

“The Unmasking of UPPA”

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An exposé on busy body “do-gooder” politicians, bureaucrats, and insurance industry friendlies placing P&C insurance industry interests far ahead of the interests of millions of insured USA policyholders.

The following treatise on the subject of Unauthorized Practice of Public Adjusting (UPPA) law is an updated version of the original presentation that, as one of the country’s top experts on the subject, I gave at the 2019 “Win The Storm” conference and trade show expo in Las Vegas, NV following a debate on the topic that was attended by an estimated 3,000 plus storm damage insurance restoration contractors from across the country.

My name is Larry Burtis. I am president of 3RSystems, LLC which is a company with a primary focus on training storm damage restoration contractors and consulting with insured property owners from across the USA on the insurance covered property damage restoration process. I bring to the table, nearly forty years of hands on retail and insurance restoration construction industry experience plus nearly twenty years of concurrent in depth insurance and investment industry experience.

Along with that experience, I have also achieved, with the help and support of several Supreme Court Justices and other legal experts over the years, both in and out of court, a winning *Pro Se* legal record against high profile law firms and their attorneys in complex, mostly consumer fraud related legal disputes involving various government and multi-million to multi-billion dollar corporate entities and individuals.

From my personal and experienced perspective, when compared to those *Pro Se* legal battles, doing battle with Property & Casualty insurance company representatives, which is ultimately the true source of UPPA and what this writing is primarily about – from their CEO’s on down to their adjusters, their engineers, and related others, and repeatedly winning against them on behalf of storm damage restoration contractors and their insured property owners, is, as I see it, a relatively minor league play.

While that is indeed my experience, it definitely is not the experience of the great majority of storm damage restoration contractors who lack the knowledge about what really takes place behind the curtain that so many from the P&C insurance industry hide behind while scheming to annually unjustly under pay and deny billions of dollars-worth of the legitimate property damage insurance claims of their insured policyholder customers. That being the case, they, therefore, not knowing what P&C insurance is really up to, had no way of knowing what they can do about it. They, and, whether a roofing, siding, and related building products distribution company director, shareholder, investor, or C-Suite executive at whatever level, or one of the many millions of USA property owners who, in Toto, spend nearly one trillion dollars of their hard earned money each year to insure their properties, are about to however, learn what P&C insurance and their minions are really up to.

“If you don’t know what UPPA is, you need to know!” - Attorney John Houghtaling II

For the most part, throughout history, in true free market fashion, the insurance restoration contracting process of moving storm caused insurance covered property damage claims from filed to fully paid and completed, was a relatively simple one. Storm damage restoration contractors would inspect the damage,

estimate the cost to repair it, negotiate with their customers insurance company's on the final price, then complete the repairs. In 2010 however, a relatively new law, disingenuously and aggressively promoted as consumer protection by self-serving P&C insurance industry paid lobbyists, insurance industry attorneys, and state insurance commissioners to state by state AG's and legislators (some also paid) and then signed into law by ill-informed or misguided state Governors, began appearing all across the country.

That law, which is known as the Unauthorized Practice of Public Adjusting (UPPA) law, prohibits storm damage restoration contractors who know better than anyone what damage needs to be repaired and how the much the repairs should really cost, from doing what they had been able to do for as long as insurance has been around - negotiate the final free market repair price of their customers property damage insurance claims. It also prohibits storm damage restoration contractors from advocating on their insured customers behalf in even the smallest of ways. Some states UPPA laws even go so far as to prohibit contractors from simply mentioning to their insured property owner customers the importance of learning about and fulfilling their "Duties After Loss" obligations that are an integral part of all property & casualty insurance policies that, if not fulfilled, could jeopardize their claims approval and payment.



Foxes Guarding the Hen House

Minnesota storm damage restoration contractors were first introduced to UPPA in late 2010 when friend of P&C Insurance and the quasi-governmental organization known as the National Association of Insurance Commissioners (NAIC) – then, controversial and soon to be retired Minnesota Commerce/insurance commissioner Glenn Wilson, Jr., issued his Bulletin 2010-4 that became the impetus behind UPPA legislation in Minnesota. As seen in a local Twin Cities, Minnesota newspaper not long after Wilson was appointed to his position; *"Wilson was immersed in controversy last year when critic's charged the Commerce Department, the state's business regulatory agency, with protecting industry rather than consumers."*

The wording of the Minnesota UPPA bill was essentially the same as all other UPPA bills then being presented primarily to legislative banking, finance, and insurance committee members from across the country at the time. Of note and to no surprise, is the fact that many of those legislative committee members were (or still are) employed by or related to the P&C insurance industry in one way or another. The feigned premise behind the law, keeping in mind that only insurance company claims representatives can approve payments to their policyholders on their property damage claims, was that the law would, at least according to its drafters and supporters, prevent restoration contractors from overcharging their insured customers on their insurance covered storm damage restoration claims.

The Public Adjuster Licensing Model Act (not yet law) on which UPPA was based, as drafted by National Association of Public Insurance Adjusters (NAPIA) counsel Brian S. Goodman, along with NAIC Property and Casualty Subcommittee co-chairs Gene Reed (insurance commissioner – Delaware) and Treva Wright Donnell (insurance commissioner – Kentucky), was passed in October of 2005 by the NAIC. Up until around 2010 however, there were still Unauthorized Practice of Law (UPL) issues that, as NAPIA counsel, Goodman thought needed to be overcome before UPPA could be fully implemented. Prior to

that time, most storm damage restoration contractors from across the country had little to no idea what a Public Insurance Adjuster (PIA or PA) was or did.

The primary reason behind UPPA from Goodman's perspective? By prohibiting contractors from doing what had, for many decades worked just fine - inspect, estimate, negotiate, then complete the repairs, Goodman could take control of that perfectly good free market contractor process from contractors and transfer it to his public adjuster organization - NAPIA.

Pre UPPA
ABA vs Public Adjusters



Pre UPPA – The ABA vs the PA Lobby

Prior to 2010, the American Bar Association (ABA) had been fighting with the PA industry in trying to prevent them from negotiating and advocating on behalf of property owners with insurance covered property damage, calling what PA's did, an Unauthorized Practice of Law (UPL). With UPPA beginning to gain traction back around 2010 and the ABA agreeing to grant limited authority to the PA industry regarding the UPL issues around the same time, the PA lobby, which was and is, for all intents and purposes, headed by Goodman, seeing what he thought was a financial opportunity ripe for picking, decided to go on the offense against storm damage restoration contractors.

Post UPPA
The PA Lobby vs Contractors



Post UPPA – The PA Lobby vs Contractors

In March of 2011, having resolved those UPL issues with the ABA, Goodman said this: *“Interestingly, and paradoxically, we are now finding that while we no longer have to fight the issue of the unauthorized practice of law, we have to take the offensive and fight the ‘unauthorized practice of public adjusting’, as, in this down economy, we are finding that roofers and general contractors (or “ruthless unlicensed individuals” as Goodman once referred to storm damage restoration contractors) in the United States are advertising their services, ‘essentially’, as public adjusters.”*

Side bar food for thought: Why would the ABA allow a UPL carve out for PA's? Simply put, if PA's were allowed to conduct their business in a limited manner that might have previously been considered a violation of UPL, when it appears that a disputed claim cannot be resolved by a PA and the claim needs to be handed over to an attorney for prosecution, once the claim gets to that point, much of the work that an attorney would have otherwise been required to do, has likely already been done for them by the PA.

As mentioned previously, after a storm has occurred, storm damage restoration contractors know better than anyone what needs to be repaired and how much it should cost, and are therefore, best suited to negotiate the final free market repair price of their customers property damage insurance claims. With that in mind, what was Goodman's primary concern about the services that storm damage restoration contractors were advertising to their potential insured customers whose properties had become damaged? It was the fact that the contractors were offering to negotiate their insured customer's claims pricing with their insurance companies for free. The implication being that, in doing so, those contractors were unfairly taking business and therefore, income, away from PA's.

In the past, property and casualty insurance policies were required to be written in such a manner so that a person of average intelligence could interpret them. Logically and obviously, such persons of average intelligence would naturally include insured policyholders as well as their restoration contractors. Any insured property owner could, if they were aware of their existence and the service they offer – and most were not and most did not need one, hire a PA to assist them with their claim. Because of the fact however, that, at least on most residential claims, in the past, insured's and their restoration contractors could interpret the language of their policies, a PA was not needed to help do so. Also not needed in most cases, was an attorney.

Over the years however, as, per the P&C insurance companies claims, P&C insurance company profits were decreasing due to alleged increasing claims payouts, P&C insurance began to write their policies in such a manner that made it next to impossible for insured's to be able to interpret their own insurance policies without additional outside help. Eventually, P&C insurance began to intentionally write their insurance policies in such a convoluted and confusing manner that only highly experienced and seasoned PA's and attorneys with insurance claim experience could interpret them. The UPL carve out given to PA's did then allow them to also interpret insurance policies.

Being that, at least according to the claims of P&C insurance, knowledgeable professional restoration contractors who did know how too fairly and accurately price repairs were costing them money, they sought out ways to prohibit those contractors from participating in the process. The solution to the problem? Shut them up by seeking law that would make it illegal for them to negotiate the pricing of insured customer's storm damage claims.

“Contractors are Crooks?”

Another key figure heavily involved in the UPPA push was, and still is, prominent and outspoken Texas based insurance industry attorney Steve Badger. Although, considering his position, he clearly had different interests than Goodman in mind, he apparently decided it would be helpful to his own purposes to partner with Goodman in aggressively promoting what was essentially a "contractors are crooks" UPPA narrative message to the masses - as well as the authorities, across the country. As I understand it, both were also big supporters of "stay in your lane" rules now in place in a number of states that would charge any contractor believed to be in violation of UPPA with a crime that was punishable by up to a fifteen thousand dollar fine and possible jail time. As time went on, both Goodman and Badger began

aggressively promoting their divide and conquer "contractors are crooks" narrative to PA's across the country for the sole purpose of driving a wedge between PA's and contractors.

For a time, many PA's fell for the ruse that promoting the "contractors are crooks" narrative would give them some kind of competitive advantage. The thinking seemed to be that, if PA's were successful in getting that message across to insured property owners who might need additional help with their property damage claims, those property owners would believe that hiring a PA was essential because doing so would protect them from being harmed by those "crooked" contractors. Eventually however, at least partially as a result of my repeated mentions to the restoration industry as a whole that continuing with such an ill-advised business practice was doing more harm than good, that specious narrative eventually fell by the wayside. In fact, just prior to being elected as NAPIA president in 2021, well respected former restoration contractor turned public adjuster, Clay Morrison, placed a friendly call to me letting me know my concerns had been heard and were being addressed.

Although Badger's UPPA arguments are often, IMO, much like those put forth by Goodman and others, specious as well as incongruent and, therefore, easily defeated, it's easy enough to understand why Badger so zealously defends the questionable interests of the P&C insurance industry. As is the case with third party insurance adjusting and engineering firms, the P&C insurance industry is the primary source of his income. That not being the case with Goodman, who, first and foremost, as NAPIA counsel, lobbyist, and legatee, has a legacy to protect, I find the unholy alliance formed between the two seemingly opposing parties to be quite curious as well as deserving of scrutiny for what should be obvious reasons.



Interestingly, many of the people behind the drafting, implementation, and passage of UPPA into law view and present themselves as quite noble in their support of the law as "consumer protection". The same also unfortunately holds true in regards to some in positions of authority who, even after considering objective evidence that reveals the truly fraudulent nature of the law, unjustly seek to score political points by charging contractors with a crime for violating it. If those people (primarily state insurance commissioners) were really concerned about protecting the interests of insured policyholders, they would instead, be going after the P&C insurance industry and holding them criminally accountable for the proven massive financial harm continually being caused by them to their millions of too trusting insured policyholder customers. Over future career concerns however, they are afraid to take any action.

To those individuals I ask, is supporting a law that hurts tens of thousands of storm damage restoration contractors free market based contracting businesses and turns millions of their insured policyholder customers into victims after the fact, really noble, or is it something else? Who is more noble, the people behind what I and many others believe to be one of the most unjust, anti-free market, and potentially unconstitutional laws ever written, or the insured property owner's trained storm damage contractors who, with their hands, mind, and expertise, helps their insured customers to restore their properties and their lives after suffering through a property damage disaster? That's an easy one, it's the contractors.

The P&C Insurance Industry - From Service to Profits Insurance Claim Delays Deliver Massive Profits to Industry by Shorting Customers HUFFINGTON POST - By Mollie Reilly and Max J. Rosenthal Dec 13, 2011

"Unlike many other businesses, the insurance industry is bound by law to act in good faith with its customers. Because of their protective role in the lives of ordinary citizens, insurers have long operated as semi-public trusts. But since the mid-1990s, a new profit-hungry model, combined with weak regulation, has upended that ancient social contract. Claims has been converted into a money-making process", said Russ Roberts, a New Mexico based management consultant and former business professor at Northwestern University who has studied the insurance industry's evolution from a service business to a profit-driven machine."

What the UPPA prohibition makes possible is for, in the pursuit of ever increasing profits, P&C insurance companies to, as Rutgers University law professor Jay Feinman, author of the famous book on the subject entitled, "Delay, Deny, Defend - Why Insurance Companies Don't Pay Claims and What You Can Do About It" described it, - "delay, deny, and defend" against paying their insured's customers legitimate property damage claims indefinitely. The two pronged benefit to P&C insurance companies?



Number one, titled the "float", by Warren Buffet, the longer premium dollars which should have been paid out on their insured customers claims are withheld from them, the more money the insurance companies make on their investments. Number two, in delaying claims payments for as long as possible, insured's, most not knowing they may have other options, often become so distressed, frustrated, and fed up with the process, they simply give up the fight and accept whatever low ball and incomplete settlement their insurance companies offer and move on.

The end result to the benefit of P&C insurance companies? They retain, in house, billions of dollars every year in claims payments that should have ultimately been made to their insured policyholder customers to pay their contractors so they could, in turn, pay their employee's and pay for all of the roofing, siding, and related building materials needed to complete the repairs.

Defeating NAPIA's and P&C insurances' Disingenuous Arguments in Favor of UPPA

As presented by then law student Robert C. Baker, III at a 2016 NAPIA meeting: *"The Costs of the Unlicensed Practice of Public Adjusting: A Legal and Economic Analysis."* According to Baker, *"UPPA has become synonymous with fraud perpetrated by disreputable contractors, ne'er-do-well storm chasers, and similar predatory ilk. The stereotypical transaction involves the fraudsters (meaning restoration contractors) going door-to-door after a natural disaster advertising repair and insurance negotiating services". The worst UPPA offenders - the storm chasers - are criminals."* So, what is or was, according to Baker, their crime? The "fraudsters" (contractors) offered their negotiating services as a free bonus if the insured's also hired them to make the repairs."

Baker then went on to say; *“The common sense value of public adjusting is historically unassailable, insurance companies did not become one of the most regulated industries in America by altruistically having their customers’ best interests at heart.”* In other words, according to Baker, as well as, without doubt, Goodman, insured’s need public adjusters on their side because their insurance companies can’t be trusted to put their insured’s interests ahead of their own.

Doubtful that anyone reading the above would disagree with the “insurance companies can’t be trusted” implication, or the “common sense value of public adjusting”. That “common sense value of public adjusting” however, is only realized if and when a PA is brought in on a property damage claim which is, often – if ever, long after the claim would have already been settled pre-UPPA.

Further unpacking Baker’s “the insurance companies can’t be trusted” implication, previously mentioned Texas based insurance industry attorney Steve Badger represents and defends the P&C insurance industry that Baker implied cannot be trusted. NAPIA’s Brian Goodman represents the public adjusting industry that both he and Baker say protects insured’s from insurance companies - like the ones that Steve Badger represents, and that Baker implied, cannot be trusted. Think about that for a minute or two. With the following, I further unpack several of Goodman’s and Badger’s other, additional and, IMO, quite hypocritical arguments in support of UPPA.

From their joint Lon Smith appeal Amicus Curiae submission to the United States Court Of Appeals For The Fifth Circuit (TX) on 12/26/2013, what I believe was an attempt to confuse and mislead the Court: *“The inherent conflict of interest in allowing an unlicensed and unregulated contractor performing the repair work to negotiate the final price that the insurance company will pay for its work is insidious and inescapable”*. Doubtful that either thought it necessary to make it clear to the Court that Texas does not license roofing contractors which therefore leaves them also, for all intents and purposes, “unregulated”?

My response to such convoluted doublespeak? Obviously, since the honest insured’s interest is in getting paid for all of the damage, at pricing relative to the premiums paid and the honest contractor best serves his/her own financial interests by putting the insured’s financial interests as described, first, there can be no conflict of interest, inherent or otherwise. If there is any conflict of interest, it is typically between the insured’s who deserve to be fairly and fully paid on their claims and their insurance companies who will, in far too many cases, do everything they can to prevent that from happening.

And this; *“Allowing unlicensed contractors, to act as intermediaries between the insured and an insurer would wreak havoc on the licensed and regulated public insurance adjuster profession.”* In other words, in, as I see it, another attempt to confuse and mislead the Court, contractors would take business and therefore income away from PA’s, business and income that, in fact and in reality, pre-UPPA, would never have gone to PA’s anyway. In fact, the great majority of residential wind and hail storm damage claims fall under the \$50k mark and since, not all, but most PA’s decline claims of that size and under, the *“would wreak havoc on the licensed and regulated public adjuster profession”* claim falls flat on its face.

Notice how Goodman and Badger included in their Amicus Curiae submission to the Court - *“Allowing unlicensed contractors”*. Both know and knew that while most states do require contractor licensing, the State of Texas does not, so that was just another deception meant to add weight to their unsupportable and misleading claims that UPPA prohibitions are substantive.

In most cases, the first person an insured with property damage looks to for help in getting their repairs made is a contractor. Although not typically known by most insured’s, if need be, they may also utilize the services of a PA, appraiser, or an attorney who will, for a fee, assist them with their claims. Fact is

however, currently, only around 8% of insured's ever hire a PA or an appraiser and only about 2% of insured's ever hire an attorney. Of that approximate 2% of policyholders who do hire an attorney, only 1% of them actually ever sue.

Pre-UPPA, and this is still the case today, the other approximate 90% of insured's only known available help in getting their claims fully paid was and is that offered to them by their contractors. BTW, pre and post UPPA, the approximately 10% where near or full claim payment is eventually achieved through PA, appraiser, or attorney involvement, was and remains of little concern to P&C insurance, financially or otherwise.

What was of great concern to P&C insurance however, was what to do about those pesky storm damage restoration contractors who were helping that other 90% of insured's who did not hire a PA, appraiser, or attorney, to move their claims to fair and full free market value through the use of their expert claims negotiating skills. P&C insurance's proposed solution to the problem? Take the contractors out of the claims negotiating process and, by way of UPPA, shut them up! They figured that, if they could get legislation passed that they knew full well would leave that 90% of insured's without contractor assistance and guidance (and therefore, exposed and vulnerable to P&C insurance's double dealing), they could achieve their ultimate goal of increased market control and increased profits.

With that increased P&C insurance industry market control, they also knew they would be billions of dollars ahead each and every year. Such thinking did, of course, fully disregard the fact that their insured customers would be left unfairly underpaid those same billions of dollars legitimately owed to them by their insurance companies. But, in order to achieve their goal, they needed a ruse with which to conceal their true intent, and, they needed plenty of P&C insurance industry friends who were willing to ceaselessly promote the ruse – including self-serving state insurance commissioners.

First, take out the contractors, then the PA's, and then the plaintiff's attorneys

With the above in mind, my view on Badger's reasoning behind his aggressive support of UPPA along with Goodman? In service to his P&C insurance industry employers, first, work hand in hand with Goodman to shut down the restoration contractors via UPPA. Then, once that was accomplished, disregard Goodman's opposing interests, and institute actions that would call the PA industry into question and prohibit them from offering their help to insured property owners – as is currently happening in Florida and several other states. Once that was accomplished, again on behalf of his P&C insurance industry employers, cause restrictions to be placed on insured's plaintiff's attorneys. All which has happened just as I had predicted would eventually happen when I first opened my investigation into UPPA back in 2011.

Although Badger and Goodman led the way in drawing attention to UPPA and promoting it, they weren't the only suspects. Based on the appearance of the names of State Farm Insurance general counsels Emory Wilkerson and Roland Spies – both, BTW, members of the American Legislative Exchange Council (ALEC), showing up in support of various states template UPPA bills across the country, I concluded, or at the very least, highly suspect, based on the evidence, that one of the primary influencers behind the building of the UPPA wall was most likely, along with assists from Goodman and the National Association of Insurance Commissioners (NAIC), member, friend of, and high dollar contributor to the American Legislative Exchange Council, State Farm insurance.

So, who and what is the American Legislative Exchange Council (ALEC)? With more than 2,000 members, ALEC is the nation's largest, individual public-private membership association of corporations, their lobbyists and funded state legislators whose (supposed) mission is a commitment to limited

government and free markets. Funded almost entirely by large corporations, State Farm being one of their biggest financial contributors, ALEC introduces corporation written, lobbyist promoted template model legislation favorable to certain industries that those funded state legislators who are also ALEC members simply add their states initials to then take back to their home state legislatures and introduce as their own bills.

Those same funded ALEC member state legislators, who are wined and dined by the ALEC corporate lobbyists, often at exclusive resorts around the country, then present the pre-written template legislation to specific legislative committee members in their home states, in the case of UPPA, legislators typically employed by or connected to the P&C insurance industry in one way or another. They then sign on as House and Senate Chief or co-authors.

They then “sell” the bills, in this case UPPA, to their ill-informed and, in some cases, quite clueless fellow legislators as consumer protection. Those ill-informed legislators who fell for the "consumer protection" ruse, did then, without the truth or the facts, but with the next election cycle always in mind, vote in favor of the legislation so they could tell their constituents they were look'in out for them.

Consumer protection? I'll sign that!

Supported by the self-interests of the people mentioned, UPPA then, typically after having been stuffed deep into an Omnibus “garbage” bill, got signed into law by ill-informed or misguided state Governors who had either also fallen for the UPPA consumer protection ruse or simply didn't bother to read the bills to find out what was in them and consider how signing the legislation into law might negatively affect their voting constituents lives as well as their own future political prospects. Several examples of this legislative nonsense are as follows.



GA Rep. Howard Maxwell

One particular ALEC member I interviewed about UPPA a few years ago was GA State Rep. Howard Maxwell. Maxwell was a thirty-five year career Allstate agent who, along with three other career insurance agents and an Allstate attorney, were chief and co-authors of Georgia's template UPPA bill. I asked Maxwell directly, who brought the UPPA legislation to his and his fellow legislator's attention. Maxwell told me that he and the others were presented with the legislation by then newly elected GA insurance and fire safety commissioner, ALEC member, and friend of the NAIC, Ralph Hudgens, who, according to various sources, had been treated to thousands of dollars-worth of meals and other goodies by P&C insurance interests over time as a Georgia Senator.

Colorado's “No Negotiating” UPPA bill which was passed and signed into law in 2012 was sponsored by then Colorado House Rep and ALEC Commerce, Insurance and Economic Development Task Force Public Chair Glenn Vaad, and supported by the aforementioned State Farm general counsel, Emory Wilkerson, who was then also the ALEC Private Chair from Georgia.

And then there's the Texas Department of Insurance. In 2011, then Texas Governor and longtime ALEC member Rick Perry, reported recipient of several million dollars in campaign contributions from the American Legislative Exchange Council over time, appointed supposedly unbiased ex-insurance executive Eleanor Kitzman as interim TX insurance commissioner. Shortly after her appointment, even though State Farm Lloyds was under criminal investigation regarding their claims handling practices in Texas at the time, Kitzman approved an increase in their homeowner's premiums of up to 20%.

June 26, 2012, Kitzman issues her "public" policy Bulletin #B-0017-12, regarding Texas' template version of UPPA, that read as follows; *"Public Policy Strongly Favors Strict Enforcement of Laws Like Section 4102.051 Prohibiting Contractors From Engaging In The Unlicensed Practice of Public Adjusting"*. Several months later, with the risk of Perry's and Kitzman's apparent State Farm cronyism being fully exposed to the public, and with a no confidence vote from the Texas Senate regarding Kitzman's controversial tenure, Perry knew he could not appoint her to a new term and had to show her the door.

Regarding Kitzman's bulletin - who does that public policy truly serve? If she were being honest, her bulletin would have read: *"P&C insurance industry policy (rather than Public Policy) strongly favors strict enforcement of laws like section 4102.051 - Prohibiting Contractors From Engaging In The Unlicensed Practice of Public Adjusting"*.

"The truth never changes but it does change that which is not"

Let me just say this about the typically nonsensical and specious "public policy" such as that put forth by Kitzman, as well as Goodman, insurance attorney Steve Badger, former MN commissioner Wilson and so many related others in regards to UPPA. In far too many cases, the public policy typically being promulgated by politicians, lobbyists, and insurance industry friendlies – including state insurance commissioners, is often nothing more than disingenuous as well as dishonest self-serving BS meant to persuade an often too trusting and gullible public as well as ill-informed and clueless non-banking, financial, and insurance committee member state legislators that what is being proposed by the promulgator truly serves the public's interests rather their own.



Professor Harry Frankfurt

Princeton University Professor of Philosophy, Harry Frankfurt, had this to say on the subject in his book entitled, "On Bullshit". *"The liar asserts something which he himself believes to be false. He deliberately misrepresents what he takes to be the truth. The bull shitter, on the other hand, is not constrained by any consideration of what may or may not be true. In making his assertion, he is indifferent to whether what he says is true or false. His goal is not to report facts. It is, rather, to shape the beliefs and attitudes of his listeners in a certain way."* Such is the case, as I see it, with the claim that UPPA is good public policy. With that in mind...

Through the process just described, like it or not, and I don't, UPPA has indeed, become the law of the land. But, is it good law, or is it bad law? Good law protects society, bad law does not. Laws against speeding, DUI, and insurance claim funds theft, for example, are good laws that protect society and those laws are already in place. Good law also protects the historically accepted ways and means by which honest people operating in a free market society earn their incomes.

Keeping "Free Enterprise" free - across America and beyond

A wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. - Thomas Jefferson's first Inaugural Address, 1801

As previously discussed, pre UPPA, the historically accepted ways and means by which honest restoration contractors operating in a free market society earned their incomes and best served their insured customers was as straight forward as it was effective. Inspect, estimate, negotiate the cost of the repairs at real, true, and accurate (RTA) free market pricing relative to the premiums paid, and then complete the repairs. Law that does not however, protect the historically accepted ways and means by which honest people operating in a free market society earn their incomes, in this case, restoration contractors, is bad law. It is also, among other things, anti-American NGO central planning forced market rather than free market.

It is true that a small minority of contractors, as is the case with a small minority of people in any other profession, can't be trusted. That being said, is it reasonable to penalize all people in any profession for the bad acts of the very small minority. No, but that is what UPPA unfairly does to all storm damage restoration contractors as well as their customers. Who does that then leave to negotiate their customers claims with their insurance companies when their insurance companies have refused to move their claims forward to fair and full settlement? Public adjusters, which, when contractors and their insured property owner customers hit what I call the "UPPA Wall" and can truly move the claim no further is, under those circumstances, likely their best first option. That assumes that a PA is willing to take on the claim.

The problem arising out of that is however, P&C insurance knows - as they knew full well when they first dreamed up UPPA, and as I mentioned previously, that the majority of residential insurance claims fall under the \$50k mark. They also knew and know that, not all, but, many PA's will generally pass on those \$50k and under claims. Because UPPA prohibits restoration contractors from negotiating on behalf of their insured customers, those \$50k and under insured customers only other options are then, often months beyond when the claim should have settled, to, if they can even afford to do so, hire and pay an appraiser or attorney to attempt to move the claim forward to full and final payment, or, simply accept the insurance companies low ball and incomplete settlement offer and move on.

It would then appear that when restoration contractors come across those \$50k and under claims, they and their insured customers have, indeed, hit the "UPPA Wall" and are, at that point, pretty much stuck. In far too many of those cases, the insured's often simply cannot afford to pay the additional costs to hire an appraiser or attorney to move the claim forward – and P&C insurance takes full advantage of that fact. Insurance companies are, these days, continually complaining of increased claims costs and are therefore, continually decreasing claims payouts while dramatically increasing their premium rates to cover those alleged increased costs. What's really behind the increased claims costs? Is it because

contractors were, and PA's and insured's plaintiff's attorneys are charging too much – as the P&C insurance companies continually complain?

As I see it, that is not the case at all. Over the past fifteen or so years, more and more insured policy holders are becoming better educated on the process and better educated on the fact that, when a storm does come through their area, the likelihood that their property suffered some damage is high. With the increase in legitimate insurance covered claims, P&C insurance's multi-billion dollar gravy train that they've been riding since the first P&C insurance policies were written, has started to erode.

In order to fight back against that, along with the help of self-serving state insurance commissioners, P&C insurance has indeed “upended that ancient social contract” and moved from being an industry that once actually served the public trust to one that instead, seeks to profit at the expense of the policyholders who put their trust in P&C insurance to deliver on their promises.

The current state of the industry

As a result of UPPA and all of the other questionable machinations of the P&C insurance industry over the past few years, the storm damage restoration industry is indeed, in a bad place. Because of that, all across the country, moving insured property owners legitimate insurance covered storm damage restoration claims from filed to file at real, true, and accurate (RTA) free market pricing has become harder than ever. It is also, along with many other reasons that I teach on and provide solutions too, one of the main reasons that, on an annual basis, billions of dollars-worth of needed roofing, siding, and related building products are never sold by the country's building product distributors to their many thousands of valued and loyal contractor customers. As the primary enforcers of UPPA law, I hold NAIC and the state insurance commissioners who stand behind the law responsible for that, as well.

As I mentioned previously, not all laws are good laws. UPPA, as should at this point be intellectually clear to all who have read this treatise from an objectively honest perspective, is not good law and it has caused and will continue to cause tremendous financial and other damage to millions of commercial and residential insured property owners and their contractors from across the country until it is defeated.

In an effort to bring that about, I am also making this exposé available to those millions of property owners, their contractors, their state legislators and Governors, and their distribution companies and investors from across America, all who NAIC and most state insurance commissioners once believed were too stupid to figure out what has been done to them.

Sincerely,



Larry Burtis - President, 3RSystems, LLC / ICCOA

Message to NAIC / State insurance commissioners: It's high time you stop being a lap dog for the P&C insurance industry and start serving the interests of the insured policyholders from across the country who are continually getting screwed as a result of your bad decisions and disregard.

"For too long, the insurance industry has regulated the insurance commissioner. We've had enough industry Lap dogs; it's time for a watchdog. My motto as insurance commissioner was - the consumer has been screwed long enough. I think we need another commissioner with that point of view. You can protect the interests of the insurance industry, without short-changing the policyholders and public." Excerpted from The Denenberg Report - December 09, 2002 as written by Herb Deneberg, former Pennsylvania Insurance Commissioner, professor at the Wharton School, and Pennsylvania Public Utility Commissioner.

MISGUIDED/CORRUPT "LAP DOG" STATE INSURANCE COMMISSIONERS

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