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August 28, 2017

VIA E-FILING

Mr. Blake A. Hawthorne, Clerk
Supreme Court of Texas
201 West 14th Street, Room 104
Austin, TX 78701

Re: Case Number 16-1013; *Anadarko Petroleum Corporation and Anadarko E&P Company, L. P. v. Houston Casualty Company, et al.*

Dear Mr. Hawthorne:

Please accept this letter on behalf of United Policyholders, as *amicus curiae*, in support of Petitioners Anadarko Petroleum Corporation and Anadarko E&P Company, L. P., in the above-referenced case. Please distribute the letter to the Members of the Court. Thank you for your assistance in this matter.

TO THE HON. SUPREME COURT OF TEXAS:

United Policyholders is a non-profit 501(c)(3) organization that serves as a voice and information resource for individual and business insurance consumers in all 50 states. Since United Policyholders' founding in California in 1991, it has been dedicated to educating individuals and businesses about insurance issues and consumer rights. United Policyholders protects the interests of policyholders and advocates for them through participation as *amicus curiae* in insurance claim and coverage cases throughout the country. Donations, foundation grants, and volunteer labor support United Policyholders' work. United Policyholders does not sell insurance or accept any funding from insurance companies.

Mr. Blake A. Hawthorne, Clerk

August 28, 2017

Page 2 of 3

On May 22, 2017, at the petition-for-review stage of proceedings before this Court, United Policyholders filed an amicus brief in support of Petitioners Anadarko Petroleum Corporation and Anadarko E&P Company, L. P. For the Court's reference, a copy of United Policyholders' amicus brief is enclosed as an appendix to this letter.

Respectfully submitted,

/s/ G. Andrew Veazey

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August 28, 2017

Page 3 of 3

CERTIFICATE OF COMPLIANCE

Pursuant to Texas Rule of Appellate Procedure 9.4(i)(3), I hereby certify that this document contains 201 words, excluding the words not included in the word count pursuant to Texas Rule of Appellate Procedure 9.4(i)(1). This is a computer-generated document created in Microsoft Word, using 14-point typeface for all text, except for footnotes which are in 12-point typeface. In making this Certificate of Compliance, I am relying on the word count provided by the software used to prepare the document.

/s/ G. Andrew Veazey

G. Andrew Veazey

No. 16-1013

IN THE SUPREME COURT OF TEXAS

ANADARKO PETROLEUM CORPORATION AND ANADARKO
E & P COMPANY, L. P.,
Petitioners

v.

HOUSTON CASUALTY COMPANY; ALLIANZ GLOBAL
CORPORATE & SPECIALTY AG; CLEARWATER INSURANCE
COMPANY; HUDSON INSURANCE COMPANY; LANCASHIRE
INSURANCE COMPANY (UK) LIMITED; NAVIGATORS
INSURANCE COMPANY AND UNDERWRITERS AT LLOYDS
SYNDICATE NOS. 33, 457, 510, 609, 623, 958, 1036, 1084, 1083,
1919, 1209, 1221, 1225, 2003, 2007, 2121, 2623, 3000, 4020, 500,
Respondents

**BRIEF OF AMICUS CURIAE UNITED POLICYHOLDERS IN
SUPPORT OF PETITION FOR REVIEW**

On Petition for Review from the Court of
Appeals for the Ninth Judicial District,
Beaumont, Texas Cause No. 09-14-00459-CV

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Amicus Curiae, United Policyholders, certifies that the following is a complete list of the parties, attorneys and any other person who has any interest in the outcome of this lawsuit:

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Hudson Insurance Company

Lancashire Insurance Company (UK) Limited
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TABLE OF CONTENTS

IDENTITY OF PARTIES AND COUNSEL..... i

TABLE OF CONTENTS iv

TABLE OF AUTHORITIESv

STATEMENT OF INTEREST OF AMICUS CURIAE..... viii

ARGUMENT.....1

A. The Beaumont Court failed to follow long-established precedents adopted by this court for interpretation of insurance policy provisions which limit coverage..... 1

B. The Beaumont Court’s Decision has Profound Effects for Multitudes of Texas Policyholders Who Must Purchase Insurance through the Surplus Lines Market 3

C. The Beaumont Court’s Decision Undermines Texas’ Public Policy of Encouraging Voluntary Settlements and Orderly Dispute Resolution
 5

PRAYER.....7

CERTIFICATE OF COMPLIANCE8

CERTIFICATE OF SERVICE9

INDEX TO APPENDIX11

TABLE OF AUTHORITIES

CASES

<i>Advanced Env. Recycling Tech. Inc. v. Am. Int’l Specialty Lines Ins. Co.</i> , 399 F. App’x 869 (5 th Cir. 2010) -----	ix
<i>ATOFINA Petrochems., Inc. v. Cont’l Cas. Co.</i> , 185 S.W.3d 440, 444 (Tex. 2005)2	2
<i>Citigroup Inc. v. Fed. Ins. Co.</i> , 649 F.3d 367 (5 th Cir. 2011)-----	ix
<i>Don’s Bldg. Supply, Inc. v. OneBeacon Ins. Co.</i> , 267 S.W.3d 20, 23 (Tex. 2008) -	2
<i>Evanston Ins. Co. v. ATOFINA Petrochems., Inc.</i> , 256 S.W.3d 660, 668 (Tex. 2008) -----	2
<i>Evanston Ins. Co. v. Legacy of Life</i> , 370 S.W.3d 377, 380 (Tex. 2012) -----	2
<i>Excess Underwriters at Lloyds, London v. Franks Casing Crew & Rental Tools, Inc.</i> , 246 S.W.3d 42 (Tex. 2008) -----	ix
<i>Fairfield Ins. Co. v. Stephens Martin Paving, LP</i> , 246 S.W.3d 653 (Tex. 2008) --	ix
<i>Gilbert Texas Constr., L.P. v. Underwriters at Lloyd's London</i> , 327 S.W.3d 118 (Tex. 2010)-----	ix
<i>Gilbert Texas Constr., L.P. v. Underwriters at Lloyd's London</i> , 327 S.W.3d 118, 133 (Tex. 2010)-----	2
<i>Houston Casualty Company, et. al. v. Anadarko Petroleum Corporation, et al.</i> , No. 09-14-00459-CV, (Tex. App.-Beaumont [284 th Dist.] 2016), Slip Op.6-7, 2016 WL 6809215, *3-----	5
<i>Houston Exploration v. Wellington Underwriting Agencies</i> , 352 S.W.3d 462, 472 (Tex. 2011)-----	2
<i>Humana, Inc. v. Forsyth</i> , No. 97-303, 525 U.S. 299, 119 S.Ct. 710, 142 L.Ed.2d 753 (1999)-----	ix
<i>In Re State Farm Lloyds</i> , No. 15-0903, Supreme Court of Texas (pending) -----	ix

<i>In re Universal Underwriters of Tex. Ins. Co.</i> , 345 S.W.3d 404 (Tex. 2011) -----	ix
<i>Lamar Homes, Inc. v. Mid-Continent Cas.</i> , 242 S.W.3d 1 (Tex. 2007)-----	1
<i>Miller-Wohl Co. v. Commissioner of Labor & Indus.</i> , 694 F.2d 203, 204 (9 th Cir. 1982) -----	ix
<i>Motiva Enters., LLC v. St. Paul Fire & Marine Ins. Co.</i> , 445 F.3d 381 (5 th Cir. 2006) -----	ix
<i>Nassar v. Liberty Mutual Fire Insurance Co.</i> , 508 S.W.3d 254 (Tex. 2017)-----	2
<i>Nat'l Union Fire Ins. Co. of Pittsburgh, PA v. Crocker</i> , 246 S.W.3d 603 (Tex. 2008) -----	ix
<i>Pendergest-Holt v. Certain Underwriters at Lloyds of London</i> , 600 F.3d 562 (5 th Cir. 2010)-----	ix
<i>Progressive Cnty. Mut. Ins. Co. v. Sink</i> , 107 S.W.3d 547, 551 (Tex. 2003)-----	2
<i>Schlumberger Technology Corp. v. Swanson</i> , 959 S.W.2d 171, 178 (Tex. 1997) --	6
<i>Shannon v. Memorial Drive Presbyterian Church U.S.</i> , 476 S.W.3d 612, 631 (Tex. App.-Hous. [14th Dist.] 2015)-----	6
<i>Strayhorn v. Lexington Ins. Co.</i> , 128 S.W.3d 772, 775 (Tex. App.-Austin [250 th Dist.] 2004)-----	x
<i>US Metals, Inc. v. Liberty Mut. Ins. Co.</i> , 490 S.W.3d 20 (Tex. 2016)-----	ix

STATUTES

<i>Tex. Ins. Code Ann. §981.0031</i> -----	x
--	---

OTHER AUTHORITIES

"Texas Stamping Office: Upward Trend Continues for Surplus Lines" Insurance Journal South Central News, January 23, 2017 -----	4
Surplus Lines Stamping Office of Texas Premium Data for various insurers-----	4
Surplus Lines Stamping Office of Texas Premium Data through April 30, 2017 --	4

Texas Department of Insurance (2016, December). *Surplus Lines Insurance*
[Brochure cb015.1216], <https://www.tdi.texas.gov/pubs/consumer/cb015.pdf> -- 4

RULES

Texas Rule of Appellate Procedure 9.4(i)(3) ----- 8

TREATISES

Robert L. Stern et al., *Supreme Court Practice 570-71* 6th ed. 1986 (quoting Bruce
J. Ennis, *Effective Amicus Briefs*, 33 *Cath U. L. Rev.* 603, 608 (1984)) ----- ix

United Policyholders respectfully submits this brief as *amicus curiae* in support of Petitioners, Anadarko Petroleum Corporation and Anadarko E & P Company, L.P. (collectively “**Anadarko**”). The Respondents are Houston Casualty Company, Allianz Global Corporate & Specialty AG, Clearwater Insurance Company, Hudson Insurance Company, Lancashire Insurance Company (UK) Limited, Navigators Insurance Company and Underwriters at Lloyds Syndicate Nos. 33, 457, 510, 609, 623, 958, 1036, 1084, 1183, 1919, 1209, 1221, 1225, 2003, 2007, 2121, 2623, 3000, 4020, 5000 (collectively “**Underwriters**”). No person other than the *amicus curiae*, its members, or its counsel made a monetary contribution intended to fund the preparation or submission of this brief. United Policyholders is not a party to any of the underlying multi-district litigation or the lawsuit instituted by Anadarko seeking coverage against Underwriters for defense, investigation and adjustment costs and expenses paid by Anadarko arising out of the Macondo Incident, nor does it have any financial relationship with Anadarko or their counsel.

STATEMENT OF INTEREST OF AMICUS CURIAE

United Policyholders is a non-profit 501(c)(3) organization that serves as a voice and information resource for individual and business insurance consumers in all 50 states. Since United Policyholders’ founding in California in 1991, it has been dedicated to educating individuals and businesses about insurance issues and consumer rights. United Policyholders protects the interests of policyholders and

advocates for them through participation as *amicus curiae* in insurance claim and coverage cases throughout the country. Donations, foundation grants, and volunteer labor support United Policyholders' work. United Policyholders does not sell insurance or accept any funding from insurance companies.

United Policyholders' work is divided into three program areas: *Roadmap to Recovery*[™] (disaster recovery and claim help for victims of wildfires, e.g. the 2011 Bastrop County Complex Fire), *Roadmap to Preparedness* (insurance and financial literacy and disaster preparedness) and *Advocacy and Action* (advancing pro-consumer laws and public policy). United Policyholders hosts a library of tips, sample forms, and articles on commercial and personal lines insurance products, coverage, and the claims process at www.uphelp.org. Texas home and business owners use United Policyholders' "Ask an Expert" forum and disaster recovery resources. United Policyholders engages with the Texas Department of Insurance through United Policyholders' involvement with the National Association of Insurance Commissioners, and United Policyholders' Executive Director serves as an official consumer representative for insurance policyholders. United Policyholders also works with the Texas Office of Public Insurance Counsel on consumer initiatives.

Powered by a network of volunteers and advisors throughout the country and a small staff in California, United Policyholders offers assistance to state and federal

courts as *amicus curiae*. Information and arguments in United Policyholders’ briefs on claims and coverage issues, including fair claims standards, have been cited by the US Supreme Court as well as by numerous state and federal appellate courts.¹ United Policyholders has participated as *amicus curiae* in more than 400 cases throughout the United States involving important insurance issues affecting homeowners and businesses, including insurance claim and coverage matters adjudicated before this Court, Texas appellate courts, and the United States Court of Appeals for the Fifth Circuit.²

In this brief, United Policyholders seeks to fulfill the “classic role of *amicus curiae* by assisting in a case of the general public interest, supplementing the efforts of counsel, and drawing the court’s attention to law that escaped consideration.”³ As commentators have stressed, an *amicus curiae* is often in a superior position to “focus the court’s attention on the broad implications of various possible rulings.”⁴

¹ See, e.g. *Humana, Inc. v. Forsyth*, No. 97-303, 525 U.S. 299, 119 S.Ct. 710, 142 L.Ed.2d 753 (1999).

² See, e.g. *In Re State Farm Lloyds*, No. 15-0903, Supreme Court of Texas (pending); *US Metals, Inc. v. Liberty Mut. Ins. Co.*, 490 S.W.3d 20 (Tex. 2016); *In re Universal Underwriters of Tex. Ins. Co.*, 345 S.W.3d 404 (Tex. 2011); *Gilbert Texas Constr., L.P. v. Underwriters at Lloyd's London*, 327 S.W.3d 118 (Tex. 2010); *Nat’l Union Fire Ins. Co. of Pittsburgh, PA v. Crocker*, 246 S.W.3d 603 (Tex. 2008); *Excess Underwriters at Lloyds, London v. Franks Casing Crew & Rental Tools, Inc.*, 246 S.W.3d 42 (Tex. 2008); *Fairfield Ins. Co. v. Stephens Martin Paving, LP*, 246 S.W.3d 653 (Tex. 2008); *Pendergest-Holt v. Certain Underwriters at Lloyds of London*, 600 F.3d 562 (5th Cir. 2010); *Citigroup Inc. v. Fed. Ins. Co.*, 649 F.3d 367 (5th Cir. 2011); *Advanced Env. Recycling Tech. Inc. v. Am. Int’l Specialty Lines Ins. Co.*, 399 F. App’x 869 (5th Cir. 2010); *Motiva Enters., LLC v. St. Paul Fire & Marine Ins. Co.*, 445 F.3d 381 (5th Cir. 2006).

³ *Miller-Wohl Co. v. Commissioner of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982).

⁴ Robert L. Stern et al., *Supreme Court Practice 570-71* 6th ed. 1986 (quoting Bruce J. Ennis, *Effective Amicus Briefs*, 33 Cath U. L. Rev. 603, 608 (1984)).

United Policyholders' 25 years of experience working with policyholders on insurance claim and coverage issues and interpretation of policy forms make it uniquely positioned to assist in this case. Furthermore, with the relatively large number of commercial policyholders who are domiciled within the state of Texas that are involved in the oil, gas and chemicals industries who must insure against unusual risks that cannot be acquired from Texas-licensed insurers, and must instead acquire liability insurance through the surplus lines market,⁵ the coverage position advocated by Underwriters has broad implications on the scope of defense costs that are available to multitudes of policyholders within the State of Texas. In addition, the coverage position advocated by Underwriters also creates a disincentive against voluntary settlements and orderly dispute resolution in contravention Texas public policy. Accordingly, this case presents an opportunity to clarify the scope of an insurer's obligation to indemnify its policyholder for defense costs, and presents an important question of public policy affecting Texas insureds.

⁵ Surplus lines insurance allows a person who seeks to insure a Texas risk but is unable to obtain that insurance from a Texas-licensed insurer to seek the insurance from an insurer who is not licensed in Texas but is an "eligible" surplus lines insurer. *Tex. Ins. Code Ann. §981.0031; Strayhorn v. Lexington Ins. Co.*, 128 S.W.3d 772, 775 (Tex. App.-Austin [250th Dist.] 2004).

ARGUMENT

A. The Beaumont Court failed to follow long-established precedents adopted by this court for interpretation of insurance policy provisions which limit coverage

United Policyholders adopts the well-reasoned arguments that have been presented by Anadarko in its Petition for Review, as well as the briefs submitted by its fellow *amici curiae* – the Louisiana Oil and Gas Association (“LOGA”), the Louisiana Mid-Continent Oil and Gas Association (“LMOGA”) and the American Petroleum Institute (“API”) - demonstrating why the decision of the Beaumont Court denying full recovery of Anadarko’s defense costs stemming from the Deepwater Horizon Incident is clearly erroneous and contrary to Texas law. As detailed in their respective briefing, the Beaumont Court’s Memorandum Opinion holding that Anadarko’s defense costs are subject to scaling under the Joint Venture Provision of the policy:

- a. Conflicts with *Lamar Homes, Inc. v. Mid-Continent Cas.*, 242 S.W.3d 1 (Tex. 2007), in which this court held that defense costs are a first-party claim of a policyholder, in contrast to a third-party claim where an insured seeks coverage for injuries to a third party.⁶
- b. Disregards standard rules of interpretation for insurance policies by declining to give “special weight” as a “surrounding circumstance” to the deletion of Condition 3 regarding apportionment of defense expenses, in contravention of this Court’s holding in *Houston*

⁶ See Anadarko Petition for Review at pp. 11-13; LOGA/LMOGA *Amicus Curiae* at pp. 8-13; API *Amicus Curiae* at pp. 8-9.

Exploration v. Wellington Underwriting Agencies, 352 S.W.3d 462, 472 (Tex. 2011).⁷

- c. Ignores this Court's long-established precept - most recently reiterated in *Nassar v. Liberty Mutual Fire Insurance Co.*, 508 S.W.3d 254 (Tex. 2017) - that if an insured proposes a reasonable interpretation of the policy, the insured's interpretation must be adopted.⁸

It is well-settled that Texas courts maintain the value of insurance and keep a level playing field between the state's residents and insurance companies by applying and enforcing the doctrine of *contra proferentem* - i.e., ambiguous language in an insurance policy is to be interpreted in favor of coverage.⁹ Thus, "when the language of the insurance contract is ambiguous, that is, is subject to two or more reasonable interpretations, then that construction which affords coverage **will be the one adopted.**"¹⁰

The policy of strict construction against the insurer is especially strong when the court is dealing with exceptions and words of limitation.¹¹ It is settled law in

⁷ See Anadarko Petition for Review at pp. 15-16; LOGA/LMOGA *Amicus Curiae* at pp. 1-8.

⁸ See Anadarko Petition for Review at pp. 15-19; API *Amicus Curiae* at pp. 9-10.

⁹ See *Evanston Ins. Co. v. Legacy of Life*, 370 S.W.3d 377, 380 (Tex. 2012) (interpreting ambiguous language in favor of the insured); *Gilbert Texas Constr., L.P. v. Underwriters at Lloyd's London*, 327 S.W.3d 118, 133 (Tex. 2010) (same); *Don's Bldg. Supply, Inc. v. OneBeacon Ins. Co.*, 267 S.W.3d 20, 23 (Tex. 2008) (same); *Evanston Ins. Co. v. ATOFINA Petrochems., Inc.*, 256 S.W.3d 660, 668 (Tex. 2008) (same); *ATOFINA Petrochems., Inc. v. Cont'l Cas. Co.*, 185 S.W.3d 440, 444 (Tex. 2005) (same); *Progressive Cnty. Mut. Ins. Co. v. Sink*, 107 S.W.3d 547, 551 (Tex. 2003) (same).

¹⁰ See *Glover v. National Ins. Underwriters*, 545 S.W.3d 755, 7561 (Tex. 1977) (Emphasis added).

¹¹ See *Blaylock v. American Guarantee Bank Liab. Ins. Co.*, 632 S.W.2d 719, 721 (Tex. 1982); *State Farm Mut. Auto. Ins. Co. v. Owens*, 308 S.W.2d 189, 193 (Tex. 1957) ("[p]rovisions inserted in a contract by the insurer which tend to defeat, diminish or forfeit the insurance will be construed strictly against the insurer"); see also *Urethane Int'l Products v. Mid-Continent Cas. Co.*, 187 S.W.3d 172, 176 (Tex. 2006) (interpreting exclusion in favor of insured).

Texas that when the interpretation of an exclusionary or coverage-limiting clause is at issue, courts “must adopt the construction of an exclusionary clause urged by the insured as long as that construction is not unreasonable, *even if* the construction urged by the insurer appears to be more reasonable or a more accurate reflection of the parties’ intent.”¹²

Under the foregoing authorities, and reasons cited by Anadarko, LOGA, LMOGA and API in support of their respective Petition for Review and *amici curiae*, it is clear that the Beaumont Court failed to follow long-established precedents adopted by this court for interpretation of insurance policy provisions which limit coverage, and defense costs should not be subject to scaling under the Joint Venture Provision of Anadarko’s policy.

B. The Beaumont Court’s Decision has Profound Effects for Multitudes of Texas Policyholders Who Must Purchase Insurance through the Surplus Lines Market

Multitudes of energy-based companies are headquartered in the state of Texas. With the unique risks faced by such companies, most are required to purchase that

¹² See *National Union Fire Ins. Co. of Pittsburgh, PA v. Hudson Energy Co., Inc.*, 811 S.W.2d 552, 555 (Tex. 1991) (emphasis added); see also *Tolar v. Allstate Texas Lloyd’s Co.*, 772 F.Supp.2d 825, 830 (N.D. Tex. 2011); *Utica Nat’l Ins. Co. v. Am. Indem. Co.*, 141 S.W.3d 198, 202 (Tex. 2004) (when construing exclusions, court must adopt the construction urged by the insured if that construction is not unreasonable, *even if* construction urged by insurer seems more reasonable).

insurance through the surplus lines insurance markets, for which there is minimal oversight by the Texas Department of Insurance.¹³

Texas is one of the largest surplus lines markets in the country, and in 2016 experienced a 5.08% growth in surplus lines filings.¹⁴ According to information obtained from the Surplus Lines Stamping Office of Texas, as of April 30, 2017, \$1,642,657,354.70 in premium was written by surplus lines insurers.¹⁵ Of that total, \$747,703,013.33 was for “Other Liability” coverage under which Underwriters’ policies likely fall.¹⁶ By way of example, other premium data obtained from the Surplus Lines Stamping Office of Texas¹⁷ indicates the following net premiums received by various underwriters who are parties to this matter:

Insurer Name	Policy Year	Premium Amount
Underwriters at Lloyds, London	2013	\$951,004,366.00
Allianz Global Corporate & Specialty SE	2014	\$2,561,284,000.00
Hudson Specialty Insurance Company	2014	\$63,161,067.00
Lancashire Insurance Company (UK) LTD	2014	\$55,984,000.00
Navigators Specialty Insurance Company	2014	\$34,681,703.00

¹³ **Appendix Exhibit 1** - Texas Department of Insurance (2016, December). *Surplus Lines Insurance* [Brochure cb015.1216], <https://www.tdi.texas.gov/pubs/consumer/cb015.pdf>.

¹⁴ **Appendix Exhibit 2** - "Texas Stamping Office: Upward Trend Continues for Surplus Lines" Insurance Journal South Central News, January 23, 2017 <http://www.insurancejournal.com/news/southcentral/2017/01/24/439832.htm?print>.

¹⁵ **Appendix Exhibit 3** - Surplus Lines Stamping Office of Texas Premium Data through April 30, 2017.

¹⁶ *Ibid.*

¹⁷ **Appendix Exhibit 4 (in globo)** - Surplus Lines Stamping Office of Texas Premium Data for various insurers.

Surplus lines insurers are not subject to most Texas insurance laws, and are also not members of guaranty associations which pay claims when a licensed company becomes insolvent.¹⁸ These facts underscore the heightened implications of the Beaumont Court's decision for policyholders within the state of Texas.

C. The Beaumont Court's Decision Undermines Texas' Public Policy of Encouraging Voluntary Settlements and Orderly Dispute Resolution

Anadarko and BP entered into a settlement agreement in October 2011 wherein Anadarko and BP mutually agreed to release all claims against each other associated with the Macondo Incident. Under the settlement, BP agreed to release Anadarko from all claims arising under the Operating Agreement and to indemnify Anadarko for all future liability, including damages or removal costs under the OPA.¹⁹ As detailed in the Beaumont Court decision, in February 2012, the MDL Court granted the United States' request for a declaratory judgment finding that BP and Anadarko were jointly and severally liable under the OPA for removal costs and damages related to the subsurface discharge.

The trial court found that the MDL Court's determination that Anadarko was jointly and severally liable for the OPA removal costs and damages triggered the second exception of the Joint Venture Provision, entitling Anadarko to payment of

¹⁸ *Ibid.*

¹⁹ *Houston Casualty Company, et. al. v. Anadarko Petroleum Corporation, et al.*, No. 09-14-00459-CV, (Tex. App.-Beaumont [284th Dist.] 2016), Slip Op.6-7, 2016 WL 6809215, *3.

one hundred percent of its defense costs.²⁰ The Beaumont Court rejected this rationale, and held that this exception did not apply “because a judgment holding a party jointly and severally liable for OPA costs and damages is not the same as a judgment for recovery of a particular amount for such costs.”²¹ It follows from the Beaumont Court’s rationale that had Anadarko not entered into the settlement and compromise with BP, and had instead proceeded forward with having the MDL Court render a joint and several OPA damage amount against it, Anadarko would have recovered all of its defense costs and expenses under the second exception of the Joint Venture Provision.

It has long been the public policy of Texas to favor and encourage voluntary settlements and orderly dispute resolution.²² United Policyholders submits that the Beaumont Court’s rationale completely undermines this goal, and would have a chilling effect upon the ability of parties and courts to effectuate reasonable settlements of claims, particularly in instances like here when the price of settlement results in defense expenses that are tens of millions of dollars higher than they would be if a policyholder proceeded to trial. This perverse anomaly should not be

²⁰ *Ibid*, Slip Op.23-24, 2016 WL 6809215, *9.

²¹ *Id.* Slip Op. 26; 2016 WL 6809215, *10.

²² *Schlumberger Technology Corp. v. Swanson*, 959 S.W.2d 171, 178 (Tex. 1997); *Shannon v. Memorial Drive Presbyterian Church U.S.*, 476 S.W.3d 612, 631 (Tex. App.-Hous. [14th Dist.] 2015)

sanctioned by this Court, and United Policyholders respectfully suggests that it be corrected.

PRAYER

United Policyholders respectfully prays that this Court grant Anadarko's Petition for Review, reverse the decision of the Beaumont Court and render judgment in favor of Anadarko finding that the scaling provisions of the Joint Venture Provision of Underwriters' policy do not apply to defense costs and expenses.

Respectfully submitted,

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United Policyholders*

CERTIFICATE OF COMPLIANCE

Pursuant to Texas Rule of Appellate Procedure 9.4(i)(3), I hereby certify that this Brief of Amicus Curiae, United Policyholders, contains 1,182 words, excluding the words not included in the word count pursuant to Texas Rule of Appellate Procedure 9.4(i)(1). This is a computer-generated document created in Microsoft Word, using 14-point typeface for all text, except for footnotes which are in 12-point typeface. In making this Certificate of Compliance, I am relying on the word count provided by the software used to prepare the document.

/s/ G. Andrew Veazey
G. Andrew Veazey

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Brief of Amicus Curiae, United Policyholders, has been served upon the following counsel of record via electronic service on this 22nd day of May, 2017:

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/s/ G. Andrew Veazey
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INDEX TO APPENDIX

1. Texas Department of Insurance (2016, December). Surplus Lines Insurance [Brochure cb015.1216] <https://www.tdi.texas.gov/pubs/consumer/cb015.pdf>.
2. "Texas Stamping Office: Upward Trend Continues for Surplus Lines" Insurance Journal South Central News, January 23, 2017 <http://www.insurancejournal.com/news/southcentral/2017/01/24/439832.htm?print>.
3. Surplus Lines Stamping Office of Texas Premium Data through April 30, 2017.
4. Surplus Lines Stamping Office of Texas Premium Data for various insurers.

Appendix Exhibit 1

Get Help from TDI

For insurance questions or for help with an insurance-related complaint, call the **TDI Consumer Help Line** at **1-800-252-3439** or visit our website at **tdi.texas.gov**.

Visit **HelpInsure.com** to shop for automobile, homeowners, condo, and renters insurance, and **TexasHealthOptions.com** to learn more about health insurance and your options for coverage.

Surplus Lines Insurance

The information in this publication is current as of the revision date. Changes in laws and agency administrative rules made after the revision date may affect the content. View current information on our website. TDI distributes this publication for educational purposes only. This publication is not an endorsement by TDI of any service, product, or company.



Texas Department of Insurance
PO Box 149091 | Austin TX 78714-9091
1-800-252-3439 | TDI.texas.gov | [@TexasTDI](https://twitter.com/TexasTDI)

cb015.1216

Exhibit 1



**Published by the
Texas Department of Insurance
December 2016**

It's always best to buy insurance from companies licensed in Texas. The Texas Department of Insurance (TDI) reviews licensed companies to make sure they meet the state's rules and have enough money to pay claims. But there are times when a licensed company isn't willing to sell you a policy.

Texas law allows some companies, called surplus lines insurers, to cover risks that licensed companies in the standard market aren't able or willing to insure.

Although TDI doesn't have as much oversight of surplus lines insurers as it does over licensed companies, it does determine which surplus lines insurers are eligible to do business in the state.

Agents must try to find a Texas-licensed company to sell you a policy before they sell you a policy from a surplus lines insurer. If you're not satisfied with an agent's search, consider using another agent to try to find a Texas-licensed company.

Beware of Unauthorized Insurers

An unauthorized insurer is a company that isn't licensed or eligible to sell insurance in Texas. Before you buy a surplus lines policy, check that the insurer is eligible in Texas by calling TDI's **Consumer Help Line** at **1-800-252-3439**. You can also use the Company Lookup for surplus lines insurers and Agent Lookup for surplus lines agents on our website at **tdi.texas.gov**.

Types of Surplus Lines Insurance

Most surplus lines insurance is written in the commercial market for businesses that need unique policies to cover unusual risks, such as liability coverage for special events, oil and gas refineries, and hazardous material transportation. People typically don't buy surplus lines policies because they can usually get the home or auto coverages they need through a Texas-licensed company.

Surplus lines insurers may not sell personal auto

liability policies. If you can't find a licensed company that will sell you a liability policy, your only option is to buy one through the Texas Automobile Insurance Plan Association (TAIPA). For more information about **TAIPA**, call **1-866-321-9154** or visit its website at **taipa.org**.

Regulation of Surplus Lines Insurers

Surplus lines insurers aren't subject to most Texas insurance laws. TDI does have limited oversight of the surplus lines market by

- licensing and regulating surplus lines agents,
- determining whether surplus lines insurers can issue policies in Texas, and
- maintaining a list of eligible surplus lines insurers.

Unlike licensed insurance companies, surplus lines insurers aren't members of guaranty associations. Guaranty associations pay claims of licensed companies that become insolvent. If a surplus lines insurer becomes insolvent, your claims could go unpaid.

Surplus lines insurers must be licensed in their home state or country.

Financial Requirements

Surplus lines insurers based in another state must have at least \$15 million in combined capital and surplus to do business in Texas. (Capital and surplus are a company's financial cushion against unexpected claims.) A surplus lines insurer based

in a foreign country must have a minimum of \$45 million in capital and surplus and hold an amount in trust.

Surplus lines agents may only sell you a policy from a surplus lines insurer that meets Texas' financial requirements.

Required Notice on Policies

Texas law requires agents to list their names and addresses on surplus lines policies they sell. Agents must also include a statement that the surplus lines insurer isn't licensed in Texas and that the policy is a surplus lines policy.

Surplus lines agents must send a copy of each surplus lines insurance policy they sell to the Surplus Lines Stamping Office of Texas. The stamping office reviews each policy to make sure it was properly placed with an eligible surplus lines insurer.

For more information about the **stamping office**, call **1-800-449-6394** or visit its website at **slsot.org**.

Appendix Exhibit 2

SUPER REGIONAL P/C INSURER™ CONFERENCE 2017

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July 16-18 // Lake Geneva, WI

Presented by



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**INSURANCE
JOURNAL**

View this article online: <http://www.insurancejournal.com/news/southcentral/2017/01/24/439832.htm>

Texas Stamping Office: Upward Trend Continues for Surplus Lines

Overall, 2016 ended on a positive note for the U.S. excess and surplus lines insurance industry, according to the Surplus Lines Stamping Office of Texas (SLTX).

Nationally, nearly \$26 billion in surplus lines insurance premium was recorded for end-of-year 2016, which is a 3.27 percent rise from 2015. In addition, the amount of filings recorded in 2016 represents a 3.1 percent increase from that of 2015, with about 3.6 million filings in total.

SLTX captures insurance data from service offices across the United States. The data includes information on premium and filing totals from 14 offices across the country, which depict the landscape of the excess and surplus lines marketplace across four primary regions.

The southern region, which includes Florida, Mississippi and Texas, accounted for the highest amount of surplus lines insurance premium, at approximately \$10.5 billion. This same region also recorded the most filings, with more than 2 million. Mississippi had the largest increase in filings overall, with an 11.28 percent rise from 117,000 filings in 2015 to 130,000 total filings in 2016.

Three of the largest surplus lines markets – California, Texas and Florida – all reported increases in premium for 2016, even after mid-year data showed decreases in premium over the first six months of the year.

Premium in California increased by 4.6 percent, Florida had a gain of 0.55 percent, and Texas premium increased by 2.06 percent. Texas and Florida showed similar growth in filings, with 5.08 percent and 5.88 percent, respectively, while California reported a decrease in the amount of filings for 2016 by 8.92 percent.

New York, the fourth largest market with \$3.7 billion in total 2016 premium, recorded a 1.98 percent increase in premium and a 6.12 percent increase in filings. Pennsylvania and Illinois also recorded more than \$1 billion in premium.

Eight other states brought in less than \$1 billion in premium, with seven of them accounting for less than \$500 million each. Of these states, Washington enjoyed a 10.64 percent year over year increase in total premium with a rise from \$762.9 million in 2015 to \$844.1 million in 2016. In addition, filings in Washington grew 7.17 percent in 2016 to approximately 112,000.

Bob Hope, executive director of the Surplus Line Association of Washington, stated that his state saw an increase of about \$20 million in property premiums, mostly in difference-in-conditions insurance and standalone flood and earthquake areas. Hope said casualty premiums were also up by almost \$60 million, with the largest increases found in errors and omissions, directors and officers, construction, and cyber liability policies.

Overall, Pennsylvania reported the highest increase in premium with 30.53 percent, at \$1.2 billion in 2016 premium. In addition to recorded premium numbers, Pennsylvania also finalized a \$3.08 billion enforcement action involving 1,172 additional policies in early 2016. The second largest increase was recorded in Idaho, which experienced a 13.53 percent growth to \$102 million in total premium.

Over the course of 2016, 4 states' stamping fees/assessment rates were changed as follows:

- Idaho's rate from .25 percent to .50 percent, effective Jan. 1, 2016.
- Texas' rate from .06 percent to .15 percent, effective January 1, 2016.
- Florida's rate from .175 percent to .15 percent, effective April 1, 2016.
- Minnesota's rate from .06 percent to .04 percent, effective Oct. 1, 2016.

Of the states that implemented new stamping fees, Minnesota was the only to experience a decrease in premium, at 12.1 percent less than 2015.

“Even with slight changes reported by all the peer offices,” stated Norma Carabajal Essary, SLTX executive director, “the overall message points to a healthy excess and surplus lines industry that continues to maintain a strong presence across the U.S.”

Exhibit 2

Source: SLTX

More from Insurance Journal

[Today's Insurance Headlines](#) | [Most Popular](#) | [Texas / South Central News](#)

Appendix Exhibit 3

P15Code	P15 Description	Premium thru 04/30/2017	Premium thru 04/30/2016	\$ Change	% Change
1	Fire (Including Allied Lines)	451,172,333.10	402,677,457.66	48,494,875.44	12.04
2	Allied Lines	31,019,835.49	33,590,602.42	2,570,766.93-	7.65-
3	Farmowners Multiple Peril	677,307.05	497,237.04	180,070.01	36.21
4	Homeowners Multiple Peril	59,875,760.94	49,109,243.67	10,766,517.27	21.92
5	Commercial Multiple Peril	92,896,920.29	74,705,107.82	18,191,812.47	24.35
8	Ocean Marine	10,263,222.44	9,003,061.82	1,260,160.62	14.00
9	Inland Marine	28,365,451.72	34,657,332.04	6,291,880.32-	18.15-
11	Medical Malpractice	24,183,268.99	17,210,170.44	6,973,098.55	40.52
12	Earthquake	51,977.08	98,506.49-	150,483.57	152.77
13	Group Accident & Health	29,734,458.74	23,325,691.07	6,408,767.67	27.48
15	All Other A&H	3,889,212.68	3,388,093.40	501,119.28	14.79
17	Other Liability	747,703,013.33	729,370,087.53	18,332,925.80	2.51
18	Products Liability	6,317,372.88	9,778,658.28	3,461,285.40-	35.40-
19.2	Oth Private Passenger Auto Liabilty	0.00	442.00-	442.00	100.00
19.4	Other Commercial Auto Liability	41,236,365.02	25,252,551.14	15,983,813.88	63.30
21.1	Private Passngr Auto Physical Damag	186,293.04	30,529.50	155,763.54	510.21
21.2	Commercial Auto Physical Damage	87,284,742.60	85,102,709.61	2,182,032.99	2.56
22	Aircraft (All Perils)	695,604.71	2,694,702.53	1,999,097.82-	74.19-
23	Fidelity	2,248,856.34	1,645,984.00	602,872.34	36.63
24	Surety	3,687,728.01-	4,765,462.04	8,453,190.05-	177.38-
26	Burglary and Theft	719,923.54	773,675.93	53,752.39-	6.95-
27	Boiler and Machinery	94,584.00-	344,957.00	439,541.00-	127.42-
28	Credit	27,434,920.59	39,560,972.08	12,126,051.49-	30.65-
31	Agg Write-Ins for Other Line of Bus	482,826.14	286,818.00	196,008.14	68.34
	Grand Total:	1,642,657,354.70	1,547,672,156.53	94,985,198.17	6.14



Appendix Exhibit 4

UNDERWRITERS at LLOYD'S , LONDON

Non-U. S. INSURER - 2011 ELIGIBILITY

Issue Date September-14
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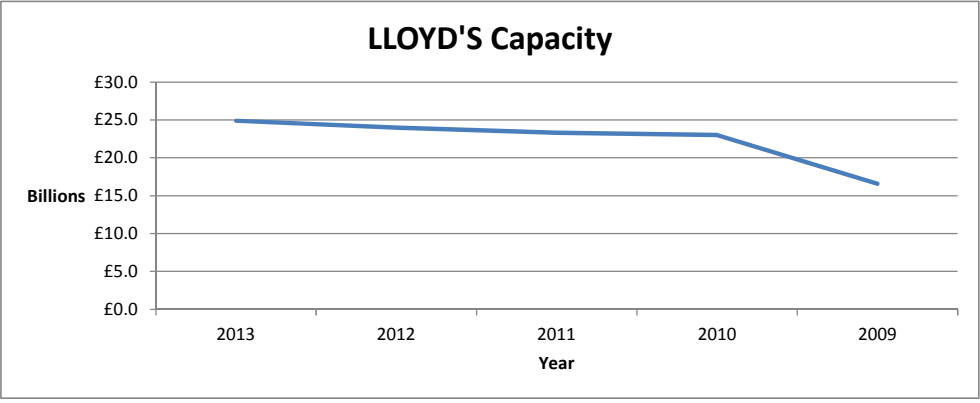
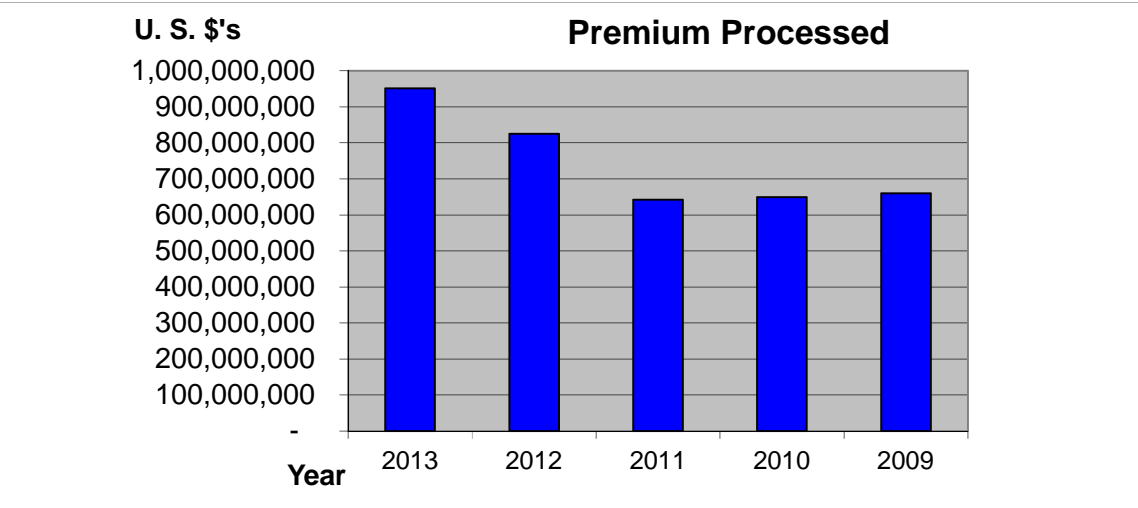
Insurer Number: Texas # 90102091 IID / AIN # AA-1122000
 AMB # 85202

TDI Initial Date **1-Jan-83**

Country of Domicile: **United Kingdom**

U. S. Contact: **Lloyd's America, Inc.**
 A.M. Best's Rating **A** Stable www.ambest.com
 as of **Sep-14** Class XV
 Affirmed 24-Jul-14

	2013	2012	2011	2010	2009
SLSOT Premium Processed	951,004,366	825,225,176	642,444,803	649,546,722	660,280,364
Combined Ratio	87%	91%	107%	93%	86%
LLOYD'S Capacity	£24.9	£24.0	£23.3	£23.0	£16.6
Rank among all Texas S/L Insurers	1	1	1	1	1



ALLIANZ GLOBAL CORPORATE & SPECIALTY SE

Non-U. S. INSURER - 2014 Five-Year Summary

Issue Date
July-15

Insurer Number: Texas # 90102145 IID/AIN # AA-1340099
 TDI Initial Date **1-Oct-03** AMB # 87997
 AMB Group # 85449

U. S. Contact
Locke Lord LLP

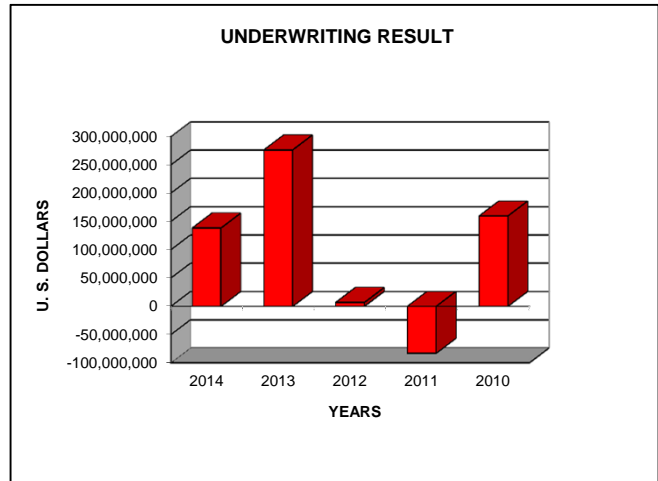
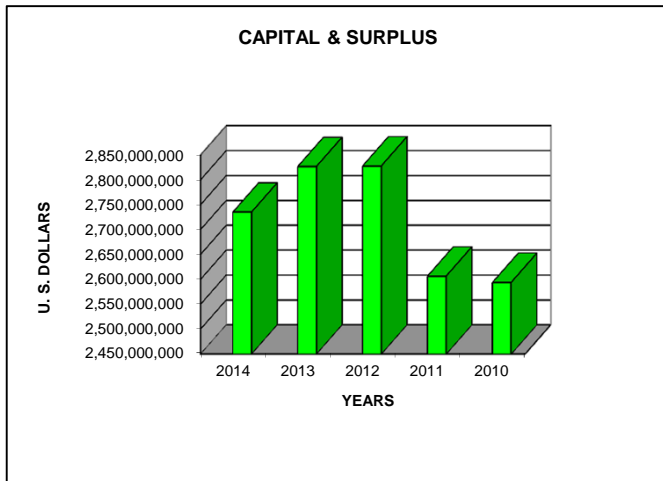
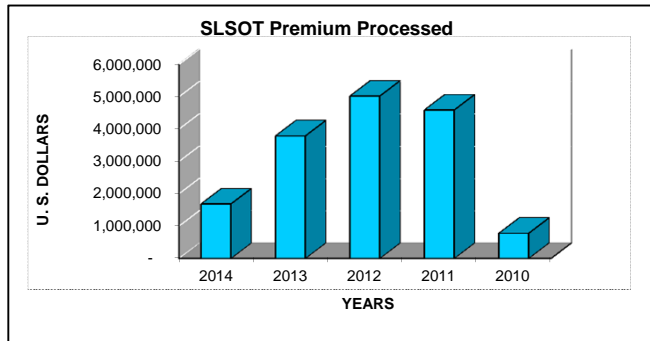
Country of Domicile: **Germany**
 Memberships / Listings IID Listed **yes**

Parent / Ultimate Parent: **Allianz SE** Parent Domicile
 Name of Insurance Group: **Allianz Group** Germany
 A.M. Best's Rating **A+** Stable www.ambest.com
 as of **Jul-15** Class XV
 Affirmed **18-Jul-14**

	2014	2013	2012	2011	2010
Capital & Surplus	2,735,111,000	2,826,912,000	2,828,151,000	2,606,918,000	2,594,118,000
Underwriting Gain (Loss)	138,424,000	276,659,000	6,902,000	(82,961,000)	159,765,000
Net Income After Tax	(3,000,000)	3,000,000	-	-	(1,000)
Gross Premium	4,342,496,000	4,427,831,000	3,980,482,000	3,538,034,000	3,231,276,000
Net Premium	2,561,284,000	2,526,063,000	2,466,423,000	2,281,778,000	2,221,690,000
Gross Premium to Surplus Ratio	159%	157%	141%	136%	125%
Net Premium to Surplus Ratio	94%	89%	87%	88%	86%
SLSOT Premium Processed	1,688,191	3,791,156	5,023,304	4,593,180	778,408
Rank among all Texas S/L Insurers	120	109	96	88	128
Source ->	IID	IID	IID	IID	IID
Combined Ratio	94%	88%	99%	102%	93%
Source ->	IID	IID	IID	IID	IID
Ratio Failures	1 of 8	2 of 8	1 of 8	1 of 8	2 of 8

Financial Ratios

	2014	2013	2012
Net Prem. / Sh. Funds	94%	89%	87%
% Growth - Net Prem.	1%	2%	6%
Retention Ratio	59%	57%	62%
Reserves/Liq. Assets	82%	74%	79%
Investment Yield	4.2%	2.8%	6.3%
Profit/Sh.Funds	0.0%	0.0%	0.0%
Reserves +Surp/ Net P	372%	375%	349%
Reserves / Surplus	249%	235%	205%
	IID	IID	IID



HUDSON SPECIALTY INSURANCE COMPANY

U. S. Insurer - 2015 EVALUATION

Issue Date May-15

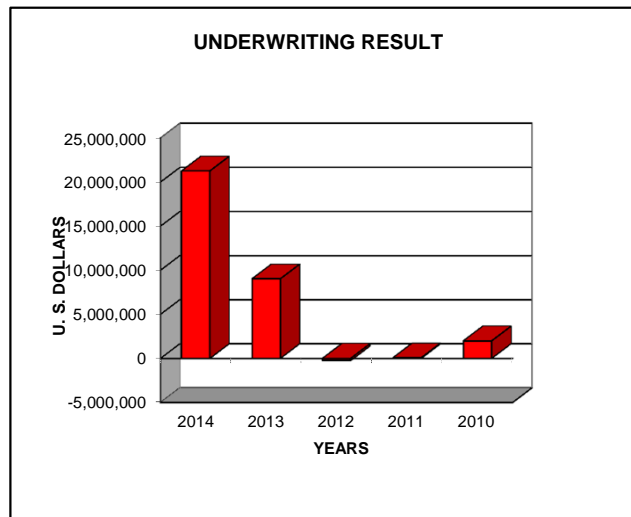
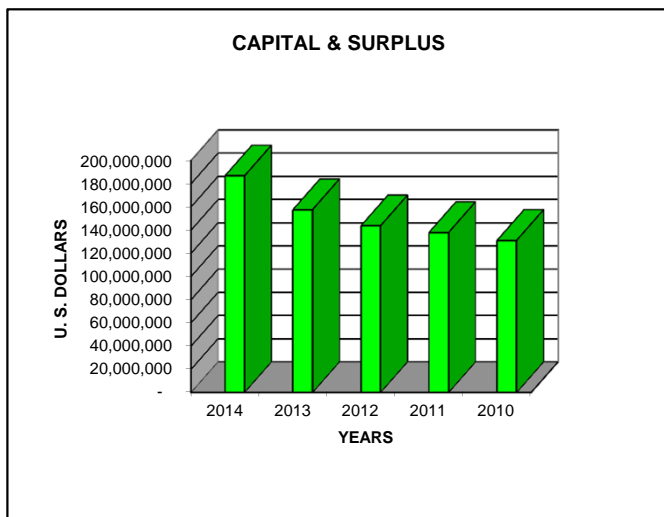
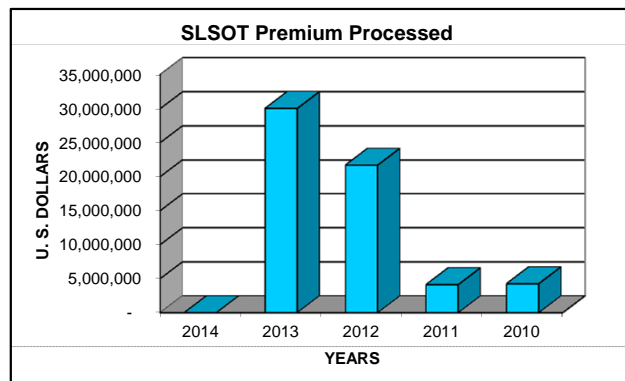
Insurer Number: Texas # 809012522 NAIC # 0158-37079
 TDI Initial Date 1-Jul-96 AMB # 12631

State of Domicile: **NEW YORK** Incorporation Date: 13-Dec-84
 Location of Main Administrative Offices: **New York, NY** Commenced Business: 18-Dec-94

Parent / Ultimate Parent: **Hudson Insurance Company/Fairfax Financial Holdings Limited** Parents Domicile
 Name of Insurance Group: **Fairfax Financial Group** Delaware/Canada
 A.M. Best's Rating **A** *Stable* www.ambest.com
 as of **May-15**
 Affirmed 5-May-15

	2014	2013	2012	2011	2010
Capital & Surplus	186,778,537	157,661,651	143,783,005	137,994,866	131,205,292
Underwriting Gain (Loss)	21,256,608	9,019,835	(244,273)	63,365	1,982,515
Net Income After Tax	22,214,813	12,477,991	7,697,662	6,865,121	10,879,732
Cash Flow from Operations	52,680,477	30,304,437	19,922,602	10,418,478	582,622
Return on Policyholder Surplus	20.6%	8.5%	4.9%	4.7%	9.1%
Gross Premium	255,905,013	221,241,363	170,163,108	134,065,881	125,298,551
Net Premium	63,161,067	50,490,578	35,050,634	26,027,363	22,190,239
Gross Premium to Surplus Ratio	137%	140%	118%	97%	95%
Net Premium to Surplus Ratio	34%	32%	24%	19%	17%
Direct Premium Total	253,240,124	220,035,782	169,457,810	134,065,881	125,298,551
Direct Premium in Texas (Sch. T)	34,403,656	27,694,334	17,937,270	3,757,681	3,780,265
% of Direct Premium in Texas	14%	13%	11%	3%	3%
Texas' Rank in writings (Schedule T)	1 of 53	1 of 52	2 of 53	9 of 52	9 of 51
SLSOT Premium Processed	-	30,012,709	21,689,088	4,112,585	4,257,410
Rank among all Texas S/L Insurers	0	39	46	92	94
Combined Ratio	65%	80%	101%	100%	64%
IRIS Ratios Outside Usual Range	0	1	1	0	0

	2014	2013	2012
Gross Prem./Surplus	137%	140%	118%
Net Prem./Surplus	34%	32%	24%
Change - Net Premium	25%	44%	35%
Surplus Aid Ratio	2%	3%	3%
2 Yr. Operating Ratio	53%	67%	70%
Investment Yield	3.4%	3.7%	4.4%
Surplus Change (Gross)	18%	10%	4%
Surplus Change (Net)	18%	10%	4%
Liab. to Liquid Assets	64%	68%	62%
Agents Bal. to Surplus	0%	5%	1%
Reserve Development			
1Year Devl / Surplus	-1%	0%	-1%
2Year Devl / Surplus	-2%	-1%	-3%
C.Deficiency / Surplus	8%	9%	-2%



LANCASHIRE INSURANCE COMPANY (UK) LTD

Non-U. S. INSURER - 2014 Five-Year Summary

Issue Date July-15

Insurer Number:	Texas #	9012289418	IID / AIN #	AA-1120066
TDI Initial Date	1-Jan-07		AMB #	78390
			AMB Group#	51279

Country of Domicile:	United Kingdom	
Memberships / Listings	IID Listed	Yes

U. S. Contact
Drinker, Biddle & Reath, LLP

Immediate Parent:	Lancashire Insurance Holdings (UK) Ltd.	Domicile: United Kingdom
Ultimate Parent:	Lancashire Insurance Holdings Limited	Domicile: Bermuda
Name of Insurance Group:	Lancashire Insurance Group	Formed: March 17, 2006
A.M. Best's Rating	A	Commenced Business: August 30, 2006
as of	Jul-15	
<i>Affirmed</i>	<i>9-Jul-15</i>	

Stable www.ambest.com
Class XII

Capital & Surplus
Underwriting Gain (Loss)
Net Income After Tax

Gross Premium
Net Premium
Gross Premium to Surplus Ratio
Net Premium to Surplus Ratio

SLSOT Premium Processed
Rank among all Texas S/L Insurers

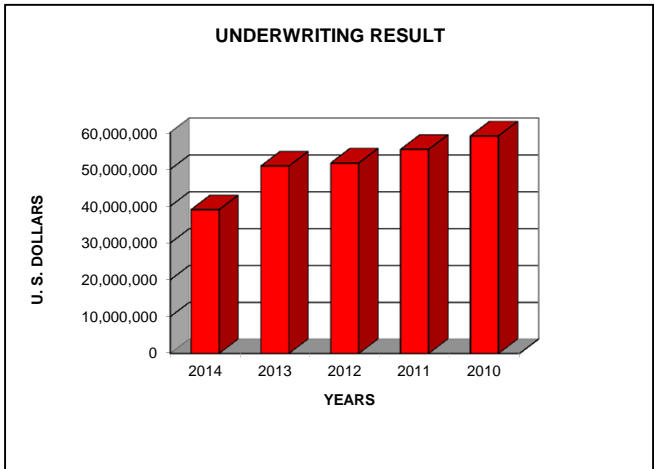
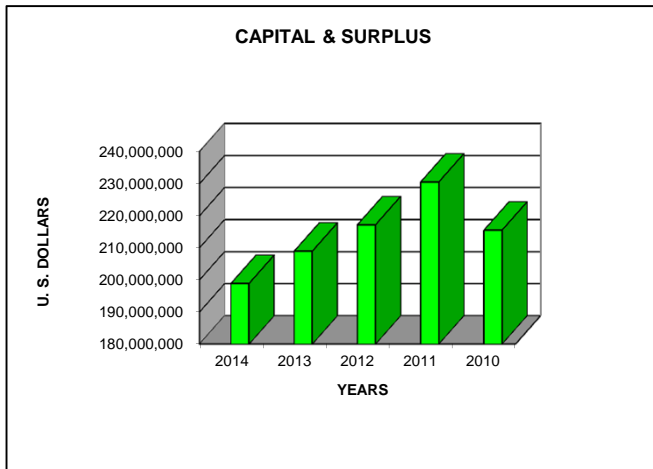
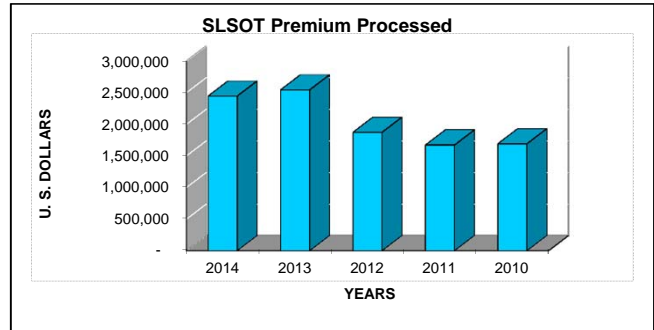
Combined Ratio

Ratio Failures

	2014	2013	2012	2011	2010
Capital & Surplus	198,906,000	208,968,000	217,207,000	230,544,000	215,503,000
Underwriting Gain (Loss)	39,075,000	50,937,000	51,755,000	55,452,000	59,120,000
Net Income After Tax	6,184,000	16,864,000	15,486,000	14,682,000	21,472,000
Gross Premium	423,601,000	417,940,000	453,187,000	423,136,000	459,451,000
Net Premium	55,984,000	63,863,000	65,093,000	64,129,000	71,662,000
Gross Premium to Surplus Ratio	213%	200%	209%	184%	213%
Net Premium to Surplus Ratio	28%	31%	30%	28%	33%
SLSOT Premium Processed	2,445,221	2,543,559	1,872,814	1,671,129	1,691,298
Rank among all Texas S/L Insurers	114	118	118	114	116
Source ->	IID	IID	IID	IID	IID
Combined Ratio	28%	23%	14%	11%	13%
Source ->	IID	IID	IID	IID	IID
Ratio Failures	4 of 8	2 of 8	2 of 8	2 of 8	2 of 8

Financial Ratios

	2014	2013	2012
Net Prem. / Sh. Funds	28%	31%	30%
% Growth - Net Prem.	-12%	-2%	2%
Retention Ratio	13%	15%	14%
Reserves/Liq. Assets	45%	38%	37%
Investment Yield	1.3%	1.4%	1.8%
Profit/Sh. Funds	3.0%	7.8%	6.7%
Reserves +Surp/ Net P	562%	498%	501%
Reserves / Surplus	58%	52%	50%
	IID	IID	IID



NAVIGATORS SPECIALTY INSURANCE COMPANY

U. S. Insurer - 2015 EVALUATION

Issue Date May-15

Insurer Number:	Texas # 80101260	NAIC # 0510-36056	Name Change
TDI Initial Date	Jul-95	AMB # 10761	

State of Domicile:	NEW YORK	Incorporation Date:	Dec-88
Location of Main Administrative Offices:	New York, NY	Commenced Business:	Oct-89

Parent / Ultimate Parent:	Navigators Insurance Company / Navigators Group, Inc.	Parent Domicile
Name of Insurance Group:	The Navigators Group, Inc.	New York / Delaware
A.M. Best's Rating	A Stable www.ambest.com	
as of	May-15	
Affirmed	4-Jun-14	

	2014	2013	2012	2011	2010
Capital & Surplus	132,969,023	129,702,331	126,885,295	123,504,340	120,290,009
Underwriting Gain (Loss)	0	0	0	0	0
Net Income After Tax	3,266,450	2,819,140	3,334,320	3,355,180	4,639,246
Cash Flow from Operations	3,304,349	2,094,831	4,488,422	(5,740)	3,598,985
Return on Policyholder Surplus	2.5%	2.2%	2.7%	2.6%	3.9%
Gross Premium	316,193,511	254,619,048	207,586,040	150,357,806	117,272,906
Net Premium	0	0	-	-	-
Gross Premium to Surplus Ratio	238%	196%	164%	122%	97%
Net Premium to Surplus Ratio	0%	0%	0%	0%	0%
Direct Premium Total	316,193,511	254,619,048	207,586,040	150,357,806	117,272,906
Direct Premium in Texas (Sch. T)	34,681,703	24,205,885	17,972,020	9,587,826	6,644,242
% of Direct Premium in Texas	11%	10%	9%	6%	6%
Texas' Rank in writings (Schedule T)	2 of 50	2 of 50	2 of 51	2 of 50	2 of 50
SLSOT Premium Processed	36,777,416	23,126,202	17,238,796	8,336,223	6,363,886
Rank among all Texas S/L Insurers	38	46	50	70	82
Combined Ratio	0%	0%	0%	0%	0%
IRIS Ratios Outside Usual Range	1	0	0	0	0

	2014	2013	2012
Gross Prem./Surplus	238%	196%	164%
Net Prem/Surplus	0%	0%	0%
Change - Net Premium	0%	0%	0%
Surplus Aid Ratio	0%	0%	0%
2 Yr. Operating Ratio	0%	0%	0%
Investment Yield	3.0%	3.2%	3.6%
Surplus Change (Gross)	3%	2%	3%
Surplus Change (Net)	3%	2%	3%
Liab. to Liquid Assets	21%	19%	18%
Agents Bal. to Surplus	20%	18%	16%
Reserve Development			
1Year Devl / Surplus	0%	0%	0%
2Year Devl / Surplus	0%	0%	0%
C.Deficiency / Surplus	0%	0%	0%

