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Captive Newsletter

A Newsletter from the Captive Practice Group *June, 2014*

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APPEALS COURT AFFIRMS PREEMPTION

In April, the Second Circuit Court of Appeals held unequivocally that the Liability Risk Retention Act of 1986 (the "LRRA") preempts a New York State statute permitting a direct lawsuit against a risk retention group to recover on a judgment against an insured. In Wadsworth v. Allied Professionals Insurance Company, A Risk Retention Group, Inc., plaintiff Renata Wadsworth sued Allied, an Arizona domiciled risk retention group with over 4,000 insureds in New York, under New York's direct action statute, N.Y. Ins. Law § 3420, to recover an unsatisfied State court judgment entered against a chiropractor for sexual assault. The law lets injured parties sue insurers directly and requires that policies contain a provision to that effect. The United States District Court for the Northern District of New York granted summary judgment in favor of Allied, dismissed the claim, and held that if New York law permitted direct action against Allied, it was preempted by the LRRA.

The Second Circuit Court of Appeals affirmed the District Court's decision, noting the LRRA's broad language which exempts risk retention groups from any state law, rule, regulation, or order to the extent that the law, rule, regulation or order would make unlawful or regulate, directly or indirectly, the operation of a risk retention group. The Second Circuit found that the application of § 3420 to any foreign risk retention group would "undoubtedly" regulate, directly or indirectly, risk retention groups by subjecting them to lawsuits filed in New York by claimants who are not parties to policies and by requiring risk retention groups to place in New York policies a provision permitting direct action that is not required by other states nor contemplated by the LRRA. Notably, the Second Circuit emphasized in its opinion that the express preemption of *any* regulation could not be read to preempt only *discriminatory* regulation, but rather, must be read broadly to further the LRRA's purpose. This is good news for risk retention groups as they seek to maintain the flexibility contemplated in the LRRA in light of increasingly active non-domiciliary state regulators.

RISK RETENTION GROUPS – VERMONT UPDATE

In our March Newsletter we reported two anticipated amendments to Vermont law that could impact our Risk Retention Group ("RRG") clients – one requiring producer-controlled RRGs to comply with the Business Transacted with Producer Controlled Property/Casualty Insurer Model Act, and the other requiring application of the Risk-Based Capital for Insurers Model Act to RRGs. As expected, both of these amendments passed the Vermont House and Senate and were signed into law, effective March 28, 2014.

Producer-Controlled RRGs. Producer-controlled RRGs are now required to satisfy additional regulatory requirements, including: (1) establishment of a written contract with any controlling producer(s) specifying the responsibilities of each party and containing certain minimum provisions; (2) establishment of an audit committee composed of independent directors; and (3) issuance of an annual report to the Vermont Department of Financial Regulation ("DFR") on the amount of commissions paid to the producer and the percentage such commissions represent of the net premiums written. This amendment will not impact most Vermont RRGs as few meet the definition of being "producer-controlled" under Vermont law and these programs in most cases do not meet the licensing expectations of Vermont regulators.

Risk-Based Capital Enforcement. Vermont has complied with the NAIC's new accreditation requirement that all states apply the Risk-Based Capital for Insurers Model Act to RRGs. While a blanket application of risk-based capital metrics could have a significant impact on many RRGs, the amended statutory language provides DFR with the discretion to exempt an RRG from RBC triggers if (1) each of the policyholders of the RRG qualifies as an industrial insured; (2) the RRG's Certificate of Authority was issued prior to January 1, 2011 and, based on a minimum of five years of solvent operation, is specifically exempted from the requirements for mandatory action in writing by the Commissioner; or (3) the Commissioner determines the RRG is sufficiently capitalized based on evidence the RRG has: (a) an investment grade credit rating from a nationally recognized statistical rating organization or an A.M. Best rating of A1 or better; (b) an excess of assets over liabilities of at least $100 million; or (c) an excess of assets over liabilities of at least ten times the RRG's largest net retained per occurrence limit. We anticipate that many of our RRG clients will qualify for an exemption under at least one of these provisions. If this is an issue for your program, contact us for assistance in analyzing your exemption options.

NEW YORK TAX REFORM TO IMPACT CAPTIVES

The recently approved 2014-2015 New York State Budget made significant changes to the corporate franchise tax, some of which could impact captive insurance programs. These include the expansion of the "nexus" standard and the implementation of "unitary combined reporting", which may result in an increase in state taxes paid by captives with New York sourced income.

Under the new tax law, captives which had previously paid New York premium taxes may now be required to pay corporate franchise taxes on such income (in lieu of premium taxes). The following is a general summary of the changes, which will take effect for tax years beginning on or after January 1, 2015.

Expanded Nexus Standard Based Upon Economic Presence. New York imposes corporate franchise tax on domestic and foreign corporations. In addition to the existing nexus standards under New York law (e.g. doing business, employing capital, owning or leasing property, or maintaining an office in New York State), corporations are now also subject to New York's taxing jurisdiction based upon economic presence in New York. Generally, a nexus based on "economic presence" is established if a corporation's receipts from an activity within the state total at least $1 million. Corporations with less than $1 million but at least $10,000 of receipts from New York will be considered "deriving receipts from activity" in New York (and subject to the corporate franchise tax) if the corporation is part of a unitary group that has $1 million or more in New York receipts. With respect to captives, the "activity within the state" could be insuring risks that are located within the state. Thus, "receipts" from a parent insured located in New York would be apportioned, and the portion of the receipts attributable to policies covering risks located outside of New York would not count for purposes of the economic presence test.

Combined Unitary Reporting Specifics. In addition to expanding the nexus standard to include economic presence among the list of activities making a corporation subject to the corporate franchise tax, New York adopted unitary combined reporting. The adoption of this reporting regime increases the likelihood that a captive will be subject to corporate franchise tax rather than premium tax. The corporate franchise tax under combined unitary reporting applies regardless of whether the captive is licensed or has its domicile in New York.

Under the prior law, a captive insurance company was generally not subject to the corporate franchise tax (although it was subject to the New York premium tax) and not included on a combined return. There was an exception to this rule, however, if the captive was overcapitalized (or "stuffed"). New York created this exception based upon the concern that the state was losing revenue because some captive insurance companies earned significant non-premium revenues. Under the prior law, a captive was considered to be overcapitalized if fifty percent or less of its gross receipts for the taxable year consisted of premium income. New York has essentially expanded this exception.

Under the new law, the concept of a "combinable" captive retains the same fifty percent threshold as under the prior law for "overcapitalized" captives. However, the requirement under the prior law that "substantial inter-corporate transactions" exist between the captive and affiliates has been stricken. The elimination of this requirement increases the likelihood that a captive will be subject to combined unitary reporting. In addition, the definition of "premium" has been limited to "premiums from arrangements that constitute insurance for federal income tax purposes." Thus, if a captive has been organized as an insurance company under state law, and is not recognized as an insurance company for federal tax purposes, none of the premium income "counts" towards the fifty percent threshold, and the captive will likely be required to file combined unitary reports with the parent. In this way, New York disregards the captive's status as an insurance company and imposes a tax as if it were a general business corporation. Additionally, because the captive is included in the combined group, premium deductions are eliminated for insureds.

Bases Calculations and Business Income Computations. The calculation of bases under the new tax law has also changed. Rather than being subject to one of four bases as under the prior law, the combined group will calculate tax on three different bases, and pay the highest of the alternative amounts. The three alternative amounts will be (1) business income base tax, (2) capital base tax, and (3) fixed-dollar minimum tax (attributed to each member of the combined group). The capital and fixed-dollar minimum bases include a credit for taxes paid to other states on identical bases. The prior minimum taxable income base and the separate tax on subsidiary capital have been repealed.

Under the new law, there is a decrease in the rate of tax on business income (from 7.1 percent to 6.5 percent). Additionally, the capital tax rate, which is currently 0.15 percent with the maximum capped at $1 million for most taxpayers, will remain the same for tax years beginning before January 1, 2016 (although the cap will be increased to $5 million beginning on and after January 1, 2015). Thereafter, the rate of tax will be incrementally reduced each year until January 1, 2021, when the rate will be zero percent. The fixed dollar minimum tax will, as before, vary based on a taxpayer's New York sourced receipts, but will increase incrementally up to $200,000 for taxpayers with over $1 billion of New York receipts. The prior law capped the fixed dollar minimum tax at $5,000.

In terms of calculating "business income" under the combined unitary reporting regime, the new law retains the *Finnigan* computation method. The group members' income, apportionment, and attributes (net operating losses) are aggregated and applied against the group's aggregate business income to compute the group business income. The result is that the income and factors for all members of the combined group return are aggregated to arrive at a single business income and apportionment percentage to compute New York business income subject to the statutory tax rate.

Apportionment. The net income base under the new law is the combined business income of the combined group that is apportioned to the state. Business income will generally be apportioned using a single-receipts factor based on the customer's location. With respect to receipts from business activity not specifically addressed in the apportionment rules (which would include receipts from captive insurance activity), a hierarchy of methods is used to determine whether a customer is located within New York. The most significant of these methods is determining whether the benefit is received within New York. Tax Law 201-A (10)(B). If the risks insured by the captive insurance policy are located within New York, the benefit is received there. Conversely, if the risks are located outside of the state, the benefit is received outside of New York. In this way, only that portion of the "receipts" which can be allocated to the insurance of New York risks will be considered New York sourced income.

Conclusion. Although the recent tax law changes in New York may result in higher taxes paid by parents and captives in a unitary group, taxpayers should not be alarmed into thinking that all income of the captive will be subject to New York franchise taxes. As discussed above, captives will apportion New York sourced income from all income earned in a taxable year based upon the location of the "customer" and the covered risks, and credits will be given for taxes paid to other states on identical bases. On the other hand, more captives may be subject to the general corporate franchise tax under the new combined reporting regime than in prior years. Additionally, although the rate of tax on business income has been decreased under the new law, the higher caps on the capital tax and fixed dollar minimum tax could also result in an overall increase in franchise taxes paid by both "combinable" captive insurance companies and taxpayers who have always been subject to the tax.

Summary.

- Captives with New York sourced income may pay corporate franchise taxes rather than premium taxes as a result of unitary combined reporting.
- The nexus standard is now met if a captive's receipts from insuring New York risks total $1 million, or if the captive's receipts total $10,000 and it is part of a unitary group with $1 million of New York sourced income.
- The state of licensure or domicile of the captive is irrelevant to applicability of the corporate franchise tax or combined unitary reporting.
- A captive is "combinable" if 50% or less of its receipts consists of premium income.
    - If the captive is not an insurance company under federal law, none of its income "counts" as premium income under this test.
- The combined group will pay the *highest* of the (1) business income tax, (2) capital base tax, or (3) fixed-dollar minimum tax.
    - The business income tax rate will be 6.5% but decreased each year until it is 0%.

    - The capital tax rate will be 0.15% but reduced each year until it is 0%.
        - The maximum will increase from $1 million to $5 million.
    - The fixed dollar minimum tax will continue to vary based upon receipts.
        - The maximum will increase from $5,000 to $200,000.
- Premium income will continue to be apportioned based upon the location of the risks insured.

NEWS FROM THE VERMONT STATE HOUSE:

ANNUAL CAPTIVE LAW UPDATES

The Vermont General Assembly adjourned for the year on May 10, putting an end to this two-year biennium. Compared to many recent adjournments, this year's was fairly routine once the final pieces were put in place. Although there were many late nights, and not all the priority bills or issues passed, a collegial atmosphere prevailed. Indeed, in their adjournment resolution lawmakers chose not to set a return date in the event of a veto by Governor Peter Shumlin. None are expected. And even if an unexpected technicality were to force a veto, the Governor can always call lawmakers back.

The orderly adjournment is an example of better communication and cooperation by Governor Shumlin and his administration and legislative leaders this session. While all hail from the sizeable Democratic majority they have nevertheless encountered significant disagreements over policy initiatives in the past. Perhaps the amicability was helped in part by the rancorous adjournment last year in which the session was extended over disagreements in revenue proposals from the Legislature, many of which the Governor was loathe to support, and the desire not to do so again – particularly in an election year.

There also appeared to be an effort on the part of legislative leaders to avoid taking up significant or contentious social policy initiatives or others, such as gun control, and rather conduct a more workmanlike session. Maintain the status quo, pass a balanced budget, throw a few bones to longtime supporters, pass a few bills on issues that may sound good on the campaign trail, and get out of town.

Well before adjournment, however, the Legislature passed another captive insurance bill containing some new ideas as well as updates to existing law. With Governor Shumlin's signature on April 14, the captive amendments in H.563 became effective as Act 103. Included within the Act are the following provisions:

- Authorization of pure captives to apply for "dormant" status as an alternative to the status quo or dissolution. A dormant captive must have ceased transacting insurance and writing insurance policies, have no remaining liabilities associated with insurance transactions or policies, at no time have insured controlled unaffiliated business, and maintain $25,000 in minimum capital and surplus. In return, the dormant captive pays no premium taxes to Vermont and also obtains relief from certain regulatory obligations. A certificate of dormancy is good for five years and is subject to renewal. The dormant captive is subject to the annual license fee along with an annual financial reporting requirement with the Vermont Department of Financial Regulation (the "Department"). A dormant captive must apply to the Commissioner to surrender its certificate if it intends to resume its insurance business and issue new policies.
- Clarification that, in the event of a delinquency of a separate account within a captive insurance company, the assets of the separate account shall not be used to pay any expenses or claims other than those attributable to the separate account.
- Authorization of a reciprocal insurer to establish an incorporated protected cell separate from a sponsored captive insurance company of which it is a part.

- The granting of authority to the Commissioner when approving assessments levied upon subscribers of a reciprocal captive insurer to exempt the captive from certain provisions of the reciprocal laws related to the assessments themselves, the time limit for the assessments, and the aggregate liability.
- And at the Department's request, primarily for accreditation purposes with the NAIC, the extension of risk based capital requirements to risk retention groups. However, discretion is granted to the Commissioner to not take regulatory action if the risk retention group can meet certain conditions related to its capitalization, its investment grade rating, the extent of its assets over liabilities, or certain other conditions specified in the amendment. Another amendment, also related to accreditation, extends additional licensing requirements to producer-controlled risk retention groups.

In other legislation, the General Fund budget bill (H.885) passed. It contains language increasing the percentage of funds the Agency of Commerce and Community Development (the "ACCD") receives to promote and market Vermont as a captive domicile. The additional funding may also be used to add another individual to the ACCD for such marketing purposes. Current law provides that the ACCD may use up to two percent of the captive premium tax for its marketing and promotional services. The amendment increases that percentage to three percent and also makes clear that the ACCD may expend that amount subject to the approval of the Secretary of Administration.

We will continue to report on the Vermont General Assembly and the status of captive insurance initiatives in future issues.

NEW RUN-OFF LAW AN OPTION FOR SOME IN VERMONT

New legislation creates a path and framework for certain insurers and reinsurers to run-off books of insurance policies or reinsurance agreements. The concept, based primarily on Part VII insurance transfers permitted in the United Kingdom and elsewhere, emerged in Vermont three years ago and was reworked into a form that gathered the necessary consensus to pass into law as Act 93. Proponents in the Administration and elsewhere referenced Vermont's reputation and success in alternative insurance markets and the desire to be innovative and to create economic opportunities as reasons this initiative made sense for Vermont.

Officially known as the Legacy Insurance Management Act (LIMA), the new law authorizes a non-admitted insurer to transfer a closed block of commercial nonadmitted insurance policies or reinsurance agreements, or both, to an assuming insurer, which is a new Vermont company formed for the purpose of running-off the policies or agreements. Captive insurance companies and risk retention groups are expressly exempt from the definition of nonadmitted insurer but reinsurance agreements involving captives appear to fall under the scope of the law. Among the key differences in the new approach versus existing law that governs transfers is that affirmative acceptance of the transfer by each and every party to the policy or agreement is not required, and the timeline to accomplish the transfer is intended to be shorter.

To transfer, an assuming insurer is required to file a legacy insurance transfer plan with the Commissioner that sets forth all provisions and includes all documentation related to the transfer. During a comment period, parties may file written comments on the plan with the Commissioner, including specific objections which could result in a change to the proposed transfer.

If the Commissioner is satisfied the proposal is fair to the involved parties, she will issue an order either approving or disapproving the plan, or approving the plan with any conditions or ongoing oversight of the operations, management, and solvency of the closed block and any standards with which the assuming company must comply. An order approving the plan has the full force and effect of a statutory novation with respect to all policyholders and reinsurance counterparties and their respective policies and reinsurance agreements under the plan, and also provides that the transferring insurer shall have no further rights, obligations, or liabilities with respect to the policies and reinsurance agreements, and that the assuming company shall have all such rights, obligations, and liabilities.

An assuming company is required to file a $30,000 administrative fee at the time it files its plan to cover the costs of processing and regulatory review. The assuming company may also be subject to reasonable costs incurred by the Commissioner in reviewing the plan, such as for the costs of actuarial studies. Once the plan is approved, a transfer fee is required to be paid equal to 1.0% of the first $100 million of the gross liabilities transferred, and 0.5% of the gross liabilities transferred that exceed $100 million.

Proponents believe this new law will create employment and economic opportunities in Vermont to manage the transactions and service the newly formed Vermont assuming insurer. In addition, there is the potential financial contribution the transfers may make to the State's General Fund – a possibility not lost on the Legislature and Administration. Time will tell.

NAIC UPDATE

<u>Proposed 'Multi-State Reinsurer' Definition</u>. At the meeting of the Financial Regulation Standards and Accreditation (F) Committee (the "(F) Committee") during the NAIC Spring National Meeting, a draft definition of 'multi-state reinsurer' to be added to the preambles of the Part A: Laws and Regulations and Part B: Regulatory Practices and Procedures accreditation standards was reviewed. At the meeting, the (F) Committee Chair, John Huff (MO), introduced the draft definition of "multi-state reinsurer" as a "straw man" put forth by NAIC staff to help start the discussion. However, he also said that this is the most important issue he has faced for the state-based regulation system and stressed his resolve to take action in this regard.

NAIC Managing Counsel Daniel Schelp reviewed the NAIC staff's process in developing the definition for the (F) Committee. He indicated that they recognize the proposed revised definition would apply more broadly than just to captive insurance companies and special purpose vehicles formed by life insurers for the purpose of reinsuring reserves associated with term and universal life products. Mr. Schelp said that NAIC staff and involved regulators recognize that traditional captive insurance companies play an important part in the management of risk. Therefore, they excluded pure captives. However, Mr. Schelp also noted that, although the issue of group captives and agency/broker captives was raised during the drafting process, programs of that nature would be included in the proposed definition. With respect to the timeline for implementing this definition and making Part A and B accreditation requirements applicable to "multi-state reinsurers" as defined, Mr. Schelp indicated that staff drafted the definition with prospective application, but immediate applicability. However, he noted that some states do not have the ability to require changes to reinsurance agreements that are in place. As such, he suggested that current agreements would need to be able to remain in force through the end of 2014. Lastly, in apparent anticipation of comments from certain interested parties, he assured the (F) Committee and those in attendance that staff did not intend to drive transactions off-shore or put in place a moratorium on the creation of new captives by life insurers or any other parties.

During the comment period that followed, Deputy Commissioner David Provost (VT) suggested that the proposed definition of "multi-state reinsurer" was, in his view, both over and under-inclusive. Superintendent Torti (RI) commented in support of the effort. In his view, uniformity is what makes the state-based system work. He noted that traditional reinsurers are covered by the NAIC accreditation program, but suggested that states are individually and inconsistently deciding which reinsurers end up in the captive "bucket" and are then not subject to accreditation. Superintendent Torti suggested that this effort "has exposed a gaping hole in the accreditation system," which needs to be addressed as soon as possible.

We believe that, consistent with Deputy Commissioner Provost's comments to the (F) Committee, the proposed definition of "multi-state reinsurer" is unnecessarily and inappropriately broad. As drafted, the definition would include captive programs owned by "insurance entities," such as brokers, agencies and, perhaps, risk pools. We urge clients to evaluate whether their programs would be considered "multi-state reinsurers" under this definition and to consider the ramifications to their programs.

Review of Use of Captives and Special Purpose Vehicles by Life Insurers. At the meeting of the Principles-Based Reserving Implementation (EX) Task Force (the "Task Force") during the NAIC Spring National Meeting, the Task Force reviewed the February 17, 2014 report from Rector & Associates, Inc. (the "Report") regarding the use of captives and special purpose vehicles by life insurers to finance reserves subject to Regulation XXX and AXXX. The Report was a follow-up to the initial report of Rector & Associates, Inc. on this topic which had been completed in the Fall of 2013. The Report contains a series of recommendations that are intended to provide a framework for the regulation of and accounting for reserve-financing transactions that involve the use of captives or special purpose vehicles.

The Report suggests an implementation timeline that would mandate implementation of certain requirements as soon as July 1, 2014, and full adoption of the Report's recommendations and compliance by December 31, 2014. Many Task Force members and interested parties expressed reservations about the aggressiveness of this timeline.

The Report's recommendations focus almost exclusively on regulation of the ceding insurer and "on trying to ensure that high quality assets in an appropriate amount will be available to the ceding insurer to allow it to pay policyholder claims as they come due." The Report specifically, and in no uncertain terms, states that the recommendations contained therein are not an attempt to regulate captives. It warns that "addressing the regulatory concerns regarding reserve financing transactions by focusing on the regulation of assuming insurers will ultimately fail and will lead to financing transactions moving off-shore or otherwise out of the reach of US regulators."

Risk Retention Groups – "Control" by Captive Managers. At the meeting of the Financial Condition (E) Committee (the "(E) Committee") during the NAIC Spring National Meeting, a referral from the (F) Committee regarding captive managers and controlling persons with regard to risk retention groups ("RRGs") was received and discussed. The referral requests the (E) Committee's "assistance in determining whether and under what circumstances captive managers would be deemed to 'control' RRGs for purposes of the Insurance Holding Company System Regulatory Act ("Holding Company Act") and Model Regulation, which were made applicable to RRGs as of January 1, 2011. The basis for the referral is that:

> RRGs are owned by its [sic] policyholders and are typically shell companies, in that they have no actual employees. Rather, many of the business functions such as accounting, underwriting and reinsurance are outsourced to and performed by a captive manager.

If a captive manager was to be deemed to "control" an RRG within the meaning of the Holding Company Act, the captive manager would be subject to compliance with the significant filing and compliance requirements imposed on "controlling parties" by the Holding Company Act.

The matter was referred to the Risk Retention (E) Task Force at the conclusion of the meeting and will be discussed both prior to and, likely, at the NAIC Summer National Meeting in Louisville, Kentucky.

TRIA UPDATE

On June 3, 2014, the Senate Banking, Housing and Urban Affairs Committee unanimously approved the Terrorism Risk Insurance Program Reauthorization Act of 2014 (S.2244), a bill that would reauthorize the Terrorism Risk Insurance Act of 2002, as amended ("TRIA"), for seven years. This action followed efforts by insurance trade groups, professional sports leagues, universities, the National Governors Association and other interested parties to urge Congress to extend TRIA prior to its December 31, 2014 sunset. In addition to extending the TRIA program until 2021, S.2244 would increase (i) insurers' share of covered losses to 20% from 15% (in one percent increments over five years), and (ii) the insurance marketplace retention amount to $37.5 billion from $27.5 billion (in $2 billion increments over five years). It has been reported that the bill could come up for a vote on the Senate floor within the next few weeks.

The Senate Committee's action has been received favorably by industry trade groups and other interested parties. Michael McRaith, Director of the Federal Insurance Office, recently commented that "Treasury, applaud[s] the strong bipartisan action by the Senate Banking Committee to preserve the long-term availability and affordability of property and casualty insurance for terrorism risk." He also noted that the President's Working Group on Financial Markets had issued a report affirming the importance of TRIA to the national economy.

Although the Senate has taken steps to respond to constituents' concerns about TRIA's sunset, commentators caution that it is unclear when Congress will take action to extend the program and whether an extension would provide coverage comparable to the current program. Randy Neugebauer (R-TX), Chairman of the Financial Services Subcommittee on Housing and Insurance, released a draft TRIA reform bill on June 11, 2014, and has indicated his intention to promptly introduce a bill later this month. The draft reauthorization proposal would fundamentally change TRIA if signed into law. We will provide an update regarding the House proposal as soon as a formal bill has been introduced in Congress.

REMEMBERING ED MEEHAN

Ed Meehan, one of the legends of the captive insurance industry, died on May 4 in Fort Myers, Florida. He was 73.

Ed served Vermont as the Chief Insurance Examiner, Director of Captive Insurance, and Deputy Commissioner of Insurance. He had a big role in Vermont's original captive law and accompanying regulations, then reviewed and approved captive applications for the next decade, working to form more than 200 of Vermont's first captive insurers. Most importantly, Ed built the model for Vermont's captive regulatory approach which has become the "Gold Standard" in the industry. He made it clear to all – Commissioners, employees, service providers, and captive owners alike – that captives were welcomed in Vermont provided they developed and followed a solid business plan and possessed adequate capital for good times and bad. Ed always insisted on funding for a margin of error.

Ed also set the standard of excellence for personality in captive leadership, selecting Len Crouse to replace himself and in no small part defining the role followed by Deputy Commissioner David Provost to this day.

The State of Vermont and the captive industry could not have done better than these three individuals. But it all started with a brash, sometimes argumentative, funny, regulatory savant who will be missed – Ed Meehan.

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