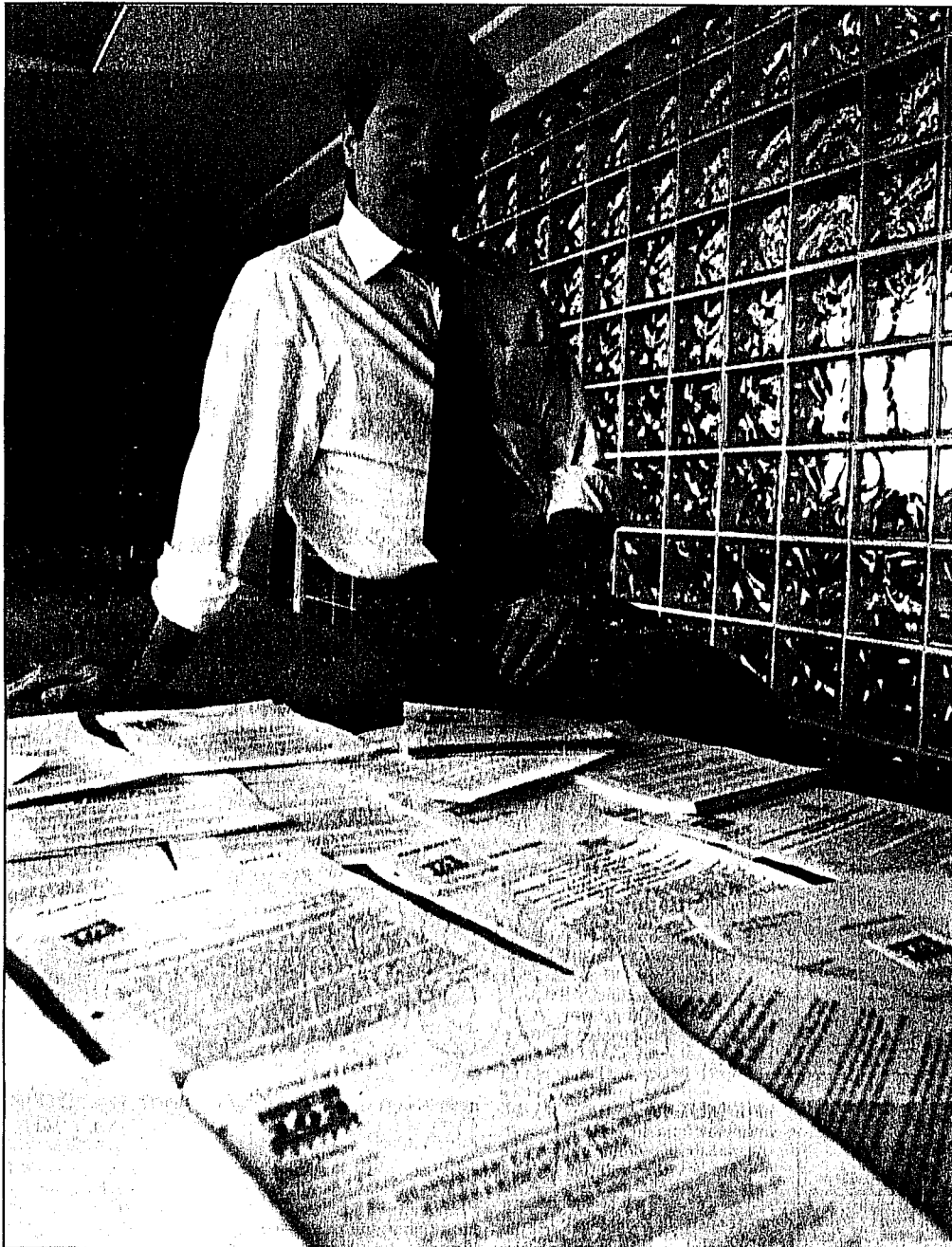


GIVING NO QUARTER



Proposition 103 author Harvey Rosenfield surveys a table in his Los Angeles office covered with all the press releases he's issued about Insurance Commissioner Chuck Quackenbush since August 1994. Special to the Bee/Rene Macura

Consumer advocate Harvey Rosenfield remains a scrappy nemesis to the insurance industry

By Ilana DeBare
Bee Staff Writer

LOS ANGELES — Harvey Rosenfield, author of Proposition 103 and nemesis of the California insurance industry, was in computer hell.

The fonts in his word-processing software weren't working. He couldn't type a single word. He called up the software manufacturer and sat through several minutes of voice-mail programs telling him that if he was a computer dealer, press 1; if he needed technical help, press 2; if he was using a DOS product, press 1; if he was using a Macintosh product, press 2 ...

Finally he got a live operator. "Can I help you?" she asked.

The dyed-in-the-wool consumer advocate in Rosenfield jumped at the opening.

"First, you can help me and about 20 million other users by not having two dozen programs that we have to listen to before we get to you," Rosenfield stormed.

"Don't you agree?" he added sweetly.

Six years after his Proposition 103 turned the California insurance business upside-down, Rosenfield is as much a pro-consumer crusader as ever.

The mere mention of his name launches insurance industry executives into a tirade. Newly elected Insurance Commissioner Chuck Quackenbush has accused Rosenfield of "feeding at the trough" of Proposition 103 for personal gain. And some other consumer advocates quietly try to distance themselves from him, fearing his confrontational stance burns too many bridges with people in power.

But Rosenfield, 42, runs an impressive operation, able to generate a lot of information and publicity with only a small crew. He is dogging Quackenbush's every action to see whether it benefits consumers — and loudly denouncing each transgression he sees.

In an era when many liberals seem to be playing dead, Rosenfield is one who is still fighting like an attack dog — and if not winning, at least leaving teeth marks in his opponent's hide.

Quackenbush was "absolutely blindsided by the harshness and emotionalism of the attacks by Harvey," said Bill Sirola, a lobbyist for State Farm Insurance Cos. "I think he was totally caught off-guard."

"Harvey forced the commissioner to accelerate and publicize his relationships with other consumer groups to show he's

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Activist: Rosenfield started as intern for Ralph Nader

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not a prisoner of the industry," said Dan Dunmoyer, vice president of the Personal Insurance Federation of California, an industry coalition.

Rosenfield — who got his start in consumer politics as a \$600-a-summer student intern for Ralph Nader — moved to California in 1982 to bring Nader-style advocacy to the West Coast. When state lawmakers proved unwilling to do anything about skyrocketing auto-insurance rates, he and Nader decided to put Proposition 103 on the ballot.

Proposition 103 created an elected insurance commissioner with the power to approve or deny all kinds of insurance rate increases. It rolled back auto insurance rates and promised policyholders a rebate of "excessive" premiums they paid during the 1988-89 year. It also promised drivers that their rates would primarily be based on their driving records, not on factors outside their control like where they lived.

Since 1988, insurance companies have spent hundreds of millions of dollars arguing, lobbying and litigating to block many of the initiative's provisions.

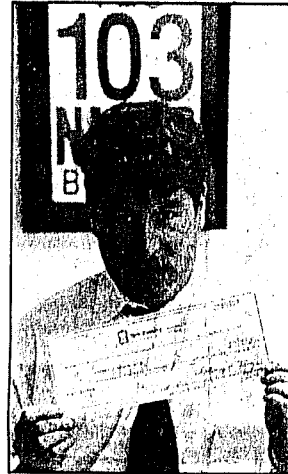
Rosenfield has been there every step of the way.

"Harvey's key is his stick-to-it-iveness," said Harry Snyder of Consumers Union, who differs with Rosenfield on the key issue of no-fault auto insurance. "He won't let things go. He passes 103, then he follows it, he sues to protect it, he testifies for it. He even makes the ultimate sacrifice for it — which, for him, is to go to Sacramento and lobby to protect it."

Rosenfield kept a relatively low public profile during the four-year tenure of Insurance Commissioner John Garamendi, who was considered generally pro-consumer by industry observers.

That changed with the election of Quackenbush, a Republican assemblyman whose \$3.4 million campaign chest included an estimated \$2.4 million from the insurance industry.

Rosenfield started launching media salvos at Quackenbush's every action — slamming his rebate settlement with 20th Century Insurance Co. as a "political payback" to the industry, and accusing the commissioner of costing California consumers some \$221 million in his first month in office.



Harvey Rosenfield, who graduated from Georgetown Law School, said he may eventually actually practice law.

Quackenbush in turn attacked Rosenfield — placing a hold on \$550,000 in legal fees he had been awarded for testimony in the main Proposition 103 lawsuit, and slamming Rosenfield as a "special interest" who had "gotten fat off the public trough."

If Quackenbush's counter-attack was meant to isolate Rosenfield, it backfired. Other consumer groups rallied against what they saw as a vengeful attack on their right to be compensated for testimony in rate cases. And the back-and-forth between Quackenbush and Rosenfield just drew more media attention to the new commissioner and his relations with the multibillion-dollar industry he is charged with regulating.

"We thought we would have a much easier time explaining (the 20th Century settlement) to the public. Certainly Harvey's objections clouded the issue," acknowledged Quackenbush spokesman Richard Wiebe.

In recent weeks, Quackenbush has made a visible effort to court the press. He has also played up his relations with other consumer groups, offering them help on issues like persuading insurance companies to invest in inner-city areas.

Quackenbush staffers and industry officials continue to deride Rosenfield as extremist, misinformed and anti-business.

"Harvey's a one-trick pony, a single-note band," said State Farm's Sirola. "His entire existence is based on the supposition that (high) rates are an insidious plot by 200 insurance companies."

They also accuse him of being a

tool of the trial lawyers' lobby because of his opposition to no-fault auto insurance. The leading current proposal for no-fault would offer a bare-bones policy for about \$200 but take away the right to sue in most auto-related accidents.

"You have to wonder why someone who claims to be a friend of consumers would argue so vehemently against a policy people could buy for \$200 a year," Wiebe said. "My cynical nature guesses it's because of his ties to the trial bar."

Rosenfield acknowledges getting some financial support from individual trial lawyers, although he says it's only about 10 percent of his organization's \$350,000 budget. He defends his opposition to no-fault as part of a deep belief he shares with his mentor Nader — that sometimes lawsuits are the only redress for people who have been harmed by big corporations.

And he connects no-fault to what he sees as a massive assault on consumer rights both in California and on the national level — what he angrily calls the Republican "Contract with Corporate America."

"First they want to get rid of government regulations that protect people from things like unsafe cars," Rosenfield said. "Then, once they're rid of the regulations, they want to get rid of people's last resort, which is going to court. . . . You start with auto insurance, and the next thing you're talking about is toxic pollution cases. It's a slippery slope. It doesn't take a rocket scientist to see — they're against anything that gives regular people a voice against corporate America."

In fact, while Rosenfield's main focus remains the enforcement of Proposition 103, he's broadened his scope in the past two years to include issues like medical malpractice and the right to sue.

Last week, in response to GOP efforts to limit punitive damages in civil suits, he launched a new campaign called "Casualty of the Day" — faxing out a new photo and story every day about a consumer who suffered terrible injury because of corporate wrongdoing.

Rosenfield and his five-person staff at the Proposition 103 Enforcement Project wield the fax as aggressively as medieval knights wielding lances. His critics say Rosenfield is too negative, always waving a stick but rarely offering carrots.

"The problem we have with Harvey is not that he points out mistakes the industry made, but that the idea of solving problems is not positive to him," said Dunmoyer of the Personal Insurance

Federation.

Rosenfield — who in person can be charming, even jolly — acknowledges he is not the kind of problem-solver that Dunmoyer and other Capitol insiders value.

"I congenitally can't compromise," he said. "To me, everything is either right or wrong, and if it's wrong it can't suddenly become right. . . . I don't believe in this 'win-win' thing. With the insurance companies, they want your money. And either they get your money or you keep your money. That's a zero-sum game. That's not 'win-win.'"

So for Rosenfield, the future is not likely to hold a cozy berth in Sacramento government. More likely, it will hold more frenzied faxing, more arcane legal work defending Proposition 103, more fiery broadsides at Quackenbush.

To the delight of his critics who accuse him of ties to the trial lawyers, it may also hold something else — the actual practice of law.

Rosenfield, who graduated from Georgetown Law School but went right to work for Nader, has never done any actual courtroom work. But the idea is increasingly alluring.

After years of public advocacy in the biggest state in the union, Rosenfield explained, "the idea of being able to go into a courtroom, and only have to convince 12 people of something, is an attractive prospect."

Is he worried that he would play into the hands of his critics by officially joining the dreaded trial bar?

Rosenfield shook his head with the same energy he brings to any challenge, from insurance industry lawsuits to computer company voice-mail systems.

"I can't wait to say, 'Yeah, so what? I'm taking cases for people who are being screwed by insurance companies who won't pay their claims!'" he said.