


Managing Discipline Risk

Casualty Loss Reserve Seminar
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Michael L. Toothman, FCAS, MAAA
230 E. Golf View Rd.
Ardmore, PA 19003
(610) 896-3676
toothmanmr@msn.com


MANAGING DISCIPLINE RISK



Discipline Risk:

- a) Risk of becoming the Subject Actuary in an action undertaken by a disciplinary body (e.g. ABCD)
- b) Risk of actually being disciplined


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First: Follow Tim's Advice


Nearly all steps for good Litigation Risk Management are advisable for managing Discipline Risk.

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DO GOOD WORK


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Use the Professionalism Documents regularly:


- Code of Professional Conduct
- Standards of Practice
- Statements of Principles
- Qualification Standards
- Applicable Laws and Regulations
- Other Documents applicable to specific projects

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- Engagement Letter
- Identify Scope of Assignment
- Identify Reason for the Assignment from your Principal's point of view
- Identify and Resolve Potential Conflicts
- Documentation


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What do you do if you do become a Subject Actuary?

Because of Precept 13, you may become a Subject Actuary even if you have done nothing wrong.


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Role of ABCD is to

- **Investigate** alleged violations of the Code of Professional Conduct and recommend discipline if appropriate
- **Counsel** (provide guidance to) members
- **Mediate** disputes between members and others


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An ABCD Inquiry

- Is a fact-finding effort, not an adversarial forum
- Examines whether or not an actuary materially violated the Code of Professional Conduct
 - not whether an actuary is liable for damages


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What do you do if you do become a Subject Actuary?

- Cooperate fully with the ABCD
- Respond in a timely manner
- Be truthful and forthcoming
- Try to identify where you can improve your practice or how you could have prevented the situation


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ABCD Deliberation Process

1. What are the issues?
2. What are the facts?
3. What Code provisions or ASOPs apply?
4. Was the Code violated?
5. Were the violations material?
6. Are there any mitigating factors?
7. Are there any aggravating factors?
8. What disposition is appropriate?

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QUESTIONS???

Possible Changes

- Information Disclosed when Discipline Occurs (Tombstones)
- High-Profile Cases
 - Balance between Disclosure and Confidentiality
- Automatic Triggers

CASES* CONSIDERED DURING 2009

| Type of Case | Pending from 2008 and Earlier | Received in 2009 | Total |
|-----------------------|-------------------------------|------------------|-------|
| Conflict | 13 | 32 | 45 |
| Training | 4 | 6 | 12 |
| Conduct & Practice | 0 | 2 | 2 |
| Requests for Guidance | 0 | 46 | 46 |
| Total | 19 | 86 | 105 |

| Cases by Practice Area | Pending from 2008 and Earlier | Received in 2009 | Total |
|------------------------|-------------------------------|------------------|-------|
| Casualty | 9 | 22 | 31 |
| Health | 1 | 20 | 21 |
| Life | 2 | 20 | 22 |
| Pensions | 7 | 24 | 31 |
| Total | 19 | 86 | 105 |

* Including requests for guidance

CASES CLOSED

| | |
|--|----|
| Action by Individual ABCD Members | 46 |
| Replied to requests for guidance | 46 |
| Disposition by Chairperson and Vice Chairpersons | 27 |
| Dismissed | 27 |
| (Referred to Investigators in 2009: 7) | 7 |
| Dismissed with Guidance | 5 |
| Disposition by Whole ABCD After Investigation | 2 |
| Dismissed | 2 |
| Dismissed with guidance | 0 |
| Counselled without hearing | 0 |
| Counselled after hearing | 0 |
| Recommended private reprimand | 0 |
| Recommended public reprimand | 2 |
| Recommended Exclusion | 0 |
| Total Cases Closed (including requests for guidance) | 82 |

CASES IN PROGRESS (AS OF 12/31/09)

| | |
|--|-----------|
| Pending disposition | 2 |
| Pending hearing | 2 |
| Pending receipt of more information (from complainant, subject, other) | 16 |
| Cases suspended | 1 |
| Total Cases in Progress | 23 |

Since its inception in 1992, the ABCD has completed its cases as follows:

| Dispositions | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 |
|----------------------------------|------|------|------|------|------|------|------|------|------|------|
| Dismissed | 12 | 24 | 9 | 11 | 8 | 11 | 13 | 10 | 5 | 20 |
| Dismissed with guidance | 6 | 10 | 3 | — | 5 | 1 | 5 | 2 | 8 | 5 |
| Counselled | — | 2 | 8 | 1 | 6 | 2 | 5 | — | 2 | 3 |
| Mediated | 3 | 1 | 1 | — | — | — | — | 1 | — | 4 |
| Recommended private reprimand | — | — | — | — | — | — | — | — | 1 | 1 |
| Recommended public discipline | — | 1 | 2 | — | 3 | — | 1 | — | 3 | — |
| Replied to requests for guidance | 8 | 8 | 8 | 10 | 28 | 31 | 22 | 31 | 36 | 21 |
| Total | 29 | 46 | 31 | 22 | 50 | 45 | 46 | 44 | 55 | 54 |

| Dispositions | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | Total |
|----------------------------------|------|------|------|------|------|------|------|------|-------|
| Dismissed | 16 | 7 | 5 | 5 | 1 | 5 | 11 | 29 | 202 |
| Dismissed with guidance | 4 | 2 | 2 | 4 | 1 | 0 | 1 | 5 | 64 |
| Counselled | 2 | 4 | 1 | 4 | 3 | 1 | 2 | 0 | 46 |
| Mediated | — | 1 | — | — | — | 1 | 0 | 0 | 12 |
| Recommended private reprimand | — | — | — | — | — | 0 | 1 | 0 | 3 |
| Recommended public discipline | — | 1 | — | 2 | 1 | 1 | 3 | 2 | 20 |
| Replied to requests for guidance | 47 | 30 | 46 | 37 | 31 | 35 | 48 | 46 | 523 |
