IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI
NO. 2010-CC-00076-SCT

MISSISSIPPI WINDSTORM UNDERWRITING ASSOCIATION, ET AL. — APPELLANTS

VS.

UNITED STATES FIRE INSURANCE COMPANY, ET AL. — APPELLEES

ON APPEAL FROM THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

AMICI CURIAE BRIEF OF ST. PAUL COMPANIES AND TRAVELERS PROPERTY CASUALTY CORPORATION

ORAL ARGUMENT NOT REQUESTED

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CERTIFICATE OF INTERESTED PERSONS

In order that the Justices of the Supreme Court and/or the Judges of the Court of Appeals may evaluate possible disqualification or recusal, the undersigned counsel of record certifies that the following listed persons, in addition to those listed in the briefs already filed in this matter, have an interest in the outcome of this case:

a. St. Paul Companies, *Amicus*;

b. Travelers Property Casualty Corporation, *Amicus*;

c. James D. Holland and Jan F. Gadow, Page, Kruger & Holland, P.A., Counsel for St. Paul and Travelers;

This, the 23rd day of March, 2011.

Jan F. Gadow

James D. Holland
Jan F. Gadow

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STATEMENT REGARDING ORAL ARGUMENT

Aware that *amici* are not ordinarily entitled to oral argument in the first instance (M.R.A.P. 29 (d)), St. Paul and Travelers nonetheless submit that the facts and legal arguments are adequately presented in the briefs and the record; therefore, this Court's decisional process will not be significantly aided by oral argument. M.R.A.P. 34 (a)(3).

STATEMENT OF THE ISSUE ON CROSS-APPEAL

This consolidated appeal reflects the efforts of eight MWUA member companies to recalculate and reduce their percentages of participation in the MWUA Katrina-related assessments. If these eight companies are successful, their reductions will of necessity increase the percentages of other MWUA members in order to pay 100% of the MWUA policyholder claims. The Chancery Court reversed the Commissioner on most issues; however, the Chancellor affirmed the Commissioner's decision that Miss. Code Ann. Section 83-34-9[1] permitted group reporting, which allows affiliated member companies to report together and share credits for voluntary coast writings. These *Amici* parties are interested in the issue of grouping, raised not in MWUA's appeal, but in Aegis Security Insurance Company's, Homesite Insurance Company's, and Union National Fire Insurance Company's cross-appeals[2], to wit: Whether the Chancery Court properly affirmed the Commissioner's decision that Miss. Code Ann. Section 83-34-9 permitted group reporting by member companies for purposes of sharing voluntary credits. The answer, in a word, is yes.

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1 Unless otherwise noted, citations to Miss. Code Ann. §§ 83-34-1, *et seq.*, are to the statutes applicable in 2005-06, which are contained in an appendix to the MWUA's initial Brief of Appellant.

2 Although Zurich perfected a cross-appeal as to all issues, the brief they subsequently filed with this Court declines to address grouping.

I. INTRODUCTION[3]

Pursuant to the statutes in effect in 2005, MWUA member companies, including St. Paul and Travelers, were required to participate in the Association's expenses, losses, and profits based on their respective percentages of wind and hail insurance premium writings in Mississippi during the preceding year. Each member's level of participation was based on the amount of premiums for wind and hail insurance coverage voluntarily issued by that company, relative to all premiums for wind and hail insurance coverage issued in the state the previous year. (See Miss. Code Ann. § 83-34-9.) When the MWUA suffered a loss that exceeded its available assets during any particular policy year, it assessed member companies varying amounts based on their percentages of participation, in order to cover the payment of losses incurred by the MWUA's policyholders. Miss. Code Ann. § 83-34-9. (See also MWUA Plan of Operation and Articles of Agreement October 1, 1987, MWUA's RE Tab 11, p. 100) The MWUA calculated percentages of participation based on the preceding calendar year's premium writings, as reported by the member companies. (MWUA Manual of Rules and Procedures October 01, 1987, MWUA's RE Tab 12, p. 238) From 1971 until the end of 2006, the MWUA and its predecessor allowed member companies to report their numbers grouped with affiliated member companies. This grouping allowed affiliated companies to report financial data, take credits, and pay assessments as a group rather than on an individual basis, which encouraged voluntary wind and hail writings on the coast. (*See* MWUA's RE Tab 10, p. 1945-46; Miss. Code Ann. § 83-34-9 (1) (Supp. 2010).) With grouping, excess credits for one company in a group can be

3 Pursuant to M.R.A.P. 28(b), St. Paul and Travelers decline to provide a statement of the case which would be repetitive of that provided by parties to this appeal in their previously filed briefs. Pursuant to M.R.A.P. 28 (i), *Amici* hereby adopt those portions of Farmers' Brief of Cross-Appellee (pp. 1-2) and of MWUA's Reply Brief for Appellant/Response Brief for Cross-Appellee (pp. 4-5) which set forth their respective Statements of the Case. *See* M.R.A.P. 29, Comment.

used by other companies in the group to reduce their percentages of participation in MWUA's policyholder losses. Before October 2006, when the MWUA attorney advised the Board that they may not have express authority to allow such grouping, no one had ever questioned or complained about the practice of grouping. (Commissioner's Consolidated Findings, Conclusions, and Order, at Appellant's RE Tab 10, p. 1919)

In 2005, Hurricane Katrina caused the largest loss ever experienced by MWUA's policyholders, eventually resulting in $545 million loss assessments to the Association's member companies. Eight of those companies sought to reduce their assessment amounts, which would of necessity increase the assessment amounts of the other member companies, including St. Paul and Travelers. The Board and the Commissioner of Insurance refused to allow this recalculation and shifting of assessments and specifically rejected the cross-appellants' challenges to the practice of grouping, but the Chancery Court reversed the Commissioner's decision on all issues other than that Miss. Code Ann. § 83-34-9 permitted group reporting. The MWUA appealed the Chancellor's decision on all issues other than grouping; Union National, Aegis, and Homesite cross-appealed on the issue of grouping, urging that it is violative of § 83-34-9 and the MWUA Plan of Operation. St. Paul and Travelers are aligned with Farmers, MWUA, the Chancery Court, the Commissioner, and the MWUA Board on the grouping issue and, accordingly, ask that this Court affirm the decision that Miss. Code Ann. § 83-34-9 permitted group reporting.

II. STATEMENT OF FACTS RELEVANT TO THE ISSUE OF GROUPING

In addition to adopting the Statement of Facts presented in MWUA's Reply Brief for Appellant/Response Brief for Cross-Appellee, found at pp. 5-8, St. Paul and Travelers offer the following:

The Legislature determined that member insurance companies who voluntarily wrote wind and hail insurance for properties in a coast area[4] would receive credit against their MWUA assessments. Miss. Code Ann. § 83-34-9. This credit system encouraged private companies to write wind and hail insurance in coastal areas because such companies would then be assessed less for the MWUA's policyholder losses than companies that did *not* voluntarily write wind and hail coverage in the coast areas. So a company could suffer losses from a hurricane via its own voluntarily-written wind coverage in a coastal area, or by assessment from the MWUA, or by some combination thereof. (Appellant's RE, Tab 13, p. 819) However, the Legislature directed the MWUA to determine how the credit system would work. Miss. Code Ann. § 83-34-9.

The Legislature charged the MWUA with establishing its own Plan of Operation, which was required to address the credit system and could also address other matters, at the discretion of the MWUA and the Commissioner, including assessments for losses and expenses. Miss. Code Ann. § 83-34-13. Accordingly, the MWUA adopted a Plan of Operation that the Commissioner approved as of October 1, 1987. (Appellant's RE Tab 11; RV2, p. 97-103) Section IX.2 of the Plan provides that each member insurance company would participate in the MWUA's profits and losses. (Appellant's RE Tab 11, p. 100; RV2, p. 100) The MWUA decided that member companies' percentages of participation in the Association's expenses and in the first 10% of losses incurred by MWUA's policyholders would *not* be reduced by credits for voluntary wind and hail policies in coast areas. However, for the remaining 90% of MWUA's policyholder losses, each member company could reduce its percentage of participation by

4 Which includes George, Hancock, Harrison, Jackson, Pearl River, and Stone Counties.

voluntarily writing wind and hail coverage in coast areas and reporting these policies and premiums to the Association. (Appellant's RE Tab 11, p. 100; RV2, p. 100.) Consequently, as one company's percentage of participation decreases, the other companies' percentages increase in order to cover 100% of MWUA policyholder losses.

The Legislature also, via Miss. Code Ann. § 83-34-29, empowered the MWUA to establish its own rules. In accord, the MWUA adopted a Manual of Rules and Procedures as of October 1, 1987. (Appellant's RE Tab 12; RV3, p. 232-38) These Rules address credits by member companies for voluntarily writing wind and hail insurance in coast areas and accounting procedures for participating companies. (Appellant's RE Tab 12, p. 237, 238; RV3, p. 237, 238)

By March 2, 2005, all MWUA member companies were to have submitted to the MWUA their 2004 data for voluntary writing credits. (Appellant's RE Tab 13.) By April 1, 2005, all of the MWUA member companies were to have submitted to the MWUA their Insurer's Report to Mississippi Windstorm Underwriting Association, disclosing their 2004 wind and hail premiums statewide. (Appellant's RE Tab 15, p. 824; RV36, p. 824; RV43, p. 3443-48.) In June 2005, the MWUA published to its members their policy year 2005 participation percentages, based on the preceding year (2004) data submitted by the MWUA member companies. No member company appealed from the percentages of participation provided in June 2005. (RV39, p. 1646)

On August 29, 2005, Hurricane Katrina caused enormous financial losses to the MWUA's policyholders. Pursuant to Miss. Code Ann. § 83-34-9, MWUA's member companies are responsible for this loss. The MWUA had purchased $175 million of reinsurance; therefore, of the first $185 million in losses, the MWUA's members were only required to pay their proportional share of the MWUA's $10 million deductible/self-

insured retention. (RV37, p. 1124-25) On August 31, 2005, the MWUA issued an assessment for that $10 million. (Appellant's RE Tab 9, p. 2733; RV19, p. 2733) The member companies paid their respective percentages of participation shares of the $10 million and no company appealed their percentage. (RV39, p. 1646)

By late November 2005, the MWUA was able to estimate that its Katrina losses would exceed the $10 million self-insured retention plus the $175 million in reinsurance, by at least $285 million. On December 2, 2005, the MWUA sent its member companies a second assessment, totaling $285 million, again based on the 2005 policy year percentages of participation. (Appellant's RE Tab 7, p. 21; RV1, p. 21) Member companies then began reporting that they had erred in their previous submissions to the Association. In response, the MWUA Board decided to grant a one time opportunity to correct or "true-up" the 2004 premium writing submissions. MWUA notified all member companies of the true-up opportunity and of the March 1, 2006 deadline for submitting corrected data, by letters sent on January 17, 2006 and again on February 1, 2006. (Appellant's RE, Tabs 14 and 15) MWUA then recalculated the 2005 participation percentages and issued its third Katrina assessment on April 17, 2006.

It was at this point that certain member companies appealed to the Board; this was also the first time that any company lodged an objection to the practice of grouping. Specifically, Homesite, Union National, and Aegis alleged that affiliated MWUA member companies should not be allowed to report in groups for purposes of sharing voluntary credits because such grouping violated Miss. Code Ann. § 83-34-9. The Board disagreed. The Commissioner subsequently found that allowing grouping prior to October 2006 was not an unreasonable interpretation of the statute and was not violative of Union National's, Homesite's, or Aegis' statutory rights. (Appellant's RE Tab

8, p. 55-56; Appellant's RE Tab 10, p. 1921; 1945) Chancellor Thomas affirmed the Commissioner's findings and conclusions regarding grouping, specifically stating that the Commissioner's decision was neither arbitrary nor capricious and that nothing in Miss. Code Ann. Section 83-34-9 prohibitted grouping. (Appellant's RE Tab 6, p. 4192-93)

III. SUMMARY OF THE ARGUMENT

This Court's disposition of the pending appeal is guided in the first instance by the appropriate standard of review. Different parties to this appeal have proffered different standards of review, often based on whether the particular party considers the MWUA a state agency. Rather, the correct inquiry is whether the Department of Insurance is a state agency, as it is a decision of the Department of Insurance Commissioner that is at issue in this appeal. The Department of Insurance is, without doubt, a state agency. It follows that this Court's scope of review is limited and reversal is appropriate only if the Commissioner's decision is unsupported by substantial evidence, arbitrary and capricious, beyond the power of the agency to make, or violates the cross-appellants' statutory or constitutional rights. In light of the appropriate standard of review and applicable law, this Court must give great deference to the Commissioner's decision that a reasonable interpretation of Miss. Code Ann. § 83-34-9 permitted group reporting. The Commissioner's decision on this issue was informed and is supported by substantial, relevant evidence, is not arbitrary or capricious, is within his authority, and is not violative of cross-appellants' statutory or constitutional rights. This Court must affirm.

IV. LEGAL ARGUMENT[5]

A. THE CHANCERY COURT PROPERLY AFFIRMED THE COMMISSIONER'S DECISION THAT MISS. CODE ANN. SECTION 83-34-9 PERMITTED GROUP REPORTING BY AFFILIATED MWUA MEMBER COMPANIES FOR PURPOSES OF SHARING VOLUNTARY CREDITS.

1. The Cross-Appellants' Positions

Homesite's cross-appeal urges that group reporting by MWUA member companies is contrary to Miss. Code Ann. § 83-34-9 and Section IX of the MWUA Plan of Operation, that § 83-34-9 specifically prohibits group reporting, that by allowing group reporting the MWUA violated its statutory mandates, and that this Court should reverse and render with an order to the MWUA to recalculate policy years 2004 and 2005 without the benefit of group reporting by any member companies. According to Homesite, this Court's review is *de novo*. Cross-appellant Union National's argument is in accord on all counts. Cross-appellant Aegis agrees with the *de novo* standard of review relied upon by Homesite and Union Nation, but claims that their cross-appeal will succeed even pursuant to a deferential standard of review. Aegis posits that § 83-34-9 and the Plan of Operation prohibit group reporting or, alternatively, did not affirmatively authorize group reporting, therefore the MWUA acted beyond its lawful authority. Additionally, Aegis claims that group reporting violates Miss. Code Ann. § 83-34-13 and that they (Aegis) did not wait too long to challenge grouping.

2. Applicable Law

The appropriate standard of review has long been debated by the parties to this appeal, with much emphasis on whether the MWUA is or is not a state agency. However, while the MWUA may not be a state agency, the Department of Insurance

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5 *Amici* hereby adopt the argument portions of Farmers' Brief of Cross-Appellee and MWUA's Reply Brief for Appellant/Response Brief for Cross-Appellee, as to grouping, either in addition to or, where appropriate, alternatively to the arguments presented herein.

indisputably is. *See* ***American Federated Life Ins. Co. v. Dale,*** 701 So.2d 809, 810, 811 (¶¶ 1-2, 14) (Miss. 1997) (Mississippi Commissioner of Insurance decision treated as that of a state agency on appeal); ***State Farm Ins. Co. v. Gay,*** 526 So.2d 534, 534 (Miss. 1988) (same); ***Mississippi Ins. Underwriting Ass'n v. Maenza,*** 413 So.2d 1384, 1389 (Miss. 1982) (same). And it is the Chancery Court's affirmance of the Department of Insurance Commissioner's decision - a decision of a state agency - that is at issue in the appeal at bar.

This Court recently reiterated the standard of review appropriate to a decision of a state agency, in ***Buffington v. Mississippi State Tax Comm'n,*** 43 So.3d 450 (Miss. 2010). In ***Buffington,*** the taxpayers had first appealed a state tax assessment to the Mississippi State Tax Commission ("MSTC") Review Board, which affirmed, then to the MSTC, which also affirmed. The taxpayers next appealed to the Chancery Court, which affirmed, then to this Court. ***Buffington,*** 43 So.3d at 452 (¶¶ 7-8). At issue in the taxpayers' appeal in ***Buffington,*** as in the appeal *sub judice,* is the interpretation of a Mississippi statute. ***Buffington,*** 43 So.3d at 453 (¶ 9).

This Court first noted that the scope of appellate review of an agency's decision is limited and will be reversed only if the decision is unsupported by substantial evidence[6], is arbitrary[7] and capricious[8], is beyond the power of the agency to make, or violates the complaining party's statutory or constitutional rights. ***Buffington,*** 43 So.3d at 453-54 (¶ 12) (citations therein omitted). Further:

> An agency's interpretation of a rule or statute governing the agency's operation is a matter of law that is

6 More than a scintilla or a suspicion. ***Smith County School District v. Campbell,*** 18 So.3d 335, 338 (¶ 17)(Miss.App. 2009) (citations and quotations therein omitted).

7 Defined in part as tyrannical, despotic, non-rational, and implying a lack of understanding or disregard for the fundamental nature of things. ***Buffington,*** 43 So.3d at 453 (¶ 12), n.2 (citation therein omitted).

8 Freakish, fickle, done without reason, implying a lack of understanding or disregard for surrounding facts and settled controlling principles. ***Buffington,*** 43 So.3d at 453 (¶ 12), n.2 (citation therein omitted).

> reviewed de novo, but with great deference to the agency's interpretation. This duty of deference derives from our realization that the everyday experience of the administrative agency gives it familiarity with the particularities and nuances of the problems committed to its care which no court can hope to replicate.

Buffington, 43 So.3d at 454 (¶ 12) (quoting ***Miss. Methodist Hosp. and Rehab. Ctr., Inc. v. Miss. Div. of Medicaid,*** 21 So.3d 600, 606-07 (Miss. 2009)). While this Court did not render a unanimous opinion in ***Buffington,*** there is no indication that any of the Justices disagree with the standard of review relied upon therein.

In addition to the standard of review so plainly set out in ***Buffington***, a rebuttable presumption exists in favor of the agency's decision and the cross-appellants bear the burden of proving otherwise. ***Davis-Everett v. Dale,*** 926 So.2d 279, 281 (¶ 4) (Miss.App. 2006) (citations therein omitted); ***Public Employees' Retirement System v. Shurden,*** 822 So.2d 258, 263 (¶ 13) (Miss. 2002) (citations therein omitted). More specifically, "[t]his Court affords great deference to an administrative agency's construction of its own regulations." ***Bay St. Louis Comm. v. Com'n on Marine Res.,*** 808 So.2d 885, 888 (¶ 8) (Miss. 2001) (quoting ***Concerned Citizens to Protect the Isles & Point, Inc. v. Miss. Gaming Comm'n,*** 735 So.2d 368, 373 (Miss. 1999)).

Concerning statutory interpretation, this Court's ***Buffington*** opinion also reaffirms the well established standard that interpretation is appropriate if a statute is ambiguous or silent on a specific issue, with the goal being to discern legislative intent. ***Buffington,*** 43 So.3d at 454 (¶ 13) (quoting ***Miss. Methodist Hosp.,*** 21 So.3d at 607-08). While the best evidence of legislative intent is the text of a statute, its historical background, purpose, and objectives are also sources which may be mined for evidence of legislative intent. ***Buffington,*** 43 So.3d at 454 (¶ 13) (quoting ***Miss. Methodist Hosp.,*** 21 So.3d at 607-08). The agency's interpretation of a statute, if

historically applied by the agency, is also noteworthy. ***Buffington,*** 43 So.3d at 454 (¶ 14).

3. Analysis and Argument

The Commissioner found that a reasonable interpretation of § 83-34-9 allowed group filing, therefore such grouping did not violate the rights of Union National, Homesite, or Aegis. (MWUA's R.E., Tab 7, p. 56, Tab 10, p. 1921, 1945-46) The Commissioner included in his Orders substantial evidence supporting this finding, to wit: that the MWUA and its predecessor had allowed affiliated companies to group report from 1971 until the end of 2006; that no member had complained about or questioned the practice until after the Katrina assessments; that group filing had encouraged voluntary writings on the coast; that Section 83-34-9 did not specifically prohibit grouping; that nothing specifically required that credits given be from an individual company; and that the 2007 amendment to Section 83-34-9 specifically permits grouping because it does in fact encourage voluntary writings on the coast. (MWUA's R.E. Tab 8, p. 55-56, Tab 10, p. 1919-21, 1945-46)

This recitation of evidence constitutes far more than a mere scintilla or suspicion. ***Campbell,*** 18 So.3d at 338 (¶ 17) (citations and quotations therein omitted). Even an exceedingly jaundiced reading of the Commissioner's decision concerning grouping cannot result in labeling it tyrannical, despotic, irrational, freakish, fickle, or lacking in reason. To the contrary, the Commissioner's grouping decision reveals a thorough understanding of the surrounding facts and controlling principles, giving further credence to the great deference his interpretation of the statute is accorded. *See* ***Buffington,*** 43 So.3d at 453 (¶ 12), n.2 (citation therein omitted) and at 454 (¶ 12) (quoting ***Miss. Methodist Hosp.,*** 21 So.3d at 606-07); ***Bay St. Louis,*** 808 So.2d at 888

(¶ 8) (quoting ***Concerned Citizens,*** 735 So.2d at 373). Given the statute's silence on the permissibility of group reporting, the MWUA's thirty-five year history of grouping, and the Commissioner's statutory duty to review the MWUA's decision on appeal[9], the Commissioner in no way exceeded his authority by determining that Section 83-34-9 allowed group reporting. Moreover, the Commissioner's decision that Section 83-34-9 permitted group reporting is in harmony with the MWUA's Plan of Operation. Because the statute did not prohibit grouping, the Commissioner's decision does not violate any party's statutory rights. It follows that there is no basis on which this Court might reverse. ***Buffington,*** 43 So.3d at 453-54 (¶ 12) (citations therein omitted).

In support of their argument that Section 83-34-9 did *not* allow grouping, cross-appellants point to the MWUA's attorney's 2006 advice to the Board and testimony from Joe Shumaker to the effect that it was his understanding, after being advised by the MWUA's attorney, that the relevant statute had never allowed for group reporting. Regarding an interpretation of § 83-34-9 which will discern legislative intent, the Commissioner's interpretation that the statute allows grouping is significant. ***Buffington,*** 43 So.3d at 454 (¶ 14). The text of the statute itself is silent as to grouping, but the historical background is telling. When MWUA's predecessor, the MIUA, was created, the legislatively adopted language provided that members "shall annually receive credit for essential property insurance voluntarily written in the Coast area and [their] participation in the writings in the association shall be reduced in accordance with the provisions of the plan of operation." Miss. Laws, 1970, ch. 451, § 6. The legislature clearly evinced satisfaction with this language by readopting it in 1971, 1975, and 1980. *See* Miss. Laws, 1971, ch. 507, § 6; Miss. Laws, 1975, ch. 390, § 6; Miss. Laws, 1980,

9 Miss. Code Ann. Section 83-34-19.

ch. 364, § 6. In 1987, when the MWUA replaced the MIUA, nearly identical language was included in the relevant statute. Miss. Laws, 1987, ch. 459, § 6. Without doubt, the historical background is in accord with the Commissioner's interpretation. ***Buffington,*** 43 So.3d at 454 (¶ 13) (quoting ***Miss. Methodist Hosp.,*** 21 So.3d at 607-08). Advice of the MWUA attorney, on the other hand, is of no moment in this analysis.

Aegis' argument that the Commission failed to ensure fair and nondiscriminatory administration of the MWUA, in violation of Miss. Code Ann. § 83-34-13, is disingenuous. According to Aegis, the statutorily violative, inequitable conduct is the Association's failure to change the rules midstream as to the member companies who correctly reported by the true up date, grouped with their affiliated companies according to the MWUA's long-standing practice. In response, St. Paul and Travelers submit that retroactive disallowance of grouping would violate the due process rights of members who timely group reported, as they relied on the historic practice of grouping and defined their voluntary writing strategies in reliance on that practice. St. Paul and Travelers, along with other members, took the risk of voluntarily writing coverage for coast areas; it follows that they should also receive the benefit of the statutorily authorized credits, particularly when they correctly reported by the date set. A recalculation to de-group (or to allow for grouping after the fact) will shift the amount of losses borne by the various member companies, including St. Paul and Travelers, thereby penalizing the member companies who correctly group reported by the true up date.

Aegis further urges that the MWUA did not demonstrate that the members who timely group reported would suffer a greater financial impact from de-grouping than non-grouping members would suffer if the timely group reporting members are not disturbed.

The propriety of group reporting, however, is not contingent on and does not require that the MWUA demonstrate a lesser or greater financial impact on any particular member companies. Rather, the propriety of group reporting is dependent upon the interpretation of Miss. Code Ann. Section 83-34-9. The Chancery Court upheld the Commissioner's finding that a reasonable interpretation of this statute permitted grouping. The cross-appellants have wholly failed to rebut the presumption in favor of the Commissioner's decision. ***Davis-Everett,*** 926 So.2d at 281 (¶ 4) (citations therein omitted); ***Shurden,*** 822 So.2d at 263 (¶ 13) (citations therein omitted). This Court must affirm that Miss. Code Ann. § 83-34-9 permitted group reporting by affiliated MWUA member companies.

V. CONCLUSION

The Chancery Court properly affirmed the Commissioner's decision that Miss. Code Ann. § 83-34-9 permitted group reporting by MWUA affiliated member companies, including St. Paul and Travelers, allowing affiliated companies to share voluntary credits. For all of the above and foregoing reasons, this Court should affirm.

RESPECTFULLY SUBMITTED this the 23rd day of **March, 2011**.

ST. PAUL COMPANIES and TRAVELERS PROPERTY CASUALTY CORPORATION,
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CERTIFICATE OF SERVICE

I, the undersigned counsel for *Amici* St. Paul and Travelers, do hereby certify that I have this day mailed by U.S. Mail, postage prepaid, a true and correct copy of the above and foregoing Brief of Amici to:

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