

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA
COUNTY OF WAKE

COPY

IN THE MATTER OF:

BEFORE THE
COMMISSIONER OF INSURANCE

THE FILING DATED
JANUARY 3, 2024 BY
NORTH CAROLINA RATE BUREAU
FOR THE REVISION OF
HOMEOWNERS INSURANCE RATES

DOCKET NO. 2157

BEFORE: AMY FUNDERBURK, HEARING OFFICER

TRANSCRIPT

OF

HEARING

VOLUME XII - P. M. SESSION

Raleigh, North Carolina

October 31, 2024

1:33 p.m.

Reported by: Audra Smith, RPR, CRR, FCRR

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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, on the 31st day of October, 2024, at 1:33 p.m., before Audra Smith, RPR, CRR, FCRR and Notary Public.

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P R O C E E D I N G S

1
2 MS. FUNDERBURK: Thank you, Counsel.

3 We are back on the record.

4 Before we resume Mr. Schwartz's
5 cross-examination, let's address any
6 administrative matters we need to discuss.

7 Mr. Friedman.

8 MR. FRIEDMAN: Your Honor, other than
9 that, I have not heard back from the attorney
10 for the Beach Plan. He -- I did get his
11 email saying that he is -- or the automatic
12 response that said he is out today and
13 tomorrow, and I'd spoken with the Rate
14 Bureau's counsel, and they said, you know,
15 they will try to, if they can, get all of it.

16 So that's the status on figuring out
17 whether he would like us to place a
18 confidentiality stamp on those pages.

19 MS. FUNDERBURK: Thank you.

20 Are there any other matters we need to
21 address? Were the parties able to discuss
22 timing for getting the source of data to the
23 Rate Bureau?

24 MR. FRIEDMAN: We mentioned that, and
25 certainly I -- I don't think it's a question

1 of the source of data, but it's often the
2 pages within the source or the addition of
3 the source. Like I said, we gave a number of
4 them -- I didn't catch up with Mr. -- I know
5 that he was working some on it over lunch,
6 but I've also represented to opposing counsel
7 that, you know, if we get them tonight and
8 they need to pick up with additional cross on
9 them -- with him tomorrow, I'm perfectly open
10 to making him available whenever, once we
11 have the exact pinpoint cites.

12 MS. FUNDERBURK: Do we have any idea
13 when the expected timeline on that will be?

14 MR. FRIEDMAN: We're going to work on
15 finishing it up tonight.

16 MS. FUNDERBURK: Okay. Are there any
17 other matters that we need to address before
18 we resume cross?

19 MR. SPIVEY: Not to my knowledge.

20 MR. FRIEDMAN: One -- can I just say
21 this other thing, too, Your Honor? One
22 possible impediment to us getting everything
23 tonight is that Mr. Schwartz has, back in New
24 Jersey, copies of filings going back perhaps
25 even more years than we have in our office.

1 And I -- I'm going to be checking
2 tonight how far back we've got full filings,
3 and if so, where they are. But it may be
4 that, you know, going as far back as 1991,
5 will have to mean him returning to Jersey to
6 eyeball them there because we may not have
7 them scanned, or if they are somewhere, they
8 are off-site in the world of storage.

9 MS. FUNDERBURK: Thank you. Anything
10 else we need to address?

11 MR. FRIEDMAN: No, ma'am.

12 MS. FUNDERBURK: Mr. Schwartz, please
13 return to the stand. I'll remind you that
14 you do remain under oath.

15 When you're ready, please resume.

16 ALLAN SCHWARTZ,
17 having been previously duly sworn, examination and testimony
18 continued as follows:

19 CROSS-EXAMINATION (CONTINUED)

20 BY MR. SPIVEY:

21 Q Mr. Schwartz, let's talk about
22 reinsurance. If you would, please turn to page 73
23 in your prefiled testimony.

24 Reinsurance is insurance bought by
25 insurance companies, is it not?

1 A Yes.

2 Q And you include that explanation in
3 your testimony there at the bottom of page 73,
4 correct?

5 A Yes.

6 Q And you've acknowledged in your
7 prefiled testimony that insurance companies do
8 purchase reinsurance for protection against
9 catastrophic hurricanes, do they not?

10 A I think so. I'm not sure exactly what
11 I said, but they do purchase reinsurance.

12 Q And you include a provision in your
13 recommended rates for the net cost of reinsurance,
14 do you not?

15 A Yes.

16 Q So you agree the net cost of
17 reinsurance is a cost that is appropriate to be
18 included in setting the rates?

19 A Some provision for the net cost of
20 reinsurance is appropriate.

21 Q Your testimony, as I understand it, is
22 that you reviewed the actual historical net cost of
23 reinsurance for homeowners insurance in determining
24 the provision you included in your calculations; is
25 that right?

1 A Yes.

2 Q The data you reviewed in that
3 particular process is displayed in Schedule AIS-20
4 and Schedule AIS-21, is it not?

5 A Yes.

6 Q Looking at Schedule AIS-20, is the data
7 shown on this exhibit, data solely for homeowners
8 insurance?

9 A Yes.

10 Q Is the data shown on this exhibit just
11 for the State of North Carolina or is it all
12 states -- I mean, for homeowners insurance in the
13 United States?

14 A It's countrywide.

15 Q So do I correctly understand that
16 what's presented on this particular schedule is data
17 for all of the homeowners insurance written by all
18 the companies across the entire United States and
19 all of the reinsurance those companies bought
20 related to all of that homeowners insurance written
21 across the entire United States?

22 A It's for the entire United States. So
23 it would reflect the direct premiums for those
24 insurance companies, and the amount of ceded
25 premium. "Ceded" is another word for "reinsured."

1 And the difference would be the net.

2 Q The reinsurance typically bought for
3 the hurricane exposure in North Carolina is
4 catastrophe excess of loss reinsurance; is it not?

5 A Yes.

6 Q There are other types of reinsurance
7 that can be and are bought by insurance companies
8 for homeowners insurance that they write, are there
9 not?

10 A Yes.

11 Q Different states often have differing
12 exposures for the homeowners insurance written in
13 those states, do they not?

14 A There are different -- just to get
15 terminology correct, by "exposures" in this context,
16 are you meaning the exposure to loss, the loss
17 perils --

18 Q Yes.

19 A -- that are involved in the different
20 states?

21 Q Yes, that's what I'm referring to
22 there?

23 A Yes. There are different loss perils
24 in different states to varying degrees.

25 Q For example, North Carolina, and

1 particularly other coastal states along the
2 Southeastern United States, have significant
3 exposure to hurricanes, do they not?

4 A Hurricanes are the main catastrophe
5 exposure for the Atlantic states.

6 Q There are states such as California and
7 others that have significant exposure to wildfires
8 and earthquakes, correct?

9 A Yes. Earthquake losses aren't covered
10 by homeowners insurance, but fire following
11 earthquake is. So if we're talking about homeowners
12 insurance, we should be clear what's covered by the
13 policy and not.

14 Q Thank you.

15 So wildfire, again, then, would be
16 something -- a peril that is covered under the
17 typical homeowners insurance policy?

18 A Well, fire in general. So there isn't
19 a -- as far as I know, I don't believe that the
20 policy provisions specify wildfire fires as opposed
21 to other fires. But wildfire would be included
22 within the fire peril covered.

23 Q Some states may have greater risk or
24 exposure to tornadoes than other states have; is
25 that a fair statement?

1 A Yes.

2 Q And the damages caused by, is, you know
3 the winds from a tornado are typically the type of
4 damage that is covered under a homeowners policy,
5 correct?

6 A I'm not sure if you mean that the
7 typical loss is from a tornado or the losses from
8 tornadoes are typically covered.

9 Q Are the losses for tornadoes typically
10 covered under a homeowners policy?

11 A They would be covered unless there was
12 some extraordinary exclusion, which I just am not
13 familiar with. So when you say "typically covered,"
14 I would think it's a covered peril because wind is
15 covered.

16 Q The data in your Schedule AIS-20, as
17 well as the data in your Schedule AIS-21, lumps all
18 of the states together, and then you present various
19 averages across all of the states, do you not?

20 A The information is presented for all
21 states because that's the basis on which this
22 information is available.

23 Q Mr. Schwartz, if you would, turn
24 briefly to your testimony at page 13 of your
25 prefiled testimony.

1 A Okay.

2 Q Beginning at line 20 on page 13, and
3 carrying over to the top of page 14, I believe it's
4 three sentences there that read as follows, and let
5 me read them, please: Second, homeowners insurance
6 manual rates have, in fact, increased over time.
7 Since 2017, the rates for owners forms have
8 increased about 17.5 percent on a statewide basis
9 and about 8.4 percent since 2021.

10 And the 2021 is a correction, I
11 believe, that you made to the transcript yesterday;
12 is that correct?

13 A Yes.

14 Q Continuing: Hence, any need for a rate
15 increase that might have existed historically has
16 been addressed.

17 Within those sentences, you don't, in
18 any manner, show there what the indicated rate
19 changes were over the time period that you're
20 describing there? And by "indicated changes," I'm
21 meaning those filed by the Rate Bureau.

22 A I'm not showing the indicated changes.

23 Q And you don't, in any manner, speak to
24 or address in those sentences how much property
25 values have increased in North Carolina during that

1 time period, do you?

2 A No. But we should be clear that when
3 property values increase, that provides an increase
4 in the premiums for insurance companies. The rates
5 for insurance companies depend -- well, there's a
6 rate, essentially, for -- I'm to remember whether
7 it's hundreds or thousand dollars of policy
8 provision. So as the amount of insurance on a
9 policy goes up because of increases in cost, it's
10 true cost --

11 (Stenographer requested clarification.)

12 A So as the amount of insurance goes up
13 because property costs go up, the projected losses
14 would go up, but the amount of premium collected by
15 the insurance company would also increase.

16 BY MR. SPIVEY:

17 Q Mr. Schwartz, please turn to page 16 in
18 your testimony.

19 A Okay.

20 Q There on that page you set out the
21 ratemaking formula that you used in your analysis,
22 do you not?

23 A Yes. It's a generic version of it, you
24 know, which gets modified for particular situations.

25 Q Well --

1 A So -- go ahead.

2 Q Would you please read the question in
3 line 11?

4 A Yes. "The ratemaking technique" -- oh.
5 "What ratemaking formula did you use in your
6 analysis?"

7 Q And then would you read lines 13 and 14
8 of the answer to that question.

9 A It says: "The ratemaking technique
10 used in my analysis is a pure premium method which
11 has been described as follows."

12 Q And is it correct that continuing below
13 there, you set out a formula for the pure premium
14 method?

15 A Yes. I mean, in the following pages, I
16 talk about the implementation of that method.
17 Right. I'm just saying how you implement a generic
18 method could vary from state to state, but I agree
19 that's a generic description.

20 Q And am I correct in understanding, from
21 the material you present there on page 16 that
22 there's a formula, and then there's explanation of
23 what the letters in the formula mean, and the letter
24 Q is the profit and contingency's factor; is that
25 correct?

1 A Yes.

2 Q And is it correct that the letter F in
3 that formula is the factor for fixed expenses?

4 A Yes.

5 Q And is it correct that the F in that
6 formula is where the provision for the net cost of
7 reinsurance would be included?

8 A It could be included that way or
9 separately. I think the way the Rate Bureau does it
10 is they split it in half and sort of get an "F"
11 value that's already divided by one minus V minus Q.
12 But let me look -- just so we're clear, let me look
13 at the Rate Bureau filing.

14 Right. So I'm in RB-1C. And just as
15 an example, on page C2, if the Rate Bureau was
16 following exactly that generic formula, then the
17 line for the net cost of reinsurance for policy in
18 line 20 would be up with the trended fixed expenses
19 per policy in line 15. And line 17 is where you
20 have the one minus V minus Q where you divide stuff.

21 The way the Rate Bureau has presented
22 it is the net cost of reinsurance per policy that
23 they show already includes the division by one minus
24 V minus Q. So you can see that in the -- if you
25 want to -- that's further explained in the testimony

1 of Mr. Ericksen, if you want me to find that place.

2 Q Mr. Schwartz, if you would, I want to
3 turn to some of your testimony regarding the risk
4 characteristics of homeowners insurance. And I'm
5 looking at page 40, 41 of your testimony.

6 A Okay.

7 Q Do I understand correctly from looking
8 at your testimony at the bottom of page 40, carrying
9 in over to the top of page 41, that it's your
10 testimony that homeowners insurance is riskier than
11 other lines of insurance because its standard
12 deviation of 11.2 percent is higher than the
13 countrywide all lines standard deviation of
14 9.4 percent?

15 A I'll just say the standard deviation
16 for homeowners insurance is higher than that for all
17 lines combined, and that's an indication of more
18 risk for homeowners insurance; standard deviation is
19 a measure of variability.

20 Q And your statement at the top of
21 page 41 that the standard deviation for North
22 Carolina is higher than all lines by about
23 19 percent. That 19 percent is the difference or
24 the change from the 9.4 up to the 11.2.

25 Am I understanding that correctly?

1 A Yeah, I think your question had North
2 Carolina in it, and these were both countrywide
3 homeowners compared to all lines, not North Carolina
4 compared to something else. Unless I misunderstood
5 the question.

6 Q Let me see if I can clean it up. Am I
7 correct in understanding that the 19 percent that
8 you show on line 1 there is the amount, the
9 percentage amount, that 11.2 percent is higher than
10 9.4 percent?

11 A Yes.

12 Q And then you state in that next
13 sentence that that indicates a higher than average
14 degree of risk for homeowners, based on that risk
15 measure?

16 A Yes.

17 Q When you reference the 9.4 percent in
18 that testimony, what exactly is the 9.4, or what
19 does it represent?

20 A Yeah. It represents the weighted
21 average of the standard deviations by line of
22 insurance, weighted by -- I believe it was the
23 premium for the last year by line of insurance.

24 So it's a weighted average of the
25 standard deviations by line of insurance.

1 Q When you provide that explanation, are
2 you looking at your Schedule AIS-18, sheet 1?

3 A I'm looking at it -- I thought in
4 someplace we described it, but I don't see it on
5 that page. But that's how it's calculated.

6 Q I'm sorry. I didn't hear you.

7 A I said, "That is how it's calculated."

8 Q All right. I apologize because I
9 didn't get everything about how you say the -- it's
10 calculated. So how is the 9.4 percent calculated?

11 A So there's a column, second from the
12 right that's called Standard Deviation, and it shows
13 standard deviations by line of insurance. And what
14 I did was, I took a weighted average of those
15 standard deviations by line of insurance, with the
16 weighting being the premium for each line of
17 insurance.

18 Q Again, if I'm understanding you, you're
19 indicating that that's the weighted average by line
20 of insurance using premium. Is the premium shown on
21 this exhibit?

22 A No, it's not.

23 So I would say that, on the bottom of
24 page 40, I talk about the all lines average, which
25 is what I said I did. But I agree, I could have

1 given a further explanation of what I meant by the
2 all lines average on that explanation.

3 Q You say --

4 A I could have and maybe it would have
5 been useful to give a more complete explanation of
6 what I meant when I said "average."

7 Q And could you also have provided some
8 documentation on Schedule AIS-18, sheet 1, as to how
9 that number was calculated?

10 A If I do it again, I'll be sure to put
11 in -- I'll put a note or some further explanation.

12 Q Okay. But you didn't include that
13 documentation, as it appears in your testimony,
14 correct?

15 MR. FRIEDMAN: Asked and answered,
16 Your Honor. Objection.

17 MS. FUNDERBURK: I'm going to allow the
18 question. He's following up on the question.

19 A Again, what I said in the testimony was
20 an all lines average. I didn't indicate it was a
21 weighted average or what the weights were.

22 BY MR. SPIVEY:

23 Q Could another actuary reproduce the 9.4
24 you display on sheet -- or Schedule AIS-18, sheet 1,
25 based on the information you display on that page?

1 A I believe an actuary reading "all lines
2 average" would conclude that I could have meant the
3 weighted average or an unweighted average. And if
4 you do an unweighted average, you see it won't work
5 out. So I believe another actuary could figure it
6 out, but it would take some time.

7 Q Does the schedule state whether it's a
8 weighted average or an unweighted average?

9 A No.

10 Q So, first, we'd have to figure out
11 whether it's weighted average or unweighted average,
12 and then we have to determine what weights may have
13 been used, none of which are shown on this exhibit,
14 correct?

15 A I think I've already said the weights
16 aren't shown on the exhibit.

17 Q Mr. Schwartz, where would the premium
18 weights be obtained?

19 A I think most actuaries have access to
20 AM Best.

21 Q Okay. Does the answer mean it could be
22 obtained from AM Best?

23 A Yes, it could be from AM Best to be
24 obtained. In fact, it is obtained from AM Best.

25 Q What volumes -- or editions or whatever

1 of AM Best could it be obtained from?

2 A Well, if I'm using the last year, it
3 would be obtained from the last year.

4 Q So what it says here, if I'm
5 understanding the source note, it says 1986-2024
6 Best Aggregates and Averages Property and Casualty.
7 Is that where you're saying the numbers could be
8 obtained?

9 A From the 2024. And just so we're
10 clear, AM Best puts out something in 2024 which
11 includes data through 2023. So sometimes the years
12 that are being referenced -- in conjunction with
13 AM Best may seem a little confusing because their
14 edition year only includes data through the year
15 before.

16 Q Am I correct in understanding that all
17 of the numbers displayed on Schedule AIS-18, sheet 1
18 come from more than one edition of AM Best
19 Aggregates and Averages? Let me rephrase that.

20 Am I understanding correctly that the
21 numbers displayed on AIS-18, sheet 1 cannot all be
22 obtained in a single edition of AM Best Aggregates
23 and Averages?

24 A That's correct. I believe each edition
25 currently shows about ten years of information. I

1 think at some point in the past they might have only
2 shown five years. So each edition. So the entire
3 time period could not be obtained from one version
4 of AM Best.

5 Q Is it correct AM Best Aggregates and
6 Averages is essentially a book that presents a
7 tremendous amount of data from annual statements,
8 among other things, perhaps, of insurance companies
9 writing all kinds of business?

10 A These days I think most people get it
11 in electronic format and not a book. But in any
12 case, AM Best has information on property -- well,
13 the property/casualty editions, and AM Best has a
14 lot of information in it which actuaries involved in
15 this field would typically be familiar with.

16 Q And when the information is presented
17 in a book format, the book is typically, say,
18 roughly an inch thick?

19 A I haven't measured it lately.

20 Q A pretty big book, though, isn't it?

21 A It's several hundred pages.

22 Q Yes.

23 A So I would just point out that the way
24 I reference this is not an uncommon way to do this.
25 On all of these exhibits where I reference it, if

1 you look at RB-24, page 14, which shows
2 premium-to-surplus ratios, so it is a page in the
3 Rate Bureau filing, it says "data from any IC
4 statutory filings and from AM Best Aggregates and
5 Averages various years."

6 So to just say we used AM Best for
7 various years is not something that's out of the
8 ordinary. And, in fact, that's the way one of the
9 Rate Bureau exhibits was cited for its data.

10 Q Are you finished?

11 A Yes.

12 MR. SPIVEY: Motion to strike. Not
13 responsive to any question that I asked.

14 MS. FUNDERBURK: It will be provided
15 the appropriate evidentiary weight. Thank
16 you.

17 BY MR. SPIVEY:

18 Q All right. Turning back to page 41 of
19 your testimony again. Are you there?

20 A Yes.

21 Q You state there beginning at line 4,
22 and I quote, "A comparison of the variability of
23 homeowners insurance operating results by state is
24 set forth in Schedule AIS-18, sheet 2," do you not?

25 A Yes.

1 Q And then you continue: "North Carolina
2 has had a lower than average standard deviation when
3 compared to the average result across all states.
4 For homeowners insurance, the North Carolina
5 standard deviation was 24.4 percent. By contrast,
6 the average standard deviation across all states for
7 homeowners insurance was 30.5 percent. The North
8 Carolina standard deviation is about 20 percent
9 lower than the countrywide value. This indicates
10 that based on -- upon this risk measure, North
11 Carolina homeowners insurance is less risky than on
12 a countrywide basis."

13 Is that your testimony in the written
14 testimony?

15 A The written testimony is what it is.

16 Q So your statement there is based on a
17 comparison of North Carolina's standard deviation to
18 a straight average of standard deviations across all
19 the states; is that correct?

20 A Again, I believe it's a weighted
21 average, but let me look at the exhibit and see if
22 it indicates it one way or another.

23 I believe I would have used a weighted
24 average, but, again, it's not explicitly --

25 MS. FUNDERBURK: Please be sure you're

1 speaking into the microphone.

2 A Oh. I believe -- my recollection is I
3 used a weighted average, but it's not explicitly
4 stated.

5 BY MR. SPIVEY:

6 Q So are these numbers all -- the
7 testimony summarizing what you display in the
8 numbers on Schedule AIS-18, sheet 2?

9 A What was the question?

10 Q I was going to turn to AIS-18, sheet 2,
11 and I just want to make sure that that's where the
12 testimony from -- we were just discussing up on page
13 41, that's what it's based on, right? Schedule
14 AIS-18, sheet 2?

15 A Yes.

16 Q So that exhibit displays all of the
17 states, plus, I guess, the District of Columbia, for
18 all of the years 1985 through 2022, correct?

19 A Yes.

20 Q And am I correct in understanding that
21 for each state, you're displaying an insurance
22 operating profit for homeowners insurance for each
23 year 1985 through 2022 --

24 First of all, is that correct?

25 A Yes.

1 Q And then over on the right-hand column,
2 the third column from the left -- I mean, the
3 third -- the column labeled "Average" over on the
4 right side, is that the average of the entries
5 across that row for that state?

6 A Yes.

7 Q And the "Standard Deviation" there, is
8 it the standard deviation related to those operating
9 profits for that state for those -- across those
10 years?

11 A Yes.

12 Q At the bottom of this exhibit shows
13 "Source: NAIC profitability studies by line and by
14 state," correct?

15 A Yes.

16 Q All of these numbers above there that
17 are simply posted for each of the states for each of
18 those years are drawn from the NAIC Profitability
19 Reports, correct?

20 A Yes.

21 Q And you performed the calculations for
22 the "Average," the "Standard Deviation," and I
23 presume also the last column, "Annual Trend." Am I
24 understanding correctly?

25 A Yes.

1 Q Can you describe what the column
2 labeled "Annual Trend" is?

3 A It's fitting a linear regression
4 through 1985 to 2022, and it's the slope of the line
5 on an annual basis.

6 Q So what does "the slope of the line on
7 an annual basis" mean for those of us who aren't
8 actuaries?

9 A I guess you would say it's the average
10 change from one year to the next over the entire
11 time period.

12 So if you look at each of the points
13 they go up or down. They go up and up and up, you
14 can sort of calculate an average statistical change
15 from one year to the next based on all the data.
16 And that's what the annual trend is.

17 Q So if it's a positive number, then
18 it's -- the -- so mine has a slightly upward slope
19 or an upward slope for positive, and if it's a
20 negative number, that line goes down from 1985 to
21 2022, on average?

22 A As measured by a least-squared linear
23 regression.

24 Q Which volumes of NAIC Profitability
25 Studies, which you show as your source --

1 First of all, do all of these numbers
2 come from a single volume of that document?

3 A No.

4 Q How many different such documents does
5 one need to look at to get -- to see these numbers
6 or obtain these numbers?

7 A No. Currently, and for quite a while,
8 the Beach NAIC report included ten years. In the
9 very distant past, they might have included fewer
10 years. So the most you could get from any one
11 report is ten years.

12 Q So how many different volumes do I need
13 to obtain to look at if I wanted to verify these
14 numbers?

15 A Well, if it's ten years a report, and
16 this is a little less than 40 years, it would be
17 possible to do it with four reports.

18 Q I would just need to go find those
19 reports and determine it because you haven't pointed
20 me to any specific ones, correct?

21 A Well, they shouldn't change the numbers
22 from one report to another unless for some reason an
23 insurance company changed their reporting.

24 So when you get ten years for one
25 report, if you go back a year earlier and it's an

1 overlap of nine years, those overlapping numbers
2 should all be the same.

3 Q I still have to figure out at least a
4 minimum of four reports to go find to be able to
5 verify these numbers, right?

6 A Yes.

7 Q I believe you indicated a while ago
8 that the 30.5 that is displayed at the bottom of the
9 column Standard Deviation on the right side there,
10 is it correct -- or did I understand you to say
11 that's a weighted average?

12 A Yes.

13 Q How is it weighted?

14 A By the premiums in the most recent year
15 of each state.

16 Q Are the premiums for the most recent
17 year in each state displayed on this exhibit?

18 A No.

19 Q Where would the premiums for the most
20 recent year be obtained if one wanted to check your
21 calculations?

22 A The most recent NAIC report.

23 Q Would there be a particular page in
24 that report that we would need to go to to find
25 those premiums?

1 A There's a page -- it might actually be
2 two pages in the report -- which shows the most
3 recent year of homeowners insurance experience by
4 state.

5 Q There's no referencing what that
6 document is or what page it is or where we would
7 find those premiums, is there?

8 A I haven't referenced a particular page.

9 Q As I look down the column for standard
10 deviations, I see that some of them are much higher
11 than others, such as Florida, Hawaii, Louisiana. Is
12 it correct that those three states have standard
13 deviations over 100?

14 A I'm just going to need a ruler or some
15 straight edge to --

16 Q Are you looking at the sheet AIS --

17 A I'm looking at the page on the
18 computer. I can try looking at this page. But
19 still, I want to make sure I get it right.

20 So Florida is over 100. It looks like
21 Hawaii is over 100. And Louisiana.

22 Q Is it correct -- strike that.

23 Is it correct that many of the standard
24 deviations are considerably lower than 100? Some of
25 them even in single digits, correct?

1 A Yes.

2 Q Is it correct that the extremely high
3 standard deviations, such as for Florida, Hawaii and
4 Louisiana, will pull up the average?

5 A I'm not sure what you mean by "pull
6 up."

7 But numbers that are higher than the
8 average make the average higher than if those
9 numbers were excluded. So if you excluded the high
10 numbers, the average would be lower.

11 Q Is it correct based on the display
12 you've presented in Schedule AIS-18, sheet 2, that
13 North Carolina has the 15th highest standard
14 deviation of all the jurisdictions shown on this
15 exhibit?

16 A I don't know. I haven't rank ordered
17 them. I'll do that next time.

18 Q And can you count the number of states
19 there that have a standard deviation higher than
20 what you've posted for North Carolina of 24.4?

21 A If you want me to, I'll do that. Would
22 you like me to do that?

23 Q Please.

24 A Okay. You can stop.

25 Yes. It looks like they're 14th

1 higher.

2 Q Thank you. Just --

3 A Did you hear that? Because I had the
4 microphone away from me. There were 14 higher, I
5 said.

6 Q And how many jurisdictions are
7 displayed on this exhibit? And my understanding is
8 all the 50 states plus the District of Columbia are
9 displayed; is that right?

10 A Yes.

11 Q So does that mean there are 51
12 jurisdictions displayed?

13 A Yes.

14 Q So if North Carolina is the 15th and
15 there are 14 higher, how many does that leave to
16 have standard deviations lower than North Carolina,
17 as presented on this exhibit?

18 A Thirty-six.

19 Q For North Carolina there, how did you
20 calculate the standard deviation that you presented
21 of 24.4?

22 A It's a function in Excel.

23 Q Which function in Excel did you use, if
24 you remember?

25 A It's a standard deviation. I believe I

1 used a sample standard deviation.

2 Q So in Excel, as I understand it, that
3 will be like STANDARD DEVIATION. S?

4 A I think it may be not spelled out as
5 "standard deviation."

6 Q Well --

7 A I don't remember the exact name of it,
8 as we're talking here.

9 Q But there's a function in Excel for
10 standard deviation. It's probably like STDEV. S.

11 A Something like that.

12 Q And is there also a function for
13 standard deviation of a population?

14 A Yes.

15 Q So your testimony is you've used the
16 function, standard deviation of the sample?

17 A That's my recollection. I would say
18 for this exhibit, it doesn't matter which one you
19 use because the difference between the standard
20 deviation sample and standard deviation population
21 is going to be the same for every state.

22 So when you're comparing one state to
23 the next, it doesn't matter whether you use a sample
24 standard deviation or population standard deviation
25 because the difference between those by state are

1 all going to be the same.

2 So when you do a ratio, it doesn't
3 matter.

4 Q And, again, I'm no expert in this at
5 all, and particularly on Excel or standard
6 deviations, but if I'm understanding your testimony
7 correctly, you calculated the standard deviation for
8 North Carolina using the Excel function for standard
9 deviation of a sample?

10 A That's my recollection, as I sit here,
11 but whatever I did for North Carolina was the same
12 for every other state.

13 Q Okay. That was my next question. Are
14 all the other states calculated in the same manner?

15 A Yes, they'd all be calculated -- I
16 believe they're all based on the sample standard
17 deviation. But if, for some reason, I'm mistaken
18 and they're on the population standard deviation, it
19 doesn't really affect it because the relative
20 standard deviation from one jurisdiction to another,
21 or to countrywide doesn't vary depending upon
22 whether you use a sample or population standard
23 deviation.

24 Q For the value 30.5, just to make sure
25 I'm understanding, that's not a calculation of

1 standard deviation across that line but, rather,
2 just a weighted average of the numbers above it in
3 that column?

4 A Yes.

5 Q Mr. Schwartz, do you have your
6 calculations of this exhibit available to you here
7 today?

8 A Yes.

9 Q Can you double-check the calculation of
10 24.4 as the standard deviation for North Carolina on
11 this exhibit? Because I got a different number.

12 A Okay. I'll check it. You want it
13 right now or during a break?

14 Q How long will it take?

15 A A couple of minutes.

16 MR. SPIVEY: Can we take a couple
17 minutes, Your Honor?

18 MS. FUNDERBURK: Why don't we go ahead
19 and take our afternoon recess. Will
20 10 minutes be sufficient, or do you need 15?

21 THE WITNESS: Do you want to -- give me
22 15 so if I have to do something else, I can.

23 MS. FUNDERBURK: Let's take a 15-minute
24 recess. During that time, Mr. Schwartz will
25 double-check the standard deviation. When

1 you return to the stand, you'll remain under
2 oath. We are in recess. Thank you.

3 MR. BEVERLY: Your Honor, may we have
4 one moment?

5 MS. FUNDERBURK: Oh, I'm sorry. We're
6 back on the record. Yes, sir.

7 (Pause.)

8 MR. SPIVEY: If I may, while we're
9 asking Mr. Schwartz to calculate a number.

10 BY MR. SPIVEY:

11 Q Mr. Schwartz, while you're looking at
12 your exhibits, if you would, can you calculate what
13 the standard deviation of the numbers on the
14 "Countryside" row is using the calculations as
15 you've performed them for the states on this
16 exhibit?

17 A I could do that. I don't think
18 that's -- a valid comparison. But I'll come up with
19 a number.

20 MR. SPIVEY: Thank you.

21 MS. FUNDERBURK: Is that number already
22 in, and you're asking that it be
23 recalculated, or are you asking for new
24 figures?

25 MR. SPIVEY: Based on his testimony --

1 (Overlapping speakers.)

2 MR. SPIVEY: Based on the testimony,
3 what I'm asking him is not shown on this
4 exhibit.

5 What he's told me the 30.5 is, is an
6 average down the column. I'm asking him what
7 the number for standard deviation would be
8 across the column -- across the row.

9 MR. FRIEDMAN: Your Honor, whether
10 15 minutes is enough for those two, plus a
11 little bit of time for Mr. Schwartz to
12 explain it to me, I don't think so. I
13 think -- I'm concerned that 15 minutes isn't
14 enough time to break.

15 MS. FUNDERBURK: Let's start with 15
16 and come back and let me know where you are.
17 If we need additional time, we can do that;
18 or if we need to move on to something else
19 and come back to this, we can. Let's start
20 with 15. Come back. Let me know if he's
21 been able to do it and communicate to you.
22 If not, we'll either do additional time or we
23 will move on to another question so that that
24 can be calculated, perhaps, overnight and
25 we'll go from there.

1 We are in recess for 15 minutes. Thank
2 you.

3 (A recess was taken from 2:37 to 2:50
4 p.m.)

5 MS. FUNDERBURK: We are back on the
6 record.

7 Mr. Friedman, were those calculations
8 able to be performed or do we need additional
9 time?

10 MR. FRIEDMAN: Those were able to be
11 performed, Your Honor.

12 MS. FUNDERBURK: All right. Is there
13 anything we need to address before we resume?

14 MR. FRIEDMAN: Not from our end, Your
15 Honor.

16 MS. FUNDERBURK: Mr. Schwartz, you
17 remain under oath. Mr. Spivey, please
18 proceed.

19 BY MR. SPIVEY:

20 Q Mr. Schwartz, I believe when we broke I
21 believe I had asked if you would check your
22 calculation of the standard deviation for North
23 Carolina as you've displayed it on your Schedule
24 AIS-18, sheet 2.

25 Have you been able to do that at the

1 break?

2 A Yes.

3 Q What number did you get?

4 A Well, I think the question is, what
5 method was used, right? The number is in the
6 filing. You wanted to know what method it was.

7 Q I think I asked if you would double
8 check the calculation of the 24.4.

9 A Yes. And I calculated it based on the
10 way it's done on AIS-18, sheet 2, and it turns out
11 that I misremembered, that's the population number.

12 So I recalculated both the North
13 Carolina number and the countrywide number using the
14 standard deviation -- the standard -- the standard
15 deviation, those come out to 24.7 and 30.9. And the
16 ratio of North Carolina to countrywide is
17 80.10 percent which is the exact same number that
18 you get when you do the ratio based on the
19 population standard deviation, and that's why I
20 said, for the calculation we're just doing one
21 relative to the other, it doesn't matter whether you
22 use a sample or the population.

23 Q Mr. --

24 MS. FUNDERBURK: Mr. Spivey, would you
25 mind putting it back on the screen so it's

1 easy for me to see?

2 MR. BEVERLY: Yes, Your Honor.

3 MS. FUNDERBURK: Thank you. I didn't
4 have it pulled up before. I was referencing
5 the one that was on the screen. If you could
6 give me the page numbers specifically. Thank
7 you for pulling it back up.

8 (Stenographer requested clarification.)

9 MR. SPIVEY: Your Honor, is there a
10 chance she may have missed when we resumed?

11 MS. FUNDERBURK: The recording is
12 running. We have multiple recordings running
13 if she missed it. There's a Webex. There's
14 For the Record system is running a recording
15 and she has a recording. So we have double
16 redundancy just in case.

17 THE STENOGRAPHER: I agree, thank you.

18 MS. FUNDERBURK: It's not that we were
19 nervous about anything. We're just very
20 cautious about making sure we have everything
21 recorded.

22 Mr. Spivey, please proceed, and I think
23 you might need to ask your question again.

24 MR. SPIVEY: Your Honor, you're correct
25 because I need to hear the answer again.

1 BY MR. SPIVEY:

2 Q Mr. Schwartz, do I understand that you
3 were able to double check the calculations on
4 Schedule AIS-18, sheet 2?

5 A Yes.

6 Q What did you determine to have been the
7 manner of calculating or the type of standard
8 deviation that you calculated for North Carolina
9 there, which is shown on your Exhibit as 24.4?

10 A That's the population standard
11 deviation.

12 Q Is 24.4 a correct number for that
13 calculation?

14 A 24.4 is the population standard
15 deviation, so it's the correct number for the
16 population --

17 MS. FUNDERBURK: Please be sure you're
18 speaking into the microphone.

19 BY MR. SPIVEY:

20 Q If I heard you speaking correctly -- if
21 I heard you correctly when you were speaking a
22 moment ago, you said you recalculated as the -- you
23 recalculated the standard deviation of the standard
24 deviation as well, correctly -- I mean, am I correct
25 in understanding that?

1 A Yes.

2 Q What was that result?

3 A That North Carolina was 24.7.

4 Q Are all of the other jurisdictions
5 shown on this exhibit shown in their form on this --
6 that the numbers shown here, is that the standard
7 deviation of the population, or the standard
8 deviation of the sample for the other states?

9 A The population they would have all been
10 done the same way.

11 Q During the break, did you calculate the
12 standard deviation of the numbers shown in the row
13 for countrywide?

14 A I calculated them the way I believe you
15 asked me to, which, for the purposes of the exhibit,
16 I don't think is an accurate comparison, but I've
17 done the calculation.

18 Q What was the result for the manner in
19 which the standard deviations for each of the states
20 was calculated? What's the result of that
21 calculation for countrywide?

22 A If you do the countrywide calculation,
23 using the same formula as a state calculation, which
24 is inappropriate for this exhibit, you get 9.0 as a
25 population standard deviation.

1 Q 9.0 for the population, did you do it
2 for the standard deviation?

3 A That's the standard deviation is 9.1.

4 Q Mr. Schwartz, is there any indication
5 or explanation on this exhibit to tell the reader
6 that 30.5 posted in the column for standard
7 deviation is not the standard deviation of the
8 numbers for the countrywide along that row?

9 A Well, going back to the text, it talks
10 about the averages across all states. So for 18, 2.
11 So the text indicates that it's an average but
12 doesn't indicate that it's necessarily a weighted
13 average.

14 MS. FUNDERBURK: Could you move your
15 microphone up just a tad for me? Thank you.

16 BY MR. SPIVEY:

17 Q You testified now, in explaining what
18 this exhibit shows, that the 30.5 is a weighted
19 average of these standard deviations for the
20 individual states using premium as the weight,
21 correct?

22 A Yes.

23 Q What is the purpose of performing a
24 weighted average of the standard deviations for the
25 individual states?

1 A Because if you don't use an average --
2 well, first, I'll get to the point of average, as
3 opposed to doing the calculation the way you asked
4 me to.

5 Doing the average says, for a typical
6 state or a common state, how much is a deviation in
7 that state. When you do the calculation the way you
8 asked me to, what you were doing is you no longer
9 are examining things, saying "What's happening in a
10 state?" You're looking at it and saying "What's
11 happening countrywide?" Which takes into account
12 the benefit of diversification between the states.

13 And so what happens when you look at
14 the countrywide numbers is in one year you could
15 have a bad experience in one state and good
16 experience in the other. With the individual
17 states, it's going to show variation of the states,
18 but in the countrywide basis, they balance out and
19 you have not seen that variation.

20 So you're not comparing the same things
21 if you do the calculation for countrywide on the
22 same -- in the same way you would do it for each
23 individual state because you're not measuring the
24 same thing. Where a calculation like that could be
25 useful is in determining the benefit of

1 di versi fi ca ti on. Where you're say ing wi thout
2 di versi fi ca ti on, the average standard devi a ti on is
3 around 30, and wi th standard devi a ti on -- and wi th
4 di versi fi ca ti on across states, the average devi a ti on
5 or standard devi a ti on is 9. You're redu cing it by
6 about 70 percent.

7 And what that means is, when you have
8 di versi fi ca ti on, you have less vari a bi li ty in
9 resul ts, and, therefore, you need -- there's less of
10 a need for rei nsur a nce.

11 So the whole concept of
12 di versi fi ca ti on, of say ing, "What happens when you
13 write in more than one state and more than one line
14 of busi ness?" You give a spread of risk internally
15 wi thi n your own company, and that lessens the need
16 forei gn.

17 So di versi fi ca ti on, both across states
18 and across lines of insur a nce, decreases the need
19 for rei nsur a nce.

20 Why you would take a weighted average
21 in stead of a straight average is because small
22 states tend to have higher vari a bi li ty than larger
23 states and are subject to more random fluctua ti on.
24 So it's appropri a tely to weight the larger states
25 more because they give a better indi ca ti on of what's

1 happening in a given state, averaged across the
2 country.

3 MR. SPIVEY: Your Honor, if I heard
4 Mr. Schwartz correctly, he gave a good
5 portion of that long answer in the context of
6 reinsurance, and I'm confident that I heard
7 him mention the writing of other lines of
8 insurance.

9 And we're not even talking about that
10 issue here. We're looking at an exhibit,
11 which I understand to be operating profit for
12 the line of business of homeowners. So I'll
13 move to strike everything that pertained to
14 anything other than why he's -- what's the
15 purpose of a weighted average of the
16 individual states on this exhibit.

17 MS. FUNDERBURK: I'll note your
18 objection, and when I review for the order
19 I'll give what is and isn't responsive
20 appropriate evidentiary weight.

21 I understand that was a lot of
22 information. I'm going to have you just ask
23 the question again, specifically the
24 information you're looking for.

25 Mr. Schwartz, I'm going to ask you to

1 limit your response. It's a lot of
2 information, it's a lot of good information,
3 but I need you to limit your response to
4 specifically what Mr. Spivey is asking you,
5 to the extent you can.

6 If you need to give some additional
7 detail to explain what the answer to his
8 specific question is, let me know. But to
9 the extent possible, I need you to
10 specifically answer that question.

11 THE WITNESS: I apologize, Your Honor.
12 I felt that my answer was responsive, and I'm
13 sorry if people feel it wasn't responsive.

14 BY MR. SPIVEY:

15 Q So, Mr. Schwartz, my understanding from
16 your testimony is that in presenting the 30.5 that
17 you display on the Countrywide row of this exhibit
18 in the column for Standard Deviations, you've
19 testified that that was derived using a weighted
20 average. Am I correct in understanding that?

21 A Yes.

22 Q And my question to you was: What is
23 the purpose of calculating a weighted average of the
24 individual state deviations -- for the information
25 performed on this -- or presented on this exhibit?

1 A So let me ask a clarification. Is your
2 question why would you use a weighted average
3 instead of an unweighted average, or is your
4 question why you would use a weighted average
5 instead of the calculation you asked me to do?

6 Q My question is, what was your purpose
7 in presenting a weighted average on this exhibit for
8 that number in the context of insurance operating
9 profit for homeowners?

10 A It was to get an estimate of what
11 variability is by state.

12 Q Is it your intention to give greater
13 weight to the states with larger amounts of
14 homeowner insurance premium?

15 A I'm not sure what you mean, "is it my
16 intention." It's a common actuarial procedure to
17 give higher weight to experience that has a bigger
18 base. So I mean, I didn't say I intend to do this,
19 let me find a way to do it. I just said that's a
20 common way of doing it among actuaries, is getting a
21 weighted average, so that the more reliable data is
22 given more weight.

23 Q Am I correct in understanding that a
24 homeowners premium in California is much, much
25 larger than the homeowners premium, say, in a state

1 I like Idaho?

2 A Yes.

3 Q So is the homeowners premium -- and
4 operating -- I'm sorry. Strike that.

5 Let me start again. Is the operating
6 profit for the state of California more important in
7 this calculation than the operating profit in Idaho?

8 A Every state is important to me. But I
9 would say, as a standard actuarial procedure, it's
10 common to give a bigger base of experience more
11 weight. And because California has a bigger base of
12 experience, it would be a common actuarial procedure
13 to give it more weight by taking into account the
14 difference in the premium volume.

15 Q In your testimony you state that the
16 standard deviation for North Carolina is about
17 20 percent lower than the countrywide value, and
18 that that indicates, based upon that risk measure,
19 that North Carolina homeowners insurance is less
20 risky than it is on a countrywide basis; is that
21 your testimony?

22 A On a countrywide basis when you're
23 looking at it state by state, right? Not on a
24 countrywide basis you take into account
25 diversification, which is something that you

1 shouldn't do. In this exhibit, it's something you
2 can take into account elsewhere, which I won't go
3 into because I guess you don't want to hear it. But
4 when we say countrywide in here, we just have to
5 understand it's by averaging the different states
6 together.

7 Q If I recall the numbers you gave me for
8 the standard deviation of the numbers you've posted
9 at the bottom of this exhibit for the row labeled
10 "Countrywide," that the standard deviation for North
11 Carolina is actually higher than the standard
12 deviation for countrywide, just in terms of the
13 magnitude of the numbers.

14 Do I recall correctly?

15 A You -- well, that is not how I would
16 characterize my testimony. I would agree that 24.7,
17 if we're dealing with the sample standard deviation,
18 is bigger than 9.1, but I would say in this context
19 of this exhibit, that is a meaningless and an
20 invalid comparison.

21 Q Mr. Schwartz, do you know whether any
22 of the states relative ranking in terms of standard
23 deviation changed when you calculated it using the
24 standard deviation of the sample?

25 A Yes, I know.

1 Q Did any of them change?

2 A No.

3 Q So is it correct that 36 states, using
4 your calculations, have standard deviations lower
5 than that's shown for North Carolina?

6 MR. FRIEDMAN: Your Honor, I'm going to
7 say asked and answered.

8 MS. FUNDERBURK: There's been a lot of
9 discussion to clarify exactly what the
10 numbers mean. I'm going to allow the
11 question.

12 A Whether you do it on population or
13 sample basis, they're going to be the same rank.
14 And so if we say there was 36 on a population basis,
15 it would be 36 on a sample basis.

16 BY MR. SPIVEY:

17 Q But 36 of the jurisdictions out of 51
18 jurisdictions have a lower standard deviation than
19 North Carolina, correct?

20 A Yes.

21 Q So, again, Mr. Schwartz, the testimony
22 that you presented at pages 40 and 41 -- and I guess
23 page 42 also -- about the riskiness of North
24 Carolina homeowners insurance relating to this
25 exhibit, you present a conclusion there, beginning

1 at the bottom of page 41 at line 45, as follows.

2 Do you have it handy so you can follow
3 along?

4 A Yes.

5 Q "I concluded that the property and
6 casualty insurance industry is an average risk
7 industry. I also determined that homeowners
8 insurance is higher than average risk. North
9 Carolina homeowners insurance presents average to
10 lower than average risk than on a countrywide basis.
11 Overall, North Carolina homeowners insurance
12 presents a higher than average risk."

13 Did I read that correctly?

14 A I believe so.

15 Q You also presented other calculations
16 of what you call "risk measures" related to reserve,
17 did you not?

18 A Yes.

19 Q And those are shown on your
20 Schedule AIS-19, are they not?

21 A Yes.

22 Q And those measures, in your opinion,
23 indicate that homeowners insurance is less risky or
24 about average in risk; is that correct?

25 A Based on these risk measures.

1 Q But you do not reference those measures
2 in your overall conclusion that I just read from the
3 bottom of page 41 and the top of page 42, did you?

4 MR. FRIEDMAN: Your Honor, I'm sorry.
5 This really may just be me, but I'm having a
6 little problem understanding if the question
7 is the plain language of 40 and 41 versus the
8 exhibit attached to the testimony. I was
9 just hoping to get a little clarification on
10 that.

11 MS. FUNDERBURK: I think where we're
12 going is there's a comparison of the two.

13 Is that where we are, Mr. Spivey?

14 MR. SPIVEY: Yes. My question is
15 simply that he presented some exhibits
16 showing that, but he hasn't referenced them
17 in his overall conclusion.

18 MR. FRIEDMAN: Thank you.

19 A So, I mean, the conclusion was on page
20 41 to page 42, we read. But before I did that, the
21 question before talks about 19: 1, 2, and 3.

22 So I talked about those specific
23 schedules and calculations before listing
24 conclusions.

25 BY MR. SPIVEY:

1 Q Mr. Schwartz, to your knowledge, are
2 companies in the insurance industry and the
3 reinsurance industry judged by rating agencies on
4 their abilities to withstand rare events, such as,
5 say, a 1-in-100-year event or a 1-in-250-year event?

6 A Yes.

7 Q Do you consider or think it appropriate
8 for companies to be managed in a way to ensure that
9 they're able to pay their claims should, say, a
10 1-in-100-year event occur?

11 A Company management should be interested
12 in solvency. There are different standards that
13 companies use. A 1-in-100 is not an unusual
14 standard.

15 Q Do you believe that assessing risk by
16 using standard deviation applied to a few dozen
17 years of data is a reasonable way of assessing risk
18 associated with 1-in-100-year or 1-in-250-year
19 events?

20 A They could be included. If -- are you
21 talking about a 1-in-100 or 1-in-250-year event in a
22 given state. So, I mean, you have 30 or 40 years of
23 experience, but like 50 different states. So there
24 is more than just the number of data points based on
25 the number of years because you have data points for

1 each of the 51 jurisdictions in each of the years.

2 But I would say people make qualitative
3 assessments besides just looking strictly at the
4 numbers from the data, and I believe I appropriately
5 reflected that in the selection I made for the
6 operating profit.

7 MR. SPIVEY: Could I have just a
8 moment.

9 Thank you, Your Honor.

10 BY MR. SPIVEY:

11 Q Mr. Schwartz, in your Additional Direct
12 testimony earlier this week, you presented Exhibit
13 DOI 44 and DOI 45, did you not?

14 A I'm trying to find those. I don't
15 remember the numbers.

16 Q If you could, I'm going to be asking a
17 few questions about DOI 44, DOI 45, and Exhibit
18 RB-30.

19 MS. FUNDERBURK: I have just a couple
20 follow-up questions before we shift, since
21 we're looking for exhibits.

22 EXAMINATION

23 BY MS. FUNDERBURK:

24 Q Mr. Schwartz, your prefiled
25 testimony -- in your prefiled testimony, you

1 indicated that North Carolina presents
2 average-to-lower risk than on a countrywide basis,
3 correct?

4 A Right. Based on the statistical data
5 that's available.

6 Q Based on the statistics that are
7 available.

8 When we broke for 15 minutes and you
9 checked the math on the standard deviations, did you
10 come to the conclusion that your math was correct?

11 A Well, the mathematics was correct. I
12 misremembered that I did the sample standard -- that
13 I used a population standard deviation instead of
14 the sample deviation.

15 But as I said, because the difference
16 between those two would be exactly the same for
17 every state and countrywide, whether you take the
18 relative North Carolina to countrywide using a
19 population standard deviation or the sample standard
20 deviation, you get 80.1 percent either way. I mean,
21 just by mathematics they would work out exactly the
22 same way no matter how many decimal points you took
23 it out to.

24 Q So you're telling me that the math was
25 correct regardless of which methodology you use to

1 determine the average?

2 A Right. The ratio of North Carolina to
3 countrywide is going to be exactly the same, whether
4 you calculate the standard deviation -- whichever
5 way you calculate the standard deviation.

6 Q Okay. And so that I make sure that I'm
7 clear in my mind -- and forgive me, I'm an attorney,
8 not an actuary -- based on those -- based on that
9 data you were referring to, the same chart where you
10 ran the numbers, again, and used a different
11 methodology but got the same result, overall where
12 does that put North Carolina risk-wise? Average?
13 Below average?

14 A Yeah. I would say on that statistical
15 measure -- well, as just a statistical measure,
16 they're below average. You know, there's other
17 measures -- I don't want to get too technical.

18 Q I just want to talk about that chart.

19 A Okay.

20 Q Does that chart -- if you look at the
21 data on that chart, North Carolina as compared to
22 other states, is it your testimony that that chart
23 says North Carolina presents an average to lower
24 risk, average on a countrywide basis, or a higher
25 risk on a countrywide basis?

1 A On that particular chart of North
2 Carolina compared to other states, North Carolina is
3 lower than average risk.

4 MS. FUNDERBURK: Okay. Thank you.
5 I'm sorry to interrupt.

6 CROSS-EXAMINATION (CONTINUED)

7 BY MR. SPIVEY:

8 Q Mr. Schwartz, do you have before you
9 Exhibit DOI 44 and DOI 45?

10 A Yes.

11 Q When you presented these exhibits in
12 your Additional Direct, you suggested that the
13 graphs that were included in Exhibit RB-30 were
14 presented to mislead the Hearing Officer, did you
15 not?

16 MR. FRIEDMAN: Objection, Your Honor.
17 Mischaracterizes his testimony. It just
18 flatly mischaracterizes it.

19 MS. FUNDERBURK: I don't recall exactly
20 how it was described. If we need to, we can
21 look back at transcripts.

22 State your question in as an objective
23 way as you can.

24 MR. SPIVEY: I'll try to restate the
25 question, Your Honor.

1 BY MR. SPIVEY:

2 Q Mr. Schwartz, when you presented DOI 44
3 and DOI 45, you suggested that the graphs that were
4 included in Exhibit RB-30 were presented to mislead
5 the Hearing Officer?

6 That was my question.

7 A No. That's mischaracterizing my
8 testimony. Would you like to know what my testimony
9 really was?

10 Q Mr. Schwartz, is the title of the
11 article you presented as DOI 45, "5 Ways Writers Use
12 Graphs to Mislead You"?

13 MR. FRIEDMAN: Objection, Your Honor.

14 That is not the title.

15 I'm sorry. Up at the top it says --
16 there are two different titles, technically.
17 I'm sorry. I was reading at the black at the
18 top as opposed to Mr. Spivey's reading from
19 the yellow block.

20 MS. FUNDERBURK: Please proceed,
21 Mr. Spivey.

22 BY MR. SPIVEY:

23 Q Mr. Schwartz, my question, I guess,
24 was: Was the title of the document presented as
25 Exhibit DOI 45 -- and I'm looking specifically in

1 the yellow box. Is the title there "5 Ways Writers
2 Use Graphs to Mislead You"?

3 A You read the words in the yellow box
4 correctly.

5 Q Mr. Friedman apparently is looking or
6 referring to something above that. And is that --
7 are those words "5 Ways Writers Use Misleading
8 Graphs to Manipulate You"?

9 A That's what it says.

10 Q And as I understand it, you presented
11 as a reason that the baseline along the y-axis on
12 the first page of Exhibit RB-30 is not shown.

13 Am I recalling that correctly?

14 A I said it is a misleading graph. I did
15 not mean to imply -- and I do not believe I
16 stated -- that there was intention on the part of
17 the person preparing the graph to mislead the
18 Hearing Officer. I was just stating what I think is
19 an objective fact, which is that the graph is
20 misleading. I'm not -- I'm not assigning any intent
21 to the person who prepared the graph.

22 Q Thank you.

23 Looking at Exhibit RB-30, specifically
24 at the percentages shown for the CTR premium as a
25 percent of premium, is it correct that all of those

1 percentages are accurate based on your own review of
2 the data?

3 A So the values on the right-hand side
4 are accurate, as I was able to check those against
5 the DOI publications. The figures on the left-hand
6 side, you have to do some calculations based on the
7 data from the DOI website, and I did not do those
8 calculations.

9 Q Are you contending that any of the
10 numbers for CTR premium, as percentage of premium
11 shown on the left side of that exhibit, are not
12 accurate?

13 A I'm not making -- I'm not making a
14 statement about it, one way or another, as I did not
15 check it.

16 Q And is it correct that all of the
17 underlying data for those graphs for the CTR premium
18 and the overall premium are included and attached as
19 part of Exhibit RB-30?

20 A Again, my understanding is that that's
21 the bureau's contention. I haven't checked. Right?
22 I said other than the numbers on the right-hand side
23 of page 1 of RB-30 -- maybe the right-hand side of
24 the second page because that's the total for the
25 state. But various of these numbers are based on

1 calculations of the website data, and I haven't
2 checked to see whether they're correct or not.

3 Q In Exhibit DOI 44, you showed CTR
4 premium as a percentage of overall premium, correct?

5 A Yes.

6 Q And the premium numbers you're
7 utilizing there relate to the ones shown on the
8 right side of the graph shown in Exhibit RB-30,
9 correct?

10 A Yes.

11 Q On page 2, of Exhibit RB -- I mean, I'm
12 sorry, Exhibit DOI 44, you perform some type of
13 analysis. And do I correctly understand that this
14 analysis also pertains to statewide consent-to-rate
15 premium and overall premium on a statewide basis?

16 A Yes.

17 Q And your conclusion, as you presented
18 it in a box on the lower portion of that page 2 of
19 DOI 44, was that -- and I'll read it: Rate level
20 increased from 2017 to 2023. Percent of written in
21 CTR increased from 2017 to 2023.

22 Did I read it correctly?

23 A I believe so.

24 Q And is that the conclusion you
25 presented from whatever this analysis is on page 2

1 of DOI 44?

2 A It's a conclusion in the sense that
3 those are the numbers. It's not what I recall an
4 opinion or a subjective thing. That's just exactly
5 what the numbers show.

6 Q Is it true that the percentage premium
7 written in CTR, when looked at across the entire
8 state in 2023, is that its highest level over any of
9 the nine years displayed on DOI 44?

10 A Yes.

11 Q Looking, again, at your conclusion on
12 page 2 of DOI 44, are you suggesting in that
13 conclusion that the percentage premium written in
14 CTR increases as the rate level increases?

15 A I'm not saying that there's a cause and
16 effect there. I'm just saying that is what the
17 observation is when you match things up. So it's
18 really just to point out that when you match up the
19 CTR level with the rate level, you don't get what --
20 the conclusion that I believe was assigned to RB-30.
21 And that was the point of DOI 44.

22 MS. FUNDERBURK: Please lean forward
23 towards the microphone.

24 BY MR. SPIVEY:

25 Q So just to be clear, again, do I

1 understand that you are not suggesting that the
2 percentage premium written in CTR increases when
3 rate level increases?

4 A I think your question is, is there a
5 cause-and-effect relationship? And I have not said
6 there's a cause-and-effect relationship. What I
7 have said is, as the rate level in North Carolina
8 has increased, so has the average CTR level.

9 Q So I'm sorry if I'm a little slow, but
10 when you keep trying to clarify that, I'm trying to
11 ascertain whether you're suggesting that CTR
12 increases when rate level increases.

13 A Right. And I'm clarifying that I
14 understand that for -- that you are asking, is there
15 a cause-and-effect relationship? And I'm not saying
16 there's a cause-and-effect relationship. I'm making
17 the observation that when you group things so that
18 they follow the assigned time period, the
19 observation that you see is that as the rate level
20 went up, the average CTR level went up. I'm not
21 saying that there's a cause-and-effect relationship
22 there. The average CTR level may be going up for
23 different reasons.

24 But DOI 30, which seemed to imply that
25 when the rate level went up, that there was a

1 cause-and-effect relationship that caused CTR to go
2 down, I believe, is not an appropriate conclusion
3 because RB-30 was not analyzed appropriately, in my
4 opinion.

5 Q On page 3 of Exhibit DOI 44, you
6 present some type of analysis regarding the change
7 in CTR premium by the change in rate level; is that
8 correct?

9 A Yes. I looked at the relationship
10 between the change in the rate level and change in
11 CTR percent over time.

12 Q Is it correct that the analysis you
13 present in page 3 of Exhibit DOI 44 relates to the
14 statewide CTR premium and the statewide overall
15 premium?

16 A Yes.

17 Q And by that we're referring to the
18 portion of RB-30, page 1, that's on the right side
19 of that graph?

20 A Yes.

21 Q Did you perform any analyses similar to
22 the analyses you've presented in DOI 44 for the left
23 side of page 1 of Exhibit RB-30?

24 A No.

25 Q If you would, Mr. Schwartz, please turn

1 to pages 2 -- or just look at pages 2, 3, and 4 of
2 Exhibit RB-30. Are the baselines on the y-axis
3 shown or easily determined when looking at those
4 pages?

5 A Did you say 2, 2, 3, and 4?

6 Q Yes.

7 A Well, 3 and 4 show the baseline. Two
8 doesn't show the baseline. But I explained in my
9 Additional Direct how you could determine what that
10 is.

11 Q Did you perform any analyses of the
12 data on page 2 of Exhibit RB-30 similar to your
13 analyses of the data on page 1?

14 A No.

15 Q Did you do any analysis of the data on
16 page 2 that you haven't presented as part of DOI 44?

17 A No.

18 Q If you would, turn to page 3 of
19 Exhibit RB-30. Did you do any analysis of the data
20 on page 3 similar to your analyses of the data on
21 page 1?

22 A No.

23 Q Did you do any analyses of the data on
24 page 3 that you haven't presented as part of your
25 Exhibit DOI 44?

1 A No.

2 Q Turning to page 4. Did you do any
3 analyses of the data on page 4 similar to the
4 analyses you performed of the data on page 1?

5 A No.

6 Q Did you do any analyses of the data on
7 page 4 that you haven't presented as part of your
8 Exhibit DOI 44?

9 A No.

10 Q Looking, again, at page 2 of
11 Exhibit RB-30, is it correct that the average
12 premium increase on CTR policies above manual rate
13 has increased every year since 2020?

14 A The numbers shown increased, but I
15 don't believe it's accurate to describe this as
16 average premium increase on CTR policies above the
17 manual rate. I think that leaves the impression
18 that if a policy was written -- well, going back to
19 page 2 -- that if a policy was written in the
20 voluntary market, if that policy were -- if that
21 exact same policy were written on a CTR basis, the
22 increase would be 447. And that's not actually how
23 the calculation is done.

24 So if you turn to the first page after
25 page 4, which is the first page of DOI stuff, it

1 says the average premium -- or the very right-hand
2 column says average difference -- Average Premium
3 Difference per CTR policy. And so what that's
4 saying, at least my understanding, is that if you
5 look at the average CTR premium for the policies
6 written in CTR and the average premium for policies
7 that are not written at CTR, that's the 447. Do you
8 see down at the bottom there's a difference?

9 But that doesn't mean that, if the same
10 policy was written on CTR as it would have been
11 written without CTR, that on average that policy
12 would cost \$447, because you're not comparing the
13 same set of policies. And I'm just looking for
14 something which may indicate it.

15 So if you turn to -- the rest of the
16 pages aren't numbered.

17 It's the page for 200 -- "200" -- 2023
18 that has the green boxes on it. I guess that's the
19 only way I can describe it.

20 Q But can you maybe help us get to where
21 you are? Because I'm not sure where you are.

22 THE WITNESS: Okay. Whoever's doing
23 the screen, keep going down. You got to go
24 down a couple pages. You might as well go
25 faster.

1 Keep going. Go, go, go, go, stop.

2 So if you look at the very first

3 line -- or first two lines, this is for homeowners.

4 They're both full coverage. They're both in the

5 beach. One's consent to rate and one's not consent

6 to rate. And if you look at column 11, it shows the

7 average covered insured amount.

8 You can see that on the consent to rate

9 it's 581,146. On the nonconsent to rate, it's

10 513,274. So part of that difference that you can

11 see on those policies is not because the rate was

12 different, it was because the amount of coverage was

13 different.

14 So I just want to make sure we

15 understand exactly what page 2 is showing. It's

16 not -- it's not showing what people pay for consent

17 to rate compared to nonconsent to rate for the exact

18 same policies, they're for a different group of

19 policies. So I just want people to understand what

20 those bar graphs mean.

21 BY MR. SPIVEY:

22 Q If you look at the first page after the

23 bar graphs, which I think you just referenced a

24 moment ago when you pointed to the \$447, right?

25 A Yes.

1 Q So you understand that these data are
2 directly from the department's website.

3 A I have no doubt -- well, I shouldn't
4 say I have no doubt. I should say I have no reason
5 to believe that the data are incorrect. All I'm
6 saying is you have to understand what the data
7 represents.

8 Q And on the department's website, that
9 column that culminates with \$447 at the lower right
10 is labeled "Average Premium Difference per CTR
11 Policy," is it not.

12 A That's what it says.

13 Q And that's the way the department
14 presented it on the department's website?

15 A Well, what you wrote --

16 Q I'm just making sure we're all
17 understanding the same thing.

18 MR. FRIEDMAN: Your Honor, if he can
19 answer, let him answer the question.

20 A That's what the department wrote on its
21 website. That's not what the title is on page 2.

22 BY MR. SPIVEY:

23 Q Mr. Schwartz, are you simply -- are you
24 saying that presentation of the \$447 on page 2 of
25 Exhibit RB-30 on the far right is not accurately

1 presented because the heading says "Average Premium
2 Increase on CTR Policies Above the Manual Rate," and
3 that instead it should read "Average Premium
4 Difference per CTR Policy"?

5 A Yeah. I think it would be -- if you're
6 going to use the department data, you should use the
7 actual wording from the department so there's no
8 confusion.

9 Q Turning to page 3 of Exhibit RB-30. Is
10 it correct that the number of full coverage policies
11 written by Rate Bureau member companies in the beach
12 territories has decreased since 2021?

13 MR. FRIEDMAN: Your Honor, can I get
14 clarification? Are we talking page 3 as in
15 the last -- the third bar graph or are we
16 talking the data?

17 MR. SPIVEY: Page 3 of Exhibit RB-30.

18 MS. FUNDERBURK: The third page that
19 starts at the top, "Full Coverage Beach
20 Policies: Voluntary vs. Consent to Rate"?

21 MR. SPIVEY: Yes, Your Honor.

22 MS. FUNDERBURK: It's up on the
23 screens.

24 BY MR. SPIVEY:

25 Q Do you need me to restate? Ask the

1 question again, Mr. Schwartz?

2 A Yeah. Why don't you go ask again.

3 Q I'm simply asking, is it correct that
4 the number of full coverage policies written by Rate
5 Bureau member companies in the beach territories has
6 decreased since 2021?

7 A Yes.

8 Q Is it correct that the number of full
9 coverage policies written on a voluntary basis by
10 the Rate Bureau member companies -- and by
11 "voluntary," I'm distinguishing that from CTR -- has
12 decreased from approximately 20,000 policies in 2022
13 to less than 10,000 policies in 2023?

14 A Yes.

15 Q Turning one page to page 4 of Exhibit
16 RB-30. Is it correct that the number of full
17 coverage policies written by Rate Bureau member
18 companies in coastal territories has decreased since
19 2021?

20 A Yes.

21 Q Is it correct that the number of full
22 coverage policies written on a voluntary basis, as
23 opposed to CTR basis, by Rate Bureau member
24 companies, decreased from more than 80,000 in 2021
25 to approximately 60,000 in 2023?

1 A Yes.

2 Q Of course, you still have your prefilled
3 testimony handy?

4 A It's not handy, but I'll get it.

5 Q I want to ask you to look at page 26.

6 A Okay.

7 Q Looking at the graph on the upper
8 portion of the page, did you intend to misrepresent
9 anything or to deceive anyone in displaying the
10 graph on that page where the y-axis does not start
11 at zero?

12 A No.

13 Q Mr. Schwartz, on your Additional Direct
14 testimony, you answered some questions from
15 Mr. Friedman regarding adverse court decisions.

16 Do you recall generally that testimony?

17 A Yes.

18 Q And adverse court decisions are among
19 the various reasons cited in ASOP 30 for why
20 expected cost estimates may not be equal to actual
21 cost and potentially justify the inclusion of a
22 contingency provision, are they not?

23 A Yes.

24 Q Your testimony regarding the Ha v.
25 Nationwide court case is that it was not an adverse

1 court decision because the decision was in favor of
2 the insurance company, right?

3 A Yes.

4 Q First of all, did you read that
5 opinion?

6 A The Supreme Court opinion, yes.

7 Q Are you aware there have been various
8 other opinions in the case and that was the second
9 time that case has been to the Supreme Court?

10 A No.

11 Q In reviewing the latest Supreme Court
12 decision in that case, did you determine there that
13 the insurance company prevailed?

14 A That is my understanding.

15 Q Did you review the decision to
16 determine what the issues were in the case?

17 A I reviewed the decision, and I have --
18 I have my actuarial understanding of the issues.

19 Q Is it your testimony, Mr. Schwartz,
20 that a court decision in which the claimant does not
21 prevail against the insurance company cannot be an
22 adverse decision?

23 A My reading of that decision was that it
24 was not adverse to the insurance company.

25 Q I understand.

1 My question is: Is it your testimony
2 that in the context of ASOP 30 and the notion that
3 adverse court decisions are among the items that
4 justify the inclusion of a contingency provision, is
5 it your testimony that a court decision in which the
6 claimant does not prevail against the insurance
7 company cannot be an adverse decision?

8 A I guess I'm not understanding. I mean,
9 it's not an adverse decision.

10 Are you asking whether the fact that it
11 wasn't an adverse decision but maybe in some
12 alternate universe it could have been an adverse
13 decision supports a contingency provision?

14 Q You're saying in some alternate
15 universe maybe it could be? Is that what you're
16 saying?

17 A No, I'm asking you to explain your
18 question.

19 Q My question, again, is simple. You
20 said this was not an adverse court decision, right?

21 A Yes.

22 Q And you're basing that on your
23 determination from reading the Supreme Court opinion
24 issued this year in a long line of litigation on
25 that case in which the decision was that the

1 insurance company prevailed, right?

2 A The insurance company prevailed.

3 Q And you're presenting in testimony in
4 this case that that is not an adverse decision in
5 the context of consideration of a contingency
6 provision?

7 A That's not an adverse decision. I
8 don't think it could be an adverse decision in any
9 context. Someone might say, "Well, it could have
10 possibly been an adverse condition, an adverse
11 decision," but it was not an adverse decision.

12 Q Is it your testimony on this issue --
13 "this issue" being contingencies -- that a court
14 decision cannot expose companies to more losses even
15 if the claimant in that particular case does not
16 prevail?

17 A So you're saying that a court decision
18 found for the insurance company but said under a
19 different set of circumstances, we would have found
20 for somebody else? I'm trying to understand the
21 basis of your question.

22 Q My question, again, is simple.

23 A I don't think it's simple.

24 Q Can a court decision expose the
25 insurance companies to more losses, greater losses,

1 even if the claimant in a particular case in that
2 decision does not prevail?

3 A Again, I'd need to see a court decision
4 that you are talking about. My understanding of
5 court decisions is comments that relate to a set of
6 facts that isn't before the court usually doesn't
7 set a precedent -- I forgot the exact legal term you
8 use for something that the judges throw in as some
9 comment but is not really part of the decision.
10 Dicta. I think it's dicta.

11 Q You have made it clear throughout the
12 case now that you're not a lawyer, right?

13 A That is correct.

14 Q And you're not a judge, right?

15 A Not a judge of legal situations, no.

16 Q And you also testified on this issue in
17 Additional Direct about what you refer to as the
18 Piedmont Roofing Company case, did you not?

19 A Yes.

20 Q Did you read an opinion in a Piedmont
21 Roofing company case?

22 A I read a U.S. District Court opinion.

23 Q Am I safe in assuming that the
24 department provided that information? Am I safe in
25 presuming that the department provided that

1 information to you and you didn't perform legal
2 research and find that yourself?

3 A Well, you'd be safe, but you'd be
4 wrong. As I -- Mr. Anderson discussed it. I think
5 the only reference was "Piedmont" and "roofing." He
6 didn't actually name the other parties. And when I
7 looked through the Rate Bureau filing, again, it
8 talked -- I think it mentioned the "Piedmont" and
9 "roofing," but it didn't talk about a particular
10 case. And so I went online and I googled "Piedmont
11 Roofing cases, North Carolina," and I found that
12 U.S. Direct Court case.

13 Q Okay. Thank you.

14 Did you find any materials from the
15 dozens of lawsuits that have been filed in the state
16 court in and around Mecklenburg County in the last
17 one to two years by Piedmont Roofing company?

18 A No.

19 Q So you didn't review any of those
20 materials, did you?

21 A I didn't review them. I didn't find
22 them, and the Rate Bureau didn't provide them as
23 support for why they think they deserve a
24 contingency provision.

25 MR. SPIVEY: Your Honor, may I have

1 just a minute or two?

2 MS. FUNDERBURK: Yes.

3 MR. SPIVEY: Thank you, Your Honor.

4 BY MR. SPIVEY:

5 Q Mr. Schwartz, on your Additional Direct
6 testimony, you made a small number of corrections of
7 typographical errors in your testimony, did you not?

8 MR. BEVERLY: Your Honor, I'm sorry,
9 may we have one more moment?

10 MS. FUNDERBURK: Yes. I'm also mindful
11 of the clock, if we're going to shift.

12 MR. SPIVEY: I'm sorry, Your Honor,
13 we're seeing something different on the
14 electronic version versus the paper version.
15 I think we're okay.

16 MS. FUNDERBURK: The different versions
17 of an introduced exhibit?

18 MR. BEVERLY: User error, Your Honor.

19 MR. SPIVEY: Just --

20 MS. FUNDERBURK: We've all been there,
21 and we'll be there, again.

22 MR. SPIVEY: Just so you know what's
23 happening, I was asking him to help me find
24 something, and when he found it, what he
25 found electronically, it was redacted, and so

1 we're just trying to figure out why that
2 happened or whatever. And I don't know.
3 It's user error or something in our --

4 MR. FRIEDMAN: Would it be because --
5 we did produce, if you recall, redacted
6 copies as the public copies of Ms. Cavanaugh
7 and Mr. Schwartz's testimony. Perhaps you
8 were looking at the public copy versus the
9 private.

10 MR. SPIVEY: That must be what it is.
11 Thank you.

12 BY MR. SPIVEY:

13 Q So, Mr. Schwartz, looking at your
14 prefiled testimony on page 11, at line 37.

15 MR. FRIEDMAN: I'm sorry, sir. What
16 page?

17 MR. SPIVEY: Page 11, line 37.

18 BY MR. SPIVEY:

19 Q Just to make sure that I'm not mistaken
20 here, is the percentage change there for the condos
21 form, which you present as your indications, is the
22 number you show there on line 37 accurate for your
23 indication?

24 A Well, it's different than the chart on
25 page 12. Though let me just check and see which

1 number is right. The chart on page 12 is correct.
2 I must not have updated the link or something
3 showing the 22.3.

4 BY MR. SPIVEY:

5 Q And it's different from the indication
6 shown on page 6 as well, is it not?

7 A The 25.7 is shown on page 6, right? So
8 I think we've already determined that the 22.3 was
9 the one that was not updated.

10 Q And if you would please turn to
11 page 85. And when you get to page 85, I want you to
12 look at line 33. We're in the section of your
13 testimony dealing with your heading on page 82,
14 which is Dividends and Deviations, are we not?

15 A Yes.

16 Q And this is the section of your
17 testimony where you made, I think, three typo
18 corrections on page 84, did you not?

19 A Yes.

20 Q On line 33, on page 85 -- are the words
21 there at the beginning of that answer which you say
22 "By using an inappropriate deviation provision," is
23 the word "deviation" correct in that sentence?

24 A No. It should say "dividends," like
25 the question asked about. So the question asked

1 about dividends, but -- I don't know if I could
2 blame autocorrect or something, but it should say
3 "dividends."

4 Q Now, you testified earlier that you --
5 that you're now the only person working at -- within
6 AIS Risk Consultants, correct?

7 A Yes.

8 Q Did anyone peer review your testimony
9 and exhibits before they were included in this case?

10 A No.

11 Q Did anyone proofread your testimony
12 before it was presented in this case?

13 A I read it more than once, but somebody
14 else did not read it.

15 Q Mr. Schwartz, this morning you made a
16 change to your Schedule AIS-14, sheet 1, did you
17 not?

18 A Yes.

19 Q And my understanding is that you were
20 changing the value shown in line B2, correct?

21 A Yes.

22 Q And then you indicated that changing
23 that value ends up changing your recommended
24 underwriting profit factor from 3.8 percent to
25 4.0 percent, correct?

1 A Yes.

2 Q Did you incorporate an underwriting
3 profit factor of 4 percent within the calculations
4 that led to your new value for line B2, which you
5 presented today as .566?

6 A The .566 doesn't include the .2 percent
7 adjustment. That's sort of an iterative process.

8 But I did run the calculation using an
9 adjustment for the .002, which would change the .566
10 to .564, and you still end up with 4.0 on line I.

11 Q All right. So is it correct, then,
12 that since you presented your testimony this morning
13 that line B2 should be .566 that you ascertain that
14 it should be .564?

15 A Actually, I ascertained last night it
16 was .564, but when I was doing it orally this
17 morning, I forgot to mention that other adjustment.

18 Q So you made a mistake in explaining the
19 mistake you were correcting?

20 A I didn't include part of the adjustment
21 which doesn't impact anything, and when the exhibits
22 would be presented, it would reflect the final
23 number.

24 Q Is it correct that changing your
25 underwriting profit factor from 3.8 percent to

1 4.0 percent would have -- would impact and require a
2 number of changes or corrections throughout your
3 testimony and calculations in various exhibits?

4 A It would change various things, all of
5 which would be incorporated into the final number.
6 So it doesn't have a very big material impact. As a
7 matter of fact from an actuarial point of view, the
8 difference between 3.8 and 4.0 would likely be
9 considered immaterial. But I'll make the changes to
10 reflect the updated number.

11 Q So the change in your profit factor
12 from 3.8 to 4.8, I believe you just indicated would
13 not be a material change?

14 A Not in the context of this filing, no.

15 MR. SPIVEY: May I have just one
16 moment, Your Honor. I think I'm finished,
17 but I need to check.

18 MS. FUNDERBURK: Yes.

19 MR. SPIVEY: No further questions on
20 cross.

21 MS. FUNDERBURK: Thank you. With it
22 being as late as it is in the afternoon, I
23 don't anticipate that even if we went today
24 we'd finish your redirect by 5:00, would that
25 be fair to say?

1 MR. FRIEDMAN: Maybe as of midday, it
2 would have -- it could be done in ten minutes
3 or so, but, no, not after this afternoon.

4 MS. FUNDERBURK: I'm not sure what
5 you're saying. You're saying ten minutes --

6 MR. FRIEDMAN: I'm saying basically --
7 no, it would not be done by 5:00 because I
8 haven't had the chance to consult with
9 Mr. Schwartz about all of the testimony from
10 1:30 until now.

11 MS. FUNDERBURK: Before we recess, is
12 there anything the parties need to address?

13 MR. FRIEDMAN: Your Honor, I have some
14 questions, I guess, about scheduling and
15 about the pending email we have about
16 clarifications. We can do those off the
17 record, however you prefer.

18 MS. FUNDERBURK: Is that the only thing
19 we need to address, scheduling?

20 Do you have anything, Mr. Spivey?

21 MR. SPIVEY: No, Your Honor.

22 MS. FUNDERBURK: Do you have anything
23 besides scheduling?

24 MR. FRIEDMAN: Other than attempting to
25 contact the attorney for the Beach Plan and

1 not reaching him yet, no.

2 MS. FUNDERBURK: Okay. Yeah. I mean,
3 that's ongoing. We'll see if we hear
4 anything tomorrow. You're working on some
5 information to provide to the Rate Bureau
6 this evening. But that's not something we
7 need to talk about on the record. I'm fine
8 with recessing, and we can just have a chat
9 about the calendaring situation.

10 Mr. Schwartz, I'll, again, remind you
11 when you retake the stand in the morning, you
12 will continue to be under oath. You're free
13 to step down at this time.

14 We are in recess. Thank you.

15 (The hearing adjourned at 4:20 p.m.)
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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 hearing was taken before me at the time and place
7 hereinbefore set forth; that the proceedings were transcribed
8 and recorded by me by means of stenotype; which is reduced to
9 written form under my direction and supervision, and that this
10 is, to the best of my knowledge and belief, a true and correct
11 transcript.

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

14 IN WITNESS WHEREOF, I have hereto set my hand this
15 31st day of October, 2024.

16 
17 _____

18 Audra Smith, RPR, CRR, FCRR

19 Notary Number: 201329000033

20 Commission Expires: June 26, 2025

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