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United States Senate

WASHINGTON, DC 20510-3205

May 22, 2018

The Honorable Brock Long
Administrator
Federal Emergency Management Agency
500 C Street, SW
Washington, D.C. 20024

Dear Administrator Long:

We are writing to express our deep concern about the treatment of National Flood Insurance Program (NFIP) policyholders as recently reported by CBS News¹. Policyholders pay their flood insurance premiums expecting that when a flood occurs, they will be treated fairly and receive the payments they are owed under their policy in a timely manner in order to aid their recovery. Any attempt to intentionally deny, delay or underpay claims through extensive and costly litigation, or profit off this federal program at the expense of policyholders and taxpayers is unacceptable and must end.

Unfortunately, these problems are not new. Following Superstorm Sandy, a number of bad actors were found to have deliberately falsified engineering reports used to evaluate NFIP claims in an effort to deny or underpay those claims². A federal magistrate judge³ in the Eastern District of New York described this as “reprehensible gamesmanship,” and ultimately an engineering company and one of its former employees pleaded guilty to fraudulent activity. Also uncovered was a scheme by attorneys representing insurance companies participating in the Federal Emergency Management Agency’s (FEMA) “Write Your Own” program. The lawyers would use costly litigation tactics and delays in order to charge exorbitant fees⁴.

Subsequent to the discovery of this fraud and gamesmanship, FEMA acknowledged that policyholders’ claims were underpaid and created the Sandy Claims Review to identify underpayments and provide additional money to the policyholders who are owed. The Sandy Claims Review process, which began in 2015 and ended this year, resulted in more than \$258 million in additional payments to more than 15,000 NFIP policyholders. Additionally, FEMA

¹ “Federal program meant to help flood victims spends millions fighting claims.” CBS Evening News report with Jeff Glor. April 30, 2018. <https://www.cbsnews.com/news/national-flood-insurance-program-meant-to-help-victims-spends-millions-fighting-claims/>

² “Guilty Pleas to Falsifying Reports on Hurricane Sandy Damage.” New York Times report by David W. Chen. January 10, 2017. <https://www.nytimes.com/2017/01/10/nyregion/hurricane-sandy-damage-geb-hirise-engineering.html>

³ “Underwater & Underpaid: Hurricane Sandy controversies renewed in LA.” WWL report by WWL Staff. February 22, 2017. <https://www.wvlv.com/article/news/investigations/underwater-underpaid-hurricane-sandy-controversies-renewed-in-la/412815773>

⁴ “Hurricane Sandy Victims Say Damage Reports Were Altered.” New York Times report by David W. Chen. February 16, 2018. <https://www.nytimes.com/2015/02/17/nyregion/hurricane-sandy-victims-say-damage-reports-were-altered.html>

announced that it was making a number of changes to its claims process and oversight of the Write Your Own program and litigation expenses.

Given this history, we are alarmed by news reports that conduct similar to that which led to the creation of the Sandy Claims Review continues to occur, and the victims this time are residents of Louisiana who experienced severe flooding in the summer of 2016. According to the reports⁵, some private attorneys representing Write Your Own companies publicly bragged about receiving exorbitant profits by dragging out litigation filed by policyholders who were just trying to recover what they were entitled too. As if this was not bad enough, the reports also indicate that, even years later, at least one of these individuals is also involved in ongoing litigation disputing claims related to 2016 flooding in Louisiana. If these reports are true, this represents a shocking lack of oversight by FEMA and calls into question the efficacy of the reforms FEMA has made internally to date.

Congress has a duty to exercise robust oversight of these programs and their affiliates. To further our understanding of the changes FEMA made and the current procedures in place to protect policyholders from unscrupulous and fraudulent behavior by Write Your Own participants and contractors, we request answers to the following questions:

1. Are any companies or individuals that participated in falsifying or misrepresenting the findings of engineering reports or any document used to evaluate a claim still allowed to participate in any capacity in the Write Your Own program?
2. What concrete steps has FEMA taken to ensure it is providing proper oversight of litigation expenses incurred by attorneys representing Write Your Own companies in cases involving disputed claims?
3. How much money has FEMA paid, either directly or indirectly, to law firms representing Write Your Own companies since October 2012? Please provide a breakdown of the total amounts provided to the top 5 law firms that received the most money.
4. Does FEMA have the authority under current law and/or regulations to prohibit a law firm or individual attorney from serving as counsel to Write Your Own companies in cases for which FEMA reimburses the companies for litigation expenses?
 - a. If yes, what is the standard FEMA would use to make a decision to bar a law firm or attorney from participating in such cases?
 - b. Has FEMA taken any action to bar any law firms or attorneys from participating in NFIP cases?
5. What is the process FEMA will use to evaluate whether payments for NFIP claims related to the 2016 floods in Louisiana and any other major flooding events since

⁵ “Federal program meant to help flood victims spends millions fighting claims.” CBS Evening News report with Jeff Glor. April 30, 2018. <https://www.cbsnews.com/news/national-flood-insurance-program-meant-to-help-victims-spends-millions-fighting-claims/>

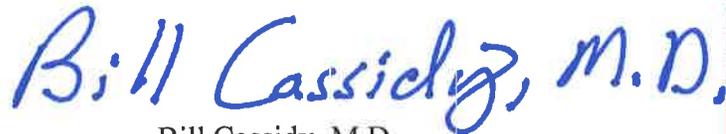
Superstorm Sandy have been unreasonably delayed, and whether policyholders have received payments that are less than what they are entitled to under their policy based on the damage they sustained?

Thank you for your attention to these matters. We look forward to receiving your response to these questions.

Sincerely,



Kirsten Gillibrand
United States Senator



Bill Cassidy, M.D.
United States Senator



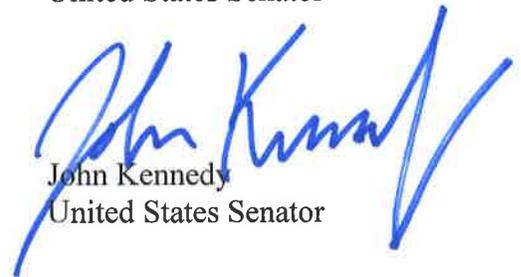
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