

# The Insurance Receiver

*A Publication by the  
International Association of Insurance Receivers*

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

Fall/Winter 2012

Volume 21, Number 2

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*Message from Frankie Bliss, IAIR President*

*Dear IAIR Membership,*

*For most of the country, election season is behind them.*

*The Nation has voted and the new leadership has been decided...but not as yet for IAIR. As we do every year around this time, the IAIR membership elects a new slate of Directors. Ballots have been sent, votes received, but we*

*anxiously await the last phase of our process, the Annual Meeting on November 30th to receive the last votes, tally the totals and announce the winners.*

Five Board positions are open and I am pleased to see such a depth of knowledge and dedication represented by those running for the coveted spots. We have several incumbents (Michelle Avery, Joe DeVito, Alan Gamse), as well as relatively new faces (Alex Burns, Fred Karlinsky) in our midst; there are those that have served previously - behind the scenes and at the helm in dedicated roles (Bart Boles, Kathleen McCain and Fran Semaya), and those that are long-time members, ready to take the plunge into Directorship (Joe DellaFera, Wayne Johnson, and Jim Schacht).

I thank all of our candidates for their willingness to run for office, realizing the time, commitment and responsibility that it entails. Their professional and personal engagement will only further improve the Board and Association, as well as enhance the benefits IAIR membership contributes to the unique segment of the industry we serve. I look forward to working with whomever the membership selects, knowing that each brings distinct qualifications to our organization. If you are a member in good standing and have not yet cast your vote, be sure to attend the annual meeting to do so.

I would also like to thank Patrick Cantillo, Lowell Miller and Vivien Tyrell as they step down from the Board for their contributions to us all over the past

(continued on page 2)

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## President's Message (continued)

years. We wish you every success in your future endeavors.

Our External Relations committee chairs, Mary Cannon Veed and Doug Hertlein, have been hard at work building strategic alliances with other great organizations who share similar interests and industry expertise. We are excited to announce the Memo of Understanding between IAIR and the ABA Tort Trial and Insurance Practice Section has been approved by both the TIPS Council and the ABA Board of Governors (see page 19). Additionally, we are currently working to complete an MOU with the Association of Insurance and Reinsurance Run-Off Companies ("AIRROC"). As we look to expand the reach of IAIR's benefits and those of its membership to other professional organizations who share our mission and commitments to the industry, the relationship with TIPS and AIRROC will certainly provide us all with additional opportunities. Such joint ventures will allow us to share newsletter articles from industry thought leaders, have links to one another's websites, afford discounts on non-member registration fees, and to further cooperate, assist and promote each other's activities and projects.

As always, we have lots of great content for you in this latest issue of The Receiver. Be sure to check out our Bulletin Board on page 18. We have highlighted a few notable circumstances in which members have switched jobs, geographically relocated or taken on new challenges. The message board is a recent addition to the newsletter – one we would like to use to keep you up to date on the latest and greatest about our members, for our members. If you have news - professional or otherwise - that you would like to share, please let us know and we will be happy to include it. The message board is only as good as what you have to share, so SHARE!

Also make sure you check out the agenda for the upcoming 2013 Insolvency Workshop (pages 20-21) taking place in the heart of Savannah's historic district on January 29-31, 2013. Thank you to Chris Maisel and Dennis LaGory for their work thus far pulling together a wonderful agenda. The schedule

includes a great list of speakers as well as an interactive segment that will be sure to keep you engaged. Plan to arrive in time to attend the kickoff cocktail party on the evening of the 29th.

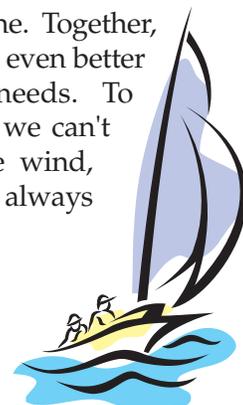
As we look forward to 2013, don't forget to keep IAIR on your list of marketing and advertising initiatives. Now is the time when many of you will be making a list and checking it twice for next year's budget. If you decide IAIR has been more nice than naughty, consider a sponsorship through our corporate sponsorship program (see details of the program on page 22), place an ad in The Insurance Receiver, or sponsor the Insolvency Workshop – there are plenty of options. If you are interested in hearing more or finding out how, contact IAIR's new Headquarters.

I'd like to thank Palomar, and Sheri Hiroms specifically, for their willingness to step in and assist us tide over this past year and their facilitation of the transition to our new full service association management team, led by Bernd G. Heinze, Esq. and Nancy L. Margolis, Esq. at Accolade Management. We are excited to welcome them as the new managers of IAIR's operations. You'll notice the new contact information in the newsletter but if you have any questions or reason to reach out, do so through Bernie at [bernie@accolademgt.com](mailto:bernie@accolademgt.com) and Nancy at [nancy@accolademgt.com](mailto:nancy@accolademgt.com), or contact them at: 610-992-0015.

Thank you all for making the last year an exciting, dynamic and adventurous one which allowed me to transition out of my role as a New York receiver and focus my energy on IAIR – an organization filled with fantastic people with wonderful talent and proficiency in our little niche. Together, we can make our association even better to meet ever evolving needs. To paraphrase a sailor's quote, we can't change the direction of the wind, but we can adjust our sails to always reach our destination.

Happy holidays to all!

frankie



## Investment Portfolio Analysis

By Alexander Chatfield Burns

*The management of assets of an insolvent insurance company, like many other roads paved with good intentions, is fraught with many risks of which all are not immediately apparent. While reason dictates*

that every dollar in an insurance company ought to be weighted equally; there is a historical bias toward managing insurance claim related obligations over equivalent management of potential gains and losses in the investment portfolio.

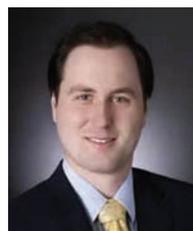
An insurance company's ability to pay its policyholder obligations over time is at risk to many factors, such as the company's liquidity, changes in interest rates and the acceleration of required payments. The term structure of liability maturities may lead one to misjudge the company's cash position as well as the relative value of its investment portfolio. A rise

in interest rates may greatly increase how much the company pays on its liabilities.

Events may occur that cause liabilities to become payable at unexpected times. Depending on these and many other factors, an insolvent carrier may greatly underestimate the timing and magnitude of claims for which they are liable.

In light of this, it is vital for receivers to adopt prudent asset liability management ("ALM") for carriers that are under their supervision. The implementation of ALM strategies allows for an insurance company to accomplish numerous objectives in maximizing available funds to support claims. The matching of assets and liabilities in terms of return, maturity and duration can help receivers meet required return objectives for liabilities, protect against changes in interest rates that amplify potential payouts and manage its liquidity and asset mix. Managing ALM would help illuminate the relative strengths and weaknesses of an insurance company's investment portfolio and identify marginal benefits and deficiencies of existing liabilities.

Not only can a successful ALM strategy manage and mitigate numerous risks in meeting liabilities, but it can also substantially increase a company's operating results (thus minimizing the potential cost to guaranty funds). In implementing an ALM strategy, receivers can understand how it can take advantage of numerous asset classes, such as fixed income securities, equities and money market funds, to deliver the optimal return.



Alexander Chatfield Burns is the Chief Strategist of Southport Lane, a New York based private equity firm that has controlling investments in a number of insurance and reinsurance companies. Southport Lane also provides asset management services to its portfolio companies through its affiliate, Southport Lane Advisors.

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# The Successful Rehabilitation of Shenandoah Life Insurance Company

## RECEIVERSHIP NEED NOT END IN RUN-OFF OR LIQUIDATION

By Arati Bhattacharya

*This article first appeared in LifeHealthPro.com on October 25, 2012 and is reprinted with their kind permission.*

*In what is a largely unprecedented conclusion to an insurance receivership, on May 8, 2012, the State Corporation Commission of the Commonwealth of Virginia (the “Commission”) allowed Virginia-based*

Shenandoah Life Insurance Company (“Shenandoah” or the “Company”), a once troubled mutual insurer, to emerge from receivership and resume normal business operations and the sale of new policies.

Although there have been successful “pre-packaged rehabilitations” in which a previously negotiated deal was announced just short of, or immediately upon, entering receivership, the nature and successful outcome of the Shenandoah receivership should be heralded as a landmark achievement for the state-based regulatory system.

In Shenandoah’s case, there was no white knight waiting to rescue the Company as it entered receivership. Rather, receivership consultants embarked on a years-long effort of identifying and contacting potential strategic partners, vetting proposed rehabilitation scenarios, and carefully selecting the best solution amidst various opportunities and interested suitors for the distressed Company. The rehabilitation process successfully culminated three years later with Shenandoah’s acquisition by United Prosperity Life Insurance Company (“United Prosperity”), which provided Shenandoah with a much needed capital infusion. Also unique to the transaction — no state insurance guaranty funds were triggered or asked to make payments on behalf of Shenandoah’s policyholders, although there was a finding of insolvency by the Commission when the rehabilitation plan was approved.

### **Shenandoah’s seeming demise and saving grace**

Shenandoah<sup>1</sup> was ordered into state-mandated receivership on Feb. 12, 2009, only months after the beginning of the most serious

national and worldwide financial crisis since the Great Depression. The Company suffered significant investment losses prior to receivership, resulting in the finding that further transaction of Shenandoah’s business would be hazardous to policyholders, creditors, members and the public. Also, the Company had just been advised by an expected purchaser that its anticipated pre-receivership acquisition deal would not be consummated. In that bleak context, and with the onset of receivership, the late Alfred W. Gross, Commissioner of Insurance in the Commonwealth of Virginia, was appointed Deputy Receiver of the Company, to be subsequently succeeded by Jacqueline K. Cunningham. The Deputy Receiver moved quickly to retain a team of expert receivership consultants (the “receivership team”) led by Counsel to the Deputy Receiver.<sup>2</sup>

The receivership team began working immediately to stabilize the Company and evaluate its vulnerabilities and rehabilitation options in an effort to preserve, if at all possible, the interests of policyholders and creditors. To that end, among the first priorities were retaining key Company personnel to continue day-to-day servicing for policyholders, to include continued payment of claims, and stabilizing the Company’s financial condition. With the latter objective at the forefront, the Deputy Receiver implemented numerous measures to reduce expenses and unnecessary liabilities, preserve income from renewal premiums, and control cash flow, all while striving to get a better read on the Company’s true financial condition and prognosis. Moratoria on the issuance of new business and cash withdrawals were also declared.



## The Successful Rehabilitation of Shenandoah Life... (continued)

Within a few short weeks of being in receivership, the Deputy Receiver and the receivership team determined: (1) Shenandoah's financial condition, good will, and other attributes made it a promising candidate for rehabilitation; (2) Shenandoah's rehabilitation would be in the best interests of policyholders and creditors; and (3) rehabilitation would most likely be achieved through an outside investment, an acquisition, or a merger. Once a rehabilitative course of action was selected, Counsel to the Deputy Receiver launched efforts to identify potential third-party strategic partners or purchasers.

Remedial measures implemented while in receivership materially contributed toward making the Company a more attractive acquisition target. Attentive and enlightened management of invested assets during the receivership period enabled the Company not only to capitalize on the recovery in the capital markets, but also to substantially improve both the quality of the invested assets and the Company's ability to withstand later aftershocks to the broader economy, such as the global impact of the debt crisis in the Euro zone. During the receivership, the portfolio of invested assets gained more than \$300 million in market value while improving credit quality and preserving acceptable yield and duration.

In due course, United Prosperity emerged as the most promising suitor for a proposed demutualization, acquisition, and rehabilitation of Shenandoah. After a period of intense reciprocal due diligence and document drafting, United Prosperity and the Deputy Receiver executed a Stock Purchase Agreement on May 4, 2011.<sup>3</sup> Counsel to the Deputy Receiver subsequently shepherded the process of addressing potential objections, devising solutions to move past conditional and regulatory hurdles, and seeking all necessary approvals for the proposed transaction including, after a hearing: (1) the Commission's approval of the Company's proposed conversion, rehabilitation plan, and acquisition of control; and (2) the policyholders' vote in favor of the Company's conversion to a stock company. The rehabilitation plan was approved by the Commission and a more than 97% favorable vote of policyholders, and received no formal opposition from regulators or other interested parties.

### The next chapter for Shenandoah

Having satisfied all conditions precedent to the Stock Purchase Agreement and with the receipt of all requisite approvals, the Deputy Receiver lifted the moratoria, and on May 8, 2012, the Commission entered its order terminating receivership proceedings, bringing a positive finality to the transaction. Today Shenandoah is a Virginia stock life insurance company and wholly-owned subsidiary of United Prosperity. Back from the precipice of liquidation, a revitalized Shenandoah is now immersed in the business of insurance, on its way to reclaiming its historical role as an efficient competitor in its markets. The recapitalized Company remains fully obligated under its insurance policies and contracts, continues to fully pay approved policyholder claims, employs top-quality personnel, and will shortly resume offering the type of premier insurance products for which it had been known for almost a century prior to receivership.

Shenandoah's successful rehabilitation is a triumphant victory story for the state-based regulatory system and rebuts the conventional wisdom that liquidation or run-off are the only practicable conclusions for a financially impaired insurance company. Shenandoah's favorable outcome can be attributed, in part, to the Deputy Receiver's immediate responsiveness to a faltering financial situation, the engagement of an experienced team of consultants, a carefully sought and vetted rehabilitation opportunity, anticipatory deliberation of potential obstacles and creative solutions to complex issues, and a steadfast and determined collaboration among the Deputy Receiver, the receivership team, regulators, United Prosperity, employees, policyholders, and creditors.

<sup>1</sup> Shenandoah is based in Roanoke, Virginia, and is licensed in thirty states and the District of Columbia. Prior to being placed in receivership, the Company had assets exceeding \$1.6 billion and annual premiums of approximately \$284 million.

<sup>2</sup> Counsel to the Deputy Receiver in the rehabilitation and acquisition of Shenandoah was Cantilo & Bennett, L.L.P. ("Cantilo & Bennett"), an Austin, Texas "boutique" law firm whose practice focuses on insurance rehabilitations and liquidations.

<sup>3</sup> Per the terms of the executed Stock Purchase Agreement, the Company would convert its structure from a mutual insurance company to a stock company and convey 100% of the resulting stock to United Prosperity. As consideration, United Prosperity would provide a sufficient capital infusion amount for the Company to attain a requisite risk-based capital level.



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## The Perfect Receiver - Part 7 - Rehabilitation

By Patrick Cantilo, CIR-ML



*In the seventh column in this series I direct my meager intellectual resources to one of the most daunting challenges receivers face. How do we rehabilitate this puppy? To answer*

this question one must first define the goal. What is rehabilitation? There are as many answers to this question as there are “rehabilitation experts” responding. More importantly, the answer is typically driven by where one sits, being materially different for a shareholder than it might be to a reinsurer or policyholder. For the chicken just crossing the road without being hit is success. For the fox success is eating the chicken after both have crossed. Full claims payments, preservation of coverage, maintaining employment, sale of new business, and surplus generation are all important goals that play a role in defining the success of a rehabilitation. Defining the result of a plan as “rehabilitation”, therefore, does not so much turn on reaching a universally accepted condition as it does on improving materially the lot of affected constituencies beyond what might have been expected in a liquidation.

In a meaningful sense, rehabilitation is actually a spectrum of possible outcomes, the point within that range at which one can reasonably aim being governed by the starting point. In the very best of cases, rehabilitation will consist of the insurer remaining intact (perhaps only ownership having changed) and resuming the sale of new business with reasonable assurances that all contractual obligations will be met timely. Most of us are more likely to see a navy comprised of horses and bayonets than actually be part of a true rehabilitation in this sense. Perhaps at the other end of this spectrum is a plan that results in policyholders being paid in full, albeit with guaranty fund contributions. Between these extremes are plans that pay policyholders fully without guaranty fund contributions, those that call for sale of part of the company into the market while the rest is liquidated, arrangements that reduce policy benefits through restructured contracts and pay those in full, and myriad other variations on these themes.

There are few firm rules governing rehabilitation,



although one principle receives almost universal recognition: creditors should fare no worse under a rehabilitation plan than they would have in a liquidation.<sup>1</sup> Beyond that, the limitations will consist of the scant guidance provided by applicable statutes, what the receivership court will authorize, and what political and administrative considerations will allow. With the audacity

one normally finds only among saloon gamblers at Sunday Meeting, I dare to offer a few additional suggested principles. A rehabilitation plan should:

1. Have as its paramount goal maximizing policyholder benefits;
2. Provide for fair and equitable treatment of all creditors similarly situated;
3. Provide for payment to lower priority (therefore unsecured) creditors only if policyholders will be paid in full;
4. NOT depend on the realization of results that are highly improbable;
5. Be fully exposed to all affected constituencies, with reasonable opportunity for meaningful input;
6. Not rely or depend upon the ignorance of any affected constituency;
7. Be attainable with the resources reasonably available to the receiver;
8. Depend as little as possible on changes in applicable law;
9. Make reasonable provision for adverse developments; and
10. Be premised on a time line that is reasonable under the circumstances.

While rehabilitation is not the product of a magic formula, these humble suggestions can facilitate the creation of a plan that has a reasonable chance of success. So back to the question with which we opened - “Silly!! Puppies can’t be rehabilitated! Now go get more newspaper and keep him away from that darned fox!”

<sup>1</sup> Space limitations prevent legal citation, but contact the author if curiosity is killing you.



## View from Washington

By Charlie Richardson

### Congressional Hearing on Insurance Industry Competitiveness

*The House Financial Services Subcommittee on Insurance, Community and Housing Opportunity held a hearing on Thursday, May 17, 2012, examining the United States' insurance industry competitiveness on the*

international arena. Witnesses included Director McRaith and members of the industry.

The panel of witnesses spoke in a unified voice of support for the Federal Insurance Office ("FIO") in the context of international regulation. While the hearing was held before the release of the draft of ComFrame in July 2012, many of the panelists noted that the FIO is valuable and helpful in international arenas, including the International Association of Insurance Supervisors ("IAIS"). As a single voice, the FIO would be able to give voice to the United States' interests and perspectives in international forums, a panelist said. This would assist with the development of coherent international regulations.

Solvency II was also mentioned briefly. Director McRaith congratulated the European Union on the development of the standard.

#### Federal Insurance Office ("FIO") Reinsurance Report

FIO issued a request for comments for a Dodd-Frank mandated report on the U.S. and global reinsurance market on June 27, 2012. The notice asked for views on domestic and international regulation of reinsurance and the role it plays in supporting United States reinsurance. Comments were due August 27, 2012, and we are awaiting that report. This topic dovetails with the May 2012 Congressional hearing as well, as reinsurance was also discussed at that hearing. Panelists at that hearing noted that the United States is a net importer in the reinsurance market.

#### FSOC SIFI Designations

In late September, the Financial Stability Oversight Council ("FSOC") moved into the third and final phase of designating nonbank financial companies that will be considered

systemically important financial institutions and subject to heightened Fed oversight. Even though FSOC does not intend publicly to announce the name of any institution under consideration until the final designation, AIG has voluntarily announced that it is one of the companies that has progressed to the final stage. Analysts expect that the list of nonbank companies under consideration contains no more than seven institutions, with GE Capital and at least a couple of life insurers being some of the likely suspects in addition to AIG.

An institution that is designated as a systemically important financial institution ("SIFI") will be subject to Federal Reserve supervision that will include stress tests, higher capital levels and tougher liquidity standards. Some commentators say that as a result of these stricter standards, smaller insurers will have an advantage over the SIFI insurers.

Once a firm is notified that it is under consideration in the third phase, it has 30 days to challenge the designation. FSOC must then hold a non-public hearing within 30 days, with another 60 days after the hearing to make the final designation. The final designations are expected to be complete in December or the first quarter of 2013.

Insurance companies continue to make the case that regulators should oversee insurers differently than banks.

#### US-EU Dialogue

The US-EU Dialogue Project ("The Project") has released a draft report for public comment comparing the insurance regulatory regimes of the two jurisdictions. The Project, led by a Steering Committee, is designed to enhance understanding of the key features of each regulatory regime and to identify important



## View from Washington (continued)

characteristics. Its creation was a response to previous tension between the US and EU over perceived EU efforts to pressure the US into accepting Solvency II.

The key contributors to The Project on the US side are FIO, the NAIC and various state insurance regulators, while the European Commission and the European Insurance and Occupational Pensions Authority represent European interests.

The draft report, released late in September, highlights key commonalities among the systems, most notably that both regimes share the overarching objectives of protecting policyholders and enhancing financial stability. Similarly, both regimes fared extremely well during the recent financial crisis.

Nevertheless, there are significant differences between the regimes as well.

- Differences in umbrella organizations: In the EU, the European Insurance and Occupational Pensions Authority (“EIOPA”) has regulatory authority in its own right, whereas the NAIC is not itself a supervisory authority.
- Solvency regulation: In the US, solvency monitoring is based on the Risk Based Capital formula, whereas the EU employs an explicit Group Solvency Capital Requirement.
- Scope of supervision: Group supervision in the EU is over the entire group, including all entities in the group on a global basis. In the US, group supervision has traditionally focused on the holding company and the insurance subsidiaries only.

Interested parties were to submit written comments on the draft report by October 28. There were public hearings in Washington, DC and Brussels on October 12 and 16 respectively.

### IAIS Conference

The IAIS held its annual conference in Washington DC in October, drawing regulators and interested parties from across the globe. While it is clear that EU and US regulators have made substantial progress on how to coordinate supervision of internationally active insurance groups, they remain far apart on the need for group wide capital requirements and the proper role of a group regulator. The conference concluded with a public hearing on the draft paper published by the US-EU Dialogue Project designed to tackle such coordination issues. See story above.

<sup>1</sup> [http://www.naic.org/documents/committees\\_g\\_us\\_eu\\_dialogueproject\\_draft\\_1209.pdf](http://www.naic.org/documents/committees_g_us_eu_dialogueproject_draft_1209.pdf)



*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 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 Association Manager. No article or other feature should be considered as legal advice.

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### Legal Counsel:

William Latza, Esq. and Martin Minkowitz, Esq., Stroock & Stroock & Lavan LLP



## Board Talk: Bruce Gilbert

By Michelle Avery

*After a brief hiatus, the Meet the Board column is back. This issue we take a moment to meet with Bruce Gilbert, IAIR's 2nd Vice President, who was elected both to the Board two years ago and to the VP spot one year*



Bruce Gilbert

ago. As compared to many of the faces around IAIR, Bruce is a relative newcomer to the organization – having been a member for only about 5 years now during which time he has served on the Education

Committee. He was a regular at the NAIC meeting events when a colleague within the insolvency community invited him to attend the IAIR events. Bruce is certainly no stranger to insurance - he has worked as the Executive Director for the Nevada Insurance Guaranty Association for almost 8 years – a drop in the bucket compared to his over 30 years working in the industry.

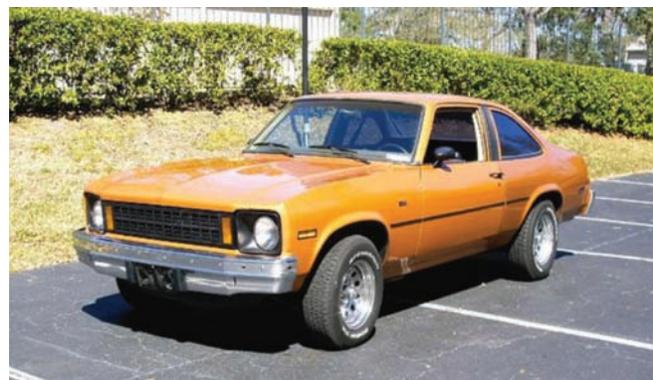
Bruce's initial career aspirations had him going to law school after college, but after participating in an exchange program that took him to Japan he decided his heart wasn't in it. Although he can't remember who it was exactly, someone suggested he consider pursuing insurance adjusting and investigation. Bruce heeded the urging and interviewed with Aetna Property and Casualty as a multi-lines claims adjuster. Although he may have had his doubts, once Aetna offered him a car as part of his employment, he never looked back. As he described it, "as a young man, without a care, a car was very enticing...". So much so that he conceded he would have worked for free. I couldn't let that one go. What kind of car was his? He became very nostalgic and

without skipping a beat, a small grin appeared, "a 1977 Chevy Nova with wheels the same color as the car – Texas orange." What a beauty.

Bruce's career with Aetna took him to Portland, Oregon and then to San Francisco. After Aetna, Bruce wound up at The Doctors Company and then at California Casualty where he was part of a management team, causing him to transfer to Las Vegas. He has enjoyed his time in Nevada and ultimately landed at his current role as the Executive Director of the Guaranty Association... a great segue to my Q&A with Bruce.

**Q: What is the biggest accomplishment of your professional career?**

A: Bruce is most proud of his current position as the Executive Director with the Nevada Guaranty Association. He views it as the "best career move...the best decision" saying that after years in the industry it is the happiest he's ever been. He finds it to be the most rewarding experience with visibility and involvement exceeding any other circumstance where he's been in a position to lead and influence.



## Board Talk: Bruce Gilbert (continued)

**Q: What is the most important issue you see facing IAIR during your term on the Board?**

A: Without a doubt Bruce believes membership services are the biggest issue IAIR needs to deal with. Bruce states, "We not only have a really tough task of growing the membership which is difficult in and of itself, but more difficult is providing benefits to the group through value to the membership." Bruce believes, if you build it, they will come... "As you provide the value that members expect, people are going to want to jump in." In that vein, Bruce believes member retention and member services go hand and hand.

**Q: If you'd like, please tell us about your personal life. Where were you born? Where do you live? Are you married? Do you have any children?**

A: Bruce is originally from Colorado until his college education took him to Oregon and ultimately Bruce landed in Nevada. He is married with two kids, a daughter who teaches middle school in Columbus, Ohio and a son who works as a rehabilitation technician for a brain clinic in Nevada. Many of you will likely find it as hard to believe as I did that Bruce is a grandfather – Noah Aaron Williams is almost 1.5 years old.

**Q: What is a recent fictional book you would recommend to others?**

A: Bruce recommended Garth Stein's *The Art of Racing in the Rain*, a story that every dog lover should read – funny, heartwarming, sad and uplifting all in one.

**Q: What is your favorite sport? Team?**

A: Bruce enjoys playing tennis competitively, a sport he also claims as his favorite leisure activity. Bruce has a love of baseball as well and plays on several softball teams too. He roots for the

Oakland A's and no doubt was left disappointed by the end of their recent season in the AL division series despite their resilience.

**Q: What is your favorite NAIC/IAIR conference location?**

A: Hands down, San Diego – "it's fabulous." Enough said. Too bad, America's Finest City doesn't appear on the NAIC list of upcoming meeting sites. Based on the current agenda, we will have to wait at least 3-more years for an excuse to go back.

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

A: Bruce is "Taxi cab and Sushi Bar" fluent in Japanese – who knew? Not exactly a skill that comes in handy around NAIC. During his college exchange program in Japan his interest was piqued and he pursued his interest by studying the language and later becoming the president of the Japan-America Society of Nevada.

Bruce, thank you for visiting with me and sharing your background with IAIR.



*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).*

# IAIR Atlanta August 2012 Issues Forum Recap

By Kathleen McCain

*It is always nice when we can take “home-field” advantage and focus on some of the issues facing our host state. IAIR was fortunate to have the Honorable Ralph Hudgens, Commissioner of the Georgia Department of Insurance, open the Forum by welcoming the attendees to Atlanta.*

He shared insights about the current state of the insurance industry in Georgia and how the Georgia Department’s financial surveillance is focused on keeping companies out of liquidation. It was a perfect lead in to the panel discussion focused on Georgia’s troubled companies.

## Georgia Troubled Company Panel

The first panel discussed issues affecting troubled companies and receiverships in Georgia. The panel included F. Laurence Lindbergh, Chief Financial Examiner at the Georgia Department of Insurance, Michael Marchman, Executive Director of the Georgia Guaranty Associations and Bryan Fuller and Robert Kasinow of Examination Resources. The panel started with a discussion of administrative supervision and described how the procedures used by the Georgia Department are tailored to the specific situations. One of the measures recently implemented by the Georgia Department is the use of Georgia Guaranty Fund staff to handle claims and other administrative tasks at the company.

The panel then addressed international developments and their impact on the United States state-based regulation. The panel described the role of the International Association of Insurance Supervisors (IAIS) Insurance Core Principles and then moved to a discussion of the IAIS’ global initiative underway to identify “too-big-to-fail” insurers for inclusion on the list of Globally Systemic Important Insurers, or what they are referring to as G-SIIs. No doubt there is more to come on this topic of discussion.



## NAIC “M” Records and Medicare Advantage Plans

Mark Steckbeck, Assistant Vice President of Legal Affairs at the National Conference of Insurance Guaranty Funds, addressed a couple of reporting issues involving Medicare currently being discussed at IAIR’s Guaranty Fund Liaison Committee. The first issue he discussed was how liquidators and guaranty funds are dealing with the mandatory reporting requirements related to Medicare beneficiaries who receive settlements, judgments, awards or other payments from insurers. Mr. Steckbeck described the coordination efforts between receivers and the guaranty funds vis-a-vis reporting compliance and then moved to a discussion and explanation of Medicare Advantage Plans and how issues related to these plans are being addressed. This discussion served as a great teaser to issues the liquidators and guaranty funds deal with on a regular basis during IAIR’s Guaranty Fund Liaison Committee meeting. If you are interested in participating in the conversation, be sure to check the schedule for the next committee meeting.

## State Legislatures and Insurance Regulation

Roger Schmelzer, President and CEO of the National Conference of Insurance Guaranty Funds, and Susan Nolan, Executive Director of the National Conference of Insurance Legislators (“NCOIL”), provided an overview of the work of NCOIL, an organization comprised of state legislators focusing on public policy issues in insurance regulation. As they discussed, NCOIL’s purpose is to educate state legislators on



## IAIR Atlanta August 2012 Issues Forum Recap (continued)

insurance issues by providing a national forum for legislators and interested parties to share views, by educating legislators through hearings, workshops and the like and by providing legislators with research and monitoring of insurance issues. The discussion also included some of the current issues on NCOIL's agenda. This was a great opportunity for the IAIR membership to familiarize themselves with the workings and leadership of this organization.

### AIRROC Dispute Resolution Procedure

Trish Getty, recently retired as the CEO and Executive Director of the Association of Insurance & Reinsurance Run-Off Companies ("AIRROC"), spoke about AIRROC's Dispute Resolution Procedure. As Ms. Getty explained, the AIRROC process is designed to reduce arbitration costs and to make the procedures straightforward and cost effective. AIRROC's process is open to members and non-members with non-members paying a service fee for its use. Once there is an agreement among the parties, the procedure provides for a single neutral arbitrator at a discounted hourly rate. The format is a bit non-traditional: organizational meetings are by telephone; the dispute is submitted to the arbitrator by briefs and documents only (no live testimony unless agreed by the parties); oral argument is only at the discretion of the arbitrator; and discovery is only allowed if the parties agree. The arbitrator is required to issue a decision within 30 days of

completion of the arbitration. Ms. Getty closed by stressing the cost effectiveness and simplicity of the procedures.

### NAIC News and Updates

Jim Mumford, First Deputy Commissioner with the Iowa Division, ended the program by providing updates and highlights of NAIC committee meetings. Mr. Mumford has a front row seat to the action as the Chair of the NAIC Receivership and Insolvency Task Force – a task force that the IAIR membership keeps a close eye on. This discussion was a great "nutshell" update for those needing the cliff notes version of the goings on inside the NAIC.

Thanks to all the participants who agreed to speak at the Issues Forum and share their wealth of knowledge with the organization. Thank you also to those who helped me organize the Forum. I look forward to seeing you all again in DC and hope you will be able to participate in person. My write up is a meager substitute for first hand participation – don't miss it. We are currently scheduled to host the Issues Forum on November 29 from 2:30 to 5:30 (Chesapeake 4-5-6). Check the most up to date schedule however to confirm the time and location. See you there!

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*Kathleen McCain can be reached at (213) 509-7636 or [kmmccain@earthlink.net](mailto:kmmccain@earthlink.net).*

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# Forward-Looking Statements and Insurance Receivership Claims Trading

By Patrick Hughes

*Claims trading within insurance receiverships has been the recent subject of receivership community attention. The claims buying community has written for and spoken to IAIR on the topic, and the NAIC Receivership & Insolvency Task Force has tasked one of its working groups with analyzing claims trading issues and developing best practices.<sup>1</sup>*

Among potential regulatory concerns associated with claims trading is an arguable information asymmetry between buyers and sellers. The buyers might know more about the estate, and have greater analytical skills and experience to assess the implications of those facts. During my tenure as special deputy, this concern led Illinois' Office of the Special Deputy Receiver ("OSD") to develop a policy for, in specifically defined circumstances, the publication of forward-looking "Good Faith Estimates" or "GFEs," indicating anticipated estate activity. This article describes the OSD's use of GFEs, and discusses both the potential creditor benefit from a GFE's publication and the potential

downsides to their use. The goal being to frame this issue as the receivership community continues to consider it.

## Background on Good Faith Estimates

A Good Faith Estimate is a tool designed to provide the creditor with additional information needed for more informed decisions and financial planning as regards the creditor's claim. A GFE is a web-published, forward-looking estimate of future activity of an estate, generally relating to timing and percentage of distribution. The GFE is only an estimate and is based on the information available at the time it was made; circumstances on which it is based are always subject to change. The receiver can often

provide more precise forward-looking



## Forward-Looking Statements... (continued)

information that can further inform the creditor and that cannot be found on documents such as Financial Statements or the NAIC's GRID system. And to the extent the GFE could be deducted from financial statements, the GFE may cure asymmetries caused by a buyer-seller sophistication gap.

Here are two examples of publicly published GFEs. The first is a very straight forward statement about an anticipated distribution:

*Based upon our best estimates and barring any unforeseen circumstances, the Special Deputy Receiver anticipates making a 100% distribution on claims allowed at policyholder priority level (d) and a substantial dividend distribution on claims allowed at general creditor level (g) of the Illinois statutory distribution scheme. It is anticipated that the distributions will be made before the end of the second quarter of 2010. As soon as deemed appropriate, further information regarding the distributions will be posted on our website. These good faith estimates are based upon information available and the circumstances known at the time that they were made. Before relying on these estimates in making any decisions, be aware that underlying facts and circumstances upon which they are based are subject to change.*

The second example is, because of the estate's circumstances, a somewhat more complex statement:

*Based upon our best estimates and barring any unforeseen circumstances, the Special Deputy Receiver expects that a second dividend of 25% will be distributed in the fourth quarter of 2011 on timely filed claims allowed at the policyholder priority level (d) of the Illinois statutory distribution scheme. This action would bring the total distribution at priority level (d) to 100%, as a 75% distribution at priority level (d) was previously made in 2010. This Good Faith Estimate is based upon information available and the circumstances known at the time that it was made. Before relying on this estimate in making any decisions, be aware that the underlying facts and circumstances upon which it is based are subject to change.<sup>2</sup>*

Two characteristics of effective GFEs are worth noting: First, the GFE should not be designed

to create specific outcomes – to encourage or discourage trades, for example. The theory goes that information is good, including information regarding the receiver's intent. That information creditors may use for themselves, making decisions they regard as in their best interests.

Second, the GFEs should be measured to ensure a solid track record for accuracy. And when GFEs need revision based on new developments, a receiver employing that tool should do so. If the GFEs lack credibility, their utility declines and they arguably create unintended distortions in the market that are the opposite of the GFEs' intent.

### Controls and Oversight

A GFE should be carefully considered. As an example, there are a series of steps that the OSD took to ensure that a GFE is ready for publication. Before a GFE is issued on an estate, the Special Deputy Receiver gave the final approval to publish the GFE after the OSD Senior Management met and discussed the proposed GFE. The OSD utilized a formal checklist to ensure that all necessary considerations are analyzed before publication of a GFE.

The checklist requires that before publication, the Special Deputy Receiver must determine that:

1. The Good Faith Estimate ("GFE") is reasonably certain to prove accurate.
2. The components underlying the calculation of the estimate are reliable and verifiable.
3. Events outside the Special Deputy's control have been given careful consideration in the development of the GFE. Such events may include the federal claim release, potential tax liability, pending litigation or settlements.
4. The creditor benefit from publishing the estimate outweighs any potential consequences from the GFE proving inaccurate or needing revision.
5. The GFE does not reveal confidential strategy or intentions that would harm the marshalling of assets or management of the estate.
6. There is no legal restriction on publishing the GFE. The publication is not inconsistent



## Forward-Looking Statements... (continued)

with Chancery Court orders or any state or federal law.

7. The GFE is understandable by the general public.
8. The GFE will achieve its intended effect of providing information to consumers, which is valuable for financial planning, leading to more informed consumer decisions.

### The Potential Benefit

Although there were preliminary observations that posting GFEs had an influence on claims trading in the insurance market, there has been no rigorous study of that influence. Anecdotal observations suggest three potential impacts: (1) A GFE can raise prices on claims trades. (2) A GFE can also slow down or stop the market. (3) A GFE can also create a market that previously had not existed. This third effect is important to observe because it supports the theory that GFE publication is not necessarily “anti-trading,” but instead is outcome neutral.

### The Case Against GFEs

Receivership community discussions have started to identify downsides to publication of forward-looking statements such as GFEs. These downsides should be carefully considered and be the subject of continued discussion.

First, there is some discussion regarding whether a receiver should be interpreting the information that is already made available. Under this view, the receiver’s role is to publish financial and legal information about the estate, and allow creditors to make assessments about whether to sell (or not sell). To the extent the information is not complete or helpful, receivers can focus on providing more and better information rather than interpreting the information for the public.

Second, the issue of liability must be considered. When the GFE is relied upon, and proves inaccurate, what exposure has the receiver invited? And even if actual exposure to liability is not created, a receiver might nevertheless be inviting practical, public accountability for adverse results.

Third, a receiver may regard the publication of a GFE as outcome-oriented. In other words, a receiver must consider to what degree a GFE is

regarded as encouraging or discouraging claims trades, no matter what the receiver’s intent.

### Concluding Notes

Consideration of the issue of forward looking statements has just begun, and can benefit from further discussions and observations regarding their real-world impact. These concluding notes are made with that in mind.

First, a GFE does not necessarily have to address timing and amount of distribution. Creditors may benefit from disclosures about the direction of the estate beyond merely dividend percentage and distribution data, although those developments will be of highest interest to creditors. Less conclusive observations might square the advantages and disadvantages of these forward-looking statements.

Second, receivers who have been providing any form of forward-looking statements would help further the discussion by supplying observations about the real world effect, even if anecdotal.

Third, whether accepting or rejecting forward-looking statements, we must acknowledge that better information and better communication with creditors must continue to be a focus of the receivership community. If further creditor communication can moot the arguable need for a forward-looking statement, all the better.

Reasonable minds will differ on the wisdom, necessity and content of forward-looking statements. These observations are shared to contribute to that ongoing discussion.

- 1 There is some academic discussion regarding claims trading in the bankruptcy process. See, e.g. Adam Levitan, *Bankruptcy Markets: Making Sense of Claims Trading*, 4 *Brook. J. Corp. & Fin. Com. L.* 64-109 (2010). Whether because of low volume or otherwise, similar academic discussions in the insurance receivership context do not appear to exist.
- 2 Other examples of Good Faith Estimates can be found at the OSD’s website, [www.osdchi.com](http://www.osdchi.com). Good Faith Estimates have been utilized in at least one additional state. See [www.ohinsliq.com](http://www.ohinsliq.com).



*Patrick Hughes is a Senior Director at Alvarez & Marsal Insurance Advisory Services LLC, and is 1st Vice President and a Director of IAIR. He recently served as Special Deputy Receiver and CEO to the Illinois Office of the Special Deputy Receiver. The views expressed herein are his own.*



## Welcome IAIR's Newest Members!



### Steven G. Bazil

Steven G. Bazil is the founding principal of Bazil McNulty, an Exton, Pennsylvania based law firm that represents reinsurers of all sizes in the United States, the London Market and around the globe. He has represented insurers and reinsurers for more than a decade and his recoveries have involved clients and adversaries from more than 100 countries. To date, his efforts have yielded recoveries in excess of 300 million dollars for clients. Mr. Bazil received his B.A. from Temple University in 1988 and his J.D. (cum laude) from New York Law School in 1991.



### Alexander Burns

Alexander Burns is a Chief Strategist of Southport Lane, a New York City based private equity firm that invests primarily in reinsurance (through its wholly owned subsidiary, Southport Re), energy, technology and wine. Mr. Burns also serves as the Chairman of Southport Lane Management, as well as on the investment committee of Southport Lane, LP.

Mr. Burns is a member of the Structured Products Association and the Reinsurance Association of America. He is also a member of the Young Collectors Council and a voting member of the Acquisitions Committee of the Guggenheim Museum in New York City.



### Ricardo Cantilo

Ricardo Cantilo is an attorney specializing in Insurance and Reinsurance, Master in Insurance and Risk Management. Ricardo joined Chiltington in 1999 and previously served as head of the Argentine office. Since 2010 he has been instrumental in the development of services to the Latin American market through the United States. Mr. Cantilo has written many articles for different market publications of Latin America, Europe and the United States and has also been a speaker at such conferences as AIDA, IAIR, and HB Litigation, among others.

### Christopher Fuller

Christopher Fuller is an experienced insurance receivership attorney. He is currently the General

Counsel to the Special Deputy Receivers of some of the largest and most complex insolvencies in the United States. Mr. Fuller is the lead counsel for the Special Deputy Receiver of the largest preneed and burial life insurance company insolvency, Lincoln Memorial and Memorial Service, and its related managing general agent, National Prearranged Service. He has also been lead counsel for the receivers of a large number of multi-state insolvencies and has represented both ancillary and domiciliary receivers.

### Drexel B. Harris

Drexel Harris is an experienced attorney with more than 20 years of service to the property and casualty insurance industry. He currently serves as Associated General Counsel to Reliance Insurance Company (In Liquidation). Prior to liquidation, Mr. Harris advised the Risk Management division at Reliance, which serviced Fortune 1000 clients. In prior positions, he was an associate with the world-wide law firm of Baker & McKenzie, and started his insurance career as an underwriter with American International Group, Inc., where he worked in New York and Bermuda.

He is a Chartered Property Casualty Underwriter, a licensed insurance broker in the state of New York, and volunteers on the board of directors of Bridge Street Development Corporation, a non-profit specializing in affordable housing and economic development.



### Robert B. House

Robert House is a partner in Jones Walker's Business & Commercial Transactions Practice Group and practices from the firm's Jackson office. He has insurance regulatory, corporate, and administrative experience and provides general counsel representation to several insurance and insurance related entities. Mr. House advises insurers on company formation, mergers and acquisitions, Form A and other insurance holding company act filings, reinsurance transactions, regulatory examinations and legislation, as well as business and regulatory related litigation matters.

Mr. House is the past chair of the Insurance Regulation Committee of the American Bar Association's Tort Trial and Insurance Practice Section and is an active member of the Federation of Regulatory Counsel, Inc., which recognizes attorneys

## Welcome IAIR's Newest Members! (continued)

representing those in the insurance industry. He is also a Certified Public Accountant.



### Van R Mayhall III

Van R. Mayhall, III, is a partner in the Baton Rouge office of Breazeale, Sachse & Wilson and practices in the areas of Business and Corporate Law. He has extensive legal experience with strategic and enterprise legal issues affecting ongoing businesses. Mr. Mayhall is also the author of the Insurance Regulatory Law blog ([InsuranceRegulatoryLaw.com](http://InsuranceRegulatoryLaw.com)) discussing news, information, and commentary on insurance regulatory law, issues related to insurance regulation and insurance law in general, including state as well as federal insurance regulation.

### Keith McCormack

Keith McCormack is a portfolio manager for Contrarian Capital Management, L.L.C. He joined Contrarian in 2004 and is responsible for the firm's distressed direct lending efforts as well as the trade claims fund. Prior to joining Contrarian, he was a Director with UBS Investment Bank's Leveraged Finance Group where he was responsible for advising private equity clients on mergers & acquisitions, restructurings, and capital raisings including bank, high yield, and mezzanine debt, as well as initial public offerings. Earlier in his career, Mr. McCormack was a Vice President with Donaldson, Lufkin & Jenrette / Credit Suisse's Leveraged Finance Group, and an Audit Manager with Deloitte & Touche, LLP. Mr. McCormack graduated Beta Gamma Sigma with a MBA from Indiana University and received a BA from Catholic University of America. He is also a Certified Public Accountant.



### Paul Merlino, ACAS, MAAA, CFA

Paul Merlino is a Principal of Merlino & Associates with 27 years of experience in the actuarial field, 22 of which have been in private practice. Prior to joining Merlino & Associates, he worked in the property & casualty actuarial department of the management consulting division for KPMG Peat Marwick. Mr. Merlino has testified in various forums on rate, reserve, solvency and tort reform issues on behalf of insurance company clients and regulatory authorities, and has participated as a guest speaker at university actuarial clubs.



### Roger H. Schmelzer

Roger Schmelzer is the President and CEO of the National Conference of Insurance Guaranty Funds. He works at the state and national level to assure NCIGF's members are fully supported in meeting statutory obligations to policyholders and claimants in their states. He is experienced in all aspects of organizational management, public representation, development of strategic initiatives, and their implementation. Mr. Schmelzer earned his Juris Doctorate degree from Indiana University.



### Tanikqua Young

Tanikqua Young is a staff attorney in the Office of Financial Counsel in the Legal Section of the General Counsel Division at the Texas Department of Insurance. The office provides counsel to the Financial Program, including the Rehabilitation and Liquidation Oversight Division. During her time at the Department, she has worked on issues for pre-need companies in receivership and litigation and has assisted with oversight of Special Deputy Receiver administration. She has also worked on post-receivership issues regarding assignment of assets. Ms. Young holds a Bachelor of Arts degree from The University of Texas and a Juris Doctorate degree from The University of Texas School of Law.

### John Wells

John Wells is the Director of Operations of the Louisiana Insurance Guaranty Association. He has overseen LIGA's implementation of imaging and electronic data interchange systems and its conversion to a new claims system and works to improve LIGA's efficiency and effectiveness in resolving claims of failed insurers. Nationally, Mr. Wells sits on the National Conference of Insurance Guaranty Funds' Accounting Issues Committee as well as several estate coordinating committees.

Prior to his appointment at LIGA, Mr. Wells spent 15 years at the Louisiana Receivership Office, where he led receivership's policyholder services, claims, collections and reinsurance efforts, and was also responsible for pursuing director and officer suits, accounting malpractice suits, and other core litigation for two now closed estates. He has had experience in the liquidation of life, health, property, casualty and HMO insurers.



## The IAIR Bulletin Board

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### Jonathan Bing

A smiling Jonathan Bing has moved on from his post as Special Deputy Superintendent in charge of the New York Liquidation Bureau - and years of service in the public sector - to join Wilson Elser Moskowitz Edelman & Dicker as a partner in its Government Relations practice. Prior to his stint at NYLB, Jonathan had served in the New York State Assembly since November of 2002.



### Steven Durish

After years of serving as Director of Special Projects at the Texas Property and Casualty Insurance Guaranty Association, Steve has moved north to assume the position of President of the Ohio and West Virginia Insurance Guaranty Associations. Congratulations Steve!



### Patrick Hughes

Pat Hughes has also joined the private sector after serving almost five years as Special Deputy Receiver and CEO of the Illinois Office of the Special Deputy ("OSD") and has assumed the position of Senior Director at Alvarez & Marsal Insurance Advisory Services as a Senior Director. Pat served almost five years as Special Deputy receiver and CEO of OSD, and before that held senior regulatory positions with the state as General Counsel to the Department of Financial and Professional Regulation and Chief Legal Counsel to the Office of the Governor.



### Doug Hartz

As an update to a note we published in the last newsletter... Doug is on the move in two ways...A recovered (note the new helmet) Doug Hartz is back to his cycling routine and has, on the other hand, returned to the public sector (oh my!) and moved south. Doug has now assumed the position of Director of Rehabilitation and Liquidation Oversight at the Texas Department of Insurance.

*If you want to see your news here, please contact IAIR's Association Manager, Bernie Heinze at [Bernie@accolatemgt.com](mailto:Bernie@accolatemgt.com). We'd love to publish more about our members so please let us know what you are up to from time to time.*

## IAIR Launches New Affiliation With ABA/TIPS

*The long-planned affiliation between IAIR and the Tort and Insurance Practice Section of the American Bar Association is up and running!*

The long-planned affiliation between IAIR and the Tort and Insurance Practice Section of the American Bar Association is up and running! The understanding between the two groups provides a framework for benefits to both sides. The working components of TIPS are its 31 committees devoted to substantive law concerning insurance and torts of all kinds. Most of them produce newsletters, journals, and, most of all, educational programs, and they offer opportunities for speaking and writing, as well as ways to learn the “in’s and out’s” of specialized areas from experts.

The primary tangible benefit of the affiliation with TIPS is the opportunity for cross-sponsorship of educational programs. When IAIR and one or more of the TIPS committees cross-sponsor an event, we promote it to our membership and members of both groups receive the “member” registration rate. There are also opportunities for members of each group to become involved in the planning of these programs. TIPS has over 25,000 members, so IAIR’s relationship with TIPS offers terrific opportunities to reach new audiences and to promote IAIR’s agenda of encouraging knowledge and understanding of the receivership process, and excellence and professionalism in its operation. As receivers, we frequently find ourselves confronted with substantive areas of insurance and tort law that are unfamiliar to us. Access to TIPS offers IAIR members a “deep bench” of knowledge, literature, and experience across the whole spectrum of the insurance world, and many great opportunities for IAIR members to distinguish themselves, too. We look forward to a great collaboration with TIPS!

To see a list of the TIPS substantive committees, and links to their leadership, go to:

[http://www.americanbar.org/groups/tort\\_trial\\_insurance\\_practice/committees.html](http://www.americanbar.org/groups/tort_trial_insurance_practice/committees.html).

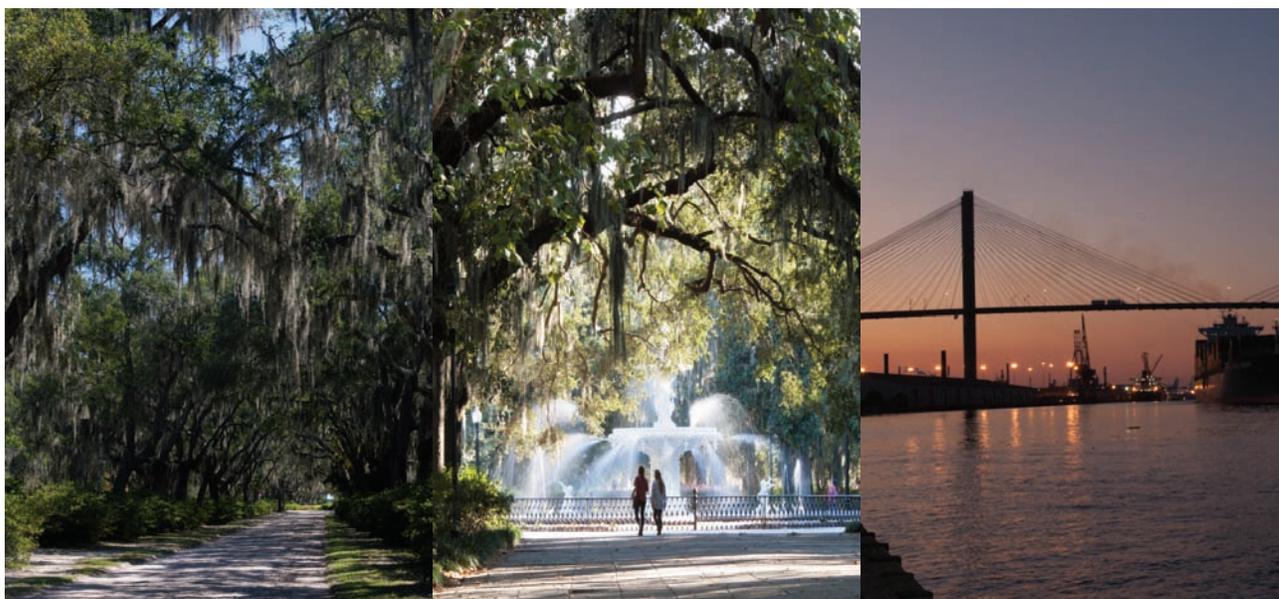
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# Join us in Savannah, GA for the 2013 Insolvency Workshop!

## SPOTLIGHT ON CURRENT ISSUES

Hilton Savannah Desoto: January 29-31, 2013



## TUESDAY, JANUARY 29, 2013

6:00 - 7:30 pm **Opening Night Reception**

## WEDNESDAY, JANUARY 30, 2013

7:15 - 8:00 am **Registration & Continental Breakfast**

8:00 - 8:15 am **Welcome and Introduction**

8:15 - 9:30 am **"The Right Choice"- Private Runoff, Rehabilitation or Liquidation**

Moderator: David Wilson, CEO and Special Deputy Insurance Commissioner  
Conservation & Liquidation Office, State of California

Presenters: Jonathan Bank, Esq.  
Locke Lord Bissell & Liddell  
Stephen Schwab, Esq.  
DLA Piper  
Wayne Wilson, Executive Director  
California Insurance Guarantee Association  
Iain Nasatir, Esq.  
Pachulski Stang Ziehl & Jones

9:30 - 10:15 am **"Life Insurer's Liabilities- Some things to be concerned about"**

Presenter: Gary Monnin, FSA, MAA  
G.P. Monnin Consulting Inc.

10:15 - 10:35 am **BREAK**

10:35 - 11:35 am **Life Insurers' Hedging and Hedging Devices**

Presenters: Edward Toy  
NAIC Capital Markets Bureau  
Ilene G. Kelman, CFA  
Director  
Deutsche Insurance Asset Management

## Join us in Savannah for the 2013 Insolvency Workshop!

- 11:35 - 12:10 am **Beginning Session of "Participatory Exercise"**  
Presenters: Holly Bakke, Managing Director  
Strategic Initiatives Management Group, LLC  
Christopher Maisel, Esq. CIR L&H
- 12:10 - 1:30 pm **Lunch and Luncheon Speaker**  
RALPH T. HUDGENS  
Insurance Commissioner, State of Georgia (invited)
- 1:30 - 2:30 pm **"The Ambac Rehabilitation and its Objectors"**  
Presenters: Michael B. Van Sicklen, Esq.  
Foley & Lardner LLP  
Greg Mitchell, Esq.  
Foster Brown Todd LLC
- 2:30 - 3:15 pm **"Life Insurer's Assets- Traps and Pitfalls in the Quest for Yields"**  
Presenters: Patrick H Cantilo, Esq. CIR-ML  
Cantilo & Bennett L.L.P.  
Mark F. Bennett, Esq.  
Cantilo & Bennett L.L.P.
- 3:15 - 3:30 pm **BREAK**
- 3:30 - 4:20 pm **Nuances of Mortgage Insurance and Surety**  
Truitte Todd  
Tharp and Associates, Inc  
Special Deputy Receiver  
PMI Mortgage Insurance Co  
Robert Nefsky Esq.  
Rembolt Ludtke LLP
- 4:20 - 5:45 pm **Participatory Exercise-Teams Working Session**
- 6:00 - 7:30 pm **Cocktail Reception**
- THURSDAY, JANUARY 31, 2013**
- 7:30 - 8:00 am **Continental Breakfast**
- 8:00 - 9:00 am **Participatory Exercise-Teams meet to finalize their report**
- 9:00 - 10:00 am **Guaranty Association Expenses- An Administrative Expense or NOT!**  
Presenters: Steve Davis Esq.  
Stradley Ronon Stevens & Young LLP  
Thomas Jenkins Esq.  
Locke Lord Bissell & Liddell
- 10:00 - 10:30 am **BREAK**
- 10:30 - 12:00 pm **Participatory Team Presentations**
- 12:00 - 12:45 pm **Open Forum -Questions & Comments Regarding Participatory Exercise**
- 12:45 - 1:00 pm **Program-Wrap Up**  
Dennis LaGory, Esq.



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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 55% to \$3,400.



\$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 \$750).
- 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.
- 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

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## FINANCIAL FORENSICS AND DISPUTE RESOLUTION



### Insurance & Reinsurance

- Statutory accounting
- Solvency measures
- Claims disputes
- Risk transfer consulting



### Accounting & Auditing Standard

- GAAP measurements
- GAAS compliance
- IFRS convergence



### Economic Damages

- Breach of contract
- Deepening insolvency

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# SAVE *the* DATES

## IAIR Insolvency Workshop

January  
**29-31**  
2013

Savannah, GA  
Hilton Savannah Desoto

## NAIC Spring Meeting

April  
**6-9**  
2013

Houston, TX  
Hilton Houston and  
Four Seasons Houston

## NAIC Summer Meeting

August  
**24-27**  
2013

Indianapolis, IN  
JW Marriott and  
Marriott Downtown

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