



COVERAGE, CLAIMS & LITIGATION COMMITTEE

Meeting Minutes

Thursday, September 17, 2015

IRMA Office – 9:30 a.m.

PRESENT:	Julia Cedillo, Chair Eric Ertmoed Katy Rush (via phone) Kevin Wachtel	Michael Braiman Dennis Bubenik Kate Andris (via phone)
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ALSO PRESENT:	Margo Ely Mary Henzler	Susan Garvey (via phone) Dan LeTourneau
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ABSENT:	Sharon Peterson Art Malinowski	Carol LeBeau
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I. CALL TO ORDER

Chair Cedillo called the meeting to order. Roll was taken and a quorum declared.

A motion was made by Braiman and seconded by Ertmoed to approve the meeting participation of Rush, Andris and Garvey via telephone conferencing. A voice vote was called and the motion carried.

II. APPROVAL OF MINUTES – May 7, 2015

A motion was made by Wachtel and seconded by Ertmoed to approve the Coverage, Claims & Litigation Committee Meeting Minutes of May 7, 2015. A voice vote was called, and the motion carried.

Cedillo announced that we would be covering the 2016 Coverage Renewal agenda item to accommodate the schedule of LeTourneau, who was scheduled at another meeting out of the office and would need to leave shortly.

IV. 2016 COVERAGE RENEWAL

LeTourneau gave an overview of the 2016 Excess Reinsurance Summary. Ultimately, the 2016 coverage renewal looks good overall. The total premium for all of our coverage was down about \$12,615. There were rate decreases in all major lines. LeTourneau stated that he doesn't count Crime as a major line, as it is about a \$60,000 policy. Crime went up approximately 1%. Rate decreases of up to 7% were achieved in all major lines of coverage, including a 2% rate reduction in Workers' Compensation.

LeTourneau stated that in Liability, Genesis is going to pay out about \$900,000 on our wrongful conviction and imprisonment claim. They started out at a 5% rate increase, so we started negotiating with them including another meeting with them this past Monday. They are currently at a flat rate. We are going to market their layer (\$2m X \$3M SIR) to the liability reinsurance marketplace to make sure it is competitive.

Overall, we are paying \$2,434,726 versus \$2,447,341 last year. LeTourneau noted that this is very good, as the exposure is up 2%-4% for 2016.

LeTourneau reviewed the highlights of each line of coverage.

Liability – General, Auto, Public Officials

LeTourneau stated that he had mentioned earlier that Genesis had paid out on the wrongful conviction and imprisonment claim and they had originally come back with a 5% increase. LeTourneau noted that staff didn't quite know where this was going to end up with Genesis, so staff went to market on this to be prepared and make sure that Genesis was giving us a fair quote. We also had JLT Re actuaries run their actuarial numbers and tell us what would be a decent quote, but not an impossible quote to get based on what they are seeing with the actual loss numbers. Their actuarial benchmarking pricing showed that Genesis came in at \$554,791 w/o clash, and the actual price from Genesis was \$562,052 or 1% higher. Munich Re's quote was \$482,073 (7% lower) versus the benchmarking pricing of \$517,030.

LeTourneau reported that Markel was asked for a quote, but indicated that they couldn't compete with the Genesis quote. We are awaiting a quote from Great American, Berkley & Brit. Overall, we are still comfortable with the Genesis quote, but will await additional quotes.

LeTourneau noted that staff is recommending remaining at the \$10 million liability limits with the current \$6 million Annual IRMA Member Aggregate Cap for 2015.

Workers' Compensation

LeTourneau commented that we are very pleased with this renewal quote, as typically there would be an increase in workers' compensation. Medical costs alone are increasing double digits every year. We were able to negotiate for a 2 year rate proposal with Safety National – 2016 rate decrease of 2% and a flat rate guarantee for 2017. Overall, the payroll exposures increased 2.5% this year.

Property

LeTourneau stated that we asked for a 7% decrease from Hartford and received it. Overall, the property value exposures went up 2%, which includes the appraisal process.

Crime

LeTourneau stated that the rate for Crime with Travelers came in at a 1% increase at \$56,270. This is an outstanding price overall that covers all of our members' employees, public officials and volunteers.

Boiler & Machinery

LeTourneau noted that this is mainly a jurisdictional inspection service program. Travelers provides excellent inspection services. Their quote came in at a 5% rate reduction.

P.O. Bonds

LeTourneau stated that this was finalized yesterday. The premium increased slightly from \$7,078 to \$7,141.

LeTourneau stated that for 2016 we achieved a .5% overall premium reduction. That incorporates all of the increases in exposures from 2%-4.

Optional Coverage Program

LeTourneau noted that all optional coverage proposals are not yet finalized. The only one we are going to see some changes in is the Volunteer Program, where we are expecting a 20% - 40% increase due to several large loses. We are in the process of conducting a full marketing effort.

LeTourneau stated that the Underground Storage Tank renewal isn't until January 1, and we are anticipating similar pricing to 2015. We would, however, like to break this down into three different rate categories to mitigate the adverse impact from tanks moving into a higher cost bracket from aging another year.

Special Events Liquor Liability – the rates will be exactly the same as last year.

Fiduciary Liability – varies by member/plan. LeTourneau noted that we are expanding this for more carrier options.

Tenant/User Liability – this is the TULIP program available via the IRMA website. No changes expected. Host liquor liability is included in the program.

Wachtel asked whether IRMA has ever considered Data Breach coverage. LeTourneau stated that it was explored a few years ago and it was very expensive to provide this coverage. You would be paying hundreds of thousands of dollars. Many coverage options would actually add exclusions to your current policy and then sell the coverage back to you. We do have some cyber type coverage as outlined in a 2012 coverage analysis sent to members. We wouldn't have coverage for things like setting up a 1-800 call center, credit protection/monitoring programs, and notification costs. Looking at the overall cost of current cyber coverage versus the benefit, LeTourneau stated that he wasn't sure it's of current value. Further study on available options would be conducted.

LeTourneau stated that there was a company out of Arlington Heights, CIS, that provides an online resource base – best practices – and training that could be offered to all the IRMA members. LeTourneau stated that the last time we looked at this the cost was about \$7,000 - \$8,000. LeTourneau commented that this is something we look at every year to determine if it is cost effective to buy the coverage. We think with our broader coverage many areas will be covered under our program. LeTourneau stated that he could re-send out the Cyber Liability Analysis document to the membership.

Ely stated that we could get pricing on this as a voluntary optional coverage and then find out how many of our members would be interested. A motion was made by Helm and seconded by Wachtel to approve the 2016 Excess Reinsurance Coverage Renewal as presented. A voice vote was called, and the motion carried.

III. CLAIMS & LITIGATION REPORTS

- A. Claims Operational Report
- B. Litigation Reports
 - 1. New Liability Claims Report
 - 2. Closed Liability Claims Report
 - 3. Litigation Management Report

Cedillo asked if anyone had any questions on any of the Claims & Litigation Reports. Hearing none, she moved to the next agenda item.

V. 2016 PRELIMINARY BUDGET

Cedillo stated that each year, each standing committee is responsible for approving their categories in the budget. The Coverage, Claims & Litigation Committee is responsible for four areas: 3rd Party Claims Administration, the Claims Audit, Insurance Brokerage Consultant Services and Commercial Insurance Services.

A motion was made by Wachtel and seconded by Braiman to approve the Coverage, Claims & Litigation Committee's 2016 preliminary budget as presented. A voice vote was called, and the motion carried.

VI. WORKERS' COMPENSATION COUNSEL

Cedillo stated that staff is looking for concurrence with their recommendation to allow the assignment of workers' compensation cases to attorney Greg Rode. Ely explained that we have worked with Rode in the past when he was with the law firm of Rusin & Maciorowski, currently on IRMA's attorney panel. Both staff and members were confident in his abilities and his aggressive and diligent approach to the cases. Rode's rate would be the same as our other panel attorneys. The Committee concurred with staff's recommendation.

VII. UPDATE ON AD HOC COMMITTEE ON MUTUAL AID ORGANIZATIONS & TASK FORCES

Cedillo stated that the packet contained an update on the progress of the Ad Hoc Committee. The committee met on July 23, and the staff memo outlines some of the discussion that ensued. The committee focused on a couple of areas – the defense and indemnification of the entity itself, and the defense and indemnification of members of the task force or mutual aid organizations from third party claims that may come out of an incident. Ely stated that another meeting of the committee is scheduled for October 15th.

Garvey stated that we came out of the first meeting with about 2-1/2 areas for staff to do a little bit of work and investigation and come back to the committee with our findings. In exploring a legislative resolution, we need to investigate enacting legislation that provides that the task forces or mutual aid organizations are not suable entities. Look at fixing the Joint Tortfeasor Contribution Act to say joint and several liability would be inapplicable to the entity that has been created. We could consider enacting tort caps

for the entity and address employees of different members of task forces from suing each other by making workers' compensation benefits the sole remedy.

The committee also looked at Best Practices for Defense and Indemnification Provisions and one of the goals is to draft defense and indemnification language that IRMA members can recommend in the agreements that they are involved in. Garvey stated that staff is in the process of drafting this language and it will be brought back to the October 15th meeting for review by the committee.

Garvey stated that the last area the committee discussed was the purchase of insurance by the entity or setting up a joint risk pool for the task forces. This will need more investigation.

Garvey noted that any recommendations from the Ad Hoc Committee would be brought back to the Coverage, Claims & Litigation Committee.

VIII. STATUS OF CLAIMS AUDIT RFP

Cedillo reported that the RFP for the claim audit was released and responses were due on August 21st. Six proposals were received and staff is currently reviewing them. Garvey stated that staff has a meeting next Tuesday to go over the proposals together and make some recommendations as to which firms we would like the sub-committee and staff to interview. Staff is hoping to recommend three firms for interviews. Garvey stated that she would be back in touch with the sub-committee next week to schedule interviews.

IX. LITIGATION SUCCESSES

Ely noted that with the DPPA case, yesterday was the deadline for filing a certification with the Supreme Court and we just heard that they filed it. Ely stated that she would update this at a later date.

Bubenik asked Ely whether anything that the Governor has proposed in general made any headway in 2015. Ely commented that she thinks he is standing firmly with the proposed change to the causation standard and the Democrats are standing really opposed to it. This would be the best change we could get because we incur so many costs that are not directly attributable to the work injury.

Helm asked if Ely had a bullet point list so that when they talk to their legislators they can highlight key points. Ely stated that we had sent something out and we would resend it to the membership.

X. ADDITIONS TO AGENDA

There were no additions to the agenda.

XI. CONFIRMATION OF NEXT MEETING

Cedillo confirmed that the next meeting of the Coverage, Claims & Litigation Committee is scheduled for Thursday, November 5, 2015 at 9:30 a.m. at the IRMA office.

XII. ADJOURNMENT

A motion was made by Braiman and seconded by Wachtel to adjourn the meeting. A voice vote was called, and the motion carried.

Submitted by:

Accepted by:

Susan Garvey
Director of Legal Services

Julia Cedillo
Chair, Coverage, Claims & Litigation
Committee