

Letter from the Editors

by Priscilla L. Carroll, CPCU, and W. Wesley Carroll, CPCU

Your E/S/SL Section Committee has undergone some changes in the last few months, and we want to bring you up to date. The week before the committee meeting at the Leadership Summit in Phoenix, E/S/SL Section Chairman **William P. Teich, CPCU**, experienced some changes in his job description that will require him to travel more overseas. With these changes, Bill felt that he needed to resign as chairman. Under the circumstances, our first topic of discussion at the mid-year meeting was a new chairman. After much discussion, **Lynn D. Goodwin, CPCU, CIC, ARM**, and **James A. Roe, CPCU**, were elected as co-chairmen. A brief bio for each is included in this issue. In addition, we have two new committee members, **Dick Simon, CPCU**, of American Management Corporation, and **Norman Chandler, CPCU**. A bio for Dick is included in this issue. A bio was not available at time of printing for Norman, but we hope to have it for the next issue. As your editors, Wes and I are looking for your input. If you see an article that you think would be interesting to the rest of our section, please e-mail us and we'll see if we can get permission to reprint it. If there is a topic that you'd like to see us cover; or a person you know who might provide an article, please let us know. We really need your input in order to make the newsletter helpful to everyone. Most important of all, if you have some expertise in a particular area, we'd love to have you write an article for the newsletter. Remember, this newsletter is read by many people, and seeing your name as author of an article just might help further your career.

We hope to see you at the Annual Meeting and Seminars in Atlanta this October. If you run into us, please introduce yourself. We'd love an opportunity to chat with other members. ■



■ The E/S/SL Section Committee met at the Leadership Summit held in April and elected new co-chairmen, James A. Roe, CPCU, and Lynn D. Goodwin, CPCU, CIC, ARM. Pictured from left to right: Roe; Goodwin; Priscilla L. Carroll, CPCU, and W. Wesley Carroll, CPCU.

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The Impact of Managing General Underwriters and Wholesalers in California Workers Compensation

by Pauline J. Bareno

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Open competitive rating started in 1995. By the late 1990s, the height of the hard market, the workers compensation marketplace had changed dramatically. Retailers found themselves re-marketing business in the middle of a policy term to deal with insurance companies that had become insolvent or withdrew from writing workers compensation in California. Simultaneously, they had to work with insurance companies re-underwriting entire classes of business, while downsizing operating territories including termination of agents with low production or unfavorable underwriting loss ratios. This resulted in the loss of skilled technical positions in both claims and underwriting. It became evident that companies were shifting away from cash flow underwriting to a greater focus on "profitable underwriting."

■ *If the workers compensation market reverts back to cash flow underwriting and we see prices continue to drop, we could see underwriting profits and surplus deteriorate very quickly.*

The impact on insurance companies with the loss of experienced technical people continues to be felt today as many workers found work outside of the industry or entered positions available with third-party claim administrators, wholesalers, or managing general underwriters specializing in workers compensation. Many financial analysts saw California as very unstable and unpredictable with a system that needed legislative reform. Significant reform came through various Assembly and Senate Bills back in 2002 continuing through 2003 and 2004. All have had a significant impact in the industry's improved results.

Prior to these changes, some saw an opportunity and a shift to other alternative reinsurance/fronting arrangements that were developed through managing general underwriting companies representing a single fronting company. They emerged in the California hard market and they continue to be successful today because they focus on underwriting templates that require adhering to very clear and specific underwriting guidelines. They work more closely than in the past with their underwriting partners to carefully monitor and maintain underwriting integrity to sustain a profitable relationship. These arrangements have successfully reached five- to 10-year tenure. During those challenging days, it was the managing general underwriter who had the vision in the industry to provide market access on select low-hazard, less service-driven classes that would provide improved underwriting results through template-priced or template-underwriting programs targeting small- to medium-size accounts. The success of these programs has been duplicated by national companies and other new markets. To assist the managing general underwriters with the statewide distribution of these products, they looked to select wholesalers with product knowledge and expertise in workers compensation. Although managing general underwriting companies recognized direct retail appointments, they also realized that their resources were limited and the only way to capture premium statewide was to solicit submission flow through select wholesalers. The wholesaler could provide the upfront underwriting of individual accounts allowing the MGU to be more cost-effective and efficient. They looked to the wholesaler to have a role with communication and education with agency affiliates with legislative and industry changes. The success of these template programs has the industry emerging with advancements in web-based products using a distribution system that would be far more reaching on a



national level through many wholesalers and managing underwriting agents nationally.

As the current California workers compensation marketplace continues to soften, we see the entry of new workers compensation companies in California on a cautionary basis with limited capacity. I feel confident that managing general underwriters and wholesalers will still play an important role in the future of workers compensation even as the market continues to be more competitive. They have proven their “added value” in the marketplace in being responsive and innovative in meeting the demands in the industry as it changes. Many now represent multiple carriers providing broad market access to agency affiliates. This is cost-effective for agencies as producers find the marketing process time-consuming and tedious for agency personnel.

If the workers compensation market reverts back to cash flow underwriting and we see prices continue to drop, we could see underwriting profits and surplus deteriorate very quickly. We still need

to see the longer effect of the true cost benefits of all the state reforms enacted. Part of Senate Bill 899 enacted April 2004 directs the medical treatment to a medical provider network. The Medical Provider Networks (MPNs) will have significant claim cost reductions only if enforced by both the employer and the insurance company. The administration of this program is being handled differently by companies. Employee notification is required by insurance companies, and employers need to provide employee census information to the insurance company so that the medical can be directed to the network. These networks are established to provide medical treatment at negotiated discounted rates. If proper notification is not provided to all parties, the injured worker is allowed to treat with a doctor of his or her choice. Some are taking a proactive approach with the MPN implementation, and are actively soliciting the required information from the employer and requiring that employers submit employee census information on a quarterly basis. Others are only providing notification to the employer regarding the MPN, and

rely on the employer to submit the required information. To reduce over-utilization and medical treatment cost, it is important that all parties participate on a proactive basis. The MPN program will have real cost savings only if both the employer and the insurance company take an aggressive approach in managing the process. Obviously, some will do better than others and it is important that we advise and educate both the agent and the employer on the cost savings of the MPN program. Price continues to move downward in California with the expectation of a proposed 10 percent reduction for July; we could see some companies getting a jump in the marketplace with this reduction in June. ■

Truckers on Terror Watch

by Ronald Gift Mullins

Editor's Note: This article originally appeared in the May 2005 edition of *Risk & Insurance* and is reprinted here with permission.

■ **Ronald Gift Mullins**, a former editor and writer for the *Journal of Commerce*, contributes occasionally to *Risk & Insurance*.

Truck drivers are the new eyes and ears of the nation's early warning system against terrorists. Whether on the road or at fuel stations and rest areas, drivers are trained to report trucks hauling hazardous waste without the proper marking or permits, unusual chatter on CBs, and phony traffic accidents.

Since September 11, 2001, the trucking industry has assumed an increasingly critical role in both government and business security strategies to confront the threat of a terrorist strike.

Recognizing that practically every product that is delivered in this country comes by truck, whether to a mammoth manufacturing plant or to a mom-and-pop store on Main Street USA, trucking firms have worked closely with agencies of the federal government to develop programs and systems to protect the transporting of goods, services, and people.

Essentially, thousands of professional drivers have become ground soldiers, riding streets and highways to report potential terrorist activity and aid in the prevention of catastrophic terrorist attacks.

One of the earliest security strategies was the formation in November 2001 of the Transportation Security Administration (TSA) within the U.S. Department of Transportation. The administration was later transferred to the U.S. Department of Homeland Security.



Though originally focused on air travel, TSA almost immediately moved to address the handling and hauling of hazardous cargo by issuing a list of common-sense points that could improve security measures for hazardous materials carriers. Those points included:

- complete background checks for new hires that include investigation of criminal records, military service, employment gaps and references
- photo or other unique-identifier ID system for all employees
- secured terminals with adequate fences, lighting, locked hazardous materials storage and entry/exit controls
- control of vehicle keys
- driver awareness of suspicious activities
- mobile communication systems
- evaluation of tracking, monitoring and remote locking systems
- routine use of vehicle anti-theft systems and cargo locks and seals
- security training for all personnel
- sharing information with others in the industry
- ability to step up security measures in response to new terrorist activities or alerts

Phase Three: Fingerprinting

During the first phase, TSA conducted name-based security threat assessments on all 2.7 million hazardous materials drivers to determine whether any presented a potential terrorist threat.

On January 31, 2005, the TSA began the second phase of the Hazardous Materials Threat Assessment Program with the fingerprinting of commercial truck drivers applying to obtain a hazardous materials endorsement on their state-issued commercial drivers license.

Phase two augments this effort by adding an FBI fingerprint-based criminal history records check and immigration status check.

The third and final phase of implementation begins May 31, 2005, when drivers who currently hold a hazardous materials endorsement and wish to renew or transfer the endorsement must undergo the fingerprint-based background check.

Announcing the new requirements, Rear Adm. David M. Stone, USN (Ret.), assistant secretary of Homeland Security for TSA, said, "By partnering with states to ensure hazardous materials drivers have

undergone a security threat assessment, we add another layer of security in the transport of hazardous materials.”

The TSA’s scrutiny of the trucking industry may be intensified if the 2006 federal fiscal budget is approved. President Bush plans to shift from the TSA much of the responsibility for security at airports to other departments, leaving TSA with oversight of security of freight, rail, truck, and maritime transportation.

Hazardous Materials Classifications

Risk managers now have to do background checks on the drivers of their own trucking fleets, or contractors, or rentals if their employer’s product is identified as a hazardous material.

Further, the requirements for labeling and marking transported hazardous materials are considerably complicated, almost bewildering. The International Maritime Organization, which is a branch of the United Nations, has sorted hazardous materials into nine classifications. These include explosives, gases, flammable liquids, flammable solids, oxidizers and organic peroxides, toxic materials and infectious substances, radioactive materials, corrosives, and miscellaneous dangerous goods.

Each class of hazardous materials has its own color-coded diamond-shaped sign, and there are several subgroups within most classes.

Shippers are required to mark the package with the kind of hazardous material in it, and trucks have to carry similar markings on the outside of the truck. Risk managers shipping hazardous materials must balance the need for safety with the costs that result from regulations, exemptions, and approvals.

Currently, there is some discussion that the marking system should be abandoned on trucks and freight cars, as it makes it too easy for terrorists to identify and use dangerous materials.

Ron Thornton, president of the Inland Marine Insurance Association, said the anti-terrorism programs involving trucking firms have an indirect, positive influence on insurance rates.

“The new vetting requirements for hazardous materials drivers will help companies to not hire persons who have a previous history of involvement in crime, especially cargo-related activity,” he says. “Since there is an underlying belief that a lot of cargo thefts are inside jobs, by being more selective in hiring drivers, the incidence of cargo theft will be lower, which will help risk managers to reduce their firms’ insurance costs for theft coverage.”

Following September 11, the TSA expanded Highway Watch, a program founded in 1998 by the American Trucking Associations to alert authorities to accidents on the nation’s highways and roads.

Today, Highway Watch is a voluntary, national and state safety project that trains professional truck drivers to be aware of and report unusual incidents that may prove to be terrorist-related. Highway Watch is administered by the ATA through an agreement with the Department of Homeland Security.

The ATA coordinates the program’s activities involving the trucking industry, state and federal departments of transportation, and state policing units. Participating in Highway Watch are commercial and public truck and bus drivers, and other highway sector professionals. They receive special training to recognize potential safety and security threats and how to avoid becoming a target of terrorists and to spot a terrorist threat to others. One of the main concentrations of the Highway Watch program is to prevent terrorists from using large vehicles or hazardous cargoes as weapons.

Each state trucking association operates its own Highway Watch program, working with state law enforcement and government agencies. While each participating state association has its

own set of qualifying standards, the associations typically stipulate that a volunteer be a truck driver who: operates regularly in the state, has an excellent safety record, is willing to undergo a background check, has a cellular phone to use for dialing a toll-free Highway Watch number, is willing to attend a comprehensive training session, and has a desire to work with others to improve highway safety.

New Mandates Adopted

The industry, says Thornton, is cooperating with the new mandates on a volunteer basis while balancing “attentiveness to regulations with the pragmatic importance of business practices.”

In addition to being on the alert for matters relating to homeland security, the drivers in Watch, whether on the road or at fuel stations and rest areas, are trained to report to proper authorities such activity as trucks hauling hazardous waste without the proper marking or permits, unusual chatter on CBs, phony traffic accidents, stranded vehicles or accidents, unsafe road conditions, and other dangerous situations.

It was a trucker who spotted the car in a rest stop that led to the arrest of the sniper who killed 10 people in Maryland and Virginia in October 2002.

The ATA received a \$41 million grant for 2005 to fund Highway Watch from the Department of Homeland Security. Bill Graves, ATA president and CEO, said that with the country’s dependence on transportation, having a program that coordinates the efforts of the entire transportation sector “keeps our highways safe and secure and trucks rolling; otherwise, America stops.” ■

NAPSLO President Discusses Market Conditions

Wholesalers Adjusting to Softer Market; Keep a Watchful Eye on Potential Regulatory Legislation

by Phil Zinkewicz



■ **Richard Polizzi** is president of the Pasadena, California-based Western Security Surplus Insurance Brokers and newly elected president of NAPSLO.

Editor's Note: This article originally appeared in the February 2005 edition of *Rough Notes* and is reprinted here with permission.

The surplus lines insurance marketplace experienced a period of significant growth during the early part of this decade. The severe insurance losses associated with September 11 caused the market, which had already been tightening a bit at the end of the 1990s, to harden considerably. We all know what happens when the standard insurance market hardens. Insurers in the standard market begin to look less favorably upon particular exposures, and that business flows into the surplus lines end of the business. In this respect, as it has often been said, the surplus lines market acts as a safety valve for the industry, providing the protection that is needed by buyers of insurance when the standard market retrenches.

However, there are signs that the property and casualty market is now softening in certain areas. How is this softening going to affect the surplus lines industry?

This was but one of the questions addressed at the annual meeting of the National Association of Professional Surplus Lines Offices (NAPSLO) last fall. Other issues discussed both in formal panels and in the halls during breaks included merger and acquisition activity in the surplus lines arena, developments in the regulatory and legislative environments, and the role that Lloyd's of London plays in the U.S. surplus lines industry.

"This was a most exciting meeting, the largest NAPSLO has ever had with attendance that topped 2,800," says Richard Polizzi, president of the Pasadena, California-based Western Security Surplus Insurance Brokers and newly elected president of NAPSLO. "Despite the fact that the annual was held in Florida, which was tortured by four hurricanes one after another—the first time that has happened in 118 years—attendance outpaced previous annuals. This demonstrates that NAPSLO members recognize the importance of an exchange of ideas, information, and opinion."

Regarding the softening market, Polizzi says that there was a special panel of insurers, retailers, and wholesalers at the annual who discussed that topic. "Naturally, members are concerned about losing market share, but that always happens during a soft market. The surplus lines market is perfectly capable of adapting to normal insurance industry cyclicity. Our market might shrink a bit, but we can handle it. Of course, we hope that the general insurance industry doesn't take a nosedive into cash flow underwriting the way it did in the early and mid-1990s. The panel discussed to what extent the market is softening and how insurers, wholesalers, and retailers

can work together to continue providing much-needed coverages and services in the changing market."

Another area of discussion during the annual meeting was merger and acquisition activity. "While mergers and acquisitions in the surplus lines industry are slowing down, they are still continuing," says Polizzi. "There is little doubt that we will see more mergers in the coming year."

Of course, a look at the regulatory environment is always part of a NAPSLO annual meeting, and this one was no exception, according to Polizzi. "NAPSLO continues to work with regulators regarding relevant legislation," he says. "We want to keep our members abreast of what's going on in the regulatory environment state by state and at the federal level."

In line with this, *Rough Notes* asked Polizzi what NAPSLO's view was regarding new proposed legislation that has come out of Congress called the State Modernization and Regulatory Transparency Act (SMART). The draft bill is the product of House Financial Services Committee Chairman Mike Oxley (R-Ohio) and Capital Markets Subcommittee Chairman Richard Baker (R-LA.). Its proponents say it is designed to move toward greater uniformity in state regulation without creating an option federal charter, a federal regulator, or any type of permanent federal insurance office. By and large, insurance companies look favorably upon SMART as do agent associations such as the Independent Insurance Agents and Brokers of America and the Professional Insurance Agents, although the PIA has not yet given the proposed law its total endorsement. Consumer activists and NCOIL, on the other hand, see SMART as yet another attempt at federal intrusion in the insurance business.

"We at NAPSLO favor state regulation," says Polizzi. "We are not opposed to federal guidelines, but we do oppose federal regulation. We've had meetings discussing SMART and, so far, it appears that the initial draft treats the surplus lines industry favorably. What is important to us is that we continue to have freedom of rate and form and uniform licensing. Surplus lines companies are able to offer specialty insurance in large part because they are free of rate and form restrictions imposed on carriers in the standard market. That is essential to our business. The surplus lines industry has done a terrific job. A.M. Best has pointed out that the solvency picture of the surplus lines market is as good as or better than the standard market. But as for SMART, this first draft will undoubtedly be discussed and debated for the better part of next year before any final agreement is reached on all the issues."

Finally, *Rough Notes* asked the NAPSLO president where the new Lloyd's of London, with its dependence upon corporate capital, fits in the U.S. surplus lines picture. "Lloyd's, of course, is firmly committed to the U.S. market," says Polizzi. "After all, 40 percent of Lloyd's business is conducted in the U.S. And, there's no question that Lloyd's wants a bigger position in the U.S. surplus lines market. NAPSLO is working closely with the Lloyd's market. Our committees have made trips to London to meet with Lloyd's people. I think Lloyd's may be in a position to bring more capacity to the U.S."

Polizzi says that, as NAPSLO's new president, he hopes to continue to grow the organization and to impress upon the entire insurance industry and industry observers the importance of the surplus lines marketplace. "Since it was founded in 1975, NAPSLO has become the authoritative voice of surplus lines," he

says. "Acting as a source of information, NAPSLO spends a great deal of time identifying and explaining to regulators, other segments of the insurance industry, the media, and the public the vital role surplus lines plays in the insurance industry. The NAPSLO logo is inscribed with the Latin phrase 'Uberrima Fides,' which means 'in the utmost good faith.' This serves as a symbol of the professionalism and purpose of the members and the association. Applicants must meet financial and conduct standards in order to join the association, and NAPSLO members must follow a code of ethics in dealing with customers and companies. Dealing with a NAPSLO member ensures that you are dealing with a knowledgeable surplus lines broker or company," says Polizzi. ■

Editor's Note: Visit www.napslo.org for more information.

Attend the E/S/SL Section's Session at the CPCU Society's Annual Meeting and Seminars

State Modernization and Regulation Transparency (SMART) Act

Monday, October 24 1:30 - 3:30 p.m.

This seminar presents an overview of the SMART Act and a comparison to the McCarran-Ferguson Act. Speakers will discuss whether the regulation will be successful in providing for improved insurance regulation; the anticipated impact on the insurance industry; changes to broker disclosure requirements; and the likelihood of further changes.

Developed by the Excess/Surplus/Specialty Lines and Regulatory & Legislative Sections.

Presenters

Eric C. Nordman, CPCU, National Association of Insurance Commissioners
Damian V. Sepanik, J.D., CPCU, Law Offices of Damian V. Sepanik LLC



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E/S/SL Section Committee Members' Spotlight

Lynn D. Goodwin, CPCU, CIC, ARM

Lynn D. Goodwin, CPCU, CIC, ARM, is assistant vice president at International Placement Services Inc., where she is responsible for underwriting, marketing, and supervising the Commercial Special Risks Department, and recently was elected co-chairman of the CPCU Society's E/S/SL Section. She started her insurance career in 1977, and has broad knowledge of all lines of insurance, including international insurance. Goodwin has worked for several insurance companies in the underwriting and marketing areas; and in 1992 moved into the retail side of the insurance business, working for Johnson & Higgins (now known as Marsh), Lockton, and Willis. Prior to joining IPSI, she marketed and serviced national accounts. Goodwin obtained the CPCU designation in 1993, the CIC designation in 1994, and the ARM designation in 1995.

- Honorary Commissioner of Insurance, State of Indiana
- President, American Association of Managing General Agents
- President, Indiana Association of Professional Specialty Lines Offices
- Chairman, American Association of Managing General Agents, Government Affairs Committee & Liaison to the National Association of Insurance Commissioners
- Chairman, Independent Insurance Agents of Indiana 100th Anniversary Convention
- Chairman, Board of Education, Immaculate Heart of Mary Catholic Church (1995-1996)

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Dick Simon, CPCU

Dick Simon, CPCU, is vice president of American Management Corporation in Conway, Arkansas. He is responsible for underwriting operations of the Property Casualty and Workers Compensation Departments. He holds a degree in mathematics. AMC is a highly respected and specialized national managing general agency. Its multiple operating divisions proudly serve worldwide petroleum companies, franchise operations, insurance companies and carriers, broker agents, as well as corporate customers and individuals. ■



James A. Roe, CPCU, ASLI

James A. Roe, CPCU, ASLI, is president of Arlington/Roe, and recently was elected co-chairman of the CPCU Society's E/S/SL Section. At the age of 14, he started working for his father, Francis Roe, who founded Arlington/Roe in 1964. In 1972, after graduating from Indiana University, Roe began full time in the firm. He became president and the sole owner of Arlington/Roe in 1987. Past accomplishments include the following:

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