Professional Liability Insurance for Securities Broker - Dealers

November 20, 2003

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Outline

- Premium Trends
- Claim Trends
- Insurance Markets
- Coverage Issues
- Forecast for the Future

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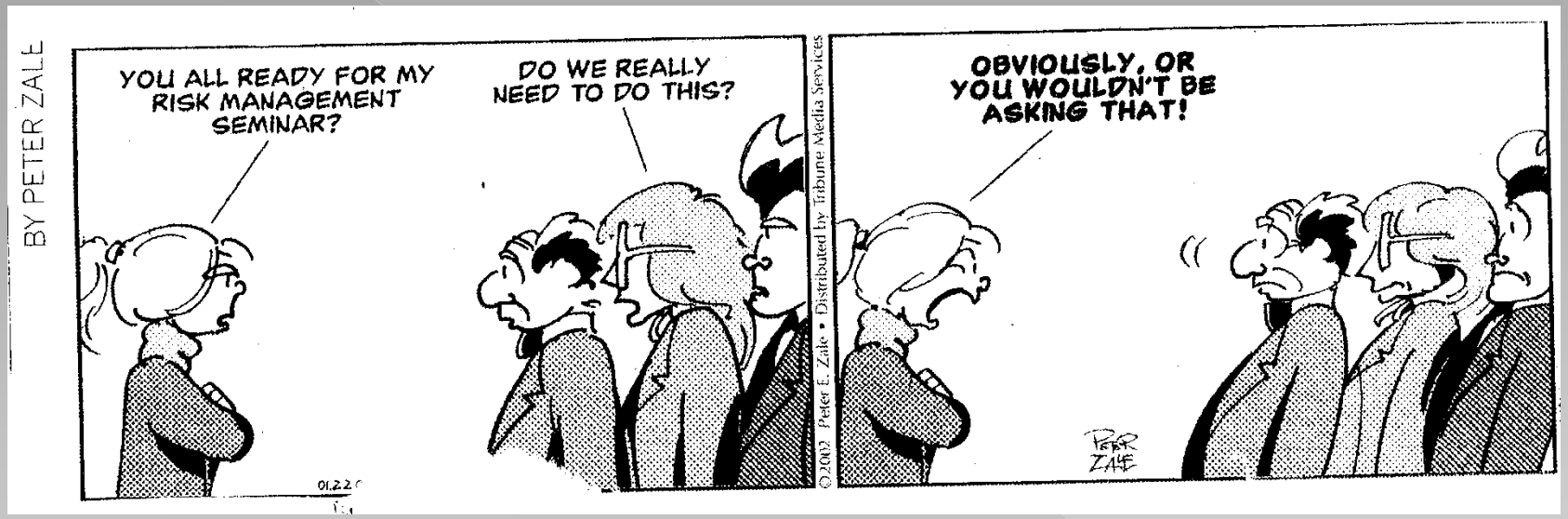
Why are we here today?



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Premium Changes

2001	Base Year
2002	+ 60%
2003	+65%
Total	+164%

1999	10%
2000	10% - 15%
2001	10% - 20%
2002	20% - 30%
2003	20% - 40%
Total	231.26%

"Premiums are still inadequate"

- Unnamed Broker Dealer E&O Underwriter

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New Cases Filed through September

Year	# Cases Filed	% Increase
2001	4,982	N/M
2002	5,690	14.2%
2003	6,948	22.1%

NASD Dispute Resolution Statistics as of October 17, 2003

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Arbitration Cases Filed

Year	# Cases	Year	# Cases
1990	3,617	1997	5,997
1991	4,150	1998	4,938
1992	4,379	1999	5,608
1993	5,421	2000	5,558
1994	5,586	2001	6,915
1995	6,058	2002	7,704
1996	5,631	2003 (9 Months)	6,948

NASD Dispute Resolution Statistics as of October 17, 2003

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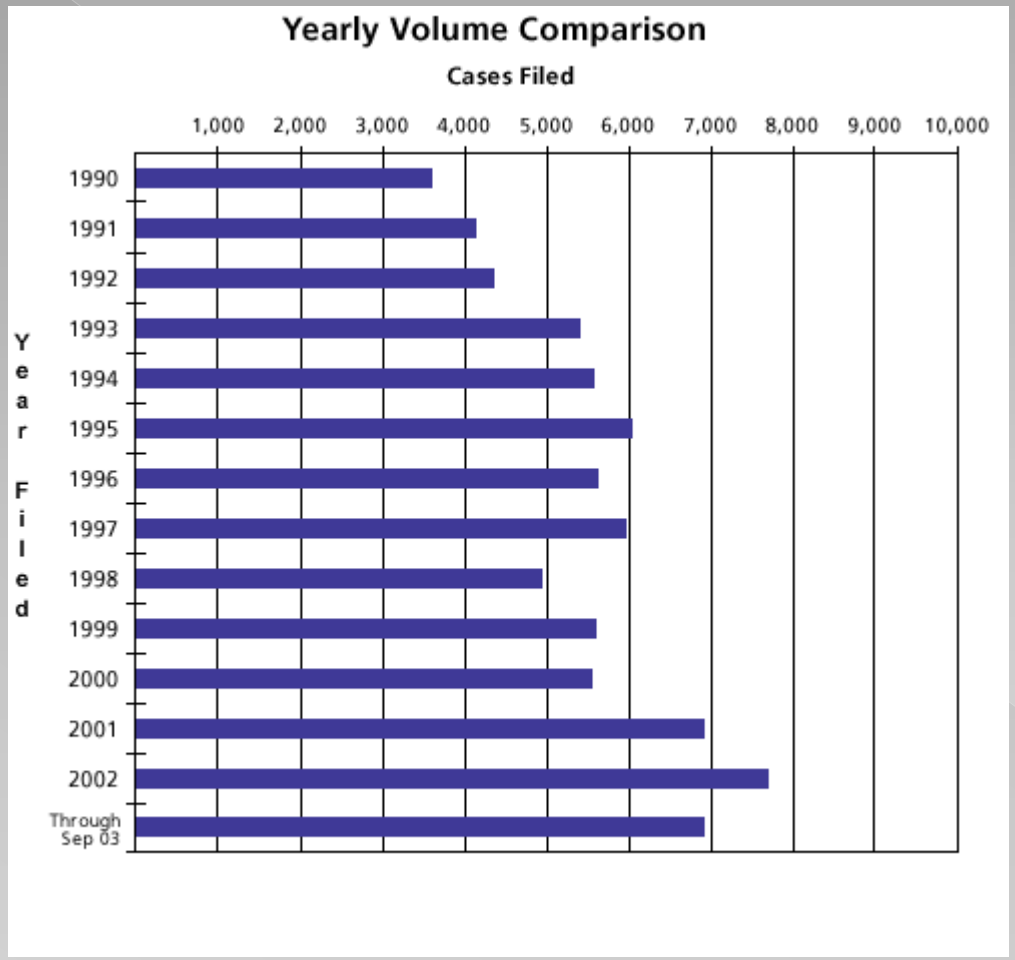
Arbitration Cases Filed



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Controversies Involved

Type	2000	2001	2002	2003 (9 Months)
Margin Calls	284	375	366	194
Churning	473	784	824	538
Unauthorized Trading	611	884	930	626
Failure to Supervise	1,270	1,968	2,633	2,644
Negligence	1,867	2,275	2,522	2,691

NASD Dispute Resolution Statistics as of October 17, 2003

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Controversies Involved

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Type	2000	2001	2002	2003 (9 Months)
Omission of Fact	476	692	1,178	1,506
Breach of Fiduciary Duty	2,489	3,458	4,236	4,340
Unsuitability	900	1,524	2,644	2,513
Misrepresentation	1,321	1,895	2,623	2,517
Negligence	1,867	2,275	2,522	2,691
Online Trading	214	155	95	52

NASD Dispute Resolution Statistics as of October 17, 2003

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Type of Security Involved

Type	2000	2001	2002	2003 (9 Months)
Corporate Bonds	141	161	253	276
Certificates of Deposit	Not Tracked	18	37	31
Mutual Funds	261	543	1,249	1,399
Options	299	419	508	319
Common Stock	2,018	2,911	3,080	3,067
Ltd. Partnerships	72	42	69	49

NASD Dispute Resolution Statistics as of October 17, 2003

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Results of Customer Arbitration Cases

Year	All Cases Decided	Customer Awarded Damages	Customer Not Awarded Damages
1998	1,573	937 (59.6%)	636 (40.4%)
1999	1,148	697 (60.7%)	451 (39.3%)
2000	1,396	734 (52.6%)	662 (47.4%)
2001	1,365	725 (53.1%)	640 (46.9%)
2002	1,483	820 (55.3%)	663 (44.7%)
2003 YTD	1,192	655 (54.9%	537 (45.1%)

NASD Dispute Resolution Statistics as of October 17, 2003

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Damages Awarded (in millions)

Year	Actual Damages	Punitive Damages	Total
1994	33	5	38
1995	42	6	47
1996	63	8	71
1997	65	23	87
1998*	103	60	163

* Total punitive damages awarded influenced by seven cases in which punitive damages awarded exceeded $2M. One case had damages awarded of $10.5M. These seven cases represented 57% of the total punitive damages awarded in 1998.

NASD Dispute Resolution Statistics as of October 17, 2003

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Damages Awarded (in millions)

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Year	Actual Damages	Punitive Damages	Total
1999	78	48	126
2000	55	21	76
2001	82	15	97
2002	116	23	139
2003 (9 months)	102	26	128

NASD Dispute Resolution Statistics as of October 17, 2003

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A Thought …

There are only two reasons why people hire attorneys -

Greed and Fear

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Broker Dealer E&O Markets

Currently Writing Broker Dealer E&O	No Longer Writing Broker Dealer E&O
AIG (National Union)	Zurich
London (Lloyds)	Firemans Fund
ACE	Kemper
CNA (Continental Casualty)	Gulf
Arch	Combined Specialty

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Select Coverage Concerns

- Coverage Limits (Per Claim/Aggregate)
- Deductible/Retention (Per Rep/Entity)
- Failure to Supervise
  - Included?
  - Entity coverage for “Selling Away”?
- Definition of Criminal Conduct
  - What is a criminal act?
  - In fact or alleged?

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Select Coverage Concerns
Page 2

- Definition of “Approved Activities”
  - Does it match your business model?
  - Covered Options included or excluded?
- Bankruptcy/Insolvency Exclusion
  - Rating agency trigger?
- Defense Costs
  - Duty to Defend or Reimbursement?
  - Selection of Counsel
  - Defense costs reduce retention/limits?
  - Allocation of defense costs
- Policy Jurisdiction

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Other Issues to Consider

- If your coverage is changing, consider not only the products you currently sell, but what you previously sold. Coverage is based on date claim is made.
- NASD proposed rule regarding heightened supervision of multi-claim Registered Representatives. If sued more than 3 times – BEWARE. Your are a sitting duck at claim time.

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Future Trends

- Premium increases not yet over
- Additional insurance capacity
- Increased regulatory oversight/NASD rule changes
- Possible emergence of Group/Association insurance programs

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A Thought …

If we always do

What we have always done,

We will always get

What we always got.

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