

*VII. The employment of former Louisiana Insurance Commissioner Robert Wooley.*

A. Allstate Insurance Company.

Robert Wooley joined the Louisiana Department of Insurance in 1999 as former Commissioner Jim Brown's Chief Deputy. In the fall of 2000, Brown was convicted of lying to an FBI agent, and Wooley took over as Acting Commissioner. The firm began recruiting Wooley in late 2001. In 2002, Wooley submitted a business plan to the firm which listed a number of insurance companies which he believed he could bring to the firm as clients.

With similar ethics constraints as Morial, Teamer, and Coulon, Wooley would be prohibited from representing insurance companies before the Louisiana Department of Insurance for a period of two years after he left office. But the firm proposed to put forward a "low-key grinder" to front

the insurance regulatory work for Wooley during his two-year prohibition. In addition, the firm proposed to use Wooley as a state legislative lobbyist for his insurance company clients. Plaintiff recommended to Adams, Spansel, and Stern to obtain an ethics opinion from the Louisiana Board of Ethics on the legality of a former Insurance Commissioner engaging in legislative lobbying on behalf of insurance company clients during his two-year prohibition. They decided that they did not want to risk an adverse opinion and instead would try to have Wooley “fly below the radar.” They advised plaintiff that his advice was no longer needed.

73.

Notably absent from Wooley’s list of potential clients in his business plan was a “big fish” that was not already a client of the firm. The firm already represented State Farm, the largest homeowners’ insurer in the state. Brooks told Wooley to focus on developing Allstate Insurance Company, the second largest homeowners’ insurer with approximately 220,000 customers (roughly 20% of the homeowners’ market). Brooks further advised Wooley that he needed to use the power of his office to develop his “chips” with the insurance companies he regulates so that when he left office, he could call in his chips.

74.

In 2003, Commissioner Wooley was elected to a full term. Consistent with the advice and directives of Brooks and the firm, Commissioner Wooley helped push through a measure that allowed insurance companies to raise rates by up to 10% without the approval of the Louisiana Insurance Rating Commission. This so-called “flex-band” initiative promoted by Commissioner Wooley was a gift to insurers at the expense of Louisiana consumers. In addition, Commissioner Wooley’s measure failed to clearly define many of the reporting requirements needed to determine

the impact of the flexible rating system.

75.

Commissioner Wooley was also largely responsible for the creation of Louisiana Citizens Property Insurance Corporation and letting the insurance companies off the hook for the liabilities of the state's insurer of last resort. Prior to the creation of Louisiana Citizens, all losses incurred by the Fair and Coastal Plans were paid pro-rata by insurance companies based on their percentage of business. Prior law did not permit insurance companies to pass on the losses to policyholders, but the insurance companies could go to the Insurance Rating Commission for higher rates. At that time, however, the Insurance Rating Commission carefully scrutinized all proposed rate increases and actually approved very few rate increases. After Louisiana Citizens was created, all losses were directly passed on to policyholders as surcharges, effectively taking insurance companies off the hook.

76.

Commissioner Wooley did exactly what the firm wanted him to do- i.e., develop his chips with the insurance industry under the guise of stabilizing the insurance market and attracting new insurers to the state. Based on the firm's track record with Morial, Teamer, and later Coulon, plaintiff objected to the hiring of Commissioner Wooley in discussions with Brooks, Laizer, and O'Brien on the grounds that the firm was apparently intending to use the same subterfuge as it had with Morial, Teamer and Coulon in order to allow them to work behind the scenes on prohibited matters.

77.

Commissioner Wooley ran the Department of Insurance until he announced that he would resign as of February 15, 2006. Just before Commissioner Wooley left office in February 2006,

Allstate approached Commissioner Wooley and alerted him that the company wanted to drop wind and hail coverage for its homeowners' insurance customers in coastal parishes across Louisiana by means of a unilateral endorsement to the policies, rather than through outright cancellation or non-renewal of the policies. Immediately after leaving office, Wooley got together with Allstate and agreed, despite his two-year prohibition, to assist Allstate in avoiding regulatory sanction for violating Louisiana's consumer protection laws that prevent insurers from dropping customers of three years or more without specific cause. With Wooley directing traffic in the background, and other firm attorneys fronting the representation, the firm proceeded to advise the Louisiana Department of Insurance in July 2006 that Allstate intended to cancel its wind and hail coverage on approximately 30,000 policyholders in 18 coastal parishes. Simultaneously, Allstate announced record second quarter profits of \$1.2 billion.

78.

After the Louisiana Department of Insurance threatened to take Allstate to court to prevent Allstate from unlawfully dropping wind and hail coverage on 30,000 homeowners in 18 coastal parishes, the firm represented Allstate in connection with its controversial drive-by inspection process as a way to cancel policyholders in storm-prone areas. Allstate performed drive-by inspections of roughly 40,000 homes in the New Orleans area in an inspection process that took less than one minute per home. However, many customers who received cancellation letters complained to the Louisiana Department of Insurance that their homes had already been or were in the process of being repaired and that their coverage should not have been terminated. In the spring of 2007, the Louisiana Department of Insurance forced Allstate to scrap this drive by inspection process that resulted in several thousand homeowners getting their policies canceled. Meanwhile, Allstate

reported a record \$5 billion profit for 2006 and sponsored the Sugar Bowl, the area's premier sporting event, all while using Wooley and the firm to unlawfully dump its customers in the area.

79.

During his two-year prohibition, Wooley directed an army of lawyers at the firm looking for technicalities to allow Allstate to drop long-standing customers in storm-prone areas of the state, violating both the letter and the spirit of Louisiana's consumer protection laws. Most recently, Allstate, with the guidance and counsel of the firm, began reclassifying some long time customers as new ones so that their wind and hail coverage could be dropped. In early 2008, Louisiana consumers began complaining to the Louisiana Department of Insurance that their wind and hail coverage was dropped as a result of an administrative switch from Allstate Insurance Company to Allstate Indemnity Company on a good credit discount that cost them their all important coverage against hurricanes. The Louisiana Department of Insurance fined Allstate the maximum penalty of \$250,000 for its three attempts (during Wooley's two year prohibition) to circumvent Louisiana's consumer protection law. Of course, a \$250,000 fine to a company that reports a \$5 billion annual profit after massive storm losses is negligible and constitutes an inexpensive cost of doing business.

80.

#### B. ProtectingAmerica.Org

Under the current insurance system, private insurers collect premiums from customers in a reserve fund and invest the money until a disaster strikes. Because the biggest storms can cost much more than a company might have in its financial reserves, many companies choose to buy reinsurance (i.e., insurance that will cover claims above a certain level). In 2004, Allstate did not purchase private reinsurance and suffered heavy losses when four storms struck Florida. In 2005,

when Hurricanes Katrina and Rita hit Louisiana, Allstate bought reinsurance in seven states, but not in Louisiana. That misplaced bet cost Allstate more than \$3 billion in claims in the state, even though as noted above, Allstate reported record profits in 2006. As a result of Allstate's reinsurance misjudgments, Allstate formed a fronting non-profit group called ProtectingAmerica.org to lobby for government-sponsored catastrophe funds and to promote the concept in catastrophe-prone areas.

81.

A catastrophe fund would cap the exposure that private insurance companies face on potential hurricane losses in Louisiana because a government-backed fund, whether state or federal, would step in to cover claims beyond a certain level, reducing the need for insurance companies to buy reinsurance. According to a study released by the Louisiana Recovery Authority in March 2007, the state would take over a portion of residential claims from a hurricane when they reach \$1.25 billion in the event the state created a state-run catastrophe fund. The study by Paragon Strategic Solutions was intended to provide a blueprint for how such a fund might be structured. In its study, Paragon updated a 2003 study that it performed for then-Commissioner Wooley.

82.

When Wooley left office and joined the firm, he was retained by Protecting Armerica.org to lobby for a catastrophe fund. Wooley's services for Protecting America.org were primarily in Louisiana and included legislative and executive branch lobbying, drafting of legislation, speaking at conferences and trade shows, and coalition building.

83.

As noted above, the firm had ignored plaintiff's insistence that Wooley and/or the firm obtain an Ethics Board opinion that the lobbying services performed by him on behalf of insurance

company clients did not violate La. R.S. 42:1121 which restricted his activities as the former head of a state agency. For many years, the firm has had a substantial practice before the Louisiana Board of Ethics. The firm was well aware that it would be highly unlikely for Wooley and/or the firm to receive a ruling from the Ethics Board that would permit legislative lobbying on behalf of insurance companies during the two-year prohibition period, so the firm never pursued an advisory opinion. However, in an advisory opinion issued prior to Wooley and the firm entering into a lobbying agreement with ProtectingAmerica.org, the Louisiana Board of Ethics opined that Ms. Paula Pellerin Davis, the former Deputy Commissioner of the Office of Property and Casualty of the Louisiana Department of Insurance, could not support or oppose legislation before the Louisiana legislature for the client's interest relative to state laws governing insurance carriers and contracts. Although Ms. Pellerin-Davis' services did not directly affect the rule-making powers of the Department's Office of Property and Casualty, the Board concluded that La. R.S. 42:1121(A)(1) of the Code would prohibit her from performing consulting work for property and casualty insurance carriers on legislation before the Louisiana legislature relative to state law governing insurance carriers and contracts.

84.

Despite the clear holding of the Pellerin-Davis opinion, Wooley and the firm entered into an agreement with ProtectingAmerica.org whereby Wooley performed both legislative and executive branch lobbying during his two year prohibition period on behalf of ProtectingAmerica.org relative to state laws governing insurance carriers and contracts. Wooley's and the firm's activities were designed to, and did in fact, frustrate the purpose of La. R.S. 42:1121(A)(1) of preventing former

agency heads from exerting improper influence at the former agency and from deriving economic benefits from those efforts.

85.

Because ProtectingAmerica.org was a fronting organization for Allstate, Wooley's actions were a classic example of a regulator leaving government service to impermissibly lobby for one of the companies he previously regulated on the very issue he was working on when he left office. In fact, Wooley thumbed his nose at the Board of Ethics' prior advisory opinion and publicly claimed that he could legally lobby the legislature because it was a separate branch of government. Not only did Wooley violate the Ethics Board's ruling on legislative lobbying, he also engaged in improper executive branch lobbying on behalf of Allstate and ProtectingAmerica.org.

86.

Of course, Wooley's and the firm's efforts to promote catastrophe funds while simultaneously canceling coastal policies in Louisiana were designed to protect Allstate's profits and tracked similar efforts in other states. When Allstate began canceling its homeowner's insurance policies in coastal areas of New York in 2006, insurance regulators charged that the company was trying to scare people into supporting the catastrophe funds. As a former regulator, Wooley was well aware that catastrophe funds shift the burden of catastrophe risk from insurance companies to taxpayers. The catastrophe funds dupe people into buying coverage twice. Customers think they have bought insurance, but when a disaster strikes, they discover that their policies did not really include the cost of reinsurance. They now have to worry about paying for reinsurance through surcharges for the rest of their lives.

87.



Rather than spreading risk around the global financial markets through reinsurance, cat funds would concentrate the risk in one state and in one program. It would hit property owners with assessments on their insurance bills to replenish the fund at exactly the time they are trying to recover. Wooley and the firm derived economic benefit from Wooley's exerting of improper influence on the cat fund issue at the expense of Louisiana consumers, all in violation of advisory opinions of the Board of Ethics and the state's chief anti-corruption statute.

88.

C. Acting Commissioner Donelon's Directive 199.

When Wooley joined the firm, the Chinese wall employed to screen him from any matters involving the Louisiana Department of Insurance was a sham. Not only was Wooley representing insurance company clients in matters before the Louisiana Department of Insurance and before the Louisiana legislature, he also participated, on behalf of insurance company clients, in litigation in which the Louisiana Department of Insurance was involved.

89.

For example, Wooley, despite allegedly being Chinese walled from participation, worked with other members of the firm on litigation involving Commissioner Donelon's Directive 199 and the constitutional challenge to the extension of prescription from one year to two years to file suit for claims for damages from Hurricanes Katrina or Rita. By way of background, Acting Commissioner Donelon asked insurance companies in June 2006 to voluntarily grant more time for hurricane victims to settle their claims. When the request did not get the desired result and only Louisiana Citizens and four small companies voluntarily complied with Donelon's request, Donelon issued Directive 199 ordering insurance companies to file documents by August 1, 2006 stating that they

are following the Directive and have extended the claims period for an additional year.

90.

Directive 199 was intended to accomplish the same objective as legislation passed during the 2006 legislative session and signed into law by Governor Blanco. Because the legislation was retroactive, a court decision was needed on whether the legislation was constitutional. Since it would be difficult for the constitutional challenge to work its way through the court system by August 29, the anniversary of Katrina hitting the state, Commissioner Donelon issued Directive 199, directing insurance companies to extend their statute of limitations voluntarily. Because insurance companies would be voluntarily changing their contracts with the people and business they insured, Donelon believe the Directive would avoid any constitutional problems.

91.

As noted above, Wooley worked with other firm attorneys representing Allstate and the Property Casualty Insurers association in the litigation challenging Directive 199 and the constitutionality of the prescription extension measures. In connection with this representation, Wooley, the firm and Allstate were the leading voices for the sanctity of private contracts between an insurer and its insured with regard to the one-year statute of limitations on filing lawsuits. Of course, the hypocrisy was evident as Wooley, the firm and Allstate were simultaneously attempting to strip 30,000 homeowners in 18 coastal parishes of their wind and hail coverage by means of a unilateral "endorsement" to the policies.

92.

D. Hanover Insurance Group.

Hanover Insurance Company, an insurer doing business in Louisiana since 1899, is the state's

tenth largest homeowners' insurer and the state's fifth largest commercial insurer. Just before Commissioner Wooley left office in February 2006, Hanover requested a special exemption from Emergency Rule 23, a rule that froze insurance coverage to where it was before Hurricane Katrina. On February 10, 2006, just five days before Commissioner Wooley left office, Commissioner Wooley approved Hanover's Modified Renewal Plan, allowing Hanover to selectively cancel and non-renew homeowners and commercial insurance policies. This approval constituted a significant exception to Emergency Rule 23, which prevented insurers from dropping customers or changing their insurance coverage outside of making statewide rate filings.

93.

Shortly after Wooley arrived at the firm, Hanover retained the firm to assist with implementation of its non-renewal plan and other regulatory matters before the Louisiana Department of Insurance. Although clearly prohibited from any involvement in the engagement, Wooley served as the firm's gatekeeper, directing legal work to other attorneys in the firm. Of course, this role as "gatekeeper" violated the prohibition on verbal or written interoffice communications with firm attorneys relating to this representation.

94.

Wooley's substantive work on behalf of Hanover Insurance Company included prohibited advice on regulatory issues before the Louisiana Department of Insurance, such as rate filings and challenges to Louisiana Department of Insurance bulletins, as well as legislative consulting. Such representation, which was done with full knowledge by certain members of the firm's management identified herein, violated La. R.S. 42:1121, Board of Ethics rules, the Louisiana Rules of Professional Conduct, and the terms of Wooley's contract with the firm. After seeing how the firm

had silenced plaintiff, no partner was willing to come forward and challenge the management elements within the firm who orchestrated the circumvention of the anti-corruption statute. In fact, such activities were encouraged by such members of management in order to reap the financial rewards of such representation.

95.

E. Bankers Specialty Insurance Company.

Bankers Insurance Group is a wholly owned subsidiary of Bankers Financial Corporation and the corporate parent of a group of insurance companies, including property and casualty carriers (such as Bankers Insurance Company and Bankers Specialty Insurance Company), a life insurance carrier (Bankers Life Insurance Company), and other insurance-related companies.

96.

Wooley brought Bankers to the firm as a client. As with Hanover, Bankers retained the firm to assist with regulatory matters before the Louisiana Department of Insurance, including incorporating and obtaining regulatory authorization and approval for Bankers Specialty Insurance Company, a newly created Louisiana domiciled insurance company. Although clearly prohibited from any involvement in this engagement, Wooley again served as the firm's gatekeeper, directing legal work to other attorneys in the firm. As previously noted, the role of "gatekeeper" violated the prohibition on verbal and written interoffice communications with other firm attorneys relating to the representation.

97.

Wooley's substantive work on behalf of Bankers Specialty Insurance Company also included prohibited representation on regulatory issues before the Louisiana Department of Insurance, such

as in connection with participation in the Insure Louisiana Incentive Program. Under this program, insurance companies could apply for a grant of \$2 million to \$10 million. In exchange, the insurers must put up a matching sum and use the money to write new business in the state. The insurers must meet certain financial requirements, including \$25 million in capital and surplus. At least half of the policies must be written in south Louisiana parishes, and one fourth of the total amount must come from policyholders then insured by Louisiana Citizens.

98.

In the initial round of applications for grants, six companies applied for \$34 million in Insure Louisiana Incentive grants, including a \$5 million grant application filed by Bankers Specialty. Wooley and the firm assisted Bankers Specialty in connection with its grant application to LDOI for a \$5 million grant. Bankers Specialty did not qualify for a grant during the first round. The LDOI found that the subsidiary (Bankers Specialty) that Bankers Insurance Group had formed to sell property insurance did not have the \$25 million in capital that the program required.

99.

While Bankers Insurance Group clearly had sufficient assets, Bankers Specialty was capitalized with only \$5 million, far short of the \$25 million required for the program. In addition, LDOI determined that Bankers Specialty did not have its own credit rating and did not meet risk-based capital requirements. As a result, Bankers Specialty, as a stand-alone company, did not meet the standards in the law to participate in the program.

100.

The firm (with Wooley behind the scenes) continued to work with LDOI in order to permit Bankers Specialty to participate in the incentive program. Bankers re-applied for a \$5 million grant

in the second and final round of applications for the Insurance Louisiana Grant program. Wooley's involvement in the representation of Bankers during his two-year prohibition violated La. R.S. 42:1121, the Board of Ethics rules, the Louisiana Rules of Professional Conduct, and the terms of Wooley's contract with the firm. The members of management described herein promoted such activities in order to reap the financial rewards of such representation.

101.

F. Flying Fish Creative Services, Inc.

Flying Fish Creative Services provides e-learning training programs to corporate, academic, and government clients. DriveSafeLA.org is an on-line defensive driving educational course created by Flying Fish Creative Services. In 2003, the Louisiana Legislature passed Act 1093 authorizing the State Police to promulgate rules and regulations to establish standards for approval and certification of defensive driving courses for Louisiana-licensed drivers. The course content must be approved and certified by the Louisiana Department of Public Safety. In addition, the Commissioner of Insurance must approve the certificate of completion produced upon completion of the course. These approvals and certifications enable the program to qualify for up to a 10% discount in annual auto insurance premiums offered by any insurance company operating in Louisiana that offers discount driving programs as specified in its rate filings.

102.

Flying Fish's on-line program was the only on-line training defensive driving course that was approved and certified by the State of Louisiana in 2006. On February 15, 2006, on Commissioner Wooley's last day in office, Commissioner Wooley approved and accepted the certificate of completion for Flying Fish's defensive driving course.

103.

After leaving office, Wooley brought Flying Fish Creative Services to the firm as a client. The scope of the representation included efforts to secure an agreement to provide risk management training to all employees of the Louisiana Department of Insurance. In addition, Wooley was retained to secure agreements with various insurance companies to participate in Flying Fish Creative Services' defensive driver program. In this regard, Wooley unlawfully represented Flying Fish before the Department of Insurance, violating the state's anti-corruption statute, Board of Ethics rules, the Louisiana rules of Professional Conduct, and the terms of the firm's contract with Wooley.

104.

In January 2008, the firm announced that it was hiring former Mississippi Insurance Commissioner George Dale. Accordingly, the wrongful conduct exhibited in connection with the employment of Morial, Teamer, Coulon and Wooley was open-ended and projected into the future with a great possibility of repetition.

105.

*VIII. The State's Medicaid Management Contract*

In 2003, the Louisiana Department of Health and Hospitals requested, and later received, sealed bids for the state's Medicaid claims processing contract. This contract was expected to be an approximately \$300 million contract to manage the state's Medicaid program. Unisys Corp. and ACS, among others, submitted sealed bids for this contract.

106.

However, both Unisys and ACS were clients of the firm, and both were leaders in providing technology solutions and support services to state Medicaid agencies. The firm represented Unisys