

Drivers of Discrimination
An Examination of Unfair Premiums, Practices and Policies in
the Auto Insurance Industry



Written Testimony of Eric S. Poe, Esq., CPA, and Chief Operating Officer of CURE Auto Insurance before the U.S. House of Representatives Committee on Financial Services, Subcommittee on Housing, Community Development, and Insurance, March 4, 2020.

Mr. Chairman and Members of the Subcommittee, thank you for inviting me to testify today on issues related to driver discrimination and the use of economic factors such as education, occupation, and credit scores for rate setting in auto insurance. This is an important issue for the U.S. private passenger automobile insurance arena, which is my company's industry, and I appreciate your interest.

I am the Chief Operating Officer of Citizens United Reciprocal Exchange, or CURE Auto Insurance, a regional auto insurance headquartered in Princeton, New Jersey. CURE is licensed to write private passenger auto insurance in both Pennsylvania and New Jersey. CURE was founded in 1990 and is currently one of the largest direct writers of auto insurance in New Jersey.

Prior to 2003, New Jersey auto insurers were not approved to use credit scores, education level, professional occupation, or homeownership status as factors in rating or underwriting. However, in 2003, New Jersey's desire to attract several new national auto insurers to its marketplace led the regulators to permit these rating factors.¹ It was during this time that CURE analyzed these underwriting methods to determine their validity.

¹ New Jersey Citizen Action. 2007. "Risky & Wrong: New Jersey Auto Insurance Rates for Lower Income and Minority Drivers: An Analysis of the Impact of GEICO's Use of Education and Occupation on the Price of Auto Insurance." https://www.state.nj.us/dobi/division_insurance/pdfs/ed_occ_april2008.pdf (Attachment 2, accessed on February 24, 2020).

After significant review, CURE determined that while these rating and underwriting variables do correlate to loss ratios, they merely serve as a statistical proxy for income. More notable is the obvious negative impact that allowing credit scores, educational attainment and occupation had on affordability for car insurance in New Jersey for the lower income drivers. Since permitting the use of these obvious income proxies in 2004, in a short 15 years, New Jersey's uninsured motorist rate has almost doubled from 8% to over 15%. While CURE does not employ these factors in its rates or underwriting, the refusal to adopt this practice forces us out of the competition for the most profitable groups to insure. My concern is that in order to stay profitable, and to compete with companies that use these factors for the more profitable groups of insureds, we will soon be compelled to adopt the practice or face losing our more profitable risks to competitors who utilize these factors.

Another Penalty of Being Poor – Car Insurance

There are approximately 30 million uninsured vehicles in the United States.² And it's unlikely that any of those are uninsured by choice – because being uninsured is not a choice, but rather it is a function of affordability. Not having the ability to drive because car insurance is too expensive is one of the many penalties of being poor.

The penalties for being poor in America are immeasurable. A person starts with few assets and uses more of their available credit, which lowers their credit score; as a consequence, they pay more interest to borrow money, buy a car, and, if lucky, buy a house. Although it may make sense to charge a higher interest rate to someone with a lower income and fewer assets based on the link between those factors and the increased risk of defaulting on a loan, penalizing someone for simply having a lower income by increasing their car insurance rates flies in the face of fair play. A driver can have a perfect

² <https://www.statista.com/statistics/533306/number-of-passenger-cars-insured-usa/> (Number of passenger cars insured in the United States in 2015 was 202.68 million) (accessed on March 2, 2020); <https://www.valuepenguin.com/auto-insurance/uninsured-motorist-statistics#state-rates> (Uninsured motorist rates in 2015 – the latest available statistics - was 13%) (accessed on March 2, 2020);

driving record and still suffer the penalty – solely based on the fact that he or she has a low paying job and few assets. These individuals are caught in a cycle of poverty that is nearly impossible to escape because of these prohibitive costs. Transportation is a fundamental tool, with cars being the primary mode of transportation in most parts of this country. More importantly, without car insurance, a person cannot legally drive in 49 of 50 states. So, as a direct consequence, if a person cannot afford car insurance, that person cannot drive. As recognized by the Michigan Supreme Court in 1978, “the independent mobility provided by an automobile is a crucial, practical necessity; it is undeniable that whether or not a person can obtain a driver's license or register and operate his motor vehicle profoundly affects important aspects of his day-to-day life.”³ From here, the court concluded that “...motorists are constitutionally entitled to have no-fault insurance made available on a fair and equitable basis...[D]ue process, at a minimum, requires that rates are not, in fact, excessive, inadequate or unfairly discriminatory...”⁴

Even knowing these unassailable facts, in virtually every state that requires car insurance, insurance companies are allowed to use obvious income proxies when calculating a person's insurance premium in such a way as to charge substantially more to those individuals with lower incomes. As a result, one of the penalties of being poor is that because so many insurers charge more to people who do not have sufficient resources, many people are forced into a situation where they cannot afford something as basic as car insurance. And without a car, in the vast majority of America, these individuals have no other feasible alternatives for transportation. Without transportation, most educational and employment opportunities are out-of-reach.

The penalties for being poor manifest themselves in the lack of realistic opportunities available to those who are using their limited resources to pay for food and a place to live. Because insurers are allowed to charge more to those caught in this cycle of poverty

³ Shavers v. Kelley, 402 Mich. 554, 598 (1978).

⁴ Shavers v. Kelley, 402 Mich. 554, 600-01 (1978).

solely due to their inability to access and amass wealth, the insurers have become a part of the problem, and the cycle perpetuates. The legislature is empowered to become a part of the solution. Without taking action to ban the use of income proxies in auto insurance, too many individuals will continue to be denied their chance for economic freedom. And if we do not speak up on behalf of those in need, we will continue to see more and more communities decimated by the cruel cycle of poverty.

Education, Occupation, and Credit Scores Independently Affect Insureds' Rates

It is true that no car insurer uses just one or two factors to determine how much someone will pay for auto insurance. And this is why insurers continue to claim that income-related factors such as education, occupation, and credit scores are not the sole driver of the final number and therefore are not significant enough to require a prohibition. But what we have found is that these income-related factors, independent of any other factor, can and do have a significant impact on an individual's premium. In fact, our studies have shown that by simply changing one of these income-related factors, such as a person's education level or occupation, on an auto insurance application, a person can be rejected from GEICO's preferred company (which offers the lowest base rates) and will be charged significantly higher rates in the other GEICO namesake company. So, while these income-related factors may be referred to as "just one" of many other factors in the total, in practice they alone have a significant impact on rates.

The justification from the auto insurance industry I compete in continues to be that "loss ratios" support the use of income-related factors. I am here to explain the fallacy in this logic.

It is well-documented that the auto insurance industry has used illustrations of loss ratio models as justification for using an individual's credit score,⁵ education level, and

⁵ Federal Trade Commission. 2007. "Credit-Based Insurance Scores: Impact on Consumers of Automobile Insurance: A Report to Congress By the Federal

occupation.⁶ By showing statistical correlations of these income-related traits to corresponding loss ratios, the industry has effectively self-validated the use of these factors to measure risk. However, I believe it is important to get a better understanding of the term “loss ratio” as used by the insurance industry in these reports and the “risk” that they are actually measuring. Surprisingly, the “risk” being reported may not be the “risk” of driving unsafely, but rather the “risk” of not being profitable for the insurance company.

By definition, a loss ratio is the incurred losses and loss-adjustment expenses divided by net earned premiums. Stated simply, it is the costs associated with claim losses for a particular group as a ratio to how much was collected in premiums for insuring that particular group. It is important to understand that loss ratio correlations used in this fashion are really used to measure whether the charges are adequate for that particular group, not necessarily their predictive value to the risk of accidents.

Surprisingly, our examination of the studies done relating to credit scores, education level, and occupation led our insurance company to the opinion that an inappropriate conclusion had been drawn. In each such study, when a strong statistical correlation was found to the loss ratio that related to a given rating variable, it led to the inappropriate conclusion that the rating variable must have a predictive value for risk.⁷

Trade Commission.” <https://www.ftc.gov/reports/credit-based-insurance-scores-impacts-consumers-automobile-insurance-report-congress-federal>, footnote. 37, p. 21. (accessed on February 24, 2020). Originally published in Michael J. Miller and Richard A. Smith, “The Relationship of Credit-Based Insurance Scores to Private Passenger Automobile Insurance Loss Propensity: An Actuarial Study by EPIC Actuaries, LLC (June 2003).

⁶ State of New Jersey Department of Banking & Insurance. 2008. “The Use of Occupation and Education Factors in Automobile Insurance.” https://www.state.nj.us/dobi/division_insurance/pdfs/ed_occ_april2008.pdf (accessed on February 24, 2020).

⁷ Federal Trade Commission. 2007. “Credit-Based Insurance Scores: Impact on Consumers of Automobile Insurance.” <https://www.ftc.gov/reports/credit-based-insurance-scores-impacts-consumers-automobile-insurance-report-congress-federal> (accessed February 24, 2020). Originally published in Michael J. Miller

However, it is important to understand the methodology and underlying assumptions behind these studies to assess their validity. And our company found it important to question why certain character traits were used and others were not. As the famous American author Mark Twain observed: "Facts are stubborn things, but statistics are pliable." I will not burden you with a lengthy explanation of how an infinite number of character trait may show correlations to loss ratios, but that these same loss ratio correlations will become invalid if they can be explained by another characteristic trait imbedded in the chosen variable. That fact alone calls into question the accuracy of all of these studies.

I will offer an example. In 2006, a comprehensive study of more than 15 million policyholders and two million claims showed that individuals who live within one mile of a restaurant, car dealer, elementary school, or liquor store would have an increased likelihood of filing a physical damage claim with their auto insurer when compared with those who do not live within that radius. The study showed that the increase in loss costs for people who lived within a mile of those establishments was 18–30% higher than those who did not.⁸ From a cursory glance, it appears that this data would actuarially justify an auto insurer's decision to group drivers who live within one mile of these particular businesses into a class and then charge them a higher rate.

However, because lower-income individuals are more commonly found to be overrepresented in urban areas where it is significantly more likely that their residences will be within one mile of a restaurant, car dealer, elementary school, or liquor store, it may be the imbedded trait of a person's income that, in fact, causes this loss ratio

and Richard A. Smith, "The Relationship of Credit-Based Insurance Scores to Private Passenger Automobile Insurance Loss Propensity: An Actuarial Study by EPIC Actuaries, LLC (June 2003).

⁸ Quality Planning Corporation. 2005. "Why People Who Live Close to Restaurants Are More Likely To Have an Accident and Pay More for Auto Insurance Quality Planning Corporation."

http://www.qualityplanning.com/qpc_resources_public/news/051206%20QPC%20Locations_F.htm (accessed on February 24, 2020).

correlation. While merely living within one mile of these businesses does not logically cause someone to be a higher risk, it is reasonable to conclude that, for a claim of small value, lower-income drivers are more likely to file a claim with their auto insurer, while a higher-income driver will often forgo the inconvenient and potential consequences (i.e., higher premiums) of filing the claim.

Additionally, the loss ratios for poorer individuals may also be skewed because many car insurance policies include a form of no-fault health insurance that generally provides some sort of coverage for every member of a household or in a car, generally referred to as personal injury protection coverage, or PIP. In fact, over 30% of the U.S. population lives in a state that requires PIP coverage.⁹ Statistics show that individuals with lower incomes are almost nine times as likely to live in a zero-vehicle household.¹⁰ From this assumption, it logically follows that lower-income families have fewer cars per household member; thus there is an increased chance that there will be more people in the car of a lower-income individual. This will, of course, impact loss ratios in a negative way with respect to lower-income drivers.

In summary, if one assumes that the income of an individual is not properly accounted for by other risk factors already used in determining rates for car insurance, then these lower-income drivers will produce higher loss ratios, and one would see a loss ratio correlation to income. More importantly, based on this assumption, any characteristic that is tied to

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https://en.wikipedia.org/wiki/List_of_states_and_territories_of_the_United_States_by_population (providing population figures) (accessed on February 27, 2020); https://en.wikipedia.org/wiki/Personal_injury_protection#States_with_mandatory_PIP_coverage (providing states with mandatory PIP coverage) (accessed on February 27, 2020).

¹⁰ Household, Individual, and Vehicle Characteristics.

https://www.bts.gov/archive/publications/highlights_of_the_2001_national_household_travel_survey/section_01 (accessed on February 27, 2020).

income will logically also produce similar loss ratio correlations to those that would be produced by income alone.

We believe that our fellow industry members would rather hide from the public policymakers and regulators by explaining that these rating variables, such as education, occupation, and credit score, possess an unexplainable commonality that produces the correlation to risk. This is statistics, not facts. The fact that the insurance industry should acknowledge is that all of these variables are correlated to income and that it is really income that is correlated to the risk.

Further, in our experience, despite state laws, like the law in New Jersey that requires that “[a]ll underwriting rules shall be subject to public inspection,”¹¹ the way in which insurers justify the use of these factors appears to be shielded from public review. For example, when New Jersey State Senator Nia H. Gill sought documents concerning the rating criteria used by automobile insurers pursuant to the Open Public Records Act (OPRA),¹² her request was denied.¹³ In this instance, the courts concluded that the documents State Senator Gill requested were not “underwriting rules” and, therefore, not accessible to the public. In addition, the court held that they were not discoverable pursuant to OPRA in light of the statute’s exemption from the turnover of government records that contain “‘trade secrets and proprietary commercial or financial information.’”¹⁴ In light of this holding, at least in New Jersey, the relationship and the justification for using income proxies have been shielded from public inspection. Further, we are unaware of any state where these documents have been subject to public inspection. If every insurance carrier were to use these income proxies in rating, there would not be any real “competition” for the low-income drivers. Because, for whatever the reason may be, poorer people might be more expensive to insure, and we can

¹¹ N.J. Stat. Ann. § 17:29A-46.2b.

¹² N.J. Stat. Ann. § 47:1A-1 to -13.

¹³ Gill v. New Jersey Dep't of Banking & Ins., No. A-1801-10T4, 2013 WL 534786, at *1 (N.J. Super. Ct. App. Div. Feb. 14, 2013).

¹⁴ Gill v. New Jersey Dep't of Banking & Ins., No. A-1801-10T4, 2013 WL 534786, at *1 (N.J. Super. Ct. App. Div. Feb. 14, 2013).

concede that poorer people are less profitable to insurers. It is based on these principles that insurers will justify charging poorer people as much as 40% more for car insurance. However, the fundamental purpose of insurance is to spread all risks across multiple classes in order to make insurance affordable to all classes of people. It simply is not acceptable that the poorest people bear the highest proportion of the cost of insurance, making it unaffordable for far too many.

STATE LAWS PROHIBITING DISCRIMINATION IN RATING

Although most, if not all, states have laws that prohibit discriminatory rating practices. Despite the disparate impact that the use of non-driving factors such as education level, occupation, and credit score has on minorities, few states prohibit the use of these non-driving factors. Most, if not all, states have laws prohibiting discrimination in the assessment of auto insurance premiums. For example, in New Jersey, insurers must “make rates that are not unreasonably high or inadequate for the safety and soundness of the insurer, and which do not unfairly discriminate between risks in this State involving essentially the same hazards and expense elements”¹⁵

Likewise, Pennsylvania’s law requires that “[r]ates shall not be excessive, inadequate or unfairly discriminatory.”¹⁶

However, despite the prohibition against discriminatory rating practices, these laws have generally not been seen to prohibit the use of non-driving factors such as education level, occupation, or credit scores.

New York is one of the few exceptions. In 2018 in New York, where similar anti-discriminatory statutory language exists, the Superintendent of Financial Services called into question the use of education level attained and occupational status in rating. In doing so, the Superintendent concluded that “insurers’ consideration of these factors has

¹⁵ N.J. Stat. Ann. § 17:29A-4.

¹⁶ 40 Pa. Stat. Ann. § 1183(d).

resulted in cases where classes of insureds have been placed in less favorably rated tiers, which may lead to higher premiums, without adequate substantiation that an individual's level of education attained and/or occupational status relates to his or her driving ability or habits such that the insurer would suffer a greater risk of loss."¹⁷ The Superintendent further concluded that, although many insurers were using these factors, the "insurers failed to provide sufficient support for the existence of the necessary relationship for the use of occupational status or any convincing evidence to support the necessary relationship for the use of an insured's level of education attained, whether alone or in combination with occupational status. As a result, the insurers failed to establish that the use of education and/or occupation in establishing initial tier placement was not unfairly discriminatory."¹⁸

Based on these findings, the Superintendent, by way of regulation, ordered that insurers in New York were banned from the use of either education level obtained and occupational status "in either initial tier placement, tier movement, or the establishment of the rates at all, unless the insurer demonstrates to the satisfaction of the superintendent" that the use of either does not violate the law.¹⁹

As a result of the recently enacted regulation in New York, Liberty Mutual, Allstate, and GEICO agreed to remove the use of education level attained and occupational status in underwriting new business.²⁰

Like New York, Michigan recently enacted legislation that will ban the use of education and occupation in rating, beginning in July 2020.²¹ In Michigan, consumer advocates argued that non-driving factors like these lead to far higher rates for those in low-income

¹⁷ N.Y. Comp. Codes R. & Regs. tit. 11, § 154.6(a)(2).

¹⁸ N.Y. Comp. Codes R. & Regs. tit. 11, § 154.6(a)(2).

¹⁹ N.Y. Comp. Codes R. & Regs. tit. 11, § 154.6(b).

²⁰ "GEICO to Comply with New York Reg Banning Discriminatory Auto Insurance Rates." <https://www.insurancejournal.com/news/east/2018/03/14/483251.htm> (accessed on February 26, 2020).

²¹ Mich. Comp. Laws Ann. § 500.2111.

or minority communities.²² Citing to a 2018 analysis from Consumer Federation for America, it was noted that drivers living on the outskirts of Detroit paid 62% more than drivers living on the other side of the street in the much more affluent city of Grosse Pointe.

Between New York's and Michigan's ban on these non-driving factors, by July 2020, almost 10% of America's drivers will no longer be subject to these discriminatory factors.²³ Although we are hopeful that the recent actions of New York and Michigan will set a precedent for other states, we firmly believe that most other states, or at least their less affluent consumers, would benefit from federal intervention requiring a ban of these non-driving factors.

And banning these factors should not have any impact on overall rates. This will not increase the number or frequency of accidents as if we were to ban traffic signals and headlights. This will not increase the severity of accident-related injuries as if we were to ban the use of airbags and seatbelts. In any given state, there will be a certain number of car accidents each year. The number of accidents, and the cost of repairing the cars involved, will not change if there is a ban on the use of income-proxies. In fact, we believe that such a ban will make insurance more affordable to people that are currently uninsured – thereby increasing the overall number of people that are insured. This, in turn, will provide more premium dollars to insurers, who will earn more investment income, and so the overall cost to the industry should go down. Banning the non-driving factors in rating will only redistribute the current costs among all socioeconomic classes of insureds.

²² Gibbons, Lauren. "Michigan bans on things like zip code, home ownership impacting auto insurance now among strictest in nation." <https://www.mlive.com/news/2019/05/michigan-bans-on-things-like-zip-code-home-ownership-impacting-auto-insurance-now-among-strictest-in-nation.html> (accessed February 26, 2020).

²³ Bureau of Transportation Statistics, Table 4-2: Licensed Drivers: 2013. <https://www.bts.gov/content/licensed-drivers> (accessed February 26, 2020).

Furthermore, the best measurement of the function of the insurance marketplace is uninsured motorist rates. In Massachusetts and Hawaii, states that already banned the use of credit scores, uninsured motorist rates are well below the national average.²⁴ By contrast, in New Jersey, where the use of credit scores is allowed, the uninsured motorist rates are not only above the national average, but these rates have almost doubled since the time that New Jersey mandated the use of credit scores.²⁵ Insurance may have become less expensive for the highly educated and wealthier people – of which New Jersey has no shortage.: The percentage of people with college degrees in New Jersey is more than that of almost any other state in the country,²⁶ and the median household income is second in the country.²⁷ So companies like GEICO, which has 21+% of New Jersey’s market share – making it by far the largest auto insurer in New Jersey²⁸ – are more than happy to come into states like New Jersey and, by using income proxies in their rating, compete only for the highly educated and wealthy drivers who produce the highest profits for them. More importantly, unless competitors adopt similar

²⁴ <https://aronberglaw.com/uninsured-motorist-statistics-2019-uninsured-drivers-state/> (accessed on February 26, 2020)

²⁵ <https://www.valuepenguin.com/auto-insurance/uninsured-motorist-statistics#state-rates> (New Jersey’s uninsured motorist rates in 2015 – the latest available statistics - were 14.9%) (accessed on February 27, 2020); https://www.insurance-research.org/sites/default/files/downloads/IRC_UM_012109.pdf (New Jersey’s estimated uninsured motorist rates in 2007 was 8%) accessed on February 27, 2020)

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https://en.wikipedia.org/wiki/List_of_U.S._states_and_territories_by_educational_attainment (accessed on February 27, 2020)

²⁷ Suneson, Grant, “Wealth in America: Where are the richest and poorest states based on household income?” USA Today, October 8, 2018

<https://www.usatoday.com/story/money/economy/2018/10/08/wealth-america-household-income-richest-poorest-states/38051359/> (accessed on February 27, 2020).

²⁸ “Auto Insurance Companies in New Jersey”.

<https://www.valuepenguin.com/auto-insurance/new-jersey/companies> (accessed on February 27, 2020)

rating/underwriting practices that can also use effective income proxies, they will lose out on the most profitable book of business to insure.

STATES THAT HAVE BANNED THE USE OF CREDIT SCORES

Like education level and occupation, most states also allow insurers to use credit scores (or at least aspects of a person's credit history) to set rates. In fact, currently, only three states ban the use of credit scores: California, Hawaii, and Massachusetts.²⁹ Although CURE does not write insurance in any of these states, and so our experience with the complete impact is limited, studies show that two of these three states, Massachusetts and Hawaii, are below the national average in both average auto insurance premiums³⁰ and average uninsured motorist rates.³¹

This, of course, belies the position that by banning the use of credit scores, rates and the uninsured population will increase. Much like with education level and occupation, it is unclear when, if ever, other states will follow in the footsteps of California, Hawaii, and Massachusetts, making it imperative that the federal government acts to help make auto insurance affordable to all drivers.

USE OF CREDIT (INSURANCE) SCORES BY THE AUTO INSURANCE INDUSTRY

Tracking the history of the FICO credit score and its current use of three main credit bureaus today, it is clear that the original purpose behind the credit scoring system was to predict the likelihood of a person repaying debts on time and repaying an original

²⁹ Cothorn, Lance. "Inside The Use Of Credit By Auto Insurance Companies." <https://www.forbes.com/advisor/insurance/auto-insurance-score/> (accessed on February 26, 2020)

³⁰ Megna, Michelle. "Auto Insurance Rates By State." <https://www.carinsurance.com/state-car-insurance-rates> (accessed on February 26, 2020)

³¹ <https://aronberglaw.com/uninsured-motorist-statistics-2019-uninsured-drivers-state/> (accessed on February 26, 2020)

loan.³² We concluded through our analysis that while credit scores by the credit reporting agency did produce a correlation to loss ratios when applied to our own company data, there appeared to be strong evidence to support that the loss ratio correlations could be explained by an alternative variable: the income of an individual. This conclusion was drawn when we learned that an individual's prior on-time payment history to their creditors only constituted approximately 35% of their overall FICO/credit score,³³ while the category that incorporates credit utilization (outstanding balances to available credit) constitutes approximately 30% of their total FICO score.³⁴ Because credit lines offered by lenders are directly calculated upon a borrower's income and the scoring model reduced a person's credit score significantly based on the consumer's outstanding debt to their granted credit line, we concluded that credit scores used in this fashion is a strong predictor of a person's income.

Illustration of Impact of Income on FICO Credit Score: Based on annual gross income disclosed on a credit application, a low-income individual is granted a \$1,000 credit line, while similarly a high-income earner is granted a \$20,000 credit line. Assumption: both individuals purchase \$800 of groceries for the month on their credit card. If a FICO credit score is calculated during the time when the balance owed on both loans is \$800, the negative impact to the lower income individual is far greater because their credit utilization is 80% compared to the higher income individual whose credit utilization is 4%. [the lower income person's credit score will have their credit score lowered significantly due to their excessive credit utilization (\$800 of \$1,000 available credit= 80% credit utilization) while the

³² Wozniacka, Malgorzata and Snigdha Sen. 2004. "Credit Scores – What You Should Know About Your Own."

<http://www.pbs.org/wgbh/pages/frontline/shows/credit/more/scores.html> (accessed on February 24, 2020).

³³ myFICO. "What's In my FICO Scores."

<http://www.myfico.com/CreditEducation/WhatsInYourScore.aspx> (accessed on February 24, 2020).

³⁴ myFICO. "What's In my FICO Scores."

<http://www.myfico.com/CreditEducation/WhatsInYourScore.aspx> (accessed on February 24, 2020).

impact on the higher income individual's credit score is negligible (\$800 of \$20,000 available credit = 4% credit utilization).]³⁵

In fact, a Federal Trade Commission (FTC) study that examined the impacts of credit scoring on race shows that the population negatively affected by the use of credit scores also comprises the lowest income earners, according to the U.S. Census. These reported findings provided more support to our conclusion that an individual's income does correlate to loss ratio.³⁶

WHY AUTO INSURERS WANT TO ATTRACT AND INSURE HIGHER-INCOME DRIVERS

Higher-income drivers are more attractive to the private passenger auto insurance industry for several reasons: (A) a larger potential revenue stream for other products; (B) data mining; and (C) higher absorption of lower-level claims.

A. POTENTIAL REVENUE STREAMS

For many insurers, auto insurance provides a "foot in the door" to a higher-income driver's other needs, such as life insurance, homeowners insurance, and financial planning products. In this way, higher-income drivers offer a larger revenue stream to auto insurers because they have the ability to purchase other products from multiline insurance carriers such as GEICO, American Express, Liberty Mutual, State Farm, Allstate, and Progressive. A company is happy to offer lower auto insurance premiums when the consumer is also purchasing several other products that make the overall asset package financially attractive to the company.

³⁵ Simon, Jeremy. 2007. "Boost your credit score by raising your credit card limit." <http://www.creditcards.com/credit-card-news/boost-credit-score-raise-credit-card-limits-1267.php> (accessed on April 30, 2019).

³⁶ Subcommittee on Oversight and Investigations House Committee on Financial Services. "Prepared statement of the Federal Trade Commission on Credit-based Insurance Scores: Are They Fair?" October 2, 2007, p. 6.

Generally, lower-income individuals' most significant assets are their automobiles.³⁷ The lower-income population is less likely to own a home³⁸ or a boat, and they are less likely to purchase financial planning services. Lower-income consumers generally do not purchase large life insurance policies or seek to purchase umbrella policies. Therefore, the lower-income population provides no other potential revenue streams for multiline insurance companies, making them less attractive to insure.

B. DATA MINING

Auto insurers desire higher-income drivers for data mining purposes as well. For example, at GEICO.com, despite clear statements to their users that they do not sell any information provided to their company for a quote, when one agrees to the terms and conditions for use of their highly advertised website, one also agrees to permitting GEICO to share one's information with "financial institutions for which we have a joint-marketing agreement."³⁹

Although it is not widely known to the public, data mining the information of high-income individuals is a very lucrative business. Many national data-mining companies purchase or barter the information files from the car insurer that contain a person's credit score, occupation, education level, type of car they drive, and where they live.⁴⁰ Yes, I said "barter" your information, which in turn lowers the cost for that car insurer that bartered to

³⁷ According to a 2002 Pew Hispanic Center 25% of Latinos owned no assets other than a vehicle or unsecured liabilities as compared to 6% of Whites. Eric Rodriguez, "Credit-based Insurance Scoring: Why Latinos Pay More for Auto Insurance Than They Should." National Council of La Raza, October 2, 2007, p. 3.

³⁸ 2007 only half of Latino households own their own homes compared to more than three-quarters of non-Hispanic Whites. Eric Rodriguez, Credit-based Insurance Scoring: Why Latinos Pay More for Auto Insurance than They Should." National Council of La Raza, October 2, 2007, p. 3.

³⁹ https://media.geico.com/legal/privacy_policy.htm. (accessed February 24, 2020).

⁴⁰ Delaney, Kevin J., and Emily Steel. 2007. Firm Mines Offline Data to Target Online Ads. The Wall Street Journal online, October 17: B1.

receive data to market prospectively to higher-income people. This means a car insurer that does not barter/sell the data of those who simply ask for a quote are at an economic disadvantage by not selling off such data. Furthermore, the majority of car insurers run “reverse credit scores” without the submission of an applicant’s social security number by using their name and address to look up their credit information on the credit reporting agency database. Although the user may consent to the “terms and conditions” of the insurers website for the insurer to obtain credit reports, it is our contention that an individual who purposefully does not submit a social security number likely has no awareness that this “reverse credit report” is being created and shared with other marketing partners.

C. HIGHER ABSORPTION OF LOWER-LEVEL CLAIMS

The National Highway Traffic Safety Association reported in 2000 that roughly half of all PDO (property damage only) accidents go unreported each year "due to concerns about insurance or legal repercussions."⁴¹ Unfortunately, only those individuals with higher income levels have the luxury of not reporting accidents and instead paying for the damage themselves.

As a result, higher-income drivers are more attractive to the auto insurance industry because higher-income drivers have, and will take, the option to absorb minor claims, paying out of their own pocket, as opposed to filing a claim with the insurance company.

Therefore, it is reasonable to assume that the people who make less are more likely to file claims.⁴² As a result, loss ratios on policies most likely will correlate to income, along

⁴¹ National Highway Traffic Safety Association. 2002. “Economic Impact of U.S. Motor Vehicle Crashes Reaches \$230.6 billion, New NHTSA Study Shows.” [http://www.nhtsa.gov.edgesuite-staging.net/About+NHTSA/Press+Releases/2002/Economic+Impact+of+U.S.+Motor+Vehicle+Crashes+Reaches+\\$230.6+billion,+New+NHTSA+Study+Shows](http://www.nhtsa.gov.edgesuite-staging.net/About+NHTSA/Press+Releases/2002/Economic+Impact+of+U.S.+Motor+Vehicle+Crashes+Reaches+$230.6+billion,+New+NHTSA+Study+Shows) (accessed on February 24, 2020).

⁴² Supported in the FTC 2007 study Fig 3, that shows that the correlation to loss ratios are stronger for collision claims, and weaker for bodily injury liability claims.

with any trait that correlates to income. This is why credit scoring, educational attainment, high-income occupations, and homeownership status – which all correlate to income – will have similar correlations to loss ratios. These are not truly different characteristics to comprise the right rate or premium for a policyholder. They are just different ways of putting income into the equation.

INDUSTRY PRACTICES OF MULTI-AFFILIATED COMPANIES

Unbeknownst to consumers, several multistate, multiline car insurance companies have more than one company in each respective state that is licensed to sell insurance in those states. These multiple affiliate companies all bear the company's familiar trademarked name, which leads consumers to believe they are only one entity, in order to disguise to the user when they have been rejected by one of the preferred companies.

Another advantage of using multiple affiliate companies bearing the same trademarked name is that these companies have been successful in distinguishing between the terms "underwriting" and "rating" of policies⁴³ when ultimately each contributes to deriving the price to charge a consumer for auto insurance. To confuse matters, oftentimes my car insurance industry will try and distinguish the "underwriting" process, which they claim begins when the multi-affiliate group assigns the insured into one of the companies based upon a person's traits, while the "rating" process is when the insurance company uses the rates filed within that affiliate company to determine the final premium to be charged. Despite these distinctions, it is important for the subcommittee to understand that whether you term a variable an "underwriting" variable or a "rating" variable, the use of either term

⁴³ Federal Trade Commission. 2007. Credit-Based Insurance Scores: Impact on Consumers of Automobile Insurance. <https://www.ftc.gov/reports/credit-based-insurance-scores-impacts-consumers-automobile-insurance-report-congress-federal> (p.16) (accessed April 30, 2019). Originally published in Michael J. Miller and Richard A. Smith, "The Relationship of Credit-Based Insurance Scores to Private Passenger Automobile Insurance Loss Propensity: An Actuarial Study by EPIC Actuaries, LLC (June 2003).

with education/occupation can have a drastic impact on the final premium charged to an individual.

GEICO'S USE OF EDUCATION AND OCCUPATION FOR "UNDERWRITING"

During our analysis of the competitive marketplace in 2004, we learned that GEICO's ratemaking practices are threaded through its use of up to four separate GEICO insurance companies: GEICO, GEICO General, GEICO Indemnity, and GEICO Casualty. The fact that each entity of GEICO bears the same trademarked name, allows them to give consumers the illusion that they are all one entity. However, this is not the case, as each GEICO affiliate company charges entirely different rates for the same coverages. Drivers qualifying for GEICO's preferred insurance company receive the best (i.e., lowest) rates, while drivers who do not qualify for GEICO's preferred company receive rates from one of GEICO's substandard insurance companies and pay substantially higher rates. By having up to four separate companies to underwrite drivers, and four distinct and separate rates associated with each company, GEICO is able to charge drivers who possess the same rating variables and coverage completely different rates based upon their use of the "underwriting" variable, such as an individual's education level and occupation. Remember, factors such as driving record, geographic location, and car type are considered only after a consumer is placed in one of GEICO's four companies through this process.

Drivers who possess higher educational attainments and hold white-collar occupations are generally granted eligibility into the preferred GEICO company. Conversely, individuals without a 4-year degree and "blue-collar" nonprofessional jobs are typically only offered insurance through one of GEICO's substandard companies and are then offered significantly higher rates.

Most notably, individuals are not even informed when they are rejected by the preferred GEICO company based solely on their education and/or occupation. By purposefully failing to notify applicants of their rejection from the preferred GEICO company due to

their lack of education or professional occupation, GEICO effectively bypasses any public scrutiny of its practice – which places an even larger burden on the legislature to protect the consumer from this practice.

Our comprehensive examination of GEICO’s underwriting practices led us to conclude that the only clear trait common among these preferred occupational groups is the traditional higher income levels associated with their occupations, further supporting our conclusion that income is truly the driver of loss ratio correlation and profitability for the GEICO Group of companies.

ALLSTATE’S USE OF HOME OWNERSHIP STATUS AS AN “UNDERWRITING VARIABLE” AND ITS IMPACT ON RACE

A review of Allstate’s filings at the same time suggested that regardless of driving record, an individual will not be eligible for their “preferred” company, which offers the lowest rates, if they did not own a home. Such evidence once again supports the contention that higher-income earners produce correlations to loss ratios and profitability. Unfortunately, the result of employing such underwriting rules tied only to homeownership status is that certain minority groups and income classes are underrepresented in the homeownership population in the United States.⁴⁴

CONCLUSION

We believe the issue before the committee can be narrowly isolated to a question of public policy. Unlike products and services provided by other traditional industries, auto liability insurance is mandated in 49 of 50 states. If lower-income drivers cannot afford car insurance, they face fines and possible imprisonment if they chose to drive. The alternative – which is to not drive – effectively closes the door on many (if not most)

⁴⁴ 2007 only half of Latino households own their own homes compared to more than three-quarters of non-Hispanic Whites. Eric Rodriguez, “Credit-based Insurance Scoring: Why Latinos Pay More for Auto Insurance Than They Should.” National Council of La Raza, October 2, 2007, p. 3.

educational and occupational opportunities. Therefore, a fundamental measure of a healthy and successful insurance pooling mechanism is when an equal opportunity exists for individuals to control the affordability of their car insurance. When insurance that is mandated is unaffordable for any market segment, it is a signal that the system needs correction. Unlike factors such as car usage, type of car, and driving record, which are widely accepted factors that are largely in the consumer's control, the non-driving "income" factors clearly discriminate against lower-income classes and need to be prohibited immediately.

Since the documented proliferation of the use of credit scores and these other more damaging rating and underwriting practices, the reported number of uninsured motorists has continued to grow at an alarming pace.⁴⁵ This supports the notion that families at the bottom end of the income scale have very little disposable income, and every dollar spent on premiums for auto insurance represents money that could be spent on other essentials, such as food, shelter, and health care. The difficulty lies in the fact that owning a car can be extremely important in terms of finding and holding down a job or providing an opportunity for a person to climb the economic ladder.

In summary, we urge the Federal Legislature to:

- Make effective bans on the use of all rating and underwriting variables that are inherently tied to the income of an individual;
- Prohibit the use of multi-affiliate companies with separate rating structures that have no valid purpose except to adopt these discriminatory practices; and
- Require full disclosure by definitively not providing OPRA protection for all rating and underwriting methods in order to improve the transparency of these practices to the public.

⁴⁵ Insurance Information Institute. 2019. "Compulsory Auto/Uninsured Motorists." <http://www.iii.org/media/hottopics/insurance/compulsory> (accessed April 30, 2019).

Without these fundamental changes to our industry, it is clear that the highest rates for car insurance will be charged to the segment of the population that can least afford to pay, regardless of whether they are responsible drivers. Furthermore, such rating and underwriting practices will only ensure that those who fall in the highest income scale receive the lowest rates.

I am hopeful that you see the social injustice that belies this practice and continue to take steps to control such conduct.

At CURE Auto Insurance, we firmly believe in healthy competition in our marketplace; however, we simply do not believe in competing while using these discriminatory factors.

Respectfully,

Eric S. Poe, Esq., CPA
Chief Operating Officer
CURE Auto Insurance