

MISSISSIPPI
AGENT

VOLUME 35 • NUMBER 3

SUMMER 2015

A professional headshot of Brian Berry, a middle-aged man with short, graying hair, smiling. He is wearing a dark suit jacket, a light blue dress shirt, and a blue and yellow striped tie. The background is a plain, light-colored wall.

2015-16 IIAM CHAIRMAN

Brian Berry

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MISSISSIPPI AGENT

VOLUME 35 • NUMBER 3

SUMMER 2015

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Josh Smith (Southwest), Brookhaven

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DEPARTMENTS

Meet IIAM Chairman Brian Berry.....	5
IIAM's New Officers, Board and Executive Committee Members	7
From the Commissioner.....	9

FEATURES

2015 IIAM Convention Memories	18
2015 IIAM Convention Beach Fun	25
2015 IIAM Convention Sponsors.....	26
IIAM Presents Company Awards at Annual Convention.....	28
IIAM Presents Special Awards at Annual Convention	28
IIAM Holds Young Agents Baseball Outing	29
Adequate Flood Coverage Essential For Clients Help Them Protect What Matters This Hurricane Season	30
2015 Trusted Choice Mississippi Qualifier	31
News & Noteworthies.....	33
Education Calendar.....	36
ISO Files Most Important Homeowners Change in 40 Years	40
To Notary or not to Notary, That is the Question.... (Again with apologies to William Shakespeare)	47
Trip to Disney World for Caiden Granted on behalf of Trusted Choice®	50



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MEET IIAM CHAIRMAN

Brian Berry

The 2015-2016 IIAM Chairman is Brian Berry, owner of Bi-County Insurance Agency in Centreville. Brian has been active in the association for many years including serving as Young Agents Chairman, President of the Southwest Agents Association, Board Member, Executive Committee Member and Vice-Chairman. We recently had the chance to speak with Brian regarding his insurance career and his plans for IIAM for the upcoming year. His responses follow:

Tell us a little about yourself.

I was born and raised in Gulfport, Mississippi. I graduated from Gulfport East High School in 1974 and Mississippi State University in 1978. While at Miss. State, I met my wife, Lisa. We were married in 1979 and have three children. Our son, Hunter, is married to Lori and they have a four-year old daughter, Loxley. Our son, Parker, is married to Chelsea and they have a brand new, one-month old daughter, Tatum. And, our daughter Katie is a senior at Miss. State University. We also have two Chesapeake Bay Retrievers, Emma and Swayze, who often walk to my office building, which is two blocks away, and many times let themselves in and try to take over my office. My staff says they are here more than me some weeks!

I am a Deacon at Thomson Memorial Presbyterian Church in Centreville, Past President of the Centreville Academy School Board, member of the Centreville Historical District Board and serve on the MSU Insurance Advisory Board. I have also coached baseball teams from T-Ball thru Little League. I even had a brief encounter with coaching girls' softball. In my free time I enjoy golf, hunting, fishing and scuba diving.

How did your career in the insurance industry begin?

My dad owned an independent adjusting company, and during summers while I was in college I worked for him handling small claims, appraisals and various errands. During that time, I became interested in the insurance business, and my father suggested I look into the agency side of the business to see if I liked it. I took his advice and got a job as a producer on the Gulf Coast. It wasn't long before I was hooked! Three years later, I moved from Gulfport to Centreville to buy a small agency with an agent I had met through IIAM. The agency had been owned by an older couple who had no children and were ready to retire. I literally walked in the front door, and they walked out the back. Today, after a lot of hard work, I am grateful to say that I am the sole owner of the agency and we have grown every year.

continued on page 13...





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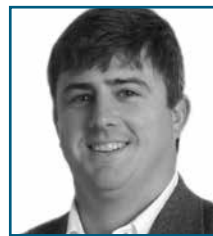
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Bill Allen
Clarksdale
Young Agents Chairman



Tatum Brown
Oxford



Brandt Galloway
Columbus



Ray Robertson
Ridgeland



Josh Smith
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Oxford



Brad Kent
Laurel



Scott Woods
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FROM THE COMMISSIONER

by Mike Chaney
INSURANCE COMMISSIONER



We are nearing the peak months for the 2015 hurricane season. While this season is living up to the projections of a “near-normal or below normal season”, we cannot let our guard down and must continue to remind all Mississippians to be prepared for disaster.

This August we remembered the 10th anniversary of Hurricane Katrina, which served as a stark reminder that it only takes one storm to create widespread devastation. In the years following Katrina the Mississippi Insurance Department has diligently worked to help consumers continue the long recovery process and improve insurance conditions throughout the state and along the Gulf Coast.

Those efforts led to the creation of a state mitigation program providing grants to homeowners who have used funds to make new and existing homes more storm resistant. MID established an alternative dispute resolution program for personal lines insurance claims. We also worked on new regulations, including one on uniform policy language regarding the applicability of hurricane deductibles.

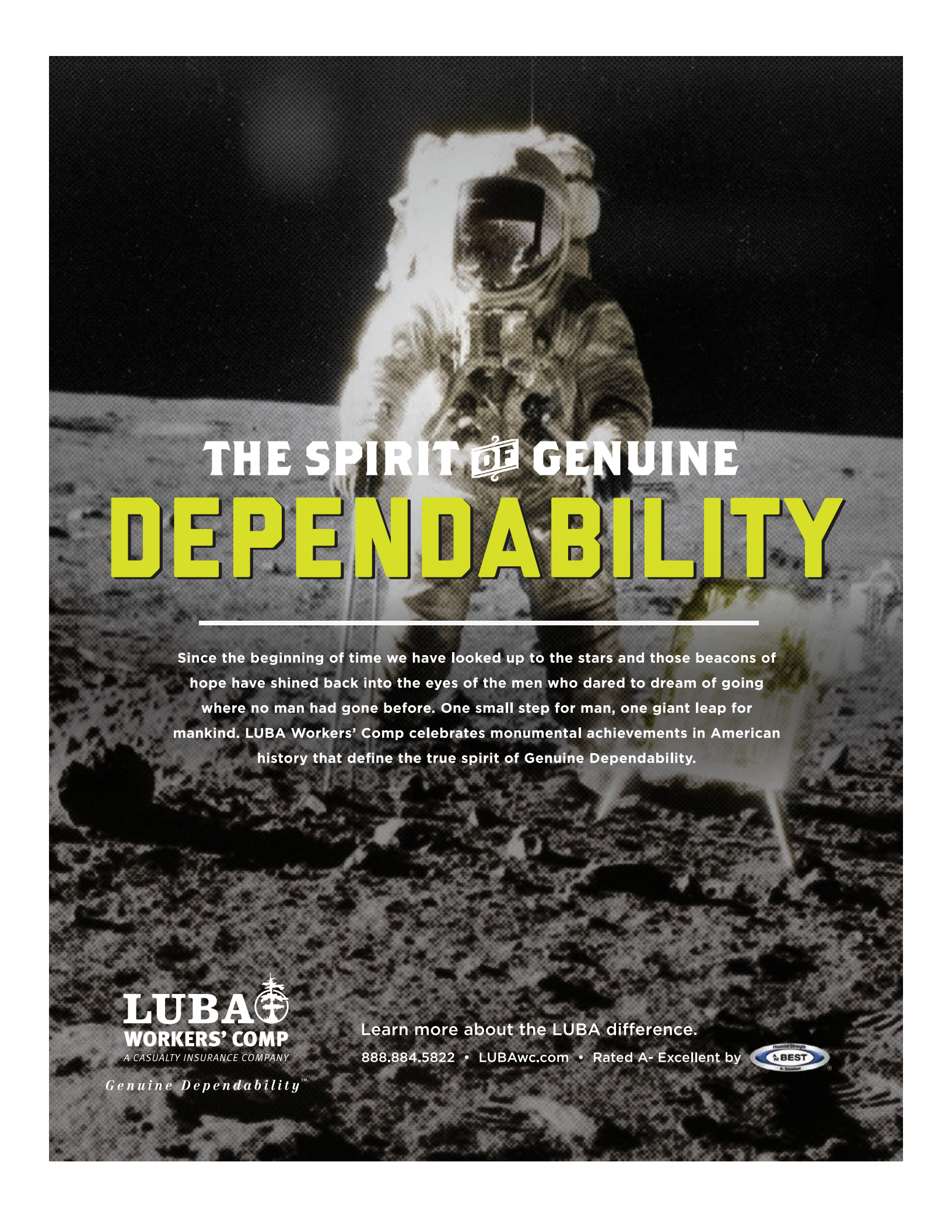
One of the most significant accomplishments in the decade since Katrina was the passage, in 2014, of SB2378 – the State Uniform Construction Code – which adopted certain nationally recognized codes and standards. The bill established minimum construction standards for the state with opt-out provisions for municipalities and counties.

Additionally, over 180 new property and casualty companies and 68 surplus line companies have entered the marketplace during my tenure as Insurance Commissioner.

While much has been accomplished since Katrina, there is still more to be done. The insurance department continues to aid coastal Mississippians in finding available, affordable insurance while keeping companies accountable for the service they provide. The key to avoiding the insurance problems that arise from Katrina-level storms is to help Mississippians become better prepared through outreach, the advocacy of stronger building codes, and through such programs as the wind mitigation grant programs to assist them in making their homes more capable of withstanding such disasters.

I am proud of the MID’s role in taking on the federal government and the National Flood Insurance Program and their attempts to inflict draconian flood insurance rate increases upon coastal residents. The department sued the National Flood Insurance Program (NFIP) and then later withdrew the lawsuit on the basis the implementation by the Federal Emergency Management Agency (FEMA) of a new law passed by Congress intended to alleviate some of the extreme rate increases that Mississippi homeowners were facing. MID attorneys continue to monitor FEMA’s implementation of “The Homeowner Flood Insurance Affordability Act of 2014,” passed as H.R. 3370, to ensure the new law does what is necessary to ease the financial burden on homeowners.

The state’s new texting and driving law, HB 389, took effect July 1. This is a great step in addressing one of the biggest threats to public safety on Mississippi’s interstates, roads, and highways. The new law bans texting and posting to social media while driving and carries a civil

A black and white photograph of an astronaut in a full space suit standing on the lunar surface. The astronaut is positioned in the center of the frame, looking towards the camera. The background shows the dark, cratered surface of the moon under a bright sky.

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fine of \$25 per violation that increases to \$100 per violation in 2016.

Also new, effective July 1, is Senate Bill 2443, which provides that employees of rental car companies shall not be subject to being licensed as limited lines insurance producers, with the exception of at least one designated licensed producer responsible for the entity's compliance with state laws, rules and regulations. The company is required to conduct a training program for its employees and authorized agents on the specific kinds of insurance offered. The company must subsequently provide supervision to these employees who will not be required to obtain individual licenses.

On June 25, 2015 the United States Supreme Court issued a ruling in the King v. Burwell case, in favor of the defendant, Department of Health and Human Services Secretary Sylvia Burwell, which means federal subsidies can legally continue to be applied in states where the Individual Health Insurance Marketplace, commonly called the Exchange, is operated by the federal government. Since Mississippi's Marketplace is operated

by the federal government, this ruling means that over 100,000 Mississippians who purchased individual health insurance through the Marketplace will continue to receive health insurance coverage.

As I have stated many times, even though I may not agree with everything in the Affordable Care Act, it remains the law of the land and I will continue to work within the framework of the law to regulate health insurance for the benefit of all Mississippians.

As I have traveled throughout the state speaking to many agents' groups since I took office, many of you have met and gotten to know a gentleman that often traveled with me, Joseph Ammerman. After many years of service to the state, first in the Lt. Governor's office working for Amy Tuck, and then becoming a member of the MID team when I took office, Joseph retired at the end of June. He was a valuable member of the MID team who did extensive work on our mitigation program, helped to get state building codes passed, and spearheaded the Elevator and Building Safety Division. I ask you to join me in wishing Joseph well in his retirement.

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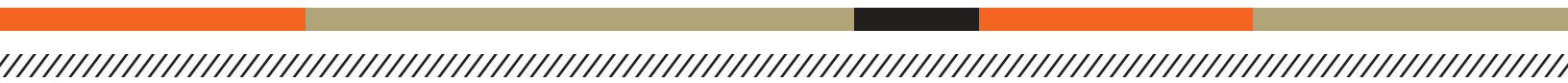
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What do you find fulfilling about being an insurance agent?

I like that I can see the results of my hard work...the harder I work, the greater the reward. To me, it's like being a painter or sculptor. You work hard and take your time in developing relationships while building clientele. It will eventually all come together and your agency, or book of business if you are a producer, will develop into something of which you can be proud. If you are diligent, work hard, stay informed (take advantage of all the IIAM educational opportunities) and especially take care of your customers, you will be amazed at the personal and financial benefits of being an independent insurance agent. These results will take time, just as most things worthwhile do, but the reward will be long-lasting. In my case, Lisa and I moved to a small town where we did not know a soul, bought into an agency, became active in our church, and developed personal and business relationships that have molded our lives. Insurance is such a dynamic business, and I really love the personal and social interaction with clients and anyone who has insurance needs. I enjoy the fact that to do my job properly, I need to know a little bit about just about every type of business or industry. Being willing to learn is key to success in this industry, as well as in life.

What advice would you give to someone starting a career?

Patience, perseverance, personality and hard work will pay off. Don't get discouraged! If you are a producer, remember it takes time to establish a following and if you are a new owner, it takes time to put that business on the books. You should surround yourself with people that can help you in your career and then make a commitment to yourself to be the best agent you can be. I definitely recommend that you become active and stay active with IIAM, especially if you are a young agent. Get involved with the association's young agents group. It will be a beginning that will never end.



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PROGRESSIVE

MEET IIAM CHAIRMAN BRIAN BERRY | *(continued)*



What have you gained from being an IIAM member professionally and/or personally?

Personally I have gained lifelong friendships across the state that I would not have, had I not become active in this association. The Hilton Hotel made a presentation to IIAM this year in recognition of 30 years of conventions at the hotel in Destin. Lisa, the family and I have made 28 of them! It's truly a family affair. Our children have many great memories of our summer conventions and made so many friendships that have lasted until this day. Professionally, I have gained valuable connections to markets and sources of information to help me and the agency be successful. By taking advantage of the

educational opportunities offered by IIAM, I was able to increase my agency's efficiency and boost confidence in my abilities as an agent. I am extremely grateful for IIAM and all it represents.

What do you see as some of the biggest issues facing Mississippi's independent agents today?

The biggest issues, in my opinion, are the competition from direct writers and reluctance of many agencies to upgrade or update to current trends in insurance sales. Two areas we must embrace more effectively are technology in general and e-commerce specifically. The agency of the future cannot operate like the agency of even ten years ago.....not even five years ago! Also, our workforce is aging, and I'm afraid the younger generation is not fully aware of all the opportunities this industry has to offer. As I stated earlier, this business takes time and patience, neither of which the current (got-it-get it-now) generation is particularly fond of. We need to work hard on both of these issues.



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MEET IIAM CHAIRMAN BRIAN BERRY | *(continued)*

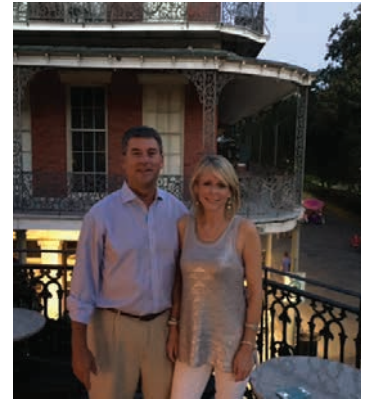
What are some of your goals this year?



My number one goal is to leave this association in as good of shape fiscally as all the chairwomen and chairmen before me. As chairman of this association, I am extremely fortunate and proud that we, our membership, have devoted employees and solid leadership. We

have recently created a task force to explore how we can increase the value of being a member of IIAM and how we can share our successes with every dues paying member agent. I am especially excited about our recent endorsement of DocuSign. We will

be offering a webinar soon that will demonstrate this technology and its potential for saving time as well as energy in getting any document signed electronically. I want to do what I can to give IIAM members the opportunities to eliminate inefficiencies in their offices through education and product information. I also want to promote membership and participation in our young agents program. Every agency should have all of their young agents involved in this branch of our association. I plan on working hard to meet these goals.



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CONVENTION MEMORIES



Thanks to Travelers for sponsoring the Past Presidents Brunch on Sunday.



Lisa and Brian Berry visit with Dawn Gray at the Past Presidents Brunch.



Twenty of our Past Presidents/Chairmen attended the brunch.



Thanks to Safeway Insurance Company and Selective Insurance Company of America for sponsoring the registration refreshments.



Deputy Insurance Commissioner Mark Haire, Scott Lemon, Insurance Commissioner Mike Chaney and Harold Cross visit during the Trade Show.



Ray Robertson stops for a photo at the Stonetrust booth.



Jamie Renton and Alex Beck work the Imperial PFS booth during the Trade Show.



Richard Mattiace, Cecil Vaughan, Shaw Johnson III, Josh Smith and Chairman Scott Gray raise money for IIAM-PAC by hosting a wine raffle.



Thanks to FCCI Insurance Group for sponsoring Kids Nite Out.



JT and Sallie Pendley and Ann Faires Thames enjoy playing a game at Kids Nite Out.



Thanks to Southern Cross Underwriters for again sponsoring our Welcoming Cocktail Party.



Denise Russell, Angelyn and Mickey Zeringue, Jeremy McInnis and Brittany Jones visit before the Welcoming Cocktail Party.



Two generations of IIAM Leadership – Scott and Lew Gray.



Roman and Keri Galey visit with Katie Pruitt and Jon Pointer at the cocktail party.



Thanks to Mike Horlock for greeting registrants at the Monday morning breakfast cart sponsored by Zurich North America.



Thanks to Chubb Insurance, Eastern Alliance Insurance Group, LUBA, MetLife Auto and Home and Safeco Insurance for sponsoring Ice Cream by the Pool.



Scott Duncan and Jeff McLaurin welcome attendees to the Monday night cocktail party sponsored by Progressive Insurance.



Thanks to Travelers for sponsoring the Dinner/Dance and for being so well-represented at convention.



Thanks to Bailey Special Risks for sponsoring the Dinner/Dance Drink Tickets.



Everyone had a great time visiting at this year's Dinner/Dance.



John and Gail Pittman visit with Billy and Betty Taylor at the cocktail party.



Tracy and Jim Rosebery enjoy the band at the Dinner/Dance.



Thanks to Wright Flood for sponsoring the Treasure Chest.



Thanks to Gulfstream Property and Casualty Insurance Company for sponsoring the Tuesday morning breakfast cart.



Thanks to Republic Group for sponsoring our General Session Coffee Breaks.



Miss Kay and the crew from Duck Dynasty make a surprise appearance for Scott Gray at the General Session.



Thanks to Liberty Mutual for sponsoring our General Session Keynote Speaker, Marcus Sheridan.



Chris Mathison presents Amy Coakley with the General Session Grand Prize – a \$500 gift card.



Foster Welburn and Renee Johnson are dressed in theme as MMA Insurance Services sponsors Frozen Drinks by the Pool.



Thanks to Mathison Insurance Partners for sponsoring the Cookout Dinner Cocktails.



Thanks to Central Adjustment Company, Columbia Insurance, Sentry Insurance, Summit Consulting and United Fire Group for sponsoring the Pool Party.



Thanks to AmFed, Safeco Insurance, State Auto Insurance Company, Stonetrust Commercial Insurance Company and Wyatt, Tarrant and Combs, LLP for sponsoring the Cookout Dinner.



Seldon, Michelle and Woods Van Cleve enjoy some family time at the Cookout Dinner.



Thanks to Amerisafe for sponsoring the Pool Party Band.



Dori, Dora, Ford and Cecil Vaughan visit with Wendy and Jose Silvestrini at the Cookout Dinner.



Wanda and Sonny Magers, Jimmy and Lou Erwin and Lee and Abbey Turner enjoy the Cookout Dinner.



Thanks to Foremost Insurance Group for sponsoring the Coffee Station before the Jazz Brunch.



The Hilton made a special presentation in honor of IIAM's 30th convention at the Sandestin Hilton.



IIABA President and CEO, Bob Rusbuldt, inducts IIAM's new officers at the Jazz Brunch.



Chairman Scott Gray presents Walker and Maddox Mims with their sandcastle award.



Incoming IIAM Chairman Brian Berry thanks outgoing Chairman Scott Gray for his service to IIAM.



Thanks to FCCI Insurance Group for sponsoring our children's prizes.



Beth Hinkle won the \$500 Williams Sonoma Gift Certificate sponsored by LUBA Workers' Comp.



Jeffrey Carver presents the \$1,000 Quench Your Thirst cash prize sponsored by Berkley Southeast Insurance Group to Tyler Wortham.



After winning BOTH wagons of wine during the IIAM-PAC drawing, Brooke Alleman Bouy gave one wagon back to be re-raffed and Hal Graves was the lucky winner.



Chairman Scott Gray presents the \$1,000 Exhibitors Prize to Morgan Sirmon.



J and Ray Beasley present the Mink Coat to Patricia Huggins.



In a strange turn of events, David Huggins then won the 4-wheeler sponsored by Imperial PFS and Westport Insurance.

BEACH FUN



Thanks to Dixie Specialty Insurance; TPI - Tim Parkman, Inc.; and Berkley Southeast Insurance Group for sponsoring these fun beach events every year.

2015 IIAM CONVENTION SPONSORS

We want to thank the following for their contributions to the 2015 IIAM Convention and their support of our association.

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BEACH ACTIVITIES:

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REFRESHMENTS FOR BEACH ACTIVITIES:

(Monday) *Dixie Specialty Insurance, Inc. and TPI – Tim Parkman, Inc.*
(Tuesday) "Quench your Thirst" Beach Refreshments:
Berkley Southeast Insurance Group

Beach Chairs: (Monday & Tuesday) *TPI – Tim Parkman, Inc.*

Breakfast Cart: (Monday) *Zurich North America*

Breakfast Cart: (Tuesday)
Gulfstream Property and Casualty Insurance Company

Children's Prizes: *FCCI Insurance Group*

Cocktail Reception: *Progressive Insurance*

Coffee Station: *Foremost Insurance*

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Cookout Dinner Cocktails: *Mathison Insurance Partners, Inc.*

Cookout Dinner: *AmFed, Safeco Insurance, State Auto Insurance Company, Stonetrust Commercial Insurance and Wyatt, Tarrant & Combs, LLP*

Dinner/Dance: *Travelers Insurance*

Dinner/Dance Drink Tickets: *Bailey Special Risks, Inc.*

Four Wheeler: *Imperial PFS and Westport Insurance*

Frozen Drinks by the Pool: *MMA Insurance Services*

General Session Coffee Breaks: *Republic Group*

General Session Grand Prize: *Mathison Insurance Partners, Inc.*

Ice Cream by the Pool: *Chubb Insurance, Eastern Alliance Insurance Group, LUBA, and MetLife Auto and Home and Safeco Insurance*

Keynote Speaker: *Liberty Mutual Insurance*

Kids Nite Out: *FCCI Insurance Group*

Lanyards: *Summit Consulting*

Mink Coat: *Beasley General Agency/BGA Finance*

Newsletters: *Main Street America Group*

Past President's Brunch: *Travelers Insurance*

Pool Party: *Central Adjustment Co., Inc., Columbia Insurance, Sentry Insurance, United Fire Group, and Summit Consulting*

Pool Party Band: *Amerisafe, Inc.*

"Quench Your Thirst" Cash Award:
Berkley Southeast Insurance Group

Registration Refreshments: *Safeway Insurance Company and Selective Insurance Company*

Registration Booklets: *CNA Insurance*

Treasure Chest: *Wright Flood*

Welcoming Cocktail Party: *Southern Cross Underwriters*

Williams-Sonoma Gift Certificate: *LUBA*

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Centauri Specialty Insurance Co.

Central Adjustment Co., Inc.

Commercial Sector Insurance Brokers

Eastern Alliance Insurance Group

First Insurance Funding

Gulfstream Property and Casualty
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IIAM Presents Company Awards at Annual Convention

Every year, the Independent Insurance Agents of Mississippi gives two special awards – Company Representative of the Year and Top Partner Award – to recognize outstanding commitment and support from our company partners to Mississippi’s independent insurance agents and our association.

Nominations for these annual awards are accepted from IIAM member agents, and the awards were presented to this year’s recipients at the IIAM Annual Convention and Trade Show in June.

The Company Representative of the Year Award is awarded to an individual employed by a company currently doing business in Mississippi who has done the most in the past year to promote IIAM, foster better company/agent relations, produce new business and/or help agents give their clients superior customer service. The recipient of this year’s Company Representative of the Year Award was Michele Harris of AmFed Companies.

The Top Partner Award was established to recognize a company doing business in Mississippi that has demonstrated during the past year outstanding commitment to, and support of, its independent insurance agent partners and our association. The recipient of this year’s Top Partner Award was Travelers.



IIAM Presents Special Awards at Annual Convention



Chairman Scott Gray makes a presentation to Stephanie Spahn thanking her for 30 years of hard work and dedication to IIAM.



Chairman Scott Gray presents Debbie Shempert with a plaque thanking her for her service as IIAM National Director for six years.



Scott Gray presents Gwen Jolly with a Chairman's Award for her all her work in the association.

IIAM HOLDS YOUNG AGENTS BASEBALL OUTING

IIAM recently held the annual Young Agents Baseball Outing to watch the Governor's Cup Baseball Game between Mississippi State and Ole Miss at Trustmark Park in Pearl. Agents and company representatives gathered at the Holiday Inn Trustmark Park for a pre-game social with hamburgers and hotdogs before heading to the park to watch the game.



IIAM would like to thank the following sponsors for helping make this event a success:

- Accident Fund Insurance Company
- Beasley General Agency, Inc.
- Berkley Southeast Insurance Group
- Dixie Specialty Insurance, Inc.
- Eastern Alliance
- EMC Insurance Companies
- Foremost Insurance Group
- Imperial PFS
- Mathison Insurance Partners, Inc.
- MMA Insurance Services
- Southern Cross Underwriters



ADEQUATE FLOOD COVERAGE ESSENTIAL FOR CLIENTS

Help Them Protect What Matters This Hurricane Season

It's that time of year again — hurricane season. And that means it's important for your clients to be covered for all possible damage.

With attention on the 10th anniversary of one of the most destructive seasons in recent history — Katrina, Rita and Wilma were three of the six most intense Atlantic hurricanes on record — your clients will want to know they're fully covered.

While you're talking to them about their homeowners, wind and hurricane coverage, don't forget to have the flood talk. It might be the most important conversation you have with your clients this year.

Only a flood insurance policy will cover damage when a hurricane's heavy rains or storm surge lead to a flood. And it only takes one storm to turn your client's financial world into a soggy mess.

Flood insurance will help your clients get back on their feet. But only if they have the right coverage to make the necessary repairs and replace their belongings. After any disaster, there are some who find they didn't have enough coverage because they got only what the lender required, not what they truly needed.

Help your clients better understand their flood risk and find the right amount of coverage. Remind them if their home is their principal residence, they must insure the building to at least 80 percent of the home's replacement cost to have their future flood claim adjusted at Replacement Cost Value.

And encourage your clients to purchase contents coverage to make replacing or repairing furniture, appliances and other household items easier. Remember to explain that all contents claims are adjusted at Actual Cash Value, which means they might not get back as much as it cost to buy the item when it was brand new.

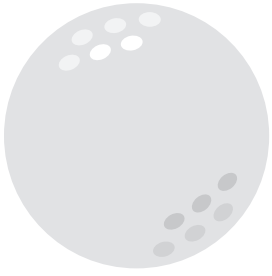
Have the flood talk with all of your clients — that includes your longstanding clients. Someone who declined flood coverage in the past might be ready to rethink that decision. Someone who purchased only building coverage might be ready to add contents coverage. And someone who was fully covered last year might have made changes to the insured property that requires an increase in coverage. You might have increased it for their homeowners policy, but make sure you also update their flood insurance.

If a client still declines flood coverage for the building or contents, or if a client asks to insure the home for less than replacement cost, get a signed waiver form indicating you offered the coverage but the client declined it. This will help reduce your errors and omissions exposure. You can download a declination form at Agents.FloodSmart.gov.

Don't put off having this important conversation with your clients. If you wait until a hurricane is approaching, it will be too late. There typically is a 30-day waiting period before a flood policy goes into effect.

Check out the other tips and resources on Agents.FloodSmart.gov to help you market and sell flood insurance, including the hurricane-related widget, infographic and video testimonials. Watch the "Should You Have the Flood Talk?" video. And if you do not already participate in the free Agent Referral Program, sign up to begin receiving leads.

Having the flood talk is not always easy, but it is always important. Don't let your clients find themselves without the means to put the pieces back together when a hurricane heads their way this year.



2015 Trusted Choice Mississippi Qualifier

By Hal Graves



The 2015 Trusted Choice Mississippi Qualifier was held May 27-28 at the Clarksdale Country Club. We had another great tournament with some fine scores and our first ever hole in one on number 17 by Brandon Carpenter of Coldwater.

The champion for the second year in a row was Philip Heine of Madison with a two day total of 139 or 3 under par. Rounding out the overall winners and qualifiers to the national event were Matt Liddon of Yazoo City with a score of 1 over 143 and C.J. Easley of Oxford with a two day total of 144.

The girls' winner and qualifier was Carlee Nanny of Fulton with a two day score of 156.

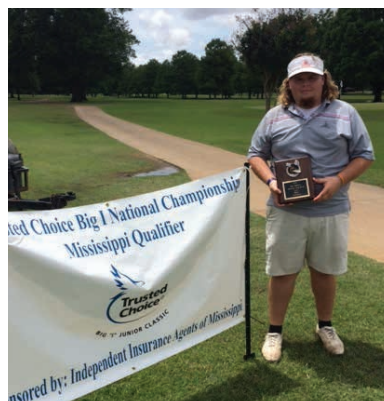
The winners of the Carr Haskins Memorial Long Drive Championship were Noah Hill of Calhoun City and Blair Stockett of Jackson.

Division winners were: Boys A: Philip Heine, Matt Liddon, and Brandon Carpenter; Girls 13-18: Carlee Nanny and Blair

Stockett; Boys Division B: CJ Easley, Cameron Mobley of Brandon and Simms Abney of Madison; Division C: Sam Lee of Gulfport, Trip Rush of Philadelphia and Carson Butler of Clinton; Division D: Wells Williams of West Point, Owen Abney of Madison and Patton Kinkaid of Madison tied for 2nd; Division E: Emerson Blair of West Point, Callie Mobley of Brandon and Malone Richardson of Kosciusko.

At the national championship which was held on August 1-4th at Prairie Dunes Golf Club in Hutchinson, KS, our state was well represented. All three boys made the cut with CJ Easley finishing tied for 34th and Heine and Liddon finishing 51st and T52. Connor Beth Ball of Madison, who earned an exemption, finished in the girls' division tied for 17th.

Thanks go out from our committee for the support of the association to spread the word about Trusted Choice to all these families whose kids participate in this great event.



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NEWS & NOTEWORTHIES

Hedges selected president

Van Hedges, CPCU, CIC, CRM, CLU, ChFC, AAI, was installed as president of the American Association of Insurance Management Consultants at its recent annual conference in Philadelphia.

Hedges is president of Southern Insurance Consulting in Corinth, where he specializes in agency valuations, mergers and acquisitions and expert testimony. He also serves as adjunct professor of insurance at the University of Mississippi. He is a graduate of Ole Miss and earned a Master of Insurance degree from Georgia State University.

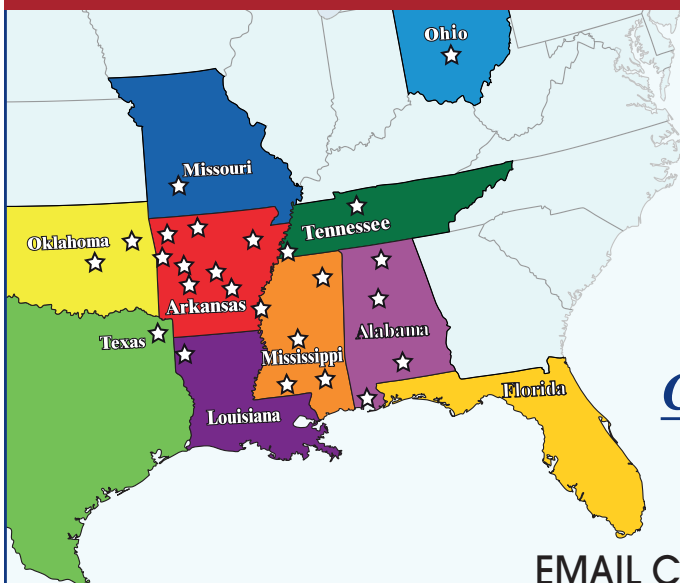
Johnson & Johnson Acquires John Handel & Associates, Inc.

Johnson & Johnson, Inc. (J&J) has acquired John Handel & Associates, Inc. (JHA). Johnson & Johnson is a fourth generation, family owned managing general agency based in Charleston, South Carolina. Founded in 1930, the company recently celebrated its 85th anniversary of providing superior service and products to Independent Agents while maintaining its family culture. Under its new ownership, JHA will continue to offer the same first-class

products and services throughout the state of Florida, and will soon offer access to even more markets and products through Johnson & Johnson. John Handel & Associates was established in 1983 as a full service multi-line E & S brokerage agency serving the State of Florida. The company will continue to serve its agents and insureds in Florida from JHA's office in St. Petersburg, FL and from the current J&J office in Melbourne, FL

"This is the perfect fit for our organization and the entire JHA team is honored to be joining their highly respected and successful organization. Most importantly, we believe that our alignment with Johnson & Johnson will allow us to further strengthen our valued relationships with our agents through enhanced products and service. I am confident that the combined company will create many new opportunities," said Gail Handel, CFO/COO, John Handel & Associates, Inc. "I am very excited about the acquisition of JHA by one of the most respected MGAs in the country. J&J has the same ethics, integrity and values that JHA has developed over the past thirty-two years. This acquisition will provide immediate access to the necessary resources to enhance the growth of JHA and to keep

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- National Flood Insurance Program
- The E-World for Insurance Professionals
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To learn more, and view available courses, go to the Independent Insurance Agents of Mississippi catalog at <http://iiam.aben.tv/>

Consider hosting a large (10+) group viewing event in your office! Group discounts available.

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sally.smith@aben.tv 972-342-4074

customer service standards our number one priority”, said Lorna Wirtz, President, John Handel & Associates, Inc.

“Bringing JHA into the Johnson & Johnson family provides us with a terrific group of employees that will expand our ‘service first’ approach in Florida. With our expanded Florida team, we will be able to offer our partner agents in Florida a wide array of superior insurance products and services,” said Francis Johnson, President, Johnson & Johnson. “With the additional technology and markets offered by Johnson & Johnson, the combined team will be the #1 choice for providing insurance solutions for both Commercial and Personal Lines. In addition, J&J offers a full service premium finance solution,” said Harry Johnson, Chief Operating Officer, Johnson & Johnson.

Columbia Insurance Group Celebrates Change in Ranks

After 17 years with the company, Columbia Insurance Group (Columbia) says goodbye to retiring Jon Erickson as their Senior Vice President and Chief Claims Officer. His retirement comes as Scott Mackey is promoted to Senior Vice President, as

well as the newly-created Chief Underwriting Officer.

“Jon improved our claims department during his tenure, and we learned a great deal from one another along the way,” says Gary Thompson, President/CEO. “We will continue to make great strides and further refine our underwriting practices with the strong leadership of Scott in his important new role.”

Branch Managers in all five of Columbia’s branch offices will now report to Mackey. Additionally, Mackey will continue to oversee both Personal and Farm Lines operations, as he did prior to his promotion.

“Scott adds a unique perspective and energy to the leadership of Columbia, which will undoubtedly bring positive change to our company and contribute to our growth,” says Erickson. “I know the company will continue to flourish, though I will miss it and the wonderful leaders I’ve worked with – including Scott – in my career at Columbia.”

Erickson and Mackey worked closely together prior to Erickson’s retirement.

“I’m honored to call Jon a friend and a colleague, and his guidance will stay with me for years to come,” Mackey says. “The

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There can be no doubt that all our knowledge begins with experience. – Immanuel Kant



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Independent Insurance Agents

of Mississippi

September

- Sept. 15 (a.m.) - Property Damage Exclusions - John Eubank - Hattiesburg
Sept. 15 (p.m.) - Ride Sharing and House Sharing - John Eubank - Hattiesburg
Sept. 16 (a.m.) - Property Damage Exclusions - John Eubank - Flowood
Sept. 16 (p.m.) - Ride Sharing and House Sharing - John Eubank - Flowood
Sept. 17 (a.m.) - Property Damage Exclusions - John Eubank - Oxford
Sept. 17 (p.m.) - Ride Sharing and House Sharing - John Eubank - Oxford

October

- Oct. 6 - E&O Risk Management/Ethics* - Rick Pitts - Oxford
Oct. 7 - E&O Risk Management/Ethics* - Rick Pitts - Flowood
Oct. 8 - E&O Risk Management/Ethics* - Rick Pitts - Flowood
Oct. 9 - E&O Risk Management/Ethics* - Rick Pitts - Hattiesburg

November

- Nov. 10 - ACSR 1: Homeowners Insurance - Jan Dean Wortham - Flowood

**Includes 3 hours of ethics credit This is the current continuing education calendar. Classes may change and new classes may be added. All CE credit is pending insurance department approval.*

View up-to-date calendar and course descriptions and register online at www.msagent.org. Please circulate this information around your office.

Remember, ABEN webcast seminars are available multiple times each week.

To see the complete list of classes or to register, go to iiam.aben.tv.

future is bright for Columbia, and I'm excited and privileged to be part of it in this new role."

Gulfstream P&C Names David N. Block as CFO and Treasurer



Gulfstream Property and Casualty Insurance Company, a regional property carrier providing homeowners, condominium, renters, dwelling fire and flood coverage with operations in five states, has announced the appointment of David N. Block as Chief Financial Officer and Treasurer. Block is a certified public accountant and brings three decades of financial leadership experience in the insurance industry to the company.

"Dave has had an outstanding 30-year career of financial leadership roles in the insurance industry," said Doug Reynolds, President and CEO of Gulfstream. "His expertise in financial planning for multi-billion dollar insurance operations, along with his extensive experience in the property and casualty industry, will be beneficial as Gulfstream continues its expansion into

Gulf and Atlantic coast states. Dave will play a critical role as we take Gulfstream to levels not achieved before."

Block joined Gulfstream after an eight-year stint at QBE Insurance where he provided executive leadership and oversight for financial planning and analysis. Prior to that position, he served at Nationwide Insurance in financial roles for 17 years and worked at the accounting firm of Ernst & Young, where he specialized in property and casualty insurance. In his roles at Nationwide and QBE, Block's national oversight responsibilities included leading the financial planning and analysis functions, supporting growth and profitability initiatives and developing an expense infrastructure to support expense management.

Block earned a Bachelor's of Science in Accounting degree from Indiana University. He holds both the CPCU and CLU designations.

Berkshire Hathaway GUARD Adds Businessowner's Policy in Mississippi

Berkshire Hathaway GUARD Insurance Companies (formerly known as GUARD Insurance Group) has begun offering a Businessowner's Policy and Umbrella coverage in Mississippi. Already an established presence in the state with Workers' Compensation premium that grew 342% over a four-year period, the company is looking to provide a complement to this traditional specialty while continuing to focus on small- to medium-sized accounts.

The insurer's new Businessowner's Policy utilizes the Insurance Services Office (ISO) form but with increased limits, coverage extensions, and various price discounts incorporated. Optional add-ons such as Data Compromise, Miscellaneous Professional Liability, etc. are available. Accounts with a per-location combined building and business personal property value of up to \$8.5 million are typically sought. While a broad range of classifications can be written, special targets include restaurants (full-cooking, limited-cooking, fine dining, and fast food), retail goods and services, professional offices, select artisan contractors, auto services operations, hotels/motels, and certain habitational risks. A Commercial Umbrella with limits from \$1 million to \$4 million can be elected.

Berkshire Hathaway GUARD first began writing other lines five years ago and has since launched a full family of products under the name of BizGUARD in 15 states. Although these new alternatives will be sold through an existing network of contracted independent agents and brokers, producers are encouraged to

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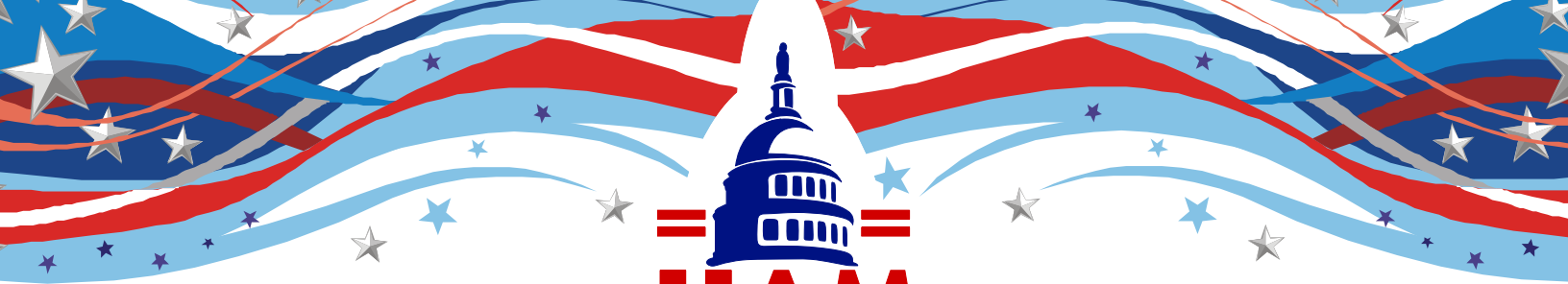
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Golf Outing

**Dancing Rabbit Golf Club ~ Philadelphia, Mississippi
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Golf \$150.00 per person (PAYABLE TO IIA-PAC)

Includes box lunch, green fee, cart, beverages, cocktails and dinner.

Join us at the Golden Moon VIP Room for cocktails at 6:30 p.m. & dinner at 7:00 p.m.

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Golfer(s) Please Give Name and Company
Make sure you indicate who you would like to play with!!!

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Name: _____ Agency/Company: _____

Name: _____ Agency/Company: _____

Name: _____ Agency/Company: _____

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IIAM-PAC can accept corporate and personal checks

IIAM members are encouraged to invite their local senators, representatives or elected officials to play on their teams. In case of rain, the registration fee will become a donation to the IIA-PAC. Deadline to register is Thursday, October 8.

Rooms have been blocked at newly renovated Golden Moon. Call 866-447-3275 for reservations, and use the code GIAM15 for room rates of \$79.00. To ensure room rate and availability, make reservations by Wednesday, September 23, 2015.

contact the company about a possible appointment. According to Vice President of Sales Dave Simmons, “Our goal is to offer one-stop insurance shopping for small- to mid-sized businesses. In 2014, our new lines grew to about \$75 million, which is perhaps the best measure of our market acceptance. This track record demonstrates that we know our audience well and have lots of experience and expertise in working with them.”

In October of 2012, GUARD Insurance Group was acquired by National Indemnity Company, which is a wholly owned subsidiary of Warren Buffett’s Berkshire Hathaway – an international holding company with diverse interests that include insurance and reinsurance. In 2013, GUARD unveiled a new identity as Berkshire Hathaway GUARD Insurance Companies. Each of the organization’s insurance companies in Mississippi (AmGUARD, EastGUARD, and NorGUARD) are rated A+ (“Superior”) by A.M. Best – a leading source of independent rating information on the insurance industry.

In 2014, Berkshire Hathaway GUARD wrote gross written

premium of about \$635 million and issued 100,000 policies. Agents interested in learning more can contact the company online at www.guard.com/apply.

Mathison Announces Staffing Changes

Mathison Insurance Partners, Inc., is pleased to announce that they have added a new employee, Mr. Joe Ulmer, CPCU. Joe will serve as Vice President of the Corporation and will be overseeing their agribusiness and commercial property and inland marine areas. Joe brings both personal lines and commercial lines experience to the agency. Joe is eager to serve the outstanding Agency Partners of Mathison Insurance.

Mathison is also announcing that Haden Hughes, CPCU, retired on June 30, 2015. Haden has served the insurance industry in Mississippi for forty-two years and was a founding partner in Mathison Insurance Partners, Inc. Mathison would like to thank Haden for all that he has done for Mathison Insurance and wish him well in retirement.

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ISO Files Most Important Homeowners Change in 40 Years

Author: Bill Wilson, CPCU, ARM Assoc. VP, Education & Research

ABSTRACT

In 2001, we learned of a potentially catastrophic coverage gap in most homeowners policies. For the past 14 years, we have written about this and discussed it in seminars and webinars across the country. For the past 10 years, we have worked with ISO through our national Technical Affairs Committee and the Mid-America Insurance Conference in negotiating a resolution to this problem that all affected parties can live with. This effort has culminated in the recently filed ISO changes addressed in this article.

BACKGROUND

Fourteen years ago, in the March 16, 2001 edition of our Virtual University VUpoint newsletter (Vol.2, No.6), we published what I believe was our first article on what would later become known as the “Where You Reside” homeowners insurance issue. That article was followed by several more related articles emphasizing the importance of a potentially catastrophic coverage gap in most homeowners policies we reviewed. In order to bring the issue to focus, in October 2009 we combined all of the articles into a white paper and presented a countrywide webinar on December 3, 2009. Both the white paper and webinar are linked from the “Where You Reside” page in the “Featured Resources” area of the VU.

In the meantime, in 2005, our national Technical Affairs Committee presented this issue to ISO in our annual meeting with them. For 10 years, we pursued a remedy for ISO HO forms in this forum and at the Mid-America Insurance Conference via a series of points and counterpoints until, in November 2014, we were able to reach a negotiated agreement on changes to ISO’s Homeowners program that we all could live with. Neither viewpoint “won” but we believe the resolution is workable and a starting point for further evolution and tempering of this homeowners issue.

The countrywide ISO filings effecting this change have been made with an effective date in most states of October 1, 2015. The

forms changes include a new mandatory endorsement, an optional broadening endorsement, and a nonfiled notice/questionnaire form. The purpose of this article is to provide an overview of the issue and the purpose of the ISO filings. We will also identify several caveats and preview several initiatives we plan to undertake this year.

THE PROBLEM

Consider the following scenarios:

A homeowner is confined to a nursing home and then learns she will never be able to return home. Her home is fully furnished and full of her personal property, but she no longer lives there and will not be able to return. According to one interpretation by a number of adjusters and courts, at the instant she learns that she will not be able to return to her home, her residency ends and so does the coverage on her dwelling. If it is destroyed overnight by a covered peril, she has no coverage for the damage to her home, the largest asset she owns and one she would probably need to sell in order to afford the costs of long term nursing home care.

You sell your existing home and buy or build another home. Your new home is ready and the purchasers of your old home have qualified for a loan that will be closed in 5 days. In the meantime, you move to your new residence which you have insured on a new HO policy and you allow the purchasers to begin painting, replacing carpeting, etc. in your old home. Your existing HO policy remains in force on your old house until the closing. Unfortunately, a tornado strikes the day before the closing and the adjuster denies the claim because you no longer reside in the home.

You purchase a “fixer-upper” and place homeowners coverage effective on the date of closing. You plan to move into the home in 28 days after your contractor son completes some renovations (hardwood floors, new kitchen countertops and appliances, bathroom remodeling, etc.). Three days after the closing, a fire

breaks out overnight causing \$186,000 in damage to the dwelling. When the adjuster learns that you have not yet moved into the home, he denies the claim based on a lack of residency, citing three court cases in your state upholding such claim denials.

These are not hypothetical situations. In our original white paper on this issue, we identify over a dozen scenarios where residency may end during the policy term. We also cite a similar number of court cases that have considered this coverage scenario. Some courts overruled the claim denials, but a slight majority of decisions that we have identified have agreed with the interpretation that the end of residency ends the coverage on the dwelling. In addition, based on real-life claims submitted through the VU “Ask an Expert” service or directly by member agents, we are aware of at least a dozen claim denials:

- Total loss while insured was in a nursing home (KY)
- \$100,000+ condo rental claim (FL)
- 5-figure loss while home was being remodeled (AZ)
- \$186,000 renovation claim (GA)
- \$150,000 ten-month house rental (FL)
- \$135,000 four-year house rental (FL)
- \$123,000 two-year house rental (FL)
- \$300,000 “nonclaim” with daughter occupancy (NY)
- \$229,000 total loss with niece occupancy (MN)
- Small fire loss (NC)
- Fire loss with daughter’s temporary occupancy (PA)
- Fire loss while house was undergoing renovation (RI)

Using the ISO HO-3 policy as a model form, this is the language being cited in the claim denials we’ve heard about and most of those in the court cases we’ve reviewed:

HO Insuring Agreement:

“We cover...The dwelling on the ‘residence premises’ shown in the Declarations....”

HO Definitions:

“Residence premises’ means...The one family dwelling where ‘you’ reside....”

The basis for these denials is that, according to the policy definition of “residence premises,” if “you” (named insured or resident spouse) don’t reside in the dwelling at the time of loss, the dwelling is not a “residence premises” and, if it’s not a “residence premises,” then the insurer does not cover, under the insuring agreement, the dwelling because it’s not on the “residence premises.”

The “where you reside” language was not in ISO’s 1976 HO policies, nor was its addition in the 1984 edition mentioned in that filing. The language has been in subsequent ISO HO forms in 1991, 2000, and

2011. Our research also indicates that this language is common in most non-ISO HO forms in the marketplace, though not all policies.

For the record, OUR interpretation does not agree with that of a number of adjusters and courts. Numerous courts have held that, to be enforceable, an “exclusion” must be “clear and conspicuous.” We believe that coverage for the primary asset owned by a family should not hinge on three words in a definition referenced from an insuring agreement. There is nothing “clear and conspicuous” about this language that would lead an insured to believe that an interruption of residency would suspend coverage on the dwelling. From the standpoint of public policy, it makes little sense that, if the insured is operating a meth lab and blows up his home, there is coverage under his HO policy, while there is no coverage for a tornado destroying her home the Friday evening an 80-year-old homeowner learns that she will be confined to a nursing home henceforth.

Courts that have found FOR coverage have generally interpreted the “where you reside” language to be “words of description,” not a warranty of occupancy or a condition for coverage. Additional rationales for our continued position on this are outlined in our original white paper. And, for what it’s worth, in a past Property Loss Research Bureau publication, PLRB also took the position that this language does not preclude coverage for damage to a dwelling.

IIABA/ISO NEGOTIATIONS

The Big “I” national Technical Affairs Committee meets annually with ISO to discuss changes in, or additions to, ISO policy form portfolios that we believe are beneficial to consumers and businesses. Our agendas are typically 150-200 pages. Some of our recommended changes are accepted fairly quickly by ISO, others are declined, and many others are discussed over a period of years before being accepted by ISO or dropped by our committee. In the case of the “where you reside” issue, we considered a number of options over a ten-year period before we reached a compromise with ISO for changes in their HO forms.

The preference of our committee would be the complete elimination of the “where you reside” language, but that was not a resolution ISO could accept. So, unlike Congress, we compromised on a mandatory conditional “grace period” endorsement and an optional endorsement that does eliminate the “where you reside” language. While, from our perspective, this is not a perfect nor ideal solution, it is one that is workable if certain caveats are followed by all parties, as discussed later in this article. In the meantime, let’s examine the changes being made in two new ISO filings – forms and rules – that have a proposed effective date in most states of October 1, 2015, along with a nonfiled notice/questionnaire form.



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ISO FILINGS

ISO has made two countrywide filings:

Forms Filing HO-2015-ORPFR

Homeowners Residence Premises Definition Revised;
Optional Endorsements Introduced

Rules Filing HO-2015-RRPRU

Homeowners Manual Rules Revised

Forms Filing HO-2015-ORPFR

The forms filing includes the following new endorsements:

HO 06 48 10 15 – Residence Premises Definition Endorsement

HO 06 49 10 15 – Broadened Residence Premises
Definition Endorsement

HO 17 47 10 15 – Broadened Residence Premises
Definition Endorsement – Unit-Owners

HO 17 48 10 15 – Residence Premises Definition
Endorsement – Unit-Owners

MH 04 26 10 15– Residence Premises Definition
Endorsement – Mobilehome

MH 04 27 10 15 – Broadened Residence Premises
Definition Endorsement – Mobilehome

The three “Residence Premises Definition Endorsements” are mandatory forms...the HO 17 48 is used with the HO 00 06 condo form while the HO 06 48 is used with all other HO forms. The three “Broadened” endorsements are optional forms... the HO 17 47 is used with the HO 00 06 condo form while the HO 06 49 is used with all other HO forms. There are two complementary Mobilehome program endorsements. You can review the endorsements by clicking on the links above.

MANDATORY ENDORSEMENTS

Using an excerpt from the above forms, the mandatory endorsements redefine “residence premises” to mean the “dwelling where you reside...on the inception date of the policy period shown in the Declarations and which is shown as the ‘residence premises’ in the Declarations.” The highlighted language is new and is explained by ISO in the filing as follows [emphasis added]:

These endorsements introduce revised language to more explicitly describe that the residency requirement, when determining coverage applicability, will be satisfied as long as the insured resides at the residence premises on the inception date of the policy period. Currently, depending on insurer claims practices, a policyholder may or may not have coverage when they cease to reside at the residence premises mid-term or at renewal. These revisions will provide coverage through the end of the policy period despite mid-

term changes in residency while allowing an insurer the opportunity to confirm residency as part of the renewal underwriting process.

In other words, if the insured resides in the dwelling at the inception of the (new or renewal) policy period, coverage remains in force even if the insured should discontinue residency later in the policy period. This “grace” period lasts throughout the policy term but should be reaffirmed by the carrier on each renewal.

OPTIONAL ENDORSEMENTS

The optional endorsements completely remove the “where you reside” language from the “residence premises” definition for a specified period of time in indicated on the endorsement. As we read these new endorsements, they can be used in two ways.

First, the inception and termination dates on the endorsement can be identical to the policy’s inception and termination dates. This is the solution IIABA sought from the beginning. Our position has always been that residency is an eligibility issue, not a coverage issue, and should be dealt with as an underwriting consideration, as it was in the pre-1984 HO forms.

Second, these endorsements can be used to temporarily remove the “where you reside” language during a specified portion of the entire policy term. The best example of this use is when a policy is first issued on a newly built or purchased home. Residency in the home may not take place for several days or a week or more following the closing of a loan. Or, as presented as a scenario at the beginning of this article, the homeowner may wish to spend a month or longer renovating the home...this endorsement could serve to clarify that there is no residency until the renovations are complete.

RULES FILING HO-2015-ORPFR

The rules filing primarily addresses the use of the Broadened endorsements on a “temporary” nonresidency basis, though there’s nothing that appears to preclude that period encompassing the entire policy period if the carrier’s eligibility and underwriting guidelines permit. This filing indicates that the Broadened endorsements, under ISO rules, are premium bearing so that the Base Premium can be increased, for example, by up to 12% (2% per month) for a six-month nonresidency period.

NONFILED NOTICE/QUESTIONNAIRE FORM

ISO has also developed the following nonfiled form:

HO N 009 10 15 – Residence Premises Questionnaire

This form can be used by carriers on new and renewal business to provide notice to insureds of the importance of residency and, based on

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the insured's responses, identify whether the Broadened endorsement is appropriate. We suspect that carriers might prefer a "stronger" notice of the importance of residency and notification of the insurer when residency is discontinued. We plan to work with ACORD in the coming months to draft an ACORD notice/questionnaire form and to determine what changes might be indicated in other ACORD forms such as the ACORD 80 Homeowner Application.

CAVEATS

As indicated earlier, this resolution is not perfect or exactly what we believe is in the best interest of consumers, agents, and the industry at large. However, it is a reasonable compromise that we believe can serve as a starting point for a more complete market-based solution in the coming year. Still, there are caveats to this change that must be acknowledged.

First, even with a mandatory endorsement, there is still a potential for a coverage gap at policy inception for carriers who interpret the "where you reside" language to be a residency requirement for coverage. For example, on new business it is customary to provide a policy (or, more likely, a binder) effective on the date of the loan closing. However, as is often the case, the insured may not move into the home and begin residency on the date of closing. As a result, for carriers with a restrictive interpretation of "where you reside," a Broadened endorsement should likely be used at policy inception and the insured made to understand the importance of revising the termination date on the form if move-in takes longer than expected.

Second, since renewals are usually processed a month or two in advance, even with a notice form, it's possible that an insured might unexpectedly discontinue residency (e.g., medical conditions, unanticipated work relocation, military deployment, etc.) between completing the renewal paperwork and renewal policy inception. Again, it is critical when placing or renewing insureds with carriers that hold to a restrictive interpretation of "where you reside" that the insured fully understand the importance of providing notice of nonresidency. In such instances, then Broadened endorsement may be used until (if necessary), the account needs to move from a Homeowners to a Dwelling Fire policy.

Third, when we originally presented this issue to ISO for consideration, one of the points we made with regard to our belief that this is an eligibility, not a coverage, issue is that ISO's own eligibility rules permit the use of an HO policy on a home under construction. Obviously, no one can reside in a home under construction, so our argument is that a literal reading of the "where you reside" language couldn't preclude coverage because every unoccupied home under construction would

have illusory coverage, something courts have uniformly found to be prohibitive. But, for insurers who hold the restrictive interpretation of "where you reside," the Broadened endorsement should be attached at inception for the duration of construction.

NEXT STEPS

In the months prior to October 1, we will be approaching ACORD about the need to amend any existing ACORD forms and develop an industry-standard residency "notice" form.

We will be issuing a news release on this change in the near future and making contact with various industry and consumer media. We recommend that agents do the same in their local communities and communicate this change to their customers.

We plan to initiate a dialog with independent agency carriers about adopting the Broadened language that eliminates the "where you reside" language. We continue to believe that the restrictive interpretation of this language is detrimental to consumers and to the image of the insurance industry, and we believe that residency has always been, and should continue to be, an eligibility and underwriting consideration for new and renewal business, not an unclear and inconspicuous "exclusion."

HOW TO LEARN MORE...

If this issue is new to you, you can download our original white paper and review our original webinar on the "Where You Reside" page in the "Featured Resources" area of the VU.

How can you stay abreast of emerging issues and announcement regard this change? Subscribe to our free, biweekly Virtual University newsletter, The VUpoint. This award-winning newsletter is the primary communications vehicle we use to bring emerging, relevant, and urgent insurance coverage issues and developments to your attention. Each issue usually features a personal lines coverage article, a commercial lines coverage article, and a rotating third article on agency management, sales, customer service, or technology. You do not have to be a member agency to subscribe...many of our 10,000 subscribers in 70 countries are company underwriters, adjusters, regulators, risk managers, and defense attorneys.

Bill Wilson, CPCU, ARM is the Associate VP of Education & Research for the Independent Insurance Agents & Brokers of America and their director of their Virtual University.

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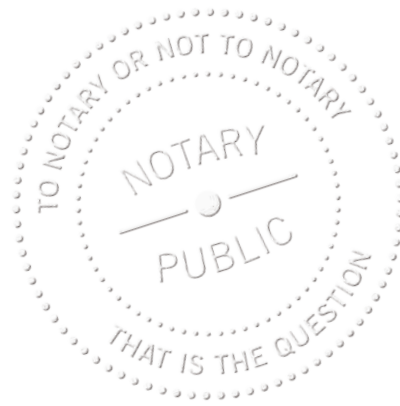
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To Notary or not to Notary, That is the Question....

(Again with apologies to William Shakespeare)

*By Richard F. Lund, J.D., Vice President, Senior Underwriter, Swiss Re**

In William Shakespeare’s “Hamlet”, the title character famously ponders, “To Be, or not To Be, that is the question”. He reflects on the unfairness of life, yet knows that it is better than the alternative. Such is the notary’s dilemma. In most instances, a person who takes on the noble mantle of ‘Notary Public’ chooses it for himself knowing that the best way to avoid a ‘sea of troubles’ is *not* to become one. Still, they choose to do so in order to provide a valuable service to society – and their customers.

But with that service, as with most things of value, comes risk. And the primary risk is the possibility of not doing the job correctly, which could ultimately lead to some error that may be of great cost.

So what is a “notary”? In ancient times a notary was simply a scribe who wrote in shorthand. Over the course of time, notaries became able to draft legal documents and other written instruments. To commemorate their work, they used wax seals and ribbons to show that the document had a semiofficial status. Eventually, governments saw the need to regulate their actions and to give notaries the purpose that is bestowed upon them to this day: to act as “a person of proven integrity by the state to act as an impartial witness” (National Notary Association Home Study Course). By being in such position, the notary is most commonly called upon to acknowledge that a signature placed on a legal document was, in fact, put there by the person to whom it is ascribed, and that the person signed the document in their presence. The notary does not pass judgment on the legality of the document or guarantee its truth, only that the named signatory did so in their presence.

While being a notary public may seem relatively innocuous, an error committed while exercising ones duties can be quite significant, both monetarily and emotionally. That is why the Swiss Re Corporate Solutions Insurance Agents Professional Liability (E&O) insurance policy provides coverage for several ancillary acts that an insurance agent or agency staff may undertake, *including* that of a notary public under the “Other Related Services” section of the policy. (Coverage is also provided for teaching a formal insurance course, testimony as an expert witness, advertising, or services as a claims adjuster.

Please see the policy itself for details or contact your state E&O administrator.)

For a proper notarization to occur, it must include the following:

1. The signature of the individual
2. A notarial certificate stating the document was signed before the notary
3. The signature of the notary as commissioned
4. The notary's seal or stamp

While these steps seem simple enough, the claims that occur can be complex because of the parties that may be involved.

The most common error associated with being a notary public is notarizing the signature of a person who later claims they did not appear in front of the notary and, in any event, the signature is not theirs.

This will most likely occur when the document is a bond or some other financial guarantee that is later called into question. While it is not a claim that happens with great frequency, the severity can be quite sizable -- especially when a bond is at stake. In most such cases the bond involves some type of construction project in which there is some defect causing the entire amount of the bond to come due.

Difficulty arises when the signature on the bond application is called into question. A claim in this situation is not unheard of to be in the value of 6 or even 7 figures. That's right, millions of dollars over something as simple as a signature.

Another common scenario involves real estate transactions. Sometimes the property in question is sold outright, while in other cases there is a partial grant of ownership, e.g., selling mineral rights. Did both husband *and* wife sign the deed? All of the siblings with an ownership interest? Every owner of the business? Gathering all of the busy parties to these transactions in one place just to scribble a quick signature can be a challenge. 'Is it *really* necessary that [the notary] watch *everyone* sign in person? I can vouch for the signature of my wife/brother/partner...'

Faced with significant pressure from all concerned to cut a small corner or two, what must one do to avoid being put in the position of having a claim made against them while acting as a notary?

Simple! Begin by following the guidelines set out by the American Society of Notaries, National Notary Association, and your state government. As a general rule notaries are commissioned by the state government (most commonly by the

Secretary of State), but also by state licensing boards, or possibly even the governor. In virtually every state, in order to be a notary the person must be at least 18 years of age, be a resident or have a place of employment in the state, read and write the English language, complete a notary training course, not been convicted of a felony or a crime involving fraud, dishonesty or deceit, and pass a state exam. A background check by state law enforcement may also be conducted.

After the minimum steps are completed, each state is different as to its requirements for term of office, continuing education, having a notary bond, notary record book or journal, seal, and other requirements. Each state also prescribes what authority the notary may have including taking acknowledgements and proofs, administration of oaths and affirmations, certifying copies, and performing any other acts permitted by law. An excellent resource that provides information about each state's requirements can be found on the American Society of Notaries State Information page: <http://www.asnnotary.org/?form=stateinfo>. The National Notary Association also introduced "The Notary Public Code of Professional Responsibility" in 1998, which provides a detailed code of ethical and professional conduct for notaries public. A copy of the code and additional information about it can be found on their website: <http://www.nationalnotary.org/knowledge-center/reference-library/notarypublic-code-of-professional-responsibility>.

Having gone through all the proper steps to become a notary, what else should you do to protect yourself from the 'slings and arrows' of an E&O claim? The following tips may not be required by individual state law, but they are essential to being able to defend a notary claim:

JOURNAL OR RECORD BOOK: As with any E&O claim, proper documentation is the first line of defense. Your journal/record book should be permanently bound with numbered pages. The book should include the month, day and year of every notary activity; the type of activity, such as an acknowledgement or jurat; the type of document being notarized; the printed name and address of the person whose signature is being notarized; the identification used by the signer, such as a driver's license or passport; the signature; the notary's countersignature; a witness' printed name and signature; and any fee associated with the notary. These journals are available from local office supply stores and from the two associations mentioned previously.

PROTECT YOUR SEAL: Most states require the use of either an engraved embosser seal or an inked rubber stamp seal on

every notary certificate to serve as verification of your witnessing a transaction. The seal usually must include the notary's name as given on their commission certificate, their commission number, and phrases including, but not limited to, "Notary Seal" or "Notary Public", and the state issuing the notary commission. The seal is available from the same places as the journal. Given its importance, your seal must be protected from loss, theft or 'borrowing'. There are unscrupulous people who would readily take advantage of someone who is cavalier about protecting this piece of equipment and would not hesitate using it for their own suspect purposes. Locking it in a safe or other secure location is important to protect yourself from the 'less-than-honorable-persons' who may put your seal to improper use. If your seal is lost or stolen, you should immediately contact the entity that awarded you a commission so proper steps can be taken to protect you and any others who may become a victim of an unauthorized act.

STAND FIRM ON THE RULES. Yes, it can be problematic to have all parties sign a document in person with proper identification. That does not make it *your* problem. The drafter of

the document can often make provision to have the parties sign different copies at different times/locations. If she chose not to do so? Cut no corners. Never agree to notarize a signature unless all of the rules regarding personal presence, ID, etc., are followed *to the letter*.

Remember that the designation of 'notary public' is an official position that is appointed by the state for good reason. While it may be ministerial in nature, not regulatory or judicial, it is an important role nonetheless. The person who acts as a notary is a true professional, recognized by the state as being a person of integrity and impartiality. When that status is called into question, the challenge will become more personal because it calls into question that you value most as a professional: your integrity.

The simple steps outlined above can help ensure that you *do* maintain your integrity and *don't* become an E&O claim statistic. If you have chosen "To Be", you should "Be" the best you can.

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