



New Day Overcomes Economic Challenges

Are things really better out there? The stock market and media may have you thinking that the economy is on the upswing. We're not so sure. As we write this newsletter, the unemployment rate stands at 9.8 percent with Ben Bernanke predicting a jump to over 10% in the near future. A number of our partner brokers have been forced to reduce staff (sizeable layoffs in some cases) to cut costs. And Insureds continue to feel the pinch, with many experiencing declining revenues, fees, and sales... some equivalent to just 60 to 70 percent of the prior year.

Here, in our environmental and construction-related professional liability arena, there are more insurance carriers than ever battling for market share, with almost 25 now fighting for this niche business. As discussed in our *Market Update* presentation, we do not expect all of these new players to survive the long term. While the flood of fresh carriers has fueled an expansion of first time buyers, the reality is that there is just not enough business – new or existing – to go around. When the anticipated demise of several carriers experiencing financial hardship in 2008 and early 2009 did not materialize, those who had planned on feasting on their remains were left scrambling for business. Many are now struggling to meet their financial commitments to management and investors.

What does this mean for New Day... and for you? Our partner brokers realize that leveraging New Day allows them to provide better service to their clients. They understand that our business rela-

tionship is truly revenue neutral due to the following efficiencies New Day creates:

- We constantly track and analyze the overall marketplace.
- We monitor and explain the frequent form changes made by carriers.
- We compare and evaluate forms, terms and conditions from market to market.
- We free up the time of their agency's marketing and account management teams so they can devote energy to other accounts and lines of business.
- We provide fair compensation on each account.
- We maintain strong relationships at all levels with the key markets in this segment.
- We can access customized and exclusive New Day endorsements developed by most carriers as a result of our enduring relationships.

We have certainly been challenged this year: by the anemic economy, by the declining revenues of our broker partners and by increased demands on marketing new and renewal accounts. We are proud of the way that our staff has responded to these challenges, and we are fortunate that more and more brokers are recognizing the benefits that New Day can bring to their organizations. Unfortunately, we have not been able to extend our services to all agencies who have sought to work with us due to demands placed on our staff by existing relationships. Please know that we are working hard to

IRMI IS ALMOST HERE!

The 29th IRMI Construction Risk Conference will be held November 1–5, 2009, at the Gaylord National Resort & Convention Center in the Washington, D.C. area. New Day is proud to be sponsoring this premier forum for networking and improving the management of construction risk once again this year. If you would like to schedule an appointment to see a New Day team member, please email info@newdayunderwriting.com. Or look for us at these events:

Monday morning (November 2)
breakfast: 7:30 – 9:00 am.

Monday evening (November 2)
Building Blocks Networking Lounge:
4:30 – 6:00 pm.

Tuesday afternoon (November 3)
Jefferey Lejfer, President and CEO,
and Jeff Slivka, Executive Vice
President, host tables at the
Construction Café luncheon.

Wednesday morning (November 4),
Jeff Slivka and Karen A. Reutter,
Senior Vice President of Aon Risk
Services, present "Filling the Holes in
Contractors' Liability Coverages."

increase our capacities through new technology (to be discussed in the next New Day Standard), an organizational restructuring and the addition of staff.

Through all of the uncertainty and challenges, we enormously appreciate our broker partners for their ongoing cooperation and collaboration. Please challenge those in your organizations who have not yet utilized our services to seek an opportunity that will benefit them and the client.

The CPL Survey is Here!

Win an iPod Touch. See page 6 for details.

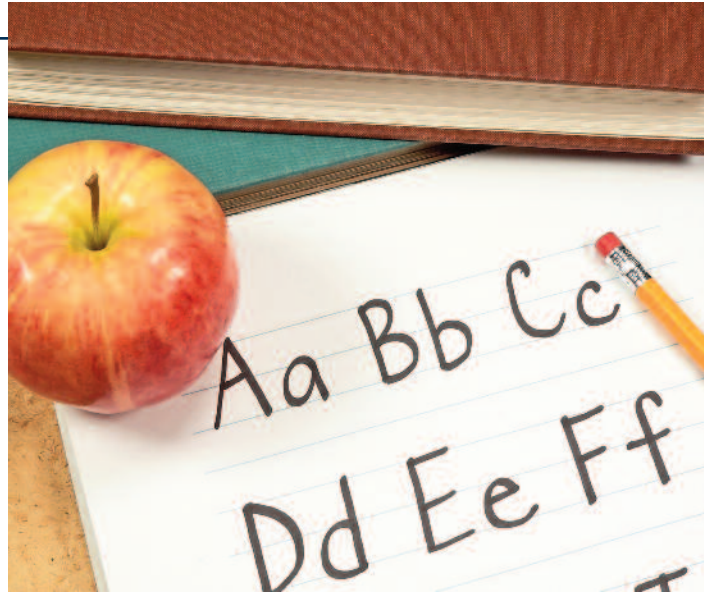
Take Our Survey

SUCCESS STORIES

WE TAKE GREAT PRIDE in working closely with our broker partners to help find the optimal solutions for their clients. Check out these success stories, then contact us at info@new-dayunderwriting.com to discuss the specific risk management needs of your clients.

Contractor's Protective Professional Indemnity Insurance Program

New Day was authorized by one of our broker partners to work with the incumbent carrier for Contractor's Protective Professional Indemnity Insurance (CPPI) coverage for a \$500,000,000 construction firm. Even though New Day was asked to provide insight and perspective on market alternatives on the account, the focus of the renewal process was to advance coverage with the incumbent carrier while maintaining or reducing the rate. Just as requested, New Day improved coverage in several major areas of the policy and maintained the rate as it was expiring. Of additional benefit was New Day's ability to preserve the marketplace by using the other carriers on a limited basis and not "burning out" the underwriters.



Owner's Protective Professional Indemnity Insurance Program

Due to our expertise in construction-related professional liability, New Day was secured by one of our broker partners to assist in competing for a large, state-wide school construction program. Amongst the major national brokers, the client selected our broker partner and New Day to construct a \$25,000,000 Owner's Protective Professional Indemnity Insurance (OPPI) program encompassing various projects throughout the state. New Day worked with the major carriers to offer the coverage, and along with our broker partner and the client, created the optimal solution for this risk.



JUST WHEN YOU THINK YOU'VE SEEN IT ALL...

..there's yet another carrier delving into the environmental insurance business. It's been a mere 14 months since that grim week in September 2008 that Lehman announced its bankruptcy and AIG teetered on the brink of solvency. Since then, many new players have joined the ranks of those offering environmental insurance. At last count there are over 25 insurance companies and Managing General Underwriters (MGAs) offering environmental insurance. We'll help you navigate through through the growing list to find the optimal solution for your client. Give us a call at **609-298-3516**.

CLAIM EXAMPLES

FRESH FROM THE HEADLINES, here are more examples of what happens when a business fails to employ an effective risk management program. Contact us at info@newdayunderwriting.com, so we're not reading about your clients.

Insurers on the Hook for Contractor Mistakes

MASSACHUSETTS – A federal judge approved a settlement between two insurers and the family of a former college football coach who died of Lou Gehrig's disease in 2004. The family claimed in a 2005 lawsuit that a contractor who resurfaced the floor of the field house, which contained the coach's office, used chemicals alleged to hasten the disease. They contend that the toxins used in the resurfacing took five years off the coach's life. The two insurers will pay over \$680,000 to settle the case.

Developers on the Hot Seat

LEWISTON, MAINE – Eight real estate development companies in Maine have been cited by the Environmental Protection Agency for failing to adequately disclose the presence of lead paint in apartment buildings. The complaints allege that the developers did not alert tenants that lead paint was or may have been present where they knew young children were living. The defendants have 30 days to respond to the complaints or they will be found in default.

Wastewater Treatment Superintendent Faces Jail Time

ROCHESTER, INDIANA – A U.S. District Court sentenced the former superintendent of a wastewater treatment facility to one year in prison for falsifying discharge monitoring reports. The erroneous reports concealed violations of the Clean Water Act. The former plant head admitted to making as many as 55 separate falsifications in reports from September 2004 through May 2007 to show that pollutant levels were in compliance with concentration limits when he knew that the levels were too high.

Petrochemical Company Pays Over \$10 million on Pollution Control

TEXAS AND LOUISIANA – A large petrochemical manufacturer will spend over \$10 million to implement pollution control initiatives resulting from air, water and hazardous waste violations. The company will also pay a civil penalty of \$2.8 million to resolve violations of the Clean Air Act, Clean Water Act and Resource Conservation and Recovery Act. The case was initiated as a result of inspections by the Environmental Protection Agency (EPA) at two facilities run by the company. The inspections revealed extensive violations involving leak detection and monitoring, as well as hazardous waste treatment.



Sewer Authority Faces Steep Fines for Illegal Discharges

SCRANTON, PENNSYLVANIA – The EPA has filed a lawsuit against a large sewer authority for illegally discharging over a billion gallons of untreated sewage into a nearby river. The complaint seeks fines of up to \$37,000 per day for violations between 2004 and 2009, and \$37,500 from January 2009 onward. Allegations include failure to submit long-term plans, properly maintain its system, report sewage discharges and meet requirements of a previous EPA order.

Steel Company Violates Worker Safety Laws

CHICAGO, ILLINOIS – The Occupational Safety and Health Administration has fined a steel company more than \$110,000 for purported violations of federal worker safety law. The citations are the result of an Occupational Safety and Health Administration (OSHA) inspection of a bridge construction site where the company was providing services. Violations include failure to use proper fall protection for workers, improper storage of compressed gas cylinders and an inability to require workers to wear personal flotation devices while working over water.

– Continued



Claim Examples, continued

Energy Company Fined \$175,000 After Spill

NEW HAMPSHIRE – A pair of energy companies are on the hook for over \$175,000 in EPA fines after diesel fuel from their gas station leaked into a nearby river earlier this year. Due to a broken leak detection system, the spill was not reported until neighboring businesses noticed a strong fuel smell three days later. An inspection by environmental officials following the spill determined that a proper spill prevention plan was not in place.

Dairies Facing OSHA Fines

OHIO AND KANSAS – Two dairies have been fined nearly \$420,000 by OSHA for alleged health and safety violations. OSHA inspections at the Ohio dairy uncovered 11 critical safety violations and 5 willful violations of federal workplace safety standards. These violations included deficiencies with regard to electrical safety, energy lockout procedures and confined space entry procedures. The Kansas inspection revealed 24 serious violations mostly centered on the company's process safety management program (PSM), an OSHA requirement for preventing the catastrophic release of hazardous chemicals.

Architect Sued for Negligence

ARIZONA – An architectural firm is being sued by a former client alleging breach of contract and professional negligence. Plans, specifications and drawings

prepared by the architect for a property owner were used in the construction of an apartment building that was later found to be in violation of Fair Housing Construction Design requirements. The owner incurred significant cost to correct the design deficiencies and has filed suit against the architect for compensatory damages. Trial is pending.

Oil Company Pays \$1.7 Million for Spill Containment Violations

ANCHORAGE, ALASKA – A large oil company has paid more than \$1.7 million for spill containment violations. An October 2007 inspection revealed the company was operating storage tanks and truck-loading facilities without large enough secondary spill containment to prevent oil from seeping into the ground. The company has corrected most of the deficiencies, with the remainder to be addressed according to a schedule negotiated with the state.

Contractors Face Jail and Fines

SYRACUSE, NEW YORK – Two contractors have been sentenced to jail for asbestos removal jobs that contaminated homes and businesses and even resulted in a Superfund cleanup. A federal judge also ordered the men to pay over \$969,000 in restitution. The contractors pleaded guilty to violations of the Clean Air Act and other crimes relating to asbestos removal work that left much of the carcinogen behind.

Electroplating Company Charged with Hazardous Waste Violations

HUNTINGTON, WEST VIRGINIA – A federal grand jury charged a small electroplating business with illegally storing sulfuric acid and other hazardous waste. The two operators of the business failed to obtain the necessary permit from the EPA and have been charged with storing hazardous waste without a permit from October 2006 through February 2007. The EPA cleaned up the waste through its Superfund program.

NEW DAY WELCOMES SHERYL BARR

Please join us in warmly welcoming Sheryl Barr, New Day's newest employee and first Marketing Coordinator. Sheryl joined our team on September 30 to organize and enhance New Day's marketing and promotional activities. Sheryl has over 15 years of experience with professional services firms, so we look forward to her support and expertise as we continue to expand our business.



Q&A with Jeff Slivka

Jeff Slivka has been with New Day since the very beginning. He has been instrumental in the inception and emergence of New Day as a specialty intermediary in the realm of environmental insurance and construction-related professional liability. Learn more about the many hats Jeff wears for New Day.



Q How long have you been with New Day?

A Since day one, when New Day was just a mere twinkle in Jeff Lejfer's eye and when our first office was the corner booth at the Great American Diner in Bensalem, PA.

Q What are your primary job responsibilities at New Day?

A I happily wear many different hats. One is Player/Coach as I handle the day to day operations of the broking side of the business. I try to ensure that our team stays on top of important issues, new markets and coverage intricacies... and that we're managing our client and carrier relationships as effectively as possible. I also enjoy my role in developing business strategy and goals and then seeing those goals through to fruition. Another hat I really like is that of "Happiness Consultant"... making sure our services always exceed the expectations of our clients.

More specifically, I manage many of the larger construction contractors that New Day services. You may be surprised that even though we are recognized as an environmental specialty intermediary, nearly

60 percent of our business is construction-related professional liability. Construction professionals turn to us for our expertise in Contractors Professional Liability, Contractors Protectives, Owner's Protective and Mitigation of Loss or Rectification Coverage. I've spent the last 20 years working in this niche industry, and in that time have had the opportunity to work with about 50 percent of the ENR Top 400 Construction firms to help manage environmental and/or professional liability risks.

Q What part of your job do you enjoy the most? What part do you find most challenging?

A There are so many aspects I enjoy – our co-workers, clients, underwriters – those relationships make the job gratifying. However, the one thing that gets me up in the morning is feeling like we've created this specialty intermediary concept the industry needed and now watching it flourish. And I'm always delighted when people appreciate the technical expertise we bring to the table. I even enjoy the simple "blocking and

tackling" of servicing the business – something that has been forgotten by so many in our industry. The most challenging part of the job without a doubt is finding skilled people who have the talent and personality needed to play the role that we play for our clients.

Q What do you think brokers like best about working with New Day?

A It's definitely our professional proposals. We have created a high-touch, comprehensive approach to generating proposals. The goal is to take a very complex insurance product and simplify the process so that our clients can read the executive summary and recommendations, then come away with a knowledgeable picture of the optimal solution to convey to their client. Honestly, sometimes we simplify it to the extent it appears we haven't done much work! It actually takes a great deal of time, experience and expertise to put it all together.

Q What are you most looking forward to as we head into late fall and winter?

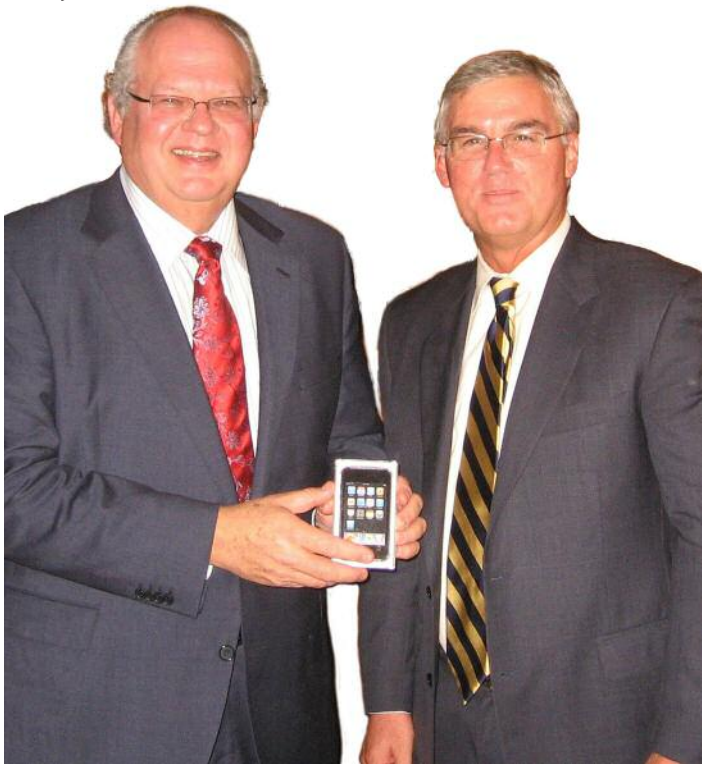
A It's always fun keeping up with the activities and escapades of our very busy 8, 11 and 12 year olds. I'm also excited to see the Phillies and Eagles back in contention for titles this year.



Email info@newdayunderwriting.com to have one of our business development managers contact you.

Heatwole Wins iPod Touch

Jeff Lejfer recently presented an iPod Touch to Dana Heatwole of Riggs, Counselman, Michael and Downes in Baltimore, Maryland. Dana was New Day's raffle winner after he completed our Contractors Professional Survey. New Day congratulates Dana and thanks all of those who took the time to complete the survey.



Above: Jeff Lejfer (left) presents Dana Heatwole with an iPod Touch

Maureen's yummy cakes, clockwise, from upper left:
Cannoli Cake
Strawberry Chocolate Surprise
Spiced Pumpkin Bundt Cake with Citrus Glaze
Chocolate Dream Cake

CPL SURVEY HAS GONE LIVE

The next installment of New Day's informational surveys has gone live. You can access the survey [here](#). Please take a few moments to complete our **Contractors Pollution Liability** marketplace survey. A raffle will once again be offered for an iPod Touch for those who complete the survey by December 1, 2009.

[Take Our Survey](#)

HAPPY BIRTHDAY NEW DAY EMPLOYEES

New Day has a tradition of celebrating all employee birthdays with a cake baked by our own Maureen Efthyvoulou. Cakes are not only delicious, but also very professional. Thank you Maureen for keeping us well fed. If you would like to receive any of Maureen's delectable recipes, please email her at maureen.efthyvoulou@newdayunderwriting.com.



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their clients find appropriate, high-quality environmental and construction professional liability and related risk management services.

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