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NEWS RELEASE

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REPORT SHOWS INSURANCE INDUSTRY'S UNCHECKED POWER LEADS TO MANUFACTURED CRISES

STRONGER REGULATION IS NEEDED, NOT FEDERAL BAILOUT OR RESTRICTIONS ON CONSUMERS' RIGHTS

The Center for Justice & Democracy released a new study today showing how the insurance industry exerts significant, unchecked power over the U.S. economy and uses this power to promote a legislative agenda that bilks U.S. taxpayers and abolishes consumers' rights.

Release of the report, *Shakedown: How the Insurance Industry Exploits a Nation in Times of Crisis,* comes as the Bush administration has joined with the $3 trillion insurance industry in a renewed push for a federal bailout in the wake of September 11. It also addresses the coordinated nationwide campaign to restrict the rights of injured patients to sue malpracticing doctors, responding to skyrocketing insurance rates created by the insurance industry's own pricing errors and lost investment income. Federal legislation is expected to be introduced this week.

CJ&D Executive Director and co-author Joanne Doroshow stated, "The property/casualty insurance industry has repeatedly threatened to pull the rug out from under the U.S. economy, state governments, critical businesses and professions in order to get what it wants. Today, we are seeing this power used to push for an indefensible federal bailout to cover losses from terrorist attacks and limitations on people's rights to sue malpracticing doctors, ostensibly in order to cut insurance rates despite evidence showing that such measures won't reduce premiums.

"History repeatedly shows how the insurance industry freely intimidates lawmakers and creates 'crisis' atmospheres to promote its legislative agenda while at the same time escaping any meaningful public scrutiny or regulatory control. The insurance industry represents a critical sector of the U.S. economy, yet it is accountable to no federal agency, subject to virtually no U.S. regulatory laws and only limited state authority. Urgent steps are needed to reign in this

-more-

industry and prevent it from inflicting additional serious harm to U.S. consumers and taxpayers," said Doroshow.

Among the report's finding are:

- The insurance industry misleads lawmakers and regulators about its financial condition, its commitment to the U.S. market and the reasons behind the volcanic eruptions of insurance premiums that lead to insurance "crises" for policyholders, which have occurred three times in the last 30 years and are caused by the industry's own mismanaged underwriting and unchecked power.
- Industry tactics include threats to pull out of the United States, abandon a particular state or severely hurt a state's economy unless tort restrictions are passed, panicking lawmakers who then deliver whatever the insurers want.
- Although the insurance industry stated that the economy would collapse without a federal insurance bailout by December 31, 2001, the economy has not crumbled and the insurance industry has actually seen a surge in capital. The fact that the federal government did not immediately rush to bail out the insurance industry has forced companies to adapt to the current market with alternatives to traditional terrorism coverage, making a federal bailout wholly unnecessary.
- Only effective insurance reforms will stop the industry from abusing its enormous economic influence, which it uses to promote a legislative agenda that bilks taxpayers and severely hurts the American public.

Shakedown includes a detailed list of insurance industry reforms. For a full copy of *Shakedown*, contact info@centerjd.org.

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SHAKEDOWN: HOW THE INSURANCE INDUSTRY EXPLOITS A NATION IN TIMES OF CRISIS

By Joanne Doroshow and Emily Gottlieb
Center for Justice & Democracy
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EXPLOITING SEPTEMBER 11

"The Sky Is Falling"
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HOW TO FIX THE SYSTEM

INTRODUCTION

Ten days after the September 11, 2001 terrorist attacks, a delegation of 15 insurance executives met privately with President Bush and Commerce Secretary Donald Evans at the White House in an effort to limit insurance companies' liability exposure for future acts of terrorism.[1] A few days later, Jacques E. DuBois, an executive from Swiss Re, the world's second-largest reinsurance company[2] but to most people a virtually unknown foreign entity, walked into the White House and told officials that his company would stop providing terrorism coverage to property and casualty insurers, raising fears of a nationwide economic collapse.[3]

These executives were demanding a multi-billion-dollar insurance "backstop," essentially capping the liability of the property/casualty insurance industry, an industry worth hundreds of billions of dollars, in the event of future terrorist attacks. While similar to the demands of a host of other major industries that demonstrated their post-September 11 patriotism by asking to loot the federal treasury, this proposal stood out because the "federal safety net" the insurance executives wanted had the potential to become the most expensive bailout in U.S. history. Without a program in place by the end of 2001, the executives warned, reinsurers would stop providing coverage to property and casualty insurance companies for future terrorist attacks. Without reinsurance, they argued, insurance companies could no longer offer policies with terrorism coverage. And without terrorism insurance, they said, banks would stop lending

money, new construction would grind to a halt and businesses would collapse. The blow to the U.S. economy would be crushing.

As of April 2002, a federal insurance bailout had not yet passed, the economy had not crumbled and the insurance industry has actually seen a surge in capital. In fact, by January 23, 2002, the Consumer Federation of America was reporting that the insurance industry was "more strongly capitalized than it was even before September 11," that "banks were lending money to most businesses" and that while certain large businesses and potential targets like skyscrapers and sports arenas were having difficulty getting terrorism coverage (problems that could be solved with alternatives to traditional terrorism coverage), there were "no widespread economic problems related to terrorism insurance."[4] On March 20, 2002, Assistant Secretary of the Treasury for Financial Institutions, Sheila Bair, acknowledged that there has been no "dramatic disruption" in economic activity as a result of Congress' failure to enact bailout legislation.[5]

While the doomsday predictions of September 2001 have not come to pass, the ease with which insurance executives were able to command the nation's attention with promises about the economy's imminent collapse says a great deal about the vast power and economic control that this industry exercises in the United States. History shows that property/casualty insurance companies have repeatedly threatened to pull the rug out from under the U.S. economy to get what it wants, whether it be a bailout or limits on people's rights to sue, freely intimidating lawmakers and creating an atmosphere of "crisis" to promote its legislative agenda while at the same time escaping any meaningful public scrutiny or regulatory control.

The medical malpractice insurance "crisis" that many states are now experiencing,[6] created by the insurance industry's own pricing errors and lost investment income, is another example of how the industry uses its vast economic clout to pressure lawmakers. Doctors, like all businesses and professions that provide services, depend on adequate and reasonably priced insurance to function. Yet because of scant oversight of insurance industry activities, insurers can, in an effort to raise profits, impose rate hikes that are so astronomical that they threaten the ability of medical clinics to survive even though insurers' own mismanaged underwriting and unchecked power are to blame. Insurance companies and their foreign reinsurers announced, "Don't look at us – blame those lawyers, lawsuits and juries!" With this rhetoric in hand, the industry then uses its economic clout to drive a nationwide campaign to weaken U.S. civil liability laws, some that have protected U.S. citizens for over 200 years. And it's all done with very little scrutiny by policyholders, lawmakers, the media or the public at large.

How can this happen?

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NOTES

[1] Christopher Oster, "Insurance Companies Benefit From Sept. 11, Still Seek Federal Aid," *Wall Street Journal*, November 15, 2001; Stephen Labaton, "Insurers Push for Cap on Future Payouts," *New York Times*, October 22, 2001; Center for Responsive Politics, "After the Attacks: A Special Report on America's Changed Political and Legislative Landscape," September 26, 2001, found at http://www.opensecrets.org/alerts/v6/postterrorism.asp.

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[2] Reinsurance is insurance for insurance companies; the insurer pays the reinsurer a premium in exchange for which the reinsurer agrees to share the risk with the insurer. A U.S. insurer's willingness to offer coverage is often determined by the availability of reinsurance. Reinsurers, typically foreign companies like Swiss Re or Lloyd's of London that operate domestically with virtually no regulatory oversight, can dictate rates, terms of coverage and other matters to U.S. companies. Reinsurers also control the amount of business that primary insurers can write, since reinsurance releases funds for further underwriting that the insurer otherwise would keep in reserve to cover potential large losses. Thus, reinsurers have a substantial amount of economic power over primary insurers.

[3] Stephen Labaton, "Insurers Push for Cap on Future Payouts," *New York Times*, October 22, 2001.

[4] Steven Brostoff, "Hunter: No terror re backstop needed; Terrorism Impact," *National Underwriter Property & Casualty-Risk & Benefits Management,* February 4, 2002.

[5] "Treasury Official Says Admin. Views Terrorism Reinsurance," *National Journal's Congress Daily,* March 20, 2002.

[6] In many states, as well as Congress, proposals have been introduced to restrict the rights of patients to sue doctors and hospitals for medical negligence, triggered by an insurance "crisis" – astronomical rate increases and cancelled coverage for medical malpractice insurance. As explained later in this report, the "crisis" is caused not by lawsuits but by the property/casualty insurance industry's cyclical downturn and will not be solved by restricting patients' rights to sue. Despite this fact, the American Medical Association announced in March 2002 that it planned to lobby lawmakers and courts in at least 25 states for laws to cap the liability of malpracticing doctors and hospitals. On March 14, 2002, the Pennsylvania legislature became the first state this year to approve such a bill.