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Best Wishes for Peace and Joy this Holiday Season and a New Year of Health, Happiness and Prosperity!

Happy Holidays from Burand & Associates, LLC

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This short book, by Agam Bernardini, is about how a good tennis player became great by parking his ego. By playing completely emotionless, his play improved considerably. His ego caused poor decisions, over confidence that he could make certain shots, under confidence making other shots, and most importantly, his ego highly valued the low probability of making specific shots that would make him feel especially good.

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Unintentional Insurance Fraud

I am reading an interesting book regarding life insurance sales. Many chapters involve "problematic" sales methods from the 1950's through the 1990's. I am learning a lot about life insurance which was why I purchased the book. The unexpected benefit was learning so much about these questionable sales methods. "Egregious" sums up some of those practices.

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The registration fee for this two day meeting is $575 per person. Please contact me at chris@burand-associates.com to learn more. **We have only two openings available so if you're interested, don't wait!**

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A Great Read

For every reader that is frustrated and of the opinion justice was not served following the credit crises, that right and wrong in the financial services industry is based on the ability to afford the best attorneys, and/or that the playing field is not level relative to small firms/peons/executives, then I strongly recommend you read *The Chickenshit Club, Why the Justice Department Fails to Prosecute Executives*, by Jesse Eisinger.

I suppose if you are a risk taker in a big enough company, you might also want to read it to learn how to cut corners without getting prosecuted.

The book makes a major point of the difference between getting caught and getting prosecuted and leaves the reader with no doubt the malfeasance that went unprosecuted, company by company and executive by executive. You will recognize many names.

Analysis: Ignored, Misused, Crucial

I find the insurance industry's use of analytical data fascinating--and not always in a good way. Often the use and analysis is a complete clash with the absolute refusal to use math analytics. The preference is the use of emotional analytics. These two methods have been fighting it out forever. Usually math loses to emotion on the edges and occasionally at the center until something falls completely apart.

For example, early in my career at an insurance company, a battle royal raged between the home office actuaries claiming a double digit rate increase was required versus field marketing advising such an increase was suicide. If the actuaries were right, less than the recommended rate increase would lead to a slow death. If marketing was correct, a large rate increase would lead to a fast death. Both roads led to extinction so I decided I did not want to work there long--and indeed the company disappeared a few years later. Not from that specific situation, which was only a symptom of the larger disease. No one in the company seemed capable of analyzing how much rate was needed for healthy growth.

I have heard and witnessed many situations of C-suite executives preventing actuarial rate indications from being filed. The C-suites were proud of their decision because (when it worked) they achieved the holy grail of higher growth and decent profit <u>in spite</u> of their actuaries. This leads to a side question of whether those specific actuaries were any good or if actuaries are really necessary. One CFO recently told me the best way for the company to decrease expenses was to eliminate the actuarial department because no one had any faith in their results anyway.

This disregard of math analytics is an issue from another perspective where the C-suite just trusts the analytical software being purchased for various forms of predictive modeling without implementing adequate and continuous testing controls. The industry is already beginning to develop black eyes as a result of the ludicrous lack of responsibility associated with these analytic programs. Just one example I have seen in the last six months is where a long-time personal lines auto customer of a carrier realizes the death of the husband. The wife never had the credit in her name so upon his passing, the credit score defaults to her and she has a low credit score. Her rate increases dramatically. Absolutely, under no circumstances imaginable, does a legitimate basis exist for that rate increase. But companies refusing to actually understand how their own rates work and putting proper parameters around them leads to a quick loss of reputation by their agents, consumers, and eventually regulators. I listened to an interview with an insurance commissioner who expressed angst with companies who tell his department they can't explain these models. They just "trust" the numbers are right.

Another factor is the people using the data have no analytic/statistical background. For some reason they think everything depends on averages and quartiles. This miscue is especially prevalent with agencies and agency consulting firms. Certain universes do work on a normal curve (averages and quartiles are dependent on the universe fitting a normal curve). For example, the height of all the people in the world fits a normal curve. Producer success does not fit a normal curve so it cannot be managed successfully as if it did. Producer success probably fits a Pareto curve. Facts falling on a Pareto Curve require a far different approach than if they fall on a Normal Curve. If as a reader you do not know the difference, then to manage successfully using data, learn or turn it over to someone that does.

Another example is managing to the wrong metric. An excellent example of this with carriers is they failed to understand and articulate the difference between volume and growth relative to what they needed from their agents. They, and then their agents, used the terms "volume" and "growth" synonymously. They kept telling and telling agents they needed volume. So agents went and merged and joined clusters to generate volume. If a company needs $1,000,000 volume, four agents combined their $250,000 books and create $1,000,000 volume. Of course, the company is no better for it and in some ways, likely worse because now they are likely paying out more profit sharing.

What the company meant to emphasize was the need for growth. Volume is a dollar number. An agency has $1,000,000 volume. Growth is a percentage number. An agency has 5% or 10% growth. What companies need in this softest, calmest market is growth regardless of how much volume an agency already has. Volume is historical. "I have $5,000,000." Growth is future, "I am going to grow 7% each of the next three years." Companies need that future growth without ANY regard of the agency's current volume.

I am not sure why so many people in this industry think they know math and statistics better than they do. When this lack of knowledge is combined with the outsized importance placed on emotional analytics, it is no wonder many poor decisions are made. A few brokers and carriers have clearly identified this weakness in their peers. They are achieving alpha success.

These firms have aligned people with knowledge of math and statistics within the right decision making capacities to achieve more than their share of success. The methods they are using are often unique and sometimes so different than normal that when discovered, I've heard executives advise their methods are not moral. Very different methods are not inherently immoral but they feel so different, the emotional analytics is to reject them outright.

My recommendation is that firms need to align themselves with better educated math/statistics people whether employees and/or consultants and then restructure their firms internally to give these people a better opportunity to be heard without excessive emotional bias. That emotional analysis is still critical because if one lets the math/statistics geeks go too far, the result will not be any good either. I am advocating for a far better balanced system for your organization.

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The Silent Battle Between Agencies and Companies

P&C insurance companies are scared. Not all are scared, of course. Some are big enough, some are smart enough, and others are ignorant enough to not be scared about the future of insurance distribution. The ones that are scared are scared because of scale.

So many agency acquisitions have been made by so few buyers that certain buyers are now larger than most carriers. For example, based on year-end 2017 10k's, Aon has almost $10 billion in revenue. Brown & Brown has $1.9 billion, Willis has $8.2 billion, Gallagher has $6.2 billion, and Marsh (before their huge acquisition of JLT) had $14 billion. According to an October 2018 press release from Hub, they have $2 billion in revenue.

According to A.M. Best, around 900 P&C carrier groups exist (many thousand insurance companies exist, but the 900 only includes the main company). Some years that number is a little lower and some years that number is a little higher. The 10th largest carrier on an NWP basis as of year-end 2017 is AIG with $14.2 billion. Marsh is larger now than 890 of 900 carriers. Of course, a large part of their revenue comes from outside the U.S. and I'm only citing U.S. carriers so this is not an apples-to-apples comparison, but the context provides an understanding of why carriers are so nervous.

Consider $2 billion for Hub and Brown and Brown. $2 billion is obviously much less than $14 billion, but nothing to snub. Only 43 P&C carriers, out of 900, have $2 billion or more in NWP. If direct writers are removed and reinsurers, the number of independent agency companies with more than $2 billion decreases to around 33 (it depends on how some of these companies' distribution methods are counted). Only 71 of the 900 carriers have more than $1 billion in NWP so the next tier of serial acquirers, almost all of which are private equity based, are larger than around 800 of the 900 carriers.

These numbers do not address some of the clusters either. If the top clusters' NWP is added to this list, several would be identified as too large for carriers' comfort.

When the distributors are larger than the product providers, the insurance companies they represent, the tail starts wagging the dog. For 150 years, the carriers have controlled the market. Ten years or so ago, the brokers and others were investigated for trying to control the market and doing so possibly in a nefarious manner. Some can control their market now without resorting to those practices which is a further cause for concern. Many carriers have no idea how to manage distributor relationships where they are not the big dog.

They also do not know how to control for adverse selection in this situation. They are desperately hoping, I suspect, that predictive modeling will eliminate the need for this concern, but I think every industry veteran knows predictive modeling is not a total solution in this situation. Humans can be quite creative when placing business when they want to be.

Another factor creating fear is the rise of legitimate captives for the best accounts and classes of business. Some companies pick up some of this premium on the reinsurance side, but they still lose on the primary market.

One of their fears is that through captives or other carrier related entities, these brokers will begin moving the best business. They fear the pressure these entities are bringing to pay them more money, regardless of the results achieved.

The companies' solutions? They are going to buy other companies and consolidate. It is interesting most acquisitions have been of surplus lines markets so far. By my calculations, using A.M. Best data, 11 companies have 50% of market share and 90 companies possess almost 88% of the market share (by NWP). That means that on an individual basis, the other 810 companies are mostly irrelevant. Those companies are even more scared of the changing distribution mechanics. All these companies are smaller than even the second tier of serial buyers. Not only do they have relatively little NWP, but many have little surplus (in absolute terms, not necessarily in relation to their premium), probably little ability to raise capital, and often a minimal ability to remain competitive.

Many need to sell and for others, they need to buy so they remain relevant (unless they can figure out how to grow organically quickly like Progressive, Berkshire, and USAA). Buyers needing to buy and sellers needing to sell almost certainly will result in consolidation.

Another solution for these carriers is to emphasize to their agents the importance of service centers. Service centers provide another center of control. Some companies think that if they control enough renewals directly, they will not face the pressures of consolidation. Another reason is the pricing flexibility created. An additional reason, although everyone denies it, is the possibility the service center will be a segue to taking over ownership of the accounts.

The battle from the agents' perspective is to get big enough to thwart the carriers' growth. It is like an arms race. So they sell or join clusters. The carriers in turn are buying stakes in InsureTech independent agencies. Their thought, I think, is that their growth rates with serial acquirers and clusters are generally awful (with some notable exceptions). This makes sense. If an agency cannot grow on its own, it probably needs protecting. Take 10 agencies that cannot grow on their own and put them in the same organization and what changes to create growth? Nothing. In fact, growth might be suppressed by the pressure to cut costs.

The InsureTech independent agencies may create the opportunity to offset the size issue and provide extraordinary growth to carriers. At the very least, many carriers, especially the large ones, are clearly willing to gamble on this bet given the 100 or so InsureTech independent agencies in which they've invested.

The problem with a race for size is losing focus on the customer. Like two armies battling, pray for the civilians caught between their lines. I know everyone talks about customer focus, but in this battle, true evidence has been hard for me to see. On the actual ground, I see so many producers and staff that do not even know basic coverages, the foundation of any customer focus. I do not see "customer first" being reality. When I have seen the policies of some of the new carriers and agents being lauded for their customer focus, I see sloppy short cuts that might leave policyholders hanging.

Smaller players, at the carrier and agency/broker level are therefore being presented with an opportunity to choose true quality customer focused benefits since everyone else is ignoring this part. Much more than lip service is required because true customer facing focus, including knowing coverages, is hard work. But the competition is less and much less capital is required. Plus, for those that care, providing real solutions and quality coverage is meaningful. Smaller players can't win the arms race but they can win customers hearts. What is your solution?

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Zen and the Art of Tennis

This short book, by Agam Bernardini, is about how a good tennis player became great by parking his ego. By playing completely emotionless, his play improved considerably. His ego caused poor decisions, over confidence that he could make certain shots, under confidence making other shots, and most importantly, his ego highly valued the low probability of making specific shots that would make him feel especially good. In other words, he might lose nine out of ten points attempting the perfect shot, but when he made it, that once, he felt soooo good. The ego was making his decisions so as to make his ego the winner, regardless of whether he won the match. By setting aside the ego, so much easier said than done, and playing to win the match rather than satisfy the ego, he began winning.

In the early 1970's, the famous psychological economists Kahneman and Tversky studied Israeli military thinking followed by business and political leaders. The problem, as Kahneman stated in his speech, is that "...crucial decisions are made today as thousands of years ago, in terms of the intuitive guesses and preferences [of powerful decision makers]." Moreover, these famous and truly world effecting economists discovered that powerful decision makers preferred ego centric thinking to true logic based decisions because they did not want to be pinned down by logic. They preferred feeding their egos regardless of the outcome and even soldiers' deaths.

Years ago, I had a client who listened to my advice, agreed with 100% of my advice, and agreed that if he followed my advice, his agency would definitely prosper. He then advised that he was not going to follow my advice because it was more important to him to avoid being trapped by a logical plan than it was to assure his firm's future prosperity. The firm floundered. To this day, I admire the clarity with which he made his decision because usually one's ego causes a person to develop all kinds of explanations and excuses rather than just admit they prefer to gratify their ego. The agency owner knew himself intimately well.

Not being pinned down is a crucial reason agencies, even the biggest brokers, are often run as agencies and not businesses. The higher authorities being in a position of power, prefer the ego trip of making decisions intuitively rather than logically.

Terms such as experience, intuition, etc., are just covers for ego driven decision making that may be wrong nine out of ten times. The feeling of being right just once, that exuberance, that rush is worth it. And let's face it, nine wrong decisions are not always enough to lose one's job if one is high enough or running a big enough firm. Just look at all the banks that clearly would have failed in the credit crisis if not for the federal government's bailout. Now look at their executives and ask whether those people are much richer or much, much richer than they were prior?

An interesting side note detailed in many publications relative to the credit crisis and detailed more in the book, *The Chickenshit Club,* by Jesse Eisinger, is the story of an investor who made a bet on the credit crisis and made $1 billion plus. Many articles described his amazing insights and intelligence. My interpretation of the book though described how he may have rigged the bet. Now I've read elsewhere how his subsequent investments have failed and the authors of these recent articles wonder why he was so smart once and not so smart now. Even taking the possible rigged aspect away, ego, especially when one is lauded for being so smart, makes it impossible to use strict logic and analysis again.

Utilitarian economic theory measures the value of nine wrong decisions for every one correct decision. For example, let's assume the emotional value of each gut driven but wrong decision is -2. Each gut driven correct, or lucky, decision is worth +50. A person has to be wrong at least 25 times before getting the message their gut level decision making may be astray.

The magnitude is amazing. One of the banks in the credit crisis was known for buying any other bank presented to it as a seller (as described in Michael Lewis' book, *Too Big to Fail*). This was inside knowledge and the investment bankers knew this well. The buying bank's CEO was lauded on magazine covers for years. It took the credit crisis to finally force logic upon that firm's decision making. The value of possibly one right decision was worth maybe 1,000 units to that CEO and the price for a wrong decision was maybe -2 units. The situations can be exacerbated when one gets to spend shareholders' money.

For people that pay the price or can see their boss's bad gut decisions (you can see that it is a bad decision more easily because your personal ego is less involved and the value of the right decision is more in line with the value of a wrong decision), you have to use the price of being wrong or decrease the value of being right.

If you are selling insurance, the buyer is making an emotional decision. This is a critical reason so many individuals and businesses have the wrong coverages and/or inadequate coverages. They do not make logical decisions based on whether their coverage is actually applicable and adequate. They use their gut to determine whether the producer is trustworthy. Through the years of doing E&O audits, I'm amazed over and over how some producers, producers who can barely spell "insurance" make a good living until I stop and think how their customers perceive their trustworthiness.

Forcing logical, non-ego decisions is impossible 99.99% of the time. Only determined and extraordinarily self-understanding people or people faced with dire facts (the bank that made many acquisitions when credit crashed) can make pure logical decisions. No matter how much better a company may perform with Decision X, executives will not make Decision X if the emotional price is too high! When selling insurance, try to leave your ego at the door. This will help you recognize your prospects' egos and sell to their emotions.

The keys here are understanding the math while expressing the math in the form of stories, unless your ego is so large that you just know you will never be sued and your conscious is free from guilt in selling a product you know is inadequate but can get away with it because you know your clients trust you. One has to express the mathematical value proposition in the form of a story that generates trustworthiness. Then the person that knows what the customer really needs wins and the customer wins. Use that 10,000 year old decision making process identified by Kahneman and Tversky to your advantage. Do not rely just on numbers because no human makes decisions just on numbers (and those that say they do have an ego making decision making process that is just as real, but quite different). Rather, build a human story around the numbers, a story with pain, loss, penalties and rewards that push up the price of a bad decision.

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Unintentional Insurance Fraud

I am reading an interesting book regarding life insurance sales. Many chapters involve "problematic" sales methods from the 1950's through the 1990's. I am learning a lot about life insurance which was why I purchased the book. The unexpected benefit was learning so much about these questionable sales methods. "Egregious" sums up some of those practices.

I have worked in the P&C/Group Benefits sector my entire insurance career. I have not come across many seriously disrespectable sales methods (from a consumer's perspective versus dishonest applications provided carriers) excluding those agents that continue to advise homeowners they only need to insure their homes to 80% of the replacement cost. That is so completely wrong that agents selling that advice should lose their license. At least explain the options but do not just advise, "You only need to insure to 80% and you'll save money by not buying that unnecessary extra 20%."

Even in these situations, I have found many agents selling materially wrong coverages often do so out of their own ignorance. They actually think the wrong coverage is the right coverage because they are so poorly educated. Poor education and ignorantly bad advice originates with, among other factors:

- Inadequate intelligence. There is a particular carrier that seems to have a reputation for hiring and developing people that are not quite the sharpest knife, among other qualities, because they have learned these people will just make sales. They will follow a script. They then hopefully have a system to clean up the mess. But these less bright people do not over complicate a sale either. They just make promises to get the sale done and if they were smarter, they would not do this. They would understand they could not actually fulfill the promise. A sort of naivety. If well-structured and then excellently managed, this is kind of an ingenuous structure but only if the "if's" work.

  Most organizations cannot manage or afford this system so maybe it just makes sense to hire for intelligence going forward. I hate even writing about this company's practice because some amoral reader might duplicate the process to their advantage, maybe some executives already are.

- Laziness. To an extent, this is the result of our dismal continuing education system where people get credit for signing in when they arrive, sleeping through the program, and hopefully awakening in time to sign out. Insurance education was substantially better before CE arrived. CE plays to the lazy people in the industry. They get their credits and do not learn anything and they are too lazy to take substantive classes. They are often too lazy to read the policies they are selling too. I saw a question from an agent that had just incurred a potential E&O claim. His question was, "Obviously if I had read the policy, I would have realized the insured did not have the coverage I told him he had. Does this mean I need to read the policies I am selling?" Lazy.

- Ego is another factor causing unsubstantiated belief a person knows things they do not know. This happens to everyone in sales from time to time. Honestly, it is to be expected along the margins and it is always unintentional in these situations. However, some people have such egos it happens with most every sale.

- Just being new and not having the time to learn enough but having so much pressure to sell. That is one tough situation and only time fixes it. Either one does not sleep much learning and selling or something else has to give.

- A new situation has arisen with InsureTech. Some of the InsureTech brokers and companies are so ignorant of insurance they truly have no idea, in my conversations with them, that the coverages they are selling are completely inadequate. I do not think it is possible to get them to understand this either because they really think the coverages are adequate.

Being ignorant and selling the wrong coverage does not cause sleepless nights. Conviction in the sales pitch is feasible. Sales may be easier too. It is so much easier to advise coverage exists, even if it does not, if one believes it does. If the consumer thinks coverage exists, but the price is lower because coverage does not exist, then the consumer thinks they are getting a deal when they are really getting screwed and the idiot agent makes another sale. Even when companies and brokers hire producers that fit this profile purposely, the end result is not purposeful fraud like some of the life insurance sales methods. It is more like caveat emptor and a pain for hardworking, knowledgeable agents to overcome.

I get the feeling that some InsureTech vendors may be purposely moving toward some of the egregious life insurance sales, rather than selling inadequate coverage through honest ignorance. The greed of opportunity is a risk when so many billions are being invested in InsureTech annually. The idea that someone can obtain millions of investment money from investors that do not complete due diligence on the actual coverage being sold and does not hire people to determine anything other than "will consumers buy the coverage?" is a real temptation. I have witnessed this exact situation where the investors are not completing any due diligence on the adequacy of the coverage. They do not even seem to understand that E&O is kind of like a gun with only two bullets and yet they are selling tens of thousands of inadequate policies. The investors do not understand the problem, the seller does not understand the problem, and the consumer certainly does not understand the coverage problem. The blind leading the blind leading the blind. Sometimes though, the middleman is not blind in this environment. They know what they are doing and they are making money off the other two sides. These are the situations veering toward the life sales described in the life insurance book.

Some providers would care if they knew but I have talked to others who really do not care. Their attitude is the consumer needs to be adequately knowledgeable and then take the time to read the policy for themselves before buying it. First, almost no one provides the policy upfront and second, no one but geeks, plaintiff attorneys, and retired bored people read insurance policies. Too many agents do not even read the policies they sell so to suggest consumers should read the policies first is a rich position.

In other cases, based on pricing, predictive analytics, and calculations, their goal is to sell insurance to people who absolutely <u>will not read</u> these policies.

Even more concerning is the pressure these practices puts on regulators to create a Sandbox regulatory environment allowing "technology" companies to avoid existing insurance regulations. So much of what I have analyzed, the conversations I have had, and the reading I have done suggest key reasons for the apparent benefit of any given InsureTech insurance company and some InsureTech brokers is really the result of cutting corners. Some new InsureTech entrants are clearly doing things right. Some are truly bring a genuine customer centric model to the industry, a focus long needed.

Others though are awesome at marketing the customer centric model, but the opposite it true. For example, I recently reviewed a policy from one prominent InsureTech insurance company that focuses on the consumer. It appeared to me, and not being an attorney or regulator I cannot conclude anything beyond appearances, that the form might not have been properly filed in the state, that the ISO form might not have been an ISO form, that the form might not actually have been a form as we know forms to be, and therefore, certain expected coverages might not actually exist.

My point with this article is that the P&C industry has, in my 30 years' experience, been generally safe from purposeful fraud relative to selling coverages that do not exists, unlike life insurance sales based on my reading. Consumers absolutely have been told that if they buy this policy or that policy, they would have coverages they did not actually have. This has usually been through stupidity, ignorance, wishful thinking, or people simply being new. I just have not seen purposeful coverage deceit often. But now I am beginning to see some of the new InsureTech players going that direction. Many times it is ignorance too, nothing different. But a few do seem purposeful. P&C has enough issues without damaging reputations. I hope carriers, agents, and their respective associations help regulators nip these practices in the bud rather than allowing special regulatory sandboxes.

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Burand has more than 30 years' experience in the insurance industry. He is a featured speaker across the continent at more than 300 conventions and educational programs. He has written for numerous industry publications including *Insurance Journal*, *American Agent & Broker*, and *National Underwriter*. He also publishes *Burand's Insurance Agency Adviser* for independent insurance agents.

Burand is a member of the Institute of Business Appraisers and NACVA, a department head for the Independent Insurance Agents and Brokers of America's Virtual University, an instructor for Insurance Journal's Academy of Insurance, and a volunteer counselor for the Small Business Administration's SCORE program. Chris Burand is also a Certified Business Appraiser and certified E&O Auditor.
