Ray Bourhis

INSULT to INJURY

Insurance, Fraud, and the Big Business of Bad Faith

An Excerpt From

Insult to Injury: Insurance, Fraud, and the Big Business of Bad Faith

by Ray Bourhis
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INTRODUCTION

One school of thought says that lawyers should be above the fray, maintaining an almost clinical detachment from their cases – that they should be "dispassionate." I never would have graduated from that school. I'm outraged by the growing element of corporate America that knowingly sells defective products that maim and kill, that creates dangerous blackouts through artificial energy crises, that uses fraudulent tactics to steal retirement benefits from employees, that deploys lobbyists to buy votes and neutralize regulators, and that reduces ethical considerations to a cost-benefit analysis.

Author and filmmaker Michael Moore reported that after he'd produced *Roger and Me*, his scathing documentary on General Motors, businessmen invariably asked him what he had against profits. Companies, they said, have responsibilities to shareholders to make as much money as possible. "It's about the shareholders, Mike! That's our system!" Moore's answer was, "You know what? That's not our system... You don't see a single thing in the United States Constitution about shareholders. Our responsibility as citizens is not to make the shareholders as much money as we can for them. The word you find in the Constitution is People. Ours is a Nation 'of, by, and for the people.' That's there. Not the shareholders."

I've got nothing against profits, but they are not supposed to be made by lying, cheating, and defrauding people – by destroying their lives.

What this country has become in the twenty-first century is not the America my father immigrated to. If what you are is a sum of where you came from and what you've experienced, I'd like to think that there's some of my father, Frank, in me. He was, by far, the most worldly wise influence in my early life.

My dad came from a large family that for generations farmed a parcel of a few hundred acres in south-central Brittany in France. When he was sixteen, his brother, Yves, received a conscription

notice from the French military. Yves, who was older, bigger, and stronger than my dad, was needed on the farm. So my father, pretending to be his older brother, signed up with the French navy, was dispatched to Brest, and was assigned to a training ship called the *Jeanne d'Arc*. For someone who had never before *seen* the ocean – although it was only forty-three kilometers west of his Coray farm – to suddenly be finding himself taking shore leaves in ports from Equatorial Africa to South America and from Indochina to Polynesia was eye-opening, to put it mildly.

When he was discharged, Dad returned to France just in time to receive his *own* conscription notice. Back he went to Brest. Surely the French navy had more than one ship, but again he was assigned to the *Jeanne d'Arc*. He promptly ran into some of the same sailors he'd met the first time around. To a man, they were shocked at his remarkable resemblance to his older brother, Yves.

Spending years racing around the globe from one port to the next left my father with attitudes that stuck with him for the rest of his life. It gave him a worldview, rather than one of "my country, right or wrong." He always felt different from those who had never traveled. They seemed somehow narrow, ethnocentric, and superficial to him.

When I was a kid, my dad talked to me about how narrow-minded many people were. He got me to question things and pay attention to what was going on beyond the obvious.

Despite his worldliness, voracious reading habits, and boundless thirst for knowledge, Dad felt inferior because of his limited formal education. His son was going to be given opportunities that he'd never had. He was going to go to college and to graduate school. He was going to be a doctor, lawyer, or engineer.

Although my mother, Louise, was also from a Brittany farm family, she didn't meet my father until 1933 when they were both attending a party in New York City. A year and a half later, they married and moved to a one-bedroom apartment on the third floor of a six-story building in Elmhurst, Queens.

I was born nine years later. Raised as a true Queens New Yorker, I learned to walk in Flushing Meadows, ride my bike at the local

playground, hitch rides on passenger buses during snowstorms by hanging onto their rear bumpers, and love the Yankees.

When the time came for me to begin school, I was sent, strangely enough, to a place with the same name as my father's training ship. St. Joan of Arc Grammar School was run by nuns and priests who were serious about education, serious about discipline, and serious about religion. When we were not being drilled in our studies or forced to smack ourselves on the knuckles with rulers, we were out pounding the streets of Queens selling raffle tickets to strangers for Father Reilly's Educational Fund. The competition between grades, classes, and individuals to raise the most money was fierce. Running tallies were posted daily announcing who had sold what.

Even though none of us knew anything about Father Reilly, the fund-raising campaigns were always wildly successful. In addition to raising cash, this effort taught us some important survival skills. We learned to engage complete strangers in conversation, be persistent without being obnoxious, never be defeated by rejection, get people to do what we wanted them to do, and compete with peers without attacking them personally – perfect lawyering skills, as it turned out.

Beyond the fund-raising, the nuns also had us out converting non-Catholics. This was very important, they explained, because although Protestants, Jews, and others *could* go to heaven, they could not go to as high a heaven as Catholics. Besides, other religions didn't have the sacrament of confession to bail members out of trouble, erasing mortal sins from their souls.

Mortal sins were serious business. They included offenses such as armed robbery, murder, and missing Mass on a Sunday or a holy day of obligation. There were other offenses as well, some of which were explained, by blushing nuns, only vaguely.

In any event, if you committed a mortal sin and then died before going to confession, the penalty was severe. You would be damned to the fires of hell, tortured endlessly, forever.

"You know what it's like to singe your finger with a match," the nuns would say. "Imagine if you couldn't pull your finger away. Imagine if it wasn't just your finger but your whole body that was being burned. Imagine if it never stopped. Imagine if the pain never let up. *Never*."

You had to be damn careful in those days. I can still remember going to bed at night picturing the devil hovering above my headboard, waiting for me to die in my sleep so he could grab me by the hair and drag me to hell, cackling all the way.

Even though, like many people brought up in a world of black-and-white absolutes, I later completely rebelled against all of this religious indoctrination, I think it probably had some lasting effects on my basic attitudes relating to what life is supposed to be about. That's simply because in addition to the hocus-pocus aspect of this training, there was a lot of talk about helping the poor, assisting the less fortunate, and fighting for what's right. If you think about it, Catholic heroes in those days, in addition to Notre Dame football players, were people who stood up against the establishment. The guy on whose teachings the whole religion was based did things like feed the hungry and fight the powerful. Never mind that popes were corrupt, women were discriminated against, and weirdos who heard voices in their heads and talked to birdies were canonized – it was the other part of my training that left its mark on my soul.

Years later, I wound up assisting migrant farmworkers, joining the domestic Peace Corps, and fighting the Bureau of Indian Affairs on behalf of Native Americans. One thing led to another, and when all was said and done, I woke up one day holding a law degree from the University of California, Berkeley's Boalt Hall. Even as a law student I couldn't help myself. Instead of opting for courses in tax law or in oil and gas law, I started a student-funded public interest law group that ultimately became CALPIRG, the California Public Interest Research Group.

When the time came to choose an area of specialization, I had little difficulty deciding. Years earlier, my mother had been refused desperately needed medical treatment by her insurance company. Suffering from severe angina and disabled with coronary artery disease, she needed treatment by a specialist in cardiovascular disease. Instead, she was denied her policy benefits. And suffice it to say that although the consequences were severe, my parents, like most people, were not equipped to fight back and had no one to fight back for them. My practice was going to be devoted to suing insurance companies that cheated people.

As comprehensive as the training is, law school doesn't prepare you for the world of litigation. A savvy insurance company with its battalions of lawyers can run a young practitioner into the ground. Demurs, motions, interrogatories, subpoenas, marathon depositions, double and triple teaming, more motions, continuances – all of these are time-consuming and very expensive. The same insurer that will scrimp to save fifty cents defending its policyholder will break the bank fighting off a bad-faith suit against itself.

But if you stay with it, you learn. And after thirty years of litigating bad-faith cases against all the major companies – Allstate, State Farm, AIG, Kaiser, Farmers, TransAmerica, New York Life, and dozens of others – my partner, Alice Wolfson, associates, David Lilienstein and Jenn Prusak, and I felt that we had a pretty comprehensive idea of what was going on within the industry and of what to expect when a litigation battle began.

That was what we thought until we encountered the company with the strange-sounding name of UnumProvident.

GORDON GECKO CLAIMS, "GREED IS GOOD" AND "IT'S JUST PART OF capitalism."

Whether it was Ken Lay or Bernie Ebbers, Dennis Koslowski or Frank Quattrone, Andrew Fastow or John Rigas or Marc Swartz, in the last year you couldn't pick up a newspaper without reading about some bigwig from a Fortune 500 securities organization, investment bank, accounting firm, energy conglomerate, product manufacturer, pharmaceutical corporation, clothing retailer, or defense contractor who had cheated, defrauded, bribed, child labored, or stolen every dime he could get his corrupt, greedy hands on. And these guys were just the top layer: the Oscar winners, the Best in Show, the crookedest of the crooks.

This isn't a little deal anymore. Corporate hotshots aren't stealing thousands and hundreds of thousands of dollars; its millions and hundreds of millions. And they're not stealing from the rich and giving to the poor. They're stealing from the poor and stuffing it in their tailored pockets. Guys are doing thirty to life for simple bank robbery

while the real crooks are going to political fund-raisers and swapping rooster jokes with the leader of the free world. Sometimes it seems like everybody who's anybody must be doing it, prowling relentlessly for the fast buck.

Given this climate, it shouldn't surprise anyone that an industry as large as insurance – in the United States alone, we spend more than $2,000 for every man, woman, and child per year on premiums – would be ripe for corporate shenanigans in the name of profit and greed.

Why are so many corporate role models stealing from their own customers and employees? How do they get away with it? Why do our institutions tolerate it? Can anything be done to stop it?

Read on. Perhaps the story of the only company in America that has ever given a "Hungry Vulture Award" (see exhibit 1) to "deserving employees" can shed a little light on the dismal state of corporate America.

Chapter One

FALSE PROFITS

THE WOMAN SEATED BEFORE ME HAD PAIN AND SADNESS ETCHED deeply into her face. Her eyes were dark and hollow; her gray-brown hair tired and stiff. The corners of her mouth were fixed in a dry frown. She had the look of a frightened, skittish animal, betrayed and immensely fragile. She appeared on the verge of lunging for the door, poised to make a run for it before uttering a word. Watching her as she fidgeted with the papers on her lap, struggling to maintain her composure, I felt an air of uneasy tension settling in between us.

A few years earlier, Joan Hangarter had everything going for her. She had a successful chiropractic practice; two great kids; a nice house in upscale and comfortable Novato in Marin County, California; a late-model car; and a relationship she saw as solid and lasting. Then one day in 1997, while she was performing a difficult lumbar manipulation on a patient, Joan felt a sudden ripping pain in her right forearm. The pain radiated up the arm to the base of her neck. She thought her condition would improve, but instead it worsened. Months later, following extensive testing, her doctors told her that her injuries were permanent and that she would no longer be able to perform the demanding maneuvers required in her work. She was devastated.

Joan may have made some bad decisions and lousy investments over the years, but there was one thing she had done that she believed would carry her through. Years before she had given in to a "won't take no" insurance saleswoman. "She was very insistent," Joan recalled. "She explained that the policy she was trying to sell me would keep a roof over my head if anything should ever happen that prevented me from continuing in my career.

"'You've studied and built your practice for years,' she told me. 'You have responsibilities. A mortgage. Big monthly expenses. Unexpected things happen in life. What would you do? Retrain? Start all over? Empty out your retirement account? Take some menial job for a fraction of what you're now earning?'

"She knew I was about to become a mother. How could I not protect my baby?"

Joan bought an "own-occupation" disability policy from the Paul Revere Life Insurance Company and, for almost a decade, dutifully paid the $3,000-a-year premium. Following her accident and diagnosis, Paul Revere investigated her claim, reviewed her medical records, and evaluated her condition. It concluded that she was disabled and began paying the monthly benefits.

Paul Revere continued to pay until after the company was swallowed up by its chief competitor, Provident. Suddenly, Joan's benefits were cut off.

I listened to her describe the downhill plunge of her life: how her injuries had prevented her from treating her patients; how she had been forced to sell her practice; how, following the termination of her benefits, she had lost almost everything; how her car had been repossessed and she and her children had been evicted from their home and driven into bankruptcy and onto welfare. I saw a defeated person, a woman who appeared to have little reason to live. But when I asked about her children, Joan's demeanor changed. She transformed into a proud mother, talking about Elana and Anton, their personalities, their hobbies, their school activities.

After talking to her about her history with Provident and about what had happened to her, I knew Joan had a good case. Unfortunately, good cases don't always go the plaintiff's way. I wasn't about to give this woman who had been kicked so hard any inflated hopes.

"If you sue this company," I said, "if you take them on, they will try to crush you any way they can. They have billions of dollars. They will spend whatever it takes to fight you. They will try to destroy you and your case."

I watched her carefully to see if my words were sinking in.

"They will attack you personally. They will call you a fake. They will say you made stupid mistakes and choices in your life and that

you are trying to blame them for your problems. They will go after your former employees."

I wasn't making any of this up or exaggerating in the slightest. I had seen this company use just such tactics with other clients we had represented against it.

"They will send investigators to film your every move. They will take your deposition for days at a time. They will subpoena your tax records. They will accuse you of insurance fraud – "

"These are bad people," she interrupted. "They are *really* bad." I heard an intense firmness in her voice as she took responsibility for her mistakes. "I've made some big mistakes," she said, "but I'm disabled. I can't *be* a chiropractor anymore. They know that's true. They were wrong in cutting me off. If they hadn't done that, we wouldn't have been ruined. We wouldn't have been thrown out of our home. We wouldn't be living on food stamps."

"Yesterday," she said, her eyes welling up, "my son, Anton, was looking at some old photos from the good days. He turned to me and asked, 'Mommy, will we ever be normal again?'"

"Mr. Bourhis," Joan said, now sounding more determined than defeated, "I don't care what they do to me. They can't be allowed to get away with this."

THE CONCEPT OF INSURANCE IS NOTHING NEW. IT DATES BACK TO THE maritime industries of ancient China and Babylonia. The Chinese had a system to lessen the loss of cargo in the treacherous Yangtze River. A group of ship owners threw money into a pot (the birth of premiums) to cover the loss of goods on a single boat.

The Babylonians developed an interesting variation, called "bottomry contracts." Ship owners negotiated loans on their vessels. If the ships didn't make it back to port, the debt was wiped clean. Insuring, in one form or another, against maritime loss carried through to the Greeks, Romans, and Byzantines.

A catastrophic occurrence in London in 1666 made it abundantly apparent that a new type of insurance was needed – for fire. The Great

Fire of London raged for four days, destroying more than thirteen thousand buildings and leveling 436 acres. An enterprising gentleman named Nicholas Barbon promptly started a business to protect against future fire loss.

One hundred years later, the always-enterprising Benjamin Franklin founded one of the first fire insurance companies in the United States, the Philadelphia Contributorship, which is still in existence today.

Variations and nuances progressed through the centuries. Otto Bismarck instituted a social insurance in Germany as an end run against socialism. Its basic tenet was that for the good of all society, the individual must be protected. (Bismarck's creation worked so well that despite the upheavals following the world wars, Germany's national health insurance never stopped functioning.) In the late nineteenth century, disability insurance in its more modern guise made an appearance. With the rise of unions, workers demanded that they no longer be treated as commodities to be used and tossed away. Since employees gave up part of their lives making widgets and what-have-yous, they wanted more than a salary. They wanted peace of mind.

That's what disability insurance is all about. Whereas car insurance protects something tangible, disability insurance is a protection for what might happen – there might come a time that you are no longer able to work because of an injury or illness. Since profits could be made in selling this type of protection, naturally the private sector rushed in.

Insurance companies don't make the real money on premiums. The big returns come from their investments. The 1980s were a decade of double-digit interest rates and bond returns. Companies that earned their profits by accumulating and investing cash could expand and grow exponentially. There was no better business for this than insurance. And with its high premiums, long-term policies, low marketing costs, and limited risk, there was no better insurance line for this than disability. This was the time to rake it in, the time to corner the market. All you had to do was come up with a seductive benefits package, price premiums aggressively, hire swarms of hungry sales agents, put them on high commission schedules, and stand back. The premium dollars would fly in, the cash would be thrown

into the bond market, and profits would soar. If the competition didn't match you, step for step, you would own them before they could walk out the door. The weak and the tentative would fall to the side, and the resolute, the daring, would take over. It was the same old deal. The meek might inherit the earth, but before long, the bold would have it all back and would be disinheriting them.

In 1983, there were dozens of disability insurers in the business but only three heavyweights: Provident Life and Accident Insurance Company of Chattanooga, Tennessee; the Paul Revere Life Insurance Company of Worcester, Massachusetts; and Unum Life Insurance Company of America of Portland, Maine. Whether through loose lips, competitive surveillance, or coincidental stupidity, all three companies came up with similar plans.

Between 1983 and 1989, Provident, Paul Revere, and Unum had nearly a hundred thousand agents plowing the fields from Maine to California and throughout Canada. They were all selling "own-occupation" (own-occ) individual disability insurance. These policies held the enticing promise of payment should the insured become unable to perform the duties of his or her "own occupation."

The pitches were almost identical:

> Buy ours; it's noncancelable.
>
> No, buy ours; the premiums can never be raised.
>
> No, buy ours; it will pay benefits for life, not just to age sixty-five.
>
> Wait; we'll throw in annual cost-of-living adjustments to cover inflation.

Each company played on fear. The promotional material contained shocking statistics on the number of people seriously injured every year (see exhibit 2). This was accompanied by dire warnings about what could happen to someone who can no longer work. Auto accidents, sports injuries, illnesses, diseases – the litany of potential calamities went on and on.

"Don't think it can't happen to you," the sales agents warned. "That's what everybody thinks. Then it happens. And your life is ruined – along with the lives of all of those who are depending on you." But if you buy this policy, it will protect you if you are ever unable to perform your specific job. Your *specific* occupation."

Policy after policy was sold.

Happy projections came into the boardrooms. Double-digit interest rates – so good for insurance companies, so bad for mortgage seekers – would continue into the foreseeable future. Premiums were priced accordingly and *could not be raised*.

Of course, claims would be made on these policies – people would be injured or would develop covered illnesses – but claims payments would be far surpassed by the fat investment revenues.

Profits were just sitting there, waiting to be plucked, like juicy, fat little plums in a vast, glorious orchard that stretched from sea to shining sea – plums worth billions of dollars. As long as the interest rate projections that formed the basis for all of this continued to be correct, the profits would fly along as expected. You would need an army of counters just to keep tabs on the increasing profits.

The problem was the projections were wrong.

A COPY OF THE MEMO RESTED ON THE POLISHED MAHOGANY COFFEE table next to a confidential analysis of the problem. Not only had the double-digit rates of the 1980s failed to hold up into the 1990s, but they had plummeted to half their 1980s levels. And as the rate predictions went out the window, so too did the claims/investment-profits formula that had provided the basis for the 1980s pricing calculations – calculations that had been used to price every own-occupation policy sold between 1983 and 1989.

Short-term claims – sprains and pains with small payouts and speedy recoveries – were not the problem. It was the high-benefit, long-term claims, claims that would have to be paid year after year, that suddenly posed the threat.

Because Provident had been the most aggressive in its attempts to corner the disability market, it was now facing the greatest exposure for losses. It knew the number of own-occ policies it had sold. It knew the size of the long-term disability benefits that were in place. It knew the extent and duration of the existing claims being paid. It knew the estimates of future claims that would be filed over the lives of the policies in force. It knew the terms of the insurance contracts it had

written. It knew it could not make interest rates go up. It knew it was in trouble.

In 1993, Provident was forced to take a $423 million charge, a loss of almost half a billion dollars caused by having to increase the company's reserves in order to pay existing and projected claims (see exhibit 3). This, undoubtedly, was just the beginning. If interest rates remained low, losses would continue to grow, which would have a very substantial effect on profits and, worse, on stock prices.

It was amazing, really, the kinds of blunders high-powered corporate executives with degrees from prestigious business schools were capable of making. These Wonder Boys, handpicked by the Provident board, had screwed up like rank amateurs.

But it wasn't just the senior management. Too many board members were out of touch. And while they were playing golf, attending charity socials, and checking on their portfolios, the barn was burning.

How the interest-rate projections could have been so far off the mark was a mystery. But they were. Why the leadership had thought it was a great idea to sell policies for which premiums could not be raised was equally mysterious. But they did.

Now these own-occ policies were going to cause shareholders a huge, expensive headache. The more shares one held, the bigger the headache. And this company had some very big shareholders. The situation had all the makings of an ugly, severe, and very real problem.

The Provident board did what such boards always do in these situations – it brought in a new CEO.

Enter J. Harold Chandler. To many, Chandler was an odd choice – *very* odd. But whatever had gone on behind closed doors stayed there, and the choice was made.

This isn't to say that Chandler's academic credentials weren't impressive. He had graduated Phi Beta Kappa in 1971 from Wofford College, a small, fairly selective institution in Spartanburg, South Carolina. He earned an MBA from the University of South Carolina and went through the advanced management program at Harvard.

In his early forties, Chandler projected an aura of competence. And while detractors found him aloof, detached, and somewhat arrogant, he packaged himself as an aw-shucks, regular kind of guy. It made little difference. CEOs aren't hired for their common touch. Boards want to turn over the reins to someone who can deliver.

In the case of Provident, the board was looking for someone who could get the company back on the profit-making track. Yet some real head shaking occurred over Chandler's appointment. Beyond owning his own policies, there was little evidence that the man knew anything about insurance. He was, of all things, a banker. He had spent more than twenty years with the Citizens & Southern Corporation, which became NationsBank Corporation, rising to become president of its Mid-Atlantic Banking Group.

Despite his lack of experience in the insurance industry, the handful of powerful individual and institutional stockholders whose shares in the company were worth hundreds of millions of dollars – the investors who really controlled things – anointed Chandler to lead Provident to "Moneyland." To provide him with a powerful incentive to accomplish this goal quickly, in addition to his fat salary the shareholder bigwigs gave Chandler options to purchase hundreds of thousands of shares of Provident stock at the price of $30 per share. The only catch was that the options would expire in five years. If the stock price rose substantially and rapidly, Chandler's personal take would be in the multimillions of dollars. If, on the other hand, the price stayed flat or went down, his options would be worthless.

Such an arrangement is not uncommon in corporate America. Many argue that awarding stock options is a legitimate way to attract – and keep – top talent. If an executive has stock options and the share price is rising, he or she will be less likely to jump to a competitor. Dot-coms in the 1990s were especially prone to using options as an incentive. How else were they to lure people away from established firms such as Intel or Microsoft?

Also, some argue that the option carrot is useful in getting management to try all that much harder to increase profits and push the stock price skyward. The good of the company becomes the very good of the executive.

But options have their critics, not the least of whom is Federal Reserve Board Chairman Alan Greenspan, who would blame what he called the "infectious greed" of the 1990s partially on stock options. "The... spread of shareholding and options among business managers," Greenspan said in 2002 after the Enron debacle, "perversely created incentives to artificially inflate reported earnings in order to keep stock prices high and rising. The incentives they created

overcame the good judgment of too many corporate managers." Greenspan could well have added that the problem was a lack of effective countervailing disincentives to serve as financial deterrents against profitable fraudulent activities.

In the case of Enron, top management hid problems in the company through creative accounting in order to exercise options before the stock price plummeted. Twenty-nine insiders walked away with $1.1 billion (with CEO Ken Lay's share being $104 million).

Chandler took over as CEO of Provident within weeks of the company's taking its $423 million charge. So what if he didn't know anything about insurance regulations? Perhaps so much the better.

What Chandler *did* know was what was really important. As a banker, he knew how to count.

ACROSS THE COUNTRY, JOAN HANGARTER WAS COMPLETELY UNAWARE OF the situation in Chattanooga. Even if she had noticed an announcement of Chandler's ascendancy, it would have made no impression on her. She had, after all, purchased her policy from Paul Revere. In any case, she had other things to think about.

Joan started the 1990s doing well. Her kids were wonderful. Her fiancé, Bruce Wexler, was ambitious and filled with ideas. At the height of the Internet boom, when people were scrambling for ways to exploit the potential of the World Wide Web, Wexler was working on a start-up company that would sell music over the Net while protecting the artists' copyrights. His technology could also be used for Webcasts and online concerts. It was a heady time, filled with ahead-of-the-curve, moneymaking possibilities. Joan was right there at Wexler's side. But more importantly, she had her practice.

Health conscious, she looked more like a fitness instructor than a chiropractor. So unless you knew her background, chiropractic would have seemed an unlikely career for her to choose. When she entered the field in the 1980s, it was still viewed as a step off the mainstream by some. After all, the practitioners weren't *real* doctors, not *medical* doctors like Dr. Welby and Dr. Kildare. They didn't even solve problems by prescribing pills.

Chiropractors believe that many varieties of ill health stem from the spine being misaligned, that roadblocks in the spinal highway keep nerve impulses from reaching their destinations. By manipulating the spine at specific locations, chiropractors can solve or at least ameliorate specific health problems.

Though modern chiropractic began only a century ago, records exist of manipulations being performed as far back as 2560 BC. The legitimacy of the profession received a big boost in 1944 when veterans were allowed to use GI Bill of Rights grants for chiropractic training. In 1972, Congress okayed Medicare payments for chiropractic treatment. Thirty years later, members of the armed forces and veterans were accorded benefits, as well.

It is estimated today that twenty to twenty-five million people entrust their bodies to approximately sixty-five thousand chiropractors in the United States. But as late as 1997, most of those practitioners were men – 84 percent versus 16 percent women.

Despite all this, there was little question of Joan entering the profession. Naysayers of chiropractic could naysay all they wanted. Joan knew its healing power firsthand. At thirteen, she was diagnosed with scoliosis, curvature of the spine. The traditional treatment was wearing a brace for more than sixteen hours a day until the spine straightened or surgery. The latter was recommended for Joan. Her father opted for a third option. He took her to a chiropractor, who treated her for two years. As a result, no operation was necessary.

The profession also appealed to her because she loved helping people, so working as a waitress, Joan put herself through chiropractic school. After passing the state boards, she borrowed $10,000 to start her business and began the long, hard task of building her practice. Working from 6 a.m. to 7 p.m. daily, Joan built a solid referral network from the ground up, one step at a time. She was loved and respected by her many patients – who ranged from children with sports injuries to adults with back problems. Her easy smile and confident proficiency impressed both those she treated and the numerous medical doctors and other professionals who steadily sent their patients to her.

Beyond enjoying the feeling of success that came from the solid growth of Solano Chiropractic, Joan was truly fulfilled by the work she was doing. She was treating people who were in pain, as she had

been as a child, and she was making them well. Little else could have provided her with the satisfaction she was getting from what she was doing.

ON FIRST ANALYSIS, PROVIDENT AND CHANDLER WERE FACED WITH a seemingly unsolvable conundrum. On one hand, there was nothing the company could do about low interest rates, while on the other, it was receiving more and more long-term claims every day.

Whether Chandler was truly ignorant of them or not, there are certain rules governing the insurance industry. One is the implied promise of good faith and fair dealing. This means that an insurance provider cannot unfairly deny a policyholder the peace of mind that he or she pays for when buying a policy.

It is illegal for an insurance company to unreasonably delay, terminate, or reject a valid claim. Investigations of a claim must be full, fair, and objective. The company's financial interests must never, ever be put above those of the policyholder. The insurer may never conceal benefits – which wouldn't be hard considering that most policies read as if they were written in random Chinese. Any ambiguities in coverage must be read in favor of the claimant. All of this means the company has to pay up honestly on *legitimate* claims.

The "legitimate" part is what Provident decided to use to its advantage. After all, the insurer got to decide what a "legitimate" claim was. If the claimant disagreed, he or she could just sue the multi-billion dollar company with its battery of in-house lawyers and army of high-priced outside counsel.

Not long after Chandler's arrival, Ralph Mohney was tapped to take over Provident's entire claims department. Mohney's background was in accounting and tax. Despite being put in charge of the department, Mohney had never handled a single insurance claim in his life. But he, like Chandler, was a numbers cruncher.

Outside consultants were hired, the situation was analyzed, strategy sessions were conducted, and the problem was examined from

every angle. Through it all, one fact was certain. There were two sides of the equation – interest rates and claims. No matter what, one side was in granite – Provident could do absolutely nothing about the low interest rates. The other side, the claims side, was another matter entirely. It was there that changes could be made – bold, aggressive changes.

Starting in 1994 a number of "initiatives" would be instituted by Chandler and Mohney – initiatives that would put in place new procedures for dealing with claims *and* claimants. These initiatives would change the direction, the very philosophy, of the company. (See exhibit 4, for example.)

As a result of the profitability of these initiatives, by 1997 Provident was able to consume its former rival, Paul Revere. By 1999 it would gobble up Unum, as well. Through it all, Chandler, Mohney, and their "philosophy" would endure. Endure and thrive.

Under Provident's new corporate philosophy, the claims department began aggressively searching for reasons *not* to pay claims. Methods would be developed. Strategies would be deployed. Obstructions would be raised, delays instituted, and medical determinations challenged.

This was much to the misfortune of Joan Hangarter and many others who found their lives destroyed and themselves falling down the rabbit hole.

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