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State: New York

Former Spitzer Lieutenant to Take Interim Helm of NYSID: Top [07/03/09]

A former chief of operations in the New York Attorney General's office will become Acting New York Insurance Superintendent at 12:01 a.m. on the Fourth of July, Gov. David Paterson's office confirmed Thursday.

Kermitt J. Brooks, who now serves as first deputy of the New York State Insurance Department (NYSID), will step in to replace New York Insurance Superintendent Eric Dinallo, who is leaving to become a visiting professor at New York University.

Paterson spokeswoman Marissa Shorestein said Thursday that the governor has chosen Brooks to become acting superintendent. But she said no decision has been made about a permanent successor.

The move is in line with a succession plan on file at NYSID.

But Brooks is rumored to be in the final running as Paterson's permanent choice for the post. The other candidate is said to be James Wrynn, an attorney from the New York City area appointed to run the New York State Insurance Fund on April 22.

"Essentially, while the search is ongoing for a new superintendent, and, assuming one is not appointed, he will be acting superintendent," Shorestein said. "The succession plan calls for the first deputy to become acting superintendent."

Like Dinallo, Brooks is a veteran of former Gov. Eliot Spitzer's high-profile tenure as New York attorney general.

Spitzer gained national attention when he reached a \$1.64-billion settlement with American International Group (AIG) in February 2006 over allegations that the insurance giant cooked its books, underreported workers' compensation premiums and engaged in a national bid-rigging scheme with mega-broker Marsh & McLennan and others.

Marsh and other brokers and carriers reached a series of settlements with Spitzer over allegations that insurers and brokers conspired to fix prices through deals in which some carriers submitted inflated bids for policies to make sure that incumbent carriers retain them.

Spitzer and regulators in other states alleged the brokers were paid improper commissions to steer business to specific carriers.

Dinallo was a key part of the insurance probe. Brooks served for nearly eight years in Spitzer's office, first as chief of the Claims Bureau and then as deputy attorney general for operations.

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Brooks also previously served as counsel in the legal department of Metropolitan Life Insurance Co. and as an associate in the commercial litigation group of Nixon Peabody, one of the 100 largest law firms in the world.

Spitzer took over as governor in 2007 and picked Dinallo as insurance superintendent. Brooks followed in early 2007.

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He also served as Dinallo's cochairman last summer on a joint hearings panel created by Dinallo and Attorney General Andrew Cuomo to resolve issues left by the AIG/Marsh & McLennan probe.

The Spitzer allegations were based, in part, on "contingent commissions" paid to agents and brokers. The commissions are year-end payments from carriers based on the volume of business supplied by agents and the profits and losses from that business.

Liberty Mutual, another target of the Spitzer probe, won a ruling in New York appeals court last year declaring that the commissions aren't illegal without evidence of bid-rigging.

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The joint public hearings panel took testimony from stakeholders at three hearings held around the state on whether to outlaw the commissions or require their disclosure to customers.

NYSID has since issued a draft rule requiring mandatory disclosure of the commissions.

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But Brooks still is working with the Independent Insurance Agents and Brokers of New York (IIABNY) and other groups that have called for voluntary disclosure rules.

IIABNY broke the news of Brook's appointment on its website late Wednesday. Tim Dodge, IIABNY's director of research and external communications, said Thursday the move wasn't surprising.

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"We have a relationship with him. He cochaired the disclosure hearings last summer. He was very knowledgeable about the issue at the time," Dodge said. "People view him as a fair-minded and reasonable guy."

"It wouldn't be a shock if he was named the permanent replacement for Eric Dinallo," Dodge said.

Shorenstein said Paterson has no timetable for selecting a permanent replacement, which would have to be confirmed by the New York State Senate.

Yesterday's top stories:

The Senate remained in political disarray this week following a leadership split between Republicans and Democrats that began in June and has prevented votes on any key issues.

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By Michael Whiteley, Eastern Bureau Chief
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