Misrepresentations by Life Insurers and Agents
An Open Note* to Life Insurance Regulators, Skeptics, and Others

The article "Life Insurance: An Industry Built on Fraud" thoroughly presents the case that the life insurance industry's inadequate disclosure practices and compensation practices lead to pervasive misrepresentations and fraud by insurers and their agents. Such a condemnation is a most serious charge, and naturally can be viewed askance by many. After all, life insurance is a highly regulated business. Some others, however, might find such allegations virtually tautological; believing that business, and in particular, insurance is inherently corrupt and unlikely to ever change. Still, some others no doubt hear such allegations and think the subject is probably too profoundly complex, therefore not one in which an ordinary individual can recognize the truth; and believing the subject has little personal significance, find it unworthy of any real attention.

My reasons for disagreeing with the above dismissive sentiments are most succinctly documented below. This brief summary presents the most salient facts and issues regarding this charge. It also poses some of the necessary questions that anyone inclined to dismiss this charge ought to have to address or want to have answered. Please take a moment to read and consider these ideas. I am willing to wager that if the facts and questions below do not lead you to embrace my conclusions, then I must be speaking Swahili.*

1) Markets cannot work without informed buyers. Professor Belth has written about the life insurance industry's inadequate disclosure for more than 40 years. In 1996, Professor Skipper (and others) wrote – following the sales practices problems of the 1980s and 1990s - about the need for an industry transformation. Transformation was his word. Do you think Professors Belth and Skipper do not know what they are talking about? They are without doubt the two foremost unimpeachable authorities on life insurance in the country today. Or do you think a transformation occurred, and no one noticed it?
2) If the price/cost of a product is not clearly understood by the consumer, then the consumer cannot make good decisions. When a product is not understood, the consumer cannot exert pressure on prices to improve the value they receive. These are principles from Economics 101. And yet the annual cost of cash-value policies is a matter about which there is great confusion. The regulator's Buyer's Guide states that the premium is not the annual cost, but such a caveat fails to provide the necessary disclosure and so abundant misinformation has filled this vacuum.
3) If you think cash-value life insurance is understood by consumers, how do you reconcile your opinion with the Consumer Federation of America's life actuary's knowledge? Jim Hunt has dealt with more than 2000 consumers over the past decade, and says that consumers do not understand cash-value policies.
4) When disclosure of a financial product is inadequate, the stage is set for misrepresentation. Do you think that this last statement is just a theoretical point? Misinformation is abundant because commissioned-agents selling an inadequately-disclosed product do what any other humans would do: make representations where, to speak euphemistically, the truth suffers some severe casualties.
5) How can it be otherwise when one recalls the statement of the past President of New York Life? In essence, he said consumers wouldn't buy the product if they understood the agent's compensation. Or recall the statement of Northwestern actuary nearly 20 years ago regarding the company refusal to conduct focus groups with recent buyers? Look at the sales data from any insurer; it shows that virtually none of its consumers are buying the insurer's most-competitively priced (most value-laden) policy. How does such <u>value-minimizing</u> behavior not set-off litigation and regulatory alarms?

6) If the above seems all too theoretical or rhetorical, then what do you think of Northwestern's printed advice to buyers that "90 Life is the right product when both protection and cash value accumulation is important." Aside from the grammatical error, is there nothing else problematic about this marketing literature? It is hardly accurate. Is it excusable as puffery? Insurance regulations require "advertising to be truthful and not misleading in fact or in implication. The format and content of an advertisement shall be sufficiently complete and clear so that it is neither misleading nor deceptive, not has the capacity or tendency to mislead or deceive."
7) What do you think of Northwestern's agents' misrepresentations to clients who have retained a fee-only adviser? These advisers typically recommend maximally-blended policies. The agents, however, generally unaware that the client has retained an independent and knowledgeable adviser, typically continue to make inaccurate statements in an effort to rebut the adviser's recommendation and to instead sell a product with greater commissions. Do you not think that a great source of the value that these advisors currently provide arises from their ability to steer clients through the sea of misinformation that agents spout? (And, to be clear, Northwestern agents are hardly the only ones making misrepresentations, it is just that this insurer is highly regarded, extensive records of its agents misdeeds exist, and that by attacking an industry leader, all others – "the followers"– can be questioned as well.)
8) Again, if the above is all too theoretical or rhetorical or otherwise dismissible as isolated incidents or some other presumptively exculpatory or delimiting circumstances, or if the concerns raised in An Examination of IMSA and Buy Now, Buy When Young to Lock-in a Lower Cost – A Sales Presentation of which to be Very Wary seem too esoteric , then consider the following agent statements made frequently during sales presentations:
    a. Agent Misrepresentations redacted/withheld on March 3, 2010
    b. Pending Regulatory Investigation.
    c.
    d. Journalists and attorneys can apply to see copies.
    e. f. g. h. i. j. k. l. m. and o.
9) Northwestern's compliance officer in the insurer's training webcast, "The Right Way to Write," asserts, "We **spin** the story that we want to sell to the jury. Litigators are storytellers. We want to spin stories that are helpful to the company." Anyone who believes that Northwestern is truly "The Policyholders' Company" as the insurer likes to proclaim, should really watch this entire video. In response to the question, "When should [an agent] communicate by writing?" the Northwestern compliance officer states, "Only when it is essential to do so….Only write when necessary to create an essential record of what has occurred." Advising home office employees she admonitions, "Don't write, 'FR [financial rep] has lied to me on other claims. I don't trust him.'" She asserts such a written statement has "no business purpose." When an insurer's compliance officer trains its own home office employees not to make written records of agent misrepresentations, most would recognize that as indicative of profound problems. Can her statements be reconciled with IMSA rules?
10) The life insurance industry's age-old sales practices problems are inevitable when you have a financial product that has a price or cost that cannot be disclosed to a consumer. (The premium is not the annual cost on cash-value policies.) The price cannot be disclosed because to do so exposes the product's excessive distribution costs – that few, if any, consumers would knowingly pay. After all, there is nothing proprietary about cash-value life insurance that justifies the value that agents extract from consumers when they sell policies with the industry's traditional, excessive sales loads. This is why the industry and its agents have fought for decades to prevent appropriate disclosure of cash-value policies. The insurance

industry knows that no consumers would pay such excessive costs. Well now, unless of course you say I've been speaking Swahili, you and other consumers know, as well.*

***Please understand that the argumentative/advocate tone was adopted** because over the past two decades (see Best's Review articles of the 1990s, The Journal of Insurance Regulation 2002 article, and countless other presentations where the industry's problems were lucidly described and/or motivation and encouragement to implement solutions was provided, that regulators, insurers and others have taken no positive actions. **And just so that no one dismisses the above as a personal tirade, please note the following:**

Condemnations by some well-known life insurance industry authorities

"The conduct of the life insurance industry with regard to its sales and marketing practices has been inexcusable." **Salvatore R. Curiale, Former NY Superintendent of Insurance**

"A cleanup of our industry is coming whether we do it ourselves or get prodded into it." **Brian S. Brown, CLU, ChFC, Former President American Society of CLU and ChFC**

"Irrespective of regulatory and national differences…., the movement towards a wider disclosure obligation and greater demands for information… will lead to fundamental changes in the life insurance industry." **Svein R. Hagen, President UNI Storebrand Life Insurance Company (Norway)**

"Talking about owning versus renting is nonsense. It is part of a marketing gimmick. Owning sounds better than renting. Permanent sounds better than temporary. But it is all phony sales talk by some promoters of cash-value life insurance." **Professor Joseph M. Belth, PhD, and author/publisher of "The Insurance Forum" newsletter**

"When it was published, Circular Letter No. 2 caused many life insurance companies to take a very hard look at their advertising materials and disclosure practices. [Extensive purges of printed sales materials occurred at most large life insurers, but the legacy of such misleading sales presentations lives on in agents' spoken presentations.] But are the following really new [Circular Letter No. 2's] standards: "openness and honesty in all transactions" and concern over "the overall impression that the advertisement [all sales materials are called advertisements] may reasonably be expected to create upon a person not knowledgeable in insurance matters." These standards are part of the existing life insurance advertising regulations in most states. They have simply never been enforced."
Alan Press, CLU, former President of the National Association of Life Underwriters (NALU now renamed NAIFA)

"**Changing a system** [characterized in the article as a system with inadequate agent training and supervision, and an agent compensation structure incompatible with modern consumer demands] **of such long tradition and wide acceptance will be difficult, but change seems both essential and inevitable." Harold D. Skipper, Jr. PhD, CLU, C.V. Starr Distinguished Professor of International Insurance at Georgia State University**

If you think there have been any industry changes or cleanups since these authorities spoke their words, you are invited to submit your comments via our blog or contact page. Alternatively, if you think the life insurance industry's age-old problems ought to finally be solved, we welcome your assistance, business, and support.

For Policy Disclosure Information see our March 2010 Press Release.

For additional information, please contact us or watch our website for future updates.BreadwinnersInsurance.com Making You Smart! Preserving Your Dough!Can You Imagine the Value BreadwinnersInsurance.com Could Provide You?