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Update - Summer 2008

FASI E-Newsletter

Summer 2008

August 26, 2008

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President's Message

--by Gail Shuffler, FASI President

Hard to believe we were just in Naples at the fabulous Ritz Carlton just a few short weeks ago. Casino night, the traditional Electric Slide and the pleasure of friends and colleagues and a great group of speakers made this another memorable conference. While we have had our ups and downs, FASI remains solidly one of the more unique venues for brainstorming, learning, networking and solving issues.

Planning for next year's 40th birthday has already begun. We have had service partners who have eagerly promised to return once again (with money) and new approaches for the renewal of the organization are being discussed.

I would like to personally thank again all those who made this conference possible and to our membership who wrote the legislature, The Honorable Alex Sink and Gov. Crist in our efforts to preserve the WC trust funds.

If anyone has contacts to Ms. Sink, I would love to have her speak next year. Also, Judge Langham sent a very nice note thanking us for the opportunity to speak. I plan to invite him back for next year.

Thanks again to all and look forward to working with you in the upcoming year.

FASI Prevails Again!

[August 12](#)

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--by John Darin

Earlier this year, the Governor's staff had recommended "sweeping" approximately \$29 million for the Florida Workers' Compensation Administration Trust Fund to make up a budget shortfall resulting from a bust housing market and downturn in the economy. FASI was quick to recognize that such a "sweep" would result in higher assessments in the very near future. Not a good thing in lean times.

FASI President Gail Shuffler rallied the membership, who in turn reminded their elected representatives that what was bad for industry in Florida could be bad for them. In the end, the FASI forces triumphed and only \$7 million was swept from the fund. Kudos to Gail and all the FASI membership!

Editor's Corner

--by John Darin

For those of you who missed Brian Gee's presentation on self-insurance at the recent conference, here are some of the highlights:

Brian began with a brief outline of **how to apply for self-insurance and how to maintain that status**. For example, if the applicant is re-entering as the same entity, the assessment schedule can be resumed instead of restarted.

Effective October 1, 2002, the Division of Workers' Compensation contracted with the Florida Self-Insurers Guaranty Association to process Self Insurance applications. Applications are obtained from and submitted to FSIGA for review and FSIGA then submits the entire application to the Division of Workers' Compensation with a recommendation for approval or denial. **Included in the application process are a completed Application Form SI-1, an Application Review Fee (\$500.00), a Certificate of Status, and indemnity agreement if it is a group application, financial statements, servicing information, Proof of Excess Insurance (if required) and a security deposit. Detailed instructions can be found at the Florida Self-Insurers Guaranty Association, Inc.'s website.**

The SI-1 requires basic contact and background information. Tip: to organize the application, be sure to refer to the application instructions and the application checklist. The application fee for \$500.00 should be made payable to FSIGA and submitted with the application. **A Certificate of Status must be from the state of domicile and, if a foreign corporation, the State of Florida. If a fictitious name has been filed, include proofs.** Additionally, **amendments to articles of incorporation, if any have been made within the last three years, must be included.**

Indemnity agreements are required (SI-11) for groups or affiliated companies under common ownership. The agreement must provide for cross-indemnification between members of the group. These are most commonly used when the common owner is an individual, rather than a corporation.

As for financial statements, three years of audited statements presented in conformity with Generally Accepted Accounting Principles are required. The latest financial statement

must show a book equity of at least \$1,000,000.00. Interim financial statements may be tendered if the latest is less than six months old. **Financial certification by a corporate officer is required.**

Servicing information is completed on a form SI-19, and it must address claims handling and loss control. In-house servicing arrangements must be approved by the Division of Workers' Compensation.

Specific excess requirements apply for applicants with less than \$200.00 and \$50 million of book equity. Aggregate excess is required for applicants with less than \$5 million of book equity. Specific excess insurance is a limit of at least \$1 million. The excess must be covered through an admitted carrier or Best Ratings of not less than "A-" for strength and "VII" for size. Maximum self-insurance retention is the greater of \$350,000 or 1% of book value. Division approval is required for Self-Insureds greater than these (a greater security deposit will be required).

Aggregate Excess Insurance is required for self-insurers with a net worth between \$1 million and \$5 million dollars. This is the greater of \$1 million or fifty percent of the estimated standard premium. An admitted carrier or Best Ratings of not less than "A-" for strength and "VII" for size will be required. The maximum self-insurance retention is the greater of 115% of the estimated standard premium or 115% of the manual premium.

The **Security Deposit** is a minimum of \$100,000.00. A letter of credit or surety bond may be approved. A letter of credit (form SI-6) must be issued by a financial institution within the state, the deposits of which are FDIC insured. A surety bond (form SI-4) must be issued by a surety with Best Ratings of not less than "A" for strength and "V" for size.

To maintain self-insured status, maintain your company's financial strength, maintain required excess coverage, maintain a security deposit and do timely reporting.

Regarding timely reporting, double check the Compliance Guide for Self-Insurers and be sure to include: annual financial statements, an annual payroll report (SI-5), a Unit Statistical Report (SI-17), Outstanding WC Liabilities (SI-19), Excess Policies, an actuarial report (if required) and any changes in security deposit or covered entities.

Brian concluded by informing us application assistance is only an e-mail away: Application Process and Excess Insurance information inquiries can be addressed by jackiemarston@fsiga.org and Financial Statements and Security Deposit inquiries can be addressed by rennvickers@fsiga.org. FSIGA can also be reached at 850-222-1882.

Mega-Trends Influencing the Workers' Comp Insurance Industry

--by Linda Howell, Assistant Vice President of Actuarial

Source: Steven N. Weisbart, PhD, CLU, Vice President and Chief Economist, Insurance Information Institute

INTRODUCTION: Insurance actuaries and analysts devote a great deal of time to examining historical data and information. This combined with forward thinking and identification of anticipated trends often yields great insight into future conditions. Businesses who recognize and are prepared to manage or capitalize upon these trends and conditions are those who gain competitive advantages in the marketplace and enjoy greater profitability over the long term.

Click [here](#) to read the full report.

39th Annual Educational Conference & Trade Show 2008

--by Bethan Hyde, York Claim Services, Inc.

"Elect Self Insurance in 2008!"

The FASI 39th Annual Educational Conference & Tradeshow was held Sunday, July 20, 2008, to Wednesday, July 23, 2008, at the Ritz Carlton, Naples, Florida. FASI's annual golf outing was Sunday at Tiburon Golf Club (see golf article below for details).

The Conference Committee deserves a big applause as the sessions at this Educational Conference were timely and informative.

The Welcome Reception was in the Club Room. Attendees enjoyed the opportunity to catch up with colleagues and socialize, all the while anticipating an excellent educational program focusing on all lines of the self insured industry.

Monday, July 21, 2008

Monday began with FASI's Annual Business Meeting. The 2007-2008 Board of Directors were recognized for their contributions this past year. The new slate for the 2008-2009 Board of Directors was read and approved.

CHANGING THE GAME

Speaker(s): Cindy Howard, Blue Cross Blue Shield, Jacksonville, FL; Jeff Moquin, Risk Manager, School Board of Broward County, Ft. Lauderdale, FL; and Jerry Fogel, President, Imagine Clinical, City, FL

The 2003 Workers' Compensation (WC) statutory reforms (including the associated 2004/2005 regulatory changes) created a sea change of opportunity to fundamentally alter the way WC could be managed. But why would this time be different as, over the years, there have been numerous and dramatic changes in WC legislation and regulation. We heard from an employer, a WC management organization and a consultant who were actively involved in the reforms. They discussed how by committing to, and working collaboratively on the fundamentals of reform, they were able to *overcome* significant corporate and institutional inertia and resistance, resulting in a transformation of both their WC program and the way their organizations conduct business.

THE MILD TRAUMATIC BRAIN INJURY CLAIM -- COGNITIVE ISSUES: WHAT EVERY RISK MANAGER WANTS TO KNOW ABOUT RETURNING TO WORK

Speaker: Stephen Macciocchi, PhD, ABPP, Chief of Neuropsychology, Shepherd Center, Atlanta, GA

The seminar focused on several topics including the clinical definition and pathophysiology of Mild Traumatic Brain Injury (MTBI). The prototypical clinical presentation as well as anomalous clinical presentations following MTBI was also discussed. Since almost all MTBI persons involved in treatment and litigation have had a neuropsychological assessment, a typical neuropsychological assessment approach and model were reviewed. Diagnostic considerations in MTBI cases were discussed in relation to typical errors in reaching a MTBI diagnosis. Finally, common questions related to administratively managing MTBI cases were reviewed and answered.

LEGISLATIVE UPDATE

Speaker: Dennis Ross, Esq., (R), Florida House of Representatives, House District 64, Ross Vecchio PA, Lakeland, FL

Back by **popular** demand, Representative Dennis Ross, Esq. (R), House District 064, provided an update on Florida's 2008 Regular Session of the Legislature. This year the Legislature addressed several major issues including the budget, education, healthcare, and energy reform. The update provided a brief overview of those issues as well as an update on the property insurance legislation passed this Session. Attendees were glad they didn't miss this very informative session!

BUSINESS CONTINUITY/DISASTER MANAGEMENT

Speaker: Mike Bumpus, Vice President, Business Continuity, Marsh USA Inc., Atlanta, GA

Knock wood, the past two years have been fairly quiet for natural disasters in Florida! This session offered possible solutions and tools necessary for your company's level of disaster preparedness and ability to recover operational capability following a natural or man-made disaster.

Tuesday, July 22, 2008

HOW TO BECOME & BENEFITS OF SELF INSURED

Speaker(s): Brian Gee, Florida Self-Insurers Guaranty Association, Tallahassee, FL and Ed Shaw, Casper's Company, Tampa, FL

If your company has considered becoming self insured, but has not because you don't know where to start, you should have attended this session with FSIGA Executive Director Brian Gee as he took attendees through the maze of becoming self insured. Mr. Gee also discussed the benefits of being self insured in Florida for Workers' Compensation. Mr. Gee also outlined in this session potential revisions to the Rules of Self Insurance.

Ed Shaw talked about employer considerations in taking a company from a traditional insured program, both workers' compensation and health, into a self-funded plan. Ed provided an overview of the basics and whetted attendees' appetites enough to consider whether their companies (or clients' companies) may be

a good fit to save money through self insurance in one or both of these programs.

APPLYING ACTUARIAL SCIENCE TO THE CHALLENGES & DECISIONS FACED BY SELF-INSURERS

Speaker: Melodee Saunders, Midwest Employers Casualty Co., St. Louis, MO

In your company's decision making process for becoming self insured, you've undoubtedly had to deal with loss reports, review reserves and actuarial reports. This session helped to explain what these reports mean and how they can affect your decision to become self insured.

The following topics were covered in this session:

- The need for an actuarial report and what findings should be in the report.
- Projecting losses and reserves as they relate to excess insurance.
- How actuarial reports can measure a workers' compensation program.
- How SIRs are selected by carriers.
- Allocation of loss experience cost back to departments.

CAPTIVES & RISK FINANCE

Speaker(s): Mike Hall, Cecil Powell Insurance, Jacksonville, FL and Jeff Fitzgerald, Roundstone Management, Ltd., Charleston, SC

This session provided an overview of captive insurance solutions utilized in a self funded environment. Issues discussed were captive definitions, structures and applications. Examples of successful captive arrangements in both Property & Casualty and Accident & Health insurance lines were provided.

SELF INSURED'S BEST PRACTICES

Speaker: Steve Henderson, Director of Risk Management, Polk County School District, Bartow, FL

As Florida's budget cuts over the past decade resulted in fewer dollars for school districts, Steve Henderson, Director of Risk Management for Polk County School District had to use forward thinking, aggressive, and creative methods to manage Polk County School District's self insured program. Steve reviewed **the successful methods and perspectives developed to overcome the multi-year, multi-million deficits of the self insured employer group health plan, and how he intervened in the self insured workers' compensation and self-insured liability programs to achieve stability.**

[FASI had a special guest speaker at the end of the Conference, Chief Judge David Langham of the Office of Judges of Workers' Compensation Claims! Judge Langham provided a brief overview of his background and then shared his views on litigation. At the end of this session attendees had an opportunity to ask the Judge questions and what was scheduled to be a 20-30 minute session ended up being a 65 minute session! I'm sure those who attended this session agree this was a great way to wrap up the Conference!](#)

Thank you to each of these speakers for their contribution to a successful Educational Conference.

The Conference ended with FASI's 39th Dinner & Casino Party with delicious cuisine and desserts. There

were more than 15 door prizes provided by FASI which all guests had an opportunity to win (everyone received a drawing ticket at the door). Thank you to Free State Staffing and Woodall & Broome Investigative Services for donating bidding prizes. At the end of the evening there were seven prizes auctioned off using casino winnings as "payment." Lots of bidding wars ensued with bids as high as \$3 million. Wow!

Thank you to all of our sponsors, exhibitors and attendees for making this Conference a success. We look forward to seeing you again next year. Mark your calendars for **July 19-22, 2009** – it is FASI's 40th Annual Educational Conference & Trade Show and there will be lots of celebrating going on!

FASI's 39th Annual Golf Outing 2008

--by Bethan Hyde, York Claim Services, Inc.

FASI's Annual Golf Outing was held on July 20, 2008, at Tiburon Golf Club, a Greg Norman Course and home of the Franklin Templeton Golf Shootout in Naples, Florida. The format was a scramble with a requirement of using a minimum of two (2) drives per player, no matter how bad, and began with an 8:30 a.m. shotgun start.

Awards and prizes were given out at the luncheon in the Sydney room at the end of play. Golf tee sponsorship signs were displayed at tee boxes, recognition and acknowledgment flyers placed on each golf cart and a sponsorship sign was displayed daily throughout the Conference. Each registered sponsor was given a ribbon recognizing their continued support and dedication to the Florida Association of Self Insurance.

Trophies provided by Free State Staffing Services were awarded for 1st Place, 2nd Place, 3rd Place and Dead Last Place. Prizes were awarded for Women's and Men's Longest Drive; Women's and Men's Closest to the Pin; Women's and Men's Longest Putt and the Putting Contest. Prizes were awarded for the 1st Best Golf Poker Hand and Worst Golf Poker Hand.

Throughout the 18 holes of play, golfers hoped their drive was in the fairway, their short game was good and they were on the green. Some shot par, others bogeyed, even birdied or made an eagle, while some just came to have fun and help. Thank you to all of the volunteers who were there early and throughout the day to assist with registration, cart goodies and the golf poker hand.

Thank you to everyone who participated and for their commitment and loyalty to FASI. Without your dedication and continued support this event would not be possible.

Please see the [complete list of sponsors](#).

Florida Cabinet Meeting Report: August 12

--Submitted by Richard J. Fidei, Partner, of the Law Firm of Colodny, Fass, Talenfeld, Karlinsky and Abate

The Florida Cabinet met on August 12, 2008 and considered various governmental agency agendas.

During the meeting, Florida Office of Financial Regulation ("OFR") Commissioner Don Saxon announced he would resign Sept. 30 in the midst of an investigation into reports that his agency licensed thousands of mortgage brokers with criminal backgrounds, including racketeering and money-laundering.

Saxon announced his intention to resign at this morning's Cabinet meeting after Chief Financial Officer Alex Sink made a motion to force his resignation and the panel approved it.

"We've seen very passive management...We've had real failures as identified in a damning report by the grand jury," Sink said as Saxon stood at the podium. "The grand jury said there are billions of dollars being filtered -- illegal money, dirty tainted money -- that are being filtered through some of the money transaction businesses."

The Cabinet also approved emergency rules that will prohibit felons who have committed crimes directly related to mortgage brokering, such as money-laundering, extortion and bribery, from ever getting licensed.

Florida Office of Insurance Regulation ("OIR") Florida Insurance Commissioner Kevin McCarty presented the OIR agenda to the Cabinet, which, acting as the Florida Financial Services Commission ("FSC"), approved all OIR agenda items except for Item 5, which was withdrawn from consideration.

Item 1: Request for Approval to Repeal Rule 69P-2.001, 002; Commercial Property Joint Underwriting Association

During the January 2007 Special Session, the Legislature passed House Bill 1A, which deactivated the Property and Casualty Joint Underwriting Association ("PCJUA"). In accordance with this legislation, all policies of the PCJUA were assumed by Citizens Property Insurance Corporation. Consequently, this Rule, which is the Plan of Operation of the PCJUA, needs to be repealed.

Item 2: Request for Approval to Adopt proposed Rule 69O-149.0025,.005,.006; Health Rate Filing Standards

Florida law states that the FSC may establish Rule procedures to be used in ascertaining the reasonableness of benefits in relation to premium rates. These Rules establish such procedures and are being amended to clarify the standards for credibility in using company experience as support for rate filings.

Item 3: Request for Approval to Repeal Rule 69O-220.001,.051,.201; Adjusters

When the Department of Insurance ("DOI") was reorganized into the OIR and the Department of Financial Services ("DFS"), the regulation of insurance adjusters was assigned to DFS. However, the rules regulating adjusters were assigned to both agencies. The OIR does not have the statutory authority to regulate adjusters; therefore it recommended that this Rule chapter should be repealed. DFS actively regulates adjusters and has rules implementing the applicable statutes.

Item 4: Request for Approval to Adopt Proposed Rule 69O-149.003(2)(b)4.a.; Medicare Supplement Rate Collection

In 2007, the Florida Legislature appropriated funds to the OIR for the purpose of establishing a system to collect Medicare Supplement rates and publish a premium search and comparison tool on the OIR Web site.

This tool allows consumers to shop and compare, Medicare Supplement rates online. This Rule change requires insurers to submit filings through the new system, called Medigap, which will enable the search and comparison tool to be functional.

Item 5 (withdrawn from consideration): Request for Approval to Adopt Proposed Rule 690-157.301, .302, .303, .304; Long-Term Care, Rates 2007

Florida law provides that rates charged to an insured for renewal of an existing long-term care insurance policy may not exceed the price the insurer charges for newly-issued policies. The problem addressed by this statute relates to "closed blocks" of business, which occur when a particular approved policy is no longer being sold to new customers.

There will be a group of insureds who continue to be renewed but no new customers will be sold that policy. This statute protects those insureds in that closed block by precluding an insurer from having higher renewal rates than its rates for new business. This new Rule implements this statute by defining terms used in the statute and explaining how calculations are to be done so the insurer can be sure it is in compliance.

Item 6: Request for Approval for Publication of Proposed Rule 690-170.0144; Hurricane Loss Projection Model; Fee Schedule

In order to implement Florida law, this Rule will establish a fee schedule for use of the Florida Public Hurricane Loss Projection Model by residential property insurers.

Should you have any questions or comments, please do not hesitate to contact Jennifer J.H. Pierce, Director of Marketing & Community Development, Colodny, Fass, Talenfeld, Karlinsky & Abate, PA, One Financial Plaza, 23rd Floor, 100 Southeast Third Avenue, Ft. Lauderdale, FL 33394; 954-332-1776 (direct) or 954-492-4010, fax: 954-492-1144 or jpierce@cftlaw.com.

If you have questions or comments about the FASI E-Newsletter, please contact: Bill Kautter at bkautter@kmgnet.com (800-226-3274) or Newsletter Chair John Darin at jdarin@znskoreas.com.

Please note that letters and comments sent to the publisher are automatically considered for use in upcoming issues unless you expressly request that they not be used. You may request that you remain anonymous in the case that your letter or comments are used. We reserve the right to edit for brevity and/or clarity.

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