## CONTENTS

About the Editors ........................................................................................................... xix  
About the Contributors .............................................................................................. xix  
Preface ......................................................................................................................... xxiv  

### CHAPTER I  
**Loan Loss Coverage under Insuring Agreement (A)**  
A. Introduction .............................................................................................................. 1  
B. History ....................................................................................................................... 4  
1. Origins of Modern Employee Dishonesty Coverage ........................................ 4  
2. Beginnings of Standard Form Policies ................................................................. 4  
3. Adverse Decisions Lean to Sky Rocketing Loss Rations .................................... 5  
4. SFAA’s Revisions to Counteract Decisions, Including Rider  
   6019, and 1980 and 1986 Revisions ................................................................. 7  
5. Overview of Decisions Construing “Manifest Intent”  
   Provision ............................................................................................................... 8  
6. Most Recent Revisions to Standard Form Policies ........................................... 9  
C. Overview of Important Bond Provisions .............................................................. 10  
1. Loan Exclusion ..................................................................................................... 10  
2. Insuring Agreement (A) ....................................................................................... 11  
   a. Pre-1976 Language ...................................................................................... 12  
   b. 1986 Bond .................................................................................................. 12  
   c. 2004 Bond .................................................................................................. 13  
   d. 2005 ISO Policy ......................................................................................... 14  
3. Dishonest and Fraudulent Acts .......................................................................... 15  
D. Manifest Intent ..................................................................................................... 17
1. Purpose of the Manifest Intent Requirement ............................................. 17
2. The Meaning of “Manifest Intent” .......................................................... 18
   a. Dictionary Definition ........................................................................ 18
   b. Criminal Law Construction of Intent ............................................. 21
   c. Model Penal Code Construction of Intent ..................................... 23
   d. Tort Law Construction of Intent ..................................................... 26
   e. Contractual Construction of the Term “Manifest Intent
      under the Financial Institution Bond ........................................... 30
3. Important Cases Construing the Manifest Intent Requirement .......... 31
   a. Natural and Probable Consequences Test ....................................... 32
   b. Substantial Certainty Test .............................................................. 34
   c. Specific Intent Test ......................................................................... 40
   d. Other Recent Cases ......................................................................... 52
E. Active and Conscious Purpose Provision of 2004 Bond ................. 54
F. Specific Intent Provision of 2004 ISO Policy ................................. 56
G. “Intent” Provision of Certain Proprietary Forms .............................. 57
H. Collusion Requirement of Insuring Agreement (A) ......................... 59
I. Financial Benefit Requirement of Insuring Agreement (A) ............... 63
   1. Type and Value of Financial Benefit ............................................. 64
   2. “In Connection Therewith” ............................................................ 67
   3. Timing of Financial Benefits ......................................................... 68
   4. Unrelated Loans in a Single Claim .................................................. 69
   5. Emoluments of Employment ......................................................... 69
J. Conclusion .......................................................................................... 71

Chapter II
Loan Loss Coverage under Insuring Agreement (E) ......................... 73
A. Introduction .......................................................................................... 73
   1. The Text of Insuring Agreement (E) .............................................. 73
   2. Insuring Agreement (E)’s Seven Requirements ............................ 76
   3. Keys to Analyzing an Insuring Agreement (E) Claim ................... 76
B. The Insuring Agreement (E) Requirements ......................................... 79
   1. “Loss” .......................................................................................... 79
   2. Documents Covered ....................................................................... 79
   3. The “Original Requirement” ......................................................... 86
   4. The Documentary Defects Covered .............................................. 89
      a. Forgery .................................................................................. 89
      b. Counterfeit .......................................................................... 90
C. Causation Issues and Problems ................................................................. 229
   1. Indirect or Consequential Loss .......................................................... 229
   2. Actual versus Theoretical or Bookkeeping Loss ............................... 237
   3. Good Faith ...................................................................................... 239
      a. The Subjective Standard ........................................................... 240
      b. The Objective Standard ........................................................... 242
   4. Intervening and Superseding Causes ............................................... 245
   5. Multiple Causes ........................................................................... 253
   6. Establishing Causation in an Employee Dishonesty Case ............... 256
   7. Reliance ....................................................................................... 257
   8. Ask a Simple Question .................................................................. 258
E. Conclusion ............................................................................................ 260

Chapter VI
Discovery and Termination ........................................................................ 263
A. Introduction .......................................................................................... 263
B. Discovery .............................................................................................. 265
   1. Policy Provisions .......................................................................... 266
   2. Whose Knowledge Is Considered ................................................... 267
   3. Sources of Knowledge .................................................................... 269
   4. Certainty versus Mere Suspicion .................................................... 269
   5. Reasonable Person: Objective versus Subjective versus a Combination ...................................................................................... 271
   6. Assumption versus Charging Another with Fraud or Dishonesty .......... 273
   7. Discovery by Reason of Third-Party Claims .................................. 274
C. Discovery and Automatic Termination as to a Particular Employee .......... 274
   1. Policy Provisions .......................................................................... 275
   2. What Constitutes Fraudulent or Dishonest Acts .............................. 275
   3. When Must the Acts Have Been Committed or Discovered ... 276
   4. Effect of Automatic Termination ..................................................... 278
D. Termination by Takeover or Change in Control .................................. 279
   1. Takeover by Federal or State Authorities ....................................... 279
   2. Change in Control of the First Named Insured ............................... 281
E. Conclusion ............................................................................................ 282
Chapter VII
Specific Types of Claims and Riders .......................................................... 283
A. Introduction .................................................................................................. 283
B. Accounts Receivable Financing ................................................................. 284
   1. What is Accounts Receivable Financing ............................................. 284
   2. Specific Risks Associated with Accounts Receivable
      Financing .................................................................................................. 289
   3. Loss and Unique Coverage Issues ......................................................... 291
      a. Insuring Agreement (A) ..................................................................... 291
      b. Insuring Agreements (D) and (E) ...................................................... 292
      c. Cause of the Loss ............................................................................. 295
C. Loan Participation and Syndication ........................................................... 296
   1. What Are Loan Syndications and Loan Participations? ............... 296
   2. Specific Risks Associated with Loan Participations and
      Loan Syndications .............................................................................. 298
   3. Loss and Unique Coverage Issues ......................................................... 299
      a. Insuring Agreement (A) ................................................................. 299
         (1) Loss Incurred by Participating Banks..................................... 300
         (2) Coverage for Insured’s Liability to Participants...................... 302
      b. Insuring Agreements (D) and (E) ...................................................... 303
         (1) Reliance and Possession ........................................................... 303
         (2) Potentially Covered Documents .............................................. 307
            (a) The Loan Participation Agreement .................................. 308
            (b) The Loan Agreement and Promissory Note .................... 310
            (c) Collateral and Related Documents .................................. 311
   4. General Fraud by Non-Insured Bank ..................................................... 312
D. Subprime Lending ........................................................................................ 312
   1. What Is Subprime Lending? ................................................................. 312
   2. Specific Risks Associated with Subprime Lending .......................... 314
   3. Loss and Unique Coverage Issues ......................................................... 315
      a. Resulting Directly From ............................................................... 315
         (1) Did the Loss Result Directly from Employee
            Dishonesty? ............................................................................. 315
         (2) Did the Loss Result Directly from a Forgery or
            Alteration? ............................................................................. 316
         (3) Did the Loss Result Directly from Poor
            Underwriting Practices? ......................................................... 318
      b. Lender Liability Claims ................................................................. 320
E. Floor Plan Financing ................................................................................... 322
1. What Is Floor Plan Financing? ................................................ 322
2. Specific Risks Associated with Floor Plan Financing .......... 323
3. Loss and Unique Coverage Issues ........................................... 324
   a. Submission of Counterfeit, Forged, or False
      Financial Records, Certificates of Origin or Title,
      or Other Supporting Documents........................................ 324
      (1) Counterfeit versus Forged........................................... 324
      (2) Causation .................................................................... 327
   b. Selling Inventory Out of Trust .......................................... 328
   c. Obtaining Advances on Fictitious Collateral .................... 329
   d. Obtaining Multiple Advances against the Same
      Collateral ........................................................................... 330
   e. Inability to Sell Collateral ................................................. 331
   f. Collateral’s Decline in Value ............................................ 331
F. Equipment Lease Financing ........................................................... 331
   2. Specific Risks Associated with Equipment Lease Financing .. 333
   3. Potentially Relevant Coverage Provisions............................... 333
      a. Insuring Agreement (A) .................................................... 334
      b. Insuring Agreements (D) and (E)...................................... 334
G. Mortgage Warehouse Lending ....................................................... 335
   1. What Is Mortgage Warehouse Lending? ................................. 335
   2. Specific Risks Associated with Mortgage Warehouse
      Lending .................................................................................... 336
   3. Coverage for Losses Associated with Mortgage Warehouse
      Lending .................................................................................... 337
      a. Insuring Agreement (A) .................................................... 337
      b. Insuring Agreement (D) .................................................... 337
         (1) Is the Promissory Note a Negotiable Instrument? ...... 338
         (2) Is the Promissory Note an Evidence of Debt? ............ 340
      c. Insuring Agreement (E)..................................................... 341
         (1) Loss Resulting Directly From Having in Good Faith
            Extended Credit or Acted in Reliance Upon................. 342
         (2) Actual Physical Possession ........................................ 343
   4. Case Law Addressing Mortgage Warehouse Lending............. 344
H. Fraudulent Mortgage Rider ............................................................ 347
   1. Coverage Provided............................................................. 347
   2. Cases Interpreting the Rider ............................................... 349
I. Servicing Contractor’s Rider........................................................... 351
Chapter VIII
The Compensability of Warehouse Lending Losses

A. Introduction .................................................................................... 355
B. The Warehouse Lending Process ................................................... 356
   1. Mortgage Brokers versus Mortgage Bankers .......... 356
   2. Warehouse Lending Process.............................................. 357
   3. Wet versus Dry Funding ................................................. 359
   4. The Risk of Fraud: Fraud for Housing versus Fraud for Profit 359
C. Compensability of Warehouse Lending Loss Under a Financial Institution Bond......................................................... 361
   1. Insuring Agreement (D) (Forgery).............................. 362
      a. Qualifying Impairment: Insuring Agreement (D)
         Only Governs Claims Involving a Forged
         or Altered Document ........................................... 363
         (1) Definition of Forgery .......................................... 363
         (2) Definition of Alteration .................................... 364
      b. Qualifying Document: Not All Promissory Notes
         Constitute a Negotiable Instrument ................................. 367
      c. “Resulting Directly” Standard: Financial Institution
         Bonds Do Not Cover Losses Stemming from the
         Extension of Credit Against Fictitious Collateral ............. 371
         (1) Union Planters v. Continental Casualty Co. .......... 374
         (2) Insured’s Expectations About Coverage ...................... 376
         (3) Proximate Causation ........................................... 377
   2. Insuring Agreement (E) (Securities)................................. 381
      a. Covered Instruments: A Promissory Note Constitutes
         An “Evidence of Debt” ................................................ 382
      b. Possession of the Original: Wet Funding Are Not
         Covered Under a Financial Institution Bond ................. 385
      c. Reliance: Warehouse Lenders Rely upon an
         Investor’s Commitment to Purchase the Loan ............. 389
      d. Good Faith: Ignorance of Red Flags, Repeated
         Policy Violations and Failure to Comply with
         Reasonable Commercial Standards of Fair Dealing

x
Chapter IX
Loan Loss Claims Under D&O and E&O Policies .................................. 403
A. Introduction .................................................................................... 403
B. Professional Liability Policies and Fidelity Bonds Compared …… 404
C. Coverage under Professional Liability Policies .................. 407
   1. Typical Professional Liability Insuring Agreements and
      Definitions ............................................................................... 407
   2. The Professional Services Requirement …………………… 410
   3. Intentional Acts and the Fraud Exclusion …………………… 412
D. Scope of Coverage for Loan Losses under Typical Directors
    and Officers Liability Policies ...................................................... 415
   1. Cases Distinguishing Fidelity and D&O Coverage .......... 416
   2. Typical D&O Insuring Agreements and Definitions …… 418
   3. Intentional Acts and the Fraud Exclusion …………………… 421
E. Potential Professional Liability and D&O Claims Arising
    Out of the Subprime Lending Crisis ........................................ 423
F. Conclusion ...................................................................................... 425

Chapter X
Loan Losses: A Banking Expert’s Perspective ................................. 427
A. Introduction .................................................................................... 427
B. Sources of Industry Standards for Practice and Performance …… 428
C. Internal Fraud: Sources and Means of Mitigation If Not
    Prevention...................................................................................... 430
   1. Anonymous Reporting ............................................................. 430
   2. Accurate Information Is Essential ............................................ 431
   3. In Bank Management, People Matter ...................................... 432
D. The Plan, Or Lack Thereof, In Action ............................................ 433
   1. First National Bank of Keystone ............................................. 433
   2. First State Bank ........................................................................ 435
      a. Bad Acts by a Bad Actor ....................................................... 435
      b. What Is Expected of Bankers .............................................. 437
1. Article ...................................................................................... 504
2. Government Agencies .............................................................. 504

Chapter XII
Quantifying Loan Loss Adjustments ............................................... 507
A. Introduction ................................................................................ 507
B. Types of Loans, With Definitions ................................................. 508
   1. Unsecured Loans ..................................................................... 508
   2. Loans By Type of Collateral ..................................................... 509
   3. Loans By Type of Repayment Terms ....................................... 510
   4. Loans By Structure of Underlying Transaction ..................... 512
   5. Loan Guaranties .................................................................... 513
   6. Other Unique Loan Features .................................................. 514
C. Checklist of Contents of Loan File ................................................ 515
   1. Individual Borrowers .......................................................... 515
   2. Corporate Borrowers .......................................................... 516
D. Types of Financial Institution System Reports to Monitor Loans
   After Origination and Funding ..................................................... 517
   1. Delinquency Reports ............................................................ 517
   2. Watch Lists .......................................................................... 518
   3. Site Visit Inspection Reports .................................................. 518
   4. Internal Audit Reports ........................................................... 518
   5. Compliance: Missing Loan Document Reports ..................... 518
   6. Over-Draft Reports ............................................................... 518
E. Financial Institution’s Duty to Conduct Its Own Underwriting ...... 518
F. Several Other Regulatory Issues Relating to Loans ...................... 519
   1. Limit on Loans to One Borrower .......................................... 519
   2. Regulatory Examinations ....................................................... 520
   3. Regulatory Loan Grading (Classification) System and
      Related Write-Downs Required By Regulators ..................... 520
   4. Cease and Desist Orders ....................................................... 520
   5. Other Supervisory Actions ..................................................... 520
G. The Process of Adjusting Loan Loss Claims: In General .......... 520
H. Accounting Adjustments Potentially Applicable to Virtually
   All Claims Under Insuring Agreement (A) ............................... 522
   1. Mathematical Errors ............................................................. 522
   2. Lack of Supporting Documentation ....................................... 523
   3. Occurrence Issues ............................................................... 523
4. Causation Issues................................................................. 523
5. “Employee” Issues............................................................... 524
6. Alter Ego Issues................................................................. 524
7. Indirect or Consequential Loss Issues............................... 524
8. Earlier Discovery and Termination Issues......................... 524
9. Limit of Liability Issues....................................................... 525
10. Lateness Issues................................................................. 525
11. Third Party Losses............................................................ 525
13. Claims for Salaries, Bonuses and Commissions Paid to the Employee ......................................................... 526
14. Losses Sustained in Foreign Currencies ......................... 527
15. Number of Deductible Issues............................................ 527
16. Losses Reduced by Profits Realized Directly From Dishonest or Fraudulent Acts .................................................... 527
17. Change in Ownership and/or Control of the Insured .......... 528
18. Losses Covered by Other Insurance................................. 528
19. Fees and Costs Associated with Establishing the Existence and Amount of the Losses Claimed, or as a Party to a Legal Proceeding ............................................... 529
20. Losses Otherwise Covered, but for the Insured’s Prejudice of the Underwriter’s Rights to Salvage.............................. 529
21. Recoveries......................................................................... 530
22. Salvage Issues, If the Insured Is Maintaining the Same ..... 530

I. Adjustments Potentially Applicable Solely to Loan Losses.... 530
1. Lack of Collusion with Borrowers........................................ 530
2. Lack of Financial Benefit to the Employee ......................... 531
3. Valuation of Pledged Collateral: Under Insuring Agreement (A) ................................................................................. 531
4. Valuation of Pledged Collateral: Under Insuring Agreement (E) ..................................................................................... 532
5. Loan Losses Resulting Directly from Bad Business Decisions......................................................................................... 532
6. Loan Participation Issues When the Insured Is Also the Loan Originator and Loan Servicer .................................................. 533
7. Potential Income Including Interest and Dividends Not Realized by the Insured................................................................. 533
8. Interest and Fees “Recovered” by the Insured...................... 534
9. Unique Loan Loss Calculation Provisions Contained in...
Selected Bonds................................................................. 535
J. Adjustments Having More than One Basis......................... 535
K. Detailed Example of an Adjustment Schedule.................. 536
   1. The Proof of Loss.......................................................... 537
   2. The Investigation of the Claims...................................... 537
   3. Quantification of the Adjustments................................. 538
L. Conclusion........................................................................... 542

Chapter XIII
Investigation of a Loan Loss Claim, Including Potential Ethical Implications That May Arise ........................................ 543
A. Importance of the Investigation to Accurately Determine
   Coverage and Avoid Bad Faith Implications .................... 543
   1. An Accurate Coverage Decision Is the Result of a
      Comprehensive and Organized Investigation .................. 543
   2. Bad Faith Considerations.............................................. 546
B. The Cornerstone of Determining Coverage Is a Full and Complete
   Investigation ................................................................. 550
   1. The Importance That the Proof of Loss Be Reasonably
      Supported By Facts and Documentation....................... 550
   2. Meeting with the Insured at the Beginning of the
      Investigation ............................................................ 551
C. General Areas of Inquiry in Any Loan Loss Claim ............ 553
   1. Date of Discovery ....................................................... 553
   2. Facts Surrounding the Claim ...................................... 554
   3. Quantification of the Loss .......................................... 555
   4. Termination of Coverage .......................................... 555
D. Early in the Investigation, the Insurer Should Request
   Pertinent Documentation from the Insured ...................... 557
   1. Types of Documents to Request ................................. 557
   2. Ethical and Other Considerations That May Arise In
      Connection with Employee Personnel Files and the
      Proof of Loss.......................................................... 560
   3. Checklist of Potentially Relevant Documents in a Loan
      Loss Claim .......................................................... 562
E. Conducting Examinations under Oath ............................... 563
F. Duty of Cooperation by the Insured .................................. 564
   1. The Insured’s Failure or Refusal to Fully Cooperate
2. Is the Duty to Cooperate Construed as a Covenant or a Condition? ........................................................................ 565
3. The Insured’s “Substantial Compliance” with a Request for “Reasonable” Information May Be Enough ..................... 567
4. Actual Prejudice May be Required in Order for the Insurer to be Relieved of its Obligations under a Policy or Bond ........................................................................................................ 571
5. The Insurer Will Likely Have to Demonstrate Its Diligent Efforts to Obtain the Insured’s Cooperation .............. 575
G. Issues That Arise When the Insured Refuses to Provide Information Relevant to the Claim Investigation Based on Privilege .................................................................................... 577
1. The Attorney-Client Privilege ................................................. 577
   (a) Does the Insured Seek to Prevent the Disclosure of Communications or Facts? ................................................ 578
   (b) To Whom Was the Communication Made........................ 579
   (c) Was the Communication Made for the Purpose of Obtaining Legal Advice .................................................... 580
   (d) Was the Communication Made in Confidence?.............. 582
2. The Work Product Doctrine..................................................... 585
   (a) Overview of the Work Product Doctrine .......................... 585
   (b) The Work Product Doctrine Often Does Not Apply to the Insurer’s Claims Investigation................................. 586
   (c) Invocation of the Fifth Amendment During a Claim Investigation ................................................................. 586
   (d) The Insured’s Fear of Defamation..................................... 587
H. Issues Concerning Privilege that Arise During Investigation Upon the Retention of Outside Consultants .................. 587
I. The Importance of Obtaining Documents from Third Parties ...... 596
1. Regulatory Documents ............................................................ 597
2. “Suspicious Activity Reports” and Other Criminal Investigation Documents .......................................................... 598
J. The Inadvertent Disclosure of Confidential Information through Electronic Disclosure ....................................................... 600
1. What Is “Metadata”? ............................................................. 600
2. Preventing Inadvertent Disclosure ....................................... 601
K. Conclusion...................................................................................... 601
Chapter XIV
The Use of Consulting and Testifying Experts ........................................ 603
A. Introduction ............................................................................................. 603
B. Scope of Services for Expert Assistance ............................................ 605
  1. Initial Decision: Consulting, Testifying, or Both? ...................... 605
  2. Scope Common to Consulting and Dual Expert Roles ......... 606
     a. Acquiring Documents and Information ............................ 606
     b. Deciphering Documents and Simplifying the Complex ... 607
     c. Evaluating the Importance of Facts ............................... 609
     d. Translating the Technical, Esoteric, and Unusual ............ 609
  3. Scope of Services for the Testifying Expert ......................... 609
     a. Organizing and Telling the Plot Points ....................... 610
     b. Establishing Standards of Conduct, Reasonableness,
        Etc. ........................................................................... 610
     c. Rebutting the Opposing Expert .................................. 610
C. Considerations Relating to the Expert ................................................. 610
  1. Education and Training ................................................................. 610
  2. Experience in the Area and as a Consultant or Witness ....... 611
  3. Effectiveness ................................................................................ 613
  4. Geography ................................................................................... 614
  5. Cost and Other Terms of Engagement ..................................... 614
  6. Consulting, Testifying or Both .................................................. 615
  7. Familiarity .................................................................................... 615
D. Confidentiality and Privilege ............................................................... 616
  1. The Consulting Expert ............................................................... 616
  2. The Testifying Expert ............................................................... 623
  3. The Hybrid Expert .................................................................... 631
E. Coordinating Among In-House Claims Representative,
   Counsel and the Expert ................................................................. 632
  1. Who Should Retain the Expert and Why Does it Matter? ...... 632
  2. Division of Responsibility Amongst the Team ...................... 633
  3. Written Reports and Daubert ....................................................... 635
F. Preparing for Deposition and Trial ..................................................... 636
  1. The Witness’ Preparation ............................................................ 637
  2. Counsel’s Role ........................................................................... 637
  3. Presentation at Deposition ......................................................... 639
  4. Sequestration; Exception for Expert ........................................ 639
  5. Presentation at Trial .................................................................. 640
G. Conclusion .......................................................................................... 641
About the Editors

Gilbert J. Schroeder • Partner in the Chicago, Illinois, office of Clausen Miller, P.C.  Mr. Schroeder is a graduate of De Paul University, A.B. 1967, and J.D. 1970.  He is a Vice-Chair of the Fidelity and Surety Law Committee

John J. Tomaine • Vice-President, Fidelity Claims Counsel with Chubb & Son.  Mr. Tomaine is a graduate of Moravian College, B.A., and Western New England College School of Law, J.D.

About the Contributors

Samuel J. Arena, Jr. • Partner of the Philadelphia, Pennsylvania, law firm of Stradley Ronon Stevens & Young, LLP.  Mr. Arena graduated, magna cum laude, from Ursinus College and, cum laude, from Villanova University School of Law.  He is Past Chair of the Fidelity and Surety Law Committee, Tort Trial and Insurance Practice Section, of the American Bar Association and a Vice-Chair of the Fidelity and Surety Committee of the International Association of Defense Counsel.

Lisa A. Block • Claim Director for CNA Pro Custom Corporate and Financial Claims in Cranbury, New Jersey.  Ms. Block is a graduate of the University of Delaware, B.A., 1984, and Seton Hall University School of Law, J.D., 1987. She is a Vice-Chair of the Fidelity and Surety Law Committee.

John W. Burdiss • Mr. Burdiss graduated from West Virginia University, B.S., 1971, the Southwestern Graduate School of Banking, Southern Methodist University, Dallas, Texas, 1979, and earned his J.D. from Regent University School of Law, Virginia Beach, 2005.

Michelle M. Carter • Associate in the Minneapolis, Minnesota, law firm of Meagher & Geer, P.L.L.P.  Ms. Carter graduate from the University of South Dakota, B.S., 1999, M.B.A., 2001, J.D., 2004

Lisa Le Nay Coplen • Partner with the Los Angeles, California, law firm of Anderson, McPharlin & Conners L.L.P.  Ms. Coplen is a
graduate of the University of Southern California, B.S., 1986, and Loyola Law School, J.D., 1989. Ms. Coplen serves as Vice-Chair for the Committee on Professional Liability Insurance for the California State Bar.

**Jeffrey W. Dillon** • Associate in the New York City office of Sedgwick, Detert, Moran & Arnold, L.L.P. Mr. Dillon earned his B.A. from Brown University, and his J.D. from Fordham University School of Law.

**Richard E. Elsea** • Assistant Vice-President, and Senior Claim Examiner for Chubb & Son's Southern Specialty Office in Dallas, Texas. Mr. Elsea is a graduate of the University of Missouri, St. Louis, B.S.B.A., 1978, and the University of Tulsa College of Law, J.D., 1983.

**Edward G. Gallagher** • General Counsel of the Surety and Fidelity Association of America. Mr. is a graduate of Williams College and the George Washington University National Law Center. He is also a shareholder in the Vienna, Virginia, office of Wickwire Gavin, P.C.

**Peter C. Haley** • Partner, Nielsen, Haley & Abbott, L.L.P., San Francisco and Los Angeles, California. Mr. Haley earned his A.B. and J.D. from the University of California at Berkeley and is a Vice-Chair of the Fidelity and Surety Law Committee, Tort and Insurance Practice Section of the American Bar Association.

**Marianne Johnston** • Senior Associate with the Philadelphia, Pennsylvania, law firm of Stradley Ronon Stevens & Young, LLP. Ms. Johnston graduated from Lafayette College and, with honors, from George Washington University School of Law.

**Michael Keeley** • Partner in the Dallas, Texas, office of Strasburger & Price, LLP. Mr. Keeley is a graduate of the University of Arizona, BS summa cum laude, with honors, 1977; J.D., 1981. Mr. Keeley is the Immediate Past Chair of the Fidelity & Surety Law Committee, an Advisor to the Surety & Fidelity Association of America and to the Fidelity Law Association, and a former editor-in-chief of the *Tort & Insurance Law Journal*.
Andrew S. Kent • Counsel in the West Orange, New Jersey, and New York, New York, law firm of Wolff & Samson, P.C., West Orange, New Jersey. Mr. Kent graduated from Rutgers College, B.A., 1988 (General Honors Program, Phi Beta Kappa), and from the Rutgers University School of Law – Newark, J.D., 1992

James M. McCullough III • Partner in the New York City office of Sedgwick, Detert, Moran & Arnold, L.L.P. Mr. McCullough earned his A.B. from Brown University, with honors, and his J.D. from the Georgetown University Law Center.

John J. McDonald, Jr. • Partner in the Minneapolis, Minnesota, law firm of Meagher & Geer, P.L.L.P. Mr. McDonald earned his B.A. from the University of St. Thomas and his J.D. from Creighton University.

Robert J. Moody • President of Moody’s, Inc, a CPA firm located in Orland Park, Illinois. Mr. Moody received his B.S. degree in accounting from DePaul University in Chicago. He is a Certified Public Accountant and Certified Fraud Examiner. His practice is confined to surety and fidelity bond claims.

Sarah Mubashir • Senior Claim Counsel Travelers Bond & Financial Products Claim. Ms. Mubashir received her undergraduate degree from the University of California at Berkeley and earned a J.D. from St. John’s University School of Law.


Dolores A. Parr • Managing Counsel with Zurich American Insurance Company in Baltimore, Maryland. Ms. Parr is a graduate of Towson University, B.A. *magna cum laude*, 1974, and the University of Baltimore School of Law, J.D., 1977.

Maura Z. Pelleteri • Partner in the New Orleans, Louisiana, law firm of Krebs, Farley & Pelleteri, L.L.C. Ms. Pelleteri is a graduate of the University of Maryland, B.S., and Loyola University, J.D., 1983.
Joseph G. Perry • Senior Vice-President, AIG Domestic Claims, Fidelity Bonds Claims, New York, New York. Mr. Perry graduated from the University of Maryland, Baltimore County, B.A., 1974, and from the University of Baltimore, J.D., 1978.

Elizabeth A. Popovich • Travelers Insurance Company. Ms. Popovich graduated from the University of Akron School of Law, J.D., 1997, and earned her B.A. degree from the Youngstown State University in 1990. Ms. Popovich is a licensed adjuster in several states.

Jeffrey S. Price • Partner in the Nashville law firm of Manier & Herod, P.C. He is a graduate of Gardner Webb University, magna cum laude, and the University of Tennessee College of Law, summa cum laude and Order of the Coif.

Scott L. Schmookler • Partner in the Chicago, Illinois, office of Clausen Miller, P.C. Mr. Schmookler earned his B.A., cum laude, from Bradley University, and his J.D., with honors, from IIT – Chicago Kent College of Law.

Armen Shahinian • Member of the law firm of Wolff & Samson, P.C., West Orange, New Jersey. He is a graduate of Brown University and New York University School of Law and is a Past Chair of the Fidelity and Surety Law Committee, Tort and Insurance Practice Section, of the American Bar Association.

Daniel H. Simnowitz • Associate in the New York City office of Sedgwick, Detert, Moran & Arnold, L.L.P. Mr. Simnowitz earned his B.A. from Boston University, magna cum laude, his M.A. from the London School of Economics and Political Science, with merit, and his J.D. from Boston University School of Law, cum laude.

Gregory R. Veal • Member of the Atlanta, Georgia, law firm of Bovis Kyle & Burch, L.L.C. Mr. Veal graduated from Furman University, B.A. magna cum laude, and the University of Georgia, J.D., magna cum laude.
Tracey Vispoli • Vice-President, Chubb Specialty Insurance, a division of Chubb & Son, Warren, New Jersey. Ms. Vispoli graduated from Fairleigh Dickinson University, B.A. (accounting), 1986. Ms. Vispoli is also on the board of directors of the Surety and Fidelity Association of America (SFAA), where she also serves as Chairperson of the Fidelity Advisory Committee.

Justin D. Wear • Associate in the Nashville, Tennessee office of Manier & Herod, P.C. Mr. Wear earned his B.A. from the University of the South, magna cum laude, in 2001, and his J.D. from the University of Tennessee College of Law, summa cum laude and Order of the Coif, in 2004.

Joel T. Wiegert • Associate in the Minneapolis, Minnesota law firm of Meagher & Geer, P.L.L.P. Mr. Wiegert is a graduate of Concordia University, B.A., 1997, and the Drake University Law School, J.D., with high honors, 2000.