

## Egads Charlie Brown!

One of my favorite Peanuts cartoons is of Linus and Charlie Brown talking. Linus says, “Well Charlie Brown, you win some and you lose some!” Charlie Brown thinks about it and through his inimitable meek smile responds: “Gee, that would be neat!”

The insurance industry, particularly in

the city relied on volunteer fire brigades across the city for protection, and the history of these volunteer brigades was closely tied to the insurance business. Early fire insurers often created their own brigades to protect their insured properties. It is largely a myth that these companies would fight a fire only if the building displayed a

recognition for a job well done; no gold watch. Swept away in the name of progress and the purported efficiencies of a combined “financial services” agency.

Many of my colleagues argue that the decline of the Insurance Department started long before the creation in 2011 of the Department of Financial Services, resulting from years of budget cuts, hiring freezes and forced retirements that inexorably diluted the traditional continuity and professionalism of the Department. But there is little question that under the aegis of the DFS the primacy of New York in the world of insurance regulation is no longer a given.

Trouble for the insurance industry could be sensed from the moment the initial merger proposal was aired. The industry had to lobby for changes to the DFS legislation to tone down its enforcement aspects and to include a few snippets of actual support for the growth and development of the industry. It is not that the combination of insurance with banking could be done successfully or without diminishing the importance of either regulated industry. Other states have clearly done so. The track record of the DFS since the merger, however, has validated the original concern that its focus would be heavily on enforcement over regulation: punishment over growth and development.

But beyond the heavy foot of enforcement is a more insidious development: ignoring the business altogether. Take a long look at the press releases, speeches and rulings posted on the DFS website. Search the record for any positive business development promoted or encouraged by the DFS. Any examination of the DFS record in its almost four-year history will show a remarkable disassociation between the DFS and the insurance industry.

Since the inception of the DFS in October 2011 through early May 2015, the DFS has posted 261 press releases, 11 speeches and 24 letters. Of these 296 published items none were issued in support of an industry initiative and only two involve the establishment of a new entity



Peter H. Bickford

***While the great tradition of the 150-year-old NY Fire Department lives on, the 150 years of tradition, strong leadership and stewardship of the NY Insurance Department in the world of insurance regulation has ended.***

New York, can certainly empathize with Charlie Brown. Ever since the 2008 financial crisis demonstrated that state regulation of insurance worked far better than Federal and International regulation of financial institutions, these same Federal and International financial wizards have been working tirelessly to punish the insurance industry and its regulators for their accomplishments and to further empower and expand their own unsuccessful domain. While this perverse/reverse-punishment/reward scenario has played out mostly on the National and International stages, New York provides an interesting local microcosm of this phenomenon, giving lip service to state regulation while pushing the industry aside in favor of its own brand of bank-centric regulation.

But first a little history. This May marked the 150th anniversary of the formation of the New York Fire Department and in celebration firehouses around the city were open to the public with tours and gifts for visiting children of all ages. Given the tradition of the FDNY over the decades, particularly their sacrifices on 9-11, it is easy to forget that prior to the establishment of a formal department with professionally trained and paid firefighters,

plaque of its insurer. Actually, more often than not insurers would pay a reward to the first brigade on scene regardless of affiliation.

The FDNY celebration is in stark contrast to the inglorious end of the NY Insurance Department. Five years before the formation of the NYFD, in 1860, the NYID opened for business. Over the next century-and-a-half, the NYID established the benchmark for cutting-edge effectiveness and professionalism in the world of insurance regulation much the same as the NYFD accomplished in its world over the same period. It was the NYID that in 1871 hosted the first meeting of insurance regulators from other states resulting in the creation of what eventually became the National Association of Insurance Commissioners, and in the 1940s NY’s statutory fire policy became the standard in most states. For most of its history the NYID was unquestionably the premiere insurance regulatory agency in the US.

While the great tradition of the 150-year-old NY Fire Department lives on, the 150 years of tradition, strong leadership and stewardship of the NY Insurance Department in the world of insurance regulation has ended. No ceremony; no

*continued on page 10*

continued from page 8

– one insurer in 2012 and a virtual currency company – yes, bitcoins – in May 2015. Neither announcement included industry or consumer voices. One insurer, one virtual currency company in almost four years. That’s the NY reality!

Compare Vermont’s announcement of recently adopted legislation expanding the types of investments that can be used for meeting minimum capital requirements for captives. The signing ceremony includ-

ed captive insurance industry professionals and expressions of mutual support among industry and regulators. Now try envisioning industry representatives on a podium with senior DFS officials jointly announcing a new insurance venture in New York.

The most troubling aspect of New York’s dismissive attitude toward the insurance business is its adherence to the current National and International trend to diminish insurance as a separate and distinct business from other “financial serv-

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ices” - particularly banking - while at the same time purporting to be a supporter of state-based regulation of insurance. The more regulators use the generic “financial services” to include insurance, banking, securities and all other financial products, the more blurred the lines between each become in terms of their treatment. To their credit state regulators through the NAIC have been fighting to maintain the distinctive nature of insurance from other “financial services.” New York’s regulators, however, despite lip service in support of state regulation of insurance, have contributed unabashedly to the ongoing trend to diminish the insurance industry and to meld it into one pot of indistinguishable financial services.

Charlie Brown would feel right at home!<sup>[A]</sup>

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