

SENATOR CARDINALE: Was it anywhere involved in those negotiations that that agreement would not be released for public consumption?

MR. COLLINS: We, as litigants often do, agreed to -- mutually agreed to -- maintain confidentiality with respect to the discussions. Also, Allstate had some competitive concerns about releasing the agreement. Of course, the rating plans and underwriting rules of any company are public records, but because it was a litigated matter and sensitivity related to our withdrawal itself, it was Allstate's view that we should keep it confidential.

SENATOR CARDINALE: But once the stipulation had finally been entered -- I can understand all of that while the negotiations were happening-- Once the stipulation had finally been entered, was it your understanding that that would not be released to the press, to the public, to this Committee?

MR. COLLINS: Well, we had competitive concerns with respect to that. We mutually-- I can't address what the Department's considerations were, but Allstate had competitive considerations with respect to keeping that document confidential. We did not object to its release, however.

SENATOR CARDINALE: You are aware that it was eventually released about four or five months later?

MR. COLLINS: Yes.

SENATOR CARDINALE: And that that was a result of a suit brought by a newspaper?

MR. COLLINS: Yes.

SENATOR CARDINALE: You indicated a renewed sense of hope in your statement. You relate that, at least one point within that, as the fact that the Legislature took important action relating to cost-base pricing and appears committed to additional reforms. Are you referring to--

MR. COLLINS: Section 40.

SENATOR CARDINALE: Section 40?

MR. COLLINS: Yes, sir.

SENATOR CARDINALE: That was Senator Matheussen's bill, and mine. You are aware that that became law over the Governor's veto?

MR. COLLINS: Absolutely.

SENATOR CARDINALE: Okay. Now--

SENATOR LESNIAK: Was that over his conditional hearing?

SENATOR CARDINALE: I'm sorry?

SENATOR LESNIAK: Was that over his conditional hearing?

SENATOR CARDINALE: It was over conditional veto of the government, correct.

SENATOR LESNIAK: Okay.

SENATOR CARDINALE: On page 2 of your statement, you talk about a portion of that agreement being that Allstate would implement a rate change equivalent to approximately to 6.5 percent, effective in January?

MR. COLLINS: Yes, sir.

SENATOR CARDINALE: The kinds of increases we are hearing about from all our consumers -- or our constituents -- are on the order or magnitude of 30 percent to 50 percent. Now, how does that relate to the 6.5 percent?

MR. COLLINS: This provision relates not to the Allstate Indemnity provision that is described in Point 4. This relates to just the Allstate premium base, and there was an overall increase of approximately 6.5 percent, effective January 1, which was built based upon increases on uninsured motorists' coverage and BI coverage -- bodily injury coverage -- for motorists selecting the zero threshold; that is, retaining the right to sue.

SENATOR CARDINALE: I just wanted to clarify that that is the main company. That has nothing to do with the Allstate Indemnity Company, which seems essentially to be the subject of this hearing. The Allstate parent company has not provoked these complaints from our constituents.

But, let's get down to Allstate Indemnity. You indicate that it is higher-risk business, and the management particularly of higher-risk business, that is your intent with respect to Allstate Indemnity. But we have heard from two people here -- and we have had myriad letters from others -- indicating confusion. I think most people are numb to insurance rates in New Jersey. They expect that they are going to get hit hard if they have at-fault accidents or if a poor driving record develops because they get a lot of points.

These people are being put into the Indemnity Company. I don't understand the basis, if they are not higher-risk drivers, why they would be shifted from the main company into the Indemnity Company. Perhaps you can enlighten us.

MR. COLLINS: Well, it is our belief that they do represent a different risk profile than customers who have been in the voluntary market for many years. The loss experience on the Allstate book of business; that is, the pure Allstate book of business as compared to the JUA and MTF, shows you that there is a significant difference. I mean, if you look at the JUA and the MTF and you see a huge deficit there, that, in and

of itself, demonstrates the difference between the Allstate voluntary book of business and the current Allstate Indemnity book of business.

So it was our determination after careful evaluation that the risk profile associated with JUA/MTF business, uninsured motorists and motorists with points and claim activity, was more representative of the Allstate Indemnity profile than the Allstate Insurance Company profile, which we use in 45 states.

SENATOR CARDINALE: I can understand that with respect to someone freshly coming out of the MTF. I think that while we may disagree with what should be done with those, I can understand the argument you made with respect to those.

But we have just heard from two witnesses who were both in your regular program and had a good driving record while they were in the regular program, who are now being shifted from the regular program without any demonstration of greater risk. Is it simply because they used to be in the MTF or the JUA at some point in distant history that you have shifted them?

MR. COLLINS: The short answer is, "Yes." In fact, that is the type of profile that fits with our marketing plans in 45 states where we use the Allstate Indemnity Company.

SENATOR CARDINALE: But the next line you say: "After three years with a clean record, insureds may qualify for transfer to Allstate." Now, here we have people who have had clean records for more than three years, who are being shifted into the Indemnity Company with the promise that, "Maybe if you are good for another three years, we might take you back." But they are already good. So that seems -- within your statement -- to set up something that confuses me.

MR. COLLINS: I apologize if it confuses you, Senator. What this does reflect is a marketing plan that we have had success with in 45 states, now including New Jersey,

we hope. Once a customer has been with Allstate Insurance Group for three years, we have an experience profile on that customer, such that with other criteria we would offer to transfer them to Allstate Insurance Company.

Fortunately, in a competitive market, companies may choose to go after different market niches differently. That is the function of a competitive market. Now, what we would encourage customers to do is to make sure they are getting the best product, the best service, and the best price available, in New Jersey or in any of the other 45 states where we do business. But this is the marketing plan that we have developed, and we think it will be successful.

SENATOR CARDINALE: Okay. You know, I can't argue with your marketing plan, because it is a marketing plan that in this Committee-- For many years I have supported that you have a competitive marketing plan. It is just that it seems to be working at cross purposes to your stated goals if somebody is three years clean that you would give them the opportunity to get into the program, but five and a half years clean, you are still going to consider them a high-risk driver.

I do not want to belabor it, but, you know, frankly, I do not understand that.

I would like to go on to another point. Senator O'Connor raised this earlier, and you raised it in your statement. Several other companies have been given a similar kind of relief. I heard that last week. I inquired, and I was told that the stipulation is unique with respect to Allstate. It is unique not in that there is an Indemnity Company, not that in there is a second entity. That is similar to other companies. But what is unique here, is that that company was given the right to charge MTF rates as its base rate, so that there was no point to not taking these people, because you could have taken them out of the MTF and charged the MTF rates as they came out of the MTF for a period of time. Other

companies have been able to do that as well, but what seems to be unique is that you can take your regular customer base and transfer them into a very high premium, without them having been put in a different risk tier.

That is the unique nature of the stipulation, as I see it. Do you know of any other companies of any major import in the market in New Jersey which have achieved that ability as a result of negotiations within the Department? We will ask that of Jasper in a moment.

MR. COLLINS: I do not, and I cannot speak for other companies. I can't tell you that-- Certainly a factor with respect to the uniqueness of Allstate was that we had a series of rate cases that were in litigation, that related to the very issue of rate level. I can tell you that we had one filing pending that would have resulted in an increase of approximately 30 percent for the entire Allstate book of business, much of which related to this business that is coming from JUA/MTF.

We also have litigation pending to other rate matters. So it may be that if you consider the fact that we had all this rate litigation pending, that might explain the uniqueness with respect to Allstate as opposed to other companies, but I cannot speak to other companies.

SENATOR CARDINALE: Thank you. The \$65 million--

SENATOR SINAGRA: I want to ask a question.

SENATOR CARDINALE: You want to ask a question about the \$65 million?

SENATOR SINAGRA: I am just curious, and maybe you can tell us what the facts are on that; why \$65 million went toward MTF and \$10 million, I assume, is going toward the JUA. Does that mean that the JUA debt has already been, you know, taken care of, or what is the rationale? What was the mechanism, or why \$65 million MTF and \$10 million to the JUA?

MR. COLLINS: This is not unique to this Allstate's settlement agreement. Actually, as I understand it, the framework was developed in discussions between the defendant, or respondent -- 15 servicing carriers, of which Allstate was one -- the JUA trustee, the JUA counsel, and the Attorney General's Office, who were all members, or participants in this litigation. In the spirit of mediation, which was endeavored by all parties, this was the framework that was developed. We were merely trying to fit within the context of this settlement agreement, this case, so that we could put it behind us, rather than continue to litigate that outstanding matter.

So it was really a formula, or a structure of the settlement, independent of the Allstate negotiations that had been developed through the mediation associated with the JUA servicing carrier litigation.

SENATOR CARDINALE: Senator Haines?

SENATOR HAINES: Yes. You say that this was not made public at the time you made the agreement with the Department. Was it your people or was it the Department that wanted to hide the facts? Was the Department ashamed of what they had done? That is what I want to know.

MR. COLLINS: I cannot speak for the Department. I can tell you that we mutually agreed to maintain confidentiality of the agreement.

SENATOR HAINES: Was the Department ashamed of what they had done? That is what I want to know. Is that too hard to answer?

SENATOR LESNIAK: Didn't he answer that question, Senator? Of course, it is too hard to answer. How does he know how the Department feels?

MR. COLLINS: Senator, I cannot speak for the Department.

SENATOR CARDINALE: Wait, I want to keep it orderly. When Senator Haines is finished, I will give you a chance.

MR. COLLINS: As I say, I cannot speak for the Department. I am flattered that you think that Allstate received a good bargain. Again, because I was directly involved in the process, I am flattered about that.

SENATOR CARDINALE: You got a great deal.

MR. COLLINS: Well, I am flattered that you feel that way.

SENATOR CARDINALE: I compliment you.

MR. COLLINS: I can't speak for the Department on that score, but I can tell you that we mutually agreed to maintain confidentiality.

SENATOR HAINES: Okay, but who urged the other one to maintain-- You know, this is unusual in government, when government tries to hide an action that should be open to the public.

MR. COLLINS: My recollection is that we brought it up first, Senator.

SENATOR HAINES: You think you brought it up first? Well, okay.

SENATOR CARDINALE: Senator Lesniak?

SENATOR LESNIAK: You heard the two consumers testify before. The risk profile that allows you to charge them the higher rate, that is the risk-- You wouldn't be able to do that if the Legislature didn't override Governor Florio in Section 40. Isn't that correct?

MR. COLLINS: They are really independent issues. There is an element to that. I really can't speak to where their territory is, their age, sex, mental fitness, and so on. Section 40 would have basically prohibited companies from using the very factors that drive the costs of insurance in rating their product. They are really separate issues, and I can't really address how Section 40, had it been implemented, would have impacted these particular consumers' rates.

SENATOR LESNIAK: But they are young. Their driving record has recently been good. They -- at least one of them -- testified that she doesn't drive a lot. Those are factors that would have caused her rates to be helped if Section 40 stayed in place. Isn't that correct?

MR. COLLINS: I really can't answer how Section 40 impacts on a particular consumer.

SENATOR LESNIAK: Okay.

MR. COLLINS: I apologize.

SENATOR CARDINALE: For Senator Lesniak's benefit, I would say that some of the consumers who have written to my office -- and I daresay if you have read some of the mail that has come into yours, because I think this is a worse problem in districts where you have what we would call inner-city kinds of driving conditions-- But they have been middle-aged and older people as well. They have not necessarily been young people.

SENATOR LESNIAK: Are you talking about the people who responded to the news service mailing?

SENATOR CARDINALE: No, I am talking about the people who responded to the rate increases over the last couple of weeks, that they have been receiving.

SENATOR LESNIAK: Oh, I'm sorry. I'm talking about another subject.

SENATOR CARDINALE: Okay.

SENATOR LESNIAK: I'm talking about another subject. I was talking about Section 40.

SENATOR CARDINALE: Senator Bennett has asked to--

SENATOR BENNETT: Yes, I would like to--

SENATOR CARDINALE: We, at some point, will resume my going through your statement, but we got sidetracked a little.

SENATOR BENNETT: If I could just go back to what the Chairman was raising, because I am extremely confused with respect to the marketing plan. My understanding is that now what you would be able to implement, or what you have

implemented, is the structure. You said several times that that marketing plan is used in 45 other states.

MR. COLLINS: Forty-five states total.

SENATOR BENNETT: Okay, 45 states total. I am curious as to how many of those states had prior JUA/MTF pools.

MR. COLLINS: All states have some residual market. You're right, I believe, in your assumption that these states, for the most part, do not have-- I am trying to think off the top of my head. Some of the states do have larger than average residual markets, but none of these states have moved from a marketplace that had a residual market of up to 50 percent, as we did have with the JUA. We are now down to-- One of the reasons we do have some reason for renewed hope, is that the residual market is now down in New Jersey to a manageable, about, 5 percent.

SENATOR BENNETT: But this plan allows you to go back to anyone who was in that residual pool to move them, because they have become a higher risk, allegedly, since they used to be in this pool, based on what you have said here.

MR. COLLINS: That is the way we designed--

SENATOR BENNETT: We're talking huge numbers here now. Most states, as you just said, are smaller. About every other person on the street that Allstate had insured, then, would be eligible, if you follow through on those averages, to be able to go back, to be taken out of their policy now and put into a new one, because at some point or other they would have been there.

MR. COLLINS: Well, a State like New Jersey-- There is more reason in a State like New Jersey to have an indemnity program than any other state, because there is this history of a large residual market. When there is a large residual market, there is a reason for that. That is because companies are not willing to competitively write the business.

SENATOR BENNETT: Excuse me. With all due respect, my question-- What my point is-- I certainly see why Allstate got such a good deal, because you are very good at what you do. My point is, on the marketing plan--

MR. COLLINS: Yes, sir?

SENATOR BENNETT: --you have compared it to 44 other states, and New Jersey--

MR. COLLINS: Yes?

SENATOR BENNETT: But in reality, it can't be identical, or it can't even be that close, because the residual pool from which Allstate in New Jersey can now go back and bring people in, is a great -- let's even say it is not numbers-- Percentagewise, it is much higher.

The fact that it should be there or should not be there is not the issue. The fact is that it is not the same marketing plan as far as availability of persons to be transferred into it, is what I'm saying.

MR. COLLINS: I'm sorry; I misunderstood your question earlier. You're right. In each of the 45 states there are differences. Certainly, with the Allstate Indemnity marketing plan in New Jersey there are some differences. A key difference is that one of the qualifying factors to be eligible for Allstate Indemnity is, number one, to be an eligible person. In most states we are not confined by the definition of an eligible person, and we have much greater latitude in rejecting business than we do in New Jersey.

So, first of all, Indemnity in New Jersey is a much broader company in terms of eligibility. It is much easier to get Allstate Indemnity in New Jersey than it is in most other states. Secondly, you're right, the criteria dividing Allstate and Allstate Indemnity is different in New Jersey; that is, as you put your finger on, we are in a situation where we have a different market condition. We have a large JUA/MTF.

So you are right. There is a significant difference with respect to the Indemnity program in New Jersey, as we have differences among all the 45 states.

SENATOR BENNETT: Three years in the Indemnity is what is required for a clean record, and then they may qualify to transfer back. And yet, if three years in the old Allstate does not preclude them from going into Indemnity, what is the main-- What do they have to do in order to qualify?

MR. COLLINS: Had they been three years in Allstate Insurance, they would not have been moved to Allstate Indemnity. By the way, that process is--

SENATOR BENNETT: You heard from two today that that is not the case.

MR. COLLINS: Well, they weren't in Allstate for three years. They went to Allstate in '91, as I heard the facts.

SENATOR BENNETT: No.

SENATOR CARDINALE: They were both posted in April '91.

SENATOR BENNETT: Yes.

MR. COLLINS: That is not three years.

SENATOR CARDINALE: We have heard from constituents where that is not the case. We have heard from constituents where they have been there for a long time. That is not the case with these two.

SENATOR LESNIAK: They can take the transfer back to April 1, 1990.

SENATOR SINAGRA: It could have been '90. Yes, it could be three years.

MR. COLLINS: It is my understanding that it could not be. I may be mistaken on that. April '90 is the first date, and this process is complete, basically effective October 1 this year.

SENATOR CARDINALE: So nobody is being transferred from Allstate until after October 1?

MR. COLLINS: That is my understanding, that effective October 1 of '93 -- this year -- customers will not be transferred from Allstate to Allstate Indemnity.

SENATOR CARDINALE: But the quantity of customers being transferred as these renewals come up is, as we understand it, about 170,000 to 180,000 policies. Is that not correct?

MR. COLLINS: My check revealed 120,000 customers total; 43,000 of whom would have received the offer with a higher rate -- 120,000 total, 43,000 of whom would have received an offer -- again, remember it is an offer; it is not a mandate that you buy the insurance from Allstate Indemnity at a higher rate -- with that average increase, recognizing ranges from 20 percent to 50 percent, or even 60 percent, the average increase being 30 percent.

I also want to emphasize that in terms of comparing to other states, the average rate differential in these 44 other states where we use the Indemnity is a 75 percent differential.

SENATOR CARDINALE: But I think, as Senator Bennett has quite correctly pointed out, you are dealing in these other states with a minuscule residual market by comparison with our residual market, which was artificially high because of some actions that were taken by the Legislature when I was pretty green, and Senator Lesniak was not Chairman of the Committee--

SENATOR LESNIAK: No excuses, Senator; no excuses.

SENATOR CARDINALE: --but I think Senator O'Connor was at the time. We were listening to someone who is no longer with us, who appeared to be an expert and, you know, it just did not turn out to be the case.

But we had an artificial-- Everybody in New Jersey accepted the thought and the fact that the people who were populating the JUA were not necessarily high-risk drivers. Now, if I heard that once at one of these Committee meetings, I heard it 1000 times.

SENATOR LESNIAK: Well, they are over 50 percent, so--

SENATOR CARDINALE: I mean, its-- They couldn't be high-risk drivers.

SENATOR LESNIAK: --by definition they--

MR. COLLINS: It is a sure sign of a very unhealthy market when 50 percent of the market is unattractive to private enterprise.

SENATOR CARDINALE: Oh, no.

SENATOR LESNIAK: No, no, no.

SENATOR CARDINALE: The JUA was more attractive for the consumer than the voluntary market in many cases.

SENATOR LESNIAK: Because the companies make more money with the JUA. It's a big rip-off.

MR. COLLINS: My point, Senator, was that companies could have easily gone after that business by dropping rates, by offering discounts, whatever.

SENATOR LESNIAK: Why would they when they made more money with the JUA? They were rewarded by settling claims for a high amount of money. There was no risk to the companies, and you know it. That is why you settled it for millions of dollars. It's a bad system.

SENATOR CARDINALE: We are getting a little off the track.

SENATOR LESNIAK: Sorry.

SENATOR BENNETT: My last question, the last one.

SENATOR CARDINALE: Senator Bennett has one last question. Then we will go back to Senator Sinagra.

SENATOR BENNETT: My last question, and I have no idea on this one. You also talked about the fact that several other companies have taken the same steps you have. Could you tell us which are those companies?

MR. COLLINS: What I can tell you is what I have read in the newspapers. I have not gone in to look at other companies' marketing plans.

SENATOR BENNETT: So far I have only gotten complaints on Allstate, but this way I will be able to know who to anticipate.

MR. COLLINS: For one thing, I worry about antitrust things. But it is my understanding that New Jersey Manufacturers, Liberty, Travelers-- They have affiliate structures that maybe either through a reinsurance company, through a separate affiliate, or some other mechanism-- That is the beauty of the competitive--

SENATOR BENNETT: And that resulted in their fees going up so much for the people who--

MR. COLLINS: No, that resulted in a differential in rates. I can't speak to whether their rates were an increase overall, a decrease overall. I apologize. I do not have that information.

SENATOR BENNETT: Oh, okay.

SENATOR CARDINALE: Senator Sinagra?

SENATOR SINAGRA: Just getting back to my question of a few minutes ago, because I really am confused about the debt between the JUA and--

The original -- this \$75 million that you agreed to pay was the servicing carrier litigation that had to do with the JUA debt. Is that correct?

MR. COLLINS: Yes.

SENATOR SINAGRA: Right. So that had to do with the JUA, but yet you paid \$65-- Does that mean that the JUA -- and eventually I will get to the Insurance Department-- Why then would-- Sixty-five million is the bulk of the settlement that had to do with the JUA debt. That's still there. That was the answer to people picking up-- I guess they assumed a higher insurance payment or surcharge, that you were going to pay \$75 million into the JUA. Now I read that \$65 million of that is going to go to the MTF. I don't really understand that. Who makes that decision, you or the Department?

MR. COLLINS: I will do my best to answer the question based on what I know, Senator. In the context of mediation led by the JUA trustee, there was consideration given to a settlement structure that basically was just that. It was a payment to the JUA and a partial payment, or early payment to the MTF directly. A number of carriers, or at least a couple of carriers, had actually executed a settlement agreement within the confines of that structure. In the interest of putting that litigation behind us as part of this global settlement, we entered the same structure.

SENATOR SINAGRA: Okay. Then my question probably would be to the Insurance Department whether the JUA debt, based on the global settlement-- That is now taken care of in total?

MR. COLLINS: Well, it is my understanding that the JUA debt reduction was not dependent upon the servicing carrier litigation. It was dependent on the surtaxes, assessments, and other sources of revenue that had been collected to retire that debt -- not the servicing carrier.

SENATOR SINAGRA: Right.

SENATOR CARDINALE: We have had some very interesting hearings that have been taking place in the Subcommittee of this Committee, which I will brief you on, if you would like. But a lot of the reduction in the JUA and MTF debt has been as a result of what I would term "cooking the books," reassessing the reserves necessary for specific claims, and writing down the debt even though no cash payments were, in fact, being made. But that could be the subject of a two-day hearing.

SENATOR LESNIAK: Please!

SENATOR CARDINALE: I would like to get back to just a couple of additional points -- actually only two. Your Point No. 6, you were able to resolve a number of operational issues as part of a market conduct examination. What does that mean?

MR. COLLINS: Routinely, the Department will spot audit, if you will, insurance companies. Allstate had an open audit at that time. A couple of the issue that spun out of that that I can recall related to our application. The Department wanted us to put check boxes on our application for antitheft and safety device equipment. The existing application had a space for comments, where an agent was instructed, through our procedures, to write in whether a customer had those devices, which would entitle them to a discount. The Department wanted us to put actual boxes to be checked, and we did that. That is the nature of a market conduct examination.

SENATOR CARDINALE: I thought you might have been referring to the way that excess profits are, in fact, regulated by the Department. Is that not an operational issue? Wasn't there something within this agreement that liberalized, from the company's perspective, the way that excess profits would, in fact, be calculated?

MR. COLLINS: I apologize. I think you were actually looking at the actual agreement, and I was looking at my statement. Item No. 6--

SENATOR CARDINALE: Well, I was looking at your statement, but I also looked at the actual agreement.

MR. COLLINS: No, that was part of the indemnity structure. It was recognized that there would be some transition period so that the Allstate Indemnity Company could stand on its own. That was a recognition that for two years the excess profits reports would be combined. As I understand it, a number of other companies which use this sort of Allstate Indemnity marketing plan, either did so through the same company or through a reinsurance company to accomplish the same thing.

SENATOR CARDINALE: With respect to that excess profits situation, will this stipulation result in fewer of the

dollars that Allstate acquired from consumers be listed as excess profits, or be categorized as excess profits, in the departmental audits?

MR. COLLINS: No, the stipulation does not affect at all the recognition of revenue. We would still recognize any premium or profit that the companies would earn. What this does is combine those so that it is done on a group basis.

SENATOR CARDINALE: And in that combination will there not be-- It strikes me very easily that if you are charging 40 percent more than your regular rates, a good piece of that is going to be considered excess profits, at some point in time. And by this combination, does that not result in fewer of the dollars being categorized as excess profits?

MR. COLLINS: The answer is, "No." Fewer of the dollars will not be characterized as excess profits. What it does is recognize this transition period.

Now, how the actual results will turn out, I don't know.

SENATOR LESNIAK: It sounds to me like an answer. Wait, wait. I don't think there is anything funny about that answer.

SENATOR SCOTT: No, it isn't funny.

SENATOR LESNIAK: It is actually an accurate answer.

SENATOR SCOTT: No, it's not, because if you combine them, obviously one of them is going to be a lot higher. But if you--

SENATOR LESNIAK: Well, which one is going to be a lot higher?

SENATOR SCOTT: With the 40 percent increase.

SENATOR LESNIAK: And maybe the 40 percent losses will be higher, too. How do you know that, Senator?

SENATOR SCOTT: If the 40 percent increase is there they make more money on that, and want to combine it--

SENATOR LESNIAK: How do you know they make more money? It all depends on the losses, too, doesn't it? Doesn't it depend on the losses?

SENATOR SCOTT: But they should not have the option to do that. They have also put the insureds into this higher rate with the 40 percent increase. Now they are going to end up making a higher profit on the 40 percent, supposedly because they haven't increased Allstate Insurance Company as high with the 6 percent.

MR. COLLINS: Well, I wish we could be as optimistic as you, Senator. Actually, if you look at the type of business that we are insuring at Allstate Indemnity, and the excess profits is a three-year combined reporting period, based on the MTF deficit we have cause for concern. We are not so jubilant that the rates in Allstate Indemnity are by any means excessive.

SENATOR SCOTT: Mr. Chairman, if I may-- You know, you have \$1000 in physical damage. That automatically puts them into the Indemnity Company. Now, \$1000 on a new car is a little kid in a parking lot going across a couple of the doors. Plus, they have a \$500 deductible, I guess, and the charges that result for the next three years-- That's a whale of a profit you are going to make just on that. These people are good drivers, but somewhere along the line they parked their car in a shopping mall, and \$1000 is real easy today on an automobile. No problem whatsoever. As soon as you go in there it's \$1000. You are going to hit them with a major increase, because you are going to shift them right into the Indemnity Company. That is where you are going to make your excess profits, and that is why you should be charged. We should see those excess profits in the Indemnity Company, not combine them with Allstate Insurance.

SENATOR LESNIAK: Didn't we determine that this is different for Allstate than for the other companies?

SENATOR CARDINALE: It is obviously different for Allstate than for the other companies. No other company has gotten the MTF rates as the base rate for an indemnity--

SENATOR LESNIAK: No, no, no, I am talking about the excess profits -- as far as the excess profits question.

SENATOR CARDINALE: That is going to be--

SENATOR LESNIAK: We determined that that is different.

SENATOR CARDINALE: Ray, that is going to be done for all the companies, what has been done with respect to Allstate. It is my understanding that that is going to become the pattern so that excess profits are going to be, in an accounting sense, diminished as a result of the pattern that is established in this stipulation. I don't think that is in the consumers' interest at all, but I can understand why a company would want to negotiate that kind of a provision.

SENATOR LESNIAK: That is no different between Allstate and the other companies.

SENATOR CARDINALE: I don't think it differentiates between them at all. I think it did initially, but I believe it is being extended to the rest of them.

Senator Matheussen has been sitting there very quietly. I do want to get on to the-- We have a little time problem.

SENATOR MATHEUSSEN: Are you suggesting that I should stay quiet? Is that what you're saying?

SENATOR CARDINALE: Well, if you have an important question, I do not want to stifle you.

SENATOR MATHEUSSEN: I have one question I would like to ask.

SENATOR CARDINALE: You were the author of the thing he liked.

SENATOR MATHEUSSEN: The two consumers who came and testified earlier represented a category of people out there who are now being advised of their rate increase and being put

under the Indemnity Company of Allstate, as opposed to the regular Allstate. If you have the statistics, can you tell me the people who are getting their renewal notices who are going into the Indemnity Company? What percentage of them are actually opting to accept coverage from your company, as opposed to those who are looking elsewhere and have not renewed their insurance applications?

MR. COLLINS: This is a rough number, because we did not build a system to track this. However, I did try to determine that. What I was able to find out was that approximately 8000 of the 43,000 who received an offer with a higher price-- In their category, approximately 8000 of the 43,000 have apparently accepted the offer. Now, some of them may have been--

SENATOR MATHEUSSEN: All 43,000 have already received the notice. Is that correct?

MR. COLLINS: All 43,000, as I understand it, will have received an offer.

SENATOR MATHEUSSEN: And only 8000 opted to go into the Indemnity Company?

MR. COLLINS: That is my understanding, but I have no basis to know whether some of those, based on their profile, may have been at the very low end of the range of the increase, or the high end of the range.

SENATOR MATHEUSSEN: But 8000 of the 43,000 have opted to stay with the new Indemnity Company?

MR. COLLINS: That is the rough number; that is the estimate I have, yes.

SENATOR MATHEUSSEN: So in a way, then, your marketing strategy, whether it was intended that way or not, has somewhat limited the amount of higher exposure that you normally had. You have eliminated a number of higher risk drivers.

MR. COLLINS: I can say that a number of those who received offers chose to go out in the open market and find a better price, or for whatever reason, shop for insurance.

SENATOR CARDINALE: Have all 43,000, as of this date, received the notices?

MR. COLLINS: It is my understanding, yes.

SENATOR MATHEUSSEN: All 43,000 have, and 8000 have opted to stay with your company -- approximately 8000 have opted to stay with your company.

SENATOR CARDINALE: I want to just comment that--

SENATOR MATHEUSSEN: I have no problem, by the way, with creating a marketplace. I mean, if they want to go shopping, that's-- It helps. I was just curious as to how many actually stayed with your company.

SENATOR CARDINALE: Your final comment that auto insurance remains far too expensive, is a comment that I think everyone on both sides of the aisle on this Committee agrees with. Your obvious intent to continue working with us to attempt to approach that problem is one that I appreciate, and I think the members of the Committee appreciate. We will be moving on some of those initiatives. I understand that some of those initiatives are underway. I don't want this hearing, in any way, to, again, implicate any kind of concern you might have with working with government to try to approach that problem.

We are critical because our constituents are feeling something that we don't think they have any right to be subjected to. It is a sting, in a very real sense, because they weren't given adequate advance notice, among other things, either by the Governor's Office last December -- and they should have been, and we will make that point to them -- to release this immediately when the effects were quite apparent, or certainly your company. I think that if there is a fault, it is in notifying these people with such a short lead time to find another source, which is not easy. It is not easy, and I think you know that; we know that; and any agent -- any insurance agent -- can tell you that. There should have been a

lead time that was far greater, to allow people to go out and handle their insurance problems in an orderly fashion.

If something comes out of this hearing with respect to this very point, I think it would at least be some kind of legislation that would require that sort of lead time be given when there is going to be a major change in a person's insurance status.

I thank you very much for--

SENATOR O'CONNOR: Mr. Chairman, before you finish may I just ask him--

SENATOR CARDINALE: One short question. We have a time constraint, as you know.

SENATOR O'CONNOR: It would be like three short ones.

SENATOR CARDINALE: We still have the Department. I don't want to send Jasper-- Do you want to come back tomorrow?

SENATOR O'CONNOR: I'm here all day, Mr. Chairman.

SENATOR CARDINALE: Go ahead.

SENATOR O'CONNOR: Altogether, how many customers does Allstate have in New Jersey?

MR. COLLINS: We now have 650,000, approximately. That is combined Allstate and Allstate Indemnity.

SENATOR O'CONNOR: Of that number, about 120,000 are potentially subject to going into the higher rated Allstate Indemnity?

MR. COLLINS: Yes. It was more like 600,000. We have grown since entering this agreement. Allstate has actually increased in size. At the time the offers from Allstate Indemnity began to be issued, we were about 600,000. Of that 600,000, 120,000 were issued renewal offers from Allstate Indemnity. Of that 120,000, about 80,000 -- whatever the math is -- 77,000 would have seen no change in their rates, because they were already rated at MTF. It is only the 43,000 who would have received an offer with a higher price.

SENATOR O'CONNOR: But any of those who had good driving records for at least three years had this option of shopping around?

MR. COLLINS: Well, actually, anyone in the market who is an eligible person, which is someone with fewer than nine eligibility points, has the right to shop in the market. You don't have to be clean for three years to shop in the market.

SENATOR O'CONNOR: And at least a half a million drivers who are insured with Allstate are not affected by any increase, correct?

MR. COLLINS: Correct, approximately.

SENATOR CARDINALE: Thank you very much.

MR. COLLINS: Thank you very much.

SENATOR CARDINALE: We will now call Jasper Jackson. Jasper? We can have Peter Guzzo come up with you, and Sara.

In the interest of pursuing this in a timely fashion, there are some specific questions we would like to ask of the Department. The first concern I have is that this agreement was actually kept secret for some months; that it required threats of the Freedom of Information Act for The Trenton Times to receive it. It required threats by Dale of the Freedom of Information Act recently--

SENATOR LESNIAK: Dale is a big guy. (laughter)

SENATOR CARDINALE: --for us, at this Committee level, to obtain a copy from your Department. What is the rationale that a public entity would want to keep an agreement which is going to affect consumers-- Why would you want to keep it secret, and why didn't you just give it to us last December, when it is so far-reaching?

DEPUTY COMM. JASPER J. JACKSON: We saw no reason not to. Allstate had a desire, if we were capable of reaching a settlement, of keeping the terms of the settlement confidential because -- with respect to the activation of the Indemnity Company and the underwriting

guidelines that they proposed to use. Though they would ultimately become part of the public record, at first they would be of a proprietary nature to that company. We saw no reason not to agree to the confidentiality. However, on or about December 15 of last year -- 1992 -- The Star-Ledger did a comprehensive coverage of essentially what the agreement between the New Jersey Department of Insurance and the Allstate Insurance Company was. Any newspaper, or anyone else who made an inquiry about the agreement, was essentially given the terms of the agreement. They were not given the agreement itself.

SENATOR CARDINALE: I think you have kind of skirted my question fairly artfully, Jasper. Why does a public body ever need to keep something that it has done, not during negotiations, but subsequent to the negotiations-- Why do you need to keep that agreement secret?

I would have to add that I commented on these matters with respect to a release on the agreement. But my comment was not related to the point that we have been exploring here today. It was related to the MTF rates continuing to be charged, never knowing that additional people were going to be charged the MTF rates, and never knowing what we have just found out here today, which is a new fact, that, in fact, this mechanism is a depopulation mechanism by which Allstate is depopulating itself of customers that it doesn't want to have.

Now, I thought depopulation meant depopulation of the MTF and the JUA, but--

DEPUTY COMMISSIONER JACKSON: We don't believe that is true, Senator. I think, once again--

SENATOR CARDINALE: Do you think more than 8000 are taking it?

DEPUTY COMMISSIONER JACKSON: No. The critical fact is that Allstate currently insures about 630,000 policyholders. Allstate is insuring more policyholders than was at first contemplated under the depopulation scheme. So

regardless of whether they activated the Indemnity Company or not, they were going to be insuring around 600,000 policyholders, and they are, in fact, insuring around 600,000 policyholders. So the activation of this scheme has not taken away, in any respect or any instance, the policyholder population they had to have as a result of depopulation of the MTF.

The other thing -- going back to the prior question once again -- is, the reason we were willing to hold the agreement confidential was because Allstate believed that part of what they wanted to achieve had a proprietary basis, so there is nothing about the agreement, from the Department's point of view, that needs to be kept secret. Our focus during the negotiation was: What would we have permitted Allstate, or any company, to do in this marketplace, had Allstate not indicated its desire to withdraw from the marketplace? Every aspect or element of the agreement is consistent with that. Allstate has not been permitted to do anything that we would not permit any other insurance company or insurance group to do within this State.

The activation of the Indemnity Company-- For instance, as Ed Collins pointed out, New Jersey Manufacturers decided to write its depopulated policyholders in a company called the New Jersey Reinsurance Company. That company is not using the MTF rating system per se, but it does have a higher rate than policyholders would receive if they were written directly into New Jersey Manufacturers. The Liberty Mutual Insurance Company adopted, and was permitted to adopt in one of its affiliated companies, the MTF ratings system for that company, because it was our understanding that was the company that it would use essentially to satisfy its obligations under the FAIR Act. Liberty Mutual is a company which normally does not employ producers, or agents. It had a concern that it knew that under the FAIR Act it would be required to have agents

assigned to it, and it did not want to take them into Liberty Mutual proper. So we permitted Liberty Mutual to use another one of its affiliates for its depopulated business, as well as for taking producers.

SENATOR CARDINALE: Jasper, in the interest of time I am going to interrupt you and say that we all understand the point you are making now is correct, but that there is a difference. I find it extraordinary that you say you would allow any other company to do what you allow Allstate Indemnity to do; that is, adopt the MTF rates.

If, for instance, you had a married couple between the ages of 65 and 69 with a \$300,000 limit of liability in uninsured motorist coverage, \$500 deductible comprehensive and collision coverage, a 1990 vehicle which cost \$15,000 new-- In that example, if they live in the Dover/Morristown/Somerville area, Reliance Insurance is charging \$550. That is a rate approved by the company -- by the Insurance Department. The MTF rate is \$964.

Now, according to your statement, all Reliance Insurance has to do is ask the Department for permission to do so, and they will be given the permission to use the MTF rate. I don't think you are about to do that, and if you are about to do that, I think we would have some very serious concerns on this Committee. That is the point that we are questioning: Why did Allstate Indemnity get the right to use as its base rate the MTF rates? That is the point that I think was kept secret.

DEPUTY COMMISSIONER JACKSON: No, that was not kept secret. Once again, it is the same answer. Allstate indicated that it would want to put all of its depopulated business into one company. That company would become its nonstandard -- would become its nonstandard running mate. Since under the FAIR Act it had the right to charge the MTF rate to anyone who was being depopulated out of the MTF, and they indicated that

their desire was that they were going to stay in New Jersey, they would activate the Indemnity Company, and then the Indemnity Company would be where they would put all their MTF insureds. That is why the Indemnity Company was given the MTF rating system.

SENATOR CARDINALE: Have they not put other people than MTF customers in the Indemnity Company?

DEPUTY COMMISSIONER JACKSON: Yes, they put other people there, but those--

SENATOR CARDINALE: So it is not just the MTF depopulation.

DEPUTY COMMISSIONER JACKSON: --other people can go and do not-- They are not the slaves of Allstate. They can search for coverage from other companies in the marketplace.

SENATOR CARDINALE: What I do not understand is the logic by which you allow one company to charge twice as much, and in some cases three times as much, for the identical product that you allow another company to charge for.

I can understand that rates in New Jersey may be higher than the national rates because of our density of population, because of the driving habits, because of the condition of the roads, because of all sorts of factors. But what I have never understood -- and here we have an exact example of it -- is how there can be this tremendous -- I am not talking about what the companies have gone out to do competitively -- this tremendous disparity in various identical products in identical territories approved by the Department. If \$550 is the right price--

DEPUTY COMMISSIONER JACKSON: I don't understand your question.

SENATOR CARDINALE: You don't understand my question?

DEPUTY COMMISSIONER JACKSON: If you are concerned about a disparity of rates, different companies have different experience, and that is why the Reliance Insurance Company has

one rate and Aetna Insurance Company has another rate. If you are talking about Allstate and Allstate Indemnity, once again, the agreement we entered into was consistent with the law. Allstate indicated a desire to use a specific company to write the business it had to depopulate out of the MTF. It indicated that the Indemnity Company would be that company, so we permitted them to adopt the MTF rating system for that company for that purpose.

Once again, it is not a situation unique to Allstate. Liberty Mutual does it, and 12 other companies--

SENATOR CARDINALE: Do they use the MTF rates?

DEPUTY COMMISSIONER JACKSON: Yes, they use the MTF rating system.

SENATOR CARDINALE: For customers who were previously insured by Liberty Mutual?

DEPUTY COMMISSIONER JACKSON: No, they don't use it--

SENATOR CARDINALE: Every company that has filed to do so can use the MTF rates for depopulation -- people coming in.

DEPUTY COMMISSIONER JACKSON: Exactly.

SENATOR CARDINALE: We understand that. That is not news.

DEPUTY COMMISSIONER JACKSON: Exactly.

SENATOR CARDINALE: What is news is -- well, it was news to me -- that they could take customers who were previously insured by the regular company and throw them into a different company and charge MTF rates. That is what is unique about the stipulation with Allstate.

DEPUTY COMMISSIONER JACKSON: Well, maybe I can shed greater light on this in this sense: The Department does not interpret a shift from a company to another company within its group as a change of company. We consider any company that is part of a company group to essentially be part of that company, or the same company.

The way we and the Attorney General's Office interpret the FAIR Act, if you, as a policyholder, have been insured with the MTF and you left the MTF -- you were depopulated out of the MTF, let's say, by Allstate, and you terminated that relationship and you went to State Farm, State Farm would have to write you at its voluntary market rate because you would no longer be coming directly out of the MTF.

However, taking a different factual situation, if Allstate or Liberty Mutual or the Hartford, any other company with affiliates, depopulated you out of the MTF and, let's say, wrote you in one company, whether they transferred you from the company or not, they would still be able to elect, within a reasonable period of time, charging you the MTF rate. So the way we see it, the people who Allstate was given permission to charge -- to transfer into the Indemnity Company were essentially the people they took out of the MTF, and whom they had a right to charge the MTF rate, whether they charged it to them in the Indemnity Company or in the standard company within Allstate.

SENATOR CARDINALE: But, Jasper, you continue to persist in repeating the same thing that we all know; that people coming out of the MTF can be charged MTF rates. We have tried to change that. We passed a bill through this Committee. It has not been acted upon in the Assembly. The Assembly passed one that we have not acted on. We sort of crossed paths.

We understand that that situation exists. That is not my question. My question is: What is the logic behind allowing a new company -- it is not a new company, but it is a company that had been inactive -- to get the MTF rates and, not just get the MTF rates, but to transfer people from the parent company into this new entity -- even if it is in the same group -- and just charge them more money because of that transfer.

DEPUTY COMMISSIONER JACKSON: Well, I guess you are going to be dissatisfied with this answer, because it is about to be the same answer.

Had Allstate not filed the withdrawal application, and had submitted an application to the Department to activate the Indemnity Company for the individuals it had to depopulate out of the MTF and proposed to use the MTF rating system for that company, it would have been approved. So when we negotiated with Allstate, we gave them the same type of operating plan that we would have given them had they never noticed us of their intention to withdraw. As we saw it, the Indemnity Company was where they were going to put the people who were essentially coming out of the MTF, and for that class of business they had the right to charge them the MTF rating system, and that is why they got it.

SENATOR CARDINALE: So your Department--

DEPUTY COMMISSIONER JACKSON: Once again, Senator, it is not unique to Allstate. Liberty Mutual got it, and there is another company operating in the marketplace that essentially operates as an agent for about 12 other companies which reinsure it. That company also has the MTF rating system. It is called the National Consumer Insurance Company. Its reinsurers-- Chubb is one of its reinsurers; Aetna is one of its reinsurers. That company also utilizes the MTF rating system, because essentially that is where those companies put the policyholders that they had to take out of the MTF.

SENATOR CARDINALE: So this is a Department-wide policy. Do you mean there are other consumers, other than Allstate insureds, who are going to be facing this same problem; that they are going to be shifted from the company that has been insuring them, and suddenly they are going to be paying higher rates?

DEPUTY COMMISSIONER JACKSON: No. NCIC has been operating in the marketplace for at least two years. The only

thing-- The thing that makes Allstate unique -- the Allstate situation unique -- is not the rating system or the rating plan. The thing that makes it unique is the fact that it started to do what other companies were doing later. Why did it start to do it later? Because it was on a withdrawal path, which it has now removed itself from. That is why, I would say, we have the concern, the controversy, the chaos.

SENATOR CARDINALE: Well, at least you agree with us that there is concern, controversy, and chaos.

On that note, I am going to let Senator Matheussen--

SENATOR MATHEUSSEN: Oh, concern, controversy, chaos.

SENATOR O'CONNOR: Mr. Chairman, you started out by correcting me. I would say that Mr. Jackson just corrected you, with respect to whether, in fact, there is any difference which distinguishes Allstate from the others.

SENATOR MATHEUSSEN: I would like, if I may, to ask a question to that?

SENATOR CARDINALE: Go ahead.

SENATOR MATHEUSSEN: Deputy Commissioner, what would you consider to be the unique factor in your negotiations with Allstate that changed their direction from having a withdrawal application filed to suddenly saying they were staying in the State of New Jersey? What key element did your Department have in making that decision so dramatically done? What changed the decision?

DEPUTY COMMISSIONER JACKSON: Nothing the Department did. I believe what has occurred is what Commissioner Fortunato has been saying to the executives from the beginning of the enactment of the FAIR Act; that is, when the FAIR Act first passed and the companies were socked with assessments to bail out the JUA, they knew they had to depopulate the MTF. They also knew that they would be in a take-all-comers environment, and that they ultimately would have stranger producers assigned to them.

SENATOR MATHEUSSEN: Commissioner, let me ask you a question.

DEPUTY COMMISSIONER JACKSON: I haven't answered the question you asked me.

SENATOR MATHEUSSEN: Well, I think you said there was nothing.

DEPUTY COMMISSIONER JACKSON: No, there is nothing.

SENATOR MATHEUSSEN: I mean, well then, that is a simple enough answer.

DEPUTY COMMISSIONER JACKSON: Nothing that the Department did. The market--

SENATOR MATHEUSSEN: I don't need a whole re-history of what happened with the--

DEPUTY COMMISSIONER JACKSON: Well, the marketplace changed. I mean, either you want to understand or you don't. If you ask me a question, then give me time to answer it.

SENATOR MATHEUSSEN: Well, I understand the history, because I was here. Nothing is an appropriate answer. I am satisfied with your answer -- nothing.

DEPUTY COMMISSIONER JACKSON: Okay, then, nothing that the Department did.

SENATOR MATHEUSSEN: Nothing the Department did.

DEPUTY COMMISSIONER JACKSON: Whatever changes have occurred in the marketplace that made them reevaluate it, that is what it was.

SENATOR MATHEUSSEN: So, then, the Department's role was only revisiting what the FAIR Act already did with Allstate, convincing Allstate that they could operate here in New Jersey under the administration of the FAIR Act as it had been in place when they issued their withdrawal.

DEPUTY COMMISSIONER JACKSON: The Department's role was essentially to let Allstate-- I guess the Department's role essentially was to discuss with Allstate how they would be

permitted to operate if they were reconsidering their posture with respect to withdrawing from the State.

SENATOR MATHEUSSEN: My point in asking the question is -- not being impolite; I wasn't trying to be impolite or trying to cut you off by saying that "nothing" is an appropriate answer-- I was satisfied with that.

You said in your statement that there was chaos and questions concerning different consumers raised because of what appears to me to be behind-closed-doors meetings between you and Allstate, when, in fact, all you and Allstate discussed was the FAIR Act and the legislation that had been in place for quite some time.

Why the reluctance on the part of the Commission -- on the part of the Department, then, to reveal that publicly? It would seem to me that your appropriate answer would be: "Look, nothing was going on between us and Allstate from the very beginning. All we were doing was revisiting the FAIR Act and explaining to them why they should stay in New Jersey." Why create all that controversy and confusion?

SENATOR LESNIAK: It wasn't the Department's decision.

DEPUTY COMMISSIONER JACKSON: Allstate had a desire to keep the agreement confidential. Once again, whenever we were asked a question about the terms of the agreement, we were forthcoming.

SENATOR MATHEUSSEN: Commissioner, with all due respect, when the public law says it is public knowledge, it is public knowledge, and with all due respect to Allstate, they can request all they want from you, but you, as a State representative and a Department in the State of New Jersey, have certain obligations with regard to making public records. I think if you had done that right from the very beginning there wouldn't be the confusion and the conflict we are facing right now with people in this Committee and hearing the kinds of confusion that consumers are bringing to our offices.

DEPUTY COMMISSIONER JACKSON: Well, I disagree with you, Senator. First of all, we were forthcoming with the terms of the agreement whenever there was an inquiry. The controversy, the concern, and the chaos that exist-- I would say that most of the concern and the controversy exists within this room. I can understand the--

SENATOR MATHEUSSEN: In all due respect, I--

DEPUTY COMMISSIONER JACKSON: --policyholders' concern, but, once again, they are not the slaves of Allstate. If they do not like that rate, they can search the marketplace for another rate.

SENATOR SCOTT: That is not what we are getting at. What I think is Senator Cardinale's focus is, how come the people in the Allstate Insurance Company who are good drivers are now going into Allstate Indemnity?

With all due respect, you said nothing went on. Something went on, because Allstate agreed to pay \$75 million. You also agreed to activate the Indemnity Company. You also agreed to allow them, as a base rate, to use the MTF rate. So something happened somewhere. If you sat passively by and said, "Well, this is the same as we always agreed on," I don't think that is true.

DEPUTY COMMISSIONER JACKSON: Senator--

SENATOR SCOTT: I also feel that it was your obligation not to sit back and say, "If you asked, I would have told you." Well, your obligation is to tell the public, "Here is what happened. Here is why Allstate is coming back," and publish it.

DEPUTY COMMISSIONER JACKSON: We did tell the public, Senator.

SENATOR SCOTT: You did not tell them at the time.

DEPUTY COMMISSIONER JACKSON: We did tell the public. The Star-Ledger did a comprehensive article on it. Furthermore, had Allstate never activated the Indemnity Company

after they had adopted the MTF rating system for the use of MTF insureds, it would have been able to adjust the rates for essentially the same 40,000 people we are discussing now, without ever moving them anywhere.

SENATOR SCOTT: Well, they are depopulating, because we just heard that out of 43,000--

DEPUTY COMMISSIONER JACKSON: No, but--

SENATOR SCOTT: --8000 only have taken it. That is only a couple--

DEPUTY COMMISSIONER JACKSON: But the fact is -- the fact is -- once Allstate adopted the MTF rating system for those policyholders they were depopulating from the MTF, whether they transferred them into the Indemnity Company or not, they still would have been able to change their rate to the MTF rating system under the law. They had that right.

SENATOR CARDINALE: Jasper, I understand your objective, and I have to applaud your handling of the question. But you continue answering a question that we are not asking.

We understand that the MTF depopulated customer coming directly from the MTF into the Insurance Company could be charged the MTF rates. Whether we agree with it or disagree with it, we realize that that was the law. What we do not understand is the point that you continue to evade; that is, why, when someone was insured by Allstate, not an MTF customer, an insured by Allstate who was there in April of 1991, who has had no bad driving record during the time they have been insured -- why that person is being shifted into Allstate Indemnity with the complicity of your Department, and I believe of the Governor's Office, for no better purpose than to be able to say, "We kept Allstate here," and get a good press hit?

What you did was, you kept Allstate here, got the good press hit--

SENATOR LESNIAK: Now, this isn't for political purposes, right, Senator? This rhetoric isn't for political purposes?

SENATOR CARDINALE: I said it in December.

SENATOR LESNIAK: Come on, Senator.

SENATOR CARDINALE: I said it in December.

SENATOR LESNIAK: Come on, Senator.

SENATOR CARDINALE: And I certainly-- You know, I watch you doing an awful lot of things--

SENATOR LESNIAK: Senator, not at this hearing.

SENATOR CARDINALE: Ray, you are not the Chairman of the Committee.

SENATOR LESNIAK: I know, but I will not stand silent while you, you know, engage in political hyperbole.

SENATOR CARDINALE: It is not political to the people who are being forced to go out--

SENATOR LESNIAK: Keep going, Senator.

SENATOR CARDINALE: --because of what this Department did. If, in fact, all the Department did was what was already permitted completely, entirely by the FAIR Act and what any company could do, there is absolutely no logic whatsoever at all to them keeping it secret.

SENATOR LESNIAK: Why is your voice so--

SENATOR CARDINALE: They kept it secret. There is no question about it. He talked about it being a proprietary interest of Allstate. Well, what proprietary interest is there in keeping something secret which everybody could do? If there were a proprietary interest, obviously it is different from what everybody was given permission by the Department to do.

If you want to continue obfuscating the point, continue, but I do not see any point in continuing to ask the same question, when you continually refuse to address it.

DEPUTY COMMISSIONER JACKSON: I am addressing the question, Senator. You asked--

SENATOR CARDINALE: You're addressing a question that we didn't ask.

DEPUTY COMMISSIONER JACKSON: No. You're asking why the Indemnity Company got the MTF rating system, and the answer was--

SENATOR CARDINALE: And the ability to transfer people into that rating system.

DEPUTY COMMISSIONER JACKSON: --and it remains the same, we would have done it for any company desiring to use an affiliate for the purpose of depopulation. Once again, Allstate, with all the other companies, has the right to use the MTF rating system. Once again, you may not like the answer, but had they not activated the Indemnity Company, but after they had adopted the MTF rating system it chose to adjust the rates up for those who had come out of the MTF, it would have been permitted. They did not need the Indemnity Company to adjust their rates up. The FAIR Act gave them the right to do that.

SENATOR CARDINALE: I would suggest that if you had done that, this protest on the part of consumers would have occurred perhaps several months or a year earlier--

DEPUTY COMMISSIONER JACKSON: No, it would be occurring in the same time period--

SENATOR CARDINALE: --than it is now--

DEPUTY COMMISSIONER JACKSON: It would be occurring in the same time period, because they still would not have been able to adjust the rates until their policy term had run. Allstate did not adopt the MTF rating system until April 1, 1992, as most carriers did not adopt it until that point in time, because until about that point in time there was not a substantial difference between the MTF rates and the rates that a number of companies enjoyed in the voluntary market.

Another reason I believe they didn't adopt it until that point in time, is because most companies took the

Department-- Once they were compelled to depopulate, most companies immediately demanded an increase in their voluntary market rates to reflect the impact of depopulation. We took them to court and fought them and refused to do so. After they lost those court battles, they then began to adopt the MTF rating system.

SENATOR CARDINALE: Are there any other questions from other members of the Committee?

SENATOR SCOTT: You'll get the same answers.

SENATOR SINAGRA: May I ask one question, the question I didn't like the answer to before--

SENATOR CARDINALE: Yes.

SENATOR SINAGRA: --out of curiosity? I am still a little perplexed by the settlement of the JUA carrier litigation, whereby-- The settlement was \$75 million, but rather than going into the JUA fund, it went into the MTF fund.

DEPUTY COMMISSIONER JACKSON: The settlement for the JUA was not \$75 million. The settlement for the JUA was \$10 million, and the JUA got that. The other \$65 million was for the MTF. It had nothing to do with the JUA.

SENATOR SINAGRA: That's not what this says. That is not what the testimony of the attorney representing Allstate says. Sixty-five went in--

DEPUTY COMMISSIONER JACKSON: Well, I would suggest--

SENATOR SINAGRA: --but it had to do--

DEPUTY COMMISSIONER JACKSON: Well, maybe you should call the attorney from Allstate back, because the \$10 million that went to the JUA was all they were willing to pay to settle that litigation. And the JUA got that \$10 million. The other \$65 million had to do with MTF liabilities, and had absolutely nothing to do with the JUA.

SENATOR SINAGRA: Okay, I will ask him.

SENATOR CARDINALE: How important is the change of regulations on how you are calculating excess profits? We have

heard from the Company that they don't believe it is going to make any difference at all in how excess profits are going to be calculated. Now, if it makes no difference at all, I wonder why it is being changed?

DEPUTY COMMISSIONER JACKSON: Well, I don't know, in each and every instance, whether it will make a difference or not, but one of the reasons we agreed to the change and decided to-- Once again, it is not something we did for Allstate; it is something we would do for the entire market. The companies have to depopulate. It is going to change their experience. The companies have also been hit with a number of surtaxes and assessments to bail out the JUA. We would not permit them to reflect those assessments and surtaxes in the excess profits -- in the excess profits reports -- because those were significant company expenses. I think the surtax and the Guarantee Fund assessment together come to about 7 percent of the rate. That we would not permit them to reflect in the excess profits report. They took us to court on that and they lost.

However, we did think it reasonable for a transition period -- since the market is in transition -- to permit them to combine the results of all of the companies in a particular group for a short period of time, in recognition of the fact that depopulation was taking place. It was costing them something for some brief period. The Commissioner decided upon two years.

SENATOR CARDINALE: So, in a sense, that is an indirect rate increase that you are allowing.

DEPUTY COMMISSIONER JACKSON: No, it is not. How could it be an indirect rate increase? I don't know-- See, once again, indirect rate increase-- I don't think so. If Allstate had not activated the Indemnity Company and had taken the 120,000 policyholders into the standard company, utilizing the MTF rating system, there would be one excess profits

report. So if there is going to be a profit-- If there was going to be a profit on that other business, if all the business had remained in the same company, it would have been obliterated anyway.

SENATOR CARDINALE: If, in fact, in forming this Indemnity Company, which gave them the ability to shift some of their regular customers into MTF rates, they would have had -- which are 40 percent higher than their regular book of business -- I would anticipate, and I think any reasonable person would anticipate, that they are going to have rate profits in that Indemnity Company, which, had it been considered a separate entity, would have resulted in a return to the consumer; whereas, now that is going to be lumped into whatever losses they might experience in another entity.

I consider that a very desirable feature of what you have done with respect to this from the Insurance Company's perspective, and, in fact, an indirect rate increase, because those moneys would have been-- It is not a direct rate increase, and I understand that. But indirectly, the consumer is not going to get the benefit of what we have passed in the Legislature as an excess profit law, because you are circumventing that by regulation. And we will handle that; we will handle that. We will have a bill that will take away from you the ability to do that kind of machination at the expense of the consumer.

It may be that you have to approve rate increases from time to time, and I think we can all understand that, but when you approve rate increases, I think it ought to be up front and people ought to know about it, and it ought not to be done in these kinds of backroom deals.

DEPUTY COMMISSIONER JACKSON: Senator, once again, I don't understand where the rate increase says-- The MTF is running at a deficit that approaches \$1 billion. The policyholders we are talking about are those who were in the

MTF that produced that experience. If they already have a rate-- If the MTF rating system is not adequate, I do not understand how just taking them out of the residual market and putting them in the voluntary market, all of a sudden makes it an adequate rate, or a profitable rate. I do not understand that, so I don't see--

SENATOR CARDINALE: You are presuming that the MTF was run with the degree of efficiency that an insurance company was run, and I think--

DEPUTY COMMISSIONER JACKSON: No, I'm not; no, I'm not.

SENATOR CARDINALE: That is where I would explain to you--

DEPUTY COMMISSIONER JACKSON: We know it was not.

SENATOR CARDINALE: That is where that differential comes in.

DEPUTY COMMISSIONER JACKSON: Perhaps--

SENATOR CARDINALE: I would assume that Allstate is going to run its business--

DEPUTY COMMISSIONER JACKSON: --maybe that differential--

SENATOR CARDINALE: --in an efficient manner.

DEPUTY COMMISSIONER JACKSON: --will make it an adequate rate. Whether it makes it a profitable rate, I don't know. But I hope you are right in that regard.

SENATOR CARDINALE: Are there any other questions from the members of the Committee? We have a session we have to attend.

SENATOR BENNETT: Do we have a copy of the separate agreement?

SENATOR CARDINALE: Yes.

SENATOR BENNETT: For the \$10 million? I just don't have it in my packet. The \$10 million for the JUA, that reduction is to be effectuated through a separate settlement

agreement, and I don't seem to have a copy of that, except for an agreement on the \$10 million.

DEPUTY COMMISSIONER JACKSON: We will send you a copy of it.

SENATOR BENNETT: Could you make that available to us, please?

DEPUTY COMMISSIONER JACKSON: Yes.

SENATOR BENNETT: Thank you.

SENATOR CARDINALE: Dale, would you follow up on that, please.

MR. DAVIS: Will do.

(HEARING CONCLUDED)