# LOUISIANAAGENT

OCTOBER 2021

#### **RANDY LANOIX RECEIVES BIG I HIGHEST HONOR**



Catalyit = **Agency Technology Solutions** 

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By Jeff Albright IIABL CEO

By Ben Albright

**IIABL VP of Strategic Initiatives** 

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Password Managers

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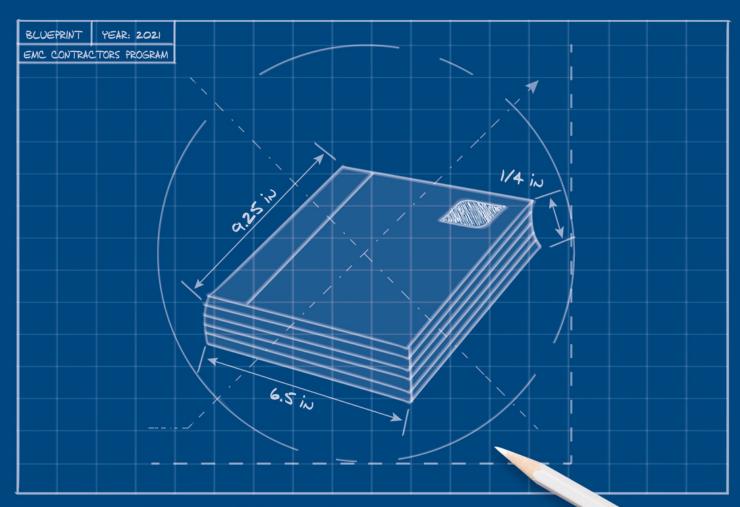
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#### Randy Lanoix Receives Big I Highest Honor

#### WOODWORTH MEMORIAL AWARD



# BIG O FILES STATES AND STATES AND

#### OCTOBER 2, 2021 BIG I LEADERSHIP CONFERENCE

The Big "I" presented the Woodworth Memorial Award and the Jeff Yates Lifetime Achievement Award at the Big "I" Fall Leadership Conference in Kansas City, Missouri.

Randy Lanoix, president of the Lanoix Insurance Agency in Lutcher and Port Allen, Louisiana, was awarded the Woodworth Memorial Award. All Woodworth recipients share one trait—an extraordinary dedication to the industry and the association. Lanoix has devoted his career to the insurance industry and his community. He served as president of the Independent Insurance Agents & Brokers of Louisiana (IIABL) in 2001 and as Louisiana representative on the Big "I" National Board of Directors. Lanoix has also been a recipient of the Mr. Chairman Award for his work as Louisiana's legislative chairman and his work with the Louisiana state legislature. On the national level, Lanoix was Big "I" chairman in 2015-2016.

In addition to his seven years on the Executive Committee, he has also served on the Professional Liability Committee, the Trusted Choice© Board of Directors, numerous task forces, and two terms on the Government Affairs Committee, where he was chairman of State Government Affairs. He has also been a steadfast supporter of InsurPac for years. The Big "I" is thankful for his service to the industry and the association.



# CATALYIT = AGENCY TECHNOLOGY SOLUTIONS

By Jeff Albright IIABL CEO

Catalyit is an independent agent technology resource company created by the Big I state associations of Louisiana, Wisconsin, New York, Colorado, New Jersey, Texas, and North Carolina.

Why Catalyit? Because the number of ways agencies can leverage technology to increase profits and better serve customers is nearly unlimited. But time, know-how, and fear of risk are getting in the way.

Catalyit simplifies agency technology solutions for agents. We've assembled world-class assessments, guidance, solutions, training, community, and experts to help agencies adopt technologies so they can thrive.

Catalyit offers:

#### **CATALYIT**

Continued from page 6

- Agency Technology Assessments: Our streamlined assessment process will determine your agency strengths and weaknesses to help guide you through the...
- Technology Success Journey: There are so many agency technologies, how do you know where to start? The Catalyit Technology Success Journey provides a step-by-step plan to take your agency tech stack from Basic to Better to Best and Beyond.
- Guides & Reviews: Not sure which AMS to choose? Don't have time to research five quoting platforms? We've done the work for you! Our guides help agencies compare solutions in minutes and include reviews by peers and experts.
- Training: From monthly live coaching and Q&A sessions to on-demand classes, agencies will be able to get the most out of existing tools and train their teams. Unlimited access includes the weekly TechTips newsletter.

- Tools: Catalyit's in-depth tech assessment and the Catalyit Success Journey™ provides agencies with a custom roadmap for success and the tools to get it done. Need the right tech stack? We have a guide for that too.
- **Community:** Discuss trends, best practices, and challenges with peers, experts, and providers. With Catalyit, there's an entire community of support and networking.
- **Consulting:** Our team of experts can work directly with agencies that want extra help.

We've heard you loud and clear - technology is a big concern for agents.

That's why we've led the charge to solve this tech problem for you. The result is Catalyit. A place for you to find all the tools, resources, and expert answers to your biggest technology questions in ONE place!

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#### BY BEN ALBRIGHT IIABL VICE PRESIDENT OF STRATEGIC INITIATIVES

#### Cybersecurity is hard

Protecting your agency from cyber attacks can be daunting. At the end of the day, you sell insurance for a living, but the hackers are often professional cybercriminals. The ingenuity of these attacks is stunning, as cybercriminals look to exploit any chink in the virtual armor. Some hacks that you read about take advantage of tiny security flaws in a program, or, else, a cybercriminal finds an open port in a firewall to tunnel through. However, statistics show that around 90% of data breaches are NOT caused by a complicated software flaw or any other vagary of computer science: almost all breaches are caused by human error. Any cyber expert worth their salt will tell you that the most important parts of your cybersecurity plan are the very basics:

#### **PASSWORDMANAGER**

- 1. Keep your software up to date
- 2. Use anti-virus and firewall software
- 3. Backup your data regularly
- 4. Make sure that you and your staff are knowledgeable and alert for phishing attempts
- 5. Use complex, unique passwords

#### **Passwords**

Today, we'll focus on number 5 – password hygiene. A good password needs 3 things.

First, it needs to be complex: that is to say, it needs to be difficult to guess. It shouldn't be Password123. It shouldn't be your child's name, and it shouldn't be your birthdate. But you also need to make sure that it's difficult for a computer algorithm to guess. This is why you often see recommendations to use a mix of uppercase letters, lowercase letters, numbers and symbols and recommendations to make it longer than a few characters. A "Brute Force Attack" is a common tactic in which the hacker

#### Continued from page 9

runs a program which automatically guesses a large number of passwords. By making your password longer, using more character variety, and avoiding the cliché default passwords, it takes such an attack much longer to guess correctly.

Second, a good password must be unique. Many hacks occur because of password reuse. If you use the same password for many different accounts - or all your accounts don't be too ashamed. Statistics show that something like 90% of respondents know that they SHOULD have different passwords for each account, around 59% of respondents admit that they still reuse passwords despite knowing better. The problem with this practice is that in an age of massive data breaches, your username and password combination is probably out there on the dark web. In less reputable parts of the internet, there are websites specifically devoted to selling usernames and passwords to hackers,

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#### **PASSWORDMANAGER**

spammers, and other bad actors. Hackers regularly buy these lists of username/password combinations and enter them into other websites to see if they can gain easy access to the accounts of people that reuse passwords. If you're curious, check out www.haveibeenpwned.com. You can type in your email address to see if that email has been involved in a known data breach, exposing your password to such an attack. Unfortunately, even if you haven't been exposed, yet, it's likely only a matter of time with the increasing pace of cyber breaches, so the best practice is to use each password only once.

The final concern is a practical one: a password must be memorable. The problem with using unique passwords is that there will end up being a lot of them. Some experts estimate that an average professional will have over 100 passwords between their business and personal lives. This won't come as a surprise to an insurance agent, though. Each company has its own portal. Each piece of software on your computer is password protected. Even using single sign on, by the time you've logged into your email and agency management system in the morning, you've probably typed in 5 or more passwords already. How can someone be expected to remember 100 complex, unique

passwords which many systems then require you to change every 90 days or so? IIABL's recommendation? Invest in a password manager.

#### **Password Managers**

Password managers are a security software option that stores all user passwords in one secure list, randomly generates complex passwords during password creation on any website or program, and automatically fills them into websites as needed. Theoretically, this can solve for all three of the password

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#### **PASSWORDMANAGER**

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requirements mentioned previously. Any time a user needs a new password, they can ask the password manager to create a new one which will be complex and unique to the application. However, the user doesn't need to remember the random series of 20 letters, numbers, and symbols. The next time they return to the page, the password manager will automatically fill the password into the appropriate box, allowing the user access. The user only needs to remember the single password which provides access to their password manager.

In addition to the immediate benefit to the cybersecurity of your agency, password managers can provide management oversight and business continuity tools for agency management. Business continuity was one of the reasons that IIABL ultimately decided to invest in a password manager: on our relatively small staff, there are some apps and portals that only a single employee accesses on a regular basis. If that employee were to leave,

no one else would know the password. Our password manager solves this issue for us, as management has access to all business related passwords for all employees in the event of an employee departure. Similarly, managers can oversee employee password hygiene to ensure that business passwords comply with our guidelines for complexity and single use, as the manager provides convenient reporting on compliance with password policies.

#### **Conclusion**

Password managers can instantly upgrade your agency's cybersecurity, give you new management tools, and aid in business continuity. While there are some growing pains, learning the new system, most users end up finding that it saves time and hassle. Oftentimes, staff will start using a password manager in their personal lines after experiencing the convenience at work. It's altogether a pretty good deal for just a few dollars per employee per month. IIABL highly recommends that agencies explore using a password manager in their offices.



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## Am I Legally Liable?

JULY 12, 2021

Bill Wilson
Founder at
InsuranceCommentary.com

Your insured asks, "If I do 'X', am I legally liable?" Or, "If 'this' happens, am I legally liable?" How do you answer questions like this?

While I retired from the Big
"I" almost five years ago, I
still participate in their
Virtual University's "Ask an
Expert" service. This
morning, we were
presented with this
question from an agent:

"Neighbor's building had bricks fall off and damage my insured's building. Not weather related, maintenance issue. I know the insured can go under his own coverage for RC, but is the other carrier liable for damages?

"One part of me says no, the neighbor didn't know about the damage to their building so this would be like a tree falling on my insured's roof.

"The other part of me says that if the bricks had hit a pedestrian, the building owner would have been

#### **LEGALYLIABLE**

#### Continued from page 15

liable so why is property damage different?" My response:

You're asking for a legal opinion. That needs to be specifically addressed to an attorney. All we can constructively comment on is whether there is liability coverage IF there is legal liability.

That being said, if a windstorm blows a healthy tree onto your insured's roof, there is an argument that the other party is not liable. On the other hand, if the tree was dead and should have been removed, then there's an argument that the other party's failure to do so constituted negligence. In your case, IF the other party in your case failed to maintain his property and that failure resulted in damage to your insured's property, then liability may exist.

Your insured is always free to make a claim or file a suit against the other party. However, even if they were successful, recovery is usually on an ACV, not replacement cost, basis so your insured might not recover in full depending on the cost to repair, depreciation, and other factors. If he bought RC coverage, then he likely has more coverage than he would get from the other party. He can recover from this own insurer and let the insurer subrogate if they choose to do so.

How do you response to such questions from your customers? Do you simply refer them to an attorney or do you provide some guidance with the caveat that you're not an attorney and not providing legal advice?

#### **Bill Wilson**

#### Founder at InsuranceCommentary.com

One of the premier insurance educators in America on form, coverage, and technical issues; Founder and director of the Big "I" Virtual University; Retired Assoc. VP of Education and Research from Independent Insurance Agents & Brokers of America. Reprint Request Information

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# ANOTHER CERTIFICATE OF INSURANCE NOOSE

Bill Wilson Founder at InsuranceCommentary.com August 2, 2021

The first certificate of insurance (COI) article I can recall writing was in 2001, two decades ago. It followed a seminar I attended led by the late, great Don Malecki. That seminar and a series of articles led to a white paper originally published in 2006:

#### Certificates of Insurance Resources

Since that time, I've done dozens of seminars and webinars on COIs, the first being a webinar attended, based on our best estimate, by over 7,000 people. Over the next 10 years, I spoke extensively on the subject and things seemed to improve substantially through this effort and that of Big "I" state associations who worked to enact legislation and regulations dealing with the most critical issues.

However, in the past year or two, I suspect with a new generation of players, things seem to be reverting to the pre-2010 days. For example, just recently an agent shared with me a series of documentation requirements from an upstream party for whom her insured was working. Among these requests was:



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#### **CERTIFICATEINSURANCE**

A letter from the Subcontractor's insurance broker(s) to [project manager] that the policies and coverage shown on the insurance certificate are fully in force and should the status of those policies and/or coverage change at any time for any reason whatsoever, the Subcontractor's insurance broker(s) shall notify [project manager] within one (1) calendar day of such change(s).

This letter shall further state that should the Subcontractor's insurance broker(s) fail to comply with the aforementioned notification provision, the Subcontractor's insurance broker(s) shall agree to indemnify, defend, and save harmless [project manager] from and against any and all claims arising out of such policy and/or coverage(s) changes, and further from and against any and all loss, cost expense, liability, or damaged, including legal fees and disbursements, resulting from those policy and/or coverage change(s).

I would never recommend that any agency submit a document with such a broad

#### Continued from page 18

indemnification statement. Nor would I advise any agency to provide any notice of a change in coverage. In fact, due to the lobbying efforts of the Big "I" association in the state where this construction project was taking place, there was a DOI regulation that says:

"[I]t is improper to state on a certificate of insurance that a party will be notified if the underlying policy is cancelled if that party is not entitled to notice under the terms of the policy."

Many states have similar and even broader laws and regulations that prohibit agents from doing certain things or providing COIs or related documents like this. Some of these states make it illegal to even be asked to do so.

At the end of the day, how you handle such requests is a business decision, but make sure your E&O policy limits are high, recognizing that such impositions on the agency essentially comprise a noose in which you are expected to stick your head through.













In celebration of our 75th anniversary, we at UFG reflect on all the people who have had a hand in our success over the years. After all, our company was founded on the belief that the insurance business is a people business—and that remains at the heart of who we are today.

As we begin our next 75 years, we give our most humble thanks to our independent agents. We owe our success to you.



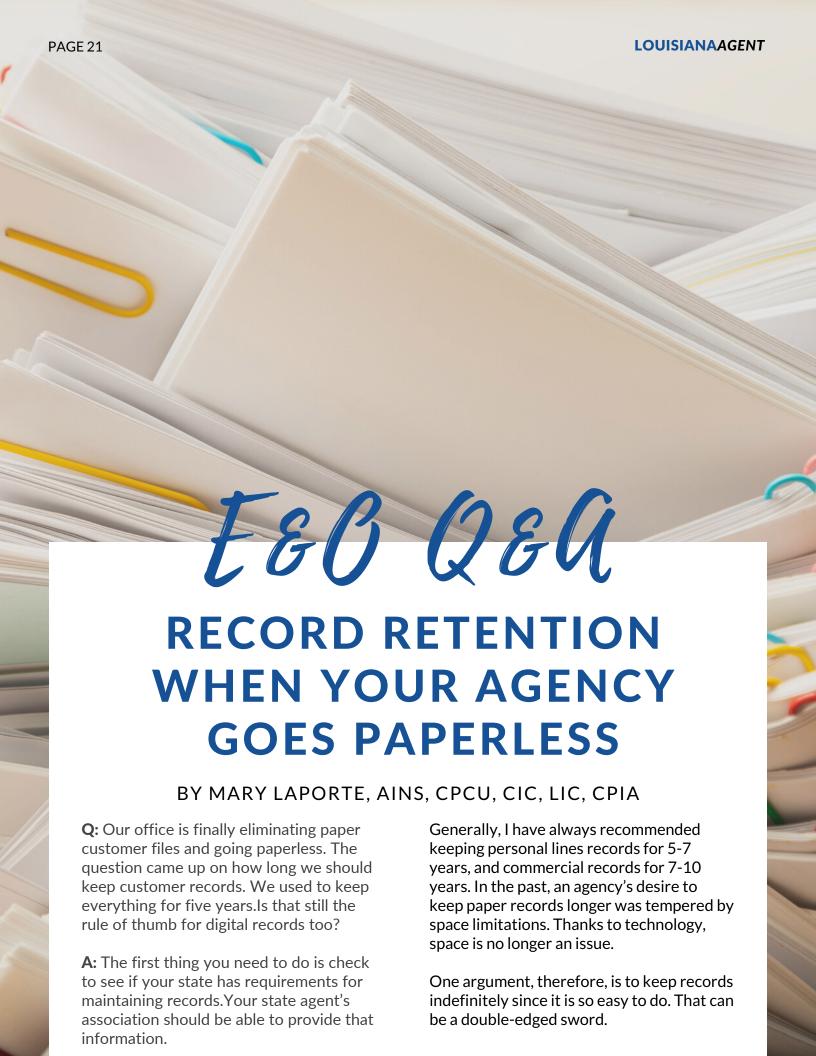


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#### RECORDRETENTION

Continued from page 21

On the plus side, you can provide historical perspective on an account and perhaps even help a customer with a long-tailed claim when the carrier no longer has a record of the policy. Conversely, poor documentation from the past can hurt you in an E&O situation. I think most of us would agree that, thanks to technology, we do a much better job at documenting today than we did ten, twenty or more years ago. I have witnessed situations where incomplete documentation or gaps in documentation from the past have affected agencies negatively in E&O litigation.

There is one more area to consider, and that is the limitations of your agency management system. In many management systems, customer records can be archived, but not deleted completely. You should speak to your vendor to see if it is even possible to totally delete records. From an E&O perspective, archived records are still subject to subpoena. In other words, archiving is the same as "keeping" them indefinitely.

At the time of an E&O claim, you will be judged against your peers. What would a similar agency do in the same situation? What are your peers doing? If the old "normal" was 7 years, what is the new "normal?" The truth is - no one knows. That takes time to establish and our changes in technology are relatively new. What I can tell you what I see other agencies doing right now and that is either keeping files indefinitely or archiving. Check your state requirements, speak to your vendor, review my comments above and create a retention policy that fits your agency's needs.

For resources to help reduce your agency's &O exposure, see Mary's book: Mission: EXCELLENCE - Creating an Internal E&O Loss Control Program

Visit her website at www.lpinsuranceconsult.com for more information.

Mary LaPorte is a consultant and educator with a strong background in E&O loss prevention. Forward your E&O questions to marylp@lpinsuranceconsult.com

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#### COMMISSIONER DONELON UNVEILS HURRICANE IDA MEDIATION PROGRAM TO RESOLVE CLAIM DISPUTES



Policyholders at odds with their insurers over Hurricane Ida damage claims may now be able to resolve their disputes through a mediation program created by the Louisiana Department of Insurance.

"I'm confident this new mediation program will be helpful in solving claim disputes between insurers and policyholders and getting people what they need to put their homes and lives back in order," said Commissioner Jim Donelon.

The Hurricane Ida Mediation Program begins this week and is open to all authorized property and casualty insurers and surplus lines insurers to facilitate disputes for personal lines residential insurance claims of up to \$50,000. Participation in the Hurricane Ida program is voluntary for insurers and policyholders. The two mediation providers have agreed to provide the service for a flat fee of \$600.

#### LA DEPARTMENT OF INSURANCE NEWS RELEASE FOR IMMEDIATE RELEASE

October 19, 2021

Details of the program are available in Bulletin 2021-08. The program is expected to run through June 30, 2022.

Either the insurer or the policyholder can make a written request for mediation, and the other party is free to accept or reject the invitation. If someone declines and later changes their mind, they are still eligible to participate in the program. Once a mediator is assigned to a case, they will promptly ask the parties to provide all relevant documentation and explain why they have been unable to resolve their differences.

The mediator will then have 30 days to set the date for mediation. All mediations will take place in either the Baton Rouge or New

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#### **MEDIATION PROGRAM**

Orleans metropolitan area at locations provided by Mediation & Arbitration Professional Systems (MAPS) in Metairie or Perry Dampf Dispute Solutions in Baton Rouge.

The policyholder may have an attorney or other representative participate in the mediation as long as they give those names to the mediator in advance. Both insurers and policyholders are free to bring adjusters, appraisers, contractors or other knowledgeable individuals to the mediation.

Mediations will last up to 90 minutes. That period does not include mediator preparation time. If the parties come to resolution, they must sign an agreement that specifies which portions of the claim have been resolved and the dollar amount of their settlement. The insurer then has 10 days to pay the policyholder.

Policyholders should come to the mediation with a complete list of damages. If new damage is

#### Continued from page 24

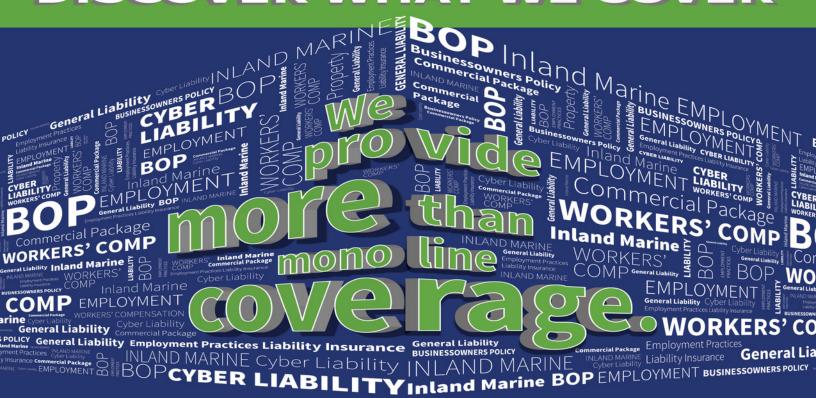
found or repair costs are higher than anticipated, the terms of the mediated settlement will govern whether the policyholder can re-open the claim.

If the parties reach partial agreement, they can continue to use the mediator's services beyond the 90 minutes but will be responsible for the cost.

#### About the Louisiana Department of Insurance:

The Louisiana Department of Insurance works to improve competition in the state's insurance market while assisting individuals and businesses with the information and resources they need to be informed consumers of insurance. As a regulator, the LDI enforces the laws that provide a fair and stable marketplace and makes certain that insurers comply with the laws in place to protect policyholders. You can contact the LDI by calling 1-800-259-5300 or visiting www.ldi.la.gov.

#### **DISCOVER WHAT WE COVER**



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#### **INSURE TECH MOMENTUM**

Brian Deitz Partner, Reagan Consulting

he InsureTech Connect conference is, in itself, compelling evidence that the insurance technology phenomenon is a big deal. A multiday event connecting technology startups, carriers, brokers and investors, InsureTech Connect (ITC) brings thousands of industry players to Las Vegas each year. Founded in 2016, ITC has welcomed over 30,000 attendees since inception, outgrowing Caesar's Palace and moving up to MGM and Mandalay Bay. That is a lot of investment of time, energy and capital into "insuretech."

Reagan spent some time at ITC 2021 last week and it is clear that there is a growing interest in insuretech from the broker community. Maybe it was Vegas. Maybe it was Ludacris at the ITC after-party. But to whatever you attribute it, more brokers are enthusiastic about insurance-focused start-up technologies.

Just in case you weren't among the 6,000 conference-goers in Vegas last week – or even if you were – below are a few of our observations on the conference and on insuretech in general.

Brokers are showing up at ITC and embracing start-up technologies in greater numbers. When we first attended ITC in 2018, there were only a few brokers that were serious enough about the insuretech space to attend. That picture has changed dramatically. At the 2021 conference, there were dozens of brokers in attendance and even a breakout stage for BrokerTech Connect – a series of presentations and panels on technology and trends focused exclusively on brokers. Brokers have increasingly welcomed insuretech start-ups

- just as these start-ups have increasingly been designed to support brokers. Our industry is realizing that there are more insuretech firms whose mission is to enhance the traditional brokerage channel than there are whose mission is to disrupt that channel.
- The line between insuretech and the traditional broker is getting blurry. Deals like Acrisure's acquisition of Tulco (an artificial intelligence platform), Brown & Brown's acquisition of CoverHound, and the recent merger of ABD and Newfront highlight the confluence of tradition and technology. We believe that these deals will continue - and that the brokers of the future will be powered more frequently by insuretech platforms, allowing them to spend more time on client relationships and complex risks. Of course, there is also the valuation boost that comes from the higher growth expectations for a tech-enabled broker to provide added incentive to traditional brokers embracing technology integration.
- Engaging with insuretech doesn't have to be overwhelming. Walking through the Expo Hall at ITC provides a window into the hundreds of insuretech players competing for capital from investors and attention from carriers and brokers. If your firm is looking to see where insuretech could help, we recommend three steps:
  - Ensure that you have IT leadership focused on emerging technologies and thinking strategically about your business.

#### **INSURETECH**

#### Continued from page 26

- Ask yourself a question: What problems in our business can insuretech help solve? Is it the client experience? Is it a safety program? Is it efficiently handling small accounts? Figuring out the questions you are trying to answer will allow you to narrow the universe of technology providers – and it can make the walk through the Expo Hall a lot more efficient and productive.
- Collaborate with other agents and brokers and industry associations. At the end of the day, most of these insuretech firms are start-ups and many of them will fail. The survivors will build scale and value by serving multiple users. Talk with your peers and industry associations about the firms that are most adept at meeting your specific needs. Networking and socializing these technologies will enhance their value. In addition, being a part of the insuretech discussions early may give you some influence as to how

- these start-ups refine their technologies and perfect their offerings.
- o Collaborate with other agents and brokers and industry associations. At the end of the day, most of these insuretech firms are start-ups and many of them will fail. The survivors will build scale and value by serving multiple users. Talk with your peers and industry associations about the firms that are most adept at meeting your specific needs. Networking and socializing these technologies will enhance their value. In addition, being a part of the insuretech discussions early may give you some influence as to how these start-ups refine their technologies and perfect their offerings.



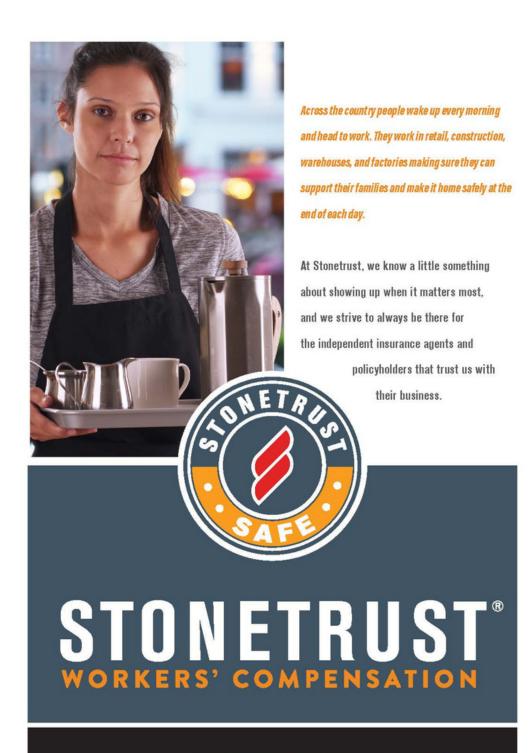
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#### **INSURETECH**

#### Continued from page 27

In an economy still influenced by COVID, gathering 6,000 individuals for an indoor conference requires significant energy. That energy is coming more and more from brokers looking to continuously improve their operations and the insurance experience for clients by leveraging insuretech.



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#### **BESTPRACTICES**

Continued from page 29

agencies can look to these industry leaders to measure, evaluate and learn from winning agency operations strategies as we look toward the future."

The Best Practices Study analyzes takeaways from nominated Best Practices firms throughout the nation for outstanding management and financial achievement, in categories such as income and expense distribution; revenue and profitability growth; sales and service staff compensation and productivity; technology expenses; and property-casualty and life-health carrier representation.

"These stellar agencies demonstrated the importance of seizing opportunities despite challenges," says Tom Doran, a partner with Reagan Consulting. "In particular, organic growth and sales velocity persevered remarkably well in light of the pandemic-driven realities for the year, nothing less than a huge win for the industry."

Key findings from the update include:

- Organic growth was better than anticipated. Organic growth averaged 3.7%. While this is down from 7.0% in the 2020 Best Practices Study, given the coronavirus restrictions in place, this organic growth result was surprisingly robust and exceeded by a wide margin projections made early in the pandemic.
- Sales velocity held despite challenges. Sales velocity moderated from 15.5% in the 2020 Best Practices Update to 13.2% in 2021—a victory in the pandemic era.
- Profitability hit an all-time high.
   Profitability, as measured by pro forma earnings before interest, income taxes, depreciation and amortization (EBITDA), averaged 26%—up 6.7 points compared to 2020. This profitability surge is largely a result of COVID-19 cost savings, with

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Access Home distinguishes itself from other carriers by offering innovative residential insurance options. Unlike most carriers, Access Home makes coverage possible for homes with the following characteristics\*: homeowners with any dog breed (including pit bulls), saddle animals, exotic pets, homes with trampolines, pools with diving boards or slides, and unfenced pools, hot tubs or bodies of water on the premises. Furthermore, porches or decks without handrails are now eligible\*; entrances with 3 or more steps without handrails are now eligible\*; and Central A/C is no longer required. We will cover homes on up to 15 acres and we aren't daunted by homeowners with up to a 90 day lapse in coverage, either.

\*Excludes liability coverage associated with these features.





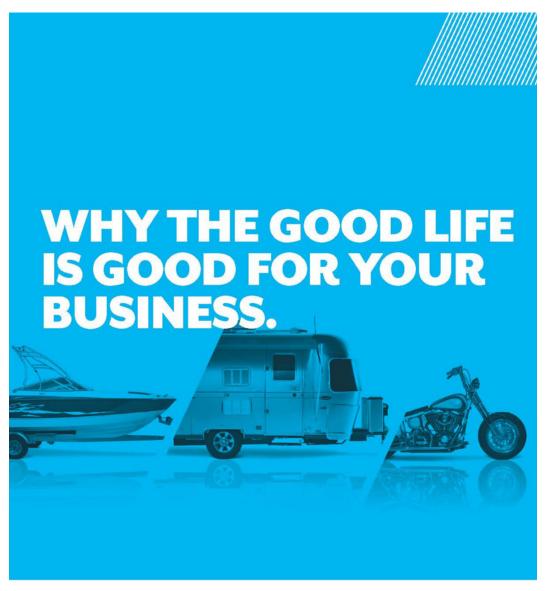
#### **BESTPRACTICES**

#### Continued from page 30

- travel and entertainment expenditures falling to 0.7% of net revenue in 2021 from 2.1% in 2020. Property-casualty contingency income, a major profitability lever, increased from 6.6% of net revenue in 2020 to 8.1% in 2021.
- Mergers & acquisitions continued its run. With 718 reported transactions, more agencies sold in 2020 than ever before in the industry's history.
- Shareholder and producer ages hold steady. The weighted average shareholder age (WASA) was 53.5 years in the 2021 update, and the weighted average producer age (WAPA) was 49.7. Internal perpetuation for agencies with materially higher WASA and WAPA scores may prove challenging.

This is the 28th edition of the annual Best Practices benchmarking analysis. The annual Best Practices Study began in 1993 as a joint initiative between the Big "I" and Reagan Consulting and studies leading agencies and brokers in the country to help independent agents build the value of their agencies.

To order a copy of the 2021 Best Practices Study update, visit the **Big "I" Best Practices webpage**.



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#### ISO'S **PROFESSIONAL** LIABILITY **FORMS**

By Christopher J. Boggs CPCU, ARM, ALCM, LPCS, AAI, APA, CWCA, CRIS, AINS

Effective June 1, 2017, Insurance Services Office (ISO) introduced the new Miscellaneous Professional Liability Policy (MI 00 01) along with a multitude of endorsements. This is the first in a series of insurance programs designed to address the professional liability needs of various risk types. These new forms are housed in Division Sixteen - Professional Liability - Other Than Medical of the ISO Commercial Lines Manual.

This first Miscellaneous Professional Liability filing was developed to provide professional liability coverage for various types of operations including:

- **Advertising Services**
- **Answering Services/Call Center**
- Appraisal Services (Non-real Estate)
- **Career Counseling**
- **Concierge Services**
- **Corporate Trainer**
- **Court Reporting**
- **Document Preparation Services**









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#### LIABILITYFORMS

Continued from page 32

- Event Planners
- Interior Designers (Non-structural)
- Life Coaching Services
- Notary Services
- Paging Services
- Photography Services
- Printing Services
- Private Investigator/Investigative Services
- Process Servers
- Resume Services/Consulting
- Salon Services
- Seminar Conductors
- Staffing Agency
- Tax Preparers
- Tour Operators
- Translating/Interpreting Services (Nonmedical)
- Translating/Interpreting Services (Medical)
- Travel Agents
- Tutoring Services
- Not Otherwise Classified (NOC)

When Not Otherwise Classified (NOC) is used, the MI 10 01 and the MI 10 03 endorsements allow the insured to specifically list one or more professional services intended to be covered. Services eligible for under NOC seem to be quite broad with a few specifically listed ineligible operations which include:

- Accountants,
- Agricultural professions,
- Architects, engineers or surveyors,
- Contractors,
- Insurance agents or brokers,
- Investment advisors,
- Lawyers,
- Medical professionals, and
- Real estate agents or brokers.

Some carriers may have their own lists of ineligible operations in addition to these business classes.



#### **LIABILITYFORMS**

#### Continued from page 33

#### The Base Coverage Form

Coverage is provided on a claims-made and reported basis, meaning that the claim must be made against the insured and reported to the insurer during the policy period or extended reporting period. The base policy is divided into 11 sections.

**Section I** extends coverage on a "pay on behalf" basis, in excess of any retention, when the insured is charged with a "wrongful act" occurring after the retroactive date. A

"wrongful act" is defined to mean any actual or alleged act, error, misstatement, misleading statement, omission, neglect, breach of duty committed, attempted, or allegedly committed or attempted solely in the performance of or the failure to perform "professional services." The professional service covered by the policy is the service included in the policy's declarations.

Section II addresses the Limit of Liability limiting the total amount of coverage for the policy period to the aggregate limit listed in the declarations. Individual claims are subject to the Each Claim Limit, also listed in the declarations. In the unendorsed form defense cost is within the coverage limits. Two defense limits endorsements are also available:

- Limit of Liability Amended Additional Defense Costs Limits (MI 03 03): Allows for a specified amount of additional defense cost coverage if the aggregate limit has been exhausted. Until the aggregate is exhausted, defense is still within the limits; or
- Limit of Liability Amended Defense
   Costs Outside Limit of Liability (MI 03 04):
   As the name suggests, defense costs do not reduce the available limit when this endorsement is attached.



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#### **LIABILITYFORMS**

Continued from page 34

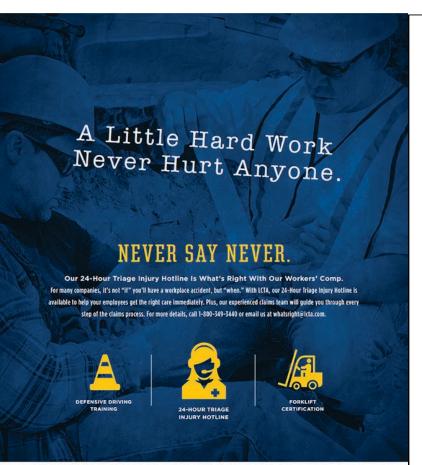
Section III applies to Defense and Settlement. The policy states that the insurer has the right and duty to defend and as part of this right and duty can select defense counsel. However, the carrier's right to select defense counsel can be altered by endorsement MI 04 01. This endorsement allows the insured to approve or disapprove the choice of counsel. When the MI 04 01 is attached, the MI 07 05 endorsement is attached placing specific conditions on the insured's choice of counsel. The insurance carrier's duty to defend ends when the limit of insurance has been exhausted.

The Settlement provision gives the insurance carrier the right to negotiate and settle a claim, but only with the consent of the insured. The Consent to Settle provision (often called the "hammer clause) states that if the insured does not settle, they become a 50 percent "coinsurer" on all amounts above the agreed to settlement amount and defense costs incurred

after the date the settlement was agreed to by the injured party.

Essentially, if the insured refuses to settle, 50 percent of any damages awarded in addition to the agreed to settlement amount are the responsibility of the insured. Further, the insured must pay 50 percent of the defense costs incurred after the proposed settlement date. Consider the following chart:

| Amount on<br>Date<br>Settlement<br>Accepted: | Amount<br>Ultimately<br>Paid | Insured's<br>Responsibility<br>(Out of Pocket<br>Cost) - 50% |
|--|------------------------------|--|
| Damages:<br>\$100,000                        | \$180,000                    | \$40,000   |
| Defense:<br>\$60,000                         | \$120,000                    | \$60,000   |



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#### **LIABILITY FORMS**

Continued from page 35

The Consent to Settle "coinsurance" percentage can be altered (increased) by endorsement (MI 04 02). In the above example, if the coinsurance percentage is increased to 70 percent, the insured's out-of-pocket costs drop to \$42,000 from the \$100,000 at 50 percent coinsurance.

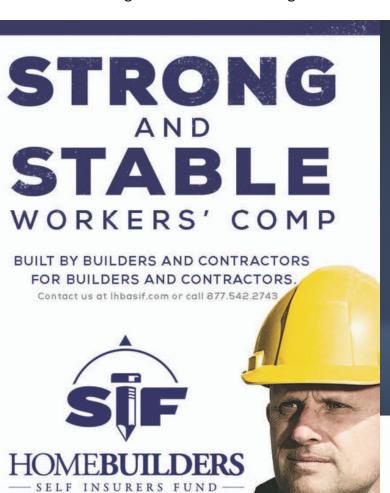
**Section IV** details the retention, stating that only amounts in excess of the retention are paid by the carrier. Retention amounts are basically the first "layer" of protection and are borne solely by the insured. Defense costs are subject to the retention only when defense is within the limits (as it is in the unendorsed form). If the MI 03 04 is attached, defense costs are not subject to the retention. The basic retention is \$2,500, but can be lowered to \$250 or increased to \$1 million.

**Section V,** entitled "Related Claims," states that all claims arising out of the same wrongful act

or combination of interrelated wrongful acts are considered one claim and are thus subject to one retention (the good part) and one claim limit (the restrictive part). An interrelated wrongful act is defined to mean "all causally connected 'wrongful acts' arising out of the same or substantially the same facts, circumstances or allegations which are the subject of or the basis for any 'claim.'"

**Section VI** details Coverage Enhancements. This provision includes: 1) Separate limits for the defense of Disciplinary and Licensing Proceedings and Subpoena Assistance; and 2) Up to \$500 per day for loss of earnings for each insured person with an aggregate limit of \$10,000. These payments do not reduce the Aggregate Limit of Liability and are not subject to a retention.

**Section VII,** entitled Coverage Extension, can be seen as a vicarious Who Is An Insured









\*Beyond Floods<sup>an</sup> branded policies underwritten by one or more companies in the National General Insurance Group, Winston-Salem, NC, NatGen Flood Division. Rates vary. Terms, conditions, limits and exclusions apply. Availability may vary by state.

#### **LIABILITYFORMS**

Continued from page 36

section. The form states, "Coverage shall be extended to 'claims' for 'wrongful acts' of an 'insured person' made against:

a. The lawful spouse or domestic partner of such "insured person" solely by reason of such spouse or domestic partner's status as a spouse or domestic partner, or such spouse or domestic partner's ownership interest in property which the claimant seeks as recovery for an actual or alleged "wrongful act" of such "insured person" b. The estate, heirs, legal representatives or assigns of such "insured person" if they are deceased, or the legal representatives or assigns of such "insured person" if they are legally incompetent, insolvent or bankrupt; or c. A trust of such "insured person" and any legally approved trustees of such trust."

But note, coverage is not extended for those listed individual acts, only for their vicarious liability for the actions of the insured.

To complete the policy picture, Section VIII lists the 22 policy's exclusions; the policy's Conditions are found in Section IX; and Extended Reporting Periods and the Run-Off Coverage Period are in Section X. The policy's final section, Section XI, defines specific terms.

A unique provision is the Run-Off Coverage Period in Section X. The insured has the option to purchase up to six years of "run-off" coverage in the event of a merger, consolidation or acquisition of the named insured or cessation of a subsidiary.

#### **Loss Costs, Revenue Bands and Forms**

Loss costs are based on per \$1,000 of revenue and drops as revenues increase. The revenue bands are:

- \$0 \$250,000
- \$250,001 \$500,000
- \$500,001 \$1,000,000



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#### **LIABILITY FORMS**

Continued from page 37

- \$1,000,001 \$3,000,000
- \$3,000,001 \$5,000,000
- \$5,000,001 \$10,000,000
- \$10,000,001-\$15,000,000
- \$15,000,001 \$25,000,000
- \$25,000,001 \$50,000,000
- \$50,000,001 \$100,000,000
- >\$100,000,000

Premiums are developed by charging the rate of each band until the ultimate premium is reached. As an example, consider the method for developing the premium for an operation with \$6,500,000 in revenues. For this assumption, loss costs are fabricated and Risk Hazard Groups are ignored (there are five risk hazard groups ranging from "Very Low Risk" to "Very High Risk"):



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- On't want interference in how to run your agency? We offer information and options, but you make all decisions for what is best for your agency.
- Want direct carrier appointments outside the network? Not a problem.



#### **LIABILITY FORMS**

#### Continued from page 38

| Revenue Band              | Loss Cost (Rate) Example | Example Premium |
|---------------------------|--------------------------|-----------------|
| \$0 - \$250,000           | \$5.00                   | \$1,250         |
| \$250,001 - \$500,000     | \$4.00                   | \$1,000         |
| \$500,001 - \$1,000,000   | \$3.00                   | \$1,500         |
| \$1,000,001 - \$3,000,000 | \$2.00                   | \$4,000         |
| \$3,000,001 - \$5,000,000 | \$1.00                   | \$2,000         |
| \$5,000,001 - \$6,500,000 | \$0.50                   | \$750           |
| Total Premium             |                          | \$10,500        |

Remember, these numbers are completed made up solely for the example; also, other key rating factors are not considered (such as hazard group, increased limits, deductibles, etc.).

In total, ISO introduced 82 policy forms and endorsements as part of this new filing. For a complete list of forms and endorsements click HERE.





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# PHONE CARRIERS' NEW REQUIREMENTS FOR BUSINESS TEXTING

By Anne Marie McPherson Legal Advocacy

National phone carriers like T-Mobile, AT&T and Verizon are starting to implement new requirements for business texting to counteract telemarketing spam. The requirements primarily focus on businesses using application-to-person (A2P) text messages sent via 10-digit long code (00310DLC) phone numbers, which are phone numbers that include a local area code and support high volume texting.

Most major phone carriers will start requiring businesses to register their texting campaigns and follow various protocols with their texts, such as obtaining consent. Businesses may be subject to large fines and penalties for non-compliance.

The 10DLC requirements are different in certain respects for each carrier and are at varying stages of application and development. Most agents and brokers

#### **BUSINESSTEXTING**

who use 10DLC texting will likely be able to work on compliance with any requirements in coordination with their third-party texting vendor.

What steps should agents take next?

We recommend that agencies stay current with developments from their cellular carrier as well as those their customers may be using. We recommend that agents renew consent by obtaining a new opt-in form annually, such as when the agency meets with the client to review coverages prior to renewal. An opt-in template is available for all Big "I" member agencies.

#### Continued from page 40

For more information on these developments, visit the following links: Campaign Registry FAQ "Changes to Business Texting with the Introduction of 10DLC Policies" from HawkSoft "What is A2P 10DLC?" from Twilio If you have any further questions, please contact Ron Berg, Ginny Winkworth, Scott Kneeland or Eric Lipton.

















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#### I HOPE YOU DIDN'T MISS THIS!

IIABL passed a good time in Shreveport at the Fall Conference on October 28. Attendees earned up to 6 hours of CE, enjoyed great food and got to network with new friends & old! Don't miss the next Fall Conference in Baton Rouge on November 9!



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#### **IIABRUPDATE**



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Online Registration | Registration Form

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The Independent Insurance Agents of Shreveport Bossier had a wonderful time at their Annual Golf Tournament in October!





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## **IIABL EDUCATION**

#### **NOV 2021 CALENDAR OF EVENTS**



Truly Awful CGL Endorsements

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## & EVENTS

FRIDAY

IIABL Office Closed for Thanksgiving Holiday

THURSDAY

LIVE WEBINARS! 8-11am

Flood Insurance & the NFIP

**12-3pm**Agents E&O: Duties
Operations, Checklists &
More

| THURSDAY  | FRIDAY         | SATURDAY | IIABL CE ON DEMAND   |
|---|----------------|----------|--|
| 4   | 5              | 6        | <ul> <li><u>E&amp;O Risk Management</u></li> <li><u>Ethics</u></li> <li><u>Flood</u></li> <li><u>Commercial Lines Courses</u></li> <li><u>Personal Lines Courses</u></li> <li><u>Professional Development</u></li> </ul> |
| LIVE WEBINAR! 8-11am Commercial Property- Direct vs. Indirect Damage  IIABR Nov. Luncheon 11:30am | 12             | 13       | IMPORTANT DATES  IIABL 2022 Membership Dues DUE! December 1, 2021  IIAGNO Past Presidents Luncheon December 8, 2021 Metairie Country Club Online Registration Registration Form  |
| 18  | 19             | 20       | IIABL Office Closed for Christmas Holiday December 23-24, 2021  IIABL Office Closed for New Years Holiday December 30-31, 2021  OTHER EDUCATIONAL  |
| 25 Happy THANKSCIVENCE  | 26 Sorry We're | 27       | RESOURCES  |

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