

TO: Senator Dole
FR: Kerry

RE: Insurance Industry Breakfast
Thursday, May 14

*You are having breakfast with about 20-30 insurance industry leaders and governmental affairs types.

*Former Senator Schweiker will host the breakfast, and will introduce you.

*He stressed that this was an informal event--just a few minutes of remarks on politics, economics, or whatever is on your mind, and then Q&A.

*Attached are a few talking points from Jim pertaining to insurance issues.

SENATOR BOB DOLE
TALKING POINTS ON INSURANCE ISSUES
MAY 14, 1992

- 1991 WAS A PRETTY ROUGH YEAR FOR THE INSURANCE INDUSTRY, AND IT GAVE THOSE IN CONGRESS WHO WANT TO REGULATE IT A LOT TO TALK ABOUT.
- AS YOU WELL KNOW, THERE ARE BILLS IN THE HOUSE AND THE SENATE WHICH WOULD EFFECTIVELY REPEAL THE INSURANCE INDUSTRY'S ANTITRUST EXEMPTION UNDER THE MCCARRAN-FERGUSON ACT AND WHICH WOULD REGULATE THE INSURANCE INDUSTRY AT THE FEDERAL LEVEL BASED ON SOLVENCY STANDARDS.
- MOST RECENTLY, WE HAVE SEEN WHAT IS ON MR. DINGELL'S MIND WHEN IN APRIL HE INTRODUCED H.R. 4900, WHICH WOULD PROVIDE FOR SWEEPING FEDERAL REGULATION OF INSURANCE THROUGH THE ESTABLISHMENT OF A NEW FEDERAL INSURANCE SOLVENCY COMMISSION. I UNDERSTAND HIS PROPOSAL IS ALMOST 250 PAGES LONG.
- LIKE YOU, I AM VERY CONCERNED WHEN LEGISLATIVE SOLUTIONS TO PROBLEMS TAKE THE "BASEBALL BAT APPROACH" WHICH MORE OFTEN THAN JUST CREATES MORE HEADACHES.
- I SUPPORT MCCARRAN-FERGUSON. FURTHERMORE, IT IS IMPORTANT TO RECOGNIZE THAT IN SPITE OF THE RECENT FINANCIAL STRESS EXPERIENCED BY THE INSURANCE INDUSTRY, THE STATE SYSTEM OF REGULATION HAS WORKED FAIRLY WELL. IN ADDITION, MANY STATES IMPLEMENTED CHANGES IN RESPONSE TO RECENT PROBLEMS, AND IT IS IMPORTANT TO GIVE THE SYSTEM A CHANCE TO WORK ITSELF OUT.
- I KNOW THE ADMINISTRATION OPPOSES LEGISLATIVE PROPOSALS LIMITING MCCARRAN-FERGUSON AND REGULATING THE INDUSTRY AT THE FEDERAL LEVEL.
- I THINK ANY MEANINGFUL ACTION ON THESE LEGISLATIVE PROPOSALS THROUGH BOTH THE HOUSE AND THE SENATE IS UNLIKELY IN THE NEAR -- AND PERHAPS NOT SO NEAR -- FUTURE GIVEN THE ADMINISTRATION'S OPPOSITION AND THE GENERAL DIFFICULTY OF BUILDING ANY KIND OF CONSENSUS OF THESE TYPES OF ISSUES.
- I THINK IT IS SAFE TO SAY THAT AS LONG AS THE INDUSTRY AND THE STATES CONTINUE TO DO A REASONABLY GOOD JOB OF TAKING CARE OF THE PROBLEMS AS THEY ARISE, THERE IS NO REASON FOR THE FEDERAL GOVERNMENT TO GET INTO THE ACT AND ONLY MESS THINGS UP.

M E M O R A N D U M

May 13, 1992

TO: SENATOR DOLE
FROM: JIM MCMILLAN
RE: BREAKFAST WITH LIFE INSURANCE GROUP (SCHWEIKER)

General. Below is a description of some legislative proposals that have the insurance industry concerned.

As you know, the insurance industry has recently come under fire based on the insolvency and/or financial problems of some big companies. Certainly, 1991 was not a good year with the first major failure occurring in April when Executive Life Insurance Company (ExLIC), a subsidiary of First Executive Corp., was seized by California insurance regulators. ExLIC had a large portion of its portfolio invested in junk bonds (the structure of these dealings involved allegations of fraud) and had suffered heavy losses with the collapse of that market.

Other failures include Executive Life Insurance Company of New York (seized by NY regulators in April 1991), Fidelity Bankers (seized by VA regulators in May 1991), Monarch Life (seized by MA regulators in May 1991), and Mutual Benefit Life Insurance Company (seized by NJ regulators in July 1991; 18th largest life insurer in the US at time of its seizure).

Not surprisingly, the most vocal Member urging reform is Sen. Metzenbaum who is eager to have the federal government regulate the insurance industry, including repealing their existing exemption from the antitrust laws pursuant to the McCarran-Ferguson Act of 1945. Rep. Dingell has also come out in favor of federal regulation of the insurance industry (see H.R. 4900 below).

Summary. There are two "types" of legislative proposals: bills which limit the current antitrust exemption that the insurance industry enjoys and bills which seek to regulate the insurance industry at the federal level based on solvency standards (including providing a federal insurance system to bail out insolvent companies).

Barring any major industry catastrophes (or series of catastrophes), it will be difficult to build a consensus on any of these reform proposals (particularly in light of the Administration's opposition). Generally speaking, if there is to be legislation, it will likely be a slow and deliberative process. There have been rumors for some time that the Brooks legislation (described below) will come to the House floor before the end of the session (who knows if it will happen). No action is expected in the Senate.

The Administration's position is that state regulation works relatively well and that based on state reforms undertaken in response to the 1991 failures, the system should work even better. The Administration also opposes any federal guarantee system (similar to bank deposit insurance) which ultimately exposes the taxpayer. Finally, the Administration is interested in the industry solvency issue to the extent that it impacts credit availability.

I. Modification/Repeal of McCarran-Ferguson Act.

- H.R. 9, The Insurance Competitive Pricing Act.
Sponsored by Rep. Jack Brooks, this bill passed the House Judiciary Committee in November 1991 and is a possible bill for floor consideration before adjournment. It modifies the current blanket exemption of the insurance business from federal antitrust laws (McCarran-Ferguson) by expanding the list of prohibited activities. It would continue to permit insurance companies to jointly collect loss-related data but prohibits the collective sharing of information that could be used for price fixing or other anti-competitive behavior.
- S. 430, The Insurance Competitive Pricing Act.
Sponsored by Sen. Metzenbaum, this legislation is similar to the Brooks bill, although it takes a slightly broader strike at repealing the McCarran-Ferguson Act.

II. Regulating the Insurance Industry at the Federal Level (So-called Solvency Legislation).

- S. 1644, The Insurance Protection Act. Sponsored by Sen. Metzenbaum, this bill would establish a new Federal Insurance Regulatory Commission (IRC), which would have authority to a) set minimum capital and surplus levels, b) prescribe accounting practices, c) establish permissible investments and d) approve ownership. This bill would also establish a federal insurance fund, which would be funded by pre-solvency assessments and which would supersede existing state guarantee funds. Referred to the Commerce Committee where Metzenbaum has yet to get a hearing (one reason he holds his various hearings in his Subcommittee on Antitrust, Monopolies and Business Rights).
- H.R. 4900, The Federal Insurance Solvency Act.
Sponsored by Rep. Dingell (and introduced on April 11, 1992), this bill has created a big stir in the industry (similar to Metzenbaum but in some respects even more comprehensive). It would establish a new Federal Insurance Solvency Commission authorized to grant certificates of solvency to insurance companies. The

Commission, modeled after the SEC, would establish standards for these certificates such as minimum capital and surplus requirements. The Commission would also continue to monitor companies and could revoke or suspend certificates where standards are not met.

Federally certified insurers would not be subject to any state regulation of financial condition but would remain subject to state corporate governance and tax laws. All certified insurers would be required to join a nationwide self-regulatory organization (SRO) (the National Insurance Protection Corporation) that would cover, through member assessments, the claims of policyholders from insurers that become insolvent. Agents and brokers would be regulated through a new SRO called the National Association of Registered Agents and Brokers. Finally, the bill sets federal standards and procedures for rehabilitation and liquidation of troubled companies.

ROBERT C. McCANDLESS

May 12, 1992

Honorable Robert Dole
Minority Leader
United States Senate
United States Capitol Building
Room S-230
Washington, D. C. 20500

Dear Leader:

I was out of town for your fundraiser, but after Thursday you will be advised that Trans Pac, San Francisco, and Trans-Occi Life PAC, Los Angeles, will have both contributed significantly to your important Re-election effort.

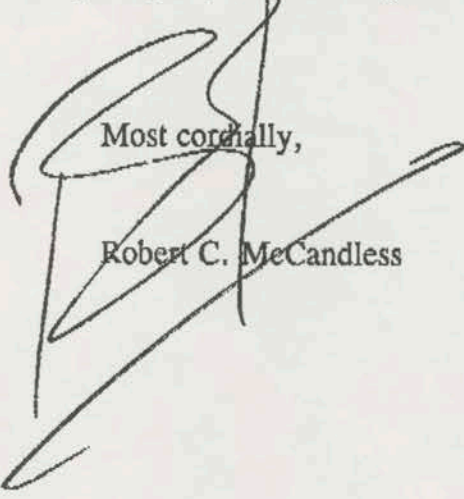
You know, I have not seen you since your operation, but I am looking forward to seeing you at the ACLI breakfast this Thursday morning. I will have Jim Dederer with me --- Transamerica Life Companies' Senior Vice President and General Counsel.

Recently, I have been retained by the Provisional Government of Haiti to help change the U. S. policy towards it --- starting with keeping Aristide from returning. I hope I might have the chance in the next week or two to go over this matter with you. It will be great to see you again; I've missed you.

With warmest personal regards, I am,

Most cordially,

Robert C. McCandless



May 12, 1992

MEMORANDUM FOR JO-ANNE

FR: Mark ~~WHA~~

RE: Schweiker \$-rasier remarks.

*Thursday morning
breakfast w/ life ins. co's.*

Barbara indicated that general remarks would be appropriate. They would be interested to hear his comments on any of the following:

- General State of the Economy - and 1 yr forecast.
- Presidential Politics - Perot factor?
- Senatorial Politics.
- What is the legislative agenda for the rest of the year?

Specific questions concerning the Life Insurance Industry may be asked, they may include:

- What would happen if HR9 comes to the Senate (ie. Fed regulation of all forms of Insurance)?
- Dingell/Metzenbaum solvency Legislation (ie. Fed regulation of Life Insurance)?
- TAXES. If a Balanced Budget Amendment is passed where would all the additional tax monies come from?

Barbara ask if one or both of us could be there. I'll go if you don't want to.

ROBERT C. McCANDLESS

May 13, 1992

Honorable Robert Dole
Minority Leader
United States Senate
United States Capitol Building
Room S-230
Washington, D. C. 20500

Dear Leader:

This is a P. S. to the note from yesterday:

Jim Dederer is not going to be with me tomorrow. Since he can't get away,
Jim Osborne from Osborne Laboratories in Kansas (a joint venture with
Osborne Labs and Transamerica) will be attending with me instead.

Sincerely,



Robert C. McCandless