

New allegations outlined in State Farm case Anita Lee, Sun Herald 11/28/07

The owner of an engineering firm hoped to make up to \$1.5 million over three months by adjusting Hurricane Katrina claims for State Farm, borrowing \$150,000 and establishing a line of credit with State Farm Bank to set up shop on the Mississippi Coast in September 2005, according to records filed late Tuesday in federal court.

Because of the arrangement, Forensic Analysis & Engineering Corp. was beholden to State Farm, which wanted to minimize its Hurricane Katrina losses for wind damage, the lawsuit says. Another vendor that adjusted Katrina claims, the independent adjusting firm E.A. Renfroe & Co. Inc., at times owed 80 percent of its income to State Farm, the court records say.

A team of policyholders' attorneys led by Richard "Dickie" Scruggs unearthed the information and other new allegations against the insurer and vendors while researching a policyholders' lawsuit originally filed in June. The attorneys now want to amend the complaint.

They now allege that State Farm essentially acted as head of "mob boss," with the vendors serving as "hit men." The purpose of the racketeering scheme was to make money, the lawsuit says, by minimizing or denying policyholder claims.

It alleges destruction of documents, perjury, obstruction of justice and fraud.

State Farm and the vendors have previously denied any wrongdoing. State Farm spokesman Fraser Engerman said Wednesday the company has not reviewed the complaint and couldn't respond to new allegations.

"Although we haven't reviewed it yet, we still contend this lawsuit is a combination of every wild allegation Mr. Scruggs has thrown at us since Katrina," Engerman said.

State Farm termed the initial lawsuit "fiction," saying in June that the company has paid Mississippi policyholders at least \$1.2 billion for Katrina damage. Since then, the company has paid an additional \$55 million through a claims re-evaluation process.

However, the amended complaint says: "State Farm's market share, wealth and unscrupulous methods of doing business give it coercive force within the home insurance sector. Adjusters that deviate from its plans are cast aside. Engineers who issue reports that would result in payments by State Farm are fired."

Policyholders who disagree with State Farm's conclusions face a dilemma, the complaint says: either accept pennies on the dollar or spend years, forfeiting time and money, "to simply get what is rightfully theirs."

The attorneys are asking U.S. District Court Judge William H. Barbour Jr., who is presiding over the case in Jackson, to accept the amended lawsuit in place of the original. They want to add State Farm Bank, a wholly owned subsidiary of the insurance company, as a defendant and remove Forensic, which has confidentially settled its grievances in the case with policyholders.

The policyholders' attorneys claim State Farm is defrauding policyholders through the re-evaluation process because the company does not reveal any multiple engineering reports that may have been produced for properties. Insur-

ance companies use expert reports to help determine the cause of damage and whether it is covered under their policies.

The amended complaint, which also adds three policyholders to the 21 already listed, says one engineer at Forensic altered, spoiled or falsified at least 30 reports.

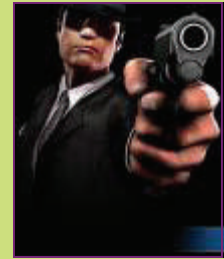
Evidence turned over under subpoena in the case indicates for the first time that State Farm wanted a Forensic engineer removed from company claims investigations. The engineer had found wind damage covered by State Farm policies.

The Forensic office manager, Nellie Williams, wrote in another instant message: "State Farm would prefer that all reports make water the cause of destruction (then they don't have to pay) - they have been returning our wind cause reports and demanding another inspection as they don't agree with our findings."

Williams had previously denied under oath that she had Forensics information on her personal computer, but the Scruggs group found it there after they secured her computer hard drive through a subpoena.

Forensics owner Robert Kochan said in an instant message to his office manager that he had spoken with "Mark," which the lawsuit says refers to State Farm employee Mark Wilcox. According to Kochan's instant message, Wilcox said his boss wanted Forensic engineer Brian Ford, who found wind damage to properties, removed from State Farm catastrophe inspections.

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FREE MARKET MYTH BUSTING...

guts with laughter at the \$5,400 budget and countered with bids ranging from \$42,500 - \$51,800.

The Sterlings disputed the laughable payment of \$5,400 and the insurer sent out one of their "preferred vendors". Preferred insurance vendors are typically those contractor characters who charge the insurer a fee to provide "back up" estimates that support the insurer's lowballed Xactimate-generated estimates.

The Preferred Vendor submitted a bid for \$6,200 but the scope of repair work was far from equal to the repairs recommended by the legitimate contractors. The legitimate contractors' bids called for the removal and replacement of all of the wet drywall, wet sub-floor, wet carpeting and carpet pad - all of which is the standard of care. The Preferred Vendor's bid called for fans to be used to dry out everything - a move that even industry trade groups say is

inadequate.

The Sterlings asked each of their hand selected (legitimate) contractors if they would agree to make the repairs recommended by the insurer's Preferred Vendor and all refused to do so because of liability.

Given this, the Sterlings had a tough decision to make: do they knowingly hire a contractor (the Preferred Vendor) who would not repair the property correctly or do they fight? They opted to use the Preferred Vendor to make the inadequate repairs and immediately put their home on the market before the underlying damage became apparent.

This scenario is one that is more common than not. And, the Sterling's experience demonstrates how insurers use Xactimate pricing software to fix prices and constrict competition by forcing policyholders to use insurance company proxies - Preferred Vendors.

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Controlled Market conditions

According to Wikipedia, the opposite of a free market is a controlled market. In a controlled marketplace, "government directly or indirectly regulates prices or supplies, distorting market signals." Isn't this what insurance companies have done? If we use the typical claim represented by the Sterlings, insurers, with the blessing of state regulators, have directly fixed prices using Xactimate while their Preferred Vendors have limited supplies of willing contractors. Just one of these acts distorts the market but together they spell disaster for the free market system.

The REAL slogan of the industry

The slogan of the entire insurance industry should be: "We take YOUR money and OUR experience and turn it into OUR money and YOUR experience."

QUOTE OF THE MONTH:

A government which robs Peter to pay Paul can always depend on the support of Paul.

-George Bernard Shaw

New allegations ...

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State Farm offered policyholders a different explanation for multiple engineering reports. The company in April began notifying Coast policyholders that they could have their claims re-evaluated. State Farm explained, according to the lawsuit: "At times, inadvertent duplicate assignments were made on a single property and/or follow-up on engineering reports was necessary, resulting in some cases, in multiple engineering reports."

Insurance Commissioner George Dale, who recently lost his re-election bid after eight terms, ordered the re-evaluation. But Attorney General Jim Hood has sued State

Farm for failing to live up to an agreement he reached with the company in January. That agreement said any multiple reports would be revealed to policyholders.

State Farm says it has lived up to its promises through the re-evaluation, maintaining the agreement with Hood was part of a proposed global settlement with policyholders that a federal judge rejected.

The insurance company and Hood are currently embroiled in a federal court dispute. State Farm is asking a judge to stop a criminal investigation by Hood, claiming he filed it to harass the company.

State Farm and Scruggs also are battling because Scruggs engaged whistle-blowers, as

he did in successful lawsuits against Big Tobacco, to glean information about the company's Katrina claims adjusting. The FBI served a search warrant Tuesday on Scruggs law firm, but an attorney for the firm, Joey Langston, said agents were seeking a single document that would be "ancillary" to Katrina litigation. Langston said he does not believe the document exists and the firm is cooperating with investigators.

Also, the U.S. Attorney's Office in Jackson has indicated it is investigating State Farm's Katrina claims handling practices and will decide by January whether to prosecute a lawsuit the whistle-blowers have filed against the company, also in U.S. District Court in Jackson.



State Farm does not dig the fact that whistle-blowers have come forward to spill their guts about the lying and cheating that occurred to avoid paying legitimate claims.