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NOLHGA Goes West for Legal Seminar

By Sean M. McKenna

The continued popularity of NOLHGA's Annual Legal Seminar was proven yet again in San Francisco, as attendees at this year's event easily outnumbered candidates in California's upcoming gubernatorial recall election. The balance may have shifted, however, as a number of speakers admitted that they were considering throwing their hat in the ring.

The more than 150 people who attended NOLHGA's 12th Annual Legal Seminar, which was held August 21 and 22 at the Palace Hotel, were treated to more than a series of jokes about California's political situation—although such jokes were in good supply. With a program that addressed class-action litigation, federal intervention into insurance regulation, the impact of globalization on U.S. insurance companies, and more, this year's seminar proved to be one of the best yet.

Gary M. Cohen, general counsel for the California Department of Insurance, welcomed attendees to the meeting and provided them with an overview of the legal issues the department is currently facing. Workers' compensation sits at the top of the list, he said, so much so that it's being discussed in recall campaigns: "Even the Terminator [Arnold Schwarzenegger] is talking about workers' comp reform."

In discussing another type of reform—that of state insurance regulation—Cohen replied to a question about California's willingness to work with other states in reform efforts by saying, "I think we have a deep and abiding suspicion of federal regulation" and adding that the department sees a need to improve the state-based regulation system. Cohen noted that the department is actively involved in the NAIC; however, that involvement, he said, is "quite frankly with the other big states," which he believes share the same concerns as California.

Class Is in Session

A major concern that most insurance companies share was addressed in the seminar's first panel discussion, *Class Action Litigation: A Matter of Public Service or Self-service?* Michael A. DeMicco, vice president and deputy general counsel for New York Life, began the discussion by noting "how out of control, from our perspective, class-action litigation has gotten."

DeMicco pointed out that more than 98 percent of class-action lawsuits are settled, due in large part to the "tremendous pressure" companies face to avoid large punitive damage awards they could suffer if they go to court and lose. He added that other factors—where the case will be tried, any regulatory issues associated with the case, and the effect the litigation will have on the company's health—also play a role in deciding whether to settle or go to court. When making this decision, possible damages aren't the only impact that must be assessed. "You have to think about public relations" and how best to mitigate the effects on your company, DeMicco said. "The days are gone when you could say 'no comment.'"

Phillip E. Stano, a partner in the Washington, D.C., office of the law firm Jorden Burt, tracked the evolution of class-action litigation. The first generation, which he called "point-of-sale litigation," involved lawsuits driven by market conduct. Stano believes this type of litigation is winding down.

"The plaintiffs' bar has become a lot more educated" about insurance, he explained. "They're

Continued on page 4

PRESIDENT'S COLUMN

"Seeing The Forest" in Financial Services News

By Peter G. Gallanis

News stories in all fields break incredibly quickly in today's global media village. We are inundated by accounts of developments in politics, business, the markets, war and peace, the arts, and many other topics. Sometimes the press of breaking stories is so great that it can distract us from slower-moving, longer-range trends that may be even more important than today's headlines.

The Labor Day holiday gave me a chance to reflect upon a few developments, including the growth and implosion of the Internet/tech-stock "bubble" (1997–2000); the near-collapse of the huge international hedge-fund, Long-Term Capital Management (LTCM), in 1998; the Enron bankruptcy and its reverberations in the bankruptcies of Global Crossing, WorldCom, UAL, and other major companies (2001 to date); the demise of Arthur Andersen (2001–2002); the Sarbanes-Oxley (SARBOX) legislation (2002); the continuing public debate over "corporate governance," such as we see reflected in the recent standards established by the WorldCom court-appointed monitor; measures adopted by the SEC and the organized bar that facilitate or even require "whistle-blowing" by corporate attorneys; and the increasingly activist roles of state attorneys general and the plaintiffs' class-action bar on public policy issues, including some involving insurance.

These various stories can be viewed as related parts of a larger trend—a trend that augers dramatic changes in our business landscape and that, in part, reveals an emerging *ethos* that will affect many critical aspects of American commerce, including the operations of the insurance industry and the insurance guaranty associations. The trend might most simply be labeled "accountability," though, like all labels, that one only begins to tell the story. I wonder whether this trend will be seen by history as a sea change in how American business is viewed and treated, not unlike the Progressive movement of the early twentieth century or the New Deal climate that produced the federal securities laws.

The Auditing Profession

One way to begin to look at implications of the accountability trend is to consider the field of accountancy today, compared to the not-so-distant past. Not long ago, business students signed up to interview with the "Big Eight" accounting firms. Now,

> *I wonder whether this trend will be seen by history as a sea change in how American business is viewed and treated, not unlike the Progressive movement of the early twentieth century or the New Deal climate that produced the federal securities laws.*

since the disappearance of Arthur Andersen in the wake of the Enron bankruptcy, there exists a "Big Four" that, according to the GAO, accounts for 99 percent of all public-company auditing revenue. Is that a significant development? Some say it is.

A September 2003 commentary in *Business Week* suggests that, with the field dominated by so few major firms, consolidation itself may now render it difficult for regulatory authorities to hold the big firms accountable in the way that Arthur Andersen was held accountable. Congress has given the SEC and the new Public Company Accounting Oversight Board considerable power to sanction firms, but the *BW* article suggests that the stronger sanctions may be nearly impossible to use

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without further exacerbating near-monopoly conditions in public accounting.

Put another way, Andersen was held accountable under the emerging norms, but perhaps with unintended consequences. In addition to the problems facing regulatory authorities in sanctioning firm wrongdoing, excessive concentration in any field raises concerns about decreased competition, disincentives to innovate, and unresponsiveness to client concerns. Moreover, the fate of Andersen has already introduced into the accounting profession a very high degree of caution—a positive development in many respects, but one that in some cases has been characterized as counterproductive.

New Corporate Reporting Rules

The real responsibility for the accuracy of financial reporting rests, now more than ever, with the companies making the reports. The accountability trend is felt even more strongly in companies than in auditing firms.

SARBOX imposed new and considerable obligations upon SEC reporting companies. Congress clearly was responding to public and media outcries about the recent major bankruptcies and the misleading and confusing financial reports made by the now-bankrupt companies in the years before their failures. No doubt the congressional reform fires also were stoked by popular resentment of the damage done to investors' retirement prospects by the recent bear market—damage that in many cases was due more to naive or foolhardy investments than to any shortcomings in company reporting. Perhaps the congressional response reflected in SARBOX will be more effective in providing genuine protection to investors than the seeming explosion of class-action litigation targeting the financial markets—an explosion that appears related to increasing efforts by state attorneys general to assert quasi-regulatory authority over financial marketplace participants.

In any case, public firms now are facing various challenges, some quite expensive and burdensome, in meeting their SARBOX obligations, including:

- start-up and ongoing testing and attestations of corporate governance measures
- extensive control documentation
- expanded internal audit departments
- independent audit committees
- the establishment of whistle-blower hotlines
- higher director compensation
- the need to replace external audit partners every five years
- bigger fees from their auditors and the new consultants required to be brought onboard to do work previously done by auditing firms
- shocking increases in directors' and officers' insurance premiums

As one reaction to the costs of SARBOX compliance, some companies that were formerly publicly held have "gone private" again. A USC finance professor opined recently, "it's hard for any company with less than $50 million in yearly sales to justify staying public."

> *Legislators and regulators, like generals, sometimes are so drawn to developing strategies that would have been perfect for the last set of problems that they do not anticipate the nature of the problems to come.*

But while many of the SARBOX provisions specifically apply only to public companies, the legislation increasingly is being applied directly or indirectly to private firms, whether because of mandates from government customers, requirements of liability insurers, provisions of loan covenants, efforts to position a company for an IPO or acquisition, or because of amendments to various state laws incorporating provisions of SARBOX without regard to whether a company is public.

Although implementing rules are still being developed in Washington, it seems clear that the broad intent, if not the letter, of SARBOX—increased corporate integrity, greater reporting transparency, and accountability—will apply to a much broader group of business entities than those directly targeted by the legislation.

Both public and private companies are also likely to be affected by rules recently proposed by the SEC, and somewhat similar amendments by the American Bar Association to its model rules of professional conduct, that are designed to encourage or require attorneys to report perceived violations of law or breaches of fiduciary duty to top company management, company audit committees or boards, or even the SEC.

Accountability Reforms & Risk in Today's Financial Services Sector

SARBOX and other reform measures may have been motivated by public concern over Enron and its ilk and by the recent long bear market, but no one realistically can expect the reforms to prevent similar problems from again arising. For one thing, since King Canute's day, no government has been able to overrule immutable laws like supply and demand. If there is one safe Wall Street bet, it is that we will again see major bull markets that will attract naive investors, followed by serious bear markets and cries for further financial regulatory reform.

Just as broad market movements cannot be regulated, neither can aggressively speculative company behavior be prevented by legislation or regulation. Some companies inevitably will go bankrupt from pushing the competitive envelope too far. Clearly, the hopes of today's reformers are that rules mandating greater transparency will permit the market and regulators to spot Enron-type problems sooner, and that corporate governance and accountability reforms will constrain company managers from engaging in excessively reckless or unethical behavior.

One particular risk of prematurely declaring victory in the accountability movement is the likelihood that tomorrow's sources of company and business-sector crises may be quite different from those that today's reform measures were designed to control. Legislators and regulators, like generals, sometimes are so drawn to developing strategies that would have been perfect for the last set of problems that they do not anticipate the nature of the problems to come. The last crisis for some companies may have been inadequate accounting and control provisions for off-balance sheet

Continued on page 5

Legal Seminar

Continued from page 1

filing new, sophisticated claims that involve the products, not how they were sold." This new generation of class-action litigation attacks policies, even those approved by state insurance departments. In fact, Stano said, the plaintiffs often call on former insurance commissioners as expert witnesses.

Stano's advice to companies was to take the time—often a great deal of time—in compiling a factual record, including affidavits, testimony, etc. Losing a class-action suit, he said, "is not as inevitable as plaintiffs' counsel would like you to believe. It can be beaten if you have a good factual record and a good case."

Lawrence H. Mirel, commissioner of the District of Columbia Department of Insurance and Securities Regulation, told attendees that he believes class-action lawsuits are more of a threat to the industry than federal regulation. In particular, he said, "where we get into trouble is when you have large-scale class-action suits really aimed at changing public policy" being carried out by individuals or lawyers with no accountability for the "regulatory" results. As an example, he pointed to a suit in California alleging that State Farm's surplus levels are too high. "This is a classic regulatory issue," Mirel said, and having it decided by a jury of laymen "is appalling to me."

In Mirel's opinion, courts should consult insurance departments on these issues. Often, he said, "there's simply no proper recognition of the role regulators play" or of the intention of legislators. This trend, however, could be reversing. Mirel pointed to a Texas law that allows defendants the right to ask that a case go to a regulator before it goes to court. This "exhaustion of remedies approach," as Mirel called it, is also the basis of a model law from the National Conference of Insurance Legislators.

"Creeping" Federalization

The intention of legislators—Congress, in this case—was the focus of a panel discussion titled *The View from Washington on Insurance: Creeping Federalization*. Ably (and humorously) chaired by Charles T. Richardson (a partner in the Washington, D.C., office of the law firm Baker & Daniels), the presentation began with an overview of the Terrorism Risk Reinsurance Act and the 2003 congressional hearings on insurance provided by William P. O'Sullivan, senior vice president and general counsel for NOLHGA. O'Sullivan noted that "Congress is much better educated about insurance" thanks to the debate over the terrorism bill and added that witnesses at this year's congressional hearings all seemed to agree that "there are some very significant problems with state regulation today."

Those problems, and the possible consequences of an optional federal charter, were discussed further by Peter G. Gallanis, president of NOLHGA, and Wesley Bissett, vice president of state relations and state government affairs for the Independent Insurance Agents & Brokers of America (the "Big I"). Gallanis began by noting how much has changed since the idea of federal involvement in insurance regulation was discussed in the early 1990s. At the time, he said, "there was perceived to be very little industry support for, and significant opposition

Virtuous Lawyers, Insurance Fraud & More

Other highlights of NOLHGA's 12th Annual Legal Seminar included:

SOX It to Insurers: Sarbanes-Oxley, Corporate Governance and Insolvency Red Flags: Lee Covington of PricewaterhouseCoopers (former director of the Ohio Department of Insurance) analyzed the impact the Sarbanes-Oxley Act will have on accounting and corporate governance.

Tax Developments and Insurer Insolvency: Laurie D. Lewis (chief counsel, federal taxes, for the American Council of Life Insurers) gave attendees an inside look at the ACLI's approach to tax proposals that could negatively impact the insurance industry.

Legal Update: Tad Rhodes (Kerr, Irvine, Rhodes & Ables; Oklahoma Life & Health Insurance Guaranty Association) provided attendees with the annual review of case law affecting the guaranty system.

Bankruptcy 101 for the Insolvency Practitioner: Charles D. Gullickson (South Dakota Life & Health Insurance Guaranty Association) and Lawrence A. LaRose (King & Spalding) walked attendees through what Gullickson called "the dark alley" where state insurance regulation and federal bankruptcy law meet.

Secrets of the Virtuous Lawyer: Jack Marshall of ProEthics conducted a lively discussion on legal ethics and the dilemmas lawyers can face.

A Jury Can Be Grand: How to Detect and Fight Insurance Fraud: Dennis Jay, executive director of the Coalition Against Insurance Fraud, discussed various types of insurance fraud, emerging trends, and the tactics being used to combat them.

Nothing to Sneeze At: Emerging Health Insurance Issues: David Coronado (a principal with Navigant Consulting), Steve Stanton (a director in the Healthcare Practice of Navigant Consulting), and Jeffrey L. Gabardi (senior vice president of state affairs and general counsel of the Health Insurance Association of America) provided an overview of some of the major issues facing the health insurance industry, including the growth of consumer-directed health plans, the erosion of the ERISA preemption, and trends in health care costs.

Getting Taken to the Cleaners: The Risks of Money Laundering to Insurers: Robert P. Boyer (a trial attorney with the U.S. Department of Justice), Thomas D. Hughes (senior vice president and general counsel as well as assistant secretary to Greater New York Mutual Insurance Companies), and Mary M. Melusen (counsel for NOLHGA) analyzed the money-laundering provisions in the USA Patriot Act and their implications for insurance companies and guaranty associations.

to, federal regulation of insurance." Today, he added, issues such as speed to market, producer licensing, and rate regulation are just a few areas "where people in the industry have identified a need for reform."

Bissett echoed Gallanis's comments. "There is strong dissatisfaction with the way insurance regulation works today," he said, adding that some in the industry believe that state regulation is dysfunctional and that "Chairman Oxley has referred to state regulation as 'archaic.'" While the Big I does not share the chairman's view, Bissett said, "we need reform to take place much more quickly than it has before."

To accomplish this reform, the Big I believes that Congress should use legislative tools to mandate needed changes in state regulation—an approach Bissett called "a very reasonable, pragmatic way to address these issues and make federal regulation unnecessary." He added that an optional federal charter would most likely take years to pass, with the final bill bearing little resemblance to proposals from the American Council of Life Insurers or the American Bankers Insurance Association; the bills introduced by Sen. Fritz Hollings (D-S.C.) and former Rep. John LaFalce (D-N.Y.), he said, constitute "the worst of state regulation and the worst that federal regulation have to offer."

Gallanis pointed out that "one thing that has always shaped things in Congress is the unexpected calamitous event" and observed that the insurance industry has been fortunate not to have experienced an "Enron-type" event that might trigger rapid action by Congress. Bissett agreed, but he noted, "the industry would totally withdraw support" for a bill after such an event; the industry views the current proposals for optional federal chartering as deregulation bills, he said, and any congressional action after a calamitous event would not be along those lines.

Interconnected

Calamitous events were also a topic of conversation in *As the World Turns: The Impacts of Globalization on U.S. Insurers*, a panel discussion led by Ernst N. Csiszar, director of the South Carolina Department of Insurance and vice president of the National Association of Insurance Commissioners. Director Csiszar explained that today's global economy, driven by advances in telecommunications technology and the "spectacularly successful capital markets in North America," is an "interconnected and interdependent system" that in some ways is only as strong as its weakest link.

"We're dealing with the fear of a breakdown," he said, pointing to the Asian economic crisis of a few years ago to illustrate how the interconnected nature of the global economy means that a breakdown in one part of the system can spread rapidly. Even more troubling, he said, was that the Asian crisis did not begin as a macroeconomic problem, as most widespread eco-

Continued on page 6

President's Column

Continued from page 3

financing; the next crisis may come from an entirely different direction.

In that regard, we might consider as instructive today the 1998 near-collapse of LTCM (and the enormous risks that such a collapse would have posed to the financial marketplace, according to Federal Reserve Chairman Alan Greenspan). While more than one book has been written about LTCM, in essence it was a hedge fund—and a darling of major institutional investors around the world. Though LTCM was very highly leveraged, it made some risky (and losing) bets on market yield movements of Russian bonds, with the result that the firm's capital dwindled to nothing, though it had extensive obligations to financial trading partners on over $80 billion of multiple, complex market positions. Greenspan and others feared that the direct and "ripple" effects of an LTCM meltdown were extremely risky to the U.S. and world economies. Thus the Federal Reserve brokered a bailout plan (which required no federal expenditures) that prevented LTCM's then-imminent collapse.

LTCM is of more than historical interest. According to some observers, systemic risks to the financial marketplace similar to that reflected in LTCM's near meltdown not only exist today, they may be growing. Hedge funds still manage several trillion dollars of essentially unregulated international transactions. More recently, as South Carolina Insurance Director Ernst Csiszar noted at the 2003 NOLHGA Legal Seminar, insurance companies and many other financial institutions have invested nearly four trillion dollars in a variety of unregulated credit derivative and similar transactions, here and abroad, some of which are in "pools" concentrated in specific industries such as telecoms and airlines.

As was the case with LTCM and the hedge-fund marketplace, the new markets in which financial institutions are competing are international and highly interconnected. According to Director Csiszar, the risk of a "spiral"—ripple-effect defaults rapidly spreading through a concentrated group of investors—is a real possibility in such a market, and monitoring and controlling such risks is becoming a high priority for international financial regulators.

On the positive side, many institutional investors participating in such markets are working much harder today to assess and quantify the risks to their own firms from such investments, and regulatory risk-based capital tools are more sophisticated than in the past. On the negative side, the promise of large profits always tempts "naive capital" (and some capital from sources not so naive)—as illustrated in the property/casualty reinsurance markets of the 1980s and more recently in the "LMX Spiral." Smaller institutional investors do not have the resources of their larger competitors, and regulatory budgets are in many cases under extreme pressure. Informed vigilance is required by both regulatory authorities and private-sector investors who choose to put at risk the capital of their companies.

Conclusions

The recent business accountability reform movement continues. This movement most accurately should be seen as a process, and like any positive process, it should be periodically assessed for effectiveness and corrected as needed. A key objective must be to lessen the risks of insolvencies resulting from irresponsible management risk-taking. But care must also be taken to monitor the statutory and regulatory tools employed, to assure that they are serving the intended purposes at an overall cost not exceeding the benefits those tools produce. ■

Legal Seminar

Continued from page 5

nomic crises do. "This all started at the firm level, quickly spread to the macro level, and almost—almost—brought the system down."

The primary issue facing the global economy, Csiszar said, is that each country "speaks a different financial language." Efforts to find a common language and standardize accounting standards through the International Accounting Standards Board pose problems for U.S. companies, he added, because the fair-market valuation approach being taken by the board "is completely antithetical to our system," which is based on historical cost. This new system, which European Union countries are scheduled to have in place by 2005, "will clearly affect solvency," Csiszar said, because it changes the way a company's financial status is defined.

Interconnectedness of a different sort was on the minds of Holly Bakke (commissioner of the New Jersey Department of Banking and Insurance) and Peter Gallanis (president of NOLHGA) as they conducted an interactive presentation titled *Regulators, Receivers & Guaranty Associations: Working Together!* According to Bakke, who chairs the NAIC's Coordinating with State Guaranty Associations Working Group (see "Coordinating Our Efforts" on this page) and previously served as executive director of the New Jersey Property-Liability Insurance Guaranty Association, there's an increased emphasis in the regulatory community on improving the insolvency process. "We're catching people's attention in a way I think we haven't in the past," she said.

In Bakke's opinion, one way to improve the process is to involve guaranty associations well before a company is placed in liquidation or even rehabilitation. For the process to work well, she added, the guaranty system needs to share what it has learned about failed companies so that regulators have a better chance to save troubled companies in the future. "The thing we don't do well is give regulators feedback," Bakke said. "The most important thing is to let the regulators know of the information we have that can help them do their job."

Bakke also emphasized the importance of uniformity—and the dangers of a perceived lack of it—in the guaranty system. "We should be building a national safety net that is state-based," she said. "We need to tell the story of 30- and 50-state insolvency successes" achieved by the system to show its ability to handle large-scale national insolvencies. She added, however, that "there are a lot of areas where we need to achieve uniformity."

Bakke and Gallanis then led the audience in a session designed to identify practices the guaranty system is doing incorrectly, those it is doing correctly, and those that the system needs to adopt to perform even better. She promised that the suggestions she received—such as ending the system of special/statutory deposits, working to include the legislative and judicial branches in any reform discussions, and placing renewed emphasis on the value of early access distributions—would be passed on to her working group for consideration. ■

Sean M. McKenna is the communications manager for NOLHGA.

Coordinating Our Efforts

In the spring of 2003, the NAIC appointed a working group of the Insolvency (E) Task Force to study ways to improve the handling of troubled companies and receiverships through increased communication, coordination, and cooperation among regulators, receivers, and state guaranty associations.

The Coordinating with State Guaranty Associations Working Group, chaired by New Jersey Commissioner Holly Bakke, is charged with developing a "White Paper" examining areas in which improvements can be made throughout all phases of the receivership and pre-receivership process. The group will examine past insolvencies to identify specific issues and concerns and to learn both from situations where better outcomes could possibly have been achieved through enhanced coordination among the various parties involved and from outcomes that were optimized by good communication, coordination, and cooperation among regulators, receivers, and the guaranty associations. Accordingly, the White Paper will likely reflect examples of "lessons learned" and "best practices" identified by the working group. Work on the White Paper is expected to be completed by year-end.

The working group is organized into three subgroups, each charged with identifying and addressing issues relating to a different phase of the receivership process. The Troubled Company/Supervision subgroup is headed by Michael Surguine of Arizona. The Rehabilitation subgroup is led by Francesca Bliss of New York. The Liquidation/Post-Closing subgroup is chaired by Don Beatty of Virginia. Each subgroup has been asked to provide a preliminary report by the September 2003 NAIC meeting outlining the issues and concerns identified by the subgroup as well as suggestions for addressing them.

NOLHGA and the NCIGF are participating as Interested Parties on each of the subgroups, providing input and support with respect to the guaranty association perspective on the issues. In support of this effort, NOLHGA conducted a survey in June 2003 of insolvency task force chairs for several of the major life and health insolvencies, seeking input regarding any problems, issues, delays, or costs that might have been avoided or lessened by better communication, coordination, or cooperation among regulators, receivers, and guaranty associations; the survey also asked for examples in which good communication and coordination led to positive outcomes. The issues and concerns reflected in the survey responses have been very helpful in identifying and defining some of the issues being addressed by the working group.

Back to School

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.*

Here in Washington, D.C., September brings with it the sight of crowded school buses and children sporting backpacks and lunchboxes. Indeed, millions of young Americans have returned to school and left the baseball gloves and bicycles of summer behind for the pencils and pop quizzes of the classroom, where they learn important lessons. Looking back on recent news, it seems there may be something to Robert Fulghum's theory that all we really need to know we learned—or should have learned—in kindergarten.

Share everything

There have been a number of articles recently on the state of health care in the United States. With the race for the Democratic presidential nomination underway, an even brighter light is shining on the estimated 41 million uninsured Americans. According to an article in *The Washington Post* ("Toll of Health Insurance Gap Detailed," June 18, 2003), the cost of medical care for the uninsured "runs between $34 billion and $69 billion annually." The article also noted that Arthur Kellerman, who chaired the panel that developed the *Hidden Cost, Value Lost* report cited in the *Post* article, believes extending coverage to the uninsured makes good financial sense: "providing health care coverage to those who lack it is likely to be a cost-effective strategy that pays not only in lives saved and better health, but also in economic dividends."

Costs are also becoming a greater concern for those with insurance and those looking for coverage. Premiums and deductibles are going up, threatening employers' ability to provide insurance for employees and employees' ability to pay for it.

Not surprisingly, a number of illegal health plans are popping up around the country to take advantage of the situation. Citing the results of a recent study by the Commonwealth Fund, *The Spokesman Review* reported that in the last three years, "four phony insurers left nearly 100,000 people with $85 million in unpaid medical bills. And the problem…is getting worse as the cost of legitimate medical insurance rises rapidly and people become desperate for something cheaper" ("Health Insurance Scams on the Rise," September 4, 2003).

Don't take things that aren't yours

So says the Pennsylvania Department of Insurance, which was recently lauded for the help it provided the U.S. Attorney's office in teaching this lesson to Allen W. Stewart.

U.S. Attorney Andrew Meehan presented Commissioner Diane M. Koken with a check for $9.2 million, which the U.S. Attorney's office recovered as part of "criminal forfeiture proceedings brought against Allen W. Stewart for fraudulent actions taken during his leveraged buy-out of Summit National Life Insurance Company and Equitable Beneficial Life Insurance Company" ("Rendell Administration Receives Praise From U.S. Attorney for Helping to Bring Criminal to Justice," *PR Newswire*, August 29, 2003). Stewart's actions, the article noted, ultimately led to both companies being liquidated.

Clean up your own mess

It's been two years since the Enron scandal. More scandals followed, as did calls for increased attention to boardroom ethics. A recent survey by the Insurance Marketplace Standards Association revealed that "92 percent of Americans say corporations must do more to improve their ethical behavior, with 56 percent saying corporations have done nothing to clean up the mess" ("Americans Want U.S. Corporations to Do More to Improve Ethical Behavior, National Poll Shows," *Market Wire*, July 23, 2003).

When you go out into the world, watch out for traffic, hold hands, and stick together

The world's regulatory communities appear to be sticking together (at least conceptually) as they attempt to address the precarious situation caused by historically low interest rates. Over the span of two days, the NOLHGA Press Room featured news from Massachusetts and Japan on their legislative moves regarding interest rates.

In "Massachusetts Set to Allow Lower Rates on Annuities" (July 19, 2003), *The Boston Globe* reported, "quietly but with unprecedented speed for the sometimes stodgy world of insurance, regulators in Massachusetts and elsewhere are reacting to the lowest interest rates in four decades by slashing the minimum interest rate levels on some types of annuities." Two days later, *The Wall Street Journal* reported that "the Japanese government passed legislation Friday enabling beleaguered life insurance companies to terminate contracts and settle claims using a rate lower than that guaranteed under the policy" ("Japan Passes Law Allowing Life Insurers to Cut Payouts," July 21, 2003).

While not as drastic a measure, the move by Massachusetts signals a growing appreciation for the low interest rate "danger zone" now being experienced in Japan.

The biggest word of all: LOOK!

While it's true that most kindergarten classes don't address the ramifications of low interest rates, a glance at recent headlines reveals that a number of issues affecting the insurance industry trace their roots—at least in part—to individuals or groups who have forgotten lessons learned long ago. The advice Robert Fulghum offers may be simple, but it still has a place in the boardroom. Keep in mind, he also wrote that "warm cookies and cold milk are good for you," an opinion with which I wholeheartedly agree. ■

Larry Henry is manager of insurance services for NOLHGA.

Calendar

2003

October 12–14	ACLI Annual Conference	Miami Beach, Fla.
October 27	**NOLHGA Board Meeting**	**Dallas, Tex.**
October 27–29	**NOLHGA 20th Annual Meeting & MPC Meeting**	**Dallas, Tex.**
November 12–14	NCIGF Workshop	Savannah, Ga.
December 6–9	NAIC Winter National Meeting	Anaheim, Calif.

2004

February 16–18	**NOLHGA MPC Meeting**	**Naples, Fla.**
March 13–16	NAIC Spring National Meeting	New York City, N.Y.
May 8–9	NCIGF Annual Meeting	Ft. Lauderdale, Fla.
May 24–26	**NOLHGA MPC Meeting**	**Seattle, Wash.**
June 12–15	NAIC Summer National Meeting	San Francisco, Calif.
September 11–14	NAIC Fall National Meeting	Anchorage, Alaska

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