

Ponzi Rides Again

The PIE Mutual Story

by Barry Hill

PIE Mutual Insurance Company was founded in 1975 as Physicians' Insurance Exchange. The company was the first in the industry to combine medical professional liability coverage for doctors with a prepaid defense from a law firm restricting itself to malpractice defense.

At the end of 1996 PIE had 150 employees at its Cleveland headquarters and 15,000 policyholders insured up to \$5 million in nine states: Kentucky, Kansas, Indiana, Mississippi, Maryland, Missouri, Pennsylvania, Ohio, and West Virginia. In Ohio and West Virginia PIE insured more doctors than any other carrier. PIE's affiliated law firm, Jacobson, Maynard, Tuschman and Kalur, had 85 lawyers in 15 offices in six states, including two West Virginia offices, as 1997 began.

In mid-December 1997, PIE was taken over by the Ohio Insurance Department, and Jacobson-Maynard closed its doors.

In March 1998 Judge Michael Watson of the Common Pleas Court of Franklin County (Columbus) Ohio declared PIE hopelessly insolvent, with claims exceeding assets by \$275 million, and entered an order staying all civil actions against PIE and its policyholders for six months, while the Ohio Department of Insurance (ODI) liquidates PIE. West Virginia courts are honoring this stay order.

Jacobson-Maynard, which drew 90% of its revenues from PIE, had no money to meet its payroll when the ODI stopped a \$2 million transfer from PIE in December 1997. The firm shut down and disbanded.

What went wrong? The full story is yet to be told, but here's some of it.

Bloated salaries and travel expenses. In 1996 PIE had an \$11.6 million payroll, an average of over \$77,000 per employee. Salaries consumed 25% of all premium dollars paid by PIE's insured physicians. This ranked PIE first among the nation's 50 largest malpractice carriers for salaries as a percentage of net premiums, and it was 4.5 times the national average.

Travel expenses in 1996 were \$2.6 million and 4.7% of net premiums. Again in this category PIE ranked first among the nation's malpractice carriers. PIE's average of over \$17,000 in travel expenses per employee was 7.7 times the national average.

Golden parachutes. In July 1997 PIE gave \$11.8 million to three of its top executives. Larry Rogers, former CEO, received \$6.1 million. James Marietta, former CFO, received \$3.6 million. Warren Udinsky, former Chief Legal Counsel, was paid \$2.1 million.

\$92,000 of Rogers' money went to J.R. Farms for a cattle purchase. \$95,000 of it was paid to MGM Gaming, and \$30,000 was paid to RIO Casino. Marietta put \$230,000 of his money into a divorce settlement and paid out \$85,000 for gifts to friends and family. Udinsky got a Ford Explorer, paid \$97,000 on a mortgage, and sent \$16,000 for his daughter's college tuition.

Silver slippers. In July 1997 the ODI filed suit against several other former PIE employees, claiming they received fraudulent payments from PIE for which they provided no goods or services. The defendants include Alan Rogers, son of former CEO Larry Rogers and the former Vice President of Marketing, sued for an \$8,000 unrepaid salary advance; Nancy Seaholm, Larry Rogers' former secretary, for a \$48,000 bonus; Andrew Buckner, former Vice President for Claims, a \$350,000 loan forgiven; Joshua Feldman, former Vice President of Financial Services, a \$264,000 bonus; William Ludwig, former head of corporation

communications, \$160,000 bonus; Angela Russo, former accountant, \$132,000 bonus; and Dilip Samarasekera, former Assistant Controller, \$67,000 bonus.

Dr. Herbert Bell, a Cleveland neurosurgeon who served on PIE's Board of Directors, an unpaid position, was the beneficiary of a \$480,000 annuity purchased for him by PIE. PIE also bought a \$418,000 annuity for Attorney Robert Maynard, a Jacobson-Maynard principal. Dr. Bell has agreed to assign the \$50,000-a-year payments from his annuity to the ODI, which is still seeking Maynard's annuity payments.

Dr. Larry Griffin, another PIE board member, was paid \$1.4 million by PIE for consulting from 1992 to 1997, while Griffin was employed by the American College of Obstetricians and Gynecologists in Washington, D.C.

Political largesse. From 1994 to 1996 PIE contributed over \$300,000 in so-called soft money to Republican causes on the national level. In Ohio PIE paid 60% (\$50,000) of the cost to remodel the Republican Party headquarters in Columbus.

Former CEO Larry Rogers contributed \$72,000 to the campaigns of Ohio Attorney General Betty Montgomery, a Republican, from 1994 to 1996. Rogers made a total of \$330,000 in political contributions from 1992 to 1997, including \$90,000 to Ohio Republican Governor George Voynovich. PIE executives underwrote \$35,000 of the cost of the Southern Legislative Conference in Charleston in June 1996, and they contributed \$13,000 to five West Virginia legislative candidates in 1996.

PIE's luxury SkyBox at Jacob's Field in Cleveland, home of the Indians, was used to lavishly entertain politicians, including a contingent from West Virginia as late as the summer of 1997.

Garage sale implications. In June 1998 the ODI auctioned off the furnishings at PIE's Cleveland headquarters. The items sold included china and crystal services for 60 and a rare Frederick Remington lithograph collection. The Board of Directors conference table alone sold for \$30,000.

TidePoint, an exclusive 63-acre Hilton Head retirement complex 80% owned by PIE, was sold by the ODI in June 1998 for \$23.7 million to a Hyatt subsidiary. TidePoint, home to the parents of former CEO Larry Rogers, has condominiums and villas ranging in price from \$166,000 to \$606,000.

Corruption and deceit. Thomas Strussion, former PIE lobbyist, was sentenced to jail and a fine in July 1998 after pleading guilty to attempted bribery. The charges against Strussion included gifts and other financial favors bestowed on former ODI Deputy Director David Randall, who was second-in-command at ODI from 1991 to 1997 and personally responsible for monitoring PIE's financial condition. It was after Randall's departure from ODI in the fall of 1997 that the depth of PIE's fiscal problems surfaced. Randall had provided letters of financial security for PIE, which reported a \$65 million surplus in 1996, when in fact it had no surplus and its financial position was overstated by at least \$100 million.

Randall entered guilty pleas to two counts of accepting bribes and one count of falsifying official documents in July 1998. The items Randall accepted from Strussion include \$2,000 toward the bill for Randall's 1993 wedding reception at the New Albany Country Club, payment of hotel bills at the New York Four Seasons and the Washington Ritz Carlton, a laptop computer, use of a telephone credit card, and airline tickets.

Randall's now-estranged wife, Cortney Randall, was paid \$9,000 by Avion Entertainment for consulting in October 1996. Avion is a recording company and record label,

which was located in PIE's Cleveland headquarters. PIE's former CEO, Larry Rogers, is the majority owner of Avion.

PIE did not prepay the attorney fees of its affiliate law firm, Jacobson, Maynard, Tuschman, and Kalur, as the company had repeatedly told its policyholders it did. Yet PIE carried prepaid legal fees as an asset (worth \$25 - \$40 million) as if they had been paid.

PIE had \$90 million in surplus notes carried as an asset which allowed it to sell more policies. These notes were actually mandatory subordinated loans from its physician policyholders, which will never be repaid.

Some of the annuity contracts funding structured settlements reached with PIE from the late 1970's through the early 1990's were not assigned to other carriers as they should have been. PIE financial reports did not identify these contracts as contingent liabilities. The failure of PIE to make a qualified assignment of these annuities opens the door for the ODI, as successor-in-liquidation to PIE, to claim ownership of these policies and the right to direct payments to itself instead of the injury victim. The Ohio Academy of Trial Lawyers is trying to determine how widespread this potential problem is.

Personal commentary. Dino Columbo and Brent Copenhaver defended lawsuits for years in northern West Virginia against physicians insured by PIE, working out of Jacobson-Maynard's Morgantown office. These are two honest, talented, hard-working lawyers, who are a credit to the bar. They didn't get golden parachutes. All they got was the word that their law firm had imploded, less than two weeks before Christmas last year.

Dino and Brent are victims, just like the doctors who paid good money for worthless liability insurance. There are some 4,400 lawsuits pending in nine states against physicians insured by PIE. Some of the doctors are bound to end up financially destroyed.

The plaintiffs in the pending meritorious cases are the largest group of victims, and they've really been victimized twice. The \$300,000 available from various state insurance guaranty organizations won't come close to the economic losses, not to mention noneconomic losses, in a lot of these cases.

Why? It's pretty simple. The fat cats who were running the show squandered the doctors' premiums on high salaries and high living. They ran PIE as a personal fiefdom with the ethics of a Ponzi scheme, while a corrupted bureaucrat looked the other way. It's not hard to figure out who the bad guys are in this one.