MINUTES
MULTILINE INSURANCE ADVISORY COMMITTEE
JUNE 21, 1991 - ROOM 305 STATE CAPITOL
(FOLLOWING 1:00 PM MEETING WITH INSURANCE COMMISSIONER)

The meeting was conducted by Chairman Tom Hatch. It was the consensus that the meeting with the Insurance Commissioner was very beneficial and specific points were discussed. The agenda and packets of materials were distributed.

Tom reported that when he and Scott met with the Trust Board a couple of weeks ago and asked for a waiver of the contingency assessment requirement they were advised that was out of their hands. He was not sure if that should have been brought up today with the Commissioner. Jay said Susan felt nobody should be told to not pay the 35%. The Trust said they had no objection to waiving that requirement if the Commissioner would allow them to do it. The equity and exit issues were discussed.

The **Brokerage and Service Agreement** was reported on by Harry Bowes. He asked the Committee to review **Article I, Parties,** and explained his reasons. Legal counsel was then discussed. Scott suggested a legal committee be formed to submit information to Bill Peters. Ron Elton from Tooele and Scott Johansen from Emery were suggested. It was decided to leave the decision to Tom. Brent suggested something be worked out at the meeting of county attorneys on June 26.

Article III, paragraph 3, regarding the **runoff fee**, and **Article VII, indemnification and insurance, paragraph 2,** were explained by Harry, with reasons given for changes. **Article VIII, Notices, and Article IX, General Provisions,** were explained, with reasons for changes.

The **Claims Service Agreement** was reported on by Harry.
Recitals. The litigation provisions were discussed and the reasons for changes were explained. Tom questioned on page two, (12) "furnish to client selected loss and information reports". Harry advised that will be defined. He explained all of the changes he had suggested and forms that must be filed.

Obligation of client. He suggested the claims administration service fee be paid on the 45th day of each quarter. All changes and modifications regarding travel reimbursement were explained.

Termination. Certain sections were deleted and the reasons were explained by Harry. Scott asked Harry if the differences he has with RBH have been resolved. Harry said the major issues have. Scott's question on the Claims

Service Agreement is, is the committee seeing it one draft too soon and why should it be reviewed now? Jay said they may have other input. Tom asked what the deadline is if they want to take it back and have legal counsel look at it. The brokerage agreement should been done months ago. Jay felt it could be done by September 1. Brent asked Scott if he is suggesting that Harry finish up on these issues, take it to the county attorneys, get some input from them and from UAC attorney and get it back to Harry and try to get to them what truly is the final draft. Scott said there is no reason for the committee to look at any issues they can agree on, just those they can't agree on. Jay said he agrees with 80% of Harry's changes.

On page 4, under **Termination**, Harry explained his addition, B(4), regarding license cancellation terminating the contract. He felt an issue was paragraph C, that all claims administration duties terminate upon termination of this agreement.

Non-solicitation was discussed and changes were explained. **Jurisdiction** was put back in.

Status of Resolutions. Brent reported that at the last Committee meeting copies of Resolution were passed out which were taken back to the counties. Jay was concerned that some materials needed to be added, and for the purpose of having a full disclosure the Resolution may need to be redone. In order to have a full disclosure they need to have a copy of the order and the excess contract. He was concerned that if an official mailing was not received from the Association there could be some legal technicality that one member might drop out and affect the financials for all the others. He is pretty much of the position that they either be redone or it be agreed that that finds the Resolution is with acknowledgment of this full packet that is mailed or given to the commissioners. Brent asked how big of a problem is it to go back and redo them. Tom said no problem for them. Scott said no problem for them except it is redundant as he went through every one of those items and the Minutes reflect that. Jay said if they feel comfortable they have done that, he would say it is ok.

Brent asked Leonard if he was suggesting that someone from UAC needs to actually sit down with them. An excerpt from the Order was read: "The commission hereby orders UAC Mutual as it solicits prospective members to provide full disclosure to the proposed members as to how this pooling arrangement will operate. Said disclosure shall include that in the event the 'loss funds' and the 'aggregate excess' coverage is depleted as a result of claims payments, that all subsequent claims against any of the member counties will have to be adjudicated and paid by the individual county and not by UAC Mutual. UAC Mutual shall certify to the

Commissioner that at least two county commissioners and the county attorney from each county being solicited were present when this disclosure was made." Jay said anybody who is on the Advisory Board could represent the Mutual. Those counties who have been visited and who are not a part of the Advisory Board have been requested to have two commissioners and the county attorney present. Susan outlined the Resolution document to provide adequate representation to the Insurance Commissioner that disclosure had been made. Leonard wants the disclosure to be done legally. Scott asked if Leonard's concern was one others should be concerned about. Does there need to be a representative of UAC at the meeting? One answer was he would be more comfortable that way. Tom said Frank made the suggestion that everyone be called together--the commissioners and the attorneys--and do it all at once. Brent said they originally started down that road and were told counties wanted individual meetings. Scott said the individual meetings are the best way. Other than to meet legal requirements there is no need for anyone to go the Washington or Rich Counties. Brent asked how to make a decision on the legal aspect. Perhaps a clarification needs to be obtained from the commissioners as to what they expect. The attorney needs to advise Rich County. The challenge would be by the commissioners' office.

Harry asked by what authority does the Insurance Commissioner determine that you have to have two county commissioners and the county attorney in a room. He feels the Commissioner has no authority. Jay doesn't want to visit any county that feels the job has been done. They will visit anybody who has a problem. Brent said the packets they have are the packets they intend to distribute to those counties they are going to visit. Brent said they were trying to get one of the Advisory Committee members to go with them in some of those counties where they think it will be helpful.

Tom asked if there were any problems with the dates for the visits. They were advised the visits had to be placed on the agenda of the commissioners. Brent reviewed the dates suggested.

Resolutions. Tom asked about a status report on the Resolutions. Brent said Resolutions have been signed in Garfield, Rich and Washington. He knows there are possibilities in Iron as he heard from Bob Gardner. There is no problem with Leonard in Sanpete. Seth already talked about Cache. Brent has been to San Juan and turned over the packet to the county attorney and one of the commissioners. He explained a little bit about it, talked to Ty Lewis on the phone and he said he was going to get it done that day. They had commission meeting the day he called. He talked with Pete in Wasatch and was told that it was on its way. He said he would get it signed and sent back. He talked with Max in Uintah County and Max thinks he can get it done but may call

and ask us to come out there. Jay, Jess and Brent met with Utah County on Wednesday, Emery County on Thursday, and Tooele County today. The Emery County visit went very, very well. Two of the three commissioners and the county attorney were there. It was indicated we needed the Resolution back. They also indicated to us at that time that they had some money they may be willing to put up for the surplus. One other County has also told us the same thing. Brent is hoping to get the $450,000 out of those two counties. He thinks there is enough money there if the commission is inclined to do that. Jay said Tooele went very well with two commissioners and the county attorney there.

Tom asked about the **announcement letter.** Someone said the Advisory Board has never taken the position of recommending it. Jay asked if they felt a letter was necessary. Scott felt the cover letter was good. There was an additional letter from the Advisory Board as a group recommending the program. That was in the last packet. The letter was read by Scott Hirschi. Scott felt the cover letter is all that is needed unless there is some purpose in sending the additional letter out. It was decided the second letter was not necessary.

Implementation date. Jay said if we get through everything by the 20th--if all Resolutions are in by the 22nd--it could be turned around that week and go to a formal meeting with the Division and tell them we want our startup date to be September 1. The only problem is if they said no, we can't get this done by September 1. It was asked how long it would take to get the actuary done. Jay said probably a week. It was asked how it could be done when you don't know how many counties you are doing it on. Jay said it is only a letter saying that the 10% limitation will not be hazardous to the pool because of the structure. Scott said he heard the Commissioner make a big deal out of the fact that he had to know the number of counties and what the premium was in order to determine what the surplus was before he would issue the Certificate. Jay said if all the Resolutions are in by the 22nd those pro formas could be redone on the basis of actual numbers and it would be in his hands 15 to 30 plus days. Jay said the structure of the pool takes care of the single risk limitation issue. If it is known prior to the 22nd it can be done the next day. Brent said it is also important that the Advisory Committee members that we have listed make some of these visits. In Kane County he doesnt see it being absolutely critical--but does see it being critical in Millard, Sevier, Juab, Duchesne, Summit and Weber. He thinks county commissioners should actually go with them to those counties. Brent said they will do their best to set the meetings up the way they have been outlined.

Lawsuits. Harry explained the news article which appeared in the Denver Post and the Press Release which were

in the packets. It has nothing to do with the property and casualty pool, it is to do with the unemployment compensation pool. The County Workers' Compensation Pool filed suit in October 1990 against Arapahoe County, seeking to recover $470,000 in assessments which Arapahoe County owes to the Pool. They had a special assessment for that Pool as every pool in the country did. 52 of the counties voted for the assessment without any negative discussion. 49 immediately raised those assessments. One has agreed to pay and that is being worked out in mediation. On June 10 Arapahoe County filed a motion with the court seeking permission to assert a claim against Colorado Counties Inc. They named Harry and Jay as third parties on those claims. This is very obviously an attempt to shed the attention away from the real issue and that is that they are failing to live up to their intergovernmental agreement. There is unanimous support on all of their pool boards. Tom wanted to bring that up and make a full disclosure that that has happened.

For the purpose of having the disclosure of the lawsuit show in the Minutes, Brent suggested that Tom call Peter Kenney and advise him that Harry had disclosed the suit and that he was calling him as chairman of the UAC group as to what is going on and Tom could report at the next meeting, and we see no problems. In that way if Monty or anyone else ever accused us of something being done we can report that Tom checked it out, talked to the elected officials, reported back to our board and we find no inpropriety at all. Tom said that would be an excellent idea and he would do it.

Brent said at every meeting they are asked when this thing is going to go and felt the visits and Resolutions should be pushed forward. It was felt a meeting should be held during the NACo Convention, preferably on July 12. Jay's thinking was the meeting should be held after all the Resolutions are in and the 22nd is the earliest day they can be in, so everyone can see the final pro formas.