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### In this Edition



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# The Battle Against Insurance Fraud

*By Dennis Jay*

Ten years ago, 17 national organizations representing primary insurers, regulators, law enforcement, and consumers banded together to present a united front against insurance fraud. Back in 1993, few states had insurance fraud laws, enforcement efforts were fragmented, and the public generally seemed apathetic about the issue. Frustrated that little was being done to curtail fraud, these organizations felt that by pooling their resources they could put insurance fraud on the national agenda; enhance public awareness; and create new tools for preventing, detecting, and prosecuting insurance fraud.

Thus, the Coalition Against Insurance Fraud was launched. It adopted a strategy that fraud should be countered using a multi-faceted approach—and that because insurance is ubiquitous, every segment of society has a stake in the problem and thus a role in crafting solutions.

The Coalition's role was threefold: help create legal infrastructures within states to aid law enforcement and insurers, enhance public awareness, and conduct research to better understand the problem.

During the last 10 years, we've achieved significant progress. The number of states with insurance fraud laws rose from 21 to 45, states with fraud bureaus climbed from 15 to 41, and insurers with specialized anti-fraud units more than doubled. The number of criminal fraud cases tripled from 1995 to 2000 alone. Today's juries are more likely to convict perpetrators of fraud, and judges are more likely to order restitution, levy fines, and hand out "hard time."

Despite this, insurance fraud remains—and it remains a huge problem, costing Americans more than $80 billion a year. What's more, a large chunk of the American public tolerates insurance fraud, finding it acceptable that people cheat to reduce their insurance costs or "level" what they see as an uneven playing field with insurers. A 1995 Coalition study found that almost 19 percent of Americans, given the opportunity, would file a false claim or support the decision of another to do so. Outreach efforts have little impact on this slice of the population.

The good news is that most people do respond to such efforts and are becoming even more strident in not tolerating fraud, perhaps understanding that it affects their own pocketbooks. Thanks to aggressive outreach efforts, the number of suspected fraud reports by the public to telephone hotlines has increased steadily since 1993.

### The Next Wave

Focused law enforcement efforts, greater public awareness, and closer insurer scrutiny of insurance transactions appear to have helped reduce the incidence of most frauds, although exact measurements are nearly impossible to conduct. In some areas, however, it seems the criminals are winning. Some types of fraud—including staged auto accidents, fake death claims, and bogus health insurance claims—have mushroomed. Perhaps anti-fraud efforts in these areas were too little, or too late, to have much of an impact.

Since the 1990s, many insurance swindles have grown bigger, more complex, and harder to uncover. Organized crime rings involving recruiters, drivers, fake passengers, doctors, physical therapists, chiropractors, and lawyers often work together to stage auto accidents

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PRESIDENT'S COLUMN

# Globalization and the Guaranty System

*By Peter G. Gallanis*

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One of our readers recently noted an apparent increase in the attention paid in the *Journal* and in the "Press Room" section of the NOLHGA Web site to developments regarding foreign insurance carriers and the overseas insurance markets. Is there a reason, we were asked, why such stories are relevant to those involved with the U.S. life and health insurance guaranty system?

Of course, the increased coverage of foreign insurance developments in NOLHGA publications has been mirrored by increased coverage of foreign insurance and capital markets in most U.S. trade and business periodicals. The fundamental reason for that increased coverage—both by NOLHGA and by the business press in general—comes down to one simple but pervasive development: economic globalization. Whether one likes it or not, the world's economic markets generally, and the insurance markets specifically, are more integrated and inter-related today than ever before.

The effect of globalization on NOLHGA's membership is significant in a number of ways.

First, globalization is integrally related to the recent trend toward insurance industry consolidation. Many of the recent acquisitions of U.S. life insurers (at least until the recent slowdown in mergers and acquisitions) were made by European companies. Conversely, U.S. companies have also been active in acquiring foreign insurers and large blocks of foreign business, especially in Mexico, South America, and Pacific Rim countries. The success of foreign holding companies affects the viability of their U.S. insurance subsidiaries, just as success or failure in their overseas markets affects U.S. insurers.

Second, international reinsurance transactions are becoming increasingly vital to U.S. insurers. More life insurance business is reinsured now than ever before. The ability of overseas reinsurers to perform on their contractual commitments to U.S. ceding companies can be even more important to a domestic cedent's financial health than the solvency of an overseas parent company. By the same token, some U.S. companies have increased the amount of reinsurance they have assumed

*The world's economic markets generally, and the insurance markets specifically, are more integrated and inter-related today than ever before.*

from foreign carriers, and the profitability of that assumed foreign business can have significant domestic implications.

Third, while there have been some important moves recently toward international standardization of various insurance accounting and financial practices to increase transparency and accountability, important differences remain, some of which present opportunities for accounting, tax, and regulatory "arbitrage" across national boundaries—a topic that has drawn the focus of national and international insurance solvency regulators. But there is also a concern that the push for standardization could lead to prescription of inappropriate standards, which in turn could disadvantage U.S. insurers engaged in international business competition.

Fourth, as those familiar with Confederation Life and many property/casualty insolvencies will recall, there is an entire complex of legal issues that arise only in connection with cross-border insolvencies. To take just one example, many U.S. regulators and liquidators have expressed frustration at how bankruptcy courts have enjoined access by receivers to collateral that was required by regulators to be posted as security for the performance of the domestic commitments of offshore reinsurers that have entered foreign insolvency proceedings.

Fifth is the increasing incidence of insurance fraud with important transnational elements. Fraud historically has been one of the leading contributing factors in insurer failures, and many such frauds have either centrally featured transactions with foreign parties or have involved attempts to expatriate assets looted from domestic insurers. In this issue's cover story, Dennis Jay of the Coalition Against Insurance Fraud notes the ease with which money looted from an insurance company can be transferred around the globe. The Marty Frankel situation involved extensive transactions between the U.S. insurers with which Frankel was involved and financial institutions abroad. The same was true in the National Heritage insolvency and in many property/casualty insolvencies.

Sixth—but by no means finally—examining developments in overseas markets is a valuable way to learn about good and bad things that could happen here. For example, the Japanese life insurance market suffered a number of insolvencies several years ago, driven in large part by trends in the Japanese capital markets—especially the sharp declines in equity values and interest rates—that many once believed could not happen in the U.S. marketplace. Now, with U.S. equity markets still down sharply from the highs of a few years ago and U.S. interest rates at near-record lows, similar pressures are being felt by some U.S. insurers. However, the lessons of the Japanese experience have allowed domestic regulators and industry leaders to propose certain remedial measures (e.g., adjustments to standard minimum non-forfeiture laws) that may help protect U.S. insurance consumers from related solvency risks.

Those involved in the overseas insurance markets are also deeply interested in the operation of the American insurance marketplace and its regulatory structure, and not least of all in our guaranty system. A number of representatives from other countries have in recent years examined the U.S. life and health guaranty system. Besides being impressed by the system's track record of success, these government representatives, industry officials, and scholars have also noted that the system benefits from (i) the significant financial capacity of the U.S. insurance industry; (ii) the insurance expertise of those working for the guaranty association system; (iii) involvement by and support from the companies whose assessments are on the line in an insolvency; and (iv) an appropriate level of regulatory oversight of the system.

The implications of globalization for the U.S. insurance marketplace and our guaranty system are simply too broad to encapsulate in this brief column. Thankfully, however, our membership and friends will soon be afforded an opportunity to learn in greater detail, and from individuals with expertise far greater than mine, about some of the key issues for receivers and guaranty associations raised by globalization and the international insurance marketplace.

One of the panels at the 2003 NOLHGA Legal Seminar, to be held in San Francisco on August 21 and 22, will tackle these very issues. The panel will include NAIC Vice President Ernst Csiszar; George Gutfreund, a partner in the Toronto office of KPMG; and John Finston, a partner in the San Francisco office of the law firm Sonnenschein, Nath & Rosenthal who has extensive experience in international insurance insolvencies. Details about the Legal Seminar are available from Meg Melusen at 703.787.4130 or **mmelusen@nolhga.com**, and I encourage you to attend. ■

## Have an Idea for the NOLHGA Journal?

If you would like to write for the *NOLHGA Journal* or have a suggestion for an article, please contact Sean McKenna at 703.787.4106 or via e-mail at **smckenna@nolhga.com**.

## Insurance Fraud

*Continued from page 1*

and then make phony injury claims against insurers. The number of such rings has grown immensely in recent years, especially in urban areas. They've turned staged accidents from small "mom and pop" operations into well-managed, highly structured, big-dollar businesses.

Several other trends in the fraud "business" warn that fraud fighters will need to be ever vigilant to stay ahead of criminals. These trends include:

**Computerized Criminals**: Electronic transfer of money has allowed multi-million-dollar white-collar scams—such as looting insurance companies from the inside—to take place with increasing frequency. It has become much easier to steal money and move it around the world at the touch of a keyboard. This in turn has made it more attractive for highly educated, computer-savvy criminals to stage massive insider thefts that drain insurance companies and quickly launder the money or hide it in shady offshore havens.

**E-fraud**: The lightning growth of the Internet is creating ever-increasing opportunities for "e-fraud." Web sites claiming to be legitimate insurers are beginning to sell phony insurance policies. Insurance companies also are concerned that clever hackers will soon learn how to break into insurers' electronic files and steal policyholder information, alter claim data, and commit other crimes. In addition, crooks routinely trade information about how to conduct scams though on-line chat rooms and other venues.

**Counter-intelligence**: Crooks have started doing their homework, and law enforcement officials say the counter-intelligence efforts of scam artists are unprecedented. It's suspected that organized crime rings are planting employees inside insurance companies—not to commit insider fraud, but to understand claims systems and pinpoint weaknesses to exploit.

**Targeting the Elderly**: Crooks are increasingly targeting America's growing popula-

*Continued on page 6*

# “Closer to Consumers”: Part II of Our Interview with NAIC President Mike Pickens

Mike Pickens was appointed Arkansas insurance commissioner on January 15, 1997, and was reappointed for a second four-year term on January 15, 2001. He was elected president of the National Association of Insurance Commissioners (NAIC) in December 2002. Part I of this interview appeared in the Spring 2003 *NOLHGA Journal*.

*Q: In your opinion, where do matters stand as far as optional federal chartering is concerned?*

**A**: No bill has been introduced in Congress so far this year. What we’re hearing “on the street” is that the P&C proponents of an optional federal charter—for example, the American Insurance Association, the Financial Services Roundtable, the Council of Insurance Agents and Brokers, and others—are getting together with the banks and with the American Council of Life Insurers and trying to come up with a single dual-charter proposal to introduce in Congress this year.

Last year there were two bills introduced, and there was another one out there that was never introduced. We’ve heard they’re working on a single proposal. We haven’t seen that yet, but we do expect one to be introduced.

Also, the Independent Insurance Agents and Brokers of America are vetting a proposal to their members. I’ve heard some things about it. Congressman Richard Baker (R-La.), who’s been purported to be the one who will sponsor the legislation, calls it “NARAB [National Association of Registered Agents and Brokers] on steroids”—basically meaning they’re going to try to set national standards for products and say, “here’s the national standard for this P&C or L&H product. And states, if you have a law that is different than this federal law, then you have X number of months or years to change it, or your law is preempted.” And they’ll do that for various lines of business and products and also for producer licensing. So the Independent Agents are focusing on at least three key areas: producer licensing, speed to market, and market conduct.

*Q: If you were asked to explain the merits of state-based rather than federal regulation of insurance, what would your answer be?*

**A**: Actually, we’ve been asked to answer that question a lot. And to me it’s pretty simple. State insurance regulators are much closer to insurance consumers—to our fellow insurance consumers, because we’re all insurance consumers in our own markets—but we’re closer and more responsive and more accountable to insurance consumers and the industry we regulate in our home states than any federal regulator could ever be.

I think the proponents of a federal charter really have a long way to go in convincing the grass roots, the insurance consumers and companies and producers in our states, that a federal charter is going to be better for them. The National Conference of State Legislatures; the National Conference of Insurance Legislators; the National Governors Association; and the major producer organizations like the Big I, NAIFA, and PIAA—they’ve all issued resolutions in opposition to a federal insurance regulator because they believe a federal regulator is going to be less accountable to local interests and less responsive to consumers, producers, and companies.

State regulators have a little saying that when an insurance consumer, company, or agent needs to call 911, they want it to be a local call. They don’t want to have to call Washington, D.C. It’s much easier to rattle somebody’s cage in your state capital, whether you’re a consumer or anybody else, than it is in D.C.

There’s a strong revenue concern here as well. They have to fund this federal regulator some way, and there’s approximately $20 billion in state premium tax revenue out there I know will be a pretty attractive source of revenue for the federal government. Governors and legislators are concerned about this; states need that revenue. All across the country, we’ve got state governments dealing with budget shortfalls. So they’re concerned about any potential loss of revenue.

I really believe the proponents of the federal charter proposals have not asked the people who will be affected. Politically, I think this is really the ultimate “inside baseball.” Consumers don’t know much about it, but when they hear about it, they think it’s crazy and tend to believe it can never happen. What they don’t realize is there are pretty strong interest groups in Washington, D.C., pushing for this federal charter and pretty much greasing the skids to get this thing in place.

*Q: Considering that the battle cry for proponents of optional federal chartering is that the current regulatory system is inefficient and hinders the competitiveness of insurance companies in the financial services industry, how successful has the NAIC been in its initiatives to revamp insurance regulation?*

**A**: I think we’ve been very successful in the last three or four years, since the passage of Gramm-Leach-Bliley. I think we have surprised many of the detractors of state regulation, particularly in the areas of producer licensing, speed to market, and consumer privacy protections. When Congress set that 29 state producer licensing standard [see Part I of this interview, in the Spring 2003 *NOLHGA Journal*], I think they were surprised we met and exceeded it as quickly as we did. And by “they,” I don’t necessarily mean Congress—I mean the proponents of federal regulation. And now they’re already talking about raising the bar, which is fine because we need reciprocity across the entire country. We need the big states, not just the 29 or 38 or whatever new number they think up.

*Q: Other than federal chartering, what are the main challenges facing the NAIC and state-based regulation of insurance?*

**A**: The NAIC has been working very closely with the Bush Administration since the passage of the Terrorism Risk Insurance Act of 2002. In particular, we've been working with the Treasury Department to provide guidance to insurers that must comply with the Act in sending out notices and things of that nature. That's the law that set up the federal backstop for terrorism insurance, so the NAIC has a huge role to play there—has already played and will continue to play one.

Also, the new USA Patriot Act has anti–money laundering provisions, and we're working with the Treasury Department to determine if it might be best for state insurance departments to enforce these provisions. We'd do that through a financial solvency-type examination. We conduct routine financial solvency exams anyway, and we'd just incorporate checking for these anti–money laundering standards in our exams.

In late 2002 and early 2003, the General Accounting Office (GAO) was traveling around to review the market conduct activities of states. It's hard to tell exactly what their goal is, but from some of the questions that have been asked, I think there's a concern states aren't conducting quite as much market conduct activity, or doing it as effectively, as they should be. Also, there may be a concern from other constituencies of the GAO that state market conduct examinations are not targeted enough or coordinated enough, which makes them too costly, too burdensome, and not as effective as they need to be.

In anticipation of this GAO report, which will probably come out later this summer, we're going to gear up at the NAIC to provide some best practices and also to work more to coordinate our market conduct activities. So if we get a number of consumer complaints across the country about a particular insurer and the complaints are similar, we can go in and conduct a joint market conduct examination. One state would be the lead state, and the other states could either be active or passive participants. We've done that to some degree in the past, but we haven't really formalized the process. Arkansas can't say at this point, "we'd like to call an exam. Who else wants to participate and make it happen?" There's no formal process.

So we want to set up a way through the NAIC where we can formalize and coordinate our market conduct examinations so that we have exams that are more effective for consumers and more efficient and less burdensome on the company, so a company doesn't have to be subjected to examinations from 10 or 15 different states on the same issue. After all, we consumers pay any extra costs.

*Q: In working with Congress, what's your opinion of their understanding of the insurance industry? Has this been a learning experience for them?*

**A**: I think after 9/11 Congress learned how unique and complicated the business of insurance is. While there may be a lot of commonalities when you're talking about something like L&H insurance products across the country, when you're talking about P&C products and markets, they differ substantially throughout the country because of geography, weather patterns, and a lot of factors. There are different risks. Tort law is different from state to state, and insurance law is intimately related to tort law in the individual states.

I think Congress saw how complicated the insurance business is, particularly on the P&C side. And also how potentially politically volatile it can be. Insurance regulators have to make tough decisions sometimes. Sometimes the right decision is to allow a rate increase when that may not be the popular decision. But if you don't do it, you can end up with insolvent or troubled companies.

I think Congress has a growing understanding of the complexity of insurance markets and insurance regulation in general. And it has happened post-9/11 because they've asked a lot of questions.

*Q: Are there any additional education initiatives on the horizon?*

**A**: We've got a new program we call ASSURE—the Alliance for Sound State Uniform Regulatory Efficiency. It's basically a grassroots "political" initiative we're asking individual states to participate in, to educate both state and federal law- and policymakers about the benefits of state insurance regulation and our concerns about the federal charter proposals. This is a way to educate them in advance of the introduction of any federal or dual-charter proposals.

It's designed to build on the benefits of local regulation, which I spoke of earlier, and also to bring together some of the natural constituencies we know already exist. I mentioned the many groups that have issued resolutions in opposition to a federal charter. Right now most of those groups are working independently of one another, and ASSURE is one way we can bring them all together.

*Q: You'll be speaking at NOLHGA's 20th Annual Meeting in October. Why is it important to you to build—or strengthen—the bridge between the NAIC and NOLHGA? What do the two organizations have to offer one another?*

**A**: Basically, the same thing individual state insurance departments and guaranty associations can offer each other in their states; I think it's just a larger piece of that puzzle. Again, it's important to keep in mind that the reason we have guaranty associations and the reason we have state insurance departments really is the same—to protect insurance consumers. State insurance departments try to make sure companies don't become insolvent, and we regulate the market conduct and fraud in the marketplace, things of that nature.

But when a company does go under, the guaranty association is there to help protect consumers as well. I think consumer protection, the fact we have a common objective in trying to do our jobs in the best and most efficient way possible, in a way that is seamless to the consumer, works to the benefit of both organizations—and ultimately for the consumer. Because of this shared goal and the need we have for each other, it's important to build trust and recognize the value each organization brings to the equation. ■

## Insurance Fraud

*Continued from page 3*

tion of senior citizens for a wide range of insurance scams. Seniors are especially vulnerable to insurance fraud, and the problem will only grow as current Baby Boomers reach retirement age.

**Phony Policies**: With the economy still shaky and premiums sharply rising in many lines, the Coalition is seeing an increase in fake insurance sold to consumers and businesses around the United States. In the last two years alone, hundreds of thousands of small businesses, self-employed workers, and consumers have fallen prey to phony group health coverage. Doctors are even beginning to buy bogus medical malpractice coverage. There are also warning signs of an impending spike in fake workers' comp coverage and tricky liability lines (i.e., hard-to-place coverage, usually outside traditional insurance markets, that may not be as tightly regulated) for trucking and other areas. Without immediate preemptive strikes—such as implementing a better monitoring system by state regulators and an aggressive public awareness campaign to consumers and businesses on red flags to uncover bogus insurers—this problem could grow if the economy remains weak.

Making matters worse, insurer profits and stock values are down today thanks to continued underwriting losses and a weak economy. Fraud further depresses shrinking profit margins, forcing insurers to raise premiums or even leave markets. In states such as Florida, New York, and New Jersey, rampant automobile fraud has caused many insurers to raise premiums sharply and in some cases leave the state rather than face continued massive losses.

Fair or not, rising premiums and the unavailability of coverage also worsen the public's perception of the insurance industry and often ignite costly legislative battles within states over solutions to these situations. Insurers argue for tougher laws and regulations to stamp out fraud, but suspicious interest groups often counter that fraud is a smoke screen—further derailing efforts to enact anti-fraud remedies.

## Fighting Back

Fortunately, other parts of the picture are not so bleak. Favorable trends include the development of new technology that will help insurers and law enforcement detect fraud quicker and more easily, especially patterns of organized activity. Larger insurers in particular are investing heavily in software that can quickly spot complex patterns of multiple suspicious claims and map them on the computer screen. This new anti-fraud technology will allow investigators to keep ahead of swindles that are growing too complex for "old-style" investigative techniques such as sorting through paper claim files manually.

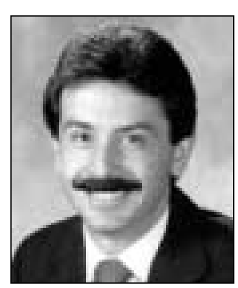
Another positive trend is the recognition by states that medical, legal, and other practitioners should not be allowed to use their professional licenses as tools to commit fraud. More states have begun to revoke and suspend licenses of professionals convicted of insurance fraud. Too many practitioners have been allowed back onto the streets after serving their sentences or paying fines, and they begin swindling people all over again.

Tougher state laws and regulations are just as important. This means stiffer jail terms and fines. It means criminalizing actions that are part of the fraud chain—such as recruiting fake accident victims into auto scams. It means empowering state investigators to make arrests and issue subpoenas. While a flurry of anti-fraud legislation was enacted in the 1990s, gaps remain in the laws of many states, and law enforcement efforts often are not well funded.

For this and other reasons, more states are allowing insurance companies to pursue civil remedies by suing fraudsters directly instead of relying on sometimes-overworked state prosecutors to decide whether to prosecute in criminal court. Private lawsuits to recover stolen money and impose large civil penalties on fraudsters deter fraud and provide some justice for its victims.

Gaps also are evident in information sharing and coordination of investigations among state regulators, insurers, law enforcement, and the federal government. Rogue financier Martin Frankel looted small life insurers out of more than $200 million in part because there was too little information sharing among law enforcement entities. Had information been exchanged more regularly among all these groups, patterns of theft would have emerged and regulators could have moved more quickly to shut down Frankel's operations.

While these and other trends suggest that much work remains before we decisively reduce insurance fraud in the United States, fraud fighters should take solace in the fact that in a few short years, society has begun to turn the corner on fighting insurance fraud. Insurers, law enforcement, regulators, and even consumers are better positioned today to take the upper hand in stamping out this billion-dollar-plus crime. ■



*Dennis Jay is executive director of the Coalition Against Insurance Fraud.*

### Red Flags & the Hall of Shame

Dennis Jay, executive director of the Coalition Against Insurance Fraud, will give a presentation on the Coalition's "Hall of Shame"—a list of what the organization calls "America's top insurance crooks, swindlers and all-around knuckleheads"—at NOLHGA's 12th Annual Legal Seminar, which will be held at The Palace Hotel in San Francisco on August 21 and 22, 2003. He will also discuss "red flags" that can serve as warning signs of insurance fraud and point out techniques that members of the insurance industry can use to identify and battle fraud on the corporate and individual levels.

The Coalition Against Insurance Fraud was founded in 1993 to combat all forms of insurance fraud through public education and legislative advocacy. Based in Washington, D.C., the organization's membership consists of national consumer groups, government organizations, and private insurance companies. For more information about the organization, visit **www.InsuranceFraud.org**.

# A View from the Bleachers

*By Larry Henry*

*The NOLHGA Web site's Press Room (at www.nolhga.com) provides the latest news concerning the state of the life and health insurance industry. In each issue of the* NOLHGA Journal, *we will examine the issues shaping the insurance landscape.*

Business is replete with sports metaphors. The company that brings to market a successful product "hits a home run," while the company that fails "strikes out." As we enter the season of the "Boys of Summer," it seems appropriate to examine recent news of the insurance industry through the eyes, and words, of one of baseball's most enlightened—Yogi Berra. For as Berra once said, "you can observe a lot just by watching."

## "It's like déjà vu all over again."

Major ratings agencies have once again expressed their concerns over the financial state of the life insurance industry. In an April 7, 2003, Press Room article titled "Moody's: US Life Insurers Still Face Investment, Credit Challenges," Moody's reported, "US Life Insurance companies continue to face substantial investment challenges including sizeable credit losses, depressed equity markets, and near record low interest rates in a difficult economy."

S&P reiterated the theme in a June 3 press release that stated, "the market pressures weighing on life insurer ratings remain much the same as when Standard & Poor's revised its outlook on the industry to negative (from stable) in July 2002, though with a shift in emphasis" ("S&P Report Covers Challenges for U.S. Life Insurers"). Low interest rates, S&P indicated, are poised to be the leading factor in 2003; the stock market led the charge last year.

## "Slump? I ain't in no slump. I just ain't hittin'."

From a ratings standpoint, the life insurance industry is in a slump. S&P, for example, reported that between January 1 and May 1, 2003, it had downgraded 28 groups and upgraded only three.

R. Stephen Radcliffe, the new president of Indiana-based American United Life Insurance Company (AUL), echoed the gloomy sentiments of the ratings agencies in an *Indianapolis Business Journal* article: "This has been the most difficult [period] I can remember in 30 years" ("Challenges Diverse for an Industry in Flux," April 21, 2003). Radcliffe cited the events of September 11, 2001, and "fallout [from] corporations gone bad, such as Enron" as additional pressures on the industry, along with the aforementioned economic factors.

> *From a ratings standpoint, the life insurance industry is in a slump. S&P...reported that between January 1 and May 1, 2003, it had downgraded 28 groups and upgraded only three.*

The industry finds itself in what S&P called "the now-familiar trinity of woes." First, low interest rates are creating "spread compression" for fixed-annuity writers—but a quick rise in rates would do even more damage "by encouraging fixed-annuity customers to cash out of their policies and forcing insurers to liquidate assets at dramatically depressed prices." Second, stated S&P, fee revenues in the variable-annuity market have slowed to a crawl with the market's downturn. And third, insurers face the pressures brought on by "reduced credit quality among corporate borrowers."

## "If you come to a fork in the road, take it."

There are recommendations for turning the industry's losing streak around. The Moody's report mentioned earlier noted that companies succeeding in these difficult times have their own trinity: diversified investment portfolios, good credit quality, and limited exposure to "fallen angels."

S&P cautions that the industry "needs to sharpen its approach to managing risk." Rodney Clark, a director in S&P insurance ratings, is quoted as saying that "companies face a plethora of risks, but most manage them in a reactive, rather than proactive, manner." Clark and his colleagues at S&P believe that the industry needs a "culture of preparedness" with consistent risk management principles.

In the *Indianapolis Business Journal* article, AUL's Radcliffe argued that there's more to turning around the industry than a focus on financials—insurers need to reach out to customers: "'We're not selling a product,' advises Radcliffe. 'We are selling peace of mind.'" Radcliffe added that the industry has not been making its case very well recently: "If we could explain what we do in the economy and society, we'd be a lot better off." Seems like the industry could use Yogi Berra right about now.

## "I always thought that record would stand until it was broken."

These difficult times for the life insurance industry will gradually subside. While insurers may be facing the "three strikes" of low interest rates, beleaguered equity markets, and poor credit quality, they are certainly not out. The markets have been rising slowly but surely over recent weeks, and more economists are using the term "recovery" than were heard a few months ago. The ratings agencies may continue to be guarded about the outlook for the near-term, but Moody's still believes that "most of the industry remains highly creditworthy."

The industry may be behind now, but there's plenty of game yet to be played. And remember what the wise man once said: "It ain't over 'til it's over." ■

*Larry Henry is manager of insurance services for NOLHGA.*

# Calendar

## 2003

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| June 21–24 | NAIC Summer National Meeting | New York, N.Y. |
| July 24–25 | NCIGF Legal Seminar | Jackson Hole, Wyo. |
| **August 6–7** | **NOLHGA Board Meeting** | **Minneapolis, Minn.** |
| **August 19–22** | **NOLHGA 12th Annual Legal Seminar & MPC Meeting** | **San Francisco, Calif.** |
| September 13–16 | NAIC Fall National Meeting | Chicago, Ill. |
| October 12–14 | ACLI Annual Conference | Miami, Fla. |
| **October 27** | **NOLHGA Board Meeting** | **Dallas, Tex.** |
| **October 27–29** | **NOLHGA 20th Annual Meeting & MPC Meeting** | **Dallas, Tex.** |
| November 13–14 | NCIGF Workshop | Savannah, Ga. |
| December 6–9 | NAIC Winter National Meeting | Anaheim, Calif. |

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