



The Insurance Receiver

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From The President's Cluttered Desk

*As winter is upon us and the holiday season is a
memory, our thoughts turn to the challenges ahead.*



Patrick Cantilo

To our great astonishment, the now-not-so-new administration has not yet managed to turn the U.S. economy into a job manufacturing engine. Across the pond, the enlightened brains of the European Union are having no greater success with that continent's collection of divergent and assertive financial systems. Where then, you may well ask, is the rash of insurer failures with which we were threatened by the gods? The short answer is, behind that old shoe box on the top shelf of your hall closet, next to the space-saver zip-lock bag of old leisure suits and under the stack of collector's edition Partridge Family LPs still in their shrink wrap. O.K. Not really. The truth is that a combination of factors has served to prevent the number of failures we

might have expected in another age.

First, credit must be given where it is due. The unrelenting efforts of state insurance regulators in the last two decades to modernize and enhance financial regulation have borne fruit. The implementation of risk-based capital, greater focus on regulation of insurer investments, and improved early warning systems, among other features, have combined to facilitate preventive measures while they still can help. Second, the calamitous events of the late eighties and early nineties of that century not so long ago have sensitized industry captains to the need to have more astute investment policies and better asset and liability matching. Third, and no less important, the ever more vigorous threat of federal regulation of the industry has induced state officials to devote titanic efforts to the implementation of non-liquidation remedies for troubled companies. Not the least of these is an array of permitted practices and other forbearance that has been deployed with the intent of providing insurers at risk of failure time to weather the storm while the economy improves. And while the broader economy may not look much improved on Main Street, the reality is that the scariest assets held by insurers two years ago have recovered substantial value, enabling many companies to step back from the brink of disaster.

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CANTILO & BENNETT, L.L.P.



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

We are still here for you!



IAIR's President's Message (Continued)

All that having been noted, there undoubtedly remain a number of companies around the country and the globe for whom the depth and breadth of problems may ultimately prove insurmountable. Many of these will be acquired or merged into better-heeled competitors. A few may be run-off successfully. Others may be placed in innovative rehabilitation schemes the success of which will not be known for some time. And a few will almost certainly have to be placed in receivership and even liquidation. Indeed, there have already been a few in this category, though not so many as to be extraordinary in number.

How does this affect IAIR? Of course, our core historical competence, the rehabilitation and liquidation of insurers in receivership, is less in demand than might have been expected. However, and this is the key point, for all the alternatives in use to avoid formal proceedings, very much the same skill sets are necessary as for our mission in years past. It is in recognition of this important fact that your association has devoted itself to broadening its scope. Recent changes in our mission statement and the breadth of our programs should put us in good stead to enable our members to devote their unique and invaluable talents to the resolution of the challenges faced by the industry. What remains, perhaps most obviously, is to assure that state officials and others in this space understand the invaluable assistance on which they can count from our members when facing the dilemma of a weakened insurer. Our current initiatives strive to address that need. We are becoming more involved in the affairs of the NAIC and are re-invigorating our state training program. But we are also reaching out to department staff to assure they understand our value and availability. Most visibly, our educational programs now incorporate presentations on topics of perceptible applicability to these alternative approaches to troubled insurers.

We have not, however, eschewed our traditional roles. In early November, we launched the inaugural program in our new Technical Development Series. The series was aimed at enhancing fundamental skills of insolvency practitioners. This first program (at the Las Vegas Paris Hotel, November 5-6) was devoted to topics in asset management and recovery. But it is worth emphasizing that much of what was addressed is of at least equal significance in the context of alternative schemes for the management of

troubled insurers.

On other fronts, substantial efforts continue to be devoted to the improvement of our web site, in most respects our "public face." Our resources are much more limited than our ambition, but with patience and perseverance, this work is producing demonstrable results. For this, particular thanks go to Alan Gamse who has been unrelenting for several years in his zeal to move us forward.

I am also very pleased to note that we have added, and are continuing to add, a number of new and highly skilled members to our little group. Please extend to them a warm welcome when you meet them. Our Member Services Committee, led skillfully by my friend Paula Keyes, continues its efforts to add to our roles while enhancing member benefits. Please do not be shy about volunteering to help with these important tasks. As you have doubt observed, a new election for directors is upon us due to unusual schedule of NAIC meetings this year. Resident alchemists Hank Sivley and Dan Orth, among others, have worked hard to make this both a more transparent and a blind system. Next they will turn deferred tax assets into gold. By the time you read this, indeed, new members may have been added to our Board as others complete their service. To those who leave after years of selfless devotion to our common good, my heartfelt thanks.

On many fronts my crystal ball remains unreliable. Among these is whether I will remain your President for next year. Should that not be the case, please permit me to close by thanking you for the opportunity to add my two bits to the direction of this extraordinary organization. Thanks especially to Maria Sclafani who heroically suffered my abuse while laboring mightily to help us meet the innumerable tests we face each day at IAIR. If I return, rest assured I will continue devoting my energies to the future success of this exceptional group. In either case, I apologize to those I may have offended and thank sincerely those who have been so generous in their support and assistance. I am now old enough to know that only one far more skilled than your humble servant can make material progress without ruffling feathers. I opted to move forward rather than leave the plumage intact. You will judge whether this was a good call.

See you around the halls of IAIR.

Patrick



Board Talk: Doug Hartz

By Michelle Avery

For most of you, Doug Hartz requires no introduction.

His long service and active participation in the IAIR organization speaks for itself.



Doug Hartz

He has a visible presence, always managing to be in 10 places at once, or so it seems. Doug can often be found in the halls of NAIC meetings, greeting colleagues from every corner of the receivership community and skillfully fostering the free exchange of diverse views. I recently took the opportunity to hear Doug's perspective on the current state of the industry, as well as collect some lesser known tidbits about Doug's personality.

Doug's participation in IAIR dates back to the inaugural board meeting in Houston, Texas, at what was formerly known as the Society of Insurance Receivers. Doug attended the 1991 meeting with other founding members: Michael Miron, Robert Deck, Ron Rosen and Karen Weldin Stewart. Doug joined the organization because of its reach into the receivership community, the industry in which he had been working since 1987. He became an IAIR board member in 1993, subsequently was elected vice president for two years and served as president in 1997. Doug has remained active in the organization over the years and recently returned to the board for a term that expires at the conclusion of 2011. Upon completion of his time on the Board, Doug plans to continue adding value to IAIR through committee leadership and participation.

During our conversation, Doug realized that in 16+ years of participation with IAIR he has likely spent time on every committee. He currently dedicates his time to leading the IAIR education committee, a committee he co-chairs

with Texas Department representative, James Kennedy. Doug previously chaired the publication committee and continues to contribute to IAIR publications. He serves on the finance committee and as the Board's ~~second~~ vice president, is currently a member of the executive committee. I have no doubt overlooked a few, but as you can see, Doug's involvement sets a high standard of membership involvement and will hopefully encourage more members to get involved!

As we ~~approach another annual meeting and board election~~, Doug raises a familiar theme as what he believes is the largest challenge facing the organization – changing direction without shifting objectives. Doug believes, as do many others, that the organization must shift, and “focus on conveying to our clients – the department of insurance personnel, the examiners, the decision makers – that the skill set of our people, the people that have worked on receiverships, are very useful to assist companies in evaluation of troubled companies, and to assist in strategies and planning to help keep companies out of receivership, especially as we move to risk focused exams.” Without question, “this is the biggest issue in IAIR. If we don't shift, we will go the way of the buggy whip makers.”

Doug was born in Boulder, Colorado and didn't stray too far from home for his education. He earned an undergraduate degree from the University of Colorado in Denver where he studied accounting. Doug went on to earn an MBA degree while juggling a full time job for the Department of Defense and attending law school at the University of Denver. After graduation, Doug parted ways with the DoD and started at a bankruptcy firm in Denver with dreams of setting up a tax practice focused on insurance companies – oh, did I mention that Doug was also a CPA? Doug quickly identified

Board Talk (Continued)

that wanted to spend his career in the insurance industry, in particular the challenging and rewarding area of receiverships.

Doug moved to Hugh, Alexander & Associates until 1994 at which time he established an independent consultancy using his diverse skills and expertise in regulatory matters. Doug subsequently held positions at the Missouri Department of Insurance and the NAIC. Doug further broadened his horizons while at the NAIC, spending time on issues related to surplus lines, the international insurance department, and the state accreditation program, in addition to receivership issues.

From there, Doug moved to Connecticut to work with Hal Horwich at the Bingham McCutchen law firm. Doug was drawn to Bingham in particular because of Hal's focus on insurance company restructuring. Doug recently moved back to Kansas City to be closer to family and now owns his own consulting company, Insurance Regulatory Consulting Group. He describes the group's approach as "a group of one that will associate with anyone who can get things done." He has set out to take advantage of the wealth of resources in this industry by way of assembling teams of professionals that work independently but each bring unique resources to the table.

Doug cites his current engagement with Capital Assurance Risk Retention Group, in which he has successfully leveraged very few assets into a much larger claim payment, as his proudest professional achievement. He has done so using a team approach that includes Doug Hertlin (Ohio, local counsel) and the South Carolina Department of Insurance personnel. The team has achieved great results by implementing a rehabilitation plan designed to produce a sustainable runoff while maximizing value to consumers using limited resources.

Doug currently lives with his wife of 30 years in Blue Spring, Missouri - a city not far from the Kansas City metropolitan area. He is the proud father of three sons, Nick, Chase and Montana, and two grandchildren, Claire and Mitchell.

In addition to learning quite a bit about Doug's commitment to his colleagues and vision for the future, I learned a few other fun facts worth sharing:

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

Doug's initial reaction was to talk enthusiastically about the non-fiction work he highly recommends, *The Black Swan: The Impact of the Highly Improbable* by Nassim Nicholas Taleb. The work focuses on improbable events, "black swans," and the risks associated with those events. The book presents the reality that anything can happen, and probably will an all too familiar story to anyone working in the receivership community.

Doug went on to describe J.R.R. Tolkien's lesser-known fictional treasures. Doug raved about *The Lord of the Rings* Trilogy - but you would have to be a hobbit living in the ancient world of Middle-earth to consider that a lesser-known work. Doug more eagerly conveys enthusiasm for Tolkien's other works that deserve attention, including *The Silmarillion*.

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

Often the people identified in response to this question are unrelated and would therefore make for some awkward dinner conversation. Doug however, picked quite a trio: Bill Maher, Jesus and Muhammad. He was most interested in listening to the discussion they would have with one another, expecting the conversation to turn to humanity. Of most interest would be these figures' perspectives on how society and individuals have developed over time.

He joked he would have to allow a few minutes for the guests to attempt converting each other at the onset of the meal, perhaps over light hors d'oeuvres.



To submit an article, please contact Marjorie Scalfani at mcs@iair.org.
~~The deadline for the Spring 2011 issue is February 20, 2011.~~

Board Talk (Continued)

Q: What is your favorite sport? Team?

Doug catches up on his favorite sport, football, on his couch on Sunday afternoons. Having lived in a few different places, Doug enjoys rooting for his “home” teams which include Kansas City and Denver. He enjoys a good game and is happy when either team comes away with a “W.”

Q: What is your favorite leisure activity?

There is no rest for the weary – Doug’s interests aren’t particularly leisurely. From bike riding to yoga, being outside, reading, or playing an occasional computer game, Doug manages to stay very active. Kansas City’s beautiful fall weather – with temperatures in the high 60s to low 70s – entices him outdoors. Doug describes the season as a priceless time when he focuses on balancing work and recreation.

Q: Where is the last place you vacationed?

The last vacation for the Hartz clan was to Grand Junction, Colorado for a family reunion during July of this year. He described visiting Grand Junction as a childhood dream which he finally realized by taking advantage of the national monument, an almost mini grand canyon, beautiful vistas, and amazing scenery that were in his words, “breathtaking!”

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

Without hesitation, Doug declares, “New York. What’s not to love?”

He follows with a ~~shameless plug for~~ the 2011 IAIR Insolvency Workshop by remarking that New Orleans is an interesting place to visit to see first hand the city’s ability to survive and overcome adversity ~~time and again~~. Take Doug’s advice and ~~book your trip now to the upcoming Insolvency Workshop scheduled for January 19-21, 2011 at the Omni Royal Hotel.~~

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

Coming somewhat as a surprise, when Doug first graduated from high school it was his intention to go into the performing arts – acting and piano playing. Shortly into such pursuits he found himself drawn to business and quickly gravitated to accounting after “something clicked.”



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.

Visit the IAIR website at www.iair.org for updates and current Association information and new on-line enhancements.

IAIR was founded in 1991 to provide an association to individuals involved with insurance receiverships in order to receive education, promote information exchange, and enhance the standards followed by those who work in this position.

The screenshot shows the IAIR website homepage. At the top, there is a navigation menu with links for HOME, ABOUT US, MEMBERSHIP, DIRECTORS, PUBLICATIONS, CONTACT US, and JOB BOARD. Below the navigation is a large red button that says "CLICK HERE FOR PROXY VOTE". The main content area is divided into several sections: "WELCOME TO IAIR", "About IAIR" (founded in 1991), "IAIR Mission Statement", "Member Login" (with fields for Username and Password), "News & Announcements", and "IMPORTANT NOTICE" (regarding IAIR 2010 Committee Structure and IAIR Dues Structure). On the right side, there is a "Calendar" section for August 2010, a "Member Directory" search form, and a "Click Here for More Search Options" link. The footer contains contact information for IAIR, including the address (3638 East Tremont Avenue, Suite 203, Thorpe, MO 65754), phone number (716) 993-5229, fax number (716) 993-2244, and email address (info@iainet.org).

Board Update

By Patrick Cantilo

The interval that followed our last issue has been one dominated by college and professional football for those who know what is important, and for those who remain unenlightened by more

trivial pursuits (thinking of making a board game by that name), like world peace, saving the economy, and earning a paycheck (the last fast becoming the more difficult). You will be pleased to learn that the Board has largely contented itself with implementing some of the many measures described in earlier editions of this amazing journal. That is to say, we could not come up with a bunch of crazy new ideas. With the new committee structure firmly in place, we did however move on to the key tasks of developing a secret handshake and building a new fort. However, I am not allowed to say anything more about that. We have also taken on ranks and are considering a new uniform. I like Mork's but others prefer Devo's.

Under the watchful eyes of Rear Admirals DeVito and Gordon, we continue the very important process of accrediting those of our members who have demonstrated the requisite experience and expertise. All who are qualified should embrace this unique indication of sophistication and accomplishment by applying for accreditation. Under the firm hand of Oberst Curley, the Communications Committee continues its mission of producing quality IAIR publications while enhancing our marketing efforts. With a new program of "Corporate Sponsors" in place, the challenge now is to recruit organizations to support us financially in that capacity. Your contributions in that endeavor will be sincerely appreciated. Stabshauptmanns Avery and LaGory would also be grateful for quality contributions for our newsletter and other publications. Comandantes Hertlein and Veed continue their skilled leadership of our External Relations initiatives, emphasizing affiliation with sister organizations. Rear Admiral DeVito also continues to devote his boundless energy to maintaining us on a firm financial footing during this difficult economic period. Please send him money! Lots of it! Soon!

With the insightful guidance of Chef de Bataillon Tyrell, the International Committee put on a very nice program in London addressing a number of current hot topics. I was fortunate to be able to attend

and strongly recommend that other U.S. members do the same with future programs. They are well worth the effort. Thanks to the energetic efforts of Primo Maresciallo Luogotenente Cass, we have had excellent issues forums for our first two national programs, and the last promises to be at least as good. Thanks Mike! Other Committee activities have been mentioned in the President's message.

At the risk of being monotonous, I take this opportunity to reiterate our standing invitation for all members to become actively involved in the organization's work through our committees. It is very rewarding and can lead to great things. At a minimum you will develop or strengthen relationships that will be invaluable for years to come.

Looking forward, the Board will be focusing on the re-invigorated state training program. Exceptional seminars were provided to the Wisconsin and Texas insurance departments for both of which we have received many kudos. Sincere thanks to all who worked so hard to make those successful, especially Evan Bennett, Mark Femal, Doug Hartz, and James Kennedy. We are working on presentations to departments in other states, but I won't divulge more until they are set.

~~The Board is also focusing on the next Insolvency Workshop, set for January 19, 2011, at the Omni Royal Hotel in the Big Easy (New Orleans for those of you who have led a sheltered life). Largely by default, Doug Hartz and the author are taking the lead in organizing this important program. Like the November Technical Development Series program in Las Vegas, the Workshop will emphasize networking opportunities and audience participation to complement exceptional substantive presentations. You could certainly miss this program. But why on earth would you?~~

The Board respectfully invites every member to assist in recruiting new members and sponsors. The more we grow in both categories, the more we will be able to do for the membership.

See you in Orlando and Austin.



View from Washington

By Charlie Richardson

We laid out for you last time some of the key elements of the 2400-page Dodd-Frank Act signed by President Obama on July 21. The legislation creates a new mechanism for liquidating systemically

significant financial companies whose impending failure could destabilize the economy. In most cases, the FDIC and the Fed would recommend to the Treasury Secretary that the company on the brink be liquidated. Where the systemically significant financial company is an insurer or its largest subsidiary is an insurer, the recommendation would be made by the Fed and the newly created Federal Insurance Office ("FIO").

Insurance companies will continue to be resolved as they are now, even systemically significant ones, assuming state regulators act timely. The state guaranty systems will also remain as they are.

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

Keep in mind that the legislation requires the new FIO within Treasury to conduct a study on how to improve and modernize insurance regulation, the results of which will be reported to Congress no later than January 2012. As part of the study, the FIO is charged with examining the potential consequences of subjecting insurance companies to a federal resolution authority. The FIO is specifically tasked with considering the effect of any federal resolution authority on the operation of state insurance guaranty systems, including the loss of guaranty coverage if an insurance company is subject to a federal resolution authority. So Dodd-Frank asks big questions and potentially opens the door for big changes.

While FIO is starting out small and has no real money yet, it could be an inflatable federal platform for the future.

Recent Events

The studies of insurance by the FIO are the obvious starting point. Even now, Treasury leaders are standing up and planning the staffing of FIO. For those of you curious about who the

Director will be and what he or she is likely to be interested in, go to the FIO Director job posting made in late September. Among the technical qualifications are: "extensive knowledge of insurance company solvency laws and regulations: how insurance companies are conserved, rehabilitated, and liquidated; and knowledge of the State-based guarantee system."

The new Financial Stability Oversight Counsel held its inaugural meeting on October 1, with Missouri Insurance Director John Huff participating as a member.

The Administration's keen interest in lifetime income products as a retirement vehicle has put the spotlight on annuity products and guaranty association coverage for them. The DOL and Treasury held a joint hearing on September 14 and 15, and Senator Kohl of the Senate Aging Committee has asked the GAO to examine the guaranty system's track record when it comes to annuities.

The FDIC is boning up on insurance as it crafts its regulations, and we need to make sure we don't get boned in the process.

Chairman Barney Frank of the House Financial Services Committee has made it clear on multiple occasions that the federal charter debate, optional or otherwise, will have its day in 2011, even though industry support for federal chartering has slipped somewhat.



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

Assuring Readiness: New UDS Data Mapper Streamlines Data Conversions for Receivers

By Andrew Holladay

The widespread and growing trend of migration from paper to electronic claims files suggests a need for a software application that gives receiverships that may need additional data support

the means to quickly marshal and transfer digital claims data to the guaranty funds.

This paper explores the growing trend toward use of electronic claims data and the inherent challenges this trend brings to guaranty funds and receivers alike. It also provides an overview of the UDS Data Mapper, a new software application that will enable receivers to streamline, simplify and speed the conversion of digital claims data from the files of insolvent companies into the Uniform Data Standards (UDS) format.

UDS is an electronic communication protocol that uses a series of defined computer file formats to permit guaranty associations and receivers to electronically exchange insolvency-related data. UDS encompasses loss claims, claim notes, payment histories, images, unearned premiums, closed claims, payment transactions and other financial information submitted by the guaranty funds.

UDS traces its origins to 1990 when the NAIC UDS Technical Support Group and later the NAIC UDS Financial Technical Support Group were established. These groups, whose members – claims, IT and financial professionals – came from the receiver and guaranty fund communities, over the years established UDS and spurred a growing acceptance and use of the protocol and its secure counterpart, Secure Uniform Data Standards (SUDS).

The UDS Data Mapper gives receivers and liquidators a way to easily, quickly and inexpensively convert digital data into UDS format. The application provides a welcome solution, especially for receiverships that may have limited IT resources or specific on-staff expertise in Uniform Data Standards (UDS) or lack resources to retain outside UDS consultants.

A key advantage of the UDS Data Mapper is that it frees receiverships – especially smaller receiverships – from the need to spend initial time and energy setting up an application infrastructure and staff to manage UDS data transfers for new insolvencies. Because the UDS Data Mapper is designed for use by a typical business user (the application requires no programming expertise) it allows receiverships to efficiently marshal and transfer data with available staff; this in turn expedites the paying of claims, which better enables the insolvency system to deliver on its mandate to serve policyholders and claimants.

The National Conference of Insurance Guaranty Funds, (NCIGF) which has developed the Data Mapper, will make it available to the receivership community at no cost when it is released later this year. The NCIGF will also provide ongoing training on the UDS Data Mapper to receiverships that opt to use the system.

Emerging Digital Data Requirements and the Changing Face of Claims

Much has changed since the 2001 insolvency of the Reliance Insurance Company. Reliance required that an estimated 80,000 paper claim files in 1100 TPA locations be moved to the guaranty funds in truckloads.

Today we talk terabytes, not truckloads.

The insolvencies since Reliance increasingly have involved imaged files. Since Reliance there has been a trend to rely on one-off solutions “on the fly” to enable guaranty funds and receivers to manage the growing number of digital files. These solutions have included negotiating access to receivers’ claims systems for the guaranty funds, the use of CD-ROMs to transmit digital claims files and even printing out vast quantities of claims files from digital sources.



Assuring Readiness... (Continued)

The proliferation of digital records in all industries, including insurance, brings to guaranty funds and receivers alike a host of new challenges that must be addressed if the current insolvency system is to continue to meet its public policy mission and successfully weather increased scrutiny from federal policymakers and other quarters.

Digital Data Transfer

One of the key lessons learned in several recent insolvencies is that an insolvency's chief technical challenge might well be determining how to get data out of one system and into another; in other words, how to most efficiently convert receivers' files into something useable by the guaranty funds.

In many respects, insolvencies are similar to what companies experience in a corporate takeover or merger: the disparate information management systems must be "married" to communicate with one another. In insolvencies, multi-state or otherwise, there are essentially three entities in the equation: the insolvent company, the receiver and the guaranty fund(s).

From a data transfer standpoint UDS enables the receiver to communicate with the guaranty funds. UDS is the "consensus language" between the receivers and guaranty funds. A key benefit of UDS is that it is well-understood by the guaranty funds and receivers.

UDS also does a superior job of addressing a variety of claims scenarios. In addition, it is sufficiently flexible to contemplate the thousands of different claims systems of all types of property and casualty insurers.. Finally, UDS is the language that all the guaranty funds' claims systems speak, whether they are ISU, LightSpeed, CAPS or some other system.

The Inherent Opportunity in UDS

UDS presents much potential as a platform on which to build an efficient and secure digital data transfer solution. In seeking to realize the full potential of UDS, including developing an imaging solution, the opportunity inherent in the protocol becomes clear; the guaranty fund community can build on that opportunity to expand the value of UDS to the guaranty funds and receivers alike.

UDS is a mature, flexible and proven solution; in addition, the UDS manuals do a good job of describing the content of the files. The key question remains: How can UDS be employed as a way to get an insolvent company's data easily into UDS format?

The most important task in the early days of an insolvency is the receiver converting the data from the insolvent estate to UDS format. This task usually involves multiple iterations of the receiver creating UDS records, sending them to the NCIGF via SUDS, the NCIGF validating the records and sending the errors back to the receiver to fix and resubmit them. When valid UDS records are finally created by the receiver, the NCIGF splits the files up, creates header and trailer records, and sends them to the relevant guaranty fund via SUDS for processing.

The value of UDS can be increased by repackaging the protocol to deliver a more simplified approach to receivers in marshalling valid claims records early in an insolvency.

The UDS manual is essentially high-level documentation of an algorithm for creating UDS records. The UDS Data Mapper uses this well-documented and well-understood algorithm to generate valid UDS records. Specifically, the UDS records created include the most common liquidator-to-fund records:

1. A Record: Loss Claims
2. F Record: Claim Notes
3. G Record: Payment Histories
4. I Record: Images

The UDS Data Mapper: "No need to reinvent the wheel"

The UDS Data Mapper allows receivers to produce, manage, modify, delete and distribute their claims data to guaranty funds securely. The high-level workflow is described below:

1. The receiver logs into the UDS Data Mapper via the Web.
2. The receiver uploads a CSV file of the raw claims data to the system.
3. The receiver creates a visual map that describes the relationship between their claims data and the UDS fields. In the event data is missing, the receiver can elect to provide default values for the missing items.



Assuring Readiness... (Continued)

4. The map is merged with the CSV file and produces UDS records. Immediate feedback is provided for any data that failed to properly convert and import.
5. After the data is loaded into the system, the receiver can easily browse and search for items that require further review. The data can easily be modified or deleted to correct any issues.
6. Once the receiver is satisfied with the state of the data, he or she can send the files to the appropriate guaranty association. This process creates the actual UDS files, puts them in the guaranty association's SUDS inbox and notifies both the guaranty association and the receiver via email that there are files to retrieve.

This process doesn't in any way threaten data security or have privacy implications because data isn't flowing through the Web. The application is simply a visual "wrapper" around a process that happens entirely within SUDS. It is not materially different from the process every receiver has to go through to create UDS records from raw claims dumps.

A key benefit of the UDS Data Mapper is that all the heavy lifting and institutional UDS knowledge is captured in the application so that each receiver need not "reinvent the wheel" for every insolvency. While this is a simple concept, it has positive implications for speed of transfer of digital data.

Looking Forward

It is generally thought that receivers, not the guaranty funds, are the "prime keepers" of insolvency-related data. The fact is especially significant in the early stages of an insolvency when the need is great to begin data transfer so claims can be paid. One goal of the UDS Data Mapper is to offer an overall digital data transfer solution in a way that respects receivers' primary responsibility of administering insolvencies.

Overall, providing support to the receivers in a way that respects them as "keepers" of the data will bring more overall efficiency – especially important now as federal policymakers heighten scrutiny of the insolvency system and its effectiveness in serving policyholders. On the guaranty fund side, this support ensures that our state organizations remain squarely "on-point" as the guaranty fund key entities, and the NCIGF remains what it has always been – a guaranty fund support organization.

Conclusion

The UDS Data Mapper gives a receiver — regardless of his or her "UDS proficiency" or financial resources to hire consultants – the ability to quickly marshal and distribute digital claims data. In addition, it extends the inherent power of UDS and re-purposes it as a more receiver-friendly product, one that has the capacity to address other tangential data issues, such as imaging.

Editor's Note: A short demonstration of the UDS Data Mapper can be viewed at:

https://www.udsdatabmapper.com/site_media/demo/



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Introducing IAIR's Newest Members



Susan E. Grondine

Susan Grondine is Senior Vice President, Chief Claims Officer and General Counsel to R&Q USA, a subsidiary of the London based Randall & Quilter Investment Holdings Group. She is responsible for the direct and assumed claims and reinsurance operations of R&Q Reinsurance Company, Transport Insurance Company and Goldstreet Insurance Company, and oversees all legal matters arising out of the US operations.

For over a decade, Ms. Grondine served as Senior Vice President and Counsel with Horizon Management Group, the subsidiary of The Hartford Financial Services Group responsible for managing the discontinued operations of The Hartford. She provided legal counsel to this run-off group which included an excess and surplus lines insurer and two reinsurance companies.

Ms. Grondine is ARIAS Certified and has served on insurance and reinsurance arbitration panels as a party appointed arbitrator and neutral umpire.



Thomas W. Jenkins

Tom Jenkins is Partner at Locke Lord Bissell & Liddell, LLP. He has devoted his career to insurance law.

In addition to working on a broad range of insurance regulatory matters, Mr. Jenkins has developed a unique focus in the area of insurance company liquidations and rehabilitations. He has considerable experience with guaranty associations and serves as the general counsel to both the Illinois and California property and casualty guaranty associations and has represented numerous other guaranty associations on special projects.

Mr. Jenkins serves on various insolvency coordinating committees organized by the National Conference of Insurance Guaranty Funds and since October of 2001 has served as Chair of the Reliance Coordinating Committee.

Deanna Ludlam

Deanna Ludlam is Principal of Receivership Management International (RMI), a consulting firm providing customized Conservatorship/Receivership management for State and Federal Agencies. Most recently RMI staff has been involved with the management and liquidation of over 50 bank receiverships for the Federal Deposit Insurance Corporation (FDIC).

With over 20 years' experience in HR including

9 years with Cigna Corp., Ms. Ludlam and her team provide professionals in insolvency management specializing in liquidation and disposition of assets. These experts provide institution closing assistance, asset valuation, due diligence, marketing, investigation, litigation management, recovery of receivables as well as claims support services. Our mission is to assist the client with the orderly transition of business entities and their assets while maintaining value. We draw from over 300 professionals who have been involved in the collections, consolidation and asset management of over 80 institutions ranging from \$10 million to \$20 billion in assets, managing all parts of the process from the pre-closing strategy and seizure through termination of the institution and final distribution to the shareholders. We are happy to be a member of IAIR and look forward to working with other IAIR professionals in the future.



Andrew W. McCarthy

Andrew W. McCarthy, a founding member of IAIR, is Client Services Manager for Randall & Quilter Investment Holdings, plc, in the USA located in Providence, Rhode Island.

With almost twelve years at Randall & Quilter, Andrew has held several positions in senior management, including responsibility for an internationally based debt recovery team, reinsurance functions, commutations, and acquisitions and collections for solvent and insolvent estates.



Mike Palmer

Mike Palmer has developed a broad level of expertise in the global reinsurance market. Mike currently is Head of Marketing and Business Development with Randall & Quilter Investment Holdings, plc, with responsibility for the management and coordination of the group's new business strategy and plans. He has been responsible in the past for resolving reinsurance collection and finality issues, including recovery services in the U.S. and overseas markets. Mike has been impressed with IAIR's reputation for putting on in depth seminars and conferences. He is looking forward to joining the association and becoming involved with the active participation and networking opportunities.



Introducing IAIR's Newest Members (Continued)



James Pythian-Adams

James Pythian-Adams is involved in the full range of commercial and regulatory work relevant to London Market insurance undertakings, whether insurance companies, Lloyd's managing agencies or Lloyd's syndicates. James's work includes advising on a wide variety of their ongoing non-contentious legal and regulatory needs, such as large scale facility agreements; e-commerce arrangements; syndicate, managing agency and branch setup work; international licensing; exit solutions work (such as Part VII Transfers); Lloyd's, FSA and other compliance.



Daniel Saville

Daniel Saville is Legal Director of Reinsurance and Corporate Insurance at Reynolds Porter Chamberlain. He advises on a wide range of underwriting and claims issues in respect of direct and facultative property and casualty risks, and in respect of proportional and non-proportional reinsurance treaties for classes of business including property, catastrophe, casualty, marine, life and PA. He also manages RPC's online reinsurance wordings service, ReWord, a unique database combining standard market clauses with legal commentary, which won the 2008 British Insurance Award for Technology. His practice includes considerable non-contentious reinsurance work, such as policy drafting and advising on reinsurance issues arising from large corporate transactions.

Daniel decided to join IAIR primarily on Vivien Tyrell's recommendation, as he is working with her on various reinsurance and run-off projects.



Michael Terelmes

Mike Terelmes is Senior Vice President of White Mountains Re Solutions, Ltd (Solutions), a division of White Mountains Insurance that specializes in the acquisition of insurance and reinsurance companies in runoff. Mike joined White Mountains Ltd. in 2000 as a founding member of the Solutions management team. He has worked with state insurance departments, receivers and liquidators to provide exit solutions for companies in rehabilitation and receivership.

Prior to joining White Mountains, Mike served as a reinsurance and audit manager for Travelers Insurance Company and as an audit manager with Bank of America (formerly Shawmut Bank). Mr. Terelmes holds a Bachelor of Science degree in Accounting and is an active member of the American Institute of CPAs, the Connecticut Society of CPAs and the Insurance Accounting and Systems Association.

In addition, Mike has over 20 years of accounting and auditing experience in the insurance and financial services industry specializing in statutory and GAAP financial reporting, financial analysis, due diligence, modeling, strategic planning, management of commutations and collections and financial and operational auditing.



David Vacca, CPA

David Vacca is the Assistant Director of the Insurance Analysis & Information Services Department at the National Association of Insurance Commissioners. He oversees support services to state insurance regulators related to numerous working groups including the Group Solvency Issues (EX) Working Group, Receivership and Insolvency (E) Task Force and Receivership Technology & Administration Working Group. He is also responsible for maintaining and enhancing NAIC financial solvency and receivership tools, providing financial solvency training to regulators and interested parties and monitoring and reporting on the US financial insurance industry trends. He also serves as technical expert for federal regulator and international regulator financial requests.

Prior to joining the NAIC, Mr. Vacca was a certified public accountant performing assurance and consulting services for five years with the international accounting firm, KPMG, LLP. His industry expertise focused primarily on financial services, which encompassed the insurance industry.



August 2010 IAIR Issues Forum Recap

By James Kennedy

The August 2010 IAIR Issues Forum covered a variety of topics, which included a Chief Examiners Roundtable, a presentation of federal tax issues, and a panel of reinsurance experts.



James Kennedy

Chief Examiners Roundtable

A panel of insurance department examiners, consisting of Stephen Johnson, Roger Peterson and Robin Westcott, was moderated by David Vacca with the NAIC. The panel first discussed how receiverships are viewed from an examiner's perspective. All agreed that regardless of whether a department handled receiverships internally, through a separate division or using contract deputies, receivership was a continuation of the regulatory process.

David Vacca then asked the panel to address the relative merits of rehabilitation and liquidation. The general consensus was that rehabilitations were becoming more common. While many rehabilitations do not restore the insurer as a going concern, they can nevertheless be beneficial, as they permit the Receiver to resolve matters that could cause greater difficulties in a liquidation. It was noted that a successful runoff can avoid some of the costs and disruptions inherent with a transition to liquidation.

Finally, the panel commented on the "walls and windows" approach to regulation, and stressed the significance of understanding the financial condition of an insurer's holding company and affiliates.

Old Myths and New Realities of Insurance Receivership Taxation

Michael Warren proceeded to dispel misconceptions about federal taxes in a receivership. The change in rules in 2007 ended the ability of insurance receiverships to claim tax exempt status. As a result, receivers must now take tax planning into account throughout the receivership.

Warren described the circumstances in which a receivership could have tax liability, and techniques for dealing with tax issues. One of the more common problems occurs when the insurer is part of a group that files a consolidated return. Warren discussed a number of approaches to this dilemma. Finally, he offered a preview of the future with the changes to 1099 filing requirements.

The presentation was an enlightening (if not sobering) discussion, providing much food for thought.

Reinsurance Recoveries in a Changing Market

A panel moderated by Colin Gray addressed the challenges of collecting reinsurance. The panel included Steve Bazil, Evan Bennett, Steve Goate, Julian Porter and David Tiplady.

The panel started with a discussion of the problems involved with identifying reinsurance recoverables, including the existence of old balances on an insurer's books and the lack of documentation. The process can be exacerbated by subsequent consolidations of brokers, which can also give rise to further offset issues.

The panel provided some practical tips for collecting reinsurance and handling audits, and emphasized the importance of making personal contact with brokers.

Move over Sisyphus, Here Comes the Liquidator

By Kathleen McCain

Have you ever laid awake at night searching the recesses of your mind for the latest statistics on liquidations, rehabilitations and run-offs?

Have you wondered about developments at liquidation offices across the country and whether receivers are doing their job? If so, then this is the article for you. Patrick Cantilo suggested that we resurrect the column that highlighted receiver's achievements and asked me to assist. Thanks to everyone for responding to my last minute email requesting information for the article.

I asked David Vacca for a statistic or two to start off the article. He reports that a 2009 year end survey shows the following in progress claims liability: \$31 billion for run-offs, 9.4 billion in rehabilitation/conservation and 42.5 billion in liquidations. Here is how those statistics play out in four states.

California

Bob Fernandez, Estate Trust Officer and VP at the Conservation and Liquidation Office in California reports that in 2010 there are twenty-three open estates in liquidation under management of the CLO. These open estates consist of nineteen property and casualty companies, one workers' compensation and three life/health estates. The CLO's 2010 goals are to close two estates (National Automobile and Casualty Insurance Company and Municipal Mutual Insurance Company) and to distribute \$423 million. The CLO expects to make Early Access Distributions from Pacific National Insurance Company of \$10 million and from the Superior National Estates of \$327 million; Interim Distributions from the Mission Insurance Company of \$60 million and Sable Insurance Company of \$15 million; and a Final Distribution from Citation General of \$11 million.

Bob also provided further detail regarding material developments at the CLO as follows:

Citation General Insurance Company

By court order dated August 18, 2010, Citation General Insurance was authorized to release a final distribution of all assets. All of the approved creditors of the estate were paid 100% of the value of their approved claim, plus the policyholder class of creditors received the full

value of their claim and a substantial payment of interest. The total distribution was slightly in excess of \$11,000,000 with individual checks mailed on September 2, 2010. The estate was liquidated on August 24, 1995.

Mission Insurance Company

In a court order dated August 13, 2010, Mission Insurance Company was authorized to make a distribution to approved creditors. This distribution will bring general creditors up to a dividend of 50%, creditors with an approved claim of \$100 or less up to 100% as a final distribution and general creditors with an approved claim of \$10,000 or less to a final distribution percentage of 75%. The total distribution of \$58,260,312 is scheduled for September 30, 2010.

Superior National Insurance Companies

The CLO received \$529 million from U.S. Life Insurance Company, an American International Group subsidiary, in partial satisfaction of a judgment affirming the Final Arbitration Award in favor of the Superior National Insurance Companies. Pursuant to the terms of an agreement between the parties, \$186 million of the payment went to the California Insurance Guarantee Association. The balance of \$343 million was received by the estates for future distributions to Superior National Insurance Companies creditors pursuant to California Insurance Code Section 1033. This success for the CLO follows nearly ten years of contentious arbitration and litigation. The payment from US Life includes \$185 million in interest due the duration of the disputes related to reinsurance contract between U.S. Life and the Superior National Insurance Companies. Barring any obstacles, a distribution to the Guaranty Associations is anticipated in the 4th quarter of 2010, and to all other approved policyholder creditors in the 1st quarter of 2011.

Executive Life Insurance Company

The Opt-Out Trust receives approximately 33% of Executive Life Insurance Company ("ELIC")



Move over Sisyphus, Here Comes the Liquidator (Continued)

assets which are distributed to approximately 27,300 former ELIC policyholders ("Opt-Outs") who elected to terminate their policies. \$211 million of Altus Litigation Funds was distributed to Opt-Out policyholders in February 2006. The remaining assets of the Opt-Out Trust consist of (1) distributions allocated to policyholders with whom contact has been lost (funds which cannot be distributed for lack of contact information will be escheated to the last known state of residence), and (2) the settlement proceeds of Mutuelle Assurance Artisanale De France ("MAAF") (one-third of the recovery of a default judgment in the name of defendant, MAAF) which are available for distribution to Opt-Out policyholders. The Commissioner intends to distribute the MAAF funds in the third quarter of 2010. The Opt-Out Trust will remain open to effect distributions to Opt-Out policyholders of proceeds, if any, if the Commissioner is successful in the damages retrial of the Credit Lyonnais lawsuit. A date has not been set for the retrial.

Golden State Mutual Life Insurance Company

The Los Angeles Superior Court approved the comprehensive rehabilitation plan and assumption reinsurance agreements for Golden State Mutual Life Insurance Company with IA American Life Insurance Company. The rehabilitation plan and assumption reinsurance transaction will preserve and maintain the value, continuous coverage and contractual benefits for the holders of in-force life, health and disability insurance policies and annuity contracts issued by Golden State Mutual. The rehabilitation plan and agreements forming the plan provide that holders of Golden State Mutual's in-force life, health and disability policies and annuity contracts will become policy and annuity contract holders of IA American under an express assumption of their policies and annuity contracts as modified by an Assumption Endorsement. As a result of this assumption, all claims for contractual life, health and disability insurance policy and annuity contract benefits will be deemed satisfied by the assumption and IA American will be solely responsible to pay all claims on the policies and contracts.

Ohio

Lynda Loomis, Chief Deputy Liquidator at the Office of the Ohio Insurance Liquidator provided

information on Ohio's material developments. She reports that the vast majority of the liquidations in Ohio are mature estates or limited/no asset estates. One of the Liquidator's goals is to improve liquidations by administering each of these estates in a more efficient manner in order to facilitate making one final distribution to claimants of each estate as soon as practicable. To that end, the Liquidator has closed six open estates since 2007.

At the beginning of 2010, the Office of the Ohio Insurance Liquidator had 12 open estates. As of September 30, 2010, the Ohio Liquidator has 11 open estates, with plans to close at least two estates in March 2011 following a final distribution in 2010. The current open estates consist of six property & casualty estates (two of which are workers' compensation), one title insurer, and four life/health insurers.

In December 2009, the Ohio Liquidator completed the 82.1412% final pro rata distribution to Class 2 policyholder claimants in The P.I.E. Mutual Insurance Company. As of September 30, 2010, the Liquidator filed motions requesting authority to make final distributions and proceed to close the DayMed Health Maintenance Plan, Inc. and Renaissance Health Plan, Inc. liquidations. In October 2010, the Liquidator is planning to make a final payment of 100% of the amount of each allowed claim in Classes 1 through 4, and a final pro-rata payment of 75.1260% of the amount of each allowed claim in Class 5 in the DayMed Health Maintenance Plan, Inc. liquidation, and to make a final payment of 100% of the amount of each allowed claim in Classes 1 through 4, and a final pro-rata payment of over 45% of the amount of each allowed claim in Class 5 in the Renaissance Health Plan, Inc. liquidation. The Liquidator is evaluating the potential for requesting authority to make final distributions and close three other open estates.

In December 2009, the Ohio Liquidator also completed a \$12,822,841 early access distribution to guaranty associations in the American Chambers Life Insurance Company liquidation proceeding.

In June 2010, the Ohio Liquidator completed a \$11,174,619.74 pro-rata distribution to guaranty associations on their Class 1 claims in the Credit General Insurance Company liquidation proceeding and a \$1,028,990.01 pro-rata distribution to guaranty associations on their Class 1 claims in the Credit General Indemnity Company liquidation proceeding.



Move over Sisyphus, Here Comes the Liquidator (Continued)

Florida

Mary Schwantes, Director of Estate Management and Deputy Receiver reports from Florida that as of October 1, 2010, there are 48 companies in receivership in Florida – 41 in liquidation and seven in rehabilitation. The 48 estates include 33 property and casualty companies, 10 health maintenance organizations, two workers' compensation self insurance funds, one medical malpractice self insurance fund, one warranty company and one title company.

During the most recent fiscal year (July 1, 2009 – June 30, 2010), the following seven companies were placed in receivership: National Title Insurance Company, First Commercial Insurance Company, First Commercial Transportation and Property Insurance Company, American Keystone Insurance Company, Intercontinental Marine Service Corporation, Magnolia Insurance Company, and Northern Capital Insurance Company.

The Receiver distributed \$12,597,515 in claims payments and assessment returns. An additional \$93,474,452 in early access payments were distributed to Florida's insurance guaranty associations from the various receivership estates and/or from the Florida Hurricane Catastrophe Fund. The following four receiverships were closed: Nationwide Public Employees Trust, Unisource Insurance Company, United States Employer Consumer Self Insurance Fund of Florida and United Business Owners Self Insurance Fund.

In September 2010, joint efforts between the Receiver's office and the Department's Division of Insurance Fraud culminated in arrests involving pre-receivership activity in three receiverships. In early September 2010, Luis M. Espinosa, former president and CEO and Rene M. Cambert, former vice president and chief operating officer of First Commercial Insurance Company and First Commercial Transportation and Property Insurance Company were arrested on eight first degree felony counts each for filing false or misleading financial statements for both companies with the Florida Office of Insurance Regulation (OIR). Each felony count carries a potential 30-year sentence. The arrests occurred after the investigation by the Division of Insurance Fraud's Major Case Squad revealed that regulatory reporting documents signed by both Espinosa and Cambert were fraudulent, including quarterly

statements declaring the companies were maintaining the minimum capital and surplus of \$4 million required to meet Florida's statutory obligations as an insurance provider. Numerous documents filed indicated that the companies had more reserve assets than they actually possessed and that worthless cash assets, totaling more than \$10 million, impaired the capital of both companies.

Kenneth Feldman, founder of Suncoast Physicians Health Plan, Inc has been arrested on one first-degree felony charge for filing false financial statements with the Florida OIR. Suncoast was ordered liquidated in August 2007. The Florida Department of Financial Services (DFS) was appointed as Receiver of the company, thereby giving DFS full access to the company's records. Once in receivership, discrepancies in the previously filed company paperwork were discovered. According to the DFS investigation, Feldman provided false information to OIR about the company's financial condition by shuffling money between his different companies to create the appearance of a cash infusion in Suncoast. In response to OIR's demand that Suncoast deposit funds into its accounts in order to comply with minimum statutory requirements, in May 2007 Feldman directed a "circular transaction" of funds - taking approximately \$225,000 directly from Suncoast's account(s), he funneled the money through the bank accounts of two other companies under his control, then had the same \$225,000 amount redeposited into Suncoast's accounts. The DFS' Division of Insurance Fraud investigators followed the money trail which revealed the May 2007 transactions and also revealed that Feldman had performed the same "circular transaction" with regard to funds in March and April of 2007. As a result of the various transactions, over \$600,000 listed as available cash or other liquid assets in the company's financial statements were, in fact, unavailable. If convicted, Feldman faces up to 30 years behind bars.

Illinois

Suzanne Janak, Senior Manager, Estate Strategic Planning at the Office of the Special Deputy Receiver in Illinois reports that the OSD currently manages 18 estates: 13 liquidations, two rehabilitations and three conservations. two additional estates, Alliance General Insurance Company and American Health Care Providers, Inc., closed earlier in 2010. The total cash and



Move over Sisyphus, Here Comes the Liquidator (Continued)

invested assets currently held on behalf of the estates under OSD's control is \$274 million. To date, over \$330 million has been distributed on the 18 open estates.

Highlights of OSD's 2010 estate activities include:

Alliance General Insurance Company, In Liquidation, closed in early 2010. All policyholder claims were paid in full. General creditors received dividend distributions totaling 66.99% of their allowed claims.

A rehabilitation plan was approved by the Supervising Court in April 2010 for Life Services Network Trust, In Rehabilitation. Under the terms of the rehabilitation plan policyholder priority claims are currently being paid at the rate of 70% on the dollar.

Pine Top Insurance Company, In Liquidation, a surplus lines reinsurance and excess insurance carrier, has filed a petition for court approval of a \$20 million interim dividend to general creditors. Pending court approval, the distribution will be made in October 2010. An additional \$82.5 million in interim dividends was previously distributed to policyholders and general creditors. Significant remaining activities include the marketing of the estate's remaining uncollected reinsurance receivables.

Statewide Insurance Company, In Liquidation recently distributed a 100% dividend on timely-filed policyholder and general creditor claims. A second bar date will be established for the final presentation of long-tail policyholder claims and the settling of late claims.

United Capitol Insurance Company, In Liquidation resolved all timely-filed uncontested claims early in 2010. The Liquidator is currently adjusting and adjudicating contested claims and collecting reinsurance. The Special Deputy recently posted his Good Faith Estimate ("GFE") of the timing and amount of potential distributions on OSD's website. The GFE is the Special Deputy's projection of future distributions and reflects the Liquidator's commitment to keeping estate creditors informed about when they can expect to receive payment on their claims. United Capitol's GFE currently estimates a substantial distribution at the policyholder level will be made in 2010.

Legion Indemnity Company, In Liquidation is a surplus lines carrier that insured and ceded commercial and general liability risks. Its initial claim evaluation was completed by year-end 2009. Contested claims are currently being adjusted, adjudicated and ceded to reinsurers. A policyholder distribution on timely-filed claims is anticipated in 2011.

So, we are still pushing the boulder up the hill. Assets are being collected, policyholders are getting paid and estates are closing. Move over Sisyphus, here comes the Liquidator.




Kathleen McCain is an insolvency and reinsurance lawyer/consultant who has just finished a long term project for the Ohio Insurance Liquidator. She is looking forward to her next project whatever it may be. Kathleen can be reached at kmmccain@earthlink.net.

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, Publications Committee or IAIR's Executive Director. No article or other feature should be considered as legal advice.

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The Perfect Receiver

by Patrick Cantilo

“Nobody loves me any more” lamented Joe Receiver as droves of company employees ran out the door of his new receivership, leaving him high and dry. With crocodile tears in his eyes, he dialed his girlfriend on his nuclear-powered, fully automatic, business-card sized, iPhone 87G. “Honey, what can I do to keep the employees of Gargantuan Hole Life Insurance Company from leaving now that I’ve been appointed receiver?” Smiling from across the city, the love of his life looked knowingly at her Blueberry Flame All-purpose Digital Personal Life Manager and said confidently “There are proven techniques for retaining troubled company employees. Some may seem heartless (like your mother), but they are important. Let me explain.”

“First, tier your staff by criticality and replaceability. Structure a retention program with the more robust benefits for those you cannot afford to lose and few or no benefits for those you really may not need. Condition continued employment and benefits, in part, on strict confidentiality of the retention program. Accept, however, that there will be leaks, and prepare to manage the resulting resentment. The best response is reasoned candor.

Second, as you design your program, consider these competing approaches. On the one hand, you can offer incentives that accrue over time (in measures varying with criticality) but can only be ‘cashed-in’ upon involuntary separation



without cause. But note that, as they accrue, these may encourage departure. On the other hand, you may prefer to provide some benefits at the end of specified retention periods (like every six months). Think also about preservation and funding of retirement and pension plans.

Third, evaluate job functions and performance and judiciously promote deserving and critical employees. Remember these important principles. One: all other things being equal, bonuses are cheaper than raises. Two: promotions without a raise can sometimes be sincerely appreciated as recognition of value and effort. Three: if negotiating with a buyer, have it fund part or all of the program. Four: have the court approve the plan as a rehabilitative measure that falls outside the limited wage priority. Five: days-off and other fringe benefits (flex schedules, bigger offices, etc.) can be costless rewards that build loyalty. Finally, most importantly, be a good, sensitive, honest, and caring manager.”

“Thanks my sweet” purred Joe into his paper-thin Banana communicator. “Where do you want to go to dinner tonight?” With a growing scowl, his “sweet” replied “Anywhere other than your brother’s god-awful BBQ joint. I still can’t believe you made me eat the ‘South Texas Special!’” Stunned, he asked “What’s so bad about sautéed porcupine in a bed of chilled St. Augustine sod garnished with thinly sliced Arizona Ash bark?”



Press Release

Insurance Receivers, Asset Recovery Groups Partner on Credentials

Two insurance groups are joining to improve the skills of those helping troubled insurers recover assets and those going after people who defraud insurance companies.

Members of the International Association of Insurance Receivers (IAIR) and the International Association for Asset Recovery (IAAR) will now be able to earn the certifications of each association and participate in events.

The groups say their new partnership is aimed at helping insurance receivers and insurance regulators and investigators improve their skill and credentials in recovering fraud proceeds.

IAAR issues the Certified Specialist in Asset Recovery certification while

IAIR issues the Certified Insurance Receiver and the Accredited Insurance Receiver credentials.

Both organizations conduct conferences and other training events. IAIR will conduct its Annual Insolvency Workshop in New Orleans on January 19-21, 2011. IAAR will hold its Cross- Border Asset Tracing and Recovery Conference in June 2011 in London.

'Converging Interests'

"Insurance receivers are entrusted by the courts to recover the losses suffered by victims of crime and fraud," said Patrick Cantilo, president of IAIR and partner at Austin, Texas firm, Cantilo & Bennett, LLP. "Our associations have converging interests, and we know this alliance in training and certification will sharpen the skills of insurance receivers and asset recovery specialists."

Certifications exist in fraud examination and anti-money laundering, but they do not extend to what IAR calls the "endgame" of all frauds, which is the recovery of the fraud proceeds, according to IAAR president Charles Intriago, a former federal prosecutor who also founded the Association of Certified Anti-Money Laundering Specialists.



IAIR Texas Training Conference

IAIR and the Texas Department of Insurance hosted a training conference in September, 2010. The two day conference featured presentations by several IAIR members.

The first day of the conference involved TDI examiners, analysts and attorneys. The topics consisted of an overview of the receivership process, reinsurance, indicators of financial distress and consequences of early detection, identification of hazardous affiliated transactions, and the impact of information technology in receiverships.

The second day of the conference included Special Deputy Receivers and others interested in the receivership process. It began with remarks by Commissioner Mike Geeslin, and the

subjects involved an overview of the receivership model act, identification of affiliated transactions, records retention issues, rehabilitation proceedings, receivership take-overs; enforcement of stays and injunctions, federal income taxation; and the role of a master in receiverships.

Thank you to the many IAIR members responsible for planning and presenting the program and for volunteering their time. IAIR looks forward to doing additional state training in conjunction with the departments of insurance in other states in the coming months.

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\$4,000 annually

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\$1,500 annually

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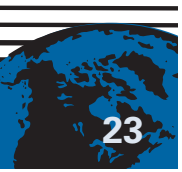
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