Transcript of the Meeting of the
Taxi and Limousine Commission
Held on Monday, October 25, 2004
40 Rector Street - 5th Floor Hearing Room
Borough of Manhattan
Meeting convened at 10:04 a.m.

Present

Matthew W. Daus
Chairman

Elliot Sander
Commissioner

Alberto Torres
Commissioner

Iris Weinshall
Commissioner

Elias Aroud
Commissioner

Harry Rubinstein
Commissioner

Noach Dear
Commissioner

Peter Mazer
General Counsel
CHAIRMAN DAUS: In the interests of time,
we're waiting for one more Commissioner, we're going to
start, jumping out of order on the agenda.
Good morning everyone, sorry to keep you
waiting, we'll try to be as expeditious as possible
moving this meeting along. We're going to the
Chairperson's report then back to the minutes. I want
to thank everyone who worked on the most recent
medallion sales over the last couple of weeks. We
concluded our corporate sale last Friday and the week
before the individual and the alternative fuel and
accessible sales. I want to thank Andy Salkin, who did
an excellent job of spearheading the second effort, as
well as Peter Mazer, our general counsel. They worked
together with a variety of staff around the clock to
make this an even more successful medallion sale than
the first go around.
Just for your information, for the record,
the first sale was held on October 15th, it was an
accessible and alternative fuel sale, a stand alone
sale, where 27 accessible medallions and 19 alternative
fuel medallions were auctioned off. This was a success
in our view, because the first time we tried to auction
off the accessible medallions nobody was able to win
them.
So we went back to the drawing board and then to the Board of Commissioners who I believe enacted some very sound policies and rules we created an adequate incentive for the purchase of these vehicles by taking the purchase price and separating it from the other medallions, and also by putting in a lower minimum upset price, which brought many more bids than we ever anticipated.

So our goal is to get those vehicles on the road. It's certainly not an answer to the problem, it is a good start and it represents progress and I want to thank also the industry, the brokers and the lenders and everybody who helped in the private sector to help make this a success, including getting the message out to prospective bidders about the value and the merit and the option of accessible and alternative fuel vehicles.

The vehicles that we did not -- medallions that we did not sell for alternative fuels we're going to hold over for the next sale. We got 89 valid accessible bids, ten valid alternative fuel bids, which were broken down by nine mini fleet and one individual. Eight of those alternative fuel medallions will be held over for a future sale.

The average sales price for an accessible medallion was $275,730.85 and the high bid for the
accessibles was $347,000.01. The alternative fuel
medallions sold for an average of $220,742.59. The high
bid for the alternative fuel medallions being $225,111.
The individual medallion sale was held a few
days later on October 18th. The sale auctioned 116
individual owner-operator medallions and we received 288
valid bids.

Just for comparison's sake, the April
auction of this year, we had 126 for sale and there were
257, bids so we actually had more bids for the second
auction than the first one. The average bid for
individual medallions at the auction was $339,195.78.
The high bid for the individual owner-operators was
$360,000, which is an agency and a TLC record.

The corporate medallion sale for the mini
fleets sold in lots of two was held last Friday, the
22nd of October. Another successful auction, we
auctioned off 130 medallions. We had 229 valid bids.
We averaged a bid of $393,232.07. That's the
individual. You times that by two to get the mini fleet
price. The high bid was $407,551.26, which was another
all time industry record. So certainly I think the high
prices of the medallions represent a lot of factors.
You could debate what factor means most, obviously, the
interest rates, the recent fare increase are factors.
I think the overall City local economy coming back and doing better is a factor and we're just happy to have been a part of getting the information out to the public and, again, I want to really thank the staff, they did a tremendous job, and our Commissioners, for having the vision and the foresight to make sound policy to make this last sale a success.

On the service improvements, just a quick update on what we've been doing. We had an industry summit on October 14th and DCAS at 2 Washington Street. The summit was really an extension of our request for information. We received a lot of proposals in the mail. We actually thought it would be a great idea to pull everybody together, give them an opportunity to meet each other, but present even more information to us in a Q and A session where people can benefit from each other's ideas and we learn more about what's out there.

I'm happy to say thanks to the efforts of Andy Salkin and Ira Goldstein, and all their staff out there; Tom Stiles, Chris Montgomery, it was a tremendous success. We reached out to everyone in the world, as many people as we could imagine, and they all showed up; from big companies, small companies, giant technology companies to small businesses that are startups.

It was really a tremendous day and we've
been partnering with other City agencies, not only DOT under Commissioner Weinshall's leadership but under Commissioner Gino Mancini's leadership, with the Department of Information Technology and Telecommunications also known as DoITT really played a major role in guiding us and helping to understand the technology and the summit itself.

The next step, after this point after having over 70 vendors attend this event, is to actually now compile this information, digest it and provide it to our group of Commissioners, which consists of Commissioners Torres, Dear, Rubinstein and Giannoulis and they'll be making policy recommendations to the Board and making recommendations to us.

I want to thank in particular Commissioners Torres and Rubinstein for attending at various points during that day.

In terms of, just quickly, I know a lot of people in the medallion industry as well are asking about the hotels and what we're doing and the street hails. Well, we're doing quite well. The new class is doing very well, our new class of inspectors that we recently hired.

Just to give you some quick numbers, so you can mark the progress of our street hail enforcement
initiatives. In fiscal year '02, for the entire fiscal
year we issued a total of 2587 summonses. In fiscal
year 2003 we issued a total of 3,550 summonses. In
fiscal year '04 to date, which is not over yet, we've
already issued 4,453 street hail summonses and climbing.
That represents a 72 percent enforcement increase from
2002 and a 25 percent increase thus far from '03, the
prior year.
So we are listening to the industry, to the
drivers and we're going to continue our efforts and if
you have any comments about how we can better do that,
where we can better go to enforce the law, please call
311 or contact our First Deputy, our Enforcement Deputy,
Joe Midolo, and we can take your recommendation and act
appropriately.
Last, but certainly not least, today is a
very big day for the TLC and our industry, all of our
industries, because we are beginning to look at and
hopefully do whatever we can to try to help out with the
insurance issue. I think one of the biggest issues with
regard to insurance is not just the high price,
understanding why it is high, how it gets so high and
the impact it has on small businesses. This applies not
only in the medallion industries, but the livery
industry and the for-hire industry and even in the
It's a consistent complaint I've heard ever since I've been in office. After 9/11, this has been something that has grown and grown, it got to the point where we actually had meetings earlier in the year where several fleet operators, especially on Staten Island, were faced with the possibility of going out of business.

The notice that we put out there and we'll go into it in a little bit of detail, also touches on the issues of accessibility and why the price of insurance is so high and if not high, just not available in a certain respect. There's a lot of disinformation out there, so our purpose and goal today is to reach out to as many people, whether they're stakeholders who own businesses in the industry, whether they're brokers, insurance brokers, insurance companies, passengers, whoever you might be, to just try to get at what the facts are and to this end, at the beginning of the hearing or before we start the hearing, our first deputy, Andy Salkin and our general counsel Peter Mazer and their staffs worked very hard on this presentation, are going to give a PowerPoint presentation to the Commissioners that will describe the essence of insurance starting from square one, what the TLC role
We don't regulate insurance companies, we don't have the power to control them and tell them what to do or not to do, but we do have New York City Charter authority to set the limits of insurance, which can be higher than the State limits and that's something that has been regulated in the past, it's currently on our books. There's a lot of different opinions on this subject, so we want to hear from everybody and your voices will be heard. If the meeting goes long, we're going to continue, I'll be here the entire time, but even if one of our Commissioners have to leave for other commitments, you can rest assured we'll be spending time digesting the information, going over it in detail with them, so we will be listening to what you have to say. I've reached out, for the record, in addition to our putting the notice in the City Record and on our website and sending it out to the mailing we use for industry notices, I personally sent out letters to the Superintendent of Insurance, who has been tremendously responsive, Gregg Serio, a good friend and excellent regulator in the State Government. Gregg has sent his top deputies, including Janet Glover and Joe De Mauro, who are going to testify first today and also I reached out and sent letters to all the insurance
companies that write at least 50 or more policies in all
of our industry including American Transit who is here
today, as well, the biggest carrier, the biggest
advisor.

We also sent letters to all of our Advisory
Boards. That's in addition to the usual distribution
that we have, because we want to make sure we hear from
everybody because it affects all of our industries.

Last, but not least, we have some sad news
for the TLC. Some good news, I guess, personally for
the individuals involved. We have two people that
you've known probably in the industry and have worked
for the TLC for many years who are unfortunately leaving
us. We're going to miss you very, very much.

First, many of you probably know Jed
Applebaum. Jed Applebaum has been working for us for 27
years at the TLC and Jed has been in charge of the
Safety and Emissions Division, which is the division
over in Woodside that inspects the cabs and I have to
say clearly and unequivocally that Jed, first of all, I
don't know if you've ever been late or missed a day of
work, if you have been, they've been few and far
between. He's very prompt, knowledgeable, relied on by
every Chairperson and Commissioner that I can imagine on
the technical issues and thanks to you and your efforts,
certainly the cabs are cleaner and better inspected than
they've ever been before and safer and we'll never be
able to measure the amount of people that benefited from
that tangentially, but I can tell you that everybody who
knows you respects you and thanks you for your years of
service and we wish you the absolute best as you embark
on your retirement and we hope you stay in touch with
us.

(Applause.)

CHAIRMAN DAUS: Would you like a moment of
personal privilege?

COMM. TORRES: Before we says anything, I'd
like to have a motion to decline his retirement
application.

CHAIRMAN DAUS: I'll vote for that.

MR. APPLEBAUM: Too late.

First, I'd like to thank the Chair, Matt
Daus. It's been a pleasure working with you all the
years. Recently, the project at Woodside, I had the
checkbook basically for $10 million and not once did you
ever ask me, "What are you spending money on? What are
you doing?" So that was a plus to the City, where we
were able to redo the Woodside.

Andrew Salkin, recently on board, I'm going
to miss working with him. We've had some good times
together, good meetings. We headed in a better
direction than we were, under his leadership, and
lastly, there's hundreds of people I got to thank, but
three people, Joe Midolo, who is behind me -- I spent
probably all the time that I've been at the agency with
Joe, we've had a very good relationship through the
years and we kind of worked together; Barbara Schecter,
Pete Tomonelli, Nick Vanesia, so on and so forth, the
other people that are here.
Monday morning it's going to be a little
difficult getting up, like you said. The timekeepers
today told me they're going to miss me. My time is
probably one of the best in the agency where I've never
taken time off on sick leave and the last five years was
probably not one day was missed, but I'm going to miss
the employees that I work with and the industry. So I'm
going to start a new career starting on Monday, become a
house husband for a while, and I hope to see everybody
soon, and thank you.
CHAIRMAN DAUS: Thank you, Jed, thanks for
your service.
(Applause.)
CHAIRMAN DAUS: By the way, that's a lot
tougher job, believe me.
The last person, who may come as a shock to
all of you, who is leaving us, is somebody who I've grown very close with. I've worked with him for many, many years. He started out in the agency as an Administrative Law Judge over 17 years ago. He served as a judge for ten years, became the Chief Administrative Law Judge for a year and a half, and impressed me so with his legal knowledge and acumen that I appointed him Deputy Counsel when I became General Counsel and appointed him General Counsel when I became Chair.

He has written, rewritten and played a role in some major reforms, which I believe many may have disputed at the time and said it was the wrong thing to do, but I think a lot of us can look back now and say we did the right thing in '98 and Peter was a major part of the process in reworking those rules, and I think the industry is better off for it.

We're going to miss you, Peter Mazer, if you haven't figured out who is leaving us. He's going back into private practice. We're going to miss you very much. I wish you the best of luck, we all do, and the Board of Commissioners will be missing you greatly.

Just so you know, in Jed's absence, the Executive Director, John Finelli will be trying to help out, and I've appointed Charles Federicci Acting General
Counsel. He's in the back. Charles, raise your hand, everybody know Charles? He used to be in charge of licensing. So if you have any questions, legal questions and so forth.

Peter will always remain available to us in a pinch. He promised me that we could call him. I hope we have better luck in the sense of your answering the phone when you're not working for the agency than when you do, but Peter, I'd like to give you this moment of personal privilege and we thank for your contribution.

(Appause.)

MR. MAZER: Well, first and foremost, I have to thank Matthew Daus who gave me all of the opportunities that I had. I started here in 1987 as Administrative Law Judge and when Matt came on as Special Counsel at the end of 1996, he gave me my first opportunity when he appointed me to be Chief Administrative Law Judge and then I've been able to follow him as Deputy General Counsel and over the last two years as General Counsel of this agency.

I've enjoyed working with Matt particularly, with the Board of Commissioners and some wonderful staff.

Particularly I'd like to thank the attorneys I had the privilege of working with over the last two
years. I'm only as good as the people behind me and I'm
blessed particularly now with some of the finest legal
minds, in my opinion, that we have working for the City
of New York. I've been able to accomplish what I have
accomplished because of my staff, most of whom are in
the back and those of you who have worked with me for
any given time you can raise your hand so you can be
acknowledged. They're staying on.

As General Counsel I've enjoyed working with
the Board and doing some of the things I've done as
General Counsel in the last three years.

My finest hours here were the time that I
served as Chief Administrative Law Judge from 1996 until
the middle of 1998. Those of you who were there
remember the facilities we had over on 41st Street, the
so-called Adjudications Bureau, the problems that we
had, and I think we've gone far and above as far as an
administrative agency in taking the degree of
professionalism that we've come to expect in an
adjudications tribunal and bringing it to the TLC.

I'm proud particularly of the Chief Judge
and all the Administrative Law Judges I've had the
privilege of working with over the last seventeen years.

I think we have some of the finest people in this agency
and I will put this administrative tribunal up against
any other administrative tribunal in any other City
agency or any other government administrative tribunal
when it comes to fairness, impartiality and due process
of law.
That I believe is something we've
accomplished over the years. I know we have a lot more
to do. I'm sure as we pass the reins on to Charles and
other people that will be taking over that the fine
tradition that we've had at the TLC will continue.
Finally, as a note of personal privilege,
I'm happy that one of the things we're doing in my last
Commission meeting -- and I have not missed a Commission
meeting since 1998. I'm the only one who can say that
that's here --
CHAIRMAN DAUS: No, I've been at every.
MR. MAZER: I think you've missed one.
CHAIRMAN DAUS: Are you moderating my
attendance? You want to be like Jed.
(Laughter.)
MR. MAZER: One of the important things in
my heart is the insurance crisis facing this industry
and dealing with the insurance issue, so it's a fitting
end for me that the high point of the last Commission
meeting that I'm going to be up here is a meeting where
we're going to be dealing with an issue that I believe
is very important, the insurance issue.

With that, I'd like to say thank you to all

my friends here at the TLC, the staff is great and I
really enjoyed working with each and every one of you
for the last seventeen years.

Thank you.

(Appause.)

CHAIRMAN DAUS: Thank you. Thank you,
Peter. Saying goodbye is never easy.

I have now the privilege of asking First
Deputy Salkin and General Counsel Mazer to go to the
podium --

COMM. DEAR: Just on the old issue back to
the selling of the medallions, I know I raised it at the
last meeting, we raised the issue about the owner-
operated medallions with regard to their right to lease
their cars, and I just want to know if we can at the
next meeting, sometime afterwards, start putting
something together.

I know everybody has an idea about it and I
think we should move on it, especially now that we sold
more vehicles, so if we can do it at the next meeting or
quickly could staff start putting together --

CHAIRMAN DAUS: In terms of the impact of
individual owner-operators to --
COMM. DEAR: We have a law now that I think is ridiculous, could we modify it?

CHAIRMAN DAUS: You're talking about the owner must drive. We'll try to have a staff analysis and have it by the next meeting.

Before we actually go to the hearing, why don't we have all the Commissioners vote on the minutes?

Has everyone had an opportunity to read the minutes from August 25, 2004?

COMM. AROUT: Make a motion to accept them.

COMM. DEAR: Just, I think Peter was supposed to clarify something?

COMM. TORRES: That's the executive session.

CHAIRMAN DAUS: Why don't we do the minutes of the open meeting and we'll just out of order, do the executive session to get that out of the way.

You have some comments, Commissioner Torres?

COMM. TORRES: I have some inquiries. I just want to put some things on the record. This is a refresher.

Ms. Jean Ryan had suggested on page four, paragraph 13, that TLC should consider hiring an expert in access vehicles, and I would like to request that if we could make that inquiry, similar to what we did for the initiative that we have on the technology piece.
CHAIRMAN DAUS: Okay.

COMM. TORRES: I wanted to follow up more on

more information regarding the accessible taxis in

Boston and the other cities so we could do some

comparisons. I believe I read in the minutes that

Mr. Pollack testified that it was five percent of the

vehicles. I wanted to have clarity, because someone

tested that they were able to get cabs when they went

to convention.

CHAIRMAN DAUS: Was there a report I believe

that Barbara Schecter prepared, was that limited to

London?

MS. SCHECTER: It was limited to London. I

did speak to Boston since the meeting, and I'm sorry, I

don't remember the percentage of taxis that they had,

but it's not --

COMM. RUBINSTEIN: Five percent of Boston.

MS. SCHECTER: What the industry did,

because those taxicabs also are permitted to operate by

prearrangement, was to insure that every taxicab that

was out there was where the events were beginning and

ending, so they could serve the people as needed.

COMM. TORRES: Like a prearrangement.

MS. SCHECTER: Yes.

COMM. WEINSHALL: The other thing is those
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cities have radios in the cabs. That's the big
difference between New York and those cities.

COMM. TORRES: That's what I wanted some
edification on. If we can compare that they have
radios, we don't have radios, what is the cost factor as
far as the insurance, what kind of vehicles do they
have, where do they get them from.

COMM. WEINSHALL: I think that's something
the staff can benchmark and get them, it's readily
available.

CHAIRMAN DAUS: We'll have them by the next
meeting. It is readily available.

COMM. RUBINSTEIN: It says counsel is in the
process of getting more information.

COMM. TORRES: The other one is Mr. Gresham
on page 8 at the time, he had testified that accessible
vehicles retrofitted for as low as 25,600 I want to
follow up see what kind of vehicle was it and how it was
retrofitted.

Hopefully we can follow up with Lindsay
Weinstock, that was the young lady with the
not-for-profit proposal. I thought that was very
interesting, if we could follow up on that.

That's basically it.

CHAIRMAN DAUS: We'll follow up on these
items and report back to you and the Board at the next meeting. Thank you.

Are there any problems with the minutes? I think Commissioner Arout had a motion?

COMM. TORRES: I second it.

CHAIRMAN DAUS: All in favor?

(Chorus of "Ayes.")

CHAIRMAN DAUS: You might want to poll Commissioner Sander, he is out of the room, but the minutes pass.

If we can go over item four, some parties in the room are looking for clarification on the executive session of August 5th.

MR. MAZER: We had an executive session on August 25th, where the Commissioners sat on the Board of Appeal of revocation decisions, and they considered the appeal of Ahmed Ali, TLC license No. 5091641, who had been revoked for a violation of Rule 261A, action against the best interests of the public. After deliberation, the Commissioners voted unanimously to modify the penalty to include the license suspension for time served, a fine of $350, license probation for a year, four persistent violator points, with an automatic license revocation as a penalty for any conviction of either Rule 234A or 261A during the probationary period.
The Commissioners then considered the appeal of Abdou Lo, hack license No. 456447, who had been revoked for a violation of Rule 260A, which was passenger harassment. Commissioners voted unanimously to modify the penalty to provide as follows: License suspension for time served, a fine of $1,000, license probation for two years, four persistent violator points and automatic license revocation as a penalty for any conviction of either Rule 260A, which is harassment or 260B, which is assault or attempted assault within a two-year period.

The vote was six nothing to modify the chairperson's decision.

Finally, the Commissioners considered the appeal of David Ladenheim, hack license No. 5028479, who had been revoked for various rule violations, including a Rule 221A, reckless driving and 260B, attempted or actual assault. After hearing the Respondent's and his attorney and after deliberation, the Commissioners voted to modify the penalty imposed by the Chair as follows: Provide for license suspension for the period of time that the license was actually on suspension and to waive the fine of $2,050 which had been approved by the Chair.

The vote was five in favor one opposed to modify the Chairperson's decision, so the Chairperson's
decision was in fact modified.

After the minutes were distributed and after

a letter was forwarded to the attorney for the

Respondent in this particular case, the Respondent

sought clarification with respect to the Commissioners'

actions, questioning whether or not the Commissioners

had in fact voted to modify the penalty or whether the

Commissioners had voted to dismiss the charges. And the

Commissioners were briefed on this matter this morning

prior to the Commission meeting, and I believe it is the

consensus of the Commission that the action that was

taken at the August 25th Commission meeting was to amend

the penalty, so that the penalty is license suspension

for the period of time served with no revocation and no

fine and that it was not the intent of the Commissioners

to dismiss the charges and in fact the Commissioners

understand that they had no authority to dismiss the

charges.

Is that a correct understanding of what

happened at the executive session?

COMM. DEAR: If you say so. No, the

question is --

MR. MAZER: It's not what I say, it's what

happened.

COMM. DEAR: I know we had very intent
discussion on this and we were upset, a lot of us. The bottom line is, can we dismiss the charge of the Judge or can we not?

MR. MAZER: Findings of fact and conclusions of law by the Administrative Law Judge are final and binding.

COMM. DEAR: So we cannot dismiss, we cannot alter the decision. We can modify it, but we cannot dismiss it.

MR. MAZER: You can modify the penalty.

CHAIRMAN DAUS: Or you can give, as happened in the past, no penalty. I've seen that happen before.

COMM. DEAR: I want to ask my colleague, Alberto, what do you think?

COMM. TORRES: I'm trying to think if we ever -- my understanding before we changed the process was that we could only consider the information presented to us at the hearings for modification of the recommended penalties, and when we changed the process, the process was that the chairperson would review, make a recommendation or finding and then we would review that. I don't believe that we've ever actually modified or changed the determination of the Administrative Law Judge, just the outcome with regards to penalty.

COMM. DEAR: So we could change, like, the
Chair could change the penalty, for example, if the
Judge didn't revoke the license and the Chair can, and
we could undo that process.

COMM. TORRES: The Chair can only modify or
change the penalty. In other words, if they find him
guilty of this regulation, he cannot dismiss it, he can
just say they don't have to pay the fine.

COMM. DEAR: I'd like to ask the question,
where is it written?

CHAIRMAN DAUS: It's in the rules and it's
very, very clear. I think that as the first act of
Charles Federici, he should throw together a memo
explaining what the law says on this topic to refresh
everybody. It's my understanding is that it's an appeal
of my decision, that I have the authority to decide a
penalty one way or the other, and there is a standard
that governs this decision making.

So my concerns, I would like that there be a
primer at the next session because it's clear to me
there's confusion among the Commissioners at an
executive session where we're deciding on people's
livelihoods and to revoke or not to revoke, so in the
transition, one of the things we should do, Charles, is
have a primer so everyone understands what to do on this
executive session.
MR. DECKER: Mr. Chairman, may I be heard?

CHAIRMAN DAUS: No, we have a Commissioner speaking.

COMM. SANDER: If this could be done in other agencies -- because this is similar to what I have seen in Housing and Parking Violations Bureau, and my understanding has been and I'm comfortable with this understanding that that's how we do that, I think it's similar to how other Governmental administrative processes are.

CHAIRMAN DAUS: Just some clarification. It's understandable, after you do a lot of these decisions it's important to refresh ourselves on the law.

Mr. Decker we can't have you heard now. This isn't the forum for that. We have a hundred people waiting to speak. We will sit down with you after the meeting with counsel and you will be heard.

MR. DECKER: Two sentences, sir?

CHAIRMAN DAUS: No, everybody has been waiting for over an hour, it's unfair to the people who have come, the people from the Insurance Department who have busy schedules, and business to do today. So with all due respect, there's a time and a place for everything.
I would like to move we go to the public hearing now.

COMM. DEAR: One clarification. I think we need to get a ruling. As far as I know, the Appeals Board at the PVB can dismission a finding. If the judge finds someone guilty, they can dismiss it.

COMM. RUBINSTEIN: I don't think this is the forum to do that. We should move on.

COMM. DEAR: I think we should find out.

CHAIRMAN DAUS: It's clear, it's in the rules. The issue is the Commissioners don't understand the rules, which we will make sure they understand them.

COMM. TORRES: Why don't we table this --

CHAIRMAN DAUS: There's nothing to table really, it's an open discussion.

COMM. TORRES: We're going to vote.

CHAIRMAN DAUS: There's nothing to vote on, this is just a report on what happened.

MR. MAZER: I just reported on what happened.

CHAIRMAN DAUS: We will clarify that for the next meeting.

I was actually mistaken, that though Andy worked very hard on the presentation, he's not going to give it, he's deferring to Peter Mazer to give the
presentation, so why don't you go down.

Thank you, everybody, for your indulgences.

We're sorry you had to wait so long.

MR. MAZER: Good morning. We're going to take you through a presentation, basically a primer on insurance matters as a precursor to the public hearing we're going to have in a few minutes to deal with insurance issues.

The purpose of this primer is to inform both the Commissioners and the public on insurance issues to keep this in context. A lot of this is very basic.

Most of the Commissioners probably understand many of these insurance concepts that I'm going to go over, but I think it's important to cover this material up front so everybody in the audience can fully appreciate the comments we're going to hear.

The purpose of this presentation is to provide a background and introduction to insurance and then to go over some topics that are specific to the TLC regulated industries and topics of concern to the audience, which include premiums, limits and the carriers and then we're going to move on to the public hearing.

What is insurance and why is it mandated?

Number one purpose for insurance is to protect the
public and when we talk about protecting the public, we're talking not only about the public at large, but we're talking about passengers in a vehicle; we're talking about the drivers of the vehicle, we're talking about the industry, which is protected by the fact that they have insurance, because liability then is shifted from an individual who may have committed a wrongdoing to a greater pool through insurance, and that's what insurance does. It pools risks, by taking premiums from various sources, pooling the money and using the money to pay out claims and to provide benefits. Insurance works on a principle where we fund claims with today's money, today's money being the premiums, invested and used to pay out claims that may occur in the future. Let me take you through some basic terms you'll hear today. I realize this slide is a little small, but a lot of these terms are basic. Number one is voluntary insurance and you'll hear a lot of comments about the voluntary insurance market. We talk about the voluntary insurance market, we mean this is a public and open process where an individual who seeks insurance goes out and selects a carrier, perhaps through a broker, to pick the best insurance that works best for them at the best premiums.
Where in our industry do we see that? We see that in the taxicab industry with respect to most vehicles that are not fleets, we see that predominant throughout the for-hire vehicle industry and we see it available to some paratransit operators.

Reciprocal insurance works as a mutual fund system where one group of insured insures another, so you have a pool through a trade association where they pool their resources and have a closed group. We don't see that right now in the industry, but it may come up in the comments today.

Captive insurance basically is a buyers' market where a group of prospective insurance buyers band together to negotiate the best deal with an insurance carrier.

Self insurance exists through the taxicab fleet industry today. Self insurance is a system whereby the insured, meaning the vehicle owner, pays out a claim directly and posts a surety bond as protection so that if a claim cannot be paid out by the insured, the insured defaults, a surety bond kicks in. This is used right now in the taxi fleet system, but it is not limited to the taxi fleet system. Under Vehicle and Traffic Law, any owner of 25 or more vehicles would be able to go into a self-insurance program.
The assigned risk plan right now exists in the for-hire vehicle market, exists heavily in the paratransit and commuter van market. This is the insurance that we made available for individuals who are unable to purchase insurance in the open market. Everybody who owns an vehicle is entitled to insurance irrespective of their risk, and irrespective of their driving record and the assigned risk plan provides insurance at very high premiums to those who cannot get insurance in the open market.

Other general insurance terms on the next slide. What do we mean by liability? When we talk about liability insurance, this is fault insurance. This is the money that's paid out to an injured party when fault is established. It doesn't only exist in the automotive industry. It can exist in every industry. Liability kicks in if someone falls in front of a sidewalk or building, there's liability insurance for that. New York has in the automotive market something known as personal injury protection, abbreviated as PIP, also known as no-fault insurance, which provides recovery for medical expenses as well as some lost wages along a statutory formula irrespective of fault, so if two vehicles are involved in an accident, no-fault insurance will pay medical benefits, lost wages.
There's no determination as to who is liable, each vehicle covers its own.

Property insurance exists to provide protection to property. If one vehicle strikes another, a vehicle goes through a fence, damages property, that's what property insurance is there for. Right now there's a minimum set by the State and the TLC does not regulate property damage over and above what the State requires.

Worker's Compensation is a form of insurance mandated by State law, which provides medical benefits for an employee. By State law an employee, for the purposes of Worker's Compensation insurance, includes a taxicab or livery driver, even though under traditional definitions they are not employees, they are considered employees except if it's an owner-driver situation. So, for example, a medallion taxicab owner who owns his own vehicle and is the sole driver would not be covered by Worker's Compensation.

Talking about limits, you'll hear a lot of talk about minimum limits, maximum limits, and you'll hear quotes 100/300, 25 over 50. What we're saying here are the limits are the minimum levels of insurance that must be provided either by State law or by TLC regulations or some other authority. Although it's the minimum limit, you can always get more insurance than
the minimum limit, you can get higher limits, the
minimum serves to cap the amount of recovery that's
available to an injured party.
For example, we talk about insurance in the
form of a hundred over three hundred liability
insurance. That means $100,000 available to any
individual that's injured, capped at $300,000 for an
occurrence. If you have four people injured in an
accident, and it's a 100/300 policy, the four people
can benefit in total of $300,000, while no individual
can get more than $100,000.
I'm going to stop right now. Any questions
of anything I said so far? If not, I'll continue.
Next slide shows you where we stand right
now in the taxi and livery industry. A little
description of each type of vehicle that we regulate and
the type of insurance that's required. We have yellow
cabs, which are the medallion taxicabs, allowed to do
street hails; typically work in Manhattan, at the
airports, but they're required to go in the five
boroughs. Highly regulated, 100/300 liability
insurance, plus 200,000 in no-fault mandated by TLC law
which went into effect September 1, 1998.
Same requirements for what we call FAP Tier
vehicles. These are the vehicles that do point to
point work in the City in New York, licensed by the TLC, affiliated with a car service base located in the five boroughs. They're radio dispatched, they work all the five boroughs and are required to have the same levels of insurance.

TLC also gives authority to out of City vehicles to obtain what is called a Tier II permit. That authorizes the vehicle owner to come into the City on a prearranged call to pick up a passenger within the five boroughs for a destination outside of the five boroughs. For these vehicles, the insurance levels that are required are the insurance levels that exist within the local jurisdiction where the vehicle was registered. For example, if the vehicle were registered in Westchester County, they have the same limits as the TLC, 100/300. If the vehicle were registered in one of the towns of Nassau or Suffolk County they would for the most part have the State limits, which are somewhat lower.

Paratransits are the vehicles that transport passengers with medical conditions and disabilities, have the same requirements as taxis and liveries. Commuter vans have the same requirements based on the seating capacity. If the vehicle has seats up to 12 passengers they have 100/300 like the other TLC
vehicles; if it carries 13, 14 or 15 passengers, the
limit is 100/500 thousand per occurrence. If the
vehicle has a capacity in excess of 15 passengers, the
liability required is $1.5 million. That's set by
federal law and as an aside would also apply not just to
commuter vans, but also to Tier I vehicles that we would
call stretch limousines if they carry 16 or more
passengers would also be required by TLC rule and under
Federal law to have $1.5 million in liability insurance.

Let's take you through a little bit of
history now, how we got to the regulations we have
today. 1971 was when the TLC was created by Local Law,
the Charter provisions enacting the TLC were put into
place and the Charter is the source authority for the
TLC Board of Commissioners to set insurance limits.
There's a specific provision in the Charter, 203(b)(9)
which authorizes the TLC Board of Commissioners to set
limits of insurance.

Up until 1990, the TLC Board did not have
any kind of special requirements for insurance levels
and followed the State requirements, which have changed
over time. The present State requirements, just to
clarify for everybody, which you'll see in a slide a
little bit, is 25,000 per person 50,000 per occurrence
in liability and 50,000 in no-fault insurance.
In 1990, the TLC by regulation increased the

PIP or no-fault requirement for the yellow taxicab
industry from 50,000 to $100,000. Then in 1998 the TLC
enacted the comprehensive rule reforms which raised the
liability for virtually all vehicles regulated by the
TLC to a liability of 100/300 and a PIP of $200,000.
That became effective, as I said earlier, on
September 1st of 1998.

Now, what has happened since the 1998 reforms? The first thing that happened, we saw the

premiums increased -- obviously, the levels of insurance
we saw went from 25/50 mandated to 100/300, so basically
four to six times the amount of insurance, and we saw
some increase in premiums, but we also saw some new
carriers enter the market.

Then we saw premiums decline as a result of
increased competition in the market. But then we saw
some of these new carriers being forced into
receivership as they found the premiums were too low and
were unable to pay the claims. So we have a number of
carriers in what is called receivership, which is an
administrative program by the Insurance Department, kind
of insurance bankruptcy where the State steps in and
through a fund pays out the claims of the carriers that
are no longer in business.
Today we see the premiums as of now are about 20 to 25 percent higher on average than they were prior to the 1998 reforms.

We have three topics to cover: The first one is limits. Limits defines the amount of money that's available for recovery when someone is injured in an accident, so we're talking about it may be a driver, may be a passengers, may be a motorist or a pedestrian.

Limits are important because it sets the maximum amount available. Generally, you have to prove the damages, you have to show there was an injury, you have to show there was some medical expenses. You have to show lost wages, but the limits exist and why limits are important, that sets the parameters for the recovery that's available. The higher the limit the more money that's available for injured parties. The lower the limit, the less money that's available for injured parties. Also, the higher the limit, the more protection that exists for the vehicle owner or for the business owner. The lower the limit, the less protection that's available for the business owner or the vehicle owner.

Let's make it very clear that the fact that you have a certain amounts of insurance does not form a
ceiling as to what the recovery is. It forms a ceiling as to what the insurance carrier will pay out. If someone were injured in a taxicab and that was 100/300 covered, it doesn't preclude that person from suing and recovering from a jury verdict $5 million. The insurance company will only pay out to the maximum amount of the policy and the vehicle owner is responsible for the balance.

Same thing with a business owner. Just like any other business, whether it's in the context of commercial automotive policies or any other insurance protection you choose as a business owner, the protection that suits your purposes to protect your business, and to protect your livelihood and assets.

So insurance and the limits exist to protect passengers, the public, the drivers, any industry.

Just a quick primer on the rules that are on the books right now. New York State law, there's a section of the Vehicle and Traffic Law, Section 370 which requires all passenger vehicles to maintain insurance limits, sets the limits.

Section 3 of the Worker's Compensation law, a section that provides that taxis and liveries are subject to the Worker's Compensation laws, basically with an owner-driver exemption. No-fault exists in
Section 5102 of the Insurance Law, it sets the no-fault limit at $50,000. There's a provision of the insurance regulation which limits coverages to pedestrians for that amount, and the TLC by regulation has gone over and above, requiring 100/300 in liability and 200 in no-fault for taxis and liveries.

Next slide shows what happened in the taxi industry. Since 1998, we have mandated that 100 percent of our vehicles have this 100/300 coverage. But prior to 1998, 25/50 was the State mandated minimum, but a number of individuals in the market decided to have higher levels of insurance, particularly to protect the investment of the medallion. We saw that number declining. We have some numbers on the left side of the screen which take you from 1989 to 1994 and you see a steady decline in the percentage of the taxicab industry that was voluntarily carrying 100/300 coverage. So you saw a trend line prior to 1998 where fewer and fewer people were having the higher levels of coverage and more were dropping back to the state minimums 25/50 or what's happening in the '90s, we found the individual owner-operators for the most part were carrying a 100/300 coverage, the mini fleets and the corporate owners were opting to go down to the State limits.

Now, is New York unique in having higher
levels of insurance for the taxi industry? The answer
is no. New York State does not mandate higher levels of
insurance for the taxicabs or livery vehicles registered
in New York State. They go with the same limits as
private, noncommercial automobiles because New York
State is a state that regulates the taxicab and livery
industry on a regular basis. It defers jurisdiction to
localities to regulate these industries. Some states
regulate the taxi and livery industries on a statewide
basis and four states that we polled here; Nevada,
Illinois, Connecticut and New Jersey, all have higher
limits for insurance on a statewide basis for taxis and
livers than they do for private non-commercial
vehicles.

The next slide shows you a number of other
cities, including Detroit, Chicago, Los Angeles, San
Francisco and some other cities that have mandated that
higher limits of insurance for taxis and livers
registered within their jurisdiction than the State
requires and New York City, as you can see, falls in
with the same limits of insurance that you see in other
major cities such as Detroit, Los Angeles and Seattle.
Chicago, as you saw from the slide before,
Illinois has higher levels of insurance required on a
statewide basis. Chicago goes even further than the
State of Illinois does in this regard.

The next topic I'm going to talk about is premiums, but any questions before we go on?

COMM. TORRES: Go back to that screen.

Chicago, that is 350,000 single limit. What does that mean?

MR. MAZER: Single limit would be $350,000 for the policy. It's not broken down by person. So, in other words, if you have one person injured they could get $350,000. If you have five people injured, they could split $350,000.

On to premiums.

This chart, first chart takes you through two types of -- two segments of the market in the taxicab medallion market for liability insurance premiums in the voluntary market. The purple shows you rates of insurance for owner-driver from 1989 to the present, and in 1989 the average owner-driver with 100/300 coverage, which at that time would have been voluntary coverage, paid an annual premium of 2839.

Last year, the same coverage, the premium was around 4100 on average, the driver with a good record, being the sole driver of the vehicle.

Mini fleet is the other one. The green line takes you through basically a vehicle that's operated
double-shifted with identified drivers on the back of the rate card, so you have two or three named drivers on the back of the rate card. You see that the rates have gone up from an average of 6168 in 1989 to around 2004 about $12,000 per policy.

Next slide takes you through some --

COMM. TORRES: One step back.

MR. MAZER: I'm sorry.

COMM. TORRES: How about when you have an unnamed driver?

MR. MAZER: It's higher. The next slide -- well, the thing is, unnamed drivers in the taxicab industry primarily are the fleet vehicles which are in the self-insurance program, so you don't really have insurance premiums. You'll see when we get to the next slide, you'll see that more in terms of the for-hire industry, where you have vehicles that are corporately owned where the TLC does not have a driver of record program for the FHV industry, so you have livery vehicles that are owned by a corporation where any licensee can drive and the premiums are considerably higher.

The more information you have about the driver, the better it is from an underwriting standpoint as far as the insurance carriers are concerned, so if
you have a driver that you can identify and you know
their record, it will help the premiums.

COMM. TORRES: This is based on taxicab medallions as opposed to for-hire vehicles?

MR. MAZER: The reason we used the taxicab industry as opposed to the for-hire industry is we had a lot more data. We had data from 1999 to 2004, the TLC didn't track that for the for-hire industry.

COMM. TORRES: Could you tell me how much the for-hire vehicle would have to pay for the unknown driver?

MR. MAZER: The next slide. I have it broken down by yellow taxi and for-hire vehicle as well. We have premiums on the left side for the for-higher, and these are current, this is not a historical picture.

Medallion owner-driver; individual owner, community car service, individual owner differs from the owner-driver in the for-hire context in that somebody else can also drive the vehicle and then you get down to the bottom, the corporate base owned, would be much higher, 8500 to 10,000, which is where the base owns the vehicle, and anybody who is licensed by TLC can drive the vehicle.

On the other side, that's where we have the double shifted vehicles in the yellow cab market.

COMM. TORRES: So the DOV is higher than the
for hires?

MR. MAZER: Right now. In some segments of the medallion taxicab industry, that may be comparable. The medallion insurance may be higher than the for-hire insurance.

I'll take you through the next couple of slides we'll show the reasons. There are some factors that work towards making insurance lower in the taxicab industry, some factors that make insurance lower in the for-hire industry. These are some of the things that you consider here; age of the vehicle, specified versus unspecified, driving record, radio dispatch versus hail systems, whether the vehicle is single or double shifted, form of ownership and of course accident and loss history, would be a major factor.

I'll take you through each one of these factors, you can see the difference between the taxicab and for-hire industry. You can see how certain factors work to keep it down in the taxis and raises it in the for-hire and it also reverses in other capacities.

The other thing I have to point out, when we have the rates that we do in the for-hire industry, for-hire industry covers a lot of ground. Doesn't simply mean car service. It also includes the black car industry, it means limousines, luxury, so there are many
nuances and variances I think in the for-hire vehicle
inguarantee market than in the taxicab market.

But here are some of the factors. Age of
vehicle. Taxicabs have mandatory vehicle retirement;
they're newer. For-hire vehicles, particularly in the
community car service market, are much older and there
is no mandatory vehicle retirement. On the other hand,
in the black car and luxury limo market, the vehicle age
is much closer to the age of the taxicab and there
you'll see that has a positive impact on reducing
premiums and across the board you'll see the newer the
vehicle, the better the premiums.

One of the things that we have in the TLC is
something we put into place a couple of years ago, the
safe driver program, which enables vehicle owner-drivers
to qualify for an insurance discount by establishing
certain criteria. One of the criteria that's in the
safe driver program is the fact that the vehicle not be
more than three model years old.

COMM. RUBINSTEIN: I have a brief question.
I kind of have a feeling I know the answer, but if you
could just clarify.

The DOV insurance is eight-five to ten grand
a year and that's specified drivers, whereas the double
shifted unspecified drivers raises it from eleven-five
47

to twelve-five. What would be the reason for that?

MR. MAZER: The difference is one has a

named driver, the insurance carrier knows who's driving

the vehicle can verify the record. The other one can be

driven by anyone licensed by TLC.

COMM. RUBINSTEIN: So a pool of drivers?

MR. MAZER: Yes, that is a factor. Next

chart is exactly that factor. Specified driver, lower

premium. The insurance company has more information to

verify the record. We say that everybody who is driving

a licensed vehicle should be licensed by the TLC, but

records vary. Some people have good records, some bad

records, some have more accidents than others. In the

taxicab industry we have a driver of record program

which required except in the fleet context for the most

part or unless there's an exemption granted, that anyone

who is authorized to drive the vehicle be listed on the

back of the rate card. That doesn't exist in the

for-hire industry. Anyone who is licensed to drive a

for-hire vehicle can drive any for-hire vehicle. This

fact has an impact on insurance rates and is one of the

things that keeps the insurance rates in the taxicab

industry lower.

The next factor is the driving record. Of

course, goes without saying that the better the driving
record, the lower your premiums are going to be. The thing we track in both the taxicab and for-hire industries, is the critical driver program which has -- the purpose of the critical driver program is to take people off the road that accumulate a large number of points and obviously a good driving record translates into lower premiums.

The next factor actually works in the favor of the for-hire industry where the insurance industry believes that radio dispatch is safer than street hail system. Street hail system there is more likelihood of accidents because drivers are looking around for fares, it does create some problems. One of the things that will help in the for-hire vehicle industry and keep the problems down, they have a radio dispatch system. Goes the other way, if the drivers are violating the radio system by engaging in street hails.

The less time the vehicle is on the road, of course, the lower the insurance. A vehicle that's double shifted pays more than single shifted. Accident and loss history, very important. Taxicabs, livers are on the road more than other vehicles and then it's one of the reasons, the main reason why the insurance is higher; they're on the road more, picking up more in the vehicle.
The following chart simply summarizes some of the things we've talked about and it's included, basically summarizes what we've said up to this point.

Before I go on, any questions?

COMM. TORRES: The rates that you just quoted, that's not including the increase that one of, the American Transit just got?

COMM. RUBINSTEIN: It's 30 percent in two years.

MR. MAZER: That includes the increase that went into effect April 1st this year, but not that will go into effect April 1st of next year.

CHAIRMAN DAUS: Broken up 15 and 15.

COMM. RUBINSTEIN: Those rates are 30 percent increase on the current rates.

MR. MAZER: Yes. This is in the voluntary medallion taxicab market, shows history from 1989 to the present. Purple is the largest carrier in this market.

We pulled out the self-insurance piece, which are the fleets that represent close to 20 percent of the vehicles and it shows American Transit, the green shows the second largest carrier, whoever that might be, varied from year to year, and yellow at the top shows you all other carriers.

The next chart shows you the predominant
carrier we have in the present market share. Present
market American Transit holds 80 percent of the market
and self-insurance is about 18 percent of the market
also. American Transit holds 16 percent of the market
in Tier I; Lancer Insurance is the highest insurance in
the Tier II with about 30 percent of the market. Lancer
does not for the most part insure vehicles registered in
New York.
Commuter and paratransit, the primary
carrier is AIU.
Why are there so few carriers in the market?
We've heard a lot of comments, a lot of debate. This is
a chart that summarizes some of the things we've heard
from insurance carriers and some of the carriers in the
industry why there aren't more carriers. One is a lot
of carriers went into receivership, that's market
conditions, monitored by the State and Insurance
Department. Heard premiums were too low, that again is
a market condition, and capacity, heard that limits are
too high, you have State limits and TLC limits.
As I demonstrated earlier, the TLC limits
are commensurate with limits we see in other
municipalities.
Question of insurance fraud. Any carrier
will tell you that eradicating fraud will have a
definite positive impact on insurance. We have an
investigations unit, Insurance Department has an
investigative unit that works with law enforcement to
eradicate fraud. We have high jury verdicts that we
hear that's the condition that people are afraid of the
New York market, and of course knowing who the driver
is, that's what's important too.

Now I'm going to move on to the public
hearing. If we have any questions, we have a slide that
states who we expect to hear at today's hearing.

CHAIRMAN DAUS: Before you do that,
Commissioner Sander, you were out of the room when we
voted on the minutes. Do you have a vote on the
minutes? Affirmative? Okay, just for the record.
I also would like to thank Commissioner
Rudolph for spearheading this issue in many respects and
working very hard on this, especially in Staten Island.
I would like to thank Commissioner Dear also for
prompting us to do this more quickly than we had planned
to.

Last, but not least, I'd like to recognize
Commissioner Matt Saplin from the Mayor's Office of
People with Disabilities, who has joined us. Thank you
for coming, Matt. You do an outstanding job, by the
way, and we're happy to work with you on many issues.
Thank you for coming.

Are we ready, Peter?

MR. MAZER: Any questions?

MS. RYAN: I have a request.

CHAIRMAN DAUS: You'll have your opportunity to speak.

MS. RYAN: I have a request. Could we have a hard copy or sent to us by e-mail, because we couldn't see the screen whatsoever.

MR. MAZER: We'll do that. Put it on the website.

CHAIRMAN DAUS: We'll take that under advisement.

I think we have -- I thank you for your patience. First speaker is Deputy Superintendent for Insurance, Joe De Mauro. Thank you for coming, Joe, thank also Janet Glover for joining us.

DEP. SUPT. DeMAURO: Good morning, and thank you for the opportunity to participate in this public meaning and hearing on issues affecting the livery industry. My name is Joseph De Mauro. I'm deputy Superintendent at the Insurance Department. I am joined here today by Janet Glover, Deputy Chief of the Property Bureau.

Both the Governor and Superintendent Serio
recognize the importance of the livery industry meeting
the transportation needs of the residents of New York.
There has been and continues to be one of the Insurance
Department's primary goals, to insure that mandated
insurance coverage is available to each and every livery
vehicle owner. As in the past, we continue to offer our
assistance to livery operators and representatives and
the Taxi and Limousine Commission to provide for
adequate and affordable coverage and address other
issues of interest to the livery industry.

As any driver or pedestrian will tell you,
navigating the streets of New York City can be quite a
challenge. That challenge is even greater for someone
who spends most of his or her waking hours driving on
those streets to earn a living. For livery vehicles to
offer adequate return on investment, it must be driven
harder and for longer hours.

From an insurance perspective, this means
greater daily exposure to congested city streets and
roadways, and the incidents that trigger insurance
claims. More miles driven means potentially more
claims. Because these factors have resulted in
relatively poor loss experience, the insurance market
for livery vehicles has historically been volatile.
Several insurers have over the years attempted to write
livery business, only to withdraw after experiencing significant losses.

At the Insurance Department, we work to achieve a sustainable balance between the vehicle owners' need for affordable insurance coverage and our equally important responsibility to insure that insurers remain solvent and are able to meet their obligations to pay claims on a long-term basis. As part of this effort, the Insurance Department established the Livery Task Force to facilitate discussions among the diverse interests that collectively make up the livery community.

The Department has hosted meetings that brought together owners and operators, representatives from the TLC, the New York State Department of Motor Vehicles, livery trade organizations, legislators and insurers to address topics of concern and to explore solutions. Many of the issues discussed at the Task Force also appear on the agenda for today's meeting, including items related to barriers for entry into the markets and efforts to combat insurance fraud and abuse.

I will briefly discuss each of these items in this statement, beginning with barriers for entry into the market.

Perhaps the single most significant factor
in the high cost of insurance, as well as a broader
insurance participation in the market is the TLC
requirement that all vehicles operating under its
jurisdiction carry minimum liability limits of 100 to
300,000 and personal injury protection limits of
$200,000.

As you know, the statutorily mandated
minimum liability limits are 25,000/50,000 and personal
injury protection are 50. The potential loss exposure
resulting from TLC increased limit requirement makes it
difficult for insurers to accumulate the capital and
reinsurance capacity necessary to allow them to provide
the coverage. Although actual losses may rarely reach
the higher layers of coverages, potential maximum
probable loss can be staggering, since the 200,000 PIP
limit is available separately to every occupant of the
vehicle. This means a vehicle carrying four passengers
and a driver can trigger a potential payout of
$1 million from a single incident.

Insurers, rightfully concerned about the
potential maximum loss this limit represents may be
reluctant to enter this market. The increased TLC limit
also makes it difficult to adequately capitalize newly
organized companies for the purpose entering into the
market. Because of per-risk limitations contained in
the Insurance Law, new insurers must capitalized based
on the additional TLC limits, rather than on the
statutory limits. Of course, the higher limits also are
reflected in the rates applicable to this business. A
comparison of the rates on file with the Department
shows the difference in premium for the TLC's higher
required limits from the statutory mandated limits is
approximately $2,500 per vehicle in the voluntary
market, for the three insurers who currently write the
bulk of the livery business for the five boroughs and
than 5700 in the New York Automobile Insurance Plan.
I'll move on to insurance fraud. Insurance
fraud and abuse also contributes to the high cost of
livery insurance. The Insurance Department has made
fighting insurance fraud and abuse a top priority in its
agenda. The Insurance Department's Fraud Bureau has
worked very closely with federal, state and local law
enforcement to protect, deter and prevent fraud. We
have also directed the New York Automobile Insurance
Plan to establish a special investigations unit to fight
fraud in the assigned risk program, which is now up and
running in Brooklyn. In addition, Governor Pataki has
issued an Executive Order naming the Attorney General
and special prosecutor to coordinate the prosecutorial
efforts at the State level to combat auto insurance
fraud.

The results all of these efforts has been seen in a significant increase in arrests and convictions for insurance fraud. The Insurance Department has also amended its no-fault Regulations 58 and 83 in order to combat insurance fraud and abuse.

After extensive litigation implementation staying its implementation, a revised Regulation 68 became effective as of April 5th, 2002, and was ultimately upheld by the Court of Appeals on October 21, 2003. Among other changes, the amendments to Regulation 68 modified the accident notice requirements from 90 to 30 days; the time frame for submitting claims for health care services from 180 to 45 days, and the time for providing proof of claim for work loss benefits to 90 days.

These shorter reporting periods help to curtail much of the abusive billing practices that were engaged in prior to the regulatory change. The new Regulation 83 amendments adopts the Medicaid fee schedule for reimbursement of durable equipment. It is expected that utilizing established fee schedules familiar to providers will reduce disagreements between providers and insurers and avoid the necessity to arbitrate or litigate often routine billings.

Regulation 83 became effective October 6, 2004.
The challenges we overcame during the pendency of the major revisions of Regulation 68, our successes in promulgating it along with the recent revision of Regulation 83, together with the prosecution of no-fault fraud is helping to stabilize costs across the entire spectrum of New York's auto insurance market. Although these cost savings cannot be expected to favorably affect public auto loss cost immediately, the new regulations have already resulted in lower costs in the overall auto market. This development may encourage insurers that have thus far been reluctant to participate in the livery insurance market to once again commit underwriting capital for this vital area.

Historically, insuring livery risks has posed a unique challenge to insurers. The Insurance Department has always been ready and has demonstrated that readiness on every occasion to assist hard working livery owners and operators to obtain meaningful and affordable insurance coverage.

Throughout the years, we have met with the livery industry, State legislators, City Council and insurers and agents, the TLC and DMV to resolve any difficulties encountered by the industry. We stand ready to continue that dialogue and to assist in any way we can.
Thank you, and I'll take any questions.

CHAIRMAN DAUS: Thank you, Joe. Any Commissioners have questions for the Deputy Superintendent? Commissioners?

COMM. TORRES: Subsequent to us passing the 100/$300,000 insurance maximum in 1998, did you see an increase in the claims filed subsequent to those years?

DEP. SUPT. DeMAURO: To reach that limit, you're saying?

COMM. TORRES: Once it was instituted, from 25/50 to 100/300, because one of the things they were talking about, they would be filing claims --

DEP. SUPT. DeMAURO: I don't have that information with me. I have to check that. As of now, we don't see that much claim activity in the higher limits, I can tell you that.

COMM. TORRES: So you wouldn't know what were the settlement amounts prior to?

DEP. SUPT. DeMAURO: We don't have.

COMM. TORRES: With regard to no-fault, what is the premium if you know for the no-fault? In other words, if we didn't have no-fault, what would you say are the premiums being charged now?

MS. GROVER: We have the breakout. We don't have total premium, but I think probably it is a
DEP. SUPT. DeMAURO: It's a substantial amount. That's where we're seeing savings on Reg 68.

COMM. TORRES: So if there was no no-fault requirement in the State of New York, like many other states, the requirement would be lowered significantly?

MS. GROVER: I wouldn't say that. Then you have the liability, it will go into the liability portion of it and you'll have more suits.

DEP. SUPT. DeMAURO: That's probably true. The claim has to go somewhere, won't stay with no-fault, they'll be suing the other drivers.

COMM. TORRES: The medical portion would be part of the lawsuit?

CHAIRMAN DAUS: I'm sorry, for the record, that was Janet Grover.

COMM. TORRES: The medical part would be for the lawsuit itself as opposed to the premium.

DEP. SUPT. DeMAURO: That would be first party payment.

CHAIRMAN DAUS: Commissioner Sander, Commissioner Dear.

COMM. SANDER: Deputy Superintendent, thank you for testifying for us. If you were in our position looking for ways to make the system easier or improve
the economics from either a driver standpoint, industry

standpoint or even from the insurance company

standpoint, if you were in our position, what basically

would you recommend that we look at? Do you think that

there's not much we can do with the circumstances? What

are the different things you think we should entertain?

DEP. SUPT. DeMAURO: I think, as I said in

the statement, that lowering the TLC limits would do

much and go far in increasing affordability and

availability in this market. As I stated, the TLC

limits have an effect in both the capitalization

requirements and the potential claim activity, so that's

one step that I would take.

COMM. SANDER: Anything else?

DEP. SUPT. DeMAURO: We had discussions in

the past about looking into self-insurance arrangements

and different kinds of ways of approaching the coverage.

Unfortunately, different items and issues came up during

this discussion.

COMM. SANDER: Any other industries or best

case or worst case examples that you would bring our

attention towards in analyzing this?

DEP. SUPT. DeMAURO: I think it's a pretty

unique industry. It's hard to make comparisons to other

markets out there.
COMM. SANDER: Thank you.

CHAIRMAN DAUS: Commissioner Dear.

COMM. DEAR: Thank you very much. I always found that your agency, particularly your Superintendent when he was I think Deputy, always very helpful.

I guess to follow up in the conversations, let's take it a step further. Are you saying to us that you would recommend us to reduce the PIP and the 100/300?

DEP. SUPT. DeMAURO: What I'm saying, it may work to increase affordabilities and availability in this market.

COMM. DEAR: On the flip side, is that going to hurt passengers or people that are injured, are they going to be affected by this?

DEP. SUPT. DeMAURO: As far as we can tell, there's not that much claim activity.

COMM. DEAR: It's interesting, my prior, being an elected official, you always try to gather data before we decide to change laws and if you felt this was so important, you would also urge, you can't change it, but you could urge the State Legislature in your capacity and say, "Listen, you better do this because this is a public need."
This is almost reverse, saying to us that there's almost no activity at that level so we should consider lowering it so we could make it affordable for everybody.

DEP. SUPT. DeMAURO: If you weight the cost benefit, that would make sense.

COMM. DEAR:    And everybody benefits.

DEP. SUPT. DeMAURO: There would be more coverage out there.

COMM. DEAR:    I know this was a crisis a few months ago with regard to the, one insurance holding everybody hostage, all of a sudden no one else can buy anything, and everything else, and nobody stepped in. Is it real now that there are other opportunities, other avenues for people to buy insurance or not?

DEP. SUPT. DeMAURO: That's one of the reasons we're talking about lowering the limits, to create a more viable market out there, more entrants into the market.

COMM. DEAR:    Again, I hear it again, I hear clearly, I agree with you, I've been talking about this, it's good to have a professional saying this to back us up, I think if there's any other data that you have that could help us to support that position in the public safety also, I would like to get that, and I
think the other Commissioners as well, so you could
consider. It takes a lot of guts for you to do it,
because a lot of elected officials and public officials
want to just pass it on and somehow everybody gets hurt,
because the bottom line is, if these car services go
out, these livery services go out of business, people
are not going to be able to move around. This is in
many neighborhoods, including neighborhoods that I
encompass. This is part of our industry.

CHAIRMAN DAUS: I don't know, Commissioner
Dear, if you speak for all the Commissioners on the
topic. I can certainly say by referencing us in a
collective respect, that you certainly don't speak to me
in terms of that being my primary goal.
I strongly believe this is a balancing act,
that we have to be mindful of the people who are
seriously injured as passengers in the City. The fact
that Reg 68 and the Insurance Law currently doesn't even
provide the limits that we provided in our rules that we
passed years ago to pedestrians. I think we have to
balance those needs.

You talk about we lower the PIP, one thing
affects the other. Maybe -- maybe, there's no
guarantee, this was pointed out by heads of insurance
companies as well as officials at the Insurance
Department, there's no guarantee, it's a voluntary market, they could decide maybe we'll take the premiums down now and raise them in a couple of years. I think you have to be mindful, and I'm sure you are, as we all are, of the different interests here. You're talking about reducing coverage, it's good for business, the insurance market, but we have to bear in mind that one of the reasons we exist here is to protect passengers. I hope that you would agree with me on that, but in terms of speaking for myself on this issue as Commissioner and Chair, I think we have to very, very carefully balance those interests and I think explore all different opportunities. I mean, I've had meetings with Joe and Janet and some of the staff where we were exploring other options and I guess my question is, other than just reducing PIP or reducing liability, are there other options that we can explore where we protect the passenger and provide either the same or even greater levels of protection but also do something to help the industry in terms of structuring some type of coverage which would serve both interests? Is there some type of pool or some type of fund that could be created? I know this has been extensively discussed in the past, but I have not heard anything about it.
recently.

DEP. SUPT. DeMAURO: We had discussions talking about the surety program, see if it can be expanded. There's collateral requirements, it's difficult. Again, there's capitalization requirements that have to be put up initially that makes it difficult for an owner-driver to do.

CHAIRMAN DAUS: Can that be done legally through a TLC regulation? Can we establish a fund? In some respects, I know that was proposed by the industry at some point.

DEP. SUPT. DeMAURO: There may be some point to have an insurance layer at the minimum requirements and have another fund set on top of it, because you have problems satisfying the financial responsibility part under State law, so you satisfy that with an insurance vehicle and then you do something on top.

CHAIRMAN DAUS: Aren't there options now under the existing framework for livery bases and so forth to pool their resources and have reciprocal insurance and so on and so forth? Would that in fact reduce their premiums?

DEP. SUPT. DeMAURO: They could. Reciprocal is basically inter-insurance, one company would be insuring the other, insure the insurer. This would be
capital requirements.

CHAIRMAN DAUS: Are you aware of any efforts in the industry to actually do that?

DEP. SUPT. DeMAURO: No, I'm not.

CHAIRMAN DAUS: My last question actually is, you had testified that, and first of all, I'd like to commend the State Insurance Department and Gregg and yourself and Janet and everything that you're doing to bring some relief in terms of the fraud, we've been thrilled to work with you. We established our own insurance fraud function and purpose here and we have staff dedicated to that and we've been talking to the insurance companies working with you, and we commend you in terms of your efforts, but I think the news here and something I think we should all be encouraged to hear is that you testified that this has already resulted in lower costs and I'm wondering, does your data show that the lower costs come across the board to everybody including the livery industry so far?

DEP. SUPT. DeMAURO: We haven't seen it in the livery industry yet, to my knowledge. In the auto we have seen significant reductions in no-fault activity.

CHAIRMAN DAUS: That's only in private passenger?
DEP. SUPT. DeMAURO: As of now.

CHAIRMAN DAUS: Do you currently have data that would lead to some type of conclusion?

DEP. SUPT. DeMAURO: We're following it closely.

CHAIRMAN DAUS: That's all I have. Anybody else have questions?

COMM. DEAR: I spoke for myself. We are individual Commissioners.

CHAIRMAN DAUS: It's just a slip of the tongue maybe. You said "we."

COMM. DEAR: I know other Commissioners are concerned as well, I know Commissioner Sander has raised it, Alberto raised it as well. We talk among each other, Commissioner Arout, we all have issues about this issue and I think this is the time now that, you know, let's talk about it and here you have -- you can't get the highest professional, he is the pro. He's the person who's independent, he's there to protect the people, he wants to protect the motorist as much as anybody else and the passenger and everybody else.

That's the Department of Insurance.

So I think when a professional gets up there and says some strong statements about this whole PIP and how to lower it and there's no other way, we should take
it into consideration and I would like to have, instead
of waiting another ten months about this, I wouldn't
mind if we could have some serious discussions about
this, I don't know how you want to propose it, if you
want a motion or something like that, at the next
hearing or after that. I want to put this to rest after
all.

COMM. AROUT: May I? Commissioner, I
appreciate your information, I want to thank the
Commission for getting this started. It's long in
coming. I would appreciate that if you would just put
that on the agenda after we complete this whole agenda,
meet at a meeting and straighten it out. I appreciate
what you said and what the State has brought forward.
Okay, thank you.

CHAIRMAN DAUS: Just one final question,
from me, anyway. In terms of some of the information
that we saw at the staff presentation, some cities have
eliminated no-fault and made a higher liability that
applies. Do you in your view, would that work in terms
of protecting the passenger, but also reducing costs or
would that have the opposite effect if you were to do
that?

DEP. SUPT. DeMAURO: That relates to the same
kind of answer we had before. I think you would just be
shifting the responsibility for payment somewhere else and you would require, obviously, statutory change to do that.

CHAIRMAN DAUS: Would it be the same or worse in terms of the effect on premium?

DEP. SUPT. DeMAURO: I would be speculating if I answered that question. So I'd rather not.

CHAIRMAN DAUS: And I think that there was some confusion and concern about the availability of insurance for accessible vehicles. I think that, if I'm not mistaken, somebody from your Department had issued a letter clarifying that, that if you could just edify the Commissioners, because there was some concern at our last meeting, I don't know if you remember, there was some statements made by Commissioner Giannoulis, there was a letter that was supposed to be floating around, we obtained a copy of that letter from Maurice Morganstern. I provided that letter, I don't know if you have information on it, but we would like some clarification on the availability and cost of insurance for accessible minivans.

DEP. SUPT. DeMAURO: I understand. It's available and at the same cost.

CHAIRMAN DAUS: Commissioner Rubinstein?

COMM. RUBINSTEIN: Just to emphasize, the
difficulty we as Commissioners have in regulating a private industry as a public Commission, in that obviously all of us drive cars, obviously, all of us know we pay increased premiums, I certainly do, almost every year or two and just a few months ago the major carrier for this industry was just out, and the industry numbers were 70 percent of all of the vehicles and here we're trying to decide on lowering the rates when somebody was just out the door.

All I'm saying is, we have to deal with the facts here. This is an extremely difficult area, it hits everybody in the pocketbook, yet we really need to do a lot of factfinding here, because when you're dealing with insurance companies, it's extremely difficult and I just want to emphasize that, and we seem to have forgotten for the moment that the major carrier, again, that insures 70 percent of the industry was goodbye, and now we're saying how do we lower premiums. I have no problem with everything that's been said. However, I think we need to have a lot of options, a lot of information and definitely try to do something, but it's a tough area. Very tough area.

That's all.

CHAIRMAN DAUS: Okay. Thank you so much for your time and we appreciate all the work that you put
into your testimony and the package that you gave us.

Thank you very much. We'll be in touch.

The next speaker is Oddo Rojas. Mr. Rojas, are you here? Could you just raise your hand?

Okay. Go to the next speaker. David Diaz.

Mr. David Diaz.

MR. DIAZ: Good morning, Commissioners,

General Counsel, insurance representatives, drivers and anyone else who is concerned here. I am here as a driver, as a Community Board member, member of Community Board 3, and as a concerned citizen, because our insurance is greatly affecting us. And as we just heard Joe De Mauro say, the insurance fraud and abuse are very important.

But, however, he also said that the maximum insurance is not being, is not on the same level. It's not being pursued by these insurance fraud and abuse. So to me, that means that directly it is not connected.

If there is fraud and abuse, it should directly be connected with approaching the higher limits, and I think it should be brought down to disencourage those of pursuing those higher limits, because eventually someone will be smart enough to approach them.

I'd also like to say that our costs of operations are constantly increasing. The largest
operation costs are for vehicle purchase, vehicle
maintenance and auto insurance. These directly relate
to safe operations and compensation to insured parties
in the event of accidents. According to Schaller
Consulting, crash rates have continued to decline, and
yet our insurance increases. For those of you who are
still not awake, because it's very early, or just about
lunchtime, crash rates have continued to decline and yet
our insurance increases. Insurance costs are too high
and do not permit drivers to make a fair wage in this
industry.

I gear my attention to Taxi and Limousine
Commission to provide us with a more effective and
simple insurance program, one that focuses on actual
driving experience and driver history. Thank you.

CHAIRMAN DAUS: Thank you, Mr. Diaz.

MR. DIAZ: Any questions?

COMM. RUBINSTEIN: I have a question. What
do you suggest we do when it comes to fraud?

VOICE: Put on your mike, please.

COMM. RUBINSTEIN: What do you suggest we do
when it comes to fraud?

MR. DIAZ: As Mr. De Mauro said, when it
comes to fraud there aren't any maximum limits, so if
you keep that maximum limit it is going to be requested.
I believe that lowering the rates to the State's requirements will make it more effective for the driver to be able to focus on his job, making more money and actually applying for claims.

COMM. RUBINSTEIN: You also are aware of the fact that the insurance companies raised their rates in their private companies, we had nothing to do with that?

MR. DIAZ: I am very well aware of that.

COMM. RUBINSTEIN: I'm not being argumentative here, but I just wanted to clarify and really ascertain the positions, so the public knows, again, that this is a private industry that raises rates, so obviously as a Commission we have very specific limitations in terms of what we can do, and one of your questions or one of your suggestions was to sort of, implying at least, to do something about the rates.

MR. DIAZ: Yes and I also want to refer to a report by Schaller for the Bloomberg administration which states that traffic fatalities declined by 15 percent to 330. There were declines in every category; motorists, passenger, bicycles and pedestrians and those that relate to driving while intoxicated.

New York City now has about one-half the traffic fatalities per 1,000 residents as Los Angeles and Chicago. Now, I do not have exact numbers on taxi,
but I'm sure they're included on here.

CHAIRMAN DAUS: I'm sorry to interrupt, but
what is the report you're referencing?

MR. DIAZ: This is a report made by Bruce Schaller for the Bloomberg administration.

CHAIRMAN DAUS: We'd love to see a copy of that. I'm unaware of him doing any work for the Bloomberg administration. If you're talking about the Taxi Fact Book, that was a private endeavor.

MR. DIAZ: No, this is a separate document.

CHAIRMAN DAUS: We'd appreciate seeing it.

COMM. RUBINSTEIN: I understand what you're saying. I refer to the fact that in general, as this report that you're mentioning, should have reduced rates even to individual drivers in this state, correct, because I don't think this is focused directly on taxis and limousines. Yet that hasn't happened. So all I'm saying is, I agree with you, I emphasize with you, but I think your focus here is a bit of a problem. It's the insurance industry that really needs to be made aware of this. They're the ones who can change the rates and I don't want to really mislead --

VOICE: Change the limits.

MR. DIAZ: The insurance company has been approached. Edward T. McGettigan, Jr. made a request to
the State Department in June and wrote in June back to
the brokers saying our rates for Taxi and Limousine
Commission safety program have not been approved. Our
discount program is therefore put on hold until said
filing has been approved.

He had made an attempt with the insurance.

Has he made an attempt with the Taxi and Limousine
Commission. I ask now that the State Department has
said no, TLC must regulate this. Because they have, you
have 75 percent of the control of the actual amount that
claims are worth.

CHAIRMAN DAUS: Mr. Diaz, you're talking
about the safe driver program?

MR. DIAZ: Safe driver program and in
general.

CHAIRMAN DAUS: Are you saying that American
Transit has denied their requests of drivers to
acknowledge the discount program?

MR. DIAZ: They were denied by the State,
according to an e-mail sent out to brokers in the
industry.

CHAIRMAN DAUS: So the State Insurance
Department denied their ability to do so?

MR. DIAZ: That's correct.

CHAIRMAN DAUS: I know Charles Webb is here,
if we can address that in your testimony. I'm concerned, because the TLC signed an agreement with several insurance companies, including American Transit, to give discounts to drivers who meet certain criteria and I have issues if it's been overruled or if those discounts, the drivers apply for, they should have gotten under that program are not going into the pockets of the drivers, I have some major concerns with that, and I would like to hear about that, because that's not right.

MR. DIAZ: I totally agree with you.

CHAIRMAN DAUS: So let's talk about that a little bit when Mr. Webb comes up. Maybe there's some misinformation floating around up there.

COMM. RUBINSTEIN: I would like to see a followup on whatever you said and whatever we can do, we'll certainly look into it.

MR. DIAZ: Any other questions?

CHAIRMAN DAUS: All right. Thank you, Mr. Diaz. Next speaker is Mrs. Barbara Pero. And we also have Artie Grover and Joe Scalici. MS. PERO: Good morning, Chairman Daus.

Thanks for hearing us. I am standing in for my husband, Eugene Pero, who gave up getting a flue shot for somebody who needed it and now is at home with the flu.
So here I am. I'm also the secretary treasurer of the
Livery Owners Coalition, of which he is the president,
Artie is a board director.

We owned Safeway Car Service for the past
thirty years. While he's the a member of the Livery
Advisory Board and I'm a member of the Disability
Advisory Board.

The coalition represents primarily fleet-
owned bases, and what that means is that the vehicles
that the base dispatches are owned by the base. The
drivers are our employees, they're covered by Workers'
Compensation and other employee benefits. Drivers
generally split the call with the base 50-50, some of us
have 60-40, however they work it, they pay for their own
gas and usually pay a small radio charge. The base
owner assumes all of the cost of running the vehicle,
such as insurance, licensing and DMV fees TLC fees and
repairs and of course the purchase of the vehicle.

The importance of the fleet-owned vehicle
and the corporate vehicle is that, as opposed to
independently owner operator vehicle, fleet vehicles,
while we only comprise 5 percent of the industry perform
between 95 and 99 percent of the hospital contracts, the
social service transportation and the other lower priced
charge account work. We're considered the poor man's
black car.

And I want to address something that Pete Mazer said, I think, or Joe De Mauro. We do have a mandatory age limit on our vehicles, because American Transit doesn't want to insure anything less than whatever year, so it's like a three, four year, it's back door mandatory. It's not a rule of the TLC, but we cannot insure an older vehicle anymore. That's been said, you've been provided with the outline of our problems that we gave to Eric Kim to give out.

In '98 when we passed that 17 rule, some of them were excellent, others caused a steady decline in the livery industry. The main rule which we need to address what we're doing is the insurance limits. The New York State limits of 25,000/50,000 and 50,000. In '98 the rule increased us, as you all know, 100/300, 200,000 PIP. This applies to liveries and taxis. This rule was forced into effect with no feasibility study that you know at that time Matt. It was over the objections of the New York State Insurance Department which opposed this.

Could I just -- two more minutes, very short.

They opposed this and the objections that the insurance companies, which at that time had been
involved in our industry. Prior to '98 we had five companies that were willing to write corporate cars:
Legion, Reliance, Hartford and American Transit. We now have one company and we're happy to have him, American Transit. It's really a virtual monopoly on our segment of the industry, but we're happy, we got somebody. Our premiums have risen from 4,000, 4,600 back in '98 to 61 to 6,500 in 2000 to the present time of 7,000 and change. Some people pay more, depending on their experience. We are faced with another 15 percent coming up on 3/1/05, which will bring up premiums into the realm of the ridiculous at 8,000 to 8,208. That's a lot of money. There's just so many $4 calls you can do and these increases apply only to the corporately owned vehicles, thereby making it impossible for us to compete with an independent owner-operator, impossible. And we are the ones that transport most of your income fixed seniors, so that how much more money can you charge?
You can't.
If American Transit decides to cut its corporate plan, CAP plan, we're left with the assigned risk plan and that's $25,700 a vehicle and that's a fact and we would be out of business. Nobody could pay that premium. It's just -- I want to address something you said also, about everyone's premium in the state has
gone up. That's true, but you as a private individual
could not purchase a $200,000 PIP from Allstate, from
GEICO, from any of the insurance companies that write
private policies. They laughed me off the phone and I
have a policy with GEICO for 38 years and asked him if I
could purchase on my private car a $200,000 PIP and he
laughed at me, "No, you can't," so that also had led to
an increase in the premiums.

COMM. RUBINSTEIN: I may be fabulously
wealthy, you don't know. Me. I'm joking.

MS. PERO: Then you could self-insure.
Fraud in the insurance industry is running
rampant, whether by brokers, doctors, no-fault mills or
unscrupulous lawyers. The higher the limits of
insurance, the bigger target you are. If there isn't
that much insurance, a lawyer, unless he's got a great
case, is not going to bother to take it, and that's just
the way it is.

We have become so desperate to procure
insurance we have been forced to pay outrageous fees
including, we make payments to make payments, and some
of that adds $480 a year, if you have to make nine to
double payments. In other words, if I want to pay my
premium all at once, can't be done.

In conclusion, unless our limits are rolled
back to the regular state limits which every other taxi
and livery vehicle carries in the entire State of New
York, the fleet portion of our industry will face
extinction. This is especially troubling in Staten
Island, since there will be no livery transportation
there at all. This applies to southern and western
tiers of Brooklyn, Forest Hills and Bayside in Queens,
Riverdale and Eastchester sections of the Bronx.
We implore you to reconsider this damaging
rule promulgated in 1998 and reverse your decision so
fleets can stay in business and continue to serve our
communities. Thanks very much.

CHAIRMAN DAUS: Thank you. Commissioners?

There are questions.

COMM. AROUT: Mrs. Pero, thank you very much
for coming. I'm sure you know and Mr. Grover knows how
important this is and how it affects me on Staten
Island. Could I ask you a question? First of all, how
old are you your vehicles, roughly? You say it's
mandated?

MS. PERO: I don't have anything less than a
'98. That's going to have to go to '99.

COMM. AROUT: Could I ask you a question? I
want the Commissioners to understand this. What type of
effort that you have done to correct this problem that
we're having on Staten Island?

MR. GROVER: Well, the problem cannot be
corrected by us. If a company wants to come into this
industry as a fleet, they can't. American Transit is
not taking new business and at this point right now,
they are the only carrier writing for us. On Staten
Island, just to make a statement, we are 90 percent of
the industry, we're hurting a lot of people. People
have to get to the supermarkets, people have to get to
the doctors and it's costing them a lot of money.

COMM. AROUT: Are you currently in the
assigned risk now?

MR. GROVER: No.

CHAIRMAN DAUS: Any companies on Staten
Island in the assigned risk?

MR. GROVER: We do have some. Basically in
American Transit I'm paying right now I think 5700.

COMM. AROUT: By paying more, this has to do
with your regular fee, the accidents you have or your
bases, the loss ratio?

MR. GROVER: On Staten Island they gave us a
set rate and they gave us 15 percent increase last year
and they're giving us another 15 percent this year
coming. There's no guarantee that American Transit is
going to insure corporate vehicles after this year,
which means, bingo.

CHAIRMAN DAUS: You mean next year?

MR. GROVER: Mm-hmm. The only thing that can help us, which was also stated on the chart which it really wasn't stated, that American Transit insures probably 95 percent of all fleet vehicles, where it said it's 70 percent all livery vehicles.

CHAIRMAN DAUS: Duly noted. I think we would probably concur with those numbers.

COMM. AROUT: Thank you very much.

CHAIRMAN DAUS: Mr. Dear has questions,
Mr. Grover. It's Artie Grover, for the record.

COMM. DEAR: Thank you. Are you the only female that runs a company?

MS. PERO: No, we have Eileen Kelly here, a few of us fossils around.

COMM. DEAR: And you do a great job. A few things. If American Transit goes, I ask the Chairman, what happens then?

MS. PERO: We go.

MR. GROVER: We have nobody to cover us. We can go into the assigned risk at $25,000 a car.

COMM. DEAR: Basically that's out.

MS. PERO: Can't do that.
COMM. DEAR: I want to see the alternative now and this is where I know we had discussions and I want to talk about the alternatives. You talk about the fleets, because they, I always, as a Commission I think it's easier to deal with the fleets because you have a group of cars, we can talk to you and everything else, and you're responsive. What's the alternative, what happens now? The local guy, and that's where the fraud is, and is that still happening, and what can we do and help us identify and help work with us on that.

A local car service doesn't buy from American Transit. He insures his car as a regular car and then he goes ahead and picks up?

MS. PERO: You're talking about, yes, going back fifteen years, before we had all these good enforcement, you're seeing a lot of straight plates --

COMM. DEAR: Talking about even when you have livery plates.

MS. PERO: You have to have a driver that's willing or able to do that. In a fleet we give opportunity to people that are unable to own a vehicle because they are collecting Social Security benefits or they don't want to have the full time work, we do a lot of part time short shift work. It's an employee situation, they want to have Workers' Comp, disability
insurance, which they get working.

COMM. DEAR: Where are the smaller base stations insuring their vehicles?

MS. PERO: Everybody is with American Transit. If they're registered in the City of New York. But a lot of bases have decided to go up to Westchester and Long Island and I'm seeing more and more L.A. plates on Ocean Parkway.

CHAIRMAN DAUS: Doesn't the Livery Owners Coalition have a member or two that are actually currently in the at-risk plan? My understanding is once you join, the premiums are high, but if you have a good loss ratio after a year they come down.

MS. PERO: It's Eileen Kelly, it's three years. She's been with them many, many years and her limits are based on what it was then. In order to go into it now, Matt, look, if I have 40 vehicles and I have to pay 25,700 a car, I won't be able to do it. Eileen got into it at a time when it was lower and you have all these earned credits. I have Worker's Comp probably longer than anybody in the room, at least fifteen years. My premiums are much lower than people who got it three years ago, because I have earned credits.

CHAIRMAN DAUS: Let's say, and let's hope
this doesn't happen, that more competition doesn't come
into the market, American Transit has some issues and
let's say they decide to retire and go out of business
and there's nobody left. That means everybody has to go
out of business themselves or go into the assigned risk
pool. Doesn't the State Insurance Department have the
ability to change things with the assigned risk pool and
maybe do things a little bit differently?

MS. PERO: We're working on that.

CHAIRMAN DAUS: Instead of 25,000 a vehicle?

MS. PERO: We're working on that. We sent
in FOIL requests, which were never answered, to see why
it's $25,700. If a drunk driver can get it for $9,000,
why are my drivers having to pay $25,000 when they have
safety courses every year or every two years?

CHAIRMAN DAUS: Is there any staff remaining
from the State Insurance Department?

VOICE: Janet is there.

CHAIRMAN DAUS: Janet, as a point of
followup -- are you okay coming up or am I going to get
you in trouble? We just have a question about what the
State Insurance Department could do with respect to
assigned risk.

COMM. DEAR: The question is even further.

What happens if American Transit decides not to insure
any more taxis, liveries, what do we do then?

MS. GROVER: I really don't want to speculate.

CHAIRMAN DAUS: That's fine.

COMM. DEAR: One other question, if we did lower the rates, the PIP rates or the liability rates, does that mean that the insurance rates are going to be lower? Is it more that's going to come in then or we're just speculating then?

MS. GROVER: The thrust of the Superintendent's testimony was that the rates would be lower and hopefully would encourage, because the capital requirements needed to write those lower limits are less, there would be more writers coming into the market.

CHAIRMAN DAUS: But that's also hypothetical. And American Transit, the ball would be in their court. They could keep it as they are.

MR. GROVER: McGettigan stated, and he sent an e-mail to the TLC, he stated if the limits were lowered, the insurance on the vehicles would drop between two and $3,000 a car.

COMM. DEAR: We'll find out when he gets up here.

CHAIRMAN DAUS: He's not here, his counsel
We have to move the meeting along. I understand all your testimony is combined. You want to say something? We'll hear briefly from Joe Scalicci, briefly, from Staten Island, the Livery Owners Coalition.

MR. SCALICCI: My name is Joe Scalicci, I'm president of the Staten Island Livery Association. I'm a member and a trustee of Livery Owners Coalition.

Before I read my statement, I just want to quickly say that I don't think that we've identified a reason why we needed these higher limits. We said, you know, Seattle's got them and Connecticut and New England and Kookamonga, and they got higher limits in these other places, but we never had a reason why they had higher limits in these other places. Just because they have it, Pete, your father must have told you, because everybody jumps off the bridge, you don't jump off the bridge with them. Okay.

The second thing I want to say is that in the light of Joe De Mauro's testimony, I believe that the Government usually does not like to admit mistakes, the Government never likes to admit mistakes. This raising of the limit is a big mistake the Government doesn't want to admit to. It's like a Government
program, it's the longest thing to life in perpetuity.

Once it happens you can never get it undone, that's the
way the limits are. Once the limits go in, they can
never get out, because of the Government's reluctance to
admit they made a mistake, as the State Insurance
Department pointed out. I believe that when the TLC in
its zeal to protect the riding public quadrupled the
limits of insurance, they neglected to see the long term
consequences. Clearly increased risk for the insurance
companies have scared away most insurance companies,
especially for fleet operators. I never understood the
rationale that a livery car, that life is more valuable
in a livery car within the city limits than it is in a
livery car outside the city limits. I don't understand
why that is. Still don't understand why that is.

Our industry should be returned to the State
limits. If it's good enough for the rest of the state,
I don't understand why it's not good enough for us. Why
are we different here? Why is life more valuable on
this side of the border and less valuable on the other
side of the border? This makes absolutely no sense to
me.

Lowering the risks insurance companies have
to take will invite new companies to come into the
industry. That's a no-brainer. That will insure that
our industry has a future.

Thank you. If anybody has a question --

CHAIRMAN DAUS: Council Member James Oddo

had requested we read his remarks into the record, if

you could take care of that.

MR. MAZER: I'll do that right now.

"Dear Chairman Daus, Commissioners. Thank

you for the opportunity to give testimony regarding the

insurance crisis in the for-hire vehicle industry.

"As you are aware, the for-hire vehicle

industry is vital to the transportation needs of the

citizens of Staten Island. It has proven to be a safe

and effective mode of transportation, especially for our

senior population. Insuring that my constituents are

able to travel throughout the city in a safe, affordable

and efficient manner is important to me. The viability

of this industry is tremendously important to the Staten

Island community, especially in light of the fact that

we have virtually no mass transportation.

"The livery industry in Staten Island is

unique, in that while only 10 percent of the for-hire

vehicles in the city are operated by fleets,

approximately 90 percent of the for-hire vehicles on

Staten Island are fleet operated. As you are aware,

after being contacted by Mr. Artie Grover and Mr. Joe
Scalicci of the Staten Island Livery Association, my office has worked with the Commission and the State Insurance Department to resolve this problem. While collectively we have been able to avoid a crisis, the last few years the industry is in dire need of a permanent solution. The cost of insurance premiums, which disproportionately impact the fleets of Staten Island as compared to the owner-operator outfits that predominate in the other boroughs, continues to rise, with only one insurer willing to write policies for these folks. Additionally, assigned risk pool premiums are so high they are unaffordable.

"The Staten Island Livery Association has linked this to a Taxi and Limousine Commission rule enacted in 1998 which increased the liability limits of TLC licensees operating for-hire vehicles from 25/50/10 with a $50,000 PIP to 100/300/10, 50,000 PIP and 150,000 additional PIP.

"Quite frankly, I have never heard a sound argument that controverted that assertion. While I have been encouraged by several proposals, including the one that would decrease the minimum liability requirements and create a fund for which legitimate claimants could supplement awards above the value of a tendered policy via a schedule of injuries, none have come to fruition."
Let me state for the record once again, should we in City Government allow the livery industry on Staten Island to die, it would create a crisis situation for thousands of Staten Islanders. The Bloomberg administration, much like the manager of a baseball team or the quarterback of a football team, will get all the blame, rightly or wrongly.

"Let's do what Government at all levels fails to do time and time again. Let's act before the issue reaches critical mass, because the alternative is ugly; ugly for Staten Islanders, ugly for the industry and ugly for the Mayor in power at this time.

"Therefore, I respectfully request that you give serious consideration to reducing the increased limits established by the 1998 TLC rule to a level that will continue to protect the public, increase competition of the public and allow for the continuation of this vital service. Please accord this request every consideration consistent with your rules and regulations.

"I thank you for your time and consideration. Thank you. Respectfully, James S. Oddo, Minority Leader."

(Appause.)

CHAIRMAN DAUS: Thank you.
COMM. DEAR: I just wanted on that, could the City Council change the regulations if they wanted to?

MR. MAZER: By Administrative Code? The Charter gives the authority to the Commission to set limits. They have to change the Charter.

CHAIRMAN DAUS: Sometimes the Charter could be changed by the Council, sometimes not. We'll have to follow up on that.

Next speaker is Mr. Charles Webb. Thank you for coming today.

MR. WEBB: Thank you, members of the Commission. I appreciate the opportunity to be here. In fact, the last time that I was here was May 27, 1998 when the Commission was considering increasing the insurance rates, or insurance limits.

Today with me is Mr. Ed McGettigan, Jr., who is one of the directors of the American Transit and Bill Think, who is Comptroller of the company and in the event there are questions that I may not be able to answer, I certainly will ask them to assist in trying to supply as much information.

Today I want to address three things that were in your bulletin. One was the misinformation relating to American Transit's position regarding the
transportation of passengers with disabilities. Second
is fraud and abuse and third, what seems to have been
the most popular issue this morning, and that is
insurance rates, premiums, cost of and limits.
Now, American Transit has issued a producer
bulletin to all producers indicating that they are
preparing a program for the insurance of vehicles for
disability. It is, the newspaper that it was contained
in clearly did not understand what American Transit's
president was saying. We know they interviewed him and
only printed half the information. Let me disabuse that
notion. We are preparing a program to insure those
vehicles, so that we will put those to rest once and for
all.
CHAIRMAN DAUS: Its not the first time the
press didn't accurately portray.
MR. WEBB: We are having a meeting with
members of your Commission, Mr. Daus, on the 28th of
October, to try to arrange for the sharing of
information between us and you.
Fraud is a major issue, as Joe De Mauro said
this morning. We have created within our own company a
complete fraud bureau with investigators constantly
working to try to weed out fraud. We're working with
the District Attorneys, the court system, with the
Insurance Department, Motor Vehicle Department. How can the TLC help us in working for fraud? One of the problems that we have is that drivers and owners do not report accidents within 24 hours of their occurrence, and secondly, they do not report -- we know they receive litigation papers, assuming they've received them and it's not some sewer service, so what happens is we get a default judgment and we know nothing about the accident, nothing about the litigation and we have to fight our way trying to get default judgments put aside.

I was able to do a major piece of information for the insurance industry with the Court of Appeals in a decision called Sarter versus the American Transit Insurance because the claimant sued, claimant was in an accident, advised the insurance company of the incident, but never advised the insurance company that they started litigation and there was never service and finally the Court of Appeals said, wait a minute, not so fast, attorney, you notified the insurance company of the accident, but never notified you were suing on the accident? We had no notice until after the default judgment was taken, thirty days later.

Let me say there's a whole group of attorneys out there that specialize in nothing but taxi and livery litigation. You can go through a website,
push a couple of buttons and the names will come out,

Sometimes the plaintiff lives in Queens, the defendant
lives in Brooklyn, and then vice versa, the Queens
plaintiff is now a defendant. All of these are piled
high. We've given them to the District Attorneys in the
respective counties, trying to eliminate fraud.

How can you help? You can impose some
penalty on a driver-owner who doesn't report an accident
within 24 hours, because that's part of their
responsibility under the insurance policy we give them.

If you can work with us in doing that, I know we're
going to have this meeting and share a lot of other
information regarding statistics.

Now, safety programs. When I was here in
1998, I prepared, and listening this morning I thought
what I'd do is to redo the statistics I prepared for the
entire TLC what we felt about the increase in rates,
statistics as to why it should happen, everything that
should take place. For example, on how we can improve
driver training and traffic enforcement safety. I said
these three things: The TLC must improve the quality of
taxi driving, demanding the kind of familiarity with New
York City streets that London drivers have, demanding
enhanced driver training of the kind that a professional
driver would be required to undertake. In other words,
I said that and I say again, taxicab drivers are now merely drivers by profession, the TLC should make them professional drivers. That will cut down a lot of the accidents, the safety program.

Now, let me get to the thing that really is near and dear to everybody's heart. I know you're going to have some people talk about technology and before I go to the premiums, let me point out that the fact that any technology that's approved for any of these vehicles should include crash data, including at least five seconds before the crash. That's very, very important and the capability is there, it should be included in the technology.

Reduced premiums. I'm going to go back to what I said six years ago, six and a half years ago. Medallion taxicabs as a whole average approximately two accidents a year between '91 and '97 and that average is going down. What I said then and I say today, you did not need the higher limits, the 25 and 50 was sufficient and secondly, you didn't need the 200,000 PIP. Reason being, I checked with American Transit, since you adopted those premiums, those requirements, there has been only one accident that the 200,000 reached in all of the vehicles we insure and guess what that was? That was an owner operator, no passenger who was T-boned by a
U.S. Mail truck because the brakes failed and they had
to go to no-fault because under the Federal Liability
Tort Act he couldn't go against the Federal Government.
There was never any need to go to two, okay?
Let me focus on PIP. Never any need to go to 200,000.
As Joe De Mauro said this morning, if you have four
passengers in the car, you're talking about close to a
million dollars here and that causes premium increase.
There's no question about it. The premiums did increase
from '98 because of the increase in the PIP and the
increase in the liability.
Now, I said it then and I can say it again
and what I'm going to do is after we finish I'll put all
the statistics, update it through 2003 and give them to
every member of the Commission so you can have this to
view.
Now, let me tell you about the hundred
thousand premium. You see, on medallion cabs, the
hundred thousand already was there, because that was
adopted by the State. Fifty was for the remainder, but
the hundred was there, and there has only been when I
tested in 1998, seven accidents that reached the
hundred thousand level. Since that date, two more in
six years have reached the hundred thousand level.
That's the kind of thing you don't need to increase to
two hundred, and that difference of 100,000 will
directly relate to premium.

COMM. RUBINSTEIN: This is the PIP?

MR. WEBB: Yes, sir. Now, let me talk about
the 25/50 because what the 25/50 increased to 100/300
did, I referred earlier to, I'm sorry to say to those
rapacious lawyers who are out there waiting to either
stage an accident or capitalize on somebody else's
misfortune on a minor accident. When 25/50 was there,
it wasn't in their best interests to go ahead and file
these lawsuits, hire 5,000 and $10,000 experts to come
in and testify. When it went to 100/300 they had a
reason to go forward, because they had a reason, as
somebody said about the lotto, you never know.

Did accidents increase? Absolutely it
increased, ten fold. We were trying to get a study on
how many lawsuits occurred after that, because after
that we received over 2,000 dismissals because they
couldn't reach the threshold, even though they filed in
Supreme Court. 2,000. That's the kind of thing that
causes premiums to go up.

Somebody said, and I respect the Commission
very much, and Matt, you and I know we're trying to work
together, and you've done a tremendous job, one of the
things we're concerned with is how did the 100/300 come

That was part of the impetus as to why the TLC at that time looked at it. We gave The New York Times different statistics. They didn't agree, because they had their own. Subsequently, on November 17, 1998, front page story, "Livery Cabs Get the Blame for Increase in Accidents."

The number of yellow cab crashes in the city, the analysis found, has dropped significantly since 1994. The New York Times found that the original information that they couldn't get they now have and as it relates to medallions the accident rate has gone down so that the real increase, what it has done, the 25/50 increase has really caused all the lawyers in the business, it doesn't help the passenger, it only hurt the driver-owner who has to buy insurance.

Somebody says, well, why are you here talking about insurance premium? If you eliminate what you did in 1998 to a significant extent, the cost of insurance is going to go down. That works against American Transit, doesn't it, but they're here to provide a market. They're the only game in town right now and they want to provide the basic market at the basic rate. We're regulated by the Insurance
Department. Whatever our rates are, they have to approve, but when you increased your rates, your limits, they had to increase their rates and they permitted us to increase their rates, but that was only with the approval of the Insurance Department.

So what I'm saying here today is, you want to reduce premium, then what you do is you roll back that PIP to what it was.

Secondly, you take a very hard look at the 25/50 and the number of accidents in the industry that are over the 25/50 to see if that really is the right thing. I heard speaker after speaker saying why is going across the border life any differently? Well, I think you really have to do a hard look study at it. I know it's tough, I was in Government for many years, we used to say's easier to break an egg than it is to bring it back together again and I know it's tough to reverse yourself, but if you want to look at premiums you look at the increases in rates, which probably doesn't have an effect in protecting the public, but did have an effect in increasing the premium.

CHAIRMAN DAUS: What is the average premium for PIP at 200?

MR. WEBB: The cost of PIP itself.

CHAIRMAN DAUS: When you break it down in
the endorsement, when you have an insurance premium it
will be broken down into the endorsements, it will have
the premium and then the PIP.

MR. WEBB: I'll let Mr. McGettigan answer

that.

COMM. AROUT: Mr. Webb, could you be so kind
to give us that statement, make a Xerox copy so we'll
distribute it to our Commissioners?

MR. WEBB: I took it from my file, I have it
marked up, but I can get a clean copy in my office and
have it back this afternoon.

MR. McGETTIGAN: Your question is probably
on industry average, 25 percent roughly of the premium
is PIP. If you go across the industry, usually the
liability premiums are split 60/40, liability to
property damage. Our PIP is probably loaded a little
bit more.

CHAIRMAN DAUS: I guess maybe you can help
me out on this point, because this is really where the
ture disconnect comes in in my mind. I understand,
being a scrupulous attorney, but nevertheless having
been in that profession handling those types of cases, I
understand what you're saying in practice with regard to
the liability going up and how attorneys would behave in
terms of settlement strategy.
What I don't understand is and what I do recollect from the 1998 hearing is that it wasn't necessarily just the amount of claims that would bring us to the threshold, it was to guard against that one or two people that may have unfortunately a catastrophic injury and to make sure if there wasn't any fault involved to be able to have the PIP. What I don't understand is that the argument was made you would be able to bring down your premium significantly if you were to get rid of PIP, yet you're also testifying only one person over the last six, seven years has reached the threshold, so I don't understand when you're talking about loss ratio, you're talking about losses the company incurred as a result of paying out, I don't understand how we can argue, if only one person reached the limit, how is it costing you so much money that you would then have to do that and take the limits down in order to reach the premiums.

MR. McGETTIGAN: I think you're confused between meeting the limit and the threshold. Threshold is a liability action, we expect to double that on the next year because of the 100/300.

CHAIRMAN DAUS: Because of the liability problem?

MR. McGETTIGAN: You have attorneys working
on my dime now, instead of their own, to talk in the vernacular. At 25/50, they're not willing, they're getting a third of the value of the case, they're not willing to spend their own money in order to adjudicate it, to bring in the doctor that's going to testify at six grand a sitting, because they're not going to get that much money back.

At 100/300, it encourages more lawsuits, which increases our expense. That's what we're talking about.

The other aspect is, that in PIP when the initiative first came through, and in fact I don't recall who the Chair was in '89, not the Chair, the Chair, before McKechnie.


MR. McGETTIGAN: Right. They wanted to change liability to 100/300 a medallion. And we said "why?"

They said, "We think we assessed more people are getting injured." So they felt as an incentive, they wanted to give the medallions an additional 50 PIP. That's been like that since 12/31/89. When this initiative came in, and Mr. Webb testified, we tried to illustrate to you that to hit 50,000 in ten years in over 135,000 or 110,000 cases, we paid it out seven
times. So when you have 50 and 150, how many -- I mean, I can't tell you how many times in peer review, we're looking at a single case of one person had 18 MRI's. Why 18? Because they know when they send six, in peer review we pay three. They said we'll send them for 18, they'll pay six.

The fraud is so rampant, it keeps on being encouraged after being encouraged after being encouraged. So something has to be done from a legislative sense. I know Reg 95 states provides I have to have one special investigator and a special investigative unit. I issue 46,000 policies, I have 29 investigators. So it just goes to show you about the PIP.

MR. WEBB: I think your question, Matt, was since there was only one that ever reached that 200, why is that cost so much.

CHAIRMAN DAUS: Yes.

MR. WEBB: But there's a big difference between what the insurance probability may be in terms of the cost of the policy versus what may happen, so that there's a whole differs. The underwriters have to look at it from the standpoint that that's what it costs.

CHAIRMAN DAUS: Don't the underwriters look
at past experience when they calculate premiums going
forward? Don't they look to see what your losses have
been.

MR. WEBB: That's all actuarial.

CHAIRMAN DAUS: I'm trying to understand
what the actuaries do.

MR. McGETTIGAN: Everybody is trying to
understand that.

CHAIRMAN DAUS: The devil is in the details,
here. I understand your point, there are not many up
there in the upper limits, but are there more at limits
that were higher than before we put this into effect?

MR. McGETTIGAN: No. Your bottom line is --

CHAIRMAN DAUS: Let's say it's $200,000. If
I understand your testimony, please clarify if I'm
misstating anything, that because we have these
unscrupulous trial lawyers out there that are looking to
build a case with the medical mills, let's say, what
they do, now they have 100/300 and 200 PIP, immediately
if they get a client they send them for MRI after MRI,
if that's accurate. If you compare the amount of money
you paid out in PIP, even under the old limits to what
it was today it would have to be more. Even if it's not
coming in at 200,000 --

MR. McGETTIGAN: Closer to the 50. Where
you might pay six to ten on a no-fault claim, it's
probably now fifteen to eighteen.

CHAIRMAN DAUS: And before that it close to
the 50?

MR. WEBB: It was like $6,000. The biggest
fraud is under the no-fault.

CHAIRMAN DAUS: I want to make a very brief
statement. I think you always worked with us on these
issues. For the sake of, just from my standpoint
sitting here, I understand that fraud, it is a problem
and I think the Government needs to do everything it can
to make sure it eradicates fraud, but I just have a
conceptual problem with making public policy. When you
make public policy, you try to take the fraud aside and
say if the world worked without fraud, we need to
protect the passengers, we need to protect the people
that we have insurance there for and the businesses as
well, so they don't have to pay out of their own pocket.

While I in my own mind view the fraud as a
separate thing, I don't think necessarily we should when
we're setting limits say, oh, the fraud is so rampant we
have to reduce what people who are going through the
system legally are entitled to. That's just how I feel.
Yes, we have to do something about fraud, we've been
helping as much as we can, the State Insurance
Department is making progress, but I have just a conceptual problem with saying we should lower insurance for people who are decent, hard-working and abiding by the law because people are committing fraud. I understand there's a trickle-down effect, that's not reality, but when we make public policy, I think that's a little unsettling when we're trying to make up our minds.

MR. WEBB: Commissioner I separated fraud from how do you reduce premium.

CHAIRMAN DAUS: Ed brought it back in. I understand, from a business standpoint, that's his concern.

MR. WEBB: We thought the public was well protected with the previous limits. That's why we took the position we did. I think everybody will see them. I'm not here today to say I told you so, but if you read what I wrote in 1998, a lot of things we predicted, such as rapacious trial lawyer conduct, is not unexpected. We anticipated it was going to happen. The court system got clogged bigger and bigger, they had to go to arbitration, do a lot of things because of that increase as it relates to our business.

CHAIRMAN DAUS: The point is understood.

Commissioner Torres.
COMM. TORRES: I'm a lawyer by profession.

MR. WEBB: I didn't mean to cast a spell over all lawyers.

COMM. TORRES: My experience has been not only lawyers, but basically the medical industry, these fly-by-night companies who actually solicit lawyers, there are companies that go out and solicit lawyers to have relationships with them to get into more practice and make it more lucrative to commit fraud. We've seen this in the papers, the attorney has conducted and produced arrests.

I was there in 1998, my impression at that time was the increase was a knee-jerk reaction to a few accidents that were taking place at that time, it was politically motivated, there was no study done and that's why, those seventeen rule proposals, I agreed with many of them, and the difference between that Commission and this Commission is now we do conduct these types of studies to get this information.

I appreciate the information you have given us today.

The other piece is with regard to the Chairperson and the remark of protecting that one person for the $200,000. Why isn't it a million? Why not make it two million, five million? Maybe there will be that
one case in the future where someone will have injuries of a million dollars.

MR. WEBB: As you recall, Commissioner, at that meeting there was a gentleman in the wheelchair, the taxi flipped over and he lost his fiance. All of the increases that were taking place that day or being considered would not help him. He was way over that anyway.

COMM. TORRES: Now that we have six years of information which indicates there's only been one incident where it went over $200,000 PIP, now, you also made the statement where there was about seven to nine incidents in the last six years that went up to 100,000. I mean, Mr. Webb, that's what I had written down here on the PIP.

MR. WEBB: That's the best information you can get.

MR. McGETTIGAN: I would have thought it would be closer to 50. The only serious accident Mr. Webb alluded to was an owner-driver that got hit by a mail truck.

COMM. TORRES: That was 200.

MR. McGETTIGAN: It probably a lot more than that. I'm only saying 200 because he was in a coma for a week.
COMM. TORRES: If we reduced the PIP to 100,000, how many incidents took place in the last year.

MR. WEBB: I can get that.

COMM. TORRES: Because I thought you made the statement that there was seven incidents.

MR. WEBB: I thought it was another nine, but it may be just in the medallion. I don't know. But it was 100 for medallions anyway.

MR. McGETTIGAN: We increased it from 100 to 200. Medallion went from 100 to 200; everything else went for 150.

COMM. TORRES: With regards to the 25/50, 100/300, once again for clarity the expenses you incur, also the litigation cost in defending these actions, because there's more actions and more that don't meet that threshold and I know the insurance industry has for the last ten years cracked down across the board in telling attorneys to take it to trial, because at one time there was a value to pay nuisance and the industry has curtailed what they call paying the nuisance value, so you're making it more difficult for attorneys.

My question to you, there was an increase of 30 percent; 15 this year 15 next year. What was the basis for that increase, based upon the information one individual gave us, about fatalities, and you just gave
us information there was less cost involved.

MR. McGETTIGAN: Unfortunately, the fleet business in general, in my opinion, is fraught with fraud. I know for a fact, a person who is not eligible for any of my owner-driver programs agrees to register his car in a fleet name; six months later he's in an accident.

COMM. TORRES: For-hire vehicles?

MR. McGETTIGAN: Yes. Like that car service, I DNR'd or cancelled. He registers his car. A guy that I DNR'd would not renew if a fleet is paying $8,000 a car, he charges the guy, the owner of the fleet charges the guy 12,000, pockets four and four months later the same guy is in the accident.

So I'm not going to tolerate it anymore.

This year, unfortunately, we moved in December, so in answer to Ms. Pero's question, you will be allowed if you want to to pay your premiums annually next year. We did it this year because we couldn't do it.

I will say this about Staten Island and Artie, you know this well, you were DNR'd for loss. You were DNR'd for loss and when the Insurance Department through the political initiatives, I'm sure, of some Councilman here, went to the Department and said, "Hey, how come they're cancelling? There's no place else to
We filed a 30 percent increase, our actuary wanted 65 percent on the fleet business. We made accommodation, we said 15 percent this year 15 next year. Taking 30 percent on the cars DNR'd in Staten Island, they would have been on the cusp at a 30 percent increase, so we made that accommodation. Saying I'll giving you a flat rate plus 15 percent, you think it's onerous, but you were not going to be renewed. There were many fleets, not only just in Staten Island, but many fleets on that same road.

MR. GROVER: Sir, I want to --
COMM. TORRES: Let's not get into discussion.
MR. GROVER: I sat down with your underwriter and I showed him where you had me down for a half million dollars payment that wasn't made and we clarified that, so we were okay.
MR. McGETTIGAN: We'll do this off line.
CHAIRMAN DAUS: I would appreciate if we could work this out outside of the hearing.
MR. McGETTIGAN: But we haven't increased our rates in years. It might go to a different classification, like that driver that was here, he says losses go down by a report, yet my premium goes up. He
might have an older car, he's in a different
classification. He buys a newer car, he gets less
premium.

Conversely, a clean license, enjoys a lower
premium. If all of a sudden he has property damage,
it's higher rate. We have not increased our rates other
than this 15 and 15.

COMM. TORRES: Now, when you respond in the
future, just make a hypothetical as opposed to pointing
out anyone.

MR. McGETTIGAN: I was just rebutting their
direct statement.

COMM. TORRES: With regards to the 24-hour
requirement to report that you said you wanted us to
enforce, what is the average time, the reporting time
that you experienced with accidents; a week, two weeks,
a month for drivers?

MR. McGETTIGAN: Our problem is not in
reporting the accident. Everybody has a cell phone
they're on the gurney reporting the claim. I'm talking
about our driver's report. We don't get it so we can't
act on the file until we have a report.

CHAIRMAN DAUS: If they didn't report within
a time frame, you would deny coverage.

MR. McGETTIGAN: We cancel them. Normally
we have enough in the file to work on. You can't deny coverage if the guy was cited, for example, but we need our drivers' report that's the key thing.

CHAIRMAN DAUS: If you have no actual notice from the person who was involved with the accident, I thought you could basically get out of providing coverage under insurance law.

MR. McGETTIGAN: You could disclaim.

CHAIRMAN DAUS: What would be the basis for us for fining people for not doing that if it ultimately won't affect coverage because you won't pay out on that?

MR. McGETTIGAN: I'm sure it will compel them to do that. 40 or 50 percent of the owner-drivers I insure have accidents where the driver is other than the insured and in many cases are not TLC licensed. The broker wonders why I cancel somebody without a TLC license. I say, "What do you think is the reason he's not licensed?"

CHAIRMAN DAUS: Can't you cite them for illegality?

MR. McGETTIGAN: That's a different issue. It's a TLC or DMV initiative, not me.

CHAIRMAN DAUS: Somebody outside the for-hire vehicle, you deny coverage, you're free and clear. Here if somebody doesn't report within the
24 hours, because they were involved in an accident,
they didn't have a valid or they had a suspended license
you would still have to cover, but they wouldn't report
and you would be at a disadvantage.

      MR. McGGETTIGAN:  True. But also, when a
      claimant reports to us, it increases our expenses, we
      have to send out an SIU investigator to actually get the
      driver.
      CHAIRMAN DAUS:  You would have less control
      over that person. If they're in suspension --
      MR. McGGETTIGAN:  You have no control. I'm
      bringing a point up to you.
      CHAIRMAN DAUS:  If we put a rule in place,
      it would have little or no bearing on somebody, you
      would have to put some basic accountability in there,
      that's the only way it would probably work.
      MR. WEBB: The cost of disclaiming, though,
      means you have to go back into court once they sue, if
      you can correct it ahead of time --
      CHAIRMAN DAUS:  Understood.
      Okay, Commissioner Torres and Commissioner
      Dear.
      MR. WEBB: Matt, you had a question, though,
      for Mr. McGGettigan, regarding a requested rate for
      safety driver --
CHAIRMAN DAUS: Safe driver. I think a lot of people in the industry, Mr. McGettigan and Mr. Webb, are very concerned about this, especially members of LOMTO. I'm getting phone calls that the safe driver program where we agreed to a certain percentage discount for drivers who have demonstrated a good record over the years and if they take the training course that we put together, they would get that discount. I know other insurance companies we have no problems, they are giving the discount, and it was recently brought to my attention that there was some type of issue.

MR. McGETTIGAN: I spoke to Peter. He called me saying some have complained saying they're not getting discounts, it wasn't approved, the Insurance Department deemed it too high, there wasn't any actuarial information to support such a filing.

I said okay. I figured we'd wait a year to this renewal, where those carriers that did produce a big discount on their behalf, would have some documentation saying that they've successfully passed the second course, they've had no accidents, they're still risk free --

VOICE: How much was the discount?

MR. McGETTIGAN: 7 percent first year, 8 percent the second year.
COMM. TORRES: The State denied it?

MR. McGETTIGAN: They said there was no actuarial support. We perceived that because it's a TLC initiative, that it would help people. As far as we're concerned, it was only about 80 to 100 people that really were affected, because it was clean license, clean with the TLC; newer car through model years, all that kind of good stuff. You might have had more people that took it, I don't know, but it was a small amount of people.

We were hoping that we would have, could have an actuary contact the Department, or contact any other company that's issued that program, and see if they have any actuarial data to support --

CHAIRMAN DAUS: Would you be willing to refile with State Insurance --

MR. McGETTIGAN: Sure.

CHAIRMAN DAUS: And then honor these people who filed previously if they're still eligible --

MR. McGETTIGAN: If they're still in good standing on the second year. I'm looking for actuarial data to rely on.

CHAIRMAN DAUS: This is something the industry has relied on. We've reached an agreement, we've signed an agreement. I know other insurance
companies had obtained State approval. We'll work with you and the State Insurance Department about it.

MR. GREENBAUM: Our insurers made us raise everybody's premium to institute a discount for the safe driver. It reduces the overall premium on everybody. So it did have an effect for the safe driver, but it had an adverse effect on the rest of the world.

COMM. TORRES: I just had two more questions. If you wanted the TLC to impose, getting back to that 24-hour reporting, would that have an impact on the premium?

MR. WEBB: Maybe long run if we started cutting down the litigation abuse, because it's not just reporting the accident, it's reporting the presence of a lawsuit, that's just as important as the accident. The accident we investigate, but the lawsuit, if they get a default judgment, you have to work like hell to try to get it reversed.

COMM. DEAR: With regards to the technology where you mentioned something about crash data that could be made available five seconds --

MR. McGETTIGAN: These people will give a demonstration on that, so that will dovetail on that.

COMM. TORRES: Okay, and will that decrease premiums?
MR. McGETTIGAN: Ultimately.

CHAIRMAN DAUS: Commissioner Dear?

COMM. DEAR: I was glad there was someone behind American Transit, because I've had this vision of this terrible, big company. Welcome here and thank you.

MR. McGETTIGAN: It's amazing what a new suit will do for you.

COMM. DEAR: Everybody blamed you for the world. The only thing they didn't blame you for was for the World Trade Center yet, but if you stay here longer, they'll do that too.

MR. McGETTIGAN: Not to interrupt you, but when the World Trade Center hit, it may be a little-known fact, but voluntarily American Transit gave a 2 percent credit back to all insured under TLC aegis. It cost us $2.4 million.

(Applause.)

COMM. DEAR: The question was always, it's no secret how I feel about this issue, is if we are to roll back, if that ever happens, are we going to see a reduced rate?

MR. McGETTIGAN: Just to give you an example, clean driver is roughly 6200 in car service. It would go down to 4800 immediately.

COMM. DEAR: Immediately. What do you
need to see go down? What do you need to change to see
that happen?

MR. McGETTIGAN: 100/300 to 25, 50/150 to 50
and it would go down from roughly 62 or 6400 to 4800
immediately.

COMM. DEAR: You don't mind, I know you're a
large insurance company, but would it also encourage
other companies to come in?

MR. McGETTIGAN: I don't know that. The
industry itself, with all due respect to the industry
because it's what we do for a living, but the industry
brought in all these companies coming in at 50 percent
of my rate, you bought into it. You went for the golden
dollar. I'm not talking TLC, everybody here, you bought
into this stuff.

Eighteen companies came in, they all went
out. PRG, Sureco, white collar companies, employers.
Wausau got murdered because of some brokers that were
less reputable, but everybody that gave all the money to
these characters, the $3,000, they bought into the whole
ting. To a certain degree, the industry is responsible
for the industry's situation today.

COMM. DEAR: Meaning what's that?

MR. WEBB: Commissioner, in answer to your
question, I think Joe De Mauro had the answer, in fact.
He said probably, because once you get it down there, then the competition can come in. The competition couldn't come in at that level because of what Mr. McGettigan said, they couldn't handle it. They were going out.

COMM. DEAR: He said they're going out for something else, not because of the increase.

MR. WEBB: They were selling policies at a lot less than what American Transit was doing, they couldn't handle it. If you brought it down, would that encourage others to come in? Possibly, but that's something the Insurance Department has to make a determination on.

MR. McGETTIGAN: What you're saying is true. In '97, Merchants Bankers, they were writing 103 at $3,600. That's $1,200 less than I was writing it for 25/50 and they were being sold as black cars, because a guy that had a '90 Chevy bought a '96 Lincoln, they got a radio rights letter and they called it black car, they bought it, the whole nine yards. And I gave them ten months and I think they were out in nine.

COMM. DEAR: There was fraud there. We hear that all the time.

MR. McGETTIGAN: But in '98, though, these guys were writing. There's a dozen stories. Reliance,
Hylan. Legion, CGU.

MR. GREENBAUM: And the fund has no money to pay their claims any more.

MR. McGETTIGAN: They were writing at an inadequate rate and that's what happened.

COMM. DEAR: What percentage is driving your business; livery, taxi?

MR. McGETTIGAN: Like unsaturated oil.

99 percent.

CHAIRMAN DAUS: I apologize to the other members who wanted to speak. We wanted to spend some extra time with American Transit because of their high level of involvement in this issue.

One more question from Mr. Rubinstein.

COMM. RUBINSTEIN: I know we're running late on this, but I want to emphasize something the Chairman brought up and in the past few years you had said increases were not put in only recently with the fifteen and fifteen, and Commissioner to my left here, my buddy, said that, which was a question I wanted to ask about, was there a necessity for a 30 percent increase and you explained that correctly.

I just wanted it clarified for my own brain here in terms of what Commissioner Torres said. I would have thought, now, perhaps incorrectly, with this
information, that if only one injury reached the max of
200 in all these years, and now you had said that there
were lower claims and the lower claims with the
attorneys and all that increased the premium, is this, I
mean, this is a fact that, did you at all consider
lowering the rates at any point, because only one person
had this $200,000 max since '98?

 MR. McGETTIGAN: I understand your question.
 COMM. RUBINSTEIN: Is your answer that there
was a significant amount of lower claims --
 MR. McGETTIGAN: You're talking about in
no-fault.
 COMM. RUBINSTEIN: Whatever you said invoked
this increase in premium, and I think you had said it
was in the $50,000 --
 MR. McGETTIGAN: You invoked the increase.
 COMM. RUBINSTEIN: Was it in the $50,000
category?
 MR. McGETTIGAN: Across the board.
 COMM. RUBINSTEIN: Across which board? Give
me a number. Was it 10,000? 20,000?
 MR. McGETTIGAN: You went from 25/50 to
100/3.
 COMM. RUBINSTEIN: So all of those
MR. McGETTIGAN: Everything increased, under TLC aegis. You file a rate for that. Just because you're not experiencing any losses in that layer now, because you can't reduce your rate unless you have prior approval.

COMM. RUBINSTEIN: What you're saying is if we go back to the 25/50, a lot of these claims will go?

MR. McGETTIGAN: They don't hit. They're imagined.

COMM. RUBINSTEIN: And the attorneys, they won't have enough incentive to bring it up, that's your words.

MR. McGETTIGAN: That's my words.

COMM. RUBINSTEIN: I want it clarified for the record, that's all, you understand.

CHAIRMAN DAUS: We'll move on to the next speaker.

MR. MAZER: Very quickly, I just want to clarify one thing for the record. Are you saying that next year you will not be requiring monthly premium payments and you will allow any licensee to pay in full without the monthly service charge?

MR. McGETTIGAN: That's true. We only had maybe 20 people at most. Everybody complained, but it
was only about 25, 30 people.

MR. MAZER: That paid annually?

MR. McGETTIGAN: That's correct.

MR. MAZER: But next year, anybody that has an American Transit policy will be able to pay in full at the beginning of the year and not pay a service charge?

MR. McGETTIGAN: That's correct.

CHAIRMAN DAUS: I want to, first of all, applaud you for clarifying that issue regarding accessibility. Do you have any details to offer the public right now about the accessible program in terms of the premiums and insurability?

MR. McGETTIGAN: We're going to file it, but from my understanding, your sale, one fellow bought all the wheelchair accessible vehicles and he's self-insured, so --

COMM. TORRES: We have to address it in the future anyway.

CHAIRMAN DAUS: Do you have a filing in there now?

MR. McGETTIGAN: We're about to make it. We'll be happy to talk to you about it off line. Not for a public hearing.

CHAIRMAN DAUS: Once it's approved, you will
be able to inform the disabled communities?

MR. McGETTIGAN: Once it's filed, it's public information. You can get it from the Insurance Department.

CHAIRMAN DAUS: Thank you very much. It was very informative.

MR. PLAFKER: I want to thank you for the opportunity to speak. My name is Alan Plafker, president of Member Brokerage Service, which is a division of Melrose Credit Union, one of the major lenders to the industry. I also serve as director on the Board for the Professional Insurance Agents for New York.

I'm concerned about an important insurance issue which has not yet been discussed here and I'm kind of curious if anyone is aware of, which affects the industry. There is a guarantee fund for any companies that become insolvent to pay claims on or protect policy holders, as well as the public, because they could be passengers as well, and the guarantee fund is insolvent. They have been denied claims on companies that became insolvent a few years ago and there is no mechanism to create this fund to be solvent.

Now, this is a separate and distinct fund from the general insurance fund. The general insurance
fund is in good shape, there are mechanisms to keep it solvent. For some reason the legislators have kept this fund separate and it is not solvent, so this is something that in the event of the insolvency, there would be no protection, and it's kind of like the FDIC is to a bank account. You go to a bank that's FDIC insured, you think you're protected and in this case a policy holder that buys a policy from an admitted and licensed insurance carrier in New York believes they will be protected by New York State.

So there was one legislative movement to consolidate the fund, with the general insurance fund, that did not happen. I have asked the PIA to propose something to the legislators to have some communication to correct the problem.

I'm just addressing the TLC and the Commissioners that I question whether anybody is aware of this and if there's some way that we could have some cooperative effort to support some changes in the Insurance Department and the Legislature to protect the public and the policy holders. A lot of the insurance companies mentioned before, a lot of them -- as a matter of fact, Barbara had mentioned some of those companies that came in, McGgettigan, also these companies that came in and went have left these policy holders without any
protection, so if anybody has any questions or if
there's any other information you need, I would be glad
to help in providing that.

CHAIRMAN DAUS: That would be accomplished
through a legislative change to the State law?

MR. PLAFKER: To my knowledge it's a
legislative change. We don't know what the solution
should be. The question is why has it become insolvent,
why isn't there a mechanism to improve it and for some
reason they did not consolidate it with the general
fund.

CHAIRMAN DAUS: We'll look into that and
we'll talk to you and we'll also talk to the State
Insurance Department on that issue. Thank you for
bringing it to our attention. It's pretty scary
actually.

MR. PLAFKER: I'm just curious, has anybody
known about this?

CHAIRMAN DAUS: I was under the impression
that the general fund had applied to this situation.
You're talking about Highlands and some of these
companies that went under, these people have no
recourse.

MR. PLAFKER: I know Legion, Reliance, these
are carriers that have gone insolvent and policy holders
have gotten letters from the State Insurance Department
saying they cannot protect the claim, there's no funds
available and they must go out and hire their own
attorneys to protect a claim they've been involved with.

CHAIRMAN DAUS: I was certainly unaware of
this. We'll look into this.

MR. GREENBAUM: They're licensees of the
TLC, people who have gotten these letters.

MR. SCALICCI: They were supposed to move
$50 million from the general fund into this fund.

CHAIRMAN DAUS: That's Joe Scalicci, for the
record. It's becoming very difficult for the court
reporter. Let's try to keep to the people who are
speaking. Sorry, gentlemen. It's very confusing up
here.

MR. PLAFKER: Just to clarify, there had been
a lot of rumors as to why that the funds are taken out
of the fund, or that there's supposed to be funds moved
into the fund. I'm trying to get to the bottom of it,
if there's anything the Commissioners can do to help in
that effort, maybe if they could work with the PIA, they
could help look into that as well.

COMM. RUBINSTEIN: Could you just repeat
who you are representing?

MR. PLAFKER: I represent Member Brokerage
Service, we're an insurance brokerage. I also happen to be a director at PIA, and have asked them to put that on their agenda for their legislative people to work with the Legislature to look into it.

CHAIRMAN DAUS: What is PIA?

MR. PLAFKER: Professional Insurance Agents of New York, it's an association of insurance agents.

CHAIRMAN DAUS: Thank you. We appreciate that.

Next speaker is Jim Watters.

MR. WATTERS: My name is Jim Watters, I'm currently a reinsurance broker. I'm not going to identify my firm, because I have no doubt that some of my opinions, which are my personal opinions based on years of work in the industry might not agree with my superiors or my colleagues. You asked several questions principally about insurance availability in the voluntary markets and your presentation was very pertinent to that. According to the State of New York, there are 70 companies that have Departmental approval to write public auto or have a specific livery filing. Of those seven organizations, there are only five shown on your website. Of those five, really only three are active in the market. Those three companies have about $45 million in total surplus, significant reinsurance
recoveries. Six to one premium of the surplus ratio, not much room for error in that. My point is, the experience of insurers and reinsurers in this market over the last fifty years has not been particularly advantageous. Numerous companies that were mentioned by previous speakers have come into the market, underpriced the market, for lack of good statistics, and gone out of the market. I've spoken to companies and reinsurers who have loss ratios of three to 400 percent, 200 percent, 150 percent and the issues generally comes down to issues, as you pointed out, of fraud and abuse in the industry and it's not simply claimant abuse; PIP fraud, Worker's Comp., that certainly exists, not simply provider abuse, medical practitioners, trial lawyers, although that exists as well. Not necessarily insured abuse, by that I mean misclassification of my vehicle, what my vehicle is doing, who is driving my vehicle, the fact I don't lend out my vehicle for someone else to drive; renting of radio base certifications to secure a lower rate, black cars stopping at subway stations to pick up passengers. There has been carrier abuse by companies who are no longer with us. Thankfully there are a lot of reputable carrier people in the room right now. Inappropriate claim response, claims denials, coverage
denials, probably the one thing that impacted the
insurance and reinsurance community the most over the
past thirty years has been producer abuse. Simpler part
of that has been simply misclassifying what the vehicles
and drivers did, but there's also been charge of
excessive fees and there have been outright thefts of
premiums that were supposed to go to a particular
insurance carrier but ended up someplace else.

May I continue for a couple of minutes?

CHAIRMAN DAUS: Yes.

MR. WATTERS: You also asked what the TLC
and/or the New York Insurance Department might be able
to do to encourage participation of insurer and
reinsurer. The simplest thing you can do is lower the
100/300/100 requirement to minimum statutory limits, but
that doesn't mean that insureds won't have the option to
buy coverage over that. You could encourage the excess
and surplus lines carriers which are not filed in New
York to write coverage over the minimum statutory
limits. They can in fact charge the premium that they
think is necessary.

Risk retention groups, theoretically, can
operate in New York State, although practically the
Insurance Department has said the risk retention, risk
coverage does not meet statutory requirements, financial
responsibility requirements. Which means you can write
a commercial automobile policy, but you can't then
register your vehicle.

That's one thing I think the Insurance
Department can do to encourage additional carriers to be
on the market. Probably the principal thing that the
Taxi and Limousine Commission and New York's Insurance
Department could do would be to collect statistics,
specific statistics in terms of how many accidents, what
premiums were charged, what the classification was, what
the incurred loss was, paid loss was, what medical
providers were involved, what insureds were involved,
what drivers were involved; information that you can use
internally and once it was sanitized to remove any
proprietary data, could be provided to the insurance and
reinsurance industry in general, because all they really
have right now, other than those who participated in the
programs where they've lost $4 in claims for every
dollar they took in in premium, any other information
they have is anecdotal.

Insurance industry, reinsurance industry
really is founded on some statistical basis of some
kind. In the absence of statistics, if they can make a
15 percent return running homeowners in Westchester
County, they're not going to come in in New York State
It's been my experience for a long time that if insurance carriers, the 72 or 75 companies that are licensed to write this coverage, if they really thought, if they had the data to show that they could make money in this line of business, they'd all be racing into New York to write the business. Insurers need to make money, need to pay their shareholders.

Thank you.

CHAIRMAN DAUS: Thank you. Next speaker is Mr. Michael Harris. Michael Harris.

Good afternoon.

MR. HARRIS: Good afternoon. Chairman Daus, Commissioners. My name is Michael Harris. I am the Chair of the New York State Young Democrats for Disabilities Issues Caucus and just to clarify, because looking through the minutes from the August 25th meeting it has me listed as the 88th compliance officer for the Young Democrats of America; it's the ADA compliance officer, not the 88th.

CHAIRMAN DAUS: We could clarify that. We could vote right now to clarify that. Do we have a motion?

COMM. RUBINSTEIN: Motion.
COMM. TORRES: Second.

CHAIRMAN DAUS: All in favor?

(Chorus of "Ayes.")

CHAIRMAN DAUS: We'll clarify that right now.

Two years ago today, as we sat here and listened to this Commission vote to only approve 27 new accessible taxis we heard time and time again, drivers, fleet owners and advocates for the taxi industry testified that insurance rates would be prohibited from having accessible vehicles that could service the disability community. This was one of the prime reasons given in the testimony on August 25th against the issuing of 300 new medallions for accessible vehicles, which ultimately led to the issuance of only 27 new accessible medallions.

The New York Times article which appeared that day, stated the Taxi Commission is also finally enforcing a three-year-old rule requiring that all black car and livery cab companies, more than 700 in all, either buy their own wheelchair accessible vans or contract with another company to provide it on demand.

To this day, this is still not happening. The rule is in effect and it is being enforced. However, it is being misenforced, because companies are not able to
There are still less than 25 accessible vehicles that can be contracted with or used by these companies, serving five boroughs in the City of New York. It is not reasonable nor feasible to expect them to be able to provide service in the same amount of time. Many of the companies have tried to buy their own vehicles and they faced obstacles with insurance, being unable to get it. As you stated at the auctioning of the new medallions for taxis last week, that it would be difficult or impossible for those buying the accessible vehicles to get insurance. Now we hear from American Transit that they will be coming out with a proposal, which we have no idea how much it will be for. The fact of the matter is, it was stated in the introduction on insurance, the paratransit services are subject to the same insurance rules as car services are. That may very well be true, but they don't use the same rules. They require advance reservations, can take you out of the way and are quite unreliable. Car services are a direct route which allow people with disabilities much greater access to our society, and insurance has been cited time and time again as an obstacle for that. So I ask that if that is the problem of
insurance, something needs to be done, and there's a very simple solution. It was stated when you were discussing the minutes about Boston and Chicago and yes, I was one of the two people who testified about how easy it was to get an accessible cab in Boston. The fact of the matter is the way Boston and Chicago are able to have accessible vehicles and get insurance for them at the same rate is quite simple, and it's a solution that this Commission in and of itself could most likely resolve. In Chicago and Boston they do not distinguish between accessible and non-accessible vehicles, they are just car services or taxis.

If the Taxi and Limousine Commission were to simply consider all vehicles to be vehicles as opposed to distinguishing between accessible and non-accessible vehicles, there could be no way that insurance companies could have such distinctions and it would solve the problem easily. But instead, as we see, they are distinguishing, which is providing a discriminatory impact and is affecting service.

It was stated earlier that if you were to actually keep the insurance as it goes now, it would shut down car service companies. What is going to happen if this Commission enforces Rule 607F as it presently exists that you are going to fine and shut
down car service companies for failure to comply with
the rule that it is not their fault or unable to comply
with?  607F should be complied with, but it can't be and
it's not the car service base's fault, it is not my
local car service's fault they can't comply. They may
have a contract with A-Ride-for-All, but I have to call
them two and a half days ahead of time to get a trip.
Even ten days ahead of time I can't get a trip.
Something needs to be done quickly before
you start shutting down companies for no reason.
Basically, my point is this. Wheelchairs
are not used by just the elderly. They're used by
everybody. They're used by college students such as
myself; teachers, doctors, lawyer, professionals, many
different people from many different backgrounds from
all over the city and by this Commission having a rule
which is not working and is not being enforced and is
spreading disinformation about insurance and
contradicting yourself constantly, is doing a disservice
to the disability community and society at large.
The plain and simple solution is this:
Something needs to be done and it is unfortunate that
wheelchair users are denied a spontaneous social life
because of the actions of this body.
The fact of the matter is this:
Access-a-ride requires advance reservations. I can call a car service company and get a car at my house in ten minutes, except that I can't, because 607F is not working. You stated the solution to lack of accessible taxis is the use of livery cabs. It's not working and something needs to be done and this Commission has the authority and the ability to do it and it needs to act on that.

The bottom line is this: New York City refers to itself as the greatest city in the world. I've lived here all my life and it is a great city, but there are many problems, including transportation and the ability to get around for the several million people with disabilities who live and work in this state. I find the actions of this Commission and the actions of this City to be in direct contradiction with the doctrine of equal protection under the law.

The plain and simple bottom line is this:

As David Dinkins once said, we are all temporarily able bodied. I would challenge every one of you standing before me today to this: If you ended up using a wheelchair and tried to use car service companies, I will guarantee you that unless you identified yourself as from the Taxi and Limousine Commission, you, too, would have a similar problem to the one that I face and
the one that several million people with disabilities face of being unable to get an accessible vehicle in spite of the rules requiring it.

Insurance is a major issue. Everyone cites it, the industry cited it, you cited it last week and you need to do something to solve it. Plain and simple, you put a rule on the books and you started to enforce it. But issuing summonses and fining bases is not going to solve it. I brought companies here time and time again on complaints and had them been fined and call them again the next week and they were not able to provide the service again. I cannot blame the bases, unfortunately. Unfortunately, find myself blaming this Commission for their inaction. I don't like to do that, but unfortunately I find that's where the blame needs to rest.

Thank you.

CHAIRMAN DAUS: That's why we're here is we're trying to do something about that. I just want to point out for the record, too, I'd like to make a letter that the State Insurance Department wrote a part of the official record of this hearing and if we could append that as a copy, Mr. Mazer, it's a letter dated August 5, 2004 to Mr. Richard Brown from Fried, Frank, Harris, Shriver and Jacobson from Maurice Morganstern, the
Assistant Chief of the Property Bureau of the State Insurance Department. I'd like to provide a copy. We're not going to read it. There is a pertinent section in that letter which applies to this situation where, just to paraphrase it, the State Insurance Department is saying that there should be no difference in rates, there is currently no basis in law or filings for difference in rates between wheelchair accessible minivans and other vehicles, and that on the voluntary market, even though there's an issue that's being taken with the extent of the survey, there was some type of survey, though limited, that was conducted where the voluntary insurers classified, would classify such policies as general transportation.

And the second point to be made is that if you go into the assigned risk pool now and to the residual market, that insurance is available and is classified similarly to any other type of vehicle that provides general transportation in the assigned risk pool. There is no separate classification. Yet a wheelchair minivan could classify as an ambulette under the definitions in the assigned risk pool and actually pay less than a livery that's classified for general for-hire transportation purposes under assigned risk.

That's why we moved forward with our
medallion sale, for the record, is that there is
insurance that's available, it's out there. What
remains to be seen is that after one year of people
operating these medallions, what is the loss ratio going
to be and how is that going to affect their premiums,
but, for the record, I think it's important that as part
of the transcript we have this letter included.

Thank you.

Next speaker is Mr. Andrew Kurzweil.

Good afternoon.

MR. KURZWEIL: Good afternoon, Chairman Daus,
Commissioners. My name is Andrew Kurzweil. I'm a
member of the Disabilities Advisory Board. Basically,
the information I found out today has been very
enlightening but I feel, at least for the Disability
Advisory Board, is being presented to the disability
community in the wrong fashion and not the fashion that
the TLC has instrumented.

We have not had a disability advisory
meeting in about thirteen months, from my recollection,
and I think it would have been much easier for the
disability community to have understood this information
that was given today for the PowerPoint presentation and
other information between the drivers and fleet owners
and the insurance companies in a Disability Advisory
Board meeting. I think it would have been much easier for us, I think we would have been much more attuned to it and it would have taken a hell of a lot less time.

CHAIRMAN DAUS: We actually will be scheduling one in November.

I don't necessarily agree with you. I think in addition to working even more closely, and congratulations on your appointment to the Board, we'd like the Board to focus on even more types of working issues, but I think it's very important, because there are members of the disability community who are not members of the Board, people who don't even want to be part of it, that we still feel we have an obligation to communicate with, including the general public.

Your point is well taken, it's that we should have met with you first.

MR. KURZWEIL: Yes, that was my point.

CHAIRMAN DAUS: I agree with you. Mea culpa, we will meet in November.

MR. KURZWEIL: Plus, I feel it's a travesty that the medallion sales went out, especially with the planning and everything went out without us meeting with accessible cabs. I'm not trying to be unfair here, but unfortunately, this is your game, your game is to inform us of things that's going on. You want to create a
dialogue, we're not having it, and this is to me, I'm very disappointed.

CHAIRMAN DAUS: I stand here to reassure you that we will be dealing with the Boards in general more frequently. We have been -- it does take a lot of work getting the Boards together, and we've decided over the last couple of months we would defer meetings over the summer and spring because we have a lot on our plate. That doesn't excuse us not meeting with you. I apologize for that. However, we have had meetings with the disability community and other groups outside the Board, but shame on us for not meeting with the Board first.

Joe Rappaport has been meeting with other groups, Taxis For All, it's an oversight on our part. Thank you, and we look forward to working with you.

Fernando Matteo. Somebody is going to read it into the record.

MR. MAZER: Good morning, ladies and gentlemen. I am reading this statement on behalf of Fernando Matteo, President of the New York State Federation of Taxi Drivers.

"The Federation appreciates that the Taxi and Limousine Commission has brought forth this public hearing to explore the matter of insurance in our
industry with respect to wheelchair accessible vehicles. We believe this is very crucial matter in our industry and one that needs to be resolved as quickly as possible so we can move forward and properly serve the handicapped citizens that insurance companies have seemed to overlook thus far.

The demand for handicapped accessible vehicles far outnumber the supply of these vehicles in the taxi and livery cab fleet throughout the city. This is not the choice of the many bases in operation, but a direct result of the denial of insurance of this type of vehicle. Insurance companies refuse to insure these vehicles at a reasonable cost to the operators and the rates offered are so high that the cost of insuring a handicapped vehicle will put the operator in a financial stranglehold.

"In other words, over time an operator will lose money by paying the premiums of insuring a handicapped vehicle and eventually be forced out of business. Therefore, this amounts to a denial of insurance, because without an alternative, a business person will not risk their livelihood to provide a service.

"So, the number of vehicles that should be serving handicapped citizens throughout the city and
meeting the high demand of their transportation remains out of service. "The Federation wants it to be known that the community demands this service and our industry is ready to meet this demand, but without the cooperation of the insurance companies, we cannot move forward. Although our industry does not have the legal obligation to provide this service, we feel a moral need to comply, and so far we have taken the first step. Bases throughout the city have purchased handicapped accessible vehicles and are trying to make a concerted effort to meet the demand of those who need this service. "But now we need insurance companies to step up and do their part. They remain the missing piece that completes the puzzle. "We hope that a workable solution can be reached soon for the sake of our community and to insure the humane progress of our industry. "Thank you for taking the time to listen and for considering this very important matter. We look forward to working together to meet the demands of our industry. "Sincerely, Fernando Matteo, President, New York State Federation of Taxi Drivers."
CHAIRMAN DAUS: All right, next speaker.

Actually, we have you both down together I don't know if you're testifying together or separately.

Jean Ryan and John Gresham.

MR. GRESHAM: I am John Gresham, New York Lawyers for the Public Interest. As you probably remember, I represent Disabled in Action of Metropolitan New York. Obviously, we have a moving target. We've been hearing that there is either no insurance for accessible vehicles or that it's very costly. We've heard various statements from people representing the industry, from this Commission and its staff. In fact, when I was in this room at the beginning of I think the week before last, the opening of the accessible bids, the information from the Chair was that anybody who needed insurance was going to have to go to the pool for an accessible vehicle.

Today we hear from American Transit that they will be filing at some time that they don't state, papers for a rate for accessible vehicles with the State Insurance Department. They didn't say so, but I assume that that means a rate different from what they charge for inaccessible vehicles, or I'm at a loss to understand why they would be filing. I was not able to get any more information out in the hall after their
testimony as to when they'll be filing or what other
evidence they would have looked at in other cities.

CHAIRMAN DAUS: Did you interpret Maurice
Morganstern's letter as saying even if they made a
finding for the first year it would have to be at the
same rate as everybody else?

MR. GRESHAM: I don't know whether to
interpret it that way, but my understanding as a
nonspecialist in insurance is if there is to be a
different rate it would have to be justified by either
actual claims experience or reasonably anticipatable
experience, and so let me turn to that.

As we have told you in the past, we have
surveyed other places in this country which have
considerably more experience. New York City has only a
tiny number of accessible vehicles on the road, but
there are places that have dozens, scores, hundreds, and
have had them for a number of years, so there's a
substantial body of claims experience to look at.

We ourselves have looked at a number of
places; Fort Lauderdale, Boston, Chicago, Los Angeles,
and uniformly, have found from talking to people in the
industry, from talking to insurers and from talking to
regulators that nobody distinguishes in how much they
charge. Likewise, the City Council has recently had its
staff do some inquiries in Miami, Baltimore, Boston, Chicago and L.A., and they found the same thing. Nobody distinguishes.

I'm going to hand up a chart that summarizes our own findings. It's headed "Taxi Insurance Availability and Rates in Other Cities and States," and then attached to that in the back, I'm afraid you've already got it, the Insurance Department's letter. That being the case, I don't know what actuarial basis anybody could come up with to charge a different or higher rate. I guess we'll have to see.

I think Jean is going to want to speak to what we look to you for when this rate filing occurs.

CHAIRMAN DAUS: Sure. We just have one quick question from Commissioners, and then we'll turn it over to Jean.

COMM. TORRES: Mr. Gresham, at the August 25th hearing you stated that one could purchase an accessible vehicle retrofitted for as low as 26,500. Could you give me more specific information what type of vehicle that information is where we could get that information from?

MR. GRESHAM: Freestar. Okay, both exist.

That's a quote that the insurance did. It would be a Ford Freestar, retrofitted so the floor is lowered,
there's a ramp to enter from the back.

The company that would retrofit in that fashion which made that quote, is Liberty Motors, which has a relationship with Ford. That was one particular quote.

A number of other companies made quotes in the high 20s and several of them below 30,000 for vehicles like that or Chevies. Some rear entry, some side entry. The prices vary a little bit according to which vehicle you start with and which converter you look to and the details of the conversion. Bottom line is there's no question you can get an accessible vehicle that is a retrofitted U.S.-built minivan prepared for taxi service from a company that specializes in preparing vehicles for taxi service, as opposed to personal use.

COMM. TORRES: When you said the industry, would you happen to know what organization from the industry got this information?

MR. GRESHAM: Metropolitan Taxi Board of Trade. We can get it, we have a number of quotes they secured and we secured, which were all pretty consistent. There's some fluctuation according to who you ask and exactly what model you're talking about, but there are a number of vehicles available.
COMM. TORRES: They're all vans?

MR. GRESHAM: All minivans retrofitted for side or rear entry, U.S. made. Also higher priced ones, if you want to spend more money, you can, but I don't imagine that anyone would.

CHAIRMAN DAUS: Thank you. Ms. Ryan.

MS. RYAN: I'm Jean Ryan from Disabled in Action and Taxis For All campaign. I'd like to briefly say in light of what we've heard today and what we've been hearing, just so many rumors and so many things said about the high cost of insurance for accessible vehicles and then versus the letter from the State Insurance Company, our position is that if there is discrimination, we want the TLC to do something about it.

We don't want you to say, well, you know, this isn't going to work because the insurance is too high for accessible vehicles. We want you to find out why, if there is a difference in insurance, why there is and we want you to stop -- we don't want to have discrimination in the availability of these vehicles anything that impedes the availability of these vehicles, because it's our civil right to have access to transportation. We live in the City and we want to go places. Thank you.
CHAIRMAN DAUS: Thank you, Miss Ryan. Thank
you for coming.

The next speaker is John Reiersen from the
Robert Plan, or Rearson. I'm not sure if I'm
pronouncing it correctly.

MR. REIERSON: You pronounced it very well.

I've been in the business 41 years, 25 years as a
regulator with the New York State Insurance Department.

And I used to regulate taxi insurance.

I found the hearing very interesting. I
only got notice of it late Friday, so I was unable to
prepare some written testimony.

Robert Plan is the managing general agent
for AIU Insurance Company in the assigned risk public
auto pool and in the PAP CLAD program, those are the two
vehicles within the Plan that insure for-hire vehicles.

I think currently, I think you're right to
have this hearing, because there is I think a crisis. I
think when you only have one carrier that's handling the
majority of the marketplace, that's always a serious
situation, should something happen to that one carrier.

Market concentration in one, two or three carriers means
rates are not as competitive as they could be. Up until
1990 or so, virtually all for-hire vehicles were in the
plan and they were subsidized. They weren't subsidized
by any statutes, just that the Department wouldn't grant
rate increases over a certain amount.

Unfortunately, when all of the bad actors
came in in '94 starting with New York Merchant Bankers
and charging, as McGettigan said, ridiculous low rates
that caused market disruption in that the for-hire
vehicles left the plan and when they left the plan, the
experience of the plan turned really sour, because there
were only a few vehicles left and the rates today
reflect those vehicles.

2002-2003, we only had 100 for-hire vehicles
in the plan, other than ambulettes, paratransit. Today
we have 600. I guess anybody who American Transit turns
down either ends up going uninsured, going with private
passenger plates or coming into the plan, and I do agree
plan rates are very high. I would point out, though,
that there currently is a filing before the State
Insurance Department from the plan that increases
taxicab rates 6.5 percent, increases social service
ambulettes and medi-car by 44.6 percent. Now, the
actual experience for social service ambulettes and
medi-cars in the plan called for a rate increase of
95.6, so experience in the plan for paratransit vehicles
is not very good.

Most of the paratransit asks for limits
above 500. If you ask for limits above 500, and that's because they generally do work for our New York City Health and Hospital, other administrative agencies that require higher limits, you don't go into the public auto pool, you go into a different mechanism called SRDP, specialty risk distribution. Robert Plan is not a carrier for that, thank goodness. And the experience in that ambulette category, most of it comes from the SRDP carriers.

We need to do a number of things. I agree with the speakers that limits were increased far too high, 100/300 automatically increased taxi insurance 50 percent. The 200 PIP limit, I want to point out, while there haven't been any claims, I think the reason for that 200 limit going in was to protect pedestrians and in fact the 200 industrial PIP does not protect pedestrians. Pedestrians today are still protected for only 50. If a small carrier wants to get into the marketplace, and I'm president of Commercial Mutual Insurance Company in addition to being an officer of the Robert Plan, we write -- the only livery we write is physical damage for black cars. We're the only admitted market for that product.

But as a small company we depend on reinsurance and I think there was a reinsurance broker
who spoke today. Reinsurers look at exposure. They
don't look at actual loss history. Since 9/11 the
reinsurance market has severely tightened up. If I look
at four passengers in a car at 200,000 each, that's the
potential and also the liability, I'm looking at a
million dollar claim and that's the way they price that
product, not necessarily having had the loss, but that's
my potential for loss, and since there's been so few
people who have, one or two people who might have gotten
benefit out of that coverage, I think it would help the
taxicab industry to bring that down to 50 or 100,000.
The other possible solutions I would
suggest, I agree with prompter claim reports from
drivers. We need to get control over who's driving the
vehicle. Those are the two main factors. 25 percent of
the premium today is no-fault coverage and there is
no-fault reform and bodily injury reform that's been in
the Legislature for years languishing and I think TLC
could help this year in trying to get that legislation
through, and what we're talking about here is things
like more time to investigate claims. If we suspect
fraud, if we don't pay or deny in thirty days we have to
pay regardless of whether we think the treatment is
necessary or related to the accident. That's a Court of
Appeals decision. We need to get more time to
investigate fraud.

Runners are the real bane of the BI and the PIP. Runners get paid a price by providers and lawyers--

COMM. TORRES: Could you clarify "runners,"

please?

MR. REIERSON: That's the intermediary, the person who works for lawyers and health providers and either sets up accidents, stages accidents --

COMM. TORRES: So, in other words, it's illegal to be a runner.

MR. REIERSON: It's not illegal, not today, but there is a bill in the Legislature to make it a Class B felony.

COMM. TORRES: Not to interrupt this, but, once more, a runner's purpose is what?

MR. REIERSON: To facilitate getting the accident victim to health providers and attorneys.

COMM. RUBINSTEIN: Could you go through a runner; what he does, there's an accident --

MR. REIERSON: They have runners in the emergency rooms, within police departments --

COMM. RUBINSTEIN: A runner would be sitting at an emergency room?

MR. REIERSON: No, at home, some location.
They monitor police reports, frequencies --

COMM. RUBINSTEIN: He's on a scanner. All right, go ahead.

MR. REIERSON: And they go to the scene and they encourage the person to go to particular attorneys and pick particular health providers.

COMM. RUBINSTEIN: How does he get paid?

MR. REIERSON: By the attorney, health providers.

CHAIRMAN DAUS: The fact they're runners isn't illegal. They do go to jail or get charged with crimes if insurance or other fraud can be proven?

MR. REIERSON: If they're setting up an accident.

COMM. RUBINSTEIN: How prevalent are runners?

MR. REIERSON: Very.

COMM. RUBINSTEIN: You said there's something before the Legislature?

MR. REIERSON: Senate Bill 123, which would make it a crime.

COMM. RUBINSTEIN: Why isn't it being passed?

MR. REIERSON: You have to ask Sheldon Silver. It's passed the Senate for the last four years.
There's a certification procedure for health providers, it would help to get more money for law enforcement to fight these claims.

CHAIRMAN DAUS: Do Reg 68 and 83 apply to the New York Auto Insurance Plan as well?

MR. REIERSON: Absolutely. Reg 68 will help a bit, Reg 83 will help with the fraud with orthotic and prosthetic appliances.

CHAIRMAN DAUS: What was the assigned risk plan's experience with our higher minimums of insurance? American Transit testified in the voluntary market as to what impact it had. Did it have the same impact or different impact on the plan?

MR. REIERSON: There are very few claims that go above 50,000 on PIP. That has always been the case and is still the case today. If there are few that go above 50, there are fewer above 100 or 200.

In liability claims, you're going to have somebody who is really hurt. In New York you have a serious injury threshold to sue, you have to be seriously injured. If somebody is seriously hurt, given our courts in the City of New York, you're going to get 100, whereas you would have gotten 25. So undoubtedly what has happened is not the frequency of claims, but the severity, and the premium is the severity times the
frequency. The severity has doubled, okay, so the
average cost per claim has doubled. The frequency has
stayed about the same maybe gone down a bit.
CHAIRMAN DAUS: You've had less claims since
our rules went into effect in the assigned risk plan,
but more severe claims?
MR. REIERSON: Absolutely. The average cost
per claim is up.
CHAIRMAN DAUS: Do you have any actual
statistics or numbers to share with us?
MR. REIERSON: APSO can provide those. I
can get those for you.
COMM. RUBINSTEIN: I want to note here what
you're saying is contradicting American Transit.
MR. REIERSON: I don't think so.
COMM. RUBINSTEIN: They said they have a lot
less claims and no severe claims. I was here, I heard
it. That's the basis of their increase of 30 percent
over two years.
MR. REIERSON: I'm not testifying for
American Transit.
COMM. RUBINSTEIN: I don't want to obviously
pit them against you, but it's contradictory.
MR. REIERSON: It's not that many more
claims go from 100 to 300, it's now you have the
coverage for 25/50, so if you're seriously hurt we're
going to pay out a lot more money. They are correct in
saying that the higher limits will encourage more
attorneys to take cases.

COMM. RUBINSTEIN: That's not what I'm
focussing on. I'm focussing on you're saying there
aren't that many claims.

MR. REIERSON: The BI claims, bodily injury,
over 25/50 have increased enormously.

COMM. RUBINSTEIN: No.

MR. REIERSON: They have.

COMM. RUBINSTEIN: So there are more claims.

CHAIRMAN DAUS: I think he was referring to
PIP, Commissioner Rubinstein. Am I right?

COMM. RUBINSTEIN: I apologize, I'm not
trying to put you --

CHAIRMAN DAUS: They're two separate plans.

You stated, did you not, that the amount of claims for
PIP that the Robert Plan has paid out has declined.

MR. REIERSON: For PIP?

CHAIRMAN DAUS: Yes, the number of overall
claims has declined.

MR. REIERSON: No, I said there weren't many
claims over fifty thousand for PIP. For Robert Plan
we've been running good loss ratios on the for-hire
business. There has not been a rate increase for
taxicabs and livery and medallions for about three
years.

CHAIRMAN DAUS: Could that also be because
the amount of premium is so high that people who have
very bad records don't bother?

MR. REIERSON: I think it's unaffordable.

CHAIRMAN DAUS: Right.

MR. REIERSON: The one thing we do note, we
also insure a lot of private passenger vehicles in the
plan and we have a unit that just looks to see if we're
not getting a taxicab coming in on a private passenger
application and we catch four or five hundred a year.

If you multiply that by the whole industry,
there's probably over 4,000 vehicles operating as livery
here that are being insured under private passenger.

CHAIRMAN DAUS: I think it's important for
some of the Commissioners, I just want to clarify your
role. The Robert Plan, there's one insurance company
that administers the assigned risk pool. So if you
can't get insurance with American Transit, or anywhere
on the volunteer market, you end up going with the
assigned risk, but somebody has to step up and act like
an insurance company, pay out claims for that premium.

So that's what the Robert Plan does. Is that accurate?
MR. REIERSON: Yes.

COMM. DAUS: And so, Mr. Reierson is in charge of that.

COMM. TORRES: So you're the administrator of Allstate, and State Farm, if they get assigned, they come to you?

MR. REIERSON: There's only two carriers that handle for-hire vehicle risks, other than paratransit.

COMM. TORRES: Who are they, please?

MR. REIERSON: That would be AIU and American Transit, they handle their own. Everyone else is in the pool.

Within the plan I worked hard to put in safety group programs. When I started within the program I used to examine self-insured taxi groups. These were groups of medallion cabs that got together and self-insured themselves, and they paid significantly low rates, and I think that the answer is to get the better drivers and the better bases into a safety group. There are safety group dividend plans available in the plan now. They do have certain features, they do require drivers to be 23, you have to have -- you can't have a ton of violations and accidents, and you have to take defensive driving courses, ten safety meetings,
have your vehicle inspected frequently, et cetera.

There is also a $500 liability claim deductible in that program, which would encourage some more risk management at the base, since there will be a penalty for every claim they're involved in. They pay that, and a $500 late claim reporting penalty. If the claim is not reported within fifteen days, the insurers charge them additional $500.

These are I think what risk management, bases or fleets can really significantly reduce their premium and the program and the plan provides for a retrospective dividend, so if it turns out that their experience improved, they get a refund of the premium.

COMM. TORRES: Who would coordinate that?

MR. REIERNON: The broker. The broker, an insurance broker --

COMM. TORRES: The Association can do that also.

MR. REIERNON: The agent, but in the plan everybody who is a broker would, and primarily there are a number of brokers who specialize in writing the livery market today. They can get a higher commission, instead of getting 5 percent they get an 8 percent commission if they put together a safety group dividend program.

COMM. TORRES: What's the minimum number
MR. REIERSON: You need a minimum of ten vehicles.

COMM. TORRES: Is there a max?

MR. REIERSON: No, but in order for a retrospective dividend to apply, there has to be 350 in the entire program.

COMM. TORRES: Do these individuals have to pay the premium all at once or can they work out payment schedules? The other issue, if you have someone --

MR. REIERSON: The plan has, I believe, a seven pay installment plan. If they participate in the safety group dividend program they get a 25 percent deduction up front that includes the 10 percent base discount, 10 percent defensive driving course discount and an additional 5 percent, so I think the Department could maybe work with some of the taxi organizations to try to establish safety group dividend programs and I think if they demonstrate good experience, then they will find an entrance into the voluntary market.

And, finally, I know the Robert Plan used to administer a quarterly sticker program for taxis and it was done away with by the Commission. It worked very well if it did. This quarterly sticker would only be given by those companies who write for-hire vehicle
business, and there aren't too many of them, so it would
be easy to control and that would eliminate the use,
that would eliminate the ability to drive a private
passenger and it that would make sure the vehicle is
buying the higher limits of coverage.

COMM. TORRES: What is that?

MR. REIERSON: Quarterly insurance sticker.

I know whenever I'm in a cab in another city I try to
sit in the front seat and look at all the stickers and
most jurisdictions have an insurance sticker.

COMM. TORRES: So the insurance sticker they
have to put up every three months?

MR. REIERSON: Yes, it's a different color
every month and insures everyone who is licensed by TLC
has in fact got the proper insurance.

COMM. TORRES: Who would administrate that,
the insurance company? The carriers?

MR. REIERSON: Could be TLC. Robert Plan
was the administrator of it for the industry.

COMM. TORRES: I hear stories about people
buying insurance and letting it lapse --

MR. REIERSON: Then they wouldn't get their
next quarterly sticker.

Thank you, unless there are other
questions--
CHAIRMAN DAUS: One more question.

MR. REIERSON: I'm going to look in the voluntary market myself.

CHAIRMAN DAUS: We would like to have some followup with you to attain the statistics you referred to. We'd like to understand what the claims experience has been since these rules we passed in '98 went into effect. How it affects, even in your situation, where you're dealing with residuals, the effect on the plan in terms of liability and claims for PIP, in particular, if we can get the average amount that was paid out, how that impacted upon the difference in premium, and also the quantity of claims before and after and however you can break it down.

Commissioner Torres?

COMM. TORRES: Two more questions. What's your name again, I'm sorry?

MR. REIERSON: John Reiersen.

COMM. TORRES: The second question is, you had made a statement when we passed the regulation for $200,000 PIP, you said it does not apply to pedestrians. Why is that?

MR. REIERSON: The no-fault law is an occupant coverage, so if you have additional PIP, it only applies to the occupants of the vehicle.
CHAIRMAN DAUS: I can speak to this. I actually wrote an article on it once. When we passed the insurance reforms in '98, we had a problem. The problem was, we have the authority to do whatever we want in terms of the limits, but there was a reg on the books from the State Insurance Department from many, many years ago, for reasons which had nothing to do with what we were doing, restricted pedestrians from being able to recover no-fault insurance, and the reasons had nothing to do with us, and we made I think a case to the Insurance Department, I had meetings with the Superintendent, we actually put it on our legislative agenda for Albany to change that. It never went anywhere.

It is an issue, I think, of concern how pedestrians are treated differently. I think the reasons why that reg was passed have nothing to do with what the reality is today, where most people, in Manhattan in particular, are pedestrians, and aren't entitled to the same benefits. The whole theory, no-fault is something you voluntarily purchase to protect your family members and people that are in the car, so the Legislature and the State Insurance Department, at the time they passed these regs weren't thinking about the TLC, they weren't thinking about the...
fact that somebody might come along one day and mandate
this for people who had no choice. The whole thing was
you purchased this to protect you and your family, not
the pedestrians on the street.

MR. REIERSON: Part of the statute, the
no-fault statute since the 1970's.

COMM. TORRES: If I'm in my car and I hit
someone, that person is not entitled to no-fault?

MR. REIERSON: They're entitled to fifty
thousand.

COMM. TORRES: And the taxi driver is in the
same situation?

MR. REIERSON: If they have additional PIP--

COMM. TORRES: The minimum is 50? I don't
understand, why can't we increase it to 200, the
mandate.

MR. REIERSON: There have been bills in the
Legislature to do that, but they have not passed.

CHAIRMAN DAUS: Because there's a difference
in the State law between mandatory PIP and voluntary
PIP. You and I are required to get mandatory PIP
coverage of fifty thousand for our personal vehicles.
However for an additional premium we could buy 100,000
or a million to protect our family.

There's a reg that deals with this that
prohibits pedestrians from recovering for that additional layer of insurance that you or I would buy.

However, what we did, instead of going to the State to get the State to change the regs and the law, the Commission used its Charter authority, which is pre-empted by the State reg which was on the books for those reasons, so we kind of mandated this additional PIP, but the State still kind of conceptually views it as a voluntary thing for purposes of that reg.

MR. REIERNSON: Article 51 only applies to mandatory coverage. You give up your right to sue in return for getting $50,000 in benefits. Additional PIP is not part of Article 51. Companies can place a lien for what they pay on additional PIP, they can subrogate for additional PIP. You cannot subrogate for the first fifty thousand. That's something you also can't sue for. But you can sue for an additional fifty thousand. And in order to change it so pedestrians get a higher amount, you have to change Article 51.

On the statistics you requested, you have to understand that for 2001, 2002, 2003, there's only like a hundred for-hire vehicles in the plan, so the experience is extremely limited. The main business in the plan today is really the paratransits, they're probably about $65 million worth of business in the
plan, so there should be a little more experience. That started coming in when Frontier went out of business.

CHAIRMAN DAUS: Would these statistics be subject, if they come through NYIAP, to the FOIL law and public disclosure?

MR. REIERSON: APSO is the rating agency for the assigned risk plan and they're pretty good. They're all part of rate filings, so they should become a public record.

COMM. TORRES: Are there any yellow taxicabs in your assigned risk?

MR. REIERSON: Not many, a handful. I think the fleet cabs are starting to come in or they can't get insurance elsewhere. If you own a medallion, I hear the price of a medallion is unbelievable. When I started out it was like $60,000 but if you have an investment of 350,000 you're going to make sure you have insurance, so if you can't be written by the voluntary market, you're going to come to the plan.

CHAIRMAN DAUS: You're saying if you'd do it all over, you'd buy a medallion instead of going into insurance?

MR. REIERSON: I think so.

COMM. TORRES: One more question. Someone testified earlier that to get an assigned risk plan, the
MR. REIERSON: For what we call an all other.

There are only two classes in the plan. Owner-driver and all other, okay? In the voluntary market you might have more classes. In fact, I did away with all the other classes because there was so much fraud in people actually lying about what they really were.

So really owner-driver is one class of business where the only people who can drive that vehicle are the owner and the spouse of the owner and then there's everybody else, and in the all other class, the premium today, 400/300 with 200 PIP is about 25,000.

You can reduce that by the base discount, which everybody gets, you can reduce that by taking defensive driving courses, you can get it down to like 21,000.

CHAIRMAN DAUS: Thank you for your time, Mr. Reiersen, we appreciate your patience. We also appreciate the patience of Mr. Dave Pollack, our next speaker.

MR. POLLACK: Good morning, Mr. Chairman, Commissioners. First of all, I'm going to miss Peter Mazer, I'm going to miss Jed Applebaum, sorry to see them go. I want to thank the Commission for your positive efforts regarding the wheelchair accessible medallions. I think it's a very good start and the
industry appreciates all your efforts regarding the
wheelchair accessible medallions.

I think one thing I've learned here today, the last gentleman spoke very eloquently. American Transit, it was a world of information for me. I haven't been an insurance broker in the state for quite a few years so it was quite enlightening. I think one thing we learned was the higher the limits, the higher the premium; the lower the limits ultimately the lower the premium.

I wanted to make a comment also, somebody commented about all other cities and wheelchair accessible vehicles. Most other cities are not strictly hail and that's a big difference, because if you do call for a car it's prearrangement and I wanted to make that clarification.

People from New York State, Joe De Mauro, I don't know if anybody is still here, they were talking about livery taxis in their presentation. I wanted to ask them if that applied to yellow taxis also. They mentioned the liability insurance would be the same for a wheelchair accessible vehicle as a regular vehicle and I just wanted to know where they got that, what statistics they used or with whom, where they got that information from.
I'm glad to hear American Transit is working on a new program. I don't know what that means for liability premiums. I guess we'll see, but to make a statement, an official in New York State that the premiums would be the same, I'd like to know where their statistics come from that they came up with that.

That's all I really wanted to say today.

Thank you for your time.

CHAIRMAN DAUS: Thank you, Mr. Pollack. The last speaker is Mr. Vincent Simpone. He's gone? Okay--

VOICE: Excuse me, Commissioner, Ira

Goldstein invited the president of Global Vehicle Technologies, Jim Scribner, to speak to this group.

CHAIRMAN DAUS: On the insurance issue?

VOICE: In terms of machine to machine crash data.

CHAIRMAN DAUS: Sure. You'll be our last speaker, then.

COMM. TORRES: This is the technology piece, right?

CHAIRMAN DAUS: And its relationship to insurance. Okay, let's do it.

MR. SCRIBNER: My name is Jim Scribner, Global Vehicle Technologies. The way they build cars,

they use these data collectors in the cars to build
cars. This plugs into every car in America today. It pulls down information off of every car to tell you what's going on in the car. I'm talking about throttle, speed, automatic crash notification, G-force on a hit, the exact time, date and location of where that vehicle had a crash. It will send it back wirelessly to a base station, to the TLC, to the insurance company, to the Police Department or wherever, but the information is automatically available off the ECM in the vehicle, so, electronic control module in the vehicle contains all of the crash data that you're talking about; when did it happen, what was the G-force, who was involved, whether the seat belts were fastened; hit from the front, hit from behind, so forth. That's all contained in that ECM.

By adding a device called a vehicle information module, you can collect all of that information, have it at your disposal. So information is the power to manage. You have exactly what happened, exactly where it happened, exactly what time it happened, exactly the location that it happened and the statistics behind what was in the vehicle at that time. So you can manage the risk by having the information, by having the information, that's all, everybody gets the same information.
When a runner comes, this is the information, this is the information that legitimately comes off of the air bag in the vehicle, so you can interrogate the air bag in the vehicle and find out what happened in the last five or ten seconds in a crash; speed, throttle, location, braking, skid conditions, you can look at everything, right through one of these little boxes. So the power is, the fleet manager can now manage his fleet because he knows what the gas mileage is, how he's driving, what the fingerprint of the driver is, and the way physically the guy drives the car.

Are you familiar with these two wheel scooters that you see on the street? This little device can be put in the vehicle and it allows you to measure the, it's a gyrus, so you can measure whether a vehicle was touched, so you can tell whether the guy hit a vehicle, hit a pedestrian, backed into a sign, or an air bag crash. NTSA, automatic data recorders, NTSA says you can reduce your cost 60 percent by having these data recorders in a vehicle.

CHAIRMAN DAUS: Insurance companies are giving discounts in premiums?

MR. SCRIBNER: Progressive Insurance Company gives a 25 percent discount on insurance if you put one
of these in the car and you agree to let them have the
information.

COMM. RUBINSTEIN: I have a few questions on
that. What's your name sir?

MR. SCRIBNER: Jim Scribner.

COMM. RUBINSTEIN: You represent the
company?

MR. SCRIBNER: I'm the company.

COMM. RUBINSTEIN: Are there currently any
of these in use today?

MR. SCRIBNER: Many of these in use today.

COMM. RUBINSTEIN: Where?

MR. SCRIBNER: I can't speak to Progressive
in terms of how many they have in the street.

COMM. RUBINSTEIN: No, just, where are they?

In cabs, private cars? Overview.

MR. SCRIBNER: All vehicles in development
in Detroit. This is how they verify a car, put these
devices in a car to verify the odometers, speed --

COMM. RUBINSTEIN: Test vehicles?

MR. SCRIBNER: Test vehicles, fleet vehicles
under private label.

COMM. RUBINSTEIN: Any in current use today?

MR. SCRIBNER: They are, in the OEM fleets
-- original equipment manufacture fleets, several
trucking fleets that have them in place. I could
provide you with a list. I don't have a list, because
most of these are purchased and then they're resold
under a private label.

COMM. RUBINSTEIN: I read an article that
said that the rental car industry is coming out with a
device that is going to give all the information you
just stated. Are they in current use, to the best of
your knowledge? Would this be a similar device that you
have?

MR. SCRIBNER: Very similar. That is the
market.

COMM. RUBINSTEIN: It's currently used by
Avis or Hertz, in use today.

MR. SCRIBNER: In use today, the answer is
yes, but I can't tell you where.

COMM. RUBINSTEIN: What's the cost of this?

MR. SCRIBNER: Depending on the quantity you
buy, range in price from $700 down to four or five.

COMM. RUBINSTEIN: Just again overview, how
many have to be sold to bring it to four or five?

MR. SCRIBNER: It's a simple problem, it's
the cost of the radio. The cost of the cellular
telephone radio. The radio costs somewhere around $400,
you buy. If you buy a call compact radio, it's going to
be 120-30; if you guy GSM-type radio, it's going to be a
$75 price. So the radio, configuration of the box,
gyros, accelerometers you put in the box --

COMM. RUBINSTEIN: You're not answering my
question. Maybe you don't understand. If ten thousand
of these were sold, would it reduce the cost from seven
to four hundred?

MR. SCRIBNER: Yes.

COMM. RUBINSTEIN: You understand. That was
my number.

MR. SCRIBNER: Ten or twelve thousand, yes,
it would.

COMM. RUBINSTEIN: Just to clarify, what
number would reduce it from 700 to 400 approximately?

MR. SCRIBNER: The ten thousand to fifteen
thousand.

COMM. RUBINSTEIN: That's including
installation?

MR. SCRIBNER: Installation is about $75.

COMM. RUBINSTEIN: You said OEM fleets.

Where is it in this, obviously, it's in this country.

Where could we get some data on the ones that are
currently being used; if they work, the cost of them,
stuff like that?
MR. SCRIBNER: Here's our problem. We're under a non-disclosure with most of our clients in the OEM world. I can reach out and find an OEM that you can talk to.

COMM. RUBINSTEIN: I don't want you to give up any secrets. I don't even know what the OEM world is.

MR. SCRIBNER: For example, we just had them used on 2005 Lincolns, where it was used to evaluate the vehicle; diagnostic and trouble codes, braking, ABS analysis.

COMM. RUBINSTEIN: How many Lincolns would those have been, approximately?

MR. SCRIBNER: In this test, there were five vehicles in this test but we shipped a thousand boxes to Japan that went into some kind of a vehicle to do the exact --

COMM. RUBINSTEIN: Five wouldn't do it for a test, but a thousand certainly would.

MR. SCRIBNER: The problem is there's Tier I and II and III. The original equipment manufacturer you have a Tier I, which might be Bosch; those guys will buy them and resell them to the original equipment manufacturers and they'll build them into the vehicle after that.
COMM. RUBINSTEIN: Here's my request, and I guess, it will have to be approved by our Chair. Would it be possible for you to come up with some form of information of a significant number of these units that are on the road functioning over a specific amount of time so that we would be able to know the cost, maintenance, installation? This is the only way we can obviously make a decision on it. Five, you can certainly understand is not going to give anybody any inkling of information.

CHAIRMAN DAUS: I would agree with that. Also in light of your clients' preferences and concerns, we want that in a very generic way. We don't need to know their business. We want to be accommodating to their privacy concerns. Overall statistics that could be compiled among different users if possible. That would be useful information for our purposes, I would think.

MR. SCRIBNER: There are quotes on the street right now from one or more rental companies for 300,000 vehicles or more.

COMM. TORRES: Two-fold. One is the impact on the insurance, because we're looking to see how we could cut back on premiums. Number two, I'm sure you're aware with regards to the technology and the mandate for
2005 how this can be integrated into that system.

MR. SCRIBNER: A box of this type could be
the front end on that system you talked about for 2005.
This box plugs into the electronic control module, so
you have everything that happened on the engine and you
can run all the equipment that's in the car.

When you talk about putting three screens in
the car, more computer equipment on the taxi meter, the
whole deal, you need something to control the power
supply on this car. This draws 1.5 milliamps of power
backed up to the gate, which means it won't go dead over
a period of a week or month or whatever, yet you can
send a message to the car and ask the car how are you.
Maybe it's lost, stolen. You can send that same message
to the car if you want to disable it.

In terms of your technology, it's automatic
technology. This is basically an On-Star. There's a
million and a half vehicles on the street today that
have this type of box.

COMM. TORRES: Any implications with regard
to any warranties from the manufacturer?

MR. SCRIBNER: No, none whatsoever. We
listen on the circuit, we don't give the commands. Only
change would be if you wanted to disable the car, make
it run out of gas or lock and unlock the doors, like
they do On-Star, that sort of thing.

COMM. AROUT: Does this cost offset the

 premium?

MR. SCRIBNER: The cost will offset the

 premium, I believe. You have all the information.

You're arguing today about we don't have the right

 information and when. This will contain the information

 and give it to you.

CHAIRMAN DAUS: Based on your understanding

 of what Progressive is doing, for instance, will the

 premium discount offset the cost or would there also be

 an additional discount on top of whatever the cost is?

 Is that how it's working now?

MR. SCRIBNER: They discount the premium is

 what they do.

CHAIRMAN DAUS: So it's more of a discount

 than the cost of the equipment. That's useful

 information. We would encourage you also to stay in

 touch with Mr. Goldstein and their staff with respect to

 the service improvement issue, but we appreciate you

 bringing to our attention how this impacts insurance.

 I'd like to thank everybody, it's been a

 long meeting, four hours, but this has been a very, very

 informative meeting, if I could speak for the

 Commissioners.
I learned a lot myself. I know they did and
we will be moving swiftly to figure out what we can do
on this issue. We will be analyzing the document, the
transcript, getting followup from the people that
tested.

I want to thank everybody for coming. I
want to thank all our Commissioners for staying and
thank you very much.

(Time noted: 2:09 p.m.)
C E R T I F I C A T I O N

I, LINDA FISHER, a Shorthand Reporter and a Notary Public, do hereby certify that the foregoing is a true and accurate transcription of my stenographic notes.

I further certify that I am not employed by nor related to any party to this action.

LINDA FISHER,
Shorthand Reporter