



# CUG.COMments

A Newsletter from Chicago Underwriting Group, Inc.  
Underwriters of D&O and Professional Liability Insurance

Issue 58

September 2008

***In this issue...** In the twenty-five years since Chicago Underwriting Group was formed in 1983 and began writing Directors & Officers (D&O) and professional liability insurance, we have witnessed some of the most significant events in the history of corporate America and the financial markets. In this edition of **CUG.COMments** we look back over that period and consider the present circumstances in their historical context.*

## The 1980s and 1990s

**T**he Savings & Loan crisis — or maybe scandal — of the 1980s with the subsequent creation of the Resolution Trust Corporation was an early example of federal government intervention in a sector of private industry.

In 1987 Ivan Boesky, the mega-arbitrageur, pleaded guilty to conspiracy and was sentenced to three years in prison. He had already paid a \$100 million fine for illegal insider trading, an amount, which even today would raise eyebrows but twenty years ago was mind-boggling.

On October 19th of that year, the stock market crashed, with the S&P 500 stock index falling around 20 percent — a crash that became known as "Black Monday" and led to changes in how the market could be controlled better during such times of panic.

The demise of the investment bank of Drexel Burnham Lambert in 1990 followed the indictment and conviction of its star performer, Michael Milken. Milken had helped pioneer the aggressive use of "non-investment" grade corporate bonds — junk bonds — as a means of creating capital. This tool had been used to great effect a year earlier in the huge and now legendary leveraged buyout of RJR/Nabisco, a buyout led by the private equity firm of Kohlberg Kravis Roberts.

The spectacular fall of Long-Term Capital Management (LTCM), a hedge fund whose directors included Nobel Prize winners, dominated financial

news in the second half of 1998. After a series of huge investment bets turned bad, a bailout by private investors was organized by the Federal Reserve Bank of New York in order to avert widespread negative effects throughout the financial markets. The amount involved, around \$3.6 billion, came largely from private-sector financial institutions. Though it seems a puny sum compared to modern times, the shock to the system was severe.

## Lloyd's Wanes — then Waxes

Lloyd's of London, which essentially created and developed the modern concept of insurance and had traded since 1688, was forced to draw a line under all its historic non-life liabilities through 1992 in order to avoid extinction. These "old Lloyd's" liabilities were reinsured into the vehicle which was formed solely for that purpose, known as Equitas, and which instantly became one of the world's largest reinsurers. This drastic action allowed Lloyd's to "reconstruct and renew" into a very different body and permitted it to continue in business.

## The Turn of the Century

The business world continued to provide seismic events. The "dot-com" boom and bust as the 20th century ended was a classic speculation bubble that made and lost fortunes, and along with the related "laddering" allegations spawned hundreds of securities class action lawsuits. The meteoric rise and fall of Enron and others, as well as the more recent stock-options backdating allegations, showed that the convergence of inventiveness, greed and questionable actions is as prevalent as ever.

### **Legislative and Judicial Moves**

Federal legislation has also affected the D&O liability insurance world. The Private Securities Litigation Reform Act of 1995 and the ensuing Securities Litigation Uniform Standards Act of 1998 directly impacted securities class action litigation, generally seeking to curb what lawmakers viewed as unrestrained and often damaging abuses of the class action process. The enactment of "Sarbanes-Oxley" in 2002, a direct result of the Enron debacle, has significantly altered corporate reporting and accountability. The judicial branch has been influential in shaping the D&O landscape with U.S. Supreme Court decisions such as *Dura*, *Dabit*, *Tellabs* and *Stoneridge*, all of which were discussed in past editions of this newsletter. (<http://www.cug.com/publications/cugcomments.shtml>)

### **The D&O Liability Insurance Market**

During the past twenty-five years the availability and

pricing of corporate D&O insurance have swung back and forth from soft to hard in cycles of varying length and severity. Throughout this quarter of a century, Chicago Underwriting Group has continued to underwrite public company D&O liability insurance, making a market every business day for our producers and their clients.

The present events, precipitated in part by the credit crisis, have galvanized the attention of governments, regulators and consumers around the world. These events, while dramatic, will eventually pass into history; the market will adjust and move on. At Chicago Underwriting Group we look forward to continuing to be an active and responsible participant in that market, providing D&O and Lawyers professional liability insurance for our producers and their clients.



### **New CUG Employees: GeeAnn Parker and Bronson Smith**

We are pleased to announce that two new financial analysts, GeeAnn Parker and Bronson Smith, recently joined the D&O underwriting team. They will learn the intricacies of corporate finance as it relates to D&O liability and assist the underwriters with the analytical evaluation of companies' exposure. We expect GeeAnn and Bronson will take that knowledge and gradually progress to an underwriting role at Chicago Underwriting Group.

GeeAnn is originally from Indiana and graduated from Indiana University with a Bachelor of Science in Finance and a minor in Economics.

Bronson, a Chicago-area native, attended Penn State University and graduated with a Bachelor of Science in Economics.