1992 CASUALTY LOSS RESERVE SEMINAR

4E-2: ROLE OF THE APPOINTED ACTUARY

Moderator

Alfred O. Weller
Ernst & Young

Panel

Patrick Grannan
Milliman & Robertson, Inc.

Michael J. Miller
Tillinghast

Recorder

Scott D. Vandermyde
Ernst & Young

1992

CASUALTY LOSS RESERVE SEMINARY

SESSION 4E-2

ROLE OF THE APPOINTED ACTUARY

Actuarial Opinion*

There is to be included or attached to Page 1 of the Annual Statement, the statement of a qualified actuary, entitled "Statement of Actuarial Opinion," setting forth his or her opinion relating to loss and loss adjustment expense reserves. The qualified actuary must be appointed by the Board of Directors, or its equivalent, or by a committee of the Board, by December 31 of the calendar year for which the opinion is rendered. Whenever the appointed actuary is replaced by the Board of Directors, the company must notify the domiciliary commissioner within 30 days of the date of the Board action and give the reasons for the replacement. The appointed actuary must present a report to the Board of Directors each year on the items within the scope of the opinion.

* National Association of Insurance Commissioners
1992 Annual Statement Instructions

ALFRED WELLER: Welcome to Session 4E-2, Role of the Appointed Actuary. We are going to talk about the "appointed actuary." There is an "appointed actuary" in the Life Standard Valuation Law that is not the "appointed actuary" we are going to talk about. We are talking about the appointed actuary as defined in the annual statement instructions of the NAIC, the slide over there shows you the definition and there is one page hand-out going around that will give you the definition in detail.

How many of you been an appointed actuary already? So we got about ten. How many expect to be an appointed actuary? 2/3 of the room. How many expect to be an appointed actuary for more than one company? We have about 2/3 of the room. OK.

It will be interest to see what develops as we go along. What we are going to try to do is to keep our presentation short so that we can get discussion going. The actuarial profession is still an evolving profession. It is still very dynamic. This is probably one of the most dynamic areas of growth for the professional right now.

This is the way we are going to break up the presentation -- Pat Grannan is going to take you through the history of how we got where we are and where we may evolve too. There is another one page hand-out going around with a statement of position by the American Academy that Pat will discuss. Then Mike Miller is going to take you through how actuarial standards apply to the role of the appointed actuary. We are anticipating that will take about 20-minutes and then we will toss it open to questions from the floor. So be thinking about what you want to ask. Pat.

PATRICK GRANNAN: I plan to talk about three things:

1. First, I'll describe the appointed actuary requirements that will take effect this year end for P&C insurance companies in the US.

2. Second, I will give you an overview of what appointed actuaries do in Canada and in the UK, both of which require the appointed actuary to do more than we will be required to do in the US in the immediate future. It's quite possible that the US system will evolve in the direction of the Canadian and UK systems.

3. Finally, I plan to talk about the Insurer Solvency Position Statement issued by the American Academy of Actuaries in June of this year. That statement recommends expansion of the role of the appointed actuary in the US. There are copies of the statement on a chair by the door to this room.

1. Appointed Actuary Requirements in the US

(Slide #1)

The appointed actuary requirements for P&C companies appear in the NAIC's instructions for the Annual Statement, effective this year end. The requirements apply to almost all P&C insurance companies. The requirements are, first, that the board of directors or a committee of the board appoint the actuary who will be giving the statement of opinion on loss reserves. They are supposed to make the appointment by December 31st. This can probably be handled best by a resolution of the board or simply a statement in the minutes of a board meeting naming the appointed actuary. The instructions do not say that the Insurance Department needs to be notified of the appointment, but the actuary's statement of opinion must state when he or she was appointed by the board.

Whenever the appointed actuary is replaced by the board of directors, the company must notify the domiciliary commissioner within 30 days and give the reasons for the replacement.

The appointed actuary is required to do three things:

A. The actuary must prepare the statement of actuarial opinion on loss and loss adjustment expense reserves, which is due on March 1st with the Annual Statement.

B. The actuary must prepare a supporting actuarial report, which is defined in the annual statement instructions to be "a document or other presentation, prepared as a formal means of conveying the actuary's professional conclusions and recommendations, of recording and communicating the methods and procedures, and of insuring that the parties addressed are aware of the significance of the actuary's opinion or findings and which documents the analysis underlying the opinion." The actuarial report is to be kept by the company for at least seven years and be made available to regulators.

C. The actuary must present a report to the board. The form of the report is not specified in the instructions. It is not necessarily the full "actuarial report", most of which would not be of interest to a board of directors. At this point, it seems reasonable to expect that the report to the board could be accomplished either in a personal presentation or through a written executive summary.

2. Overview of Canadian and UK Systems

(Slide #2)

The second topic I wanted to talk about is the appointed actuary systems that exist in Canada and the UK, because I think they give an idea of where we might be headed in the US in a couple of years.

The UK has had an appointed actuary system for Life insurance companies since 1974. There has been some talk about implementing a similar system for property and casualty insurance companies, but it does not appear likely to occur soon. The appointed actuary for a Life company in the UK is required to oversee the financial condition very broadly, on an on-going basis, not just at year ends. There is a so called "whistle blower" rule, which requires the actuary to notify the regulatory authorities if the actuary believes the company is headed into trouble and the company management does not heed the actuary's warning.

The UK has a Government Actuary Department which is responsible for monitoring the financial conditions of the companies. The Government Actuary Department is in frequent contact with the appointed actuaries at individual companies. Apparently, potential problems can sometimes be resolved informally through the help of the government actuaries, without going to the official whistle blower stage. For example, a government actuary might meet with the company's CEO to discuss potential problems and resolve the problems informally, although probably using the threat of regulatory action.

(Slide #3)

Canada enacted a law last year that requires an appointed actuary system that is similar in some ways to the UK system. The Canadian system applies to both Life and P&C companies. It requires an actuarial opinion on the "policy liabilities", which include loss and loss adjustment expense reserves as well as unearned premium reserves. It also requires an annual report to the board on the current financial condition and on expected future financial condition under various scenarios. The projection of future financial condition under a range of scenarios is referred to as "dynamic solvency testing". For P&C companies, the standard of practice that will describe the dynamic solvency testing is still being developed, so that aspect of the system will not go into effect for P&C companies until 1993 or later.

In addition to doing the dynamic solvency testing in an annual report, the actuary is

required to take reasonable steps to be continually aware of what the results of the dynamic solvency testing would be if it were updated at any time. If at any time the dynamic solvency testing indicates that corrective action is needed to ensure a satisfactory financial condition, then the actuary must prepare a report to the company management, including a deadline for any corrective action. A copy of that report must be sent to the board of directors. If the company does not take suitable action by the date set, the actuary is required to notify the regulatory authority.

An important characteristic of the Canadian system is that the actuary is given immunity from lawsuits in connection with work as an appointed actuary, as long as the actuary acts in good faith. This is essentially a gross negligence standard for professional liability. However, the actuary is still subject to discipline by the Canadian Institute of Actuaries.

In all three countries, the US, Canada, and the UK, the qualification standards for determining who can serve as an appointed actuary, as well as the standards of practice, are set by the actuarial profession, except that in the US the state insurance department can approve someone who is not a member of the American Academy of Actuaries or the Casualty Actuarial Society.

Also, in all three countries, the appointed actuary is not required to be independent of the company, in the sense of being an outside consultant rather than an employee. There are some regulators and others who feel that independence should be required in the US. The American Academy of Actuaries has taken the position that independence is not needed, because the same standards of practice and discipline procedures apply to both in-house and independent actuaries. In addition, the in-house actuary may be in a better position to be fully familiar with the company's operations on an on-going basis.

3. AAA Insurer Solvency Position Statement

The Academy's Solvency Task Force spent nearly a year developing a position statement that could significantly change the role of the appointed actuary in the US, both with respect to the nature of the work product and with respect to the liability that would be created by the new type of opinion.

Briefly, the recommendation was for an opinion on surplus adequacy, not just loss reserve adequacy, and a much stronger compliance monitoring system. The compliance monitoring system is needed because many of those who do regulatory monitoring today will probably not be fully qualified to interpret the actuary's new work product.

Now, what does it mean to expand the opinion to surplus adequacy? For today's appointed actuary it means a lot more research and work to be qualified to opine on assets, interest rates and traditionally non-actuarial aspects of the balance sheet. It may also mean relying on non-actuaries for a portion of the opinion.

An expanded opinion will require developmental work by research committees of the CAS and the Society of Actuaries and by the ASB to achieve a state-of-the-art approach to evaluating surplus needs and to develop new standards.

Because surplus adequacy involves a look into the future, it also requires scenario testing for a casualty company to see if current practices could lead to damaging results in the future. This may mean testing scenarios involving book of business expansion, or deterioration of loss ratios in various lines of business, or even catastrophe potential, given current reinsurance contracts. A major decision will be whether the future is considered to be the next two years or the next ten years. Given the short term contracts for casualty compared to life, perhaps only a two or three year window is

necessary, because there will be another surplus opinion next year.

The risk is that some companies may deteriorate in the future, and one could question whether it was knowable five years earlier by the actuary opining on surplus adequacy.

On strengthened compliance monitoring, what is envisioned under today's regulatory model is a group of casualty actuaries working for the NAIC who would scrutinize all the opinion statements. If a red flag is seen, they would ask for the actuarial report underlying the opinion. At that stage, further concerns would trigger interim examination, or at a minimum, focused discussion with insurer management.

The U.K. and Canadian appointed actuaries have the added responsibility to "blow the whistle" on a company between annual opinion statements.

In the U.S. this role may differ because there is really no tradition of whistle blowing that works. On the casualty side, it is also difficult to imagine a single action taken mid-year (short of a portfolio transfer) that could precipitate an insolvency, given that the contracts are not really long-term.

Of course, the real danger of an opinion statement, whether it be on surplus adequacy or even on reserves, is that it could fall into the hands of an unsophisticated reader, that is, beyond the regulator and company management and even the Board of Directors.

After a company becomes insolvent, if creditors or shareholders are looking for deep pockets to cover the losses, they may uncover an opinion statement by an actuary attached to an annual statement and then claim that the policyholders or shareholders relied on that as evidence of financial soundness.

The main problem with an opinion statement is that it does not contain all the caveats and detailed discussion that was in the full actuarial report. One possible solution to this quandary is not to issue opinion statements in the future; but rather actuarial reports to management with a copy available to regulators. Also, reports on surplus adequacy will contain highly confidential information that no competitor should see. Therefore, the report audience would have to be restricted to company management, the Board and the regulator. Hence, no third parties should get access to the report. If, in fact, the report was faulty and the company became insolvent partially as a result of that report, the regulator would have recourse against the actuary, but there would be no third party lawsuits.

With a strong regulatory compliance monitoring group, such an approach of actuarial reports instead of opinion statements could work. It would put a large burden on the staff to read full-scale reports, even with executive summaries. Of course, without a strong monitoring group, detailed actuarial reports are inappropriate to attach to today's annual statement.

Now, what has happened since the Academy proposed opinions on surplus? The NAIC generally supported the academy's statement. However, not all actuaries have been supportive. There were a few letters criticizing the actuaries for trying to take on more when they haven't adequately handled today's reserve opinion requirements. Nevertheless, actuaries are uniquely qualified to opine on the future, and if company managements are a little nervous about actuaries jumping into a self-regulatory role between regulators and insurers, they should ponder the benefits of earlier detection of insolvency and of smaller sizes of the insolvencies that do occur.

The price that the actuaries will pay will be potentially heightened liability and potentially greater tension with insurer management.

However, the track record in the U.K. of no life insurer insolvencies since appointed actuaries began is a compelling one. Whether the U.S. record will follow suit is a large unknown.

MIKE MILLER: My role is to comment on some of the standards of practice which may be coming down the road because of the cornered actuary concept. I'll tell you at this point, I think the standards of practice in the future will arise not from the appointment itself but rather from the actuarial opinion and broaden responsibilities that we expect to see in the future of the actuary in expressing that opinion. So, it's the opinion, in my opinion, not the appointment which will probably give rise to most of the future standards of practice in this area.

Al asked me to address three specific questions and those questions were:

Do you think the property and casualty folks need a standard of practice similar to that of the life and health people?

I don't know if you've read the exposure draft statement of opinion by appointed actuaries for life and health insurers, but the question is whether we need something like that on the property and casualty side.

Will cash flow testing be required as a result of the new actuarial opinion requirements.

Are the documentation requirements currently in the standard of practice #9 adequate to meet the actuarial opinion requirements.

I read the questions and I thought, boy my comments are going to be brief because my answers are I don't know, I don't know, I don't know. And then I realized I can't answer that, I wish I had the clarity or vision to know where this profession is going to be 10 and 15 and 20 years from now and exactly how we could get there step by step, in a logical fashion, but I don't. And yet, I can't tell you I don't know, so my answer is, time will tell.

Will new standards be required on a property and casualty side like that which is being considered now for life and health actuaries?

In my opinion, yes something like this one, I would like to be able to rewrite this so that it would cover, life, health, and P&C actuaries. I have a suspicion that we may have to have our own, but ours in some ways may look like this. But, time will tell.

On the second question, will cash flow testing be required?

The answer, in my opinion is, Yes, down the road. Right now the actuarial opinion does not require an opinion on adequacy of assets, but I believe than when it does, as it does in some cases on the life side now, we may need an opinion. We probably will need an opinion on when to do cash flow testing, but I don't think we're there yet, but time will tell.

Are the documentation requirements in the standard of practice inadequate?

I think they are for the time being.

Before I list some of the other issues that we're going to be addressing in the area of new standards of practice, I think Iprobably better take a step backwards and spend just a minute to tell you just how this process works. How the actuarial standards works and specifically, how does the casualty operating committee work.

We have three major subcommittee's: Rate making, Reserve related issues and evaluation subcommittee.

The rate making subcommittee has completed two standards of practice and they have five, now in various stages of progress.

The reserve subcommittee has recently completed the standard of practice on discounting loss reserves, some of you heard the presentation just previous to this one on that. That was a long arduous task. Some of the members of that subcommittee are standing at

ease right now, taking a little vacation and some of them are already shifted over and working on other projects.

The evaluation subcommittee completed there work on considerations and cash flow testing and some of those folks are standing at ease right now and some have already shifted over onto other projects. The one's that are standing at ease we're kind of holding in reserve, if you will, because within the next two weeks or the next month we're going to begin to work on some standards of practice that deal with the actuarial opinions on the annual statement and we'll be using those people.

The reserved subcommittee has recently completed the standard of practice on discounting loss reserves--some of you heard the presentation just previous to this one on that. That was a long arduous task. Some of the members of that subcommittee are standing at ease right now, taking a little vacation, and some have already shifted over and are working on other projects. The valuation subcommittee completed their work on considerations and cashflow testing, and some of those folks are standing at ease right now, and some have already shifted over onto other projects. The ones that are standing at ease are kind of holding (not audible) reserve if you will because within the next two weeks is the next month. We're going to begin the work on some standards of practice that deal with the actuarial opinions on the annual statements, and we'll be using those people.

In addition to the three major subcommittees, we have what I call task force from one of the better terminology where we're asking for volunteers to work on a specific project. Maybe these folks don't want to take on the responsibilities of full fledged membership on the committee, but are willing to work on it on a specific project for a specific period of time, and we're attacking Some projects in the area of reinsurance, initially dealing with greater return and profit provisions in rights and definitions of risk margins through these task forces. We have about 25 full fledged members on the committee, and probably 40-45 people that are working on these various projects. My role and the chairman of the subcommittees is really a role of being the traffic job. There is a lot that we need to be working on, and there's going to be some areas here in this actuarial opinion that we need to start working on, and our basic problem is setting the priorities. And what we don't want to do is push our personal priorities and what is important for this profession, what is needed for this profession, push our personal priorities on you. Our job is to listen, and based on the input, determine those priorities. We listen through meetings like this, so I am going to be interested in your comments today. We work with the American Academies Committee on financial reporting. They're giving us a great deal of input, and we're waiting for that input in the area of actuarial opinions. And of course we also take input from the actuarial standard board which sometimes directs us on what we need to be working on. We're really here today more on the role of listening and asking for help and setting some of these priorities. Now some of the areas that I'm sure we're going to be addressing that need to be addressed as we go forward with standards of practice, dealing with the actuarial opinion are one, do we need a standard on cashflow testing, when to do cashflow testing. We addressed that several months ago, we decided that we did not need that. We're addressing it again now. (Not audible) is that we don't, but the consensus is in the other direction. I hate to get too far ahead of the profession. I think we should not use a standards of practice to pull the profession in one direction or another. Now we might be accused of that on the loss reserve discounting, but there was an override in reason for that, but generally we don't to lead the profession and we don't want to push the profession in a particular direction. Our responsibility is to express what the standard practices are. Not what they ought to be or what they will be in the future but what are they today? Realizing that what we're writing today will probably be revised in three or four or five years. So when to do cashflow testing is the initiative we need to address. This standard of practice that the life and health insurers are working on the opinion of a by appointed actuaries initiative of

whether we can rewrite that to cut across all practice areas or whether we have to have our own. The questions is whether we can clear a lot of these issues that relate to actuarial opinions into one standard of practice or whether we need separate standards of practice. Some of the subtopics or the potential subtopics that would go into a standard of practice for opinions by appointed actuaries for property and casualty insurers would include some of the issues raised and the new paragraph 10 for the instructions if you've read that for the annual statement that says an actuary can use data provided by others then rely on that, but the actuary must evaluate the data for a reasonable list and consistency and further must reconcile the data to Schedule P. Some direction in a standard of practice may well be appropriate for that. Potentially, I think we could include in a standard of practice some definition as to what is the standard opinion? What is a standard loss reserve opinion, and what is a qualified loss reserve opinion? What constitutes qualification? Based on what I've read and heard from others, I think that there will be some folks, I don't know if it's a majority, maybe a majority of the actuarial profession would feel that a standard of practice should recommend standard opinion language that the actuary would use. I personally am a little uncomfortable with that, but maybe I don't have all the facts yet, I probably don't. I don't know how that will come out. A standard of practice may need to address the volatility of reserving for direct and assumed reserve. There's a different risk associated with reserving or setting the (not audible) with the net reserves and may need to be some direction on how you deal with that added risk. We may need to address the standard of (not audible) actuary should be held in preparing this required opinion and this one has come up before outside of the context of the actuarial opinion. But we may need a standard of practice which defines a reasonable and so far I haven't heard a definition that was anything was circuitous. I don't know a good definition for these rules, but that one has come up before and it will come up again as a possibility. We'll write it to these actuarial opinions. Those are some of the issues that I've heard as I've talked to other actuaries. At this point I'm going to sit down and take out my note pad and find out what you folks think we need to be addressing.

MR. WELLER: A couple of quick notes on housekeeping. This is a recorded session so please identify yourself when you ask a question. If you're sitting in the middle of the room by a mic, it's simplest if you just get up, use the mic, and then you're recorded for a posterity. You're all going to (not audible) and I'll try to repeat what you said. Who wants to lead off with a question?

QUESTION: Yeah I guess I understand, I don't know if I agree with you're point, Mike, about the standards should not be used to draw the technology or drag us ahead, but I wonder if the surplus position testing thing becomes reality. Maybe if (not audible) two questions. Is it legitimate for something like that to drag us ahead maybe faster than we're ready to go, and if that happened, doesn't that imply cashflow testing?

MR. MILLER: Yes, I think it implies cashflow testing. But there, we wouldn't be using standard of practice to push the profession into opinions on surplus adequacy, but rather responding to a requirement of the actuarial professionally. We have to do something so we use the standards to help you. Actually it's...

But that's okay though. If we're dragging ahead by something that happens, it's not called a standard. That's okay. Seems like that's usually where the drag comes from.

Yeah. The reason for my comment is I'm concerned about a relatively small group. We've got 40 people, but still that's relatively a small group within the actuarial profession. Writing standards of practice to tell you what you ought to do, I think there has to be broad input into that. I know that there's a lot of research out there with cutting edge ideas in all areas of actuarial work. I think until some of those cutting edge ideas will prove to be good, and that some will fall by the wayside. And the ones that prove to be pretty good will work their way into the standard procedures of actuaries, and at that point I think then what we call standards of practice will be

defining what the standard practice is among actuaries. Peter, you had your hand up next.

QUESTION: Doesn't having actuaries (not audible) depending on the surplus of the company become mood once you've got (not audible) based capitol? I mean how can those say (not audible)?

MR. MILLER: For those who couldn't hear, that was Peter Lindquist from Anistics, and the basic question is, "Do you need redundant financial recording?" You need an actuarial opinion of surplus adequacy at the same time that you have risk base capitol. The answer I think is--I know it doesn't become mood at all. But my understanding of the risk base capitol is that it's going to provide a threshold that will trigger a regulator's action. The degree of action that they'll take will be dependant upon how far short the company is of it's risk base capitol requirements. I think the risk base capitol is going to be a calculation of the surplus that the company should have, but rather a threshold that's going to tell the commissioner when and what kind of action to take. It does not eliminate the need for a company to express on this financial statement what it's place true surplus position is. I don't think the risk base capitol is going to be that calculation. But I think the two has similar objectives, but the risk base capitol is a formula actuary in a box of quick projection. It does not take into account the specific characteristics of the company. It doesn't project what might happen in the future and how it might affect the company. Can't take it into account, the reinsurance arrangements of the company, so it's not tailored to the company. It's just a mechanical calculation that may even be replaced by this statement of opinion on surplus I would think. Yeah. I sort of see risk base capitol as a request that says more is better as the actuarial opinion. It's more tailored and more useful to the regulator and there to see where a company is going. I have difficulty with the concept of surplus adequacy in an opinion because I don't know adequate for why. I know what it means to settle a liability. But I'm more comfortable with an actuarial opinion on financial condition than I am with one on surplus adequacy. Okay, next hand.

ALLEN SEALLY: I think that we have a conflict of interest in appointing an in-house actuary.

MR. MILLER: For the benefit of the tape recorder, it was Allen Seally asking about the potential conflicts and pressures that will affect an in-house actuary. I think without expressing disagreement in all with that, but still there is a legitimate approaching view that the implicit pressures that are on the in-housed actuary exist in that same fashion for consulting actuaries, not wanting to lose a good and valued client and so forth. And I think there is perhaps some element of truth to that certainly. There is perhaps less pressure on the consulting actuary, but on the other hand I can tell the match was not in the ideal position to do the work in many cases. So the trade-off's there, and we'd like to think that actuaries can be professionals and act independently within the company. But it remains to be proven. I have a somewhat different view. I see the benefit of the inside consultant as a second set of eyes, not necessarily an independent set of eyes that. I think in terms of evolution, if you look back to your AICPA opinions, initially any chartered public accountant could issue the opinion, and the wars are take you back close to 1940 about five years after the SEC laws got passed, but the independence requirement came in. I haven't had a chance to check back as to what happened, whether it was a major scandal or what precipitated a change, but I think it would be nice to see if there's some parallels in the way the opinion is evolving. Mike.

MIKE TOOTHMAN: The regulators in the U.K. and Canada are simply not as adversarial as they are in the United States.

MR. WELLER: It might be appropriate if I would just comment to expand a little bit on some of these pacts said about the Ukraine-Canadian systems because the role of the government actuary in those two systems is really different from what we as Americans can imagine it to be. It really is not, and I am from the IRS trust me, kind of action. Here regulation seems to be

much more adversarial. Too often we look at what's legal and sometimes we're even hired by our clients to help them find ways to the loopholes and things like that as opposed to really doing what is right. And I think that's not a good reflection on our profession when that happens. The role of the regulator in the Ukraine-Canada is much more cooperative and a scene is not as being adversarial particularly. And the whistle-blowing and the work of the company actuary with the government actuary seems to work very well because of that attitude. And there really is a difference that we've got here. Perhaps it's a challenge to us to see if we can begin to change the attitudes in the U.S. some because we are under professional responsibility with the code of conduct to go ahead and do the whistle-blowing anyway really. In precept 15 in the code of conduct, there is even discussion about strengthening that and making it compatible with what the Canadians has passed which would take out the exception for confidential information which would really put us on a (INAUDIBLE) with Canada in terms of professional responsibilities. That is difficult without the same limitation in liability, I recognize. But it really takes a change in attitude. There is that difference and I thought maybe it would be good to put that on the table and that's why it seems to work so well in the U.K.-Canada.

Good. Next question. Yeah, Jerry.

JERRY VOGEL: What's the appointed actuaries' responsibility who wants to terminate his relationship with the company that hired the appointed actuary?

MR. GRANNAN: Jerry Vogel said, "What's the appointed actuary's responsibility in terminating your relationship when the actuary wants to terminate it?" I've heard that question before. There's nothing in the instructions for the annual statement. They said what to do. I would have thought that the actuary could just walk away, but on the other hand, there may be something in the professional guidelines that require the actuary to make information available throughout the next actuary (provide you pay) presumably.

MR. WELLER: I think there's a guideline that suggests that the new actuary ought to talk with the old actuaries. I don't remember when, but we've kind of obligated the prior actuaries to disclosures that I think is expected that that conversation will be candid.

MR. VOGEL: Yeah. Sort of like courteous and considerate.

MR. MILLER: I think it goes beyond that.

MR. WELLER: Yeah. The precept starts out... Any other questions?

TERRY BISCOGLIA: I'm Terry Biscolglia. I'm also a consulting actuary, and it's interesting to me that we have two consulting actuaries on the panel, and as I've been listening to a lot of the discussion this morning, a couple of things have come to my mind, and I'd really like to know if anybody's given any kind of thought to this. It has been at least eluded that appointed actuaries could be subjected to increase liability if the reserve opinion turns out to be too low. Has any consideration been given to what may happen if the reserve opinion turns out to be too high? For example, a department may take action against a particular company. for example, with strict future writings because of the actuary's opinion and what happens if it turns out that that opinion was too high and the actuary may be subject to liability from his own client? And also it seems to me that there is at least the possibility that because of the increased liability of actuaries that there may be a tendency for actuaries to get more defensive in terms of the way opinions are rendered or strategies for approaching a client. I guess I have to put this in proper perspective. A lot of consulting actuaries deal with relatively small companies. We even had a session on that this morning. I think as I'm kind of going through my processes here, I may tend to become somewhat more than normally conservative in the way I may develop reserves for a small company than I may have been in the past. But then I have to worry about this balancing act. What if I get too conservative? What can happen from the other direction?

MR. GRANNAN: I would like to think that the answer is the best way to protect yourself from suits is to do the best professional job you can. You could shoot right down the middle, pushed from both sides when you're a consultant. I don't think that what's happening right now, the appointed actuary for this yeamed to me doesn't seem to increase liability. It's the potential opinion on surplus adequacy that would increase the proper potential liability in the future. Some have been concerned about that. And you do worry about the high side too. An interesting fact is the opinion has changed from saying that the reserves are good and sufficient which sounds like the sky is the limit to being reasonable which may put an upper limit. Reserves can be too high to be reasonable, I think so.

MR. WELLER: I want to close with a story about a friend of mine that is in the National Guard back in the Viet Nam era. And his name wasn't Dan, by the way. What he used to tell me the weekends he was on duty was that I could sleep safely those weekends because he was on duty. I think the question that the evolution in the appointed actuary puts to us is are we as actuaries making enough of the commitments as a profession so when they issue these opinions, the policy holders and the public at large can sleep better because there is an actuarial opinion in place.

P&C Appointed Actuary Requirements

- Effective 12/31/92
- Board must appoint actuary by December 31
    - Company must notify domiciliary commissioner of replacement within 30 days and give reasons
- Actuary must
    - Prepare statement of actuarial opinion on loss and LAE reserves
    - Prepare supporting actuarial report
    - Present a report to the Board

UK Appointed Actuaries

- Effective in 1974 for Life Insurers
- Not applicable to non-Life Insurers
- Ongoing oversight of financial condition
- "Whistle-blower" requirement
- Company actuary in contact with government actuary

Canadian Appointed Actuaries

- Effective in 1992, by act of Parliament
- Opinion on policy liabilities
- Annual report to the board
  - current financial situation
  - expected future financial condition under various plausible changes in internal and external environment
- Continually monitor expected future financial condition
- "Whistle-blower" requirement
- Immunity from lawsuits except if act in bad faith