

Back to back blogs posted by Chip Merlin regards the arrest of public adjuster Robert Eugene Leverett II. Reproduced here to preserve references used in a blog posted on Johnson Strategies.

Posted on May 15, 2014 by [Chip Merlin](#)

[Public Adjuster Arrested For Intentionally Inflated Fire Claim Denies Allegations](#)

Everybody deserves to be considered innocent of criminal conduct until proven guilty. That certainly was not how government officials responded to the arrest of a Florida public adjuster accused of inflating the benefits owed as a result of a fire claim.

Smoke and fire claims are routinely underpaid by the insurance industry. Adjusters often fail to spend enough time tracking where the caustic particles contained in smoke travelled throughout a fire damaged structure. Heat usually carries smoke throughout attic areas and insulation. Even cold smoke, ventilated by fire fighters following extinguishment, deposits particulates throughout a building. Subtle heat damage is not accounted for by adjusters who are often relying upon quotes and inspection from competing "preferred vendors" of the insurer rather than doing it themselves. The "art" of adjusting a fire claim has usually been substituted to third party restoration contractors who may be covering up damage rather than determining costs of replacing property back to a new condition, as required by the insurance policy and Florida law.

Insurance company "experts" seem to take an unusual quantity of photographs depicting areas where damage does not occur and much fewer photographs in areas of significant damage. One practice I now have is to look for the quantity of "damage photographs" and the quality of the damage photographs versus the quantity and quality of photographs depicting allegedly "undamaged" property to make a determination if I am dealing with an honest insurance company expert. Quality is important because smoke particles, heat patterns, discoloration, and distortion can be made to seem non-existent by intentionally angled or wrongly taken photographs. Rarely does this type of insurance fraud against the policyholder get reported or prosecuted.

Still, intentional exaggeration of damage and the full cost to properly repair or replace fire damaged property is wrong. Even if the insurer or its agents are intentionally making an improper evaluation of damage, it does not allow the policyholder or public adjuster to combat this wrong with another. Two wrongs never make a right.

The aforementioned were in my thoughts when reading a [press release](#) and [newspaper article](#) about a public adjuster arrested for insurance fraud stemming from a fire insurance claim. The announcement stated:

TALLAHASSEE – Florida Chief Financial Officer Jeff Atwater today announced the arrest of Robert Eugene Leverett II, an Orlando public adjuster, for insurance fraud after he overestimated

a claim by more than \$500,000 in an effort to significantly increase the fee he was being paid.

“I am proud of our investigators for bringing this individual to justice,” said CFO Atwater. “When a public adjuster commits fraud, it is a betrayal of trust that hurts the client who needs his or her help and the general public whose cost of insurance is driven up.”

Leverett was hired by an Orlando motel to evaluate damage caused by a fire. But despite multiple experts who estimated the damage to be approximately \$210,000, Leverett, who gets paid 10 percent of the claim payout, estimated the damage to be more than \$750,000. A tip from the hotel’s insurer, Capacity Insurance Company, alerted the Division of Insurance Fraud to Leverett’s activities. He has now been charged with four counts of insurance fraud and one count of scheme to defraud.

So much for innocent until proven guilty.

[The newspaper article](#) was one sided because the investigative reporter only reported on one side of the story. I knew the *Orlando Sentinel* wrongly reported on the experience of Robert Leverett because he had previously worked for the insurance industry. Yet, the article did at least mention the adjuster's attorney:

When you buck the system this is what you get," said Leverett's attorney, Michael Snure of Winter Park, who described his client's job as serving as an advocate for consumers needing assistance in resolving claims with insurance companies. Snure had not read the charging affidavit so he could not speak to specifics of the case.

Robert Leverett has now provided a statement correcting the *Sentinel's* story:

Let me start by saying there is not one ounce of truth in the *Sentinel*. I will address each issue.

1. It was not a minor hotel fire.
2. I did not claim damage for 64 rooms in a 56 room hotel building. I prepared an estimate and proof of loss for 24 rooms in a 56 room hotel.
3. A reputable senior structural engineer and partner with TLC inspected the damage and determined that six trusses were damaged and needed to be replaced.
4. The *Sentinel* never tried to reach me for comment.
5. I was not arrested for selling theme park tickets, in 1995 I was arrested for selling two Orlando Magic playoff tickets because I did not want to go to the game. Scalping.
6. I have been a licensed Florida adjuster since May 1992, not 2008. I worked as a company adjuster with Florida Farm Bureau from 1992 - 1998, CNA Commercial Insurance, Large Loss Adjuster 1998-2008, and My own company as a public adjuster from 2008 - Present. My primary

business is real estate, and I only handle claims by referral. I never solicit a loss. I have handled many hotel fires, and owned a 66 room Sleep Inn so I understand hotels.

7. My estimate for building damage is \$644,629.14, not \$760,000.

8. Grant Renne, the so called "forensic engineer" is a civil engineer. Never once did I invite him to lunch at Rachel's, McDonalds, or any other place, and never once did he state to me, his opinion could not be bought. Because I never offered, trust me I know better. He does however, based on his bio listed at Donan Engineering (which I might add is the go to engineering firm for insurance companies to deny and minimize claims, check out their web site) changes companies every two years. He had been on the job with Donan for just a few months when he came out to the loss, and he said business was slow and asked if I had any work for him. I replied I did not think his firm worked for both sides to which he replied he works for where ever the money is, I told him I did not have work for him, and then he went into a discussion about how slow business was that he was working on a rental property. I told him I have over 100 rental properties, and again he asked if I had any work that he could do on properties, and I said no. I showed him the fire damage to the trusses and he said it was water damage. I was shocked and asked him if we could even agree there was a fire at the property. I showed him charred trusses, a truss that shifted and a top plate that was charred. He then met the owners of the hotel, which are from India and he quietly asked if any of my clients spoke English with a racially biased attitude. His behavior was bizarre to say the least.

9. The fire report states that prior to the arrival of the fire department, guest were using a fire hose attached to the hotel to apply water. It took the fire department 8 minutes to arrive and 2 minutes to charge their hoses. My attorney's investigator calculated 2700 gallons of water was placed on the fire. That is why the fire department only used 150 gallons.

10. I drove myself to the jail, walked in with my cash bond of \$5600 and did a walk through processing which took about 4 hours, then drove myself home on Thursday, and the *Sentinel* could not tell if I had bonded out by Friday?

I am not holding my breath for a retraction from the newspaper.

There is more to this story which deserves a separate post tomorrow.

Posted on May 16, 2014 by [Chip Merlin](#)

[Public Adjuster Arrest, Umpire Ethics, and Good Faith Opinions--An Intriguing Story](#)

All adjusters are called upon to make good faith evaluations of loss. *The obligation of all adjusters is to make certain that the policyholder receives the full amount of benefits owed under the policy.* When disagreements occur over the value of loss, appraisals and umpires often become involved. The recent arrest of a public adjuster I posted about in [Public Adjuster Arrested For Intentionally Inflated Fire Claim Denies Allegations](#), involves all these issues.

To give some legal context in the field of insurance, good faith opinions – even if mistaken – are not fraudulent. This longstanding law is probably best explained in *J & H Auto Trim v. Bellefonte Insurance Company*.¹

This (holding) presents no danger that valuable rights will be lost by mere mistakes or errors in calculations, exaggerations in the amounts of the claims, or the assertion, even though doubtful, of coverage or other contentions as to all or particular items when these flow from the mistaken good faith judgment or opinion of the assured or his agents.... (T)he insurer must satisfy the heavy burden of establishing that the conduct complained of was done and was a willful, purposeful misrepresentation of facts having substantial materiality under circumstances to which the law would attribute the intention to defraud, that is, cheat, deceive and cause the insurer to do other than that which would have been done had the truth been told.

The arrested public adjuster relied on a licensed engineer, Hasan Arouri, of TLC Engineering. [Arouri's engineering report](#) called for replacement of trusses in the attic and had photographs of damage on the underside of the roof. [I suggest that readers look at the charred trusses in the photos](#) and ask what a replacement cost insurance policy should do in such a damage situation. I bet most would say, "replace the trusses."

Still, the matter went to appraisal and the Umpire, Jon Doan, apparently disagreed. Doan thought they should be repaired rather than replaced. Jon is a friend, the First Vice President of the Windstorm Network, and someone that I respect and have the highest regard for, as do many.

The public adjuster community is ablaze with understandable discussion about Jon Doan having a family relationship with the insurance company's adjuster, Shawn Starbuck. Apparently, Doan was the replacement umpire for [John Voelpel](#) at the request of the insurance company's appraiser. It has raised questions about the reason for the replacement and the appearance of a conflict of interest.

The [Windstorm Insurance Network](#) has an Umpire Code of Ethics. It states in part:

After accepting an appointment and while serving as an Umpire, a person should avoid entering into any business, professional, or personal relationship, or acquiring any financial or personal interest, which is likely to affect impartiality or which might reasonably create the appearance of partiality. For a reasonable period of time after the decision of a case, persons who have served as Umpires should avoid entering into any such relationship, or acquiring any such interest, in circumstances which might reasonably create the appearance that they had been influenced in the appraisal by the anticipation or expectation of the relationship or interest. Existence of any of the matters or circumstances described in this paragraph C does not render it unethical for one to serve as an Umpire where the parties have consented to the Umpire's appointment or continued services following full disclosure of the relevant facts in accordance with Canon II.

My understanding is that Jon Doan let the policyholder's appraiser know of the family relationship with Shawn Starbuck, and the appraiser did not object. A lesson for all is to not get involved or agree with this type of conflict because no matter what, it is a "no win" situation for all. It leads to unfair speculation about the propriety of actions and decisions.

The amount of the award was \$244,946. It would have been considerably higher if the trusses and roof areas been estimated as a replacement rather than a repair. While I like John Doan, I would be really upset with him and the panel if it were my building and I got stuck with "repaired" trusses that are obviously burnt rather than new trusses. Many that have looked at the photographs agree with me.

Part of the point of this post is that humans can have very passionate differences of opinion. While I might shake my head about Jon's reasoning, he probably has some rationale for it. Of course, we always think our own view is right.

So let's take a look at the numbers. The initial estimate by the insurance company's adjusters was \$73,249.21. The appraisal award of \$244,946.00 is 334% higher than the insurer's initial claim evaluation. The appraisal award for the building is 188% higher than the insurance company's later retained expert estimate.

The appraisal award for the personal property was 630% higher than the insurer's personal property payment. The appraisal claim submitted by the insured for personal property is only 188% higher than the appraisal award compared to the insurance company's under evaluation of 630%.

I wonder if Jeff Atwater would demand an investigation into the reasons why and how the insurance company underpaid the claim if he knew of all the facts? [Jeff Atwater once called for an investigation of QBE Insurance Company and its hardball claims tactics before being elected to the CFO position.](#)

Since "*the obligation of all adjusters is to make certain that the policyholder receives the full amount of benefits owed under the policy,*" it raises the question of whether insurance company adjusters, claims managers, and others should be prosecuted for insurance fraud when they intentionally underpay claims through various ingenious methods. This rarely happens because it is almost accepted from the public that many insurance companies do these practices as normal business operations. "The authorities" and management of insurance companies seem only concerned with instances of overpayment, forgetting about customers being ripped off at the time of insurer performance.

This criminal case and story will be followed closely. There are reasons why the insurance industry wants to raise the "F" word. I will detail some of them and the problem of the culture it creates on Monday.

My son, Chase Merlin, is graduating this weekend from the University of Pennsylvania. I am very proud of him, and he is the first in the Merlin family to graduate from an Ivy League School. So, in honor of him and the founder of Penn, the **Positive Thought for the Weekend** is:

"An investment in knowledge pays the best interest."

– Benjamin Franklin, Founder of the University of Pennsylvania