

Workshop H1

Thursday, November 1, 8:30 a.m. – 11:15 a.m.

STRATEGIES FOR A SOFT MARKET

Presented by

Robert R. Duty
President

Cardinal Risk Management Alternatives, Inc.

After several years of an exceptionally hard insurance market, contractors are breathing a sigh of relief as the market continues to soften. However, smart contractors will not sit back and bask in the comfort of the soft market but will look for ways to retake some ground and enhance their insurance programs. Some of these strategies are tried-and-true techniques that are common to any soft market, while others are specific to the current market.

- Outlines areas in which contractors can expect and obtain greater levels of service from insurance providers.
- Identifies areas in which coverage enhancements may be available that were not offered to most contractors during the recent hard market.
- Provides a summary of where prices are currently and where they appear to be headed.

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Robert R. Duty
President
Cardinal Risk Management Alternatives, Inc.

Mr. Duty is one of the presenters for Workshop H1, "Strategies for a Soft Market," on Thursday. He is an experienced corporate risk manager with over 25 years of service in the manufacturing, hospitality, transportation, and construction industries. Mr. Duty started offering his expertise in 1995 as a consultant and outsourced risk manager. Clients come from a broad cross-section of industry and have ranged in size from start-ups to \$4 billion in revenue.

Previously, he was senior vice president of Customer Operations at Greyhound Lines, Inc. He also served at Greyhound as vice president of Human Resources and vice president of Risk Management and Safety. Mr. Duty has also held positions at Blount, Inc., Hyatt Corporation, Pettibone Corporation, and the U.S. Army Material Command.

He earned his bachelors degree at Lamar University and masters degree at Texas A&M. In addition he earned an Associate in Risk Management. Mr. Duty is a Licensed Risk Management Consultant, and a Member of the Society of Risk Management Consultants.

Notes

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**International Risk Management Institute
2007 Construction Risk Conference**

**STRATEGIES FOR A SOFT MARKET:
SERVICE ENHANCEMENTS**

**Robert Duty, President
Cardinal Risk Management Alternatives, Inc.
Dallas, Texas**

STRATEGIES FOR A SOFT MARKET: SERVICE ENHANCEMENTS

- I. Soft Market Impact on P/C Services
 - a. Broker Provided Services
 - b. Insurer Provided Services
- II. Services: What Services
 - a. Identifying Needed Services and Sources
 - b. Evaluating the Best Source for Services
 - c. Compensation for Services
 - d. Internal Capabilities
 - e. Maintaining Best Practices
- III. Building a Services Game Plan
 - a. Renewing with an Existing Insurer or Broker
 - b. Changing Insurers or Brokers
- IV. Managing Services
 - a. Promises
 - b. Service Agreements
- V. Take-Aways
 - a. For Insurers
 - b. For Brokers
 - c. For Insureds

Soft Market Impact on P/C Services

Broker Provided Services

- Market Influences
- Compensation Method

Soft Market Impact on P/C Services

Insurer Provided Services

- Market Influences
- Competition among Insurers
- Resource Intensive Services vs. Coverage

Services: What Services

Identifying Needed Services and Sources

Services

- Business Risk Analysis
- Safety & Loss Control
- Cost Containment
- Actuarial Analysis
- Business Continuity Planning
- Alternative Risk Transfer Feasibility Studies

Sources

- Broker
- Insurer
- Third Parties
- Internal Capabilities

Services: What Services

Evaluating the Best Source for Services

- Capabilities
- Availability

Compensation for Services

- Costs
- Method of Compensation

Maintaining Best Practices

- Always maintain a wish list for coverage and service enhancements
- Safety and loss control are the foundation of your risk management program
- Develop goals based on a thorough analysis of your loss experience
- Claims management is essential after losses occur
- When marketing your insurance program, don't make decisions based on cost alone
- Utilize all services available

Building a Services Game Plan

Renewing with an Existing Insurer or Broker

- Your Needs—Coverage, Service and Costs
- Their Capabilities

Changing Insurers or Brokers

- Establish which factors will drive your decision and communicate those to all participating parties
- Review sample service agreements
- Clearly define service expectations

Managing Services

Promises

Service Agreements

Sample Broker Service Agreements - Galactic Brokers

Galactic Brokers is hereby engaged to act as the Client's ***risk management advisor and consultant and insurance broker***, as applicable, and shall provide the Client with the services set forth on Appendix A (the "Services") in accordance with the terms set forth herein. Appendix A may be amended from time to time by written agreement of the parties. The additional services set forth in Section 4 of Appendix A are available for additional compensation and subject to the negotiation of separate agreements.

Appendix A Scope of Services

1. Galactic Brokers will act as the Client's risk management advisor and consultant and insurance broker, as applicable, with respect to the following lines of insurance (effective dates noted in parenthesis):
 - (a) Property/All Risk (01/01/200X)
 - (b) Boiler & Machinery (01/01/200X)
 - (c) General Liability (01/01/200X)
 - (d) Casualty Package (01/01/200X)
 - (e) Automobile Liability (01/01/200X)

2. As respects the lines of insurance in Section 1, above, Galactic Brokers shall provide the following services:
 - (a) Work with the Client to assess the Client's risk exposures;
 - (b) Work with the Client to design and develop the Client's insurance program;
 - (c) Assist with documentation and other steps to obtain commitments for and implement the Client's insurance program upon the Client's instructions;

- (d) Keep the Client informed of significant changes and/or trends in the insurance marketplace and provide the Client with annual information on market trends;
- (e) Assist the Client in identifying insurers. Solicit quotes from insurers selected by the Client for the placement of Client's insurance program in accordance with the Client's instructions;
- (f) Conduct a Renewal Strategy Meeting in advance of each placement;
- (g) Negotiate on the Client's behalf with insurers and keep the Client informed of significant developments in the negotiations;
- (h) Assist the Client with the evaluation of options received from the insurance market;
- (i) Use best efforts to place insurance on behalf of the Client as directed by the Client and secure the Client's approval prior to requesting insurers to bind coverage;
- (j) Follow up with insurance carriers for timely issuance of policies and endorsements;
- (k) Promptly respond to Client's questions related to coverage placed by Galactic Brokers or the placement process;
- (l) Deliver binders on or before the effective date of coverage being placed, subject to placement;
- (m) Process or facilitate the processing and delivery of certificates or memoranda of insurance and auto identification cards with respect to insurance policies placed by Galactic Brokers, as requested by the Client;
- (n) Review policies and endorsements for conformity to agreed terms and coverages;
- (o) Provide coverage summaries for all new placements and updates on changes to existing policies;
- (p) Review premium and exposure audits, rating adjustments, dividend calculations and loss data;
- (q) Assist the Client in establishing claims reporting procedures to insurers;
- (r) Monitor published financial information of the Client's current insurers and alert the Client when the status of one or more of such insurers falls below Galactic Brokers's minimum financial guidelines. Insurers with whom the Client's risks have been placed will be deemed acceptable to the Client, in the absence of contrary instructions from the Client;

(s) Provide the Client with detailed invoices, except in the case of direct billing by insurers. Remit premiums to insurers and taxes and fees to the relevant authorities on a timely basis, following receipt thereof from the Client.

(t) As respects the following locations/facilities:

123 Main Street
Anytown, USA

Provide the following property loss control services:

- Evaluate external exposures of the Client's operations
- Evaluate private and public protection matters (sprinklers and water supply and fire department skill) relating to the Client's operations
- Perform 2 loss control reviews of the Client's facilities

(u) As respects the following locations/facilities:

123 Main Street
Anytown, USA

Provide the following general liability loss control services:

- Perform 2 loss control reviews of the Client's facilities

(v) Assist the Client with oversight of claims administration, as follows:

- Perform an annual claims audit on the following lines of insurance:
 - Property/All Risk
 - Boiler & Machinery
 - General Liability
 - Casualty Package
 - Automobile Liability

Sections 2(e), (g), (i), (j), (l), (m) and (s) will only apply with respect to placements for which Galactic Brokers is acting as the Client's insurance broker.

3. Whenever the Galactic Brokers client executive is informed in writing by the Client that a claim has been notified to the primary carrier, Galactic Brokers will notify all applicable excess carriers of the claim, unless the Client gives the Galactic Brokers client executive contrary instructions in writing, provided that Galactic Brokers has placed the applicable excess policies or the Galactic Brokers client executive has received written notice from the Client of the applicable carrier and policies. If Galactic Brokers is instructed not to provide notice to any excess carrier, Galactic Brokers

shall have no responsibility for any consequences arising out of the failure to give notice.

4. Additional Services are available for separate compensation and shall be agreed upon in advance and addressed by amendment to this agreement or by separate agreement (in certain cases with affiliates of Galactic Brokers). Such additional services include, but are not limited to:
- Actuarial analysis of Workers' Compensation, General Liability, and Automobile Liability claims, or other lines of insurance;
 - Consulting relating to workers' compensation cost containment, including behavioral risk management, absence management, cumulative injury management, financial diagnostics and custom cost containment solutions;
 - Business interruption and other claim valuation services;
 - Environmental risk consulting services;
 - Operations and assets consulting services, including business continuity management, supply chain risk management, loss control and engineering support services and strategic risk assessments;
 - Claims services other than those specified in Section 2 above, including catastrophic claims support, mass tort claims support, claims management services, special claims advocacy services and archival research;
 - Services in connection with loss portfolio transfers and alternative risk financing, including placements made in connection with such services;
 - Captive insurance company feasibility studies;
 - Establishment and administration of captive insurers;
 - Placement of non-recurring insurance, including, but not limited to:
 - "one-time" placements for construction projects,
 - "one-time" placements for marine/cargo risks,
 - "one-time" placements for surety,
 - Placements for specific financial risks, such as trade credit,
 - Placements involving significant quantitative or actuarial analysis or modeling,
 - Placement of risks with financial institutions other than insurance carriers, and
 - Placements of risks not customarily accepted by insurers;

- Employee benefits services;
- Pension plan consulting;
- Compensation consulting;
- Executive deferred compensation services;
- Risk management claims information systems, including software programs, and related services;
- Enterprise Risk Management consulting;
- Strategic Risk Assessment;
- Provision of Galactic Brokers personnel on an out-sourced basis;
- Intellectual Property Consulting;
- Security Consulting;
- Insurance-related mergers and acquisition due diligence services and transactional solutions;
- Placement and servicing of owner controlled insurance programs; and
- Interactive on-line client services.

1. Disclaimers: Limitation of Liability.

- (a) Galactic Brokers does not speak for any insurer, is not bound to utilize any particular insurer and does not have the authority to make binding commitments on behalf of any insurer, except under special circumstance which Galactic Brokers shall always endeavor to make known to the Client. Galactic Brokers shall not be responsible for the solvency of any insurer or its ability or willingness to pay claims, return premiums or other financial obligations. Galactic Brokers does not guarantee or make any representation or warranty that insurance can be placed on terms acceptable to the Client.
- (b) If Galactic Brokers has taken over any existing program or policies implemented by another broker, Galactic Brokers will not assume any responsibility for the adequacy or effectiveness of those programs or policies or any acts or omissions occurring prior to Galactic Brokers's engagement. Within 45 days, Galactic Brokers will have completed a review of such programs and policies and will make recommendations it believes are necessary.

Any loss control services and/or surveys performed by Galactic Brokers under this Agreement are advisory in nature. Such services are limited in scope and do not constitute a safety inspection as provided by a safety engineering service. Galactic Brokers does not claim to find or include every loss potential, hazard, statutory or code violation or violation of good practice. All surveys and reports are based upon conditions observed and information supplied by the Client. Galactic Brokers does not expressly or impliedly guarantee or warrant in any way the safety of any site or operation or that the Client or any of its sites or operations is in compliance with federal, state or local laws, codes, statutes, ordinances or recommendations. In any event, Galactic Brokers's liability if any, relating to or arising out of loss control services performed by it for the Client shall not exceed the total compensation paid to Galactic Brokers under this Agreement.

Sample Broker Service Agreements—Simplified Brokers

_____ [Name of Client] (hereinafter "You" or "Client") has appointed Simplified Brokers as your Broker of Record for certain casualty, property and other insurance policies, coverages and programs as scheduled and outlined in Exhibit A ("Insurance Programs"). This Fee Agreement ("Agreement") confirms our mutual understanding concerning the insurance and/or financial and risk management support services ("Services") to be provided by SIMPLIFIED BROKERS to You in connection with the Insurance Programs as outlined in Exhibit A. The Services shall commence as of _____, 200_ and shall end on _____, 20__ (the "Service Period"). SIMPLIFIED BROKERS will not be responsible for any insurance policies, coverages and programs included in the Insurance Programs that predate the first day of the Service Period unless You and SIMPLIFIED BROKERS mutually agree otherwise and in writing.

The services and work product provided by SIMPLIFIED BROKERS hereunder are provided for the exclusive use of Client. Data, recommendations, proposals, reports, and similar information and work product provided by SIMPLIFIED BROKERS ("Confidential Information"), are not to be distributed to, used or relied upon by other parties excepting Client's legal, accounting and non-insurance financial advisors without the written consent of Client and SIMPLIFIED BROKERS. Confidential Information shall be and remain the exclusive property of SIMPLIFIED BROKERS and/or its affiliates and no copies thereof shall be made without the written permission of SIMPLIFIED BROKERS.

Client agrees that it will not, during the Service Period of this Agreement and for two (2) years Simplified Brokers thereafter, directly or indirectly communicate, divulge or otherwise disclose any Confidential Information to any third party and shall prevent, to the best of Client's ability, the disclosure of such Confidential Information to others. The provisions of this paragraph shall survive the termination of this Agreement.

If SIMPLIFIED BROKERS or one of its affiliates prepares a loss control report regarding some or all of your operations, you hereby consent and agree that any such report may be disclosed to insurers or prospective insurers for the Insurance Programs.

Exhibit A – Part I – Scope of Services

This Exhibit covers only those Services to be performed during the Service Period. Compensation for additional services required by Client, and compensation for services to be performed after the end of the Service Period shall be separately negotiated.

1. SIMPLIFIED BROKERS will develop, recommend, negotiate and place insurance and/or risk financing programs for all coverages listed in the Exhibit A – Part II. Any midterm program or coverage changes that result in a premium bearing endorsement will be negotiated at the same commission rate, if applicable.
2. SIMPLIFIED BROKERS will assist Client in the gathering and preparation of underwriting information and completion of insurance applications. SIMPLIFIED BROKERS will not assume responsibility for the accuracy and completeness of such information and shall be entitled to rely on information provided by Client and its employees. Those applications requiring signature shall be signed by Client.
3. SIMPLIFIED BROKERS will administer Client's relationship with insurance companies including, but not limited to, issues such as billings in connection with selected programs, data reporting other than claim data, and compliance with negotiated requirements.
4. SIMPLIFIED BROKERS will provide services such as risk control, claim advocacy and claim consulting, as outlined herein up to a maximum of # of hours. SIMPLIFIED BROKERS will not provide any other risk control, claim advocacy or claim consulting services without the approval of Client and for which Client agrees to pay SIMPLIFIED BROKERS additional compensation.

Client acknowledges it is Client's responsibility to take such steps as are necessary to notify directly those insurers whose coverages may apply to any circumstances, occurrences, claims, suits, demands and losses in accordance with and as may be required by the terms and conditions of the policies placed for Client under this agreement. Client may send copies of such notices to SIMPLIFIED BROKERS as may assist SIMPLIFIED BROKERS in carrying out services relating to claim advocacy and claim consulting as may be set forth.

5. SIMPLIFIED BROKERS will provide Client with an insurance schedule for all coverages listed in Exhibit A – Part II.
6. SIMPLIFIED BROKERS will provide Client with a Stewardship Report # of days prior to the end of the annual Service Period which will include:
 - a. Complete list of insurance coverage in force
 - b. An evaluation of overall program
 - c. A summary of prior objectives and achievements
 - d. A synopsis of financial funding aspects of program
 - e. A summary of claims administration/loss prevention services provided

- f. Recommendations for modifications to Services provided
- g. A forecast of market conditions and renewal costs
- h. A detailed summary of fees and/or commissions
- i. Commentary in any other developments or issues important to Client.

The Services to be performed by SIMPLIFIED BROKERS hereunder, including, without limitation, all surveys and reports, are advisory only and for the sole purpose of assisting Client in the development of risk control procedures. SIMPLIFIED BROKERS assumes no responsibility for management or operation of risk control and safety procedures. Client acknowledges and agrees that, in the performance of its duties and obligations hereunder, SIMPLIFIED BROKERS shall not be deemed to be acting for or on behalf of Client's safety, risk management or other similar department.

Any survey performed by SIMPLIFIED BROKERS pursuant hereto, and any report, recommendation or other material prepared by SIMPLIFIED BROKERS pursuant hereto, shall be based upon the conditions observed and the information supplied by Client during any SIMPLIFIED BROKERS visit to Client's location(s). SIMPLIFIED BROKERS shall be under no obligation to verify or investigate the accuracy or completeness of the data and information provided by Client, and SIMPLIFIED BROKERS shall have no liability or responsibility for any inaccuracies in the data or information and/or for any reports, services, materials or documents prepared or provided to Client based on such inaccurate or incomplete data or information. Any survey performed by SIMPLIFIED BROKERS pursuant hereto is not intended and shall not be deemed to be a comprehensive safety inspection.

Client acknowledges and agrees that, in its performance of Services hereunder, SIMPLIFIED BROKERS shall not be deemed to have guaranteed, assured or warranted on Client's behalf, or for the benefit of others:

- 1) the safety of such Client location(s);
- 2) that Client is in compliance with federal, state and local laws, statutes, ordinances, recommendations, regulations, consensus codes or other standards; or
- 3) that compliance with, or implementation of, SIMPLIFIED BROKERS's recommendations will eliminate or reduce any or all hazards, accidents or other losses.

To the extent any survey prepared by SIMPLIFIED BROKERS pursuant hereto contains a valuation of Client's physical structure(s), SIMPLIFIED BROKERS shall not be deemed to have made any representation that it is an appraisal agent, and Client acknowledges that any values calculated by utilizing the Galactic Brokers valuation method are estimates only.

Sample Broker Service Agreements—Omniscient Brokers

Client wishes to procure certain services that can be performed by Omniscient Brokers; and Omniscient Brokers can provide and desires to render to Client such services;

It is hereby understood and agreed that in consideration of a fee in an amount set forth above that Omniscient Brokers will provide consulting and/or risk management/insurance services, which are outlined in Addendum A, which is attached to and made part of this Agreement.

Addendum A – Services

I. General Services

- A. Evaluate the competitiveness of current insurance premium pricing and rate levels.
- B. Obtain competitive proposals for Client where necessary.
 - 1. Prepare insurance coverage specifications.
 - 2. Compile underwriting rating and claims data.
 - 3. Complete underwriting applications. (Except where the application is a warranty to the policy.)
 - 4. Analyze proposals when received and make recommendations.
 - 5. Review issued insurance policies for compliance with accepted proposal terms.
- C. Conduct renewal process with existing insurance carriers.
 - 1. Compile renewal rating and loss information.
 - 2. Complete renewal applications.
 - 3. Review coverage terms and attempt to obtain broader terms.
 - 4. Analyze renewal proposals and make recommendations.
 - 5. Review issued policy for compliance with renewal proposals.

- D. Process policy changes, additions/deletions, premium invoices.
- E. Prepare annual summary of insurance.
- F. Develop/maintain/review premium allocation system to appropriate divisions or subsidiaries.
- G. Issue certificates of insurance. Sameday service as necessary.
- H. Issue auto ID cards.
- I. Review annual premium audits. Verify accuracy and correct mistakes.
- J. Verify the accuracy of experience modification calculations.
- K. Prepare and conduct Client account review meetings. Assume two to four (2–4) per year.
- L. Review contracts for risk management/insurance implications.
- M. Prepare periodic Client reports describing open items, status of special projects, and other relevant issues.
- N. Prepare and present annual stewardship reports.
- O. Provide Client with updates regarding market conditions/products.
- P. Answer Client questions and provide research or advice as needed.
- Q. Provide Client with educational services/seminars.

II. Risk Management Services

- A. Periodic survey of Client's business operations to identify loss exposures.
- B. Evaluate current insurance program design. Identify and evaluate alternatives. Recommend improvements (structure, limits, scope of coverage, retention, etc.).
- C. Financial analysis – loss development, loss forecasting, retention analysis, cash flow analysis, accrual analysis, etc.

- D. Captive insurance company feasibility studies and implementation.
- E. Due diligence for mergers or acquisitions.
- F. International program consulting, design, and service coordination.

III. Claims Management Services

- A. Process claim notifications to appropriate insurance carriers.
- B. Monitor and follow up on large claims to speed the settlement process.
- C. Review claim reserves and evaluate the accuracy of reserve levels.
- D. Perform claim audits to evaluate the claim-handling performance of the insurance carrier.
- E. Coordinate and attend claim review meetings. Assume attendance at four (4) meetings per year.
- F. Review loss runs on a periodic basis. Review loss runs for accuracy and correct mistakes.
- G. Review, analyze, and negotiate claims service standards and agreements with insurance carriers.
- H. Assist Client in loss adjustment.
- I. Review denied claims for correct coverage applications.

IV. Claim Cost Control Services

- A. Review and assess claim cost control efforts.
- B. Design and implement claim cost control program.

V. Loss Control Services

- A. Perform loss control inspections at designated locations.
- B. Review loss control inspection reports from insurers and provide comments.

- C. Review loss experience. Analyze and comment on loss trends, major causes of loss, etc.
- D. Provide safety training materials and seminars.
- E. Develop benchmark or peer group performance criteria for our loss experience.

Take-Aways for Insurers

- Never underestimate the need for quality services
- Be willing to commit to both quality and quantity
- Expect to be measured
- Make services an integral part of every insurance proposal
- Don't offer services you are ill-prepared to deliver or that could be better provided by the broker
- Don't allow the broker to provide services they are ill-prepared to deliver or that could be better provided by you
- Remember that services benefit both the insured and the insurer

Take-Aways for Brokers

- Always make service commitments in writing
- Don't wait for the insured to demand services—meet your obligations and control your schedule and costs
- Never underestimate the need for quality services
- Be willing to commit to both quality and quantity
- Expect to be measured
- Make services an integral part of every brokerage services agreement
- Don't offer services you are ill-prepared to deliver or that could be better provided by the insurer or a third party
- Don't allow the insurer to provide services they are ill-prepared to deliver or that could be better provided by you or a third party
- Remember that quality services build bonds between you and the insured

Take-Aways for Insureds

- Always negotiate for services as part of your brokerage agreement
- Know the service capabilities of your broker
- Always have service commitments in writing just as you would any other contract
- Make sure the services support your risk management best practices
- Manage the services you are receiving
- Don't expect something for nothing

