



Risk and
Insurance
Management
Society, Inc.

THE AWARD WINNING HOUSTON CHAPTER

Chapter of Distinction

Outstanding Chapter Programming

Advancing the Risk Management Profession

July 2008

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FROM THE DESK OF THE CHAPTER PRESIDENT...

If you missed the June 18th Monthly meeting, you missed a very interesting and entertaining presentation regarding occupational fraud, how it happens and how forensic accounting and analysis are used to catch the perpetrators.

On **June 8 – 10**, Nikolas Kapatos and Peter Fahrenthold represented the Houston Chapter at the **RIMS on the Hill** meeting. Check out the Houston Chapter's June Newsletter for more information on this important visit to Washington DC.

On **June 20 and 21** Cindi Vickers and I attended the **Building a Stronger Chapter Workshop** in Dallas hosted by the RIMS Membership and Chapter Services Department. Sixteen participants representing eight chapters, including chapter officers from as far as San Diego and Iowa attended this two-day workshop geared towards the sharing of chapter best practice ideas. Nancy Stucky had previously attended this workshop. We look forward to taking the information we learned and applying it to our Chapter.

The **July 16** Chapter meeting promises to be very interesting as well as educational. Andy Sall with Sirius Solutions will provide a presentation on the **Foreign Corrupt Practices Act**, and its significance and applicability in your work environment. If you or your clients do business overseas this is must-see presentation. Using actual public cases, Andy will illustrate techniques and real-world application of the Act with emphasis on risk factors and controls. Continuing Education credits should be available for attendees.

The July meeting is also in honor of our Brokers and Houston Chapter Past Presidents. Be sure to encourage your Broker to join us in July.

Remember that the July meeting starts at 11:30am and will be at the Briar Club on Timmons.

RIMS Houston Chapter Fall Conference at The Woodlands Resort will be on **October 17, 2008**. If you are interested in helping to organize this event or provide donations please contact me at Ginny.Penzell@elpaso.com or Marty Timpano at timpano.marty@corp.sysco.com. This year we will also have vendor exhibitors, although space is limited. If you are interested in participating, please get your requests in to us early.

Look forward to seeing you at these events.

See you soon!

Ginny Penzell

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July Meeting Topic and Speaker

Wednesday, July 16, 2008
11:30 AM – 1:00 PM

FOREIGN CORRUPT PRACTICES ACT
Speaker: Mr. Andy Sall

If you or your clients do business overseas this is must-see presentation.

Andy Sall with Sirius Solutions will provide a presentation on the **Foreign Corrupt Practices Act**, and its significance and applicability in your work environment. Using actual public cases, Andy will illustrate techniques and real-world application of the Act with emphasis on risk factors and controls.

This meeting is also in honor of our Brokers and Houston Chapter Past Presidents. Be sure to encourage your Broker to join us.

Legal Updates

**TEXAS SUPREME COURT
RULES THAT CARRIERS' USE OF STAFF COUNSEL IS NOT
THE UNAUTHORIZED PRACTICE OF LAW PER SE; COURT
SPELLS OUT LIMITS ON THEIR USE.**

On March 28, 2008, the Texas Supreme Court issued an important decision regarding the use of staff counsel by insurance companies to represent their insureds, *UPLC v. American Home Assurance Co.*, --- S.W.3d ----, 2008 WL 821034, 51 Tex. Sup. Ct. J. 590, (Tex. March 28, 2008). Staff counsels are not to be confused with captive counsel or regular insurance defense counsel. A captive firm is a separate law firm that has only one client—the carrier. Staff counsels, on the other hand, are actual employees of the carrier, receiving salary, benefits and promotions from the carrier's management. Challenges had been made to this arrangement on both ethical and legal grounds alleging that the carrier, as a corporate entity, was engaging in

Past President

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Web Master

Pending

Meeting Dates for 2008

July 16, 2008

**Broker Appreciation
Past President Appreciation**

August 20, 2008

**September 17, 2008
Education Day**

**October 17, 2008
Houston Chapter
Fall Conference
and
Golf Tournament**

**November 19, 2008
ARM Completers Recognition**

December 17, 2008

The Houston Chapter RIMS
mailing address is

5090 Richmond Ave. #86
Houston, TX 77056-7402

the unauthorized practice of law.

- The Texas Supreme Court allows the use of staff counsel by carriers as long as the carrier's and the insured's interests are "congruent."
- If there is a conflict of interest or if the insured communicates confidential information that is damaging to coverage to the staff counsel, then the carrier may not be able to use staff counsel.
- The Supreme Court seems to indicate that that staff counsel can have two clients: the insured and the carrier itself, if the contract between the carrier and the staff counsel so provides. This appear to contradict other statements made by the Supreme Court in other cases in which the Court indicated that the insurance defense counsel only has one client—the insured.
- If you are assigned staff counsel, the staff counsel must disclose to you his/her employment relationship with the carrier.
- If there is a conflict of interest, or if confidential information that is damaging to coverage is communicated to the staff counsel, you may be able to get the staff counsel removed.

ON THE HORIZON: ISSUES CURRENTLY PENDING BEFORE THE TEXAS SUPREME COURT

**(Additional information on this subjects in
upcoming editions)**

Biological Injury

The Texas Supreme Court currently has several significant tissues pending before it. On February 6, 2008, the Texas Supreme Court heard arguments in three cell phone class action cases. The issues in these cases concern whether allegations of "biological injury"—i.e. injury at the cellular level—is "bodily injury" sufficient to trigger the duty to defend, and whether a suit in which the remedy requested is providing headsets is a suit for "damages".

The Trigger Theory for Property Damage

On February 7, 2008, the Texas Supreme Court heard two cases, *Don's Building Supply v. One Beacon Ins. Co.*, and *Pine Oak Builders v. Great American Lloyds*. These cases concern the proper theory of trigger—exposure, manifestation, continuous, triple—for property damage cases.

NOTICE:

Effective January 1, 2008, the RIMS Society has changed their method of collecting Local Chapter Dues. In the past there were two deputies included with the membership, then a charge for each additional deputy added. Under the new structure they will begin collecting chapter dues on a per deputy member basis. The new structure for the Houston Chapter Dues is \$55 per deputy member. The change will be reflected on the renewal invoice. The dues structure for associate membership has not changed.

Please see our Chapter Website for additional information:

<http://houston.rims.org/ChapterWebsite/RIMSChapter.cfm?CID=328>

or

WWW.RIMS.ORG – Chapters - Houston

Late Notice: Prejudice Requirement In A Claims-Made Context

On March 25, 2008, the Texas Supreme Court heard arguments in *Prodigy Communications v. Great American* and *FIC v. XL Specialty*. These cases concern the issue of late notice in a claims-made context. In the situation where the notice of claim was given late, but was still given within the extended reporting period, does the carrier have to prove prejudice in order to avoid coverage?

*Information on this matter contributed by:

James Cornell
Cornell & Pardue

Additional information on the changes in the Legal landscape will be forthcoming in future newsletters

A full copy of the opinions is available upon request

2008 Fall Conference

The Houston Chapter of the Risk & Insurance Management Society is hosting the RIMS Fall Conference.

The Conference is scheduled for **Friday, October 17, 2008** at the Woodlands Country Club in The Woodlands, Texas. The theme is "Building for the Future." This exciting event will include educational sessions with a focus on the ever-changing risk management industry, including risk management issues related to contracts and construction. Besides the educational morning, the program will include lunch, and a choice of participating in a golf tournament or team building exercises (at the Main Event) in the afternoon.

Please plan to join us. Additional information will be sent out soon.

Educational and Associations
Websites:

**American Institute for CPCU and
Insurance Institute of America**
www.aicpcu.org

**Charter Property Casualty
Underwriters Society**
www.cpcusociety.org

**Institutional Risk
Management Institute**
www.irmi.org

The National Alliance
www.scic.com

**Construction Risk and
Insurance Specialist**
www.cris-ce.com

Educational Opportunities

ARM Program

ARM 55 – Risk Control:

CLASS START DATE:

Tuesdays - Starting August 19, 2008, 5:30 P.M. – 7:30 P.M.

COURSE LEADER:

Jim Drew, ARM, CIC
Office Phone: (713) 880-7172
E-mail: jdrew@bmb-inc.com

CPCU PROGRAM

**CPCU 510 - Foundations of Risk Management, Insurance
and Professionalism**

CLASS START DATE:

Wednesdays, beginning August 20, 2008 5:30 PM – 7:30 PM

COURSE LEADER:

Tina Fick, CPCU; Olga Thompson, CPCU; Roya Azari, CPCU
Office Telephone: (713) 490-4510
E-mail: tina.fick@usi.biz

IIA PROGRAM

INS21 - Property and Liability Insurance Principles

CLASS START DATE:

Tuesdays, beginning August 12, 2008 5:30 PM – 7:30 PM

COURSE LEADER:

Karen Deran, CPCU, CIC, CRM
Office Telephone: (713) 622-2330
E-mail: kderan@gemins.com

The Registration Forms for the referenced courses accompanies
this newsletter edition.

Calendar of Upcoming Events

RIMS Courses

Workers' Compensation Management
September 22-23, 2008 - Dallas, Texas

Houston Chapter of RIMS
Check Presentation to the
University of Houston Downtown



UHD will have a new degree program in
the Fall of 2008 for
Risk Management and Insurance



RIMS Chapter Scholarships

The Houston Chapter of RIMS is happy to announce that two \$1,000 scholarships will be awarded this year for children of RIMS members. If you are a current member of the Houston Chapter of RIMS and have a high school senior who will be attending college in the fall or have a child currently attending college, he or she is qualified to apply for one of these scholarships.

Please see the attached list of qualifications and the application form, which must be completed and returned no later than July 18, 2008.

Contact Information:

Shona Bascon

Houston Chapter of RIMS

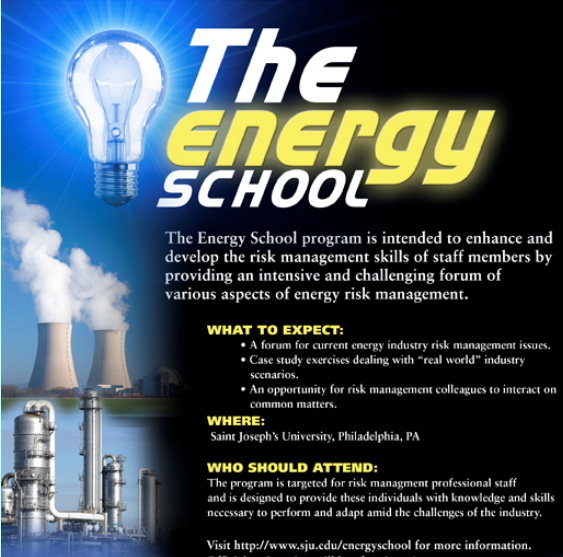
Associate Director of Education

Office Telephone: (713) 241-0191

Fax: (713) 241-6164

Save the Date - The Energy School

SAVE THESE DATES: October 19-24, 2008



The ENERGY SCHOOL

The Energy School program is intended to enhance and develop the risk management skills of staff members by providing an intensive and challenging forum of various aspects of energy risk management.


WHAT TO EXPECT:

- A forum for current energy industry risk management issues.
- Case study exercises dealing with "real world" industry scenarios.
- An opportunity for risk management colleagues to interact on common matters.


WHERE:
Saint Joseph's University, Philadelphia, PA

WHO SHOULD ATTEND:
The program is targeted for risk management professional staff and is designed to provide these individuals with knowledge and skills necessary to perform and adapt amid the challenges of the industry.

Visit <http://www.sju.edu/energyschool> for more information.
Official registration will be after Aug. 1.



Sponsors:



STU SAINT JOSEPH'S UNIVERSITY
Erivan K. Haub School of Business
Academy of Risk Management

Welcome New/Renewed Members

Joseph Hayles – Hayles Risk Management & Insurance
Elicia Moses – Freeport LNG
Anne Rappold – Freeport LNG
Brian Shelton – Farnsworth & VonBerg, LLP
John Tobola - Freeport LNG
Fran VonBerg - Farnsworth & VonBerg, LLP
Richard Westney – Westney Consulting Group

Job Postings

National RIMS Website

Manager, Loss Control – Houston, Texas

Local Chapter RIMS Websites

Houston Area:

Director of Risk Management - (1)
Risk Manager – (2)
Regulatory Compliance Officer
Claims Examiner
Claims & Investigations Administrator
Manager/Supervisor – Risk Management
Assistant Risk Manager – Baton Rouge, Louisiana
Associate Director – Claims
Risk Analyst

Austin Area:

Risk Management Specialist
Environmental Health & Safety Specialist
Sales Representative
Property Program Manager – Underwriting
Assistant Director – Program Administration
Assistant Division Director – Risk Management
Developmental Marketing Underwriter

Dallas Area:

Director of Risk Management
Risk Management Specialist
Risk Analyst
Insurance and Captives Manager
Workers Compensation Injury Counselor

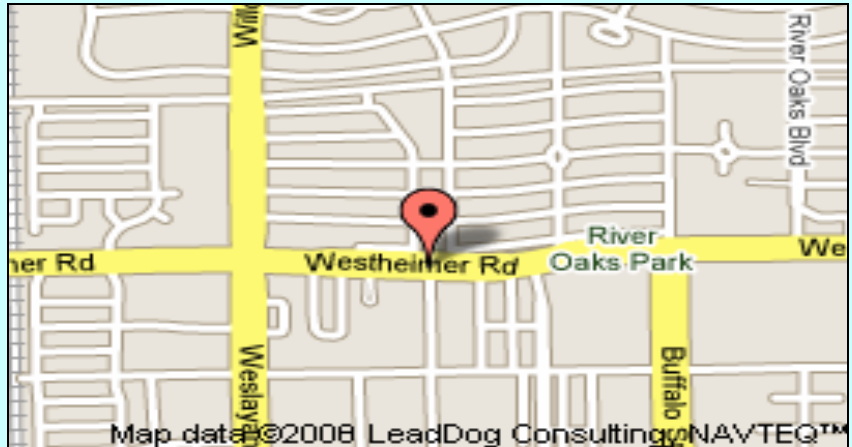
San Antonio Area:

Enterprise Risk Analyst

Please see the Local Chapter website and the RIMS.org Jobs Listing for details.

July Luncheon Meeting Place:

The Briar Club
2603 Timmons Lane
Houston, Texas 77027
Telephone: (713) 622-3667



Directions to The Briar Club

The Briar Club is located at 2603 Timmons Lane, Houston, TX 77027. It is on the corner of Westheimer and Timmons Lane between the north - south streets of Edloe and Wesleyan.

Border Streets

Between Wesleyan and Buffalo Speedway (N-S) and West Alabama and Westheimer (E-W)
» East of Galleria towards downtown
» West of Kirby and Shepherd

From George Bush Intercontinental Airport (IAH)

Go South on US-59/Eastex Freeway
Exit Buffalo Speedway and turn RIGHT/North
Turn LEFT on Westheimer
Turn LEFT on Timmons Lane @ WhataBurger

From William P. Hobby Airport (HOU)

Go North on I-45/Gulf Freeway
Exit US-59 South toward Victoria
Exit at Buffalo Speedway and turn RIGHT/North
Turn LEFT on Westheimer
Turn LEFT on Timmons Lane @ WhataBurger

From Sugar Land

Go North on US-59/Eastex Freeway
Exit at Buffalo Speedway and turn LEFT under the Freeway
Turn LEFT on Westheimer
Turn LEFT on Timmons Lane @ WhataBurger

From 290/Northwest

Go East on 290/Northwest Freeway
Take 610 South
Exit at Westheimer and turn LEFT under the Freeway
Turn RIGHT on Timmons Lane @ WhataBurger

From Katy

Go East on I-10 (Katy Freeway)
Take 610 South
Exit at Westheimer and turn LEFT under the Freeway
Turn RIGHT on Timmons Lane @ WhataBurger

From Kingwood

Go South on US-59/Eastex Freeway
Exit at Buffalo Speedway and turn RIGHT/North
To Westheimer
Turn LEFT on Timmons Lane @ Whataburger