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Compensation of Insurance Executives

Over almost the entire life of the *Forum* I reported on the annual compensation of highly paid insurance company executives. In this chapter I discuss what happened along the way. In terms of access to data I experienced some victories and some setbacks.

Data for 1974

It all began with an article in the October 1975 issue about executive compensation in 1974. I selected the five largest mutual life insurance companies as measured by assets: Prudential Insurance Company of America, Metropolitan Life Insurance Company, Equitable Life Assurance Society of the United States, New York Life Insurance Company, and John Hancock Mutual Life Insurance Company.

I chose to focus on large mutual companies for two reasons. First, most major shareholder-owned (stock) companies were part of publicly owned firms that filed compensation data with the Securities and Exchange Commission (SEC), and therefore the data were considered easily available. Second, compensation data for mutual companies were filed only with the states and the data were considered not easily available.

I assembled the data from "Schedule G" in the annual financial statements that were filed with state insurance regulators.

I showed for each company the number of executives in each of eight categories: the lowest category was \$30,000 to \$39,999, and the highest category was \$100,000 and over. The five mutual companies combined had 3,205 executives in the eight categories. I showed names, job titles, and compensation of those in the highest category.

Data for 1975-1982

Readers expressed considerable interest. Over the next eight years I showed similar data. During that period I expanded to the ten largest and later the 15 largest mutual life insurance companies. Also, I raised the threshold from \$100,000 to \$125,000, then \$150,000, then \$175,000, then \$200,000, and then \$225,000.

Data for 1982-1986

In 1983 I began looking at more mutual companies. I also began looking at stock companies after a mutual company executive jokingly suggested I should start including data for stock companies. At the same time I began looking at SEC filings by stock companies. I showed 1982 data for about 100 additional individuals and about 50 additional companies. Over the next four years I continued publishing data for mutual companies and stock companies based on data from Schedule G and the SEC. During that period I raised the threshold to \$300,000, and then \$350,000.

The Setback of 1986

Each year the National Association of Insurance Commissioners (NAIC) promulgates the annual financial statement form that must be used by life insurance companies. There has never been anything comparable to Schedule G in the annual statement form for property insurance companies. As mentioned, one of my sources was Schedule G in the life insurance company statements.

In 1986 the NAIC abruptly deleted from the statement form the portion of Schedule G showing executive compensation data. There were no public hearings or public debate about the

action. I learned later that the action was taken at the request of Theodore Bausher, a senior official in the Pennsylvania Insurance Department. I corresponded on the matter with several regulators. James Hanson, a senior official in the Illinois Department of Insurance, explained that “the information served little purpose for financial analysis and surveillance” and that “other reporting mechanisms have supplanted the need for it.” He acknowledged that “the public, especially agents or producers, found the schedule interesting,” but “their interest was not germane to financial regulation.”

The effect of the action was to overturn an 80-year tradition of executive compensation disclosure dating back to legislation enacted in New York State following the Hughes-Armstrong Committee’s investigation of the life insurance business in 1905. The investigation uncovered, among many other things, serious abuses in executive compensation, including nepotism. However, instead of recommending compensation restrictions, the committee recommended full public disclosure—often referred to as “sunshine”—and the concept was reflected in the executive compensation disclosure law that was enacted in New York State in 1906.

I believe that the impetus for eliminating the data from the annual statement came from life insurance companies, and that the companies’ effort grew out of the displeasure of some executives who were unhappy about being named in my tabulations. I have no evidence to support those beliefs, but I think the regulators would not have taken the action without being pushed into it. I discussed the incident in the January 1987 issue of the *Forum*.

The New York Department of Insurance was not able to go along with the NAIC and eliminate the executive compensation data from Schedule G. The reason was that New York still had the executive compensation disclosure law, which after its enactment in 1906 was amended several times to increase the disclosure threshold. Thus the Department thereafter required life insurance companies doing business in the state to file Schedule G as part of the “New York Supplement” to the NAIC

annual statement form. However, companies not doing business in New York were relieved of filing compensation data with state insurance regulators. My sole sources of data then became Schedule G in the New York Supplement and filings with the SEC by publicly owned stock companies.

Data for 1987-1999

For the next 13 years I continued to publish compensation data using data from New York and the SEC. In 1988 I also began using data from the Nebraska Department of Insurance. Nebraska has long had an executive compensation disclosure law that was enacted a few years after the revelations by the Hughes-Armstrong Committee in New York. The Nebraska law applies not only to mutual life insurance companies, but also to stock life insurance companies and property insurance companies doing business in Nebraska.

I raised the threshold to \$400,000, then \$500,000, then \$600,000, and then \$700,000. In 1992 I lowered the threshold to \$500,000 and left it there for four years. In 1996 I lowered the threshold to \$350,000. I raised it back to \$500,000 in 1997 and then \$600,000 in 1999.

Despite the generally increasing thresholds, the numbers of companies and individuals shown in the tabulations continued to expand. I did not attempt to explain the reason for the increasing numbers of companies and individuals, but I felt it was a reflection of rapidly increasing levels of compensation of insurance executives. In 1999, even without data from New York (for reasons discussed in the next section of this chapter), there were 222 companies and 1,035 individuals in the tabulation, and the compensation figures continued to escalate.

The Setback of 2000

In November 1999, in accordance with my usual practice, I submitted a request to the New York Department pursuant to the New York Freedom of Information Law (FOIL). I asked for all the Schedule Gs, which were part of the New York Supplement to be filed March 1, 2000. For several years I had been

receiving the documents routinely in April. In 2000, when I had heard nothing by May 1, I called the Department to inquire about the status of my request.

I was astounded to learn that the Department was preparing to black out the names of all but the directors and three top officers of each company. When I asked for an explanation, an attorney in the Department said I would have to submit a FOIL request. I did so immediately, and received the file on May 13. It revealed a three-month, secret campaign waged by New York-based Equitable and New Jersey-based Prudential.

The file included a February 22 letter to Neil Levin, the New York superintendent of insurance, from Michael Hegarty, president and chief operating officer of Equitable. Hegarty said the Association of Current and Former Equitable Agents had posted on its website the entire 1998 Schedule G compensation exhibits of Equitable, Metropolitan Life Insurance Company, Mutual Life Insurance Company of New York, and Prudential.

The file revealed close relationships between Equitable executives and Department officials. For example, there was a February 25 "Dear Kevin" letter from Wendy Cooper, senior vice president and associate general counsel of Equitable, to Kevin Rampe, senior deputy superintendent of insurance and general counsel of the Department. Before joining Equitable, Cooper was first deputy superintendent of insurance and served at one point as acting superintendent of insurance.

Cooper enclosed with her February 25 letter a February 23 legal memorandum prepared on behalf of Equitable by Elizabeth Moore and Deborah Shapiro of the firm of Nixon Peabody, and by Wolcott Dunham and John Dembeck of the firm of Debevoise & Plimpton. They said public disclosure of the data was a violation of FOIL, despite the fact that the data had been disclosed routinely ever since FOIL was enacted in 1974 and even before FOIL existed. They cited FOIL's exemption from disclosure for information which, if released, would constitute an "unwarranted invasion of personal privacy." Cooper asked the Department to black out the names of all but the directors and the three top officers. In his April 19 reply to Cooper, Rampe

concluded that “public disclosure of the names of employees (other than the directors, trustees or senior officers)...is prohibited as an unwarranted invasion of personal privacy....”

Prudential’s March 3 letter to Rampe was from Thomas Faist of the firm of Bogdan & Faist. He asked that the public be denied access to Schedule G in its entirety based on three FOIL exemptions: “unwarranted invasion of personal privacy,” “trade secrets,” and information which, if disclosed, “would endanger the life or safety of any person.” In her April 19 reply to Faist, Sally Geisel, an attorney in the Department, rejected the trade secrets argument and the endangerment argument, but she accepted the privacy argument.

I was as astonished by the procedure as by the result. The file contained no legal arguments from parties who would have favored continued disclosure. The reason was the total secrecy surrounding the move. I could not believe that a state agency, by administrative action, could terminate a 94-year-old and legally required disclosure regime without public notice and without a request for public comment.

I received no data from New York in time for my July 2000 issue. Thus the data shown there were from Nebraska and the SEC only. I later submitted to the Department a revised FOIL request seeking names, job titles, and amounts of compensation only for those who in 1999 received \$600,000 or more (my then current threshold). The Department denied my request in part by blacking out the names of all but the directors and the three top officers of each company.

In July 2000 my attorney filed on my behalf an administrative appeal of the Department’s partial denial of my FOIL request. The Department took the position that the blacked-out information fell within FOIL’s exemption relating to unwarranted invasion of personal privacy. We took the position that the very purpose of the executive compensation disclosure law was to make the information available to the public. The Department denied our administrative appeal.

In December 2000 my attorney filed on my behalf in state court a petition for judicial review of the Department’s partial

denial of my FOIL request. The attorney general of New York, on behalf of the Department, opposed our petition. The Life Insurance Council of New York (LICONY), an association of life insurance companies doing business in New York, intervened and opposed our petition.

In September 2001 the judge ordered the Department to honor my request for the 1999 data—including names, and with the \$600,000 threshold—within 30 days of his order. The Department took five months to comply with the order. I eventually published a belated update based on the 1999 New York data. I discussed the setback of 2000 and the 2001 court order in the July 2000 and November 2001 issues.

A Tragic Side Note

As mentioned earlier, Neil Levin was the New York superintendent of insurance at the time of the Department's action in 2000. He resigned in March 2001 and was appointed executive director of the Port Authority of New York and New Jersey by the governors of the two states. The Authority had its executive offices on the 68th floor in the north tower of the World Trade Center. On September 11 Levin was attending a breakfast meeting at the Windows on the World restaurant on the top floor when the first airliner struck the tower. At that moment, he reportedly was speaking on his cell phone with his executive assistant and said: "What was that?" Levin died five days before his 47th birthday.

Data for 2000-2007

For the next eight years, I continued publishing executive compensation data from my three sources. After the 2000 action, and after the litigation, there were delays in publishing the New York data not only for 1999 but also for 2000 and 2001. Prior to publishing the 2002 data, I published the data in a single large table. When there were figures for the same person from more than one of my three sources, and when the figures differed, I published the largest figure. Beginning with the 2002 data, I began publishing three tables of data, one for each of my three

sources, and continued with that practice through the 2012 data. For 2004 data I raised the threshold to \$750,000, and for 2006 data to \$1 million.

A Temporary Victory in 2007

On February 20, 2007, in my routine FOIL request to the Department for the 2006 data, I asked for the Schedule Gs with no names blacked out. The Department at that time was under new management, and I felt the time was right to ask the Department to reverse the July 2000 administrative action. I enclosed an explanatory memorandum.

The Department, without informing me, sent my request to LICONY. Moore of Nixon Peabody prepared a March 28 legal memorandum on behalf of LICONY arguing that my request should be denied. On June 13, in a lengthy legal memorandum, the Department informed LICONY that, effective June 25, the Department “will return to its prior and longstanding practice of producing Schedule G records without redaction of names.” I was unaware of any of these developments until after the fact, when I saw the documents through a FOIL request. I discussed the Department’s change of position in the October 2007 issue.

The Setback of 2008

LICONY was enraged by the Department’s 2007 rescission of its 2000 administrative action. LICONY quietly arranged for bills to be introduced in each house of the New York legislature in the spring of 2008 to decimate the 102-year-old compensation disclosure law. I say quietly because I was unaware of the existence of the bills, on which there had been no debate, no hearings, and no publicity, until I received a tip from a “Deep Throat” informer after the proposed legislation had sailed through both houses and had been sent to Governor David Paterson for his signature. I rushed a package of material to the governor and asked him to veto the amendment, but he signed it into law.

The amendment required life insurance companies doing business in New York to disclose (1) names and compensa-

tion of directors, (2) names, job titles, and compensation of the chief executive officer and the next four highest compensated employees, (3) names, job titles, and compensation of the next five highest compensated employees, and (4) job titles and compensation, *but not the names*, of other employees below the top ten but whose compensation exceeded \$750,000. Those requirements meant that, in large companies, there would be many highly paid executives whose job titles and compensation would be disclosed but whose names would be blacked out. I discussed the setback of 2008 in the October 2008 issue.

Data for 2008-2012

For the final five years of my tabulations, I retained the \$1 million threshold. I presented 2008 data in the July 2009 issue. I indicated “name not disclosed” for each individual who received compensation of at least \$1 million but whose name was blacked out in accordance with the newly amended law. In the New York section of the tabulation of the 2008 data, I also presented 2007 data in a separate table showing name, job title, and amount for each individual who received compensation of at least \$1 million. The 2007 data showed all the names because the 2007 data had been filed before the newly amended law took effect. By comparing the 2007 and 2008 data, a careful reader can identify some individuals whose names were blacked out in the 2008 data.

I presented 2009 data and 2010 data in the July 2010 and July 2011 issues. I showed job title and amount, and indicated “name not disclosed” for each individual who received compensation of at least \$1 million and whose name was blacked out. Here again a careful reader can identify some individuals by referring back to the 2007 data in the July 2009 issue.

I presented 2011 data in the July 2012 issue, and 2012 data in the July 2013 issue. In those two issues, for each individual who received compensation of at least \$1 million, I showed only the number of names blacked out by each company. For example, in the 2012 data shown in the July 2013 issue, there were 674 individuals with compensation of at least \$1 million, but only

272 were identified. The names of the other 402 were blacked out. The following companies had these numbers of individuals for whom the names were blacked out:

Aetna Life Ins Co	148
AXA Equitable Life Ins Co	6
Connecticut General Life	2
Guardian Life Ins Co	1
Massachusetts Mutual Life	11
Metropolitan Life Ins Co	70
New York Life Ins Co	28
Penn Mutual Life Ins Co	3
Phoenix Life Ins Co	3
Principal Life Ins Co	14
Prudential Ins Co of America	103
Teachers Ins & Annuity Assn	13

My final tabulation of executive compensation was in the July 2013 issue. It showed that 66 individuals received total compensation of \$10 million or more in 2012. Their names, amounts, and company affiliations are in appendix D.

The Compensation Trend

A glimpse at the trend of top executive compensation in the insurance business over the period from 1974 to 2012 may be obtained by listing the highest compensated individual shown in my tabulation each year. The list showing the name, amount, and company affiliation of each individual is in appendix E.

A Temporary Victory in Nebraska in 2014

On Friday, March 21, 2014, I received an unexpected telephone call from Paul Hammel, a reporter at the *Omaha World-Herald*. He said a bill had been introduced in January 2014 in the Nebraska legislature to repeal Nebraska's century-old executive compensation disclosure law. The call was my first knowledge of the repeal effort.

On Sunday, March 23, the newspaper published Hammel's lengthy article, which was entitled "Texans target Nebraska law

requiring insurance firms to disclose top executives' pay." The article ran prominently; it began at the top of the front page of the newspaper's second section and continued on the second page of that section.

Behind the repeal effort was United Services Automobile Association (USAA), a large Texas-based company that caters to current and former members of the military and their families. USAA paid \$50,000 to Mueller Robak, a legal and lobbying firm whose office is one block from the Nebraska state capitol building in Lincoln.

Spearheading the repeal effort was William McCartney, senior vice president and associate general counsel of USAA. Ironically, he was director of insurance in Nebraska from 1987 to 1994, where he had lived with the Nebraska executive compensation disclosure law. During a discussion of the repeal effort, he said he never liked the law. He served as president of the NAIC in 1992.

I reported the repeal effort in blog no. 39 (April 7, 2014) and discussed USAA's executive compensation. Because USAA is a private company, it does not file with the SEC. Nor does it file with the New York Department, because only a small subsidiary operates there and the compensation allocated to the subsidiary is trivial. USAA's executive compensation exhibits filed with the Nebraska Department of Insurance each year contain this notice in italicized, boldface, solid capital letters:

NOTICE: THIS INFORMATION IS PROPRIETARY AND CONFIDENTIAL. DO NOT FILE WITH ANNUAL STATEMENT OR IN ANY OTHER PUBLICLY ACCESSIBLE FILE OR DOCUMENT.

The Nebraska disclosure law contains no provision permitting the Department to maintain confidentiality for the executive compensation data. Therefore the Department provides the information to anyone who requests it pursuant to the Nebraska public records law. I presented in blog no. 39 all the 2011, 2012, and 2013 data filed in Nebraska by USAA and its subsidiaries

that operate in Nebraska. Josue Robles, Jr., the chief executive officer of USAA, received \$6.5 million in 2011, \$10.5 million in 2012, and \$7.4 million in 2013. McCartney received \$399,156 in 2012; no data were shown for him in 2011 or 2013.

I reported in blog no. 40 (April 11, 2014) that the repeal bill was scheduled to die when the legislature adjourned. The bill did in fact die. Thus the Nebraska executive compensation disclosure law survived the 2014 repeal effort, at least until some future session of the legislature.

Issues and Blog Items Mentioned in This Chapter

October 1975, January 1987, July 2000, November 2001, October 2007, October 2008, July 2009, July 2010, July 2011, July 2012, and July 2013, and blog nos. 39 (April 7, 2014) and 40 (April 11, 2014).

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