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FILED

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7 Attorneys for Intervenor
8 ASSOCIATION OF CALIFORNIA
9 INSURANCE COMPANIES

ADMINISTRATIVE HEARING BUREAU

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11
12 **BEFORE THE INSURANCE COMMISSIONER**
13 **OF THE STATE OF CALIFORNIA**

14 In the Matter of the Rates, Rating Plans, or
15 Rating Systems of

File No. PA-2007-00011

16 ALLSTATE INSURANCE
17 COMPANY AND ALLSTATE
18 INDEMNITY COMPANY

19 **ASSOCIATION OF CALIFORNIA**
20 **INSURANCE COMPANIES'**
21 **OPPOSITION TO MOTION TO**
22 **STRIKE OF THE FOUNDATION FOR**
23 **TAXPAYER AND CONSUMER**
24 **RIGHTS**

25 Respondents.

26 Pursuant to 10 CCR § 2652.4 (which authorizes a response to a motion to strike within five
27 business days), Association of California Insurance Companies ("ACIC") hereby opposes the
28 Response and Motion to Strike ("Motion") filed by the Foundation for Taxpayer and Consumer
Rights ("FTCR") in response to ACIC's Verified Petition To Intervene ("Petition") in this
proceeding. FTCR's Motion should be summarily rejected as meritless.

ACIC's Petition established the essential elements for intervention required by 10 CCR
§ 2661.1 *et seq.* The Petition identified ACIC, the issues to be raised and ACIC's position.
Further, the Petition affirmed ACIC's availability to participate in the proceeding and disclosed
that ACIC intended not to seek compensation for its intervention. Consistent with the applicable
regulatory provisions, as well as Insurance Code § 1861.10(a), which authorizes "any person" to
intervene, ACIC's Petition plainly demonstrated that ACIC's Petition should be granted.

1 By it Motion, FTICR reveals that, despite its own repeated invocation of the intervention
2 procedure, it refuses to accept the notion that any party that might disagree with FTICR should
3 likewise be able to participate in a proceeding through that procedure. Thus, FTICR misreads
4 ACIC's Petition to contend that ACIC seeks intervention solely to support Allstate's Motion To
5 Strike, which FTICR considers to be an improper motion. ACIC's Petition plainly states that the
6 issues to be raised and ACIC's position arise from the allegations of the Notice of
7 Noncompliance and Order To Show Cause ("OSC") served on Allstate Insurance Company and
8 Allstate Indemnity Company (collectively, "Allstate") in this proceeding. Petition, ¶ 3.
9 Specifically, ACIC identifies the provision of the OSC alleging that the Commissioner has the
10 authority to order Allstate to provide refunds or credits to policyholders due to premiums charged
11 and collected by Allstate based upon rates approved by the Commissioner. *Id.* ACIC's Petition
12 further explains that that it is ACIC's position that the Commissioner lacks the authority to order
13 such a remedy. *Id.*, ¶ 4.

14 FTICR seeks to prevent ACIC from participating in this proceeding by suggesting falsely
15 that ACIC intends only to support Allstate's Motion To Strike. While ACIC supports Allstate's
16 motion, it is ACIC's intent to participate in this proceeding when and as it addresses the issue of
17 the Commissioner's authority to order refunds or credits. Whether that issue is considered
18 through a hearing on the merits of Allstate's Motion To Strike or through some other manner,
19 ACIC has a right by statute to participate as an intervenor in the determination of the issue.
20 Given the significance and unprecedented nature of the refund issue, FTICR's attempt to preclude
21 ACIC from participating in this proceeding is manifestly unreasonable.

22 Further, ACIC takes issue with FTICR's assertion that ACIC's intervention is for the
23 purpose of delaying this proceeding. Unlike FTICR, which has an interest in submitting frivolous
24 pleadings such as the instant motion because it will ultimately seek compensation for the time
25 devoted to all work in this matter, irrespective of its value, ACIC is motivated to focus its
26 participation in this proceeding to the substance of the issues and their prompt resolution.
27 ACIC's expression of support for Allstate's Motion To Strike is based precisely on that desire to
28


1 resolve quickly and efficiently a threshold issue of importance to parties beyond the initial parties
2 to this proceeding.

3 Accordingly, for the reasons set forth herein, ACIC urges the Administrative Law Judge to
4 deny FTICR's Motion and to grant ACIC's Petition To Intervene. Further, the Administrative
5 Law Judge should admonish FTICR in the future not to submit such meritless pleadings as its
6 Motion.

7 Respectfully submitted,

8 Dated: August 13, 2007

SONNENSCHN NATH & ROSENTHAL LLP

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11 By: 
12 Thomas E. McDonald

13 Attorneys for Intervenor
14 ASSOCIATION OF CALIFORNIA INSURANCE
15 COMPANIES

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1 **PROOF OF SERVICE**

2 I, Deborah Waterford, hereby declare:

3 I am a citizen of the United States and an employed in the City and County of San
4 Francisco, California. I am over the age of eighteen years and not a party to the within action.
5 My business address is SONNENSCHN NATH & ROSENTHAL LLP, 525 Market Street,
26th Floor, San Francisco, California 94105.

6 On August 13, 2007, I caused to be served on the interested parties in this action the
following document(s):

7 **ASSOCIATION OF CALIFORNIA INSURANCE COMPANIES' OPPOSITION TO**
8 **MOTION TO STRIKE OF THE FOUNDATION FOR TAXPAYER AND**
9 **CONSUMER RIGHTS**

10 by placing a true copy(ies) thereof, on the above date, enclosed in a sealed envelope for delivery,
following the ordinary business practice of Sonnenschein Nath & Rosenthal LLP, as follows:

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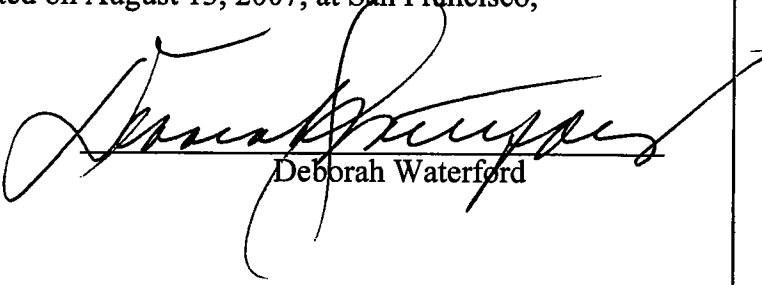
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and was executed on August 13, 2007, at San Francisco, California.



Deborah Waterford

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