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MOLD: A GROWING PROBLEM

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS

AND THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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MOLD: A GROWING PROBLEM

THURSDAY, JULY 18, 2002

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS,
AND SUBCOMMITTEE ON HOUSING
AND COMMUNITY OPPORTUNITY,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittees met, pursuant to call, at 2:20 p.m., in Room 2128, Rayburn House Office Building, Hon. Sue W. Kelly [Chairwoman of the Subcommittee on Oversight and Investigations] presiding.

Present for the Subcommittee on Oversight and Investigations: Representatives Kelly, Tiberi, Gutierrez, Inslee, Schakowsky and Clay.

Present for the Subcommittee on Housing and Community Opportunity: Representatives Kelly, Miller, Tiberi, Frank, Lee, Schakowsky, Clay and Israel.

Also present: Representatives Conyers and Gonzalez.

Chairwoman KELLY. This joint hearing of the Subcommittee on Oversight and Investigations and the Subcommittee on Housing and Community Opportunity will come to order.

I want to thank all Members of Congress who are present today. There will be some more joining us. We have a vote on the floor of the House, which is why there are not so many people here just now, but they will be coming in, and I want to thank them for coming and for their presence today.

Without objection, all members present will participate fully in the hearing; and all opening statements and questions will be made part of the official hearing record.

The Chair recognizes herself for a brief opening statement.

In the preparation for this hearing, I have spoken to many of my friends and colleagues about the issue of mold damage in commercial and private properties and reports of adverse health effects. While there are many who are aware of the seriousness of this issue, there are also many who are unaware of the growing scope of this problem. In an effort to increase all of our knowledge, Chairwoman Roukema, Ranking Members Gutierrez, Frank and I have agreed to hold this joint hearing.

In my view, one issue with this is the lack of scientific evidence as to the direct correlation between mold damage and adverse health effects. One of the reasons that I am personally interested in this is that my major in college was bacteriology, and I dealt a

lot with molds and so forth. So this has a personal interest to me. In addition to that, I am an asthmatic, and so are my kids. So, because of this uncertainty, I think homeowners' fears grow sometimes without the definitive evidence of what is safe or potentially dangerous levels of mold.

In addition, the uncertainty of this issue has created a window of opportunity for unethical lawyers and contractors to prey upon vulnerable populations. As evidence and without objection, I am going to make part of the record a copy of a May 17 New York Post article entitled, Costly Lawyer Cashes in on Mold Money.

[The following information can be found on page XX in the appendix.]

Chairwoman KELLY. This article tells the story of a lawyer who settled a class action lawsuit for $1.7 million, taking more than half of that money for himself; and he left the families with an average of $1,000 each. The part of the article that alarmed me the most was this: ″the money he offered me wasn't even enough to buy a decent tombstone for my daughter.″ this was said by an 81-year-old woman named Mattie Qualie, whose daughter, Lorraine Woods, age 58, died in 1998 from an alleged long exposure to molds.

All of us need to step back and look at the facts surrounding this issue and do so in a coordinated manner. The witnesses we have at the table today represent a broad cross-section of the interested parties in the mold debate. By working together, I hope we will be able to find some answers in an area where there are still large numbers of unanswered questions.

Let me state unequivocally that all of us have great sympathy for those who are suffering health problems of any kind, no matter what the cause. I would personally urge property owners to do everything they can to protect their investments and, most importantly, the families, from mold infestation. At the same time, this Congress must assess the true nature of the mold issue before rushing into legislative action.

In the process of preparing for this hearing, my staff interviewed numerous medical experts who emphasized that mold simply cannot be directly connected to so many of the serious medical conditions for which it has been blamed. There are many causes that can be cited for the symptoms people blame on mold, such as hypersensitivity, allergies, viruses and deficiencies of the immune system.

As we will hear this afternoon, the Centers for Disease Control is currently working with other institutions to study this issue and provide more information on the true health effects of mold infestation. It is imperative that we look to the Nation's medical research institutions to help us separate legitimate claims from what some have termed "mold hysteria."

Ultimately, we have got to have better scientific standards and better safety education to help consumers and the industry identify legitimate dangers to immediately begin for compensation and remediation. We are holding this hearing to help us separate the facts from the myths surrounding the recent dramatic rise in mold claims and its reported catastrophic effects.

While many Americans are unaware of potential dangers from untreated mold growth in commercial and private properties, the

lack of scientific standards and documentation only adds to the confusion we all feel when confronted by potential dangers of substances that we grew up to believe were harmless. Who would have thought that when we shook pepper on our food, we were actually shaking on a mold? Who would think when we ate peanuts, we were actually ingesting a mold?

I think it is very important that we distinguish what is myth from the scientific fact.

[The prepared statement of Hon. Sue W. Kelly can be found on page XX in the appendix.]

I am now going to recognize my friend from Massachusetts for his opening statement, Mr. Frank.

Mr. FRANK. Madam Chairman, on a day when the House is going to be voting, since we are meeting during the House being in session, and given the large number of witnesses, I will waive an opening statement so we can get the benefit of what they have to say. I can submit remarks later for the record.

Chairwoman KELLY. Thank you very much, Mr. Frank.

Mr. Miller.

Mr. MILLER. Thank you, Madam Chairwoman.

I read a speech given at a gathering of attorneys, and the new quote is ″mold is gold.″ it reminds me of tort litigation in California on attached products for defects, where attorneys would go out and sue a builder and every subcontractor and the lender. Then they would go to the board of directors, and they would say, do you enjoin in this lawsuit, or you can be held personally liable for damages, which by law they could be. So then the board of directors enjoins in the lawsuit, and the associations have to pay attorneys.

The attorneys go in and buy one unit and gut it. If they can find nailing on drywall that is just an inch overspaced or half an inch over, they say that is a violation and it is typical of every unit. If they can find an oversized nut, they say that is typical of every unit. If they can find a crack in the concrete, they say it is typical of every unit.

I know a developer who built a project in 1986 that lost a lawsuit in 1995 for $23 million, and it cost him $3.2 million to build the complex. I mean, it is a little outrageous.

It reminds me when of when I was taking rhetoric in college. A professor referred to a post-hoc fallacy, and it is that A occurs; therefore, B occurs; therefore, A caused B.

I think we are jumping to conclusions on some of these issues.

I read some testimony that alluded to individuals having died from mold, Aspergillus growing in their lungs was the cause. Yet if you go to a wheat field, cornfield, a forest, a park, if you deal with mulch and you look at the parts per billion that you can receive just mulching your yard or walking in a forest so far supersedes what you could receive in the house with mold growing, it is just unbelievable. In fact, Aspergillus can be found in peanuts, pecans, peas, bread, cheese, rice, corn ears, barley grain, sorghum wheat and cottonseed, exceeding what you will find in a house.

Some of the stuff I have read, I believe if there are legitimate claims, I don't have a problem with somebody being rewarded for legitimate claims. But it appears that some of this is just a way

to get to an insurer or a builder and find a way to pull some money out of their pocket.

Some of the claims that I have read, you would think there would have to be some liability on the part of the homeowner to do and perform basic maintenance on their home. When you have a leaky pipe, you don't wait a year to turn it into the insurer because your pipe was leaking, and then when your insurer pays you money to fix it and it far supersedes that money for other things, you still don't fix the leak—I mean, there is some point in time you have to look at yourself in the mirror and say, am I a little to blame here?

I think we are avoiding that, in some cases and in some points, individual responsibility seems to be overlooked and people look to others to blame for their own negligence.

So I am looking forward to the hearing. If there is truly scientific evidence that people are being damaged and it is other people's fault, let's get to the bottom of that. But if somebody says, well, look, there is something there, and harm must be occurring to somebody because of that, and yet there is no scientific evidence that that be the case—in fact, in some of the court cases I read there were no damages awarded for health issues at all, and yet these outrageous dollars are being proposed out there.

Madam Chairwoman, I applaud you for having this hearing today and look forward to the testimony.

Chairwoman KELLY. Thank you very much, Mr. Miller.

Mrs. Roukema was unable to be with us today, but, with unanimous consent, I would like to insert her statement in the record.

[The prepared statement of Hon. Marge Roukema can be found on page XX in the appendix.]

Chairwoman KELLY. We turn now to the ranking member of the Oversight Committee, Mr. Gutierrez.

Mr. GUTIERREZ. Thank you very much, Chairwoman Kelley, and the ranking member, Mr. Frank, thank you for joining us this afternoon here and being part of this important hearing.

We are gathered here to discuss an issue of great importance to thousands of Americans. The issue at hand is mold and the impact it has on property and people's health.

In fact, believe it or not, mold is a growing problem, experiencing a five-fold increase in occurrences in homes. Thousands of Americans today are living in houses terribly infested by mold.

I am sure there are those that would argue that the five-fold increase is probably due to the fact that all the homeowners in the United States have decided to disregard and be careless about their water pipes and how it is they keep good conditions in their basement. Well, maybe that is the case, that homeowners across the country, specifically in the State of Texas, apparently, if that is the case, homeowners are being very, very derelict in their duty, as they have had a 500 percent increase this year over last year.

So maybe it is all of the careless, unworthy homeowners who bought a home, it is their prize possession, it is their number one investment, and they just decided they were going to have mold in it, and there is no other good reason for the sudden surge and increase in that mold.

With that, Madam Chairwoman, I have nothing further to say. I would like the rest of my comments to be inserted in the record.

Chairwoman KELLY. Without objection.

[The statement of Hon. Luis V. Gutierrez can be found on page XX in the appendix.]

Chairwoman KELLY. Also, without objection, I have a letter to Chairman Oxley from the Associated General Contractors of America which, without objection, we will insert in the record.

[The following information can be found on page XX in the appendix.]

Chairwoman KELLY. We go now to Mr. Clay.

Mr. CLAY. Thank you, Madam Chairwoman. I appreciate your having this hearing today, and I look forward to the testimony we are about to hear.

We are indeed facing a growing problem with mold in houses and buildings. Homeowners, insurance companies and building construction companies are encountering tremendous financial and health problems because of harmful molds.

We have thousands of molds, and most of them cause no problems to humans. As a matter of fact, some are beneficial to man and are vital for use in medicines, food production, and many other aspects of our everyday lives. While we mostly stereotype molds as being only in damp, dark environments, they exist everywhere.

Madam Chairman, I will cut my opening statement short so that we can hear testimony from the witnesses and ask that I submit my statement for the record.

Chairwoman KELLY. Thank you very much, Mr. Clay.

[The prepared statement of Hon. William Lacy Clay can be found on page XX in the appendix.]

Chairwoman KELLY. Ms. Schakowsky.

Ms. SCHAKOWSKY. Thank you, Madam Chairman. I will also submit my opening statement for the record.

I do want to say that, on my way over here, I was telling some colleagues of ours that I was coming here, and, to a person, they told me of a situation of pretty devastating mold contamination in their district. One Member told me about a school that actually had to be completely shut down because of mold contamination. Another told me about a building across the street from the site of the World Trade Center, some 60 stories tall or higher, that now is shut down; and they are trying to figure out what to do with it because of this toxic mold infestation.

So it was really interesting to me. I had been aware of it from some constituents in my district, but this is a growing problem that increasing numbers of Members of Congress are aware of. I look forward to the testimony today.

Thank you.

[The prepared statement of Hon. Janice D. Schakowsky can be found on page XX in the appendix.]

Mr. GUTIERREZ. If the gentlewoman would yield, as Congressman Schakowsky and I have both been made aware, in and around the City of Chicago in two different suburban locations they have had to close down two substantial high schools in the last 2 years because of the problem with mold. But maybe it was the kids coming to school ill-prepared those days that brought the mold with them.

Chairwoman KELLY. Perhaps they came to school wet.

Mr. Gonzalez.

Mr. GONZALEZ. Madam Chairman, thank you very much for the opportunity and privilege of attending this subcommittee hearing. I am not a member of either subcommittee, and I do appreciate being here.

Just a couple of observations. I hope this is not going to somehow end up again a big argument over tort reform and everything else. We are really here to be educated again with the facts. Unlike war, legislation doesn't have to have the effect of truth being its first casualty.

As far as litigation, I am very aware of what is going on in the State of Texas, but I will remind my fellow members, addressing some of the remarks, that some of the claimants in my own community, I will tell you who they are, one of them is a Justice of the Fourth Court of Appeals, a Republican; a State Senator, a Democrat; and some very prominent families. I don't think it is going to fit the description that sometimes we have had some abuses out there.

But we really need to get down to the truth to see how serious it is, and in fact have we been handling it appropriately.

Thank you very much, Madam Chairman.

Chairwoman KELLY. Thank you very much, Mr. Gonzalez.

Mr. Inslee.

Mr. INSLEE. Thank you. I just want to express my appreciation for your holding this hearing. Just two brief comments.

First off, I know this is a real issue in my district where we had the taxpayers have a problem because a contractor in a school left the situation that did cause an enormous amount of mold growth that made this building entirely uninhabitable. The taxpayers had to bring a claim against the individuals involved. The individuals ultimately accepted responsibility, as they should have; and the taxpayers were reimbursed hundreds and hundreds of thousands of dollars they had coming to them. So I understand this has a broad import for taxpayers, not just health.

The other comment I want to make as far as the tort issue, everybody has their perspective, and I am very interested in what is going on out there in the legal claim field. But I will just share one little story for you, if you talk about this issue in tort reform.

I had a friend, let's call him Jim for a minute. I used to be a lawyer. I handled a lot of cases on behalf of people who had been injured, and Jim and I for 10 years had a running argument every time we had dinner or a brew together. Basically, he said all these claims were manufactured, fictitious, ridiculous, and they were ruining the American economy.

We had that argument for 10 years, until the night his son got hit by actually a driver who had pulled out of a stop sign and caused grievous injury to his son; and his attitude changed very, very quickly. And my son is a home builder, so you know where I am coming from. I will tell you, if you get this mold growing in your house, your view of tort reform changes very rapidly, because I know this is a problem for a lot of people.

Thank you, Madam Chairman.

Chairwoman KELLY. We are joined by our colleague, Mr. Conyers. Mr. Conyers has a singular interest in this and, in fact, is the author of a bill, so we have asked him to join us today for this hearing, so he will be sitting in on this hearing.

If there are no more opening statements, we will begin with the witnesses on our panel.

Before us today we have Dr. Stephen Redd of the Centers for Disease Control and Prevention, a division of the U.S. Department of Health and Human Services. Dr. Redd, who is the Chief of the Air Pollution and Respiratory Health Branch of the National Center for Environmental Health at the Centers for Disease Control, is the institution's lead scientist on air pollution and respiratory health.

Following Dr. Redd will be Mr. Gerald Howard, Executive Vice President and Chief Executive Officer of the National Association of Homebuilders.

He will be followed by Thomas Tighe. Did I pronounce that right? Tighe, like the necktie, for all of us to remember. He is Executive Assistant to the General President and Director of Stationary Affairs at the International Union of Operating Engineers, both of whom will provide us with information on mold infestation in buildings.

Then we will hear from Ms. Melinda Ballard, the President of Policyholders of America, who will discuss mold from the perspective of those whose homes have been affected.

Following that, we will hear Mr. Gordon Stewart, President of the Insurance Information Institute, who will discuss the effects of mold claims on the insurance industry.

Finally, we will hear from Dr. Howard Sandler, President of Sandler Occupational Medicine Associates, who will join Dr. Redd in discussing mold and health.

I thank you all for coming. We are very pleased to have you join us here today to share your thoughts on this difficult issue.

Without objection, your written statements will be made a part of the record.

If you have not been with us before, there are lights in front of you in that black box at the end of the table. You will be recognized for a 5-minute summary of your testimony. Your entire written testimony will be made a part of the record. But the lights will indicate, just the way they do on a stoplight on a street, green means go; when you get to the yellow, it means you have 1 minute left; and when it goes red, it means it is time to finish speaking. That means your time has expired.

Chairwoman KELLY. So, let us begin with you, Dr. Redd. Thank you so much for joining us today.

STATEMENT OF STEPHEN REDD, M.D., CHIEF, AIR POLLUTION AND RESPIRATORY HEALTH BRANCH, NATIONAL CENTER FOR ENVIRONMENTAL HEALTH, CENTERS FOR DISEASE CONTROL AND PREVENTION

Dr. REDD. Thank you very much. I am Dr. Stephen Redd, the lead CDC scientist on air pollution and respiratory health at the Centers for Disease Control and Prevention.

Accompanying me today is Dr. Thomas Sinks, Associate Director for Science of environmental issues at CDC.

It is a pleasure to appear before you today on behalf of the CDC, an agency that serves by protecting the health and safety of the American people. I want to thank you for taking the time to examine the importance of mold exposure and its affects on people's health.

Today I will briefly summarize three issues for the committee: CDC's perspective on the state of the science relating to mold and health effects in people; CDC's efforts to evaluate health effects possibly associated with molds; and CDC's next steps in addressing this issue.

Fungi are a kingdom of organisms that include mushrooms, molds and yeasts. There are between 50,000 and 250,000 species of fungi. More than 1,000 species of mold have been found in U.S. homes. Molds need moisture to grow and grow best in warm, damp conditions.

Fungi and molds are known to cause several specific diseases. Fungi can cause infections. Ingestion of mold-produced toxins can cause liver and kidney tumors, and molds cause a rare, chronic lung disease called hypersensitivity pneumonitis in workers in industrial and agricultural settings.

In addition, molds have been associated with allergies. Airborne mold allergens have been associated with hay fever, allergic conjunctivitis and allergic asthma. The Institute of Medicine recently concluded that there was evidence of an association between exposure to mold and exacerbations of asthma but insufficient information on whether mold exposure caused the onset of asthma.

We do not know whether molds cause other adverse health effects, such as hemorrhage from the lungs, memory loss or lethargy. We do not if the occurrence of mold-related illness is increasing. Other than surveillance for hospital-acquired infections, there is no system to track the public's exposure to and the possible health effects of mold.

CDC has undertaken a number of activities related to mold and its possible effects on people's health. CDC conducted two epidemiologic investigations of clusters of hemorrhage from the lungs of infants. In one investigation a possible association was reported between exposure to the mold Stachybotrys atra and disease. This association was not found in a second investigation.

In a review of that first investigation, CDC reviewers and an external panel of experts determined that there was insufficient evidence of an association between exposure to Stachybotrys atra or other fungi and hemorrhage from the lungs. CDC has plans to further evaluate this health condition, including tracking activities, investigations of disease clusters, and research studies.

In recent years, we have conducted investigations in occupational settings, in schools, and in residences following flooding episodes. In addition to working with State health departments in North Dakota, Texas, and Connecticut, we have collaborated with the Federal Emergency Management Agency, the U.S. EPA, and the Department of Housing and Urban Development. My written testimony contains more details on these activities.

CDC is also funding the Institute of Medicine to evaluate the relationship between damp or moldy indoor spaces and adverse health effects. In addition to conducting a comprehensive review of the scientific literature, the Institute of Medicine will provide recommendations for public health intervention and for future research. This work began in January 2002 and will be completed in the summer or early fall of 2003.

In addition to these efforts, CDC is currently developing an agenda for research, service, and education related to molds. This effort will enable CDC to make recommendations for reducing mold contamination, identify conditions that contribute to the occurrence of disease following mold exposure, and assist State and local health departments in improving their capacity to investigate mold exposures.

This is challenging work. Molds can be found almost anywhere, and individuals have different sensitivities to molds. It is not possible to specify a safe or a dangerous level for mold at this time.

Because mold exposure can be harmful, CDC concurs with the recommendations of agencies such as EPA and FEMA that mold in indoor environments should be removed.

Thank you for the opportunity to testify. I would be happy to answer any questions that you may have.

Chairwoman KELLY. Thank you very much, Dr. Redd.

[The prepared statement of Dr. Stephen C. Redd can be found on page XX in the appendix.]

Chairwoman KELLY. Mr. Howard.

STATEMENT OF GERALD M. HOWARD, EXECUTIVE VICE PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL ASSOCIATION OF HOME BUILDERS

Mr. HOWARD. Thank you, Madam Chairwoman, Mr. Frank, Mr. Gutierrez. Thank you for holding this hearing.

My name is Jerry Howard, and I am the Chief Executive Officer of the National Association of Home Builders. NAHB represents more than 205,000 member firms involved in home building, remodeling, multifamily housing and other aspects of residential and light commercial construction. In fact, it is not an exaggeration to say that our members produce 80 to 85 percent of all the housing units built in the United States.

Our membership is united in its concern over the impact of this mold issue. Specifically, first and foremost, like all citizens, we are concerned about the health of our fellow Americans. NAHB, upon learning of the mold issue, immediately went to the forefront and began to study the impacts of mold and what we might be able to do about it.

As a result of that study, with what we have done is, A, we began to educate our members about what they can do to decrease the amount of mold and housing in the construction process; and, B, to inform homeowners and home buyers about what steps they can do to remediate mold.

Specifically, we will be presenting a pamphlet, a bilingual pamphlet, on our web site and in hard copy to all of our home builder members who prefer to give it out to their customers, and we are encouraging them to do so.

Secondly, NAHB is concerned about the potential impact of mold on the housing industry as a whole. As you are all aware, the housing industry has been the bellwether and the buoy of our economy over the last several years. In fact, depending on what numbers you choose to believe, NAHB's members in the housing industry produce 14 percent of the Nation's gross domestic product.

Over the past year, low interest rates and strong underlying demand for housing has kept housing strong while the rest of the economy has struggled. Of the almost 1.6 million new housing units, again I say, NAHB members produced 80 to 85 percent of them.

Unfortunately, the recent attention to indoor mold has the potential to negatively impact the housing industry and housing affordability. Specifically, I would point to increases in general liability insurance that our members are suffering. As an example, last year the general liability insurance on a 63-unit entry-level housing development in California, and by ″entry-level″ I mean a purchase price of $125,000 per home, the general liability insurance on that project was $93,000, and it included mold insurance coverage. This year, that same project is insured for $216,000; and mold is excluded from the coverage. Unfortunately, Madam Chairwoman and members of the committee, that cost will ultimately be passed on to the American consumer.

We agree with Dr. Redd and others who are going to testify that this is a serious issue. However, our primary concern is that we not rush to judgment. To the best that we can tell now, mold, while it is harmful, is not linked directly to any serious illnesses, and specifically mold in well-constructed, well-maintained houses has not been an issue for most Americans and their health.

A survey that NAHB handed out in 2002 showed that most of our members are facing similar insurance cost increases as those described in my earlier example in California. Our builders have seen these insurance companies begin with these mold exclusions, and 150 percent increases is not out of the ordinary.

Another potential adverse impact on the building industry are the calls for these new regulations and new building code requirements. NAHB has always sought to limit the economic impact of regulations on the cost of housing, and we will continue to do so. However, if it can be proven that there is a significant link between serious health risks and mold, NAHB would like to be part of the solution, and we look forward to working with the Members of Congress to implement appropriate regulations.

Once again, we would suggest, however, that regulations generally do not fit the bill across the board for all types of construction and in all parts of the country. What may remediate mold effectively in California may not work in Vermont. What may work in South Carolina might not work in Idaho. So we would like to have the opportunity, if there is proven a nexus, to work with Members of Congress to develop the appropriate techniques to remediate mold, while at the same time taking care to preserve affordable housing and housing affordability.

Again, let me reiterate that NAHB takes the health issue very seriously, that our members have been in the forefront of informing

and studying, and we are prepared to work with Congress on this issue.

Thank you, Madam Chairwoman.

Chairwoman KELLY. Thank you very much.

[The prepared statement of Mr. Gerald M. Howard can be found on page XX in the appendix.]

Chairwoman KELLY. Mr. Tighe.

STATEMENT OF THOMAS C. TIGHE, EXECUTIVE ASSISTANT TO THE GENERAL PRESIDENT AND DIRECTOR OF STATIONARY AFFAIRS, INTERNATIONAL UNION OF OPERATING ENGINEERS

Mr. TIGHE. Chairwoman Kelley, committee members, on behalf of General President Frank Hanley, I would like to thank you for the opportunity to offer comments to your subcommittees.

My name is Thomas C. Tighe, and I am an Executive Assistant to General President Frank Hanley of the International Union of Operating Engineers. I have been a stationary engineer and associated with the building industry for 34 years.

The International Union of Operating Engineers is a progressive trade union with over 400,000 members. Of that number, 120,000 are stationary engineers employed in the field of facility operations and maintenance, providing a safe and efficient environment for the American public.

Stationary engineers perform work in a multitude of facilities throughout the United States. Our organization has developed a sophisticated and comprehensive network of training centers. We have the capacity to provide craft and regulatory compliance training programs. The IUOE is uniquely qualified to offer comments on indoor air quality issues at commercial facilities. Our organization has been a national leader in providing indoor air quality training.

Mold is a growing concern, and the confusion over the issue continues to expand. Our organization is interested in the development of future policy on this matter.

Mold presents a potential workplace hazard for workers and facility occupants. Your deliberations at these public hearings are important to the American public.

The IUOE has three specific concerns and would like to briefly comment on each.

The first concern is education on overall mold issues. The general public and industry-wide personnel need to be educated about the facts related to mold.

Mold and IAQ-related issues are part of the new reality for the general public. Currently, media reports of litigation settlements are at the forefront of educating the public on the health hazards of mold. Without a consensus from the scientific community on the health effects of mold, speculation will drive this issue. There needs to be a comprehensive educational program with a clear understanding of the facts about mold and its potential health effects in our homes and workplace.

The second concern is the lack of Federal mold standards. Due to the lack of Federal standards on prevention, investigation, testing and remediation of mold, the industry continues to be in a state

of confusion. The lack of standards has multiple ramifications within a variety of industries.

In commercial facilities, the manner in which mold complaints are handled are varied and lack uniformity. This could create a variety of inconsistent procedures that can lead to questionable practices.

The Environmental Protection Agency should be commended on their work in producing guidelines on mold remediation in school and commercial buildings. The guidelines provide a general approach to a variety of issues when dealing with mold. The IUOE believes this is a good first step in addressing this issue.

The problem remains, however, that until guidelines are transformed into standards, the industry-wide practice will remain nonuniform and, therefore, potentially unsafe.

The third and last concern is that specific training on mold standards needs to be developed and delivered to a variety of industry personnel.

With the establishment of Federal standards, training programs could be established to ensure a consistent and safe approach to mold issues. Standards would create specific procedures for the prevention, investigation, testing and remediation of mold. The development of comprehensive training for workers is imperative.

I have been involved in many aspects of curriculum development and training implementation over the last 10 years and can attest to the benefits of providing workers with detailed training on performance-based objectives. This approach, in our judgment, provides a cost-effective, results-oriented way of addressing complex problems such as mold prevention and remediation.

The IUOE has experience in developing and delivering skill-based training programs and would be willing to explore the possibilities of assisting in any future projects or programs recommended by these subcommittees.

I would like to thank the committee for their time and effort in this matter.

Chairwoman KELLY. Thank you very much, Mr. Tighe.

[The prepared statement of Mr. Thomas C. Tighe can be found on page XX in the appendix.]

Chairwoman KELLY. Ms. Ballard.

STATEMENT OF MELINDA BALLARD, PRESIDENT, POLICYHOLDERS OF AMERICA

Ms. BALLARD. My name is Melinda Ballard, and I run an association of homeowners called Policyholders of America, or POA. Since we founded POA only 6 months ago, we have 18,763 American families in our membership, all victims of toxic mold. That number should demonstrate what a crisis the American homeowner is in as it relates to toxic mold infestations of their homes.

Our members range from welfare families to some of the most affluent in America. We are all active in politics not because we necessarily know anything about politics but we know that you all can and will make a difference for us. We also know that our problems are not your problems, and we don't want you or any other American family to suffer the financial turmoil and devastating health

effects our families have suffered. This is why we are so passionate about this issue.

I would like for everyone here to put themselves in the shoes of a young family who bought their first home after years of squirreling away enough money for a down payment. Imagine that a storm ravages your roof and driving rain enters your home. Imagine calling your insurance company to report this claim and being told it is not covered, even though the policy says it is. Imagine watching blood come out of your youngest child's ears and nose while she gasps for every breath and not having a clue as to why this is happening.

Then imagine discovering that the roof leak that happened several months before, wrongly denied by your carrier, caused mycotoxin-producing molds to overtake several rooms of your house, including an entire wall in your child's bedroom.

Now imagine that you and your entire family must abandon your home and all of your possessions because they are all contaminated; and continued exposure to these mycotoxins, now airborne, could cause your 5-year-old daughter irreparable harm. You get remediation bids and find that the cost of fixing your home is greater than the value of your home.

Apart from losing your home and everything you own, your family also faces tremendous health care costs and will be burdened with the costs associated with renting temporary housing while you battle it out with your insurance carrier over the coverage that you, in fact, bought.

You try to hire an attorney—and a lot of you all like to blame attorneys, and I don't much like attorneys, but I can't blame them for this. You try to hire one. They won't take it. They say that the damage to your life is only $200,000, and it is going to cost more than that to take the insurance company to trial. You can't afford to pay the out-of-pocket litigation cost, so you really have no recourse against your Goliath insurance company.

If you are that family, you have only a few choices: You can walk away from your mortgage and let the house go back to the lender; you can pay the tab for remediation by taking out a second mortgage, but, unfortunately, that would mean that the total loan is greater than what the bank will let you borrow; you can sell your home to some poor unsuspecting family and not disclose the problems; or, you can stay there, continue to expose your family to the health hazards, and rack up medical bills to the point you claim bankruptcy.

These are currently the choices of every family in our membership. The economy suffers, builders and mortgage companies suffer, the family who knowingly buys the problem because of nondisclosure suffers, the medical profession suffers. There are no winners. There are just losers.

I have asked the staff here to provide you with a handout which is done State by State and by year of the mold claims as of February 5, 2002. These numbers should have been updated, but I was too busy to do that.

But as of February 5, 2002, there were over 16,000 first-party insurance cases. These are not legal cases, I want that to be understood. These are homeowners that have actually had to hire either

an attorney or take their matter up with their State insurance department and get them to help resolve their claims.

Chairwoman KELLY. Ms. Ballard, I want to remind you, you have 1 minute.

Ms. BALLARD. Thank you.

POA has outlined a few recommendations that we would like for you to consider. Hopefully, these recommendations will help you carve a solution.

We would very much be in favor of a self-funded government pool that mimics the flood insurance program. A couple of years from today there will be no insurance policy that covers mold, and homeowners need to have somewhere to go. That is a fact of life.

We are not trying to bankrupt the insurance industry. We want them healthy and happy so that they can honor their policies in the future. But what we do need is a safety net to protect American families. The pool should not be considered an insurance bailout, it should be considered an American public bailout, and, by the way, a self-funded one.

Because of the time restrictions, I will just submit the rest of my testimony as part of the written record.

Chairwoman KELLY. Thank you. We have it, and it is already submitted as part of the written record. You will get another crack at this when questions come around.

[The prepared statement of Ms. Melinda Ballard can be found on page XX in the appendix.]

Chairwoman KELLY. We turn now to Mr. Stewart.

STATEMENT OF GORDON STEWART, PRESIDENT, INSURANCE INFORMATION INSTITUTE

Mr. STEWART. Thank you, Madam Chairman and members.

The year 2001 was the worst in the history of the property casualty industry, but I am not here to ask for sympathy. That is the background. We estimate that in the homeowners sector the loss was about $8.9 billion.

Mold is a major factor in these increased costs. Conditions have reached crisis proportions in Texas; and mold has become a serious problem in several other States, including California, Florida, Arizona and Nevada. Commercial and residential mold claims are now common in most other States as well, and we heard from some members about specific things going on in their districts.

We have submitted a large number of slides and bars and pies that will give you a background of mold's impact economically on insurance.

A couple of quick numbers. Mold claims in Texas rose 1,306 percent between the first quarter of 2000 and the fourth quarter of 2002. The frequency of these claims per 1,000 policyholders rose 1,286 percent during the same period.

Mold claims in Texas, the cost of these claims, rose 560 percent between 2000 and 2001. Now, up until the last few years, insurance adjusters routinely handled these in the context of sudden and accidental water damage, which is the only circumstance, as you know, under which mold is covered in the standard contract. Mold damage has been specifically excluded, unless it is a result of a covered peril, such as a burst pipe, et cetera. The simple pres-

ence of mold, the fact it is around, like termites or damage from vermin, is considered a home maintenance issue, not an insurance-covered issue. This has been true for a very, very long time.

In homeowner's insurance today, the fear of litigation has led to great uncertainty about this long-standing coverage exclusion, and insurers are doing many things, as you probably know, to strengthen it, because it has always been there and now it is under some attack.

Some reasons for this may be that, under the normal property insurance premise, property insurance makes people whole. It doesn't offer very much opportunity for significant recovery. If you can move into liability, if you can move into wrongful practices of some kind, if you can move into health, then that changes the economic possibility for litigation enormously.

The result of this uncertainty is that costs are going up. Three years ago, the few claims that insurers did see were handled for a few thousand dollars. An average mold claim today costs about $35,000 and can easily exceed $100,000. That is just to look into the claim and deal with it. If you put that through the system, you can see what will happen to the cost and, therefore, what will be passed on to all of the other policyholders who don't have claims.

The average cost per policyholder went from about $23—this is in Texas—in the first quarter of 2000 to about $444. That is what everybody else pays now if we look at every mold claim as a "white suit" problem. That resulted in additional insurance costs in Texas of about $850 million.

Now, the surge and frequency and costs of these mold claims in Texas cannot be explained by changes in the weather, they cannot be explained by population growth, they can't be explained because somehow all the houses are now different. There has not been, as far as anybody knows, a new strain of mold, wildly toxic. There is not a new plague abroad in the land.

So, as a member earlier said, what is the variable here? Well, we are not entirely sure, but one variable we do know is the frequency and extent of litigation that has emerged and the number of people who have flocked to the mitigation, analysis, testing industry, some of whom were doing air conditioning before, and we do know that these things are new.

Now, are there possible risks in mold that are serious? Yes, there could well be. As some doctors will tell you, certain individuals may be susceptible to certain health consequences. But by no means are all Americans at risk from the mold that has always been there. They can't be more at risk now than they were in 1999. What could possibly have happened here? That is one of the things we are looking at.

Today we are faced with a lot more claims without effective Federal or State standards of what is an acceptable exposure level, are the real health consequences. Nobody knows. We have greatly increased costs for the average claim, driven in large part by remediators who are just saying, this is what it will cost. We have few ways of evaluating that, unlike lots of other home costs we are used to. We have more court cases and accusations of severe and permanent health damage; and there is no peer reviewed, scientific research about health effects.

Health claims are coming under property policies that were never intended to cover health claims, as you know. And now, fearing bad-faith lawsuits, which is an area where you can really build up the legal costs, insurers are tending to throw money at mold claims because they don't want to be accused of not doing everything they could be doing and having a very expensive lawsuit.

The net of it is we have got these exploding costs, and the only thing to do is either cut back on coverage and pass on costs to policyholders. These things are going on in State after State, so we have a kind of insurance crisis developing as a result of the shock of this relatively recent occurrence.

We are deeply concerned, and I say this not idly, about health consequences. If you think about property casualty insurance, you think of all the things we don't want you to do. We don't want you to drive drunk, we don't want you to smoke, we don't want you to do dangerous behaviors. We want you to live in a very sanitized, boring way. We are deeply, as you know, involved in air bags, seat belts, occupational safety, arson, fire, anything and everything to keep claim costs down. This is a mantra of insurers. That is one of the reasons we are considered to be boring to live around. We don't want bad things to happen to you.

If there is a serious mold health problem, we would like to be able to deal with this, but we don't see that something is radically different biologically in 2001 than it was in the year 2000.

Chairwoman KELLY. Mr. Stewart, you are over your time. Could you sum that up for us, please? We have your written statement as part of the record.

Mr. STEWART. I would like to just tell you one story, since we heard an anecdote, and this happens to be my personal anecdote.

We have an apartment. There was a water leak, a serious water leak. The ceiling came down. We came back, found it on the floor. Water damage. Lo and behold, we have mold.

I have a 3-year-old daughter. We just heard about a hypothetical 5-year-old, or an anonymous 5-year-old. I have a 3-year-old who I love to the ends of this Earth.

What I did, in addition to calling people to do something about the leak, was I got my old clothes, I got Clorox, I got up on a ladder, I put on a mask, and day after day, until something could be done, I cleaned up the mold. She is okay.

Chairwoman KELLY. Mr. Stewart, I am going to have to cut you off because you are really way over time, and I have not given anybody else this courtesy.

Mr. STEWART. Fine. I wanted to end with my personal story.

Chairwoman KELLY. Thank you very much.

[The prepared statement of Mr. Gordon Stewart can be found on page XX in the appendix.]

Mr. STEWART. We move now to Dr. Sandler.

STATEMENT OF HOWARD M. SANDLER, M.D., PRESIDENT, SANDLER OCCUPATIONAL MEDICINE ASSOCIATES

Mr. SANDLER. Good afternoon, Madam Chairwoman and members. My name is Howard Sandler. I am a physician specializing in occupational medicine and environmental health.

I grew up in the D.C. area. My father was with the Department of Defense, and for the last 15 years I have lived in the great State of New York.

I have served as a medical officer with NIOSH, I have been a consultant to OSHA, EPA, the Consumer Product Safety Commission, as well as local government agencies and private industry. I have investigated numerous indoor air quality problems throughout the country in a wide variety of buildings, homes and schools.

Specifically, I am dealing with some of the buildings around the World Trade Center site, including some of those who have water damage and mold proliferation, as well as schools on Long Island and schools in the State of Illinois. Increasingly, these concerns have been around microbiologics, meaning bacteria, viruses, endotoxins produced by bacteria, the dampness associated with it, as well as dust mites and molds. I recently provided testimony before a New York State Senate hearing on proposed legislation on Long Island.

Molds are everywhere. There are molds in this room right where we are right now, and there is probably enough in this room that they would not meet the new New York City Department of Health ″guidelines.″ those guidelines, by the way, were produced not based on risk assessment on health, they were just pulled together as a consensus statement by a variety of different practitioners and specialists.

The 100,000 species you heard from Dr. Redd certainly means we have a lot of molds. About 350 species produce mycotoxins. The diseases, as you heard about, that can be produced by molds are mycotoxicosis. In World War II the Soviet Union lost a lot of people and horses to ingestion of moldy grain and fodder. People died from this. If you have ever seen a case of mycotoxicosis, when it is real and based on ingestion, it looks like clinical radiation poisoning.

But there are other disorders you heard about, such as allergies and hypersensitivity pneumonitis. I have allergies. My kids have allergies. We used to get allergy shots all the time. I understand, Madam Chairman, that you have asthma. Twenty to 30 percent of Americans have allergies, allergic rhinitis; and the most popular allergins, if you will, are dust, dust mites, pollens and molds.

But, invariably, of all the schools and the different buildings that I have looked at, I rarely find somebody is allergic to the precise molds in those buildings. If you do skin testing on these people, you don't find a correlation, which is very curious.

However, some people do walk into buildings, and there are studies that show, for example, that people who have allergies and asthma do worse in damp buildings. They try to correlate it with mold because we do know that mold will grow where there is moisture. But the studies don't show that. There are some equivocal studies showing yes, some showing no, which is typical in science, unfortunately.

The present science, however, is limited; and the quality of the studies right now that have been done, for example, in the various buildings in New York, are not of the quality to give you dose response evaluation, nor specific mold type association with specific disorders.

The reality of the claimed health effects now on mycotoxins and what has been called MVOCs, microbial volatile organic compounds, organic compounds which give you your mildew smell in your bathroom or basement, such as my basement on Long Island, in fact we don't know if those are related to health effects because they are in the air. The doses that you see in ingestion are much greater than you see on airborne exposures; and while there are certainly people who have theories about this, it is far from being understood.

I think the key issue on legislation from a health and safety standpoint are the following: Number one, let's use the right definitions. Toxic mold is brand new. It is not scientific. It is based on media, legal and other issues. Certainly molds do produce toxins, but you just don't refer to things as toxic mold.

I urge you to be very careful. Just don't say ″harmful.″ harmful means nothing. Is it simply an aggravation of allergies or causing of allergies? So I think we have to be very careful how we do this.

I think we also have to look at and be very careful with triggers like permissible exposure limits that OSHA sets or recommended, that NIOSH recommends. There is just no science there right now to do this.

As far remediation, to what level? I don't know. Nobody knows, and that is the problem. While certainly, if you see a huge amount on the wall, you say, let's get rid of it, does that being on the wall produce enough in the air to cause a health problem? My studies of buildings all over the country just don't show it. However, I do see people who have illness.

The bottom line is I urge the committee to address with adequate funding and oversight appropriate scientific research, assessment and recommendations. Let the legislation follow the development of sound science in this area.

Thank you.

[The prepared statement of Dr. Howard Sandler can be found on page XX in the appendix.]

Chairwoman KELLY. Thank you very much, Dr. Sandler. I very much appreciate your comments. I will remind all of our panelists that we do have your written testimony, it is a part of our record and we will take it into consideration. I would like to give myself 5 minutes for questioning at this point. Dr. Redd, the first thing I would like to ask you, if you would, in your testimony you listed a Web site that was available to everyone who might have questions about the mold situation.

I am wondering if you would say that now so we could put it in as a part of the record and for anyone who might be in the audience who might be interested in that Web site, they would have the opportunity to copy that down. I believe that you will find that on page 2 of your testimony, at least that is where I found it.

Dr. REDD. The Web site on page 2 is NTP-server.niehs.nih.gov.

Chairwoman KELLY. Back slash. Would you say that again, please. Sorry, I want you to say it.

Dr. REDD. It is ntp, dash, S-E-R-V-E-R, dot, n-i-e-h-s dot NIH dot G-O-V.

Chairwoman KELLY. And then you have to use the slash, the back slash.

Dr. REDD. That is right. I think you have to start with http period, or, sorry, colon double slash.

Chairwoman KELLY. But that is usually on everybody's computer. It is the rest of it. And I believe someone may want to correct me, it is—I think that slash is important in order to get to the route. Is that correct?

Dr. REDD. I think it will—.

Chairwoman KELLY. Dot G O V.

Dr. REDD. I think just the G O V will get you there I think.

Chairwoman KELLY. Just G O V will get us there. Thank you very much.

I wanted to make sure, Dr. Sandler, you said toxic mold is a term that is scientifically inaccurate. That is very interesting, because I read the word toxic mold often in the press. When they describe mold, it is described as toxic. While all mold is not, those of us that like gorganzola and blue cheese are aware it is not toxic. Maybe it is. I would be very interested if you could define that, toxic mold.

Dr. SANDLER. There are certain molds that produce microtoxins, about 350 species, just like any other chemical. If you are exposed in the appropriate manner either through inhalation or more probably ingestion, these type of microtoxins have been shown to cause problems. The mere fact that you just go from mold to ″toxic mold″ to me is more of a media event than a scientific event. All chemicals are toxic at the right dose. That is all it means.

So I think you have to be very careful, though, to let the research determine what are the roots of entry whether it is inhalation, ingestion, and I don't think it would be skin absorption, as well as the levels at which each one of those produce the problem. Clearly, like I said before, the Soviet Union experienced that bad—we lost I think 100 turkeys in this country. Not human turkeys, the fowl type.

If you look it up in the literature, you will find there are plenty of mold-related cases and usually from ingestion of moldy food products. By the way, though, if you look at, as I think people already mentioned, there are a variety of different food substances. There are levels of microtoxins that are available. And the FDA has allowed a certain level of aflatoxin, which is a potentially carcinogen in wheat and other wheat products. So I don't think we can ever get rid of mold nor should we look at that. I think we should try to find out what is a level that won't produce harm.

Chairwoman KELLY. Thank you. Dr. Redd, when the CDC finishes its literature review on mold, what are the potential next steps, and how likely is it that we are going to be able to separate the valid consumer risk from bad science? Dr. Sandler has brought this up. How are we, the public, going to understand this?

Dr. REDD. The recommendations of the committee, the Institute of Medicine Committee, I think, is charged with doing exactly your last point. Separating the wheat from the chaff, the things that we know to be true from the things that we don't know to be true or not true. We are very much looking forward to the recommendations of that report, both from the public health intervention side as well as for guidance in the types of research that the committee recommends.

Chairwoman KELLY. Mr. Tighe, one last question, what is your union doing to educate your members at large and the consumers about controlling indoor mold growth?

Mr. TIGHE. We have trained stationary engineers that have the maintenance responsibility for about 2 billion square feet of commercial space to date. Unfortunately, when our course was written in 1995, mold was not a great issue in indoor air quality. Since then, it has been a growing issue. And we provide research, public research to our local union training programs and try to give them documents, as I referenced, the EPA remediation guide for schools and commercial facilities and try to establish best practices.

Because the one thing that we have certainly heard today is that there continues to be the uncertainty as to the health effects of mold. But the one thing that is not uncertain is that there are very precise ways that you should deal with mold in order to not spread the mold. And just one example, if I may, Chairwoman, in most heating ventilation and air conditioning systems in the United States, they take the return air and rather than duct that air back to the system, they use the space that is above the ceiling. So there may be a 3-foot space above that ceiling, that return air is taken in and across that space and back into the system. Now, if you have leaks and you have moisture and you have mold, and somebody gets into that ceiling and disturbed that, that is picked up by the HVAC unit, put through the system, and dispersed into the occupant area.

Well, we try to stress to stationary engineers and maintenance people that have some effect on this is to use good preventive maintenance activities and standards to try not to spread the molds to various areas.

Chairwoman KELLY. Thank you very much, Mr. Tighe. I am out of time and I turn now to Mr. Gutierrez.

Mr. GUTIERREZ. Thank you very much. I guess what we have heard today, it is a very interesting panel, a very diverse panel, is kind of there is something dangerous out there, we don't know what it is, so let's not fret too much about it; it is there, but we can figure it out in some time. Lawsuits is what is causing everything, it is not the mold. It is really mold, but if it weren't for the all the lawsuits, the mold would go away, and these kinds of situations.

But I think there is kind of little middle ground here, and that is that something is wrong. There is a problem. Some may want to diminish the problem, some may want to blame the problem on lawyers, but the fact is that we have somebody that is here that represents 18,000 people that got together that doesn't seem like they all have a lawyer. They all went to court and they are all suffering some damage.

And you know, I know that many times we like to look at situations and I was talking to my friend, Congressman Conyers, and we were talking about when AIDS first came and everybody said well, you know, that is just consenting homosexuals, that is really not a problem that the public has to deal with. And we deal with a lot of different things. You know, if people would only drive slower but then we decided seat belts was a good thing and side safe-

ty—I mean all kinds of safety things, and we passed laws and we save lives by doing that.

We took on the—you know, if people didn't smoke, well, they wouldn't get lung cancer, but we put it on packages. I can even remember learning about good old Smokey the Bear and not ever starting a fire. We certainly know how important that message is given the tragedies that are happening in the west in our country.

So it seems to me that there is a problem. I know that Mr. Howard from the home builders says yeah, there is a problem, get some standards. Let's figure it out so we can all use the same standards. It seems like Mr. Tighe also says let's figure this out. So I say let's figure it out because I think there is a problem out there that homeowners are having.

I just have a problem with always blaming the victim, always saying well yeah people have a problem, but, you know, they are creating the problem so they can go to a lawyer and create a whole new industry. I don't know that people do that by and large. I find that the American public is honest, hard working, God fearing and is doing the right thing. And they are trying to keep their most valued asset, their home. So I guess, Dr. Redd, it is on you, when do you think we can have some answers that are, you know, scientific, objective, that we could look at so that we can create the kind of standards and legislation to help all of the home owners that Mrs. Ballard represents and that are suffering?

Dr. REDD. I agree with your statement that we need some answers. As far as an exact timetable to have all of this figured out, I really can't give you that. What I can say is that in about a year, give or take a few months, we will have a report from the Institute of Medicine which will, more or less, provide with us a blueprint for things that we really ought to be doing now, and things that we ought to be studying. So I think that is going to be a real milestone in terms of getting the answers that we really need.

Mr. GUTIERREZ. Do you have all of the staff and adequate funding that would you need to get an answer?

Dr. REDD. I think that in terms of activity between now and the time that report is released, we do have resources to investigate clusters of illness as we find out about them. I think from the point of the—when that report comes out, it is going to depend on a lot of on what sort of recommendations there are. It is really impossible to say what might be in the report and whether, or whether we wouldn't have resources at that point.

Mr. GUTIERREZ. Given today and the kinds of things that we have learned today and the kinds of information that we have, I think it would be safe to say that there are molds, molds do cause problems, they are some relationship with molds and illnesses, but we are not quite sure what the relationship is between those illnesses and molds. But mold, I don't think it is an issue we should ignore.

Dr. REDD. I absolutely agree with that.

Mr. GUTIERREZ. Thank you. We will see if we can work with you to get that report as quickly as possible to get some solutions. Thanks.

Mr. MILLER. [presiding.] Thank you. I award myself five minutes. I was reading the book Leviticus that said God put a spreading

mold in the House of Aaron and Moses. I don't disagree with what my colleague said at all. We know there is mold, the only difference is we don't know what the problem is. I listened to every witness out here, and everyone acknowledges yes, there is mold, but is there necessarily a harmful affect on individuals from that mold. Is it a causal effect of the mold that happens to be there and an individual who might be sick.

Just because there is mold does not mean an individual is sick from that mold. Yet the mold might be causing some damage. We don't really know. I have tried to research this as hard as I could and I have read everything I can get. I have talked to environmental scientists and I have talked about the parts per billion in a silo and this and that. We could argue mulch and all these things, but the problem is we don't know what the problem is.

And I think, Mr. Gonzales, you said earlier we want to hear the facts. I can't agree with you more. I believe accountability and responsibility and when it came to the seat belt your car hits the wall, if a person flies through the window well, yeah, you know, a seat belt is going to stop you from flying through the window. But that is not what mold is. And you gave this very—Mrs. Ballard, you gave a statement and you painted this picture imagery, it was imagine the insurance company report that the claim, you know, you have, that it is being denied, and imagine watching blood come out of young child's ears and nose and the insurers denying a claim. That is terrible. Nobody would accept that. That is egregious. But was that your situation?

Ms. BALLARD. Yes, it was. We tried to make repairs. We had scheduled repairs in our home in January and February of 1999.

Mr. MILLER. I wanted to ask you about that. What was your problem?

Ms. BALLARD. We had a series of water leaks. It was several plumbing leaks.

Mr. MILLER. It was in January?

Ms. BALLARD. It was in December of 1998. Close to January.

Mr. MILLER. In the testimony you had given, you had said it was in January of 1998. And then when did you notify your insurer of that?

Ms. BALLARD. Immediately.

Mr. MILLER. Your testimony said December of 1998 you notified your insurer of a leak and made a claim. You found it in January and you notified the insurer.

Ms. BALLARD. No. No. No. I am sorry, let me clarify. The claim was made in December of 1998.

Mr. MILLER. You notified the insurer that you had a leak in December of '98, but you found the leak in January. So almost a year went by between when you found the leak and notified them. You notified them in December and then 2 months later they gave you a check for $108,618. Is that correct?

Ms. BALLARD. Not exactly. I think you are misquoting our—well, please, let me finish because I don't want you to misquote anything. We had 13 water leaks in our house. And our claim, what our insurance company thought was the source of the problem had been fixed 10 months before I had reported a claim. It appeared as though—not appeared, it was found out subsequent to that that

there were 13 water leaks that were not discovered by the insurance company's plumbers.

Mr. MILLER. But what we gathered from the court text was that they were notified in December. And 2 months later they wrote you a check for 108,000. The point I am trying to make is if we are dealing—you painted this picture about negligence and the terrible insurance company. That is an egregious company to think an insurer would come out and deny a claim. But in your situation, they didn't deny your claim.

In fact, when they paid you in February, your attorney notified them of mold April 7th of 1999. That is the first time the insurer knew about mold. April 8th the next day, they inspected your home.

Ms. BALLARD. That is incorrect. Just so we go back and I don't want you to misspeak—.

Mr. MILLER. I don't want to.

Ms. BALLARD. The claim was made, they thought the cause was relating to a water leak that had been fixed 10 months before. They, in fact, were incorrect. It was there were 13 other ongoing leaks. Now, they did pay $100,000. We refused to accept the check telling them that that was insufficient.

Mr. MILLER. But you cashed—but—one second. You cashed that check in late February, that month.

Ms. BALLARD. We told them this was unacceptable because their own estimates were well exceeding that amount.

Mr. MILLER. I accept that. And then in April you told them about the mold. And then you both agreed to an independent umpire. And they gave you a check for $1.2 million.

Ms. BALLARD. Sir, that occurred about 18 months after we are talking. Mold does not stop growing because of an insurance company's delays. They—and the appraisal process was called for by the insurer, the umpire was later found out to have been—.

Mr. MILLER. I am running out of time. Did you ever make the repairs.

Ms. BALLARD. Yes, we did. We repaired every water leak in the house.

Mr. MILLER. I am going to have to reread the court document because it said they were never made.

Ms. BALLARD. We repaired every water leak in the house.

Mr. MILLER. I am going to close with the fact that if anybody has a claim and an insured does not cover it, there is not a person on this panel who would not want to hold the insurance company absolutely accountable and responsible for that. But what was the entire—there was—there was no award to you for health.

Ms. BALLARD. No, sir, there was not.

Mr. MILLER. What was the total award? 33 million?

Ms. BALLARD. 32, and there was $6-1/2 million of actual proven property damage. Every one has focused on the health effects.

Mr. MILLER. $6 million worth of property damage in a home that you paid $275,000 for 10 years before.

Ms. BALLARD. And made a whole lot of additional improvements and had a lot—.

Mr. MILLER. Must have been—thank you very much. Ms. Lee. I am sorry, Mr. Gonzales then. Mr. Inslee.

Mr. INSLEE. I am sorry, I thought there was others who have been waiting longer than me.

Mr. MILLER. You want me to pass you and come back.

Mr. INSLEE. I will go ahead. I am trying to be gracious. That is a little unusual here so I was just trying. Mr. Howard, I think you heard me allude to my son builds houses on Bainbridge Island, Washington. That is just west of Seattle.

Mr. HOWARD. God bless him, sir.

Mr. INSLEE. We are proud of our sons and daughters. He does great work. He really is a guy who takes a lot of pride in his work. That is one of the things I am so proud of in seeing his work. And I want to ask you about your sort of response to this issue. When an industry gets in a situation like this where you have obviously had an explosion in claims it sounds like listening to Mr. Stewart, any way, there is sort of a couple responses it can take. One it can try to educate the public about how to—maybe three kind of responses, educate the public on how to avoid problems associated with the product, that is one response.

Second, to try to deny there is any losses associated with the product, that is the second response, and third, to try to reduce the occurrence of the problem by helping educate members of the association of your producers in how to reduce the exposure, reduce the number of incidents which do occur, I think everybody agrees, on occasion. Could you categorize how your engineers have been on those three efforts?

Mr. HOWARD. We have been very aggressive in items 1 and 3, specifically we have, as I mentioned in my statement, prepared a Web site which would be mold tips dot com for consumer Web sites, for consumers to go on and look, and we have got a whole list of things that home owners can do to reduce the presence of mold and the presence of moisture which seems to be from our research the primary reason for mold in structures. So we have been very aggressive in trying to educate the consumers. I would point out again our efforts in that regard are bilingual.

Secondly, we have a very well respected research laboratory here in suburban Maryland called the NHB Research Center. It is one of the preeminent laboratories for housing research in the United States. The research center has undertaken to study the building envelope as a whole to make determinations about what we can do in the construction process to minimize the possibility for mold in the home.

In addition to that, we study individual products to determine mold, their likelihood for providing a food source for mold, and we are also studying products that are also being touted as mold eliminators. So we are active in educating the consumer in researching products and the whole construction process so we can educate our members and in reaching out to our members once they that information and educating the public. We do not deny that there is a problem. We would like to see the problem studied.

There is obviously a difference of opinion about the extent of the problem, what causes it. And until we know exactly what causes it, that is as far as I think we are prepared to go at this point. I would say, however, that we are prepared to assist the Congress,

the CDC or anybody else in the research and we make our services available.

Mr. INSLEE. What do you think is the most frequent reason for a problem of excess moisture that might end up in mold growth? If you are going, if you can just categorize it in the industry.

Mr. HOWARD. I would have to, Mr. Inslee, respectfully ask to be able to answer that in writing. I am not an expert on that and I don't know the answer off the top of my head.

Mr. INSLEE. If could you do that I appreciate that. I will get you my card.

Mr. Stewart.

Mr. STEWART. On the subject of public information and education, it really is the first line of activity of our organization. Because it is—anything related to any kind of insurance risk we are trying to do things with this workplace safety or anything that will help that. We have a Web site that has about 4 million hits a month. And we also do video news releases to news stations that have reached some 10, 15 million people. It is a major front line activity.

As I have said, my own personal example we encourage everybody else. The first line of defense is do something about it rather than wait for the problem to go. If it is hidden that is one thing. Obviously you can't. If there is negligence on the part of some party, that is something else. An overwhelming majority of cases simple behavior changes will fix the mold problem.

Mr. INSLEE. Given your success, if I get a constituent with a mold problem, I will give him your home number.

Mr. STEWART. We maintain a national consumer hot line.

Mr. INSLEE. Thank you. I have one more question. Mr. Sandler, we have this case on my island where the school got a problem, $100,000 to fix the problem, sort of, I guess, everybody agreed there was a problem with excess moisture, excess mold and there were some pretty well documented health problems associated with it. And I haven't asked the people involved. But are there standards now that people do look to for some guidance as to what an acceptable level is in the ambient air? If I had a constituent who said I bought this house, I think it has got too much mold, my children are having asthma attacks, et cetera, what do I tell them as to what to decide whether there is too much or too little mold or what is the situation with standards in that regard?

Dr. SANDLER. I think the first issue that you really have to look at is truly what is causing the problems. Remember in a school environment, for example the biggest health hazard you have are with the kids because of the viruses that they share to each other and the teachers. So that is issue. Why do people, for example, feel better during the summer? Is it because they are no longer in the school environment or is it because they are no longer being exposed to the viruses. Could it be the issues of bacteria and endotoxin? Could it be from dust mites? Could it be from a variety of different things? A lot of children or adults once they have asthma, they may have their symptoms exacerbated by odors. So sometimes it could simply be the mildew or some other odor that is present in the school. Certainly once you have a mold infestation, it is not pretty, can be structurally problematic.

Mr. MILLER. The gentleman's time has expired. We have to wrap this up. We have two votes on the floor. We are going to temporarily recess for about 20 minutes. But I would grant Mr. Israel 30 seconds to welcome one of the witnesses who is from his district.

Mr. ISRAEL. Thank you, Mr. Chairman. I understand that Dr. Sandler's company is based in Melville, Long Island, my neck of the woods. I haven't had an opportunity to hear your testimony, I am sorry I was late, but I wanted the opportunity to welcome you to the Capitol and look forward to working with you.

Mr. MILLER. The meeting is recessed for 20 minutes.

Chairwoman KELLY. [presiding.] The hearing is going to resume now. Apparently some of the people are either stuck on the floor or had to go to other hearings. I am going to hold this hearing record open for 30 days so that the members who were not able to attend the hearing will be able to direct written questions to this panel, and you can respond within that 30-day period. Since there are no more questions, the Chair will note that there will be these additional questions. So without objection, this hearing record will remain open for 30 days for members to submit those questions and witnesses to respond.

I want to thank all of you here today. This is a very thorny difficult problem. We need sound science and we need alternatives. We also need some insurance alternatives so that the insurance question is able to be met with some alacrity on the part of the people in the industry being able to take care of those people, like Mr. Tighe and the other people, Mr. Howard, your groups of people who are involved can get some protection. And also Ms. Ballard, we need to get you some protection too.

So I thank you all very much for appearing here today. I am sorry that we kept you through the hearing. I had assumptions that some of the people were going to come back but apparently they aren't able to. So thank you. We appreciate it. And this hearing is adjourned.

[Whereupon, at 4:22 p.m., the joint subcommittee was adjourned.]

A P P E N D I X

July 18, 2002

Financial Services Joint Subcommittee on Oversight and Investigations and Subcommittee on Housing and Community Opportunity Hearing on Mold: a growing problem

July 18, 2002; 2:00 p.m.; 2128 Rayburn

In the preparation for this hearing I have spoken to many of my friends and colleagues about the issue of mold damage in commercial and private properties and reports of adverse health effects. While there are many who are aware of the seriousness of this issue there are also many who are unaware of the growing scope of this problem. In an effort to increase all of our knowledge Chairwoman Roukema, Ranking Members Gutierrez, Frank and I have agreed to hold this joint hearing.

In my view, one issue with is the lack of scientific evidence as to the direct correlation between mold damage and adverse health effects. Because of this uncertainty homeowners fear grows without any definitive evidence of what ""safe or potentially dangerous"" levels of mold may be.

In addition, the uncertainty of this issue has created a window of opportunity for unethical lawyers and contractors to prey upon vulnerable populations. As evidence, without objection, I''m going to make a part of the record a copy of a May 17 New York Post article entitled ""Costly Lawyer Cashes in on ''Mold; Money."" This article tells the story of lawyer who settled a class action lawsuit for $1.7 million, taking more that half of the money for himself and left the families with an average of one thousand dollars each. The part of the article that alarmed me the most was this — quote ""The money he offered me wasn't even enough to buy a decent tombstone for my daughter,"" said 81 year-old Mattie Quailey, whose daughter, Lorraine Woods, 58 died in 1998 from alleged prolonged exposure to molds……"" — end quote.

All of us need to step back and look at the facts surrounding this issue, and do so in a coordinated manner. The witnesses we have here at the table today represent a broad cross-section of the interested parties in the mold debate. By working together, I hope we will be able to find some answers in an area where there are still large numbers of unanswered questions.

Let me state unequivocally that all of us have great sympathy for those who are suffering health problems of any kind, no matter what the cause. I would personally urge property owners to do everything they can to protect their investments - and most importantly, their families — from mold infestation.

At the same time, this Congress must assess the true nature of the mold issue before rushing into legislative action. In the process of preparing for this hearing, my staff interviewed numerous medical experts who emphasized that mold simply cannot be directly linked to so many of the serious medical conditions for which it has been blamed. There are many other causes that can be cited for the symptoms people blame on mold: hypersensitivity, allergies, viruses, and deficiencies of the immune system.

As we will hear this afternoon, the Centers for Disease Control is currently working with other institutions to study this issue and provide more information on the true health effects of mold infestation. It is imperative that we look to the nations medical research institutions to help us separate legitimate claims from what some have termed "mold hysteria." Ultimately, we are going to need better scientific standards and safety education to help consumers and industry identify legitimate dangers to immediately begin compensation and remediation.

We are holding this hearing to help us separate the facts from the myths surrounding the recent dramatic rise in mold claims and its reported catastrophic effects. While many Americans are unaware of potential dangers from untreated mold growth in commercial and private properties, the lack of scientific standards and documentation only adds to the confusion we all feel when confronted by potential dangers of substances we grew up to believe were harmless.

Statement by Chairwoman Marge Roukema
Subcommittee on Oversight and Investigations
Subcommittee on Housing and Community Opportunity
"Mold-A Growing Problem"
July 18, 2002

Today we begin a review of an issue that is fast becoming a concern for homeowners across the country: indoor mold growth. Today's hearing will be the first step in understanding the potential health effects of mold exposure and to determine what steps must be taken to address this growing problem.

When I was first approached about holding a hearing on mold, I must admit I was at a loss as to why Congress and this Subcommittee would have any reason to address this issue. However, the importance of this hearing cannot be overstated.

An increasing number of consumers who have been exposed to mold in their homes and workplaces have attributed a wide array of health problems to exposure to indoor mold. While the causes of mold growth are well understood, the effects of mold exposure on humans are much less certain. According to the U.S. Centers for Disease Control (CDC), no scientific study has been performed to date that establishes a direct relationship between mold contamination and health impacts. Similarly, while the Environmental Protection Agency notes that molds may trigger asthma episodes in individuals with an allergic reaction to mold, it has not found any conclusive study regarding other adverse health effects. Many symptoms associated with mold exposure are common symptoms of other widespread illnesses such as colds, influenza, and miscellaneous allergies. However, the National Institute of Health believes that certain kinds of mold may cause allergic reactions, potentially leading to asthma or more severe complications. Unfortunately, the combination of legitimate mold allergies and "moldophobia" have caused claims for mold-related damages to skyrocket, resulting in numerous multi-million dollar jury awards based on uncertain science.

Over the past two years, the United States has experienced a remarkable increase in the number of mold related homeowners claims. In Texas alone, claims reached approximately $850 million last year. Across the U.S., homeowners' insurers paid out $1.18 in losses and expenses for every $1 earned in premiums. Mold-related claims have now gone from fewer than 9,000 in U.S. and Canada combined in the previous 10 years, to a single insurer receiving over 10,000 claims in just the first 10 months of 2001.

The importance of this issue is only underscored by the fact that various agencies, such as HUD and EPA are already involved in efforts to better educate consumers. The Department of Housing and Urban Development (HUD) has launched a Healthy Homes Initiative (HHI). The primary goal of this program is to protect children from housing conditions that are responsible for multiple diseases and injuries. HUD has included indoor mold as part of this initiative.

Not only is it a problem for individual homeowners, but we have seen a marked increase in the number of mold claims in both commercial and government buildings, including schools and hospitals. Occurrences of mold in schools are making headlines nationwide and clear guidance from the scientific community as to what avenues are best pursued is necessary.

One thing is clear; we do need further research and scientific study on a number of key areas. For example, further study is needed on standard methods for mold sampling, for analysis of mold toxins and mold allergens. We need additional information on the health impacts of building design and management; data to quantify which aspects of household water damage are related to respiratory illness, standard criteria for assessing water damage, standard, cost effective remediation procedures and criteria and effective and standard preventive measures.

Through this hearing we will begin to establish a record of the issues relating to the health hazards posed by mold and the effect it may have on homeowners, homebuilders and insurers alike. With a clearer understanding of the dangers of mold, we will have a better understanding of the seriousness of the problem. This will allow us to determine how best to assist consumers and how to distinguish between legitimate health concerns based on sound science and "moldophobia" based on questionable science.

Again, I thank all the witnesses for coming today and look forward to their testimony.

STATEMENT OF THE HONORABLE
WM. LACY CLAY
before the
Subcommittees on Housing and Community Opportunity and Oversight and Investigations

"Mold: A Growing Problem"

July 18, 2002

Thank you Madam Chairwoman. I appreciate you having this hearing today and I look forward to the testimony we are about to hear. We are indeed facing a growing problem with mold in houses and buildings. Homeowners, insurance companies, and home and building construction companies are encountering tremendous financial and health problems because of harmful molds.

We have thousands of molds and most of them cause no problems to humans. As a matter of fact, some are beneficial to man and are vital for use in medicines, food production, and many other aspects of our everyday lives. While we mostly stereotype molds as being only in damp dark environments, they exist everywhere.

Molds do cause problems in houses and buildings with poor ventilation and leaky water pipes. However, they also cause serious health problems on dry surfaces in places like hospitals and manufacturing plants. The exposure of an individual to mold does not always cause a health problem. Nevertheless, care must be taken to prevent mold growth in homes and buildings, as one may become allergic to the continued exposure to potentially harmful molds. Some people who are allergic to molds have common effects such as sneezing or difficulty breathing when exposed. Additionally, some people with respiratory problems are more susceptible to these infections. My son is asthmatic and I am especially vigilant on this subject and do watch developments in both detection and treatment of these health problems that are the result of exposure to molds.

Some molds thrive in buildings because of poor construction that does not allow for proper ventilation. Some of the problems are caused as a result of natural disasters such as floods that leave structures inundated with areas that enhance their growth and proliferation.

In St. Louis, Missouri we have reports of problems in both houses and buildings that are detrimental to good health. This often strains the resources of

insurance companies that pay the cost of eradicating the molds and the cost of health care to infected, insured individuals. In some cases, the cost is astronomical.

At this point in time, no one is sure if there is an increase in harmful molds or if we are just better at detecting the existence of molds and diagnosing the adverse health effects.

The witnesses testifying today will shed more light on this important subject.

Madam Chairwoman, I ask unanimous consent to submit my statement to the record.

Cong. John Conyers Testimony
Government Financial Services Committee on Toxic Mold
July 18, 2002, 2:00pm.
2128 Rayburn H.O.B.

Mr. Chairman, I have a brief statement, and I would ask unanimous consent that tmy full remarks be entered into the record.

Thank you very much for the opportunity to address your committee about an extremely serious health hazard---toxic mold. Unfortunately, it has gone unaddressed by federal, state, and local government for far too long.

Mr. Chairman, severe illness traced to toxic mold is becoming a national epidemic. Many American families are unaware of the threat until serious damage has been done to their family's health and to their home. And once alerted to the danger, most toxic mold victims, or those who suspect that toxic mold may be growing in their homes, do not know where to go for help, what public agency to call, or how to clean up the mold after it has been found. Even once they determine that toxic mold has made them seriously ill, they often cannot afford to pay to have the mold and the dangerous microtoxins that it produces, fully removed. Nor can they afford the extremely expensive medical treatments that their illnesses require.

After receiving dozens of letters and phone calls from Detroit residents whose lives have been destroyed by toxic mold; and from Americans across the country who have also experienced debilitating illnesses and financial ruin, I decided that it was time for the federal government to step in and address this environmental and health nightmare. Indeed, when we held a hearing on this hazard in Detroit, Mr. Chairman, angry citizens came as far away as Texas, Boston, and other distant locations because they were so desperate for some real federal relief. **On June 27, 2002, I introduced HR 5040, The United States Toxic Mold Safety & Protection Act, with 17 co-sponsors.**

Opponents of this bill will try to call into question whether there is credible scientific evidence linking mold to serious health conditions. But that question has been answered for any fair-minded person. In fact, I would argue there is a ***"mountain of scientific evidence"*** that conclusively shows that toxic mold is a real health threat. In a 1999 study, researchers at the prestigious Mayo Clinic concluded that mold causes most chronic sinus infections and, even more alarming, can cause

some types of brain damage. Doctors at the equally prestigious Mount Sinai School of Medicine in New York City concluded that many patients' problems with memory, learning, and concentration ***occurred only after*** exposure to stachbotrys mold. They are convinced there was a relationship between mold and cognitive problems.

Dr. Dearborn, of Cleveland, Ohio, who is conducting studies on toxic mold on behalf of EPA and HUD, has demonstrated a connection between neurological and central nervous damage from exposure to certain toxigenic molds. Dr. Kaye Kilburn, a University of Southern California Professor of Medicine, has also concluded that his patients experienced neurological, central nervous system, respiratory, and hearing damage due to toxic mold.

In Sweden, Dr. Rylander, of the Department of Environmental Medicine, University of Gothenburg, points out that knowledge of mold as a risk factor in the indoor environment goes back to the book of Genesis, where the bible gives instructions as to how mold growth should be handled and controlled. Dr Rylander concludes, and I quote, "The information that exists today is sufficient to motivate strong measures for a complete removal of mold in buildings."

In Washington and Detroit, I have heard moving testimony from numerous toxic mold victims, many of them women and children, whose health has been so severely impaired they could barely function, and those who were on the verge of death. Nationwide, there have been **18,763 families** who were victims of toxic mold infestation, and have filed claims with their insurance carriers where their policies have not been honored. About **15-20%** of these families have experienced permanent health problems from exposure to toxic mold.

For those of you who still do not want to believe that toxic mold is a serious health hazard, I would respectfully request that you speak to Pam Walker, my office manger in Detroit, whose 11 year old daughter Melina has lost 70% of her lung capacity due to toxic mold poisoning.

I will supply the Committee with more attestation from scientists and physicians nailing down the fact that toxic mold has been the culprit in many of these tragedies.

In addition to serious illnesses, property damage from toxic mold has destroyed

millions of dollars in real estate.
In Texas, California, Arizona, New York, New Jersey, Connecticut, Pennsylvania, Florida, Illinois, Oklahoma, Arkansas, Nevada, and in almost every state in America, there have been schools closed for extended periods of time due to toxic mold infestation that caused the children to become ill. Even President Bush's mansion was infested with toxic mold when he was Governor of Texas, and Laura Bush became very sick because of mold poisoning.

Yet, despite the scientific evidence, despite the thousands of families forced to flee their homes due to toxic mold, there still remain skeptics who claim there is not enough credible scientific evidence to show a link between toxic mold and negative health impacts. Therefore, they argue, there is no need for government intervention in this area. These are the same discredited arguments that we heard years ago when Congress was attempting to regulate lead and asbestos. Mr. Chairman, the facts speak for themselves---mold kills, mold causes health problems, and mold causes financial ruin.

Toxic mold is just as dangerous as radon, lead, asbestos, or pesticides. It is a new environmental health hazard, just as asbestos, radon, and lead were years ago. Imagine if law makers did not have the courage to pass legislation that created federal standards regulating asbestos, lead paint, pesticides, radon, water or air pollution, or nuclear waste. Hundreds of thousands of Americans, possibly millions, would be chronically ill, or dead, had the federal government not intervened to protect the public.

I introduced "The United States Toxic Mold Safety and Protection Act" in order to protect the public from toxic mold poisoning through prevention, education, verified inspection, and by providing real tangible relief to victims. The bill calls for in depth studies of toxic mold by the CDC, NIH, and EPA in order to create federal guidelines on acceptable levels of mold, inspection, clean-up or remediation, and how to prevent it from growing. After these studies have been completed, the bill also calls for the licensing of toxic mold inspectors, remediators, risk assessors, and labs that test for toxic levels of mold by 2004.

It simply is bad public policy, if not immoral, to allow consumers to move into housing that is infested with toxic mold, only because the buyer or renter did not know there was toxic mold infestation. Therefore, the bill, and let me stress this one

very important point, after there have been studies on mold by the CDC, EPA, and NIH, calls for mandatory inspection of public buildings, apartments, and homes bought with any federally backed loans starting in 2004. Most of the inspections would be conducted by the private sector, primarily through an arrangement between the buyer and the seller of residential real estate.

However, in order to minimize harm to the public now, the bill would provide funding for an intensive public education campaign on toxic mold, and provide the buyer, seller, or owner of residential real estate a 60% tax credit up to $50,000 to defray the costs of inspection and clean up. States would be provided federal dollars to help cover the costs of large scale toxic mold clean up of schools or public buildings. Currently, there are several cities that can not remediate schools or public buildings infested with toxic mold because they do not have funds to do so.

The other provision of the bill that is particulary relevant to this committee, is the establishment of a Federal Toxic Mold Insurance Program, modeled after FEMA's Flood Insurance program. Mr. Chairman, the majority of home-owners insurance companies have denied coverage for thousands of toxic mold victims, leaving consumers with mold infested homes, often homeless, sick, and without any financial security. Texas and North Carolina recently passed pro-insurance company legislation to protect insurers that either seriously limits mold claims, or exempts homeowners insurance companies all together from covering mold related damages.

Mr. Chairman, if the private sector refuses to protect home owners from damages due to toxic mold infestation, then the federal government should. Under HR 5040, the consumer would pay an affordable annual premium for this coverage, hopefully no more than $200.00 per year, that would provide real economic security to victims of toxic mold. Under HR 5040, the federal government would help victims with moving costs, food, shelter, and clothing until they can get back on their feet again. It would be cruel and unjust not to. Those who have saved money all of their lives to purchase homes, payed their taxes, worked hard, and played by the rules should not be left stranded searching for food and shelter just because of toxic mold.

Another salient provision of HR 5040 would provide the uninsured or under-insured victims of toxic mold poisoning health care coverage through the Medicaid program. There are scores of individuals and families who are not receiving any health care at all for very serious chronic and debilitating conditions, or are receiving inadequate

care, because they lost their health insurance due to not being able to work a full time job.

Mr. Chairman, thank you for allowing me the opportunity to speak about HR 5040 today. I hope that my testimony has provided important information that will assist the committee in formulating good public policy around such an impoortant issue as toxic mold.

Thank you very much.

Congressman John Conyers, Jr.
H.R. 5040: The United States Toxic Mold Safety and Protection Act
("The Melina Bill")

Major Provisions of the Bill

Title I - Research and Public Education

•The Bill directs the Environmental Protection Agency (EPA) and Centers for Disease Control (CDC)to examine the effects of different molds on human health and develop accurate scientific information on the hazards presented by indoor mold.

•The Bill directs EPA and the Department of Housing and Urban Development (HUD) respectively, toestablish guidelines that identify conditions that facilitate indoor mold growth and measures that can be implemented to prevent such growth. The guidelines will also address mold inspection, testing, and remediation.

•The Bill asks EPA and HUD to establish guidelines for certifying mold inspectors and remediators.The guidelines will help identify hazards associated with inspection and remediation and the steps that should be taken to minimize the risk to human health.

•The Bill authorizes programs to educate the public about the dangers of indoor mold. An informed public with be in a better position to avoid mold hazards, prevent mold growth and respond appropriately when mold growth occurs.

Title II - Housing and Real Property Provisions

•The Bill requires mold inspections for multi-unit residential property and mold inspections for all property that is purchased or leased using funds that are guaranteed by the federal government. The Bill also requires mold inspections in public housing.

•The Bill requires, to whatever extent possible, that local jurisdictions modify

building codes tominimize mold hazards in new construction.

Title IV - Indoor Mold Hazard Assistance

•The Bill authorizes grants for mold removal in public buildings.

Title V - Tax Provisions

•The Bill authorizes tax credits for inspection and/or remediation of mold hazards.

Title VI - National Toxic Mold Insurance Program

•The Bill creates a National Toxic Mold Insurance Program administered by the Federal Emergency Management Agency (FEMA) to protect homeowners from catastrophic losses. Many homeowners are finding that insurance companies will not offer adequate coverage for mold.

Title VII - Health Care Provisions

*The Bill enables States to provide medicaid coverage to mold victims who are unable to secure adequate health care.

OPENING STATEMENT OF
LUIS V. GUTIERREZ
RANKING DEMOCRAT
SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS
"MOLD: A GROWING PROBLEM"
JULY 18, 2002

We are gathered here today to discuss an issue of great importance to thousands of Americans throughout the country. The issue at hand is mold and the impact that it has on property and people's health. In fact, believe it or not, mold is a problem experiencing a five-fold increase in occurrences in homes. Thousands of Americans today are living in houses terribly infested by mold.

Despite this fact, no standards currently exist for levels of mold toxicity. No state or federal agencies currently offer testing of mold samples. In other words, although mold has been closely associated with various health problems, such as colds, influenza, asthma and allergies, there are no federal or state standards for what constitutes a dangerous level of mold inside a building. Moreover, because mold remediation is a new industry, there are no government-mandated guidelines for this business and remediation contractors are not licensed for that specific purpose.

Unfortunately, only those individuals who have been physically or financially harmed as a consequence of mold really understand the seriousness of problems related to mold. Those affected are already familiar with the adverse health effects of prolonged exposure to some mold spores and have already suffered allergies, coughs, nosebleeds, and congestion as well as upper respiratory ailments including asthma or bronchitis. For people with weakened immune systems, the results of exposure can be life threatening. Most of these same individuals and thousands more have also had to face the financial difficulties of living in a badly infested household. The financial burden this problem can cause could force people into bankruptcy.

But this is not even the entire story. Besides serious financial and health issues, the ever-growing increase in insurance costs due to mold damage claims is having a negative impact on the affordability and availability of insurance.

Homeowners throughout the United States, particularly in Texas, are facing exorbitantly high premiums. Some people have seen their insurance increase anywhere from 30 percent to 300 percent. They are facing restricted coverage and some people have even lost coverage as insurers drop those customers they label as "high-risk." For the thousands of homeowners who face mold contamination in their homes, lack of insurance could undoubtedly mean financial devastation. Some people are unable to sell their moldy house and must purchase a new home. If they can afford to. Some have been forced to take money out of their 401 (k) to be able to afford another home.

To make matters worse, those who can actually pay inflated insurance rates may end up paying for extremely limited actual cash value coverage. But those who are able to find insurance should consider themselves lucky. Some individuals cannot even secure insurance for their homes because of previous claims made at other properties they own. Why are people being punished for using their insurance? Why are people being denied coverage because they have filed a claim?

Unfortunately, sometimes policyholders are better off not making claims in order to avoid being refused a renewal policy.

Although the impact of mold on insurance companies will be determined by their ability to predict future losses and establish adequate loss reserves for the mold threat, establishing loss reserves will be complicated, to say the least, because of the lack of standards on mold toxicity and remediation and the scarcity of reliable research on mold risks. Even the U.S. Occupational Safety and Health Administration has no safety standards setting limits for mold exposure. There are no standard operating procedures for spore collection at a contaminated site.

Insurance departments must develop and implement standards for companies to repair water damage claims, evaluate mold damage and implement remedies to curtail losses to say the least. Thousands of homeowners, renters, office workers and schoolchildren are experiencing the negative health efffects that can are commonly associated with mold exposure. Homeowners who discover mold today have no clear options to resolve the problem and are often confused over what to do. This problem is compounded by the lack of credible environmental standards on mold.

How can we expect legislation intended to increase homeownership, which also seeks to increase the quality of housing conditions for all Americans, to achieve this goal if we do not address the issues that make insurance unaffordable as well as unavailable?

Programs such as the "Healthy Homes Initiative", which was established in 1999, are meaningful and effective and have helped reduce the health risks and problems associated with mold infestation. Clearly, we need to expand these programs beyond public housing.

Homes should be insured for mold. We cannot wait for more children and adults to suffer the health problems associated with mold exposure. Nobody should be forced to sell their house because of mold infestation without having clear options to either save their home or secure their home from mold infestation.

Statement for Congresswoman Lee
Mold Hearing
July 17, 2002

Thank you. I am happy that we are holding a hearing today on this important issue. Mold is a growing problem, throughout housing, in our communities, and especially among those vulnerable populations we are here to protect. In 1999, tests done in the San Francisco showed 530 of 604 federally subsidized buildings had visible mold, 287 of which contained the toxigenic fungus. This is concerning to me because upon trying to find the numbers for mold cases in my hometown, Oakland, I found that no one is collecting data on reported cases.

The excessive rainfall of the past winter has increased California's exposure to this indoor microorganism. The rise in claims in California is second in the nation only to Texas as a result of the health hazard of mold. Although the statewide presence of mold in California homes and workplace is unknown, a small survey done by the Environmental Health Investigative Branch of CA Department of Health Services found mold in 2-3% of homes in Southern California. I am concerned that those numbers could be as high in my area in Northern California.

For consumers, the mold issue is likely to increase the cost of homeowner's insurance by as much as 25%. Most insurers exclude mold if it is not part of a water damage claim. Now more than 200 insurers have applied to the state of California's insurance department for permission to further restrict mold coverage. For insurers, the mold issue threatens to become their next asbestos, a health hazard that could potentially cost billions of dollars in lawsuits and claims. For this reason, we are seeing insurers pull out of areas with large mold-related claims. This could leave many average, hard-working people sick and desolate and with no homeowners insurance.

I fear that because we have not looked at this issue seriously, we are stunting reporting, research, and taking needed precautions to keep people safe and in their homes.

The Department of Housing and Urban Development's Office of Healthy Homes and Lead Hazard has advised Secretary Martinez on lead poisoning prevention and other healthy homes issues, such as asthma, toxic mold, allergens, carbon monoxide and other hazardous agents and conditions found in the home environment. I look forward to seeing a coordinated collection effort from HUD, the EPA, NIH, and the CDC so that we can have this data for both public and private housing. We must learn how to prevent and treat this terrible mold problem and protect our constituents.

Presentation to House Committee on Financial Services
Subcommittee on Oversight & Investigations and Housing & Community
Mold: A Growing Problem
Given by Melinda Ballard, President, POA
July 18, 2002

My name is Melinda Ballard and I run an association of homeowners called Policyholders of America or "POA". Since we founded POA six months ago, we have 18,763 American families in our membership – all victims of toxic mold. That number should demonstrate what a crisis the American homeowner is in when it comes to toxic mold.

Our members range from welfare families to some of the most affluent in America. We are all active in politics only because we understand that you all can and will make a difference. We all know that our problems are not your problems and we never want you, or any other American, to suffer the financial turmoil and devastating health effects our families have suffered. This is why we are so passionate about this issue.

I'd like for everyone here to put themselves in the shoes of a young family who bought their first home after years of squirreling away enough money for a down payment. Imagine that a storm ravages your roof and driving rain enters your home. Imagine calling your insurance company to report this claim and being told that "it's not covered" even though the policy says it is. Imagine watching blood come out of your youngest child's ears and nose while she gasps for every breath and not having a clue as to why this is happening. Then imagine discovering that the roof leak that happened several months before, wrongly denied by your insurance carrier, caused mycotoxin-producing molds to overtake several rooms in your house, including an entire wall in your child's bedroom. Now imagine that you and your entire family must abandon your home and all of your possessions because they are all contaminated and continued exposure to these toxins, now airborne, could cause your five-year-old daughter irreparable harm. You get remediation bids and find that the cost of fixing your home is greater than the value of the home. Apart from losing your home and everything you own, your family also faces tremendous health care costs and will be burdened with the costs associated with renting temporary housing while you battle it out with your insurance carrier over the coverage you bought. You try to hire an attorney but can't. They say your property

damage is $200,000 and think it will cost far more than that to pursue the case. You can't afford to pay the out of pocket litigation costs so you have no recourse against your Goliath insurance company.

If you are that family, you have only a few choices: you can walk away from your mortgage and let the house go back to the lender; you can pay the tab for remediation by taking out a second mortgage but wait a minute…then the total loan would be greater than the house is worth; you can sell your home to some poor unsuspecting family and not disclose the problems or you can continue to expose your family to a health hazard, let everyone suffer the health consequences and rack up medical bills to the point you must claim bankruptcy. These are currently the choices of every family in our membership. It's not a pretty picture and just think about the domino effect. The economy suffers. Lenders and mortgage companies suffer. The family who unknowingly buys the problem because of nondisclosure suffers. The medical profession suffers. There are NO winners. Just losers.

I've asked the staff here to provide you with a page from a legal publication noting first party mold claims by state and by year as of February 5, 2002. POA worked with a major university to produce these numbers from our membership database of insurance claims. Claims for mold began in 1987. They peaked in the first six months of 2001. Usually these claims are traced to water related events that occur between January – March of each year. But, by early February of this year, there were more than 16,000 homeowners with insurance claims that began as relatively inexpensive water damage claims and because of delays, wrongful denials or disputes over proper repairs, the claims turned into expensive claims requiring remediation of toxic mold.

POA has outlined a few recommendations that we'd like you to consider. Hopefully, these suggestions will help you carve out solutions to this very real and devastating problem.

Insurance companies have successfully excluded, capped or limited coverage for mold, even when it's a result of a "covered peril" like a busted water heater or frozen pipes. In a few years, there will be little if any coverage for this massive problem. This leaves millions of Americans not covered against this catastrophic loss. POA is not in favor of a government hand out but is a huge supporter of a self funded government pool much like flood insurance. If a homeowner opts to purchase mold coverage, they've

got it. If not, they don't. The real benefit is allowing homeowners the opportunity to purchase a safety net because their insurer is not going to be there when they need them the most.

Insurers have recently gone on record that they don't want to cover mold regardless of the cause and they don't want standards set by the EPA. In articles I've read, they claim such a FEMA-like pool is premature. If so, then you all should put some sort of "stay" on the coverage they offered, including mold, until such time they decide the pool's timing is appropriate.

If such a pool, which shifts the burden of mold clean up from carriers to a FEMA-like entity, insurers should price their policies to reflect their new coverage liabilities. If and when premiums reflect coverage, homeowner's insurance premiums should drop. Consumers would then be able to afford this government-sponsored mold coverage if the consumer opts to buy it. If the consumer opts not to buy this coverage, Mr. or Ms. Homeowner could pocket the savings.

But, it's really not all gloom and doom. There's some good news. There are new products, like the one developed at Texas Tech University, that can be manufactured into sheetrock and other building materials that change the pH level and prohibit mold growth from happening. It's cheap. It works. But, builders need to demand it otherwise manufacturers will not alter the materials we put in homes, schools and offices. I can only speak to the efficacy of this product because it's the only one tested that I've seen work in my now infamous home in Dripping Springs, commonly called Toxic Tara by the locals. I am sure there are other products coming on stream too.

I urge you all to connect with constituents on this issue. Go onto our association's site. Ask me for names, phone numbers and email addresses of our members residing in your state. I will provide this information. Hear their personal stories. Talk to their kids who had blood stained sheets while living with these toxic mold infested homes. Meet the elderly who've been so devastated. Talk to surviving family members who lost loved ones and autopsies showed Aspergillus growing in their lungs was the cause of death. This problem crosses all socio economic lines. It does not discriminate. It could happen to you, your hairdresser or barber, your niece or nephew, your daughter, your parents, or the US Representative sitting next to you.

Only you can knock the ball over the fence for your constituents. Let's give them a place to turn in case this catastrophe happens to them. Or, let's mandate that there be a stay on mold coverage in each state until insurers deem the time for such a pool is right.

Thank you all so much for the opportunity to come before you and share our association's views. I welcome any of your questions about this topic.

Testimony of

Gerald M. Howard, EVP/CEO

On behalf of the

National Association of Home Builders

Before the United States House of Representatives

Committee on Financial Services'

Subcommittees on Housing and Community

Opportunity and Oversight and Investigations

On

Mold: A Growing Problem

July 18, 2002

Chairwomen Roukema and Kelly, Ranking Members Frank and Gutierrez and members of the Housing and Community Opportunity and Oversight and Investigations Subcommittees, my name is Jerry Howard and I am the Executive Vice President and Chief Executive Officer of the National Association of Home Builders (NAHB). I am pleased to have the opportunity to appear before you today to provide NAHB's perspective on the recent activity related to indoor mold and to share with you our response to the issue.

NAHB represents more than 205,000 member firms involved in home building, remodeling, multifamily construction, property management, housing finance, building product manufacturing and other aspects of residential and light commercial construction. Our membership is concerned about the potential impacts to the industry from the recent increase in indoor mold litigation and media attention, which has prompted our association to become actively engaged in the mold debate. Our members are determined to play a constructive role in resolving this issue.

Background

The mold issue raises a number of legitimate questions that merit serious discussion and require further investigation. Unfortunately, many of the legitimate issues have become obscured by litigation and misleading information.

Mold in indoor settings is not a new issue. Mold is a ubiquitous substance that predated our arrival on the planet and will likely survive us as well. It is in the air we breathe, on the surfaces we touch and in the food we eat. Mold growth in an indoor environment very likely has been around since humans inhabited dwellings. In fact, the clean up of mold is addressed in the Book of Leviticus in the Old Testament of the Bible.

What is new is the attention being paid to what is essentially a moisture-control issue. According to the U.S. Environmental Protection Agency (EPA), it is impossible to rid indoor environments of all molds and mold spores. EPA's "A Brief Guide to Mold, Moisture, and Your Home" states that indoor mold growth can and should be prevented or controlled by managing moisture indoors. Unfortunately, this solution to mold growth is often overlooked.

Science shows that three factors must be present for mold to grow: excessive moisture; a temperature between forty degrees Fahrenheit and one hundred degrees Fahrenheit; and an organic food source. The only factor that can be controlled is moisture. Significant mold growth in indoor environments, in both new and older homes, typically is the result of catastrophic water intrusion from floods – like those recently experienced in San Antonio - or long term exposure to water. But in many cases, water intrusions are relatively minor and, if addressed quickly, can easily halt the growth of mold.

Mold is not solely a housing issue. Recent mold claims have also involved schools, government buildings, and commercial buildings, which is logical given that the

conditions for mold growth are present in all indoor environments, not exclusively homes. Occurrences of mold in schools are making headlines nationwide. Students, parents, and staff members are suing school districts for alleged injuries caused by molds. There have been multimillion-dollar payouts because of the presence of mold in courthouses and other municipal buildings. All indoor environments must be considered if we are to comprehensively address this issue.

Claims that construction materials and building techniques used in new home construction contribute to indoor mold growth have moved the home building industry to the center of the mold debate. Unfortunately, the claims offer only suppositions about the causes of indoor mold growth. There is no evidence that building designs and construction practices are responsible for the increase in mold claims. Moreover, there is no evidence that mold is more prevalent in newer homes than in older homes.

One common theory is that homes today are built "tighter" than in the past in an effort to make them more energy efficient and, as a result, homes do not dry out as quickly as they did in the past, therefore leading to mold growth. If this theory were true, all new homes would be overrun with significant mold growth. However, this is not the case. While it is possible that in certain instances a home may be too tight and this may be a contributing factor in the growth of mold, it is impossible to make that case for the entire housing stock.

A house is a system of complimentary materials that is intended to keep out any inclement weather, keep in any cooled or heated air, and provide the space necessary to live. Individual components may fail, combinations of components may not work together, or components may be installed improperly compromising the system. Consequently, the introduction of new products or new design techniques into the building process might create conditions in the house that did not previously exist. These different conditions should be contemplated and addressed during construction and/or provided for in the operation of the house by the homeowner. Homes today are certainly more complex today than in the past, so much so that there are now recognized professionals in the field of building science. We are constantly striving to learn more about building science.

Interestingly, any of the culprits identified as causes for the increase in mold in newer homes – dry wall, carpeting and air conditioners, to name a few – have been used in home construction for many years. (For example, dry wall has been in use since the 1950's.) Yet, the rise in lawsuits and media coverage has only occurred in the past few years. Nonetheless, NAHB encourages efforts to find ways to help prevent or minimize the conditions that lead to mold growth and we support further research into construction practices, building materials, building design, and occupant practices to identify factors associated with mold growth within indoor environments.

NAHB is cognizant of the health issues associated with mold in indoor environments and takes them very seriously. Existing medical research recognizes that for many individuals mold exposure might exacerbate existing allergies, however, for

most of us, mold is not harmful in the levels typically found in indoor environments. Because exposure depends upon the type of mold, the amount of mold in the environment and the individual's personal susceptibility to mold, no "safe" or "unsafe" permissible exposure levels exist.

Unfortunately, the lack of scientific conclusions has not stopped the litigation and the insurance claims. Rather, some have tried to use the dearth of science to take advantage of the issue, like those who use the term "toxic mold" to refer to molds generally. The obvious implication of the term "toxic mold" is clear - these molds are poisonous and very dangerous to human health. Those who use the term would have you believe that your health is in jeopardy if these molds are found in your home.

While some molds are capable of releasing potentially toxic substances (mycotoxins), whether or not the particular type of mold found in the home will release the mycotoxin in a specific home or building is unclear. The mere presence of mycotoxins in a home does not constitute exposure to the mycotoxins and the mere exposure to these mycotoxins is not necessarily harmful. No human study has been able to unequivocally document a connection between inhalation of mycotoxins and disease.

The health effects associated with mold are at the center of the mold debate and present a serious issue that merits further research. NAHB supports research on the potential health effects of mold exposure in indoor environments that will lead to scientifically sound and reliable data.

NAHB's Efforts

NAHB, at the request of its members, has moved aggressively to educate the its membership on this issue and to provide resources for homeowners, tenants and potential homebuyers. NAHB believes that there are many common sense approaches that will aid our industry and consumers in the effort to control indoor mold growth.

Through written materials, educational programs and seminars, NAHB has created an educational forum for its members to learn about the causes of indoor mold growth, the myths and realities associated with mold and the best methods of prevention. NAHB's message to its membership has been threefold: not every case involving mold is cause for panic or alarm; mold claims can become more serious if ignored or improperly handled; and proactive responses can aid in the successful handling and resolution of mold claims.

To address the need for education we have produced a "Builders Guide to Handling Mold Claims and Litigation" and "A Multifamily Guide to Handling Mold Claims and Litigation." These free guides describe methods for limiting mold claims, investigating claims and retaining remediation experts, as well as lawsuit defenses and what to expect from insurance carriers. To date we have distributed over 14,000 copies to our members. These Guides and other NAHB resources are available to NAHB members on NAHB's mold web page where our members can find the latest information

on insurance, legislative and regulatory activities, and science and health issues associated with mold exposure.

Additionally, NAHB held a mold program for a standing-room only crowd at the 2002 International Builders Show in Atlanta, Georgia. Further, NAHB staff has joined with staff from the NAHB Research Center to conduct nationwide mold seminars for our state and local homebuilder associations and other industry groups.

The Research Center, founded in 1964, is a separately incorporated, wholly owned subsidiary of NAHB. The Research Center is one of the preeminent labs in the country devoted to research and analysis on the entire building process. The Research Center has extensive knowledge about building envelope and moisture intrusion issues, which they are applying to the mold issue. Last month the Research Center issued a paper that discusses what builders can do to help their buyers understand mold issues and how to deal with potential problems during the construction process. It is available at nahbrc.org.

NAHB has also developed educational materials for homeowners, tenants and potential homebuyers – who play a vital role in controlling moisture in the home thereby minimizing mold growth in the home. NAHB has developed a bilingual website at www.moldtips.com that provides consumers with information to help them understand what mold is, how it can grow in their home, the routine maintenance procedures they can follow to prevent mold problems, and methods of removing mold already in their home. In addition, this information will be included in a bilingual brochure that builders can provide to their customers.

Impacts on the Home Building Industry

By all measures, the housing industry, which accounts for fourteen percent of the nation's Gross Domestic Product, has been a bellwether during the recent difficult economic times and, fortunately, to date, the mold problem has not hindered the industry's ability to continue producing safe, affordable housing for millions of Americans. The construction component (residential fixed investment) has outperformed the overall economy in four of the last five calendar quarters. In recent economic data for the first quarter of 2002, housing grew 14.6% while the economy grew 6.1%. Over the past year, low interest rates and strong underlying demographic demand has kept housing strong while the rest of the economy has struggled to regain its footing.

The construction of 1,000 single family homes generates 2,448 jobs in construction and construction-related industries, approximately $79.4 million in wages and more than $42.5 million in federal state and local revenues. The construction of 1,000 multifamily homes generates 1,030 jobs in construction and related industries, approximately $33.5 million in wages, and more than $17.8 million in federal, state and local revenues and fees. NAHB members will construct approximately eighty percent of the almost 1.6 million new housing units projected for 2002.

Unfortunately, the recent attention to indoor mold has the potential to negatively impact the home building industry and threatens its place as a leading economic component. Builders, trade contractors, and property owners and managers are being sued for property damage and personal injuries by people concerned that mold has caused personal property damage and mold-related illness. Insurance companies, as a means of protecting themselves from the recent increase in mold claims, are writing mold exclusions into their builder liability insurance policies, which compounds the liability insurance crisis currently facing builders. Due to adverse insurance market conditions, liability coverage for builders and their trades is less available, more expensive and more restrictive in terms of the coverage.

An NAHB survey in early 2002 highlighted some of the insurance difficulties facing builders. More than eighty percent of the builders surveyed reported higher costs over the previous year, while nearly a third (thirty-one percent) reported significantly higher costs and reduced coverage. Further, the NAHB survey showed that exclusions were becoming commonplace. Seventy-five percent of the builders surveyed were subject to exclusions on their commercial general liability policies. Forty-one percent of that percentage faced mold exclusions.

Homebuilding is a very competitive industry, with many companies, most of them small. Because there is no room for builders to absorb the increased cost of mold-related insurance, costs will hit every firm in the industry, and the builders will have to recover that cost from the consumer.

Ultimately, the increased costs of insurance, potential litigation, and potentially burdensome regulations will adversely impact housing affordability. Passing the cost to homebuyers and renters makes housing less affordable. Simply, fewer homes will be bought and fewer homes will be built. To secure costly insurance coverage for mold will have the effect of cooling down the market for housing at a time when its economic contribution is most vital.

Another potential adverse impact on the building industry are calls for new regulations, new building code requirements and construction practices, and burdensome inspection and disclosure requirements. In our effort to provide affordable housing for all Americans, NAHB has always sought to limit the economic impact of regulations on the cost of hosing. According to the U.S. Census Bureau, a $1000 increase in the cost of a home effectively prices 300,000 families out of the marketplace. Right now, research and information, not legislation and regulation, is what is needed most to address the mold issue.

For the previously mentioned reasons, NAHB is concerned that there has been a leap to judgment concerning some of the causes of the mold problems in homes – namely building design, building practices, and building materials. We are equally concerned, given the absence of scientific data, about recent calls for changes in current building codes and standards. NAHB will continue to support additional research into construction practices, building materials, building design, and occupant practices to

identify factors associated with mold growth within indoor environments. We are opposed, however, to legislative and/or regulatory action concerning mold that is not based upon scientifically sound and reliable data, that does not include regional flexibility, and that imposes requirements that are not cost-effective, technically achievable, and attainable.

Madam Chairwomen and members of the subcommittees, thank you for the opportunity to share the views of the National Association of Home Builders on this important issue. I look forward to any questions you or the members of the committee may have for me.

Statement for the Record
Before the Subcommittees on Oversight and Investigations and Housing and Community Opportunity
Committee on Financial Services
United States House of Representatives

State of the Science on Molds and Human Health

Statement of

Stephen C. Redd, M.D.

Chief, Air Pollution and Respiratory Health Branch
National Center for Environmental Health
Centers for Disease Control and Prevention,
U.S. Department of Health and Human Services

For Release on Delivery
Expected at 2:00 PM
on Thursday, July 18, 2002

Good afternoon. I am Dr. Stephen Redd, the lead CDC scientist on air pollution and respiratory health at the Centers for Disease Control and Prevention (CDC). Accompanying me today is Dr. Thomas Sinks, Associate Director for Science of environmental issues at CDC.

We are pleased to appear before you today on behalf of the CDC, an agency whose mission is to protect the health and safety of the American people. I want to thank you for taking the time to hear about the mold exposures in poorly maintained housing and other indoor environments and their effect on people's health. While there remain many unresolved scientific questions, we do know that exposure to high levels of molds causes some illnesses in susceptible people. Because molds can be harmful, it is important to maintain buildings, prevent water damage and mold growth, and clean up moldy materials.

Today I will briefly summarize for the committee

- CDC's perspective on the state of the science relating to mold and health effects in people;
- CDC's efforts to evaluate health problems associated with molds,
- CDC's collaborations with other Federal agencies related to mold and people's health;
- CDC's collaboration with the Institute of Medicine on mold and health; and
- CDC's next steps regarding mold and health.

The State of the Science

Fungi are a kingdom of organisms that include mushrooms, mildews, molds, and yeasts. It is estimated that there are between 50,000 and 250,000 species of fungi, and fewer than 200 have been described as human pathogens that can cause infections. Molds are ubiquitous in nature and grow almost anywhere indoors and outdoors. More than 1,000 different kinds of indoor molds have been found in U.S. homes. Molds spread and reproduce by making spores, which are very small and lightweight, able to travel through air, capable of resisting dry, adverse environmental conditions, and hence capable of surviving a long time. Molds need moisture and food to grow, and their growth is stimulated by warm, damp, and humid conditions.

Molds can cause illnesses in situations other than humid indoor environments. We have documented that molds can cause infections in susceptible people, particularly in hospital settings where 9% of hospital-acquired (nosocomial) infections are caused by fungi. Respiratory infections due to inhalation of the fungus *Aspergillus* have been documented mostly in immunocompromised individuals. Molds also have been associated with some cancers. Two mold-produced toxins (aflatoxins and ochratoxin A) have been classified by the National Toxicology Program as human carcinogens (http://ntp-server.niehs.nih.gov/). Chronic ingestion of these toxins from eating contaminated foods has been associated with liver and kidney tumors in animals and people.

We also know that respiratory illnesses among workers may be attributed to mold exposures. In industrial and agricultural settings, various forms of hypersensitivity pneumonitis (e.g., farmer's lung, woodworker's lung, malt worker's lung), and other allergic responses and infectious

respiratory diseases (e.g., aspergillosis) have been reported. Farmer's lung is caused by *Thermoactinomycetes species* or fungi found in moldy hay, straw, or grain dust. Farmer's lung has been extensively reported in many countries including the United States, Canada, The Scandinavian countries, France, and other European countries. Reported prevalence of farmer's lung ranges from 0.5% to 9.6% in farming populations.

Outbreaks of hypersensitivity pneumonitis also have been reported in office buildings in relation to exposures to mold-contaminated humidifiers and ventilation systems (Arnow et al. 1987. *Early detection of hypersensitivity pneumonitis in office workers, American Journal of Medicine* 64:236-242 and Hodgson et al. 1987. *An outbreak of recurrent acute and chronic hypersensitivity pneuomonitis in office workers.* American Journal of Epidemiology 125:631-638)).

We also know that molds can cause illness when people are exposed to extensive mold growth indoors. In its 1993 report "Indoor Allergens," the Institute of Medicine (IOM) concluded that airborne fungal allergens were most often associated with allergic diseases, such as allergic rhinitis/conjunctivitis, allergic asthma, and hypersensitivity pneumonitis. In its 2000 report "Clearing the Air: Asthma and Indoor Air Exposures," IOM concluded that there is sufficient evidence of an association between exposure to mold and exacerbations of asthma. The IOM also stated that there was inadequate evidence that molds caused people to become asthmatic.

We do not know whether molds cause other adverse health effects, such as pulmonary

hemorrhage, memory loss, or lethargy. We also do not know if the occurrence of mold-related illnesses is increasing. Other than surveillance for hospital-acquired infections, there is no system to track the public's exposure to and the possible health effects of mold.

Exposure to mold does not always result in a health problem. However, routine measures should be taken to prevent mold growth indoors because some people are, or may become, allergic to it. For people who are allergic to mold, common effects include hay-fever-like allergic symptoms. Certain individuals with chronic respiratory disease (chronic obstructive pulmonary disease or asthma) may experience difficulty breathing when exposed to mold. Also, people with immune suppression or underlying lung disease are more susceptible to fungal infections.

CDC efforts to evaluate the health problems associated with molds

CDC has conducted several activities related to mold in wet indoor environments and its effect on people's health.

•In 1994, CDC conducted two epidemiologic investigations of reported clusters of the acute onset of bleeding from the lungs of very young children (pulmonary hemorrhage or idiopathic pulmonary hemosiderosis). In one investigation a possible association was reported between exposure to the mold *Stachybotrys atra* (*S. atra*) and disease. This association was not reported in the second investigation. In a further review of our first investigation, CDC reviewers and an external panel of experts determined that there was insufficient evidence of any association between exposure to *S. atra* or other toxic fungi and idiopathic pulmonary hemosiderosis in

infants. CDC has plans to further evaluate the relationship between pulmonary hemorrhage and *S. atra* through state-based surveillance, further investigations of identified disease clusters, and focused research studies.

•In July 2001, following flooding in North Dakota, CDC investigated Turtle Mountain Reservation residents' concerns that mold contaminating their homes might be contributing to an increase in illness among tribal members. CDC assessed both the physical and environmental condition of the homes to identify any environmental hazards, including the presence of mold, and collected information on health conditions of the individuals living in the homes. An interim report identified several existing hazards unrelated to mold and made recommendations to address these hazards. The final report is expected in October 2002. In addition to working with the Indian Health Service and the Federal Emergency Management Agency (FEMA) on this project, CDC also worked with the U.S. Department of Housing and Urban Development (HUD) to identify procedures that might be implemented to assess conditions of HUD homes that would help to prevent mold.

• CDC responded to a request from the State of Texas and the City of Houston in the summer of 2001, after the city experienced significant flooding, to assess the conditions of the buildings and provide advice on cleanup and repair of affected buildings. The emphasis of this technical assistance was cleanup and prevention of further mold growth and prevention of unnecessary exposure.

• In 1999, CDC's occupational health experts began a 5-year initiative on work-related asthma in offices and schools, with an emphasis on moisture and mold exposures. We have a targeted research program regarding work-related asthma that includes evaluations of workplaces, intervention studies, and recommendations for reducing the risk of respiratory disease, and provision of information to management, employees and environmental health and safety professionals. The research aims are to be achieved utilizing problem buildings identified through the CDC's occupational Health Hazard Evaluation program. Specific objectives include methods development and testing, specifically with regard to state-of-the-art techniques for assessing indoor air quality-related exposures; quantification of objective medical indices related to asthma and other lung diseases; and planned case-control, cross-sectional, and intervention studies directed towards risk factor identification and assessment.

So far, the results include the following:

- there were significant relationships between reports of work-related respiratory disease and visual assessment of water and mold-damage in two studies;
- there were significant relationships between endotoxin and ultra-fine particles in air and work-related respiratory symptoms; and
- there were significant relationships between indicators of mold in chair and floor dust and work-related respiratory symptoms.

• CDC is planning an occupational and environmental research project regarding bioaerosols in schools to address children's and teacher's health issues.

• CDC is working to address indoor air quality issues, including mold, in partnership with stakeholders through the National Occupational Research Agenda (NORA). NORA efforts have resulted in development of the research priorities paper, "Improving the Health of Workers in Indoor Environments: Priority Research Needs for a National Occupational Research Agenda," which identifies important areas for future research. The paper has been accepted for publication in the American Journal of Public Health (AJPH).

CDC's collaborations with other Federal agencies

CDC is working with federal, state, local, and tribal governments to investigate and respond to mold-related problems. I have already mentioned that we work with HUD, FEMA, and the Indian Health Service on mold issues. We have also assisted the U.S. Environmental Protection Agency (EPA) Indoor Environments Division in the development of a guide for mold remediation in schools and large buildings and in the development of a brief guide to mold for homeowners. CDC is participating in the development of a World Health Organization guidance document on exposures to biological agents in the indoor environment; this document should be finalized in the year 2003. CDC also has worked with the Council of State and Territorial Epidemiologists in the development of case definitions and classifications for pulmonary hemorrhage in infants.

CDC's collaboration with the Institute of Medicine

CDC is funding the IOM to evaluate the relationship between damp or moldy indoor environments and the manifestation of adverse health effects. Under this project, the IOM will

conduct a comprehensive review of the scientific literature. The review will focus on respiratory and allergic symptoms and other non-allergic health effects. The IOM will include recommendations or suggest guidelines for public health interventions and future research. The IOM began the study in January 2002 and is expected to complete it in the late summer or early fall of 2003. To date, the IOM committee conducting the study has held two meetings, the first on March 26, 2002 and the second on June 17, 2002. A third meeting is planned for Fall 2002. The report will be disseminated to audiences such as relevant federal agencies, state public health and indoor air quality officials, academic institutions and researchers, environmental firms, and the building industry.

CDC's Next Steps

In response to concerns about mold and the gaps in scientific knowledge, CDC is currently developing an agenda for research, service, and education related to molds. The results of this effort will ultimately enable CDC to (1) make recommendations for reducing mold contamination, (2) identify environmental conditions that contribute to the occurrence of disease following mold exposure, and (3) assist state and local health departments in improving their capacity to investigate mold exposures. CDC is working to help strengthen state and local capacity to respond to requests regarding molds. Because there are no quantitative standards, guidelines or uniform recommendations for responding to mold in indoor environments, each state or local health department responds to public inquiries based solely on its own experience. CDC is working with the Council of State and Territorial Epidemiologists to:

- develop an inventory of state Indoor Air Quality programs;

- determine the extent to which these programs are coordinated to respond to issues related to indoor mold exposures;
- identify resources that states need in order to develop and implement appropriate responses; and
- develop a coordinated public health response strategy to mold exposure.

CDC will continue to investigate and evaluate the health effects of and quantify the risks associated with, exposure to mold and poor indoor air. The expectation is that such studies will help to identify the environmental factors and antecedents associated with mold contamination and factors that determine poor health outcomes. For example, CDC is developing a protocol for investigating the possible health effects of exposure to mold in indoor school environments. CDC will use the knowledge, experience and skill gained from these investigations and evaluations to translate science-based findings into appropriate public health interventions to reduce any health risk found to be associated with mold exposure.

There are a number of barriers that need to be overcome in investigating the possible effects of molds on health. There are no accepted standards for mold sampling in indoor environments or for analyzing and interpreting the data in terms of human health. Molds are ubiquitous in the environment, and can be found almost anywhere samples are taken. It is not known, however, what quantity of mold is acceptable in indoor environments with respect to health. Because of difficulties related to sampling for mold, most studies have tended to be based primarily on baseline environmental data rather than human dose-response data. For these reasons, and

because individuals have different sensitivities to molds, setting standards and guidelines for indoor mold exposure levels is difficult and may not be practical. Despite the lack of standards, CDC concurs with EPA's recommendation to remedy mold contamination in indoor environments to prevent negative health effects.

Summary

We do know that people who are exposed to molds may experience a variety of illnesses. Fungi account for 9% of nosocomial infections, that is, infections originating or taking place in a hospital. Ingestion of foods contaminated with certain toxins produced by molds is associated with development of human cancer. Many respiratory illnesses among workers may be attributed to mold exposures. Uncommon illnesses that collectively can be called hypersensitivity pneumonitis are caused by chronic exposures to high concentrations of mold and are almost exclusively limited to certain agricultural workers in particularly moldy environments. Common illnesses caused by molds include allergic conditions such as hay fever and asthma.

Because molds can be harmful, CDC concurs with the general recommendations of agencies such as EPA and FEMA, which offer information on preventing and cleaning up mold growth in indoor environments. Linkages between indoor airborne exposures to molds and other health effects, such as bleeding from the lung, or memory loss, have not yet been scientifically substantiated. CDC and other organizations are taking steps to fill the gaps in our knowledge about linkages between exposure to mold and human health.

Thank you again for the opportunity to testify. I would be happy to answer any questions that

you have.

TESTIMONY BY HOWARD M. SANDLER, M.D.
Before the
Oversight and Investigation Subcommittee
Community Opportunity Subcommittee
Of the
One Hundred Seventh U.S. Congress
House of Representatives
Committee on Financial Services

July 18, 2002

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Background

Physicians specializing in occupational and environmental medicine are increasingly being called upon to investigate complaints associated with workplace and residential indoor air quality and suspected exposure to microbiological agents.

Indoor air quality concerns often focus on the presence of viruses, bacteria, molds and the chemicals (MVOCs) and toxins that some produce, known as mycotoxins.

There are a variety of molds found in outdoor and indoor environments. Typically, the outdoor levels will exceed those found indoors. As might be expected, the levels of molds will vary by geographic location and weather (e.g. higher with periods of rain). Species of various molds frequently identified in the outdoors, homes and buildings include those of Penicillium, Cladosporium, Stachybotrys and Aspergillus. The relative amounts of each fungi species in outdoor vs. indoor air, however, are not frequently found to be the same. Aflatoxin, a carcinogen produced by the Aspergillus species, is probably the most recognized mycotoxin. Molds and the chemical products they produce, mycotoxins and microbial organic compounds (MVOCs) are ubiquitous to our environment. Mold is not nationally regulated currently with the exception of aflatoxins. Aflatoxins are found in peanut butter, peanuts and wheat. Aflatoxin ingestion has been correlated with hepatocellular carcinoma (liver cancer).

Another microbiologic, Legionella pneumophila, was first identified as the cause of Legionnaires' disease in 1976. The annual number of Legionnaires' disease cases in the United States is estimated at 10,000 to 25,000. The bacteria survive principally in water, and to a lesser extent in soil. Legionnaires' has been traced to drinking water, bath water, whirlpools, hot tubs, and medication nebulizers.

Mycotoxicosis is a disease associated with extensive exposure to mycotoxins. Reported serious health effects of mycotoxicosis include immunosupression, as well as estrogenicity, hepatoxicity, mutagenicity, nephroptoxicity, teratogenicty, neurotoxicity, and carcinogenicity. However, while such effects have been identified, the strength of the associations, occurrences in human populations, quality of the studies and applicability to airborne workplace and residential exposures remain to be clarified. Mycotoxins are in many food products including meats, spices, seeds, nuts, cereals, beer, grains, milk and dairy products, and fruits and vegetables. Tobacco also contains mycotoxins.

In addition, certain populations are considered to be hypersusceptible to microbiologic diseases. These people include people with AIDS and other immunocompromising conditions such as, kidney dialysis patients, organ transplant recipients, cancer patients, smokers, and individuals undergoing steroid treatment.

In the past decade, Stachybotrys, a mold proposed to be highly toxic, also has gained significant attention. The presence of Stachybotrys species has heightened concerns about of the presence of mycotoxins in indoor environments. Stachybotrys produces

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trichothecenes, stachybocine and other mycotoxins. To date, findings associated with Stachybotrys have been primarily based on case reports and made in the absence of pathological testing or control of confounding factors.

True stachybotryotoxicosis first associated with the ingestion of highly contaminated food products, especially in Russia, has been described as a severe disorder occurring over several weeks. The clinical picture has been reported as being similar to radiation poisoning.

Molds will grow in humid environments, especially where standing water exists, such as flat roofs, damp filters and HVAC system components. Water damage from leaking roofs or pipes may provide growth opportunities for various fungal species. The growth rate and the extent of the growth are directly related to the temperature and other factors such as humidity and nutrient availability.

Molds and their toxins have been implicated in sick building syndrome and specific building-related illnesses. A building-related illness is defined as "a specific, well-defined illness for which a direct building related condition can be shown as the cause." Sick building syndrome is defined as "a situation where some building occupants experience health and comfort issues associated with being in the building but no specific illness or cause is identified."

Studies of symptoms and complaints in "sick" buildings frequently identify cold and flu-like symptoms, sore throats, mucous membrane irritation, headaches, diarrhea, and fatigue. However, causally relating these complaints to fungal airborne exposures presents challenges. One is likely to encounter a lack of specific illness association, inability to demonstrate differences in exposure between controls and study subjects, and inadequate study design. Many sick building syndrome studies are actually case reports or cross-sectional studies, which limit one's ability to draw causal conclusions. There must be a formal causal determination using appropriate scientific methodology, such as epidemiologic criteria (e.g., consistency, strength of association, biologic gradient and temporality) to make a causal connection.

Upon investigation of indoor air quality complaints, one must also consider the possible presence of psychiatric disorders and symptoms (such as somatization disorders, anxiety and depression), allergies, neuropsychological complaints, and the potential existence of secondary gain issues among occupants of the building.

The range of microbiologic diseases includes: influenza, upper respiratory infections, asthma, allergic rhinitis, and humidifier lung (hypersensitivity pneumonitis). However, it is important to remember that in addition to molds, common indoor producers and aggravators of these types of conditions include dust, dust mites, and possible cockroach fragments and excreta.

A high index of suspicion, careful medical testing, and thorough building source identification should be used to determine a diagnosis and whether microbiologics are the source of the complaint.

The presence of mold growth does not mean that a hazardous airborne exposure has occurred. In conducting an allergic mold assessment of building occupants, the type of species of mold found in the building should match the results of skin allergy testing for that specific mold and should be present in the air at significant levels. Timing of symptoms, the presence of other diseases, and appropriate clinical testing may help pinpoint the etiology and possible sources.

While a full range of mold sampling approaches have been used, it is important to use highly qualified and experienced industrial hygiene professionals to ensure accurate assessment of any exposure potential.

As occupational and environmental health is focused on prevention, it is critical that accurate causation assessments be used in regulation and clinical practice. Exposures to molds and mold-produced toxins can be a potential source of significant health problems, especially in individuals who have other health problems that make them particularly susceptible to infection or development of allergic manifestations. However, it is unclear as to the exact role these organisms play in everyday symptoms and complaints in workplaces, schools, and homes. Carefully executed research and appropriate use of scientific and clinical methodology for diagnosis and causal inference will help assure that objectivity is employed in understanding, preventing and managing the health effects of mycotoxins.

Legislative Focus

Developing potential legislation and regulation in the area of mold-associated exposure and potential health effects should be done carefully and based on sound science. The recent legislation in California points out many problems encountered along the way:

Terms – Somewhere along the line the word mold was transformed into "toxic mold". Such terminology is obviously inflammatory and designed to garner a pre-determined reaction in the general community. Terminology in the area of in –building microbiologics should be based on scientific terms, e.g., mold, fungi, bacteria, etc.

Scope – What microbiologics should be covered? There are over 100,000 mold species. Many have not been shown to have specific toxicity. Others have been shown to be toxic only on certain routes of exposure, i.e., ingestion. Other possible microbiologic exposure concerns such as dampness and bacterial endotoxin exposure have also been correlated with increased symptomatology. Legislation and related regulation should be based on careful toxicologic and epidemiologic assessment as to the type of microbiologic and the route(s) of exposure of concern.

Levels – To date, no scientific and governmental group has determined thresholds of exposure above which specific health risks are of concern. Allergies are rarely dose - related and once an allergy is present, the triggering dose may be much lower than the initial sensitizing dose. If "permissible exposure limits" are established they should be established by specific mold species, chemical by-product, e.g., mycotoxin and related health effect. Additionally, such limits should address whether the levels are for mold growth on objects in open areas, behind closed walls, in basements, attics, etc. versus living areas, or airborne molds/mold by-products.

Hazard Identification and Assessment – If indeed hazard levels can be identified, specific determination of hazard identification, quantification, etc. must be carefully specified. Various types of sampling have been used, although to date, there is a lack of consensus as to what to sample for, and how to sample for it. As in remediation discussed below, who will do sampling and the scientific basis for reliable sampling and laboratory analysis must be also based on sound science and avoidance of financial conflicts of interest, e.g., the remediation contractor should not be related to the hazard identification and assessment contractor.

Education/Notification – Legislation and regulation in occupational and environmental health concerns frequently require information dissemination to consumers, businesses, health care providers, etc. Such information can greatly impact individual well-being, financial transactions, among myriad other areas. Such information must not be cavalierly developed or transmitted. Scientific information should be presented in an unbiased manner. Performance standards may pose real problems and lead to unnecessary litigation due to differences in warning/labeling interpretation. Considering the ubiquity of mold and lack of consensus as to hazardous types and levels of exposure, specific language would potentially have to be somewhat general and that warning and notification may not be very meaningful. For example, a caution statement in a real estate transaction might read: "Five years prior to this sale, there was a leak in the basement of approximately fifteen gallons. A mildew smell developed and was removed through remediation. The remediation at that time was not certified, as no standards existed. There was no visible microbiological growth in excess of XXX square inches/feet." Or, it could simply say: "Mold has been present in this structure in the past. No visible mold is currently present. Mold can cause allergies and other health effects especially in certain individuals at increased risk due to age, or pre-existing illnesses."

Remediation - Will remediation be based on health risk, symptom/complaint or in some other health/disease manner? What microbiological situations must be corrected and how? Which mold species require remediation? How large does the growth have to be? Does compromise of structural integrity need to be present? Does it have to be airborne? Must "behind wall" growth be addressed and how? Who is qualified to perform remediation? What is a safe level to be achieved through remediation: no airborne mold, no visible mold growth, no mold-related odor? Do personal contents have to be remediated for spores, mycotoxins, MVOCs, etc. and to what extent? All of the

above questions are indeed difficult if not impossible to answer with any degree of scientific certainty at the present time.

Monitoring Science – The California law specifically addresses mold standards if they are feasible among other caveats. Staying abreast of scientific and medical publications, governmental studies at the federal and state levels and other advancements in knowledge is essential to assure that all residents, businesses, hospitals, child care facilities, and other groups of concern are adequately protected from clearly-established microbiological hazards. Structuring "blue-ribbon" scientific and medical panels to periodically review and evaluate current knowledge, disseminate state of the art information and propose scientifically-sound recommendations to the legislative and executive branches would serve as an appropriate first step.

TESTIMONY

BY

GORDON STEWART

PRESIDENT

INSURANCE INFORMATION INSTITUTE

NEW YORK, NEW YORK

BEFORE THE

HOUSE FINANCIAL SERVICES

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

AND

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

JULY 18, 2002

Madam Chairwomen, members of the Subcommittees, I am pleased to be here to present some views from the insurance industry regarding an issue that has become a major cost driver in homeowners insurance.

I would like to take a moment to say how many people appreciate the leadership shown by the House Financial Services Committee regarding terrorism and insurance since last fall. The Insurance Information Institute is a public education and not a lobbying organization, so it's not my role to say that one bill is better than another. However, nothing has changed since September 11 that makes terrorism broadly insurable based on the experience of that one tragic day and we wish you every success in your efforts.

The year 2001 was the worst in the history of the property and casualty insurance industry. Insurers paid out $53 billion more in claims and expenses than they collected in premium. Certainly the extraordinary loss suffered on September 11 contributed to that amount, but it was shaping up as a difficult year even before the attacks occurred. We estimate that in the homeowners sector, insurers experienced an $8.9 billion loss. As you know, when costs far exceed what insurers collect in premiums, prices go up.

Mold is a major factor in these increased costs. Conditions have reached crisis proportions in Texas, and mold has become a serious problem in several other states, including California, Florida, Arizona, and Nevada. Commercial and residential mold claims are now common in most other states as well.

I include for further study an extensive background presentation of slides that show the significant increase in the number of mold claims, the escalating costs associated with mold remediation, and the impact of these increased claims and lawsuits. Just to cite a couple of numbers:

- Mold claims in Texas rose 1,306 percent between the first quarter of 2001 and the fourth quarter of 2002.

- The frequency of mold claims per 1,000 policyholders rose 1,286 percent during the same period.

- Mold claims costs in Texas rose 560 percent between 2000 and 2001.

Mold itself is a type of fungus that is hundreds of millions of years old. It is—and has always been—everywhere. Up until the last few years, insurance adjusters routinely handled mold in the context of claims for water damage from a "sudden and accidental" cause, which is the only circumstance under which mold is covered in the standard homeowners contract.

In fact, mold damage has for many years been specifically excluded from standard homeowners insurance policies, unless it is the result of a covered peril such as a burst pipe. To quote the standard (ISO HO2000 HO-3) form:

2. *We do not insure, however, for loss:*

c. *Caused by:*

(5) **Mold, fungus** or wet rot. **However, we do insure for loss caused by mold, fungus** or wet rot that is hidden within the walls or ceilings or beneath the floors or above the ceilings of a structure **if such loss results from the accidental discharge or overflow of water or steam from within.**

The simple presence of mold, like termites and damage from vermin, is considered a home maintenance issue and not covered by insurance.

Nevertheless, the traditional homeowners policy contract and certain commercial insurance policies are now being called upon to deal with a surge of claims for mold damage and related health problems for which there is no coverage and no premium has been collected. In homeowners insurance, large jury awards, adverse judicial and regulatory decisions and fear of litigation have led to uncertainty about the longstanding coverage exclusion for mold. The result is that insurance has become more expensive and more restrictive, with insurers being forced to pull back from markets in many states.

A review of the Texas mold experience illustrates how rapidly an insurance market can become dysfunctional.

- Three years ago, the few claims that insurers did see were handled for a few thousand dollars. Insurers report that the average mold claim now costs approximately $35,000, though claims today can easily exceed $100,000 or more.

- The average cost per policyholder per year due to mold increased 1,805% between the first quarter of calendar year 2000 ($23.32) and the third quarter of 2001 ($444.35).

- In Texas alone, insurers paid out $854 million in 2001, according to figures released by the Department of Insurance, a 560% increase over the $153 million paid in the previous year. The amount will continue to rise as insurers receive more claims in the wake of recent severe storms and floods in the state.

The surge in the frequency and cost of mold claims in Texas cannot be explained by changes in the weather, nor can it be explained by population growth or expansion in the stock of housing. What has changed is the legal climate dominated by some who see mold as a huge moneymaker and use mass marketing and media to advertise for clients and class action participants, as well as to instill fear in the public. The anxiety that follows the publicity has been exploited by so-called mold experts, testers and remediators who have joined in the money chase and who often target vulnerable populations.

Consider the following wide variations in claims experience among key Texas communities:

- The average claim in Corpus Christi costs $50,000 to remediate, and $15,000 in El Paso. The frequency of claims in Corpus Christi is 27 per 1,000 policyholders; in El Paso, .05 per 1,000 policyholders. It's no coincidence that the mold claims experience in Corpus Christi, where trial lawyers go door-to-door looking for clients, is more than two times higher (based on claims per 1,000 insured) than other coastal communities, including Brownsville and McAllen, and nearly four times higher than Houston.

Nationally, insurers today face more claims without any effective federal or state standards on exposure levels. They face increased costs for the average claim, driven by remediators who lack formal training or professional certification. Companies face a growing number of court cases with accusations of severe and permanent health damage, without any peer-reviewed scientific research that establishes a link between mold and serious health consequences. Health claims are being brought under property policies that were never intended to cover them, instead of health insurance. Fearing bad faith lawsuits, insurers often agree to expensive tests and remediation procedures. Finally, there is no accepted body of research on the relation, if any, among building materials, construction technologies, and mold.

Partly as a result of the uncertainty around mold, the cost of homeowners insurance nationally is expected to rise by close to 10 percent this year on average, but some states are seeing increases far in excess of that amount. A number of insurers are implementing or seeking rate increases of up to 25 percent in Texas and California, the two states that account for most mold claims today. Rate increases in the 10 to 15 percent range are common elsewhere.

For most of us, our homes are our largest and most important asset. Homeowners insurance is really intended to protect us from a catastrophic loss or a liability that otherwise might force us to lose that asset, not compensate for maintenance that isn't done. Potential rate increases, driven in part by the unprecedented surge in mold claims, threaten to make home insurance coverage unaffordable for some and unavailable for others.

Thank you. I look forward to responding to your questions.

INTERNATIONAL UNION OF OPERATING ENGINEERS
Indoor Air Quality Testimony
U. S. House Financial Services Committee
July 18, 2002

My name is Thomas C. Tighe and I am the Executive Assistant to General President Frank Hanley of the International Union of Operating Engineers and Director of Stationary Affairs . I have been a Stationary Engineer for thirty four years. My training includes an apprenticeship program and numerous advanced skill based training in the field of stationary engineering. Additionally, I earned a Bachelor of Arts from the University of Pittsburgh and a Master of Arts from Saint Francis College. I have a stationary engineers license from the City of Pittsburgh and a chief engineers license from the National Institute for the Uniform Licensing of Power Engineers (N.I.U.L.P.E.)

I worked for 18 years as a stationary engineer in a variety of commercial facilities. During these years, I gained valuable experience in operating and trouble-shooting building systems. I also gained experience with a wide array of indoor air quality problems.

The International Union of Operating Engineers (IUOE) is a progressive trade union with over 400,000 members. Of that number, 120,000 members are stationary engineers, employed in the field of facility operations and maintenance. Stationary engineers operate, maintain, repair and renovate the mechanical infrastructures of American commercial and public facilities providing a safe and efficient environment. This infrastructure consists of a variety of mechanical, refrigeration, air conditioning, electrical, electronic, fire-life safety, and plumbing systems, including all types of computer operated HVAC systems and/or automated building control systems.

Stationary engineers most often are the only qualified persons at a facility who understand how these systems work and function in an integrated manner. They are vested with the responsibility for ensuring that all facility systems work in a safe, effective and efficient manner.

Stationary Engineers perform work in a multitude of facilities throughout the United States. They are employed in office buildings, hospitals, hotels, universities, school districts, apartment buildings, shopping malls, airports, power plants, industrial and manufacturing plants, breweries, co-generation plants, petro-chemical plants, sports arenas and many government facilities.

The IUOE has a long history of commitment to ensuring that its members receive training necessary and appropriate to the performance of their work. For over one hundred years, the IUOE and its local unions have been involved in establishing, operating and administering a wide range of training programs and projects. Because the IUOE has developed a sophisticated and comprehensive network of training facilities, it can provide craft and regulatory compliance training programs.

Our members acquire their skills through a four-year apprenticeship program, journey-person upgrade programs and on-the-job training which are sponsored by the International Union of Operating Engineers.

In addition to on-the-job training, apprentices receive classroom instruction in a variety of fields such as boiler operation and maintenance, air conditioning and refrigeration, practical chemistry, elementary physics, blueprint reading, applied electricity, instrumentation and controls, electronics,

energy conservation, welding, direct digital controls, air balancing, indoor air quality and other technical subjects.

The IUOE stationary locals offer their members over 1000 hours of skill base and safety training. The core of the IUOE skill based training program is a 675-hour series of modular courses. Each module is a 75-hour program designed to train apprentices and a more advanced curriculum is also used to upgrade the skills of the journeymen. This standardized course curriculum offers each stationary engineer the benefit of portability between jobs in different jurisdictions in the United States and Canada.

The IUOE is uniquely qualified to offer comments on Indoor Air Quality in commercial facilities. Our organization has been a national leader in providing Indoor Air Quality training for a number of years.

The IUOE partnered with the Environmental Protection Agency in the mid-1990s to develop Indoor Air Quality training for stationary engineers. The Stationary Engineers Department of the IUOE in conjunction with its local unions developed a 75-hour Indoor Air Quality course between the years 1993 and 1995. It conducted a train-the-trainer class in early 1995 for the large network of IUOE local union training programs.

Since that time, IUOE local unions have administered Indoor Air Quality training to stationary engineers who have maintenance responsibility for two (2) billion square feet of commercial facilities. This initiative has been instrumental in training the workforce that is responsible for maintaining a safe and healthy environment in America's commercial facilities.

These stationary engineers are trained in Indoor Air Quality. Unfortunately, when this course was being developed, mold was not a major IAQ concern. The focus at that time was related to the design and operation of Heating, Ventilating, Air Conditioning systems and a variety of other IAQ subjects. These systems, however, can be a contributory factor to the mold dilemma.

Since that time, the mold issue has become more visible and the confusion over this issue continues to expand. We represent a workforce that is in a unique position to prevent many conditions that lead to the development of mold problems and, therefore, we are interested in the development of future policy on this matter. I believe it's imperative that workers are given the proper training so they can perform their jobs in a safe and effective manner. Mold presents a potential work place hazard for workers and facility occupants and your deliberations at this Committee are important to the American public.

The IUOE has three specific concerns and would like to briefly comment on each.

1) Education on the Overall Mold Issue.

The general public and industry-wide personnel (ie. contractors, building owners and managers, architects, manufacturers, stationary engineers), need to be educated about the facts related to mold.

Mold and IAQ-related issues are part of the new reality for the general public. It is estimated that the general public spends 90% of its time indoors. Currently the media and litigation/settlements are educating the populace on the health hazards of mold. Without a consensus from the scientific community on the health effects of mold, speculation will continue to be diverse. There needs to be

a comprehensive educational program with a clear understanding of the facts about mold and its potential health effects in our homes and workplace. Additionally, a comprehensive plan needs to be developed for the delivery of this educational program to the public.

2) The Lack of Federal Mold Standards

Due to the lack of Federal Standards on the prevention, investigation, testing and remediation of mold, the industry continues to be in a state of confusion. The lack of standards has multiple ramifications within a variety of industries.

In commercial facilities, the manner in which mold complaints are handled, are varied and lack uniformity. It is left up to the experience of the facility managers/maintenance personnel to establish their own procedural guidelines. This could create a variety of inconsistent procedures that can lead to questionable practices on how to handle mold in commercial facilities.

The Environmental Protection Agency should be commended on their work in producing guidelines on mold remediation in schools and commercial buildings. The guidelines provide a general approach to a variety of issues when dealing with mold. The IUOE believes this is a good first step in addressing this issue.

The problem remains, however, that until guidelines are transformed into standards, the industry wide practice will remain non-uniform and, therefore, potentially unsafe. As an example, if an employer is not compelled to follow a standardized method for containment and remediation of mold, they could create a situation that could escalate the problem. If a mold surface is being cleaned or remediated in a ceiling that is being used as a return air plenum, without the proper containment, the mold could become airborne and be dispersed into an occupant area. The occupants could then be faced with a variety of health problems.

Another example, workers who attempt cleanup or remediation without the correct personal protective equipment such as respirators would risk endangering their health.

These are only a few simple examples of how a lack of uniform standards could lead to some practices in the industry that would not lend itself to a safe, consistent handling of mold issues.

3) Specific Training on Mold Standards Needs to be Developed and Delivered to a Variety of Industry Personnel

With the establishment of Federal Standards, training programs could be established to ensure a consistent and safe approach to mold issues. Standards would create specific procedures for the prevention, investigation, testing and remediation of mold. The development of comprehensive training for workers is imperative to the appropriate future handling of this issue. The collaboration of interested parties during this process would assist in identifying a series of best practices that could be incorporated in the curriculum.

I have been involved in many aspects of curriculum development and training implementation over the last ten years and can attest to the benefits of providing workers with detailed training on performance based objectives. This approach, in our judgment, provides a cost effective, results oriented approach to addressing complex problems such as mold prevention and remediation.

The IUOE has experience in developing and delivering skill based training programs and would be willing to explore the possibility of assisting in any future projects or programs recommended by the Committee.

I would like to thank the Committee for their time and effort in this matter.

COSTLY LAWYER CASHES IN ON 'MOLD' MONEY
New York Post

By DAREH GREGORIAN

May 17, 2002 -- Residents of a Kips Bay housing project who claimed they were being poisoned by toxic molds got very little green as part of an "extremely strange" court settlement, a Post investigation has found. The residents' lawyer, Steven Goldman, settled 160 suits against Phipps Plaza South for a total of $1.17 million, but more than 50 percent of that money - $600,000 - went to his fees and expenses.

That means his 480 clients, who claimed they were suffering from injuries ranging from asthma to cancer, got an average of just $1,000 a piece in the deal, which was approved by Manhattan state Supreme Court Justice Louise Gruner Gans.

"The money he offered me wasn't even enough to buy a decent tombstone for my daughter," said 81-year-old Mattie Quailey, whose daughter, Lorraine Woods, 58, died in 1998 from alleged prolonged exposure to molds at the Phipps Houses on Second Avenue.

Goldman defended his fees, noting the enormous amount of work he did putting together the cases and the money he laid out for experts and court costs. Of the $600,000, $480,000 was for expenses, he said.

"This is a case where I took some licks, battled a big firm and spent a lot of money, but we got some credibility for toxic-mold litigation," he said. The deal was struck last November, and pays some tenants as much as $25,000 and others as little as $100.

Goldman said Quailey is the "lone dissenter."

When Goldman called her into his office to give her her share, he offered her $2,000. She refused - so Goldman later upped the offer to $3,000 after getting approval from the judge. Jill Fisch, a professor at Fordham Law, called the haggling "odd," noting that Goldman should have gotten her the most he could have in the first place. But Fisch and another top legal expert said other aspects of the case are even more bizarre.

Goldman refused to tell Quailey the size of the total settlement, citing the judge's gag order on the case. That also means he didn't have tell her or his 479 other clients how much his fees were. "The judge's order is clear, and it says it's confidential," Goldman told The Post. "Phipps requested it, and we're trying to honor it." The gag order itself was sealed by Gans, and Phipps refused comment.

Veteran civil lawyer Charles Stillman said it's unheard of for an attorney not to tell his client the details of a settlement. "He has an independent responsibility to each of these people," Stillman said, and that includes an obligation to provide "full disclosure."

The gag order didn't stop Goldman from telling Ardec Funding Corp. how much the deal was for when he went to take out a $56,000 loan against his share of the settlement in December, court papers show.

Goldman said he was able to tell Ardec the amount because it had already been reported in The Post - but it had been reported by the time he refused to answer Quailey, as well.

Ardec, meanwhile, has to get in line for its money. Goldman and his firm were $1.4 million in debt, and its entire share of the settlement is being used to pay it off, court papers show.

Fisch said personal-liability lawyers are often in the red, but she found it "extremely strange" that the judge approved a "global settlement" in this case because it was not a class-action suit, in which all the plaintiffs are joined together.

Breakdown of Mold-Related Insurance Claims by State, Number of Claims and Date

State-by-State	
Alabama	36
Alaska	42
Arizona	661
Arkansas	126
California	3087
Colorado	98
Connecticut	122
Delaware	48
District of Columbia	8
Florida	1384
Georgia	187
Hawaii	12
Idaho	29
Illinois	76
Indiana	135
Iowa	54
Kansas	159
Kentucky	81
Louisiana	117
Maine	36
Maryland	41
Massachusetts	101
Michigan	168
Minnesota	82
Mississippi	129
Missouri	213
Montana	36
Nebraska	47
Nevada	114
New Hampshire	49
New Jersey	215
New Mexico	32
New York	398
North Carolina	513
North Dakota	64
Ohio	363
Oklahoma	624
Oregon	366
Pennsylvania	404
Rhode Island	36
South Carolina	377
South Dakota	97
Tennessee	532
Texas	4097
Utah	164
Vermont	38
Virginia	95
Washington State	115
West Virginia	8
Wisconsin	24
Wyoming	19
TOTAL	16059

Most-to-Least	
Texas	4097
California	3087
Florida	1384
Arizona	661
Oklahoma	624
Tennessee	532
North Carolina	513
Pennsylvania	404
New York	398
South Carolina	377
Oregon	366
Ohio	363
New Jersey	215
Missouri	213
Georgia	187
Michigan	168
Utah	164
Kansas	159
Indiana	135
Mississippi	129
Arkansas	126
Connecticut	122
Louisiana	117
Washington State	115
Nevada	114
Massachusetts	101
Colorado	98
South Dakota	97
Virginia	95
Minnesota	82
Kentucky	81
Illinois	76
North Dakota	64
Iowa	54
Nebraska	47
Alaska	42
Maryland	41
New Hampshire	49
Delaware	48
Vermont	38
Alabama	36
Maine	36
Montana	36
Rhode Island	36
New Mexico	32
Idaho	29
Wisconsin	24
Wyoming	19
Hawaii	12
District of Columbia	8
West Virginia	8
TOTAL	16059

By Date of Original Claim	
Year	No. of Claims
1987	1
1988	2
1989	2
1990	6
1991	3
1992	4
1993	9
1994	26
1995	32
1996	41
1997	37
1998	48
1999	2567
2000	5821
2001	7143
2002 (as of 2/5/02)	317
TOTAL	16059

SOURCE: Policyholders of America, Feb. 5, 2002

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POA

Policyholders of America 888-648-8823

August 25, 2002

Ms. Janice Zanardi
Committee on Financial Services
2129 Rayburn House Office Bldg.
Washington, DC 20515

Dear Ms. Zanardi:

Five days ago, I received the questions submitted by Congressman Luis Gutierrez subsequent to the hearing entitled *Mold: A Growing Problem.*

I am providing below my answers to his questions.

Question 1:
As a consumer advocate and being someone who's filed a claim with an insurance company, can you please tell people what the procedure is to file a claim with an insurance company?

Answer 1:
The procedure to file a claim with an insurance company is simply to notify your insurance company that you have a loss. You should notify the insurance company as soon as possible after you know you have a loss or damage covered by the policy is discovered. Policies often have language that notice of a loss to the insurance company must be made in writing, so the insured should review his/her policy to determine if this is required in his/her particular case. My understanding is that despite this provision, many claims are made by the insured and accepted by the insurer through a telephone call to either the insured's agent, who then turns the claim in to the insurer, or an 800 number provided in the policy. The 800 number is generally a central claims office (which may or may not be located in the same state as the insured) where the information pertaining to the loss is obtained and forwarded to an adjuster who is supposed to adjust the loss. The adjuster assigned to the claim may be an outside adjuster associated with an independent adjusting firm or an "inhouse" adjuster employed full time by the insurer.

Page Two

With regard to "mold related claims" specifically, it should be noted that most "mold claims" are not initially reported to the insurance company as such. Generally, an insured will make a claim for water damage. In some cases this water damage has already caused mold to develop and grow, but in nearly all of the cases in our database, even the correspondence demonstrates that the mold developed and grew as a result of delays caused by the insurance company. It is my understanding that mold alone (as a result of humidity for example) is not covered by the typical insurance policy; however, it is covered (because it is an ensuing loss) if it develops as a result of a covered loss (example: plumbing leak and roof leak).

Question 2:
In your specific case, can you tell us how long it took someone to respond to your specific claim and how it compares to the cases that have come to your organization for guidance? How were you treated once you filed the claim?

Answer 2:
Initially, my claim was assigned to an outside adjuster (not an employee of Farmers). He came to inspect the loss fairly quickly (within a few days); however, almost immediately upon his inspection, he began to tell me that I did not have a covered loss as the damage to my floor was the result of a slab settling problem. Fortunately, my floor man was present during the adjuster's inspection and began to point out water stains/marks under the floorboards. After about an hour with my floor man, the adjuster finally agreed that the floor had been damaged by water. Within a couple of days of the outside adjuster's inspection and agreement that the loss was covered, my claim was "reassigned" to a Farmers inhouse adjuster. The Farmers' adjuster sent out an engineer who also confirmed the damage was covered. I had already begun getting estimates and my insurer had been provided with each written estimate I had received. However, unbeknownst to me at the time, because the cost of repairs was substantial, no one within the Farmers' Austin office or even Texas had authority to approve payment. Authority had to be requested from the main office in Los Angeles, CA.

By the time approval for payment was received by Austin from Los Angeles and initial payment (the sufficiency of which was disputed) was received by me, substantial additional damage had developed. For weeks I had written my insurer many times and asked if I could begin removing wet and water logged materials. My insurer told me that if such repairs were made, the policy language allowed them to deny coverage for my otherwise covered claim because they had not concluded their investigation. Months passed, contractors I had scheduled to begin work were postponed based on my insurer's repeated declarations that I would jeopardize coverage if those repairs were made and even after Stachybotrys (mold)

was identified in my home, my insurer wrote that we should place cardboard and carpet runners all over the wet wood floor of our home. Obviously, cardboard and carpet runners would do nothing to stop the mold from growing. Farmers' "investigation" of my loss continued for almost two years. The total of the few payments that Farmers made to me for repairs during that process were not sufficient to even constitute a down payment for the necessary mold remediation.

In terms of my treatment, I think our trial transcripts say it all – my insurer admits having knowingly misled me and their misrepresentation led to the demise of the property. Regardless of their misrepresentation, my insurer proudly stated in trial that they would do it all over again. Indeed. In a recent deposition conducted in a California case (Smith v. Fire Insurance Exchange) the same insurer stated that they learned nothing about how to handle water damage after my case and that a $32 million verdict taught them nothing. (Deposition transcripts in this California case are available on request. Trial transcripts of my case are published on the public access portion of our website.)

My experience differs from some of the cases that I have seen, but it is also similar to many of the cases. Generally, the cases I have seen where mold resulting from a covered loss developed due to the insurance company's conduct fall into the following categories:

1. The insurance company/adjuster(s) delays inspection or adjustment of the loss for weeks or even months causing mold to develop;

2. The insurance company/adjuster(s) fails to make prompt payment to the insured, delaying repairs of the loss/water damage;

3. The insurance company/adjuster(s) grossly underestimates the scope of work necessary to eradicate the home of all building materials that were wetted by the water event causing molds to grow on these materials when they are left in the residence. This underestimation of scope will also generally result in insufficient payment; and

4. The insurance company/adjuster(s) will not allow and/or refuses to pay for temporary repairs that would allow wetted building materials to be dried/removed until the investigation is "complete."

Page Four

Question 3:
What are some of the main suggestions that you have for Congress to help consumers who's health and home have been affected by mold?

Answer 3:
Prevention. Prevention. Prevention.

It's a lot easier and cheaper to PREVENT this problem than it is to try to remedy it once it begins. It's pretty simple: *remove all wet building materials immediately*. If a homeowner does this, and such repairs are allowed by the insurer, mycotoxin-producing molds will not grow.

If a home has a small amount of contamination, the problem can be remedied without much fuss or expense. If the home is heavily contaminated, guidelines developed by the IICRC, EPA and other groups and agencies, should be made mandates.

Above all, insurers need to allow homeowners to make needed repairs (i.e. rip out wet building materials) quickly BEFORE mold becomes an issue. If an insurer wants to investigate, I would suggest that homeowners who make necessary repairs store all materials that have been removed in plastic garbage bags so the insurer can rifle through those materials for investigatory purposes.

Question 4:
In your testimony, you stated that Policyholders of America favors a self funded government pool, like flood insurance. Can you explain how such a pool would work and why it is needed?

Answer 4:
If I may, please allow me to answer the second part of that question first.

The pool is needed because insurers are capping, excluding or severely limiting mold clean up in all commercial and residential policies. If that was not happening, the pool would not be needed. I believe that in more than half the states, these exclusions or caps are already in effect. The result will be that the American family

is falling through the cracks and may face the choice of (a) walking away from their home, (b) having to pay for clean up they can't afford, (c) stay in their homes and subject their family to health problems and medical costs or (d) sell their contaminated homes to some other family.

In at least in one State (Texas), legislators are contemplating establishing a quasi-State agency that would serve as insurer of last resort. The State of Texas did something similar for Workers' Comp claims back many years ago when insurers were refusing to write workers comp policies. At that time, Texas created the Texas Workers Compensation Insurance Facility, which later became the Texas Workers Compensation Insurance Fund. It was funded, in large measure, by insurers who were assessed an initial fee. Thereafter, it became self funded.

Mold related claims have been reported in every State, including Alaska. Other States will be forced to address the problem if a Federal program is not put in place.

It would be more cost effective if there was one central agency (federal) that would administer and oversee this "insurer of last resort". And, since the flood insurance program, administered by FEMA is already in place, Congress should strongly consider expanding its coverage to mold damage. Initial funds might come by way of assessment of a fee on insurers who would obviously have an incentive to get out from under such coverage. Thereafter, it would run off of premiums assessed its policyholders.

Question 5:
You also talked about a new product developed at Texas Tech University that changes pH level and prohibits mold growth from happening. How developed is this product? Is it economically feasible? How and where has it been tested?

Prior to answering your question, I phone Dr. David Straus, Professor of Microbiology and Immunology at Texas Tech to make sure I answer your questions accurately. Dr. Straus is the one who invented this product.

The product is ready for commercialization. Currently, they are in discussions with major manufacturers of building products. It is VERY inexpensive (pennies per large sheet) but must be *manufactured* into the product, not applied as an after thought. It has been successfully tested in the laboratories at Texas Tech University, successfully beta tested at my home (the most contaminated home in America with at least 10,000 square feet of Stachybotrys present) and is cued up for testing in the research facilities of various building materials manufacturers.

I appreciate the opportunity to answer Congressman Gutierrez' thoughtful questions; please let me know if I can answer any others. I truly hope other leaders in your group are interested in addressing this growing problem.

Sincerely yours,

Melinda Ballard

Melinda Ballard
President
Policyholders of America

Response of Gerald M. Howard
CEO/EVP, National Association of Home Builders

1) Do you know of any specific construction materials that would make more difficult the growth of mold? Does the industry use them? Has the industry spotted any construction material used in home building that especially makes the mold problem more so? Was there any recommendation to avoid the use of this material or to change the way it was used? Do you know if the pretreatment with antifungal agents of building materials, especially wood (studs), is a widely spread practice in your industry? Would it add a big financial burden to the industry if it is made mandatory?

No, NAHB is not aware of specific materials used in the home building process that would make the growth of mold more difficult. Resolving any mold problem usually requires eliminating an underlying source of water intrusion rather than the use or nonuse of one particular housing component. While NAHB would be interested in alternative products to curtail mold growth, it must first be determined through research whether or not particular products are causing the moisture intrusion leading to mold growth. It is important to remember that a home is a complete system of complimentary materials and products. What we have seen is that the conditions or factors contributing to mold growth differ greatly from one house to another.

Currently, the NAHB Research Center is evaluating products that are marketed as mold inhibitors – however, we must be very careful about introducing new chemicals into the homebuilding process. We must be cautious not to implement untested solutions and unintentionally create a health risk. As noted above, the mold problem is foremost a moisture control issue. Without further research into potential solutions, it is impossible to know the impact on the industry. However, NAHB opposes legislative and/or regulatory action that is not based upon scientifically sound and reliable data and that imposes requirements that are not cost-effective, technically achievable, and attainable.

2) Do you know how home builders handle problems with the mold issue in any other part of the world?

NAHB is aware of mold concerns in Canada and parts of Europe. In fact, some of the leading studies on mold have been conducted in Europe. However, NAHB's focus remains on the scientific understanding of the mold issue in the United States.

3) How do you explain that hundreds of brand new houses nationwide suffer from mold infestations? What do you think an owner or resident of a new house should do if it is infested with mold?

First, it is an open question whether mold is more prevalent in newer homes than in older homes. Second, it is important to know how you define "new home." Many of the materials used in home building that are oftentimes considered "culprits" in mold growth have been used in homes for the past 50 years. Yet, mold has only become an

issue within the past 2-3 years. The proliferation of mold claims is due, in part, to the increased focus on the health effects of mold. People are unnecessarily being frightened about possible health effects from mold in their homes. Finally, if the suggestion is that a "tighter" home somehow increases the moisture build up in the home thereby leading to increased mold growth, then no, I do not believe that "tighter" homes are the reason we have more mold claims today.

An owner or resident of any home has many resources to educate him or her on the causes, health effects and the detection and clean up of mold. In addition to several educational products for its own members, NAHB has a bilingual (English and Spanish) mold web page for consumers – MoldTips.com. Additionally, NAHB will introduce a consumer brochure at the end of September 2002. Consumers can also reference the U.S. Environmental Protection Agency's *A Brief Guide to Mold, Moisture and Your Home.*

August 27, 2002

VIA ELECTRONIC MAIL

The Honorable Luis Gutierrez
U.S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

Re: Response to Follow up Questions Regarding Mold Testimony

Dear Representative Gutierrez:

Thank you and the other committee members for requesting my testimony regarding the potential health effects of mold on July 18, 2002. Per the August 12th letter of Hugh N. Halpern, I am responding to the four questions specifically posed to me.

Question 1

The current state of the science regarding the health effects of mold contained within indoor environments, e.g., homes and office buildings allows for certain health effects associations. However, there is little information derived from well-designed and conducted studies on dose-response, allergic sensitization, and especially the current types of health concerns expressed at the hearing, e.g., neurotoxicity and general/constitutional complaints. As I indicated in my testimony, additional research to determine specific health effects, dose-response, mold species specificity, etc., is essential to providing sound science on which to determine appropriate courses of prevention, management and legislation.

Question 2

With all due respect, it is important not to assume that hundreds of Americans have "actual" health problems of the type alleged by Ms. Ballard. You may recall that in the litigation brought by Ms. Ballard, the court did not allow the presentation of scientific evidence linking health complaints, as the proposed testimony from her experts was not deemed based on reliable science. As I testified before your committee, many individuals have allergies to mold and low prevalence diseases such as toxic organic dust syndrome and hypersensitivity pneumonitis are the result of certain mold species exposure. In the case of the latter two diseases, the exposures

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are usually very high and dissimilar to office or home environments. Such diseases are not typically reported with the types of health complaints put forth by Ms. Ballard and similar individuals. Careful review and evaluation of the scientific literature in this area, including studies and assessments by governmental researchers such as Page and Trout at NIOSH, generally agree with the State-of-the-Art assessment I provided at testimony. Some limited investigations have raised associations; however, it is important to stress that those researchers do not report a causal link but rather results that bear further study and replication. Numerous other studies have failed to duplicate such preliminary findings.

Question 3

As in any situation where the potential exists for occupational and/or environmental exposure to chemicals, biologics, physical agents, etc., it is important to assess the potential for exposure and risk of health effects for the specific circumstances. I would follow that appropriate scientific approach for anyone including my own children. I would bet that I have had mold in my finished basement and due to the smell and appearance had it removed. However, I did not need to tear it down and start over.

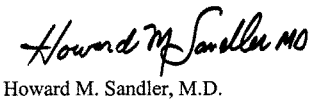
The term infestation sounds scary and individuals not intimately familiar with mold may indeed be very concerned if told that an "infestation" exists. However, the precise nature of the potential health hazard if any cannot merely be assumed from visible mold, the presence of mold odor, or the pronouncement of the present State-of-the-Art of mold investigators and remediators.

Question 4

Any time a series of cases arises, it is important to investigate those cases thoroughly. As to the Cleveland, Ohio pulmonary hemorrhage outbreak, there has been intensive study including efforts by the U.S. Centers for Disease Control (CDC). Although initially felt that there was a possible association between presence of Stachybotrys and infant pulmonary hemorrhage, the CDC noted in the March 17, 2000 Morbidity and Mortality Weekly Report that a review by inside and outside experts identified shortcomings in the initial implementation and reporting of the investigation. The CDC further reported that such a possible association was not proven. Similar assessment has been reported by other researchers and clinicians. Although it is certainly of great concern anytime serious disease, especially resulting in fatality, occurs, appropriate study should be conducted and assessment provided using accepted standards of causal determination. While certain mycotoxin-producing molds such as Stachybotrys are indeed hazardous when ingested, it is unclear that they present a health hazard during typical exposure when present as elevated microbial growth in homes and buildings.

I appreciate the opportunity to respond to your questions.

Sincerely,



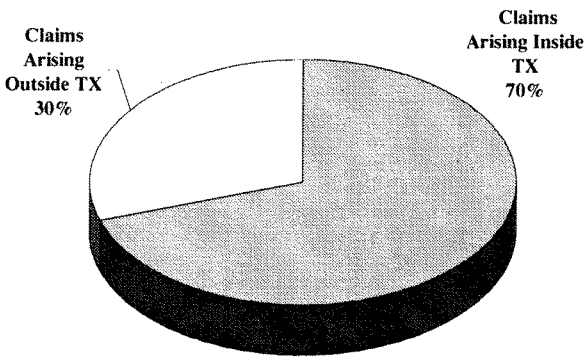
Howard M. Sandler, M.D.
Occupational and Environmental Medicine

HMS/lf

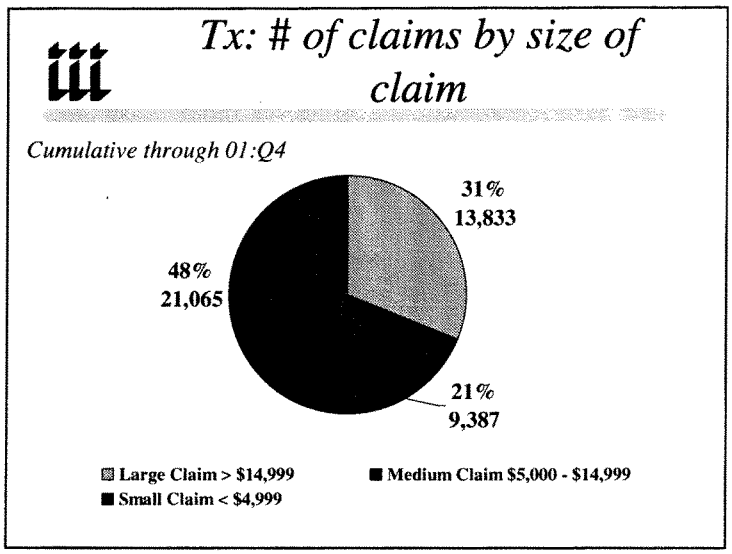
HOW DID WE GET HERE?

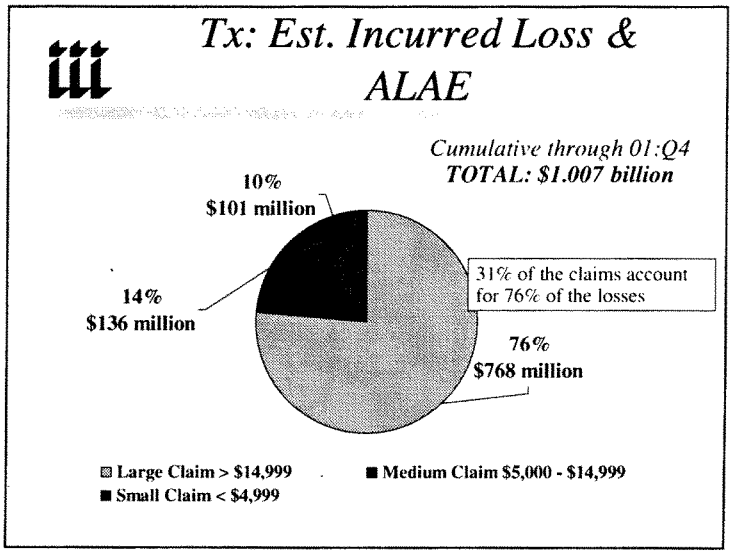
Texas: Mold's Ground Zero

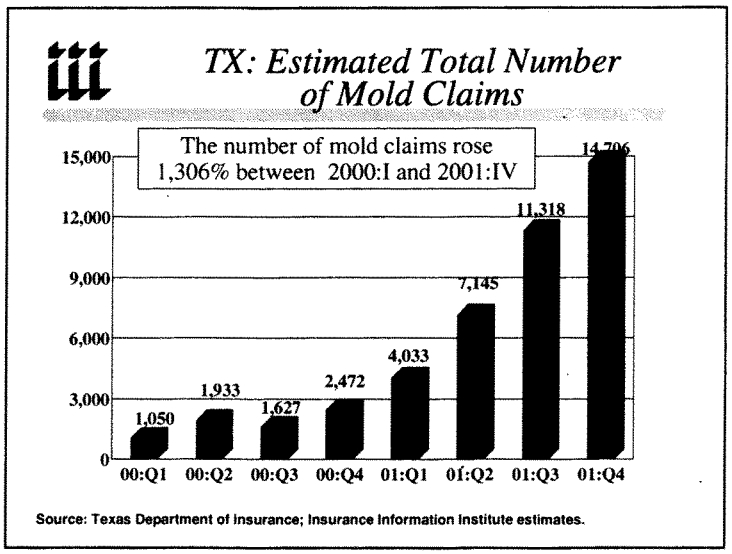
Texas Accounted for the Vast Majority of New Mold Cases in 2001

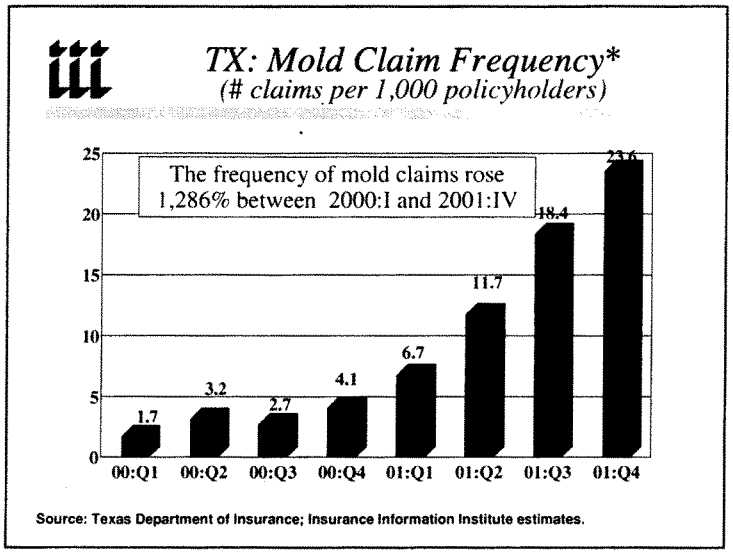


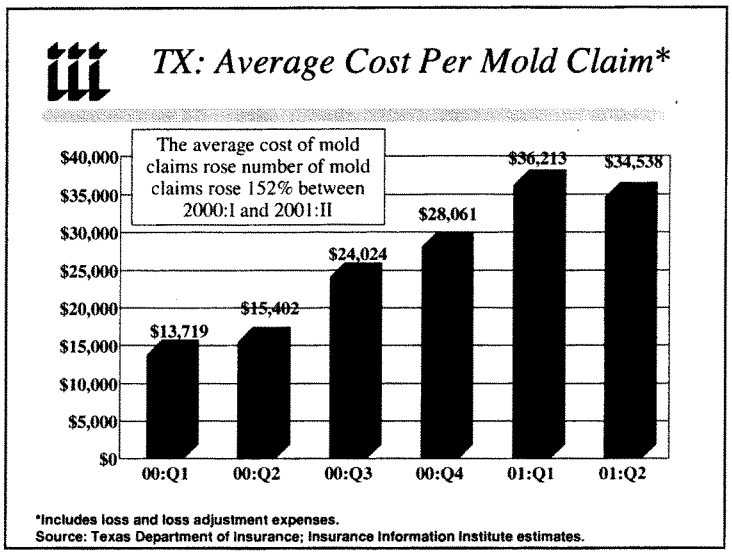
Source: Insurance Information Institute

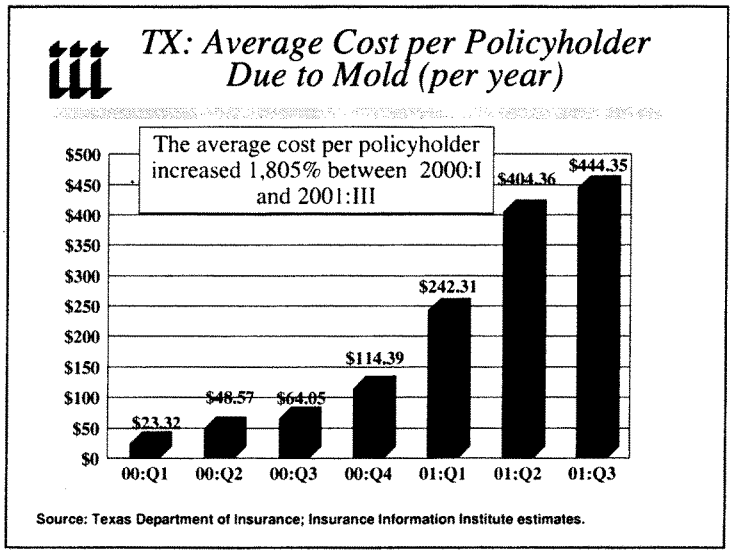

Tx: # of claims by size of claim
Cumulative through 01:Q4
31%
13,833
48%
21,065
21%
9,387
Large Claim > $14,999
Medium Claim $5,000 - $14,999
Small Claim < $4,999

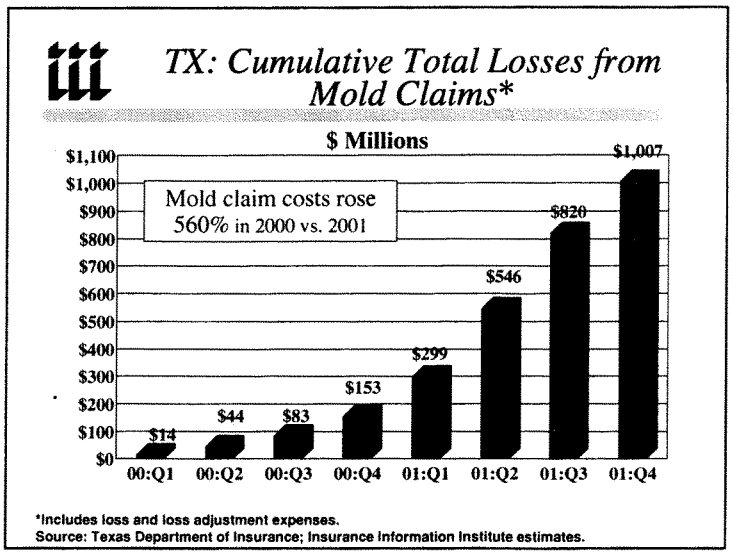

Tx: Est. Incurred Loss & ALAE
Cumulative through 01:Q4
TOTAL: $1.007 billion
10%
$101 million
14%
$136 million
31% of the claims account for 76% of the losses
76%
$768 million
Large Claim > $14,999
Medium Claim $5,000 - $14,999
Small Claim < $4,999

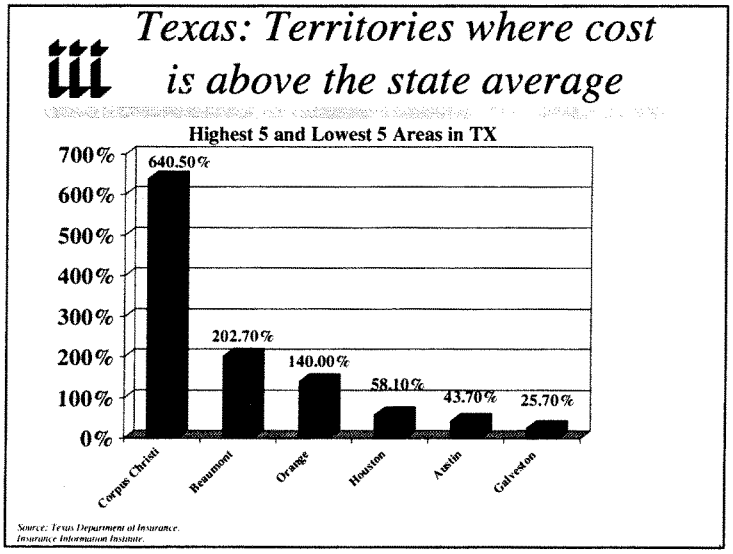

TX: Estimated Total Number of Mold Claims
The number of mold claims rose 1,306% between 2000:I and 2001:IV
15,000
12,000
9,000
6,000
3,000
0
1,050
1,933
1,627
2,472
4,033
7,145
11,318
14,706
00:Q1
00:Q2
00:Q3
00:Q4
01:Q1
01:Q2
01:Q3
01:Q4
Source: Texas Department of Insurance; Insurance Information Institute estimates.

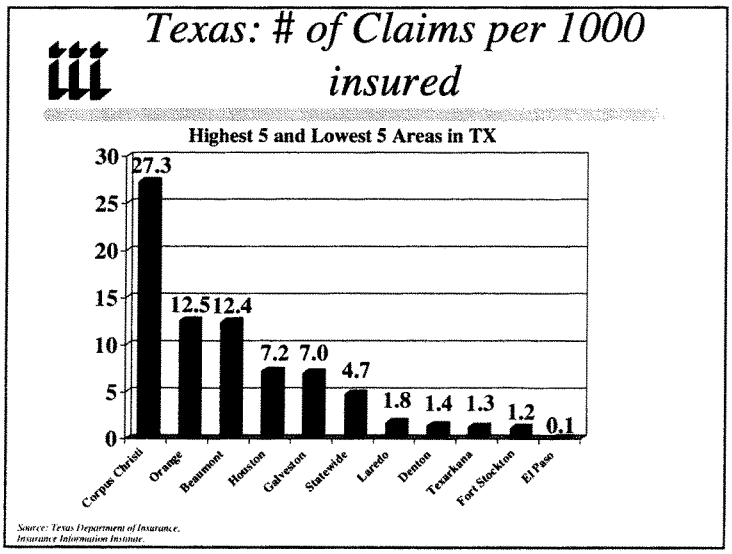

TX: Mold Claim Frequency*
(# claims per 1,000 policyholders)
The frequency of mold claims rose 1,286% between 2000:I and 2001:IV
25
20
15
10
5
0
1.7
3.2
2.7
4.1
6.7
11.7
18.4
23.6
00:Q1
00:Q2
00:Q3
00:Q4
01:Q1
01:Q2
01:Q3
01:Q4
Source: Texas Department of Insurance; Insurance Information Institute estimates.

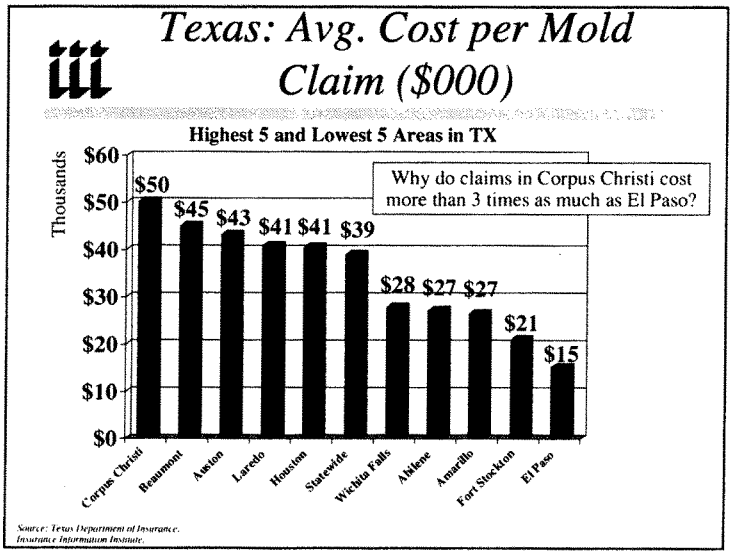

TX: Average Cost Per Mold Claim*
The average cost of mold claims rose number of mold claims rose 152% between 2000:I and 2001:II
$40,000
$35,000
$30,000
$25,000
$20,000
$15,000
$10,000
$5,000
$0
$13,719
$15,402
$24,024
$28,061
$36,213
$34,538
00:Q1
00:Q2
00:Q3
00:Q4
01:Q1
01:Q2
*Includes loss and loss adjustment expenses.
Source: Texas Department of Insurance; Insurance Information Institute estimates.


TX: Average Cost per Policyholder Due to Mold (per year)
The average cost per policyholder increased 1,805% between 2000:I and 2001:III
$500
$450
$400
$350
$300
$250
$200
$150
$100
$50
$0
$23.32
$48.57
$64.05
$114.39
$242.31
$404.36
$444.35
00:Q1
00:Q2
00:Q3
00:Q4
01:Q1
01:Q2
01:Q3
Source: Texas Department of Insurance; Insurance Information Institute estimates.


TX: Cumulative Total Losses from Mold Claims*
$ Millions
$1,100
$1,000
$900
$800
$700
$600
$500
$400
$300
$200
$100
$0
Mold claim costs rose 560% in 2000 vs. 2001
$14
$44
$83
$153
$299
$546
$820
$1,007
00:Q1
00:Q2
00:Q3
00:Q4
01:Q1
01:Q2
01:Q3
01:Q4
*Includes loss and loss adjustment expenses.
Source: Texas Department of Insurance; Insurance Information Institute estimates.


Texas: Territories where cost is above the state average
Highest 5 and Lowest 5 Areas in TX
700%
600%
500%
400%
300%
200%
100%
0%
640.50%
202.70%
140.00%
58.10%
43.70%
25.70%
Corpus Christi
Beaumont
Orange
Houston
Austin
Galveston
Source: Texas Department of Insurance.
Insurance Information Institute.

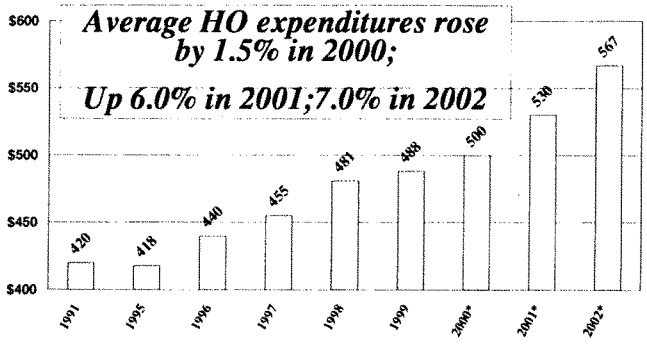

Texas: # of Claims per 1000 insured
Highest 5 and Lowest 5 Areas in TX
30
25
20
15
10
5
0
27.3
12.5
12.4
7.2
7.0
4.7
1.8
1.4
1.3
1.2
0.1
Corpus Christi
Orange
Beaumont
Houston
Galveston
Statewide
Laredo
Denton
Texarkana
Fort Stockton
El Paso
Source: Texas Department of Insurance.
Insurance Information Institute.


Texas: Avg. Cost per Mold Claim ($000)
Highest 5 and Lowest 5 Areas in TX
Thousands
$60
$50
$40
$30
$20
$10
$0
$50
$45
$43
$41
$41
$39
$28
$27
$27
$21
$15
Why do claims in Corpus Christi cost more than 3 times as much as El Paso?
Corpus Christi
Beaumont
Austin
Laredo
Houston
Statewide
Wichita Falls
Abilene
Amarillo
Fort Stockton
El Paso
Source: Texas Department of Insurance.
Insurance Information Institute.

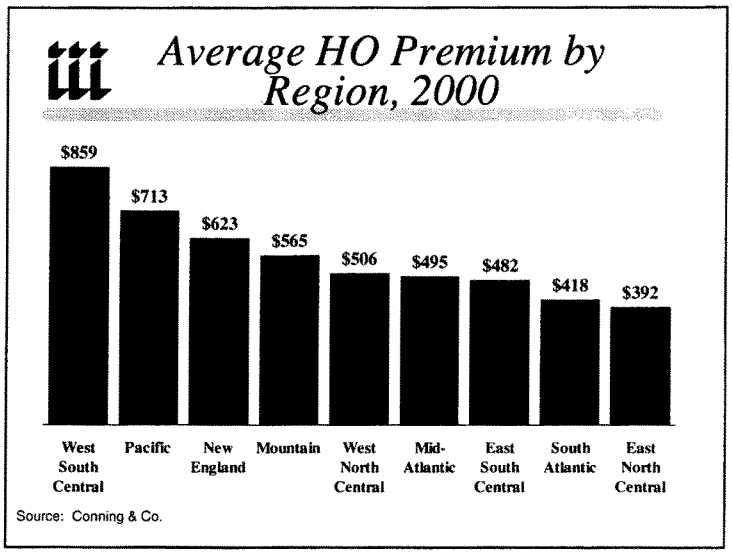
Impacts on Affordability and Availability

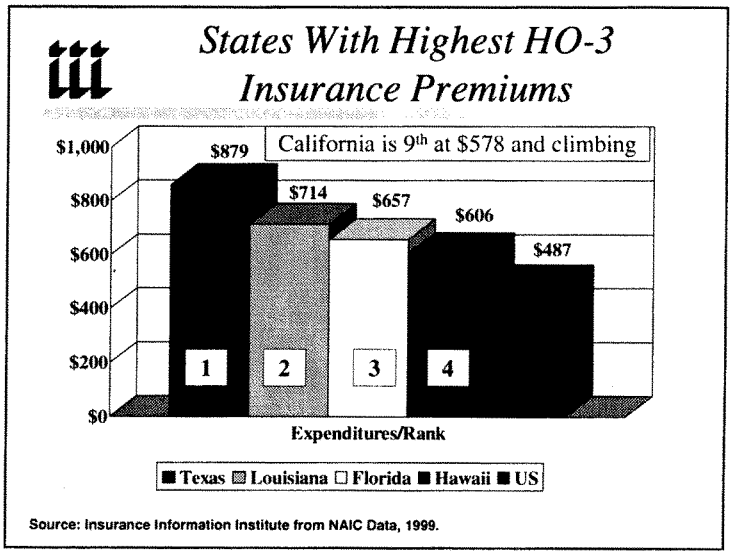
Real Consequences for Homeowners & Housing Markets

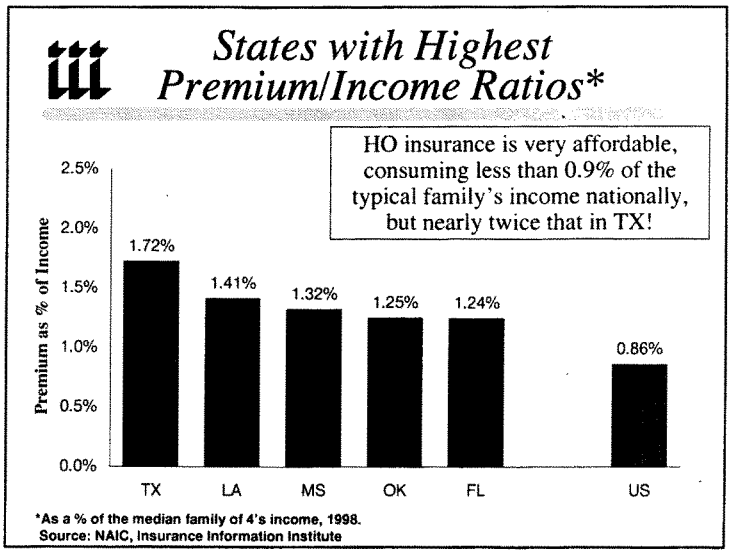
Average Expenditures on Homeowners Insurance: US

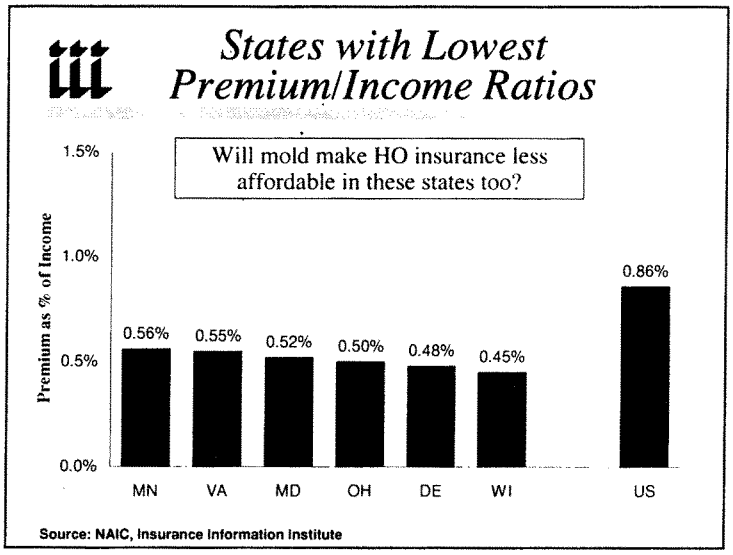


*III Estimates
Source: NAIC, Insurance Information Institute


Average HO Premium by Region, 2000
$859
$713
$623
$565
$506
$495
$482
$418
$392
West South Central
Pacific
New England
Mountain
West North Central
Mid-Atlantic
East South Central
South Atlantic
East North Central
Source: Conning & Co.

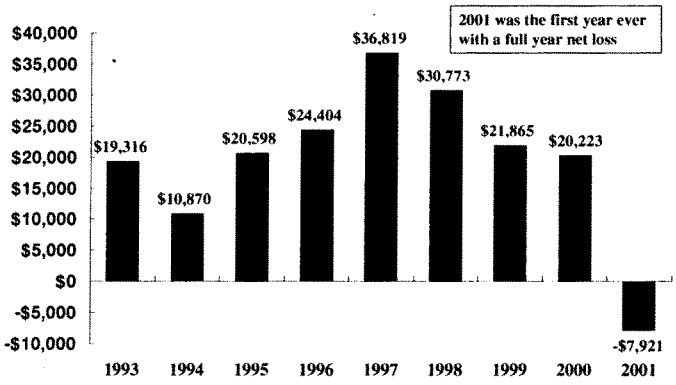

States With Highest HO-3 Insurance Premiums
California is 9th at $578 and climbing
$1,000
$800
$600
$400
$200
$0
$879
$714
$657
$606
$487
1
2
3
4
Expenditures/Rank
Texas Louisiana Florida Hawaii US
Source: Insurance Information Institute from NAIC Data, 1999.


States with Highest Premium/Income Ratios*
HO insurance is very affordable, consuming less than 0.9% of the typical family's income nationally, but nearly twice that in TX!
Premium as % of Income
2.5%
2.0%
1.5%
1.0%
0.5%
0.0%
1.72%
1.41%
1.32%
1.25%
1.24%
0.86%
TX
LA
MS
OK
FL
US
*As a % of the median family of 4's income, 1998.
Source: NAIC, Insurance Information Institute

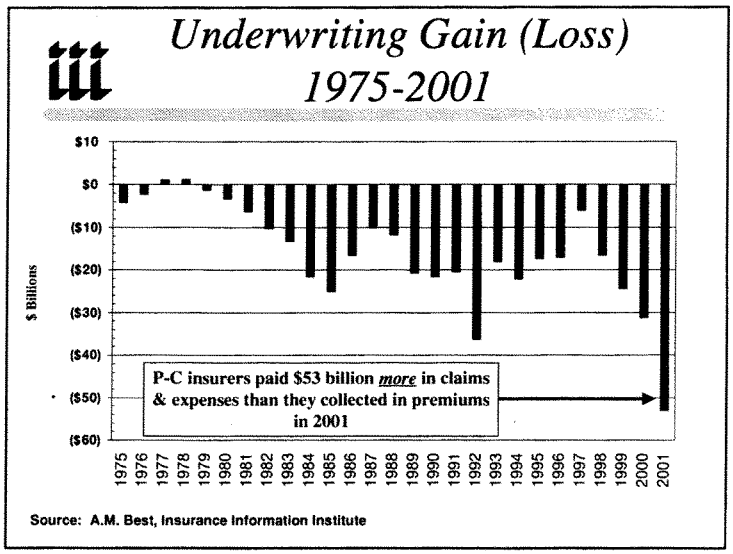

States with Lowest Premium/Income Ratios
Will mold make HO insurance less affordable in these states too?
Premium as % of Income
1.5%
1.0%
0.5%
0.0%
0.56%
0.55%
0.52%
0.50%
0.48%
0.45%
0.86%
MN
VA
MD
OH
DE
WI
US
Source: NAIC, Insurance Information Institute

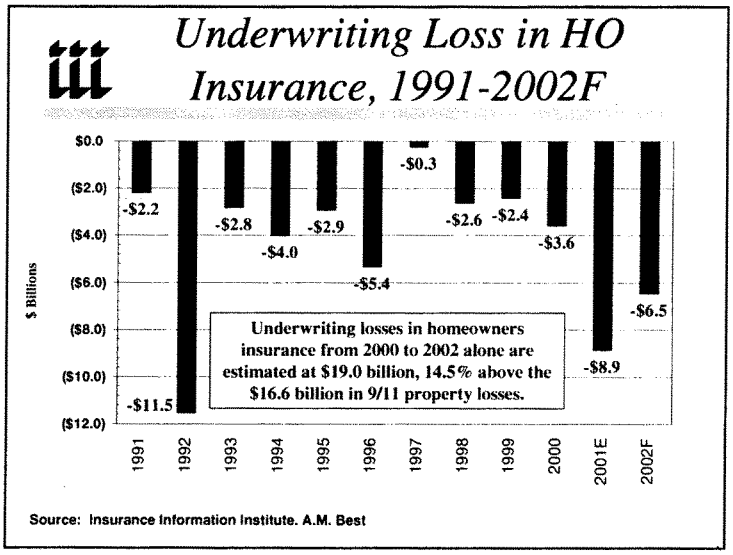
Consumers Can't Afford Mold, Neither Can Insurers

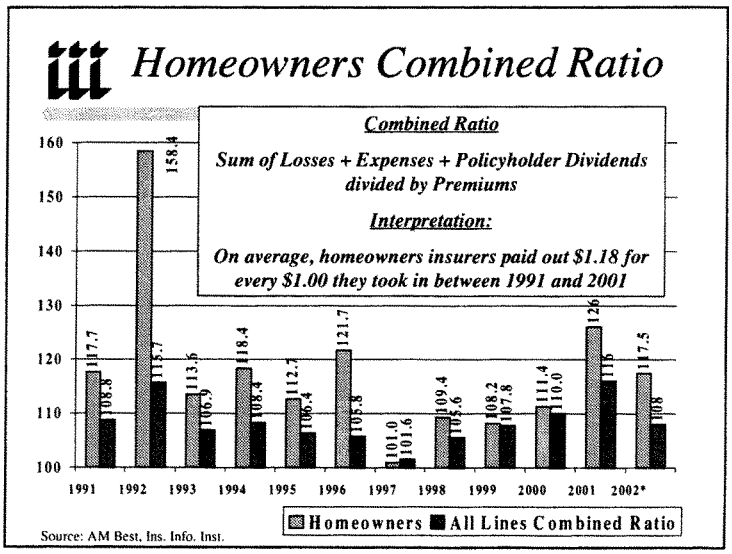
P/C Net Income After Taxes 1993-2001 ($ Millions)

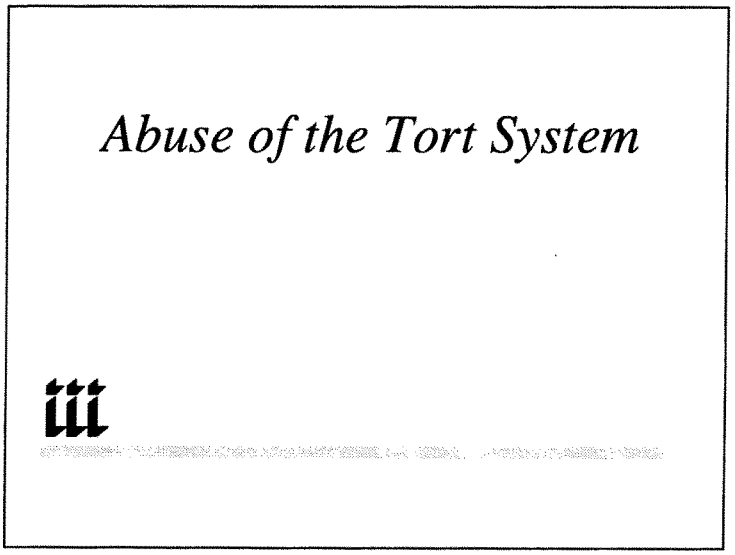


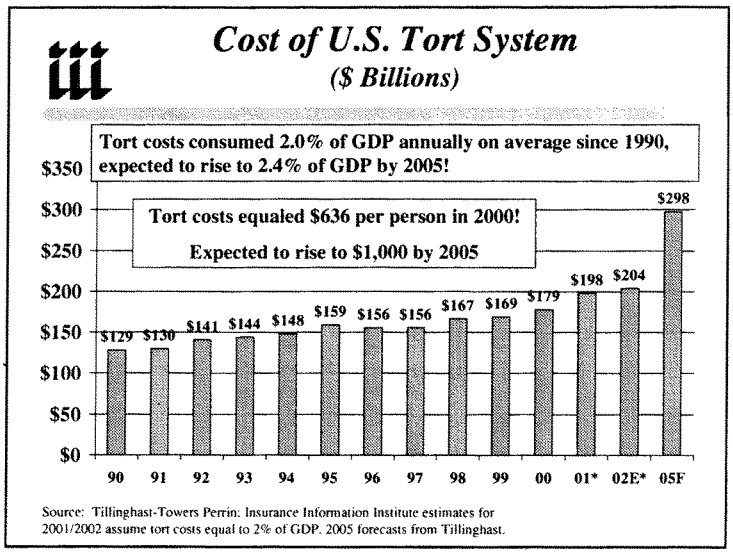
Sources: A.M. Best, ISO, Insurance Information Institute.

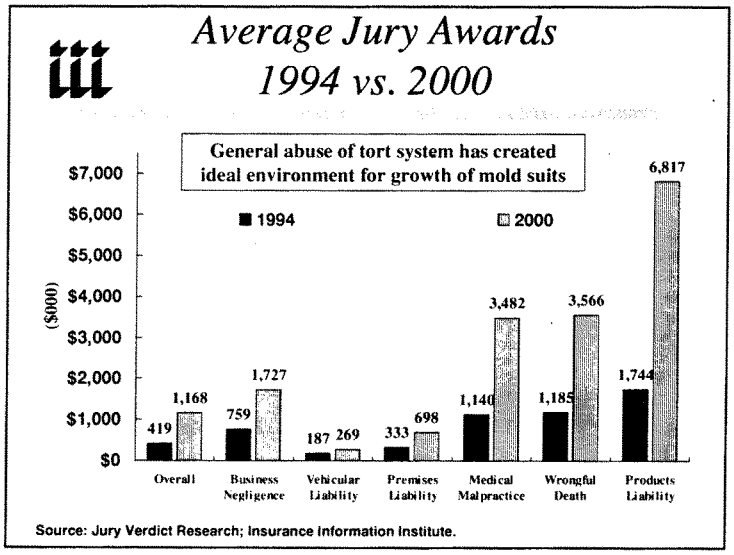

Underwriting Gain (Loss)
1975-2001
$10
$0
($10)
($20)
($30)
($40)
($50)
($60)
$ Billions
P-C insurers paid $53 billion more in claims & expenses than they collected in premiums in 2001
1975
1976
1977
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
Source: A.M. Best, Insurance Information Institute


Underwriting Loss in HO Insurance, 1991-2002F
$0.0
($2.0)
($4.0)
($6.0)
($8.0)
($10.0)
($12.0)
$ Billions
-$2.2
-$11.5
-$2.8
-$4.0
-$2.9
-$5.4
-$0.3
-$2.6
-$2.4
-$3.6
-$8.9
-$6.5
Underwriting losses in homeowners insurance from 2000 to 2002 alone are estimated at $19.0 billion, 14.5% above the $16.6 billion in 9/11 property losses.
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001E
2002F
Source: Insurance Information Institute. A.M. Best


Homeowners Combined Ratio
Combined Ratio
Sum of Losses + Expenses + Policyholder Dividends divided by Premiums
Interpretation:
On average, homeowners insurers paid out $1.18 for every $1.00 they took in between 1991 and 2001
160
150
140
130
120
110
100
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
2002*
Homeowners
All Lines Combined Ratio
Source: AM Best, Ins. Info. Inst.


Abuse of the Tort System


Cost of U.S. Tort System
($ Billions)
Tort costs consumed 2.0% of GDP annually on average since 1990, expected to rise to 2.4% of GDP by 2005!
Tort costs equaled $636 per person in 2000!
Expected to rise to $1,000 by 2005
$350
$300
$250
$200
$150
$100
$50
$0
$129 $130 $141 $144 $148 $159 $156 $156 $167 $169 $179 $198 $204 $298
90 91 92 93 94 95 96 97 98 99 00 01* 02E* 05F
Source: Tillinghast-Towers Perrin; Insurance Information Institute estimates for 2001/2002 assume tort costs equal to 2% of GDP. 2005 forecasts from Tillinghast.


Average Jury Awards
1994 vs. 2000
General abuse of tort system has created ideal environment for growth of mold suits
1994
2000
($000)
$7,000
$6,000
$5,000
$4,000
$3,000
$2,000
$1,000
$0
419 1,168
759 1,727
187 269
333 698
1,140 3,482
1,185 3,566
1,744 6,817
Overall
Business Negligence
Vehicular Liability
Premises Liability
Medical Malpractice
Wrongful Death
Products Liability
Source: Jury Verdict Research; Insurance Information Institute.

Questions for Gordon Stewart:

1. In page 4 of your testimony, you say that "the simple presence of mold (...) is considered a home maintenance issue and not covered by insurance". Do you think that mold infestation could be considered a maintenance issue in cases where the dwelling is brand new, as it happens in numerous occasions?

The issue of mold as it pertains to new construction is also a problem, but one of a different nature. The housing market in California, just to cite one example, has been reshaped because contractors can't get commercial insurance for condominium projects because of the threat of class actions by homeowners who have experienced construction defects that have produced water damage and, in some cases, mold. This is generally not a homeowners insurance issue, but a commercial insurance issue. A solution appears to be, as was proposed in California this year, to establish a "right of repair" so that contractors are properly notified of problems and given the opportunity to make repairs before parties resort to litigation. That would keep costs down, insurance more available and housing more affordable.

2. According to your data, the number of claims in Texas, California and some other states have risen dramatically in the past year, and as a consequence, the industry loss several billion dollars. What percentage of these losses do you estimate is directly caused by mold claims? What was the trend of mold claims in other states (other than CA, FL, AR, TX and NV) during 2001?

Underwriting losses (the amount by which losses and expenses exceed premium income) in homeowners insurance in 2001 are estimated at $8.9 billion. Nationwide, the Insurance Information Institute estimates that homeowner insurance companies paid an estimated $1.3 billion in mold-related losses, implying that mold accounted for nearly 15 percent of the 2001 underwriting loss.

Statewide mold data are currently available only for Texas, which has required insurers to report such data in light of that state's homeowners insurance crisis. However, water claim data (which is increasingly influenced by mold claims) is rising at a significant pace in a number of states.

3. Do you know if the industry would be willing to consider lowering their premiums or, at least include mold coverage in their policies if the unit to be insured is built with special materials mold proof or that make it more difficult to grow mold?

First of all, the insurance industry supports and promotes steps in all lines of insurance that mitigate risk, improve safety and save lives. Air bags in cars, smoke detectors in homes and windstorm housing codes all help keep people safer, reduce

the likelihood of catastrophic loss and keep people safer. In some cases, insurers offer discounts when these features are present. In all cases, these precautions reduce losses, which keeps costs down, which keeps insurance premiums stable. Generally, insurance rates for brick homes are lower than other homes because brick is more fire resistant and the loss ratio on brick homes is lower. If construction techniques come along that make homes more "mold resistant," people will save money over time because the loss experience for those homes will be better. In some cases, discounts may be available if homeowners take specific steps to mitigate the mold risk, but that will vary from one company to the next. There is no guarantee, however, that such materials would put a quick end to the litigiousness which is an important cost driver within the mold problem. Moreover, mold-resistant materials, even if effective, would only impact new dwellings and not existing homes.

INTERNATIONAL UNION OF OPERATING ENGINEERS

August 21, 2002

Via Email

Mr. Hugh Nathanial Halpern
Parliamentarian and Director of Legislative Operations
US House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Halpern:

Listed below are the answers to the questions submitted by Congressman Luis Gutierrez as a result of the hearing of July 18, 2002, on "Mold: A Growing Problem".

Question 1: In your testimony you mentioned that there is widespread confusion over the issue of mold and that this confusion continues to grow. What areas of the issue do you think are still blurred and what areas are solid facts?

***Answer*:**
The areas of confusion related to the mold issue are primarily in the area of health effects. Because of the lack of clarity, the American public is confused about the effects of mold in schools, homes and workplaces where they spend a vast majority of their time.

Question 2: In your testimony you say that "the media and litigation/settlements are educating the public on the health hazards of mold." In your opinion, who should be taking the lead in educating people? If there is a total lack of information from the sources that need to take the lead, is it wrong for the media to assume this role?

Answer:
Media reports and publicized litigation settlements normally are related to sensational journalism and do nothing to educate the public. I don't think it is wrong for the media to report these issues, but I do think that American people should not be dependent on the media for clear education of the dangers of mold. Educating the American public needs to be a comprehensive outreach program by a wide variety of responsible organizations.

Question 3: In your testimony you denounce the lack of federal mold standards in the prevention, investigation, testing and remediation of mold. Does the fact that there are no federal standards mean that you cannot do anything about this problem? Are you aware of other countries that have adopted mold standards?

Answer:
The lack of federal mold standards in the prevention, investigation and remediation of mold obviously adds to the problem related to this issue. I do not claim that standards are the only way to address the mold problem. There needs to be a well thought-out outreach program where effective organizations bring some educated skills and expertise in dealing with all aspects of the mold issue. I believe that this goal can be accomplished with or without federal mold standards.

Question 4: In your testimony you talked about the need for the creation of a comprehensive educational program. How would such a program work? What do you suggest?

Answer:
Absent federal mold standards, the only way to effectively deal with the mold issue would be the creation and delivery of a comprehensive educational program. Such a program would work very similar to the Environmental Protection Agency's Indoor Air Quality program. As a matter of fact, this is the program to use if you want to have an effective outreach.

Again, you need to utilize a variety of organizations in order to make this outreach effective. As an example, the International Union of Operating Engineers has been a partner with the EPA in effectively resolving many Indoor Air Quality issues in commercial facilities. Our organization has delivered Indoor Air Quality training to stationary engineers who deal with this issue in over two (2) billion square feet of commercial space.

There are obviously a variety of other effective organizations like the National Association of Home Builders who have the ability to prevent and educate targeted audiences about the mold issue. I believe a meeting with the EPA's Indoor Air Quality division leaders could offer you great insight into the detailed workings of a comprehensive outreach program.

If I can be of any further assistance, please feel free to contact me.

Sincerely,

Thomas C. Tighe

Thomas C. Tighe
Executive Assistant to the General President
Director of Stationary Affairs

TCT:msk
opeiu2/aflcio

Statement of
The Air Conditioning Contractors of America

Before a Joint Hearing of the Housing and Community Opportunity Subcommittee and the Oversight and Investigations Subcommittee Of the House Financial Services Committee

Mold: A Growing Problem
July 18, 2002

By Jim Hussey, Chairman

The Air Conditioning Contractors of America (ACCA) would like to commend the chairmen and members of the subcommittees for holding this hearing on an issue which is of paramount importance to our members, for many confront mold problems on a daily basis.

In addition to being the Chairman of ACCA's Board of Directors, I own and manage Marina Mechanical, Inc., in San Leandro, CA., a commercial mechanical contracting company. I'm also the founder and president of Bay Point Control Inc. which focuses on the design and installation of automated temperature controls systems, and serve on the Technical Advisory Committee to the California PUC Board for Energy Efficiency, American Society of Heating, Refrigerating and Air-Conditioning Engineers, Association of Energy Engineers, and the American Society of Professional Engineers. I have a registered environmental assessor on staff and we specialize in helping hospitals identify, verify and then mitigate mold problems. However, because we as well as most other heating, ventilating, air conditioning and refrigeration (HVACR) contractors are losing our liability insurance for environmental issues, such as mold, I have to subcontract out the remediation aspect of the business.

ACCA is the premier nonprofit trade association that represents and serves those who design install, service and repair (HVACR) systems for residential, commercial and industrial customers. Our antecedents date to the beginning of the last century and today, we have approximately 7,000 members through local, state and national membership through a federation of 57 chapters across the nation. The vast majority of our members are community-based small businesses.

Why now, is mold such a concern for our members? After all, it is naturally occurring in nature and has been around since the dawn of time. Molds reproduce through spores that germinate wherever you have organic substances (soil, organic matter such as dead plants, carpets, solid surfaces such as gypsum board and fiberboard, and paper, dust and lint, etc.), moisture and a temperature range of 40 to 100 degrees Fahrenheit. With these three ingredients, mold grows…and it is very good at growing. Mold propagates via spores that can remain dormant – yet viable – for years during which moisture is not present.

Mold is not without its benefits, however. For example, the environment would be overwhelmed with large amounts of dead organic matter without mold. Mold also gives us penicillin and Roquefort cheese. However, when toxic mold invades our living and working space, it can pose serious health threats to some. Unfortunately, there are no authoritative studies establishing a reliable, scientific link between mold and the illnesses we are reading about. Consequently, we don't know how serious the health threats really are.

Hardly a day goes by without a news story somewhere in the country about mold and its effects on the residents of a home or commercial building. As might be expected, trial lawyers have become involved as litigation to collect reparations for property damage and bodily injury becomes more common. Record settlements are being awarded in the courts and mold is rapidly assuming the dimension of the asbestos litigation that began in the 1980s, continuing to tie up the courts and force companies into bankruptcy to this day. According to a recent estimate, the total number of asbestos claims may reach 2.5 million. Because of litigation, the economic toll on business is approaching $275 million. More than 50 companies faced with these claims have already filed for bankruptcy, including five who succumbed this year.

We understand the focus of your insurance investigation is coverage for homeowners. However, there is another aspect to the insurance crisis. Our members are especially vulnerable to liability claims for often the first culprit named in a mold situation will be the HVACR system, even though HVACR systems do not cause mold. On the contrary, a well-functioning HVACR system and a well trained, alert technician is your best defense against the spread of mold. Well-trained and experienced contractors are solution providers, given the opportunity to perform without the threat of litigation. The federal government would be doing consumers a favor if they solve this insurance problem, as our industry is the one island of knowledge, skill and experience in this vast sea of mold hysteria to help insulate homeowners from the impacts of mycotoxins.

As a result, the insurance industry is seeking protection from these financially devastating indemnity payments. For the first ten months of 2001, ACCAs endorsed insurance carrier paid 350 mold claims for HVACR contractors alone. The cost was $17 million. Other carriers have similar or more dramatic experiences. In reaction, the insurance industry is either filing for absolute mold exclusions on our business policies or severe restrictions on coverage (with appropriate increases in premiums). This leaves our members without recourse.

Even if the HVACR contractor does everything right, using state-of-the-art practices, he can still be sued. Even if he left the home mold-free, and the mold condition developed years later through no fault of his, he can be named in a suit. Without insurance, the result of a negative judgment can be devastating, seriously threatening the livelihood of his or her employees and their families (our member companies average between 16 and 20 employees). So, what are contractors doing to keep their doors open? If they no longer have coverage, some are instructing their technicians to walk away from a job if they spot signs of mold, leaving the homeowner with fewer options. Others continue to assume the risk, believing they have an obligation to their customers yet knowing full well their exposure could force them into bankruptcy.

A second contributor to the problem is the number of lawsuits filed based upon urban myths, rather than sound science. Many people spot mold and immediately hire an attorney, regardless of the type of mold. It doesn't occur to them to first identify the mold through testing, which is every bit as important as remediation.

This situation cries out for education. The public needs to be taught how to keep mold out of their spaces, and if they do spot it, what to do. Well-trained HVACR contractors can teach them the techniques of inspection and moisture control, of the need for spotting leaks and once finding them, the proper response – a sudden increase in a water utility bill should be a red flag that something is amiss. Besides various precautions, we can also tell them what to do if a leak occurs before the repairman gets there. And finally, we can teach them the need for regular maintenance of their HVACR system, not only for maintaining the quality of their indoor air quality but also because it dramatically saves energy. If the filter in a central air conditioning system is never

changed, the coils will become filthy, becoming fertile ground for mold to grow. If other conditions are right, the resulting spoors will quickly spread through the building's duct system. Yet, even today, far too many people still don't know enough to change their filters on a regular basis.

Finally, the cost of mold remediation is increasing because of the well intentioned, but uninformed technician, and the scam artist. Although their motivation is quite different, the results are comparable.

By not being properly trained on the correct ways to identify and classify mold, unskilled persons may not be aware that a mold situation exists. Inadvertently, they may contribute to the spread of spores throughout the building, greatly increasing the area of contamination. In another scenario, the untrained worker could determine that there is a hazardous mold situation, when there isn't, and initiate expensive remediation steps. He or she acts because they spot water damage (or the presence of moisture), and assume mold is present somewhere. In another case, there may be mold, but the type (species) may be non-threatening to humans and animals.

The untrained may determine that mold is present, but the level (quantity) is trivial and non-hazardous (i.e., a small quantity on a tile wall in the bathroom), and overreact. On the flip side, the untrained could correctly identify that a mold situation is present, but misidentify the problem as minor when it isn't and then not take the appropriate corrective, cost-effective action. This will come back to haunt the homeowner, generally resulting in more costs that would have been unnecessary if the job was done correctly in the first place.

And the reverse is also true. The technician might misidentify the problem for more than it is, calling for larger, more expensive remediation steps then are actually needed. Another error in the name of safety is to minimize future potential liability exposure by undertaking unnecessary eradication steps (example, since mold is found extensively behind one wall ... tear down the other three just in case).

A con-artist can increase mold remediation costs even more. He or she may or may not know the correct steps to follow, but does not really care if such procedures are utilized. Rather, he seeks to maximize the project scope and use consumer hysteria to drive up costs (thereby increasing his profits) without being bothered by results. The con man will lie about a hazardous condition existing when he knows that none exists. He will employ confederates who serve as "experts" to collaborate that a major problem exists. So, the homeowner is convinced to pursue bogus remediation steps, further driving up costs of remediation.

Unfortunately, the homeowner can't tell the difference between the good guy and the bad. How are they to distinguish between a con artist and a technician skilled in working with mold? In fact, the con artist – since he shapes the truth to suit his needs – may even sound more plausible.

Thus, we have presented an overview of several areas that impact the financial and health aspect of toxic mold and indoor air quality mold. What to do? ACCA recommends that Congress pursue the following paths to help facilitate a solution:

- Government-funded research to establish/investigate methods and approaches to control moisture, and thus mold growth: new equipment and controls; improved installation and service practices; enhanced equipment and operation guidelines; improved methods and approaches for safe and effective mold remediation. Encourage government sponsorship of private/public nationwide, comprehensive research to

identify which molds, if any, are toxic and what the long-term effects are on human health.

- Raise the standards of performance. At a minimum, an HVACR technician who enters a building and sees signs of mold should notify the building owner to the potential problem and recommend they call in a legitimate remediator. This responsible approach will help minimize clean-up costs. Certify mold identifiers and remediators, this may help reduce the liability risks for insurance companies, and thus expand coverage for contractors. This will help eliminate untrained technicians who inadvertently make the situation worse, and scam artists who take advantage of the uneducated homeowner.

- Provide liability coverage for the contractor who does everything right. If not, the consumer will have few if any options when the good contractors go out of business or refuse to work in a situation where mold is present.

- Educate the consumer to reduce the risk of mold contamination through proper sizing, installation and maintenance of their HVAC system to control humidity and maintain proper airflow. Educate them to the danger signs of mold and what to do if they spot it.

- Investigate the establishment of an insurance pool to cover consumers as well as contractors and their technicians who may be at risk by working around mold.

- Establish geographic benchmarks so toxic mold can be controlled. Given climatic differences in the country, a one-size solution will not fit all.

These are but beginning steps. We have more to learn about eliminating the hazards of toxic mold, but at this point, the consumer deserves certainty that everything that is being done is being done properly. He also needs to assume some responsibility for his own action, or lack thereof. We thank you for this opportunity to present our views and look forward to working with you to solve the problem.

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July 16, 2002

Chairman Mike Oxley
House Financial Services Committee
2129 Rayburn House Office Building
Washington, D.C. 20515

Re: Indoor Mold

Dear Chairman Oxley:

The Associated General Contractors of America (AGC) welcomes the opportunity to comment on the issue of water intrusion and mold in buildings, and it commends the Financial Services Committee for launching an effort to better inform Congress of the many complexities of this problem.

An important issue to keep in mind concerning the incidence of mold is that mold is a naturally occurring substance. Mold reproduces itself through spores and can live and grow in virtually any environment. All that is needed for mold is water/moisture, a nutritian source (host), and oxygen. Debates continue within the scientific community about exposure to mold and the medical community about the health effects related to this exposure. The media hype about "toxic mold" has yet to be proven by either science or medicine. The only thing that is certain is that more research is needed in both areas.

Even operating under the assumption that there are dangerous forms of mold, simple solutions to the problem are not apparent. Water intrusion and mold in buildings involves the design, construction, and operation and maintenance of these facilities. Building envelopes are tighter than ever and yet by all accounts the incidence of mold is on the rise. Can it be prevented? Remediated? What is acceptable? What exactly can be controlled?

Any regulatory or legislative actions must be based on credible scientific evidence that is not conclusive at this time. As part of our own education process, AGC has appointed a high level task force to search for practical and yet effective ways to ensure that the design, construction, and operation and maintenance of office and other commercial buildings minimize the risk of mold growth. But this task force like all other groups focused on mold continues to grapple with this issue and still has a long way to go. The effort necessary to minimize the risk of a mold growth is never ending. At this point, it would be extremely premature for Congress to legislate design, construction or other building standards for the purpose of trying to control mold.

We must be careful not to legislate a solution for a problem when we do not understand its full breadth. Unfortunately, some in the legal community have selected mold as their next cause celeb, realizing that there are no hard and fast standards or research in this area and allowing them the opportunity to make emotional arguments in the absence of refutable scientific evidence. Therefore we concur that there is a pressing need for bringing reason to this issue. The approach that we would favor would be for additional funding for research on the health effects of mold exposure in the built environment in order to more accurately assess what needs to be done and what, if any, standards can and should be developed related to mold. The public deserves to avoid false starts on this important issue. Let's address this issue on the proper footing with a solid foundation of scientific research and evidence.

Thank you again for the opportunity to comment on this problem. AGC looks forward to the opportunity to work with this Committee on this important issue.

Sincerely,

Jeffrey D. Shoaf
Senior Executive Director
Congressional Relations

CC:
The Honorable Sue Kelly
The Honorable Marge Roukema
The Honorable Gary G. Miller

Independent Insurance Agents
& Brokers of America, Inc.

STATEMENT OF THE INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA

UNITED STATES HOUSE FINANCIAL SERVICES COMMITTEE
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

JULY 18, 2002

STATEMENT OF THE INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA
UNITED STATES HOUSE FINANCIAL SERVICES COMMITTEE
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

JULY 18, 2002

This testimony is submitted on behalf of the Independent Insurance Agents & Brokers of America (IIABA). IIABA is a non-profit trade association that represents over 300,000 independent insurance agents and brokers and their employees nationwide. IIABA's membership is composed of large and small businesses that offer consumers a wide array of products in every state, city and town in the country.

The independent insurance agent and broker industry sells 75 percent of all commercial lines policies in the country. In essence, independent agents and brokers write coverage for America's businesses, and through this unique prism of expertise and for the reasons outlined below, we strongly urge a cautious, deliberate and thorough review process be undertaken by this committee and the Congress as a whole before considering The United States Toxic Mold Safety and Protection Act (H.R. 5040).

Only in the past few years have insurers become overwhelmed with mold contamination claims. From the standpoint of commercial exposures, toxic mold claims are beginning to rival construction-defect claims in their numbers and magnitude. Insurers have estimated that homeowner premiums may need to rise 25—60 percent to cover soaring costs. This is due in part to several reasons. First, while the reasons for water-damage claims remain constant (e.g. a washer machine overflowing, leaky rooftop, etc.) over the past two years, homeowner recognition of mold has resulted in traditional claims being hampered by cumbersome claims-handling procedures. In the past, claims handling involved routine cleanup of the area damaged by water and houses were rarely deemed uninhabitable. Now, industrial specialists may be hired for these once-routine claims and take three weeks to conduct air and surface testing within a home for mold contamination and an additional six weeks to obtain the results. Secondly, remediation procedures and frivolous lawsuits have contributed greatly to the increase in claim costs. This has contributed to insurers incurring more costs and an increase rise in homeowners insurance premiums.

The need for such experts on even the smallest water damage claim is fueled by increasing consumer concern over the possible health hazards associated with exposure to mold and heightened insurer concern over claims-handling procedures that could lead to possible bad-faith lawsuits. *Most general contractors and subcontractors are losing their liability coverage for any mold-related claim for property damage or bodily injury under their general liability policies, yet H.R. 5040 will do nothing to aid this issue.*

In requiring insurers to cover all mold claims this legislation would increase costs and necessitate a rise in insurance premiums. In order to properly rate for the loss exposure, premiums would have to rise significantly. The effects of mold, a common and

widespread organism that transfers through air currents, comes into contact with millions of people without causing any harm. It is estimated that as much as 25 percent of the earth's entire biomass consists of mold and other fungi. In short, molds are naturally occurring organisms, not manmade substances. The problem is that independent laboratory science has not been adequately conducted. Further, the current scientific research available relating to the health effects of mold is inconclusive. *The Centers for Disease Control and Prevention has stated that there are very few case reports that toxic molds (those containing certain mycotoxins) inside homes can cause unique or rare health conditions such as pulmonary hemorrhage or memory loss. These case reports are rare, and a causal link between the existence of the toxic mold and these conditions has not been proven.*

What is needed is a practical, common-sense approach to address mold exposure. Although well-intentioned, this legislation recently introduced by Rep. John Conyers (D-MI) would put the proverbial cart before the horse by hastily establishing national standards and a federal mold insurance office. Taking these steps at this time would only complicate the goal of seeking a comprehensive resolution to mold exposure.

Since it is widely acknowledged that there are over 100,000 species of mold, and the health community has only just begun to look into the effects of mold, it is undoubtedly premature to set uniform exposure limits. Therefore, IIABA requests that Congress proceed with considerable caution as it debates this or any other federal approach to mold-related insurance claims.