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**Primary Contact:** Sheila Kalkunte  
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1850 M Street, NW  
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Washington, DC 20036

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<b>Entity:</b>	American Academy Of Actuaries Entity ID Number 2508883
<b>Entity Served:</b>	American Academy of Actuaries
<b>Title of Action:</b>	Mark Freedman vs. American Academy of Actuaries
<b>Document(s) Type:</b>	Summons/Complaint
<b>Nature of Action:</b>	Contract
<b>Court/Agency:</b>	Cook County Circuit Court, Illinois
<b>Case/Reference No:</b>	2014CH19600
<b>Jurisdiction Served:</b>	Illinois
<b>Date Served on CSC:</b>	12/15/2014
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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

MARK FREEDMAN

Plaintiff,

v.

AMERICAN ACADEMY OF ACTUARIES,  
THOMAS TERRY, CASUALTY  
ACTUARIAL SOCIETY, and WAYNE  
FISHER,

Defendant.

Case No.

Trial by Jury Demanded

Judge

Please Serve:

American Academy of Actuaries

C/O Illinois Corp. Service

801 Adlai Stevenson Drive

Springfield, IL 62703

DOROTHY BROWN  
CLERK

2014 DEC - 8 PM 3:44

701 CH 19600  
CALENDAR/ROOM 04  
TIME 00:00  
Injunction

SUMMONS

To Each Defendant:

**YOU ARE SUMMONED** and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, and pay the required fee, in the office of the Clerk of this Court at the following location: Richard J. Daley Center, 50 West Washington Street, Room 801, Chicago, Illinois 60602.

You must file within 30 days after service of this summons, not counting the day of service.

**IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF REQUESTED IN THE COMPLAINT.**

**To the Officer:** This summons must be returned by the officer OR OTHER PERSON to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than 30 days after its date.

WITNESS, **DOROTHY BROWN DEC 08 2014**

  
Clerk of the Circuit Court

Christopher Sheean, Esq.  
Swanson, Martin & Bell, LLP  
330 North Wabash Avenue, Suite 3300  
Chicago, Illinois 60611  
(312) 321-9100  
(312) 321-0990 – Fax  
*Attorneys for Plaintiff*

Date of Service: 12/15/14  
(To be inserted by officer on copy left with defendant or other person)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

FILED - 2

MARK FREEDMAN

2014 DEC -8 PM 4:04

Plaintiff,

v.

AMERICAN ACADEMY OF ACTUARIES,  
THOMAS TERRY, CASUALTY  
ACTUARIAL SOCIETY, and WAYNE  
FISHER,

Defendant.

CIRCUIT COURT OF COOK  
COUNTY, ILLINOIS  
CHANCERY DIV.

Trial by Jury Demanded

DOROTHY BROWN

2014CH19600

CALENDAR/ROOM 04

TIME 00:00

Injunction

Judge

Please Serve:

American Academy of Actuaries  
C/O Illinois Corp. Service C  
801 Adlai Stevenson Drive  
Springfield, IL 62703

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*Attorneys for Plaintiff*

Date of Service: \_\_\_\_\_  
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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

MARK FREEDMAN

Plaintiff,

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AMERICAN ACADEMY OF ACTUARIES,  
THOMAS TERRY, CASUALTY  
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Defendant.

Case No.

Trial by Jury Demanded

Judge

FILED  
2014 DEC - 8 PM 3:44  
JUL 4 CH 19600  
CALENDAR/ROOM 04  
TIME 00:00  
Injunction

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, AND DAMAGES**

Plaintiff Mark Freedman ("Freedman"), for his Complaint against Defendants American Academy of Actuaries ("Academy"), Thomas Terry ("Terry"), Casualty Actuarial Society ("CAS") and Wayne Fisher ("Fisher") states as follows:

**BACKGROUND**

1. This is an action brought by Mark Freedman, immediate past president of the Society of Actuaries ("SOA"), seeking to enjoin sham disciplinary proceedings pending before the Actuarial Board for Counseling and Discipline ("ABCD"). The proceedings were initiated by the President of CAS and the President, President-Elect and other board members of the Academy. The disciplinary complaints do not allege that Freedman acted improperly in his role as an actuary, but rather in his role as President of another actuarial society (the SOA), for sending out a competitive marketing offer to members of the CAS. The disciplinary complaints were brought for an improper, anti-competitive purpose, and the assertions in those complaints are completely without merit. The ABCD disciplinary process is being improperly manipulated by some of the defendants to deny Freedman an impartial consideration of the complaints and the due process

rights to which he is entitled under the Academy's bylaws. Absent injunctive relief, Freedman will suffer irreparable harm to his actuarial business, reputation, and career. Freedman also seeks damages for Defendant Academy's failure to honor its own bylaws, and for damage caused by defamatory statements made by Defendants Terry and Fisher.

### **THE PARTIES**

2. Plaintiff Mark Freedman is a resident of Jenkintown, Pennsylvania.
3. Defendant Academy is an Illinois not for profit corporation with its registered agent's office located at 801 Adlai Stevenson Dr., Springfield, Illinois 62703.
4. Defendant CAS is an Illinois not for profit corporation with its registered agent located at One State Farm Plaza, D-4, Bloomington, Illinois 61710.
5. Defendant Thomas Terry is a resident of Illinois, and at relevant times set forth below, the President of Academy.
6. Defendant Wayne Fisher is a resident of Florida, and at all relevant times set forth below, President of CAS.

### **JURISDICTION AND VENUE**

7. This Court has personal jurisdiction over Defendants Academy, CAS and Terry pursuant to, *inter alia*, 735 ILCS 5/2-209(b) because they are either natural persons that are residents and domiciled in Illinois or corporations organized under the laws of Illinois and are in fact doing business in Illinois.
8. This Court has personal jurisdiction over Defendant Fisher pursuant to, *inter alia*, 735 ILCS 5/2-209(a)(12), because Fisher performed his duties as an officer of CAS, an Illinois corporation.

9. Venue is proper pursuant to 735 ILCS 5/2-101 because at least one Defendant is a resident of this county, and because some of the events or parts thereof that gave rise to the causes of action alleged herein occurred in Cook County.

### **THE ACTUARIAL PROFESSION**

10. An actuary is a business professional who analyzes the financial consequences of risk. Actuaries use mathematics, statistics and financial theory to study uncertain future events, especially those of concern to insurance and pension programs. They evaluate the likelihood of those events, design creative ways to reduce the likelihood and decrease the impact of adverse events that actually do occur.

11. Actuarial work is especially important in several industries, including pensions and retirement systems, life insurance and annuities, property and casualty insurance (herein referred to as “general insurance”), and health care systems and health insurance, among others. Accordingly, actuaries often seek to specialize their training and experience in these various disciplines.

12. As a general matter, actuaries are not licensed by governmental agencies. Instead, employers of actuaries and users of actuarial services rely heavily on the membership designations that actuaries earn from and maintain with one of several professional societies as indicia of the professional qualifications and professionalism of the persons hired or engaged.

13. There are five separate membership organizations that operate in the United States to serve the actuarial profession: the Academy, the SOA, the CAS, the American Society of Pension Professionals and Actuaries (ASPPA), and the Conference of Consulting Actuaries (the Conference).

14. The events that give rise to this lawsuit involve only the SOA, the Academy and the CAS. They arise from certain overlapping interests and objectives of these organizations in serving their members and the profession and, more recently and relevantly, from direct competition between the SOA and the CAS because of new general insurance educational service offerings from the SOA.

15. An aspiring actuary can earn membership designations from the SOA by successfully completing examinations, e-learning courses and in-person seminars, and thereby become entitled to use the designations of ASA (Associate of the Society of Actuaries), or FSA (Fellow of the Society of Actuaries). The ASA or Associate designation represents a broad grounding in actuarial knowledge and practice, while a Fellowship designation represents more advanced and specialized training and education in one of several actuarial disciplines. The SOA offers six Fellowship “tracks” for those who desire to achieve this advanced level of proficiency and training. Members of the SOA thus practice across the spectrum of disciplines and industries in which actuaries work.

16. The SOA membership designations are not limited to actuaries who live and work in the United States. Of its 25,000-plus members, over 30% live or practice outside the United States.

17. Similarly, an actuary can earn membership designations from the CAS as either an Associate (ACAS) or Fellow (FCAS). The Casualty Actuarial Society, however, as the name suggests, is focused exclusively on the general insurance discipline, and its members practice primarily within that discipline. Because of its narrower focus, the CAS is a smaller organization than the SOA. It has approximately 6,500 members.

18. The Academy does not offer Associate and Fellowship designations based on levels of examinations and courses like those of the SOA and the CAS. Rather, the Academy offers a single designation (MAAA), for which members typically qualify by first attaining their membership in the SOA or the CAS. The Academy's stated mission is to assist public policy makers in the U.S. and to establish qualifications for practice and standards that will apply for actuarial practice in the U.S. Given its focus on matters relating to professionalism, the body charged with investigating disciplinary matters (the ABCD) was established as a committee within the Academy. The other professional societies operating in the United States have voluntarily chosen to rely on the ABCD to investigate disciplinary complaints against their members, based on the premise that the ABCD will act independently and autonomously and without undue influence by the Academy or any other single society.

19. Plaintiff Freedman is a member of both the SOA and Academy. He is the Immediate Past President of the SOA, and was serving as its President at the time of the relevant incidents addressed in the disciplinary complaints and this lawsuit.

#### **THE SOA EXPANDED ITS OFFERINGS INTO GENERAL INSURANCE**

20. In 2012, the SOA introduced a new advanced Fellowship track within the SOA for General Insurance. By adding this track, the SOA was able to offer its members and aspiring members a complete, rounded education and training program for all of the principal actuarial disciplines.

21. The CAS views the SOA's General Insurance track as a competitive threat, and has opposed efforts by the SOA to expand its offerings in general insurance or to gain recognition of the new track.



22. In 2013, the SOA Board of Directors approved a two-year program to allow Associates and Fellows of the CAS to join the SOA at the equivalent level, without having to complete the SOA's Associate- or Fellowship-level exams in general insurance. In other words, an FCAS (Fellow of the CAS) could also become an FSA (Fellow of the SOA) simply by applying to the SOA and paying the membership fee.

23. This program would help the SOA build its community of general insurance actuaries more quickly than by relying entirely on organic growth – i.e., by waiting for actuaries to choose the SOA pathway and progress through the exams and courses. It would also offer CAS members the benefit of adding a second designation and becoming part of a larger, multi-disciplinary organization with wider global presence and recognition.

24. In August 2014, the SOA Board was informed of and tacitly approved plans to communicate the SOA's offer to CAS members.

**THE SEPTEMBER 17, 2014 EMAIL**

25. In his capacity as the President of the SOA, Freedman reviewed and approved an email dated September 17, 2014, which was sent by email over his signature to approximately 4,500 CAS members. (A copy of the September 17, 2014 email is attached hereto as Exhibit A).

26. SOA staff members obtained the email addresses for CAS members from publically available information on the CAS website. As noted in a July 16, 2014 press release on the CAS website, the CAS Online Membership directory containing the contact and employment information for all CAS members was open to all public visitors to the CAS website. (A copy of the July 16, 2014 press release is attached as Exhibit B). At the time the SOA compiled its list of email addresses for CAS members, the CAS website and Online Membership Directory contained no terms of use or restrictions limiting how or by whom the posted information could be used.

THE CAS AND THE ACADEMY'S RESPONSE TO THE SEPTEMBER 17, 2014 EMAIL

27. On September 22, 2014, Freedman received a telephone call from Defendant Fisher, stating that the CAS objected to the SOA's use of the email addresses of CAS members, and asserting that Freedman and the SOA acted wrongfully in using the email addresses to contact CAS members without CAS' consent. During the call, Freedman informed Fisher that the CAS member email addresses used by the SOA had been made publicly available, without restrictions, by the CAS itself.

28. On September 23, 2014, Fisher sent Freedman an email, and copied numerous individuals. (A copy of the September 23, 2014 email from Fisher to Freedman is attached as Exhibit C). In the email Fisher, accused Freedman of "hacking [the CAS'] membership data," and claiming that "this act may well be a violation of Precept 1 of the Code of Professional Conduct." (Ex. C).

29. "Hacking", in common understanding and as used by Fisher in his email, refers to a violation of the Computer Fraud and Abuse Act, and therefore constituted an accusation by Fisher that Freedman had committed a violation of civil and criminal law. At the time he published this accusation to numerous individuals, Fisher knew it was false and knew that the SOA had used unrestricted, publicly available information to send the email.

30. Precept 1 of the Code of Professional Conduct (the Code) requires an actuary to act honestly and with integrity. (A copy of the Code of Professional Conduct is attached as Exhibit D.) Thus, Fisher's email to numerous individuals was also attacking Freedman's honesty and integrity.

31. On September 26, 2014, a complaint was filed against Freedman with the Actuarial Board of Control and Discipline ("ABCD") by Defendant Thomas S. Terry, Karen F. Terry, Mary

D. Miller and Kenneth A. Kent (together “Terry et al”), jointly on behalf of the Academy (the “Academy Complaint”). Each complainant was an executive officer and/or member of the Board of Directors of the Academy. The Academy Complaint alleges that Freedman violated Precepts 1, 4 and 11 of the Code. (A copy of the Academy Complaint is attached as Exhibit E).

32. On September 27, 2014, Defendant Terry sent an email to the entire Academy Board of Directors, and then forwarded that email to 27 members of the SOA Board of Directors. In that email, Terry states that Freedman’s September 17, 2014 email “is a deliberate, self-serving misrepresentation of what it takes for a U.S. actuary to move from one practice area to another.” (A copy of Terry’s September 27, 2014 email is attached as Exhibit F).

33. On October 1, 2014, Defendant Fisher filed a separate complaint against Freedman with the ABCD, claiming that Freedman had violated Precept 1 of the Code by accessing and downloading the email addresses of CAS’ members and by using those email addresses to send the September 17 email message to CAS members without CAS’ permission (the “CAS Complaint”). (A copy of the CAS Complaint is attached as Exhibit G).

34. Freedman was obligated to respond to the complaints no later than October 29, 2014, and did so. (A copy of Freedman’s response to the Academy Complaint is attached as Exhibit H; a copy of Freedman’s response to the CAS Complaint is attached as Exhibit I). Despite a complete response to the wrongful allegations, which also raised irreconcilable conflicts of interest, ABCD has decided to pursue further disciplinary proceedings.

**THE DISCIPLINARY COMPLAINTS ARE TOTALLY BASELESS**

**THERE ARE NO STATEMENTS IN THE SEPTEMBER 17 EMAIL THAT COULD REASONABLY BE  
CHARACTERIZED AS MISLEADING**

35. Terry et al. assert in their ABCD complaint that Freedman violated Precept 1 of the Code by making false and misleading statements. In support of that accusation, they identify one sentence in the entire email communication as allegedly misleading:

By becoming a member of the SOA, you will gain the career flexibility that SOA membership provides – ease of movement from one area of practice to another without replacing credentials.

They characterize this statement as a misrepresentation of the requirements for changing areas of practice under the *Qualification Standards for Actuaries Issuing Statements of Actuarial Opinions in the United States*, a set of standards applicable to members of the profession who are practicing in the U.S.

36. In fact, the email statement regarding the ease of movement across practice areas had nothing whatsoever to do with the U.S. Qualification Standards. Nothing in this sentence, or in the rest of the email, mentions or even refers to the requirements under the U.S. Qualification Standards. There is not one word in the entire communication that discusses the requirements for issuing Statements of Actuarial Opinions in the U.S., or suggests that obtaining an SOA membership designation would make a person qualified or more qualified to issue Statements of Actuarial Opinions in a new area of practice. Indeed, there is nothing in the entire communication that describes the SOA's proposal or its value proposition even in terms of U.S. actuarial practice; to the contrary, the communication repeatedly describes the value proposition in terms of the SOA's global presence and membership and the value of the SOA designation all over the world.

37. Rather, the challenged statement is a simple observation that, if an actuary seeks to pursue opportunities in other actuarial disciplines, an actuary holding an SOA designation would

be more readily accepted and hired in the marketplace than an actuary bearing only a CAS designation, thereby making such career movement easier.

38. Because the marketplace identifies the CAS designations as exclusively associated with general insurance, those who hire actuaries would be reluctant to consider hiring an actuary whose sole designation is from the CAS for actuarial services outside the general insurance field. By contrast, the SOA membership designations have always been recognized as encompassing multiple disciplines in the actuarial profession. The SOA designations are therefore the designations of choice for those hiring for all discipline other than general insurance, and this makes it easier for an actuary with an SOA designation to pursue opportunities in other disciplines. This was the only point being made in the challenged statement, and nothing more than that can reasonably be read into it.

**PRECEPTS 4 AND 11 OF THE CODE DO NOT APPLY TO FREEDMAN'S ACTION IN SIGNING THE  
SEPTEMBER 17 EMAIL**

39. Terry et al further assert in the Academy complaint that Freedman's actions in signing the SOA's September 17 email violated Precepts 4 and 11 of the Code. Each of those Precepts are, on their face, limited to "Actuarial Communications" issued by an "Actuary" in connection with providing "Actuarial Services" for a "Principal", as those terms are defined in the Code.

40. When he signed the September 17 marketing communication on behalf of the SOA, Freedman was not acting in his capacity as an Actuary, as that term is defined in the Code. He was not providing services for a Principal, as that term is defined in the Code. He was not engaged in providing Actuarial Services, as that term is defined in the Code. And he was not issuing an Actuarial Communication, as that term is defined in the Code. The effort by Terry et al to

characterize the actions of Freedman as violations of Precepts 4 and 11 of the Code is preposterous on its face.

**THE SOA'S USE OF CAS' PUBLICLY AVAILABLE MEMBERSHIP DIRECTORY WAS NOT  
IMPROPER**

41. In the CAS Complaint, Defendant Fisher notes that the SOA used the CAS Online Membership Directory to obtain the email addresses of the CAS members to whom the September 17 email was sent. Fisher fails to acknowledge that the email addresses were made publicly available by the CAS on its website, with no restrictions on how or by whom that information could be used. Despite the fact that the SOA's compilation and use of that publicly available information was perfectly lawful, Fisher nevertheless falsely characterizes the SOA's actions (and hence Freedman's conduct) as "surreptitious" and "deceptive".

42. Fisher does not claim that Freedman personally played any part in gathering the email addresses from the CAS. In fact, Freedman neither gathered the addresses from the CAS website, nor knew at the time the exact methods used to gather the addresses. Freedman relied on the advice and assurances of the SOA staff that the names and addresses which the SOA intended to use were publicly available and not subject to any restriction on use, and that the SOA did not need to obtain prior permission from the CAS to send the emails.

**THE ACADEMY COMPLAINT AGAINST FREEDMAN IS SHAM LITIGATION BROUGHT FOR AN  
IMPROPER, ANTI-COMPETITIVE PURPOSE**

43. It is unprecedented for the presidents, officers and board members of one or more U.S. actuarial organization to file a disciplinary actions against the president of another U.S. actuarial organization for conduct performed, not in his capacity as an actuary, but in his role as president of a fellow actuarial organization engaged in marketing activities on behalf of his organization.

44. In the Academy Complaint, Terry and his colleagues make the gross misrepresentation that Freedman acted improperly and dishonestly, in violation of Precepts 1, 4 and 11 of the Code of Professional Conduct. On its face, it is clear that the email Freedman sent was not false, misleading or unprofessional. Moreover, Freedman did not draft or disseminate the email on his own, but with the knowledge and approval of the SOA board, and with the assistance of SOA staff.

45. The SOA Board of Directors passed a resolution acknowledging the role of the SOA's staff and leadership and offering their support of Freedman's position in this process. The resolution of the SOA Board is attached as Exhibit J.

46. Defendants Fisher and Terry et al, the Academy, and the CAS have chosen to bring these disciplinary complaints to badger and intimidate Freedman personally, in an effort to mar his reputation, as well as the reputation of the SOA, and to prevent lawful competition.

**THE ACADEMY AND CAS'S MOTIVATION IN BRINGING THE COMPLAINTS WAS IMPROPER AND ANTI-COMPETITIVE**

47. Terry, Fisher, and the others who brought the Academy and CAS Complaints against Freedman purport to have raised the concerns in order to protect and promote professionalism within the actuarial profession. This argument is clearly false. As demonstrated above, the baseless nature of the claims calls into question the Academy and CAS's motivation for engaging in this dispute. The reality is that both the Academy and the CAS have felt competitively threatened by the SOA and its ongoing expansion into areas the Academy and CAS would prefer remain within their exclusive control.

48. As an example, at present only members of the Academy or the CAS are permitted to sign statements of actuarial opinions for property-casualty insurers as provided to the National Association of Insurance Commissioners ("NAIC"). The SOA has engaged in efforts to have the

NAIC allow FSAs to sign such opinions, but its efforts have been frustrated by the Academy. For example, in the Academy's November 1, 2013 letter to the NAIC (Exhibit K), Cecil Bykerk (then Academy president) wrote, "[w]e understand the stated reason of the SOA's request to the NAIC, and to the COQ, to be a strategic and commercial one to bolster their marketing of the new General Insurance track they have developed to meet global insurance industry needs. These are not needs that exist in the U.S." By engaging in these efforts to disparage Freedman and the SOA, the Academy and CAS undoubtedly hope to diminish any chance the SOA has to lobby the NAIC. These anti-competitive tactics are unprofessional and potentially illegal.

49. The Academy itself recognizes the impropriety of anti-competitive behavior. Specifically, the Academy Antitrust Policy provides that, "individuals participating in Academy activities must refrain from engaging in conduct that unreasonably restrains commerce or trade or that constitutes a concerted action significantly diminishing competition between actual or prospective competitors." (A copy of the Academy Antitrust Policy from the Academy's website is attached as Exhibit L).

#### **THE ACTUARIAL BOARD FOR COUNSELING AND DISCIPLINE ("ABCD")**

50. The Code of Professional Conduct has been adopted by all five of the actuarial organizations operating in the U.S. (including the Academy, the CAS and the SOA).

51. The ABCD was established as a committee of the Academy. Its budget and resources are managed by the Academy, and it relies on Academy staff, including Academy legal staff, to support its operations and provide legal advice.

52. All five organizations have, through their respective bylaws, delegated to the ABCD the authority to investigate and evaluate possible violations of the Code by their members. In doing so, the other four actuarial organizations have relied on a certain degree of shared



governance for the ABCD and assurances from the Academy that the ABCD will operate as an autonomous committee created to be deliberately independent of any actuarial organization's influence and commercial self-interest. To that end, appointments to the ABCD are made by a selection committee comprised of the Presidents and Presidents-Elect of all five organizations.

53. The ABCD implemented its Rules of Procedure, and its rights and powers to rule on disciplinary matters are governed in part by the bylaws of each actuarial organization, including the Academy and the CAS.

54. If a complaint is lodged against an actuary, the ABCD contacts the subject actuary and requests a response. The chair and two vice chairs of the ABCD then decide whether to dismiss the complaint, mediate the dispute, or select an investigator to examine the alleged violations of the precepts of the Code of Conduct.

55. The possible outcomes of a disciplinary matter before the ABCD are dismissal, counseling by the ABCD, or a recommendation of discipline by the actuary's member organizations.

56. Under the circumstances present in this case, the ABCD cannot be fair or impartial in recommending the punishment for a case the Academy asserted against Freedman.

57. An actuary's ability to practice can be adversely impacted or completely revoked as a result of actions taken based on the ABCD's investigation and recommendation.

**THE ABCD IS BIASED, LACKS IMPARTIALITY AND HAS NOT PROVIDED FREEDMAN  
APPROPRIATE DUE PROCESS RIGHTS**

58. The ABCD is not a separate legal entity, but is merely a division housed within the Academy. The ABCD receives its funding from the Academy.

59. Terry is the chair and Mary D. Miller is a member of the selection committee for the ABCD, which among other responsibilities determined whether ABCD board members reviewing the complaint against Freedman will continue in their roles with the ABCD.

60. Terry, along with Mary D. Miller, after filing the September 26, 2014 complaint with the ABCD against Freedman, chose to, and were permitted to participate in the selection of three new members to the ABCD, knowing that the new members would be deciding Terry's complaint against Freedman. Freedman, as president of the SOA was also entitled to vote on the new members for the ABCD Board, but recused himself given the pending complaints.

61. In his responses to the ABCD complaints, Freedman gave a detailed explanation of why the ABCD is not impartial and should not be permitted to render a decision regarding the complaints against him. The ABCD has taken no steps to cure the irreconcilable conflicts in its handling of the disciplinary complaints.

**THE ABCD IS IN DIRECT VIOLATION OF THE ACADEMY'S BYLAWS AND POLICIES AND THEIR RULES OF PROCEDURE**

62. The ABCD is charged to follow the Academy Bylaws and Policies as well as the ABCD Rules of Procedure, which are promulgated pursuant to Article X of the Academy Bylaws. These bylaws establish a contractual relationship between Freedman and the Academy. (A copy of the Academy's Bylaws is attached as Exhibit M.)

63. Under Article IX, Section 2 Discipline of the Bylaws, the Academy must provide Freedman, who is a member of the SOA and the Academy, "appropriate due process and respect (his) rights . . ."

64. In addition to the bylaws, the Academy adopted a Conflict of Interest Policy, whereby the Academy is "require[d] to maintain a high level of professional objectivity and independence from any specific interests of the employers of its members."

65. The ABCD, as a board housed within the Academy, is subject to follow the policy adopted by the Academy, and is “required to maintain a high level of professional objectivity and independence from any specific interests” including the specific interests of the Academy itself. It is impossible for a board housed within the Academy to be impartial in deciding a matter involving the Academy as a complaining party.

66. Additionally, Terry’s participation in the election of ABCD members was a violation of this Conflict of Interest policy, as he failed to maintain his professional objectivity and independence when voting on members who were to hear his specific complaint against Freedman.

#### **VIOLATION OF THE ABCD RULES OF PROCEDURE**

67. Under the ABCD Rules of Procedure, a matter under consideration is to be referred to an Investigator only if it involves a possible material violation of the Code of Professional Conduct. See Rules of Procedure III.B.3. (A copy of the ABCD Rules of Procedure is attached as Exhibit N.)

68. If the matter under consideration does not appear to involve a possible violation or is a possible violation of the Code of Professional Conduct but does not constitute a material violation, the matter must be dismissed. See Rules of Procedure III.B.3.

69. The ABCD Board violated the Rules of Procedure when it failed to dismiss the complaint against Freedman and instead referred the complaint to an Investigator, as no material violation of the Code of Professional Conduct occurred. As discussed more fully below, Freedman did not violate, let alone materially violate, any provision of the Code of Professional Conduct based upon the marketing material sent between an actuarial organization and practicing actuaries at issue here. The disputes at issue are competitive and, upon information and belief, the purpose

of the discipline is to chill or prevent SOA and Freedman from competing, which is a violation of law.

70. In the event the ABCD refers the matter to an Investigator, as it has improperly done so here, “[t]he ABCD shall ask each prospective Investigator ... if he or she is aware of any circumstances that might raise questions regarding his/her impartiality, such as past or present relationships with the complainant or subject actuary. An individual shall not be selected if the appointment would create a conflict of interest or an appearance of impropriety.” See Rules of Procedure XII.

71. The ABCD Board violated the Rules of Procedure when it selected James MacGinnitie (“MacGinnitie”) as the Investigator, because MacGinnitie has a conflict of interest and/or an appearance of impropriety. MacGinnitie is a former president of the CAS and the Academy, two of the Complainants against Freedman, and on information and belief, is opposed to the SOA’s efforts to compete with the Academy and the CAS.

72. In his responses to the Academy and CAS Complaints, Freedman specifically identified clear and irreconcilable conflicts of interest that prevent the ABCD from conducting an investigation of claims lodged by the presidents of the Academy and CAS against Freedman for efforts to market a competing actuarial organization. Those conflicts were ignored by the ABCD and no remedial steps have been taken by the ABCD to provide Freedman fundamental fairness or to respect his due process rights as set forth in the Bylaws.

73. On November 18, 2014, Freedman was notified by counsel for the ABCD that the Chair and Vice Chairs had voted to investigate the allegations against Freedman in the Academy and CAS Complaints.

**Count I**  
**Breach of Contract (Academy)**

74. Plaintiff Mark Freedman repeats and realleges paragraphs 1-73 as paragraph 74 of Count I.

75. As outlined above, the Academy, through its division, the ABCD, breached its Rules of Procedure as well as the Academy Bylaws it was bound to follow in the following ways:

- a. The Academy violated Freedman's due process rights by allowing Terry and Mary Miller to participate in the election of 3 new members of the ABCD while their disciplinary complaint against Freedman was pending;
- b. The ABCD Board failed to dismiss the complaint against Freedman and instead referred the complaint to an Investigator, despite the fact that no material violation of the Code of Professional Conduct occurred. *See* Rules of Procedure III.B.3.
- c. The ABCD Board violated Freedman's due process rights by consulting with and relying upon Brian Jackson, an attorney employed and paid by the Academy, one of the complainants against Freedman.
- d. The ABCD Board violated the Rules of Procedure when it selected James MacGinnitie as the Investigator, because MacGinnitie has a conflict of interest and/or an appearance of impropriety.

76. As a direct and proximate cause of the ABCD's breach of its rules, Freedman has been damaged by spending resources fighting the ongoing ABCD complaints.

**WHEREFORE**, Plaintiff Mark Freedman requests a judgment against the Academy in an amount to be proven at trial, as well as such other relief as determined by the evidence.

**Count II**  
**Declaratory Judgment (All Defendants)**

77. Plaintiff Mark Freedman repeats and realleges paragraphs 1-73 as paragraph 77 of Count II.

78. An actual controversy exists between the parties pursuant to 735 ILCS 5/2-701 regarding the obligations of the parties under the Code of Conduct, the ABCD's Rules of Procedure and the Academy's Bylaws.

79. Freedman has a legal, tangible interest in maintaining his good standing in the actuarial profession, including his standing with the Academy as an MAAA.

80. Freedman has a right to a fair hearing before a neutral and impartial tribunal.

81. Defendants have rejected Freedman's request that the Academy and CAS Complaints be dismissed, or alternatively, that the Complaints be heard before a neutral tribunal.

82. Freedman seeks a declaration that he is entitled to a fair hearing before an impartial tribunal, such as a neutral arbitrator.

83. Freedman seeks a declaration that the September 17, 2014 email sent out to CAS members was not false or misleading.

84. Freedman seeks a declaration that the procurement and use of email addresses from the CAS' publicly accessible website was not unlawful.

85. Freedman seeks a declaration that he cannot be found in violation of any of the Precepts of the Code of Conduct because his actions were lawful and proper.

86. Freedman will be unfairly prejudiced if he seeks to exhaust his remedies through the ABCD disciplinary process because the ABCD Board itself is biased and burdened by actual conflicts of interest that prevents it from giving Freedman appropriate due process rights.

87. Freedman lacks an adequate remedy at law, and is entitled to injunctive relief.

**WHEREFORE**, Plaintiff Mark Freedman seeks a declaration that he is entitled to a fair and independent hearing before a neutral arbitrator, and seeks a preliminary and permanent injunction against Defendants enjoining them from proceeding with the disciplinary hearings before the ABCD.

**Count III**  
**Defamation (Defendant Fisher)**

88. Plaintiff Mark Freedman repeats and realleges paragraphs 1-73 as paragraph 88 of Count III.

89. On September 23, 2014, Fisher sent Freedman an email, and copied twenty individuals. (Ex. C). In the email Fisher accused Freedman of “hacking [the CAS’] membership data,” and claiming that “this act may well be a violation of Precept 1 of the Code of Professional Conduct.” (Ex. C).

90. Fisher accused Freedman of hacking, a federal crime under the Computer Fraud and Abuse Act.

91. Freedman did not actually collect the email addresses from the CAS website, and even if he had, the CAS had made the email addresses publicly available and they were not obtained without authorization.

92. Accordingly, Fisher has falsely accused Freedman of a federal crime, and publicized it to twenty individuals.

93. Fisher’s publication of this false statement injured Freedman’s reputation and constitutes defamation per se.

**WHEREFORE**, Plaintiff Mark Freedman requests judgment in his favor, in an amount to be proven at trial.

**Count IV**  
**Defamation (Defendant Terry)**

94. Plaintiff Mark Freedman repeats and realleges paragraphs 1-73 as paragraph 94 of Count IV.

95. On September 27, 2014, Terry sent an email to the 27 members of the SOA board, wherein Terry states that Freedman's September 17, 2014 email "is a deliberate, self-serving misrepresentation of what it takes for a U.S. actuary to move from one practice area to another." (Ex. F).

96. As discussed above, Freedman's September 17, 2014 email did not contain any false statements or even discuss the U.S. Qualifications, as Terry suggests. Accordingly, Terry's statement is false and misleading.

97. The September 27, 2014 Terry email went on to state that, "Mark's email is an affront to all U.S. Actuaries who care about professionalism and who care about the integrity of the US profession. By misrepresenting the process as he does, Mark is signaling that the SOA values commercial ambitions over professional integrity." (Ex. F).

98. Terry's statements that Freedman had made a deliberate, self-serving misrepresentation and lacks professionalism and integrity in his role as president of the SOA impugns his reputation in the actuarial profession, and constitutes defamation per se.

99. Freedman has been damaged as a result of Terry's malicious and false statements.

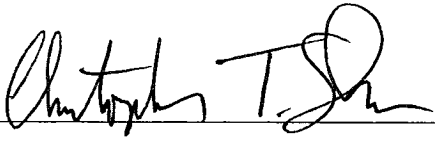
**WHEREFORE**, Plaintiff Mark Freedman requests judgment in his favor, in an amount to be proven at trial.



**JURY DEMAND**

Plaintiff demands trial by jury.

Respectfully Submitted,

By:  \_\_\_\_\_  
One of Plaintiff's Attorneys

Christopher T. Sheehan  
Julie D. Miller  
Valerie Lengerich  
SWANSON, MARTIN & BELL LLP  
330 N. Wabash Ave., Suite 3300  
Chicago, IL 60611  
(312) 321-9100  
Fax: (312) 321-0990  
Firm I.D. No. 29558

A

124

From: **Mark Freedman** <mfreedman@soa.org>  
Date: Wed, Sep 17, 2014 at 8:03 AM  
Subject: An Invitation from the Society of Actuaries  
To:

For the Online Web Version or on a Mobile Device, click [here](#)

The Society of Actuaries (SOA) is accepting applications from Property/Casualty (or General Insurance) actuaries who hold the FCAS or ACAS designations to become SOA members. I am reaching out to you because I believe becoming a Fellow or Associate in the SOA will benefit you professionally.

In developing nations all over the world, populations are rapidly moving to urban areas, resulting in an expanding middle class. These economic and demographic trends are driving growth in General Insurance and, with it, the demand for additional qualified General Insurance actuaries. The SOA is well positioned to provide the education and examination capabilities necessary to build the actuarial profession globally in General Insurance.

By becoming a member of the SOA, you will gain the career flexibility that SOA membership provides – ease of movement from one area of practice to another without replacing credentials. While the demand for actuaries trained in General insurance is currently high, there is no telling what the future holds. The SOA is committed to continuously enhancing the value of its credentials. One way of doing this is to offer all specialties of actuarial science globally. This gives SOA members the flexibility they may need throughout their career.

By joining, you will become a member in the largest global professional actuarial society serving all practice areas with almost 25,000 members in 78 countries. You will also have the opportunity to help grow and develop General Insurance actuarial practice across the world.

The SOA launched its sixth specialty track in General Insurance in 2012. Since then, we have built out the track components and now offer a full set of examinations and modules preparing candidates for professional actuarial careers in General Insurance. We have commissioned and published new textbooks, added new e-learning in the application of statistical techniques, and are beginning to offer new General Insurance professional development opportunities for members.

We are backing our General Insurance specialty track with the resources, strength, and heritage of the SOA. We are leaders in actuarial education and serve 35,000 candidates in 94 countries. The SOA has a professional staff of 130, including 30 who specialize in supporting our education system alone. Over 1,000 member volunteers support our education system, one of the broadest and most innovative such systems in the world. We provide continuous training for our education

**EXHIBIT A**

volunteers in question writing, exam grading, and trends in adult education. We offer a broad array of multi-disciplinary professional development opportunities.

As a member of the CAS, holding either the FCAS or the ACAS, you have an opportunity to add the comparable credential in the SOA (and exam credit if you hold an ACAS) under rules the SOA established in 2013. However, because we based this opportunity on a review of educational system equivalence at that time, we are only providing this opportunity until year-end 2015.

Over the past year, I have talked to many members of the CAS who see the benefits of SOA membership and have indicated their intention to apply before the year-end 2015 deadline. You might want to do the same.

Please consider completing the Fellow or Associate application form for SOA membership. If you have questions about this opportunity, please write to me at [mfreedman@soa.org](mailto:mfreedman@soa.org).

Sincerely,

Mark Freedman, FSA, MAAA  
President, Society of Actuaries

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Schaumburg, Illinois 60173 Phone: 847.706.3500 | Fax: 847.706.3599 | Web:  
[SOA.org](http://SOA.org) | E-mail: [soa@soa.org](mailto:soa@soa.org)  
[Forward to a Friend](#) [Click here to unsubscribe or to manage your email preferences.](#)

**B**



# CASUALTY ACTUARIAL SOCIETY

PRESS ROOM >

## CAS MEMBERSHIP DIRECTORY TO BE AVAILABLE TO THE PUBLIC

07/16/2014 —

The CAS online membership directory will be open to all visitors to the CAS website soon. While some member profile information will continue to be available only to logged-in registered users of the CAS website, CAS members' employment and contact information will no longer have restricted access (See table below). Members of the public searching for a casualty actuary will now be able to utilize the CAS website to fulfill their needs. Please take a few minutes today to review and update the information in your online CAS member profile.

Director/Information	Public Directory	Protected Directory
Full Name	x	x
Designation	x	x
Organization	x	x
Job Title	x	x
Address	x	x
Phone	x	x
Fax	x	x
Email	x	x
CE Requirement Compliance	x	x
Profile Picture		x
College and Degree Information		x
CAS Committee History		x
CAS Publications		x

## UPDATE YOUR MEMBER PROFILE

To review and update your member profile, log into the **CAS Online Community** or click **My Profile** on the top navigation of the CAS website. Follow these steps to make changes:

- Select the **Edit Profile** button
- On the profile management page, click **Edit** and then **update your contact information**
- To Save the updates to your profile click **Save**

EXHIBIT B

More specifically, to manage your contact information and control what is published in the directory, click **Edit** beside Contact Information on the profile management page. Update your contact information by clicking on the item that needs to be revised. Note that the items marked as "publishable" will be displayed in the online directory. Review and revise whether the information is published in the online directory, as necessary.

MY ADDRESSES | [ADD](#)

Work - 4350 N Fairfax Dr - Arlington, VA 22203 Primary: ✓ Publishable: ✓

## UPLOAD YOUR PROFILE PICTURE

Please also take the time to upload your profile picture! In **My Profile**, click on the **My Picture** button at the bottom of the right column to upload your own image. Please note that if you had a picture in the previous version of the online membership directory, it is no longer available because we were unable to transfer the pictures from the old system into the new system. Please take the opportunity today to upload a new picture. This will help you connect with colleagues virtually and in-person!

**New!** Members' degree and university information has recently been added to the online membership directory. This information may also be updated through the **profile management page**.

For more information about updating your profile, contact the Actuaries' Resource Center or call us at 703-276-3100 between 8:45 a.m. and 5:00 p.m. EDT Monday through Friday.

[Back to All News Articles](#)

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4350 N. Fairfax Drive, Suite 250, Arlington, VA 22203 | phone: (703) 276-3100 · fax: (703) 276-3108



Association Web Design and Development by Matrix Group International, Inc.

C



From: **Wayne Fisher** <[waynehowardfisher@gmail.com](mailto:waynehowardfisher@gmail.com)>

Date: Tue, Sep 23, 2014 at 10:52 AM

Subject: SOA Communications

To: Mark Freedman <[markfreed0501@gmail.com](mailto:markfreed0501@gmail.com)>, Errol Cramer <[errol.cramer@allstate.com](mailto:errol.cramer@allstate.com)>, Craig Reynolds <[craig.reynolds@milliman.com](mailto:craig.reynolds@milliman.com)>, Greg Heidrich <[gheidrich@soa.org](mailto:gheidrich@soa.org)>, [joan\\_c\\_barrett@uhc.com](mailto:joan_c_barrett@uhc.com), [BelIR@aetna.com](mailto:BelIR@aetna.com), [sblanck@aflac.com](mailto:sblanck@aflac.com), [jerry.brown@mutualofamerica.com](mailto:jerry.brown@mutualofamerica.com), [lbruning@naic.org](mailto:lbruning@naic.org), [jim.doherty@osfi-bsif.gc.ca](mailto:jim.doherty@osfi-bsif.gc.ca), Ian Duncan <[duncan@pstat.ucsb.edu](mailto:duncan@pstat.ucsb.edu)>, [anferris@deloitte.com](mailto:anferris@deloitte.com), [evan.inglis@terrygroup.com](mailto:evan.inglis@terrygroup.com), [jennifer\\_mcginnis@swissre.com](mailto:jennifer_mcginnis@swissre.com), [kory.olsen@pacificlife.com](mailto:kory.olsen@pacificlife.com), [susan.pantely@milliman.com](mailto:susan.pantely@milliman.com), [sue.sames@towerswatson.com](mailto:sue.sames@towerswatson.com), [sudha.shenoy@lewin.com](mailto:sudha.shenoy@lewin.com), [james.trimble@uconn.edu](mailto:james.trimble@uconn.edu), [genghui.wu@prudential.com](mailto:genghui.wu@prudential.com), [john.robinson@neric.org](mailto:john.robinson@neric.org)

Mark:

I am writing to confirm our conversation yesterday afternoon. As discussed, we formally request that you and the SOA cease any unsolicited, direct marketing communications with our members.

The use of our Directory to solicit our members was certainly unauthorized and not what we expect from the SOA as a peer, professional organization. You stated that any other organization, including the CAS, is restricted from using your data base from such a solicitation. So I was astonished that our assumption of mutual trust was obviously naïve. We now need to remedy that over confidence.

I expect that our members will be thoroughly annoyed about this hacking of our membership data and hence the need for increased security measures for our contact data. This reflects poorly on the profession. I don't believe that this will reflect favorably at all on the SOA either; quite the opposite. And this action may well be a violation of Precept 1 of the Code of Professional Conduct.

I mentioned that if you or the SOA had something of potential interest for our members, a CE opportunity for example, all you need to do is ask permission. You then said "we knew you wouldn't approve our sending our solicitation". That's remarkable; knowing we wouldn't approve, the SOA used our data base and sent the solicitation anyway. Quite frankly, that's a professional betrayal that's hard to comprehend.

Wayne

EXHIBIT C

**D**

# Code of Professional Conduct

**E**FFECTIVE JANUARY 1, 2001, the five U.S.-based actuarial organizations adopted this Code of Professional Conduct. It was adopted by the Board of Directors of the American Academy of Actuaries on September 28, 2000, and applies to all members.

The Code of Professional Conduct sets forth what it means for an actuary to act as a professional. It identifies the responsibilities that actuaries have to the public, to their clients and employers, and to the actuarial profession.

The Board of the American Academy of Actuaries thanks the Joint Committee on the Code of Professional Conduct for their hard work and perseverance in drafting the Code and obtaining the approval of all five organizations' boards.

## Code of Professional Conduct

The purpose of this Code of Professional Conduct ("Code") is to require Actuaries to adhere to the high standards of conduct, practice, and qualifications of the actuarial profession, thereby supporting the actuarial profession in fulfilling its responsibility to the public. An Actuary shall comply with the Code. An Actuary who commits a material violation of the provisions of the Code shall be subject to the profession's counseling and discipline procedures.

The Precepts of the Code identify the professional and ethical standards with which an Actuary must comply in order to fulfill the Actuary's responsibility to the public and to the actuarial profession. The Annotations provide additional explanatory, educational, and advisory material on how the Precepts are to be interpreted and applied.

In addition to this Code, an Actuary is subject to applicable rules of professional conduct or ethical standards that have been promulgated by a Recognized Actuarial Organization for the jurisdictions in which the Actuary renders Actuarial Services. Actuarial Services are considered to be rendered in the jurisdictions in which the Actuary intends them to be used unless speci-

fied otherwise by an agreement between a Recognized Actuarial Organization for any such jurisdiction and the organizations that have adopted the Code.

Laws may also impose obligations upon an Actuary. Where requirements of Law conflict with the Code, the requirements of Law shall take precedence.

An Actuary must be familiar with, and keep current with, not only the Code, but also applicable Law and rules of professional conduct for the jurisdictions in which the Actuary renders Actuarial Services. An Actuary is responsible for securing translations of such Laws or rules of conduct as may be necessary.

## DEFINITIONS

As used throughout the Code, the following terms are capitalized and have the meanings indicated:

- **Actuarial Communication:** A written, electronic, or oral communication issued by an Actuary with respect to Actuarial Services.
- **Actuarial Services:** Professional services provided to a Principal by an individual acting in the capacity of an actuary. Such services include the rendering of advice, recommendations, findings, or opinions based upon actuarial considerations.
- **Actuary:** An individual who has been admitted to a class of membership to which the Code applies by action of any organization having adopted the Code. When the term "actuary" is used without being capitalized, it refers to any individual practicing as an actuary, regardless of organizational membership or classification.
- **Confidential Information:** Information not in the public domain of which an Actuary becomes aware as a result of providing Actuarial Services to a Principal. It includes information of a proprietary nature and information that is legally restricted from circulation.
- **Law:** Statutes, regulations, judicial decisions, and other statements having legally binding authority.
- **Principal:** A client or employer of the Actuary.
- **Recognized Actuarial Organization:** An organization that has been accepted for full membership in the International Actuarial Association or a standards-set-

ting, counseling, or discipline body to which authority has been delegated by such an organization.

## Professional Integrity

**PRECEPT 1:** An Actuary shall act honestly, with integrity and competence, and in a manner to fulfill the profession's responsibility to the public and to uphold the reputation of the actuarial profession.

**ANNOTATION 1-1.** An Actuary shall perform Actuarial Services with skill and care.

**ANNOTATION 1-2.** An Actuary shall not provide Actuarial Services for any Principal if the Actuary has reason to believe that such services may be used to violate or evade the Law or in a manner that would be detrimental to the reputation of the actuarial profession.

**ANNOTATION 1-3.** An Actuary shall not use a relationship with a third party or with a present or prospective Principal to attempt to obtain illegal or materially improper treatment from one such party on behalf of the other party.

**ANNOTATION 1-4.** An Actuary shall not engage in any professional conduct involving dishonesty, fraud, deceit, or misrepresentation or commit any act that reflects adversely on the actuarial profession.

## Qualification Standards

**PRECEPT 2:** An Actuary shall perform Actuarial Services only when the Actuary is qualified to do so on the basis of basic and continuing education and experience, and only when the Actuary satisfies applicable qualification standards.

**ANNOTATION 2-1.** It is the professional responsibility of an Actuary to observe applicable qualification standards that have been promulgated by a Recognized Actuarial Organization for the jurisdictions in which the Actuary renders Actuarial Services and to keep current regarding changes in these standards.

**ANNOTATION 2-2.** The absence of applicable qualification standards for a particular type of assignment or for the jurisdictions in which an Actuary renders Actuarial Services does not relieve the Actuary of the responsibility to perform such Actuarial Services only when qualified to do so in accordance with this Precept.

## Standards of Practice

**PRECEPT 3:** An Actuary shall ensure that Actuarial Services performed by or under the direction of the Actuary satisfy applicable standards of practice.

**ANNOTATION 3-1.** It is the professional responsibility of an Actuary to observe applicable standards of practice that have been promulgated by a Recognized Actuarial Organization for the jurisdictions in which the Actuary renders Actuarial Services, and to keep current regarding changes in these standards.

**ANNOTATION 3-2.** Where a question arises with regard to the applicability of a standard of practice, or where no applicable standard exists, an Actuary shall utilize professional judgment, taking into account generally accepted actuarial principles and practices.

**ANNOTATION 3-3.** When an Actuary uses procedures that depart materially from those set forth in an applicable standard of practice, the Actuary must be prepared to justify the use of such procedures.

## Communications and Disclosure

**PRECEPT 4:** An Actuary who issues an Actuarial Communication shall take appropriate steps to ensure that the Actuarial Communication is clear and appropriate to the circumstances and its intended audience, and satisfies applicable standards of practice.

**ANNOTATION 4-1.** An Actuary who issues an Actuarial Communication shall ensure that the Actuarial Communication clearly identifies the Actuary as being responsible for it.

**ANNOTATION 4-2.** An Actuary who issues an Actuarial Communication should indicate the extent to which the Actuary or other sources are available to provide supplementary information and explanation.

**PRECEPT 5:** An Actuary who issues an Actuarial Communication shall, as appropriate, identify the Principal(s) for whom the Actuarial Communication is issued and describe the capacity in which the Actuary serves.

**PRECEPT 6:** An Actuary shall make appropriate and timely disclosure to a present or prospective Principal of the sources of all direct and indirect material compensation that the Actuary or the Actuary's firm has re-

ceived, or may receive, from another party in relation to an assignment for which the Actuary has provided, or will provide, Actuarial Services for that Principal. The disclosure of sources of material compensation that the Actuary's firm has received, or may receive, is limited to those sources known to, or reasonably ascertainable by, the Actuary.

**ANNOTATION 6-1.** An Actuary who is not financially and organizationally independent concerning any matter related to the performance of Actuarial Services should disclose to the Principal any pertinent relationship that is not apparent.

**ANNOTATION 6-2.** An Actuary employed by a firm that operates in multiple locations is subject to the requirement of disclosure of sources of compensation that the Actuary's firm may receive in relation to Actuarial Services with respect to a specific assignment for that Principal, regardless of the location in which such compensation is received.

## Conflict of Interest

**PRECEPT 7.** An Actuary shall not knowingly perform Actuarial Services involving an actual or potential conflict of interest unless:

- A** the Actuary's ability to act fairly is unimpaired;
- B** there has been disclosure of the conflict to all present and known prospective Principals whose interests would be affected by the conflict; and
- C** all such Principals have expressly agreed to the performance of the Actuarial Services by the Actuary.

## Control of Work Product

**PRECEPT 8.** An Actuary who performs Actuarial Services shall take reasonable steps to ensure that such services are not used to mislead other parties.

**ANNOTATION 8-1.** An Actuarial Communication prepared by an Actuary may be used by another party in a way that may influence the actions of a third party. The Actuary should recognize the risks of misquotation, misinterpretation, or other misuse of the Actuarial Communication and should therefore take reasonable steps to present the Actuarial Communication clearly and fairly and to include, as appropriate, limitations on the distribution and utilization of the Actuarial Communication.

## Confidentiality

**PRECEPT 9.** An Actuary shall not disclose to another party any Confidential Information unless authorized to do so by the Principal or required to do so by Law.

## Courtesy and Cooperation

**PRECEPT 10.** An Actuary shall perform Actuarial Services with courtesy and professional respect and shall cooperate with others in the Principal's interest.

**ANNOTATION 10-1.** Differences of opinion among actuaries may arise, particularly in choices of assumptions and methods. Discussions of such differences between an Actuary and another actuary, or in observations made by an Actuary to a Principal on the work of another actuary, should be conducted objectively and with courtesy and respect.

**ANNOTATION 10-2.** A Principal has an indisputable right to choose a professional advisor. An Actuary may provide service to any Principal who requests it, even though such Principal is being or has been served by another actuary in the same matter.

**ANNOTATION 10-3.** An Actuary in the course of an engagement or employment may encounter a situation such that the best interest of the Principal would be served by the Actuary's setting out an alternative opinion to one expressed by another actuary, together with an explanation of the factors that lend support to the alternative opinion. Nothing in the Code should be construed as preventing the Actuary from expressing such an alternative opinion to the Principal.

**ANNOTATION 10-4.** An Actuary may be requested to advise a Principal for whom the Actuary knows or has reasonable grounds to believe that another actuary has provided, or is providing, Actuarial Services with respect to the same matter. In such event, the Actuary may choose to consult with such other actuary both to prepare adequately for the assignment and to make an informed judgment as to whether there are circumstances involving a potential violation of the Code that might affect acceptance of the assignment. The Actuary should request the Principal's consent prior to such consultation.

**ANNOTATION 10-5.** When a Principal has given consent for a new or additional actuary to consult

with an Actuary with respect to a matter for which the Actuary is providing or has provided Actuarial Services, the Actuary shall cooperate in furnishing relevant information, subject to receiving reasonable compensation for the work required to assemble and transmit pertinent data and documents. The Actuary shall not refuse to consult or cooperate with the prospective new or additional actuary based upon unresolved compensation issues with the Principal unless such refusal is in accordance with a pre-existing agreement with the Principal. The Actuary need not provide any items of a proprietary nature, such as internal communications or computer programs.

## Advertising

**PRECEPT 11:** An Actuary shall not engage in any advertising or business solicitation activities with respect to Actuarial Services that the Actuary knows or should know are false or misleading.

**ANNOTATION 11-1.** Advertising and business solicitation activities encompass all communications by whatever medium, including oral communications, that may directly or indirectly influence any person or organization in deciding whether there is a need for Actuarial Services or in selecting a specific Actuary or firm to perform Actuarial Services.

## Titles and Designations

**PRECEPT 12:** An Actuary shall make use of membership titles and designations of a Recognized Actuarial Organization only in a manner that conforms to the practices authorized by that organization.

**ANNOTATION 12-1.** “Title” refers to any title conferred by a Recognized Actuarial Organization re-

lated to a specific position within that organization. “Designation” refers to a specific reference to membership status within such organization.

## Violations of the Code of Professional Conduct

**PRECEPT 13:** An Actuary with knowledge of an apparent, unresolved, material violation of the Code by another Actuary should consider discussing the situation with the other Actuary and attempt to resolve the apparent violation. If such discussion is not attempted or is not successful, the Actuary shall disclose such violation to the appropriate counseling and discipline body of the profession, except where the disclosure would be contrary to Law or would divulge Confidential Information.

**ANNOTATION 13-1.** A violation of the Code is deemed to be material if it is important or affects the outcome of a situation, as opposed to a violation that is trivial, does not affect an outcome, or is one merely of form.

**ANNOTATION 13-2.** An Actuary is not expected to discuss an apparent, unresolved material violation of the Code with the other Actuary if either Actuary is prohibited by Law from doing so or is acting in an adversarial environment involving the other Actuary.

**PRECEPT 14:** An Actuary shall respond promptly, truthfully, and fully to any request for information by, and cooperate fully with, an appropriate counseling and disciplinary body of the profession in connection with any disciplinary, counseling, or other proceeding of such body relating to the Code. The Actuary’s responsibility to respond shall be subject to applicable restrictions on Confidential Information and those imposed by Law.

**E**



**AMERICAN ACADEMY of ACTUARIES**

*Objective. Independent. Effective.™*

September 26, 2014

Robert J. Rietz  
Chair, Actuarial Board for Counseling and Discipline  
Via email to Brian Jackson  
Counsel for the Actuarial Board for Counseling and Discipline  
1850 M Street NW, Suite 300  
Washington, DC 20036

Dear Mr. Rietz,

Regretfully, we the undersigned are filing a complaint against Mark J. Freedman, FSA, MAAA.

Relevant to this complaint is Mr. Freedman's role in the profession. He is president of the Society of Actuaries (SOA).

On Wednesday, September 17, 2014 Mr. Freedman, in his capacity as SOA president and attaching to his signature the designations "FSA, MAAA", sent a blast email (attached) to members of the Casualty Actuarial Society (CAS). This email was a commercial solicitation for CAS members to join the SOA. In this solicitation, Mr. Freedman made false and misleading claims. In particular, he said:

"By becoming a member of the SOA, you will gain the career flexibility that SOA membership provides – ease of movement from one area of practice to another without replacing credentials."

This is false and misleading. One never has to change or replace credentials to change practice areas. The U.S. Qualification Standards are clear on this (see Sections 2 and 4).

To be specific, regardless of the basic education pathway followed or the credential held (e.g., FCAS or FSA), one must follow the same process spelled out in the Qualification Standards when switching from one practice area to another. Again, the credential is irrelevant to that process. To suggest in a professional communication that practice area movement is easier if a CAS member joins the SOA is incorrect, not to mention self-serving to the SOA.

This communication is all the more troublesome given that the SOA has from time to time held webinars for its members on the U.S. Qualification Standards, thereby holding itself out as an organization having special understanding or expertise about those requirements. So, when the SOA president makes a targeted statement on this precise topic, and where the misstatement itself is a prominent selling point in support of the commercial solicitation to join the SOA, it is intended that the statement be relied upon to help achieve the SOA's commercial goals. This was not a casual slip of the tongue. This was an intentional ruse to entice actuaries to take a significant professional step at a considerable financial cost under utterly false pretenses.

At its meeting earlier this week, the American Academy of Actuaries' Council on Professionalism discussed Mr. Freedman's blast email. There was general consensus at the Council that his statement was

EXHIBIT E



false and misleading. Vice President and Council chair (Karen Terry) and Academy president (Tom Terry) agreed to speak with Mr. Freedman directly in an attempt to resolve the matter in accordance with Precept 13 of the Code of Conduct.

Karen Terry and Tom Terry subsequently called Mr. Freedman the afternoon after the Council meeting ended. Mr. Freedman acknowledged and understood the concern we have about the solicitation language. He indicated he knew "where we were coming from" and that the U.S. Qualification Standards lay out the process to become qualified to conduct work in a different practice area. Despite knowing this, he dismissed our concern. He did so because he said *the public would think the SOA credential would make it easier for an actuary to change practice areas*. Mr. Freedman indicated he did not intend to take any steps to correct this misrepresentation made in the blast email he authored as the president of the SOA.

Considering Mr. Freedman's blast email and the explanations and responses to our questions when we spoke with him, we believe Mr. Freedman has materially violated Precepts 1, 4 and 11 of the Code of Professional Conduct.

#### **Precept 1 Violation**

"Annotation 1.4: An Actuary shall not engage in any professional conduct involving dishonesty, fraud, deceit, or misrepresentation or commit any act that reflects adversely on the actuarial profession."

We believe Mr. Freedman knowingly misrepresented in a material way – to literally thousands of U.S. actuaries – what it takes to change practice areas. He deliberately used his position as a highly visible leader of a prominent actuarial association to deceive these thousands of U.S. actuaries. The potential adverse impact on the profession is enormous, as the numbers indicate. And yet, even if only a single actuary is so deceived, the impact on the actuarial profession and the potential impact on the public is significant and, we believe, unacceptable.

This intentional misrepresentation by Mr. Freedman hugely undermines the concerted efforts of the Committee on Qualifications and the Academy who are committed to this enormous education challenge. It is reprehensible that Mr. Freedman's intentional misstatement is a centerpiece of a value proposition carefully crafted to persuade CAS members to join the SOA.

In summary, Mr. Freedman materially violated Precept 1 of the Code of Conduct by using his position as a prominent professional to knowingly deceive thousands of U.S. actuaries about the advantages of joining his organization as it relates to changing practice areas. He sought to portray a professional advantage the SOA credentials would bring, one that he knew does not exist. Damage to the profession and potentially to the public is significant if any actuary relies on this apparently authoritative, but knowingly false and misleading sales pitch from Mr. Freedman.

#### **Precept 4 Violation**

"Precept 4: An Actuary who issues an Actuarial Communication shall take appropriate steps to ensure that the Actuarial Communication is clear and appropriate to the circumstances and its intended audience, and satisfies applicable standards of practice."

We believe Mr. Freedman materially violated Precept 4. Mr. Freedman's message to thousands of CAS members addressed the potential need for property and casualty actuaries to change practice areas in the future. He cited reasons for that potential need. He then asserted that by joining the SOA, CAS members would have "ease of movement from one area of practice to another without replacing credentials." Mr. Freedman's clear and misleading implication is that a CAS member might ordinarily have to go through a process of replacing credentials in order to move to a new practice area. And, further, by taking this limited time offer to join the SOA, replacing credentials could be avoided.

This message is anything but clear and certainly not appropriate. Given Mr. Freedman's apparent authority in matters related to moving to a new practice area, he intended reliance on his statement. Yet, by his own admission in the conversation with Karen Terry and Tom Terry, he *intentionally* left out of his message any mention of the Qualifications Standards, which he admitted he knew were highly and solely relevant to the matter of changing practice areas for U.S. actuaries.

Mr. Freedman did not make this statement casually. He also admitted to Karen Terry and Tom Terry that he ran this language by the SOA's in-house legal counsel, Mr. Richard Veys, who with his own deep understanding and apparent back-up authority in actuarial professionalism matters agreed that it was acceptable to make these claims and presumably remain silent with respect to the U.S. Qualifications Standards. We do not believe Mr. Freedman's checking with Mr. Veys in any way "lets him off the hook" with respect to his professional duty. We presume that Mr. Veys was also fully aware of the deception. However, Mr. Veys is not an actuary and so is not part of this complaint. Nor do we believe Mr. Freedman can claim that by reliance on counsel's opinion his statements are protected or correct.

Mr. Freedman asserted to Karen Terry and Tom Terry that despite the fact that he glossed over and in fact fully ignored the Qualifications Standards requirement in his blast email, he was more focused on conveying the message that the *public perception* would be that an SOA credential would more easily indicate qualification in a new practice area. On the face of it, the implied deception that Mr. Freedman presupposes by indicating that the public can in this way be duped is unconscionable. Further, Karen Terry and Tom Terry pointed out to him that the audience for his blast email was not the public. It was actuaries. So, even though he set the stage for why his sales pitch would play with the public, he violated Precept 4 by failing to fully appreciate the responsibility he had to communicate clearly and accurately to his actuarial audience.

#### Precept 11 Violation

"Precept 11: An Actuary shall not engage in any advertising or business solicitation activities with respect to Actuarial Services that the Actuary knows or should know are false or misleading.

Annotation 11-1: Advertising and business solicitation activities encompass all communications by whatever medium, including oral communications, that may directly or indirectly influence any person or organization in deciding whether there is a need for Actuarial Services or in selecting a specific Actuary or firm to perform Actuarial Services."

The SOA is an enormous provider of Actuarial Services to actuaries. For tens of thousands of U.S. actuaries and actuarial students, they are a primary source of actuarial education, training, actuarial research, and actuarial credentials.

**Actuarial Services:** Professional services provided to a Principal by an individual acting in the capacity of an actuary. Such services include the rendering of advice, recommendations, findings, or opinions based upon actuarial considerations.

By awarding credentials to an actuary, *the SOA is effectively rendering an opinion* that the actuary is well trained in basic actuarial education topics. Thus, actuaries are clients (Principals) or, in the case of the CAS members solicited by Mr. Freedman, prospective clients (Principals) of the SOA.

We believe Mr. Freedman's blast email materially violated Precept 11, and annotation 11-1. His blast email was a direct business solicitation intended to influence CAS members to join the SOA. Further, as we have stated above, Mr. Freedman's solicitation included information related to the Actuarial Services provided by the SOA – in this case, the awarding of a new professional credential – that he knew was false and misleading.

\*\*\*\*\*

This is a matter that vitally affects the interests of the U.S. actuarial profession and ultimately the public at large. Mr. Freedman sent a marketing email on behalf of the SOA exclusively to CAS members that, to further the SOA's business interests, misrepresented the CAS credential as having limitations different from the SOA's own basic education credential, clearly implying that the SOA credential provides a different and easier way for an actuary to change practice areas.. Mr. Freedman intentionally presented a trumped-up value proposition for the SOA credential while at the same time falsely denigrating the value of the CAS credential and materially misstating the path to qualification in a new area of practice.

The actuarial profession is damaged by Mr. Freedman's misrepresentations that assert that the SOA credential is an easier route to a new practice area. These false statements must now be corrected. This will not be easy. We understand that Mr. Freedman has indicated that the SOA has an entire marketing plan designed around this approach to convincing CAS members that they should acquire an SOA credential while they can.

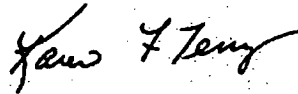
We have no indication that Mr. Freedman will stop misleading the U.S. profession or the public. Thus, independent of this complaint, we are compelled to pursue public corrective actions in order to provide an accurate portrayal of these important practice qualification matters and to correct the misinformation that has been widely disseminated by Mr. Freedman.

We look forward to your prompt investigation and resolution of this complaint.

Sincerely,



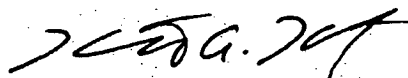
Thomas S. Terry, MAAA, FSA, FCA, EA  
President  
American Academy of Actuaries



Karen F. Terry, MAAA, FCAS  
Vice President and Chair  
Council on Professionalism  
American Academy of Actuaries



Mary D. Miller, MAAA, FCAS  
President-elect  
American Academy of Actuaries



Kenneth A. Kent, MAAA, FSA, FCA, EA  
Incoming Vice President and Chair  
Council on Professionalism  
American Academy of Actuaries

Attachment: September 17, 2014 Freedman email to CAS members

cc: Mr. Mark J. Freedman

From: Mark Freedman <[mfreedman@soa.org](mailto:mfreedman@soa.org)>  
Date: Wed, Sep 17, 2014 at 8:03 AM  
Subject: An Invitation from the Society of Actuaries  
To:

For the Online Web Version or on a Mobile Device, [click here](#)

The Society of Actuaries (SOA) is accepting applications from Property/Casualty (or General Insurance) actuaries who hold the FCAS or ACAS designations to become SOA members. I am reaching out to you because I believe becoming a Fellow or Associate in the SOA will benefit you professionally.

In developing nations all over the world, populations are rapidly moving to urban areas, resulting in an expanding middle class. These economic and demographic trends are driving growth in General Insurance and, with it, the demand for additional qualified General Insurance actuaries. The SOA is well positioned to provide the education and examination capabilities necessary to build the actuarial profession globally in General Insurance.

By becoming a member of the SOA, you will gain the career flexibility that SOA membership provides – ease of movement from one area of practice to another without replacing credentials. While the demand for actuaries trained in General Insurance is currently high, there is no telling what the future holds. The SOA is committed to continuously enhancing the value of its credentials. One way of doing this is to offer all specialties of actuarial science globally. This gives SOA members the flexibility they may need throughout their career.

By joining, you will become a member in the largest global professional actuarial society serving all practice areas with almost 25,000 members in 78 countries. You will also have the opportunity to help grow and develop General Insurance actuarial practice across the world.

The SOA launched its sixth specialty track in General Insurance in 2012. Since then, we have built out the track components and now offer a full set of examinations and modules preparing candidates for professional actuarial careers in General Insurance. We have commissioned and published new textbooks, added new e-learning in the application of statistical techniques, and are beginning to offer new General Insurance professional development opportunities for members.

We are backing our General Insurance specialty track with the resources, strength, and heritage of the SOA. We are leaders in actuarial education and serve 35,000 candidates in 94 countries. The SOA has a professional staff of 130, including 30 who specialize in supporting our education system alone. Over 1,000 member volunteers support our education system, one of the broadest and most innovative such systems in the world. We provide continuous training for our education volunteers in question writing, exam grading, and trends in adult

education. We offer a broad array of multi-disciplinary professional development opportunities.

As a member of the CAS, holding either the FCAS or the ACAS, you have an opportunity to add the comparable credential in the SOA (and exam credit if you hold an ACAS) under rules the SOA established in 2013. However, because we based this opportunity on a review of educational system equivalence at that time, we are only providing this opportunity until year-end 2015.

Over the past year, I have talked to many members of the CAS who see the benefits of SOA membership and have indicated their intention to apply before the year-end 2015 deadline. You might want to do the same.

Please consider completing the Fellow or Associate application form for SOA membership. If you have questions about this opportunity, please write to me at [mfreedman@soa.org](mailto:mfreedman@soa.org).

Sincerely,

Mark Freedman, FSA, MAAA

President, Society of Actuaries

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475 N. Martingale Road, Suite 600, Schaumburg, Illinois 60173

Phone: [847.706.3500](tel:847.706.3500) | Fax: [847.706.3599](tel:847.706.3599) | Web: [SOA.org](http://SOA.org) | E-mail: [soa@soa.org](mailto:soa@soa.org)

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[Click here](#) to unsubscribe or to manage your email preferences.

**F**

From: **Tom Terry** <[tom.terry@terrygroup.com](mailto:tom.terry@terrygroup.com)>

Date: Sat, Sep 27, 2014 at 7:34 PM

Subject: September 17, 2014 email to CAS members from the SOA

To: "[anferris@deloitte.com](mailto:anferris@deloitte.com)" <[anferris@deloitte.com](mailto:anferris@deloitte.com)>, "[brad.smith@milliman.com](mailto:brad.smith@milliman.com)" <[brad.smith@milliman.com](mailto:brad.smith@milliman.com)>, "[ian.genno@osfi-bsif.gc.ca](mailto:ian.genno@osfi-bsif.gc.ca)" <[ian.genno@osfi-bsif.gc.ca](mailto:ian.genno@osfi-bsif.gc.ca)>, "[craig.reynolds@milliman.com](mailto:craig.reynolds@milliman.com)" <[craig.reynolds@milliman.com](mailto:craig.reynolds@milliman.com)>, "[dawagner@deloitte.com](mailto:dawagner@deloitte.com)" <[dawagner@deloitte.com](mailto:dawagner@deloitte.com)>, "[errol.cramer@allstate.com](mailto:errol.cramer@allstate.com)" <[errol.cramer@allstate.com](mailto:errol.cramer@allstate.com)>, "[Genghui.Wu@Prudential.com](mailto:Genghui.Wu@Prudential.com)" <[Genghui.Wu@prudential.com](mailto:Genghui.Wu@prudential.com)>, "[duncan@pstat.ucsb.edu](mailto:duncan@pstat.ucsb.edu)" <[duncan@pstat.ucsb.edu](mailto:duncan@pstat.ucsb.edu)>, "[James.Trimble@uconn.edu](mailto:James.Trimble@uconn.edu)" <[James.Trimble@uconn.edu](mailto:James.Trimble@uconn.edu)>, "[jennifer\\_gillespie@bluecrossmn.com](mailto:jennifer_gillespie@bluecrossmn.com)" <[jennifer\\_gillespie@bluecrossmn.com](mailto:jennifer_gillespie@bluecrossmn.com)>, "[jennifer\\_mcginnis@swissre.com](mailto:jennifer_mcginnis@swissre.com)" <[jennifer\\_mcginnis@swissre.com](mailto:jennifer_mcginnis@swissre.com)>, "[jerry.brown@mutualofamerica.com](mailto:jerry.brown@mutualofamerica.com)" <[jerry.brown@mutualofamerica.com](mailto:jerry.brown@mutualofamerica.com)>, "[jim.doherty@osfi-bsif.gc.ca](mailto:jim.doherty@osfi-bsif.gc.ca)" <[jim.doherty@osfi-bsif.gc.ca](mailto:jim.doherty@osfi-bsif.gc.ca)>, "[Joan C Barrett@uhc.com](mailto:Joan_C_Barrett@uhc.com)" <[Joan C Barrett@uhc.com](mailto:Joan_C_Barrett@uhc.com)>, "[john.nigh@genworth.com](mailto:john.nigh@genworth.com)" <[john.nigh@genworth.com](mailto:john.nigh@genworth.com)>, "[John.Robinson@neric.org](mailto:John.Robinson@neric.org)" <[John.Robinson@neric.org](mailto:John.Robinson@neric.org)>, "[Kory.Olsen@PacificLife.com](mailto:Kory.Olsen@PacificLife.com)" <[Kory.Olsen@pacificlife.com](mailto:Kory.Olsen@pacificlife.com)>, "[lbruning@naic.org](mailto:lbruning@naic.org)" <[lbruning@naic.org](mailto:lbruning@naic.org)>, "[Markfreed0501@gmail.com](mailto:Markfreed0501@gmail.com)" <[Markfreed0501@gmail.com](mailto:Markfreed0501@gmail.com)>, Evan Inglis <[evan.inglis@terrygroup.com](mailto:evan.inglis@terrygroup.com)>, "[Herg411@gmail.com](mailto:Herg411@gmail.com)" <[Herg411@gmail.com](mailto:Herg411@gmail.com)>, "[BellR@aetna.com](mailto:BellR@aetna.com)" <[BellR@aetna.com](mailto:BellR@aetna.com)>, "[sudha.shenoy@lewin.com](mailto:sudha.shenoy@lewin.com)" <[sudha.shenoy@lewin.com](mailto:sudha.shenoy@lewin.com)>, "[sblanck@aflac.com](mailto:sblanck@aflac.com)" <[sblanck@aflac.com](mailto:sblanck@aflac.com)>, "[susan.pantely@milliman.com](mailto:susan.pantely@milliman.com)" <[susan.pantely@milliman.com](mailto:susan.pantely@milliman.com)>, "[sue.sames@towerswatson.com](mailto:sue.sames@towerswatson.com)" <[sue.sames@towerswatson.com](mailto:sue.sames@towerswatson.com)>, "[tbmanning@me.com](mailto:tbmanning@me.com)" <[tbmanning@me.com](mailto:tbmanning@me.com)>, "[vbpaganelli@comcast.net](mailto:vbpaganelli@comcast.net)" <[vbpaganelli@comcast.net](mailto:vbpaganelli@comcast.net)>

To members of the SOA board: This is a copy of a message I sent earlier today to the full American Academy of Actuaries' Board of Directors.

\*\*\*\*\*

The attached email from the SOA to members of the CAS is disgraceful.

This email is a deliberate and self-serving misrepresentation of what it takes for a US actuary to move from one practice area to another. This misrepresentation undermines the work of the Academy and undercuts the interests of the entire US profession in promoting strong Qualification Standards.

Mark's email is an affront to all U.S. Actuaries who care about professionalism and who care about the integrity of the US profession. By misrepresenting the process as he does, Mark is signaling that the SOA values commercial ambitions over professional integrity.

The Academy and its professionalism arms work tirelessly on behalf of all US actuaries and the public at large. The Qualification Standards are central to these efforts and to preserving our profession's self-regulation in the US as well as our professional standing with the public and the regulatory community.

This past week, an ABCD complaint was filed against Mark. I won't be sharing it with you. Please ask Mark if you wish to see it.

**Thomas S. Terry**

Cell: 312-543-5206

[tom.terry@terrygroup.com](mailto:tom.terry@terrygroup.com)

EXHIBIT F

**G**



October 1, 2014

Robert J. Rietz  
Chair, Actuarial Board for Counseling and Discipline (ABCD)  
1611 Wolf Pen Road  
Old Fort, NC 28762

Dear Mr. Rietz,

I am writing to file a complaint with the ABCD against Mark J. Freedman, FSA, MAAA, in his capacity as President of the Society of Actuaries (SOA).

On Wednesday, September 17, 2014 Mr. Freedman sent a blast email (attached below) to many members of the Casualty Actuarial Society (CAS). This email was a commercial solicitation, marketing for membership in the SOA. Neither Mr. Freedman nor the SOA had authorization from the CAS to directly solicit CAS members for SOA membership, or to use our online membership directory (directory) for such a purpose.

I believe Mr. Freedman's solicitation is a violation of Precept 1 of the Code of Professional Conduct (Code): "**An Actuary shall act honestly, with integrity** and competence, and in a manner to fulfill the profession's responsibility to the public and to uphold the reputation of the actuarial profession."

Mr. Freedman's solicitation is also a violation of Annotation 1-4: "**An Actuary shall not** engage in any professional conduct involving dishonesty, fraud, deceit, or misrepresentation or **commit any act that reflects adversely on the actuarial profession**".

EXHIBIT G

The following facts support this complaint:

- 1) **Mr. Freedman knew that use of the CAS directory to solicit CAS members to join the SOA was unethical and unprofessional.** When I spoke to him to formally request that he and the SOA cease their direct commercial solicitation of CAS members, I challenged their use of the Actuarial Directory, which the various actuarial organizations provide membership information to and the SOA manages. At the time of the conversation, I incorrectly assumed the SOA had used the Actuarial Directory to obtain the email addresses of CAS members.

Mr. Freedman told me the SOA didn't use the Actuarial Directory, explaining that it has restrictions on how it can be used for commercial and non-commercial purposes. Instead, he said they used the CAS directory, as it had no restrictions. This is incorrect; had he asked about authorized use of the directory, I would have informed him that use of the directory to build a marketing list for the commercial solicitation of CAS members was not an authorized use.

Mr. Freedman's and the SOA's actions ignore the fact that the CAS directory is obviously proprietary and privacy considerations are commonly understood in "common law." Hence, while Mr. Freedman acknowledged that use of data obtained from the SOA-maintained Actuarial Directory wasn't permissible, he and the SOA apparently felt no need to apply the same standards to essentially the same data set nor did they have any compunction about using the CAS directory for unauthorized purposes.

- 2) **Mr. Freedman and the SOA acted with deception.** In checking with the CAS IT staff and the CAS website vendor to ascertain how our membership data was obtained by the SOA, we

discovered that our directory had recently been accessed 8,428 times from a single IP address. A reverse lookup shows that IP address to be owned by the SOA. This is important because the structure of the search results returned through the CAS directory does not allow for a mass compilation of member data. A user has to click on an individual member's name to access that individual's contact data. This structure is clearly intended to discourage and dissuade any reasonable party for using the directory for a mass marketing campaign. The effort required to obtain individual email addresses and build a marketing list on a one-by-one basis, either manually or through the application of a computer programming script, indicates "persistent and deliberate" activity on the part of the SOA, according to our IT provider.

Mr. Freedman and the SOA clearly knew the CAS wouldn't authorize them to directly solicit CAS members for the purpose of marketing SOA membership, so they went about gathering our member contact data surreptitiously, over-coming a barrier clearly intended to deter the building of a marketing list. This was not an honest and above board marketing measure. I believe it could be considered tortious interference and it certainly reflects bad judgment and deceptive actions.

Mr. Freedman and the SOA may well have had its lawyers opine that accessing the CAS directory in this manner didn't cross the line into illegality. However, I believe this action can be reasonably interpreted as unprofessional and unethical and therefore violates the Code. As president of the largest actuarial organization in the United States, Mr. Freedman should be promoting exemplary professionalism, not the questionable professionalism that obtaining the CAS directory data and his e-mail have demonstrated.

The CAS is investigating its legal rights with regard to this action by Mr. Freedman and the SOA, and what I view as possible

tortious interference with the CAS's relationship with our members. At the present time, no legal action or proceeding has been initiated by the CAS. This complaint to the ABCD is independent of any legal measures the CAS may pursue. The ABCD will be notified if the CAS pursues any legal measures concerning this matter.

When I challenged Mr. Freedman on directly soliciting CAS members, I told him that if the information the SOA wanted to send to our members was of value to CAS members, a continuing education offering for example, the CAS would either authorize them to send it or send it for them. Mr. Freedman told me "we knew you wouldn't approve our sending our marketing material." With that knowledge, the SOA nonetheless accessed our online membership directory 8,428 times, and sent Mr. Freedman's solicitation e-mail anyway.

**3) Mr. Freedman's acts reflect adversely on the actuarial profession.** When CAS members received Mr. Freedman's blast marketing e-mail, the CAS received many e-mails and calls questioning why they had received this solicitation, asking whether the CAS had authorized it, whether it was accurate, what CAS membership information was taken, what personal information might have been taken, how such a large volume of data could have been taken, and so forth. The CAS was forced into a position where we had to inform our members that the communication was unauthorized and that the solicitation was conducted solely by a peer professional actuarial organization acting in its own interests. This certainly reflects very poorly on the actuarial profession.

I spoke to Mr. Freedman and told him the CAS didn't want any further marketing communications sent to CAS members. He wouldn't agree to cease their solicitations, saying: "...well, our marketing people have plans to continue...". This puts the CAS in a position where we must alert our members to be on the lookout

for further SOA solicitations that the CAS will need to rebut. This clearly reflects adversely on the profession. To date, neither Mr. Freedman nor the SOA have made an apology for unprofessionally accessing our data and there has been no agreement to cease sending these unsolicited marketing e-mails to CAS members.

Another aspect of reflecting adversely on the actuarial profession is the act of accessing the CAS membership directory 8,428 times, something that I believe is clearly unreasonable. When CAS members ask us how this data was obtained, we will need to tell them of the way this was done. This information will inevitably become widespread within the profession, internationally and on social media, such as the Actuarial Outpost discussion forum. I believe this type of conduct will reflect badly on the actuarial profession.

- 4) Misrepresentation.** I believe a number of the statements in Mr. Freedman's letter are misleading and misrepresent the U.S. Qualification Standards (USQS). However, I hope that others more knowledgeable in professionalism matters and the USQS will address any violations of the Code in this regard.

I have not talked again with Mr. Freedman about the matters outlined in this complaint. I wrote Mr. Freedman and the SOA leadership last week formally requesting they cease sending further marketing solicitations to our members. Neither Mr. Freedman nor the SOA acknowledged my letter, much less agreed to modify their actions. I don't see further conversations as being fruitful.

Regards,

Wayne H Fisher, FCAS, MAAA, CERA, FCIA, ASA  
President, Casualty Actuarial Society

cc. Mark Freedman, Brian Jackson  
**Freedman September 17 marketing e-mail:**

**From:** Mark Freedman [<mailto:mfreedman@soa.mmsend.com>] **On Behalf Of** Mark Freedman  
**Sent:** Wednesday, September 17, 2014 8:04 AM  
**To:**  
**Subject:** An Invitation from the Society of Actuaries

For the Online Web Version or on a Mobile Device, [click here](#)

The Society of Actuaries (SOA) is accepting applications from Property/Casualty (or General Insurance) actuaries who hold the FCAS or ACAS designations to become SOA members. I am reaching out to you because I believe becoming a Fellow or Associate in the SOA will benefit you professionally.

In developing nations all over the world, populations are rapidly moving to urban areas, resulting in an expanding middle class. These economic and demographic trends are driving growth in General Insurance and, with it, the demand for additional qualified General Insurance actuaries. The SOA is well positioned to provide the education and examination capabilities necessary to build the actuarial profession globally in General Insurance.

By becoming a member of the SOA, you will gain the career flexibility that SOA membership provides – ease of movement from one area of practice to another without replacing credentials. While the demand for actuaries trained in General insurance is currently high, there is no telling what the future holds. The SOA is committed to continuously enhancing the value of its credentials. One way of doing this is to offer all specialties of actuarial science globally. This gives SOA members the flexibility they may need throughout their career.

By joining, you will become a member in the largest global professional actuarial society serving all practice areas with almost 25,000 members in 78 countries. You will also have the opportunity to help grow and develop General Insurance actuarial practice across the world.

The SOA launched its sixth specialty track in General Insurance in 2012. Since then, we have built out the track components and now offer a full set of examinations and modules preparing candidates for professional actuarial careers in General Insurance. We have commissioned and published new textbooks, added new e-learning in the application of statistical techniques, and are beginning to offer new General Insurance professional development opportunities for members.

We are backing our General Insurance specialty track with the resources, strength, and heritage of the SOA. We are leaders in actuarial education and serve 35,000 candidates in 94 countries. The SOA has a professional staff of 130, including 30 who specialize in supporting our education system alone. Over 1,000 member volunteers support our

education system, one of the broadest and most innovative such systems in the world. We provide continuous training for our education volunteers in question writing, exam grading, and trends in adult education. We offer a broad array of multi-disciplinary professional development opportunities.

As a member of the CAS, holding either the FCAS or the ACAS, you have an opportunity to add the comparable credential in the SOA (and exam credit if you hold an ACAS) under rules the SOA established in 2013. However, because we based this opportunity on a review of educational system equivalence at that time, we are only providing this opportunity until **year-end 2015**.

Over the past year, I have talked to many members of the CAS who see the benefits of SOA membership and have indicated their intention to apply before the year-end 2015 deadline. You might want to do the same.

Please consider completing the Fellow or Associate application form for SOA membership. If you have questions about this opportunity, please write to me at [mfreedman@soa.org](mailto:mfreedman@soa.org).

Sincerely,

Mark Freedman, FSA, MAAA

President, Society of Actuaries

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H



Mark J. Freedman, FSA, MAAA  
President, Society of Actuaries  
475 N. Martingale Rd., Ste. 600  
Schaumburg, IL 60173

October 28, 2014

VIA EMAIL (DBACTUARY@HOTMAIL.COM)  
& FEDERAL EXPRESS DELIVERY

Robert J. Reitz  
Chair, Actuarial Board for Counseling and Discipline (ABCD)  
1611 Wolf Pen Road  
Old Fort, NC 28762

Re: September 26, 2014 Complaint by Tom Terry, et al. to the Actuarial Board  
for Counseling and Discipline

Dear Mr. Reitz:

On September 26, 2014, Tom Terry, President of the American Academy of Actuaries, Karen F. Terry, Mary D. Miller and Kenneth A. Kent (hereinafter collectively referred to as "Terry et al") sent a complaint to you in your capacity as Chair of the ABCD regarding a marketing email I sent out on behalf of the SOA on September 17, 2014. To my knowledge, it is unprecedented for the president and other officers and board members of a U.S. actuarial organization to file a disciplinary complaint against the president of another U.S. organization for conduct performed, not in his capacity as an actuary, but in his role as president of a fellow actuarial organization engaged in marketing. In the complaint, Mr. Terry and his colleagues make the gross misrepresentation that I acted improperly and dishonestly, in violation of Precepts 1, 4 and 11 of the Code of Professional Conduct. On its face, it is clear that the email I sent was not false, misleading or unprofessional. Moreover, I did not draft or disseminate the email on my own, but with the knowledge and approval of the SOA board, and with the assistance of SOA staff. The SOA Board of Directors passed a resolution acknowledging the role of the SOA's staff and leadership and offering their support of my position in this process. A copy of a letter from Brian Lewis, the SOA's counsel, as well as the resolution of the SOA Board, are attached as Exhibit 1. Terry et al are well-aware of the role the SOA staff and leadership played in drafting and disseminating this marketing offer, but chose to pursue me personally in an effort to mar my reputation, as well as the reputation of the SOA. For the reasons stated below, I dispute Terry et al.'s claims and deny that either I or the SOA acted unprofessionally or improperly.

**The September 17, 2014 E-Mail Was Not Misleading Or Improper, and Did Not Violate Precept 1 of the Code of Professional Conduct.**

Terry et al assert in their September 26th letter that they believe a number of statements in the September 17 solicitation to CAS members "are misleading and misrepresent the U.S. Qualification Standards." The reality is that the SOA sent an email to approximately 4,500 CAS members, inviting them to apply for membership in the SOA, and informing them of an

EXHIBIT H

opportunity to add the comparable SOA membership designation (ASA or FSA) under a special program being offered through 2015. The email was devoted to explaining the value of the SOA membership designations and why becoming an SOA provides career flexibility. It was not directed in any way at the programs or credentials of the CAS or the AAA. Specifically, the email phrased this as "ease of movement from one area of practice to another without replacing credentials." The solicitation made no mention of the U.S. Qualification Standards and no attempt to link this sentence to the U.S. Qualification Standards was meant or implied.

In their complaint, Terry et al cite Precept 1 and Annotation 1.4 of the Code of Professional Conduct (the "Code") and incorrectly state that I knowingly misrepresented what it takes to change practice areas for U.S. actuaries. Although Terry et al claim that they believe several statements are misleading, they only cite a single sentence, "By becoming a member of the SOA, you will gain the career flexibility that SOA membership provides." Tom Terry has stated publicly and in the September 26, 2014 complaint against me that he believes this statement in my email regarding "ease of movement" is "false and misleading" because "one never has to change or replace credentials to change practice areas" under the U.S. Qualification Standards. Nothing in this sentence, or in the rest of the email solicitation, discusses or even references the requirements under the U.S. Qualification Standards. Mr. Terry's public statements about me are slanderous and grossly unprofessional.

Put simply, my statement on its face is not in any way inaccurate, false or misleading. Mr. Terry has taken the statement out of context and tried to characterize it as false and misleading by suggesting it was intended as a commentary on U.S. Qualification Standards. Let me be perfectly clear:

- The sentence is not, on its face or by implication, related to the U.S. Qualification Standards. There is not one word in the entire communication that discusses qualifications to practice or suggests that an individual obtaining an SOA membership designation is qualified or more qualified to practice in new fields.
- There is not one word in the entire communication that discusses the requirements for issuing Statements of Actuarial Opinions in the U.S., or suggests that obtaining an SOA membership designation makes a person qualified or more qualified to issue Statements of Actuarial Opinions in the U.S. in a new area of practice.
- There is not one word in the entire communication that describes the SOA's proposal or value proposition of obtaining the SOA designations in terms of US practice. To the contrary, the communication repeatedly describes the value proposition in terms of the SOA's global presence and membership and the value of the SOA designation all over the world. Note that approximately 32% of the SOA's members and 37% of its candidates are outside of the U.S.

When taken in context based on the four corners of the solicitation, it is clear that the statement itself and the email as a whole were not intended as, and cannot be construed as making any representations about the U.S. Qualification Standards or U.S. practice. While it is true that the requirements of the U.S. Qualifications Standards affect a person's career mobility, those requirements are only one factor in career flexibility and mobility. An actuary's career prospects and mobility also depend on the breadth of his/her educational training, his/her work experiences, his/her professional networks and, depending on where in the world he/she is practicing, the reputation and recognition of the membership designations he/she holds. This last factor is clearly the factor that was emphasized in my September 17, 2014 email. A copy of my September 17, 2014 email solicitation is attached as Exhibit 2.

### **The Actuarial Community's Perceptions of the FSA/ASA Designations**

Terry et al. claim in their complaint that I stated "the public would think the SOA would make it easier for an actuary to change practice areas." In fact, the point I made to Tom Terry and Karen Terry was that my statement regarding the ease of movement from one practice area to another had nothing whatsoever to do with the U.S. Qualification Standards. Rather, an actuary with an FSA designation who sought to move to another practice area would be more readily accepted and hired by those in the marketplace than an actuary bearing only an FCAS designation, thereby making the move easier.

The SOA membership designations of FSA and ASA have always been recognized as designations that cross and encompass multiple disciplines in the actuarial profession. While the CAS designations of ACAS and FCAS have long been recognized as a designation of property and casualty actuaries, these designations do not extend into other actuarial fields in the minds of those in the marketplace. As a result, by taking advantage of the offer to join the SOA in my email, a CAS member would enjoy greater recognition in the marketplace should he/she decide to explore opportunities in other areas of practice. Adding a credential, such as an FSA, is a value many actuaries might like to take advantage of; however, they cannot take advantage of something they have not heard about. Thus, the solicitation was intended to provide actuaries an additional—and in my view prestigious—credential. Nothing more can be reasonably interpreted under the four corners of the solicitation.

The worldwide marketplace recognizes a FSA as one who is broadly conversant in a variety of actuarial disciplines. As a result, many FSA's have found it relatively easy to successfully change their areas of practice over time. I personally know many actuaries who took the retirement fellowship track who became actuaries specializing in life insurance; I am one of them.

By contrast, the marketplace recognizes an actuary whose sole designation is that of FCAS as only qualified in the property and casualty discipline. The CAS markets itself as specialists. The CAS' website's advertising section (Exhibit 3) states: "The CAS represents the largest concentration of property/casualty actuaries in the world." In such a case, should the actuary wish

to pursue opportunities in other disciplines, the marketplace would likely be reluctant to retain him/her to perform actuarial services outside the property and casualty area. I do not personally know of any actuary whose sole designation is that of FCAS whose primary area of practice is life insurance. The FSA designation allows SOA members greater flexibility to pursue opportunities in other disciplines. As a result, the SOA is offering a tremendous benefit to CAS members by allowing them to join the SOA, without the need for any further exams, for a limited time. It is difficult to understand how such an opportunity by SOA could be seen as unprofessional.

**Precept 4 Is Not Applicable To A Marketing Solicitation, and Was Not Violated.**

Terry et al cite no new facts to support this claim, and allege that I violated Precept 4 by making an "Actuarial Communication" that was not clear and appropriate. Precept 4 provides:

An Actuary who issues an Actuarial Communication shall take appropriate steps to ensure that the Actuarial Communication is clear and appropriate to the circumstances and its intended audience, and satisfies applicable standards of practice.

As an initial matter, it is fairly obvious that the complainants' definition of "Actuarial Communication," is far broader than that contemplated in the Code of Professional Conduct. The Code defines Actuarial Communication as "A written, electronic, or oral communication issued by an Actuary with respect to Actuarial Services." "Actuarial Services" are defined as "professional services provided to a Principal by an individual acting in the capacity of an actuary. Such services include the rendering of advice, recommendations, findings, or opinions based upon actuarial considerations." The September 17 email was sent to actuaries, not to principals, and did not relate to Actuarial Services. (See Exhibit 2). In addition, contrary to the tortured construction offered by Terry et al, the email was clear and appropriate, as detailed above.

The fact that Terry et al would attempt to argue that a marketing solicitation sent to actuaries on behalf of an actuarial organization could constitute an Actuarial Communication highlights the outrageous nature of their complaint.

**Precept 11 Does Not Apply to a Marketing Solicitation The SOA Made to Actuaries.**

In another attempt to stretch the Code of Professional Conduct to apply where it clearly does not, Terry et al cite to Precept 11 in their complaint. Precept 11 provides, "An Actuary shall not engage in any advertising or business solicitation activities with respect to Actuarial Services that the Actuary knows or should know are false or misleading." As a preliminary matter, the September 17 email solicitation was not false or misleading, as fully discussed above.

Moreover, an email the SOA sent to CAS members does not meet the definition of Precept 11, because the "advertisement" was not made regarding Actuarial Services, and was not made to

a Principal, as Actuarial Services must be under the definition. Terry et al's reference to Annotation 11-1 provides no support for the complaint either. Annotation 11-1 discusses communications to any person or organization in deciding whether there is need for Actuarial Services. Here, there is no contemplation of Actuarial Services, and no Principal considering the need for such Services.

Terry et al's claims under the Code fall far short of even establishing any basis for a claim against me. Their efforts to try and make a truthful and direct solicitation to actuaries into a false and misleading statement regarding Actuarial Services is reprehensible and unprofessional.

#### **The AAA's Improper, Anti-Competitive Motivation in Bringing This Complaint.**

Tom Terry and the other officers who brought this complaint purport to have raised the concerns in order to protect and promote professionalism within the actuarial profession. This argument is clearly disingenuous. As demonstrated above, the baseless nature of the claims calls into question the AAA's motivation for engaging in this dispute. The reality is that AAA has felt threatened by the SOA and its ongoing expansion into areas the AAA would prefer remain within its exclusive control. As an example, at present only members of AAA or the CAS are permitted to sign statements of actuarial opinions for property-casualty insurers as provided to the National Association of Insurance Commissioners ("NAIC"). The SOA has engaged in efforts to have the NAIC allow FSAs to sign such opinions, but its efforts have been frustrated by AAA. For example, in then AAA's November 1, 2013 letter to the NAIC (Exhibit 4), Cecil Bykerk (then AAA president) wrote "We understand the stated reason of the SOA's request to the NAIC, and to the COQ, to be a strategic and commercial one to bolster their marketing of the new General Insurance track they have developed to meet global insurance industry needs. These are not needs that exist in the U.S." By engaging in these efforts to disparage me and the SOA, the AAA undoubtedly hopes to diminish any chance the SOA has to lobby the NAIC. These anti-competitive tactics are unprofessional and potentially illegal. The ABCD should not permit the AAA and its officers to misuse the disciplinary process to advance their improper aims.

#### **Significant Conflict of Interest Concerns**

The relationships between the parties in this matter raise serious concerns about the ability of the ABCD to act in a fair and impartial manner in this dispute. As you are well aware, the ABCD is a board within the AAA. Funding for the ABCD is provided by the AAA. Furthermore, Mr. Terry is the chair and Mary D. Miller is a member of the selection committee for the ABCD, which among other responsibilities determines whether you will continue in your role with the ABCD. Moreover, I understand that you are to receive an award next month from Tom Terry, in thanks and recognition for your service to the actuarial community. I believe this unusual situation deserves close scrutiny. Given that Mr. Terry is the lead complainant in this matter and has brought the complaint on behalf of the AAA, there is a very real question about the ABCD's ability to remain neutral and render a fair and impartial ruling.

Robert J. Reitz  
Response to AAA Complaint  
Page 6  
October 28, 2014

The ABCD is not the proper forum to resolve advertising and competition disputes between actuarial organizations. I therefore respectfully request that the complaint against me be dismissed.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark J. Freedman", with a long horizontal flourish extending to the right.

Mark J. Freedman, FSA, MAAA

cc: Brian L. Jackson (via email to [jackson@actuary.org](mailto:jackson@actuary.org))

# BARNES & THORNBURG LLP

Brian W. Lewis  
(312) 214-5608  
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Chicago, IL 60606-2833 U.S.A.  
(312) 357-1313  
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October 28, 2014

Mr. Robert J. Reitz  
Chair  
Actuarial Board for Counseling and Discipline  
1611 Wolf Pen Road  
Old Fort, NC 28762

Re: Response by the Society of Actuaries to ABCD Complaints against Mark Freedman

Dear Mr. Reitz:

I am counsel to the Society of Actuaries (SOA) and am submitting this statement to the ABCD on behalf of and at the direction of the SOA Board of Directors.

The SOA Board has been advised that Wayne Fisher, President of the Casualty Actuarial Society (CAS), and Thomas Terry, President of the American Academy of Actuaries (Academy), have asserted disciplinary claims against SOA President, Mark Freedman. We know this because both Mr. Fisher and Mr. Terry informed the SOA Board of the disciplinary complaints in the attached e-mails to SOA Board members. (See Exhibits 1 and 2.) The SOA Board was surprised and dismayed by these communications for several reasons.

***1. The supposed confidentiality of disciplinary accusations.***

We have always understood that ABCD complaints and proceedings are to be handled confidentially – that an accused actuary's reputation should not be tarnished in the eyes of his peers or the public before a determination is reached that would justify some form of public discipline. It is bad enough that Mr. Terry and Mr. Fisher have filed complaints against Mr. Freedman that, based on how they described them in their emails, are totally without merit. It is even worse that they have publicized attacks on Mr. Freedman's personal integrity among his professional colleagues, and have thereby exposed him to unwarranted reputational harm.

***2. The actions complained of have nothing to do with Actuarial Services, nor do they suggest any failings in Mr. Freedman's personal integrity.***

We suspect that Mr. Fisher and Mr. Terry sent their communications to the SOA Board because their real grievances are with the actions of the SOA, not with Mr. Freedman personally. When Mr. Freedman signed his name to a marketing communication sent on behalf of the SOA, he was carrying out a routine function of his office and acting at the direction and at the behest of the SOA and its Board of Directors. There is nothing in this situation that involves Mr.

**Exhibit 1**

Atlanta Chicago Delaware Indiana Los Angeles Michigan Minneapolis Ohio Washington, D.C.

Freedman providing Actuarial Services or issuing Actuarial Communications. There is also no basis for challenging the personal integrity of Mr. Freedman for actions taken in his capacity as SOA President, at the behest of the Board, and with the advice of the SOA Staff (including legal counsel). We don't believe the *Code of Professional Conduct* (the *Code*) was meant to be used or should be used against an individual under circumstances such as these.

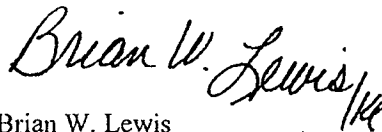
Whatever disagreements Mr. Terry or Mr. Fisher may have with the manner in which the SOA sent a commercial message to a number of CAS members, or with the content of the message itself, they should pursue those grievances against the party responsible for the message (the SOA), rather than the messenger. Turning inter-organizational disputes into personal attacks on an organization's President is inappropriate. It sets a bad precedent that will discourage actuaries from accepting leadership or other volunteer roles in the profession. It is just plain wrong, and we believe the ABCD should find ways to actively discourage this type of abuse of the disciplinary process.

**3. *The Code and the disciplinary process should not be used to inhibit lawful competition.***

Finally, the complaints by Mr. Fisher and Mr. Terry have characterized the SOA's lawful activity as "unprofessional" or "unethical," and are seeking to have the SOA (through Mr. Freedman) disciplined for engaging in such lawful activity. Our free enterprise system and U.S. laws favor competition; associations have been told time and again by the courts that their ethical codes and disciplinary processes may not be used to inhibit lawful competition. If Mr. Fisher and Mr. Terry, or the organizations they represent, believe that anything about the SOA's action was unlawful or infringed upon any legal rights of the CAS or the Academy, those legal issues should be taken to the appropriate legal forum. They should not – and we believe the ABCD should be very wary about allowing them to – turn these disputes with the SOA's lawful commercial activity into a disciplinary matter, with Mr. Freedman as the pawn.

Because Mr. Terry and Mr. Fisher have made the complaints against Mr. Freedman a matter of concern for our Board, our Board felt compelled to respond. Our Board has adopted a resolution in support of Mr. Freedman (Exhibit 3) and we urge you to dismiss these complaints immediately.

Very truly yours,



Brian W. Lewis

BWL/kl  
Enclosures



From: Wayne Fisher <[waynehowardfisher@gmail.com](mailto:waynehowardfisher@gmail.com)<<mailto:waynehowardfisher@gmail.com>>>  
Date: Tue, Sep 23, 2014 at 10:52 AM  
Subject: SOA Communications  
To: Mark Freedman <[markfreed0501@gmail.com](mailto:markfreed0501@gmail.com)<<mailto:markfreed0501@gmail.com>>>, Errol Cramer  
<[errol.cramer@allstate.com](mailto:errol.cramer@allstate.com)<<mailto:errol.cramer@allstate.com>>>, Craig Reynolds  
<[craig.reynolds@milliman.com](mailto:craig.reynolds@milliman.com)<<mailto:craig.reynolds@milliman.com>>>, Greg Heidrich  
<[gheidrich@soa.org](mailto:gheidrich@soa.org)<<mailto:gheidrich@soa.org>>>,  
[joan\\_c\\_barrett@uhc.com](mailto:joan_c_barrett@uhc.com)<[mailto:joan\\_c\\_barrett@uhc.com](mailto:joan_c_barrett@uhc.com)>,  
[BelIR@aetna.com](mailto:BelIR@aetna.com)<<mailto:BelIR@aetna.com>>, [sblanck@aflac.com](mailto:sblanck@aflac.com)<<mailto:sblanck@aflac.com>>,  
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[anferris@deloitte.com](mailto:anferris@deloitte.com)<<mailto:anferris@deloitte.com>>,  
[evan.inglis@terrygroup.com](mailto:evan.inglis@terrygroup.com)<<mailto:evan.inglis@terrygroup.com>>,  
[jennifer\\_mcginnis@swissre.com](mailto:jennifer_mcginnis@swissre.com)<[mailto:jennifer\\_mcginnis@swissre.com](mailto:jennifer_mcginnis@swissre.com)>,  
[kory.olsen@pacificlife.com](mailto:kory.olsen@pacificlife.com)<<mailto:kory.olsen@pacificlife.com>>,  
[susan.pantely@milliman.com](mailto:susan.pantely@milliman.com)<<mailto:susan.pantely@milliman.com>>,  
[sue.sames@towerswatson.com](mailto:sue.sames@towerswatson.com)<<mailto:sue.sames@towerswatson.com>>,  
[sudha.shenoy@lewin.com](mailto:sudha.shenoy@lewin.com)<<mailto:sudha.shenoy@lewin.com>>,  
[james.trimble@uconn.edu](mailto:james.trimble@uconn.edu)<<mailto:james.trimble@uconn.edu>>,  
[genghui.wu@prudential.com](mailto:genghui.wu@prudential.com)<<mailto:genghui.wu@prudential.com>>,  
[john.robinson@neric.org](mailto:john.robinson@neric.org)<<mailto:john.robinson@neric.org>>

?Mark:

I am writing to confirm our conversation yesterday afternoon. As discussed, we formally request that you and the SOA cease any unsolicited, direct marketing communications with our members.

The use of our Directory to solicit our members was certainly unauthorized and not what we expect from the SOA as a peer, professional organization. You stated that any other organization, including the CAS, is restricted from using your data base from such a solicitation. So I was astonished that our assumption of mutual trust was obviously naive. We now need to remedy that over confidence.

I expect that our members will be thoroughly annoyed about this hacking of our membership data and hence the need for increased security measures for our contact data. This reflects poorly on the profession. I don't believe that this will reflect favorably at all on the SOA either; quite the opposite. And this action may well be a violation of Precept 1 of the Code of Professional Conduct.

I mentioned that if you or the SOA had something of potential interest for our members, a CE opportunity for example, all you need to do is ask permission. You then said "we knew you wouldn't approve our sending our solicitation". That's remarkable; knowing we wouldn't approve, the SOA used our data base and sent the solicitation anyway. Quite frankly, that's a professional betrayal that's hard to comprehend.

Wayne

EXHIBIT 1

From: Tom Terry <tom.terry@terrygroup.com<mailto:tom.terry@terrygroup.com>>  
Date: Sat, Sep 27, 2014 at 7:34 PM  
Subject: September 17, 2014 email to CAS members from the SOA  
To: "anferris@deloitte.com<mailto:anferris@deloitte.com>"  
<anferris@deloitte.com<mailto:anferris@deloitte.com>>,  
"brad.smith@milliman.com<mailto:brad.smith@milliman.com>"  
<brad.smith@milliman.com<mailto:brad.smith@milliman.com>>, "ian.genno@osfi-  
bsif.gc.ca<mailto:ian.genno@osfi-bsif.gc.ca>" <ian.genno@osfi-bsif.gc.ca<mailto:ian.genno@osfi-  
bsif.gc.ca>>, "craig.reynolds@milliman.com<mailto:craig.reynolds@milliman.com>"  
<craig.reynolds@milliman.com<mailto:craig.reynolds@milliman.com>>,  
"dawagner@deloitte.com<mailto:dawagner@deloitte.com>"  
<dawagner@deloitte.com<mailto:dawagner@deloitte.com>>,  
"errol.cramer@allstate.com<mailto:errol.cramer@allstate.com>"  
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"Genghui.Wu@Prudential.com<mailto:Genghui.Wu@Prudential.com>"  
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<duncan@pstat.ucsb.edu<mailto:duncan@pstat.ucsb.edu>>,  
"James.Trimble@uconn.edu<mailto:James.Trimble@uconn.edu>"  
<James.Trimble@uconn.edu<mailto:James.Trimble@uconn.edu>>,  
"jennifer.gillespie@bluecrossmn.com<mailto:jennifer.gillespie@bluecrossmn.com>"  
<jennifer.gillespie@bluecrossmn.com<mailto:jennifer.gillespie@bluecrossmn.com>>,  
"jennifer.mcginnis@swissre.com<mailto:jennifer.mcginnis@swissre.com>"  
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<Markfreed0501@gmail.com<mailto:Markfreed0501@gmail.com>>, Evan Inglis  
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"sudha.shenoy@lewin.com<mailto:sudha.shenoy@lewin.com>"  
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"susan.pantely@milliman.com<mailto:susan.pantely@milliman.com>"  
<susan.pantely@milliman.com<mailto:susan.pantely@milliman.com>>,  
"sue.sames@towerswatson.com<mailto:sue.sames@towerswatson.com>"  
<sue.sames@towerswatson.com<mailto:sue.sames@towerswatson.com>>,  
"tbmanning@me.com<mailto:tbmanning@me.com>"

EXHIBIT 2

<tbmanning@me.com<mailto:tbmanning@me.com>>,  
"vbpaganelli@comcast.net<mailto:vbpaganelli@comcast.net>"  
<vbpaganelli@comcast.net<mailto:vbpaganelli@comcast.net>>

To members of the SOA board: This is a copy of a message I sent earlier today to the full American Academy of Actuaries' Board of Directors.

\*\*\*\*\*

The attached email from the SOA to members of the CAS is disgraceful.

This email is a deliberate and self-serving misrepresentation of what it takes for a US actuary to move from one practice area to another. This misrepresentation undermines the work of the Academy and undercuts the interests of the entire US profession in promoting strong Qualification Standards.

Mark's email is an affront to all U.S. Actuaries who care about professionalism and who care about the integrity of the US profession. By misrepresenting the process as he does, Mark is signaling that the SOA values commercial ambitions over professional integrity.

The Academy and its professionalism arms work tirelessly on behalf of all US actuaries and the public at large. The Qualification Standards are central to these efforts and to preserving our profession's self-regulation in the US as well as our professional standing with the public and the regulatory community.

This past week, an ABCD complaint was filed against Mark. I won't be sharing it with you. Please ask Mark if you wish to see it.

Thomas S. Terry  
Cell: 312-543-5206<tel:312-543-5206>  
[tom.terry@terrygroup.com](mailto:tom.terry@terrygroup.com)<mailto:Tom.Terry@TerryGroup.com>

**SOCIETY OF ACTUARIES**  
**Board of Directors Resolution**

**Adopted October 20, 2014**

*WHEREAS:* The Board has been advised that two disciplinary complaints have been filed with the Actuarial Board for Counseling and Discipline (ABCD) against the SOA President, Mark Freedman. One complaint was filed by Tom Terry and other officers of the American Academy of Actuaries, and one was filed by Wayne Fisher of the Casualty Actuarial Society (CAS). The complaints, as described by Messrs. Terry and Fisher, charge Mr. Freedman with violating the *Code of Professional Conduct* because he, as SOA President, signed an email communication sent by the SOA to members of the CAS, and because the email message (i) was allegedly misleading, and (ii) was sent using a mailing list that was allegedly procured by inappropriate means and used without permission of the CAS.

*WHEREAS:* The Board was aware of and concurred with the decision to send an email communication to CAS members. The email communication was prepared by the SOA staff and reviewed and approved by the SOA Leadership Team, which did not consider it to be misleading. The Board was advised in advance of the principal marketing message to be conveyed in the email communication and did not consider it to be misleading. The Board has since reviewed the specific language of the email communication and does not consider it to be misleading.

*WHEREAS:* The mailing list of CAS members used for the email communication was compiled from publicly available information posted by the CAS itself, with no terms of use or other limitations or restrictions relating to the use of that public information. Mark Freedman and the SOA were advised by legal counsel that the publicly available information could be used to compile the mailing list and to send the email communication to the CAS members who received it.

*IT IS THEREFORE RESOLVED:*

1. That the charges in the complaints, as described by Messrs. Terry and Fisher, are baseless and without any merit.
2. That, in attaching his name to the email communication, Mr. Freedman was acting on behalf of the SOA and carrying out his duties as President of the SOA; that his actions were taken with the support of the Board; and that the President of the SOA should not be subjected to a personal disciplinary action based on routine, authorized actions taken as President in signing his name to a marketing communications issued by the SOA.
3. That, in sending the email communication to CAS members, the SOA was engaged in lawful commercial competition, and that the President of the SOA should not be subjected to a personal disciplinary action based on the lawful commercial activities of the SOA.
4. That the Board, in order to support Mr. Freedman's defense of the ABCD charges and to protect the SOA's legal rights to engage in lawful commercial activity, directs its legal counsel to prepare and submit a statement to the ABCD in accordance with these resolutions.

**EXHIBIT 3**

From: **Mark Freedman** <mfreedman@soa.org>  
Date: Wed, Sep 17, 2014 at 8:03 AM  
Subject: An Invitation from the Society of Actuaries  
To:

For the Online Web Version or on a Mobile Device, click [here](#)

The Society of Actuaries (SOA) is accepting applications from Property/Casualty (or General Insurance) actuaries who hold the FCAS or ACAS designations to become SOA members. I am reaching out to you because I believe becoming a Fellow or Associate in the SOA will benefit you professionally.

In developing nations all over the world, populations are rapidly moving to urban areas, resulting in an expanding middle class. These economic and demographic trends are driving growth in General Insurance and, with it, the demand for additional qualified General Insurance actuaries. The SOA is well positioned to provide the education and examination capabilities necessary to build the actuarial profession globally in General Insurance.

By becoming a member of the SOA, you will gain the career flexibility that SOA membership provides – ease of movement from one area of practice to another without replacing credentials. While the demand for actuaries trained in General insurance is currently high, there is no telling what the future holds. The SOA is committed to continuously enhancing the value of its credentials. One way of doing this is to offer all specialties of actuarial science globally. This gives SOA members the flexibility they may need throughout their career.

By joining, you will become a member in the largest global professional actuarial society serving all practice areas with almost 25,000 members in 78 countries. You will also have the opportunity to help grow and develop General Insurance actuarial practice across the world.

The SOA launched its sixth specialty track in General Insurance in 2012. Since then, we have built out the track components and now offer a full set of examinations and modules preparing candidates for professional actuarial careers in General Insurance. We have commissioned and published new textbooks, added new e-learning in the application of statistical techniques, and are beginning to offer new General Insurance professional development opportunities for members.

We are backing our General Insurance specialty track with the resources, strength, and heritage of the SOA. We are leaders in actuarial education and serve 35,000 candidates in 94 countries. The SOA has a professional staff of 130, including 30 who specialize in supporting our education system alone. Over 1,000 member volunteers support our education system, one of the broadest and most innovative such systems in the world. We provide continuous training for our education

**Exhibit 2**

volunteers in question writing, exam grading, and trends in adult education. We offer a broad array of multi-disciplinary professional development opportunities.

As a member of the CAS, holding either the FCAS or the ACAS, you have an opportunity to add the comparable credential in the SOA (and exam credit if you hold an ACAS) under rules the SOA established in 2013. However, because we based this opportunity on a review of educational system equivalence at that time, we are only providing this opportunity until year-end 2015.

Over the past year, I have talked to many members of the CAS who see the benefits of SOA membership and have indicated their intention to apply before the year-end 2015 deadline. You might want to do the same.

Please consider completing the Fellow or Associate application form for SOA membership. If you have questions about this opportunity, please write to me at [mfreedman@soa.org](mailto:mfreedman@soa.org).

Sincerely,

Mark Freedman, FSA, MAAA  
President, Society of Actuaries

Copyright © 2014. Society of Actuaries. 475 N. Martingale Road, Suite 600,  
Schaumburg, Illinois 60173 Phone: 847.706.3500 | Fax: 847.706.3599 | Web:  
[SOA.org](http://SOA.org) | E-mail: [soa@soa.org](mailto:soa@soa.org)  
Forward to a Friend [Click here to unsubscribe](#) or to manage your email preferences.



# CASUALTY ACTUARIAL SOCIETY

ADVERTISING >

## ADVERTISING

The CAS represents the largest concentration of property/casualty actuaries in the world.

The 6,200 members of the CAS work for:

- insurance and reinsurance companies and brokers
- consulting firms
- state insurance departments
- educational institutions
- other organizations serving the financial services industry

The CAS offers a variety of advertising, sponsorship, and exhibiting opportunities to assist firms with reaching this influential group of insurance professionals.

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AMERICAN ACADEMY of ACTUARIES

Cecil D. Bykerk, FSA, MAAA, HonFIA, RHU, FLMI, *President*

November 1, 2013

VIA EMAIL

[kdefrain@naic.org](mailto:kdefrain@naic.org)  
[rmazyck@naic.org](mailto:rmazyck@naic.org)  
[RPiazza@ldi.la.gov](mailto:RPiazza@ldi.la.gov)  
[steven.ostlund@insurance.alabama.gov](mailto:steven.ostlund@insurance.alabama.gov)  
[mike.boerner@tdi.state.tx.us](mailto:mike.boerner@tdi.state.tx.us)  
[Richard.Marcks@ct.gov](mailto:Richard.Marcks@ct.gov)  
[eking@naic.org](mailto:eking@naic.org)

Richard Piazza, Chairperson  
National Association of Insurance Commissioners (NAIC)  
Casualty Actuarial & Statistical Task Force (CASTF)

Steven Ostlund, Chairperson  
NAIC Health Actuarial Task Force (HATF)

Michael Boerner, Chairperson  
NAIC Life Actuarial Task Force (LATF)

Richard Marcks, Chairperson  
NAIC Joint Qualified Actuary (A/B/C) Subgroup

c/Eric King  
NAIC  
1100 Walnut Street, Suite 1500  
Kansas City, MO, 64106-2197

Re: Letter from Committee on Qualifications

Dear Members of the NAIC Actuarial Task Forces:

We would like to take this opportunity to embrace the recommendation in the attached letter that we understand to be an interim response from the Committee on Qualifications (COQ) to the Society of Actuaries' (SOA) request earlier this year for modification to Section 3.1.1.2 of the U.S. Qualification Standards to include a reference to the SOA as a provider of general insurance (property and casualty) exams. The COQ is a long-established committee within the American Academy of Actuaries (<http://www.actuary.org/content/history-qualifications-standards>). The Academy's professionalism mandate has long been exercised through autonomous committees created to be deliberately independent of any actuarial organization's influence and commercial self-interest, or any one organization's commercially strategic objectives. Established at the Academy because of its unique professionalism mission, the Academy Board approves COQ recommendations to modify the USQS but does not dictate those recommendations. Objectivity and dispassionate examination of the criteria for practice qualification to issue Statements of Actuarial Opinion is essential to the credibility of the COQ. The COQ does not view criteria for qualification through the lens of any one organization's strategic goals.

1850 M Street NW Suite 300 Washington, DC 20036 Telephone 202 223 8196 Facsimile 202 872 1948 [www.actuary.org](http://www.actuary.org)

Exhibit 4



The attached letter has given us a reason to supplement our letter to you dated September 27, 2013, in connection with the definition of "qualified actuary" because this issue continues to be raised. The situation raised by the SOA request to add their name to the model law is not based on any needs of the U.S. actuarial profession or of the NAIC that we can identify. This effort regrettably has engendered confusion over the process and role of the Committee on Qualifications and the NAIC with respect to relying on professional credentials for qualification in the US. We do not endorse this lobbying effort to add the SOA credential. Our goal is to work with the NAIC to optimize the process by which the actuarial profession and regulators can with confidence recognize qualified actuaries to sign opinions. As a basic education provider, the SOA is similar to other international education providers, particularly the UK's Institute and Faculty of Actuaries (IFoA) and not at all similar to the Academy, the national association of U.S. practicing actuaries from all practice areas focused on practice and professionalism issues solely in the U.S. We understand the stated reason of the SOA's request to the NAIC, and to the COQ, to be a strategic commercial one to bolster their marketing of the new General Insurance track they have developed to meet global insurance industry needs. These are not needs that exist in the U.S. It is the long held and stated position of the Academy that the MAAA is the single designation that is specific to U.S. actuarial qualifications to practice and is therefore the necessary and most meaningful credential to be used in U.S. model laws and regulations.

Since the inception of the Academy, it was contemplated by the U.S. actuarial profession that the Academy would serve as the national organization representing the voice of the U.S. actuarial profession and serving the public and the U.S. actuarial profession, similar to the way the Canadian Institute of Actuaries serves the needs of the Canadian public and actuaries.

We believe the SOA and CAS have provided and continue to provide excellent basic education to credential actuaries all over the world. The Academy however has a different mission from these internationally recognized organizations. The Academy's mission is to serve the public and the U.S. actuarial profession. It is therefore focused on the needs of the public in the United States. As a result, the Academy has interfaced for years with regulators at the state and national level because of its commitment to its national mission. Moreover, the Academy alone houses the professionalism entities of the U.S. actuarial profession, such as the Actuarial Standards Board and the Committee on Qualifications because from its inception, the Academy has been dedicated to serving the public and the U.S. profession as the one organization that is independent of employers, clients, and other actuarial organizations who rely for their existence on a steady or increasing supply of clients and exam takers. The Academy's public policy and professionalism work focus on U.S. actuarial practice and actuarial services in the United States, not outside the United States.

We welcome the opportunity to work with the NAIC, as we have since the Academy's founding, to support the highest recognized standards of actuarial competence and conduct that every state can reference and rely upon. We want to hear of your concerns and work with you towards our mutual goals of excellence in actuarial professionalism and analysis of issues that is of value and interest to the NAIC.

Sincerely,



Cecil D. Bykerk

/enc.



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AMERICAN ACADEMY of ACTUARIES

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October 30, 2013

VIA EMAIL

Mr. Greg Heidrich  
Executive Director  
Society of Actuaries  
475 North Martingale Road, Suite 600  
Schaumburg, Illinois 60173

Re: SOA letter dated February 6, 2013 to Committee on Qualifications

Dear Mr. Heidrich:

Reference is made to your letter to me dated February 6, 2013 as Chairperson of the Committee on Qualifications (COQ) of the American Academy of Actuaries (Academy). You asked the COQ to consider modifying Section 3.1.1.2 of the U.S. Qualification Standards (USQS) to include reference to the Society of Actuaries (SOA) as a provider of exams necessary for actuaries to meet part of the basic education requirements of the USQS to qualify an actuary to sign the actuarial opinion for the NAIC Property and Casualty Annual Statements. Currently, actuaries must pass examinations administered by the Academy or the Casualty Actuarial Society to issue statements of actuarial opinion for NAIC Property and Casualty Annual Statements, or satisfy the Alternative Basic Education requirements of Section 3.1.2.

As a reminder, the COQ is charged with determining the qualifications of actuaries practicing in the United States after an actuary earns his or her initial actuarial credential from any of the Recognized Actuarial Organizations as defined in the Code of Professional Conduct, of which the SOA is one. After careful consideration of the discussions going on amongst members of the National Association of Insurance Commissioners (NAIC), and further review of the USQS requirements, the COQ has decided to suspend consideration of the SOA request to include the SOA in Section 3.1.1.2 of the USQS as a provider of general insurance exams until there is further advancement by the NAIC on this matter. The current language contained in Section 3 of the USQS in connection with actuarial qualifications for NAIC property and casualty reserve opinions was derived from the NAIC instructions definition of "qualified actuary" for purposes of signing the NAIC Property and Casualty Annual Statement opinions. As such, it was the NAIC that limited actuarial signers of the NAIC property and casualty opinions to the members identified in that regulation, not the COQ. Further, and in particular, we note that Appendix 4, Section 3 of the U.S. Qualification Standards (Guidelines for Determining When Specific Qualification Standards Should Be Developed) states:

*A Specific Qualification Standard typically should be developed in relation to a specific actuarial opinion requirement that is embodied in a regulation or a standard and is of high visibility and fairly broad application within the profession.*

Given the foregoing, the COQ believes it is in the best interest of the profession for the COQ to wait to see if the companion regulation relating to your request by the NAIC in connection with the NAIC Property and Casualty Annual Statement actuarial opinion, or if any state should reach a determination on the issue in any laws, rules, or regulations, addresses your issue, then consider development in the U.S. Qualification Standards.

As stated above, this is a decision to suspend further review of your request to include a reference to the SOA as a provider of general insurance exams under Section 3.1.1.2 of the USQS at this time. The COQ will continue to monitor the NAIC's deliberations on this issue, and is open to reviewing the SOA's full general insurance track syllabus at a later date. The COQ does however reserve all of its rights to act in accordance with its charges, and should any circumstances change in connection with your request; the COQ will consider and act accordingly.

Sincerely,

John W. Morris  
Chairperson  
Committee on Qualifications  
American Academy of Actuaries

cc: American Academy of Actuaries  
Casualty Actuarial Society  
National Association of Insurance Commissioners (C Committee)

**I**

Mark J. Freedman, FSA, MAAA  
President, Society of Actuaries  
475 N. Martingale Rd., Ste. 600  
Schaumburg, IL 60173

October 28, 2014

VIA EMAIL ([DBACTUARY@HOTMAIL.COM](mailto:DBACTUARY@HOTMAIL.COM))  
& FEDERAL EXPRESS DELIVERY

Robert J. Reitz  
Chair, Actuarial Board for Counseling and Discipline (ABCD)  
1611 Wolf Pen Road  
Old Fort, NC 28762

Re: Response to ABCD Complaint by Wayne Fisher and CAS

Dear Mr. Reitz:

As you are aware, on October 1, 2014, Wayne Fisher, president of the Casualty Actuarial Society (CAS), sent you an unusual and extremely inflammatory complaint regarding a marketing email I sent out on behalf of the Society of Actuaries (SOA) on September 17, 2014. To my knowledge, it is unprecedented for the president of a U.S. actuarial organization to file a disciplinary complaint against the president of another U.S. organization for conduct performed, not in his capacity as an actuary, but for marketing in his role as president of a fellow actuarial organization. In his complaint, Mr. Fisher makes the gross misrepresentation that I acted improperly and dishonestly, in violation of Precept 1 of the Code of Professional Conduct. For the reasons stated below, I reject Mr. Fisher's charge of unprofessional conduct and strongly urge this tribunal to dismiss the complaint. Given Mr. Fisher's position as president of the CAS, as a member of the ABCD Selection Committee, and as a director of the American Academy of Actuaries (AAA), as well as the AAA's relationship to the ABCD, I trust that the ABCD will carefully consider any possible bias, conflicts of interest or other impediments to the Board's ability to render a fair and impartial decision.

**CAS' And Fisher's Improper, Anti-Competitive Motives**

Mr. Fisher fails to advise the Board that his and the CAS' sole and primary motive for filing this complaint is not to protect or advance the professionalism of the actuarial community, but to go to whatever means are necessary to stop the SOA from competing with the CAS. The CAS and Mr. Fisher apparently view competition from the SOA as a threat to his organization. Proof of Mr. Fisher's motives can be found in his September 19, 2014 response that he posted on the CAS website, a copy of which is attached as Exhibit 1. In the response, Mr. Fisher says, "many CAS members received a blast email from the Society of Actuaries. . . Regardless of the continued actions of the SOA to directly compete with the CAS. . ." The response goes on to promote what Mr. Fisher perceives to be the

EXHIBIT I

various benefits of CAS membership. It is obvious from Mr. Fisher's response that he perceived the September 17, 2014 email as a direct threat from a competitor, and that Mr. Fisher deemed it necessary to take whatever steps necessary to thwart that competition, including filing this complaint against me.

First of all, I do not agree that the SOA's efforts to recruit members from the CAS should be considered a threat to the CAS, given that nothing precludes an actuary from belonging to both organizations. In fact, in my letter to CAS members, I stated "As a member of the CAS, holding either the FCAS or the ACAS, you have an opportunity to add the comparable credential in the SOA ..." Note that I used the word "add" and not the word "replace".

Secondly, even if the solicitation was viewed as competition, it would not give rise to a claim of unprofessional conduct. In fact, the SOA's invitation to CAS members to join the SOA and receive the ASA or FSA designation is actually a significant benefit to CAS members, so disallowing this offer would be hurting the actuaries whom Mr. Fisher claims to be trying to protect.

The worldwide marketplace recognizes an FSA as one who is broadly conversant in a variety of actuarial disciplines. As a result, many FSA's have found it relatively easy to successfully change their areas of practice over time. I personally know many actuaries who took the retirement fellowship track and became actuaries specializing in life insurance; I am one of them.

By contrast, the marketplace recognizes an actuary whose sole designation is that of FCAS as only qualified in the property and casualty discipline. The CAS markets itself as specialists. The CAS' website's advertising section (Exhibit 2) states: "The CAS represents the largest concentration of property/casualty actuaries in the world." In such a case, should an actuary whose sole designation is that of FCAS wish to pursue opportunities in other disciplines, the marketplace would likely be reluctant to retain him/her to perform actuarial services outside the property and casualty area. In fact, I do not personally know of any actuary whose sole designation is that of FCAS who became an actuary whose primary area of practice is life insurance.

The FSA designation allows SOA members greater flexibility to pursue opportunities in other disciplines. As a result, the SOA is offering a tremendous benefit to CAS members by allowing them to join the SOA, without the need for any further exams, for a limited time. It is difficult to understand how such an opportunity by the SOA could be seen as unprofessional.

Third, I cannot accept Mr. Fisher's request that the SOA not compete with the CAS, because I feel that statement is highly unprofessional and likely illegal. Mr. Fisher's September 23, 2014 email to many SOA board members (attached as Exhibit 3) states: "As

discussed, we formally request that you and the SOA cease any unsolicited, direct marketing communications with our members". Complying with Mr. Fisher's request is effectively agreeing that the SOA not compete with the CAS. Neither I nor the SOA will agree to refrain from lawful competition.

**SOA's Use of CAS' Publicly Available Membership Directory Was Not Improper.**

Mr. Fisher notes in his complaint that the SOA used the CAS membership directory to obtain the email addresses. Mr. Fisher does not claim that I personally gathered the addresses. In fact, I neither gathered the addresses from the CAS website, nor knew at the time the exact methods used to gather the addresses. Richard Veys, the SOA's General Counsel, informed me and other members of the SOA Leadership Team that the names and addresses which the SOA intended to use were publicly available and not subject to any restriction on use or need to obtain prior permission.

As demonstrated in the attached letter from Brian Lewis, the SOA's counsel (attached hereto as Exhibit 4), and the resolution passed by the SOA Board of Directors (attached to Mr. Lewis' letter as Exhibit 2), the SOA acknowledges the role played by the SOA's staff and leadership, and fully supports my position in this process.

After Mr. Fisher sent his complaint, the SOA staff informed me about how they gathered the addresses. The methods used by the SOA were, in fact, perfectly legal and not unprofessional. Mr. Fisher fails to state that the CAS membership directory was open and available to the public until after the September 17, 2014 email was sent. In fact, a July 16, 2014 CAS press release proudly announces that the CAS online membership directory would be open to the public soon, and that the CAS' members' employment and contact information will no longer have restricted access and "members of the public searching for a casualty actuary will now be able to utilize the CAS website to fulfill their needs." A copy of the July 16, 2014 press release is attached as Exhibit 5. The fact that the SOA accessed that publicly available information and used it to market to CAS Associates and Fellows is perfectly acceptable, despite Mr. Fisher's attempt to characterize the conduct as "surreptitious" and "deceptive."

Under Illinois law if the names and addresses on a company's customer list are "easily obtained from telephone directories ... the Internet, and a variety of other sources," or "readily available to competitors through normal competitive means" then "no protectable interest exists." *Sys. Dev. Servs. v. Haarmann*, 389 Ill. App. 3d 561 (5th Dist. 2009). Thus, the CAS' claim that the addresses were protected, and that I personally violated the CAS' protectable rights, has no basis in law.

Mr. Fisher claims that when CAS members contacted the CAS to inquire about how their information had been obtained and used by the SOA to send them the email, the CAS will have to tell them of the way the information was accessed, suggesting this will reflect

poorly on the actuarial community. Mr. Fisher has apparently forgotten that just two short months earlier he had proudly announced to CAS members that their contact information, including emails, was soon to be available publicly. (See Exhibit 5). Although Mr. Fisher seemed to have a problem with the SOA using a public, unrestricted database, he did not have a problem using a "restricted" database when he emailed the SOA board of the fact that he filed a complaint against me. (See Exhibit 3; see also the terms of use of the SOA database, attached as Exhibit 6). Likewise, Mr. Terry did not have any concern when he emailed the SOA board of that same fact. (See Exhibit 7).

Contrary to Mr. Fisher's claims in his complaint, marketing is a well-known component of the actuarial profession. Marketing and robust competition are good for the profession and expected by regulators. It is impossible to see how competition is unprofessional. Competition is expected and required by law. Mr. Fisher's position that it should be punished, prevented and considered unprofessional, deceitful and improper must be rejected.

Before my retirement, I worked at Ernst & Young as a consulting actuary to the life insurance community. At many times during my career, I heard from various sources that another consulting firm was entrenched in a particular insurance company. That did not prevent me from contacting someone in that insurance company to inform them of EY's capabilities in order to bring in additional business to EY. Similarly, I lost clients over the years when EY's competitors did exactly the same thing. Since this form of marketing is commonplace and not considered unprofessional, I fail to see why marketing by an actuarial organization is unprofessional.

In the pension actuarial community, there is an even more analogous example. Just as CAS members were in a directory with no restrictions, specific pension plans list their service providers, which includes their pension actuarial providers, in a website called [Freeerisa.benefitspro.com](http://Freeerisa.benefitspro.com). In the "Type of Data" section of the website, it states "ERISA Form 5500 filings include company contact information ....., information about service providers and carriers, ....." One advisor's endorsement of this database, which is on the website, states "FreeERISA is a great sales tool in finding information about a potential client. Keep up the good work!" I understand that many pension actuaries use this website to develop marketing plans to target their competitors' clients. Since this is commonplace and not considered unprofessional, it seems outrageous that using data from the public CAS directory would be unprofessional. See Exhibit 8.

**The September 17, 2014 E-Mail Was Not Misleading Or Improper.**

Mr. Fisher next attacks the content of the solicitation. A copy of the solicitation is attached as Exhibit 9. He asserts in his October 1, 2014, complaint that he believes a number of statements in the September 17, 2014 email "are misleading and misrepresent the U.S. Qualification Standards," but then fails to elaborate. I can only surmise that Mr.



Fisher was referring to the complaint filed by Tom Terry and his colleagues at the AAA. The reality is that the SOA sent an email to approximately 4,500 CAS members, inviting them to apply for membership in the SOA, and informing them of an opportunity to add the comparable SOA membership designation (ASA or FSA) under a special program being offered through 2015. The email was devoted to explaining the value of the SOA membership designations and why becoming an SOA member provides career flexibility. It was not directed in any way at the programs or credentials of the CAS or the AAA. Specifically, the email phrased this as “ease of movement from one area of practice to another without replacing credentials.” The solicitation made no mention of the U.S. Qualification Standards and no attempt to link this sentence to the U.S. Qualification Standards was meant or implied.

As stated earlier, the SOA membership designations of FSA and ASA have always been recognized as designations that cross and encompass multiple disciplines in the actuarial profession. While the CAS designations of ACAS and FCAS have long been recognized as a designation of property and casualty actuaries, these designations do not extend into other actuarial fields in the minds of those in the marketplace. As a result, by taking advantage of the offer to join the SOA in my email, a CAS member would enjoy greater recognition in the marketplace should he / she decide to explore opportunities in other areas of practice. Adding a credential, such as an FSA, is a value many actuaries might like to take advantage of—however, they cannot take advantage of something they have not heard about. Thus, the solicitation was intended to provide actuaries an opportunity to attain an additional—and in my view prestigious—credential. Nothing more can be reasonably interpreted under the four corners of the solicitation.

Tom Terry, president of the AAA, has stated publicly and in his September 26, 2014 complaint against me that he believes the statement in my email regarding “ease of movement” is “false and misleading” because “one never has to change or replace credentials to change practice areas” under the U.S. Qualification Standards. Put simply, my statement on its face is not in any way inaccurate, false or misleading. Mr. Terry has taken the statement out of context and tried to characterize it as false and misleading by suggesting it was intended as a commentary on U.S. Qualification Standards. Let me be perfectly clear:

- The sentence is not, on its face or by implication, related to the U.S. Qualification Standards. There is not one word in the entire communication that discusses qualifications to practice or suggests that an individual obtaining an SOA membership designation is qualified or more qualified to practice in new fields.
- There is not one word in the entire communication that discusses the requirements for issuing Statements of Actuarial Opinions in the U.S., or suggests that obtaining an SOA membership designation makes a person qualified or more qualified to issue Statements of Actuarial Opinions in the U.S. for new areas of practice.

Robert J. Reitz  
Response to Fisher Complaint to ABCD  
Page 6  
October 28, 2014

- There is not one word in the entire communication that describes the SOA's proposal or value proposition of obtaining the SOA designations in terms of U.S. practice. To the contrary, the communication repeatedly describes the value proposition in terms of the SOA's global presence and membership and the value of the SOA designation all over the world. (Note that approximately 32% of the SOA's members and 37% of its candidates are outside of the U.S.)

When taken in context based on the four corners of the solicitation, it is clear that the statement itself and the email as a whole were not intended as, and cannot be construed as making any representations about the U.S. Qualification Standards or U.S. practice. While it is true that the requirements of the U.S. Qualifications Standards affect a person's career mobility, those requirements are only one factor in career flexibility and mobility. An actuary's career prospects and mobility also depend on the breadth of his/her educational training, his/her work experiences, his/her professional networks and, depending on where in the world he/she is practicing, the reputation and recognition of the membership designations he/she holds. This last factor is clearly what was emphasized in my September 17, 2014 email. (See Exhibit 9).

The ABCD is not the proper forum to resolve advertising and competition disputes between actuarial organizations. I therefore respectfully request that the complaint against me be dismissed.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark J. Freedman", with a long horizontal flourish extending to the right.

Mark J. Freedman, FSA, MAAA

cc: Brian L. Jackson (via email to [jackson@actuary.org](mailto:jackson@actuary.org))



# CASUALTY ACTUARIAL SOCIETY

PRESS ROOM >

## A MESSAGE FROM CAS PRESIDENT WAYNE FISHER

09/19/2014 —

Dear CAS Members:

On Wednesday morning, many CAS members received a blast marketing email from the Society of Actuaries. As a result, CAS leaders have received numerous emails and calls from fellow CAS members with questions and opinions on the solicitation. While we do not wish to call undue attention to the matter, the reactions and questions from CAS members have prompted us to reach out to you.

Regardless of the continued actions of the SOA to directly compete with the CAS, we will ensure that the CAS remains the recognized leader in the property and casualty actuarial profession. For 100 years, the CAS has been setting the standard of expertise, credibility, and professional integrity for the profession and we remain the *only* actuarial organization in the world exclusively focused on property and casualty practice. We offer the credentials that employers, regulators, and the industry respect and demand.

We're not generalists, we're specialists who are highly valued for our in-depth expertise. It is easy to see why the SOA covets the property and casualty actuarial specialty; it's clearly the dynamic, growing field for the foreseeable future. The value of the SOA offer for CAS members, however, is not clear.

The CAS is focused right where we should be. Our educational process reflects the experience of practicing actuaries who understand what it takes to be successful in the property and casualty actuarial field. Our 600 Fellows serving on exam committees are P&C subject matter specialists who develop questions that are relevant to actual practice and thoroughly test a candidate's ability to apply theory to real-life situations.

Our dedicated and talented volunteers, members, and staff inspire a culture of trust and support that is unparalleled in the actuarial community. Our high level of volunteer involvement in all aspects of the CAS ensures that our organization remains responsive and relevant to our members.

The CAS continues to grow at a healthy rate, because when it comes to our mission, we provide our members with everything they need to thrive — the specialized credential, knowledge, resources and community to be uniquely qualified for property and casualty actuarial practice. The leadership, our committed volunteers, and staff are working to improve the CAS every day, and we have a lot to look forward to as an organization in both the near term and the long term.

In November, the CAS marks a major milestone with our Centennial, as we celebrate our proud history, our vibrant community of colleagues, our global influence, and our bright future. I'm glad that you've decided to make the CAS your professional home, and I look forward to working with you to fulfill our mission in the years ahead.

Sincerely,

Wayne Fisher  
CAS President

[Back to All News Articles](#)

Exhibit 1



# CASUALTY ACTUARIAL SOCIETY

ADVERTISING >

## ADVERTISING

The CAS represents the largest concentration of property/casualty actuaries in the world.

The 6,200 members of the CAS work for:

- insurance and reinsurance companies and brokers
- consulting firms
- state insurance departments
- educational institutions
- other organizations serving the financial services industry

The CAS offers a variety of advertising, sponsorship, and exhibiting opportunities to assist firms with reaching this influential group of insurance professionals.

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4350 N. Fairfax Drive, Suite 250, Arlington, VA 22203 | phone: (703) 276-3100 · fax: (703) 276-3108



Association Web Design and Development by Matrix Group International, Inc.

Exhibit 2

From: **Wayne Fisher** <[waynehowardfisher@gmail.com](mailto:waynehowardfisher@gmail.com)>

Date: Tue, Sep 23, 2014 at 10:52 AM

Subject: SOA Communications

To: Mark Freedman <[markfreed0501@gmail.com](mailto:markfreed0501@gmail.com)>, Errol Cramer <[errol.cramer@allstate.com](mailto:errol.cramer@allstate.com)>, Craig Reynolds <[craig.reynolds@milliman.com](mailto:craig.reynolds@milliman.com)>, Greg Heidrich <[gheidrich@soa.org](mailto:gheidrich@soa.org)>, [joan\\_c\\_barrett@uhc.com](mailto:joan_c_barrett@uhc.com), [BelLR@aetna.com](mailto:BelLR@aetna.com), [sblanck@aflac.com](mailto:sblanck@aflac.com), [jerry.brown@mutualofamerica.com](mailto:jerry.brown@mutualofamerica.com), [lbruning@naic.org](mailto:lbruning@naic.org), [jim.doherty@osfi-bsif.gc.ca](mailto:jim.doherty@osfi-bsif.gc.ca), Ian Duncan <[duncan@pstat.ucsb.edu](mailto:duncan@pstat.ucsb.edu)>, [anferris@deloitte.com](mailto:anferris@deloitte.com), [evan.inglis@terrygroup.com](mailto:evan.inglis@terrygroup.com), [jennifer\\_mcginnis@swissre.com](mailto:jennifer_mcginnis@swissre.com), [kory.olsen@pacificlife.com](mailto:kory.olsen@pacificlife.com), [susan.pantely@milliman.com](mailto:susan.pantely@milliman.com), [sue.sames@towerswatson.com](mailto:sue.sames@towerswatson.com), [sudha.shenoy@lewin.com](mailto:sudha.shenoy@lewin.com), [james.trimble@uconn.edu](mailto:james.trimble@uconn.edu), [genghui.wu@prudential.com](mailto:genghui.wu@prudential.com), [john.robinson@neric.org](mailto:john.robinson@neric.org)

Mark:

I am writing to confirm our conversation yesterday afternoon. As discussed, we formally request that you and the SOA cease any unsolicited, direct marketing communications with our members.

The use of our Directory to solicit our members was certainly unauthorized and not what we expect from the SOA as a peer, professional organization. You stated that any other organization, including the CAS, is restricted from using your data base from such a solicitation. So I was astonished that our assumption of mutual trust was obviously naïve. We now need to remedy that over confidence.

I expect that our members will be thoroughly annoyed about this hacking of our membership data and hence the need for increased security measures for our contact data. This reflects poorly on the profession. I don't believe that this will reflect favorably at all on the SOA either; quite the opposite. And this action may well be a violation of Precept 1 of the Code of Professional Conduct.

I mentioned that if you or the SOA had something of potential interest for our members, a CE opportunity for example, all you need to do is ask permission. You then said "we knew you wouldn't approve our sending our solicitation". That's remarkable; knowing we wouldn't approve, the SOA used our data base and sent the solicitation anyway. Quite frankly, that's a professional betrayal that's hard to comprehend.

Wayne

# BARNES & THORNBURG LLP

Brian W. Lewis  
(312) 214-5608  
brian.lewis@btlaw.com

One North Wacker Drive, Suite 4400  
Chicago, IL 60606-2833 U.S.A.  
(312) 357-1313  
Fax (312) 759-5646

www.btlaw.com

October 28, 2014

Mr. Robert J. Reitz  
Chair  
Actuarial Board for Counseling and Discipline  
1611 Wolf Pen Road  
Old Fort, NC 28762

Re: **Response by the Society of Actuaries to ABCD Complaints against Mark Freedman**

Dear Mr. Reitz:

I am counsel to the Society of Actuaries (SOA) and am submitting this statement to the ABCD on behalf of and at the direction of the SOA Board of Directors.

The SOA Board has been advised that Wayne Fisher, President of the Casualty Actuarial Society (CAS), and Thomas Terry, President of the American Academy of Actuaries (Academy), have asserted disciplinary claims against SOA President, Mark Freedman. We know this because both Mr. Fisher and Mr. Terry informed the SOA Board of the disciplinary complaints in the attached e-mails to SOA Board members. (See Exhibits 1 and 2.) The SOA Board was surprised and dismayed by these communications for several reasons.

***1. The supposed confidentiality of disciplinary accusations.***

We have always understood that ABCD complaints and proceedings are to be handled confidentially – that an accused actuary's reputation should not be tarnished in the eyes of his peers or the public before a determination is reached that would justify some form of public discipline. It is bad enough that Mr. Terry and Mr. Fisher have filed complaints against Mr. Freedman that, based on how they described them in their emails, are totally without merit. It is even worse that they have publicized attacks on Mr. Freedman's personal integrity among his professional colleagues, and have thereby exposed him to unwarranted reputational harm.

***2. The actions complained of have nothing to do with Actuarial Services, nor do they suggest any failings in Mr. Freedman's personal integrity.***

We suspect that Mr. Fisher and Mr. Terry sent their communications to the SOA Board because their real grievances are with the actions of the SOA, not with Mr. Freedman personally. When Mr. Freedman signed his name to a marketing communication sent on behalf of the SOA, he was carrying out a routine function of his office and acting at the direction and at the behest of the SOA and its Board of Directors. There is nothing in this situation that involves Mr.

**Exhibit 4**

Atlanta      Chicago      Delaware      Indiana      Los Angeles      Michigan      Minneapolis      Ohio      Washington, D.C.

Mr. Robert J. Reitz  
October 28, 2014  
Page 2

Freedman providing Actuarial Services or issuing Actuarial Communications. There is also no basis for challenging the personal integrity of Mr. Freedman for actions taken in his capacity as SOA President, at the behest of the Board, and with the advice of the SOA Staff (including legal counsel). We don't believe the *Code of Professional Conduct* (the *Code*) was meant to be used or should be used against an individual under circumstances such as these.

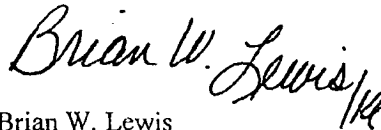
Whatever disagreements Mr. Terry or Mr. Fisher may have with the manner in which the SOA sent a commercial message to a number of CAS members, or with the content of the message itself, they should pursue those grievances against the party responsible for the message (the SOA), rather than the messenger. Turning inter-organizational disputes into personal attacks on an organization's President is inappropriate. It sets a bad precedent that will discourage actuaries from accepting leadership or other volunteer roles in the profession. It is just plain wrong, and we believe the ABCD should find ways to actively discourage this type of abuse of the disciplinary process.

*3. The Code and the disciplinary process should not be used to inhibit lawful competition.*

Finally, the complaints by Mr. Fisher and Mr. Terry have characterized the SOA's lawful activity as "unprofessional" or "unethical," and are seeking to have the SOA (through Mr. Freedman) disciplined for engaging in such lawful activity. Our free enterprise system and U.S. laws favor competition; associations have been told time and again by the courts that their ethical codes and disciplinary processes may not be used to inhibit lawful competition. If Mr. Fisher and Mr. Terry, or the organizations they represent, believe that anything about the SOA's action was unlawful or infringed upon any legal rights of the CAS or the Academy, those legal issues should be taken to the appropriate legal forum. They should not – and we believe the ABCD should be very wary about allowing them to – turn these disputes with the SOA's lawful commercial activity into a disciplinary matter, with Mr. Freedman as the pawn.

Because Mr. Terry and Mr. Fisher have made the complaints against Mr. Freedman a matter of concern for our Board, our Board felt compelled to respond. Our Board has adopted a resolution in support of Mr. Freedman (Exhibit 3) and we urge you to dismiss these complaints immediately.

Very truly yours,

  
Brian W. Lewis

BWL/kl  
Enclosures

From: Wayne Fisher <[waynehowardfisher@gmail.com](mailto:waynehowardfisher@gmail.com)<<mailto:waynehowardfisher@gmail.com>>>  
Date: Tue, Sep 23, 2014 at 10:52 AM  
Subject: SOA Communications  
To: Mark Freedman <[markfreed0501@gmail.com](mailto:markfreed0501@gmail.com)<<mailto:markfreed0501@gmail.com>>>, Errol Cramer  
<[errol.cramer@allstate.com](mailto:errol.cramer@allstate.com)<<mailto:errol.cramer@allstate.com>>>, Craig Reynolds  
<[craig.reynolds@milliman.com](mailto:craig.reynolds@milliman.com)<<mailto:craig.reynolds@milliman.com>>>, Greg Heidrich  
<[gheidrich@soa.org](mailto:gheidrich@soa.org)<<mailto:gheidrich@soa.org>>>,  
[joan\\_c\\_barrett@uhc.com](mailto:joan_c_barrett@uhc.com)<[mailto:joan\\_c\\_barrett@uhc.com](mailto:joan_c_barrett@uhc.com)>,  
[BelIR@aetna.com](mailto:BelIR@aetna.com)<<mailto:BelIR@aetna.com>>, [sblanck@aflac.com](mailto:sblanck@aflac.com)<<mailto:sblanck@aflac.com>>,  
[jerry.brown@mutualofamerica.com](mailto:jerry.brown@mutualofamerica.com)<<mailto:jerry.brown@mutualofamerica.com>>,  
[lbruning@naic.org](mailto:lbruning@naic.org)<<mailto:lbruning@naic.org>>, [jim.doherty@osfi-bsif.gc.ca](mailto:jim.doherty@osfi-bsif.gc.ca)<<mailto:jim.doherty@osfi-bsif.gc.ca>>,  
Ian Duncan <[duncan@pstat.ucsb.edu](mailto:duncan@pstat.ucsb.edu)<<mailto:duncan@pstat.ucsb.edu>>>,  
[anferris@deloitte.com](mailto:anferris@deloitte.com)<<mailto:anferris@deloitte.com>>,  
[evan.inglis@terrygroup.com](mailto:evan.inglis@terrygroup.com)<<mailto:evan.inglis@terrygroup.com>>,  
[jennifer\\_mcginnis@swissre.com](mailto:jennifer_mcginnis@swissre.com)<[mailto:jennifer\\_mcginnis@swissre.com](mailto:jennifer_mcginnis@swissre.com)>,  
[kory.olsen@pacificlife.com](mailto:kory.olsen@pacificlife.com)<<mailto:kory.olsen@pacificlife.com>>,  
[susan.pantely@milliman.com](mailto:susan.pantely@milliman.com)<<mailto:susan.pantely@milliman.com>>,  
[sue.sames@towerswatson.com](mailto:sue.sames@towerswatson.com)<<mailto:sue.sames@towerswatson.com>>,  
[sudha.shenoy@lewin.com](mailto:sudha.shenoy@lewin.com)<<mailto:sudha.shenoy@lewin.com>>,  
[james.trimble@uconn.edu](mailto:james.trimble@uconn.edu)<<mailto:james.trimble@uconn.edu>>,  
[genghui.wu@prudential.com](mailto:genghui.wu@prudential.com)<<mailto:genghui.wu@prudential.com>>,  
[john.robinson@neric.org](mailto:john.robinson@neric.org)<<mailto:john.robinson@neric.org>>

?Mark:

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Wayne

EXHIBIT 1



From: Tom Terry <tom.terry@terrygroup.com<mailto:tom.terry@terrygroup.com>>  
Date: Sat, Sep 27, 2014 at 7:34 PM  
Subject: September 17, 2014 email to CAS members from the SOA  
To: "anferris@deloitte.com<mailto:anferris@deloitte.com>"  
<anferris@deloitte.com<mailto:anferris@deloitte.com>>,  
"brad.smith@milliman.com<mailto:brad.smith@milliman.com>"  
<brad.smith@milliman.com<mailto:brad.smith@milliman.com>>, "ian.genno@osfi-  
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<craig.reynolds@milliman.com<mailto:craig.reynolds@milliman.com>>,  
"dawagner@deloitte.com<mailto:dawagner@deloitte.com>"  
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"errol.cramer@allstate.com<mailto:errol.cramer@allstate.com>"  
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"James.Trimble@uconn.edu<mailto:James.Trimble@uconn.edu>"  
<James.Trimble@uconn.edu<mailto:James.Trimble@uconn.edu>>,  
"jennifer.gillespie@bluecrossmn.com<mailto:jennifer.gillespie@bluecrossmn.com>"  
<jennifer.gillespie@bluecrossmn.com<mailto:jennifer.gillespie@bluecrossmn.com>>,  
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<BellR@aetna.com<mailto:BellR@aetna.com>>,  
"sudha.shenoy@lewin.com<mailto:sudha.shenoy@lewin.com>"  
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"sblanck@aflac.com<mailto:sblanck@aflac.com>" <sblanck@aflac.com<mailto:sblanck@aflac.com>>,  
"susan.pantely@milliman.com<mailto:susan.pantely@milliman.com>"  
<susan.pantely@milliman.com<mailto:susan.pantely@milliman.com>>,  
"sue.sames@towerswatson.com<mailto:sue.sames@towerswatson.com>"  
<sue.sames@towerswatson.com<mailto:sue.sames@towerswatson.com>>,  
"tbmanning@me.com<mailto:tbmanning@me.com>"

EXHIBIT 2

<tbmanning@me.com<mailto:tbmanning@me.com>>,  
"vbpaganelli@comcast.net<mailto:vbpaganelli@comcast.net>"  
<vbpaganelli@comcast.net<mailto:vbpaganelli@comcast.net>>

To members of the SOA board: This is a copy of a message I sent earlier today to the full American Academy of Actuaries' Board of Directors.

\*\*\*\*\*

The attached email from the SOA to members of the CAS is disgraceful.

This email is a deliberate and self-serving misrepresentation of what it takes for a US actuary to move from one practice area to another. This misrepresentation undermines the work of the Academy and undercuts the interests of the entire US profession in promoting strong Qualification Standards.

Mark's email is an affront to all U.S. Actuaries who care about professionalism and who care about the integrity of the US profession. By misrepresenting the process as he does, Mark is signaling that the SOA values commercial ambitions over professional integrity.

The Academy and its professionalism arms work tirelessly on behalf of all US actuaries and the public at large. The Qualification Standards are central to these efforts and to preserving our profession's self-regulation in the US as well as our professional standing with the public and the regulatory community.

This past week, an ABCD complaint was filed against Mark. I won't be sharing it with you. Please ask Mark if you wish to see it.

Thomas S. Terry  
Cell: 312-543-5206<tel:312-543-5206>  
[tom.terry@terrygroup.com](mailto:tom.terry@terrygroup.com)<mailto:Tom.Terry@TerryGroup.com>

**SOCIETY OF ACTUARIES**  
**Board of Directors Resolution**  
**Adopted October 20, 2014**

*WHEREAS:* The Board has been advised that two disciplinary complaints have been filed with the Actuarial Board for Counseling and Discipline (ABCD) against the SOA President, Mark Freedman. One complaint was filed by Tom Terry and other officers of the American Academy of Actuaries, and one was filed by Wayne Fisher of the Casualty Actuarial Society (CAS). The complaints, as described by Messrs. Terry and Fisher, charge Mr. Freedman with violating the *Code of Professional Conduct* because he, as SOA President, signed an email communication sent by the SOA to members of the CAS, and because the email message (i) was allegedly misleading, and (ii) was sent using a mailing list that was allegedly procured by inappropriate means and used without permission of the CAS.

*WHEREAS:* The Board was aware of and concurred with the decision to send an email communication to CAS members. The email communication was prepared by the SOA staff and reviewed and approved by the SOA Leadership Team, which did not consider it to be misleading. The Board was advised in advance of the principal marketing message to be conveyed in the email communication and did not consider it to be misleading. The Board has since reviewed the specific language of the email communication and does not consider it to be misleading.

*WHEREAS:* The mailing list of CAS members used for the email communication was compiled from publicly available information posted by the CAS itself, with no terms of use or other limitations or restrictions relating to the use of that public information. Mark Freedman and the SOA were advised by legal counsel that the publicly available information could be used to compile the mailing list and to send the email communication to the CAS members who received it.

*IT IS THEREFORE RESOLVED:*

1. That the charges in the complaints, as described by Messrs. Terry and Fisher, are baseless and without any merit.
2. That, in attaching his name to the email communication, Mr. Freedman was acting on behalf of the SOA and carrying out his duties as President of the SOA; that his actions were taken with the support of the Board; and that the President of the SOA should not be subjected to a personal disciplinary action based on routine, authorized actions taken as President in signing his name to a marketing communications issued by the SOA.
3. That, in sending the email communication to CAS members, the SOA was engaged in lawful commercial competition, and that the President of the SOA should not be subjected to a personal disciplinary action based on the lawful commercial activities of the SOA.
4. That the Board, in order to support Mr. Freedman's defense of the ABCD charges and to protect the SOA's legal rights to engage in lawful commercial activity, directs its legal counsel to prepare and submit a statement to the ABCD in accordance with these resolutions.

**EXHIBIT 3**



# CASUALTY ACTUARIAL SOCIETY

PRESS ROOM >

## CAS MEMBERSHIP DIRECTORY TO BE AVAILABLE TO THE PUBLIC

07/16/2014 —

The CAS online membership directory will be open to all visitors to the CAS website soon. While some member profile information will continue to be available only to logged-in registered users of the CAS website, CAS members' employment and contact information will no longer have restricted access (See table below). Members of the public searching for a casualty actuary will now be able to utilize the CAS website to fulfill their needs. Please take a few minutes today to review and update the information in your online CAS member profile.

Field	Available to Registered Users	Available to Public
Full Name	X	X
Designation	X	X
Organization	X	X
Job Title	X	X
Address	X	X
Phone	X	X
Fax	X	X
Email	X	X
CE Requirement Compliance	X	X
Profile Picture		X
College and Degree Information		X
CAS Committee History		X
CAS Publications		X

## UPDATE YOUR MEMBER PROFILE

To review and update your member profile, log into the **CAS Online Community** or click **My Profile** on the top navigation of the CAS website. Follow these steps to make changes:

- Select the **Edit Profile** button
- On the profile management page, click **Edit** and then **update your contact information**
- To Save the updates to your profile click **Save**

More specifically, to manage your contact information and control what is published in the directory, click **Edit** beside Contact Information on the profile management page. Update your contact information by clicking on the item that needs to be revised. Note that the items marked as "publishable" will be displayed in the online directory. Review and revise whether the information is published in the online directory, as necessary.

Exhibit 5

**MY ADDRESSES | [ADD](#)**

Work - **4350 N Fairfax Dr** - Arlington, VA 22203 Primary: ✓ Publishable: ✓

## UPLOAD YOUR PROFILE PICTURE

Please also take the time to upload your profile picture! In **My Profile**, click on the **My Picture** button at the bottom of the right column to upload your own image. Please note that if you had a picture in the previous version of the online membership directory, it is no longer available because we were unable to transfer the pictures from the old system into the new system. Please take the opportunity today to upload a new picture. This will help you connect with colleagues virtually and in-person!

**New!** Members' degree and university information has recently been added to the online membership directory. This information may also be updated through the **profile management page**.

For more information about updating your profile, contact the Actuaries' Resource Center or call us at 703-276-3100 between 8:45 a.m. and 5:00 p.m. EDT Monday through Friday.

**[Back to All News Articles](#)**

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Association Web Design and Development by Matrix Group International, Inc.

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[Close Window](#)

From: Tom Terry <tom.terry@terrygroup.com>

Date: Sat, Sep 27, 2014 at 7:34 PM

Subject: September 17, 2014 email to CAS members from the SOA

To: "anferris@deloitte.com" <anferris@deloitte.com>, "brad.smith@milliman.com" <brad.smith@milliman.com>, "ian.genno@osfi-bsif.gc.ca" <ian.genno@osfi-bsif.gc.ca>, "craig.reynolds@milliman.com" <craig.reynolds@milliman.com>, "dawagner@deloitte.com" <dawagner@deloitte.com>, "errol.cramer@allstate.com" <errol.cramer@allstate.com>, "Genghui.Wu@Prudential.com" <Genghui.Wu@prudential.com>, "duncan@pstat.ucsb.edu" <duncan@pstat.ucsb.edu>, "James.Trimble@uconn.edu" <James.Trimble@uconn.edu>, "jennifer.gillespie@bluecrossmn.com" <jennifer.gillespie@bluecrossmn.com>, "jennifer.mcginis@swissre.com" <jennifer.mcginis@swissre.com>, "jerry.brown@mutualofamerica.com" <jerry.brown@mutualofamerica.com>, "jim.doherty@osfi-bsif.gc.ca" <jim.doherty@osfi-bsif.gc.ca>, "Joan C Barrett@uhc.com" <Joan C Barrett@uhc.com>, "john.nigh@genworth.com" <john.nigh@genworth.com>, "John.Robinson@neric.org" <John.Robinson@neric.org>, "Kory.Olsen@PacificLife.com" <Kory.Olsen@pacificlife.com>, "lbruning@naic.org" <lbruning@naic.org>, "Markfreed0501@gmail.com" <Markfreed0501@gmail.com>, Evan Inglis <evan.inglis@terrygroup.com>, "Herg411@gmail.com" <Herg411@gmail.com>, "BellR@aetna.com" <BellR@aetna.com>, "sudha.shenoy@lewin.com" <sudha.shenoy@lewin.com>, "sblanck@aflac.com" <sblanck@aflac.com>, "susan.pantely@milliman.com" <susan.pantely@milliman.com>, "sue.sames@towerswatson.com" <sue.sames@towerswatson.com>, "tbmanning@me.com" <tbmanning@me.com>, "vbpaganelli@comcast.net" <vbpaganelli@comcast.net>

To members of the SOA board: This is a copy of a message I sent earlier today to the full American Academy of Actuaries' Board of Directors.

\*\*\*\*\*

The attached email from the SOA to members of the CAS is disgraceful.

This email is a deliberate and self-serving misrepresentation of what it takes for a US actuary to move from one practice area to another. This misrepresentation undermines the work of the Academy and undercuts the interests of the entire US profession in promoting strong Qualification Standards.

Mark's email is an affront to all U.S. Actuaries who care about professionalism and who care about the integrity of the US profession. By misrepresenting the process as he does, Mark is signaling that the SOA values commercial ambitions over professional integrity.

The Academy and its professionalism arms work tirelessly on behalf of all US actuaries and the public at large. The Qualification Standards are central to these efforts and to preserving our profession's self-regulation in the US as well as our professional standing with the public and the regulatory community.

This past week, an ABCD complaint was filed against Mark. I won't be sharing it with you. Please ask Mark if you wish to see it.

**Thomas S. Terry**

Cell: 312-543-5206  
tom.terry@terrygroup.com

Exhibit 7

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— Robert A. Sosky, Regional Pension Advisor | SRS, Inc.

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— Al Stafford, Sr. Vice-President | Morgan Stanley

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**Recruit Top Benefits Brokers**  
The Brokers and Carriers Market Share Database empowers

carriers and brokers to find and contact top brokers in their markets and see brokers' client lists.



From: **Mark Freedman** <mfreedman@soa.org>  
Date: Wed, Sep 17, 2014 at 8:03 AM  
Subject: An Invitation from the Society of Actuaries  
To:

For the Online Web Version or on a Mobile Device, click [here](#)

The Society of Actuaries (SOA) is accepting applications from Property/Casualty (or General Insurance) actuaries who hold the FCAS or ACAS designations to become SOA members. I am reaching out to you because I believe becoming a Fellow or Associate in the SOA will benefit you professionally.

In developing nations all over the world, populations are rapidly moving to urban areas, resulting in an expanding middle class. These economic and demographic trends are driving growth in General Insurance and, with it, the demand for additional qualified General Insurance actuaries. The SOA is well positioned to provide the education and examination capabilities necessary to build the actuarial profession globally in General Insurance.

By becoming a member of the SOA, you will gain the career flexibility that SOA membership provides – ease of movement from one area of practice to another without replacing credentials. While the demand for actuaries trained in General insurance is currently high, there is no telling what the future holds. The SOA is committed to continuously enhancing the value of its credentials. One way of doing this is to offer all specialties of actuarial science globally. This gives SOA members the flexibility they may need throughout their career.

By joining, you will become a member in the largest global professional actuarial society serving all practice areas with almost 25,000 members in 78 countries. You will also have the opportunity to help grow and develop General Insurance actuarial practice across the world.

The SOA launched its sixth specialty track in General Insurance in 2012. Since then, we have built out the track components and now offer a full set of examinations and modules preparing candidates for professional actuarial careers in General Insurance. We have commissioned and published new textbooks, added new e-learning in the application of statistical techniques, and are beginning to offer new General Insurance professional development opportunities for members.

We are backing our General Insurance specialty track with the resources, strength, and heritage of the SOA. We are leaders in actuarial education and serve 35,000 candidates in 94 countries. The SOA has a professional staff of 130, including 30 who specialize in supporting our education system alone. Over 1,000 member volunteers support our education system, one of the broadest and most innovative such systems in the world. We provide continuous training for our education

volunteers in question writing, exam grading, and trends in adult education. We offer a broad array of multi-disciplinary professional development opportunities.

As a member of the CAS, holding either the FCAS or the ACAS, you have an opportunity to add the comparable credential in the SOA (and exam credit if you hold an ACAS) under rules the SOA established in 2013. However, because we based this opportunity on a review of educational system equivalence at that time, we are only providing this opportunity until year-end 2015.

Over the past year, I have talked to many members of the CAS who see the benefits of SOA membership and have indicated their intention to apply before the year-end 2015 deadline. You might want to do the same.

Please consider completing the Fellow or Associate application form for SOA membership. If you have questions about this opportunity, please write to me at [mfreedman@soa.org](mailto:mfreedman@soa.org).

Sincerely,

Mark Freedman, FSA, MAAA  
President, Society of Actuaries

Copyright © 2014. Society of Actuaries. 475 N. Martingale Road, Suite 600,  
Schaumburg, Illinois 60173 Phone: 847.706.3500 | Fax: 847.706.3599 | Web:  
[SOA.org](http://SOA.org) | E-mail: [soa@soa.org](mailto:soa@soa.org)  
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J

**SOCIETY OF ACTUARIES**  
**Board of Directors Resolution**  
**Adopted October 20, 2014**

*WHEREAS:* The Board has been advised that two disciplinary complaints have been filed with the Actuarial Board for Counseling and Discipline (ABCD) against the SOA President, Mark Freedman. One complaint was filed by Tom Terry and other officers of the American Academy of Actuaries, and one was filed by Wayne Fisher of the Casualty Actuarial Society (CAS). The complaints, as described by Messrs. Terry and Fisher, charge Mr. Freedman with violating the *Code of Professional Conduct* because he, as SOA President, signed an email communication sent by the SOA to members of the CAS, and because the email message (i) was allegedly misleading, and (ii) was sent using a mailing list that was allegedly procured by inappropriate means and used without permission of the CAS.

*WHEREAS:* The Board was aware of and concurred with the decision to send an email communication to CAS members. The email communication was prepared by the SOA staff and reviewed and approved by the SOA Leadership Team, which did not consider it to be misleading. The Board was advised in advance of the principal marketing message to be conveyed in the email communication and did not consider it to be misleading. The Board has since reviewed the specific language of the email communication and does not consider it to be misleading.

*WHEREAS:* The mailing list of CAS members used for the email communication was compiled from publicly available information posted by the CAS itself, with no terms of use or other limitations or restrictions relating to the use of that public information. Mark Freedman and the SOA were advised by legal counsel that the publicly available information could be used to compile the mailing list and to send the email communication to the CAS members who received it.

*IT IS THEREFORE RESOLVED:*

1. That the charges in the complaints, as described by Messrs. Terry and Fisher, are baseless and without any merit.
2. That, in attaching his name to the email communication, Mr. Freedman was acting on behalf of the SOA and carrying out his duties as President of the SOA; that his actions were taken with the support of the Board; and that the President of the SOA should not be subjected to a personal disciplinary action based on routine, authorized actions taken as President in signing his name to a marketing communications issued by the SOA.
3. That, in sending the email communication to CAS members, the SOA was engaged in lawful commercial competition, and that the President of the SOA should not be subjected to a personal disciplinary action based on the lawful commercial activities of the SOA.
4. That the Board, in order to support Mr. Freedman's defense of the ABCD charges and to protect the SOA's legal rights to engage in lawful commercial activity, directs its legal counsel to prepare and submit a statement to the ABCD in accordance with these resolutions.

K



AMERICAN ACADEMY of ACTUARIES

Cecil D. Bykerk, FSA, MAAA, HonFIA, RHU, FLMI, *President*

November 1, 2013

VIA EMAIL

[kdefrain@naic.org](mailto:kdefrain@naic.org)  
[rmazyck@naic.org](mailto:rmazyck@naic.org)  
[RPiazza@ldi.la.gov](mailto:RPiazza@ldi.la.gov)  
[steven.ostlund@insurance.alabama.gov](mailto:steven.ostlund@insurance.alabama.gov)  
[mike.boerner@tdi.state.tx.us](mailto:mike.boerner@tdi.state.tx.us)  
[Richard.Marcks@ct.gov](mailto:Richard.Marcks@ct.gov)  
[eking@naic.org](mailto:eking@naic.org)

Richard Piazza, Chairperson  
National Association of Insurance Commissioners (NAIC)  
Casualty Actuarial & Statistical Task Force (CASTF)

Steven Ostlund, Chairperson  
NAIC Health Actuarial Task Force (HATF)

Michael Boerner, Chairperson  
NAIC Life Actuarial Task Force (LATF)

Richard Marcks, Chairperson  
NAIC Joint Qualified Actuary (A/B/C) Subgroup

c/Eric King  
NAIC  
1100 Walnut Street, Suite 1500  
Kansas City, MO, 64106-2197

Re: Letter from Committee on Qualifications

Dear Members of the NAIC Actuarial Task Forces:

We would like to take this opportunity to embrace the recommendation in the attached letter that we understand to be an interim response from the Committee on Qualifications (COQ) to the Society of Actuaries' (SOA) request earlier this year for modification to Section 3.1.1.2 of the U.S. Qualification Standards to include a reference to the SOA as a provider of general insurance (property and casualty) exams. The COQ is a long-established committee within the American Academy of Actuaries (<http://www.actuary.org/content/history-qualifications-standards>). The Academy's professionalism mandate has long been exercised through autonomous committees created to be deliberately independent of any actuarial organization's influence and commercial self-interest, or any one organization's commercially strategic objectives. Established at the Academy because of its unique professionalism mission, the Academy Board approves COQ recommendations to modify the USQS but does not dictate those recommendations. Objectivity and dispassionate examination of the criteria for practice qualification to issue Statements of Actuarial Opinion is essential to the credibility of the COQ. The COQ does not view criteria for qualification through the lens of any one organization's strategic goals.

EXHIBIT K

The attached letter has given us a reason to supplement our letter to you dated September 27, 2013, in connection with the definition of "qualified actuary" because this issue continues to be raised. The situation raised by the SOA request to add their name to the model law is not based on any needs of the U.S. actuarial profession or of the NAIC that we can identify. This effort regrettably has engendered confusion over the process and role of the Committee on Qualifications and the NAIC with respect to relying on professional credentials for qualification in the US. We do not endorse this lobbying effort to add the SOA credential. Our goal is to work with the NAIC to optimize the process by which the actuarial profession and regulators can with confidence recognize qualified actuaries to sign opinions. As a basic education provider, the SOA is similar to other international education providers, particularly the UK's Institute and Faculty of Actuaries (IFoA) and not at all similar to the Academy, the national association of U.S. practicing actuaries from all practice areas focused on practice and professionalism issues solely in the U.S. We understand the stated reason of the SOA's request to the NAIC, and to the COQ, to be a strategic commercial one to bolster their marketing of the new General Insurance track they have developed to meet global insurance industry needs. These are not needs that exist in the U.S. It is the long held and stated position of the Academy that the MAAA is the single designation that is specific to U.S. actuarial qualifications to practice and is therefore the necessary and most meaningful credential to be used in U.S. model laws and regulations.

Since the inception of the Academy, it was contemplated by the U.S. actuarial profession that the Academy would serve as the national organization representing the voice of the U.S. actuarial profession and serving the public and the U.S. actuarial profession, similar to the way the Canadian Institute of Actuaries serves the needs of the Canadian public and actuaries.

We believe the SOA and CAS have provided and continue to provide excellent basic education to credential actuaries all over the world. The Academy however has a different mission from these internationally recognized organizations. The Academy's mission is to serve the public and the U.S. actuarial profession. It is therefore focused on the needs of the public in the United States. As a result, the Academy has interfaced for years with regulators at the state and national level because of its commitment to its national mission. Moreover, the Academy alone houses the professionalism entities of the U.S. actuarial profession, such as the Actuarial Standards Board and the Committee on Qualifications because from its inception, the Academy has been dedicated to serving the public and the U.S. profession as the one organization that is independent of employers, clients, and other actuarial organizations who rely for their existence on a steady or increasing supply of clients and exam takers. The Academy's public policy and professionalism work focus on U.S. actuarial practice and actuarial services in the United States, not outside the United States.

We welcome the opportunity to work with the NAIC, as we have since the Academy's founding, to support the highest recognized standards of actuarial competence and conduct that every state can reference and rely upon. We want to hear of your concerns and work with you towards our mutual goals of excellence in actuarial professionalism and analysis of issues that is of value and interest to the NAIC.

Sincerely,



Cecil D. Bykerk

/enc.



AMERICAN ACADEMY of ACTUARIES

October 30, 2013

VIA EMAIL

Mr. Greg Heidrich  
Executive Director  
Society of Actuaries  
475 North Martingale Road, Suite 600  
Schaumburg, Illinois 60173

Re: SOA letter dated February 6, 2013 to Committee on Qualifications

Dear Mr. Heidrich:

Reference is made to your letter to me dated February 6, 2013 as Chairperson of the Committee on Qualifications (COQ) of the American Academy of Actuaries (Academy). You asked the COQ to consider modifying Section 3.1.1.2 of the U.S. Qualification Standards (USQS) to include reference to the Society of Actuaries (SOA) as a provider of exams necessary for actuaries to meet part of the basic education requirements of the USQS to qualify an actuary to sign the actuarial opinion for the NAIC Property and Casualty Annual Statements. Currently, actuaries must pass examinations administered by the Academy or the Casualty Actuarial Society to issue statements of actuarial opinion for NAIC Property and Casualty Annual Statements, or satisfy the Alternative Basic Education requirements of Section 3.1.2.

As a reminder, the COQ is charged with determining the qualifications of actuaries practicing in the United States after an actuary earns his or her initial actuarial credential from any of the Recognized Actuarial Organizations as defined in the Code of Professional Conduct, of which the SOA is one. After careful consideration of the discussions going on amongst members of the National Association of Insurance Commissioners (NAIC), and further review of the USQS requirements, the COQ has decided to suspend consideration of the SOA request to include the SOA in Section 3.1.1.2 of the USQS as a provider of general insurance exams until there is further advancement by the NAIC on this matter. The current language contained in Section 3 of the USQS in connection with actuarial qualifications for NAIC property and casualty reserve opinions was derived from the NAIC instructions definition of "qualified actuary" for purposes of signing the NAIC Property and Casualty Annual Statement opinions. As such, it was the NAIC that limited actuarial signers of the NAIC property and casualty opinions to the members identified in that regulation, not the COQ. Further, and in particular, we note that Appendix 4, Section 3 of the U.S. Qualification Standards (Guidelines for Determining When Specific Qualification Standards Should Be Developed) states:

*A Specific Qualification Standard typically should be developed in relation to a specific actuarial opinion requirement that is embodied in a regulation or a standard and is of high visibility and fairly broad application within the profession.*



Given the foregoing, the COQ believes it is in the best interest of the profession for the COQ to wait to see if the companion regulation relating to your request by the NAIC in connection with the NAIC Property and Casualty Annual Statement actuarial opinion, or if any state should reach a determination on the issue in any laws, rules, or regulations, addresses your issue, then consider development in the U.S. Qualification Standards.

As stated above, this is a decision to suspend further review of your request to include a reference to the SOA as a provider of general insurance exams under Section 3.1.1.2 of the USQS at this time. The COQ will continue to monitor the NAIC's deliberations on this issue, and is open to reviewing the SOA's full general insurance track syllabus at a later date. The COQ does however reserve all of its rights to act in accordance with its charges, and should any circumstances change in connection with your request; the COQ will consider and act accordingly.

Sincerely,

John W. Morris  
Chairperson  
Committee on Qualifications  
American Academy of Actuaries

cc: American Academy of Actuaries  
Casualty Actuarial Society  
National Association of Insurance Commissioners (C Committee)

**L**



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## AMERICAN ACADEMY *of* ACTUARIES

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*The American Academy of Actuaries' mission is to serve the public and the United States actuarial profession.*

Published on American Academy of Actuaries (<http://www.actuary.org>)

[Home](#) > Academy Antitrust Policy

# Academy Antitrust Policy

It is the policy of the American Academy of Actuaries (the "Academy") to operate in compliance with the requirements of applicable law, including federal antitrust laws. Individuals participating in Academy activities are authorized to do so only in accordance with antitrust and other applicable laws and in furtherance of the Academy's lawful fulfillment of its mission and objectives. In particular, individuals participating in Academy activities must refrain from engaging in conduct that unreasonably restrains commerce or trade or that constitutes a concerted action significantly diminishing competition between actual or prospective competitors. Per se violations (i.e., practices that are presumed to violate antitrust laws regardless of intent) include:

- agreements to fix or stabilize prices,
- agreements to divide markets,
- agreements to restrict product production or distribution, or
- group boycott.

At public meetings and seminars sponsored by the Academy, the Academy will publish a statement on antitrust compliance in the meeting or seminar program and refer to the statement at the beginning of each meeting or seminar. Individuals participating in the meeting or seminar will be required to comply with the Academy's antitrust policy. However, individuals participating in Academy activities are permitted to discuss business activities for purposes of influencing legislation, regulation or court decisions, so long as such discussions are not conducted as a pretext for otherwise unlawful concerted action of the sort described above.

Questions concerning the application of antitrust law to an individual's participation in an Academy activity may be directed to the Academy's general counsel. The following are always prohibited:

- Agreeing with competitors on the price to be charged for particular goods or services (including salary levels for in-house work), or whether a fee should be charged for a particular activity or service.
- Agreeing with competitors to divide up a particular market by geographic area or by field of actuarial expertise.

EXHIBIT L
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- Agreeing with competitors to limit the availability of particular goods or services, or to make certain goods and services available only to customers who contract for an additional level or type of goods or services.
- Agreeing with competitors to refuse to provide a particular service, or to work for a particular client or employer.
- Agreeing with competitors to refuse to purchase goods or services from a particular vendor.

Please also note that, in circumstances where the Academy and other organizations representing actuaries may be deemed to be in competition for members, students, or meeting attendees, antitrust issues may arise. When dealing with situations in which antitrust issues may arise, please contact the Academy's general counsel for specific guidance.

**M**

**BYLAWS  
OF THE  
AMERICAN ACADEMY OF ACTUARIES**

*A Corporation Organized Under the Illinois General Not For Profit Corporation Act*

(Adopted April 29, 1966, and last amended as noted within)

**Article 1**

**Membership**

**SECTION 1. *Members.*** Individuals having membership in the Academy shall be called "members."

Members shall be entitled to attend meetings of the Academy, vote, hold office, serve as elected Directors, make nominations, serve on committees, and generally exercise the rights of full membership. They are authorized to designate themselves as "members" of the American Academy of Actuaries and to append to their names the initials M.A.A.A.

**SECTION 2. *Admission to Membership.*** Any person may apply for membership and shall become a member by meeting the requirements contained in this section.

- A. *Application.* Each candidate for admission must submit a written application that shall include such additional information as the Executive Committee may request.
- B. *Education.* Each candidate shall have passed or have received credit for the examinations, and/or achieved membership in a non-U.S.-based actuarial organization, as prescribed from time to time by the Board of Directors, hereinafter called the "Board."
- C. *Resident Aliens and Nonresidents.* A candidate who is a resident alien or a nonresident of the United States must meet such other requirements as are prescribed by the Board.
- D. *Approval.* Each application shall be acted upon by the Executive Committee. A candidate's application is approved if accepted by a majority of the whole Executive Committee. If refused for any reason, including a rejection on the basis of evidence of lack of character or professional integrity, the applicant may request review by the Board, pursuant to such procedures as may be adopted by the Board.

*(Section 2 amended and effective September 18, 2008)*

**Article II**

**Meetings of the Members**

There shall be an annual meeting of the members at such time and place as the Board shall designate.

Special meetings may be called by the Board. Upon request of not less than 5 percent of the members, the President shall call a meeting of the members. Notice of a meeting, specifying the place, date, and hour of the meeting, shall be given to the membership at least 50 days before each meeting. At all meetings, the number of members present at an annual or special meeting of the membership shall constitute a quorum for purposes of any member vote.

*(Article 2 amended and effective May 21, 2008)*

**EXHIBIT M**

## Article III

### Board of Directors

**SECTION 1. *Composition.*** The Board shall consist of 28 Directors, comprising the ten Officers, the immediate Past President, and 17 elected Directors.

*(Section 1 amended May 21, 2009, effective the close of the annual meeting October 26, 2009)*

*(Section 1 amended by vote of the members in August 2011, effective at the close of the annual meeting October 28, 2011)*

**SECTION 2. *Election and Term of Office.***

- A. *Special Directors.* The Board shall designate a number of seats on the Board, not to exceed eight, to be filled by a class of special Directors whose presence on the Board is deemed helpful to the Academy, which may include, but is not limited to, representatives of other U.S. actuarial organizations. Special Directors shall be elected by majority vote of the whole Board and shall serve for a period of two years. If a vacancy occurs among the special Directors, the vacancy may be filled for the remainder of the unexpired term by majority vote of the whole Board. The term of office of a special Director shall begin at the close of the annual meeting of the Academy in the calendar year of the election and shall continue until the close of the annual meeting at the end of the term for which the special Director was elected.
- B. *Regular Directors.* Elected Directors who are not special Directors shall be regular Directors. Each year the members shall elect a number of regular Directors to bring the total number of elected Directors to 17. Candidates receiving the greatest number of votes shall be elected. Such regular Directors shall serve for a period of three years. A retiring regular Director, other than one who was elected to fill a vacancy whose term as a regular Director expires, shall not be eligible for re-election as a regular Director at that time. A Past President whose ex officio membership on the Board as Past President expires shall not be eligible for election as a regular Director at that time. If a vacancy occurs among the regular Directors, including a vacancy created by the election of a regular Director to an office or to the position of special Director, the vacancy may be filled for the remainder of the unexpired term by majority vote of the whole Board. The term of office of a regular Director shall begin at the close of the annual meeting of the Academy in the calendar year of the election and shall continue until the close of the annual meeting at the end of the term for which the regular Director was elected.

*(Section 2.B amended May 21, 2009, effective the close of the annual meeting October 26, 2009)*

*(Section 2.A amended and effective October 8, 2014)*

**SECTION 3. *Meetings.*** There shall be an annual meeting of the Board prior to the annual meeting of the Academy. Special meetings of the Board shall be called whenever the President or at least five members of the Board so request. The Immediate Past President shall preside at meetings of the Board.

Meetings of the Board may be held either within or outside the state of Illinois. Notice of the meetings of the Board shall be given not less than 10 days nor more than 30 days before the meeting, except in the event of a meeting of the Board following the annual meeting of the

Academy, in which event newly elected Directors shall be given notice of such meeting of the Board as promptly as possible. Such notice to newly elected Directors may be given personally, by telephone, by mail, or by facsimile transmission.

Any action required to be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members of the Board.

*(Section 3 amended and effective May 21, 2008)*

*(Section 3 amended and effective May 25, 2011)*

**SECTION 4. *Quorum.*** At meetings of the Board, a majority of the members of the Board shall constitute a quorum.

**SECTION 5. *Duties and Powers.*** The Board shall have, in addition to the powers and authority expressly conferred upon it by these Bylaws, the right, power, and authority to exercise all such powers and to do all such acts and things as may be appropriate to carry out the purposes of the Academy. Without prejudice to the general powers so conferred, the Board shall have the following specific powers:

- A. To act in accordance with the provisions of the Articles of Incorporation of the Academy and the laws of the state of Illinois.
- B. To establish the location of the offices of the Academy.
- C. To invest and administer the funds of the Academy.
- D. To arrange an annual audit of the accounts of the Treasurer.
- E. To prescribe examinations and other requirements for admission, as provided in Article I, Section 2, of the Bylaws.
- F. To elect the Officers of the Academy.
- G. To authorize such committees as it may deem necessary for the conduct of the affairs of the Academy.

*(Section 5 amended May 21, 2009, effective the close of the annual meeting October 26, 2009)*

## **Article IV**

### **Executive Committee**

During any interim between meetings of the Board, the business of the Academy shall be conducted by an Executive Committee comprising the Officers and the immediate Past President. The Executive Committee shall have such powers as may be provided by these Bylaws or as may be delegated to it by the Board, except the specific powers enumerated (b), (d), (e), (f), and (g) in Section 5 of Article III.

## **Article V**

### **Officers**

**SECTION 1. *Officers.*** The Officers of the Academy, all of whom shall be members, shall consist of a President, a President-Elect, six Vice Presidents, a Secretary, and a Treasurer.

**SECTION 2. *Election and Term of Office.*** At each annual meeting of the Board, the Directors present, by a vote of a majority of the whole Board, shall elect, separately and in



the order named, a President-Elect, three or more Vice Presidents, a Secretary, and a Treasurer.

At the annual meeting of the Board, if either (a) the President-Elect has succeeded the President and has served in that capacity for six months or more by reason of the office of President becoming vacant or (b) the office of the President-Elect is vacant, except in the case where the President-Elect has succeeded to the office of the President and has served in that capacity for less than six months, the Directors, by a vote of a majority of the whole Board, shall, prior to the election of the President-Elect, elect a President to serve from the close of the first subsequent annual meeting of the Academy until the close of the second subsequent annual meeting of the Academy.

Except as hereinafter provided, the President-Elect, having been so elected at an annual meeting of the Board, shall commence the term as President-Elect at the close of the first subsequent annual meeting of the Academy and shall automatically succeed the President at the close of the second subsequent annual meeting of the Academy, and shall serve as the President until the close of the third subsequent annual meeting of the Academy. In the event the office of President becomes vacant, the President-Elect shall automatically succeed to fill the vacancy for the unexpired term. A President-Elect who so succeeds the President and serves in that capacity for less than six months prior to the close of the first subsequent annual meeting of the Academy following succession to the Presidency shall further serve as President until the close of the second subsequent annual meeting of the Academy.

The term of Vice President shall be two years. The term of each Vice President elected at each annual meeting of the Board shall be from the close of the first subsequent annual meeting of the Academy until the close of the third subsequent annual meeting of the Academy. In the event of a vacancy in the office of Vice President, the Board may elect a replacement for the remainder of the vacancy of that office. Said replacement may thereafter be eligible for re-election as a Vice President at the meeting at which the term expires.

A retiring Vice President is not otherwise eligible for re-election as a Vice President at the meeting at which the term expires.

Except as provided above, a retiring President shall thereafter be permanently ineligible for election for another term as President or President-Elect.

A retiring Vice President shall not be eligible for re-election as a Vice President at the meeting at which the term expires.

Each Officer shall hold office for the term elected and until a successor shall have been elected.

In the event of vacancy in the office of both the President and President-Elect, the Board shall by majority vote of the whole Board elect a member to fill the vacancy for the unexpired term of the President.

In the event a vacancy occurs among the Vice Presidents, or in the offices of Secretary or Treasurer, the Board shall by majority vote of the whole Board elect a member to fill the vacancy for the unexpired term.

*(Article 5 amended May 21, 2009, effective the close of the annual meeting October 26, 2009)*

## Article VI

### Duties of Officers

**SECTION 1. *President.*** Except as noted above in Article III, Section 3, the President shall preside at the meetings of the Academy, shall appoint committees authorized by the Board, and may sign contracts or other instruments that the Board has authorized to be executed.

*(Section 1 amended and effective May 25, 2011)*

**SECTION 2. *President-Elect.*** The President Elect shall have such duties as may be assigned by the President or by the Board. In the absence of the President, or in the event of the President's inability or refusal to act, the President-Elect shall perform the duties of the President's office.

**SECTION 3. *Vice Presidents.*** Each of the Vice Presidents shall have such duties as may be assigned by the President or by the Board.

**SECTION 4. *Secretary.*** The Secretary shall record and file minutes of all meetings of the Board, give all notices, be custodian of the corporate records of the Academy, and in general shall perform all customary duties incident to the office of Secretary. If the President is absent or unavailable, the Secretary may sign, with any other person authorized by the Board, contracts or other instruments that the Board has authorized to be executed.

The Secretary shall also keep a register of the members, have charge of the preparation and publication of any yearbook that may be published and have general supervision of any arrangements for holding examinations

*(Section 4 amended May 21, 2009, effective the close of the annual meeting October 26, 2009)*

**SECTION 5. *Treasurer.*** The Treasurer shall have charge and custody of all funds and securities, collect dues, pay bills, prepare financial statements, and in general perform all customary duties incident to the office of Treasurer. The Treasurer shall give a bond for the faithful discharge of all such duties, the cost of which shall be paid by the Academy.

*(Section 5 amended May 21, 2009, effective the close of the annual meeting October 26, 2009)*

## Article VII

### Finances and Contracts

**SECTION 1. *Dues.*** Except as hereinafter provided, each member shall pay such dues for each calendar year as may be established by the Board. Such dues shall be payable as of January 1 of the calendar year.

It shall be the duty of the Treasurer to cause to be notified by mail any member whose dues may be six months in arrears and to accompany such notice by a copy of this Section. If dues remain unpaid, such person shall, on the date that falls three months after the date of mailing such notice, cease to be a member of the Academy for all purposes other than with respect to any penalty or other action determined under disciplinary procedures as provided in Article IX, relating to conduct prior to such date. Reinstatement as a member shall be subject to such conditions as the Board may prescribe.

*(Section 1 amended and effective  
September 18, 2008)*

*(Section 1 amended May 21, 2009, effective the  
close of the annual meeting October 26, 2009)*

**SECTION 2. *Publications.*** The Board shall determine the extent of distribution of publications of the Academy and the fees or prices to be charged any classes of recipients.

**SECTION 3. *Contracts.*** The Board may authorize any Officer or agent to enter into any contract or execute and deliver any instrument in the name of or on behalf of the Academy.

**SECTION 4. *Checks.*** All checks, drafts, or other orders for a payment of money, notes, or other evidences of indebtedness shall be signed by such Officer or agent of the Academy as shall from time to time be determined by the Board.

**SECTION 5. *Deposits.*** All funds of the Academy not otherwise employed or invested shall be deposited to the credit of the Academy in such banks, trust companies, or other depositories as the Board may select.

## **Article VIII**

### **Resignation of Members**

Any member may at any time file a resignation in writing with the Secretary, and, unless it is rejected by the Executive Committee, it shall become effective as of the date it was filed. The Executive Committee may reject a resignation only if a complaint or charge is pending against the member or if a complaint or charge is filed within 60 days after the date that the member's attempted resignation is filed. A member whose resignation is rejected by the Executive Committee may appeal in writing to the Board. The Board may affirm or set aside an Executive Committee decision to reject a member's resignation by a majority vote of the members of the whole Board.

Notwithstanding the foregoing, the Board may in its discretion permit the resignation of a member against whom a complaint or charge is pending. The Board, on written application of any member who has resigned, may reinstate such member subject to such conditions as it may prescribe.

*(Article 8 amended May 21, 2009, effective the  
close of the annual meeting October 26, 2009)*

## **Article IX**

### **Discipline**

#### **SECTION 1. *Complaints and Referrals.***

- A. Complaints concerning alleged violations of the Academy's Code of Professional Conduct, and all questions that may arise as to the conduct of a member, in the member's relationship to the Academy or its members, or in the member's professional practice, or affecting the interests of the actuarial profession, constitute matters for serious consideration.
- B. Such complaints and questions shall be referred to the national organization responsible for profession wide counseling and discipline in the nation where the action occurred: the Actuarial Board for Counseling and Discipline (ABCD) in the United States and in any other country where the Academy has not executed a cross-

border discipline agreement with a foreign national actuarial organization, and the appropriate foreign national actuarial organization with which the Academy has executed a cross-border discipline agreement (for example, the Canadian Institute of Actuaries in Canada). The Academy will publish annually in its *Yearbook* a list of foreign national actuarial organizations with which it has executed a cross-border discipline agreement.

## **SECTION 2. *Consideration of Disciplinary Action Under A Joint Discipline Agreement***

The Academy may enter into an agreement with one or more other U.S.-based actuarial organizations establishing and implementing a joint disciplinary process under which disciplinary recommendations concerning Academy members will be considered and acted upon. A two-thirds vote of the entire Board of Directors shall be required for the Academy to enter into, amend or withdraw from such an agreement. In the event the Academy is a party to such a joint discipline agreement, the terms of such agreement shall govern the consideration and adjudication of disciplinary recommendations concerning Academy members. If the Academy is not a party to such an agreement, disciplinary recommendations concerning Academy members shall be governed by Sections 3 and 4.

Any joint discipline agreement entered into by the Academy must include appropriate due process and respect of the member's rights, including the right to appear before a discipline panel and the right to appeal to a panel other than the discipline panel.

Any decisions under a joint discipline agreement requiring Academy review before taking effect will be reviewed by a six-person panel of members of the Board of Directors appointed by the President.

## **SECTION 3. *Academy Consideration of Disciplinary Action***

This section shall govern proceedings to consider and act upon disciplinary recommendations concerning Academy members, unless the Academy is a party to a joint discipline agreement as set forth in Section 2, in which case the terms of such joint discipline agreement shall govern:

- A. The President shall appoint a six-person Disciplinary Committee from among the current or former members of the Board who, at the time of their appointment, have served on the Board within the past five years to consider and act upon a recommendation from the ABCD or the appropriate foreign national actuarial organization for public discipline of an Academy member.
- B. Public disciplinary action includes a public reprimand, suspension of Academy membership, or expulsion from the Academy. Private disciplinary action includes a private reprimand. A referral for counseling shall not constitute discipline.
- C. The member who is the subject of a disciplinary recommendation from the ABCD or the appropriate foreign national actuarial organization shall have the right to appear personally and by counsel (at the member's expense) before the Disciplinary Committee to explain why that recommendation should not be followed. The role of the member's counsel shall be limited to advising the member and articulating appropriate legal objections; the role of the Disciplinary Committee's counsel shall be similarly limited.
- D. The member involved shall be notified not less than 45 days in advance as to the time, date, and place where the Disciplinary Committee will consider the matter. The notification may be made by certified mail or in such other manner as the Disciplinary

Committee Chairperson may direct. The time limit may be waived by mutual agreement of the parties.

- E. An action of the Disciplinary Committee to refer for counseling, privately reprimand, publicly reprimand, suspend, or expel a member requires an affirmative vote of two-thirds of the whole membership of the Disciplinary Committee.
- F. An action by the Disciplinary Committee to privately reprimand, publicly reprimand, suspend the membership of, or expel a member is effective 45 days after the date of the action, if the member does not appeal the action to the Appeal Panel as provided in Section 3 below, and, in the event of such an appeal, the action is effective on the date when the appeal is decided by the Appeal Panel.

#### **SECTION 4. Appeals.**

This section shall govern appeals of disciplinary determinations made pursuant to Section 3. It shall not apply to appeals of determinations made under a joint discipline agreement of which the Academy is a party, as set forth under Section 2.

A member against whom an order of private reprimand, public reprimand, suspension, or expulsion has been rendered shall, upon application to the President within 45 days after the action of the Disciplinary Committee, be entitled to appeal under the following conditions:

- A. The President shall appoint a six-person Appeal Panel from among the members of the Board of Directors (except as provided in Subsection 2 below) to consider and act upon the member's appeal. The Appeal Panel shall consist of:
  - 1. A chairperson who is the President, the President-Elect, the immediate Past President, or the Secretary;
  - 2. The chairperson of the Disciplinary Committee (even if that person is no longer a member of the Board of Directors) as a non-voting member; and
  - 3. Four members of the Board of Directors who did not participate on the Disciplinary Committee. Officers identified in Section 4(A) (1) who do not chair the Appeal Panel may participate as members of the Appeal Panel.
- B. The notice of appeal shall be in writing and shall stipulate that the appealing member consents to the mailing to the members of the Appeal Panel of a transcript and all applicable evidence in a form approved by the Disciplinary Committee.
- C. All rights and privileges of membership shall be retained during the pendency of the appeal.
- D. The member may appear personally and by counsel (at the member's expense) before the Appeal Panel to explain why the action of the Disciplinary Committee should be reduced or set aside. The role of the member's counsel shall be limited to advising the member and articulating appropriate legal objections; the role of the Appeal Panel's counsel shall be similarly limited.
- E. The decision of the Disciplinary Committee may be affirmed, reduced, or set aside by a majority of the Appeal Panel.
- F. The member involved shall be notified not less than 45 days in advance as to the time, date, and place where the Appeal Panel will consider the matter. The notification may be made by certified mail or in such other manner as the chairperson of the Appeal Panel may direct. The time limit may be waived by mutual agreement of the parties.

*(Section 3 amended May 21, 2009, effective the*

*close of the annual meeting October 26, 2009)*

**SECTION 5. *Reinstatement.*** An individual who has been expelled or suspended from the Academy may be reinstated only through an action of the Board of Directors.

**SECTION 6. *Confidentiality of Proceedings.***

Except as otherwise provided in these Bylaws, a joint discipline agreement of which the Academy is a party, or by waiver of the person under investigation, all proceedings under this Article shall be confidential and kept secret. If the person discloses any aspect of these confidential proceedings, the Academy may research the source and manner of the disclosure, and reserves the right to respond to such disclosure by providing factual information about the proceedings.

**SECTION 7. *Notifications.***

- A. The Academy shall notify Academy members in all instances in which a member is subject to public discipline. At the same time notification is given to the members, the Academy shall also give notice of the public discipline to all other actuarial organizations of which the individual is a member and to other organizations, including government entities, that, in the opinion of the Disciplinary Committee or the Appeal Panel, should also receive notice of the action. The Academy may also give notice of public discipline to such newspapers or journals as it may select.
- B. If the case arises from a written complaint, notice of the disposition of the case shall be furnished to the complainant.
- C. In the case of an action to publicly reprimand, suspend, or expel a member, the notification should take place within a reasonable period of time after the action has taken effect as described in Section 3(F) above or, if the Academy is a party to a joint discipline agreement, as set forth under the terms of such agreement.
- D. In the event of subsequent reinstatement of an expelled or suspended member, the Academy shall give notice of such action to all members and also to entities previously advised by the Academy of the expulsion or suspension.

**SECTION 8. *Procedures.*** The Board of Directors may establish procedures for implementation of this Article that are not inconsistent with this Article.

*(Article 9 amended and effective May 21, 2008)*

*(Article 9 amended May 21, 2009 effective the close of the annual meeting October 26, 2009)*

*(Article 9 amended by vote of the members in August 2011 and renumbered effective September 12, 2011)*

**Article X**

**Actuarial Board for Counseling and Discipline**

## SECTION 1. *Establishment and Purposes.*

- A. There shall be established within the Academy an entity to be known as the Actuarial Board for Counseling and Discipline (ABCD). Upon delegation of appropriate authority from a participating actuarial organization and acceptance of that delegation by the ABCD, the ABCD will be authorized:
  - 1. To consider all complaints concerning alleged violations or information suggesting possible violations of the applicable Code(s) of Professional Conduct and all questions that may arise as to the conduct of a member of a participating actuarial organization in the member's relationship to the organization or its members, in the member's professional practice, or affecting the interests of the actuarial profession.
  - 2. To counsel actuaries concerning their professional activities related to the applicable Code(s) of Professional Conduct in situations where the ABCD deems counseling appropriate.
  - 3. To recommend a disciplinary action with respect to an actuary to any participating organization of which that actuary is a member.
  - 4. To mediate issues between members of participating actuarial organizations, or between such members and the public, for the purpose of informally resolving issues concerning the professional conduct of such members.
  - 5. To respond to requests for guidance regarding professionalism from members of the participating organizations.
- B. The ABCD is authorized to establish Rules of Procedure and operating guidelines not inconsistent with the requirements of this Article. Such Rules of Procedure shall provide that the subject of an inquiry will be given the following:
  - 1. Notice of the inquiry along with the factual basis for the inquiry and an opportunity to comment on the matter before the ABCD determines whether an investigation should be initiated.
  - 2. Notice of the ABCD's decision to refer the inquiry to Investigators, their names, and an opportunity to object for cause in writing to any of them.
  - 3. The opportunity to comment on an Investigative Report before the ABCD uses the Report to vote on disposition of the inquiry.
  - 4. Reasonable notice of a hearing to be conducted regarding the actuary's work and/or conduct, including the issues for inquiry and the date, time, and place of the hearing.
  - 5. Within a reasonable period of time prior to a hearing, the names of any witnesses whose testimony the ABCD expects to consider and copies of case-specific documents not previously provided to the subject of the inquiry that the ABCD expects to consider.
  - 6. Notice and a reasonable opportunity to respond to additional relevant, material case-specific documents and witnesses that the ABCD first learns of during a hearing, if the ABCD intends to consider such. The notice shall include a copy of such documents and the names and last known addresses of witnesses.
  - 7. The right to assistance of counsel during a hearing, including the right to seek and receive advice from counsel and to have counsel articulate appropriate legal objections.

8. Prompt notification of the results of an ABCD hearing after they have been determined and formulated. The ABCD shall expose, for comment, proposed revisions of its Rules of Procedure to the profession or to membership organizations for publication to their members.

## **SECTION 2. *Members and Appointments.***

- A. The ABCD shall consist of nine persons appointed from the membership of the participating organizations, each of whom shall be appointed for a three-year term. No individual may serve no more than two consecutive terms on the ABCD, except that a member appointed to complete an unexpired term may be reappointed to two full consecutive three-year terms. Terms of membership shall be staggered, so that one-third of the members are appointed annually.
- B. Members of the ABCD shall be broadly representative of all areas of actuarial practice. They shall be appointed by, and serve at the pleasure of, the Selection Committee, composed of the Presidents and Presidents-Elect of the participating organizations. The President of the Academy shall serve as Chairperson of the Selection Committee. The Selection Committee shall annually appoint the chairperson of the ABCD. An individual appointed Chairperson may not serve more than two consecutive terms as Chairperson.
- C. If a vacancy arises among the members of the ABCD, the Selection Committee shall designate a replacement to fill out the remainder of the term. The replacement will complete that term, and may be reappointed for two additional consecutive three-year terms. When a full-term or replacement member has attended a hearing as an ABCD member, such member may serve beyond his or her term of appointment solely for the purpose of participating in the ABCD's disposition of that matter.

Where three or more members of the ABCD have an actual or apparent conflict of interest with regard to a particular matter, with the result that a quorum of the ABCD cannot practicably be convened to consider the matter, the Selection Committee may, in response to a request from the ABCD, appoint enough special members to the ABCD to form a quorum to consider that matter. The special members shall consider only the matter(s) for which appointed, and the term of each such special member shall end at the conclusion of the ABCD's consideration of such matter(s).

*(Section 2 amended and effective May 2, 2014)*

**SECTION 3. *Officers.*** The Officers of the ABCD shall consist of the Chairperson and two Vice Chairpersons, who shall be appointed annually from among the members of the ABCD by the Selection Committee.

*(Section 3 amended and effective May 2, 2014)*

**SECTION 4. *Meetings and Conduct of Business.*** The ABCD shall meet at least once each year. Meetings may be called by the Chairperson or at the request of at least three members. Six members of the ABCD shall constitute a quorum. Meetings may be conducted in person or via telephone. In the event that neither the Chairperson nor a Vice Chairperson is able to participate at a duly called meeting where a quorum is present, the members may, by a majority of those participating, select a Chairperson Pro Tem for that meeting.

**SECTION 5. *Procedures.***



- A. For any matter described in Section 1.A.1 that comes to the attention of the ABCD, the Chairperson and the two Vice Chairpersons may by majority vote agree to: (1) dismiss the matter, (2) authorize a mediator to attempt to resolve the matter, or (3) authorize a review of the matter.
- B. An actuary whose activities are the subject of ABCD inquiry is referred to as a "subject actuary."
- C. To review a matter, the Chairperson shall appoint a primary Investigator and may appoint additional Investigators. ABCD members shall not be Investigators.
  - 1. The Investigator(s) shall investigate activities which may involve violations of the applicable Code(s) of Professional Conduct. The Investigator(s) shall then prepare an Investigative Report for the ABCD, which contains the results of the investigation.
  - 2. The Investigator(s) shall follow applicable Rules of Procedure and operating guidelines established by the ABCD, which shall not be inconsistent with the provisions of this Article.
- D. The Chairperson may designate individuals with special expertise in various specialty areas to serve as Advisers to the ABCD. Investigator(s) and the ABCD may consult confidentially with such Advisers who have information or experience relevant to a matter under consideration.
- E. Following receipt of the Investigative Report, the ABCD shall determine by majority vote whether to (1) dismiss the matter; (2) counsel the actuary; or (3) schedule, in accordance with the Rules of Procedure described in Section 1.B of this Article, a fact-finding hearing before the ABCD.
- F. In any hearing before the ABCD:
  - 1. The subject actuary shall have the right to appear personally, to examine the evidence to be considered by the ABCD, to question witnesses appearing at the hearing, and to present witnesses and evidence.
  - 2. The subject actuary may be accompanied by counsel, at no expense to the ABCD. The counsel's role in such instance shall be defined by the Rules of Procedure adopted by the ABCD, subject to the requirements of Section 1.B.7 of this Article. The role of counsel for the ABCD shall be similarly defined.
  - 3. The ABCD shall decide all questions of evidence at the hearing.
  - 4. A written transcript shall be made of the proceedings and a copy made available to the subject actuary.
- G. Following the conclusion of the hearing and based on the evidence (including testimony), only those ABCD members participating in the hearing shall, by affirmative vote of five or more members, determine to (1) dismiss the matter; (2) counsel the actuary; or (3) recommend discipline to the subject actuary's membership organization(s), including the form of such discipline: private reprimand (if permitted by the membership organization's bylaws or rules), public reprimand, suspension, or expulsion. If the ABCD believes it would be beneficial, it may also counsel an actuary for whom discipline is recommended.

If the ABCD recommends discipline, the ABCD shall prepare a written report addressed to each participating organization of which the subject actuary is a member. The report shall identify the precepts of the applicable Code(s) of Professional

Conduct that the ABCD believes to have been violated, state the nature of the violations, and make a recommendation as to the form of discipline. The report shall be accompanied by a transcript of the hearing and copies of all documents considered at the hearing. A copy of the report and accompanying material shall be provided to the subject actuary.

**SECTION 6. *Counseling.*** The ABCD shall counsel a subject actuary when the ABCD determines counseling to be more appropriate than dismissal of a matter. The ABCD may also counsel a subject actuary for whom it recommends discipline. Counseling shall not be considered a disciplinary action.

**SECTION 7. *Staff.*** The ABCD will utilize the staff of the Academy for necessary legal, logistical, and technical support and may retain outside counsel for assistance, as needed.

**SECTION 8. *Finances.***

- A. The finances of the ABCD will be accounted for separately within the Academy system of accounts. The ABCD will submit a budget request to the Treasurer, listing all planned income sources and potential expenses, in such form and in such detail as is mutually determined by the Treasurer and the ABCD. The Board of the Academy will consider this request when adopting its annual budget and will make provision within such budget for the operating expenses of the ABCD.
- B. The ABCD will have discretion with regard to the expenditure of all funds allocated to it, subject only to such accounting and audit requirements as may be mutually determined by the Treasurer and the ABCD.

*(Section 8 amended May 21, 2009, effective the close of the annual meeting October 26, 2009)*

**SECTION 9. *Confidentiality.*** Except as otherwise provided in these Bylaws, all proceedings under this Article shall be kept confidential by the ABCD, its staff, investigators, and advisers. This requirement as to confidentiality shall not preclude the ABCD from:

- A. Advising complainants and subject actuaries about the progress and outcome of matters under consideration;
- B. Reviewing previously closed files as they may relate, in any manner, to the consideration of a new matter before it;
- C. Accepting a bona fide waiver of confidentiality from a subject actuary and disclosing information pursuant to that waiver that would otherwise be kept confidential under this section, subject to such terms and conditions as the ABCD deems necessary to protect the confidentiality rights of other parties and the integrity of the ABCD process.

**SECTION 10. *Communications.*** The ABCD shall issue an annual report that will include a description of its activities for the prior fiscal year, including commentary on the types of cases pending, resolved, and dismissed. The ABCD may also disseminate educational materials to assist actuaries in understanding the application of the Code(s) of Professional Conduct in various situations that may arise. These reports and educational materials shall not reveal any confidential information. The ABCD shall also report quarterly to the President of each participating organization concerning inquiries, issues, and counseling activities related to members of that organization.

*(Article 10 amended and effective May 21, 2008)*

## **Article XI**

### **Actuarial Standards Board**

#### **SECTION 1. *Establishment and Purposes.***

There shall be established within the Academy an entity to be known as the Actuarial Standards Board (ASB), whose purposes shall be to:

- A. (i) Expose, (ii) promulgate or adopt, and (iii) publish actuarial Standards of Practice, within its sole discretion and pursuant to such procedures as it deems appropriate, in all areas of actuarial practice, subject to the specific requirements of this article.
- B. Provide continuous review of existing Standards of Practice and determine whether they are in need of amendment, alteration, expansion, or elimination.
- C. Direct and manage the development of actuarial Standards of Practice by its operating committees in all areas of actuarial practice.

#### **SECTION 2. *Members and Appointments.***

- A. The ASB shall consist of nine members, each of whom shall be appointed for three-year terms. No individual may serve more than two consecutive terms on the ASB, except that a member appointed to complete an unexpired term may be reappointed to two full consecutive three-year terms. Terms of membership shall be staggered, so that one-third of the members are appointed annually.
- B. Members of the ASB shall be broadly representative of all areas of actuarial practice. They shall be appointed by, and serve at the pleasure of, the Selection Committee, composed of the Presidents and the Presidents-Elect of the participating organizations. The President of the Academy shall serve as Chairperson of the Selection Committee. The Selection Committee shall annually appoint the Chairperson of the ASB. An individual appointed Chairperson may not serve more than two consecutive terms as Chairperson.
- C. If a vacancy arises among the members of the ASB, the Selection Committee shall designate a replacement to fill out the remainder of the term. The replacement will complete that term, and may be reappointed for two additional consecutive three-year terms.

(Section 2 amended and effective May 2, 2014)

**SECTION 3. *Meetings.*** The ASB shall meet at least four times annually. Additional meetings of the ASB shall be called whenever the Chairperson or at least four members of the ASB so request. At meetings of the ASB, two-thirds of the members of the ASB shall constitute a quorum. At least six affirmative votes are required for the ASB to expose, promulgate, or adopt actuarial Standards of Practice.

#### **SECTION 4. *Officers.***

- A. Officers of the ASB shall consist of a Chairperson and two Vice Chairpersons, who shall be appointed annually from among the members of the ASB by the Selection Committee.
  - 1. One Vice Chairperson shall be the presiding officer in the absence of the Chairperson and shall have such other duties as may be assigned by the Chairperson.
  - 2. The other Vice Chairperson shall monitor the disposition and be responsible for the authorization of expenditure of all funds associated with the ASB.
- B. The Chairperson of the ASB shall preside at meetings of the ASB and shall designate operating committee Chairpersons with the consent of the ASB. Members of the operating committees shall be appointed by each operating committee Chairperson with the consent of the ASB.

*(Section 4 amended and effective May 2, 2014)*

**SECTION 5. Committees.** The ASB shall establish operating committees to prepare and draft Standards of Practice for consideration by the ASB. The number and membership of such committees shall be determined by the ASB. The ASB may establish additional committees, subcommittees, or task forces as it deems appropriate to carry out administrative or advisory functions in support of its operations.

**SECTION 6. Finance.**

- A. Financial activities pertaining to the ASB will be accounted for separately within the Academy system of accounts. The ASB will submit a budget request to the Treasurer, listing all planned income sources and potential expenses, in such form and in such detail as are mutually determined by the Treasurer and the ASB. The Academy Board will consider this request when adopting the Academy annual budget and will make provision within such budget for ASB operating expenses.
- B. The ASB will have discretion with regard to the expenditure of all funds allocated to it, subject only to such accounting and audit requirements as are mutually determined by the Treasurer and the ASB.

*(Section 6 amended May 21, 2009, effective the close of the annual meeting October 26, 2009)*

**SECTION 7. Staff.** The ASB will utilize the staff of the Academy for all support, within the budgetary constraints of the ASB, and the Academy will make available to the ASB such staff support as may be requested. Costs for such staff support, including overhead expenses ascertained pursuant to a formula mutually determined by the Treasurer and the ASB, will be included in the ASB budget.

*(Section 7 amended May 21, 2009, effective the close of the annual meeting October 26, 2009)*

**SECTION 8. Communications with the Actuarial Profession.** The ASB shall issue an annual report that will include a description of its activities for the prior fiscal year, including commentary on its standards activities, administrative matters, and finances. The ASB shall cooperate with duly constituted actuarial authorities charged with enforcing standards of professional practice, and respond to inquiries regarding actions of the ASB, including the interpretation of standards promulgated or adopted by the ASB.

*(Article 11 amended and effective May 21, 2008)*

*(Article 11 amended May 21, 2009, effective the close of the annual meeting October 26, 2009)*

## **Article XII**

### **Notice**

The requirement that notice be given to members or other persons shall be satisfied when a letter has been deposited in a U.S. Postal Service mailbox addressed to the last known address of such person.

## **Article XIII**

### **Indemnification**

Each person who at any time shall serve or shall have served as an Officer, member of the Board, committee member, or member of any disciplinary board of the Academy (and any such person's heirs, executors, administrators, and personal representatives) shall be indemnified by the Academy against all costs and expenses (including but not limited to legal fees, amounts of judgments paid, and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit, or proceeding, whether civil, criminal, administrative, or other, in which one or more of them may be involved by virtue of such person being or having been an Officer, member of the Board, committee member, or member of any disciplinary board of the Academy, or in connection with any appeal therein; provided, however, that in the event of a settlement the indemnification herein provided shall apply only when the Board approves such settlement; and provided further that such indemnity shall not be operative with respect to any matter as to which such person shall have been finally adjudged liable in such claim, action, suit, or proceeding on account of willful misconduct.

The rights accruing to any person under this Article shall be without prejudice to any rights or benefits given by the Board inconsistent therewith in special cases and shall not exclude any other rights or benefits to which the individual may be lawfully entitled.

## **Article XIV**

### **Use of Financial Resources: Dissolution**

The funds of the Academy shall be devoted exclusively to the purposes stated in paragraph 5 of the Articles of Incorporation. No part of the net earnings of the Academy shall ever inure in whole or in part to the benefit of any member or individual. If the Academy is dissolved, all of its remaining assets shall be transferred to one or more organizations organized and operated exclusively for purposes similar to those of the Academy.

## **Article XV**

### **Amendments**

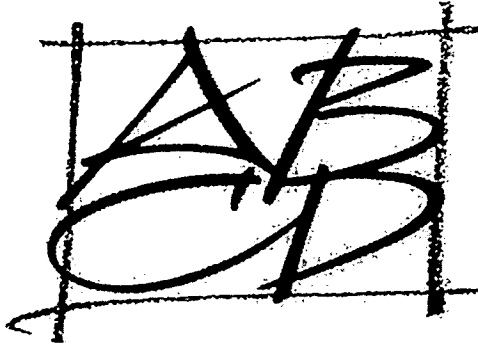
Administrative, editorial, and technical amendments to the Bylaws that do not involve questions of policy or affect the substantive rights of the Academy's members may be made by a vote of two-thirds of the Directors present at a duly convened meeting of the Board. Otherwise, amendments to the Bylaws may be proposed either by a vote of two-thirds of the Directors present at a duly convened meeting of the Board or by written request of not less than 3 percent of the members. The Board shall specify a reasonable period of time within

which the proposed amendment shall be transmitted by the Secretary to the members by mail, which includes electronic means, and the time for votes to be mailed by the members to the Secretary. Such proposed amendment shall be accompanied by an appropriate discussion of the issues, and it shall become effective 10 days following the end of the voting period upon the affirmative vote of two-thirds of the members voting.

*(Article 15 amended and effective May 21, 2008)*

*(Article 15 amended May 21, 2009, effective the close of the annual meeting October 26, 2009)*

**N**



# **Rules of Procedure for the Actuarial Board for Counseling and Discipline**

**As Adopted by the  
Actuarial Board for Counseling and Discipline  
December 7, 2013**

**Effective January 1, 2014**

**EXHIBIT N**



# **RULES OF PROCEDURE FOR THE ACTUARIAL BOARD FOR COUNSELING AND DISCIPLINE**

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**Actuarial Board for Counseling & Discipline**

Robert J. Rietz, Chairperson

Nancy Behrens, Vice Chairperson

Janet L. Fagan, Vice Chairperson

Richard A. Block

Janet M. Carstens

Paul R. Fleischacker

Curtis E. Huntington

John M. Purple

Kathleen Riley

## **RULES OF PROCEDURE FOR THE ACTUARIAL BOARD FOR COUNSELING AND DISCIPLINE**

In accordance with Article X of the Bylaws of the American Academy of Actuaries, the Actuarial Board for Counseling and Discipline ("ABCD") has promulgated these Rules of Procedure for the performance of its functions on behalf of the participating organizations representing actuaries in North America. The participating organizations are the American Academy of Actuaries, the American Society of Pension Professionals and Actuaries, the Casualty Actuarial Society, the Conference of Consulting Actuaries, and the Society of Actuaries. The ABCD reserves the authority to amend these Rules of Procedure as it deems necessary provided that no substantive change in such rules shall be effective until exposed for at least 60 days to the profession or to participating organizations for publication to their members.

### ***Introduction***

The ABCD was established to facilitate compliance with the Code(s) of Professional Conduct by members of participating organizations that have delegated to the ABCD the power to investigate and evaluate possible violations of their Code. Its jurisdiction extends to actuarial practice by members of the participating organizations in all countries except Canada; and to actuarial practice in the United States by members of the Canadian Institute of Actuaries.<sup>1</sup>

The ABCD within its jurisdiction has authority to:

1. Consider all complaints concerning alleged violations or information suggesting possible violations of the applicable Code(s) of Professional Conduct. The Codes, in turn, incorporate by reference applicable qualification standards and applicable standards of practice. The ABCD may also consider questions that arise as to the conduct of a member of a participating organization in the member's relationship to that organization or its members, in the member's professional practice, or otherwise affecting the interests of the actuarial

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<sup>1</sup>The Canadian Institute of Actuaries exercises similar jurisdiction over all actuarial practice in Canada and actuarial practice by its members and students outside the United States and U.S. territories and possessions.

profession. Although investigations of possible violations of the Code(s) will usually be initiated based on complaints, the ABCD may also initiate such investigations based on information available to it suggesting possible violations of the Code(s) of Professional Conduct;

2. Counsel actuaries concerning their activities relative to the Code(s) of Professional Conduct in situations where the ABCD deems counseling appropriate.
3. Recommend disciplinary action against an actuary to any participating organization of which the actuary is a member, recognizing that authority to discipline members rests exclusively in the participating organizations;
4. Respond to requests for guidance regarding professionalism from members of participating organizations and actuarial students affiliated with the participating organizations; and
5. Mediate or appoint a mediator to resolve issues concerning professional conduct between members of participating organizations, or between such members and the public.

For the purpose of these procedures the ABCD will hereinafter include e-mail and facsimile transmissions as forms of written communication. All written communications should include identification of the author.

#### **I. Requests for Guidance**

Requests for guidance are questions raised by an actuary (or, for all purposes of this section, an actuarial student) about the proper interpretation of the Code(s) of Professional Conduct or the standards, but which are not complaints alleging or suggesting a violation by another actuary.

The ABCD may accept and respond to requests for guidance. If an ABCD member or staff person receives a communication that is considered to be, or to have the potential for being, a request for guidance, the recipient may respond or may refer the request to the Chairperson or a

staff member designated by the Chairperson, who will assign the request to a member for response or may ask that the entire ABCD consider the request.

The ABCD will respond to a request for guidance in a reasonable and timely fashion.

No communication by a staff member or an ABCD member in connection with a request for guidance should be construed as an expression of opinion by the entire ABCD, except when the communication has been approved by vote of the ABCD. The staff member or ABCD member responding to a request for guidance shall decide upon the form and nature of the response, except that the actuary requesting guidance may ask for an expression of opinion by the entire ABCD, which the ABCD may decline.

Members and staff of the ABCD will make a reasonable effort to keep confidential the facts and circumstances involved in any request for guidance, subject to the confidentiality provisions in Section X of these Rules of Procedure. However, efforts to protect the anonymity of an actuary may hamper the ABCD's ability to respond to a request for guidance.

The ABCD reserves the right to forego responding to any request for guidance submitted by an actuary who refuses to be identified, or to identify another actuary, to the Chairperson, Vice Chairpersons, and ABCD staff. The ABCD reserves the right to handle a request for guidance as if it were a report of information leading to an inquiry against another actuary where there is evidence that a material violation of the Code(s) of Professional Conduct may have occurred. The ABCD also may, subject to the permission of the inquiring actuary, use mediation procedures in response to a request for guidance.

## **II. Initiation of a Matter for Inquiry**

### **A. General**

Matters for inquiry are complaints concerning alleged violations or information suggesting possible violations of the applicable Code(s) of Professional Conduct. The ABCD's scrutiny of the matter is hereinafter referred to as the ABCD's "inquiry." The portion of the inquiry following the Chairperson and Vice Chairperson's decision to appoint an investigator or to consider court or administrative tribunal findings the functional equivalent of an Investigative Report is hereinafter referred to as the ABCD's "investigation." The actuary who is the subject

of an ABCD inquiry is hereinafter referred to as the “subject actuary.” The complaining party, if any, is hereinafter referred to as the “complainant.”

**B. Form of Complaint**

A “complaint” is a written assertion that a member of one or more participating organizations has committed an act or omission that appears to have violated the applicable Code(s) of Professional Conduct, whether or not the complainant references the Code, provided that the individual making the assertion identifies himself or herself and does not request anonymity. Complaints should be submitted to the ABCD at its office. When a member of the ABCD or its staff receives an oral “complaint,” whether in person or by telephone, the member or staff person should request that the complaint be submitted in writing. The ABCD will provide a copy of the complaint to the subject actuary, including the complainant’s identity, unless the complainant requests anonymity, in which case the information will be treated as information received under section IID below and not considered a “complaint.”

**C. Contents of Complaint**

A complainant making a complaint is requested to furnish all of the following, but failure to comply fully with this subsection will not invalidate the complaint.

1. A statement of the circumstances underlying the complaint as the complainant understands them.
2. A brief description of each act or omission that the complainant believes constituted a violation of the Code(s) of Professional Conduct
3. Copies of any supporting documentation which the complainant believes will assist the ABCD in determining whether, in fact, the subject actuary has failed to comply with the Code(s) of Professional Conduct. If available and applicable, copies of the subject actuary’s work should be included, subject to Section XI of these Rules of Procedure.

**D. Receipt of Information Leading to an Inquiry**

1. An ABCD inquiry may also be commenced if the ABCD receives information for which the “complainant” is not identified, or requests anonymity, and the information comes from a known source (such as a signed document or a published journal) and indicates that the conduct of an actuary who is a member of one or more of the participating organizations may have violated the applicable Code(s) of Professional Conduct.
2. An ABCD inquiry may also be commenced based on public information available to it suggesting possible violations of the Code(s) of Professional Conduct.

The ABCD will provide a copy of the information to the subject actuary.

**III. Preliminary Evaluation**

**A. Initial Processing**

When a complaint or information is received by the ABCD, its staff will undertake initial processing to determine the nature of the possible violation(s) of the Code(s) of Professional Conduct involved so that the subject actuary will have a statement of the alleged misconduct sufficiently clear to address and so that the ABCD will have appropriate information for conducting a preliminary evaluation. This initial processing may involve a follow-up with the complainant to clarify anything in the complaint that requires additional explanation, or with any other individual, subject to the confidentiality provisions in Section X of these Rules of Procedure. The initial processing shall include notice to, and inquiry of, the subject actuary, except in situations where allegations in complaints or other information appear to have little or no merit. The staff will forward the complaint or information received, the results of its initial processing, and any additional information obtained thereby, to the Chairperson and Vice Chairpersons of the ABCD.

**B. Chairperson and Vice Chairperson(s)' Preliminary Evaluation**

A majority of the Chairperson and the Vice Chairperson(s) will review the complaint or information received and additional information obtained during the initial processing, if any. They will meet in person or by conference call to discuss the matter and determine by majority vote of the Chairperson and Vice Chairpersons to do one of the following:

1. If the matter under consideration appears not to involve a possible violation of the Code(s) of Professional Conduct, the matter shall be dismissed. If not previously notified, the subject actuary will be informed of the matter and will be notified of the dismissal. In addition, the complainant, if any, will be notified of the dismissal. The matter will be closed.
2. If the matter under consideration appears to present a dispute other than a material violation of the Code(s) of Professional Conduct, the Chairperson shall so advise the complainant, if any, and the subject actuary and may offer to mediate the matter (or provide a mediator to do so), as provided in Section IV of these Rules of Procedure.
3. If the matter under consideration appears to involve a possible violation of the Code(s) of Professional Conduct but not a material violation, the Chairperson and Vice Chairpersons shall dismiss the matter as in 1. above and also may provide guidance to the subject actuary.
4. If the matter under consideration appears to involve a possible material violation of the Code(s) of Professional Conduct, the Chairperson and the Vice Chairperson(s) will refer the matter to an Investigator(s), provided that no such decision will be made unless and until the information on which a decision is made has previously been furnished to the subject actuary and the subject actuary has been provided a reasonable opportunity to respond.

The Chairperson and Vice Chairperson(s) may consult confidentially with any member of the actuarial profession or other persons who may have information or experience relevant to the



matter under consideration; however, no adverse information from these consultations may be used in any report or finding unless the information is disclosed to the subject actuary and the subject actuary is given an opportunity to respond.

At its next regularly scheduled meeting, the ABCD will be informed of all such evaluations since its prior meeting.

#### **IV. Appointment of a Mediator**

The Chairperson and the Vice Chairperson(s) may appoint one or more members of the ABCD as a mediator.

If the Chairperson and Vice Chairperson(s) decide to refer a matter to a mediator who is not an ABCD member, the Chairperson will select a proposed mediator, in accordance with Section XII of these Rules of Procedure, to be recommended to the parties. When a proposed mediator has agreed to serve, the ABCD staff will prepare a notice to the parties of the decision to refer the matter to the proposed mediator for resolution. If the parties agree, the appointment will become effective, and the mediator will work with the parties to resolve the matter. The ABCD staff will be available to the mediator as a source of legal advice and counsel.

If the parties do not both agree, the appointment will not become effective. If the parties do agree, but the mediator is unable to resolve the matter within a reasonable period of time, the mediator will so notify the parties and the Chairperson. In either case, the Chairperson and Vice Chairperson(s) will then decide whether to propose another mediator, dismiss the matter, or forward the matter to an Investigator(s) for additional review.

#### **V. Investigation**

##### **A. Appointment of Investigator(s)**

If the Chairperson and Vice Chairperson(s) agree to investigate a matter that may involve a violation of the Code(s) of Professional Conduct, the Chairperson shall appoint a primary Investigator in accordance with Section XII of these Rules of Procedure, to inquire into facts concerning the matter, except as provided in Section V.E.2, below.

Where, in the judgment of the Chairperson and the Investigator, appointment of additional persons to assist in an investigation would be appropriate, the Chairperson shall, in consultation with the primary Investigator, appoint one or more additional Investigators.

If an Investigator fails to complete assigned duties in a timely manner, the Chairperson may, with the consent of a Vice Chairperson, replace the Investigator.

**B.     Objection to Investigator(s)**

The subject actuary shall be notified in writing that the matter is to be referred to an Investigator(s) and of the identity of the Investigator(s). The subject actuary shall be given 20 days to object for good cause to the appointment of an Investigator. Good cause may include bias, direct professional competition, a professional or personal dispute or other conflict of interest between the Investigator and the subject actuary, or any other reason why the subject actuary believes the Investigator could not act in a competent and unbiased manner. The subject actuary's objection shall be submitted in writing to the ABCD at its office. The objection should set forth the specific reasons why the subject actuary believes that the Investigator should not participate in the investigation and should be accompanied by copies of any documentary evidence which the subject actuary believes will assist the Chairperson to determine whether, in fact, reason exists to replace the Investigator.

The subject actuary's objection shall be forwarded to the Chairperson for review. The Chairperson may discuss the objection with the Investigator or any other individual who, in the Chairperson's judgment, may possess relevant information to assist the Chairperson in determining whether the Investigator should be replaced. The Chairperson shall determine whether the Investigator should be replaced; the Chairperson's determination will be final, subject to a timely objection (see Section XIV, below), and the determination shall be reported in writing to the subject actuary. If the Chairperson decides to replace the Investigator, a new Investigator shall be appointed in accordance with Section V(A) of these Rules of Procedure.

**C.     Advisors**

The Chairperson may appoint one or more Advisors to provide advice and assistance to the Investigator(s) in the investigation and in the preparation of the Investigative Report.

**D. Information Gathering**

The Investigator(s) shall attempt to determine the facts underlying a matter being investigated. In so doing, the Investigator(s) may make any appropriate inquiries. The Investigator(s) may contact the complainant, if any, and the subject actuary, as well as any other persons who may possess relevant information. Any person being interviewed by the Investigator(s) may, at his or her volition and expense, be assisted or represented by counsel.

In the course of an investigation, the Investigator(s) may require the production of books, records, documents or other relevant items.

If the Investigator(s) discover evidence of one or more possible violations of the Code(s) of Professional Conduct by the subject actuary other than those set forth in the matter under investigation, the Investigator(s) may expand the scope of the investigation to inquire into the additional possible violations as if they had been originally included.

The Investigator(s) may seek legal advice and counsel from the ABCD staff. The Investigator(s) may seek the advice of an appointed Advisor and may also consult confidentially with any person who may have information or experience relevant to the matter. No information from these consultations may be used unless it is included in the Investigative Report and the subject actuary is given an opportunity to respond.

**E. Investigative Report**

1. As soon as practicable following the completion of the Investigator's(s') inquiry, the Investigator(s) shall prepare and submit to the ABCD an Investigative Report which will contain:
  - a. Relevant facts and documents relating to the activities in question;
  - b. Summaries of statements of individuals interviewed regarding the activities in question;

- c. Citations of the Code(s) of Professional Conduct applicable to the activities in question; and
- d. Such other information, material, and opinions as the ABCD may request or the Investigator(s) deems appropriate to assist the ABCD in determining whether to dismiss the matter, counsel the subject actuary, or recommend disciplinary action against the subject actuary.

The Investigator(s) may seek legal advice and counsel from the ABCD staff and may seek professional actuarial advice from appointed Advisors regarding the preparation and content of the Investigative Report.

- 2. Where a court of competent jurisdiction or a government regulatory body has issued a decision that includes findings of fact concerning the subject matter of an ABCD inquiry into possible violations of the Code(s) of Professional Conduct, the ABCD may, within its discretion, elect to treat that decision as the functional equivalent of an Investigative Report under these Rules of Procedure.

**F. Subject Actuary's Response to the Investigative Report**

The ABCD staff will forward a copy of the Investigative Report to the subject actuary, who will be invited to respond within 30 days of the date of the ABCD's transmittal to the subject actuary. The response should be in writing to the ABCD at its office, and should contain, the following:

- 1. A statement of any facts which, in the subject actuary's opinion, rebut or explain any adverse findings of the Investigator(s);
- 2. An explanation of why, in the subject actuary's opinion, any activities cited in the Investigative Report did not violate applicable Code(s) of Professional Conduct, or why such activities were irrelevant or immaterial;

3. A statement of any circumstances which the subject actuary wishes the ABCD to consider when evaluating the Investigative Report; and
4. Copies of any relevant supporting documentary evidence which has not previously been submitted, subject to the provisions in Section XI of these Rules of Procedure.

## **VI. Review of Investigative Report**

### **A. Record for Review**

The ABCD staff will forward copies of the following documents to the members of the ABCD:

1. The complaint or other information which served to initiate the investigation;
2. Any additional relevant information or documentation received by the ABCD;
3. The Investigative Report; and
4. The subject actuary's response, if any, to the Investigative Report.

### **B. Consideration of the Matter**

The members of the ABCD shall review the materials submitted to them by the ABCD staff and shall meet in person or telephonically to discuss the materials and reach a determination as to whether to dismiss the matter, counsel the actuary, obtain additional information, or schedule a formal hearing to inquire further into the matter.

With a quorum present, a majority of the ABCD members participating, may decide on one of the following actions:

1. Seek additional information before making a decision on the matter (in which case the ABCD may make such inquiry or request the Investigator(s) or ABCD staff to do so) and thereafter provide appropriate notice to the subject actuary, reconvene to review the record, and decide upon the action to be taken.
2. Dismiss the matter if it appears not to involve a material violation of the Code(s) of Professional Conduct. The complainant, if any, and the subject actuary will be notified of the decision. The case will be closed.
3. Counsel the subject actuary if counseling is determined to be appropriate. At the discretion of the Chairperson, such counseling may be conveyed to the subject actuary orally or in writing or both and may be by the Chairperson, any member of the ABCD, or other person(s) appointed by the Chairperson to counsel the actuary. The complainant, if any, shall be advised that the ABCD reviewed the complaint and elected to counsel the subject actuary. The substance of the counseling shall be kept confidential among the ABCD, the subject actuary, and any person(s) appointed by the Chairperson to counsel the actuary.
4. Call for a fact finding hearing before the ABCD, if the conduct of the subject actuary appears to present a possible material violation of the Code(s) of Professional Conduct that may warrant discipline.

In reaching the decision to either dismiss the matter, counsel the actuary or schedule a fact finding hearing, the Chairperson and the ABCD may consult confidentially with any member of the actuarial profession or other person who may have information or experience relevant to the matter under consideration; however, no information from these consultations may be used by the ABCD unless the information is made part of the record and the subject actuary is given an opportunity to respond.

## **VII. Fact Finding Hearing**

### **A. Notice of Hearing**

If the ABCD calls for a fact finding hearing, the ABCD shall provide the subject actuary written notice. The notice shall set forth the conduct which has raised questions regarding possible violation(s) of the applicable Code(s) of Professional Conduct; the date, time, and place of the hearing; and a copy of all the case-specific information reviewed by the ABCD. If the ABCD intends to have an Investigator participate in the hearing telephonically, the notice shall so inform the subject actuary. If the notice states that the ABCD intends to have an Investigator participate telephonically, it shall inform the subject actuary that he or she has the right to request that the Investigator appear in person at the hearing, provided the request is received by the ABCD at its office at least 21 days before the date on which the hearing has been scheduled. The notice shall contain pertinent information regarding the hearing and the subject actuary's responsibilities. Such pertinent information shall contain the names of any witnesses whose testimony the ABCD expects to consider and copies of case-specific documents the ABCD expects to consider. The notice shall be transmitted to the subject actuary by certified mail or in such other manner as the ABCD may authorize, at least 45 days before the scheduled date of the hearing. This 45-day notice period may be waived in writing by the subject actuary. The subject actuary shall be asked to acknowledge receipt of the notice and informed of the right to submit a written response to the hearing notice.

**B. Subject Actuary's Response**

The subject actuary's acknowledgment and response should be sent to the ABCD at its office to be received within 21 days of the date on which the hearing notice was dispatched. Additionally, the acknowledgment or a subsequent response may include relevant documentary evidence that the subject actuary would like to have considered at the hearing and a list of witnesses the subject actuary intends to call. For good cause, the Chairperson may allow a later acknowledgment.

**C. Hearing**

**1. General**

The ABCD shall fix the time and place of each hearing. The Chairperson of the ABCD will preside over each hearing. The Chairperson will maintain the privacy of the hearing and shall have the power to require the exclusion of any witness, other than the subject actuary, during the statement of any other witness. The Chairperson will have discretion to determine

whether any other person may attend all or part of the hearing. ABCD counsel may be present at the hearing to provide legal and logistical support to the ABCD. Such legal support shall be limited to providing advice to the ABCD and articulating appropriate legal objections. A record shall be made of the hearing by a court reporter selected by the ABCD. A transcript of the hearing shall be provided to the subject actuary. No other recording of the hearing will be permitted.

**2. Appearance of Subject Actuary**

The subject actuary shall be asked to appear at the hearing and to answer questions. The subject actuary may be accompanied by counsel at no expense to the ABCD, provided that the role of such counsel shall be limited to providing advice to the client and articulating appropriate legal objections. If the subject actuary fails to appear at the hearing after due notice, or refuses to answer questions, the ABCD shall not render a decision based solely on such default. In such a case, the ABCD shall accept such evidence and draw such inferences (including any appropriate adverse inferences from the subject actuary's default) as it deems warranted. A subject actuary who on account of disability or illness is unable to attend a hearing, notwithstanding the ABCD's effort to accommodate the actuary, may submit a written request with justification to be represented at the hearing. Such requests are subject to approval or disapproval by the Chairperson and must be received at the ABCD's office at least 10 days prior to the hearing date.

**3. Appearance of Investigator**

At the timely request of the ABCD or the subject actuary an Investigator designated by the ABCD shall appear personally to discuss the Investigative Report and submit to questions by ABCD members and the subject actuary, provided that in the absence of such a specific request, the Investigator may participate telephonically.

**4. Conduct of Hearing**

At the beginning of the hearing, the Chairperson may ask for statements from an Investigator and the subject actuary outlining and clarifying the issues involved. Such statements shall be no longer than thirty (30) minutes each. The Investigator shall then present the results of the investigation. The Investigator and any witnesses called by the ABCD shall submit to questions by ABCD members and the subject actuary. The subject actuary shall then present his or her evidence and witnesses, who shall submit to questions by the subject actuary and ABCD



members. The Investigator shall remain available, at the discretion of the ABCD, to provide additional testimony.

**5. Evidence**

The Chairperson will rule on the admissibility of evidence. In general, evidence is admissible if, alone or together with other evidence, it would tend to prove or disprove that the actuary violated the Code(s) of Professional Conduct at issue. Evidence is excludable if it is irrelevant or unnecessarily repetitive or if there are other valid reasons for excluding it. In its sole discretion, the ABCD shall determine the weight to accord admitted evidence. Conformity to rules of evidence for judicial proceedings is not required. All evidence shall be taken in the presence of the subject actuary, except where the subject actuary is absent after due notice of the proceedings has been provided to the subject actuary. Exhibits, when offered by the Investigator, subject actuary, or ABCD, may be received in evidence by the Chairperson of the ABCD. Statements by individuals not present at the inquiry, when offered by the Investigator or subject actuary, may be received in evidence by the Chairperson of the ABCD and shall be given such weight as the ABCD deems appropriate. A list of exhibits shall be made a part of the record. All documents should be received by the ABCD at its office at least 15 days prior to the hearing date except with good cause as determined by the Chairperson.

**6. Closing of Hearing**

The Chairperson shall determine when to conclude the hearing. Before concluding the hearing, the Chairperson shall permit the subject actuary to summarize the evidence and address its application to the applicable Code(s) of Professional Conduct. Such statement shall not be more than 30 minutes in length.

**7. Additional Matters**

If, at any time during the hearing, evidence is received that indicates additional possible violations of the Code(s) of Professional Conduct, the ABCD may consider such additional matters as part of the current hearing, provided that reasonable notice and opportunity to respond is given to the subject actuary. If requested by the subject actuary, the ABCD shall recess and reconvene the hearing to give the subject actuary the opportunity to respond.

## **8. Variance of Rules; Continuances**

The Chairperson has discretion to vary the procedures governing hearings but shall afford full and equal opportunity to the Investigator and subject actuary for the presentation of relevant evidence and witnesses. The Chairperson may recess and reconvene the hearing when appropriate, in which case the Chairperson will fix the date, place and time for the hearing to be continued and may reopen the hearing upon application of the Investigator or the subject actuary or upon the ABCD's own initiative, at any time before final determination of the case.

## **VIII. Final Determination**

### **A. Deliberations**

As soon as practicable following the hearing, the ABCD will meet in person or by telephone to consider the evidence presented at the hearing and decide upon the action to be taken. Only evidence admitted at the hearing will be considered, except that the ABCD may obtain additional evidence from the subject actuary.

### **B. Decision**

By an affirmative vote of five or more members, the ABCD may:

1. Reopen the hearing and seek additional information before reaching a decision, in which case the ABCD may undertake to discover such additional information or request the Investigator(s) or ABCD staff to do so, and thereafter reconvene to review the record and determine the action to be taken.
2. Dismiss the matter if the complaint/information appears not to involve a material violation of the Code(s) of Professional Conduct. The complainant, if any, and the subject actuary shall be notified of the decision, and the case will be closed.
3. Counsel the subject actuary. At the discretion of the ABCD, such counseling may be conveyed to the subject actuary orally or in writing or

both and may be undertaken by the Chairperson, any member of the ABCD, or any other person appointed by the Chairperson. The complainant, if any, will be advised that the ABCD reviewed the complaint and elected to counsel the subject actuary. However, the substance of the counseling will be kept confidential among the ABCD, the subject actuary, and any person(s) appointed by the Chairperson to counsel the actuary.

4. Recommend discipline in the form of private reprimand (if permitted by the bylaws or rules of the participating organization), public reprimand, suspension, or expulsion. If the ABCD recommends discipline, the ABCD shall prepare a written report addressed to each participating organization of which the subject actuary is a member. The report shall identify the precepts of the applicable Code(s) of Professional Conduct which the ABCD believes to have been violated, state the nature of the violations, and make a recommendation as to the form of discipline (i.e., private reprimand, public reprimand, suspension, or expulsion). The report shall be accompanied by a transcript of the hearing and copies of all documents considered at the hearing. A copy of the report and accompanying material that the ABCD has not previously provided to the subject actuary shall be provided to the subject actuary. The ABCD may also counsel a subject actuary as an adjunct to its recommendation for discipline.

**C. Other Requirements**

In the event an ABCD member is absent from a portion of a hearing, such member shall not be eligible to attend the balance of the hearing, engage in deliberations, or vote concerning the disposition of the matter.

## **IX. Consideration of Past Activity**

In reaching a decision to dismiss a matter, refer such matter to a mediator, counsel a subject actuary, or recommend disciplinary action, the ABCD may consider records involving prior guidance, counseling, and recommendations for disciplinary action previously undertaken by the ABCD or its predecessors with regard to the subject actuary within the past twenty (20) years.

## **X. Confidentiality of Process**

The ABCD will make a reasonable effort to keep confidential the facts and circumstances involved in any matter considered by the ABCD for possible counseling or recommendations for discipline or the services of a mediator. ABCD members, ABCD staff, Investigator(s), Advisors, and mediators shall be specifically made aware of this section of the Rules of Procedure and the requirement for confidentiality.

Other persons who may be involved in an inquiry shall be informed that the ABCD desires that its inquiry be kept confidential. The names of persons involved in a matter which is the subject of an ABCD inquiry shall not be disclosed to such other persons unless such disclosure is required for the person being consulted to answer the questions being asked.

The ABCD will not have violated its responsibilities if the circumstances surrounding a matter are such that the identity of the parties or incident involved can be deduced by any persons.

The requirement as to confidentiality shall not preclude the ABCD from:

1. Advising complainants and subject actuaries about the progress and outcome of matters under consideration; and
2. Accepting a bona fide waiver of confidentiality from a subject actuary and disclosing information pursuant to that waiver that would otherwise be kept confidential under this section, subject to such terms and conditions as the ABCD deems necessary to protect the confidentiality rights of other parties and the integrity of the ABCD process.

The ABCD will be free to publish information concerning requests for guidance so long as the names of any individuals who, or organizations which, may be involved in the request are not disclosed without their permission and reasonable care is taken not to include identifying information.

The ABCD may be required to divulge details regarding an inquiry, including the names of complainants and subject actuaries, by court order or other legal process in some circumstances and as necessary to inform participating organizations of its recommendations.

#### **XI. Confidential Information**

The ABCD recognizes that a subject actuary or other individual may be prohibited by law, preexisting contractual obligation, or other circumstances beyond the control of the subject actuary or other individual from producing evidence sought by or on behalf of the ABCD. Where a subject actuary or other member of one or more of the participating organizations is so prohibited, the subject actuary or member must advise the ABCD of the nature of the prohibition and provide the ABCD with any appropriate documentation to demonstrate that the prohibition does, in fact, apply to the evidence sought. The subject actuary or member must also make a good-faith effort to produce non-confidential portions of documents and other evidence sought by or on behalf of the ABCD.

A complainant, or other individual, who is not a member of one or more of the participating organizations may be unable, or may refuse, to produce evidence. This may hamper the ABCD's ability to investigate a given matter.

The ABCD will not be held responsible if the circumstances surrounding a matter may be such that otherwise confidential information is inadvertently revealed. Further, the ABCD may be required to disclose otherwise confidential information by court order, other legal process, or inquiry by duly authorized officials of participating organizations.

## **XII. Selection of Mediators and Investigators**

An individual selected to serve as a mediator or Investigator shall have substantial familiarity with the subject matter at issue and with applicable Code(s) of Professional Conduct. The ABCD shall ask each prospective Investigator and mediator if he or she is aware of any circumstances that might raise questions regarding his/her impartiality, such as past or present relationships with the complainant or subject actuary. An individual shall not be selected if the appointment would create a conflict of interest or an appearance of impropriety. In seeking to appoint an individual to serve as a mediator or Investigator, the Chairperson may ask the advice of any member of the actuarial profession or other person, subject to the confidentiality provisions in Section X of these Rules of Procedure.

## **XIII. Requests for Waiver**

A request by the subject actuary for waiver of any of the procedural requirements set forth in these Rules of Procedure may be decided by the Chairperson of the ABCD. Such requests shall be submitted in writing to the Chairperson at the ABCD's office. A request for waiver should contain, at a minimum, the following:

1. An identification of the specific requirement(s) that the subject actuary wishes to be waived;
2. A concise explanation of why the subject actuary seeks the waiver; and
3. Any supporting documentation that will assist the Chairperson in determining whether the waiver request should be granted.

ABCD counsel will be available to assist the Chairperson in the determination of whether to grant the waiver request and to ensure that due process and other legal requirements are satisfied. The Chairperson's decision to grant or refuse a waiver will be deemed final, subject to a timely objection (see Section XIV, below), and will be reported in writing to the subject actuary.

#### **XIV. Objections**

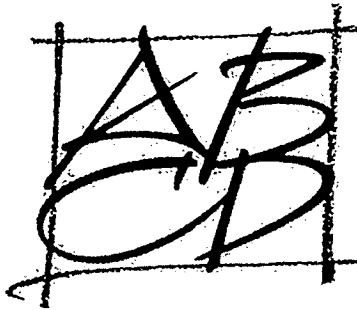
When the Chairperson, or the Chairperson and the Vice Chairpersons, renders a decision under these Rules of Procedure, the subject actuary may object to it in a timely manner. Except as provided below, an objection shall be submitted in writing and should include grounds in support of the objection. It must arrive in the ABCD's office within twenty-one (21) days after the date of the ABCD's dispatch of notification of the decision to the subject actuary. An objection to a decision at a hearing must be made immediately following the decision. An objection will be put to the ABCD, which shall determine whether it is meritorious. For good cause shown, the ABCD may allow reasonable variance from these requirements.

#### **XV. Quorum**

Except where otherwise provided, a quorum consists of at least six ABCD members. Decisions shall be by majority vote of ABCD members participating, except as otherwise required by provisions establishing the ABCD and these Rules of Procedure. In the event that a quorum cannot be obtained, special appointments may be made to the ABCD for the hearing of a specific case.

#### **XVI. Reports on Activities**

The ABCD shall issue an annual report that will include a description of its activities, including commentary on the types of cases pending, resolved and dismissed. The ABCD shall also report quarterly to the President of each participating organization concerning its activities related to members of that organization. These reports shall be subject to the confidentiality provisions in Section X of these Rules of Procedure, in accordance with the Bylaws of the Academy.



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