

3 14 25 House Insurance Banking Subcommittee (Audio MP3 128Kbps)

(0:02 - 0:30)

The Insurance Banking and Subcommittee will come to order. Members, please remember to turn your microphone on when answering roll call. Kimberly, would you please call the roll? Here.

Chair Yeager? Here. Vice Chair Cassell? Here. Ranking Democratic Member Chamberliss? Here.

Representatives Alvarez is excused. Anderson? Here. Booth? Here.

Botana? Here. Caruso? Here. Dunkley? Here.

(0:30 - 0:35)

Gonzalez-Pickman? Present. Hart? Here. Hanson? Here.

(0:35 - 0:55)

Doc? Here. Kincardt? Here. Miller? Here.

Steele? Here. Valdez? Good morning, present. Woodson? Here.

Thank you, Kimberly. Please let the record reflect that a quorum is present. As we begin the hearing, please silence your cell phones and electronics.

(0:56 - 6:03)

Also, as a reminder for our members, please ensure you turn your microphone on when you're speaking and off when you're finished. Members, I am pleased to introduce some special visitors this morning to come down from South Carolina to visit us. We have with us in the front row Chairman Bill Herb Kersman of the South Carolina House Labor Commerce Industry Committee and a delegation of members and staff from his chamber.

Welcome, South Carolina delegation. We're glad to have you. So, members, today is a hearing.

Therefore, the format will be a little different than our normal committee meetings. Once you are recognized, please proceed to an open dialogue with the witness. I will allow for a reasonable time for each person.

When I fill this time, I will intercede and recognize another member and we'll continue on this fashion throughout the hearing. Please know that we are here to discuss MGA's, affiliates, and the reported question. Please keep your dialogue pertaining to these topics.

We will begin with the hearing. We will start with Commissioner Yaworski. He will come up.

He's going to give us a 10 to 15 minute presentation on MGA's and affiliates. So, please, as we go along this presentation, if you'd like to ask questions, please. We will take questions to the chair at the beginning.

Once we go through the presentation here with Mr. Jaworski, then we will proceed to the hearing of open dialogue questions. Commissioner Jaworski, you are recognized. Thank you, Mr. Chair.

First of all, I just wanted to begin by saying I recall the very first meeting of this committee and one of the things that the chair indicated from the at that point was that this was going to be a group that was going to dig into issues and look a little deeper. And the office's view and my view on this is that you are doing exactly that right now. This is, to put it plainly, this is a very complicated topic.

It's an easy topic at the surface level and it gets rather complicated the further you dig in. And so, while I do this initial presentation just on how the MGA's are structured and how they operate, affiliates operate, and how they are, please don't hesitate if we can be helpful as an office to each of you individually. We will make the time, I will make the time, to meet with any of you on supplemental questions that may emerge along the way about the report, about this, or anything else.

With time in mind, though, what I'll begin with is I just wanted to have an opportunity to give a basic framework for holding company systems, MGA's, affiliates, and insurers, and how they all interact. To begin with that conversation, I'd like for you to imagine sort of a family tree. It is, that is kind of the basic outline of what insurers holding company systems look like.

So, if you imagine that family tree in your mind, you have a parent at the top and then you have a line generally underneath that connecting that to probably an insurer in a simple way. They can be a variety of different things, but you wind up with sort of a family tree of companies that exist with underneath the main parent. Within that, you have one one child company or one entity that is the insurer.

Some of these holding groups have multiple insurers. They often also have an affiliate. What is an affiliate? An affiliate, generally by definition, is going to be an entity.

It's determined by common ownership. So, if I have two cars and I own them, those would be sort of my affiliates because I'm the owner of both of those entities. And if you own a certain percent of more, depending on what the type of entity is, you are an affiliate of that entity.

MGA's are, in most structures that we'll be talking about today, are a particular type of affiliate. They have, they are generally performing specific functions that exist within the insurance regulatory structure. And they are, to an extent, generally the law changed in 2018, but where the legislature removed the specialty, not the legislature, the decision was made to remove the

specialty MGA license, but it still requires a licensed agent to be involved in the process.

So, to give kind of an overview of what that looks like, you would often have insurer, affiliate, and then MGA within a lot of holding company structures that exist. It's the same system that exists roughly in most business practices of any size today. When you look, whether you're looking at utility structures, whether you're looking at the way our food, you know, our food distribution and companies, it's like ultimately five companies that run everything.

And you kind of have this whole massive structure around it. To give a, if they're, I don't mind answering questions along the way, Chair, we can do it however you, whatever you prefer, sir. If any members have questions, feel free to this process on the MGA, just the structure of MGA's.

(6:04 - 13:04)

Right ahead, Chairman. Absolutely. So within that structure, if you have common ownership and you are an affiliate of the insurer underneath the same holding company system, there's a requirement in the law.

You are allowed to conduct, one company within the structure is allowed to do business on behalf of the insurer. There's a requirement within the code, within the law, that says that any contractual arrangements that exist between the two must be fair and reasonable. We'll probably talk about fair and reasonable quite a bit today, but that's just something that to keep in mind is the office has to make a determination as to whether or not the terms of those contracts are fair and reasonable.

Same thing with an affiliate. If you're not, if you're not an MGA but you're an affiliate, you're performing IT services for the entire group and one entity within that group is the insurer, then there has to be a contract between the insurer and the affiliate that spells out what the services are and ultimately what the cost is and then provides that information to the office for the office to make the same fair and reasonable determination. Commissioner, I'm going to interrupt you.

We have a question from Representative Valdez. Yes. You're recognized.

Thank you very much and good morning, Mr. Chair. My question is ultimately, in that family tree that you're describing, who is ultimately responsible for malpractice? You're recognized. That's a great question.

So what you'll often see because of affiliation, you'll see entity because it's common ownership and a lot of people you have at that very top, that very top of that affiliated entity will often be described as a UCP or the ultimate controlling person or entity. But for regulatory purposes within insurance, what the Office of Insurance Regulation, because we're a bifurcated structure so it can be regulatory structure, so it can be a little different. But generally speaking, the office's authority rests primarily with the behavior of the insurer itself.

Even if there's a contract, for example, with an MGA, we don't have the authority to hold the MGA accountable for that behavior. But we would because there's a contract, we would deem the insurer ultimately within that group ultimately responsible for that behavior. If that's helpful.

Representative Hart, you're recognized for a question. Yes sir, thank you. It's more of a statement.

Could you please, when you first get started, give us what the acronym may be because for our constituents who may be watching that don't know what an MGA is. You're recognized. Great, I appreciate it.

Apologies, sometimes I get caught up in insurance week. It can be a little, it can be a little complicated. MGA stands for managing general agents and that's a, it's a long-standing term throughout the industry.

And I should mention this is not a Florida specific phenomenon. This is a nationwide phenomenon. I think as has been highlighted various reports, it's been a nationwide, MGA's exist everywhere, affiliates exist everywhere.

Florida has actually, in the OIR specifically, has been really a national and international leader in kind of wrangling some regulation over this for the past decade, which we can get into at some point. Representative Woodson, you're recognized. Thank you, Mr. Chair.

Good morning. For clarification purposes, I just want to make sure I understand the process. Can an insurer have ownership or part ownership of an affiliates or an MGA's because I know sometimes people can set up corporation to own like the LLC or something.

Can that happen? Or have you seen any cases where that's, you know.....

Yaworsky: I wouldn't, that would be, if it is possible, it would be a pretty uncommon phenomenon because what you would be doing at that point, generally the insurer is a segmented block of risk within the, and I'm trying to explain, it's a, it's segmented off, there's a lot of limitations on what the insurance entity particularly can do. Generally the phenomenon you would see, but because of because of affiliation, you would, by nature of them being affiliated, you have someone generally above them somewhere that owns a portion of both, if that makes sense.

So it's the same, same individuals that may be or ownership structure within all three entities, so it's it's probably a distinction without a difference out there. I think to what your question overall, it's generally the same in a lot of structures will be the same or similar persons that have ownership in all in all of those.

Follow-up? You are recognized. Thank you.

Okay, based on the way you answer, would that be seen as a conflict of interest or not? Just clarify it for me. I absolutely recognize. That would be, it would be...

Yaworsky: I think the the Holding Company Act entirely, which is has been on the books for a number of years in a number of states, is designed to, I think, protect the potential for a conflict of interest, but also with that fair and reasonable doctrine requirement, guard against that potential pervasive abuse that exists, it could exist within that system, if that makes sense.

Good? One more. One more. You're recognized.

Who is responsible? Do the affiliates set up their own contracts with the insurers or does OIR has any overseeing whatever the contract, over the contract? You are recognized.

Yaworsky: So when the any contract between the insurer itself, which is again that kind of where the the authority of OIR rests is most most directly related to the to the to the system, any contract from the insurer to an affiliate or MGA has to be tested against, has to be tested by OIR for fair and reasonableness.

That that goes into a lot of discussion over the past five years. The office has worked with the legislature to dramatically improve and increase the oversight of fair and reasonable. We've worked with the House and the Senate to to remove things.

For example, in 2019, the Holding Company Act had a very specific exemption to our authority where it said the office had the authority to to look into to examine affiliates but did not have the authority to do so if they were part of a Florida domestic holding company. And so that was something that we felt strongly we should be able to kind of look at that wider picture. We worked with the legislature to get that and that's really just one example of making sure that there's a more comprehensive understanding of what's going on in that space.

(13:07 - 18:13)

Chair Yaeger: We've got about two or three minutes here to get through this segment. So Representative Caruso, you recognized for a question.

Caruso: Thank you, Chair. Good morning, Commissioner.

We we were issued this executive summary report. It stated March 31, 2022. I'm assuming you're gonna go over it.

Chair Yaeger: Representative, this is more just about the structure of MGA's for an educational purpose, this first 15 minutes. Okay. Do you want to say that to a regular when we get started with the regular hearing? If you could.

Caruso: If I could just... One question. Make my comment.

Chair Yaeger: Go right ahead.

Caruso: Thank you. When you do go over, could you explain why it's been dormant for three years and why it's still in draft form?

Chair Yaeger: Representative Steele, you recognize for a question?

Steele: Thank you, Chair. Is there a requirement for the holding company and the and the children to have affiliations of ownership? Just for clarity, is it a requirement that you have that affiliates period or is it is that the question? Common ownership.

Yaworsky: I think the way I would describe it is for for it to be an affiliate, it really must have common ownership.

Steele: Follow-up? You are recognized. And then you've alluded to the question of percentage of ownership that has to be in common. Do you have those numbers? You are recognized.

Yaworsky: Generally speaking, it's gonna be either five or ten percent ownership depending on the specific point of business.

Thank you. Chair Yaeger: Representative Hinson, you recognized.

Hinson: Thank you, Mr. Chair. Commissioner, I have a deep, deep concern and I'm trying to figure out the best way to ask the question.

What oversight, if any, do you have? Do you monitor rates between the affiliates and the insurers? Do you, what actions do you have to monitor this relationship between the insurer and these affiliates and do you monitor their financial records?

Chair Yaeger: Representative Hinson, that's a great question. We're gonna talk about this just educational structures. We're gonna save that question.

We'll come back to you when we kind of start the hearing portion. Right now, I forget. I won't forget.

I got you. So ranking member Chambliss, you're recognized.

Chambliss: Thanks so much, Mr. Chair. Good morning. My question was in trying to understand the structure of the affiliate to insurer. Are there any other industries outside of insurance that have a similar structure here in the United States and have a follow-up? You recognized. Yaworsky: Yes, there are. Most businesses of scale employ this mechanism. If you look at Meta, for example, which is the parent company of Facebook, you'll see affiliate entities or affiliate-like entities all throughout the structure. Contractual interactions between them providing services for one another.

Also, the public utility space, which is a highly regulated industry, has affiliates all throughout the network down to the point where you see you'll see common ownership of entities that provide various services for the public in that space. You'll see you'll see a vendor relationship

that exists following a storm for debris removal. You'll see common parent ownership of the entities utilized there with contractual arrangements between the two.

Chambliss: Very nice for a follow-up. Thank you, Mr. Chair. And in this particular model, being that I'm this is a national model and there are entities that are, for example, stationed in a state and then potentially stationed in another state.

So an insurer company, insurance company could be stationed in a particular state. An affiliate could be based out of another state. How does regulation compare state to state when it comes to trying to have oversight over the model in its entirety? You're recognized.

Yaworsky: Thank you, Chair. The national framework that exists for insurance regulation, especially on the property and casualty side, is state-based driven. And so what generally happens is the states work together, and I'd say that first of all to ensure regulatory oversight of companies that operate within the markets.

And so if you that is always going to be driven by the the domestic state, what's called the domestic or primary state of the insurer, insurance entity itself. And so again all of our, if you think of if you think of that that family tree, you think of the authority of not just our authority but the authority of all the insurance departments, it's gonna be the deepest red at that insurer and kind of emanate out somewhat and get a little bit, I'm just trying to visualize it for simplicity's sake, it's gonna get a little less red as you kind of spread across that family tree. And there's kind of less authority the further out you go.

(18:13 - 26:03)

So we have some authority over, similar in most states, you have some authority over MGA's too. Like in Florida we can examine them but we can't, in our structure, penalize them directly. Other states it might be a bit of a different scenario because of the way their regulatory structure is based.

But the overall the overall dynamic is that each state is a primary regulator. That does not mean that if a state that is domiciled, if an insurer is domiciled in another state, that the office just immediately says okay well that's fine we'll just we'll take everyone's word for it. There's still a lot of work that goes into the oversight of those entities in our state.

But the the controlling part, the regulator for that entity, the primary regulator is gonna be the state where it's domiciled. Quick clarifying question, you're recognized.

Chambliss: Thank You Mr. Chair.

So for example, Florida although it works with other states, its regulation standards could be potentially different than say California.

Yaworsky: You're recognized. Yes they could but the the overall if they're operating in our

market, we're not only communicating with them, the requirements are clear that if they're operating our market we have we have we have oversight requirements around them just like a domestic.

But it's a little bit different when you're designated as the domestic regulator versus the foreign regulator or non-domestic regulator.

Chair Yaeger: And last question this segment representative or vice chair Cassell, you're recognized. Thank You Mr. Chair.

Cassel: Good morning Commissioner. I know that there's been some questions regarding affiliates and how they are utilized in various different types of companies but when it specifically comes to the insurance space, do you see that these types of affiliates are more common in our domestic admitted carriers versus our surplus carriers?

Yaworsky: Yeah the sorry I didn't hear that you're okay....The the I think the there's a couple of comparatives I would make there is is we absolutely our market because of the dynamics we've had over the past 30 years is going to be dominated by and has been dominated by either single-state or regional domestic insurers.

However having said that there are national insurers that utilize affiliate arrangements and and MGA's of some structure there are some that do not. Reciprocal's utilize which is a becoming a phenomenon with our market utilizes similar structures through attorneys and facts to it which is a whole kind of akin to an MGA. When it comes to the admitted versus surplus line they although we don't have nearly as much regulatory authority over surplus lines entities we do it over domestic over a admitted carrier they utilize similar structures throughout some do some don't.

It would really depend on their individual business model.

Chair Yaeger: You're good? Okay thank you for the education piece we appreciate that. We know MGA's is a complex and important issues we'll make sure we were educated as possible so with that we do want to start off so when I'll kick off into the hearing portion of this so know that when you're recognized we recognize for a couple of minutes.

Commissioner Yaworsky you are not required to be sworn in this morning since you were a state employee. Please remember that as such you have an obligation to provide any testimony given to the legislature in good faith and with honesty. I know you will be guided by that and your own sense of integrity today.

With that representative Kincart Johnson you are recognized for an open dialogue.

Kincart Johnson: Thank you Mr. Chair. Thank You Commissioner for being here this morning.

I want to ask you some questions about your history with OIR. Can you tell us about your

employment history? Absolutely absolutely.

Chair Yaeger: Open dialogue.

Yaworsky: Absolutely I began with the office in I believe July of 2017 as a chief of staff.

I departed in either December or January of 20 the December of 2021 or January of 2022 I can't quite remember and then I returned to the office in February on February 9th I believe it's 2023 as the Commissioner.

Kincart Johnson: So did you work for the former Commissioner Altmeier? I did. And in what capacity? I was the chief of staff of the agency at the time.

And how long were you his chief of staff?

Yaworsky: From 2017 to about halfway to about four and a half five year about five years.

Kincart Johnson: Okay and then when you were appointed Commissioner you were not with OIR is that correct? That's correct. Okay thank you.

Representative Pittman you're recognized.

Pittman: Thank you. Thank You Mr. Chair. I'm going to talk about the report right now and ask them questions. What was the overall purpose of the report that was generated?

Yaworsky: Thank you for asking the question. The reports the idea behind the report was it was not a request of anybody.

It was not a statutory requirement. There was no there was no deliverable that was meant for the legislature directly. Although conceivably it would be a public record if it had been completed and would be available potentially provided.

But it stayed in draft form at some point. Wildly incomplete but the I think the main point looking back on it I was there for a part of the period of time was to really twofold to make sure we had a very clear understanding of what was going on in that space directly. And also to act as a training tool for analysts that were working on various components of I think the best way to describe it might be an analyst is assigned to a number of companies.

And one thing that's happened over the years is the entire regulatory and infrastructure in the state. If I could go on I think it's just important to have this entire infrastructure of insurance regulations throughout the country has moved from a a very modest checklist based of just raw facts and numbers and figures. The regulatory environment has shifted towards a really comprehensive risk-based analysis of not just individual entities but kind of reaching more and more into that group slowly.

Make sure that there's a fuller picture of what's truly going on with capital and in other things.

And so I think overall it was designed to I think the liver will probably at its inception was to and I remember pieces of that was to gain a better understanding of what was going on in that space for our own regulatory purposes. And then act as as an information base for our analysts who are siloed out among individual companies to gain a broader picture of what was going on kind of in the space as a whole.

So that when they were looking at their companies they might have context for what was going on in other companies.

Pittman: So you were the report was supposed to generate whether there was the fees being paid to the affiliates were fair and reasonable would that be fair to say? Was that one of the goals of this report to see if the fees being paid by the insurance companies were fair and reasonable that they were paying to the affiliates?

Yaworsky: I think I wouldn't say that that was a goal of the report because there were other tools in place that were utilized to make those calculations. This this report has its own definition of fair and reasonable.

I'm sure we'll talk a lot about that and what that means. What we've been asking for for years is some statutory guidance on what fair and reasonable means or or some information about what tool what what particular metrics we can look at for fair and reasonable. Because it's a challenge was fair and reasonable to me it's not gonna be fair and reasonable to another person.

(26:03 - 2:59:49)

I think again the primary goal of this report was to really and I wouldn't even I don't even know if when it began there was a report per se in mind like that I don't know I don't think that was necessarily this product was deliverable I'm trying to draw from memory on that. But the the I wouldn't say it was to conduct a review of whether or not fees were fair and reasonable.

Pittman: Can you tell me it does Florida have a standard for if a fee is fair and reasonable?

Yaworsky: No.

Pittman: We don't have we do not have a standard for the fees being fair and reasonable. Couple more questions. What does it mean when an affiliate forgives or waives the fees due from an insurer?

Yaworsky: Great question. So what that generally will mean is it so we have a contract between an insurer and an affiliate or MGA. That contract says services are being provided and in exchange for services dollars are being expended in some way either on a commission basis or some other basis. The what happens when there is a forgiveness is that the capital the fee whatever it is is never transferred from the insurance entity to the affiliate but the services are still being provided.

And so that that can happen especially in a distressed market like we had hundreds of millions of dollars of capital never left the company.

Chair Yeager: One more question representative?

Pittman: Sure. What is the significance if an insurer had agreements with affiliates that provided for fees based on allocation of actual cost?

Yaworsky: Sorry say that again.

Pittman: What is the significance if an insurer has agreements with an affiliate that provided for fees based on allocation of actual cost?

Yaworsky: I believe that would be a reference to a zero sum where it's essentially a cash amount of just the raw the cost of the actual service provided solely. So not a with no no profit indication or anything else involved in the transfer of funds. Thank you.

Representative Steele you recognized?

Steele: Thank you chair. Thank you for coming. Do you have any issues with the way the draft report was done and if so can you enumerate the issues that you have with it?

Yaworsky: Yes I do. I think that the upon our analysis that we that we conducted and I think first of all as a matter of time this this was a five to six year well it began in 2020 I think and ended in 2022. The the team that's looked at it now find several issues potentially with the report. The first one is structural and process oriented.

When you have something that winds up looking looking like this like an examination there is a tremendous amount Florida uses a hybrid mechanism where we have exam managers that are trained to coordinate examination functions. So a contract vendor will go in and conduct an examination according to standards and procedures and then it will be received back from from that in a draft form and that is really based on what we can tell where this process stopped. The draft examination process did not go through kind of the next layers where the examination manager there was no particular examination manager in charge of this.

The examination manager would would then proceed to kind of look at the data provided, look at the way it was described, look at other things for follow-ups or clarification or other things and oftentimes send that contract examiner back out. Draft is a very real thing to us and that it's an indication that it is not a completed product and so when we look at some of the writing within here some of the assumptions made within here we would we would probably had it gone through that process it would have been I think perfected and distilled but as it stands now it's a highly imperfect document and I don't think it outlines for clarity certainly not to a layman what what the actual structure of in fees arrangements of this system was. For example it although it does it doesn't do so clearly the 14 billion dollar in affiliate fees number has been has been discussed a lot that the idea that 14 billion dollars of Florida insurer money was was

utilized to pay for to pay for fees and services in fees for services to affiliates.

The report does acknowledge but not clearly I think to your common person that when you actually that that includes national companies on a national basis so it is the it is not Florida insurers and Florida policyholders that paid that amount it includes multiple companies on a national basis and so when you do that you're literally talking about hundreds of billions of dollars of risk and that 14 billion dollars in the report at a point does acknowledge I think your point of deficiencies it does acknowledge that the number of Florida companies is 1.8 billion. Another very strong deficiency in this report is that it doesn't delineate in any way whatsoever other income and affiliates or MGA may have and that is very important it sort of it identifies that it's not doing that in some ways but not clearly but in our reading of it it does not identify other income sources of MGA's or affiliates when it's calculating out that net profit that's very important because many if not most of our MGA's and affiliates often contract to provide services of various kinds with outside entities that are outside of the group entirely and so that would be an in potential income source another potential income source that was counted as net income to the affiliate or MGA would be investment income another one might be income from other entities within the group that are not the insurer and not governed by any sort of fair and reasonable standard so it's it's a very incomplete picture on the income side of what is taking place it is also a very incomplete picture of what is going on on that upstream side of where the ultimate destination of the capital was so you have a report that says this MGA or affiliate had X million dollars in net income it's not it's really ultimately important to determine it does identify when that capital it does do an analysis that attempts to identify where that capital returned to the insurer and in a distressed state state and there are several hundred millions of dollars of that that returned but it doesn't identify if it went for example to pay agent commissions that were on behalf of the insurer or if it went to pay for a reinsurance broker on behalf of the insurer it doesn't really describe where the ultimate destination of the capital so if the if the I think utilizing this report as a comprehensive analysis of what took place is is not a good metric to do so Steele: You opened up a lot more questions for me do they do they have ownership in the reinsurance companies?

Yaworsky: There I guess I would describe that there are reinsurers that they can't have ownership within an insurer or somewhere within the holding group or somewhere along those lines there can also be reinsurance brokerages that within the group that that are performing some sort of Steele: I mean does this report differentiate between the ones that have common ownership and those entities versus not no and I think that would be a deficiency if you were trying to utilize this as a as a holistic understanding of where the capital is flowing and then you know how many of those those organizations left the state you know all together or or failed after giving distributions I know after getting distribution to their shareholders

Yaworsky: I would have to get back to you on that particular question there are multiple entities captured within this report that have failed or have failed.

Steele: And then in the draft report how did the author conclude that the companies were not in compliance with fair and reasonable requirements of the law?

Yaworsky: They utilized a very specific I have to find the exact language within the report they use a very particular and specific metric of identifying fair what they believe was fair and reasonable I believe it was looking forward in my notes but it is a it was a I'm just trying to find it in the report to make sure I get it correctly looks like it's top of page three mr. definition there and I can mention it oh there's a definition yeah sorry yeah I'm looking for it...

Chair Yaeger: You have staff here I can look into that yeah I move on what we're gonna let staff kind of dig into this yeah come back with the answer that will be for just take your time yeah move on but you good question like you said we're gonna answer for you we're just gonna keep for time let them figure that out we'll come back to it yeah that's fine so commission you get a chance you can come back to that give us an answer so we'll get that answered with that we're gonna move to feel my way move to one more question one last Steele: One one last question um you know obviously it's not not defined fair and reasonable is not defined in statute what would you recommend that we do as legislatures to fix that how would you define it?

Yaworsky: Absolutely thank you for the question so we we've attempted for a number of years with the legislature to get a definition of fair and reasonable in 2023 we had sorry yeah in 2023 we had a definition that we proposed and it was ultimately rejected we got a number of other things to move into the further into holding MGA's and affiliates accountable we did not get that we have language in our bill this year that include in the agency package that includes the definition of fair and reasonable in a way that is I think provides us it's not saying fair and reasonable is but it's saying when you're calculating fair and reasonable these are items that you should be looking at more specifically and mainly what I would say is that we're generally doing that now the stuff that is in there what I think we're looking for is the ability to press harder on those with companies and then have a statutory basis for that should companies object we wind up in court we need a little bit more I think then well the Commissioner thinks this is fair and reasonable we need some statutory basis for how we're reaching those conclusions.

Chair Yaeger: Representative Cassel you are recognized

Cassel: Thank You Mr. chair Commissioner it's my understanding that the company utilized to do the report actually relied on Florida admin rule 690 dash one four three point oh four seven as well as guidance from the National Association of Insurance Commissioners to define fair and reasonable in light of the fact that Florida does not have a defined standard in law but this organization relied on Florida admin rule wouldn't that be sufficient for purposes of defining fair and reasonable?

Yaworsky: That's such a great question the the when we look at that particular rule it is a very old pre-gapsy rule that generally speaking we did not believe would hold up in court the and I

think while they use that they used a very and I'm still looking for a very particular very particular calculation that I think it would would come across as arbitrary and probably extend beyond the reaches of that rule when you look at that and also when you look at the NAIC guidance right now and in fact they attempted the NAIC attempted in 2020 to move us in a direction where of defining out better fair and reasonable but we're the way fair and reasonable reads right now and this is I think that a national challenge is it's very circuitous it basically says it's fair and reasonable if it's fair and reasonable and so looking at that and even that rule it extends out some some it's a rule that was promulgated I think by the Department of Insurance when that existed today it seems like it would be unenforceable because it just it's it's wildly outside of the lanes of what the statute is calling for.

Cassel: Okay and thank you for that answer you you seem to be commenting a lot on the deficiencies of the report that's been prepared by Risk and Regulatory Services it's my understanding that Risk and Regulatory Services consulting group is an extremely reputable company when it comes to preparing these types of analysis would you agree with that I would okay and is this an organization that your office whether it was through you or prior commission prior commissioners has utilized as at a minimum of 36 times according to the FACs website.

Yaworsky: I would be surprised if that's not true

Cassel: Okay and have you utilized this organization subsequent to receiving this draft report to perform any analysis on behalf of the on behalf of OIR.

Yaworsky: I'm sure we have yes...could I just make a follow-up to that though just to follow up with that what I was saying about the deficiencies of the report was not an attack on the vendor itself or any of their work product what I was saying was essentially this process stopped internally at some point so you did not have that typical dialogue of exchange between the office and the vendor in this case which was this entity to perfect the document and so it's nothing against the vendor per se it's just recognizing that the process was never completed in that space.

Cassel: And who stopped this work Commissioner

Yaworsky: We have looked hard and fast I do not know I don't know I think when I'm looking at the timeline of it I'm looking at a point where it was stopped sometime in 2022 and I'm looking at the business unit that is there and what they are doing they were understaffed they are dealing with probably I think six to seven insolvencies during that period multiple companies under supervision supervision at that point is a daily task where literally you are in con you're basically running the day-to-day operate the operations of that company I think it's possible that they were simply over overwhelmed overwhelmed I don't know particularly why this there's no email or document or discussion we've had where someone affirmatively said that we found where someone affirmatively says we're stopping this for X I think it just got wound up in a very overwhelming time.

Cassel: And speaking of the insolvencies that were taking place at the time you mentioned six to seven we know that there were several more in relation to the reasons for why many of these companies went insolvent from the interim reports that are posted on the organization's website many of the reasons for these insolvencies is related to the exact issue that we're here today so in light of the fact that you had six to seven insolvencies that were directly connected to these reasons that we're discussing with regards to the affiliated fees and the managing general agent was that the appropriate time to stop this investigation.

Yaworsky: That's a very baked in question so to break it apart a couple of different ways I think I think the supposition that companies failed because of this is not supported and I don't think that there have been I think there's been some discussion I think I know in the article it talked about a case from 2009 where there was some indication that MGA or affiliate arrangements had stripped the company of capital that is not what we when we're looking at the more modern and I don't have all them in front of me what we're looking at the more recent insolvencies I think they've mostly focused on litigation as a key factor of the insolvency or or a factor the insolvency and not necessarily pressed on this the other thing I would say about that is when you're looking at these arrangements they're commission-based and the overall the overall dynamic that exists within that structure is if they're commission-based based then higher premium by its own virtue means that they're making more money because they're getting a higher percentage of the Commission so it would have been a healthier dynamic for the MGA's to keep that that process going in the ultimate controlling person not to do anything to bring forth an insolvency of the structure.

Cassel: I would just ask mr. chair that we asked the Commissioner to follow up and provide the insolvency reports that specifically reference litigation because the ones that are posted on the OIRs website I'm not in agreement with that so I'd like to ask the Commissioner to follow up and provide those.

Yaworsky: Yeah I'd be happy to I don't know which insolvency reports we have on our website they may be on the Department of Finance Department of Financial Services manages the insolvency report so but we would be happy to facilitate that your direction.

Cassel: I apologize I'm just correct on the Department of Financial Services website.

Chair Yaeger: We'll make a note and follow up absolutely important.

So representative Hinson you're recognized.

Hinson: Thank you Mr. Chair Mr. Chair am I a liberty to ask any question now thank you thank you. good morning again Commissioner why once you discovered the report and I'm not sure when your tenure began did you not share it with the legislature or at the least raise the concerns you saw in the report the number of times you presented to us?

Yaworsky: Thank you for the question and I have a quick I have an answer for your other

question go ahead and answer the fair and reasonable absolutely the the fair and reasonable standard utilized by the by the this particular examiner and I think some internal staff in a precursor way at some level was if the combined income of the affiliated entities derived from the fee paid by the insurer to the to or insurers is less or greater than 2 million port per year or 100 110 percent of the combined net income of the insurers those fees are presumed to be fair and reasonable so it's a very arbitrary standard that was in place that may not have recognized the overall dynamic of the of the entity just answer that question of the standard that they that they implemented for this review and I would just add that that doesn't mean that I I would say that well I don't think that that is a good standard to utilize per se it doesn't mean that the conclusions that have reached on this are wrong or correct I'm just providing that's the framework they particularly used.

Sorry Chair Yaeger: we'll get back to Representative Hinson

Hinson: You want me to repeat it?

Yaworsky: yes ma'am if you don't mind.

Hinson: Sometimes it doesn't come back the same way.

Yaworsky: I'll take it.

Hinson: Why the moment you discovered the report because I don't know when your tenure began can you tell me that when your tenure began.

Yaworsky: We...the I became aware that the report existed in somehow sometime in the latter half of 2024.

Hinson: And and you presented to us many times I wonder why the concerns that surely were raised in your mind weren't presented to us as many times as you have presented to us?

Yaworsky: Absolutely the I would say that a couple of things I think that most of the recommendations in this report either organically or or directly some are some portion of all of them have been implemented by the office internally over the course of time I don't know that it was derived from the report itself or if it was or if it was just an organic process as we've advocated for enhancements around MGA's and we we are we are working with with the legislature to get more now why we didn't make this the particular findings of this report to you is mainly because it's it was in draft and we don't make a business of providing information that we believe to be inaccurate or imperfect to the legislature because that would be even if it's for something that we're advocating for that would be an honest an act of dishonesty in my view considering the concerns that have been raised and where you find yourself at this particular moment why wasn't there's a report a second report done or repeated as the author had recommended I think I I think because at the same I wasn't there in that 2022 period but what I see has happened over time is as these individual as the office has gained more authority to look into this on a kind of a one-by-one basis the additional expense of an independent report

probably was deemed not to be necessary because the analysts were looking at it each individual company directly and at some point a decision was made that it wasn't worth that it wasn't to be continued the expense of this this was not an appropriation by the legislature to provide this report or do this work in the office runs a very although it's improved dramatically in the past couple years runs a very lean shop when it comes to the work it does the overall the overall dynamic is that we were spent \$150,000 normally when we do examinations the companies reimburse the office for those examinations that was not the case here and so I don't know exactly and I became aware of it in October 2024 when I'm looking at the record of what we've done in the past two years on MGA's we've reviewed many many contracts we've terminated one we've modified several others we've eliminated evergreen provisions where they can just run on and on and put a set time limit on them for when they have to come back to us get reapproved we've done a great deal in this space so it doesn't necessarily seem to the office useful now if the legislature would like us to do this we would we would happily do it we will go through the process and we will see it through all the way from beginning to end if that would be helpful in the in the overall work that you're doing that's there's no effort to to not provide you with the information it was just not to provide you with information that was when I'm looking at it seems incomplete inaccurate or misleading.

Hinson: Commissioner um you presented to us several times and I think we have all raised questions about these premiums and the rates climbing repeatedly and so clearly we didn't know and you had the opportunity to share this with us I guess my question still is why didn't you to share that to share the report with you to share the problem with us that the insurers were transferring money to the affiliates making their company look broke and raising the rates of our citizens, that.

Yaworsky: I I understand what you're saying but I think the supposition in that would be that the the transfer of money itself was making the company broke and I don't think that that's established within within any record we have there may be I think the the problem at its crux with companies failing it's pretty easy to demonstrate that it was adverse loss reserve development along due to primarily to litigation but also natural catastrophes and the cost of reinsurance and so essentially the companies went broke because rates simply could not be raised fast enough to accommodate that and the market did not exist to support that there's not a lot of evidence that MGA fees or affiliate entity fees were the proximate cause of any insolvency the those contracts were in place for in some case decades and existed in those companies maintain themselves as going concerns so I think that I would just say the supposition that this cause and insolvency would be would be problematic I think there is one or two to rep Cassell's point earlier I do believe there is one or two within the past decade that highlight may be excessive fees within that space but the the the predominant evidence in the consensus among among most parties is that Florida's recent calamity was due to excessive litigation the cost of reinsurance and natural catastrophes.

Chair Yaeger: Representative worth to keep moving here everybody...

Hinson: Can I ask one final question that you say it was a really good can I ask good sales job good sales job thank you that was your supposition that it was litigation I don't know that citizens believe that but do you have any oversight in this relationship between the insurer and the affiliations and their financial transactions if the the transactions that are taking place between the insurer and the affiliate entities yes so you would so you would know if this is going on what I just asserted.

Yaworsky: I need a little bit more specific about...

Hinson: Yeah what I just asserted about the insurer transferring large sums of money to the affiliates making themselves look broke so they can raise the rates that assertion...

Yaworsky: Yeah yes I think generally we would know that I just it's the it's kind of a language around that I'm having a struggle with making them go broke...

Hinson: Is making them look insolvent is that a word you like better?

Yaworsky: Well they were in so many if they were insolvent they were factually insolvent it's not you can't you can't look insolvent you were insolvent if you were impaired you were impaired the causes for those impairments can be can be numerous but again I think the if the supposition is that the underlying cause of the deficiency or impairment or insolvency it doesn't really the record doesn't that we've seen doesn't really support that to rep Cassell's other point that I think your point a little bit too I think as I'm thinking about it there are probably documents out there promulgated by the Department of Financial Services and their efforts to claw back funds following an insolvency that will point to that just like in any legal matter becomes a court matter and you make allegations of such but I think I think the the the office again over the past two years has done everything it can to manage these contractual arrangements and make sure that they are within a framework of fair and reasonable and we would I would be happy to meet with you and show you some of the things we've done with particular companies make sure that is the case...

Hinson: The insolvency reports I'd like to see that too.

Yaworsky: Sure

Hinson: Thank you thank you Chair Yaegar: Rep. Chambliss....Chambliss you're recognized ranking member sorry

Chambliss: Thank you miss chair I appreciate it a couple of questions one when it comes to these type of reports how many or how often had these reports been done here in the state of Florida or for the state of Florida.

Yaworsky: Of a particular report like this to my knowledge this was the first and only time this has ever been done.

Chambliss: Would you agree that the information in the report at least based on its intent is helpful information and if I could specifically helpful information for legislators...

Yaworsky: I could see it being helpful for legislators if it was a completed project I could absolutely see it being helpful for policymakers and others.

Chambliss: So for example as we're taking very consequential votes in the space of insurance and how insurance impacts you know homeowners auto owners etc this is the type of information maybe in a maybe in a better product but this is still the type of information that legislators would it would be helpful for them to know in their decision-making process and how they vote.

Yaworsky: Yeah I would and again if the legislature this was not the case here where the legislature directed us to do this this was an internal initiative and I think in a good way I understand the criticism around this but this was a I wasn't that I think this was a this was a good initiative by the office by the people of the office attempting to understand the market better what was going on here and train their people better to use it it to to have it be a public-facing document the office would have no objection to a legislative requirement and some funding respectfully to to conduct this evaluation on whatever base you know whatever time frame you want to to better understand what's going on yourselves within this market and I will also as I said at the beginning I will make myself my team whoever available to you to go over any report we have we send if I if I if I put on a table here the number of reports that we send to the legislature it would probably make this entire table of just that's totally required things I think there's like 30 to 50 of them annually that we're sending over happily do that and if you want this one to be another one on top of that I will happily make sure that it gets done and gets done right.

Chair: I apologize we give you one more question we gotta keep we're gonna have to keep moving guys there's a lot of questions here by chance I apologize I'll have to cut people off but go ahead...

Chambliss: And thank you for that and so I'll switch to my the other angle I want to go back to the insolvency reports the and the fact that they are not on your website but on the financial services websites it seems there are a lot of things are a lot of important information our procedures that you would probably want to know about but they're not going to your department they're going to the financial services them and I'm confused why is that if you could explain it for those of us that aren't the professionals why is that number one and number two based on your professional opinion would it make more sense for that to actually be just going directly to your office so you would have full oversight over that.

Yaworsky: Thank you for the question the the Florida uniquely has a bifurcated insurance regulatory structure where the office of insurance regulation is responsible for insurers insurance entity rate promulgation rule promulgation around the rule form promulgation market conduct at evaluation then the separately the Department of Financial Regulation is

responsible for agent and agency services including MGA type things the fraud division of fraud and rehab and liquidation so I I don't know it was a legislative decision made about 20 years to bifurcate that structure that way and so it does wind up in scenarios where what you're describing is we do not put together the insolvency report I think the legislature put that there a couple of years ago too because DFS was handling rehab and liquidation and so that was just an example of that in most cases when a when an insurer is in an impairment of some kind you have a suite of services in that rehab and liquidation where you can retry or rehab it and kind of manage its journey with what's in the state is generally done at a supervision level within the office so I think that's why that one was but generally speaking I think that we're kind of we're dancing around the issue that you're highlighting rep is that is that when I talked about earlier that area of authority within within the office everything we have stems from the insurer and it's probably fine in a lot of cases but when you start talking about the heavily the degree to which MGA's and affiliate entities especially MGA's are in many cases so heavily intertwined with the holding company and the core service of the insurer that becomes a that can become a bit of a challenge to make sure that every we're on the same page with everything that's going on in that space.

Chair: thank you thank you ranking member representative Anderson you recognized.

Anderson: Thank You mr. chair and Thank You Commissioner talking a lot about this report and I understand it was my understanding at least that it was a completed report but it was marked as a draft it was also marked confidential trade secret do you know why that is who made the decision to consider this a draft who made the decision to consider it confidential.

Yaworsky: Absolutely oh yeah I forget I always look to you but the maybe for a saving hand but the you know the great question I think it was in fact a draft ultimately and it is there are elements of in the dialogue discussion back and forth in October of 2024 as we looked at this document and several others that were associated with it it was more confidential was marked trade secret we we made the ultimate ultimate determination that the summary document itself was releasable in its draft format and so naturally in compliance with Florida records law public records laws we released it even with the deficiencies that it has identified I think I do not know as I stated earlier I do not know and I cannot say and I have not been in my team has not been able to identify a point in time where some specific person by email or otherwise said we're not continuing this process it's it's largely a different team in place than what was there in 2022 my supposition and it's an honest one is that there was so much going on in 2022 that this just did not take the priority anymore I don't know that was that's the case but that's probably what that could be that's a plausible explanation for what happened here after you had some time to review the report you received it what conversations did you have with former Commissioner Altmeier and conversations with R&R about what you uncovered in that report I had I think I've had two conversations with Commissioner Altmeier I asked we compared some notes initially on what what the what he recalled and what I recalled around 2020 when this project kind of started I think we both recalled a meeting where the where there was like a precursor briefing that took place the and then we had a follow-up discussion earlier this week

where there was just a quick comparing notes of what this hearing would be like and so that's really the extent there and the other entity that you referenced R&R the vendor the vendors yeah we had a meeting with the vendor on I believe last I want to say last either early this week or last week in which we discussed really just my team attempting again we had a lot of questions about what was in this report was outside of this report attempting to understand the report and we did have some questions I think to your point earlier about like what what they're understanding like can you tell us why this didn't continue and so we did have that discussion as well and it led us to search for what that might be...

Chair: I apologize we got to keep moving so I appreciate your questions I know you got more everybody has a lot so representative Miller you recognized.

Miller: Thank You chair so Commissioner I just want to go back to the report you said that you became aware of the report at the latter half of 2024 and I'm just trying to reconcile that it appears that there was a public records request for this in 2022 how did that not come to your attention did you not know about the public records request?

Yaworsky: I did not so I was not there in 2022 it seems like when we look at the record that we've assembled on the public records request I think the agency does have some ownership of that I'm just looking at it there was a dialogue exchange that seemed to have taken place between between our comms director and the reporter in question and and I think with the best of intentions there was an effort to move it forward but I think also when I'm looking at the actions that took place around 2024 legal did not see this this request until I think October of 2024 and so to even begin to evaluate evaluate its release ability and so the I think the process was very imperfect but I became aware of it in October 2024 I think some of the complication may have been the the the nature of the document itself to your point earlier representative we have trade secret we have draft we have confidential it's seemed to utilize at points in 2020 when the initial data set was gathered it seemed when we read the letters that were were sent out to companies requesting this information it uses terms like requests we're asking and ultimately it's another deficiency with this report honestly is that 23% of the companies that we asked for information from did not provide it but or provided a subset which makes it even more imperfect because there's there's misalignments of facts within that I think it's kind of I think there were lower level elements working on getting that out but it never reached the highest level of their quest until at least the latter half of 2024 and then legal became involved I will say since that has happened we haven't just I'm taking ownership of that as Commissioner during that time for at least that request since that has happened we've established a much clearer process where all public records don't sit are not left in one silo they immediately go to the public records office with underneath the General Counsel for processing I've prided myself often in front of you but all often in front of other places on being transparent and open we've done we have more information on our website than just about any other state we've created the transparency page we've done other things that are all geared towards helping everyone understand this market better so I take it very seriously that that was not fulfilled and we've made corrections going forward I just want to understand so

you said that it took from 2022 when the comms director got the request and it took until 2024 to go to legal and that that was unusual have you looked into any of the conversations that took place in that time to understand why it took two years to get to legal and and if you have not conducted that investigation internally could you and then provide that to us I wouldn't say we've conducted an investigation into it we've because that that kind of implies certain things we might get there yeah we might get there on that but again I think when there seems to have been a I'm kind of operating off member here on a briefing I had on it there seems to have been a request made in in 2022 and that request was was there was a I think a written response provided to the reporter that it was not a open record at that point and then there is a period of time where there seems to be mostly verbal some email follow-up between the reporter and our comms director at that time following up on the requisite or renewing the request might be the better term and it wasn't it wasn't various answers a lot of what seems to be verbal communication not written communication as to what the circumstance that discussion are but I think I think it is important to acknowledge that that was not a perfect process....

Chair: thank you representative Caruso recognized.

Caruso: Thank You chair and Commissioner I understand you you weren't here on the OIR at the time this report was done but you know our purpose today is to find out if insurance companies have been allegedly ripping us off ripping the citizens of Florida off why why rates are so high we want to find that out and this reports the state's attempt at determining the answer to that yet it's still in draft form it's only seven pages long it deals with data from 2017 to 2019 today's 2025 and I find it as a legislator that's outrageous that we're getting something that's so antiquated and so full of flaws my question is do you have any plans to update this and when can we expect an updated report that is comprehensive complete and and if there's if there's private information in there that we should know then redacted.

Yaworsky: So as I said earlier if the legislature says they want this we will conduct the evaluation again and we will probably the more resources that we are given to do it would would dictate how quickly it could be done...

Caruso: I think we want it I think we're all screaming for it I'm looking at everybody's heads nodding and you'd let us know what resources you need and we'll make those available I know the number one thing out there to the people of Florida is they want answers as to why insurance rates are so high and when I get a report like this and I look at it and I see fourteen billion dollars of net income being paid out to affiliates and it's it's alarming okay and that's what the public hears but I think you know with with these kind of profits why are insurance companies going out of business and leave in the state of Florida 2022 we were down to what one and if they were making 14 billion dollars....

Chair Yaeger: Rep let's ask a question not debate

Caruso: The question okay when can we expect an update of this report and and would that

update be would it be more comprehensive than this a seven-page report oh I yield back Chair: Representative Cassel you recognize the last segment here and then we'll go ahead Thank You.

Cassel: Mr. chair Commissioner would you agree that historically speaking the allegation that is raised in the report that managing general agents and their affiliates are moving money out of the insurance company over to them at at high frequencies or at unfair and unreasonable rates is historically something that has occurred here in Florida before specifically we know in 2009 the Office of Insurance Consumer Advocate provided a report in March 9 2010 stating that policyholders have been paying over 50% more policy and loss adjustment general administration and sales expenses and many of these expenses are probably not the result of arm's-length transactions between insurers and affiliates additionally we know in 2013 the Office of Insurance Regulation fined an insurance company 1.3 million dollars for transferring 88 million dollars to their affiliate additionally we know in 2010 page st. John won a Pulitzer Prize in the state of Florida for doing an expose as on Florida's insurance nightmare crisis specifically highlighting the issues with managing general agents we had the collapse of pull up of PO in 2009 first commercial insurance company failed because officers appear to have been stripping the company of cash Magnolia insurance company existed for two years managed to pay out more than a million dollars in dividends to its investors while operating out of a home seminar and these are all in the insolvency reports by the way seminal casualty insurance company which mostly offered cut auto but insolvencies are important failed in 2011 due to fees paid to related parties 2011 the failure of a quip insurance company is because paid Commission's claim servicing and management fees to various related parties I sure mess you to a question please I'm getting there after home wise 2011 appeared to the result of excessive outflow of cash 2018 another insurance company questionable payments to other companies and 2014 Sunshine State paying affiliates for overlapping services the problem with managing general agents and their affiliates has existed in this state for a very long time how does the office justify receiving this report that seemed to indicate 14 billion dollars went to affiliates and they just dropped the ball because they were too busy.

Yaworsky: Yeah absolutely so I would say a couple of things around that if you weren't if the Commissioner of Insurance if you are Commissioner of Insurance and you don't have a concern about perverse incentives that can exist in holding company arrangements MGAs and affiliate transactions and you shouldn't have the job it is constantly on my mind along with about a billion other things most of the other thing I'll just say for technical purposes is most of the things you just cited I think are before the holding company act even existed so the state as time has gone on has strengthened its rules around that I cannot I cannot just arbitrarily I've got to follow the laws of Florida that govern these transactions and we're doing our very best around that and we're calling for continued strengthening of that to take place to your specific question of how can I justify dropping the ball on this again we were at the very outer edge I was when the when the report was dropped I wasn't there and I'm not I wasn't there but I was there in 2020 and had had some understanding what was going on with this report we were at the very very very leading edge of the authority that the legislature gave us to monitor these

transactions full stop we requested information we didn't require it we then as we got feedback from these very companies on what is telling us no what was our immediate response to information our immediate reaction to that was to take that response to the legislature I remember personally delivering letters stating this to the legislature saying we're not able to get what we need here will you please help us fix it and to the legislature's credit you gave us that authority to look in and you removed an exemption that specifically said we could not we could not look into the affairs of an MGA if it was if it was part of a domestic company holding company system we work with you and we remove that provision 20 fast forward the next year we asked for additional authority in this space we got most of it we didn't get all of it which was the which was the framework around MGA holding company out I think when we get we have a long record 2024 2025 2024 last year we floated legislation we didn't formalize it but there's a good record of us floating legislation that actually creates a transparency website that includes affiliate and MGA arrangements that is also in our bill this year we continue to try to work with the legislature and I'm not and we've gotten generally very good responses for that on managing these holding company entities as a whole and making sure that they aren't doing the thing the very things that many of you have indicated you're concerned about so I I don't think anyone's record is perfect in this area it gets extraordinarily complicated there's also the countervailing balance around all this that there needs to be the fundamental fact of our marketplace is that it is not one that companies inherently naturally want to be involved with especially the companies we want the most to be involved in this current structure is the structure that they have found to manage to get investors willing to put capital into an entity if I asked for a call of hands if anyone here in this room had a hundred million dollars how many of you would like to invest that hundred million dollars into a Florida domestic property insurance company that you may never get back not a lot of hands to go up.....

Chair Yaeger: I need you land the plane what's that I need you land the plane please.

Yaworsky: I'll land the plane with that but it's just it's a it's a oh well can we talk after or oh I thought you were investing....

Valdes: After reading the report yeah and the MGA's I'd want to invest...

Yaworsky: Oh that well that and I to your point I think that's my point is the MGA structure has created a bit of an incentive to invest that wouldn't be there if that didn't exist and so I mean that's the balancing act the legislature ultimately governs the rules that we implement around what can be done and that's a policy decision for y'all to make...

Chair Yaeger: okay thank you very much I apologize there's lots of questions we'll know that we will have a well mr. the Commissioner up again later in the in the meeting but right now we've got to move on the next witness I do want to say Commissioner thank you very much for your time and your willingness to always come down here and speak with us and be frank and honest I do appreciate that so if you'll stay stay with us you can take a seat and we'll move the next witness.

Yaworsky: Thank you chair thank you members

Chair Yaeger: So our next witness will be mr. Altmaier mr. Altmaier served as the Florida Insurance Commissioner from 2016 to 2022 welcome Mr. Altmaier and again thank you for your willingness to be here today too I appreciate it real quick we do want to go through a swearing in so Mr. Altmaier do you swear or affirm that the testimony you are about to give is the truth the whole truth and nothing but the truth?

Altmaier: I do

Chair: Thank you mr. Altmaier thank you mr. Altmaier we will proceed with questions again I do greatly appreciate you being here today happy to do it thank you we can continue on I have a list here we can continue on with that I do want to give everybody a chance here so I don't represent about as you were on the list you have a question for Mr. Altmaier.

Valdes: Yes sir thank you very much mr. chair and good morning mr. Altmire so we heard the Commissioner talk a little bit about the the report and the the consultant how long how many times have you used and what methodology do you use to procure risk and regulatory consulting LLC or any LLC for that matter any consulting firm?

Altmaier: Thank you I don't know that I could give a specific number of times that we've used our RC for examinations but it would be a it would be a pretty large number they do a lot of this type of work not just in Florida but all around the country as well generally speaking the examination process when selecting a consultant or an examination firm is is not dissimilar from the normal RFP process although there are a few exceptions in this case because oftentimes we'll call an examination and in time is of the essence and so some of this is going on memory because it's been several years since I've been that directly involved but if I recall correctly we go through a process to add examination firms to a list and then when the examination schedule comes up because we do a lot of examinations throughout the year for a lot of different reasons I should apologize I will fall into the habit of saying we in reference to the OIR just old habits die hard I'm obviously not here on behalf of the OIR the OIR will use that list to select exam firms going forward it would it be safe to say that you have like a continuing contract list of vendors that you would be a go-to that's my understanding of how we used to do it again hopefully a little bit of latitude given the amount of time it's been since I've looked directly at that process but my understanding is we would maintain that they would maintain that list and do you recall what the what the fees were or what the actual cost of this draft of important information but it's still a draft it wasn't completed so for this uncompleted product what what did the taxpayers of the state of Florida pay for this report so again my understanding is that at the end of the day neither this exam nor any other exam would actually cost the taxpayers anything because with the financial examinations the insurance companies actually pay for the exam that's a that's a general comment I don't recall specifically how the funding went for this particular examination but if the companies did not pay for this examination it would have come out of the insurance regulatory trust fund which again my

recollection is not part of general revenue I can't speak to where I think mostly comes from fees and other things but I think at the end of the day it's a fair statement to say that this would not have been a burden on the taxpayers.

Valdes: Then a follow-up question in reference to the structure and this is also going to be a question also for the Commissioner later on because I wanted to get the actual current situation Commissioner mentioned how overwhelmed staff was in in the department at the time do you recall how many FTEs were opened what was the the the state of the department as far as FTEs and how long had maybe FTEs have been opened and positions unfilled to do these duties.

Altmaier: And again going on memory here I think the office at the time generally had a rolling list of vacancies of around somewhere between 30 and 50 I think at the time the agency was about 280 ish full-time FTEs I think we generally hovered around 250 ish actual people in seats we had just gone through a process I want to say it was during the first regular session of 2022 of requesting from the legislature additional resources we were grateful to receive those so throughout the latter half of 2022 we were in the process of bolstering either through pay increases or additional staffing at those financial service financial solvency business units to address address that issue.

Valdes: Mr. Altmaier were you were you aware of this draft I certainly was aware that this work was going on I was aware that we had gotten some initial findings this one was unique and that our examination process normally doesn't always go up to the Commissioner's office it normally stops at the business unit level this one we had placed a pretty high level of importance on and so we had some discussions about some of our initial findings we also had some discussions about what the Commissioner has already talked about in terms of whether or not the initial findings were accurate and actionable or whether we needed to do some additional work in this space.

Valdes: Did you find the information alarming?

Altmaier: It certainly raised some red flags which was why it was important for us to determine whether or not this was accurate that's a good opportunity for me to probably talk a little bit about how we got to this place and in the first place how we even ended up with the draft report the Commissioner talked about this during his dinner his segment is as well and to Vice Chairman Cassell's point this has long been an allegation in Florida's insurance market this potential for these types of relationships to be abused and one of the challenges that we had at the office was a lack of visibility into the financial condition of the affiliated companies and so beginning in approximately 2014 we began the process of incorporating a lot of additional authority for the office in terms of what we could look at with respect to affiliated transactions and the financial condition of affiliates that continued through several legislative processes and I think in 2016 or 17 and my apologies for the for the fuzziness on the timeline there we believed we had obtained the authority to go and directly examine the affiliated companies and

and found out as we went to implement that process we didn't quite make it as airtight as we should have 2021 as part of Senate Bill 76 we specifically got the authority to conduct this kind of examination and that's the result of this draft report is the result of us asking for and receiving that authority from the legislature and so I think it's important to know that track record because that underscores that even before we got this draft report the office was very mindful that this allegation was out there we were very mindful that we needed to increase our authority to answer these types of questions not just for you but for your constituents and our consumers and all kinds of other stakeholders and so we had some concerns even before we got this draft report we continued to have those concerns and we were looking for ways to continue to address this issue.... Chair Yaeger: Rep I apologize we're going to have to move on....

Valdes: My follow-up my last question one more one more thank you sir so why did it stop why did the investigation stop why didn't we get a completed report what happened who made that decision to say this isn't important enough?

Altmaier: So I would say that nobody made that decision and candidly when I was asked to come and speak here today that that's the one question that I haven't been able to come up with an answer to because candidly speaking I thought the work was continuing I really thought that as we had these conversations at a staff level that the understanding was that we were going to go and address the concerns that we had a draft report so my recollection at the time is that we were going to continue that work Commissioner Yaworsky referenced some opportunities that he and I had to chat this week I've learned since then that at some point the way that I understood the way that work was continuing is different than the way that the the consultant and staff thought that the work was consistent and that's unfortunate hindsight being 2020 if there's there's probably some opportunities where I could have poked a little bit to make sure that this work was continuing but as the Commissioner said we were dealing with a lot we were trying to address some some resource issues and a lot of other big issues but I don't think at any point in time any person said you know what this is not important and we're just going to stop. Chair: Representative Kincart you're recognized.

Kincart: Thank You Mr. chair Thank You mr. Altmaier for being here today the rep Valdez just talked about how the the work stopped remind me when you departed that Commissioner your this position.

Altmaier: December 28th 2022.

Kincart: okay so is there no transition between you and the the Commissioner that came in with where there are no conversations about hey what did what did you leave off you know what do I need to be aware of is that not common practice did did none of that happen between you and the current Commissioner Altmaier: Not in a formal way and there was a little bit of a time gap I left in December of 28 I think the Commissioner joined as the Commissioner or at least on an interim basis in February so there was a little bit of time gap very proud to call

Commissioner Yaworsky a dear friend of mine he was with the office for a long time I felt completely comfortable in his ability to jump right in feet first I know he had some staff around him that were left over from from my period of transition again hindsight being 2020 if I could go back and do it all over again maybe I would have called him and said don't forget to finish that report but I didn't do that and so I don't think there was a well I know that there was not a formal transition between the transition for myself to Commissioner Yaworsky.

Kincart: Okay just one follow-up the in the report it shows the affiliates showed a net income of seven billion dollars while the carriers showed a net loss of 37 million help me understand that.

Altmaier: It's a it's a deeply troubling data points and we were trying to understand that data point also some of the questions that we had around that data point for example is the majority of that seven billion of income is it associated with with the large firm that transitioned so much money out of their company into affiliates I don't think we knew the answer to that question we didn't know where that income went we didn't have that visibility at that time so we had a lack of understanding about does that seven billion of profit does it sit there and act as kind of a rainy day funds for insurance companies down the road so there's a lot of questions that we also had about that but on its face that certainly is a data point that as regulators we would have wanted to go in and get a better understanding of.

Kincart: And when did you receive the draft report? Altmaier: That well I have to go by the dates on the report it looks like the office received it March 31st 2022 or at least it was dated as of March 31st 2022 exam reports are the dates on them can be a little bit I don't want to call them misleading but the there's the as of date of the exam report and then there's the actual when did you get a report most of the time the as of date will be at the end of a quarter most commonly at the end of the year not certain if the date on this report is the as of dates and that we got it after that or if we actually got it on March the 31st but it would have come through the business unit and then subsequently to that we would have had a lot of conversations about it we got a....

Chair Yaeger: Rep I apologize we had to move on so I thought I was sorry Representative Steele you're recognized.

Steele: Thank you chair I've got several questions but I'm gonna I'm gonna dive into some some details that I know personally about so I haven't seen the report I decided not to be a part of the signing of receiving the report who deems it as a draft?

Altmaier: I don't know that there's actually somebody who says this is a draft report I think it's just you know like with any document when you write it and send it to a group of people that's a draft until that group of people have formally said this is this is done and final I don't recall if there's specificity in the exam process about when it's a draft versus when it's final I probably ought to add that in the examination process before we can make an exam report final we have to give it to the company that we're examining and give them an opportunity to say hey you didn't you didn't quite get that right or you didn't quite think it get that right I don't believe we

went through that process with this effort.

Steele: Thank you so so are you familiar with Southern Fidelity insurance company yes and they went under in 2022 that sounds about right yes is it is it common for for a MGA to have a plantation high-fence like entertainment facility as an as an owned asset.

Altmaier: So it would certainly raise eyebrows and one of the challenges that we had is that up until this point we didn't have visibility into knowing whether or not that was common or not candidly because that was a part of the financial condition of MGA is that we couldn't see until this point in time.

Steele: Is that it was that a Tallahassee based organization.

Altmaier: It was.

Steele: Are you familiar with the ownership of that organization? Altmaier: Yes.

Steele: Thank you.

Chair Yaeger: Thank you representative representative Jasques you're recognized. Jasques: Thank you mr. chair sir I want to start by talking to you about your current employment. It's my understanding that you work at a lobbying firm currently.

Altmaier: Yes sir.

Jasques: And in addition to your employment with this lobby firm you sit on any corporate boards yes sir which ones just one it's called Aspen Bermuda what does Aspen Bermuda do it's an insurance and reinsurance company based in Bermuda yes sir.

Jasques: Are you compensated for sitting on that corporate board.

Altmaier: Yes regarding the lobby firm that you're currently employed at what do you do there?

Altmaier: So it's actually probably not your traditional lobbying in fact since leaving the office this is the first time that I've been back in front of a committee so I do what I characterize as regulatory consulting there are generally insurance companies who are interested in being effectively regulated and they hire me to help them understand regulatory policy how to interact with regulators not just here in Florida but all around the country.

Jasques: When did you begin working at this lobby firm?

Altmaier: In March of 2023.

Jasques: And when did you resign again from OIR?

Altmaier: December of 2022.

Jasques: What was a specific day?

Altmaier: on December 28th 2022.

Jasques: When did you put in your notice to resign?

Altmaier: So I think my notice was probably mid-december but given given my role I you know I had soft discussions with my principals about the fact that I was considering leaving at the end of the year.

Jasques: Directing your attention to December of 2022 you recall the legislature we had a special session specifically on property insurance.

Altmaier: yes.

Jasques: And and during that special session SB2 was born out of that which was a sweeping reforms within the industry.

Altmaier: right.

Jacques: and and you recall let me ask you this were you supportive of the reforms that came out of that...

Altmaier: yes I was

Jasques: Did you testify favorably for these reforms.

Altmaier: yes I did although I don't recall in the house I think we ran out of time in the House that day...

Jasques: And you'd agree with me that the insurance industry was generally very favorable of these reforms as well.

Altmaier: Yes

Jasques: Now the memory serves me correct the legislature passed that bill and December 4th 14th of 2022 Altmaier: that sounds right.

Jasques: On December 1st 2023 a six-year lobby ban came into place that were currently under and state of Florida had you stayed at OIR you know just a couple of days later literally maybe a few days because December 28th December 1st comes around you would not have been able to do any type of lobbying work for six years is that correct?

Altmaier: That's my understanding yes.

Jasques: I want to just go back real quick to your role as insurance commissioner at OIR regarding this report when it came out what was the genesis you know behind you know the

report I mean who decided that this needed to be done in the first place I so...

Altmaier: Honestly I think it's fair to say that that I did and the Office of Insurance Regulation decided that we need to do it I think I've walked through that with representative Valdez and I don't want to run your clock out so unless you have follow-ups I'll just leave it leave it there.

Jasques: And so was it you specifically that retained that led the charge to retain this firm R&R?

Altmaier: The way it would have worked is I would have asked the team to call a target examination to explore this and then the team would have handled selecting a consultant and going from there...

Jasques: And would you agree with Commissioner Yaworsky that the firm that performed this report is a reputable firm?

Altmaier: Yes

Jasques: Thank you very much Chair: Representative Wilson you recognized

Wilson: Thank You mr. chair Mr. Altmeyer a lot of information has been given and I need clarification for this one a straight answer where the individuals from OIR who testified before the legislature doing the special session on property insurance were they aware of the study and is finding at that time that specific time.

Altmaier: I would have to say yes. Wilson: Okay so how many insurers and affiliate relationship have been scrutinized by OIR maybe the other can answer it and how many insurer affiliates contract have been modified or canceled?

Altmaier: So I would have to defer to Commissioner Yaworsky on what's happened since that point time I think I recall him saying that there have been at least at least several and several of the examination report excuse me several of the recommendations in the examination report are internal recommendations to the office and I believe that I heard Commissioner Yaworsky testified that the office has implemented many of those recommendations internally as part of the review process I don't know that I give you a specific number though were there any doing your time actually not did I recall because like I said during my time we were still going through the process of understanding this report making sure we had an accurate set of information here.

Wilson: okay and just one I have about 11 but it's okay that one I need to know does the public because we know everybody's paying high premiums including myself and everybody else does the public have any ability to see the terms of insurers affiliates agreement so they can compare companies or they can see those that are moving excessive amount of money to their affiliates?

Altmaier: So it depends on how the agreements filed many companies choose to file their

agreements as a trade secret and in that case I would suspect it'd be very difficult for a consumer to see that if the company does not file it as a trade secret then a consumer if they if they wanted to they could go through that process of asking for the contract and seeing it what is more common I believe the office still runs a website called choices which is a platform that consumers can use to go and compare insurance companies in addition to speaking with an insurance agent in their area.

Chair: Give you one more Wilson: Just a quick follow-up. Is the entire agreement part of the trade secrets that you're talking about because the public deserve to know you see....

Altmaier: Yeah so the difficult part about the trade secret statute is that insurance company can stamp whatever they want as a trade secret in the office really doesn't have or they didn't have when I was there the discretion to say to a company that's not a trade secret you can't stamp it that way so under under that condition a company could stamp the entire agreement as a trade secret if they wanted to I suppose they could also just stamp the page that had the fee structure it's entirely up to the company the office's role in that if a consumer came and said I want that trade secret document I believe if I recall correctly we would gather that up and we would take it to somebody else and say we need you to tell us whether or not we can release this trade secret or not.

Chair: Thank you we'll come back to you we'll try to come back to you...Representative Anderson you recognized.

Anderson: Thank You mr. chair Mr. Altmaier I just wanted to clarify so when your Commissioner of Insurance the you your agency retained R&R to conduct this invest investigation produced a report to you and presumably to the legislature correct?

Altmaier: Yes sir.

Anderson: And funded with taxpayer dollars right?

Altmaier: So again I don't actually think that it was I think it would have come from our budget which is which is trust funded again I I'm not sure if there's any taxpayer money at all that goes into the trust fund but my understanding is that this funding was coming from our trust fund the common practice for exams is for the for the company being examined to reimburse the office I don't remember if we planned on companies reimbursing us but I feel fairly comfortable saying that the fees paid for this report were not a burden taxpayers.

Anderson: Okay but on on your way out as Commissioner and who you refer to as your dear friend Commissioner you never informed him that this investigation was ongoing never alerted him to look out for this make sure that it's happening there was never any conversation about it....

Altmaier: Like I mean that's accurate but it certainly wasn't an intentional omission so I was not certain who the new insurance commissioner was going to be I was hoping it would be

Commissioner Yaworski but I just didn't know at that point in time and then by the time he became the interim commissioner I'd been out of office for you know six weeks and like I said a moment ago we just never had that formal sit down where I gave him a list of things a lot of that was due to his already very familiar awareness of the office again in hindsight if you know if I had known how everything was going to play out perhaps I would have I would have gave him a call and said you know keep me away from this podium in two and a half years but I didn't do that....

Anderson: But so at the time it didn't seem important to you?

Altmaier: No I wouldn't say no that's that's not what I'm trying to say this work was very important to me at the time and I think my lack of calling Commissioner Yaworsky and telling him about it I don't think it undermines how important that I found this work to be.

Anderson: Okay I'm gonna move on from that mr. chair Mr. Altmaier so to in your in your opinion you know from the time you were Commissioner and then now from the outside looking into OIR what to what extent can excessive affiliate MGA fees impact policyholders premiums Altmaier: So my understanding of the rate making process is that there is a part of it there's a there's a factor in there that is a component of that is a fees that you pay to your affiliates so if if that's being done correctly then that's a reasonable fee to have in the rates and one of the reasons why this work was so important to us is because if that's being abused and it could have a detrimental impact on policyholder premium the challenge is we we didn't fully answer that question during my tenure.

Anderson: So when you were Commissioner there were a number of insurance companies that were going out of business losing money meanwhile affiliates were making millions and billions what justification did they use to you when you were Commissioner for the rate hikes that were approved?

Altmaier: Most of it was cost of reinsurance at the time the lost reserve development that Commissioner Yaworsky was talking about earlier a lot of that was driven by what I believe to be excessive litigation going on in the marketplace those were the three most common factors that were that were cited as the need for additional rates what what actions did you take when you're a Commissioner to prevent these insurers from transferring funds to affiliates we didn't have a significant amount of authority to do anything after we had approved the agreement most of these agreements we approve on the front end and so most of the time we're approving those for companies that are new in the marketplace most of them we would go through a process of looking what was common practice in the marketplace at the time and then and then approved based upon that it's Commissioner Yaworsky said I'm glad to hear that after they've done this work they've had some success and revising some of those contracts after they've had a period of time to look at how those were playing out in the marketplace but again one of the reasons we went through these legislative processes that I've described in 2014 and 2016 or 17 in 2021 was to try to gain that additional clarification on what was

happening and then ideally subsequently to that additional authority to address any of the abuses that you've highlighted Chair: Representative we have to move on we'll come back to you okay I apologize Representative Hart you recognized.

Hart: Thank you mr. chair I almost said Commissioner but I would like to I have a couple questions one is who actually received this report initially in your office.

Altmaier: So I you know I'm not sure I know the name on the top of the memo and that individual was the director of the business unit that's oversaw examinations on the property and casualty business unit I don't think it was common practice for that particular individual to directly receive the first draft there probably would have been an individual within her business unit that was assigned to examinations and it was common practice for our exam contractors to liaise with that individual and then that individual would take it through the organizational chart as appropriate so I don't know specifically who in on boarded this report with the office.

Hart: When did or become aware that the affiliate companies were removing excessive amounts of money from insurers so.

Altmaier: I don't think we ever did I mean I know what this report says and suggests but as the commissioners highlighted and as I agree with I don't think we were comfortable stating that this report provided a definitive picture of what was happening so I don't think we ever actually said companies are moving an excessive amount of funding through affiliates I think what we said was there's a lot of smoke here and we need to make sure we go and see if there's a fire burning or not and that was the effort I thought was underway when I left the office.

Hart: Was the governor's office ever notified especially since we're in insurance crisis at the time that you all had this report and that you had some concerns about what was in that report?

Hart: I can't remember if we specifically talked about this report or not I one of my guiding principles as the Insurance Commissioner was to be very transparent with all four of my principles as OIR worked for the governor and the cabinet and we had been on record in communications with the legislature that we were asking for this authority to do this work I would not have asked the legislature for that without talking with all four of my principles about it and so presumably through those conversations we discussed these concerns and and they allowed us to move forward with this kind of work.

Hart: So you did inform the governor's office that we had you all had this report?

Altmaier: Sorry for any confusion I don't recall if we specifically discussed this report I think what I meant to say is that I discussed with them the concept of looking closer at affiliated agreements Hart: Well obviously and then I know that this can vary but on an average how much do domestic insurance companies in Florida pay to affiliate companies?

Altmaier: So in most of these agreements are structured I apologize for not having a specific

dollar amount because it's going to as you said vary based on the size of the company but a lot of these were a percentage of premium sometimes they were a percentage of written premium sometimes a percentage of earned premium sometimes they're based on cost incurred so they're all a little bit different generally speaking and again going on memory here most of these would hover around 18 to 22 percentage of percent of premium I was a pretty common industry practice at the time.

Hart: Is that a percentage of their revenues that they Altmaier: No ma'am no premium okay now again there there may be a contract or two out there that is a percentage of revenue but most commonly it was a percentage of premium.

Hart: One more question I know that you said you left in 2022 I I'm sure that your office was aware that we were in the middle of a crisis and as legislators we were in a crisis ourselves to better understand the insurance can you all give us any idea why you did not think that this report was critical enough to have shared some of the information that was a part of this report so that we would have made better decisions for our constituents back at home?

Altmaier: Yeah and I know this likely won't be a satisfying answer but it just wasn't it just wasn't ready and we felt at the time that we were having conversations with the legislature that we were looking into this issue and we just didn't have clear answers and at the time the reforms that we pursued we felt like we had clear data to support the reforms that we were pursuing we never intended or at least I never intended that that would be the be-all end-all I mean I my intention was we're gonna do this right now because we we feel like we have a good story to tell and can do this but this is something that we need to continue to flesh out continue to get good answers on and then come back when we're ready to share credible and transparent transparent data it's entirely possible that when we concluded this work we would have found out that we don't necessarily have a systemic market issue here where we need the assistance of the legislature maybe we just have a few companies that we need to work with to adjust their MGA's maybe even fine maybe we have a systemic issue that requires legislative attention but we just we just didn't know the answer to that question at the time.

Chair: Thank you we'll come back to you thank you Representative Dunkley you're recognized Dunkley: Thank you mr. chair. Commission I think I've heard a lot of I'm not sure and I'm fuzzy this morning so I hope my questions are not fuzzy and not sure you talked about the litigation being the driver that's what you believe who did you rely on or what did you rely on to come up with that matrix of the litigation that you think that was the driver of Chair: Representative, I'm asking you we're gonna say we're gonna stay tight of this report worry about another worry about outside sources like that but....

Dunkley: Chair I'm sorry he mentioned that he believed litigation was the driver for the insurance cost hike I know so I'm asking that question we still want to say relevant to this report the question the reported question right okay thank you chair I have one other question for you were the insolvencies that resulted from the insurance affiliate relationship responsible

for driving more of the policies to citizen do you think?

Altmaier: Uh, in some cases I think that's accurate and a lot of other cases we were able to move a lot of policyholders from soon-to-be insolvent carriers to private carriers we had a number of success stories where we had the private market step up and say hey we'll we'll take those and those I think were indications of those were positive outcomes for consumers I do think as we got sort of further into this crisis that we were experiencing at the time we had a lot of companies that said look we're kind of in a defensive posture we we don't really want to grow right now because we're really struggling with what we have and in those cases unfortunately the burden typically felt as citizens to ensure those policyholders.

Dunkley: No other question chair

Chair: Thank you thank you very much representative steel you're recognized Steele: Thank You chair I'm kind of familiar with the tree structure and I understand that you know the purpose of having that my question is around distributions you know when they do move money from a from a company to another company typically is to pay salaries or whatnot commissions for sales were any of the distributions to this to the shareholders down and at the affiliate level versus at the insurance company?

Altmaier: So I would have to say that I'm not aware of any that were directly paid to go to the shareholders of an affiliated company and I'm assuming you're asking about the shareholders of the affiliated company I'm I'm assuming that based on based on what the Commissioner said they had to have shared interest from from the parent to the child to be considered an affiliate so they would be the same ownership...

Steele: I'm just I'm asking if the money went from the parent to the child and there was no distribution here and there's distributions here is the question I'm asking.

Altmaier: Oh I see thank you for that clarification so you know presumably some of that would have been and I and I think that what you would hope that explanation was is that this entity performed services legitimate services on behalf of the insurance company and received compensation for that and as part of the business plan made a profit for their shared owner and then distributed some of that profit up to the shared owner one of the things that we were trying to gain visibility into is whether or not those dividends were the result of too much payment coming over for those legitimate services and unfortunately we just didn't conclude that work.

Steele: Yeah well yeah the report was complete though it just was in draft mode.

Altmaier: Right I would contend that as a result of our review of the draft we had more work to do and so I would I would consider it not to be complete.

Steele: And then and then I my last question and I'll let other actually have two questions how did we not demand the Commissioner said that there were several companies that didn't

comply with the request how did we not demand those companies to you know comply with the request.

Altmaier: I think we ultimately did I don't remember the nature of that demand I don't remember if it was the threat of suspension I don't remember if it was the threat of a fine I've gone through the report again I had to refresh my memory a few different times you know I'm not sure we were entirely successful in getting everything that that we wanted and I think we likely would have had we continued down the path of pursuing that but I do think we were making a heck of a lot of effort and trying to get all of this information this go-around.

Steele: Okay and then and then in the definition of a fair and reasonable the Commissioner had indicated that they came up with it who is they came up with the fair and reasonable and it was it an industry standard that they used.

Altmaier: So I certainly don't want to speak for what the Commissioner meant but I believe my interpretation of what he said is that they there was RRC the exam contracting firm...

Steele: Listen instead of like who came up with that and said I won't use the Commissioner who came up with the the fair and reasonable and was that kind of an industry standard...

Altmaier: So I my understanding is RRC came up with with that statement as the exam contractor I don't know that it was an industry standard they've outlined that they use a few different I don't want to call them metrics because I'm not sure they were specific ratios but they looked at the Florida Administrative Code and they looked at so many I see accounting guidance that that existed and the NAIC accounting guidance is certainly industry standard but again I don't think the NAIC accounting guidance has any kind of for example profitability threshold that you should meet I don't think it has any kind of dividends restrictions or things of that nature I think it in and of itself uses terms like arm's length and some other things that get a little bit squishy when you're trying to make a legal assertion against a regulated entity.

Steele: thank you.

Chair Yaeger: thank you Representative Hinson you're recognized.

Hinson: Thank You Mr. Chair good morning morning did you have a report to lead the charge in tort reform when you had clear red flags that we needed affiliate reform?

Altmaier: So I'm sorry do you mind the first part of that question?

Hinson: Did you have a report to substantiate...

Altmaier: Oh so we I wrote I don't know that I'd call it a report but I put together a package of information for the House Commerce Committee at the time in 2021 and highlighted a bunch of data that we had collected and I think this gets to representative Dunkley's question a moment ago two primary sources that we used for that one was the service of process

database that DFS maintains the service of process database and in five seconds is essentially when you sue an insurance company you file a service of process with DFS and that creates a bit of a database for what we were seeing and then the second data point that we used was we do market again there I go with the we's again the OIR does market conduct exams and collects a lot of data through that as to regulators across the country and they collect a lot of data off of the market conduct annual statement no you've probably heard this statistic so many times that you're sick of it but that's where we got the 76 percent of the country's homeowners litigation despite having only 8% of the claims and so those two data points were in that package of information that was the basis for why we pursued tort reform I will also say if I might that I don't think those two things are independent of each other as I alluded to just a moment ago I think it's absolutely the case that you can you can have a clear need to do tort reform and you can also have a clear need to do reforms in this space and I don't think the need to do one in tort reform undermines the need to do it in this space or vice versa...

Chair Yaeger: I'm gonna I'm gonna pause one second so we're coming up to 10 o'clock so that again we're I'm gonna pause one second we're coming at the 10 o'clock so representative Cassell has made a motion to extend for 30 minutes without objection we will show that motion approved.

Hinson: I remember the tort reform bill some things I remember very well some things of you look fuzzy and unclear to me in the staff analysis of the tort reform bill there was a fiscal allocation of a million dollars to the OIR Commissioner did you receive a million dollars in that bill when it was passed?

Altmaier: So there were a couple of different special session bills and I think you could characterize both of them as tort reform bills there was the first special session and I think in that first special session we got some budget dollars to supplement our staff as I spoke to you just a few moments ago that's that's the only thing I recall that came directly to the office I don't think it might have been a million dollars the other thing I think you might be thinking of or I should say the other thing that that that might have been referenced in that analysis that had that kind of dollar amount associated is that we built in some catastrophe fund layers I think we call them the RAP layers at the time Kurt will have to help me with what that stood for but I think that had some dollar amounts that got up to two million maybe we supplemented it the second time with a million that might be what...

Hinson: No no this was direct payment to OIR Commissioner so I'm trying to verify since I got shut down by the mic when I tried to verify it on the floor I'm trying to verify that you personally did not receive a million dollars?

Altmaier: No ma'am I can confirm I did not personally receive a million dollars.

Hinson: Thank you

Chair Yaeger: We will recognize representative Miller.

Miller: I did the list you still have questions thank you chair since you were the Commissioner in November of 2022 I'm hoping you can shed some light on the public records request that was submitted by the Miami Herald at that time....

Altmaier: Yeah sure well and and unfortunately not this specific request the process generally at the time is you know we would get public records requests from a few different places the communications director would oftentimes get them if the communications director got them it was commonly through the course of other Q&A with with journalists or stakeholders that were asking for those and then we did have one employee that was the public records coordinator and sometimes you know for example if you were a law firm or if you didn't have questions for the comms director you might just go straight to that person and say I've got a public records request here those oftentimes in fact I would say most of the time they don't normally go to the Commissioner level typically what happens is when we receive a public well again apologies when the OIR received the public records request at the time typically whoever got it if it wasn't that employee they would send it to that employee for tracking purposes and then they would go to whichever business unit might be responsible for those those public records and in this case it would have gotten a little bit complicated number one because it's an examination the statute prohibits the office from sharing any examination or work paper until it's done so that would have been complicating factor number one and then complicating factor number two is that everything here was filed as a trade secret and so that would have been those are in two complicating factors that whoever received this public records request at the time would have had to would have had to work through okay and so if it were found to have fallen into that category that would not rise to your level at any time um so I think so not typically you know I think I think typically would have been more common for them to come to me if they said hey we shared this rationale for not sharing the public records and they've pushed back and we just want to make you aware of that given the nature of this and what it was I truly can't remember if somebody came and said you know do you remember that report we did somebody's asked for it I candidly truly don't remember if that conversation took place.

Miller: Thank you.

Chair Yaeger: Vice chair Cassel recognized.

Cassel: Thank You Mr. Chair Mr. Altmaier how many carriers went into receivership or were deemed insolvent during your tenure as Commissioner.

Altmaier: Oh during the whole tenure I would say at least nine possibly that was weighted on the back end I think was seven or so in 2021 and 22 just just roughly estimating there...

Cassel: Thank you, you mentioned in your testimony that you turned your focus from the topic that we're here to discuss on to other matters what were those other matters that you turned your focus to?

Altmaier: Well I'm not sure I would say I turned my focus to them I thought this one I had sent

back out for additional work but some of the other things that we had going on at the office at the time 2022 we had two special sessions plus a regular session we were trying to onboard a lot of new staff after we had gotten resources from the legislature we had some senior level staff turnover that we were dealing with and we had Hurricane Ian that we were responding to towards the end of the year so those are just a few of the examples of the things that we had on our plate at the time.

Cassel: In February 24 2021 you sent correspondence to then Chair Ingoglia identifying OIRs policy recommendations which included attorneys fees cause the framework for concurrent causation requesting clear authority over MGA's and data collection immediately two months later you sent supplemental correspondence to Chair Ingoglia stating that you had new recommendations which all were related to tort reform issues and there was zero mention of any seeking any additional oversight over MGA's what changed in those two months as to why you were no longer recommending oversight over MGAs?

Altmaier: Yeah I don't think we stopped recommending oversight over MGA's I think this follow-up letter was supposed to be supplemental to the first letter and I think that's evidenced by the fact that in the legislation considered in that time frame we received the oversight that I

requested. Cassel: With regards to the time frame in your resignation with your regards to your resignation we were passed we passed Senate bill 2a in this special session which in in my opinion and I think many of my colleagues opinions was really as I called it at the time the holiday wish list of the insurance industry it was extremely anti-consumer and no provisions were in there to provide any additional oversight of insurance companies it's my recollection sir that after delivering that to the insurance industry which you supported you resigned 24 hours later is that an accurate timeframe?

Altmaier: I don't think the 24 hours is accurate but it was my plan to resign in 2022 no matter what you all decided to do with that legislation.

Cassel: And you mentioned in your testimony here today and I want to just make sure that I quote you so I one moment you mentioned that you when referencing the report you said I think what we said was: "There's a lot of smoke here let me make sure we don't see if there's a fire or not..." what did you do to see if there was a fire?

Altmaier: The common practice with an examination when you're working with the contractor is you have a list of things you'd like them to look at and you send them back out to look at it was my understanding at the time that that's what we've did I've learned subsequently to that that there may have been a misunderstanding somewhere along the way and they caused that to not be happening but my understanding at the time is it that I sent the exam firm back like we would have done on any other exam.

Cassel: And you also mentioned you weren't sure based on that report if we had a few insurance companies that were acting poorly acting badly or if this was a systemic problem

sitting here today does this look do you and or this legislature have any additional information as to whether or not this is an these are related to a few companies or if we actually have a systemic problem here in Florida?

Altmaier: I personally don't all I have access to is this draft seven page summary I no longer even have access to the appendices that would have gone along with this.

Cassel: And sitting here today does the legislature have any additional information as a result of any work that OIR has done to determine whether or not we have an actual systemic problem in the state of Florida?

Altmaier: I don't want to speak to what you may or may not have but I'm not personally aware of anything. Chair Yaeger: Representative Chambliss you recognized.

Chambliss: Thank You Mr. Chair I like to talk real quick about the structure of OIR then I have a second question because earlier I remember in a hearing you know one our complaint process our claims complaint process it goes to financial service but financial services isn't under OIR we've been here and we've been talking and I asked the current OIR chair about having the insolvency reports in one space and not in OIR basically your professional opinion do you think that we should restructure and make sure that everything that is dealing with this space is under OIR and it would be a more streamlined process?

Altmaier: You know rep excuse me a Ranking Member it's a tough one for me to answer in this spot because I can only speak to the fact that what I was serving as the insurance commissioner does relationship to work very very effectively I've been away from that role for a couple years now and I would think would be best if you worked with the current insurance commissioner and the current staff at DFS to see what their thoughts would be on that I wouldn't want to step on any toes but it does look unique on paper many of the business units that you referenced for example agent agency services consumer services they're they're in the same building as the OIR and so there were a lot of days when we felt like it was it was a very seamless opportunity to meet with them and chat with them I'd be a little hesitant to wade into that particular question though as a as a person that's been away from it for a few years.

Chair Yeaeger: Thank you Representative Steele you are recognized.

Steele: Thank you chair I'm sorry I'm sorry representative I'll come back to you I thought you said he was done I apologize right ahead....

Chambliss: Thank you Mr. Chair thank you I appreciate that a professional opinion I'm moving forward because I'm trying to figure it out because I've heard some things and I just need us to go get down to layman's terms because we've been told about you know groundbreaking legislation that address frivolous litigation in that you know it almost seemed like we've been told that that solved the problem but here we've also now been told that there was this alarming data point that had to do with the amount of money that was going to affiliates and

we've also been told that the information about that is inconclusive based on that are we right to assume that the litigation reform that we did potentially is not as effective as we thought or at least at this point that also has to be inconclusive?

Altmaiere: No I would strongly encourage you to not make that assumption as I mentioned a moment ago I believe to representative Hinson I think these two things are they're related in the sense that they both have impacts on the financial condition of the insurance companies and therefore consumers but I do think that they're independent of each other I think you can have a litigation problem in our state and I also think you can simultaneously have a problem here the tort reform we did because we felt like we had a clearly defined case to be made to pursue those reforms we didn't pursue this at the time aside from asking for additional authority because we weren't sure exactly what was happening here I think this represents an opportunity to build on the progress that we made through the special legislative sessions and regular sessions and so I think this certainly ought to be looked at but I don't think it has any bearing on what you've done in the past and I'm sensitive to the fact that there's disagreement on my opinion about that but that is my opinion and I do believe that support about some of the data points we've brought to the legislature and others.

Chair Yaeger: Representative you one more questions make sure it pertains to the report.

Chambliss: Yes, so very quickly would you say that had we had a conclusive report at that time based on this information then we could have had additional legislation at the time suggested that we could have potentially voted on based on the timing and the information that we now have about these alarming data points and monies that are going to affiliates?

Altmaier: Potentially depending on what that final report said if that final report said we've got major problems here and the office needs more authority to address those then yes that could have been a part of that legislative package in fact I think it sounds like the Commissioner is pursuing some of those ideas legislatively this session we may have found out at the time that look there's there's there's a need for the office to enhance its regulatory practices but they can do that within the existing authority that the legislature's already given them we could have concluded that as well.

Chair Yaeger: Thank you representative Steele you're recognized Thank You chair this and I think it's pretty easy question when you were Commissioner you can't answer for now were the rates for these MGA's for the for the homeowners policies were they in line with the national plans?

Altmaier: Thanks for that I wish that were an easy question it might be but I don't know the answer to it I'm not sure that we necessarily compared that on that granular of a basis we would have looked because the rate making process you look specifically at this company and it's lost experiences and its expenses and you you approve the rates based on on that the actuaries did use a database called fast track I think I'm getting that right and that was a database of a lot of experience so that you could try to look to see do I have an outlier here and

lost experience or other things but I don't unfortunately recall if expenses of this nature were part of that fast track database.

Steele: Do you think it'd be wise to start comparing national plans to MGA's to make sure that at least we know that they're not you know charging excessive rates?

Altmaier: I think it could be a useful exercise I'm not certain this is just my opinion as a guy who used to do it I'm not certain I would look in the rate filings I think there may be data on the financial pages of the insurance companies it would probably be more readily accessible on a national level than the rate filings might be I think you're going to find state-to-state limitations on how closely you can look at their rate filings but those financial pages should be pretty readily accessible to at least do an initial review of what that looks like.

Steele: I just...for my own clarification you're as a commissioner you don't think that we should look at the values between companies that are filing for coverage in the state to make sure they're in line with what's reasonable and customary?

Altmaier: So the coverages? Or the expenses paid to affiliates?

Steele: Both.

Altmaier: Okay.

Steele: Because I mean obviously I know if you're covering more you're gonna charge more because there's more risk okay but but but there's a ratio you know that you could probably come up with that would give you an equation that would say this is reasonable and customary for the coverage they're offering.

Chair Yaeger: Representative I'm sorry I'm gonna jump in Representative Steele we're gonna have commissioned the commissioner back up just one minute it might be a better question with with the current commissioner up here make sense...With that I wouldn't give any more questions we'll go ahead and call up commissioner Yaworsky if you'll if you'll come on up Mr. Altmaier you'll stay you want to take a seat we'll just kind of keep both of you up here and finish up on this path with with both you on the panel...

Altmaier: I'm gonna take a seat right there yes sir.

Chair: And Commissioner Yaworsky if you want to take a seat over here if you want to just take a seat and...

Yaworsky: I like to stand...

Chair: Okay it's up to you yeah you've you've spent enough time there you probably earned that this year mr. Steele would you like to continue...

Steele: Oh yea the question there right just you heard the question could you could you

enlighten me do you think it's it's feasible to compare and have a ratio that breaks off pieces or components that may be outside the other plans but at least to make sure they're reasonable and customary charges because it's it kind of goes back to the definition that we don't have in statute and it would make sense to me that we'd have some ratio that that compared plans to make sure that somebody's not excessive Yaworsky: I I think that I think that could be a type of framework that is established it may or may not be the my knee jerk reaction to that is that you have pros and cons with every kind of framework I think it would show a comparator basis but I'd be hesitant to do that on its own because for a couple things the biggest one that comes to mind is the scalability of the various items at play so if you have a huge national entity that is servicing in most or all 50 states premium vault the the scaling of that of the efficiencies that should emerge through scaling of that operation would be quite different than the efficiencies that can be achieved in a state-based domestic that has a couple hundred thousand policies so when you scale you should cheaper more efficient so it could be a baseline comparator but I wouldn't use that as the only as the only one if that makes sense...

Steele: I don't have to wait I keep forgetting that I'm the same as you it doesn't and I the reason why is most most carriers are gonna go state by state with their policy and the risk mitigation that they have is based on the state that they're in not necessarily it might even be by county they're in the rates that their their mindset is because they can they can pick and choose where they want to have home homeowners policies....

Yaworsky: That's right but I think and I may just misunderstand the question then but my understanding is is is your question relates to the cost of certain for the services provided the insurer so that could be everything from IT to admin to claims handling to adjustment costs all those things and so while they're providing different coverages in different states those are essentially fixed costs to the insurer and as you as you scale up in anything you should be able to generate efficiencies in that scaling up so you if you need if you need one IT person as an example you need one IT person to service a hundred employees you may need just one to service a thousand so I think just functionally speaking I'd be cautious about saying that because a national company that is scaled up in providing services to to the insurer is is the same as a smaller operation it still needs that one but it's ultimately providing services for you or or the company maybe another way to look at the company that has exposure across all 50 states and needs in-house adjusters to service that would not be a comparator to a small domestic for a small Florida domestic company servicing a couple hundred thousand policies it's just a wildly different scale so I think it could be an effective comparator I think it would be important to caveat those comparators with that with that with that basis if that makes sense...

Steele: No it does but but on the math side it doesn't because most those national plans are not cheaper than some of these MGOs so it our MGA is sorry so it it doesn't equate. But I'm I'm good thanks.

Chair: Okay thank you represent Crusoe you recognized.

Caruso: Thank You chair this is for Mr. Altmaier Mr. Altmaier did the did this report engagement with our and our consulting begin in 2020?

Altmaier: I so I my recollection of the timeline is that we got the authority to specifically examine these companies in 2021 and so I think it would have been after July 1st of 2021 now we certainly probably were attempting to get information before that but that's that's my recollection of the report says the initial phase was conducted before the insurers 2020 annual statements were required I would imagine the 2020 statements were filed in 21 so this would have been early 21 then so the the timing of it is that we would have received the 2020 annual financial statements I think I did it again the OIR would have received the 2020 annual financial statements on March 1st of 2021 there's an analysis that goes on in-house of those for several months July 1st of 2021 we got the authority to conduct this examination and so I would expect you know on July 2nd for example would have been the earliest we could start the 2020 financial exams would have been the most recently available financial exams.

Caruso: Was the underlying data difficult to acquire from the insurance companies? Altmaier: Not on the insurance company side but I do think we hit some hurdles on the MGA side mostly because we were doing this for the very first time this was new authority for us we had not done an exam this extensive at the office I can't speak for our RC but I'm not aware of anybody else that examines affiliates to this nature to this to this level...

Caruso: Is is the data required to be to be is work is the data required of the insurance companies to be provided to OIR...

Altmaier: The insurance company data is historically the MGA data was not but with this new authority that we received in 2021 we took the position that that gave us the right to look at the same data from the MGA and also other affiliates agreed why'd it take so long to prepare the report the nature of the examination process it just takes a while especially and and if you'll indulge me for just a second there's a couple different types of exams there's the regular full examination that every single company does every five years and then there's target examinations where the the office has a lot more flexibility my recollection is that this was a target exam that we conducted on over 50 companies which is an which is an extensive amount of work that we would have had to do the target exam has the flexibility and that it doesn't have an actual due date and that's that's both a pro and a con the the pro is that the office has the flexibility to spend as much time in there as they need to figure out what's going on and then obviously the con I think we're talking about the con today sometimes that means it just takes a really long time for it to be completed.

Caruso: Okay you indicated that the OIR was funded by a trust fund which was funded by the insurance companies and therefore the cost of this report was was not taxpayer dollars is that correct?

Altmaier: So the only thing that I would clarify is that the funding comes through through fines and fees and other things of that nature so the funded by insurance companies part it's not it's

not as if they pay dues into this or anything like that or that's my understanding it's fines and fees but other aside from that you're you're right....

Caruso: But don't would would you agree that insurance companies pass those fines and fees on to the to the taxpayers of Florida through increased insurance premiums...

Altmaier: So it's possible and I'd have to check I think there are some fees that you have to exclude from your rate base and I just can't remember if those are if those are part of them.

Caruso: So so possibly ultimately the taxpayers did pay for this report in an indirect way?

Altmaier: It's it's possible okay and how much did this report cost I think what I read in the media was a hundred and fifty thousand dollars I assume that's correct although I don't recall.

Caruso: Okay 150,000 did you pay the entire fee?

Altmaier: Presumably we did.

Caruso: Why would we pay an entire fee for a report that wasn't finalized?

Altmaier: I think we had I think we had to pay a lot of that either up front or on a schedule and I think that we thought that the work was was continuing did we try to get money back from R&R not that I'm aware of.

Caruso: Okay so were you alarmed by the numbers reported in the draft?

Altmaier: I think I think that I was yes well I don't think that I was I was concerned by the numbers that were reported and that's why it was important to me to have the work continue on this.

Caruso: And so you were you were you were at the OIR for nine months following the issue of this draft do you think that did you make what attempts did you make to finalize the report?

Altmaier: Well and that's that's an area where I wish I'd done a better job honestly I'll wear that one on the chin the staff to do the work and I think as I mentioned a moment ago we moved on I moved on to focusing on other things and should have probably checked with my staff to make sure things were going...

Caruso: Well I think insurance is the number one issue in our on our citizens minds right now and has been for years did you think this info would have been important to the legislature when we had a special session in 12/2022....

Altmaier: Of course yes it just wasn't unfortunately shareable at that Caruso: Did you try to provide it?

Altmaier: It wasn't in it was not in a state that was shareable it was still a draft we did not have conclusive results to share...

Caruso: So basically you got a report in March of 2022 which was extremely alarming in terms of the numbers and the money's being siphoned off to supposedly being siphoned off to the MGA's and you you it you you you state that you failed to put in the effort you should have to finalize the report do you believe the legislature or the legislation that was passed might have been different had you provided a final executive summary to the legislature?

Altmaier: So I think just with respectfully I think failure is a big word I don't think I would say I failed to brief the staff I think there were probably some things I could have done better but I would I would stop short of saying that it was a failure in that regard if the legislature had looked different excuse me if the legislation had looked different if we had have gotten this done it would have just had extra sections it would not have had reduced sections that we passed as I mentioned a moment ago I think we would have continued to do the legislation that was passed by the legislature it's possible although I don't know for certain that we would have added anything to it as a result of this work.... Caruso: So are you claiming personal responsibility for some of the insurance issues we're having today?

Altmaier: No sir no.

Chair: You need to bring it to a close Rep...I give you one more Caruso: one more...Then I'll address the question to the Commissioner Commissioner would you agree that going forward that we need to we need to provide the legislature with reports similar to this on an ongoing basis maybe annually?

Yaworsky: I think I think as first of all chair I think you were correct I should have sat I just seem to go on forever but the the yeah we are we are completely a couple of things I would say during the course of this around that question I think as some of you experienced on this committee members are entitled to trade secret and confidential information and we've provided that as this to come along I have probably spoken in front of five or six committees several times a session and I've tried to make that point clear every single time we are trying to be an open book when it comes to this and you have this type of thing you have thank you very much thank you the the other thing I would say is we're happy to assemble this report on an annual basis or something like probably a product like it that is a good representation what's going on I still want to clear point out that we do not think this is a good product or a clear product that raises far more questions and answers that we're answering today the need to be fully vetted out over over over the course of a year in a standardized fashion.

Caruso: agreed and I appreciate you bringing it forward... absolutely absolutely and but yes we're happy to if to work on legislation with you or at your direction on what such reporting mechanism would look like. Caruso: Thank you I yield back.

Chair: Thank you rep and as we all know this is the number one issue in Florida we all talk about it so with that vice chair to sell has moved that we extend another 30 minutes to keep this conversation going in that motion without objection is approved we'll keep going hope to use all of it but we have 30 more minutes to go here so with that representative Woodson you are

recognized.

Woodson: Thank You mr. chair mr. secretary both of you I guess I believe it's Mr. Altmaier who mentioned that there's a group of people who can deem this report final who is the group of people and can I have some specifics?

Altmaier: So I think since I started that I'll try to finish it I don't think there's a specific group of people but there's a there's a process that exam reports go through a review process and I think it gets signed off on by a time anyway like an exam manager and then it typically goes to a senior level official in the solvency business unit and then I think once the director of that business unit signs off on it I think it may go to the deputy commissioner or at least it did at that time and then I think it stops there and that's that's when it's finalized and again this is after the report has gone out to the examined entity. and they've had a chance to review it and go through their due process on an exam...

Yaworsky: I think that's mostly accurate and I'm just saying mostly because it can be there's a lot of back and forth at kind of the what we call the exam silo and this was not in that exam silo it was handled at a kind of a middle tier level so what you didn't have it doesn't appear like you had an examiner working on it directly it was just because it was a special one-off project.

Woodson: Okay all right you mentioned earlier that the fee I'm back to the fee you have nothing to do with the fee right is that correct? The fee that is determined that is outlined in the contract of the affiliates?

Yaworsky: I think that's I think that's circling the main the main issue is that we have there's there's statutory requirements around determining whether the fee is or approving the fee based on fair and reasonableness and so we do have we do have some degree of oversight over that it's really just a matter of of what is fair and reasonable to to me something is fair and reasonable I actually had a conversation with it was someone earlier this week I was describing a contract that we terminated in the last two years and the reasons for it for why I thought it was not fair and reasonable and the other person said well that seems actually very reasonable and fair to me and so that's that's some of the challenge that they can emerge in in this space and why we're we've sought and continue to seek the challenges that the the changes that we're looking at in this space.

Woodson: And I'm asking for specific reasons because if you don't it goes legislature or I are right insurance and affiliate so if we giving a certain amount of money large amount of money to the insurance industry you should have the authority to determine those fees as well to work with them that was the question...

Yaworsky: Yes Woodson: That's the reason for my question and if not we need to make sure that you have that authority...

Yaworsky: Yes ma'am I would agree.

Woodson: Okay another question that I have mr. chair if I may my first obligation is to the homeowners to the residents in light of what we hearing today what do we say to the homeowners about the rights and options especially those who may be facing foreclosure due to the inability to afford insurance what do we say to them because I'm pretty sure this question is gonna come up when we go back to our districts so what do we say to them?

Yaworsky: I you know I'll tell you what I would tell people and maybe that's helpful and what I do tell people I meet with even though consumer services is not something I deal with I meet with consumers many times I get calls constantly I engage with them regularly I've stood by a number of you during the course of the past two years to like meet with your constituents directly in town halls and other things and talk about this important issue on this particular thing I would I would say a couple of things the first one is the the contracts that are in place require actual services and work that needs to be done by somebody for the insurance product for insurance to work so we don't have any evidence that there was fraud taking place in in these contracts to where the work was not being done doesn't mean it's not possible OIR does not have law enforcement capabilities unlike 41 states but to kind of look at that in a more detailed manner but it is a it is a situation where the service had to be done by someone so then you get into the question of was the cost being charged by the affiliate or MGA it's beyond a fair and reasonable standard of what that service should have cost to be done but either way it either would have had to do it internally they would have had to do inside the insurer they would have done it externally through a company that was not affiliated in any way or they would have had to use an affiliate to provide that service so there's some inherent cost and what was being provided to the insurer and so I think that that and that's part of the difficulty with all of this but more broadly speaking the situation within our marketplace right now is improving it is a difficult space for us to be in but it is generally improving across the board I mentioned a couple of times in a couple of hearings ago that I approved last year over 70 either rate decreases or zero percent increases the situation because directly of the tort reform and the other accounting tort reforms and other measures that took place and that is demonstrable in fact in fact in the citizens rate reduction that we just that I just applied the first time since 2000 I think 13 we were able to reduce rates with citizens in the tri-county area the direct correlation of what why that was possible is because citizens went to a in Miami-Dade County alone went from a place where at the at their peak of the crisis nearly 60% of their claims were litigated today it's about 15% so there is a tremendous in the reality of litigation is that the people in that risk pool pay 50% of litigation of the cost of litigation automatically

Chair: because it's just a on the report anything....

Yaworsky: Well I'm just I guess this is what I would tell them is that the situation is generally getting better and will improve over time and is as long as we stay in...

Chair: One more quick one

Woodson: Thank you mr. chair once the repo and I'm gonna make it real quick once the report

is final do you have a plan in place not only to address us as a legislature on what needs to be done and also how do you communicate to the homeowners to the resident of Florida do you have that in place?

Yaworsky: So thank you thank for the question the the legislation that we have presently that is in in our in our agency package it does a lot of things in this space it does define out more clearly kind of the tools and metrics we can use for and I want to be clear you guys may come you guys ultimately make the rules you may decide a better one this is kind of what we put forward as a starting negotiation in this latest effort to increase accountability I would also say that in that legislative package the language is circulated last year didn't make a bill but in that legislative package it describes an entire comprehensive consumer oriented website around what is going on with people's rates explaining rates and rate-making you know how all that works and requiring insurers to provide information about their affiliate arrangements and this is I want to be clear this is not some new thing that is responsive to this latest thing this is something that the office proposed last year and then we have a record of it to various parties around around this idea so we are fully on board with providing consumers in this incredibly difficult marketplace an understanding of where their money goes.

Chair: Thank you Rep Woodson. Representative Jasques you're recognized Jasques: Thank you mr. chair commissioner you both you and mr. Altmaier mentioned that the cost of reinsurance was one of the primary concerns and primary factors as to why insurance premiums are going up can you talk to us about in your current role do you often meet with and hear from reinsurers what are they telling you about Florida's insurance market in the last few weeks...

Yaworsky: So I think I think generally speaking there there was a there was very clear optimism in the space of reinsurers there's definitely an increased anxiety around the political situation in Tallahassee and so they are they're reporting back to me feedback along those lines but the outlook for this year was for a either another steady state cost of reinsurance comparative to increases of up to 50% in prior years either a steady state or another decrease in the cost of reinsurance for our consumers it's ultimately paid for by our consumers.

Jasques: Thank you and going back to the report and your response to representative Hinson a little while ago you mentioned that some of the recommendations and the report have organically occurred and you talked to us about that and I'm aware and towards the back of the report there are some specific recommendations made for MGA reform have those been enacted?

Yaworsky: I think I think the things that the office can do in those reports we've we've largely done in those recommendations we've largely done those the the items that would require a more statutory approach are things that we pursued in one Avenue or another but holistically I think going back to even before in my recollection going back to even before our the vendor was hired to do this work this was this was really part of an umbrella initiative that Commissioner Altmaier started on a on a and I think it was described earlier about even the

comparator idea was to was to gather all this up in one place for primarily certainly probably elements of it are would ultimately be a public record but the initiative behind it was as a training and development tool for for these for the staff to be able to have a comparator to what their company was doing versus what that they were analyzing was doing versus what other companies were doing and to have that as a as a tool that can be used to help them understand one of the biggest things we emphasize today because of the complexity and because we've asked for additional rate over the years is these holding companies are massive entities and there's transactions taking place all the time that may be related to the insurer it may not be in and salary need for example is because that's not the work that someone making \$40,000 a year can do anymore it's a much more complicated landscape than it was two decades ago or even a decade ago and so as we've kind of revamped that program over the years it's it's just kind of I don't I just don't want to what I'm trying to do is avoid imputing that a draft report was kept draft but we took the recommendations out of the report and directly did it it seems more organic than in that the office just generally moved in the direction of improving accountability and its processes to accommodate the reality of a modern insurance marketplace we're holding company in group capital and other activities have become more and more relevant to ultimately protecting the consumer and the rate that they're paying if that makes sense.

Jasques: Sort of so are you saying that you didn't specifically enact the reforms because of the recommendations in the draft report that they just they just would have happened organically otherwise?

Yaworsky: I think generally yeah I think it's generally yes they're they're common-sense recommendations I we wouldn't take a draft report and then take that as the gospel truth of what needed to be done but there were a lot of conversations I think it's demonstrable throughout the record of what we've done internally and externally the some of the stuff that's been highlighted by members today there are letters that we sent to the legislature calling for additional authority there are other items that we've asked for there's things we're asking for now that is kind of continuing that march down to make sure that that people are paying the right price for their insurance product.

Chair: thank you thank you represent chant or ranking member Chambliss you recognized.

Chambliss: Thank You Mr. Chair real quick just looking at the report I see that the support is addressed to the and it's for you a chair to the director of property and casual financial oversight what department is that is that a roll-in?

Yaworsky: That's within the Office of Insurance regulation it's not for sure but when it came to the insolvency reports are analyzing insolvency financial services does that is that correct?

Yaworsky: Yes it is it's confusing and I mentioned it to our to our former um OIR that so many things that are important to kind of how you manage and oversee things in OIR they're in financial services and so he deferred the question I like to bring the question up to you should

some of these activities be under OIR instead of in financial services or what that at minimum help to streamline the process?

Yaworsky: I think in the era of seeking efficiencies it certainly would it's a unique system that Florida has probably has its advantages and its cons but but overall I think I think you know that's what I could describe it as people and even a lot of legislators on a regular basis don't don't fully understand what the distinction in the two roles it's complicated it's confusing and so yeah I do see I do see streamlining opportunities there but there's also I'm sure good reasons that came about 20 years ago why they kept it why they moved it in this direction as well but the you know I my job as regulator I view as understanding the complete picture and we need to be able to do that regardless of how the machinations of intricacies of the state government act.

Chair: Thank you Representative. You are recognized.

Valdes: Thank you very much Mr. chair and you know I'm hearing conflicting testimonies between whether the complete the report was complete or not whether it's a draft form or not that's but my question is does the OIR have a definition of the core function of an insurance company and why so much functions are farmed out to the MGA's as opposed to being part of the rate.

Yaworsky: I guess to separate the questions out a little bit the the the first question I'm sorry if there's been conflicting testimony this document is marked draft it was considered draft it was not a completed it was not a completed process that we found emails that show as much that it was not complete and it is draft and in reading it myself it would not be at least what I've asked Commissioner today it would not be in an acceptable format to be considered complete....

Yaworsky: Maybe my frustration with that is that we've heard that the consulting firm gave a completed product yet we still have it in draft form and when asked earlier if it was if the study was completed it was yes but it's still in draft form so...

Yaworsky: Sure

Valdes: It's frustrating to me especially after we've paid whoever whether it came from a trust fund or whatever companies have gotten paid to do a job and it's still incomplete three years later so that's my frustration of just hearing the different you know testimony of whether or not if a product is complete is complete and the draft form shouldn't have been kept draft for so many years but my question the real question I was just sharing a frustration sure there but the question is really about the core function of an insurance company and then why so many of its functions are being farmed out to an MGA as opposed to being part of the base rate so it the base rate.

Yaworsky: By base rate what do you mean exactly?

Valdes: In its formula of coming up with the fair and reasonable rate.

Yaworsky: I think I think what you're getting at is is either way regardless of how that service was being performed the effectuation of the service or product being needed it would be a part of the rate the the cost of the good being provided in this case insurance and so it would be I think the answer to why that is allowed I would first say that the law allows it and it's provided a capital incentive not only in Florida but across the country indeed the world or to balance out the uncertainty of risk of insurance and I think what we're talking about here today is ensuring that that we're allowing for some sort of framework for that capital to be for that investment to be available but ensuring that the proper safeguards are in place so that the rate the consumer is paying is is is the accurate one if that makes sense and I'm trying I think that was your question I'm happy to continue to follow up...

Chair: Thank you for now Vice Chair Cassel you recognized.

Cassel: Thank You mr. chair I actually have some follow-up questions as it pertains to that you know obviously so many of what seemed to be core functions of an insurance company right an insurance company gets formed they're there to underwrite they know they're gonna have claims many of those functions seem to be core functions of what an insurance company does and and quite frankly should be done internally but because of the setup we have in Florida with with primarily our domestic marketplace we have these managing general agents and these affiliates that handle all of these services so is there any comparison that if they were to have kept these services internally what that costs would have been versus the outsourcing of that cost and are we able to determine whether or not the comparison of that cost would have been less had they kept it internally versus versus outsourcing it and how that might impact rates and for policyholders?

Yaworsky: So I think the it would depend on the individual situation the law does not require us to ensure again it's back to that fair and reasonable doctrine of affiliated arrangements the law does not require OIR to or the company to present us with maximized efficiency business models it has to be fair and reasonable I can imagine on both sides of it I can imagine scenarios where again because of that scaling that we talked about earlier that in a group where there are multiple insurers using the same MGA that you would find you would be able to identify efficiencies that exist there that would reduce the cost of those services overall for both of those insurers or three or more insurers it really depend entirely on the circumstances of the scenario to determine whether it was it would also you know it could also potentially be cheaper for a if there was that if the business made the decision to outsource those products to the either an affiliated versus an unaffiliated entity that because it's affiliated and there's some natural just bonds of communication that happened because of that under that group that it would be cheaper than and have it hiring a completely outside MGA one which does happen there's a number of these MGA's that are with it I think I mentioned this at the beginning another number of these MGA's that are internal within a holding company structure that have a relationship with an affiliate with a affiliated insurer are also engaged in the process of doing providing services to other insurers for particular things that are outside the group so it's that's part of the net income problem we had that we discussed earlier with the report overall it's not

not capturing that.

Cassel: And are there any limits on the kinds of services that MGA's can offer is that contemplated in Florida law and if not is that any recommendation or do you have any recommendations as to placing limits on the amount of services or the fee and the amount of services that we allow an insurance company whose core basic principles are to do certain things to outsource to MGA's or to affiliates?

Yaworsky: Rep I think sure excuse me I think I think you're you're I think you would have to conduct a detailed review of the ultimate what I would recommend is you conduct a detailed review of whether or not limitations on what the MGA does versus in-house or externally actually results in any savings to the consumer I think that's what we're all focused on we wanted a very efficient insurance system that is not wasteful you know because perverse incentives are real and that's the MGA concern at its core and the affiliate concern as core and I think you know in a scenario the higher premiums are better if it's a mission-based service to the MGA so a in a natural state a explosion of litigation is a benefit to the MGA just a explosion and water cut loss catastrophes can be a benefit and profit to the MGA and so you've got to make sure....

Chair: Stick to the question...

Yaworsky: Yeah I just I just want to emphasize that those are the perverse incentives that we need to make be on the lookout throughout this process.

Chair: Thank you Representative Hart you recognized.

Hart: Thank you you mr. chair Commissioner I just had one question and that is you talked about the fact that many of the insurance companies would not provide the information in a timely manner in order for us to complete this report does do you have as or do you all have the power to compel these companies to provide you with this information in a timely manner so that you can complete this report so we can get it so we can deal with this insurance crisis.

Yaworsky: That's a great question now we do when this project started in in 2020 we did not and that's why the letters initially went out they were requests for information and I think I said approximately 23% of companies different not respond that initial initial thing we actually got letters back saying you have no authority in this space here's a statutory citing now we feel like we do and and now as and what I emphasize around this is that now that that is really baked into our everyday process when we're conducting examinations of insurers or just looking into the books whatever reason we're very clearly asking questions about those affiliated arrangements and things like that I do think there's improvements I think you know there there's other things that we could look at that we don't necessarily automatically have access to like audited financials and other things that might be worthwhile in a regulatory role for us to have and I'd love to have those discussions but generally speaking our authority to to compile this would be a lot better today than it was several years ago....

Chair: Thank you...sorry for time I cannot sure we can we can we are the legislature absolutely...Representative Anderson you recognized.

Anderson: Thank You Mr. chair I never brought up a little bit of the relationship with the fees between the insurers MGA's it was reported there's over 200 million dollars of fees that were waived can you tell us about the significance of that what justification was used by the carriers to waive these fees something that can be used to manipulate the financial reporting financial records what impact does that have?

Yaworsky: I wouldn't say it manipulates it adversely if they're waiving fees it's because the insurer is in some sort of it likely is in some sort of impaired state and so when you look at just that report when we looked at it waiver is one of a couple of mechanisms that the ultimate parent can the ultimate controlling person via the the affiliated entity can bypass the requirement the money going out of the insurer in the form of a fee to stay in the insurer to keep it financially solvent you have that option and then you have an option where the insurer can can ultimately track sorry can ultimately return capital that was arranged or any capital but but certainly some capital those arranged in that fee arrangement back infuse it back in the insurer and I think if I remember correctly with the analysis we've done in the past couple days I think the without those infusions and without those capital without that capital returning or that forgiveness I think the losses that the insurers themselves incurred for those years would have been 1.2 billion in losses versus 500 I think 555 million so that definitely took place and it was meant to shore up the insurer not to not to pull capital away from the insurer.

Anderson: So so when we see fee waivers it's accurate to assume that's negative a negative financial outlook on the carrier...

Yaworsky: Yes it would indicate the carrier is an impaired or insolvent state or nearing it

Anderson: So at the same time there were 19 the arrangements that were deemed unfair unreasonable what does that mean?

Yaworsky: So I think that that goes back to the earlier discussion we had we had a particular of making sure that this definition is correct we had what seems like a person's determination of what fair and reasonable was based on cited sources perhaps maybe not and I don't I'm not even entirely sure where that came from upon looking at the record back then if that was some sort of internal or external vendor vendor analysis it certainly wasn't a determination made at a leadership level of what that looked like but ultimately that goes back to I think what we're all talking about here is ensuring that fair and reasonable is something that is fair and reasonable and it's kind of like that circuit circuit circuitous discussion of what can take place there we want efficient systems where if you presumably if the legislature allows this process to continue because of the gains of capital opportunities outweigh the potential costs there needs to be make sure we need to make sure we continue to build a robust system of accountability around it.

Anderson: Thank You Chair Yaeger: Representative Miller do you have a question? Okay Representative Hinson for the final question.

Hinson: Just one? I got a couple.

Chair: About two minutes thank you two minutes.

Hinson: Gentlemen I'm gonna say a lot with one question Floridians are experiencing the highest rates in history some of them are foregoing insurance losing their homes and worse their premiums have doubled quadrupled can you give me your perspective both of you on why you think tort reform and reinsurance bailouts were effective and what is your next move? Yaworsky: I would I would say I would say they have been effective at stabilizing this market the S&P two weeks ago two or three weeks ago released a statement showing the rate comparators of increases in Florida versus all other states in the Union Florida had the lowest average increase in 2024 of 1% that is a tremendous change from where we were where we probably would have been the very top of the pack 2021 2022 especially as for the highest increases that are experienced across the land that data tracks very closely with our own internal analysis of what what our rate increases are which average about 0.8 percent across across the state we're seeing a direct corollary with a decrease in both litigation percentages of about 30% decrease so far and we're seeing data that indicates that non cat claims frequency and that is that is claims that take place in the property market outside of a of a hurricane or other major event so your day-to-day claims have decreased about 11% system wide upwards of 50% among carriers and and I would say that we've done measures at the same time to ensure insurer accountability you guys gave me 29 new employees for market conduct we put them to work in the field we're conducting more market conduct investigations than we ever have we returned eight million dollars last year to ensure to consumers where they were wrongly charged for things that they should not have been charged or they were overcharged and we're getting to a point where we're as that system is building up with a new deputy commissioner those resources my intention is to hold this marketplace encourages to grow in a responsible way encourage new capital to come in by being fair by being fair and reasonable but ultimately also holding insurers accountable while they're when they're misbehaving and that's that's that's my job and I take it very seriously but we are seeing improvement within this marketplace I would I'm hopeful that that will continue.

Hinson: and we get any of the money back from perhaps the affiliates or the reinsurance can we get....

Yaworsky: So in a in a clawback situation where a where an insurer has gone insolvent the Department of Financial Services would engage in a process where they were in a receivership process where it's akin to a bankruptcy where if there was improper behavior alleged or found during that process the insurer would the the corpus of the estate would be responsible for returning that along with a classification system of of creditors that exist if that if that makes sense.

Hinson: There's no I'm just it's a lot of money there's no other way for us to get this money back....

Chair...well to give us conversation okay...

Hinson: Let me hear can I hear from the other gentleman...

Chair Yaeger: We don't have time I apologize you can do we could have followed later but I just want to say that I know we have lots of questions we could probably sit here all day and keep going we know this is a very important issue so we did extend an hour and we did 50% additional time so I know that's that's wearing on everybody and I appreciate we could keep going for hours so I know some people didn't get questions we try to spread it around I do want to say thank you to our two witnesses for coming today and spending time taking time to spend the additional hour with us we appreciate that again this is very important issue to Floridians I think it's a very important issue across the country with that I want to thank our delegation and and chairman her customer and your delegation are coming down South Carolina it was great to see you great to meet you and we appreciate you being here with that this will close members I just want to say thank you for the robust discussion it was very obvious that you all did your homework you dug into this you had the issues at hand and you asked great questions and we appreciate that greatly. With that this hearing is adjourned