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## More trouble for Citizens

**The state insurer of last resort is already sinking in scandals. The last thing the company needs is another one spawned from its legal representation.**

A Times Editorial

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The disturbing news streaming out of Citizens Property Insurance Corp. these days makes one wonder how it can protect Florida's homeowners when it can't keep its own house in order. The state's insurer of last resort is caught up in a series of scandals that go beyond its lethargic response to the 2004 hurricanes. The latest involves the way Citizens' outside law firm provided legal assistance to other insurance companies that came before it.

Citizens is unique. It was established by the state after 1992's Hurricane Andrew to provide coverage for those homeowners and businesses that could no longer find insurance in the private market. As an incentive for private insurers to take over high-risk policies, Citizens pays a bonus to insurers to take policyholders out of the state pool and hold them for at least three years.

A lucrative business has been spawned by helping these so-called take-out insurance firms. One person to cash in has been Fred Karlinsky of the law firm of Colodny, Fass, Talenfeld, Karlinsky & Abate. Since January 2004, Karlinsky has helped seven take-out firms secure insurance licenses. Those firms account for 140,000 take-outs from Citizens. At the same time, one of Karlinsky's law partners, Michael Colodny, has worked for Citizens as outside legal counsel for more than 12 years and has collected millions of dollars in fees.

This is an obvious conflict of interest. What if issues or disagreements arise between Citizens and a take-out firm that is Karlinsky's client? What if a property owner sues both Citizens and its new private insurer? According to Florida Bar ethics rules, lawyers within the same firm cannot represent clients with adversarial or conflicting interests.

The attorneys claim there is no conflict. Karlinsky says he doesn't do the actual take-out work and Colodny says he is careful to leave the room when one of his firm's private insurance clients comes before Citizens. But the very fact that Colodny cannot be present to advise Citizens during those encounters appears to be a violation of Florida Bar ethics rules. According to Joy Bruner, assistant ethics counsel of the Florida Bar, when an attorney is stymied from giving his client advice due to his relationship with another client, a conflict of interest exists.

Citizens' new board chairman, Bruce Douglas, is to be congratulated for telling Colodny to cut it out. Colodny has now agreed to end his firm's practice of representing both sides.

When Citizens has been so ethically challenged by others who worked for it, including allegations of kickbacks and self-dealing, it doesn't need legal representation that is under a cloud.

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