



Windstorm Insurance Legislative Oversight Board
Public Hearing
December 13, 2010

Chairmen Taylor and Carona, members of the committee, I really appreciate the opportunity to be here today speaking about public adjusting, an industry that is near and dear to my heart. As we set out to try to fix problems that arose from Hurricanes Dolly and Ike, I think it is important to have a little historical perspective about public adjusting, both nationally, and in Texas.

Just to be clear on the different kinds of adjusters; public adjusters represent the interest the policyholder / insured (consumer) in the preparation, presentation, and settlement of property insurance claims. Independent adjusters represent any number of different insurance companies on a contract basis. TWIA uses independent adjusters. Staff adjusters are employed by the carriers they represent. State Farm and Allstate use their own staff adjusters.

Public adjusting has been around for well over 100 years. I am a third generation public adjuster. My grandfather started his business in 1927 in New York. My father was the first public adjuster in Texas in 1965. So, while some of the issues we are dealing with are new, the industry is not.

Public adjusters are now licensed in 44 states. We became licensed in Texas in 2003 on the heels of the plumbing and foundation and mold claim booms where "so-called" public adjusters and other opportunists created an environment ripe for regulation. Shortly thereafter, and up until Hurricane Rita in 2005, there were approximately 130 licensed public adjusters in Texas. At that point, there were no significant issues with public adjusters, and in fact, TDI acknowledged such to states like Louisiana and Mississippi who were considering enacting licensing laws of their own.

Prior to Hurricanes Dolly and Ike in 2008, there were approximately 200 licensed public adjusters in Texas. Following Hurricane Ike, there are now 761 public adjusters licensed in Texas (65% of which are from out of state). 221, or right at 30% of the licensed public adjusters in Texas are from Florida.

Traditionally, public adjusters in Texas, and elsewhere for that matter, have focused on fires and occasional storm losses (like hail and tornados) as their bread and butter business. Hurricanes used to be "regional" events and were viewed as a bonus to the everyday business. Keep in mind, in the last 30 years, there have only been 5 significant hurricanes in Texas, and 3 of those occurred in the last 5 years.

Like most other businesses, including the independent adjusting industry, technology and the ease of travel has expanded public adjuster's territories to "national." Beginning in 2004, with the amazing

number of hurricanes to hit Florida, a wave of storm trooping public adjusters arrived on the scene. Many of these firms are not “traditional” public adjusters, and have created business models based on reopening claims that had been settled and paid, or being hired to attempt to make an improvement in the offer of settlement made by the insurance company. While these adjusters often make significant improvements in the claims they handle, it is the way the business is acquired (often by mass marketing, billboards, and door to door solicitation), and the way these adjusters charge, that has brought them into focus.

While I understand that some of you on the coast have heard from some of your constituents about public adjusters, it is important to note that there have only been a handful (less than 20) complaints to TDI from consumers about public adjusters. Several of the complaints attributed to public adjusters were actually against contractors acting like public adjusters, which is a very serious matter of its own.

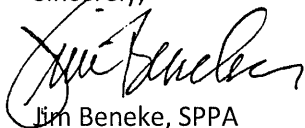
Most of the current investigations concerning public adjusters stem from TWIA’s submission of what they believed to be “non-compliant” contracts to TDI. We don’t fault TWIA for raising the issue if they were faced with questionable contracts. However, we do draw a distinction between “consumer” complaints, and those from TWIA that might be more accurately characterized as administrative issues.

With all of that said, we have certainly learned a lot from our experiences with Hurricanes Dolly and Ike. Over the last few months, we have been talking with TDI about some of these lessons, and have found them to be receptive to our willingness to work with them for improvement. We believe that TDI recognizes the benefits consumers derive from qualified, licensed public adjusters. The question is how to make sure that everyone follows the rules. In addition to continuing our discussions with TDI regarding “best practices” for public adjusters, consider the following:

- The adoption of a set of rules that apply to named storms or numbered catastrophes, that would clearly define guidelines for the acquisition of, and fees to be charged for, claims that are reopened, or where a formal offer of settlement has been made.
- Reactivation of the Public Adjusters Advisory Committee to address these issues and make recommendations for improvement.
- Having our association work closely with TWIA and other interested parties to agree on ways to improve the relationship between public adjusters and TWIA, which ultimately benefits the consumer.

Thanks again for your time. I’ll be happy to answer any questions.

Sincerely,



Jim Beneke, SPPA