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VOLUME 39 • NUMBER 3 SUMMER 2019

2019-20
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Josh Smith

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MEET IIAM CHAIRMAN
Josh Smith

Tell us a little about yourself.

I was born into the insurance industry in 1976 in Brookhaven, MS. My father, Mike Smith, was the principal of the local independent agency, Smith Insurance, so I didn't really have a say in the matter. I enjoyed my childhood being raised in Brookhaven with my three siblings and graduated Brookhaven Academy in 1994. I enrolled at the University of Mississippi as an RMI major and graduated under the direction of Larry Cox in 1998. In 2001 I did one the best-selling jobs of my life and married Sloane Newton from Augusta, GA. Sloane and I met at Ole Miss and had been dating for six years as I moved all around the Southeast with my insurance career. After working for several insurance carriers and brokers, Sloane and I moved back home to Brookhaven to work in the family business. I started my career at Smith Insurance, now referred to as Insurance & Risk Managers, in 2005 as a commercial lines producer. I now serve as the President of IRM and make Brookhaven my home with my wife and three children; Sara Rodgers (15), Hampton (10) and Emmie (7). I'm thrilled to be back home serving my community. I have held positions as President of Brookhaven Academy, President of Brookhaven Kiwanis, Vestry Member at Church of the Redeemer, Board Member of the Chamber of Commerce and the Chairman of the "Tucker Tournament" benefiting the Folds of Honor Foundation.

What was your path in the insurance industry to where you are today?

Taking some good advice from my father, I was fortunate enough to gain employment with Chubb Insurance as a Property & Casualty underwriter after graduating Ole Miss. I started my career in the Chubb Atlanta, GA office and worked my way up to Charlotte, NC handling agencies in both North and South Carolina. My next promotion brought me back home to MS becoming the marketing manager for Chubb reporting into the regional office in Birmingham, AL. My old boss at Chubb Charlotte convinced me to leave my marketing position at Chubb and come to work for him at Fireman's Fund Insurance in

continued on page 11...

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New Directors Elected at 2019 Convention

Matt Lewis
Liberty

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Cleveland

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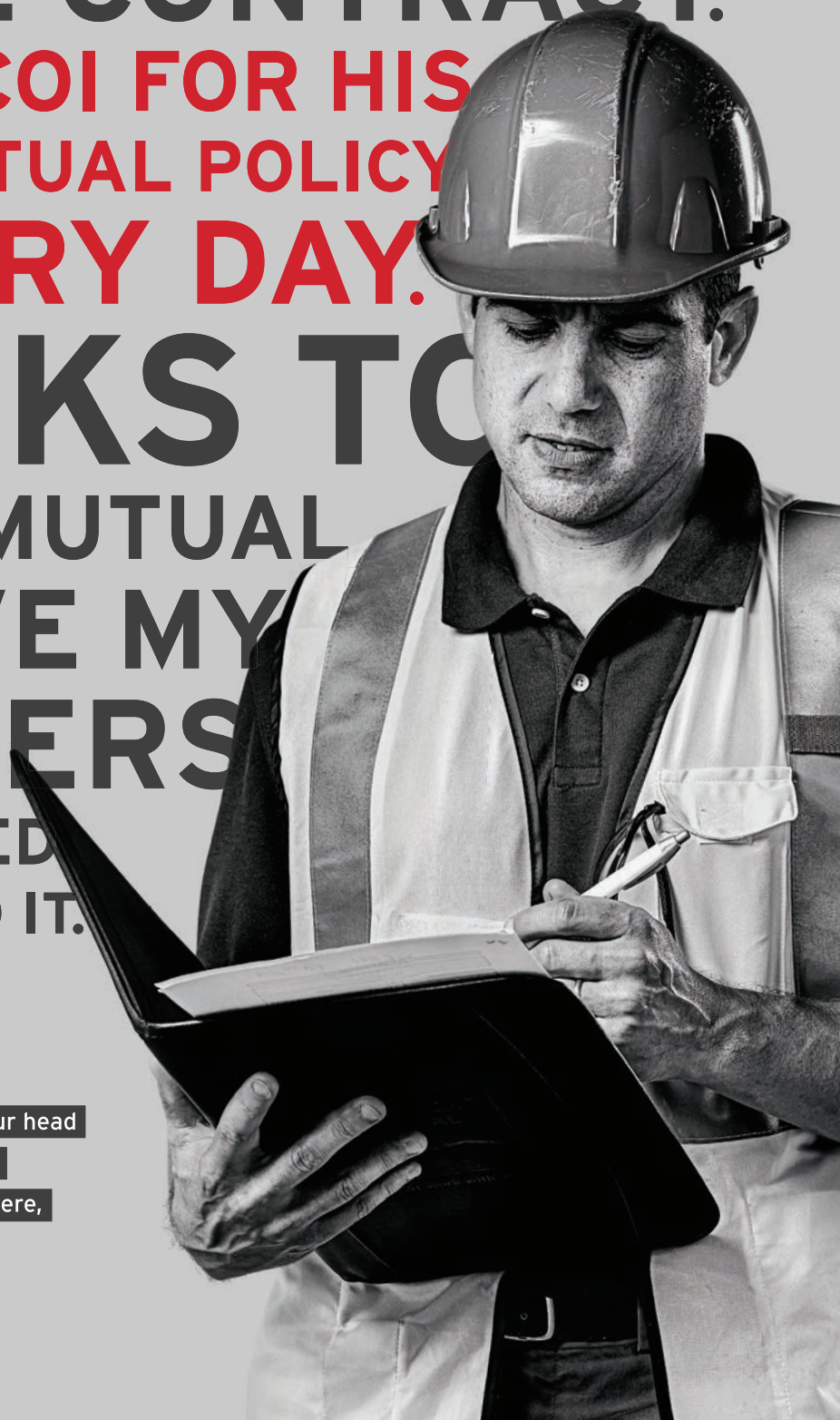

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FROM THE COMMISSIONER

by Mike Chaney
INSURANCE COMMISSIONER

Atlantic Hurricane Season began on June 1 and I continue to pray that we don't see any major storms or damage. I've also been reflecting on how far our state, and especially the Mississippi Gulf Coast, have come in recent years through thoughtful preparation.

Stronger building codes keep our coast solid – resulting in more economic development, jobs, and growth. Higher building standards and innovative ideas mean reduced insurance rates and statewide building codes are supported by the Homebuilders Association of Mississippi, Fire Chiefs Association, and many others.

At last check, there were 19,330 policies in force under the wind pool – which is a downturn from over 40,000 policies. It's likely this trend will continue unless we experience a storm or serious threat of a storm. Additionally, there are about 63,000 flood policies in force in Mississippi. The National Flood Insurance Program has been extended through June 14, 2019.

Flooding has, of course, been an issue throughout much of the state this year. In May, two of our Liquefied Compressed-Gas Division Inspectors with the State Fire Marshal's Office were able to help safely recover floating LC-Gas tanks that were affected by recent flooding at Eagle Lake, north of Vicksburg on the Mississippi River. I commend these two Inspectors for their efforts and courage in completing this task

So far in 2019 there have been 32 fire deaths reported statewide. In at least 21 of those cases, there were no working smoke alarms. As State Fire Marshal, I want to make sure that life and property are protected.

To achieve that goal, my office is distributing 23,526 smoke alarms to city and county fire departments throughout the state. Distribution began on Wednesday, May 15, 2019 when several departments picked up their alarms in Jackson. We'll be hand delivering more smoke alarms in the coming weeks and there are still more smoke alarms available if a department wants to request some.

It was my honor to name Terry Wages as the Executive Director of the Mississippi Fire Academy in June. He is a native of Tupelo, and lives in Terry Mississippi with his wife Laura. Wages recently retired from the position of Fire Chief for the City of Brandon. Wages has over 1000 hours of technical and fire rescue training, in addition to extensive EMS and ambulance management training.

I am often asked what are the top issues my office is handling? Long-term care plans stay on the forefront. As do issues related to the poultry industry and workers comp for loggers – two of the state's top industries.

If there is an issue affecting you and your business, please contact my office. As always, if I can help you in any way, I'm happy to do so.

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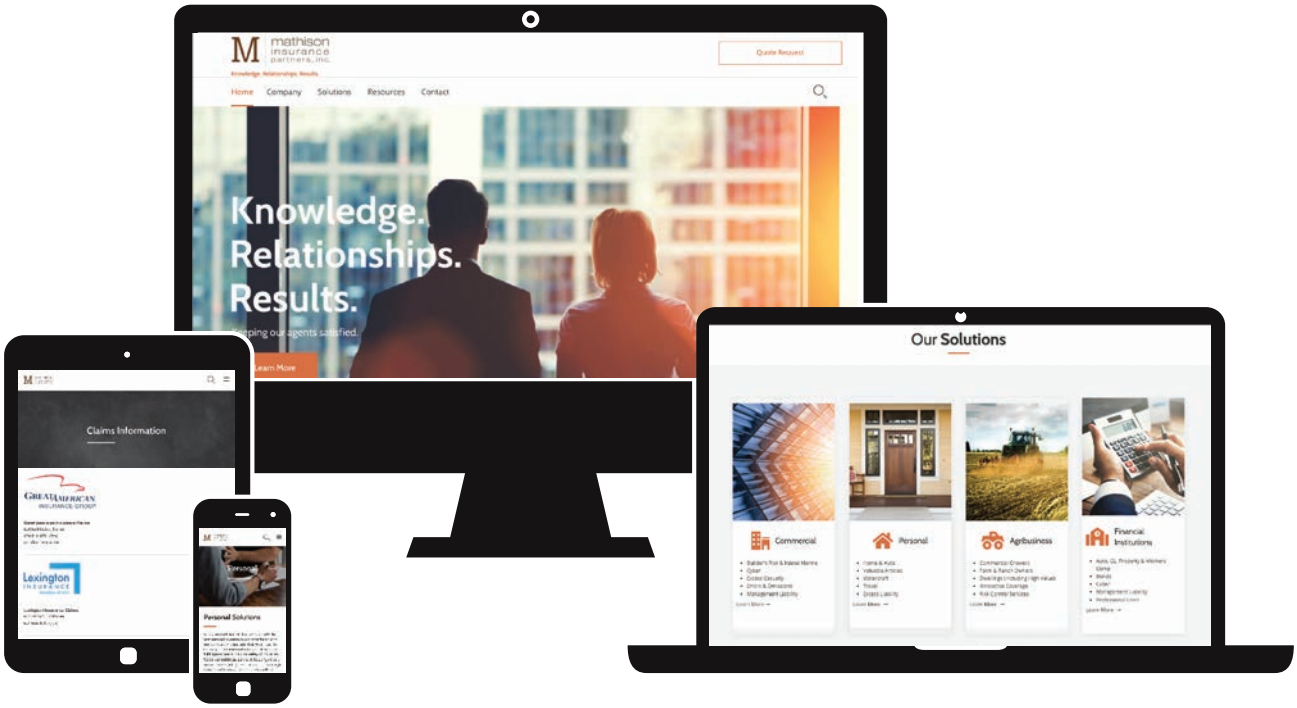

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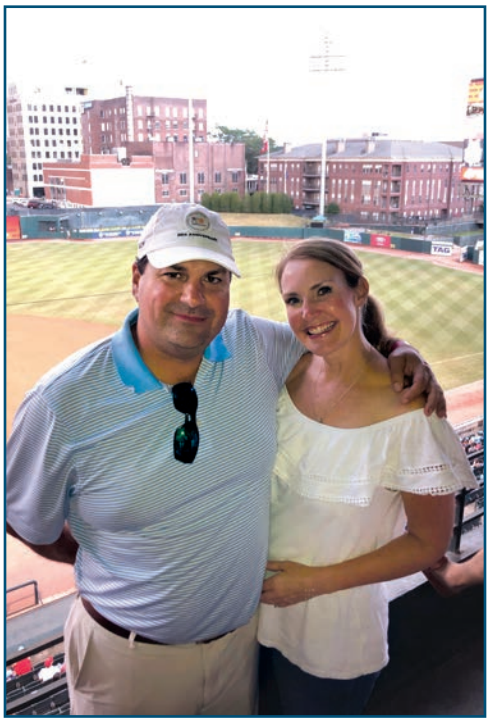
Memphis, TN. Fireman's Fund then asked me to take over GA and FL for my new marketing territory, so my wife and I found a new home on St. Simons Island. After a few years of living the good life at the beach, I knew I needed to work on the agency side of the industry. So I took a job at McGriff, Seibels and Williams in Birmingham, AL as a commercial marketing manager. McGriff sold to BB&T Bank a few years later and the writing was on the wall for Sloane and I to move back to Brookhaven to raise our family.



What do you find most fulfilling about being an independent insurance agent?

I love the fact that I get to help people when they are in need. I joke that when my phone rings it's always a problem, but that's what insurance agents are at the end of the day: problem solvers. I ask that people entrust me with some of their most valuable possessions and I take that responsibility seriously and work tirelessly to make them whole when a loss occurs. I also love the people and relationships I have built over the years in this industry. Its one of the best industries and association to be a part of and I thank everyone for allowing me to serve as your IIAM Chairman this year!

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Lightening Round:

1. **One thing you can't live without.** – I know it's a standard answer for most men but I have to say my wife. I'm pulled in a lot of directions as a principal of a small family owned agency. She's the CEO of the Smith family and I come home every night to a well-oiled machine. I couldn't do it without her and I'm lucky I have a partner in crime trying to raise three children.

2. **Favorite IIAM memory.** - There have been several over the years. I started my IIAM career as Young Agents Chairman and served under my good friend Shaw Johnson. I will not get into the details but my first trip to DC with Shaw and the IIAM delegation as the Young Agent Chairman was a blast and we still talk about it.

3. **Advice you would give to your 22 year old self.** – New business cures a lot of problems in our business. The insurance market and your clients are always in flux and it's important to focus on writing new business and staying competitive in the market. If you aren't moving forward in today's business environment you will get passed by so I try to keep a progressive attitude.

CONVENTION MEMORIES

PAST PRESIDENTS' BRUNCH

House Rep. Kevin Ford with wife Julie

Past President Ray Collins with Past President Shaw Johnson III

Past President Scott Palmer with Lain Brown

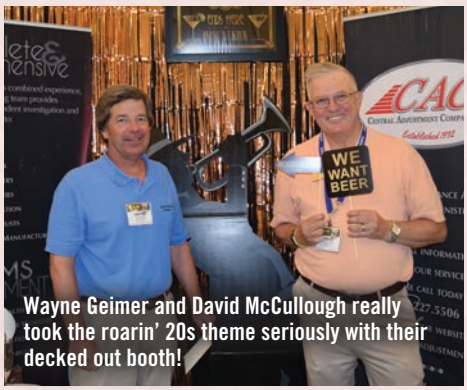
Amy Smith with Carrie Cheshier

A total of 13 Past Presidents were honored at this year's brunch.

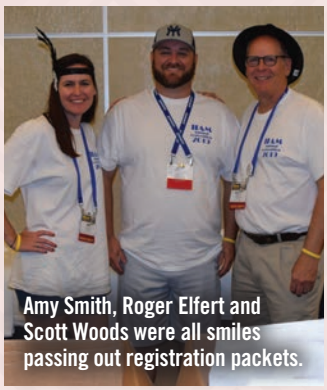
Thank you to Travelers for sponsoring this event.

REGISTRATION/TRADE SHOW

Thank you to Safeway Insurance Company and Selective Insurance for making sure convention starts off right by sponsoring registration refreshments.



Wayne Geimer and David McCullough really took the roarin' 20s theme seriously with their decked out booth!


Amy Smith, Roger Elfert and Scott Woods were all smiles passing out registration packets.

Larry Taylor and his daughter Allie stop by SwissRe's booth.

Jim Hulen and Brian Barrilleaux with Hugh Brown.

Pam Wilson and her family at the Bass Underwriters booth.

WELCOME RECEPTION

Thank you to SCU for sponsoring our welcome reception!

Cade Lott and Jordan Brooks with a surprise Scott Woods!

Thomas and Brooks Elfert with Roger and Kelly Elfert prove convention truly is a family affair!

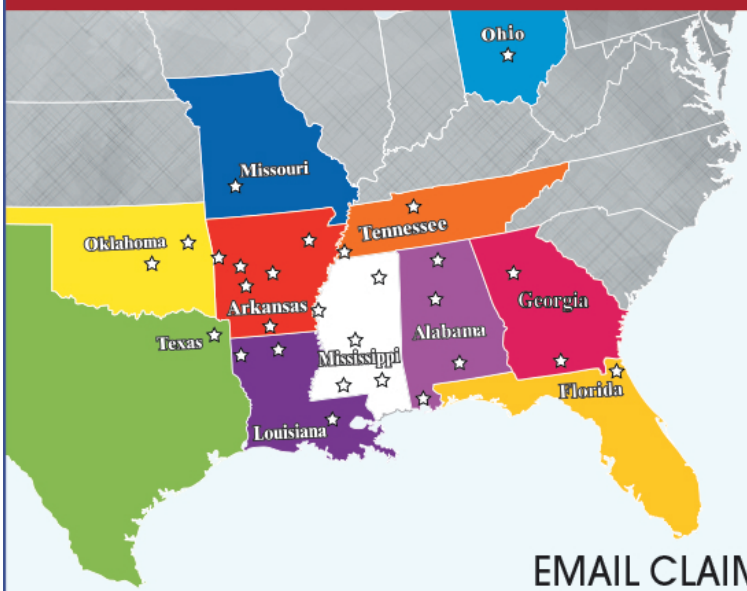
Frank and Jynni Bowyer with Abbey Weathersby and Scott Lemon.

Shelby and Renee Johnson with Josh Smith

Cecil Vaughan, Brian Berry and Dori Necessary.

Melissa and Louis Oursler

"When it happens in the territory-give CAC a call."



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DINNER/DANCE

Thank you to Progressive for sponsoring our Monday Night Cocktail party!

Henry Korzen with Kyle Waller and Kyle's daughter.

Tatum Brown and Erik Case were the winners of our best dressed Gatsby competition, sponsored by Strategic Comp.

The Main Street Group America crew with Clint Hanson.

Ray and Mandy Robertson as they greet people at the door.

Lain Brown and Stephanie Vann Tannehill were the winners of our best dressed flapper competition, compliments of Strategic Comp.

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DINNER/DANCE

Erik Case with the Sandcastle Competition winners Madison, Reagan & Blaise Barefield

Tom and Margaret Reynolds heading to the Dinner/Dance

Thank you to Travelers for sponsoring our Dinner/Dance

Thank you to Burns and Wilcox for sponsoring out Dinner/Dance drinks!

Jeff Young and Crystal Laux with Jon and Julie Jenson.

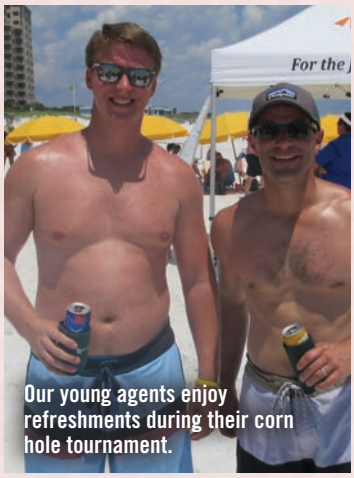
Dianna Sessums and Henry Korzen with Wright Flood host one of our most popular events, the Treasure Chest!

BEACH/OUTDOOR ACTIVITIES

The kids take the Dixie sandcastle competition very seriously.

Scott Gray and his son get ready for the volleyball tournament.

The volleyball tournament always has stiff competition!


Our young agents enjoy refreshments during their corn hole tournament.

Berkley makes sure everyone stays hydrated with their "Quench Your Thirst" tent.

The TPI team at their tent.

BEACH/OUTDOOR ACTIVITIES

Deana Pendley and son JT get ice cream to cool down from all the sun!

Charlie's Crab Chase action shots

THANK YOU TO OUR BEACH AND OUTDOOR ACTIVITY SPONSORS!

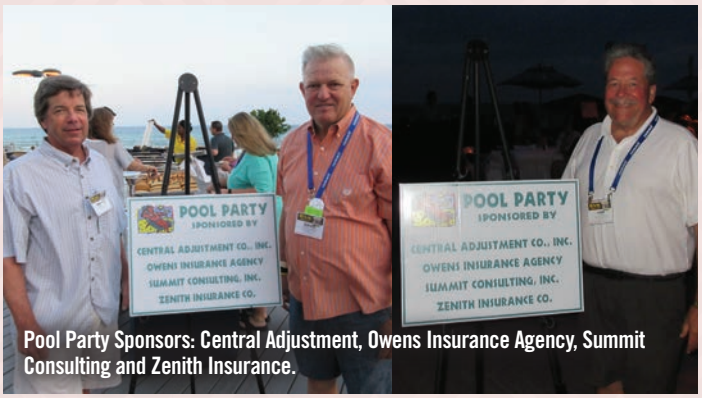
Builders Mutual, Eastern Alliance and Liberty Mutual/Safeco (Ice Cream By the Pool)

MMA Insurance (Frozen Drinks by the Pool)

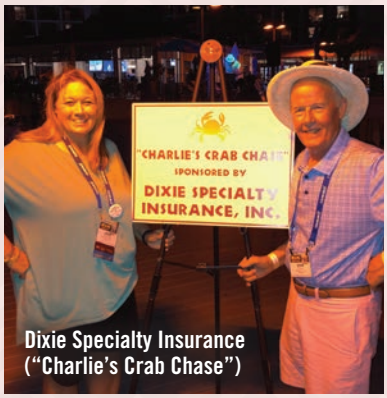
Mathison (Cookout Dinner Cocktails)

Liberty Mutual/Safeco, Pettis, Barfield & Hester PA and Stonetrust (Cookout Dinner)

Pool Party Band: Amerisafe and The Main Street America Group



Pool Party Sponsors: Central Adjustment, Owens Insurance Agency, Summit Consulting and Zenith Insurance.



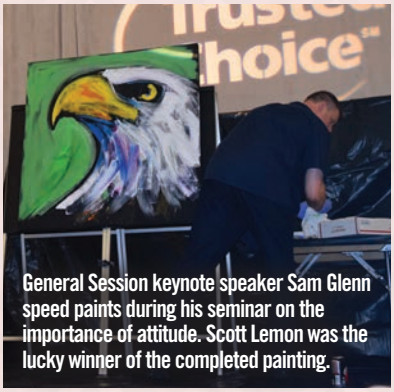
Dixie Specialty Insurance ("Charlie's Crab Chase")

Ricky Riddell with Amerisafe

GENERAL SESSION / ADDITIONAL SPONSORS

Tatum Brown and Scott Gray surprise Ray Robertson with a new outfit for his paddle boarding!

The 2018-2019 Executive Committee. From Left to right: Brad Kent, Gwen Jolly, Tatum Brown, Josh Smith, Ray Robertson (Chairman), Ray Collins, Seldon Van Cleve, Roger Elfert, Scott Woods, Amy Smith and Cecil Vaughan.


General Session keynote speaker Sam Glenn speed paints during his seminar on the importance of attitude. Scott Lemon was the lucky winner of the completed painting.

Chris Mathison awarded the General Session Grand Prize at the end of the meeting.

Thank you to United Fire Group for sponsoring the 2019 keynote speaker!

ADDITIONAL SPONSORS

Thank you to FCCI for sponsoring Kids Nite Out.

Thank you to Accident Fund for sponsoring the hotel key cards.

Thank you to EMC Insurance Company for sponsoring convention programs.

Thank you to CompTRUST AGC and State Auto for sponsoring the breakfast cart!

Thank you to The National Security Group for sponsoring the registration booklets.

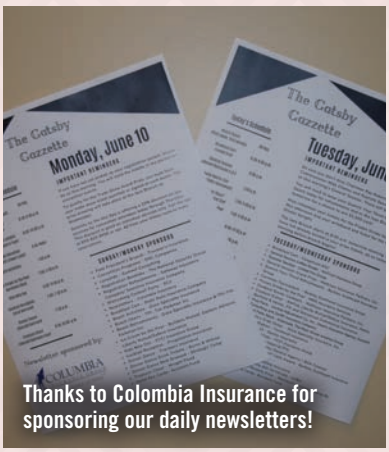
Thank you to Summit for sponsoring our badge lanyards!

Thank you to AmTrust Group for sponsoring general session coffee breaks.

JAZZ BRUNCH / PRIZES

Thank you to Foremost Insurance Group for sponsoring our Jazz Brunch coffee station.

Thank you Sentry for sponsoring our Jazz Brunch.



Thanks to Colombia Insurance for sponsoring our daily newsletters!

Erik Case with Dixie Specialty receives a 2019 Chairman's Award for his dedication and hard work.

Incoming Chairman Josh Smith makes his opening remarks.

Josh Smith presents Ray Robertson with his Chairman's plaque.

Congrats to Christine Woods for winning the four wheeler, courtesy of Imperial PFS.

Trey Chapman awarding Hugh Brown the Safeway cash prize.

Brian Berry collecting his money from the SwissRe drawing.

Michael Lee was our Trade Show drawing winner!

Carol Mason awarding the kid's grand prize, sponsored by FCCI.

Charlie's Crab Chase winners

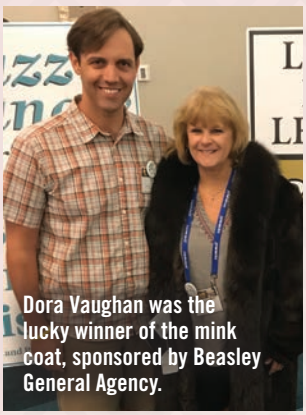
Our Young Agents cornhole tournament winners. Thank you to Berkley for sponsoring!

JAZZ BRUNCH / PRIZES

Tyler Wortham and Cecil Vaughan win th IIAM-PAC wine cart raffle.

Jeffrey Carver with Berkley Southeast awards Hugh Brown the "Quench Your Thirst" cash prize.

Jason Harrison wins the $500 William Sonoma gift card, sponsored by LUBA.


Dora Vaughan was the lucky winner of the mink coat, sponsored by Beasley General Agency.

DOOR PRIZES

Thank you to all our door prize contributors!

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AmWINS Access Birmingham
Strickland General Agency, Inc.
Guarantee Restoration
US Premium Finance
IIAM-PAC
Guide One Insurance
Nationwide Insurance
Orchid Insurance
Bass Underwriters
Safeway Insurance
Mississippi Insurance Department

ADDITIONAL MEMORIES

Leave it to the professionals

It's a good piece of advice, whether hiring a contractor to remodel your home or choosing insurance protection for your customers. At UFG, we insure businesses of all sizes and specialties, with ArtisanPro® insurance designed specifically for contractors.

Your customers are professionals in their business and we're professionals in ours. So, choose ArtisanPro contractors insurance for your customers—and leave it to the professionals at UFG.

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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 Renee Johnson. Renee is Sales Director with MMA Insurance Services.

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 Accident Fund. Accident Fund Insurance Company of America is a workers' compensation insurance organization, managing risk and minimizing loss for its policyholders, creating a safer environment for their workers and building businesses with its agent partners.

Ray Robertson awards Renee Johnson (MMA Insurance) Company Representative of the Year.

Accident Fund received the award for 2019 Top Partner. Pictured is Daniel Hassenzahl and Charlene Smith.

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2019 IIAM

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We would like to thank the following companies for their contributions to the 2019 IIAM Convention and their continued support of our association.

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Charlie's Crab Chase, Volleyball and Sandcastle Building:
Dixie Specialty Insurance, Inc.

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.*

Best Dressed Prizes: *Strategic Comp, LLC*

Breakfast Cart: (Monday) *State Auto Insurance Company*

Breakfast Cart: (Tuesday) *CompTrust AGC of MS*

Children's Prizes: *FCCI Insurance Group*

Cocktail Reception: *Progressive Insurance*

Coffee Station: *Foremost Insurance*

Convention Programs: *EMC Companies*

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

Cookout Dinner: *AmFed, Liberty Mutual/Safeco Insurance, Pettis, Barfield & Hester, PA and Stonetrust Commercial Insurance*

Dinner/Dance: *Travelers*

Dinner/Dance Drink Tickets: *Burns & Wilcox*

Four Wheeler: *Imperial PFS*

Frozen Drinks by the Pool: *MMA Insurance Services*

General Session Coffee Breaks: *AmTrust Insurance Group*

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

Ice Cream by the Pool: *Builders Mutual Insurance, Eastern Alliance Insurance Group and Liberty Mutual/Safeco Insurance*

Jazz Brunch: *Sentry Insurance*

Jazz Brunch Mystery Prize: *Westport Insurance/Swiss Re*

Key Cards: *Accident Fund Insurance*

Keynote Speaker: *United Fire Group*

Kids Nite Out: *FCCI Insurance Group*

Lanyards: *Summit Consulting*

Mink Coat: *Beasley General Agency/BGA Finance*

Newsletters: *Columbia Insurance*

Past President's Brunch: *Travelers*

Pool Party: *Central Adjustment Co., Inc., Owens Insurance Agency, Summit Consulting and Zenith Insurance Company*

Pool Party Band: *Amerisafe, Inc. and Main Street America Group*

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

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

Registration Booklets: *The National Security Group*

Teen Prizes: *Columbia Insurance*

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Welcoming Cocktail Party: *SCU*

Williams-Sonoma Gift Certificate: *LUBA*

Young Agents Corn Hole Tournament and Prizes:
Berkley Southeast Insurance Group

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- **Employment Practices Liability — Including 3rd party liability**
- **Utility Services — Direct damage**
- **Automobile, Workers' Compensation and Umbrella**

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0719-39

NEWS & NOTEWORTHIES

Southern Fidelity Insurance Expands into Mississippi

Southern Fidelity Insurance Company has expanded into Mississippi. The insurance company seeks to provide consumers throughout the area peace of mind through its HO-3 homeowners policy and accessible customer service. A leader in the insurance industry, Southern Fidelity was founded in 2005 by Jimmy Graganella in Tallahassee, Florida. Since then, the company has grown its financial foothold throughout the Southeast and is trusted by thousands of consumers in Florida, South Carolina and Louisiana. It is the sister company of Capitol Preferred Insurance, which has served consumers in the region for more than 20 years.

"We are excited to bring our line of competitive products and services to Mississippi," said Southern Fidelity President and CEO, Jimmy Graganella. "Our mission is to provide policyholders with financial security in knowing that their home or property is well-protected. Consumers can expect comprehensive coverages and local agent expertise."

Ryan Specialty Group Finalizes Acquisition of Atlantic Specialty Lines, Inc.

Ryan Specialty Group, LLC, is pleased to announce that it acquired the assets and operations of Atlantic Specialty Lines, Inc. (ASL) on June 1, 2019. ASL is headquartered in Richmond, VA and has additional locations in Illinois, Florida, Louisiana, New York, Pennsylvania and Texas. The ASL team is now a part of R-T Specialty, LLC (RT Specialty), the wholesale brokerage unit of Ryan Specialty Group, and expands RT Specialty's footprint in the Mid-Atlantic and Southeast regions. Additionally, it is a major factor in the national expansion of the RT Binding Authority strategy.

IIABA Legislative Conference

In May, a delegation from the Independent Insurance Agents of Mississippi traveled to Washington, D.C., for the Independent Insurance Agents and Brokers of America Legislative Conference.

The conference included visits and discussions of crucial issues with Sen. Roger Wicker, Sen. Cindy Hyde-Smith, Rep. Michael Guest and Rep. Trent Kelly.

The following represented IIAM at this year's conference: Chairman Ray Robertson, Chairman-Elect Josh Smith, Treasurer Ray Collins, National Director Shaw Johnson III, Young Agents Vice Chairman Chris Rhett, Young Agents Chairman Roger Elfert, Ronnie Tubertini, IIAM President Clinton Graham, Vice Chairman Tatum Brown and Past Chairman Cecil Vaughan.

[EXPERIENCE.]

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Preston Gough Jr.

Preston Gough Jr. passed away in early August 2019. Preston was a J.H. Johnson recipient and long-time supporter of IIAM. He was a graduate of Mississippi College and Mississippi College School of Law and had a long career in the insurance industry. In 1981, Preston joined Southern Cross Underwriters, Inc. where he was elected President of the company shortly after. When Southern Cross was sold to BB&T/CRC, Preston remained Chairman of the Underwriting Division. His love and dedication for the insurance industry was outstanding and will leave a legacy for years to come.

Hopkins Insurance Agency Joins Galloway Chandler McKinney Insurance

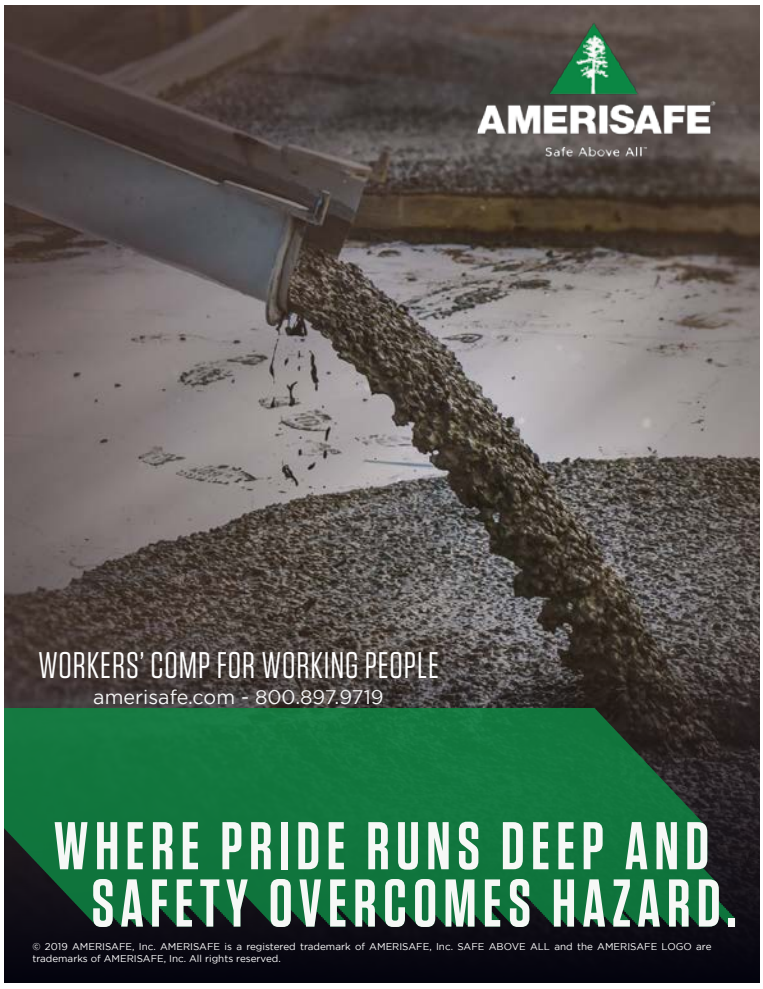
As of May 1, 2019, Hopkins Insurance Agency of Columbus has joined Galloway Chandler McKinney Insurance. The staff of Hopkins Insurance Agency will move to Galloway Chandler McKinney's Commerce Street location. Brad Mauck will become a partner with Galloway Chandler McKinney, and Eddie Mauck will remain on in a consulting role. The Macon location will remain open as a branch office of Galloway Chandler McKinney.

"We are excited about what this will mean for our clients," states Hopkins' Brad Mauck. "They will continue to be served with the same integrity and values they've come to expect, and with this change they will also benefit from the support of a larger staff, more diverse products and the addition of life and health insurance to their portfolios."

"This is a great fit for both agencies and our customer base," remarks Galloway Chandler McKinney Managing Member Brandt Galloway. "We take great pride in working with our customers and will continue to serve them with the utmost integrity and professionalism. We remain committed to our outstanding group of employees, and we look forward to serving our communities for many years to come."

IIAM and Trusted Choice Continue Partnership with Make-A-Wish

IIAM donates to the Mississippi chapter of Make-A-Wish each year through the Trusted Choice Grant Program. This year we were able to raise our giving level from $7,500 to the maximum amount of $10,000. Because of this we were able to serve as presenting sponsors for the Tee It Up For Wishes golf tournament and sponsor a table at the Evening of Wishes Gala. IIAM and Trusted Choice are honored to be able to partner with a charity that grants the wishes of children with life-threatening medical conditions.



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DIY Hiring Kits

If you want to take a hands-on approach to find the right staff member, the DIY Hiring Toolkits can help. There are kits for P/L and C/L CSRs as well as Producers. Included are sample job descriptions, interview questions, offer letters, and much more. Follow-up with Caliper profiles and knowledge assessments to ensure you've found the right fit for your agency.

Superior Professional Development

Agents can access onboarding resources, skills assessments and state-specific courses to help employees continue to develop their skills. You will also find thousands of articles on commercial lines, personal lines, forms and more to help troubleshoot tough technical insurance issues.

CYBER SECURITY

Mike Chaney
INSURANCE COMMISSIONER

On July 1, the Insurance Data Security Law (Senate Bill 2831) took effect. It requires insurance licensees to develop, implement and maintain an information security program, investigate a potential breach and provide notice to the Commissioner.

First, let's talk about who is exempt from certain sections of this new law. You do not have to comply with section 4, 5(3) and 6(4)(a) and (b) of the bill if you have fewer than 50 employees, make less than $5 million annually in gross revenue, or have less than $10 million in year-end total assets. Insurance producers and adjusters are also exempt from these sections.

Specifically, section 4 of the bill requires licensees to develop a comprehensive Information Security Program and sections 5(3) and 6(4)(a) and (b) require licenses to oversee the data security programs at third party service providers. Insurance company licensees which have established Information Security Programs under HIPAA are also exempt from section 4 of Senate Bill 2831 upon furnishing a written statement of compliance to the Commissioner. Likewise, licensees affiliated with a depository institution which have established an Information Security Program under federal law are exempt from section 4 of the bill.

Protecting consumer information is a top priority nationwide after several high-profile data breaches in recent years. Rather than reacting when something happens, I've taken a proactive position. This was prompted, in part, by the U.S. Treasury Department recommendation that, if states did not implement their own legislation, Congress should act by setting uniform requirements for insurer data security.

Using a model law from the National Association of Insurance Commissioners as our basis, the Mississippi Insurance Department has set data security standards which will mitigate the potential damage of a data breach. It was also important to act quickly, to pass a law which takes into account the nuances of the insurance industry, rather than a sweeping law that would apply to all businesses.

Insurance company licensees must assess their cybersecurity risk, manage that risk and establish an Incident Response Plan. The law requires all insurance licensees to investigate events and report them to my office, when that event would likely harm a Mississippi consumer.

When a Cybersecurity event does occur, we want to be prepared and to partner with the licensees. Our first and foremost responsibility is to protect the consumer, then to identify what went wrong and how to mitigate that risk going forward. My staff has created a webpage to address any questions you may have about the Insurance Data Security Law. You will also find a link on that page to report a Cybersecurity event. Please visit www.mid.ms.gov/companies/cybersecurityreport - and don't hesitate to submit your questions to my office.

Independent Insurance Agents of Mississippi

FALL EDUCATION

OCTOBER 1

DAVE BARFIELD

IIAM FLOWOOD

E&O CLAIM PREVENTION 3 HRS (A.M.)

OCTOBER 9

FRANK MILLSAPS

IIAM FLOWOOD

INDEMNITEE, ADDITIONAL INSUREDS & CERTIFICATES 3 HRS (A.M.)

"ARE YOU COVERED RENTING A CAR?" 3 HRS (P.M.)

E&O ROADSHOW (6 HRS)

BECKY MCCORMACK

OCT. 22 OXFORD CONFERENCE CENTER

OCT. 23 IIAM FLOWOOD

OCT. 24 LAKE TERRACE CONVENTION CENTER

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OCTOBER 17

DANCING RABBIT

2020 AGENCY MANAGEMENT CONFERENCE

FEBRUARY 19-20

THE COUNTRY CLUB OF JACKSON

YOUNG AGENTS SPONSORED SKEET SHOOT

APRIL 2020

YOUNG AGENTS BASEBALL OUTING

APRIL 2020

2020 CONVENTION

JUNE 7-10

SANDESTIN HILTON

ASSUMPTIONS CAN LEAD TO E&O CLAIMS, BUT DON'T ASSUME THE ERROR EQUALS LIABILITY

LESSONS LEARNED

By: David A. Barfield
Lara Ashley Coleman
Pettis, Barfield & Hester, P.A.
4450 Old Canton Road, Suite 210
Jackson, MS 39211

"Lessons Learned" is a recurring article authored by David A. Barfield and Lara Ashley Coleman, based on real errors and omissions cases in Mississippi. David and Lara Ashley have represented insurance agents for over 30 years and over 20 years, respectively. The names of all parties and all case citations have been omitted to preserve anonymity of the parties.

FACTS GIVING RISE TO THE LITIGATION:

An insurance agency had a client who was a subcontractor on a construction project. The general contractor on the project requested that it be named as an additional insured on the subcontractor's Commercial General Liability insurance ("CGL") policy. This is something that had happened many times with respect to other construction projects that the subcontractor was working on and there had been no problem adding the general contractor as an additional insured. In fact, it had become a rather routine process.

In the matter at hand, as in its normal course of business, the insurance agent contacted the insurance broker to request that the general contractor be added as an additional insured to the subcontractor's CGL policy. The agent prepared a Certificate of Insurance and provided it to the general contractor, indicating that the general contractor was an additional insured on the subcontractor's CGL policy.

An employee of the subcontractor was injured on the job. He received workers' compensation benefits from the subcontractor's workers' compensation carrier. The injured employee then filed a tort lawsuit against the general contractor and others. The general contractor, as an additional insured, made a demand for defense and indemnity under the subcontractor's CGL policy.

In actuality, the broker had declined to add the general contractor as an additional insured to the subcontractor's insurance policy and had sent the agent an e-mail advising that the general contractor could only be shown as a certificate holder. The agent did not recall ever receiving that e-mail. Due to the routine nature and past experiences with the broker on this policy, the agent had "ASSUMED" the general contractor would be added as an additional insured to the subcontractor's CGL policy and issued the certificate to the general contractor identifying it as an additional insured without confirmation from the broker. Clearly, this was a misrepresentation, as the carrier, through the broker, had declined to add the general contractor as an additional insured.

WHAT HAPPENED?

An errors and omissions' claim against the agency appeared almost certain. The agency had represented to the general contractor that it was an additional insured on the subcontractor's

SAVE THE DATE

IIAM-PAC GOLF OUTING

OCTOBER 17

DANCING RABBIT

PHILADELPHIA, MS

CGL policy, when in fact it was not. The agency had no authority to make that representation from the carrier. The general contractor reasonably relied up on the representation of the agent and was incurring damages by way of attorney's fees and a possible judgment in the tort suit filed by the injured employee.

Upon further investigation, it was determined that the general contractor was defending the claim of the injured employee by asserting that it was a statutory employer of the injured employee and that workers' compensation benefits were the exclusive remedy for the injured employee. The subcontractor's CGL policy contained the usual exclusions for claims or obligations that are covered by workers' compensation insurance and/or for employee indemnification and employer's liability. Therefore, even if the general contractor had been an additional insured on the subcontractor's CGL policy, there would have been no coverage for the general contractor by virtue of these exclusions.

APPLICABLE MISSISSIPPI LAW:

An errors or omissions' claim is a negligence claim. For the error or omission to result in liability the following elements must be proven: 1) duty; 2) breach of duty; 3) proximate causation; and 4) damages. In this case, the elements of duty and breach of duty were met. However, because there would have been no coverage for the general contractor under the subcontractor's CGL policy anyway, the act of negligence by the agent did not proximately cause the general contractor any damages.

LESSONS LEARNED:

First, never "ASSUMED". Just because an act has been routinely done in the past, it does not mean it is being done in the present. Confirm you have authority from the broker or carrier to act before acting.

If you are faced with a potential errors and omissions' claim, never admit fault or liability. This case is a prime example of why you must not do so. What appeared to be an obvious agent error, that would lead to an errors and omissions' claim, with resulting damages against the agency, turned out to be a case of no liability against the agent and resulting in no damages against the agency.

Certificates of insurance can be, and are, a major cause of errors and omissions' claims.

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The Big "I" Professional Liability program is pleased to announce that your agency can now access Swiss Re Corporate Solutions agency professional liability premium credits that help you save up to 30% of your agency's insurance premium. Effective 1/1/2020, policy holders can take advantage of these additional risk management resources:

10%	Attendance at a qualifying Risk Management course
5%	At least 50% of agency staff Attendance at a qualifying Risk Management* course
5%	Using coverage checklists*
5%	Agency Website Improvement review by a qualified auditor*
	* (Risk management course attendance is required for application of the other credits. Maximum additional credit is 10% for a total of 20%)
10%	Agency Improvement review by a qualified auditor

We know that while risk management training is valuable, so is your time. That's why the Risk Management Course has been reduced to 3 hours (from 6 hours), with streamlined information that best impacts your agency's safety and bottom line. In addition, the number of staff required to attend has been simplified to better reflect agency makeup. In some states, a written exam may be substituted for attendance at a risk management course.

Our data proves that risk management works! The new risk management program structure enables more people to have better access to risk management materials, which makes your agency operate better and helps you avoid E&O claims.

To learn more about how to take advantage of risk management credits, contact your dedicated Big "I" Professional Liability Program Manager. Find your PM at www.iiaba.net/EOContact.

Comprehensive risk management resources are available to Big "I" Professional Liability Swiss Re Corporate Solutions policy holders at www.iiaba.net/EOHappens.

Not yet part of the Big "I" Professional Liability program, the strongest and most stable agents E&O program in the nation? Reach out to your program manager for more information and to receive a proposal. We serve agencies of all sizes, from a one-person shop to an alliance group. Learn more today at www.iiaba.net/EO.

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Risk Management Premium Credit

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A 10% credit on your Westport E&O premium may be earned by attending an approved 3 hour risk management seminar prior to your policy anniversary (or within 30 days after your policy inception/renewal date). The number of agency staff required to attend is based on agency size. The credit is applicable for two consecutive policy terms.

To determine your specific requirement, refer to the chart below:

Agency Staff Size	Total Required Attendees
1 – 4	1
5 – 11	3
12+	25% of staff (Max of 15 attendees)

The following additional credits are available, up to a maximum total risk management credit of 20 percent:

- **50% or more of staff attendance = 5% credit available**
- **Agency use of a coverage checklist = 5% credit available**
- **Voluntary website review with findings implemented = 5% credit available**

Please contact your state association for more information.

Additional agency risk management information is available 24/7 via the E&O Happens web site. Visit:

www.iiaba.net/EOHappens

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GENESEE TODAY

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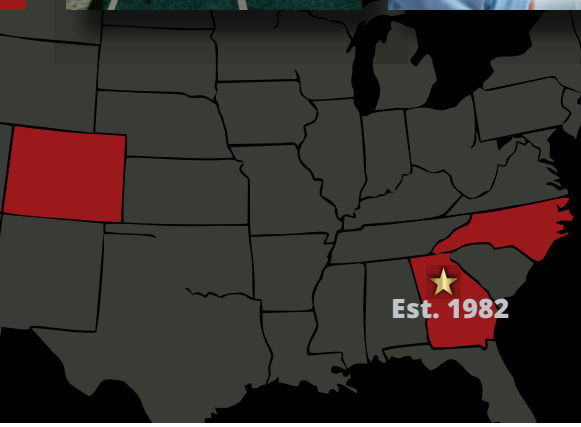

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What Does the New 199A Tax Regulation Mean for Big "I" Member Agencies and Brokerages?

BIG i[SM] GOVERNMENT AFFAIRS.

WORKING for YOU.

On Jan. 18, 2019, the IRS issued final regulations implementing Section 199A of the Tax Code, which created a deduction of up to 20% on qualified business income from pass-through entities. If your agency is organized as a C-corporation the regulation does not impact you. Under the 2017 tax reform law starting with taxable year 2018 C-corporations are subject to a 21% flat tax and there is no corporate alternative minimum tax (AMT). Prior to 2018 the tax rate for C-corporations was tiered with the highest marginal tax rate being 39%. Approximately one-third of Big "I" members are C-corporations.

For the two-thirds of Big "I" members who are organized as S-corporations, partnerships and sole proprietorships, the 2017 tax reform law created a new deduction which the Jan. 18 regulation implemented. The deduction is based on taxable income levels and can be taken by owners and shareholders of certain businesses organized as pass-through entities. The deduction is available to itemizers and non-itemizers alike.

> The deduction can reduce the top effective tax rate on pass-through income to approximately 29% from 37%. For those in the 24% bracket, it can reduce the rate to as low as 19.2%.

The deduction is available for the next seven taxable years (i.e. 2018-2025).

Under the final regulation, owners and shareholders of insurance agencies and brokerages where the owner or shareholder's annual taxable income does not exceed $315,000 for joint filers and $157,500 for single filers in 2018 can take the full 199A deduction on qualified business income. This means that taxpayers in this category can take up to a 20% deduction on profits earned from their insurance agency or brokerage.

(continued)

> **BIG "I" MEMBERS**, whether organized as a pass-through entity or a C-corporation, can now rest assured that the tax reform law is working for them and their employees."
>
> - CHARLES SYMINGTON,
> Big"I"Senior Vice President
> of External, Industry & Government Affairs

For insurance agencies and brokerages where the owner or shareholder's annual taxable income exceeds these levels, the deduction is still available, but it is subject to some limitations depending on the types of activities the business undertakes. The deduction may be limited on income derived from consulting, investment management, or financial services activities (e.g. non-traditional insurance activities) if that income exceeds certain de minimis thresholds. Additionally, above these same income levels, the total amount of the deduction cannot exceed 50% of employee W-2 wages or 25% of W-2 wages plus 2.5% of capital assets, whichever is greater.

The bottom line is under the final IRS regulation, owners and shareholders of insurance agencies and brokerages organized as pass-through entities can take a deduction of up to 20% of their insurance producer income, no matter their taxable income levels. This is because the IRS does not consider the sale and servicing of insurance products to be a "specified service trade or business."

The Big "I" Government Affairs team advocated aggressively to make sure the sale and servicing of insurance products would not be a "specified service trade of business" under the final regulation.

Other professions such as doctors, lawyers, accountants, stock brokers and certain consulting and financial advisory activities are a "specified service trade or business" under the regulation. For owners and shareholders of "specified service trades and businesses" the deduction is phased out and cannot be applied at all over certain income thresholds.

HIGHLIGHTS OF BIG "I" ADVOCACY EFFORTS

HOW IT WORKS

Jan. 18, 2019 IRS issued Section 199A of the tax code, which includes 20% deduction for certain small business owners. Here's how the Big "I" helped.

APRIL 23
Big "I", Council of Insurance Agents & Brokers (CIAB), National Association of Insurance and Financial Advisors (NAIFA) **sent comment letter to Department of Treasury**.

APRIL 25
Big "I" **meets** with CIAB and NAIFA and senior staff at the Treasury Department.

MAY 15
Big "I" sends **follow-up** comment letter with CIAB and NAIFA.

MAY & JULY
Big "I" **meets with key members of Congress** drafting section 199A to exclude agents & brokers from "specified services trade or business."

MAY 31
Big "I", NAIFA and CIAB **submitted joint testimony** to the House Ways and Means Committee for the "Tax Reform and Small Businesses: Growing our Economy and Creating Jobs" hearing.

JUNE 20
Big "I" NAIFA and CIAB **submitted joint testimony** to the House Financial Services Committee "Empowering a Pro-Growth Economy by Cutting Taxes and Regulatory Tape" hearing.

AUGUST 8
Treasury Department and IRS released draft regulation that **EXCLUDES** insurance agents & brokers from the definition of "specified services trade or business."

OCTOBER 1
Big "I" **submitted a comment letter** to the IRS after the draft regulation was released.

DECEMBER 10
IRS issued draft publication 535 that **INCLUDED** agents & brokers as "specific services trade or business."

DECEMBER & JANUARY
Big "I" coordinates with CIAB and the National Association of REALTORS (NAR) to express concern with the recent IRS draft to **Treasury Department, White House, National Economic Council, Office of Management & Budget (OBM)**.

JANUARY 7
IRS issued new draft publication 535 that **EXCLUDES** agents & brokers as "specified services, trade or business."

January 10
Big "I" **meets** with OMB, Treasury Department and IRS staff.

JANUARY 18
Treasury Department and IRS released **final rule confirming insurance agents & brokers are not "specified services trade or business."**

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The Mississippi Manufacturers Association has expanded its Property & Casualty lines for the benefit of qualified members. MMA has found a superior partner in Berkley Southeast, a W.R. Berkley Company. By teaming with Berkley Southeast, MMA is able to offer other lines of P&C coverage in addition to Workers' Compensation. Our combined strengths now allow us to offer:

- Multi-State Coverages
- Commercial Property
- Auto Liability
- Product Liability
- General Liability
- Unparalleled Claims and Loss Control Services

Submissions for premium quotations and questions regarding MMA Insurance Services should be submitted to our designated underwriter, Frank Bowyer, Berkley Southeast Insurance Group, 601-581-4135, or mobile 601-317-4161, fbowyer@berkleysig.com.

MMA
Mississippi Manufacturers Association
INSURANCE SERVICES

Berkley Southeast Insurance Group
a W. R. Berkley Company

We support Mississippi's Independent Insurance Agents

720 North President Street • Jackson, Mississippi 39202
601.948.1222 • www.mma-web.org/insurance

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