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Message from Our President

Over the course of the six months since my election as President of IAIR, I have had the opportunity to speak with many of you personally. Despite having recently retired from a career at the New York Liquidation Bureau, I very much wanted to stay involved with my "work family." IAIR, an organization in which I have participated since its inception, has been key in bringing me in contact with some of the most knowledgeable individuals in the insolvency industry. Their willingness to share their experiences and their know-how has proven to be invaluable, as have the friendships which have been forged. I believe in the mission of this association and want to see it both grow and recapture the sense of camaraderie that drew me in.

Despite there being a much talk about the decline in liquidations, the role we serve in the process, both as an organization and individually, is very important. In recent years, we have tried to reinvent ourselves, in a way, by changing our mission and focusing more on how all of us can provide guidance through the various processes that troubled companies face - from a decline in performance, to rehabilitation, into receivership and through liquidation. Having been in the liquidation office, I know first-hand the importance of that role and that the expectations of what can be done continually change. I also am not so naïve to think that alternate mechanisms are not available and viable. However, I do not see these as mutually exclusive. Whether facing impairment, insolvency, rehab, liquidation or run-off, our expertise and collective institutional memory in dealing with such situations is critical, even if our roles "morph" a bit. The point that has become clear to me is the need to better understand the various roles we each play - be it receivers, GA's, reinsurers- and learn to work with - rather than against - one another. I really believe that it is essential that we continue to share ideas, best practices and build relationships through the organization. There are so many opportunities to do just that – participate in a committee, join the IAIR Linked-In group, attend an event, speak at an upcoming seminar, submit an article, bring your ideas, questions, and issues to the Roundtable discussions, or invite a colleague to join. These are just some of the ways to build the association and make IAIR stronger and more vital.

If you have time to spare and a passion for this industry, but you aren't sure of the best use of your time and talents, reach out to me at frankiebliss@gmail.com. I'll happily put you to work!

Already there has been much to do. The most pressing item on the agenda has been preparing a Request for Proposal for a new Executive Director. I have been working

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IAIR's President's Message (continued)

with several colleagues, including Betty Cordial, Dick Darling, Doug Hartz, James Kennedy, Lowell Miller and, of course, our ever present Bill Latza, to develop our RFP and distribute it through various channels. We have received several responses and will be going through those in the coming weeks. In the interim, we have been fortunate to have the assistance of Palomar as Executive Director; we are very appreciative of their willingness and support.

Education and communication have been the overriding mission of IAIR since its inception, and have remained the predominant focus of the Association to this day. These past six months have been filled with planning many exciting events. This year's 2012 Insolvency workshop was a resounding success. Thanks to co-chairs Bart Boles and Lowell Miller for putting together this wonderful program and adding a touch of levity with the "unique" visuals that accompanied each presentation. Their tireless efforts were evident throughout the event. Also, a special thank you to Maria Sclafani of BMG for seeing this through and a job extremely well done.

No one can truly appreciate the time it takes to put a program together until you have been in the driver's seat. Folks on our education committee have been hard at work as well. Kathleen McCain, chair of the Issues Forum (those wonderful CPE/CLE producing educational programs that take place during the NAIC meetings) put together a great program in New Orleans with Arlene Knighten, Supervising Attorney - Financial Solvency, Louisiana Insurance Department, providing us with the latest and greatest news from the state of Louisiana and Holly Bakke giving us an overview of the international perspectives on solvency regulation. A recap of the AMCare case was presented from the folks who were there first hand, including Ed Buttner, J.E. Cullens, Jr. and R. James George. The forum wrapped up with another brief and informative update on NAIC news and committees by David Vacca.

Also at NAIC, The Guaranty Fund Liaison Committee addressed the changing demands dealing with Justice in regard to CMS. We are fortunate to have gained Lynda Loomis as co-chair of the group with Wayne Wilson. Lynda shared much regarding dealings involving CMS and an offshoot sub-committee has been formed to address the various dealings with the Department of Justice throughout the receivership process.

Patrick Cantilo, IAIR's immediate past president, has focused his efforts on the 3rd installment of IAIR's Technical Development Series –"The Central Government," which will have occurred at the Aria hotel in Las Vegas by the time you read this report. As with all IAIR's past TDS programs, Patrick has again done an outstanding job putting together this timely and innovative program.

Dennis LaGory and Chris Maisel are already planning the 2013 Insolvency Workshop, which is scheduled for January 30-Febrauary 1 in Savannah, GA. Mark your calendars! We hope to shake it up a bit and make this a more interactive program addressing topics YOU want – or more importantly –need to know about. So, please, let us know the issues you'd like us to address.

And, overseeing it all have been Doug Hartz and James Kennedy as co-chairs of the Education Committee, keeping all the planning teams on track. Thanks to all for your hard work and dedication to make this organization and the resources the best there is.

There is some sad news I must share. We recently lost a unique and talented friend and colleague, Steve Wright. He was a long time member and contributor within IAIR and passed away suddenly on May 9. Those that knew Steve will never forget his enthusiasm and innovative ideas involving the insurance insolvency field - a subject that he was always willing to talk about. Steve will be sorely missed by his many friends at IAIR. His passing is a reminder to us all that life is short and precious.

I may not be the most comfortable in the limelight, but, as your president, I want to make this organization a stronger one that prospers in the future, or,-.as I said when running for the board - to "pay it forward." Setting a solid foundation for that to happen is important to me so those who come after will be able to succeed and lead IAIR through the various challenges the industry will undoubtedly face in the future. I want to hear from you – your thoughts, suggestions, insights and even critiques. Those contributions are what will make this organization YOUR organization. New blood leads to new ideas and continued growth.

Have a wonderful summer and I look forward to seeing you all at the upcoming NAIC meetings – Atlanta in August and D.C. in November.

Thank you, sincerely.

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Equal Opportunity Offenders
An Interview with Myron Picoult

By Evan Bennett

For those of you who don't know Myron, he spent 38 years on Wall Street and the 8 subsequent years consulting. He has covered all aspects of the insurance industry during his tenure on Wall Street as an analyst, banker and senior advisor. He was a monthly contributor to Business Insurance for many years and has written numerous other articles for various publications. He has never shied away from controversy. You can reach Myron at mmpicoult@aol.com.

Myron Picoult

Question #1

Myron, I was recently re-reading the article you wrote in 1985 titled "The State of Insolvency." You are apparently psychic! When speaking about the "…root of the problem," you said "In essence, greed and poor business judgment are at the root of the insolvency problem. Blame for the current state of affairs lies with company managements, regulatory authorities, reinsurance executives, accountants, and insurance agents and brokers." You left out attorneys, actuaries and the mail room clerks, but pretty much covered it. You also noted that "…managements did not realize the extent to which prices or standards were reduced." This seems a bit like today's world. Could you update us on your current thoughts?

Answer:

Evan, the state of insolvency for the property-casualty industry must be looked at in terms of the past, the present and the future.

For the present, we have gone through about eight years since we have had any meaningful insolvency activity. This raises a question of why? Industry underwriting and earnings results have been relatively good, but have clearly been buttressed by the taking down of reserves. It should also be noted, with few exceptions, that the industry was not subjected to the financial stress from the September 2008 financial meltdown that impacted many other financial industries. This was the result of the industry's investment portfolios not being stilted toward the type of investments that helped create the meltdown.

Where are we now? I believe nasty storm clouds appear to be gathering on the horizon. You ask why? Well, there are many reasons. The industry's reserve cushion is either basically gone or certainly pointing toward the negative side of the fulcrum. Notwithstanding the fact that there is finally some upward movement in rates, pricing adjustments (adjusted for reserve releases) have clearly lagged, deteriorating accident year underwriting results. We are not yet in a classic "hard market." A slowdown in economic activity has pared premium growth and in some instances has had a favorable impact on claim activity as has a subdued rate of inflation. However, this dynamic has not been enough to offset the overall shift to the negative side of the underwriting equation and, as previously noted, it has not been appropriately recognized in the pricing/underwriting paradigm. Terms and conditions have likewise been compromised and have not yet been appropriately adjusted in the pricing/underwriting model. In addition, in today's operating environment, catastrophe losses now represent a higher proportion of loss payments than has ever been the case. Simply put, underwriting standards and approaches are a sham! Underwriting talent is disappearing as retiring professionals are not being replaced at an appropriate pace. As a result of the aforementioned, underwriting disciplines have deteriorated.

As for the future....Well, a very quick and simple calculation of current **marginal** rates of return and comparable returns over the past few years clearly shows that the returns are at best **marginal** if not slipping into negative territory. This industry has to learn to make money the old fashioned way…via underwriting profits - given the state of the yield curve. In the twenty-five year period from 1979 through 2003, the industry failed to post an underwriting profit. From 2004 to 2011, underwriting profits were achieved in only three of those years. These results pale in comparison to the industry's historical underwriting record. Current statutory statements will provide a clearer picture of the state of underwriting. While I am very sensitized to the need to adjust operating results for GAAP purposes, let's not forget that there is no such thing as a GAAP checking account…it's all about real cash folks!

Industry leadership appears to be on the wane. The "bench strength" is not what it used to be! While it is not nice to say this, one wonders if regulators are sufficiently sensitized to the level of risk that appears to be growing. Furthermore, one wonders if there are enough "professional receivers" and lawyers around that truly understand the risk factors and the process needed to contain insolvency problems.

Editorial Comment:

In 2010, State Insurance Examiners began conducting "Risk Focused Examinations" and were using a revised Financial Condition Examiners Handbook that was developed by the National Association of Insurance Commissioners ("NAIC"). This new approach was to better equip examiners to identify current solvency risks, monitor them on an ongoing basis and hopefully mitigate future problems that might endanger a company. Some of the enhancements in this risk-focused approach were to provide regulators with a better understanding of the Corporate Governance function, the insurer's management, their business and risks, and focus on larger risk areas.

Has this helped? I believe it has, but this still has to be measured!

Question #2

Myron, can you expand on your comment about industry leadership and the status quo?

Answer:

I am quite sure that many industry observers and people within the industry will not be happy with my perspective. Nonetheless, I believe the thought process has to be discussed. The question is whether this deterioration is endemic to the industry or purposeful? If you were running a carrier and you were being compensated well and were not in any spotlights, would you want to rock the boat or even risk it? What appears to be missing in too many executive suites is what an insightful management consultant calls a "chief contrarian" who has the intestinal fortitude and responsibility to ask the "what if " questions! While there are always exceptions to the rule, it appears that industry bench strength has diminished over the past 20 years or so.

In the past, company executives came from within the sales or underwriting side of the business. They had a close affinity for the workings of the business. Then we started to morph toward investment professionals and then we saw a shift toward a focus on "financial wizardry" to cope with or engage the world of complex financial contracts and the rise of synthetic paradigms. The perception was that these folks were going to take advantage of the plethora of synthetic investment vehicles and provide hedges against material losses. It seems that basic risk management techniques and marginal analysis have been shuffled to the background. Admittedly, there appears to be more of an awareness of the problem today, but the damage has already been done. What is even more disturbing is that we have been down this path several times in recent memory.

Size has also been in vogue. Perhaps this was/is being done to try and satisfy Wall Street's insatiable appetite for both top and bottom line growth. In this business, there are clearly times when it would be cheaper to walk away from deficiently priced business or, as I have often commented, "…it would be cheaper to send the underwriting department on a long vacation to Disney World than to permit them to write business." It would probably result in a smaller "loss" to the enterprise.

Equal Opportunity Offenders (continued)

Editorial Comment:

There has been a great deal of consolidation in the industry over the last 10-15 years. There are fewer companies competing for a client base, which actually has declined within certain lines recently due to the economic slump. How are these companies handling their underwriting risks, claims, reinsurance and investments as they grow larger and perhaps become "…too big to mess up!" Well, that remains an open question.

These "larger" enterprises need to understand their risks, put their visions to paper and monitor their operations more effectively, because of their size and complexity. They still need expertise and have to be accountable to their insureds. They also need to be customer focused and sensitized to the fact that their clients (personal and commercial) are now more inclined than ever to seek other vendors. These new executives, as you mentioned, also need to be disciplined to walk away from poorly priced business that currently cannot be bailed out by investment returns.

This "new" crop of leaders must also be adept at stepping out of the box to find business solutions. They need to be creative. As Robert Kennedy once said "Some men see things as they are and say why? I dream of things that never were and say why not." This industry is clearly in need of leadership that is not afraid to dream and say "…why not?."

Question #3

Myron, what do you think about the title?

Answer:

Evan, I love it. It is right on the mark, because the industry's miscues over the years can be traced to poor regulation and management/ corporate governance deficiencies. The spread between top-performing companies and those at the bottom of the barrel is very broad. This underscores the importance of quality underwriting, appropriate overall pricing and management having a keen focus on using corporate capital effectively.

In an environment where regulators are weak, the rating agencies control the dynamics, not the regulators. It's as if the regulators have abdicated their responsibilities to the rating agencies. Unfortunately the performance of the rating agencies, leading up to the financial meltdown in 2008, and their subsequent attempts to regain credibility, leave much to be desired. I believe that a key question to be asked of all industry players at this time is "…who is filling the current regulatory void?"

Question #4

Myron, did we learn anything from the collapse of the AIG Empire?

Answer:

The parts of AIG that got into trouble were not the insurance entities. It was the financial service components. Some would no doubt argue that the regulators watching over the insurance subsidiaries did their job, but other overseers (Federal regulators and rating agencies) dropped the ball on the other operations. The fact remains that there was apparently little coordination between the various overseers and virtually no effective insights into the perils of deficient management by those that were supposed to be protecting the public's interest and shareholder interests. The latter clearly points to questions about what the various boards knew, understood and were doing!

When I look back at the failure many years ago of Long Term Capital and the subsequent rescue orchestrated by the Federal Reserve Bank of New York, I conclude that we have not learned from that experience. Go no further than the relatively recent demise of the investment firm MF Global and the mind boggling credit default problem at J. P. Morgan this past May. Admittedly, political polarization is partly to blame for the lack of progress and, if that is not fixed, there will surely be an event that will result in a lot of finger pointing and losses to shareholders and taxpayers. But the fact remains that there are regulatory and corporate tools in place that are not being effectively used to monitor internal operations!

In February 1990, a report by the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce titled *"Failed Promises: Insurance Company Insolvencies"* was released. The Committee was chaired by John D. Dingell of Michigan and it became known as "The Dingell Report." *"Failed Promises"* should be required reading for all current overseers, together with a vibrant discussion about what Chairman Dingell's Committee found, what the Committee's approach to correcting the deficiencies were and just what has changed over the past twenty-two years!

It should also be noted that the Industry Audit and Accounting Guide for Property-Liability

Equal Opportunity Offenders (continued)

Insurance Entities (as of June 1, 2011) issued by the American Institute for Certified Public Accountants ("AICPA"), mentions in Chapter 6 (on Reinsurance) that it would be beneficial for an insurance company's auditors to read *"Failed Promises"* as "Several important reinsurance issues are discussed in the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce's report *Failed Promises: Insurance Company Insolvencies."*

Editorial Comment:

Apparently not many company managements read, understood or paid attention to Failed Promises because, only a few years after this report, the Unicover fiasco surfaced and in 2001 Mr. Dingell was once again involved in dealing with the insurance industry's problems. Did the company management's try and do some bad things using the age old modus operandi "we won't get caught?" Regulators and the industry media were also following the Unicover and Reliance situations and voicing their disparate views, the problems, the seriousness of the problem and possible approaches to correcting the situation. In a letter to The Honorable Nathan S. Shapo, then the Director of the Illinois Insurance Department, Mr. Dingell cited the following: "The Unicover-related reinsurance transactions have resulted in $1 billion to $2 billion of industry losses, demonstrating that even sophisticated companies can be naïve when underwriting exposures in areas of the business with which they are not familiar."

He also mentioned the various model laws, acts and regulations for reinsurance promulgated by the NAIC (post Failed Promises) and asked the regulators, if they noticed any problems in their own state's regulation. Following are excerpts from that letter.

"A report recently completed by the General Accounting Office (report to the Honorable John D. Dingell, Ranking Member, Committee on Energy and Commerce, dated August 24, 2001, GAO-01-977R Reinsurance and Ratings) emphasized weakness in corporate governance, internal controls, and risk management as managing general agents/underwriters were 'given the pen' to underwrite on behalf of insurance companies without proper controls and limitations...

In light of the insurer losses experienced as a result of failed W/C carve out reinsurance activities, it is important that we identify the lessons learned and implement corrective actions to help prevent a repeat of such events. The National Association of Insurance Commissioners ("NAIC") efforts to improve the financial disclosure of the W/C carve out type of business should help make regulators more aware of these kinds of transactions after they take place. However, existing insurance laws and regulations related to managing general agents, reinsurance intermediaries and reinsurance transactions appeared to be inconsequential or ineffective in preventing these flawed reinsurance transactions from occurring. Consequently questions remain as to whether additional regulatory tools are needed in these oversight areas and in cases where reinsurance activities cross between property-casualty and life-health sides of the industry. I am also interested in knowing the extent to which regulators have reviewed the actions of companies and parties involved with the failed reinsurance activities to determine whether or not any existing applicable laws and regulations were violated."

Question #5

Do we have effective regulation to detect and prevent insolvencies?

Answer:

I doubt that this will ever be the case. As a general rule of thumb, regulators are outclassed in terms of people and funds to effectively monitor the entities that are entrusted to them. The regulatory mindset and appropriate funding will have to change. It remains to be seen if the FIO will help to change that perspective. Regulators have to be on top of product innovation, pricing, capital utilization and risk management techniques if they are to even have a shot at corralling both the number and size of insolvencies.

Furthermore, the question has to be raised about whether regulators are using the most qualified individuals they can get for particular review/consulting positions. Unfortunately, favoritism appears to play into the process, which at times shadows political influence and activism. While this may well be the world we currently live in, it is not necessarily the way the system is supposed to work. Indeed, there is a need for a lot more transparency in this process.

Editorial Comments:

Regulators are allowed to employ experts and other qualified professionals and many such officials utilize such skill sets. However, this path is not the one used by some regulators and a study would seem to be in order.

Often, the higher fees charged by the "experts" have been used by some regulators as an escape hatch not to use such professionals when a "political choice" is chosen. In addition, many "experts" feel that they must constantly lower their rates to bid on a project. It is true that an RFP process is employed at many states and carriers (who are paying for the state examinations) are sensitive to pricing. However, prospective bidders often note "…that it is often futile to bid since the RFP may always go to the lowest bidder (and they could not work at certain lowered rates and survive) and/or the project is already 'earmarked' for a special vendor…so why bother." Hence, some available well qualified professionals do not bother bidding on state business. The sad part of this is that many of these states could use the assistance of such experts. The consistency of this comment also speaks to the need for a review of the process.

Question #6

Are the regulators leaving money on the table?

Answer:

Well, we really don't know because it appears that they are not looking too hard. However, my gut feeling is that they are leaving money on the table and that begs the question of why! It also raises the query of just what changes have been made to improve solvency regulation post the Dingell report.

Editorial Comment:

In my opinion, the Examiners Handbook, risk focused exams, as well as the various Model Act adoptions by the states are an improvement and have helped. However, it is not a panacea that will magically solve all of their problems. But they still might be leaving money on the table. While each situation is different, funding for insurance departments has been under pressure for many years and has been reduced. This too could put a damper on the ability of Regulators to hire qualified individuals and consultants with the appropriate backgrounds to handle certain problem areas. For example, these experts might have the investment, claims, underwriting and reinsurance backgrounds and skills, or segments of the aforementioned, necessary to possibly turn a failing company around. Likewise, these individuals may also be more adept at collecting the proper amount of reinsurance recoverable, because they have a more complete understanding of reinsurance, reinsurance programs and reinsurance collections. Money can very easily be left on the table in these instances.

Question #7

Myron, is there effective regulation?

Answer:

The one constant today is change. The pace of change is faster than ever before, because of the internet and globalization. In general, regulators tend to be reactive versus being proactive. Marketplace dynamics and product innovation should not come as a surprise to a regulator. If regulators do not have the staff and funds to effectively perform their job, they have to aggressively seek change. We have seen the results of naiveté and lax regulation on individual carriers and the financial system as a whole. It is not pretty.

The use of permitted practices is basically a "kick the can down the road" concept. It can only be validated if the problem(s) that precipitated the situation(s) have been addressed and effectively resolved. More importantly, have the dynamic(s) that created the problem been eliminated? Yearly and triennial audits are totally inefficient. Regulators who use "permitted practices" must be able to show on-going reviews to correct the deficiencies sooner rather than later. In addition, managements have to be able to show what corrective measures have been put in place and how the results relate to an expected time line. This would be interpreted as effective regulation. Furthermore, regulators should have their ears to the ground to pick up unsound pricing practices and questionable product designs. The modus operandi should be to nip problems in the bud and not wait until they are full blown. We are not talking about regulators "running" the business. We are talking about effective regulation to provide a level playing field for all purveyors and their customers… existing and prospective.

Question #8

Myron, earlier you noted the industry's "bench strength." Could you elaborate?

Answer:

In my opinion, the depth of the management bench strength in many carriers today is below what I experienced when I was an analyst and a banker covering the insurance industry. There are always exceptions to the rule, but too many management teams seem to be more addicted to satisfying Wall Street's earnings and revenue growth demands than operating their organizations effectively, given the dynamics of the traditional underwriting cycle. I am aware of a multitude of situations where companies have expanded their operations geographically and/or into additional product lines. There are a lot of tentacles, but in too many instances, there is no central nervous system in place to effectively monitor and interpret the data being accumulated. All too often, this ultimately is manifest in a meaningful problem.

I believe that most industry observers would acknowledge that underwriting is a key facet to the industry's success. Underwriters have been retiring at a fairly rapid pace. Where are the new recruits coming from? How are they being tutored? Are there enough of them to fill the voids being created? There are things that cannot be learned from a book. Experience is the only teacher! Intelligent underwriting systems admittedly can help, but they can only do so much. Indeed, there will always be instances, in both personal and commercial lines, where a judgment call, based on experience and intuition - not just statistical data, has to be made. Are the carriers up to the task?

Do the people that comprise the Executive Suite foster teamwork? Do they truly have the necessary people skills and do they encourage and accept disparate views and tough questions from their direct reports? Finally, it is also common knowledge that, for the most part, it is cheaper to keep existing customers and sustain high retention ratios as opposed to ignoring your customer base and primarily trolling for new customers. When was the last time you heard a Chief Executive Officer talk about policy retention and customer service? How often has the company's CEO visited the customer service center(s) unannounced and sought input from the folks on the front lines about what they need to perform their jobs more efficiently? Only a few top performers have a customer centric focus. This is a concept that more carriers should seek to emulate.

The bottom line to all of this is that very few insurance enterprises seem to have management teams that can and do think out of the box! Such organizations have true management depth.

Question #9

Why aren't the regulators being more proactive and what do they have to lose by being proactive?

Answer:

Within the industry, the standard line is "…a good regulator is one who doesn't do anything." In addition, it is painfully obvious that funding for regulatory operations is a problem and there is always the ever present "political problem(s)." There are some exceptions to the rule. However, in order to be proactive, a regulator has to be prepared and able to withstand industry wrath and a lot of political heat from legislators who are "tied" to the industry.

Editorial Comment:

In 1990 in "State Actions to improve Insurance Solvency Regulation" the NAIC et. al wanted to illustrate how they were dealing with and were going to deal with regulation in the future. Included were better educated examiners, more timely examinations, the use of experts and Model Acts etc. As of 2010, the Examiners Handbook was illustrating a Risk Focused Approach to enable examiners to become more involved in the examination and work with the companies they examine to mitigate problems before and as they arose. This was viewed as a good thing and still is. Regulators were, as a result, supposed to not just perform a checklist approach to an exam, but were to read, understand and question items. Has this been more effective or is it just lip service? This remains to be answered and not just by citing fewer insolvencies.

Question #10

Has regulation improved over the past decade or two and what are the criteria for improvement? Are few or no insolvencies criteria for success?

Answer:

Evan, I am sure there are people who would say that regulation has improved over the past decade or so and point to the decline in insolvencies, particularly in light of the financial tsunami experienced in 2008. I do not agree with that conclusion. To begin with, we have ceded capital regulation to the Europeans. Next, it appears that regulators have kicked the can down the road with the use of permitted practices to give carriers more time to enhance their capital levels and recapture weakened asset values. While some breathing room was most likely appropriate, the time frame in some cases must be questioned. A report recently issued by Fitch Ratings noted that ratings over the 2007-2010 period have slipped some and indicated a return to the 2007 levels is unlikely given the agency's perspective on volatility and investment risk. Admittedly, the rating agencies, in general, are being more proactive given their dismal performance leading up to the 2008 meltdown, which was aided and abetted by their actions. However, Fitch's current perspective appears to be more in line with reality than the rosy picture drawn by many carriers. Relatively low investment yields and deficient pricing in many sectors over the past few years would not appear to point to a robust earnings recovery. Indeed, when one looks at commercial lines underwriting performance between 2007 and 2011, developed accident year loss ratios paint a rather dismal picture.

Question #11

Are company managements much better at avoiding pitfalls?

Answer:

Thank you for throwing me a great big basketball to swing at. The industry's dismal underwriting performance over the past few decades would say no. The confluence of less than effective capital utilization at times, foggy risk management applications and subpar returns on equity all speak volumes. The returns are even more damning when one adjusts for the risk factors and the volatility of the business. As I noted at the beginning of the interview, in the "old" days, company leaders came up through either the underwriting or sales ranks. They understood the business and had an affinity for the product and the markets served.

There are exceptions to the rule. There are carriers that have produced fairly consistent underwriting results over the years and have been able to grow their companies. Unfortunately, too many companies have tried to be too many things to their agents and customers. The end result has been poor return on equity, poor policyholder service, inconsistent markets and the inevitable charges. It remains to be seen if some really bad bets were made via deficient pricing and loosened underwriting standards in recent years. As I have previously noted, focus and the ability to think and execute out of the box remain very positive industry mainstays. Being part of a herd may appear safe, but it does not provide any incremental operating leverage.

Let's say, it looks like the clock is ticking.

Question #12

Have we learned from past insolvencies?

Answer:

Evan, I assume that "we" refers to the regulators, company managements and policyholders. I would love to answer in the affirmative, but I do not believe much has been learned form the Mission, Baldwin, Transit, United, Reliance, etc. debacles. Most policyholders tend to be more focused on price than quality. In fact, most never really seek out a carrier's rating, nor the appropriate information needed to truly understand a carrier's balance sheet strength. Prospective policyholders would do well to seek out companies and individuals who have gone through an insolvency to really understand how and why it is not a pleasant experience. Regulators basically continue a "hands off policy" of not wanting to place an enterprise under receivership unless all else fails. The modus operandi of "…not on my watch" remains very much alive. Finally, company managements.... Well, the record speaks for itself. In the twenty-five years period from 1979 through 2003, the industry failed to post an underwriting profit. From 2004 to 2011, underwriting profits were achieved in only three of those years. These statistics pale relative to the industry's historical record. For example, from 1920 to 1980, the industry posted an underwriting profit in forty of those sixty years. There is no question that the dynamics of the business has changed in terms of liability exposures, catastrophe exposures and the overall complexity of the product in terms of coverage, insured layers and the responsibility of the insured and the insurer. However, the industry's focus on developing an underwriting profit, with few exceptions, has clearly lagged.

Equal Opportunity Offenders (continued)

Question #13

Has regulation changed from the traumas of Mission and Unicover?

Answer:

Well, if it has changed for the better, it has been very well camouflaged. Regulators have always been and remain reluctant to take over a carrier. It is a costly and time consuming process for all involved, including the policyholders who were left holding the bag. Regulators are modestly proactive when it comes to holding down rate increases, when permitted. On other counts, they are rarely proactive. The use of permitted practices, which has been around for a while, in essence has provided troubled carriers with a lease on life. The real question is whether or not those carriers have really made good use of the extra oxygen that was provided to them. Over the past few years, the industry has been living off of reserve releases and permitted practices, while basically ignoring deteriorating marginal rates of return. It now looks like the excess reserve well is dry. So, where do we go from here?

Question #14

Myron, any thoughts about the Hurricane Katrina Syndrome?

Answer:

What a great question and a wonderful way to end the interview. The magnitude of catastrophe losses we have seen in recent years has clearly exceeded even the most pessimistic prognostications. The lesson to be learned for both company managements and regulators is "…don't ignore things that can happen, don't be afraid to ask the "what if?" questions and most importantly, probe for the answer(s) to those questions." Finally, use the talent that exists both within and outside the industry to get to those questions if the talent does not exist in your organization. Most organizations and enterprises can use/need a different perspective from time to time. Such an approach is needed to forestall or root out any systemic risk that begins to invade individual companies or the industry.

Thanks Evan. I really enjoyed our conversation.

Evan D . Bennett is Director of Reinsurance Consulting at Blackman Kallick in Chicago, Illinois. He has over 30 years of experience in the insurance/reinsurance industry and has performed reinsurance audits and reviews, reinsurance contract analysis, and other reinsurance projects for insurance companies and departments of insurance . He has also served as an expert witness and consultant on various arbitration and litigation projects throughout his career. Evan is a frequent presenter at industry and IAIR events and is the Chair of IAIR's Audit and Communications Committees. You can reach Evan at 773-230-0554 or ebennett@blackmankallick.com.

IN MEMORIAM: STEPHEN L. WRIGHT

It is with sadness that we share with you the news of Stephen L. Wright's passing. Steven was a long time member of IAIR and was involved in many different capacities. As a member, Steve contributed on committees and was very active in the insurance industry throughout his career, both as an estate manager and examiner. Below is an excerpt from the obituary published in the Nevada Appeal.

Stephen L. Wright passed away on Wednesday, May 9, 2012, at his home in Carson City, Nevada. He attended the University of Nevada, Reno. Stephen was a Senior Market Conduct Examiner and the Director of Special Projects for the Huff Group, Kansas City, Missouri. Other important positions held by Stephen during his professional career included Chief Insurance Examiner, State of Nevada Division of Insurance, Estate Trust Manager for the California Department of Insurance, and Program Manager for the FDIC. He was committed to fair competition in the private sector and consumer protection. Stephen's love and concern for his country knew no bounds. His innate loyalty extended to his friends. We shall all miss his beautiful and noble thoughts, as well as his wide and warm heart.

View from Washington

By Charlie Richardson

As this article is being written in May of 2012, the insurance world awaits the issuance of the report by the Federal Insurance Office ("FIO") on modernizing and improving insurance regulation as mandated by the Dodd-Frank Act.

Federal Advisory Committee on Insurance

The Federal Advisory Committee on Insurance ("FACI") met on March 30 at the Treasury for the first time for about three hours to discuss logistics, ethics requirements, its role and a few initial topics on which to advise the FIO. Director Michael McRaith announced Brian Duperreault, President and Chief Executive Officer of Marsh & McLennan Companies, as the Chairman.

Two subcommittees were created: "Regulatory and Supervisory Balance," which will examine the state of the "playing field" for insurance companies and to see whether it is a level one; and"Accessibility," which will look at the effect of changing demographics and socio-economic patterns domestically and internationally. Members and McRaith noted that international issues were at the forefront of many concerns, and the two initial subcommittees will delve into those issues.

FACI will meet quarterly, with interim teleconferences. McRaith hinted that other issues will be added after the release of the FIO Report. There was no mention of the receivership/ guaranty systems.

Below is a list of FACI members:

Michael McRaith
Director, Federal Insurance Office – Committee Decision Maker

Brian Duperreault
Committee Chairman: President and Chief Executive Officer, Marsh & McLennan Companies

David Birnbaum
Economist and Executive Director, Center for Economic Justice

Michael Consedine
Pennsylvania Insurance Commissioner

Jacqueline Cunningham
Virginia Insurance Commissioner

John Degnan
Senior Advisor to the CEO of the Chubb Corporation

Loretta Fuller
Chief Executive Officer, Insurance Solutions Associates

Scott Harrington
Alan B. Miller Professor in the Health Care Management and Insurance and Risk Management Departments at the Wharton School, University of Pennsylvania

Scott Kipper
Nevada Insurance Commissioner

Benjamin Lawsky
Superintendent of Financial Services, State of New York

Thomas Leonardi
Connecticut Insurance Commissioner

Monica Lindeen
Montana Insurance Commissioner

Christopher Mansfield
Senior Vice President and General Counsel, Liberty Mutual Group

Sean McGovern
Director and General Counsel, Lloyd's North America

Michael Sproule
Executive Vice President and Chief Financial Officer, New York Life

William White
DC Insurance Commissioner

Dodd-Frank Carping

One of my favorite literary and potty mouth authors and commentators from the last century was Dorothy Parker. Parker said one time of Eleanor Roosevelt, "Beauty is only skin deep, but ugly goes all the way to the bone."

View from Washington (continued)

That's what a lot of people in the business community, generally, and in the banking sector, specifically (and their supporters in Congress-primarily Republicans) are saying about Dodd-Frank and the 10 federal implementing agencies, now that the economy appears to be slowly but surely climbing out of the depths of the 2008-2009 hole.

There have been over 50 amendments or repealers introduced, some of which are bound to succeed if the Senate flips to GOP control next year. For example, in April, the GOP-led House Financial Services Committee took direct aim at the Orderly Liquidation Authority ("OLA") provisions of Dodd-Frank as part of its implementing legislation relating to the controversial GOP budget. The majority vote was to repeal the OLA completely. There were similar moves against the new Office of Financial Research, now with 70 employees, and the Consumer Financial Protection Bureau, with 750!

The Dodd-Frank complexity has created a backlash of sorts – not one as strong as the backlash, even vitriol, against TARP, the stimulus bill, and healthcare reform – but a backlash nevertheless. FIO Director Michael McRaith got a small taste of that at his first Congressional hearing last October, just as other Treasury officials led by Secretary Geithner get grilled every time they are on the Hill.

The point is that most parts of Dodd-Frank have now been run over by every interest group in DC, as the really dark days of 2008 and 2009 get farther away and Republicans can say that Dodd-Frank is an example of regulatory excess that is now holding back the recovery.

So far, none of this has washed over FIO. Indeed, Director McRaith's non-stop reach out to state regulators, Congress and all segments of the industry has kept criticism of the insurance sections of Dodd-Frank to a bare minimum.

NFI Insurance Reform Summit

On March 21, the 8th Annual Insurance Reform Summit we help put on with Networks Financial Institute was held in Washington. Several of you were there. The Summit is always held the first week of March before Congress gets going, but was pushed back this year to accommodate the likely issuance of the FIO report. That sure did us a lot of good.

There were important presentations by Commissioner Susan Voss for the NAIC, a speech by Rep. Ed Royce for the House Financial Services Committee, academic and data presentations by researchers from Georgia State and St. Johns and by Ernst & Young, and a terrific industry panel made up of the leaders of the National Association of Professional Surplus Lines Offices, Ltd., the American Insurance Association and the NCIGF.

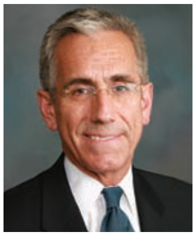
FIO Director Michael McRaith had been expected to speak at the Summit, but due to a delay in the release of the FIO Report, he did not.

The concluding speaker was the Financial Stability Oversight Council's voting member Roy Woodall, and I think it's fair to say he kept the audience fully engaged to the very end. For those of you who have known Mr. Woodall for decades since he served as insurance commissioner in Kentucky, I think we can say that he is diggin' his role and has really come into his own. He is highly regarded both on and off the Hill.

Rep. Royce said he supports Dodd-Frank's creation of the FIO, which for the first time established a centralized voice on insurance issues in international forums and negotiations for the U.S. industry. He reaffirmed his support for Optional Federal Charter legislation as a way to facilitate a more national insurance market. Mr. Royce commented on the NAIC, specifically mentioning his letter in which he questioned the status of the organization and acknowledged receipt of a response from the NAIC that is probably not going to end the conversation.

Bottom line, Rep. Royce thinks that state-by-state regulation isn't necessarily the best way to fuel a national insurance market in the 21st Century, and he has no intention of exchanging recipes any time soon with the NAIC, whose status and role has been questioned in a very public way.

Finally, the debate at the Summit, and at the FACI meeting, centered significantly on all things international. Everyone's eyes are focused there, including the NAIC as it pushes forward its Solvency Modernization Initiative.



Charlie Richardson is a Partner at the law firm Faegre Baker Daniels in its Washington, D.C. office where he chairs the firm's Insurance 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, liquidations and troubled company workouts.

The Perfect Receiver

By Patrick Cantilo, CIR-ML

My favorite chess book is Eugene Znosko-Borovsky's 1961 deceptively thin classic "How Not to Play Chess." Borrowing an approach from that great master I humbly offer "How Not to Be a Receiver." Avoid these traps and your life will be immensely richer.

1. **Forget the goal.** Especially in the beginning, receiverships can be very daunting. It is easy to get so immersed in the initial challenges that one loses sight of the finish line. Good trial lawyers begin working on their jury charge on day one, the same day on which good receivers begin working on their closing plan. It is imperative to set an exit strategy early and work inexorably toward that goal. This will reduce the chance of expensive and time-consuming distractions.
2. **Don't dilly-dally, just go!** In the face of exigent circumstances, it is tempting to just forge ahead, letting developments set the direction. However, it is the wise receiver who makes a reasonably robust receivership management plan early and sticks to it to the end unless there is a persuasive reason to change it.
3. **Hide the ball.** Receivers come under fire from many fronts and can easily fall in the trap of revealing little and being astutely circumspect so as to avoid giving opponents unnecessary ammo. While caution is always in order and confidentiality sometimes essential, the default mode should be to be clear and candid. Far more often than not this will reduce the number and severity of conflicts with which a receiver must deal. The informed creditor is less likely to be skeptical or cynical to the point of litigation.
4. **Shoot everybody.** Finding targets is not the hard part; rationing ammo is. While in many cases people who deserve dearly to be sued out of existence permeate troubled companies, the wise receiver resists that temptation, initiating only that litigation that is important to the overall receivership plan and has a reasonable chance of success at a reasonable cost within a reasonable time.
5. **Clean house quickly.** Similarly, it is tempting to get rid of existing management and supervisors and replace them with "untainted" newcomers and consultants. However, thought should be given to the institutional knowledge lost in the process and the learning curve that will confront replacement employees. A more judicious "default" approach is to retain employees as long as possible given the work that must be done and available resources. Undoubtedly, some members of management may need to go, but wholesale house cleaning can be very counter-productive.
6. **Don't waste money on consultants.** Many companies have exceptional staffs and it is easy to rely on their expertise and familiarity, thereby saving the considerable cost of consultants. How expensive is it later, though, when it turns out that company staff was unable or unwilling to identify the most serious problems and address them effectively. An astute independent analysis early in the process can provide the confidence that the receivership management plan is responsive to the real challenges facing the company and does not overlook critical functions.
7. **Take your time.** This stuff is hard. Given the need to familiarize oneself with the company and its problems, it is easy to see why many receivers take some time to begin working on the receivership management plan, let alone begin the more challenging phases of the rehabilitation or liquidation. But time is our enemy. Adverse selection decimates the value of blocks of business, wrongdoers hide their tracks, agents lose interest, key employees are lured away by competitors, and the stuff in the refrigerator begins to smell bad. Hard as it is, the good receiver moves quickly to identify the key functions that the receivership must perform and begins very quickly to devote resources to those functions. Put another way, it is easy to focus on taking control and put off starting the actual rehabilitation or liquidation - but the cost of delay can be substantial.

These seven traps are by no means all that is important. But avoiding them can make receivership management much more effective.

IAIR Welcomes its Newest Members

Jonathan L. Bing

Jonathan Bing was appointed Special Deputy Superintendent of the New York Liquidation Bureau ("NYLB") in July 2011. Prior to joining NYLB, Mr. Bing was elected to represent the Upper East Side and East Midtown Manhattan in the New York State Assembly for five terms, from January 2003 through June 2011. His most notable legislative achievements include the 2006 law that expanded the statute of limitations for workers' compensation claims made by 9/11 rescue, recovery, and clean-up workers. Mr. Bing also authored several laws to reduce administrative burdens in the insurance and real estate industries in order to allow these businesses to be more successful during difficult economic times.

Mr. Bing received his JD from New York University School of Law, a BA from the University of Pennsylvania and a 2009 Honorary Doctor of Law degree from LIM College.

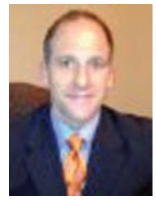
Edward W. Buttner IV, FLMI, CFE, CFF

Prior to joining Veris Consulting, Inc. as a Senior Managing Director, Ed Buttner was the Principal in his own firm. Mr. Buttner devoted much of his practice to forensic accounting and expert witness services, primarily serving the insurance industry. With over 25 years of experience, Mr. Buttner has testified on numerous occasions and in numerous jurisdictions.

Mr. Buttner was a partner in Ernest & Young, having principal responsibility for serving its insurance clients in the southeast region. Mr. Buttner operates out of Jacksonville, Florida.

Joseph F. Clark, AIE, FLMI, CFE, CFF

Joseph Clark is a Managing Director with RSM McGladrey in charge of the Regulatory Insurance Consulting Practice serving several state insurance departments. Previously, Mr. Clark was the partner-in-charge of a Big 5 accounting firm's national insurance regulatory consulting practice based in Hartford. During his fifteen years with the firm, he worked primarily in the financial services, insurance and reinsurance industries including the life, health and property-casualty sectors.



John J. D'Amato, CPA

John D'Amato is a Senior Manager with RSM McGladrey in Austin, Texas, performing statutory financial and market conduct examinations, ad hoc solvency and operational reviews and providing internal audit services. Previously, John was a Senior Financial Consultant with Rector and Associates, Inc.

Mr. D'Amato holds a Bachelor of Science in Business Administration from the University of Hartford, West Hartford, Connecticut (magna cum laude).

Nicole Debien, CPA

Nicole Debien is a Consultant for Veris Consulting, Inc. specializing in forensic accounting and litigation consulting services, including accounting and financial reporting matters, auditing malpractice and economic damages calculations. She frequently conducts research related to GAAP, SAP, GAAS and other industry specific authoritative literature. She has assisted counsel through all phases of the litigation process.

Ms. Debien received her Master of Science in Accounting and BS in Commerce, with distinction, from the University of Virginia's McIntire School of Commerce.

Lee Harrell

Lee Harrell, of counsel in the Jackson, MS office of Baker Donelson, concentrates his practice in the area of insurance with an emphasis on insurance regulatory matters. Prior to joining Baker Donelson, Mr. Harrell worked with the Mississippi Insurance Department (MID) for sixteen years, first as Special Assistant Attorney and General Counsel, then as Deputy Commissioner and Special Counsel.

IAIR Welcomes its Newest Members (continued)

Mr. Harrell was part of the investigatory team that first discovered the massive insurance fraud perpetrated by Martin Frankel. He coordinated multi-jurisdictional asset recovery efforts and assisted in the successful prosecution of Frankel and others.

Patricia Neesham, CPA, CFE

Patricia Neesham is a Manager with RSM McGladrey and performs financial and market conduct examinations. Previously, she was a Senior Examiner with Huff, Thomas and Company, Chief Market Conduct Examiner and Chief Market Analyst with the Oregon Division of Insurance and served as Special Deputy Receiver for six companies in various stages of liquidation. Ms. Neesham holds a Bachelor of Arts in Accounting from Fort Lewis College.

Margaret C. Spencer, CPA, CIE, MCM, RHU, CPCU, CLU, CIA, CFE

Margaret Spencer, a Managing Director with RSM McGladrey, provides leadership for market regulation, financial and insolvency consulting engagements for insurance regulatory clients.

Prior to joining RSM McGladrey, Ms. Spencer was a principal with a Big 5 accounting firm and Director of the firm's insurance regulatory consulting practice. Ms. Spencer holds a Bachelor of Business Administration – Accounting from the University of North Florida.

Jeremy R. Wallis

Jeremy Wallis, of Wallis Resolutions, is a Reinsurance Consultant specializing in reinsurance treaty underwriting and claims management. He is a Director of MAPFRE Insurance Company.

Mr. Wallis is a Certified Arbitrator (ARIAS-US) and member of ARIAS-UK's Panel of Arbitrators and AIRROC's Panel of Arbitrators and a director of Intermediaries & Reinsurance Underwriters Association, Inc and a member of the Journal of Reinsurance Editorial and Association Governance committees.

Kevin L. Wheeler

Kevin Wheeler, of Higgs Fletcher & Mack LLP, specializes in complex business disputes, insurance matters, patent and trademark infringement litigation and securities arbitrations and advises small to mid-sized companies in contract, intellectual property and insurance matters. Mr. Wheeler received his JD from the University of San Diego School of Law.

Paul Wilkening

Paul Wilkening is the Deputy Commissioner of Administration with the Oklahoma Insurance Department, where he manages staff of over 120 employees in two state offices and is Assistant General Counsel to the Oklahoma Receivership Office, Inc.

Prior to joining the Oklahoma Insurance Department, Mr. Wilkening was the sole practitioner of the Wilkening Law Firm in Tulsa, Oklahoma, a civil and criminal litigation firm.

Al Willis

Al Willis is the Assistant Division Director for the Florida Department of Financial Services, managing the Administrative Services, Accounting, Claims and Estate Management sections of the Division of Rehabilitation and Liquidation. Previously, Mr. Willis was the Acting Deputy Commissioner, Director of Life and Health Financial Oversight and Bureau Chief of the Bureau of Specialty Insurers with the Florida Office of Insurance Regulation.

To submit an article, please contact Michelle Avery at mavery@verisconsulting.com.

Same Difference, Right
2012 Insolvency Workshop Wrap Up

By Bart Boles and Lowell Miller

The International Association of Insurance Receiver's membership is comprised of a multitude of professionals, consulting firms, and other entities involved in the insurance receivership practice. Within the category of "other entities" fall two types of organizations that are usually the largest creditors in any receivership: the insurance guaranty associations and guaranty funds. IAIR recognizes these entities' vital role in receiverships and made the decision to dive into the depths of the guaranty systems during its Annual Insolvency Workshop that was held at the Westin San Diego on January 19 and 20, 2012. This year's theme was The Nuances and Perceptions Between Receivers and the Guaranty Systems: Do You Know What You Don't Know?" Although guaranty associations and guaranty funds have the same overall goal, to protect the obligations to policyholders under the insurance policies of an insolvent insurance company, the workshop's presenters went beyond this surface objective on a variety of receivership issues to identify where the two guaranty systems are similar or unique in their responsibilities, approaches, processes and potential impact on receivership activities.

Barbara Cox of the National Conference of Insurance Guaranty Funds ("NCIGF") and Joni Forsythe of the National Organization of Life and Health Insurance Guaranty Associations ("NOLHGA") began the workshop with material on the processes and committees their organizations use to facilitate and coordinate guaranty funds' and associations' activities for multi state insolvencies. At times it might seem like herding cats, with state-by-state slight variations in laws defining coverage and monetary limits, but with cooperative efforts the systems work amazingly close to the way they are intended.

A panel comprised of Dave Edwards, Frank O'Loughlin and Dan Watkins provided some perspectives on the pros and cons of involving a guaranty fund or association early in the rehabilitation process while the need for liquidation is still being evaluated. It was evident that there have been instances where such early involvement provided significant benefits to the rehabilitation efforts or allowed for a more seamless transition to liquidation. This panel also mentioned some areas where perils loom. They stressed that the unique set of facts for each company should be carefully analyzed during rehabilitation and the involvement of the guaranty associations or guaranty funds should be included as a possible beneficial tool to either result.

Evan Bennett, Hal Horwich and Joel Glover discussed the most significant asset in the majority of receiverships: reinsurance. They emphasized the importance of accurate records and development of relationships with the reinsurers, especially for ongoing, long-tailed claims. Although it may seem obvious that the claims related records will be provided by both guaranty systems, it was found that ongoing reinsurance reporting and standardized reporting was far more prevalent among the property and casualty guaranty funds.

The next panel discussed some of the challenges facing guaranty associations and receivers as new insurance products, or new features on old products, are developed and introduced. Chuck Gullickson, Joe DiMemmo and Wayne Wilson made all attendees sit up and take notice as they described the continually and rapidly changing products and how they must be addressed through the existing statutes that were probably a little dated when adopted. Although it was clear that coverage determinations are the obligation of the guaranty associations or funds, receivers possess many of the financial and institutional records that need to be reviewed as part of the coverage determination. In addition, the final coverage determinations impact the receiver's administration obligations to quantify policyholder level claims and distribution assets. The panel made everyone realize that "high octane" marketing departments can not only lead a company down the insolvency path (i.e., "I don't care about the adequacy of the pricing for the benefits, I just want to sell it") but also create headaches for guaranty systems and receivers as the company's administration systems and receivership and guaranty laws are trying to close the gap while running on "cheap gas."

Chris Maisel mediated a discussion between Steve Durish and Bart Boles over the approaches of the two guaranty systems with respect to

Same Difference, Right? (continued)

policy and claims administration. While both systems have their own set of critical claims and issues that require immediate attention, evaluating which data, personnel, and hardware/software that might be useful going forward unveiled some unexpected differences in approach. Also, some of these specific resource needs are controlled not only by the receiver, but also by the integral aspect of the receiver's administration plans for the estate and would require coordination and/or sharing with the guaranty association or fund.

How could an update on the past year's litigation and legislation impacting receiverships be anything other than a total yawner, just make sure Mary Cannon Veed and Philip Curley make the presentation. Not only did these consummate professionals convey the relevance of this complex material, they did it with precision and humor.

Jan Funk, Bruce Gilbert and Mike Fitzgibbons revealed unexpected complexity to the various issues to be finalized when closing the receivership proceeding. The estate closure sounded simple in concept until they walked us through auditing Proofs of Claim, reconciling early access distributions, finalizing uncovered claims, escheating, completing regulatory filings, dealing with federal, state and local taxing authorities, and distributing the final remaining assets.

The closing panel was asked to deal with the 800-pound gorilla lurking in the corner of the room, namely the Dodd-Frank Act. Patrick Hughes and Charlie Richardson, as if coaching attendees in the tradition of Lombardi and Landry, presented the X's and O's within this morass of law. They reviewed the starting lineups among the federal regulators and tentatively game-planned the potential impact. Their presentation concluded with everyone prepared for Dodd-Frank season and the conviction that life will stay interesting.

A wise man once said, "There's a fine line between wrong and visionary, unfortunately you have to be a visionary to see it." As we look forward to the 2013 IAIR Insolvency Workshop, we must provide a sincere thank you to all of the presenters in San Diego who stepped up, said "yes," and then demonstrated their vision by sharing experiences and expertise in the workshop so that "wrong" doesn't find it's way into the receivership process.

Lowell Miller has served as Executive Director of the North Carolina Life & Health Insurance Guaranty Association since 1995. He also serves on several NOLHGA insolvency task forces and committees.

Bart Boles has worked in various capacities for the Texas Life and Health Insurance Guaranty Association since 1988. During that time he also served on the NOLHGA Board of Directors, as Chair of NOLHGA's Members Participation Council, as chair of a number of multi state insolvency task forces, and has participated various other NOLHGA committees and task forces.

There are options – A different approach to handling reinsurance billings and collections

By Ricardo Cantilo and Steve Street

That insurance and reinsurance processing is not efficient enough is probably not headline news to anyone. Receiverships suffer the same deficiency, making reinsurance recoverables one of the main hurdles they need to overcome.

The collection process can occasionally be painfully burdensome due to the complexity of the relationships that sometimes can involve brokers, sub-brokers and reinsurers from which the receiver needs action. Legacy business can have tails of up to 40 or 50 years and records, often made up of fixed data and unformatted text, need to be maintained for up to 80 years.

The main issues are not a secret to anyone. It is vital to provide brokers and/or reinsurers with adequate and timely notices and billings with their respective supporting documentation. It is equally important to identify the right contact person at the broker and/or reinsurer. It is of paramount importance to keep the relationship with brokers and reinsurers as active as possible, which means that all correspondence with them needs to be dealt with as soon as possible.

In the current environment, brokers play an important role in the billing and collection process. However, most brokers would probably prefer not to be weighed down by the burden of back-office processing long after any brokerage or commission has been banked. Generally, brokers wish to concentrate on the areas where they add value – namely, in the identification of risks, structuring programmes, placement and claims advocacy. The burden to the broker balance sheet in balancing the cost of processing versus adding true value to the (re)insurance transaction is becoming increasingly unsustainable and is even further exacerbated when looking at legacy portfolios where the client relationship is no longer current.

None of this should be a barrier, however, to improving the time it takes to speed up collections and notifications or to finalize settlement and commutation. A combination in re-engineering and technology has to be the solution. Simplification of an overly complex process (particularly when it comes to long-tail claims) and mitigation of cost – costs driven up by a range of factors, such as too many touch points in the system, too many hand-offs, too much reconciliation, or simply too many inconsistencies – must be the way forward.

A successful solution to the problems above must focus on:

- complete control and transparency;
- improved cash flow;
- a single platform to access all markets and brokers;
- the opportunity to replace a non-performing broker on legacy business or, if appropriate, retain the broker for their advocacy skills and market relationships – but not processing;
- reducing processing costs (or even eliminating them) along with increased efficiency – better client servicing as automation eliminates the need for broker re-processing and potential errors;
- standard presentation of claims; and
- reduced exposure to dormancy, particularly from legacy business.

Systems like STRIPE (Straight Through (Re)Insurance Processing Environment) can provide a solution. STRIPE is a web-based platform (developed by Tawa) enabling insurers and cedants to deal with their (re)insurers directly, reducing re-processing of data. It supports the single keying of data and allows the immediate, secure and evidenced delivery of transactions to all worldwide markets. It significantly improves cash-flow though instantaneous notification to (re)insurers, eliminating backlogs and other inefficiencies associated with traditional claims collection processes.

Importantly, STRIPE figures out the connectivity issues between parties and delivers the

There are options – A different approach to handling reinsurance billings and collections (continued)

information to and from those parties via the web. As previously mentioned, it is able to work directly with all markets, including the London Market, through ECF (the London market electronic claim file initiative) and CLASS (claim loss advice and settlement system), where it has been necessary to involve a London-based broker in the process. It is also capable of transacting ACORD messages, an internationally recognised standard of messaging in the (re)-insurance market. This level of universal connectivity is critical. Ultimately, it works to remove layers of process and cost wherever your business sits in the (re)insurance chain.

There are, of course, challenges to market-wide adoption of system driven solutions. Top of the list is probably tradition – and our industry is steeped in it – which can make it hard to persuade companies to adopt a new approach. People have a way of doing things and can be apathetic, if not resistant, to embracing change. Sufficient market volume, however, can create critical mass and, with nearly 300 organizations now using and communicating through a specific web platform, that may be enough to persuade many that the risk of adopting a new approach is minimal and the potential upsides significantly outweigh any perceived risk.

Global rules, not local standards, are critical and the use of ACORD messages (industry standards that support the definition and sharing of insurance data amongst worldwide industry participants), for instance, has opened the door to initiatives like STRIPE. The good news is that this standardization should see hubs competing for business, while market participants use their leverage to obtain greater functionality and even more value.

It's been a long time coming, but with the advent of technological initiatives, we can at last say that the market is finally starting to realize real progress on how it uses technology to strip out those frictional costs.

Ricardo Cantilo, a Vice President of Chiltington International is a lawyer specialised in Insurance and Reinsurance. After heading the Chiltington Argentina office, he has transferred to the U.S. operation where he is instrumental in the development of services to the Latin American market through the United States and devotes much of his time to reinsurance billing and collection matters.

Steve Street, a Director of STRIPE Global Services Ltd., has over 30 years of experience in reinsurance management positions in brokers and (re) insurers, focusing on reinsurance claims, consulting and business development.

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- Two full page ads each year in Receiver magazine (current value $1100).
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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.
- These value-added benefits reduce the effective cost to the Sponsor by 37% to $2,525.

SILVER SPONSOR $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).
- 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.
- 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 29% to $1,070.

IAIR Bulletin Board

Wishing Doug Hartz a Speedy Recovery!

As many of you may already know, Doug Hartz had a bike mishap this Spring and suffered multiple injuries, including a fractured clavicle and hip. Most frightening was the condition of his helmet, which all but shattered, leaving doctors amazed. Of course they don't know Doug....we've all known for years that he has a really hard head. Thank goodness! All kidding aside, we are truly happy to hear that Doug is recovering well and is back in action. You just can't keep a good man down!

Doug Hartz at the 2012 Insolvency Workshop in San Diego, CA

In Unity There is Strength

It's great to see Dick, current IAIR Board member and *receiver extraordinaire* and Roger, President of the NCIGF together at the IAIR Insolvency Workshop. The more we work together and understand the hurdles we each face, the better we can serve the policyholders. You may be interested in an upcoming NCIGF two-day Accounting/IT Conference to be held September 11 and 12 at the Hilton Skirvin Hotel in Oklahoma City, OK, to discuss and share expertise about the latest guaranty fund-related accounting and information technology developments. Topics such as understanding the data exchange difficulties between the GF and receivership communities and the need for UDS uniformity will be covered. For more information, contact Lynn Cantin at events@ncigf. Also, the NCIGF is interested to know if IAIR members would be interested in attending a seminar they are planning for November in Fort Lauderdale and possibly participating in a joint insolvency exercise. Let us know your thoughts on the matter.

Dick Darling and Roger Schmelzer

Dan Orth participating in a recent IAIR Board Meeting

All the Best to Dan Orth on his Retirement

Dan Orth has recently announced his intentions to retire, effective June 30th. Dan has participated in IAIR events for as long as we can remember. He has served on the board several times and has served as chair of the Governance Committee. Thank you, Dan, for your long tenure, dedication and insights instilled upon the organization. Hopefully, we will continue to see you at some of our events.

If you are interested in participating as an IAIR sponsor, advertiser or wish to receive information about IAIR membership or committee participation, please contact Sheri Hiroms, Administrative Services Manager, PALOMAR FINANCIAL, LC, telephone 512-404-6555 • slhiroms@palomarfin.com

SAVE *the* DATES

NAIC Summer Meeting

August

11-14

2012

Atlanta
Marriott Marquis
Atlanta, GA

NAIC Fall Meeting

Nov/Dec

29-2

2012

Gaylord National Hotel
and Convention Center
Washington, DC

IAIR Insolvency Workshop

Jan/Feb

30-1

2013

Hilton Savannah DeSoto
Savannah, GA

IAIR 2012 Committee Chairs

Executive Committee
Francesca G. Bliss

Strategic Planning Committee
Francine L. Semaya, Esq.

Operations Committee
Jenny Jeffers
Dale Stephenson

Accreditation & Ethics
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Governance Committee
Daniel A. Orth, III

Audit Committee
(Subcommittee of Governance)
Evan Bennett

By Laws Committee
(Subcommittee of Governance)
Dennis LaGory, Esq.

Elections Committee
(Subcommittee of Governance)
Dick Darling, CIR-ML

Member Services Committee
Douglas Hartz, Esq., CIR-ML
Donna Wilson, CIR-ML

Education Committee
(Subcommittee of Member Services)
Douglas Hartz, Esq., CIR-ML
James Kennedy, Esq.

International Committee
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