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Hearing in the matter of the filing dated January 3, 2024, by the North Carolina Rate Bureau for Revised Homeowners Insurance Rates, at the North Carolina Department of Insurance, 3200 Beechleaf Court, Raleigh, North Carolina, continued after the lunch recess on the 23rd day of October, 2024, at 2:05 a.m., before Audra Smith, RPR, CRR, FCRR and Notary Public

I N D E X

PAGE

PAUL ERI CKSEN

Confidential 1003

Cross-Examination (Continued) by Mr. Friedman 1030

Resumed non-confidential Cross-Examination 1030

1 P R O C E E D I N G S

2 MS. FUNDERBURK: Counsel, welcome back.
3 We're returning from the lunch recess at
4 2:05 p.m.

5 Are you prepared to proceed? Do we
6 need to address any administrative matters
7 before we resume?

8 MR. FRIEDMAN: Not from my end, Your
9 Honor. We're ready to proceed.

10 MS. FUNDERBURK: I will remind everyone
11 that we continue to be in confidential
12 session. I note that we do not have anyone
13 additional on DOI's side.

14 Mr. Spivey?

15 MR. SPIVEY: We're good on our side,
16 Your Honor.

17 MS. FUNDERBURK: Good on your side.
18 Still have the same folks in the room with
19 the same admonitions?

20 MR. SPIVEY: We do.

21 MS. FUNDERBURK: We continue to be in
22 confidential session.

23 Mr. Spivey -- oh, I'm sorry,
24 Mr. Friedman, you let us know, we can include
25 the sections you have concerns about the

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confidentiality.

MR. FRIEDMAN: Absolutely.

MS. FUNDERBURK: Mr. Erickson, you do
continue to be under oath. Thank you.

Please proceed.

(Confidential portion continues from
the VOLUME VI A.M. session and proceeds
on following pages:)

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1 EXAMINATION

2 BY MR. FRIEDMAN:

3 Q Mr. Ericksen, next I'm going to be
4 asking some questions about your past work. I think
5 the basic details are in -- well, some of the
6 details would be in your résumé, if you need to see
7 that, but I honestly think the questions are
8 probably things you remember about your résumé.

9 Do you want me to direct you to your
10 résumé?

11 A I have already 6 in front of me.

12 Q So I see that you worked in the
13 financial analysis division of ISO for five years.
14 What did that division do and what did you do in it?

15 A That division was sort of a unique area
16 within ISO. Much of that work involved analyzing
17 financial statement-type information, statutory
18 financial statement-type information reported by
19 insurers and producing various types of --

20 (Reporter requested clarification.)

21 A We would have produced various industry
22 studies based upon that information.

23 Q And what topics would those studies
24 address?

25 A There were a number of different

1 reports and studies and products that were sold off
2 of that information. Typically, looking at loss
3 ratio experience, different special studies and
4 different lines of businesses, and generally more of
5 an industry financial type of a review.

6 Q Do they address profitability?

7 A I don't recall that being like a
8 headline topic for any of the studies. There could
9 have been underwriting results, loss ratio
10 experience that would be related to -- that could
11 correlate with profitability.

12 Q Would that have included, that work,
13 reporting on the cost of the -- the net cost of
14 reinsurance?

15 A I'm trying to recall. My recollection
16 is -- it was a long time ago in my career, but my
17 recollection is we would have looked at performance,
18 financial performance, both on a direct basis before
19 reinsurance and on a net basis after reinsurance.
20 But in my capacity of that role, we were not looking
21 at -- or deriving cost of -- net cost of
22 reinsurance, which is more of a -- typically more of
23 a ratemaking-type concept.

24 So I don't think I really did much of
25 that analysis until I transferred into the

1 consulting area.

2 Q Okay. So going to the actuarial
3 consulting unit. I believe you've been there since
4 1999?

5 A Yes.

6 Q Okay. And what is that unit
7 responsible for?

8 A So that unit is responsible for doing
9 customized analyses for individual customers. You
10 know, you can think of a lot of what ISO Verisk
11 provides is its products the companies will license.
12 Our unit is more geared towards delivering
13 customized work for individual customers. So not a
14 product but more of a consulting service to
15 individual customers.

16 Q So does your unit work on filings for
17 individual homeowners' carriers in other states?

18 A We have.

19 Q And exactly what parts of the filing
20 does your unit work on? Which is to say which
21 factors of the rate?

22 A For a standalone, individual insurance
23 company, it would -- it could entail -- it could
24 entail all aspects of a rate filing.

25 Q So that would include the profit trend?

1 A I'm sorry?

2 Q "Profit trend."

3 A "Profit trend"?

4 Q Or that would include calculating
5 profit?

6 A I would say including a provision for
7 underwriting profit would be a component of the rate
8 analysis.

9 Q Okay. So who engages in that? Do you
10 personally?

11 A I have.

12 Q Does your unit engage in the
13 calculation of the net cost of reinsurance?

14 A For --

15 Q For individual carriers elsewhere.

16 A For clients that we worked on, yes, we
17 have calculated that.

18 Q And have you personally?

19 A Yes, I have.

20 Q When did you first start working on
21 bureau matters?

22 A My recollection, that I personally got
23 involved was in 2019, I believe.

24 Q Now, when you say "involved," do you
25 mean when you began actually producing your own

1 prefiled testimony or working with others who -- at
2 ISO who represent the bureau?

3 A So ISO has provided actuarial services
4 to the bureau for many years that predate my role.
5 My recollection -- let me take a step back.

6 The work that we have done for the
7 North Carolina Rate Bureau, I would say, is very
8 consultant in nature. The interesting thing was,
9 until maybe 2019-ish, it was done by other areas,
10 and it wasn't done within the consulting unit that
11 I've been involved -- that I'm in.

12 My recollection was -- and I might have
13 a year off or so. But my recollection was around
14 2019, the actuary that had filed prehearing --
15 prefiled testimony had left ISO for another job.
16 And my recollection was I had stepped in to be a
17 potential witness to replace that actuary. So that
18 was -- my recollection is that was my first actual
19 personal role.

20 Q Just to clarify, did you say that prior
21 to -- at some point you said the carriers were doing
22 more of a consulting role than ISO, or I may have
23 misheard you.

24 A Oh. No. What I was saying is, the
25 work that we do for the -- that work that ISO does

1 for the North Carolina Rate Bureau is very
2 consulting in nature. But for the past -- I'm going
3 to get it wrong -- 20, 30 years, however long ISO's
4 provided services, it's always been done in various
5 product areas, areas that are experts in homeowners
6 or personal auto or whatever the line is, and it has
7 not been the responsibility of the separate
8 consulting team.

9 Q I see. In 2018 or thereabouts that was
10 the first time you were introduced to the bureau,
11 for lack of a better term?

12 A I was aware -- I am very friendly with
13 Rob Curry, who had testified.

14 So I -- and I think he had -- when he
15 had testified, he asked for my advice and opinions
16 on matters. So there were things that I was aware
17 of but on a tangential nature. So I think it was in
18 that 2019 period was the first time that I was more
19 of an active participant.

20 Q And Rob Curry is the gentleman who
21 retired?

22 A No, he still works at ISO.

23 Q Who is the person you said retired and
24 then you got the work?

25 A Oh, that was -- I forget her name. She

1 was a -- I think she sort of would have been
2 replacing Rob Curry in his role --

3 Q Okay.

4 A -- on this particular project at that
5 time.

6 Q Prior to 2018, what things do you
7 recall Mr. Curry consulting you about with regard to
8 bureau?

9 A Oh, I don't even recall. I do recall
10 when he was testifying, there might have been some
11 issues he had asked me my thoughts on. I don't
12 recall.

13 Q After you began -- well, let's back up
14 a second.

15 Were you working with Dr. Appel in any
16 capacity prior to 2018?

17 A There have been a few projects that I
18 have worked with him on.

19 Q Okay. How far back?

20 A The first time -- and he probably
21 doesn't even remember. When I worked for one year
22 at Milliman in 1993, he was a famous -- a famous
23 economist there at that time. I was very low level.
24 So I knew of him. He probably doesn't know me.

25 But in -- my recollection is there's

1 been at least -- at least two projects -- no, three
2 projects that I can recall, maybe dating back to
3 2007-ish was the first time I think I worked with
4 him that I can recall.

5 Q Prior to assuming your work with the
6 bureau in 2018, did you ever discuss anything
7 related to the bureau?

8 A Prior to 2018, no, I don't think so.

9 Q Following 2018, did you?

10 A I'm trying to remember where we
11 overlapped in the potential hearing for 2020. My
12 recollection is I would have, but I don't recall the
13 details.

14 Q Okay. It's your understanding that his
15 role was limited to -- is it your understanding that
16 his role for the bureau was limited to issues of
17 profit and the cost of the net?

18 A That's my general understanding, yes.

19 Q Is it fair to say that's what you-all
20 would have discussed since that --

21 A I honestly do not recall specifics of
22 what we might have discussed. But, no, it could --
23 if it was in regard to the rate hearing -- potential
24 rate hearing from four years ago, it could have
25 extended beyond those topics.

1 Q But you don't -- you don't recall
2 whether it specifically dealt at all with the
3 calculation of profit provision or the net cost?

4 A Definitely the profit provision, no. I
5 don't think I contributed in any way to the work
6 that he did on that. No, I don't think I
7 contributed in any way to the work that he did on
8 this matter.

9 Q But you do evaluate in your prefiled
10 testimony the work that Dr. Zanjani did in this
11 matter; is that correct?

12 A I'm sorry. Can you repeat?

13 Q In your prefiled testimony, you do
14 evaluate the work that Dr. Zanjani did in this
15 filing; is that correct?

16 A "Evaluate" might be a little bit of a
17 strong word, but I certainly refer to his testimony
18 and I acknowledge his work.

19 Q Okay. Did you rely on his work in
20 forming your own testimony?

21 A I have relied upon his work for
22 components that were used in the rate analysis, yes.

23 Q Okay. Did you -- with regard
24 specifically to the profit provision, did you
25 conduct any analysis of that on your own or simply

1 incorporate what his -- I'm trying to remember what
2 he phrased it as -- what his production was?

3 A For this exercise, I don't believe I
4 did any independent calculations. I was present at
5 the various committee meetings that he presented the
6 results, and I was part of that process.

7 In my own general experience of
8 review -- preparing and reviewing rate filings, I
9 have seen a range of underwriting profit provisions,
10 and I assessed the reasonability of the final answer
11 in connection with what I'm used to seeing, and I
12 felt comfortable. But I have not performed any
13 specific analysis on this topic.

14 Q Okay. For individual carriers, other
15 people within your -- when ISO is representing an
16 individual carrier in another state with regard to a
17 filing, as you said they can -- you-all can do
18 conceivably everything for the filing. Have people
19 on your team done the profit provision?

20 A Let me be careful on how I answer this
21 because I don't want to overexaggerate what we do on
22 this topic.

23 We have included underwriting profit
24 provisions in the rate filings we've done.
25 Sometimes provisions are simply selected by the

1 client, and we'll put together some supporting
2 documentation for that. I would -- I would not
3 characterize the profit analysis that we would have
4 put together for purposes -- for the limited scope
5 of how we're using it -- as particularly complicated
6 economic models by any means. So I would say it's a
7 more simplistic approach.

8 Oftentimes -- occasionally, the
9 analysis could be as simple as doing some form of a
10 competitive review of what other companies are
11 including as profit provisions rather than, you
12 know, deriving the theoretically appropriate profit
13 provision for a customer to use.

14 Q Whether on a detailed level or in a
15 very general way, have members of your team
16 calculated the profit provision for clients that
17 you've worked with?

18 A We have.

19 Q And you've reviewed those calculations?

20 A Yes.

21 Q But you didn't do them yourself?

22 A I have done some myself.

23 Q Dr. Vander Weide, have you ever spoken
24 with him about the -- your work for the Rate Bureau?

25 A I don't recall personally speaking with

1 him, and that would have been in a prior filing. My
2 recollection, I probably sat in on some committee
3 meetings. But, no, I don't think I personally
4 communicated with him.

5 Q Okay.

6 A Maybe people on my team, or on the ISO
7 team had, but I haven't.

8 Q When was the last time you were aware
9 that Dr. Vander Weide was still working for the Rate
10 Bureau or participating in its meetings?

11 A I don't have that information. I don't
12 recall -- I remember seeing the name. Certainly
13 not -- I don't recall at all as part of this filing
14 that I'm aware of. But I'm not aware.

15 Q Is there any -- it could have been any
16 time between 2018 and now?

17 A Like I said, I didn't personally
18 communicate with him. I know I've seen his name. I
19 guess it's been more pressing things on my mind in
20 recent years that I recall -- that I don't recall
21 that detail.

22 Q Did he make presentations at the
23 meetings?

24 A I just don't recall.

25 Q Okay. Have you worked with

1 Mr. Anderson, who testified in the first week, from
2 Milliman, on Rate Bureau filings?

3 A Yes, I have worked with him as part of
4 Rate Bureau work.

5 Q And have you worked with him with
6 regard to ISO's work or his calculation of -- well,
7 I take that back.

8 Did you ever work with him with regard
9 to his calculation of the CAR or the contingency,
10 including -- I guess I should say when Aon -- strike
11 that -- before Aon started working on the CAR?

12 A I don't think I worked on that
13 component with him. You know, he would have -- that
14 work was done by him or by Dr. Appel before him. I
15 would have been present at the committee meetings
16 where they described the results and his analysis,
17 and I know I've reviewed that.

18 It's possible I provided some comments
19 at some point. But I would say generally minimal on
20 that topic.

21 Q In this filing, did you discuss the
22 contingency provision that Mr. Anderson developed
23 with him?

24 A I'm sorry. Could you repeat?

25 Q The contingency provision that he

1 developed, did you discuss that with him for this
2 filing?

3 A It would have been something that I'm
4 sure we did discuss at some point. Maybe not while
5 he was performing the analysis, but certainly after
6 he concluded his analysis. I know I reviewed it and
7 I'm sure it's been something that we had discussed
8 at some point along the line.

9 Q I'll direct you to page 13 of your
10 prefiled testimony.

11 Are you there?

12 A I'm there, yes.

13 Q So do you see where on that page you
14 state that: "Every year the bureau sends a call to
15 its members for expense-related data"?

16 A Can you just point me to where?

17 Q Sure.

18 MR. SPIVEY: Is that right at the
19 bottom of the page?

20 MR. FRIEDMAN: Yes. It's exactly the
21 bottom of the page.

22 THE WITNESS: Yeah, I'm there.

23 BY MR. FRIEDMAN:

24 Q Okay. Have you ever helped in drafting
25 that data call?

1 A No. I've not been part of that.

2 Q Are you aware of whether that data call
3 is created by the bureau?

4 A That's my understanding.

5 Q Have you seen it go out any more than
6 once a year?

7 A I'm not aware of seeing the results
8 more than once a year.

9 Q But as to requests, you don't know?

10 A I don't think I know definitively, so I
11 don't think I've been part of the process. My
12 recollection is it's once a year. The data would be
13 based upon a calendar year experience. So it's only
14 possible to request it once a year.

15 Q Okay. If you could turn to page 2 of
16 your report.

17 A Toward the bottom, first paragraph. I
18 guess the answer there. I'll read it into the
19 record.

20 "Yes. ISO has provided actuarial
21 consulting services to the bureau on North Carolina
22 homeowners rate filings since the bureau was
23 created. I have extensive knowledge of the
24 methodologies employed by ISO and the bureau in this
25 filing as well as in past bureau homeowners'

1 filings. "

2 Q I won't read in the last sentence. It
3 doesn't pertain to my question.

4 What past homeowners filings do you
5 have this extensive knowledge about?

6 A I'm just rereading.

7 Q Sure. Take your time.

8 A So I think what I say is: "I have
9 extensive knowledge of the methodologies employed by
10 ISO and the bureau in this filing, as well as in
11 past bureau homeowners filings. "

12 As being an expert witness for those
13 prior filings, I pointed out the 2018, 2020.

14 Q Okay. So are those the only two prior
15 filings about which you have extensive knowledge of
16 the methodologies employed?

17 A So I think there's two things. There's
18 the methodologies employed by ISO. So I think part
19 of that is in connection with the ISO loss cost
20 filings that it provides, and I have -- I would
21 consider myself to have extensive knowledge of the
22 ISO loss cost filing process in general.

23 Q Okay.

24 A And with the bureau in particular, I
25 was actively involved in -- in 2020. 2018, that

1 one -- I came on board in 2019 when I sort of came
2 in to replace the actuary that left. I was not
3 involved in the prior filings.

4 But my recollection is for some
5 consulting projects that I had done, I had reviewed
6 prior filings as part of other consulting work that
7 I have done. But I wasn't an active participant in
8 prior filings.

9 Q Would that other consulting work have
10 been done prior to 2018?

11 A I believe so, yes.

12 Q You did become familiar with at least
13 some aspects of the bureau prior to 2018?

14 A Let me just clarify. Yes. But not in
15 providing the services to the bureau. I had
16 other -- at least one other client that I was
17 providing services to. And as part of that
18 exercise, it required me to become knowledgeable
19 about aspects of -- at that time whatever prior
20 existing filing had been done.

21 Q Okay. When did you become familiar
22 with those prior filings for that client?

23 A I don't remember the exact dates. It
24 was likely in -- shortly before. Maybe 2017 time
25 period.

1 Q Okay. And what prior -- what aspects
2 of the prior filings did you become familiar with
3 for that other client?

4 A I'm trying to recall the details of
5 that project and at the same time, you know, respect
6 the confidentiality of that project.

7 Q Don't need to know the name.

8 A Yeah, yeah.

9 Q Don't need to know any
10 proprietary information. Just if you were talking
11 about becoming familiar with the rate bureau filing,
12 what aspects of the past rate bureau filings did you
13 become familiar with?

14 A I don't recall the details. My
15 recollection was that I had to become familiar with
16 information in the rate filing. But it was more of
17 a user of the information rather than -- I was not
18 participating in the bureau filings or preparation.

19 Q So you said that you did become
20 familiar, though, with the loss cost filings by ISO
21 or ISO's work, better said, on loss cost for years
22 prior to 2018?

23 A I've been employed at Verisk going back
24 to 1992. Certainly from 1999 onwards, as I've been
25 a consultant within Verisk, we regularly will use

1 information, ISO loss cost information, filing
2 information, as part of our consulting projects. So
3 I have become very -- I've become knowledgeable on
4 the topic over the years just in the course of doing
5 my work.

6 Q But on the specific use of ISO loss
7 cost information for the bureau, how far back are
8 you familiar with that?

9 A So a lot of the methodologies, I would
10 say, that there's -- there's a substantial overlap
11 of methodologies between maybe at that time
12 standardized ISO approaches in other states and work
13 that was done for the bureau. It's -- definitely
14 there are differences, but there are certain
15 similarities.

16 Q Did you become familiar with the loss
17 cost work that ISO performed for the 2014 filing in
18 particular?

19 A I don't recall. The 2014 filing in
20 North Carolina, not necessarily.

21 Q Are you familiar with any of the
22 Commissioner of Insurance conclusions as to ISO's
23 loss cost work for the 2014 filing?

24 A I don't recall.

25 Q If you could turn to page 4 of your

1 report. In the first full paragraph, last
2 sentence -- I'll read it into the record.

3 "In addition, I applied the applicable
4 rate standards set forth in Article 36 of Chapter 58
5 of the North Carolina General Statutes, including
6 but not limited to NCGS. 58-36-10, i.e., that rates
7 must not be excessive, inadequate, or unfairly
8 discriminatory, and that certain statutory rating
9 factors must be considered."

10 A I see that, yes.

11 Q Did your review include being familiar
12 with the Department of Insurance's regulations
13 regarding Article 36?

14 A So my recollection is I -- I did go to
15 the statutes, specifically what's being referenced
16 in my testimony, and I recall reading the statutes
17 as a nonattorney, you know, to give myself comfort
18 that what was being included in the analysis was
19 consistent for my interpretation.

20 The specific regulations, I -- I don't
21 recall if that was part -- I know I went to the
22 statutes and the items that are listed here. If
23 what you're referring to is not part of here, then I
24 might not have reviewed that.

25 Q Okay. So do you understand the

1 difference between a regulation versus a statute in
2 North Carolina?

3 A In general. But in North Carolina
4 specific, as a nonattorney, I'm going to be hesitant
5 to answer that question.

6 Q Understood.

7 Now, in that familiarity you gained by
8 reading the statutes, did you make any inquiry into
9 how the Commissioner of Insurance or the courts in
10 North Carolina have interpreted Article 36?

11 A No, I did not pursue that.

12 I'll just clarify. It's not something
13 I actively pursued. At the same time, NCRB counsel
14 provided general guidance as to applicable statutes.
15 But I did not -- as I think your question asked, I
16 didn't go above and beyond -- I did read the
17 statutes that I was referring to, but I did not have
18 any follow-up questions that ensued from my reading.

19 MR. FRIEDMAN: Mickey, if you please
20 keep an ear to what I'm -- I'm sure you're
21 listening to everything I say, but
22 particularly to what I'm about to say, and if
23 it does raise any attorney-client issue, by
24 all means, hold forth.

25

1 BY MR. FRIEDMAN:

2 Q In the process of consulting with the
3 Rate Bureau's counsel, did you learn anything about
4 the commissioner or Court of Appeals' decision in
5 the 1994 Auto case?

6 A What case?

7 Q Auto.

8 A It's not something I would have
9 reviewed as part of this exercise, no.

10 Q 1998 Auto filing?

11 A It's not something I reviewed.

12 Q Okay. You didn't become familiar with
13 the holdings in that?

14 A No.

15 Q 2001 Auto filing, either the
16 commissioner's conclusions or the Court of Appeals'
17 conclusions there, did you become familiar with
18 those?

19 A Let me provide a response that will
20 hopefully be a little encompassing here.

21 As my understanding -- and this would
22 be true not just in North Carolina but in other
23 states -- I generally will be -- am cognizant of the
24 relevant statutes and requirements of filings. As a
25 nonattorney, I have not pursued legal court cases.

1 And from my personal experience that I
2 can talk to, which is outside of North Carolina, but
3 I recall a client that I was involved in a rate
4 hearing, and there was an order that was established
5 for that hearing. And then a number of years
6 afterwards, that client issues -- you know,
7 submitted a new rate filing.

8 My recollection was, that client
9 voluntarily chose to be consistent with some aspects
10 of the prior order. And when the new order came out
11 for that second filing, the commissioner said, "Oh,
12 there was no reason to continue the practice of that
13 prior order because that was for the prior case."

14 So my client was trying to simplify
15 things by following the direction of a prior order,
16 in that case, but they found out that it wasn't --
17 it was not binding for future filings.

18 As a nonattorney -- as an actuary,
19 that's the approach I would have taken, and I would
20 have viewed that order specific to that filing. But
21 I also am very cognizant, these are complicated
22 legal issues that go beyond my interpretation.

23 Q Okay. In -- so you're talking
24 specifically about, as I understand it, the
25 Commissioner of Insurance's decision regarding a

1 2001 PPA filing?

2 A No, I wasn't familiar to that. I'm not
3 familiar with that filing.

4 Q Okay. What filing were you referring
5 to?

6 A In my own personal -- it was just
7 another client outside of North Carolina. It was
8 not related -- it was just part of my prior
9 experience that sort of shaped my approach to this
10 type of an issue where I see an order related to a
11 prior case.

12 Q So do you recall what commissioner's
13 order in what case that client elsewhere had you
14 become familiar with? Basically, I'm trying to
15 figure out what filing in North Carolina that would
16 have been.

17 A No. The example I was referring to --
18 I'm not giving anything away that would be
19 confidential in what I've -- the limited amount that
20 I've said. But I think that was in regards to a
21 Massachusetts FAIR Plan, Massachusetts Property
22 Insurance Underwriting Association. They've gone
23 through a number of rate hearings in years past, and
24 I was -- I'm just providing some background of my
25 experience working with orders, prior insurance

1 department orders.

2 (Reporter requested clarification.)

3 A And I understand that's a different
4 legal environment, but from an actuary's
5 perspective, that sort of just shaped my nonlegal
6 approach.

7 Q How did it shape it?

8 A With the conclusion that an insurance
9 commissioner's order for a specific filing was
10 binding and determined based upon the facts of that
11 finding and that it didn't set precedence for future
12 filings.

13 Q But you don't remember what North
14 Carolina Commissioner of Insurance's decision that
15 was?

16 MR. SPIVEY: Objection. Asked and
17 answered. And he's indicated it was a Mass
18 FAIR Plan case. He's not talking about North
19 Carolina.

20 BY MR. FRIEDMAN:

21 Q Okay. So you're not talking about any
22 decision --

23 MR. FRIEDMAN: I honestly, Mickey, did
24 not understand that. I heard first mention
25 of the FAIR Plan a couple of minutes ago. So

1 I'm just trying to figure out.

2 THE WITNESS: No. That -- that
3 real-life example occurred in Massachusetts
4 with a different legal environment, and I'll
5 defer to the appropriate legal people to
6 determine what's appropriate here.

7 I'm simply saying, when I approached my
8 role in North Carolina, I was shaped by my
9 work experience in other jurisdictions and
10 how orders are interpreted on a going-forward
11 basis.

12 BY MR. FRIEDMAN:

13 Q Sure. And so you don't -- were you
14 ever made aware of the commissioner's findings or
15 the Court of Appeals' finding in the 2001 Auto
16 filing here in North Carolina?

17 A I'm not familiar with that filing at
18 all.

19 Q And you said, if I recall, about the
20 2014 homeowners' filing, that you had read at least
21 some parts of the commissioner's order but not the
22 Court of Appeals order?

23 A That's my recollection. My
24 recollection was I had read parts of the order in
25 20- -- in preparation for a potential hearing in

1 2020. I -- I don't recall seeing the Court of
2 Appeals' order or ruling. It's possible it was
3 provided to me. Maybe I read an excerpt, but it's
4 not something I actively remember seeing.

5 Q I think did you testify before you
6 became aware of that after the filing here was -- or
7 fairly recently if I recall?

8 A I may have been aware of those in years
9 past. But I would say within the past two years --
10 certainly before any of the work related to this
11 filing got started, the first time I recall that
12 topic being raised was during this hearing
13 proceeding.

14 Q Okay. And are you familiar with how
15 the commissioner in 2014 addressed the ISO work on
16 the loss costs?

17 A No, I don't recall that.

18 Q Okay. Out of left field but before I
19 forget, does the Massachusetts -- in Massachusetts,
20 can the FAIR Plan assess other insurers?

21 A I believe there is an assessment
22 provision.

23 Q Okay. And is that assessment fully
24 recoupable or nonrecoupable?

25 A I'm going to probably be guessing if I

1 state it. I believe it's nonaccessible, but I could
2 be wrong on that.

3 Q "Nonrecoupable," I'm saying.

4 A Nonrecoupable, yeah.

5 Q Uh-huh.

6 A That's my recollection. But I could be
7 wrong. It's something that would have been a long
8 time -- you know, it's several years that I've
9 focused on that issue. So I'd be hesitant to say
10 definitively on the record. Yeah.

11 Q Okay. And in Massachusetts, if you
12 know, do the laws allow the commissioner to take
13 into account the CAR or a CAR provision?

14 A The CAR, as I understand it, it is
15 built into the statutes in North Carolina in some
16 capacity. I don't believe the statutes address that
17 issue in Massachusetts, certainly for the client I
18 worked with.

19 Q Okay. For the client you --

20 A Yeah. It was not an issue that was --
21 it was not an issue pertaining to that filing that I
22 worked on.

23 Q Okay.

24 A Filings that I worked on.

25 Q And for that client, did it --

1 notwithstanding that, to your knowledge, there's no
2 statute permitting consideration of the CAR, did
3 your client seek one based on the FAIR Plan
4 assessments, any FAIR Plan assessments in
5 Massachusetts?

6 A Well, it's a very different situation,
7 so I would be -- this rate hearing is in regards to
8 the bureau rates. That rate filing was for the
9 residual market mechanism, but essentially it's
10 an --

11 (Reporter requested clarification.)

12 A The client I worked on, it was for the
13 residual market mechanism, an insurer, so it was not
14 establishing an industry rate as would be done here.
15 So I wouldn't draw any comparisons to that aspect.

16 Q So in Massachusetts, were you
17 representing -- and was your testimony for the FAIR
18 Plan or for a member --

19 A It was for the FAIR Plan.

20 Q -- of the FAIR Plan?

21 I see. Okay.

22 A So yeah.

23 Q Thank you for clarifying that.

24 So I'm going to move on to talking
25 about the historic database in this case.

1 A Okay.

2 Q Am I correct the ISO provided
3 historical losses up until the end of 2021 --

4 A That's correct.

5 Q -- for five years?

6 A That's correct.

7 Q Okay. Do you know whether the bureau
8 has offered to -- I'm going to make a distinction
9 between the commissioner versus -- scratch that
10 question entirely.

11 How long -- for calculating the loss
12 data for those carriers that worked directly with
13 ISO and not another statistics organization, but for
14 those that worked specifically with ISO -- how long
15 does it, in North Carolina, typically take ISO to
16 accumulate all of that data?

17 A So I don't know the exact dates. I
18 don't work in the statistical data reporting area.

19 Going back to what I said earlier, it
20 would be evaluated as of March 31st the data that
21 the companies were reporting. So it would certainly
22 be some time after that that they would first start
23 reporting data to ISO. I'm sure ISO has some
24 requested due date, which I don't know what that is.
25 But, you know, it's going to be more than a couple

1 weeks, but I'm sure it's not months either. It's
2 probably several weeks.

3 Q Okay. So in a matter -- is it fair to
4 say that in a matter of weeks, ISO will have
5 received the loss cost data from those of the North
6 Carolina homeowners carriers that work directly and
7 report to ISO?

8 A So my understanding -- and on this
9 topic of statistical data reporting, it's more
10 general and maybe not specific to North Carolina,
11 but I think this topic is probably similar. My
12 understanding is that whatever the due date is, so I
13 don't want to speculate too much. But whatever that
14 due date is, let's just say it's maybe two months
15 after the close, not necessarily all companies meet
16 the due date. You know, again, I'm guessing, but
17 maybe 95 percent do, but there will be definitely
18 late reporting companies.

19 For a non-North Carolina state, my
20 general understanding is, you know, that ISO will at
21 some point decide to, you know, finalize the data
22 for -- give them time so it can move on and -- with
23 its normal production.

24 In North Carolina, there is definitely
25 the goal to include 100 percent of the industry, or

1 as much as possible.

2 So there will likely be additional time
3 to include more companies than we might in other
4 states. So that would add some time to the process.

5 Once that data is collected, it will go
6 through different rounds of data review and editing,
7 which can and does involve going back to companies
8 to have them verify or correct data submissions.
9 And that time can -- that process can take weeks and
10 months.

11 Q Okay. So I am making a distinction
12 between ISO's receipt and processing of data from
13 those member companies.

14 A Yes. I was referring to the ISO data.

15 Q To ISO. You were meaning to. Okay.

16 A Yeah, yeah.

17 Q Because you had said 100 percent, and
18 it's my understanding that --

19 A Oh. So the goal -- yeah. So in a
20 typical non-ISO state, maybe ISO data represents a
21 third of the industry or half of the industry.

22 But, you know, at some point we might
23 have -- I'm speaking as a nonworker in the
24 statistical data area.

25 Q Sure.

1 A But they might draw a line and say, oh,
2 we have 98 percent of the data, let's move on with
3 our work that we need to use that data for.

4 In North Carolina, I think there would
5 be the extra step that said we want to have, you
6 know, 100 percent of the data for even the ISO
7 reporting companies so that we have as much of the
8 industry represented as possible.

9 Q Okay.

10 A So that -- that data collection process
11 probably -- and this is a little bit of speculation,
12 but I suspect that that data collection process,
13 even for the ISO companies, is going to take a
14 little bit longer for North Carolina than for other
15 states since we are going to maximize trying to get
16 every company into the database.

17 Q Every company that reports directly to
18 ISO.

19 A Right. And I presume this is --
20 there's probably similar procedures in other -- that
21 the other statistical agents are doing, but I
22 wouldn't have any inside information on that.

23 Q Do you recall how long, just with
24 regard to those member companies that report to ISO,
25 how long it took for ISO to receive and then

1 evaluate, analyze the data in this filing?

2 A So I don't have that information. I
3 did testify, I believe, that we received data from
4 the other statistical agents around November 30th.
5 I think it's safe to say we would have had the
6 corresponding ISO data -- similar to what we were
7 getting from the other statistical agents before
8 November 30th. I don't recall -- you know, I don't
9 know whether it was weeks or a month or two months.
10 But I suspect we had our data ready prior to the
11 receipt of the data from the other statistical
12 agents.

13 Q In November 30th of what year?

14 A So for this filing, we're talking
15 November 30th of 2022.

16 Q Okay. So is that fair to say, whether
17 from ISO's own reporting companies or from the other
18 statistical organizations' reporting companies, you
19 have all the loss data in that you were going to get
20 within 11 months, or is it should be tracked from
21 March to November?

22 A It's probably a more realistic thing to
23 count from the end of March because that's when the
24 data was being evaluated as of.

25 So in this particular filing -- and I

1 think this timing is consistent for other years, so
2 I don't think the timing with regards to this issue
3 is different. It would have -- from -- you know,
4 the end of three months to the end of 11 months, so
5 that eight-month time period, before we were in a
6 position that we had the data from the ISO companies
7 and the data from the other statistical agents that
8 reported that data at an aggregated basis to ISO.

9 Q And is that eight-month turnaround time
10 typical in order for ISO to receive all of the data
11 and then organize it?

12 A So at that point, as of that
13 November 30th, as I understand it, that's really our
14 receipt of the data, aggregated data from the other
15 statistical agents.

16 Q Just for received. Okay.

17 A And at that point, there would be a
18 whole host of other data review process that begins
19 at that point.

20 Q By ISO?

21 A By ISO. Well, initiated by ISO.

22 We will -- once we have the full
23 industry data, we then go through additional review
24 of that information to identify potential anomalies,
25 potentially with ISO reporting companies, but also

1 we might find irregularities, potential
2 irregularities in the aggregated data from a
3 statistical agent.

4 We wouldn't know what insurance company
5 might be contributing to that anomaly. We would go
6 to one of the statistical agents and say, "Hey, this
7 looks unusual. Can you look into it?"

8 They might look into it and say, "No,
9 it is fine," or they might look into it and say,
10 "Oh, we found company X, Y, Z had an issue. We'll
11 work with them to get corrected data."

12 Q Roughly how long does it take ISO,
13 then, after those eight months to analyze it?

14 A So I asked that question recently to
15 people involved, and the answer was it really does
16 depend a lot on the results of that data quality
17 review. If -- there can be situations where the
18 review could go quicker. And there can be times
19 when, you know, a larger company has an issue that
20 needs to be addressed. That can drag on -- I've
21 seen it happen where it can drag on months of trying
22 to get corrected data. So it's hard to pin down,
23 but certainly the process could go quicker and can
24 take more time.

25 Q So with regard to this filing, how long

1 did that next step of analyzing the data you got in
2 take?

3 A My recollection was it was generally in
4 that -- I could be off a little bit, but it was
5 generally in that May of 2023 time period. Somewhat
6 before that committee meeting that was May 25th,
7 when we were talking exposure trend. We would have
8 had data prepared in terms of that prior to that.

9 Q Okay. And when, after the first
10 eight-month period, the ISO has received whatever
11 data it's going to get from its own clients and then
12 the other stat organizations, statistical
13 organizations.

14 (Reporter requested clarification.)

15 MR. FRIEDMAN: I'm sorry. Statistical
16 organizations.

17 BY MR. FRIEDMAN:

18 Q Does ISO share that data first with the
19 Rate Bureau and then go about analyzing it, or is it
20 keep it in-house and not produced to the Rate Bureau
21 until it is finished analyzing it?

22 A It's kept in-house, it's not externally
23 disclosed -- I have not even seen any of the 2022
24 experience.

25 Q Why does it not share that data with

1 the Rate Bureau?

2 A My understanding is that until the data
3 has been gone through the editing process and
4 that -- and there are actuaries involved in that
5 review process, not myself personally, but until
6 there's a comfort level that the data is trustworthy
7 and usable, it hasn't -- it's not being released.

8 Q Okay. So that's ISO's decision?

9 A I'm just trying to think if it was an
10 active decision or just, you know, common practice
11 that we wouldn't release data that wasn't
12 necessarily finalized.

13 I don't recall the topic being raised
14 as to, Hey, can you get it to us now to look at?

15 Q Whether the result of a decision or
16 just a practice, it's ISO's practice or decision?

17 A I would say that the accepted practice
18 or -- is we will wait until the data is trustworthy
19 before distributing.

20 Q Okay. But you're already under
21 contract with the bureau to -- by the time you
22 received the data after eight months, you were
23 already under contract with the bureau to be working
24 on just this data for the eventual bureau filing?

25 A That's true.

1 Q Okay.

2 Let's talk about the 2022 loss cost
3 data. Is ISO working on that? I know that hasn't
4 been provided to the commissioner, but is ISO
5 working on it?

6 A So I asked the recent -- I asked to get
7 an update on the status of that. So we -- the
8 general timing is -- at least started off
9 consistent. We received the data from the other
10 stat agents on or about November 30th of 2023.

11 My understanding is it's actually --
12 has not been finalized. I asked what's outstanding,
13 and my understanding is one of the other stat -- at
14 least one of the other stat agents needs to report
15 corrected information that we haven't received. I
16 don't know the nature or what, but that has -- I
17 don't believe we received that.

18 And there's at least one ISO reporting
19 company where there's a data anomaly that has not
20 been corrected. I don't know the status of that.

21 Q Was --

22 A The data has not been, like, finalized.

23 Now, I wouldn't want to make the
24 assertion that it's taking us until October and the
25 data has not been finalized. I think it's safe to

1 say that if the bureau was going to be making a
2 filing January 1st of 2025, there would have been a
3 lot more pressure to get these issues resolved,
4 maybe on a timely, more consistent with the filing
5 that we -- that's pending currently.

6 Q Do you know when the Department of
7 Insurance first requested that 2022 loss cost data
8 from the bureau?

9 A I'm sorry, that who requested it?

10 Q That the department, in discovery or in
11 data requests.

12 A I'm not -- I'm not aware.

13 Q Okay. Is it your understanding that
14 the department's requests for that data from 2022 --
15 are you aware that the department has requested that
16 data?

17 A I believe I recall hearing that. And
18 my recollection, this is probably more of a legal
19 issue, too, but my general understanding about
20 discovery requests is it's asking for information
21 that's available. And if something isn't active --
22 you know, isn't readily available, it's not
23 requiring the expedition [sic] -- expedition of
24 additional work to respond to their request.

25 Q Okay. Do you know whether the North

1 Carolina Commissioner of Insurance can consider
2 later years outside of the loss cost data for --
3 okay. Let me rephrase that.

4 Do you know whether the Commissioner of
5 Insurance in North Carolina can review and rely on
6 loss cost data that is later than in time than the
7 loss cost data that the bureau has provided in a
8 rate filing?

9 A So I'll answer it two ways. You know,
10 typically with rate filings -- and I think this was
11 addressed in maybe Paul Anderson's or Minchong, so
12 it's not new, that I'm saying here. In general
13 practice, an insurance department will review the
14 reasonability of a filing based upon the material
15 that's included in that filing. They could deem
16 it -- approve it, they could disapprove it, but it
17 would be based upon the information in that filing.

18 Insurance departments will ask for
19 questions and maybe for some additional information.
20 But in general, the determination of reasonability
21 is based upon the material that's filed.

22 In North Carolina, I'm going to take --
23 I'm going to defer to others as to what is
24 appropriate information for the commissioner to
25 determine. If such subsequent data is allowed to be

1 considered, that's for others to decide.

2 (Reporter requested clarification.)

3 A That's for others, other people to
4 decide.

5 BY MR. FRIEDMAN:

6 Q So for the -- for the 2021 loss cost
7 data, the last year that was used in this filing, as
8 I count, and I ain't good at counting, but as I
9 count that was -- ISO had that within 14 months, and
10 that's 14 months from the end of March of 2021?

11 A That's -- in terms of when the data,
12 all the data had -- we certainly had it by then. We
13 might have had it -- it's possible we had it even
14 earlier. I know we had it by that May 25th date.
15 Whether we had it -- how much sooner we had it,
16 that, I don't recall exactly. I suspect it was not
17 too much earlier than that. But it might have been
18 available in April.

19 Q But your testimony is that in this
20 case, ISO has not yet received and analyzed the 2022
21 data after 19 months.

22 A So we had received it. It had been
23 going through the data review process. For example,
24 there's auto-report letters that are sent to the top
25 ten writers. I believe that process has taken

1 place.

2 But it's a true statement that as of
3 today, that data -- the full and complete data file
4 is not complete, in terms of all outstanding edits
5 have not been applied.

6 Like I said, my understanding is that
7 we're waiting for a correction from one of the other
8 stats, statistical agents.

9 Q And you testified that for at least the
10 2022 data, you haven't felt a pressure to get all of
11 that information in?

12 A If there was a new rate filing that was
13 going to be underway, we would probably be under a
14 lot of pressure to get that data finalized.

15 Even -- I would say the whole time
16 frame, during 2023, was really created by walking
17 backwards from that original goal of making a filing
18 on January 1st of 2024. So early in 2023, we would
19 have worked with NCRB staff to sort of outline a
20 schedule of committee meetings, when different data
21 would be due to different parties to achieve that
22 January 1st or January 3rd filing date objective.

23 As we speak today, we have not made any
24 plans for the specific filing of the next filing
25 after this pending filing.

1 (Reporter requested clarification.)

2 A Since this filing is currently pending,
3 we haven't established any concrete dates for the
4 next filing.

5 BY MR. FRIEDMAN:

6 Q Okay. So are you aware -- are you
7 aware that, I believe, a couple of weeks ago the
8 bureau filed both a form filing for homeowners but
9 also -- I don't know how to describe it -- but did
10 request some changes in rates for homeowners?

11 A I'm generally familiar with that filing
12 that was --

13 Q Did you work on it?

14 A I was involved in internal meetings. I
15 provided some input.

16 I wasn't -- I didn't create the
17 analysis, but I was involved, and some of my staff
18 was involved in that process.

19 Q Okay. And did that include any 2022
20 loss data?

21 A No, I don't think so.

22 Q Okay. And are -- have you --

23 A Definitely no North Carolina data at
24 all. At all.

25 Q Okay.

1 A Yeah, so, there would have been none,
2 none of that.

3 Q And --

4 MS. FUNDERBURK: And, Mr. Friedman,
5 I'll remind you we planned to recess at 4:00
6 today.

7 MR. FRIEDMAN: I'll ask one more
8 question, and we will be off of this.

9 BY MR. FRIEDMAN:

10 Q Mr. Erickson, have you already begun
11 the work, or at least a collection of an analysis of
12 data, for an overall homeowners' filing that's
13 anticipated to take place after this one?

14 A Well, the 2002 data that would have --
15 it's currently still going through the editing
16 review process. That would certainly be included in
17 the next filing.

18 Q Okay.

19 A So, in essence, the preliminary work
20 has been started but --

21 Q Okay.

22 A Until this filing is complete, the
23 urgency on that data is -- for the next filing is --
24 it has not been the top priority.

25 MR. FRIEDMAN: I think this is a

1 perfectly good place to end today, Your
2 Honor, if that's all right.

3 MS. FUNDERBURK: Okay. Are there any
4 administrative or housekeeping matters we
5 need to address before we recess for the day?

6 MR. FRIEDMAN: I have one, but I'm
7 just -- I don't know if it's something -- but
8 it is that in the past week, as I've gone
9 back over the transcripts, I mean, I realize
10 the problems that the past court reporters
11 had with a lot of the technical terms we are
12 using here and the witnesses are using and
13 I'm trying to use.

14 And so there were more -- no matter how
15 imprecise my own language probably was, there
16 were plenty of really obvious misses in that
17 transcript. I was just curious what -- I'm
18 just unaware of what the Court is expecting
19 in terms of when we would comment on the
20 transcript to make corrections to it.

21 MS. FUNDERBURK: I haven't had any
22 thoughts so far about when we would do errata
23 sheets and look at corrections.

24 MR. FRIEDMAN: Okay.

25 MS. FUNDERBURK: That can be something

1 we can discuss at some point. At this point,
2 I would say just go ahead, keep track of it.

3 MR. FRIEDMAN: Okay.

4 MS. FUNDERBURK: And we'll talk about
5 it later when we'll -- when we'll submit
6 errata sheets for correction.

7 I do think the court reporters have a
8 pretty insurmountable job right now with the
9 turnaround time.

10 MR. FRIEDMAN: I absolutely understand.

11 MS. FUNDERBURK: And it's complicated
12 language. But certainly we want to have a
13 completely accurate transcript in the end.
14 So right now keep track of what you may see
15 that may need correction, and we'll determine
16 a time when we need to get errata sheets in.

17 MR. FRIEDMAN: I appreciate that, and
18 the only reason I was asking was just to be
19 sure that that deadline hadn't already
20 passed. But thank you.

21 MS. FUNDERBURK: Okay.

22 MR. SPIVEY: I was hoping that, too.

23 MS. FUNDERBURK: Anything we need to
24 address on your end, Mr. Spivey?

25 MR. SPIVEY: I don't think so. The

1 only thing I would ask, again, is about
2 information about the Webex.

3 MS. FUNDERBURK: The Webex.

4 MR. SPIVEY: And we'll get those email
5 addresses to you.

6 MS. FUNDERBURK: Yeah. If you could
7 just email those -- go ahead and copy me and
8 Ms. Benjamin as well. I think you may have
9 her email address already, just in case
10 Ms. Pearce isn't in tomorrow. And one of us
11 will -- copy everyone you would typically
12 copy so it's not an ex parte conversation,
13 even though it's just clearly an
14 administrative task. And one of us will
15 get -- we'll get the Webex link emailed out
16 to those folks.

17 Please let your folks know -- I'll turn
18 the chat function off more quickly tomorrow,
19 but do not use the chat function in Webex
20 while the Webex is going.

21 MR. FRIEDMAN: Can I ask, we, this
22 morning, Your Honor, opened what we thought
23 was a Webex --

24 MR. SPIVEY: Or was that a Teams chat?

25 MS. WHARRY: Okay. So that wasn't the

1 Webex link, the chat, that showed up on the
2 screen.

3 MS. FUNDERBURK: Okay.

4 MS. WHARRY: That wasn't through the --

5 MS. FUNDERBURK: It wasn't through
6 Webex?

7 MS. WHARRY: -- meeting link chat.

8 That was a separate Teams setup that
9 was just for a group of people. So it's not
10 in the --

11 MS. FUNDERBURK: It's not in the Webex?

12 MS. WHARRY: -- chat function of the
13 link.

14 MS. FUNDERBURK: Okay.

15 MS. WHARRY: It's just using the Webex
16 application, which is a separate chat. So
17 it's not being recorded. It's not in that
18 meeting link or anything like that. It's
19 not --

20 MS. FUNDERBURK: Okay. I could see it.

21 MS. WHARRY: Yeah. The only way I can
22 see it is because I had my computer sharing.

23 MS. FUNDERBURK: Okay.

24 MS. WHARRY: So I don't know why it
25 showed up on the second half, but it didn't

1 the first half of the morning, but I just had
2 to close it on mine. But that's the only
3 reason why it popped up on the screen, was
4 because I was sharing my computer.

5 MS. FUNDERBURK: Oh, okay. Thank you
6 for clarifying that.

7 MS. WHARRY: No problem.

8 MR. FRIEDMAN: Would we run less risk
9 of that --

10 MS. FUNDERBURK: That's something I
11 think we can talk about after.

12 MR. FRIEDMAN: Okay.

13 MS. FUNDERBURK: Anything else that
14 needs to be addressed?

15 Okay.

16 MR. SPIVEY: Nothing.

17 MR. FRIEDMAN: Not from me, Your Honor.

18 MS. FUNDERBURK: Thank you for a very
19 long day, Mr. Ericksen. I'll remind you when
20 you start tomorrow you will continue to be
21 under oath.

22 Thank you, everyone, for your
23 attendance and participation. We are
24 recessed at 4:07 p.m. We will readjourn
25 tomorrow morning at 9:00 a.m. sharp. Thank

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you.

(The hearing adjourned at 4:07 p.m.)

1 STATE OF NORTH CAROLINA)

2 COUNTY OF FORSYTH)

3 REPORTER'S CERTIFICATE

4 I, Audra Smith, Registered Professional Reporter
 5 in and for the above county and state, do hereby certify that
 6 the deposition of the person hereinbefore named was taken
 7 before me at the time and place hereinbefore set forth; that
 8 the witness was by me first duly sworn to testify to the
 9 truth, the whole truth and nothing but the truth; that
 10 thereupon the foregoing questions were asked and the foregoing
 11 answers made by the witness which were duly recorded by me by
 12 means of stenotype; which is reduced to written form under my
 13 direction and supervision, and that this is, to the best of my
 14 knowledge and belief, a true and correct transcript.

15 I further certify that I am neither of counsel to
 16 either party nor interested in the events of this case.

17 IN WITNESS WHEREOF, I have hereto set my hand this
 18 23rd day of October, 2024.

19
 20 

21 Audra Smith

22 _____

23 Audra Smith, RPR, CRR, FCRR

24 Notary Number: 201329000033

25 Commission Expires: June 26, 2025