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Written Submission for the AIRB Annual Review Process

It's that time of the year again, when auto insurers gather to tell the AIRB that while they somehow eked out a meagre living this past year, the coming year's profit outlook is precarious in this uncertain economic climate, and the worst thing the AIRB could do is mandate a reduction in car insurance premiums. The board's amiable actuary will, *as he does each June*, confess that insurer profit figures last year were more robust than he had anticipated, while cautioning that the decade-long downward trend in bodily injury claims won't last forever.

And, sticking out like a sore thumb, this pesky injury lawyer will urge the AIRB to protect ordinary Alberta motorists from the multinational, multibillion-dollar insurance industry. I am grateful to be given an opportunity to present a written submission to the board for the fifth consecutive year, and I appreciate that the AIRB evidently takes my input into consideration when setting compulsory auto insurance rates, probably much to the chagrin of the powerful insurance lobby.

Last year, for example, I think my presentation was the only one (including the board's own actuarial opinion) recommending a rate reduction, and the AIRB agreed to lower rates by 5%. This year I am recommending that the AIRB cut compulsory insurance premiums in half (**reduce rates by 50%**), to align the price with the value of an insurance product degraded by Alberta's government.

The facts are well known and well established, laid out in detail in my 2009 www.airb.alberta.ca/public_meetings/2009/written_mccourt_law_offices.pdf and 2010 www.airb.alberta.ca/public_meetings/2010/written-mccourt.pdf submissions. Anybody who cares to know the truth about the scam that was the auto insurance "crisis" and the Alberta PC government's scandalous response is just a click or two away from educating themselves by reading those papers.

In summary, insurers in Canada historically enjoyed hundreds of millions of dollars in annual profits even though claims costs and operating expenses exceeded premiums collected. Each year (from 1978 to 2002), the underwriting loss was easily offset by the fortune earned by insurance companies investing those premium dollars. However, after the terrorist attacks of September 11, 2001, with investment revenues declining (although still in the hundreds of millions of dollars), the insurance lobby hatched a "Blame the Victim" scheme, jacking up auto insurance rates while urging irate policyholders to contact their provincial PC politicians to complain about "skyrocketing" bodily injury claims.

The reality is that while premiums in Alberta certainly were skyrocketing (up 57% from December 2001 - December 2002 according to Stats Canada), *bodily injury claims were sharply declining*, but the Klein government was not about to let the facts get in the way of the insurance lobby's false pleas of poverty and unreasonable demands for so-called "reform" regulations designed to protect the "imperiled" insurance industry from innocent injured auto accident victims.

In March of 2003, insurance representatives made a presentation to the Alberta government alleging that auto insurers were losing money. The presentation urged a cap on pain and suffering awards for "minor" injuries, to help the industry reach what it called the "Perfect World" scenario, where premiums in would match claims costs and operating expenses out, leaving all investment revenue as pure, sweet profit. With expenses taking a quarter of the premium dollar, the auto loss ratio in an insurer Perfect World therefore would be 75%.

The insurance industry's manufactured crisis worked to perfection, and then some. In Alberta, without any public consultation (apart from a government poll of Albertans indicating *95% opposition* to a cap on pain and suffering compensation), the Klein Tories assembled an "insurance industry all-star team" co-chaired by MLA Rob Renner and "Friend of Ralph" Jack Donahue to implement insurance "reforms" to combat the contrived crisis. Rounding out the Implementation Team were two insurance defence lawyers, three insurance company CEOs and the deputy chair of the insurance industry lobby group. Maverick PC MLA Brent Rathgeber QC (now a Tory MP), who had practiced injury and insurance law for a decade prior to his election to the Alberta legislature, said in a letter to Renner, "Where is the victims' advocate? Where is the consumers' rights advocate? I appreciate that the bureaucrats at the Department of Finance have limited interest in an unbiased and objective analysis; however we as politicians MUST insist on objectivity and fairness both in process and result. I am concerned that the above team will achieve neither." Renner, who was a career florist prior to his election, branded Rathgeber as "uninformed".

Renner didn't have the facts on his side, but he did have Finance Minister Pat Nelson and Premier Ralph Klein firmly behind him. Rathgeber later remarked that "regulating payouts by capping injury awards was going to be a solution to nothing. But logic is no match for pure political brute force." You get the feeling Rathgeber would not have lasted long in a PC caucus led by Eddie Stelmach?

Long before the soft-tissue injury cap was implemented, it was obvious that the cap was unnecessary to ensure healthy insurer profits, and that insurance lobby assertions to the contrary were, to borrow a phrase from philosopher Harry Frankfurt, "not germane to the enterprise of describing reality." In September 2003, Deloitte & Touche released a report showing that insurers were spiking premiums even though bodily injury claims costs per vehicle had been falling since 1999. Notoriously, Deloitte's withdrew the report within hours

of its release, for fear of losing lucrative insurance industry business. Six months later, the insurance industry admitted that it had earned all-time record high profits (\$2.63B) in 2003. Not only was insurance industry investment profit up sharply, the industry even recorded an underwriting profit (collecting more in premiums than it paid out in claims and operating expenses), something it had not done in any of the previous 25 years. Astonishingly, even this did not stop the Klein government from enacting its unfair, unnecessary and unconservative auto injury cap, effective October 1, 2004. By that point, it seemed almost as if the government just wanted to show that it could pretty much do anything to Albertans, no matter how odious and hateful, and still get re-elected (which it did the following month, albeit with about a one third drop in popular support).

Insurance industry profits went through the roof, up over 2000% from 2002 (\$340M) to 2006 (\$7.7B). And where's Alberta's auto loss ratio these days? Well, according to the most recent annual report posted by Superintendent of Insurance Dennis Gartner (his 2009 report), the auto loss ratio has plummeted to 54.2%. It doesn't take a rocket scientist (or an actuary, for that matter) to figure out that severely normal Alberta policyholders have been screwed, and that automobile insurance companies are laughing all the way to the bank.

So, briefly by way of review: historically, the insurance industry made hundreds of millions of dollars in annual profit even though each and every year, insurers paid out more in expenses and claims costs than they collected in premiums. Revenue earned investing those premiums more than made up for the underwriting loss each year. A rough comparison might be made with the newspaper industry, which typically doesn't collect enough subscription and newsstand revenues to pay the bills, but makes its profit on advertising dollars.

Then one day Muslim extremists started crashing planes into US buildings, and insurers decided to try blaming depressed investment revenues on Canadians crashing cars into each other. A scheme wholly unsupported by the facts, but too ridiculous to actually work? Not if there's a PC party in office! Sure enough, PC governments in Alberta and the Maritimes scrambled to regulate reductions in injured victim compensation, to rescue the "malnourished" insurance industry (and save themselves from the wrath of gouged auto insurance policyholders).

And where does this leave us? With Albertans paying higher premiums than we did before the cap was implemented, for a pink card that works just fine so long as you never actually get hurt in a motor vehicle accident. With auto insurers making exorbitant windfall profits and hoping that this isn't the year the AIRB gives its collective head a shake and restores a profit margin more in line with the historical model enjoyed by insurers from 1978 to 2002. And with a cap that revictimizes vulnerable victims; a cap that was set to expire later this year, until an integrity deficient Stelmach cabinet extended the cap to 2016, in a decision made behind closed doors without any public consultation or legislative debate.

So without further ado, and as painlessly as possible, let's crunch numbers and figure out what rate reprieve the AIRB should afford Alberta motorists. The Alberta government says that the cap saves insurers \$200M per year in claims costs. In 2009, according to the Superintendent's report, auto insurers raked in just over \$3.2B in premiums and paid out just under \$1.75B in claims and adjusting costs. Assuming a 25% expense ratio (\$800M in expenses), that would leave insurers in 2009 with an underwriting profit of about \$670M to add to the outrageous fortune they earned investing policyholders' premiums and accumulated capital. As Larry David might say, insurers did pretty, pretty, pretty good. I would say they collected from Alberta motorists about \$670M more than was necessary even to get to their promised land, their "Perfect World" where investment revenue is pure profit, a world they'd never seen from 1978 - 2002.

In short, Alberta's 2.3 million policyholders paid on average about \$290 more than we needed to in 2009, and the AIRB should refund that money to us this year. **That's right, a 50% reduction in compulsory auto insurance premiums.** This is how overpriced the auto insurance product is in Alberta, thanks to Tory tort deforms. Or better still, the Stelmach government could do the right thing and scrap the cap, restoring fair compensation to innocent victims of reckless drivers (adding \$200M in annual claims costs). This could be done while at the same time reducing the average Alberta motorist's compulsory insurance rate by 35%. Again, this isn't rocket science, it's simple arithmetic, and not only do Albertans deserve to know how badly they're being hosed by insurers with the help of our government, they deserve a real break from the AIRB, at long last.

Alternatively, the AIRB should explain to Albertans why insurers need a huge underwriting profit when they never required one from 1978 to 2002, and when they weren't even asking for an underwriting profit (merely escape from an underwriting loss) while they were begging for government assistance to reach their "Perfect World" back in 2003. Albertans deserve openness, transparency, they deserve the truth, they deserve a big break on their auto insurance rates (except the reckless drivers who probably merit a rate hike), and they deserve the restoration of fair compensation if they are injured by a negligent motorist.

And that's all I've got to say about that, so perhaps next year, unless folks are content to let this annual review process degenerate into purely an insurance representatives reunion, someone else like the CBA, ACTLA, the Consumers' Association of Canada, or an opposition party will pick up the torch and be the accident victims / insurance policyholders advocate. Thanks, and peace out. ☺

Yours truly,

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Per: *K. Mark McCourt*

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