

POLICYHOLDER ADVOCATE

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CRIMINAL INVESTIGATION DOA?

POA

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Last week, Judge Senter, a federal judge in Mississippi, refused to approve the settlement agreement made between Mississippi Attorney General Jim Hood and State Farm.

If you read between the lines, Senter insinuated that he was disturbed that the settlement offer would result in class members receiving less than those that had filed suit and are now able to partake in far more generous litigation settlement. We believe he is attempting to bring a sense of equality between those who have participated in the class and the others. ([CLICK HERE](#) for his ruling).

Much has been reported about this settlement but all such reports have overlooked the most important aspect of the settlement – the *criminal* component.

Apart from the civil matter filed against State Farm and others, Attorney General Hood also convened a grand jury to investigate criminal charges. The grand jury began hearing evidence about specific insurance companies only days before the settlement was announced.

POA is told that such evidence against insurers included: destroying evidence beneficial to policyholders, instructing experts and adjusters to modify reports beneficial to policyholders, fraudulent denial of covered perils, etc...

The problem with AG Hood's criminal case is that in Mississippi, there is no state statute that can be used to prosecute companies for these acts (collusion/fraud). We can only hope and pray that AG Hood's office will lobby the state legislature to reform the statutes for the future. AG Hood's office, as part of the settlement with State Farm, did agree

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We reported in the last newsletter that Texas Tech University's lab lost its funding and was forced to discontinue its inexpensive analysis of mold samples.

POA has since teamed up with America's leading lab— Aerotech, P&K— to make accurate testing affordable to all.

Why is this important? Many people suspect that mold may be causing certain strange health problems and want to determine if their suspicions are correct. Additionally, homebuyers should test any home they may purchase even if the seller does not disclose moisture problems. Testing could save thousands of dollars on repairs or enable buyers to negotiate a lower purchase price.

To learn more, go to POA's homepage or just click this link:
http://policyholdersofamerica.org/Discounted_Sampling_Mold_Analysis.htm

CRIMINAL INVESTIGATION DOA?

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to end the criminal probe into the company's behavior and stated that such a criminal probe was best left up to a Democratic Congress in Washington, DC.

Judge Senter did not cite the criminal probe's death as a reason he rejected the settlement. One must wonder if that is because he, a *Federal Judge*, has no jurisdiction over a State criminal investigation. Or, he may have realized that but not for the criminal component used as a negotiating tool, State Farm may well have never agreed to re-open a number of claims previously thought closed.

Readers should be mindful that insurers can withstand almost *any* financial penalty levied against them in civil cases, especially in light of the record profits they've recorded. Usually, insurers can count on their buddies at the appellate level to strike down punitive damages or overturn jury verdicts anyway. What insurance companies fear the most is the thought of their executives and adjusters donning those fashionable, prison-issued orange jumpsuits and making license plates all day long. Hence, it is the *criminal* probe and probable jail time that would result in major corrections to systemic claims handling fraud practiced by many insurance companies.

Big Deal?

Don't kid yourself; if you are

a policyholder or U.S. taxpayer, the criminal probe *is* a big deal.

American taxpayers have been charged billions of dollars for flood damage sustained during Katrina. These flood insurance payouts, to the extent that they encompassed and included what was actually due, at least in part, to wind or windstorm damage, were really the obligation of the insurance companies under Homeowner and Commercial Property policies that provided wind or windstorm coverage.

Most insurance carriers are "write your own" carriers, meaning they not only sell their company's policies but are also authorized to sell policies underwritten by the National Flood Program (under FEMA). When a claim is made, the insurance carrier (State Farm, USAA, Nationwide, etc...) sends out adjusters who determine the cause of the damage: wind vs. rising water, for example. POA has seen thousands of situations where the adjuster claimed the damage was due to flood, not wind, even when the evidence was to the contrary. The adjuster and the insurance company in too many cases authorized payments from the National Flood Insurance program, paying out taxpayer dollars rather than paying out insurance company dollars. When an insurance company pays what is really a wind claim with taxpayer flood insurance dollars, the money not paid by the insurance

company drops directly to the insurance company bottom line as profit.

This strategy enabled the carriers to avoid a liability that was truly theirs by dumping onto Uncle Sam thousands of claims.

These criminal activities occurred long before Katrina hit the coast and continue even today.

Should the criminal investigation end, so goes any chance for the American taxpayer to be reimbursed.

Documents and testimony provided during the criminal investigation confirm that State Farm and others have knowingly and intentionally denied covered perils and have incorporated a strategy of fraud against policyholders. It's a systemic problem that began in the 1990s and has gained ground ever since: jack up premiums and deny coverage by using "*preferred experts*" who claim damage was done by anything other than what's covered by the policy.

The roots of this strategy took hold in the 1990s when the larger insurers began hiring McKinsey and other management consultants to increase profitability as outlined in David Berardinelli's book [From Good Hands to Boxing Gloves](#).

Should the criminal investigation be dead, all policyholders will suffer because the industry will never be forced to change and fraudulent claims practices will continue to gain strength.

Will Congress be Our Watchdog?

According to sources inside the criminal division of the Mississippi Attorney General's office, U.S. Representative Gene Taylor (himself a State Farm/Katrina victim) is leading the charge for Congress to begin a thorough investigation. The fate of such an investigation is unknown given that so many federal legislators are benefactors of insurance company-related campaign contributions. It's got all the makings of the proverbial "fox guarding the henhouse" scenario.

POA believes that the only hope for a genuine criminal investigation to move forward with the zeal necessary is for voters, like us, to demand it.

We will be following this issue closely.