



Managing Discipline Risk

CAS Spring Meeting

Phoenix

May, 2012

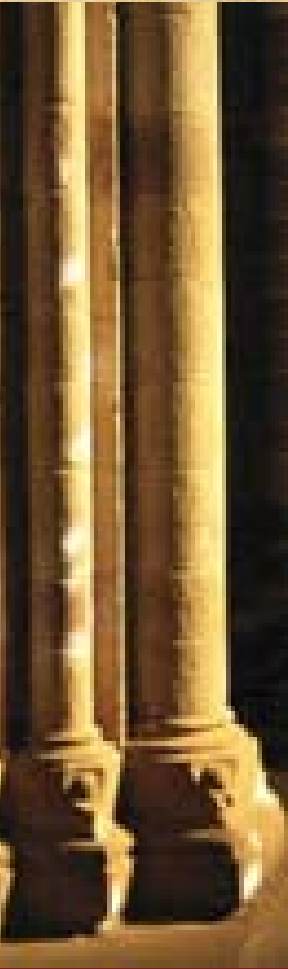
**Michael L. Toothman, FCAS, MAAA
230 E. Golf View Rd.
Ardmore, PA 19003
(610) 896-3676
toothmanmr@msn.com**

MANAGING DISCIPLINE RISK

Discipline Risk:

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

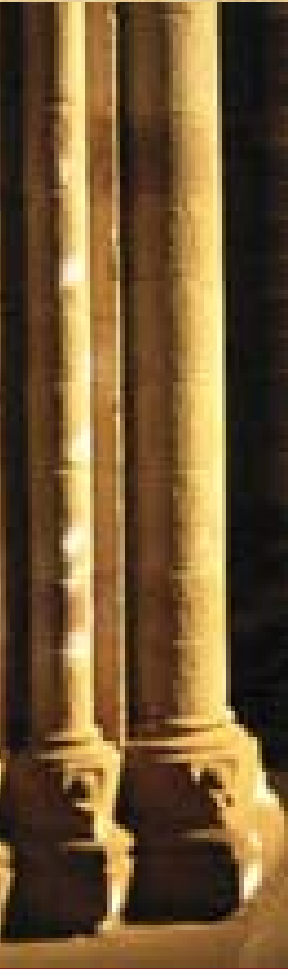
- b) Risk of actually being disciplined



MANAGING DISCIPLINE RISK

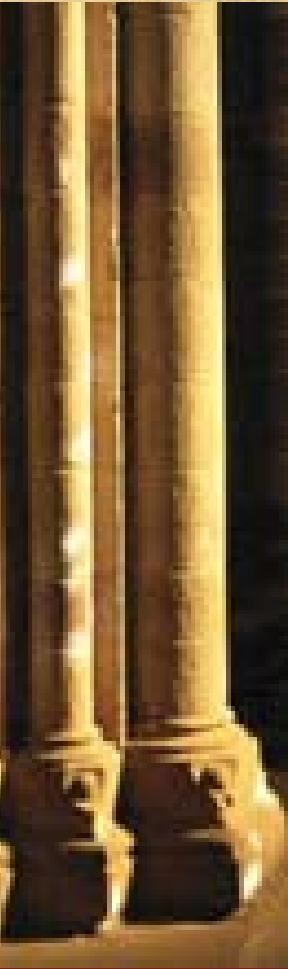
First: Follow Ron's Advice

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



MANAGING DISCIPLINE RISK

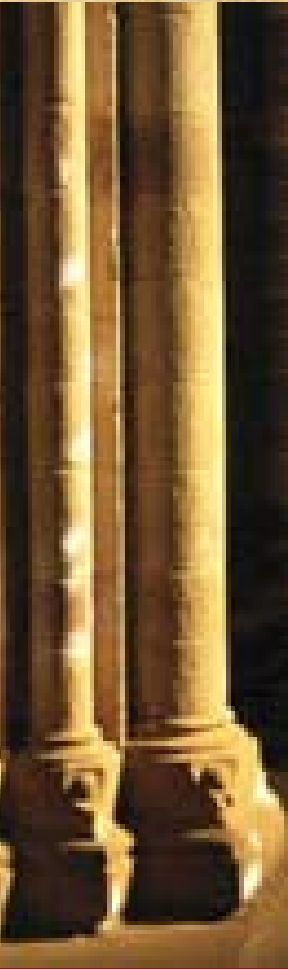
DO GOOD WORK



MANAGING DISCIPLINE RISK

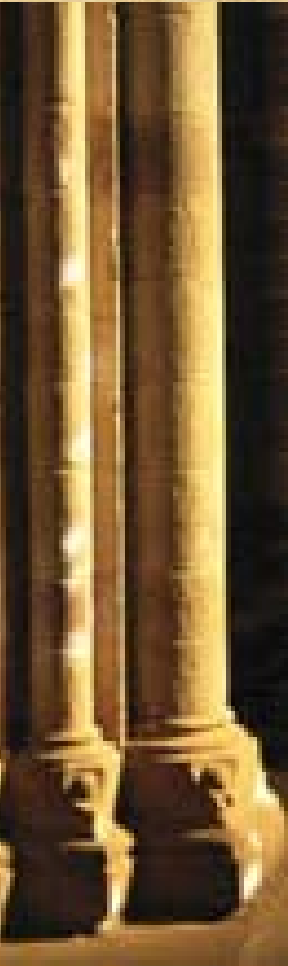
Use the Professionalism Documents regularly:

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



MANAGING DISCIPLINE RISK

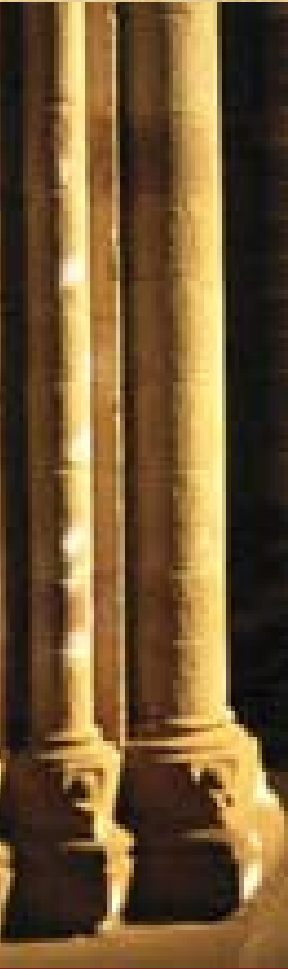
- Engagement Letter
- Identify Scope of Assignment
- Identify Reason for the Assignment from your Principal's point of view
- Identify and Resolve Potential Conflicts
- Documentation



MANAGING DISCIPLINE RISK

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

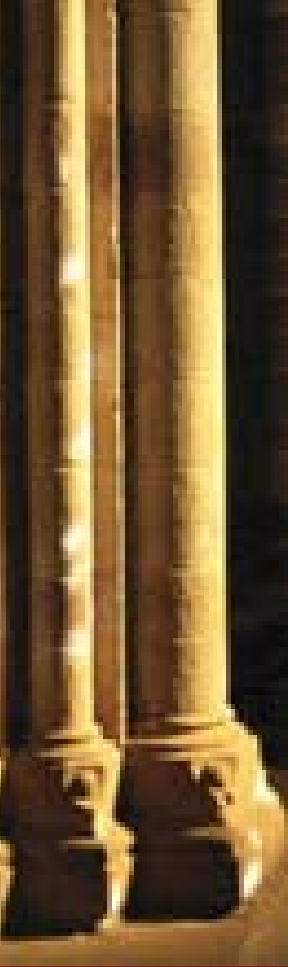
Because of Precept 13, you may become a Subject Actuary even if you have done nothing wrong.



MANAGING DISCIPLINE RISK

Role of ABCD is to

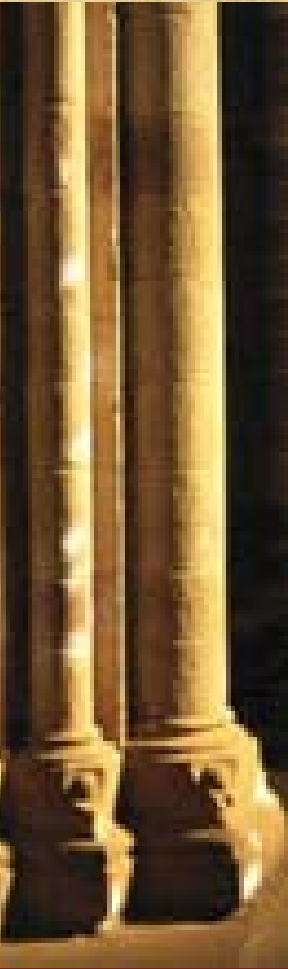
- **Investigate** alleged violations of the Code of Professional Conduct and recommend discipline if appropriate
- **Counsel** (provide guidance to) members
- **Mediate** disputes between members and others



MANAGING DISCIPLINE RISK

An ABCD Inquiry

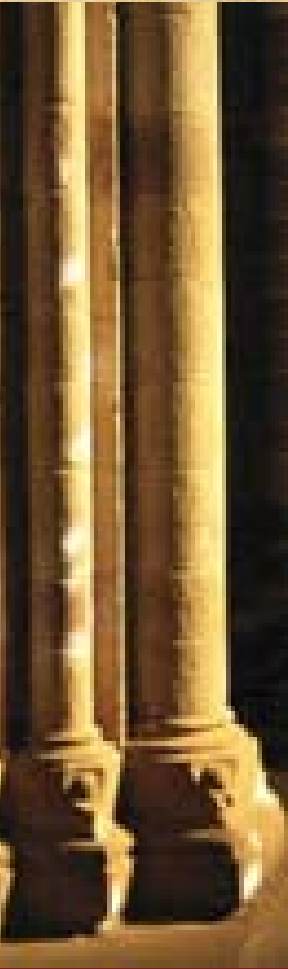
- Is a fact-finding effort, not an adversarial forum
- Examines whether or not an actuary materially violated the Code of Professional Conduct
 - not whether an actuary is liable for damages



MANAGING DISCIPLINE RISK

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



MANAGING DISCIPLINE RISK

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?

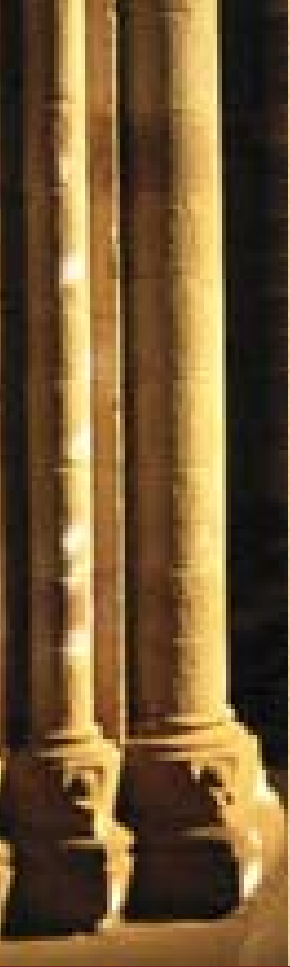
MANAGING DISCIPLINE RISK

QUESTIONS???



Possible Changes

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



CASES* CONSIDERED DURING 2010

Type of Case	Pending from 2009 and Earlier	Received in 2010*	Total
Conduct	15	7	22
Practice	7	9	16
Conduct & Practice	1	4	5
Requests for Guidance	0	55	55
Total	23	75	98

Cases by Practice Area	Pending from 2009 and Earlier	Received in 2010*	Total
Casualty	12	11	23
Health	1	20	21
Life	5	12	17
Pension	5	32	37
Total	23	75	98

* Including requests for guidance

CASES CLOSED

Action by Individual ABCD Members	
Replied to requests for guidance	55
Disposition by Chairperson and Vice Chairpersons	
Dismissed	12
(Referred to Investigators in 2010: 11)	
Dismissed with Guidance	1
Disposition by Whole ABCD After Investigation	
Dismissed	4
Recommended private reprimand	2
Recommended public reprimand	0
Recommended Suspension	3
Recommended Expulsion	0
Total Cases Closed (including requests for guidance)	77

CASES IN PROGRESS (AS OF 12/31/10)

Pending disposition	0
Pending hearing	1
Pending investigation	8
Pending receipt of more information (from complainant, subject, other)	11
Cases suspended	1
Total Cases in Progress	21

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
Counseled	—	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	2010	Total
Dismissed	16	7	5	5	1	5	11	29	16	218
Dismissed with guidance	4	2	2	4	1	0	1	5	1	65
Counseled	2	4	1	4	3	1	2	0	0	46
Mediated	—	1	—	—	—	1	0	0	0	12
Recommended private reprimand	—	—	—	—	—	0	1	0	2	5
Recommended public discipline	—	1	—	2	1	1	3	2	3	23
Replied to requests for guidance	47	30	46	37	31	35	48	46	55	578
Total	69	45	54	52	37	43	66	82	77	947