

JW Macdonald Associates LLC
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Resume of JAMES W. MACDONALD, CPCU ARM

Summary

Since he became a full-time consultant in 2006, James Macdonald has focused mainly on providing consulting, expert witness, and dispute resolution assistance on matters involving the underwriting and/or claims management practices of the commercial insurance or reinsurance businesses. The normal issues that Mr. Macdonald is asked to consider are the extent to which certain transactions or documents deviate from generally acceptable industry customs and practices. As of mid-2016, he has successfully completed over 40 dispute related engagements with significant testimony experience at depositions, trials, or arbitration hearings. Clients have included insurers, reinsurers, policyholders, and both federal and state regulators. In addition, Mr. Macdonald provides research and writing services to a number of public policy think-tanks and risk management advisory resources including the RAND Corporation (as a Senior Fellow in the Adjunct Staff) and as an expert contributor to the International Risk Management Institute (IRMI).

Professional History

JW Macdonald Associates, LLC (Philadelphia)

7/08 - Present

- Provide dispute-related expert witness and arbitration services;
- Senior Fellow for the RAND Corporation engaged in projects related to public policy issues.

Navigant Consulting (Philadelphia)

5/06-7/08

Director in the Actuarial & Claims practice groups. Provided strategic and problem-solving services to insurers, reinsurers, brokers, investment bankers, and think-tanks. Successfully completed a wide range of strategic and dispute-related engagements.

ACE USA (now Chubb Corporation, Philadelphia)

9/01- 10/05

- **EVP & Chief Underwriting Officer for ACE USA, 9/02-10/05** (formerly Insurance Company of North America / CIGNA P&C): Responsible for the profitable growth of this major P&C subsidiary of ACE Group (Bermuda) including over \$6 billion of premium in 2005 underwritten in the USA and

Canada. Additional responsibilities included ceded treaty reinsurance, state regulatory filings, underwriting audits, and emerging issues.

- **SVP & Chief Underwriting Officer for ACE Risk Management:** Responsible for the underwriting of three separate units including MGA Program Business, major account risk financing, and excess and umbrella.

APA Insurance Trust (Washington DC)

3/01-9/01

VP, Underwriting

Responsible for the General and Professional Liability underwriting and marketing through separate program manager and fronting insurer. Created a new internet-based MGA capability as the VP of Professional Liability for \$20 million DWP program insuring psychologist members of the APA.

Reliance Reinsurance Corp. (Philadelphia)

10/98-9/00

SVP of Professional Liability Treaty Underwriting

Responsible for a large book of treaty reinsurance including traditional and alternative insurance market individual risk and programs including Professional Liability, Environmental, Management Liability, and Employment Practices insurance.

C.N.A. / Continental Insurance Companies (Chicago & NYC)

1/93 – 9/98

- **SVP of Specialty Operations Group (1/93 – 7/94) for Continental Insurance.** Promoted to EVP on 1/1/94. Responsible for D&O, Medical Malpractice, E&S and Excess / Umbrella, Surety, and Professional Liability including MGA program business.
- **Group VP Professional Liability (CNA, 8/94-5/95):** Responsible for \$700 M in annual premium providing all forms of Professional Liability insurance underwritten mainly by MGAs and program administrators. Participated actively in the merger team directing the Continental acquisition in mid-1995.
- **President & COO, CNA HealthPro (9/95- 9/98):** Integrated \$500 M premium total managed care and health care provider premiums of Continental and CNA. Lines of business included primary and excess insurance Medical Professional for hospitals, physicians, nurses and other providers, and both for-profit and not-for-profit D&O and Professional Liability for Managed Care Organizations. Physicians insurance was underwritten mainly by MGAs. Oversaw the acquisition of a large claims administrator from Heller Financial.

American International Group (NYC)

10/89-1/93

- **SVP & Chief Underwriting Officer, AIG Risk Management (10/89-01/92):** Responsible for the profitability of this \$3 billion DWP business unit, the largest in the AIG. The focus was on major account casualty risk financing programs

with over \$1 billion in gross premium from captive insurance companies. Responsibilities included the delegation of underwriting authority and the oversight of all underwriting practices, approving large or unusual proposals, and the resolution of complex claims and outstanding disputes with treaty reinsurers.

- **President & COO of the General Casualty Group of the American Home Assurance Company (1992):** Responsible for the profitable growth of six primary and excess casualty divisions of this AIG profit center including Medical Malpractice, Construction, California WC, Major Account Retros, Specialty Primary Casualty, and Middle Market Excess Liability Insurance.
- **Executive Management Assistance:** Provided the CEO of the holding company and his direct reports independent assistance in special projects including underwriting audits and the development of the industry's first Employment Practices Policy (EPLI) in 1992.

Munich American Reinsurance Co. (NYC)

10/81-9/89

- **AVP, Casualty treaty underwriter** for all types of professional liability, financial guarantees, environmental, and major account business (1981 – 1984).
- **SVP and National manager of Casualty Facultative Department (1987-89):** Responsible for the growth, management and profitability of a nationwide, eight branch department underwriting program, specialty treaties, and individual risk certificate business.

Marsh & McLennan PC Consultants (NYC)

7/77-1/80

AVP, Captive Insurer Specialist

Captive Insurance Company Consultant on new captive insurance company clients, including the drafting of specialty insurance contracts and the negotiating of ceded reinsurance.

Ian Elliott Limited

10/75 – 7/77 & 1/80-10/81

VP, Marketing

MGA underwriter (Liability Insurance) and Surplus Lines Broker in Montreal and Toronto. Produced and brokered specialty commercial insurance products including the industry's first Environmental Liability Insurance policies and Retroactive Liability Insurance.

General Reinsurance Corp

8/71 - 09/75

Casualty Facultative Underwriter, New York City & Montreal Quebec. Produced and underwrote individual risk and program business including specialty umbrella insurance and professional liability.

Industry Boards & Associations

- ARIAS, Member & Certified Arbitrator (American Reinsurance and Insurance Arbitration Society)
- PLUS, member since 1985
- International Risk Management Institute (IRMI): Terrorism insurance expert commentator (2006 – Present)
- ACE INA Insurance Companies, Board of Directors (2003-2005)
- National Council of Compensation Insurers: *WC Residual Market Pool*, Board Member (2005), ACE-INA representative,
- Rand Corporation *Institute of Civil Justice*, Member of Advisory Board (2004-2005)
- RAND Corporation, *Center for Terrorism Risk Management Policy*, Member of Advisory Board (2003-2005)
- American Medical Association, *National Patient Safety Foundation at the AMA*, Board Member, Executive Committee Member (1995-1998)
- Munich American Reinsurance Corporation: Member of seven person senior management team (1987-1989)
- John Street Club (Insurance Association), Board of Governors, former Treasurer, Member since 1980

Education

- University of Notre Dame, B.A., English Literature and Philosophy, 1971, *Dean's List* final three years
- New School for Social Research, Masters in Philosophy, 1972: Completed first year of two-year program.
- The College of Insurance, NYC, Selected casualty classes (1971)
- New York University, Continuing Education, 1982-1984: Completed courses in Statistics, Credit Analysis, and Commercial Lending.
- Numerous industry educational seminars as an attendee and/or as a speaker including Casualty Actuarial Society Ratemaking Seminars, NCCI Annual Issues Symposiums (on Workers Compensation), Robert Strain Reinsurance Contracts Seminar, National and Regional RIMS Conventions, and PLUS D&O and EPLI Seminars.

Professional Designations

- Former licensed Resident Surplus Lines Broker, PA,(2002-2004 and 2010-2012)
- Associate in Risk Management (ARM), AICPCU Institute, 2006
- Chartered Property & Casualty Underwriter (CPCU), AICPCU Institute, 2009
- ARIAS, Certified Arbitrator (8/10)

Publication Listing

- “Arbitration Clauses in Specialty Liability Policies”
 - ARIAS, Fourth Quarter 2013, Volume 20, Number 4 (Reprint)
 - IRMI, Arbitration Clauses in Specialty Liability Policies, *The Risk Report*, Volume XXV, No. 10, June 2013
- “Residential Insurance in the Gulf Coast in the Aftermath of Hurricane Katrina,”
 - Journal of Reinsurance, “Spring 2011, Volume 18 No. 2 (Reprint)
 - RAND, Occasional Paper, October 2010, Co-authored with Lloyd Dixon and Laura Zakaras
- “Changes Loom for Federal Terrorism Insurance Program,” IRMI, *The Risk Report*, December 2010
- “California’s Volatile Workers Compensation Marketplace: Problems and Recommendations for Change,” RAND, Co-authored with Lloyd Dixon and Bill Barbagallo, Estimated publication – December 2009
- “Introduction to Reinsurance” and “Traditional Reinsurance”, IRMI, *Risk Financing*, December 2009
- “Commercial Wind Insurance in the Gulf States,” RAND Institute for Civil Justice, Occasional Paper 07/07 (co-authored with Lloyd Dixon and Julie Zissimipoulos)
- “Terrorism, Insurance & Preparedness: Connecting the Dots,” Cambridge University Press, Chapter 19 of *Seeds of Disaster, Roots of Response*, 2006;
- “Underwriting Discipline in a Softening Market”
 - John Liner Review (JLR), Spring 2005 (Reprint)
 - Chartered Property Casualty Underwriters Society, *Philadelphia Business Journal*, October 2004
- “Terrorism, Insurance and TRIA: Are we asking the right questions?” John Liner Review, Volume 18, No. 2, Summer 2004
- “Producing a Winner,” *Best’s Review*, April 2003

Testimony at Trial or Arbitration (Since 2010)

Arbitrations	
Parties	Testimony
1. Insurer versus Reinsurer	<p>Testified at deposition on behalf of the insurer in May 2010. Confidential and private ARIAS arbitration.</p> <p>This dispute involved the roles and responsibilities of MGAs, insurers, and reinsurers in “fronting” arrangements.</p>
2. Policyholder versus three excess liability insurers	<p>Testified at an arbitration in NYC representing three excess liability D&O insurers involved in a dispute with a former policyholder over the applicability of a limitation in the controlling primary insurance (2011).</p> <p>This dispute involved the intention of the so-called “bump-up” exclusion. Confidential and private ARIAS arbitration.</p>
3. Policyholder versus Excess Insurer	<p>Testified at this private and confidential London arbitration on behalf of the policyholder in this dispute involving pharmaceutical products liability excess insurance (May 2012).</p>
4. Insurer versus Reinsurer	<p>Testified at deposition on behalf of an insurer in a dispute with a former reinsurer. After new discovery documents were reported, testified at a second deposition in early 2014.</p> <p>Testified in February 2014 at arbitration hearing in Detroit, Michigan.</p> <p>The matter involved the right of the cedant to group related asbestos products liability claims from a policy ceded under and excess of loss “per event” treaty.</p>

Arbitrations	
Parties	Testimony
5. Insurer versus Reinsurer	<p>Testified on behalf of the reinsurer at a deposition and at a Hearing at the confidential and private ARIAS arbitration.</p> <p>This matter involved a disagreement over the breadth of treaty for an MGU/MGA program limited to Direct Excess WC and specialty WC assumed reinsurance (December 2013).</p>
6. Excess products liability insurer versus a large American Fortune 100 Manufacturer	<p>Testified at a deposition and a Hearing on behalf of the excess insurer in this confidential and Private AAA arbitration.</p> <p>This dispute centered on a provision in the manuscript excess policy that granted limited coverage for certain liability batch claims also covered by expired Bermuda excess policies (January 2014).</p>
7. Insurer versus Reinsurer	<p>Testified at deposition on behalf of an insurer in a dispute with a former reinsurer (April 2016).</p> <p>The matter involved the right of the cedant to group related asbestos products liability claims from a policy ceded under and excess of loss “per event” treaty.</p>

Litigations	
Parties	Testimony
Harco Insurance (plaintiff) versus Grant Thornton (defendant)	<p>Deposed as expert witness on behalf of the insurer as Plaintiff. Deposition taken 10/6/08-10/9/08. Testified at trial on July 24, 2012.</p> <p>State of North Carolina, Wake County, Superior Court Division, File No. 05 CVS 2500 and also CVS 2299.</p> <p>This matter involved the extent to which an insurer relies upon a CPA's unqualified opinion in a recent financial report as a part of the assessment of a prospective MGA.</p>
Mario's Butcher Shop and Kim Miller-Huggins et al Versus West Bend Mutual Insurance Company	<p>Deposed as expert witness on behalf of Plaintiff Mario's Butcher Shop and Kim Miller-Huggins on 5/13/10.</p> <p>File No. 1453 United States District Court for the Northern District of Illinois, Case no, 09 CV 4391.</p> <p>This matter involved the extent to which FACTA claims are covered under the Personal Injury Coverage B of a standard ISO General Liability policy.</p>
Crum & Forster Insurance Company Versus Virgin Oil, Inc. etal	<p>Deposed in June, 2014. Provided expert opinion on behalf of the insurer regarding certain D&O Insurance policies underwritten for Virgin Oil. This matter settled prior to trial in September, 2014.</p> <p>Civil District Court for the Parish or Orleans, New Orleans, Louisiana, Civil Action No. 2011-8906</p> <p>This matter involves industry customs and practices regarding the intent of the "related acts" wording in claims-made policies and certain other exclusions frequently attached to D&O policies.</p>