



# The Insurance Receiver

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*Promoting Professionalism and Ethics in the Administration of Insurance Receiverships*

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## *A Few Words from the President:*

*Months have passed since our last issue, and I begin my comments for this fall newsletter with a sad note.*



Patrick Cantilo, Esq., CIR-ML

*Recently we have lost two dear friends.*

On May 27, 2011, Gary Hernandez passed away unexpectedly. Many of us first met Gary when he served in the California Insurance Department, leaving in 1997 as Deputy Commissioner and Chief of Enforcement to join what is now SNR Denton in which he led the firm's insurance regulatory practice. You will find more about Gary at page 9, but I want to convey here my own expression of sadness and sincere condolences to Teri and Gary's family and friends. In an age characterized by widespread derision for our profession, Gary stood tall among those who exemplified the honor and sophistication that still earns profound respect for at least some lawyers. A kind and gentle man, he leaves us a legacy of good humor, friendship for its own sake (not for what "value" it may bring), and practical observations born of a deep understanding of our industry.

On the day of his 65th birthday on July 28, 2011, recently-retired Virginia Insurance Commissioner Alfred W. Gross passed away after a very challenging illness. Before retiring last year, Commissioner Gross, among his many duties, chaired - for years - the NAIC's Financial Condition (E) Committee, parent of the Receivership and Insolvency Task Force. Among many accomplishments, he was key in shepherding IRMA to adoption. The mark of a good man is that he leaves the world a better place than he found it. Al exemplified this accomplishment in too many ways personally and professionally to attempt to inventory in these few words. All who knew him - casually or well - recognized at once that here was an extraordinary man whose exceptional insights and intelligence never dulled an abiding humility and kindness that made each of us strive to be better. His compassion, wit, encyclopedic knowledge and admirable patience enabled him to forge solutions to the most challenging problems in very diverse arenas with a grace that belied the difficulty of the trials he faced without complaint. Those of us fortunate enough to have known him invariably admired his understated grace as much as his exceptional intelligence. Described often as a scholar, linguist, philosopher, or professor, he was not just a great man, but an extraordinary friend. The void his passing leaves simply cannot be filled. Please see page 10 to read more about Al.

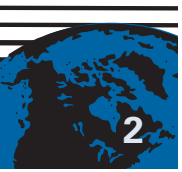
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# CANTILO & BENNETT, L.L.P.



... provide guidance and assurance in troubled times. For three decades, our lawyers have represented public officials in insurance insolvency and other matters.

**We are still here for you!**



## IAIR's President's Message (Continued)

Amazingly, 2011 is more than half behind us. Tempus fugit indeed! Had you fallen asleep in December only to wake this week, we at IAIR would have much to tell you. In January, we invaded the "Big Easy" with another exceptional Insolvency Workshop, justly dubbed "Peering into IAIR's Crystal Ball." We considered general industry forecasts as well as tax developments, the changing regulatory environment, emerging rehabilitation techniques, changes in the guaranty fund system, and a host of other issues. To our collective astonishment, New Orleans proved to be an entertaining venue —'nuff said. In June, we held our second Technical Development Series ("TDS") program in Las Vegas, this one focused on reinsurance. As was true of our first in this series last year, this program was of truly exceptional quality, with a very impressive group of presenters from industry and our community. In keeping with the nature of these programs, there was a robust opportunity for audience participation and interaction within the larger group. This time, we also compiled a very practical compendium of reinsurance materials, some from the program itself, others more in the nature of basic references. Those will soon be available for purchase in electronic form. For more information, visit our website at [www.iair.org](http://www.iair.org).

Also reminiscent of the first TDS program last year was the disappointment of light participation from among our membership at the June program. While some of us strive hard to provide quality resources to our members, including exceptional programs, this lack of support will eventually eliminate our zeal in doing so. I take this opportunity, therefore, to make an important point. Many of our members have lamented the declining number of opportunities for professional engagements, due in no small part to the scarcity of receiverships. IAIR leadership have been working hard to address this compelling interest of our membership by broadening the scope of our organization and implementing a number of initiatives to address two important goals: enhancing the skill level of our members to give them an advantage in the competition for existing work and providing robust networking opportunities that will facilitate finding new work. These efforts require a tremendous amount of uncompensated work from organizers and participants. It is demoralizing to see so few of our members avail themselves of these opportunities. As those who skip these programs lament how little work they are getting, I would say only that the Association is trying to help, but these efforts are underappreciated at these members' own peril.

Among other measures to continue enhancing the value of IAIR membership, one that particularly stands out is the revamping of our web site. Kudos, in particular, to Alan Gamse and Maria Sclafani who have worked tirelessly with our expert, Ron Famiano, to create a new site structure that is truly a "next generation" for our web site.

There are other measures in the works as well. Early in their development, some are focused on enhancing national recognition of our exceptional credentialing process as the regulation of the industry becomes more centralized and the Dodd Frank Wall Street Reform and Consumer Protection Act (DFA) may require that commissioners engage qualified receivers and turnaround specialists on short notice. Suffice it to note, in this regard, that states will find themselves in need of a standing list of qualified receivers and that IAIR is logically devoting itself to the mission of having its credentials become an integral part of this process. Of course, this highlights once again the value of undergoing the credentialing process. Further, we are in the process of developing a program for recognition of greater achievements in our field, including recognition for participation in the Insolvency Workshops, TDS, and other higher-level programs. In short, IAIR is at long last well on its way to becoming the nationally-recognized credentialing organization for insurance receivers.

As I bring these comments to a close, I note that the future of IAIR must recognize the very significant changes that are taking place in the regulatory and industry communities we serve. The leadership of the Association recognizes the implications of these changes and strives to enhance the relevance of our organization, both in the debate surrounding the new environment and as the preeminent resource for the indispensable talent that will have to usher in the new order. I encourage each of you to become an active participant in these endeavors. My final word here is to tip my hat to all those who have done so much this last year to help IAIR turn the corner. When we look up in another year or two and are amazed at how far we have come in such a short time, let it be remembered that it was not magic that got us there; it was the unrelenting and selfless efforts of the small cadre of members who have tirelessly pulled us to this new plateau. I need not name names; we all know who you are. Thank you.

*Patrick*



## Board Talk: Richard Darling, CIR-ML

By Francesca Bliss and Michelle Avery, CPA

*Having previously served on the IAIR board for nine years, and twice as its President, Dick Darling is no stranger to the position.*

He has been an active member of the organization since 1992 and recently returned to the board for another three years after a bit of a hiatus. Dick originally joined the organization because he “thought it was a good opportunity at the time based on the mission of IAIR” and in his view “there were a lot of



Richard Darling, CIR-ML

people involved in receiverships that needed help.” Dick realized that the organization provided a way to share that expertise with one another and wanted to be part of that process. Dick is currently a member of the Guaranty Liaison as well as the Accreditation and Ethics

committees, however, he is quick to point out that over the course of his almost twenty years of membership in IAIR, he has been involved in all facets of the organization at some point in time.

During his term, Dick believes the organization needs to focus on providing meaningful reasons for members to belong and continue to grow its membership base. He believes this can be done through generating widespread acceptance of IAIR's AIR and CIR designations, as well as focusing on recapturing its roots as a receivership organization.

Dick has been self-employed since 2003, specializing in receivership administration and supervisions exclusively for regulatory agencies, with the occasional private clients. Dick administers all facets of receiverships and supervisions from a CEO perspective, from takeover to closing. He also assists guaranty funds/associations where needed but will not oppose regulatory agencies.

Early on in his career, Dick was on the inside of the insurance industry, as a personal lines underwriting manager. Unfortunately, in 1981, his company was liquidated along with Security Casualty Company, because of inadequate reinsurance reserves. While his resume was out on the street, the then Special Deputy Receiver in

Illinois asked him to stay on. As a group, they started CRL (Conservations, Rehabilitations, Liquidations), which, in 1983, morphed into the Office of the Special Deputy (OSD) as it's known today. Dick was with the OSD in Chicago for over twenty years in various capacities, including as the Chief Operating Officer. Throughout that experience, he gained perspective regarding receivership management; running well over 120 estates for that office, utilizing a staff of up to 250, and an average operating budget of \$40 million. There was a period of time during which the OSD took on a new estate every 90 days on average.

In total, Dick has handled 147 receiverships and supervisions (gasp) over the years as either the Special Deputy Receiver or Chief Operating Officer. Very impressive. Dick views becoming one of the most experienced insurance receivers in the United States as his biggest accomplishment along with sharing his experience through mentoring others in the field, including attorneys and practitioners.

An Illinois native, Dick currently lives in St. Charles, a western suburb of Chicago, with his wife Kathleen and their two children, Karen aged 19, a junior at DePaul University, and Mikell aged 15, a freshman at St. Charles North High School.

**Q. What is the last fictional book you read that you would recommend to others?**

Dick prefers non-fiction and to give you some idea of just how seldom he reads fiction, the last good book he read was *The Godfather*, which he got through in one sitting. And how many years ago was that you ask? 1983.

**Q. If you could have dinner with any three people in the world, dead or alive, fictional or non-fictional, who would you choose? Why?**

Dick would certainly be in for some

## Board Talk (Continued)

interesting dinner conversation and I'm sure could learn a lot from his selected companions which include Bill Gates, Warren Buffett and Eliot Ness. Dick is interested in hearing how Bill Gates is able to live so successfully in the spotlight. Given the industry, Dick naturally chose Warren Buffett to provide some personal perspectives on the insurance industry. And, as a bit of an outlier, Eliot Ness, because Dick is a student of Chicago mob history. Dick's father worked with many interesting characters from that era of the 1920's - 30's and, although not mob related, was known as the "duke" when he was a young man.

### Q. What is your favorite sport? Team?

Dick stays loyal to his Chicago roots as a Cubs fan, despite their lack of success and, although he seldom gets there, thinks Wrigley Field is a great place to watch baseball. In addition, he used to be a Bears fan because his father knew Football Hall of Famer, George Halas. Dick was a loyal fan and went to every Home game from 1951 - 1986. He laments, however, that after they won the Super Bowl, management destroyed a team that could have won three or four Super Bowls - and then the NFL strike happened - and he hasn't watched or been to a game since.

### Q. What is your favorite leisure activity?

Dick has an acre of land and loves spending time gardening. However, given his travel schedule, it's hard to find the time to keep up with it; but when he is home, it keeps him quite busy.

### Q. Where is the last place you vacationed?

Dick hasn't taken a vacation since he went to Italy's beautiful Amalfi Coast in 1991. Dick, you must stop working so hard - your garden needs to be weeded and you need a break!

### Q. What is your favorite NAIC/IAIR conference location?

Kansas City, of course - from a true NAIC purest - because it is convenient and inexpensive; and, San Antonio as a close second, because of the number of hotels within walking distance, and the wonderful restaurants on the River Walk.

### Q. Give us one piece of information that most people don't know about you?

Dick was the Illinois junior skeet shooting champion (under age 18), and had dreams of doing that in the Olympics, but it turned out to be way too expensive to pursue. Dick was also on the state championship diving team in high school.

To find out more about the details of Dick's professional history, visit his web site at <http://insurancereceiver.com>. Thank you, Dick, for taking time to discuss your background and involvement with IAIR.



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*Michelle Avery, CPA is an Executive Vice President and Managing Director at Veris Consulting, Inc. within the firm's forensic accounting practice. Michelle has extensive experience assisting clients in causation and damage assessments related to failed property/casualty and life and health insurance companies. Michelle is a Board member of IAIR and a member of the AICPA's NAIC/AICPA Working Group Task Force. Michelle can be reached at [mavery@verisconsulting.com](mailto:mavery@verisconsulting.com).*

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*Francesca Bliss has recently retired from years of dedicated service to the New York Liquidation Bureau where she worked on countless estates, most notably Frontier Insurance Company. She now spends time sailing with her husband and dog and remains active in the insurance industry through her new venture with Holly Bakke, Strategic Initiatives Management Group, and her continued involvement with IAIR and NAIC.*



## The Perfect Receiver

By Patrick Cantilo, Esq., CIR-ML

In this space I have presumptuously offered my views on how one might improve one's performance as a receiver. Today I turn to why one might want to do so. Obvious answers abound, of course, but I will focus on only one point: it will make you rich and famous.

As little children in Bayonne, NJ, and Willimantic, CT, respectively, one day long ago, Barney Frank and Chris Dodd, though separated by four years of age and 122 miles as the crow flies, had the same apparition and were left with the same vision. Interrupting their normal daily activities (kick the garbage can for one, sandlot water polo for the other), a wondrous genie in a three-piece suit materialized before each and told him: "Someday you will change completely how receivers are chosen for large insurers." With that, the genie gave each a large three-scoop ice cream cone and an inflatable campaign manager and disappeared, never to be seen again. Many years later, cleverly concealing it in a Wall Street reform and consumer protection bill, Barney and Chris gave form to their dream. Buried in Section 203 is a formula for what amounts to federal appointment of a receiver for an insurer named Sifi.<sup>1</sup> At a minimum, this clever creation will require that state insurance commissioners be ready at a moment's notice to appoint a receiver for Sifi. In this environment, don't you want to be on the FDIC's and the commissioners' short lists for such appointments?

Undoubtedly, at least two major considerations are likely to influence the selection of Sifi's receiver: politics and credentials. As to the first, I

have only one recommendation: if it matters to you, write big checks to the right people. Here are two things I cannot tell you (because I haven't the slightest idea): how big a check and to whom. As to the second, however, I can certainly throw in my two bits (try to stop me!). Credentials will be important for many reasons I need not spell out here.

So, "what credentials and where do I get them?" you ask. In a nutshell, you want to appear to be the most qualified for the job. That means a combination of having done a lot of relevant neat stuff before and having a lot of nice certificates interspersed with the Van Halen and Whitesnake posters on your wall. Here's where we can help. We make lots of neat certificates and are planning to add more to our selection. If my efforts and those of my brethren and sistren bear the desired fruit, the single most important indicia of achievement and qualification as an insurance receiver will be IAIR accreditation. Already we have a well-developed, robust, and seasoned program for achieving designation as a certified or accredited receiver in life or property and casualty receiverships (or both). We are also in the process of developing an enhancement to our accreditation system that will recognize completion of advanced training, such as our new Technical Development Series programs. Details will be made available soon. Bottom line: take advantage of IAIR's credentialing resources. Well played, they will make you rich and famous.



<sup>1</sup> Systemically Important Financial Institution.

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*To submit an article, please contact Maria Sclafani at [mcs@iair.org](mailto:mcs@iair.org) or Michelle Avery at [mavery@vericonsulting.com](mailto:mavery@vericonsulting.com).*

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## Board Update

By Patrick Cantilo, Esq., CIR-ML

*“Nothing to report sir!” Every sentry wants to conclude his or her watch with those words and in some respects I am now in that enviable position.*

Having spent a lot of time devising and implementing measures for the improvement of our Association, it's good to see some of the results taking form. Our Board has been hard at work but doing so quietly. The results, however, are tangible. Our web site is much improved, although it will improve even more in the weeks to come. Our Insolvency Workshop in New Orleans was another great success, and we were able to take advantage of that wonderful city without major casualties (“All present and accounted for, sir!”). The meeting in Austin was also rewardingly successful, and (being my home city) I was particularly pleased that many were able for the first time to get to know “The Live Music Capital of the World.” Indeed, my firm, Cantilo & Bennett, even provided live music for the NAIC Dance, in the form of The Eggmen, voted Austin's best cover band the last several years. And we held our second Technical Development Series program, this one focused on reinsurance, to great acclaim. I am pleased that this new series seems to be well on its way to being another regular offering of the Association for our members' benefit. As we approach the November NAIC meeting, we anticipate another great Issues Forum to follow the very high quality program we had in Austin.

But all this is not to say that we are without challenges. Based perhaps on the mistaken impression that the decrease in the number of traditional receiverships has lessened the relevance of our Association, our membership numbers are lower than we would like them to be. But recent and imminent developments in our corner of the world will soon make IAIR membership and accreditation particularly

important, and tangible advantages will inure to the benefit of those who have remained active and supportive members throughout. No doubt, due in part to the diminished condition of the global economy, financial support for IAIR has also declined somewhat. The Board continues to strive to engender sponsorships and to make them more valuable. Your help in these two endeavors, more members and more sponsors, will always make a difference and be sincerely appreciated.

In addition, IAIR continues to be an organization with a small number of whose members do the vast majority of the work for the benefit of the entire membership. We would love to see more members joining and becoming active in our various committees and subcommittees. The strength and importance of IAIR will always be the product of the collective efforts of its members. We have an unusual opportunity to master our changing world and lead rather than follow the trek into receiverships 2.0. How well we capitalize on this opportunity will guide in large part how well many of us do individually as the new normal takes hold.

All in all, 2011 is proving to be a promising year for IAIR. The Board sees many exciting opportunities but continues to face the challenges produced by recent events. Like many of my girlfriends, we know exactly where we want to spend a lot of money. All we are missing is a lot of money. But we are on a good path, and all we really need is a little more push from our members to gather the speed necessary to approach escape velocity. Would you roll up your sleeves and contribute to that push?



## View from Washington

By Charlie Richardson, Esq.

*We have written a lot over the past two years about the fallout from the Great Recession, including passage by Congress and the signing by President Obama in July of 2010 of the 2300-page Dodd-Frank Act.*

We have federal agencies going wild with implementation and execution of Dodd-Frank; we have a new Federal Insurance Office and a new Director who took office in June; and, we have initiatives at the federal and the state level to make sure that the receivership and guaranty systems can continue to do their jobs for insurance consumers regardless of the size and complexity of the task in this new world order.

As you think about all this, here are the basics about Dodd-Frank. A 15-person Financial Stability Oversight Council ("FSOC"), with three insurance seats and chaired by the Treasury Secretary, will identify large, interconnected financial companies that are systemically significant. (This may well include insurance companies and insurance holding companies, although most observers contend that few – if any – insurers are systemically significant.) Once identified, these large financial companies will be subject to stringent regulation by the Federal Reserve Board. Looks like a new "too big to fail" list, and most insurance companies hope they will escape that designation because of the impact on the capital they will be required to hold.

Title II of the legislation creates a new resolution mechanism for liquidating systemically significant financial companies whose failure could destabilize the economy. While the FDIC will be appointed receiver of and liquidate most types of financial companies, insolvent insurers (including any that are systemically significant) will remain subject to state receivership and guaranty association processes.

The legislation also establishes a Federal Insurance Office ("FIO") in the Department of the Treasury with limited authority over all lines of insurance other than health. It will give a new federal focus to all things insurance. Among other responsibilities, the FIO will monitor the insurance industry for regulatory gaps that

could lead to systemic risk. Illinois Insurance Director, Mike McRaith, is the new Federal Insurance Director taking office June 13. He will sit on FSOC, but be non-voting like Missouri Director John Huff, appointed to FSOC for a two-year term by the NAIC. Director McRaith will eventually have a 15-person advisory committee helping him, half of whose members will be state regulators. The President appointed in June, and the Senate now must confirm, the voting insurance member of FSOC - Roy Woodall, whom many of you know well, to a six-year term.

The action in the financial services arena, including the insurance sector, in all those areas is hot and heavy at both the federal and state levels. Insurance companies will continue to be resolved as they are now, even systemically significant ones, assuming state regulators act timely and don't trigger the FDIC's backup authority. The state guaranty systems will also remain as they are but have to fit within the new framework.

All in all, insurance receivers and the guaranty associations fare awfully well under the new law, at least for now. Cheese to our macaroni.

To meet the responsibilities placed on the state receivership and guaranty systems, the NAIC has initiatives well underway. The new Dodd-Frank Receivership Implementation Working Group and Receivership Financial Analysis Working Group are at the center of the NAIC's Dodd-Frank readiness.

Those new initiatives of the NAIC in implementing Dodd-Frank and in monitoring nationally significant insolvencies are vitally important. All of us are obviously very interested in what is done by the NAIC to deal with situations in the receivership sphere that can give state procedures a black eye in this political, legal, PR and economic environment.





## View from Washington (continued)

Finally, we should not lose sight of the studies that the FIO will be undertaking soon. Dodd-Frank calls for FIO to complete and deliver to Congress, by January 2012, a major study of U.S. insurance regulation that could provide impetus for future legislation. In particular, FIO is required to report on, among other things, the feasibility of regulating only some lines of insurance at the federal level, the ability of the federal government to provide robust consumer protections (probably including discussion of a potential federal safety net), and the consequences of subjecting insurance companies to federal resolution, including safety net consequences. What data points will FIO consider in reaching its conclusions?

Like it or not, the federal government's new inflatable platform in insurance can land on top of and sink the state-based receivership and guaranty systems if we aren't prepared, armed and ready to protect consumers. We have to be careful. We have to be good. Really careful and really good. We're up to the task!



*Charlie Richardson is a Partner at the law firm Baker & Daniels in Washington, D.C. where he chairs the insurance and financial services practice group. Charlie assists insurance companies and others with all types of corporate, federal legislative, regulatory, public policy and compliance matters. He practices in the area of insurance company rehabilitations and liquidations.*

## IN MEMORIAM: GARY HERNANDEZ



Gary Hernandez, nationally recognized insurance regulatory lawyer and community servant, passed away unexpectedly on May 27, 2011 at the age of 52.

Gary Anthony Hernandez was born February 15th, 1959 in Merced, California to Rosendo and Margaret Hernandez,

who predeceased him.

While growing up in Merced, he attended Merced High School where he participated on the varsity wrestling team and served as president of the school's Key Club. In his senior year, he was elected Governor of the Key Club California, Nevada and Hawaii District.

Gary earned a scholarship to the University of California, Berkeley where he was a member of the varsity wrestling team and Sigma Chi Fraternity.

After receiving his BS degree in 1981, he attended law school at University of California Davis, serving as the student speaker at his commencement. He took that opportunity to point out to the administration and gathered dignitaries that he was only one of four minority students in the class of 1984.

In 1990, Gary joined the California Department of Insurance, where he served as Deputy Commissioner for Enforcement, before going into private practice at Long & Levit. In 1997, he joined the law

firm of SNR Denton (formerly Sonnenschein) becoming the founding chairman of the Firm's Insurance Regulatory practice. The global growth of the practice and depth of the team's talent is a testament to the vision Gary began implementing 15 years ago. A prolific writer and speaker active in virtually every professional setting and organization relevant to the insurance community, he never missed an opportunity to support and mentor his colleagues and friends.

Gary's commitment to the community was among his highest priorities. Named one of the Most Influential Hispanics of the United States, he served on the board of directors of the California Coastal Conservancy and as a founding trustee of the University of California, Merced Foundation. Additionally, he served as a long time board member of both the Latino Community Foundation and San Francisco Legal Aid Society. His many civic honors included being named California Attorney of the Year in 2004 and one of the 50 most influential minority lawyers in America.

Gary is survived by his wife Teri, with whom he spent 23 extraordinary years, his sister Barbara Hammond and his nephew, Noah.

His leadership, mentoring, warmth, passion and generous spirit will be remembered by all with whom he shared his time. May he rest in peace, secure in the knowledge that he will be deeply missed by his family and friends.

Donations can be made in Gary's name to California Rural Legal Assistance, Inc. ([www.crla.org](http://www.crla.org)) or a charity of your choice.



SPECIAL EDITION

SPECIAL EDITION

# Tyler Times

An information resource for SCC employees

August 3, 2011

## SCC pays tribute to former Insurance Commissioner Al Gross

*When someone you love becomes a memory, the memory becomes a treasure.*

**Alfred W. "Al" Gross** was a treasure for many in the Bureau of Insurance (BOI) and the insurance industry long before his untimely passing on July 28, 2011, at the age of 65. He had just retired from his post as Virginia Commissioner of Insurance seven months earlier, a position he held for 14 years.

Al was beloved and highly regarded by friends and business colleagues alike. Expressions of sympathy began pouring into BOI immediately as news of his death spread, and dozens of flowery condolences populate an online guest book for Al. His BOI colleagues, insurance regulators, and members of the insurance industry throughout the nation and world have praised Al's character and his many years of leadership in insurance regulation. Dedicated, conscientious, highly intelligent, honest, fair, wise, patient, kind, compassionate, and respectful are just a few of the adjectives used to describe Al.

"Al epitomized service to the public," said State Corporation Commission (SCC) Chairman **Judith Williams Jagdmann**. "He served this Commission and the citizens of Virginia with distinction, sincerity



**Alfred W. Gross**

and integrity for many years. The Virginians who were benefitted personally by his leadership and commitment are countless," she said.

The National Association of Insurance Commissioners (NAIC), with which Al played an instrumental role throughout the years, was quick to issue a statement expressing its condolences and acknowledging his many contributions. The Virginia House of Delegates and Senate approved resolutions honoring Al for his dedicated

service to Virginians and adjourned on July 29, 2011, in his memory. In their resolutions, Virginia legislators noted Al's keen intellect, his ability to build relationships, and his expertise on financial issues. "An admired and conscientious public servant, Alfred Gross served the residents of the Commonwealth with unflagging devotion, the same devotion and thoughtfulness that was evidenced in all aspects of his life."

To BOI employees, Al was like family. To his associates outside of BOI, Al was much more than just a regulator. He was a friend, mentor, unassuming leader, and an example for others to follow.

"Words cannot express how saddened we all are at the SCC/BOI for the loss of our dear friend and leader, Al. He will long be remembered for his leadership and his outstanding expertise in all aspects of insurance regulation and oversight," said Virginia Insurance Commissioner **Jacqueline K. "Jackie" Cunningham**, who took the helm from Al effective January 1, 2011. "Al's insight was sought at the national and international level, and he was recognized as a true expert, especially in finan-

## Gross

cial regulation issues. But although he loved his work and valued his many professional relationships, his heart was always at home with his beautiful family, who he adored and spoke of frequently with great affection.”

Texas Attorney Patrick Cantilo, who worked closely with Al and other BOI staff on several insurance company receiverships, summed Al up thus: “The mark of a good man is that he leaves the world a better place than he found it. Al exemplified this accomplishment . . . All who knew him casually or well recognized at once that here was an extraordinary man whose exceptional insights and intelligence never dulled an abiding humility and kindness that made each of us strive to be better than we could be.”

Insurance regulation was not Al’s first career path. The Chicago native graduated from Loyola University of Chicago and earned a master’s and doctorate in German literature and philosophy from the University of Kansas and an MBA from the University of Richmond. He was a professor of German at Kalamazoo College in Michigan and Virginia Commonwealth University before joining the Bureau of Insurance in 1981, where he served as an insurance examiner and, later, deputy

commissioner of the Financial Regulation Division before being appointed commissioner of Insurance in 1996.

Many SCC veterans will recall the anxious moments waiting for word about Al and three of his BOI staff members following the September 11 attacks on the World Trade Center in New York almost 10 years ago. They were approaching the Twin Towers just as the first terrorist-hijacked plane struck. Fortunately, Al and his colleagues returned home safely, but little was said later about that horrific day.

One of the longest-serving insurance commissioners in the country, Al was honored last year by the NAIC, which presented him with its President’s Award for Distinguished NAIC Member Leadership. The award honors an NAIC member who has shown exemplary leadership; served a sustained length of service; and has significantly contributed to advancing the mission of the NAIC. Al chaired or served as a member of numerous NAIC committees and was instrumental in not only state-based, but international insurance regulation.

**Doug Stolte**, deputy insurance commissioner for the Financial Regulation Division, worked closely with Al for 27 years. He recalls Al’s compassion and his ability to maintain an even keel, even in the most challenging circumstances. “He would always remind

us that the reason we regulated the insurance industry was for the benefit of the policyholder. Al never lost that focus and was a true champion for all policyholders,” he said.

As special assistant to the insurance commissioner, **Van Tompkins** worked closely with Al for many years. She described him as an unassuming man. “When he was packing up to leave his workplace of 29 years, we all knew that he did not want a party. He wanted to leave quietly without fanfare, and it demonstrates the depth of his feeling for his bureau family. He loved working here with all of us,” she said. “We have received calls and messages from all over the U.S. from those with whom he has worked over the years. All of them speak of his intelligence and his work ethic, of course, but most also cite the fact that he was kind, reasonable, and fair . . . For those of us who were lucky enough to work closely with him every day, we know that it was a privilege to have been his friend,” she said.

A Mass of Christian funeral was held for Al at St. Edward’s Church in Richmond on August 2. He is survived by his wife, Kathleen; two daughters, Genevieve Kehoe and Kaitlin Gross; a son, Brian Gross; a brother, Donald Gross; and three grandchildren.



Al Gross in his office in BOI, shortly before his retirement in December.



## Introducing IAIR's Newest Members



### **Kelly Cruz-Brown**

Kelly Cruz-Brown is a shareholder at Carlton Fields, P.A.'s Tallahassee office. She is experienced in insurance regulatory matters. She has represented insurers, reinsurers, and third parties in receivership and liquidation matters including challenges to receivership orders, receiver investigations, assessments, portfolio transfers, acquisitions, and suits by receivers to recover assets. In her free time, Kelly enjoys jewelry making and reading. She is also a certified Zumba fitness instructor and teaches classes at a local community center in Tallahassee.



### **John Doak**

John Doak was sworn in as the 12th Insurance Commissioner of Oklahoma on Jan. 10, 2011, taking the next step in a distinguished career deeply grounded in providing insurance options and coverage to Oklahomans. After graduating from the University of Oklahoma, John established his own branch for the Farmer's Insurance Agency in Tulsa, and over the next six years would receive numerous awards and commendations from Farmer's for his office's success. John left Farmer's Insurance to work in the executive level of the insurance industry at firms such as Marsh, Aon Risk Services, HNI Risk Services, and finally at Ascension Insurance, where he served as senior vice president of acquisitions.

John is a former board member for the Tulsa Ronald McDonald House, the Tulsa Opera, and Dillon International Adoption Agency. He also has served as a member of the Oklahoma Governor's Round Table for Business Development. John and his wife, Debby, live in Tulsa with their children, Zack and Kasey.



### **Steve Goate**

Steve Goate is the Head of R and Q Broker Services, which incorporates Reinsurance Solutions Limited (RSL). RSL provides insurers, reinsurers and regulators with a wide range of tailored administrative, consulting and technology solutions. Steve has over 30 years experience in

the London and international markets and is a member of the Association of Run-off Companies (ARC) and a member of the International Association of Claim Professionals (ICAP). He is also Deputy Chairman of the Association of Insurance and Reinsurance Service (AirSP).



### **Dennis J. Hayes**

Dennis J. Hayes, effective July 1, 2011, has been appointed as the Chief Executive Deputy Director of the New York State Insurance Fund. Prior to this summer, Mr. Hayes was Special Deputy Superintendent of the New York Liquidation Bureau (NYLB), having been appointed in August 2009. He oversaw the administration of 32 estates in liquidation and six companies in rehabilitation. A graduate of St. John's University School of Law, Mr. Hayes has been with the Bureau since 1996. He was in private practice prior to that where he specialized in insurance, reinsurance and regulatory matters.



### **Frederick G. Heese**

Fred Heese has been the Chief Financial Examiner and Director for the Division of Insurance Company Regulation of the Missouri Department of Insurance, Finance and Professional Registration since May 2007. Fred has been with the Department overseeing financial analysis and examinations for over twenty five years. Fred is a CPA and a Certified Financial Examiner. Fred has been active in the NAIC and has served on various Task Forces and Working Groups for many years. He is also an active member of the AICPA and the Society of Financial Examiners and currently serves on the SOFE's Board of Governors. Most recently, Fred has lead the Department's efforts to implement the "Risk Focused" financial examination approach in an effort to better concentrate resources on priority areas. As Division Director, Fred also oversees Taxation, Admissions and Captives. Fred has also overseen many receiverships over the years for the Missouri Department and has had considerable experience dealing with troubled companies.

## Introducing IAIR's Newest Members (Continued)



### Lori Jones

Lori Jones has been a partner in the DC law firm of Scribner, Hall & Thompson, LLP since 1997 and with the firm since 1992. ScribnerHall represents both life and property/casualty insurance companies on federal income tax issues. Her practice includes advising various state insurance departments regarding tax issues facing insurance companies in rehabilitation or liquidation proceedings. Prior to joining the firm, Lori was an attorney in the Office of Chief Counsel at the IRS, where she specialized in the federal income tax issues arising in financially-troubled companies in general.

Her interests outside of the office include hiking and cross-country skiing.



### Andrew Klivan

Andrew Klivan is President and Principal of NRC LLC, an insurance accounting and consultancy with offices in New York, Paris, Stockholm and Sarasota, FL. His company designs, directs and coordinates insurance and reinsurance audits, develops and implements commutation strategies and manages risk portfolios. He has testified as both a fact and expert witness on numerous occasions. He has served on the NAIC Advisory Committee on Reinsurance and assisted in the preparation of the section of the NAIC Rehabilitators & Liquidators Handbook related to reinsurance, auditing and recoveries.



### Wanda LaPrath

Wanda LaPrath is a Sr. Manager of Regulatory Insurance Services at Dixon Hughes, located in their West Virginia location. She has experience in administration of exam operations and staffing, as well as performing the planning, supervision, review and report writing for financial and market conduct exams for HMOs, life insurance, property & casualty and title insurance companies. When she is home, Wanda splits her time between Arizona and New Mexico. She enjoys her grandsons and reading. Wanda is an avid hockey fan and tries to go to games every chance she gets.



### Jacob Miller

Jacob Miller, of counsel with Querrey & Harrow, Ltd., concentrates his practice in general litigation, governmental liability, and governmental relations. Mr. Miller previously served as counsel to the Speaker of the Illinois House of Representatives and worked with the State of Illinois Capital Development Board and the Office of the Governor of Illinois. Through his work with governmental entities, Mr. Miller has developed incisive negotiation skills and a thorough understanding of legislative process.



### Andromeda Monroe

Andromeda Monroe is an Associate at the law firm of Colodny, Fass, Talenfeld, Karlinsky & Abate, where she practices insurance regulatory law. Ms. Monroe's experience with troubled companies includes, as a former regulator and later as in-house counsel, negotiating with receivers and providing legal advice in regard to insolvent cedents and reinsurers, voluntary supervision, run-off of reinsurance blocks and the acquisition of unprofitable business from insurers. Her current practice includes advising insurers on financial compliance and solvency requirements. In her spare time, Ms. Monroe volunteers with the Humane Society of Broward County and, through the Alpha Kappa Alpha Sorority and other groups, participates in community projects related to social justice for and human rights of children.



### John Morris

John is a consulting actuary in the Philadelphia office of PricewaterhouseCoopers. John has over 30 years of actuarial experience more than 20 of which have been with PwC. He is involved in many areas of the life insurance and annuity consulting practice with a primary focus on statutory and US GAAP financial reporting issues. John also has extensive experience in insurance company rehabilitations, demutualizations, reinsurance transactions and mergers & acquisitions. John's rehabilitation experience includes working for



## Introducing IAIR's Newest Members (Continued)

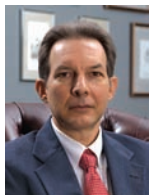
various state insurance departments assisting in the rehabilitation of life insurance companies including Executive Life, Fidelity Bankers Life, Mutual Benefit Life, Confederation Life and projects with NOLHGA. John is a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. He is an active member of the Academy's Committee on Qualifications and Life Valuation Subcommittee.



### **Michele Oshman**

Michele Oshman, a shareholder at Querrey & Harrow, Ltd., concentrates her practice in insurance coverage, reinsurance, and complex defense litigation.

Ms. Oshman represents the Illinois Office of the Special Deputy Receiver in relation to resolution of claims against distressed insurers and negotiating and litigation with the reinsurers of the distressed companies. She is a member of the Armadillo Club and volunteers at the Mission of Our Lady of the Angels in Chicago.



### **Pierre J. Riou**

Pierre J. Riou is a partner with the law firm of CANTILO & BENNETT, LLP in Austin, TX. He has handled a wide range of insurance receivership legal matters, from the initiation of receivership to

liquidation or rehabilitation, including in his capacity as counsel in administrative, regulatory, corporate and litigation matters to the Deputy Receiver of a multi-state hospital liability insurance reciprocal and to the Deputy Receiver of a multi-state life insurance company. His first career was as a deck officer on U.S.-flag merchant vessels, and he follows with interest the developments in the countries whose ports he visited, including recent events in Somalia, Egypt and Côte d'Ivoire. His other personal interests include nutrition, exercise, the outdoors, gardening, reading and cooking.



### **Joel Sander**

Joel Sander is the Assistant Commissioner of Finance with the Oklahoma Insurance Department. Prior to joining the Oklahoma Insurance Department, Joel was the Finance Officer for the Tulsa

County Clerk's Office and holds several designations. In addition, he is an Adjunct Professor in Governmental Accounting and Accounting Information Systems. Joel is involved in various community services organizations and enjoys professional and collegiate sports.



### **Laura Lyon Slaymaker**

Laura Lyon Slaymaker is Project Director at the Pennsylvania Insurance Department, Office of Liquidations, Rehabilitations and Special Funds. In that capacity, she manages a wide variety of

administrative and substantive projects, coordinating comprehensive status reports on all Pennsylvania companies in liquidation, reviewing and analyzing proposed agreements and liquidation and rehabilitation plans. She has also served as Trial Attorney for the Office of the United States Trustee, representing the Federal Government's interest in bankruptcy cases by reviewing bankruptcy petitions and appearing in Federal Court in Chapter 7 and 11 cases, preventing fraud and abuse, and analyzing data submitted by debtors. Prior to that, Laura was a shareholder in the law firm of Blakinger, Byler and Thomas, specializing in bankruptcy law for 12 years. Residing in Lancaster, Pennsylvania, Laura is an advocate of historic and farmland preservation.



### **Terry Smith**

Terry Smith has been in public accounting since 1979. He is a graduate of The University of Tulsa with a Bachelor of Science in Accounting. His experience includes national and small public

accounting firms and crosses a wide variety of industries. Terry is also a licensed Health and Life agent, Certified Financial Planner and an

## Introducing IAIR's Newest Members (Continued)

Associate Member of the Association of Certified Fraud Examiners. In addition, Terry is a co-founder of Redbud Physical Therapy.



### Michael Stillman

Michael Stillman is the Managing Shareholder of Querrey & Harrow, Ltd., a 72-year-old law firm headquartered in Chicago. He works with troubled companies through the Illinois Office of the Special Deputy Receiver. Mr. Stillman also handles litigation matters and serves as an arbitrator under the Illinois Supreme Court Mandatory Arbitration Program. Mr. Stillman devotes a significant amount of time to his community, currently serving on the Board of Directors of Brother Rice High School, as a township trustee, and on the board of a local hospital. He also previously served as President of the board of education for another local high school.

### Richard Veed

Richard Veed has over thirty years of experience exclusively focused on the insurance industry. He is the President of Realtime Services, which was formed in 2003 to provide operations, marketing and technology support to the insurance industry. Prior to founding Realtime, Richard founded, financed and managed numerous ventures in the insurance industry. These ventures have introduced the following to the insurance industry: the most advanced technology for real time insurance new business processing and underwriting, a comprehensive online underwriting data resource, electronic signature methodology, and an innovative insurance direct response marketing company. Richard's wife, Mary, is also a member of IAIR and their three children are pretty much out of the house. Richard was born and raised in Nebraska and is a huge Husker fan. He also enjoys baseball and roots for both the White Sox and Yankees. When not at work in Chicago, the Veeds enjoy relaxing at their lake cottage on Whitewater Lake in Wisconsin.



The Insurance Receiver is intended to provide readers with information on and provide a forum for opinions and discussions of insurance insolvency topics. The views expressed by the authors in the Insurance Receiver are their own and not necessarily those of the IAIR Board, Newsletter Committee or IAIR's Executive Director. No article or other feature should be considered as legal advice.

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# International Association of Insurance Receivers

*Promoting Professionalism and Ethics  
in the Administration of Insurance Receiverships*

# IAIR 2012 INSOLVENCY WORKSHOP

## The Nuances and Perceptions Between Receivers and the Guaranty Systems.

*Do you know what you don't know?*

RESERVE  
EARLY TO  
GUARANTEE  
YOUR  
RESERVATION  
AT THE  
GROUP RATE!

January 18 – January 20, 2012

**The Westin San Diego**

400 West Broadway  
San Diego, CA 92101

**SAVE THE DATE**

### WEDNESDAY, JANUARY 18, 2012

6:00 – 7:30 pm Opening Night Reception

### THURSDAY, JANUARY 19, 2012

8:00 – 8:30 am Registration & Continental Breakfast

8:30 – 8:45 am Welcome and Introduction to Day 1

8:45 – 9:35 am The Yin and Yang of the Two Guaranty Systems  
(NCIGF and NOLHGA)

9:35 – 10:25 am Early Guaranty Association/Guaranty Funds Involvement:  
Perk or Peril?

10:25 – 10:45 am Networking Break

10:45 – 11:35 am Reinsurance: Rights, Reporting, Recoveries & Resolution

11:45 – 1:15 pm Luncheon - Speaker Topic:  
Status of Federal Insurance Legislation

1:30 – 2:20 pm Challenges of Changing Lines of Business

2:20 – 3:10 pm Networking Break





- 3:10 – 4:00 pm **Policy and Claims Administration:  
The Devils Deal with Details and Dilemmas**
- 4:00 – 4:50 pm **The Latest on Legislation, Litigation and Loopholes  
(Legal Update)**
- 6:00 – 7:30 pm **Cocktail Reception**

## FRIDAY, JANUARY 20, 2012

- 7:45 – 8:30 am **Continental Breakfast**
- 8:30 – 8:40 am **Recap & Introduction to Day 2**
- 8:40 – 9:40 am **Getting to the Light at the End: POCs, Asset Distributions  
and Estate Closing Issues**
- 9:40 – 10:00 am **Networking Break**
- 10:00 – 11:00 am **Dodd-Frank Impact: The Final “You Don’t Know What You  
Don’t Know”**
- 11:00 – 11:30 am **Program Wrap-Up**

## CONTINUING EDUCATION CREDIT

**Course Description:** IAIR’s 2012 Insolvency Conference will address the current economic and political climate as well as insurance/reinsurance issues and recent legal issues that will affect the industry.

**Course Level:** This program is intended for intermediate and advanced level insurance receivers and those working with troubled companies. There are no advanced preparations or prerequisites required, as this course will provide live delivery of materials and updates building on the knowledge and experience of the participant.

**IAIR Continuing Education Credit:** This program is approved for 8.0 hours of continuing education credit toward IAIR’s CIR and AIR designations in accordance with IAIR’s continuing education policy to maintain certification status.



**CPE Continuing Education Credit:** The International Association of Insurance Receivers (IAIR) is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN 37219-2417. Web site: [www.nasba.org](http://www.nasba.org). In accordance with the standards of the *National Registry of CPE Sponsors*, CPE credits will be granted on a 50-minute hour.

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# Registration Information

## Hotel Information

Westin San Diego  
400 West Broadway  
San Diego, CA 92101

\*Group Rate Single/Double Occupancy \$159.00 (Plus applicable tax)

Cut-Off Date for Group Rate: December 28, 2011

For Reservations Call: 1-888-627-9033

**Hotel Policy:** \*All room rates are subject to local taxes and resort fees. Check with the hotel directly for all cancellations and/or change policies.

**\*NOTE:** To be guaranteed the group rate, hotel reservations must be made no later than December 28, 2011. Group Rate Subject to Availability.

**Not Included in Registration Fee** Hotel Accommodations, Personal Transportation To/From the Conference

**Dress Code** Business Casual

**REGISTRATION DEADLINE** **January 9, 2012**

**Cancellation Policy** Refunds less a \$100 administration fee through January 9, 2012. 25% of the amount paid will be refunded after January 9, 2012. Substitutions are welcomed.

**Refund requests and cancellation must be submitted in writing to:** Maria Sclafani, IAIR Executive Director  
3626 East Tremont Avenue – Suite 203  
Throggs Neck, NY 10465  
Phone: 718-892-0228 – Fax: 718-892-2544  
mcs@iair.org or mcs@thebeaumontgroup.com

## REGISTRATION FEES

### EARLY BIRD REGISTRATION

#### Prior To/Including: November 4, 2011

Member:	For Profit	\$ 700.00
Member:	Not-For-Profit	\$ 550.00
Non-Member:	For Profit	\$1050.00
Non-Member:	Not-For-Profit	\$ 800.00
Spouse/Guest \$ 150.00		

*(Includes Food and Beverage Functions)*

*(IAIR Members are Not Eligible for Spouse/Guest Rate)*

### REGISTRATION

#### Registration: November 5 - January 9, 2012

Member:	For Profit	\$ 750.00
Member:	Not-For-Profit	\$ 600.00
Non-Member:	For Profit	\$1100.00
Non-Member:	Not-For-Profit	\$ 850.00
Spouse/Guest \$ 150.00		

*(Includes Food and Beverage Functions)*

*(IAIR Members are Not Eligible for Spouse/Guest Rate)*

### LATE REGISTRATION

#### Registration Fee After January 9, 2012

Add		\$ 100.00
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# Registration form

## EARLY REGISTRATION – Prior to/Including November 4, 2011

Member: For Profit	\$ 700.00	Non Member: For Profit	\$1050.00
Member: Not-For-Profit	\$ 550.00	Non Member: Not-For-Profit	\$ 800.00

## Registration: November 5 - January 9, 2012

Member: For Profit	\$ 750.00	Non Member: For Profit	\$ 1100.00
Member: Not-For-Profit	\$ 600.00	Non Member: Not-For-Profit	\$ 850.00
**Spouse/Guest	\$ 175.00	**Guest (Spouse):	\$ 175.00

**Late Registration: Registration Fee After January 9, 2012: ADD \$ 100.00**

**Total Amount Due \$ \_\_\_\_\_**

**\*\*Spouse/Guest Fee Includes Welcome Reception, Continental Breakfast, Luncheon, Thursday Reception. Please note an additional on-site administrative fee of \$50 will be added to all on-site registrations.**

## ALL REGISTRATION FEES MUST BE RECEIVED IN ADVANCE OF THE CONFERENCE.

**Registration Deadline: January 9, 2012**

### TO REGISTER ON LINE

Visit: [www.iair.org](http://www.iair.org)

### TO REGISTER BY MAIL

**Make Checks Payable To: IAIR**  
Fed. I.D No.: 510335737  
Mail Check and Registration Form

### MAIL TO

**IAIR, C/O The Beaumont Group, Inc.**  
3626 East Tremont Avenue, Suite 203  
Throggs Neck, NY 10465

## Registrants Information

NAME \_\_\_\_\_ SPOUSE/GUEST NAME \_\_\_\_\_

ORGANIZATION NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE \_\_\_\_\_ FAX \_\_\_\_\_ EMAIL \_\_\_\_\_

DIETARY RESTRICTIONS \_\_\_\_\_ SPECIAL NEEDS \_\_\_\_\_

**Payment by Check:** Checks should be made payable to IAIR (Fed. I.D. No. 51-0335737) and mailed to: IAIR, C/O The Beaumont Group, Inc., 3626 East Tremont Avenue – Suite 203, Throggs Neck, NY 10465

### Payment by Credit Card

Please charge my credit card: \$ \_\_\_\_\_  American Express  VISA  MasterCard

Account No. \_\_\_\_\_ Exp. Date \_\_\_\_/\_\_\_\_/\_\_\_\_ Security Code \_\_\_\_\_

CARDHOLDER'S NAME \_\_\_\_\_

CARDHOLDER'S MAILING ADDRESS \_\_\_\_\_

SIGNATURE \_\_\_\_\_



## Getting Your Reinsurance Act Together

### Organizing Reinsurance in Receiverships and Troubled Companies: Protecting Your Largest Asset by Getting a Handle on It: A Brief Checklist

By Kathleen M. McCain, Esq., CIR-ML and Evan D. Bennett

#### It's a dark and stormy night!! (Really)

*The Department of Insurance is in the midst of an examination of The ABC Troubled Company ("Troubled Company").*

Among other issues, Troubled Company is having problems collecting reinsurance. Troubled Company's largest reinsurer has quit paying claims following an audit, claiming that Troubled Company misrepresented the business and financial solvency of the company. Other reinsurers are asking questions about billings and suggesting they will not pay until "support" is provided.

The company has a new reinsurance accounting system but only the last couple of months of activity is in the system. Consequently, Troubled Company is behind in billing reinsurers. Several of the treaties and accounting records are missing; others are difficult to read and could use a fresh review.

A significant amount of the business written by Troubled Company was written by agents and most of the claims are handled by third party administrators. Additionally, Troubled Company's reinsurance manager and several staff have recently left the company. The Insurance Commissioner is considering what action to take and asks you to review Troubled Company's reinsurance program and provide her with recommendations. Because she knows the reinsurance recoverables are a large asset, she has asked you, a reinsurance expert, to help sort this out.

After meeting with the Insurance Commissioner, you head off to Troubled Company with a good idea of some of the things you expect to find when you get there. You are not worried; you have seen it before and have a plan to get your arms around the problem. The ultimate goals of your plan are to identify all of the reinsurance treaties and salient documents and to collect the reinsurance balances and/or commute with Troubled Company's reinsurers.

#### Are You Left High and Dry by the Former Management?

Does Troubled Company's scenario sound familiar? Although reinsurance recoverables are commonly an insurance company's largest asset, many companies do not have their reinsurance programs adequately in order. Management often thinks that the reinsurance contracts run themselves and if a reinsurance intermediary is involved that the intermediary is taking care of everything. Too frequently, it is not until the auditors, state examiners or reinsurers pay a visit to the company that the problems with the reinsurance programs come to light. No matter how much they strive to administer their programs, the company staff is often too involved in their day-to-day operations to organize the reinsurance treaties and other salient documents necessary to understand the reinsurance program. Additionally, management may not have had a "hands on" approach to the reinsurance area. This can lead to the inability to collect reinsurance and may become a key factor in the failure of the company.

Given the scenario presented by the Insurance Commissioner, you can expect to find problems with the reinsurance program when you get to Troubled Company. Common problems include:

1. poorly organized files
2. missing treaty documents and information
3. undocumented transactions
4. problems with recoverables and reporting
5. misunderstandings of how the reinsurance contracts operate

As you are reviewing Troubled Company's reinsurance program to respond to the Commissioner, you will likely find that you are trying to put together pieces of the program from incomplete records. Additionally, the people who



## Getting Your Reinsurance Act Together (Continued)

have the best understanding of the reinsurance program may not be at the company, either because of personnel turnover or because the program was managed more by the reinsurance intermediaries rather than the company's own staff.

At the end of the day, what will you need to do to organize, collect and possibly commute the reinsurance that is present? At a minimum, you will need to obtain and, most importantly, quickly understand the key ingredients of the reinsurance area:

1. types, forms and characteristics of the reinsurance treaties and facultative certificates
2. claims
3. actuarial
4. premium process
5. cash position

You will need to get prepared for the likely reinsurance audits that will be taking place. You will have to identify problems and potential issues and quantify and triage them. As a receiver, you will need to identify what are the strengths and weaknesses of the company's position. As you delve further into the project, do not be surprised if documentation is complex and missing.

As time may be of the essence – especially to obtain the needed cash balance with supporting documentation for sending to the reinsurers, and/or analyzing what is needed to pay the cedents on assumed business – obtaining additional experienced/knowledgeable personnel may be needed. Reinsurance is a complex area. When a company becomes “troubled” or a receivership becomes imminent, there is often a loss of knowledgeable personnel and you cannot expect the remaining personnel to instantly become “experts.”

### **The - Not for the Faint of Heart - Checklist: (Not all Inclusive)**

The following is a brief checklist to assist you in working in a troubled company or receivership's reinsurance area. However general this checklist may be, it is not meant to be treated as a typical checklist whereby one merely obtains the documents or material and checks it off. It is specifically designed for those brave souls who really want to ascertain what the reinsurance area in the company is about. In other words, you will have to obtain, research, outline, understand and act on what is found. We hope this is a helpful tool for it is derived from both our experiences, which without going into detail is a heck of a lot!

### **1. Find the Contracts and Related Documents; *Do You Know Where the Treaties Are?***

The first thing to do is gather the reinsurance files. There are lots of places to look to determine what reinsurance is or was in place at the company. You may need to look in many places and talk to several people to find all the documents because the reinsurance treaties, certificates, addenda, correspondence and related documents are likely not maintained in one place. Try not to use jargon when asking company personnel for files because they may not be familiar with reinsurance or reinsurance terms. For instance, ask them for correspondence files related to the reinsurance contracts rather than asking for reinsurance placement files.

Some suggested steps for locating the reinsurance contracts and related documents are:

- Interview key people regarding the reinsurance program and contracts to help determine the reinsurance that is or was in place at the company. For example:
  - Talk to company reinsurance personnel about the reinsurance program.
  - Contact the reinsurance intermediaries.
  - Talk to senior management because not all of the reinsurance contracts may be in writing or in neat notebooks or computer files.
  - Talk to the company lawyers because they may have been involved in drafting the contracts or other key documents.
  - Talk to the claims personnel because they often provide notice of the claims to the reinsurers.
  - Talk to the actuaries about their understanding of the reinsurance program.
- Review company filings, audits and reports to assist in understanding the reinsurance in place. For example:
  - Review the company's Annual Statement including the Notes.
  - Obtain Schedule F and Schedule F workpapers and review for reinsurance ceded and assumed.
  - Review the company's balance sheet for reinsurance recoverables, funds deposited, funds held and provision for reinsurance.



## Getting Your Reinsurance Act Together (Continued)

- Review the Insurance Department financial examination reports and market conduct reports.
- Review the external audit reports and/or internal control reviews by the company's outside auditors.
- Review the company's internal audit reports, if any exist.
- Review reinsurance layoff sheets.
- Review the company's reinsurance files and related documents to assist in understanding the reinsurance that is or was in place. For example:
  - Gather the reinsurance files; this may include contracts, addenda, endorsements, correspondence, invoices, billings, notices, accounting records, claims files and intermediary records.
  - Review correspondence/treaty placement information with reinsurers and intermediaries.
  - Inventory all treaties (ceded and assumed) and addenda and endorsement.
  - Read the reinsurance contracts and prepare synopses of each. Possibly use Exhibit C and D from the NAIC Financial Examiner's Handbook @ 2009<sup>1</sup> to assist you in the preparation of reinsurance and reinsurance contract review templates.

### 2. Review and Understand the Contracts

Once the files have been collected, it is important to review and understand the reinsurance contracts and how the company dealt with them. An understanding of the contracts and the company's course of dealing with them will help identify potential issues and lessen the chances of later surprises. Do not be shocked if your understanding of how the contracts should operate or be accounted for is different from the way the company did it. Also be prepared to find that certain contract terms may be ambiguous or subject to different interpretations by the company and the reinsurer. Also, there may be things that the company did in the normal course of dealing with the contracts that are not included in the contract terms. Preparing diagrams or pictorial representations of the reinsurance contracts and the lines of business reinsured can help determine if there are any

gaps in the reinsurance and whether there are missing contracts and related documents. Failure to identify reinsured policies can result in non collection of reinsurance recoverables.

### Suggested Steps for Reviewing the Contracts:

- Write up a narrative illustrating your understanding of the entire program.
- Have a peer review the narrative to make sure it makes sense – there can be differing interpretations of reinsurance terms.
- Prepare pictorial representations of the reinsurance structure – this will help to determine if there are/were any gaps in reinsurance.
- Review each contract to identify any features that may significantly affect the collectability of reinsurance – for instance, look for cut-throughs or unauthorized reinsurance or fronting arrangements.
- Determine whether there are any loss portfolio transfers, assumption agreements or other financial reinsurance arrangements.
- Do not forget to ask about intercompany reinsurance arrangements.

### Items to Include in the Narrative of Each Reinsurance Contract:

- Determine the lines of business reinsured by the contracts.
- Review the company retention and reinsurance limit.
- List the reinsurers and their participations.
- Ascertain whether the contracts have been executed by the reinsurers.
- Review the contract exclusions.
- Determine if the contracts include arbitration and insolvency clauses.
- Review the contract termination procedures.
- Ascertain whether there are any commutation clauses, sunset clauses and the dates for reporting per the clauses.
- Determine whether the company has made any reports in accordance with the sunset and commutation provisions.
- Determine whether the contract is losses occurring or risks attaching.
- Determine whether there are any special settlement procedures.
- Determine whether there are any notice requirements to reinsurers and whether the company has prepared the notices. For example,



## Getting Your Reinsurance Act Together (Continued)

review the notices of large losses that are generally prepared by claims personnel. Failure to provide required notice to reinsurers may result in the inability to collect reinsurance.

- Determine if there is any MGA involvement.
- Determine if there are any clauses related to commissions, either ceding or contingent.
- Ascertain how the premium is calculated and if the contract is experience rated.
- Determine whether there are minimum premium or deposit premium requirements

### 3. Get a Handle on the Cash

A key area of concern at any troubled company is cash. In reviewing the reinsurance program, it is essential to understand the reinsurance cash flow, the reinsurance collateral requirements and the reinsurance recoverable collection procedures. Generally, you need to know what balances are owed, who has the cash or collateral and how to get it. Some steps to achieve this goal are:

- Find the collateral held – cash, trust funds, funds held and determine who is holding the funds.
- Review the collateral agreements and determine the responsibilities and obligations of the company and what the requirements to use collateral are.
- Reconcile cash with bank statements – determine the cash in hand.
- Ascertain if the intermediary is holding funds.
- Locate original letters of credit and determine if they are evergreen.
- Determine if the collateral is sufficient.
- Understand the collection procedures – perform a walkthrough.
- Determine if there are any cash call provisions in the reinsurance contracts.
- Determine whether the company reconciles with the reinsurance intermediaries and how frequently.
- Determine whether the intermediary is allowed to offset amounts owed to the reinsurers with balances owed to the company.
- Determine if there are any amounts in dispute.

### 4. Review and Understand the Business Subject to the Contracts

Another important step in getting your arms around Troubled Company's reinsurance program is to understand the company's business

and what business is subject to the reinsurance contracts. You will likely need to interview several people in different departments at the company and may need to interview outside consultants and other third parties. Personnel to interview and steps to gain an understanding of the business include:

- Interview operational/underwriting personnel about their involvement in the placement process.
- Interview IT personnel to ascertain how the reinsurance is/was set up on any system.
- Interview accounting personnel and ascertain how the accounting system handles reinsurance; perform a limited walkthrough of the system using one or two quarters of reinsurance data (see below).
- Interview claims personnel regarding claims issues and problem claims, underlying claims litigation, coverage issues and claims systems.
- Interview actuaries to understand reserves and reserving philosophy.
- Interview legal, both in house counsel and outside counsel, regarding problem claims and claims litigation, problem books of business and disputes with reinsurers. Also ask about prior commutations (within the preference period) and whether there are continuing obligations of the company pursuant to the commutations.
- Review reinsurer audit reports if any exist and were given to the company.
- Review internal audit reports related to the business written and company operations.

### 5. Review and Understand the Reporting and Accounting for the Reinsurance

It is also essential to understand the premium and other reporting requirements of the contracts and how the company accounts and reports to the reinsurers and/or the intermediaries. Often when a company is in trouble, reinsurers quit paying or slow pay and may begin demanding support for billings where they did not do so before the company began having financial problems. One needs to understand how the reinsurance flows and evaluate the different systems used by the company. This will assist in determining whether the reinsurance transactions are recorded timely and are properly valued, classified and correctly recorded.



## Getting Your Reinsurance Act Together (Continued)

### Suggested Areas to Review Include:

- Gain an understanding of the policy/premium processing flow.
- Perform walkthroughs of the reinsurance functions – these are essential to understanding the reinsurance process and are key in a receivership or troubled company.
- Determine whether there are policy and premium registers or bordereaux.
- Review the accounting and reporting processes and procedures.
- Determine what computer systems, if any, the company uses for accounting and reporting; do not be surprised to find that reports and the accounting are maintained in spreadsheets.
- Ascertain how the losses subject to the treaty are identified.
- Determine whether loss bordereaux are prepared and/or claim reports prepared in connection with the billings to reinsurers.
- Determine how offsets are identified and if they are applied in the billings to reinsurers.
- Obtain support for the ceded business prior to sending out requests for payment to the reinsurers.
- Review collection procedures currently in use and make modifications if necessary.
- Get in touch with your intermediaries and other third parties.
- Establish your own relationship with the intermediaries.
- If assuming the reinsurance, contact the cedent and/or reinsurance intermediary to confirm terms/status.
- Perform periodic reconciliations with the intermediaries to ascertain that what was sent to them is correctly and timely passed to the reinsurer(s).

### 6. Monitor the Reinsurers' Status on a Periodic Basis

Finally, because the reinsurance recoverable may be the company's largest asset, it is important to know who the company's reinsurers are and what their current financial condition is. While there is no guarantee that the reinsurers will remain solvent and willing and able to pay the company's claims, you can improve your odds of collection by gaining a thorough understanding of the reinsurers and potential issues that may impact payment of claims or commutation.

Suggested steps for the review of the company's reinsurers are:

- Identify all reinsurers and whether there have been corporate/name changes.
- Determine if there are any unauthorized reinsurers.
- Identify any fronting arrangements.
- Identify the intermediaries involved with each reinsurer.
- Determine the collateral requirements for unauthorized reinsurers.
- Review the financial condition of reinsurers.
- Determine whether there are any reinsurers that are slow in paying claims or not paying claims.

### Conclusion

Now that the reinsurance area is better organized and your plan addresses the steps to collect the reinsurance recoverables, commute with the reinsurers, and work with any cedents from whom you have assumed business, you should be able to sleep better at night. Your company might be troubled but its reinsurance program should be better functioning. Now that you know and understand Troubled Company's reinsurance program, you can begin to build an effective reinsurance administration program that will either serve the company, if it is to continue in existence, or prepare the receiver to deal with potential reinsurance problems before they arise.

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# CONGRATULATIONS TO THE FOLLOWING INDIVIDUALS WHO HAVE SUCCESSFULLY BEEN AWARDED IAIR's PRESTIGIOUS DESIGNATIONS.



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## The IAIR Web Site Is Being Updated!

ADD your Thumbprint!

We Need Your Help!

### Upcoming Events

IAIR August Meeting  
August 28-August 31, 2011  
Philadelphia Marriott Downtown  
1201 Market Street, Philadelphia, PA  
[Click Here for Meeting Schedule](#)  
Schedule as of August 16, 2011 and subject to change  
[Click Here](#) for Issues Forum Program Agenda  
[Click Here](#) To Register Online

November Meeting  
November 3-6, 2011  
Washington, DC  
Marriott International Hotel and Convention Center

2011 Annual Meeting  
October 21-23, 2011

**About IAIR**  
The International Association of Insurance Receivers (IAIR) provides an association to insurance receivers in order to promote information exchange, and to provide a forum for those who work in this field.  
**Accreditation**  
IAIR is an organization of individuals interested in the affairs of insurance receivers who are financially stressed or troubled or are in the process of restructuring or in receiverships.  
(j) To establish ethical and professional standards in the conduct of the affairs of such insurers;  
(c) To provide to its members professional education relevant to such pursuits; and  
(d) To recognize, through accreditation, the attainment by its members of expertise and proficiency in such pursuits.

### Committees

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-> Marketing Sub-Committee  
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-> Newsletter Sub-Committee  
Executive Committee  
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### Announcements

**2011 DUES - IMMEDIATE ATTENTION REQUESTED**  
We have now passed the first six months of the year and it has come to our attention that many members are still in arrears with their 2011 dues. Member dues contributes to the support of enabling IAIR to continue to present the high caliber education programs it is known for. If you have not yet paid your dues, please sign into the members only section and click on the "Members Home" tab on the navigation bar and select "Pay Dues" from the drop down screen. A hard copy of your dues statement can also be downloaded and mailed with your check.

Please Note that the key contact of a group member is responsible for paying the dues for all their group members in order to receive the group discount. In order for your membership to remain active, dues must be paid by AUGUST 31, 2011

### Quick Links

MEMBERSHIP APPLICATION  
PUBLICATIONS  
WEB SITE SEARCH

### Member Search

Select a Category to Find a Member by Function  
Select a Function  
Select a State to Find a Member Who Practices in a Particular Area  
Select A State

If you have recently visited the IAIR Web Site (www.iair.org), you have seen the big changes resulting from our updating project. We think these efforts will make the site much more useful as a resource and easier for both IAIR Members and non-Members to use.

As an example of the functionality, note how the IAIR Meeting Schedule for our November meetings can be downloaded right from the upper left side of the Home Page. And you can register for meetings from a Home Page link right under the schedule link! Even better, though, the registration page features buttons that will let you download the individual IAIR events as scheduled items on your Outlook Calendar.

Now the "hard part"! You joined IAIR to get your name and qualifications as an insurance insolvency practitioner publicly listed for IAIR Members and others visiting the site to see. But if your profile is not up-to-date, you will not get the full benefit of your IAIR Membership. Potential clients and employers will not be able to find you if your contact information or your new qualifications are missing. Make sure your profile is current by

updating it now on the IAIR Web Site. It's so easy to do! Just do the following:

- Log in by hitting the "Member Login" button on the top right side of the home page. (Your Username and Password is contained on the bottom of each email you receive from our IAIR Administrator, Maria Sclafani).
- Look at the upper menu ribbon across the top of the page and click on "Member Home" to get the drop-down menu.
- Click on "Change Profile" on the drop-down menu, and your complete profile will appear. At this point, the profile may be updated, supplemented, or corrected.
- Make sure you click on the button "Update Profile" when your changes are complete.

While on the Site, look around at some of our new features and content. And there will be more to come!

Alan Gamse, Esq.  
Chair, IAIR Operations Committee



# IAIR Technical Development Series 2: Reinsurance Photo Gallery

June 10-11, 2011

MGM Grand Hotel, Las Vegas, NV





## **PRESIDENT OHIO INSURANCE GUARANTY ASSOCIATION**

The Ohio Insurance Guaranty Association (OIGA) is seeking a well qualified candidate to fill the position of president. The OIGA is a non-profit, insurance industry supported organization which handles and pays the insurance claims of Ohio policyholders if their insurer becomes insolvent. It also provides similar services under contract for two other guaranty associations, including the Ohio Life & Health Insurance Guaranty Association.

This is the chief executive officer position, reporting to the Board of Directors. The president is responsible for supervising staff in carrying out the duties of the association and maintaining adequate professional staffing during times of varying work activity levels. Ability to effectively coordinate activities with other state guaranty funds through national insurance guaranty organizations and with insurance liquidators is essential. Some travel required. Offices are located in Columbus, OH.

Candidate must possess substantial insurance and management experience in an insurance company or related setting such as regulatory, legal or consulting. Desired, but not required, is a background in law or accounting and/or substantial supervisory claims experience in property casualty and life & health claims. Prior experience in an insurance guaranty fund or insurance liquidation setting is a plus.

Salary and benefits package is comparable to local insurance industry standards for positions of similar responsibility.

Send resumes to: OIGA, 1840 Mackenzie Dr, Columbus, OH, 43220.

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## The IAIR Sponsor Program offers three levels of participation:

Each level of participation includes the value-added benefits described below reducing the effective cost of the sponsorship.



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- Credit against IAIR dues for up to two representatives of Sponsor (value up to \$750).
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- One representative of Sponsor to serve on IAIR Board of Advisors, consisting of past IAIR presidents and IAIR Platinum Sponsors.
- IAIR will post sponsors' logos at the bottom of the IAIR Home Page in a "Thank You to Our Sponsors" area. Additionally, a tab at the top of the IAIR Home Page will be labeled "IAIR Sponsors" and will link to a page where sponsors will be grouped by category as Platinum, Gold or Silver. That page will display for each sponsor the following: the sponsor's logo, its name or trade name, a brief description of the services it provides and a link to a page designated by the sponsor on the sponsor's web site.
- Speaker role annually for a representative of the Sponsor (or its designee) at one of the IAIR Issues Forums or an IAIR Workshop, or an article in the Receiver, IAIR to have final approval on speaker/author and topic.
- Two full page ads each year in Receiver magazine (current value \$1100).
- Space on a materials table for Sponsor at all IAIR events.
- Recognition of Sponsor on the IAIR website, in each issue of the Receiver, and at all IAIR events.
- These value-added benefits reduce the effective cost to the Sponsor by 47% to \$4,000.



\$4,000 annually

- Credit against IAIR dues for one representative of Sponsor (value up to \$375).
- Credit against IAIR Workshop registration fee for one representative of Sponsor (value up to \$550).
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- One full page ad each year in Receiver magazine (current value \$550).
- Space on a materials table for Sponsor at all IAIR events.
- Recognition of Sponsor on the IAIR website, in each issue of the Receiver, and at all IAIR events.
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\$1,500 annually

- Credit against IAIR dues for one representative of the Sponsor (value up to \$375).
- A 10% discount on IAIR Workshop registration fee for one representative of the Sponsor (value of at least \$55).
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If you are interested in participating as an IAIR sponsor, advertiser or wish to receive information about IAIR membership or committee participation, please contact Maria Sclafani, Executive Director at our administrative office: 718-892-0228 or via email at [mcs@iair.org](mailto:mcs@iair.org).



# SAVE *the* DATES

NAIC Fall Meeting	2012 Insolvency Workshop	NAIC Spring Meeting	NAIC Summer Meeting	NAIC Fall Meeting
November	January	March	August	Nov/Dec
<b>3-6</b>	<b>18-20</b>	<b>3-6</b>	<b>11-14</b>	<b>29-2</b>
2011	2012	2012	2012	2012
Gaylord National Hotel and Convention Center Washington, DC	The Westin San Diego 400 West Broadway San Diego, CA 92101	Hilton New Orleans New Orleans, LA	Atlanta Marriott Marquis Atlanta, GA	Gaylord National Hotel and Convention Center Washington, DC

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