

## State Farm has long history of withholding records State Farm files destroyed, too

By ANITA LEE, SUN HERALD

In some cases, State Farm's top leadership prefers not to share or even keep records that offer insight into how policyholder claims are handled, according to court records.

Chairman and CEO Edward B. Rust Jr. said in sworn testimony earlier this month that no minutes are kept of quarterly meetings held by the company's top management, the Chairman's Council, and that policyholders have no right to information about an investigation State Farm has ordered of its relationship with Haag Engineering Co.

Juries in two states, Texas and Oklahoma, have found Haag provided biased reports to State Farm to minimize or deny policyholder claims. Mississippi's attorney general is conducting a grand jury investigation to determine whether State Farm and other insurers denied Hurricane Katrina claims through the use of fraudulent engineering reports.

Haag denies bias, but State Farm suspended business with the company in June and ordered an independent investigation after an Oklahoma jury awarded \$13 million to a policyholder over tornado damage. Subsequent trials are set to de-

termine damages for 70 other policyholders, all of whom had claims investigated by Haag.

In past court cases, judges have chastised and even fined State Farm for withholding records the company was ordered to produce. Evidence the company destroyed documents has been presented in several cases.

In the Oklahoma case, after State Farm finally turned over to the court a "claims legal research" DVD and other records, Judge Richard G. Van Dyck told company attorneys:

"As I was watching these tapes I just want to say this for the record, the hair on the back of my neck did - did stand up because I was seeing things there that early on in this case I was told by (State Farm) defense counsel didn't exist and couldn't be produced. So I'm not real happy with that and I want to remind all counsel that their ethical responsibilities as attorneys outweigh the wishes of their clients..."

Gary T. Fye, an expert in the analysis of disputed insurance claims who lives in Nevada, often testifies in insurance cases. Fye, who said he has testified on behalf of policyholders and insurance companies, has provided the courts information on State Farm's his-

tory of destroying and withholding records.

In 1998, Fye wrote in a Florida case:

"I have been witnessing document destruction, concealment, and obstruction of discovery by State Farm for many years in connection with my review of internal claim practices documents of the insurer. I have accumulated certain Exhibits which show the company's goals and objectives for document handling by its employees. The documents show close to 28 years of intentional destruction, concealment and distortion of claim practices records."

In some cases, company executives did not keep records.

Jeff Marr, the attorney suing State Farm in Oklahoma, took sworn testimony Sept. 6 from Rust.

Topics included Rust's Chairman's Council, made up of top State Farm executives. The group, which includes the company's general counsel, meets quarterly.

Marr was fishing for records of those meetings that he could subpoena for his lawsuit.

"Certainly," Marr asked Rust, "you keep records of the quarterly meetings where the entire Chairman's Council is present?"

"We have an agenda," Rust said, "but minutes in that, no."

"Why not?" Marr asked.

Rust replied, "Never felt a need to."

Marr later asked, "Are there any written agendas that are available should I choose to request them in the lawsuit?"

"I'm not sure what might be available," Rust said.

Rust also said policyholders, who essentially own the private mutual company, are not entitled to know what the Chairman's Council discusses or decides about litigation against State Farm, citing attorney-client privilege.

Marr questioned why the company would withhold information from policyholders, who own State Farm.

"Well, again," said Rust (who has a law degree), "I'm not an expert in the area, but I think as you find - even if I'm a shareholder in a publicly traded company, there are things that are not - you know, I do not have access to."

Marr later asked if policyholders have a right to see documents from State Farm's investigation of Haag.

"No," Rust said.

"Why not?" Marr asked. "Is it privileged?"

Rust said, "I believe so."