

North Carolina Insurance Guaranty Association

2011 Annual Report

CORE VALUES

Commitment

Faithfully and diligently fulfill the obligations of our Organization as set forth in the statutes

Talents

Continually strive to improve the Organization through the use of every associate's talents and creativity

Integrity

Perform each task as efficiently as possible with absolute honesty and integrity

Ownership

Encourage participation and a sense of ownership from the members of our Organization

Respect

Treat your fellow associates and those you serve on behalf of the Organization with dignity and respect

Consistency

Demonstrate fairness and consistency among all associates and encourage personal development

General Organizational Information

NCIGA Main Phone Number	919-783-9813
Facsimile	919-783-5262
Toll Free	800-456-5086
Website Address	www.ncrb.org/nciga/
Physical Address	5401 Six Forks Road Raleigh, NC 27609

Management Contacts

Ray Evans

Managing Secretary

919-783-9790

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R. Mike Newton

Director, NCIGA

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Manager, Claims

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**Director, Human Resources &
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Director, Finance

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Shelley Chandler

Director, Information Services

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Message from the Chairman

There is usually a beginning, middle, and an end to every story and I suppose that applies to a Chairman's message as well.

The beginning of this message would be the creation of the North Carolina Insurance Guaranty Association by the General Assembly of North Carolina on June 25, 1971.

The middle would be my tenure as Chairman of the Association for the past twenty years beginning in November 1991.

At that time, the Association had just completed the first year of handling the insolvency of Interstate Casualty Insurance Company, which is still the largest North Carolina domestic insolvency on record.

That was just the beginning...

Early on in my tenure- January of 1993- the North Carolina Insurance Guaranty Act was amended to include workers' compensation claims as a covered line of business. Little did we know that over the next twenty years, the Association would handle over \$164 million in workers' compensation claims accounting for nearly seventy five percent of the \$185 million of total claims paid during the period.

Then in October of 2001, the Association's ability to meet its statutorily created duties was tested with the largest insolvency on record, Reliance Insurance Company domiciled in Pennsylvania. Two additional insolvencies occurred by 2002 year's end with thirteen additional insolvencies from 2003 until present date.

The journey continues...

The Association succeeded in its role of being the safety network for the insurance buying public as defined by General Statute §58-48-1 in all these challenges.

The Reliance insolvency presented much more of a challenge due to the increased volume of claims, monetary exposure, policy makeup, and composition of submitted claims. As a result, the new millennium version of the Association had to upgrade its operational methodology and infrastructure to meet the challenge. And meet those challenges it did.

And on to the end of the story ...
as it relates to my chairmanship of the Association.

I am retiring from State Farm Mutual Insurance Company effective October of 2011, and relinquishing the chairmanship of the Association.

During these past twenty years, I have had the privilege of working with my fellow members of the Board, Association Staff, and Legal Counsel. I am proud to have been associated with these professionals and to call them friends.

I wish the Association well as my wife and I look forward to creating our next story.

Sincerely,

Thomas M. Huels

Thomas M. Huels

Board of Directors

The Plan of Operation provides that the Board of Directors consists of eight directors, comprised of seven elected directors, all of whom are member insurers, who shall serve three-year terms, or until their successors have been elected and qualified, and one non-voting director, who shall be a property and casualty insurance agent authorized to write insurance for a member company and who is appointed by the Commissioner of Insurance to serve for a three-year term at the pleasure of the Commissioner.

The Audit Subcommittee oversees the financial activities of the Association and formulates recommendations for presentation to the Board of Directors.

Member Company Representative

Allstate Insurance Company
Nancy Lemke

Integon Indemnity Corporation
Art Lyon

Liberty Mutual Insurance Company
John Walsh (Subcommittee)

Nationwide Mutual Insurance Company
Kevin George (Subcommittee)

NC Farm Bureau Mutual Insurance Company
Allen Houck
(Chairman - Subcommittee
Secretary-Treasurer - BOD)

State Farm Mutual Auto Insurance Company
Tom Huels (Chairman - BOD)

Travelers Indemnity Company
Kristina Barronton

Non-voting Member
Delaine Bradsher



Managing Secretary's Report

This report is prepared with joy and sadness. Joy that we have accomplished much this past year and that we continue to successfully implement the strategies as the Board directs. Sadness that Tom Huels, Chairman of the Association for the past 20 years, will be retiring.

While we have achieved much over the previous year, whether we were successful or not hinges on if we have implemented the Board's strategies. I believe we have.

First, we are instructed to properly account for and be good stewards of your money. Later in this report more detailed financial information will be provided. But briefly, we have invested soundly, managed cash, met the budget and are using appropriate processes as verified by the auditors.

Second, we are instructed to fairly but expeditiously settle claims, which we are doing and will be documented a little later in the report.

Third, we are instructed to adhere to, defend and uphold statutory and regulatory requirements as illustrated by our efforts towards the recovery of funds. Other examples are found in bringing to a close the Commercial Casualty and State Capital insolvencies as well as through litigation required in a number of individual claims.



Managing Secretary's Report

Fourth, we were instructed to play a bigger role in the national guaranty fund community, which we have done in an impressive way. Mike Newton is currently the chair of a number of important insolvency committees at the national level, including perhaps the most important, the Insolvency Coordinating Chair.

Fifth, and lastly, we have been instructed to be prepared for future insolvencies. Although this is an on-going process, we feel we are ready.

During the past few years, we have refined processes, cross-trained associates, expanded our electronic capabilities and established reserves in anticipation of insolvencies. While we have only had a few small ones, they have given us an opportunity to test what we have done and it appears to be sound.

Tom, as Chairman, has been the leader who provided stability, spoke with solid experience and most importantly, is an all-around good guy. He has been instrumental in encouraging us to be fair and honest and to strive to do the right thing in our business dealings. I believe these will always be fundamental concepts for us.

From the folks at the Association as well as from all the members of the various committees, our thanks and appreciation to Tom for his two decades of guidance. We are a good organization due to your leadership and the next Chairman will have large shoes to fill.

Ray Evans
Managing Secretary, IGA



Director's Report

ARTICLE 17B

Post-Assessment Insurance Guaranty Association.

§ 58-155.41. Short title. -

This Article shall be known and may be cited as the

“North Carolina Insurance Guaranty Association Act”

(1971, c. 670, s. 1.) Editor's Note. -
Session Laws 1971, c. 670, s. 2, contains a severability
clause.

A little over forty years ago, the 1971 General Assembly of North Carolina enacted the Insurance Guaranty Association Act, 1971 session Laws of North Carolina, Chapter 670, on the 25th day of June, 1971, which Act is codified as Article 17B of the Insurance Laws of North Carolina, G.S. 58-155.41 through 58-155.59.

And with that, the North Carolina Insurance Guaranty Association was created to serve as part of a state based national safety network for the property and casualty insurance guaranty system to protect insurance consumers from losses due to insurance company insolvencies.



Director's Report

§ 58 -15 5.42. Purpose of Article. -

The purpose of this Article is to provide a mechanism for the payment of covered claims under certain insurance policies, to avoid excessive delay in payment, and to avoid financial loss to claimants or policyholders because of the insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies, and to provide an association to assess the cost of such protection among insurers. (1971, c. 670, s. 1.).

Forty years later, the Purpose of Article serves as the basis of the Mission Statement of the Association.

MISSION

OUR MISSION

is to fulfill statutorily created duties, which are to provide a mechanism for the payment of covered claims as defined by the Guaranty Act, to avoid excessive delay in those payments, to avoid financial loss to claimants or policyholders because of the insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies, and to provide an association to assess the cost of such protection among insurers. The manner in which our associates carry out those duties will define our excellence as an organization.



Director's Report

Passage of the legislation creating the Association was just one of many steps taken in developing a safety network that has paid out a net of over \$225 million, while carrying out the core mission of helping to avoid financial loss to claimants or policyholders because of the insolvencies of sixty member insurers. We will celebrate the 40th anniversary of the Association during the upcoming year, and discuss some of the milestones and challenges along the way. That's a story to be continued.

With the upcoming retirement of Mr. Tom Huels from the Chair of the Association's Board of Directors, I would like to focus this report on the Association's operations during his twenty years of service. Tom had just assumed the chairmanship when the Association activated for its twenty seventh insolvency- Western Employers Casualty Insurance Company.

At that time, the Association had paid out a little over \$40.8 million in claims and claim related expenses. Who knew the next twenty years would see a 400 percent increase in payments!

In my opinion, the largest single change to the Association occurred when the General Assembly ratified Senate Bill 726 on June 30, 1992 changing the Guaranty Act's scope to allow workers' compensation and employers' liability insurance to become a claim covered by the Association. The inclusion of workers' compensation claims (WC) as "covered claims" under the Act, required the Association to "retool" its claims staff with workers' compensation claims constituting the largest book of business with some \$165 million in payments covering 4,638 claims.



Director's Report

Certainly the busiest time for the Association was 2001 through 2006, when it was activated by the Board of Directors in response to seventeen insolvencies. During that span of time, the Association paid out \$116.6 million in claims and claims expenses. That figure represents 63 percent of all payments made during the past 20 years and 52 percent of payments made during the entire 40 years of existence.

Through the challenges created by the inclusion of workers' compensation claims under the scope of the Guaranty Act, and the unprecedented volume of business from 2001 through 2006, the Association's Managing Secretary, Board of Directors, Staff, and Counsel have worked and succeeded at having the Association meet its responsibilities promptly and effectively.

Through all of this, Tom's professionalism, kind demeanor, and steady hand on the helm have set the standard for the Association's success.

Well done Sir, and best wishes for your continued success in your new adventures.

Operations Report

During the report year, the Association received in 87 new claim files, and closed 147 files, leaving 315 files open as of August 31, 2011. The Association issued 15,855 checks during the process of paying out a net of \$9,003,764.90 in indemnity claims, unearned premium claims, and allocated claim expenses during the report year.



Director's Report

Through the efforts of Staff and Legal Counsel, we continued to aggressively pursue net worth, subrogation, and large deductible recoveries utilizing the Guaranty Act's various provisions recouping \$544,181.75, a 6 percent recovery rate considering funds spent during the report year. This amount is less than in prior years but should be attributed to a smaller potential for recoveries due to the maturation of the insolvencies.

Workers' Compensation claims continued to be the focus of adjustment activity with 99 percent of the indemnity and claims expense net payments paid (\$8,970,901.09) during the report year, and 98 percent of current reserves (\$66,777,483.92) as of the report period's ending, being workers' compensation related.

Casualty claim files numbered 20 open and were reserved for \$1,402,307. These cases involve commercial exposures with most being subject to litigation and we continue to resist payment due to provisions of the Guaranty Act. These claims are managed by a part time supervisor, who also handles our net worth and large deductible recoveries, in addition to supervising clerical staff.

The Association activated for two new insolvencies this year and, while the resulting claims count of 26 files was modest, these files needed major work and Staff moved quickly upholding our duty of providing a safety network for affected parties.



Director's Report

We remain mindful of the associate to workload ratios, and during the report year, reduced headcount by one. We now have seven associates performing a myriad of tasks since we began cross training positions. An example of an associate multitasking would be the casualty claims supervisor, who supervises the casualty claims, handles net worth and large deductible recoveries, and is cross trained on all administrative duties including our infrastructure software, and supervises the clerical associate.

We continue to remain true to our core mission statement to carry out the Board's directive of handling claims in a fair and prompt manner, providing the promised safety net to our State's insurance buying public, while refining our processes to ensure that we are operating efficiently.

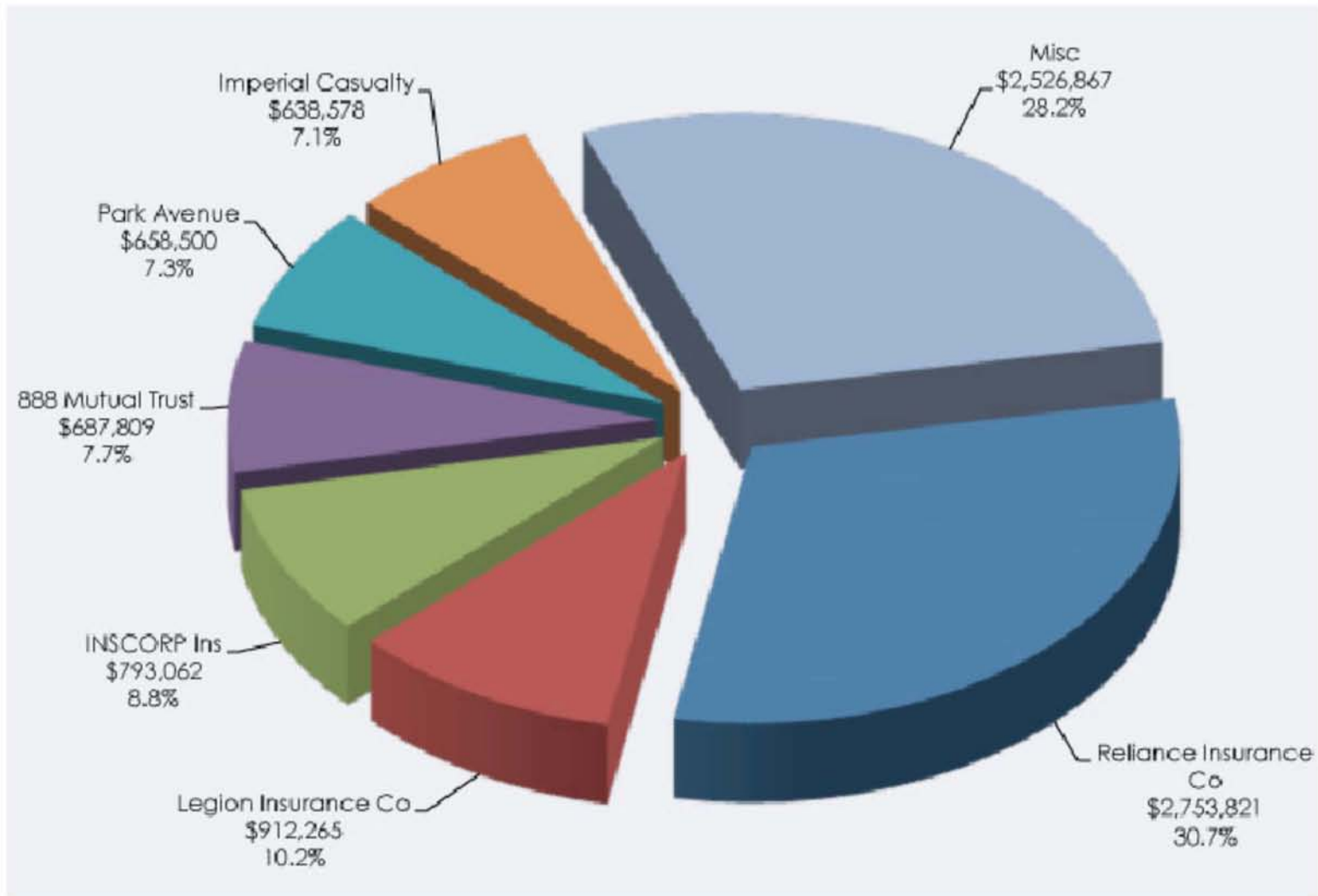
R. Mike Newton

R. Mike Newton
Director, IGA

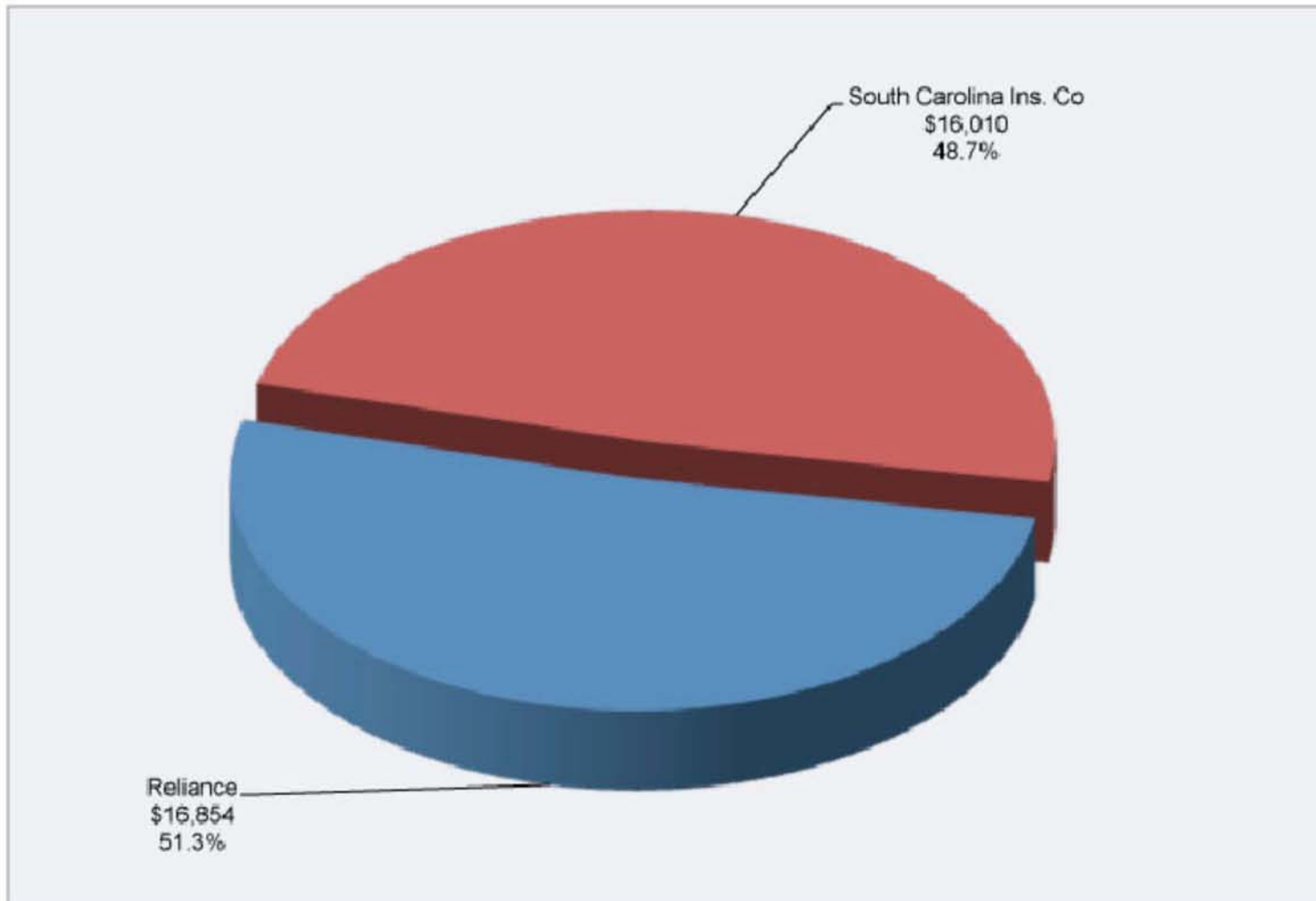
Claims Paid Detail

	WC Paid			Auto Paid			Grand Total
	Indemnity	Expense	Total	Indemnity	Expense	Total	
Casualty Reciprocal	\$331,185	\$51,016	\$382,201				\$382,201
Credit General	\$194,251	\$16,891	\$211,142				\$211,142
Employers Casualty	\$35,776	\$4,606	\$40,382				\$40,382
Fremont Indemnity Co	\$69,061	\$7,152	\$76,214				\$76,214
Home Insurance	\$526,748	\$17,428	\$544,176				\$544,176
Imperial Casualty	\$502,150	\$136,428	\$638,578				\$638,578
INSCORP Ins	\$751,047	\$42,015	\$793,062				\$793,062
Park Avenue	\$575,169	\$83,331	\$658,500				\$658,500
Legion Insurance Co	\$836,872	\$75,393	\$912,265				\$912,265
PHICO Insurance	\$7,612	\$68	\$7,680				\$7,680
Reliance Insurance Co	\$2,604,851	\$148,969	\$2,753,821	\$16,854		\$16,854	\$2,770,675
ROA Insurance Co	\$273,020	\$9,439	\$282,459				\$282,459
Shelby Insurance Co	\$91,235	\$20,885	\$112,120				\$112,120
South Carolina Ins. Co	\$441,761	\$41,089	\$482,851		\$16,010	\$16,010	\$498,860
Pegasus Insurance Co	\$44,942	\$2,187	\$47,129				\$47,129
Villanova Insurance Co	\$60,038	\$18,747	\$78,785				\$78,785
Centennial Ins Co	\$19,059	\$535	\$19,594				\$19,594
Atlantic Mutual Ins Co	\$127,534	\$9,063	\$136,597				\$136,597
888 Mutual Trust	\$612,072	\$75,737	\$687,809				\$687,809
999 Stock Trust	\$98,558	\$6,980	\$105,538				\$105,538
Total	\$8,202,942	\$767,960	\$8,970,902	\$16,854		\$32,864	\$9,003,766

Claims Paid Detail



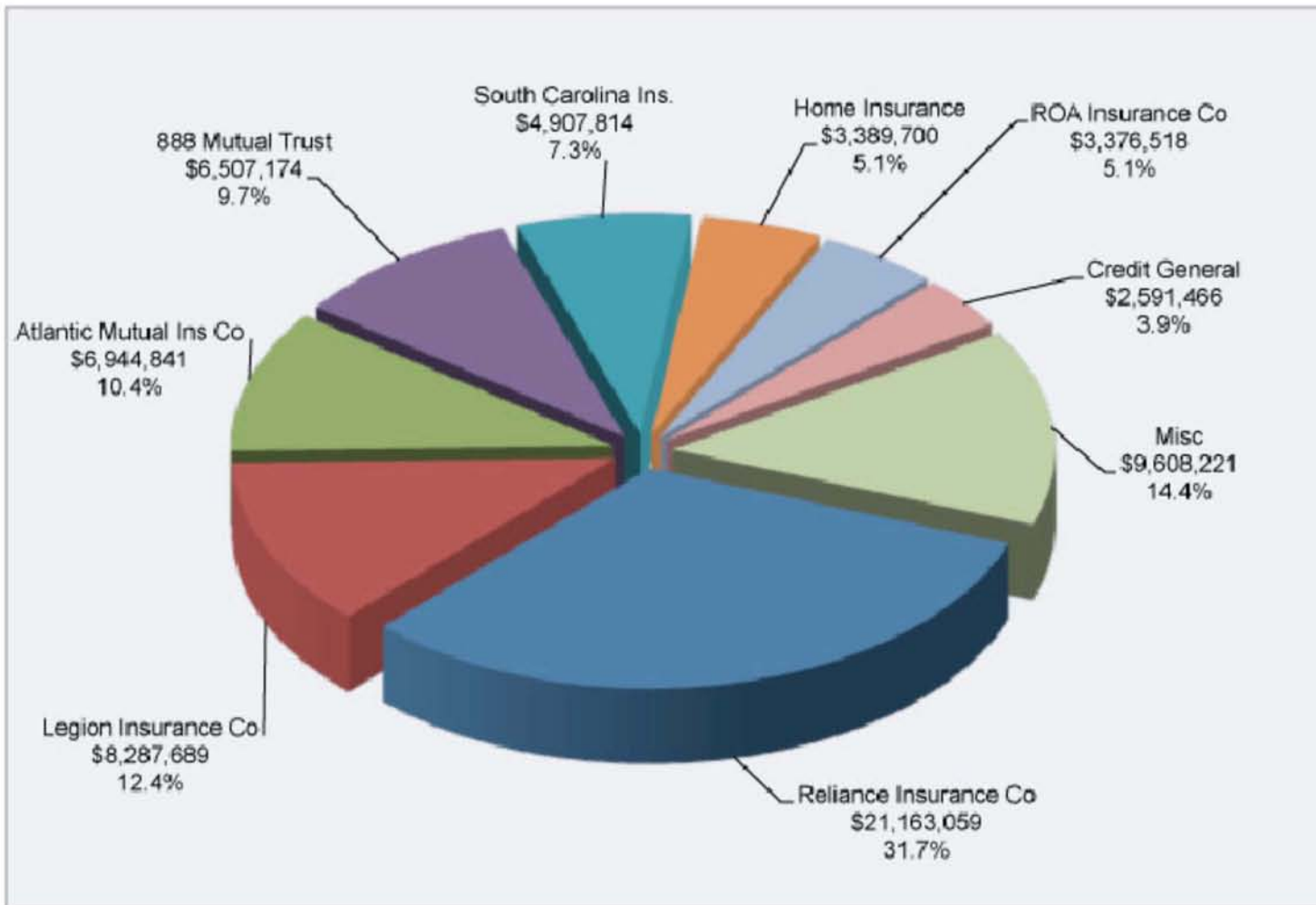
Claims Paid Detail



Claims Reserved Detail

	WC Reserves			Files	Auto Reserves			Files	All Other Reserves			Files	TOTAL	TOTAL
	Indemnity	Expense	Total	Pending	Indemnity	Expense	Total	Pending	Indemnity	Expense	Total	Pending	RESERVES	PENDING
Casualty Reciprocal	\$933,540	\$43,645	\$977,185	13									\$977,185	13
Credit General	\$2,514,399	\$77,067	\$2,591,466	4									\$2,591,466	4
Employers Casualty	\$297,438	\$11,180	\$308,618	3									\$308,618	3
Fremont Indemnity Co	\$1,231,254	\$35,208	\$1,266,462	2									\$1,266,462	2
Home Insurance	\$3,048,473	\$341,227	\$3,389,700	46					\$201		\$201	3	\$3,389,901	49
Imperial Casualty	\$421,035	\$53,479	\$474,514	6									\$474,514	6
INSCORP Ins	\$1,098,329	\$72,327	\$1,170,656	3									\$1,170,656	3
Park Ave P&C	\$2,292,999	\$87,815	\$2,380,814	6									\$2,380,814	6
Legion Insurance Co	\$7,944,938	\$342,751	\$8,287,689	32			\$0				\$0		\$8,287,689	32
PHICO Insurance	\$140,470	\$2,000	\$142,470	1					\$600,000	\$200,000	\$800,000	2	\$942,470	3
Reliance Insurance Co	\$20,017,697	\$1,145,362	\$21,163,059	74	\$283,358	\$8,632	\$291,990	2	\$401	\$300	\$701	8	\$21,455,750	84
ROA Insurance Co	\$3,212,337	\$164,181	\$3,376,518	16									\$3,376,518	16
Shelby Insurance Co.	\$745,333	\$43,967	\$789,300	6	\$29,000	\$7,275	\$36,275	2			\$0	0	\$825,575	8
South Carolina Ins.	\$4,803,955	\$103,859	\$4,907,814	7	\$48,918	\$14,222	\$63,140	2					\$4,970,954	9
Pegasus Insurance Co	\$0	\$0	\$0	0									\$0	0
Villanova Insurance Co	\$297,386	\$14,347	\$311,733	4									\$311,733	4
Centennial Ins Co	\$1,065,672	\$45,465	\$1,111,137	5									\$1,111,137	5
Atlantic Mutual Ins Co	\$6,723,904	\$220,937	\$6,944,841	19					\$60,000	\$150,000	\$210,000	1	\$7,154,841	20
888 Mutual Trust	\$6,232,230	\$274,944	\$6,507,174	45									\$6,507,174	45
999 Stock Trust	\$657,138	\$18,194	\$675,332	3									\$675,332	3
Total	\$63,678,527	\$3,097,955	\$66,776,482	295	\$361,276	\$30,129	\$391,405	6	\$660,602	\$350,300	\$1,010,902	14	\$68,178,789	315

Claims Reserved Detail



Cost Savings Initiatives by the Association

The Association constantly looks for ways to improve cost efficiencies and the Procura and Corporate Pharmacy Services (CPS) programs provide excellent examples, both in utilizing cost saving vendors and improving the interface processing between the vendors and the Association.

Procura is a Medical Bill Review Provider that maximizes savings by using fee scheduling on workers compensation medical claims as well as detecting improper billing practices while providing a database for treatment patterns.

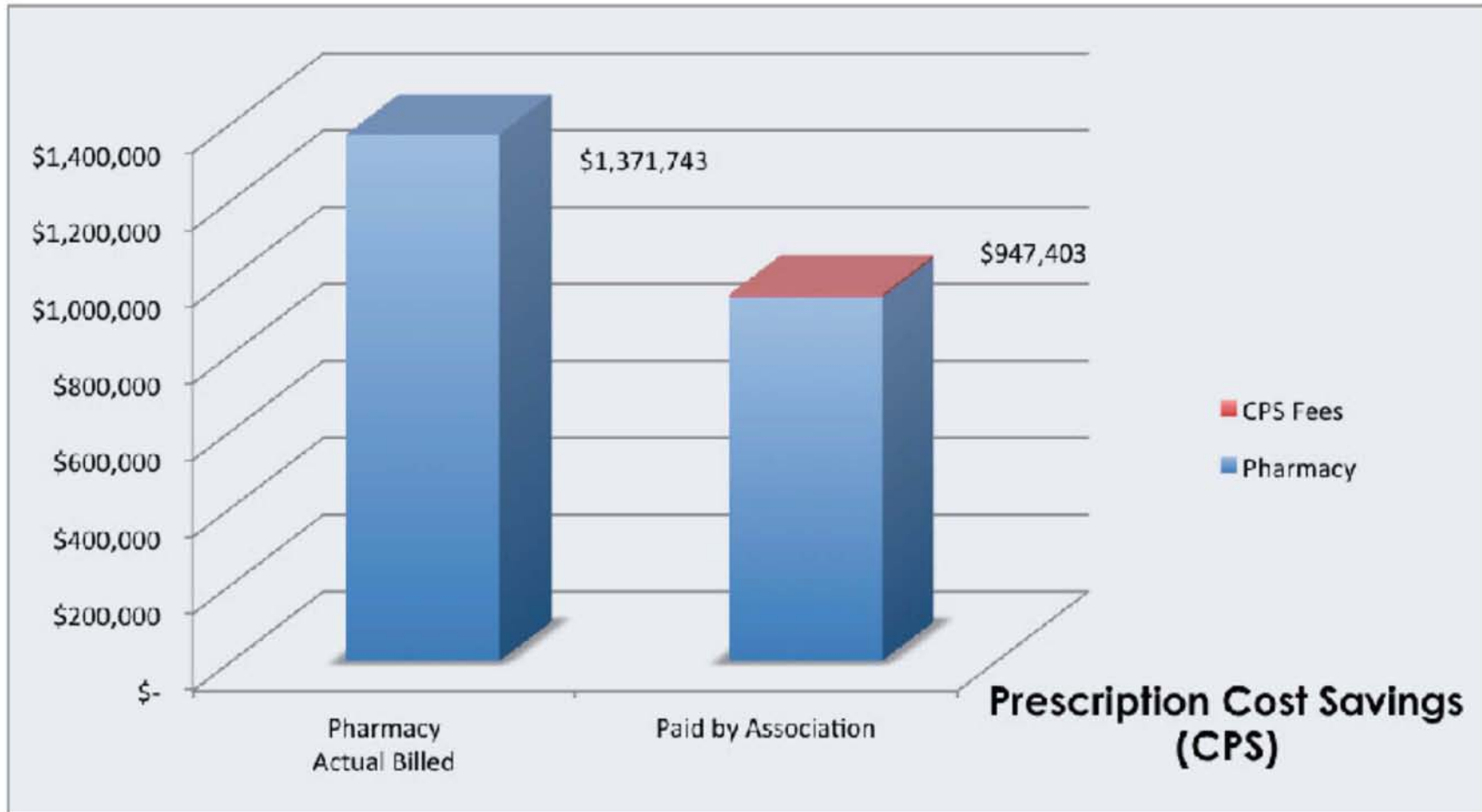
CPS is a Pharmacy benefits management company (or a drug management company) that uses a network of pharmacies utilizing a paperless or RX card program. The prescriptions of the injured employees are filled at a negotiated rate below state fee schedules. CPS also provides management reports to detect areas of inefficiencies.

The latest twelve month statistics from Procura, reveals total provider billing of \$1,716,407 being reduced by \$638,044 for a total payout by the Association of \$1,078,363. Procura charged \$24,931 for their services (1.46%) with the Association realizing a net savings of \$613,113 (35.7%).

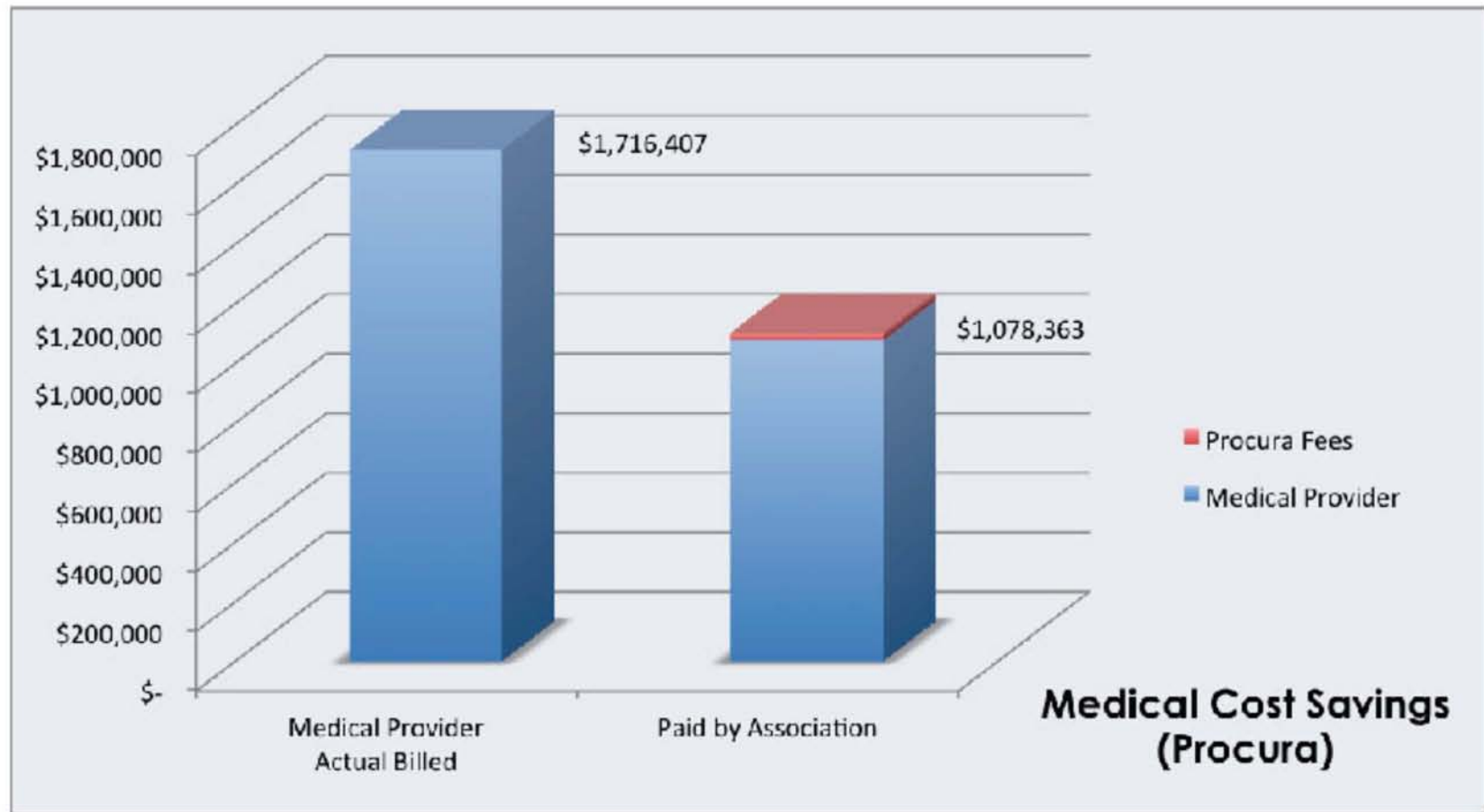
A similar review of CPS activity shows prescriptions costing \$1,371,743 retail being reduced to \$947,403, a gross savings of 30.9 %. CPS charged \$6,874 (1.62%) for their services for a net savings of \$417,466 (30.4%)

For both services, the Association automated the processes resulting in the issuance of 3,000 less checks, creating a reduction in clerical services and human error in transactions. Additionally, the savings through both processes totals \$1,030,579, which represents a reduction of 10.27 percent from what would have been total gross payments of \$10,034,345.

Cost Savings Initiatives by the Association



Cost Savings Initiatives by the Association



NCIGA Management Staff



William Delbridge
Manager, Claims



Rowena Ball
Supervisor, Workers' Compensation Claims



Donna Kallianos
Supervisor, Casualty Claims

Organization Shared Resources

Information Services



Shelley Chandler

Director, Information Services

The Information Services department (IS) is responsible for Communications/Customer Service, Process Documentation/Process Improvement, Systems Availability and Systems Development.

The customer service area handles approximately 4000 support calls and emails per month from external customers via the Information Center, and the Service Desk handles an additional 250 calls and emails from internal associates. In 2011, the Information Center implemented multiple improvements to their existing processes including call monitoring and quality auditing. Efforts are underway to revamp the customer survey and implement scorecard metrics.

Technology has become an increasingly important tool in enabling our customers to interact with us more efficiently. In 2011, this area focused on re-designing the infrastructure to deploy a multi-layered security strategy.

The Process Documentation Services Team is tasked with the responsibility of promoting a process-driven environment supported by processes that are identified, documented, measured, managed and improved. Process documentation is the precursor to superior customer satisfaction, overall reduction in errors and lower costs.

Organization Shared Resources

Human Resources and Administrative Services



Vicki Godbold
Director, Human Resources
and Administrative Services

Human Resources (HR) is the strategic and coherent approach to the management of our Organization's most valued assets — the people.

HR responsibilities include administering HR policies, programs, and practices and providing a safe work environment, professional development opportunities and work-life balance for our associates. This year we have been most involved in implementing H.R. 4872 – The Health Care and Education Affordability Reconciliation Act, better known as Healthcare Reform.

Organization Shared Resources

Finance



David E. Sink
Director, Finance

The Finance Department is responsible for providing accounting and investment services to the Organization. This includes financial payments and the proper allocation of expenses between the accounts of the association and the respective insolvencies.

Finance Director's Report

I am pleased to report that the financial position of the North Carolina Insurance Guaranty Association remained strong during the twelve months ending August 31, 2011. The assets of the Association totaled about \$93.9 million at the end of this report period – slightly down from \$97.6 million one year ago. The activity related to the assessments of \$8.1 million and refunds of \$10.3 million was comparable to the prior year and was the second consecutive year the Association returned approximately \$2 million more to its member insurers than it assessed. Distributions from the insolvency liquidators during the past year were approximately half the amount of the prior year, but still represented a significant portion of the Association's income and enabled refunds for several specific accounts and insolvencies.

Finance Director's Report continued

Even though the low interest rate environment in the fixed income markets continued and resulted in lower investment income during the past year, the Association still realized almost \$2.1 million that was used to offset expenses and reduce the assessment needs to our member insurers.

The Association's net claim and claim expense payments totaled about \$9.0 million which represents a decrease of almost 1% from the prior year. The administrative expenses were virtually flat from the previous year while assuming the responsibilities for the new insolvencies of Pegasus, Atlantic Mutual and Centennial Insurance Companies. The liabilities related to the Association's claim and expense obligations increased approximately 10.3% over the last twelve months primarily due to the activation of the aforementioned insolvencies during the past year.

We believe the financial activity over the past year continues to position the Association to meet its obligations related to the current insolvencies – individually and collectively. As always we appreciate the guidance and support from our Board of Directors, committees, and member companies as we continue to meet our statutory responsibilities.

David Sink

David E. Sink
Director, Finance

Balance Sheet

Year Ending
August 31, 2011

Year Ending
August 31, 2010

(Preliminary)

Assets

Cash (Checking Account)	\$	8,950,000	\$	8,863,031
Investments		81,500,000		87,660,088
Assessments Receivable		3,450,000		1,043,591
Other Assets		-		-

Total Assets

	\$	<u>93,900,000.00</u>	\$	<u>97,566,710</u>
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Liabilities and Fund Equity

Accounts Payable	\$	-	\$	12,352
Claims Liability		64,700,000		58,355,832
Unearned Premium Liability		-		-
Claims Expense Liability		3,500,000		3,486,606
Outstanding Check Liability		-		-
Other Liabilities		(1,700)		(1,689)

Total Liabilities

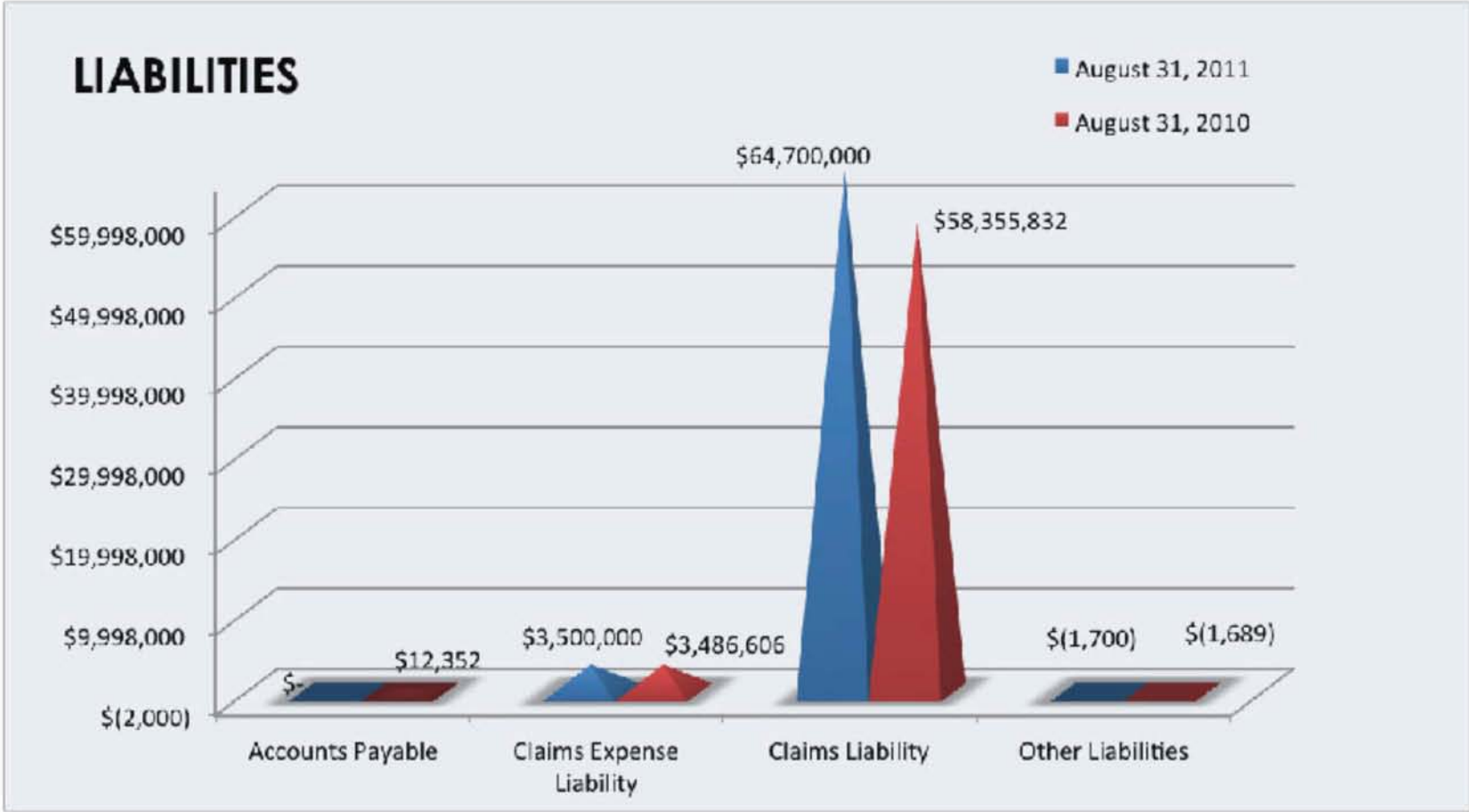
	\$	<u>68,198,300</u>	\$	<u>61,853,101</u>
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Fund Equity		<u>25,701,700</u>		<u>35,713,609</u>
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Total Liabilities & Fund Equity

	\$	<u>93,900,000</u>	\$	<u>97,566,710</u>
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Balance Sheet



Income Statement

Year Ending
August 31, 2011

Year Ending
August 31, 2010

(Preliminary)

Income

Membership Fees	\$ 1,300	\$ 1,400
Interest Income	2,065,000	2,340,086
Assessments Income	8,097,000	8,900,000
Miscellaneous Income	12,029,500	22,391,637

Total Income

	<u>\$ 22,192,800.00</u>	<u>\$ 33,633,123</u>
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Expenses

Refund to Commissioner/Liquidators	\$ 4,510,860	\$ 11,406
Refund to Member Insurers	10,300,000	11,050,001
Operating Expenses	1,980,000	1,956,690
Claims Paid (Net)	8,200,000	8,075,616
Claim Expenses	800,000	1,016,688
Premium Refunds	-	15,376

Total Expenses

	<u>\$ 25,790,860</u>	<u>\$ 22,125,777</u>
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Net Income / (Loss)

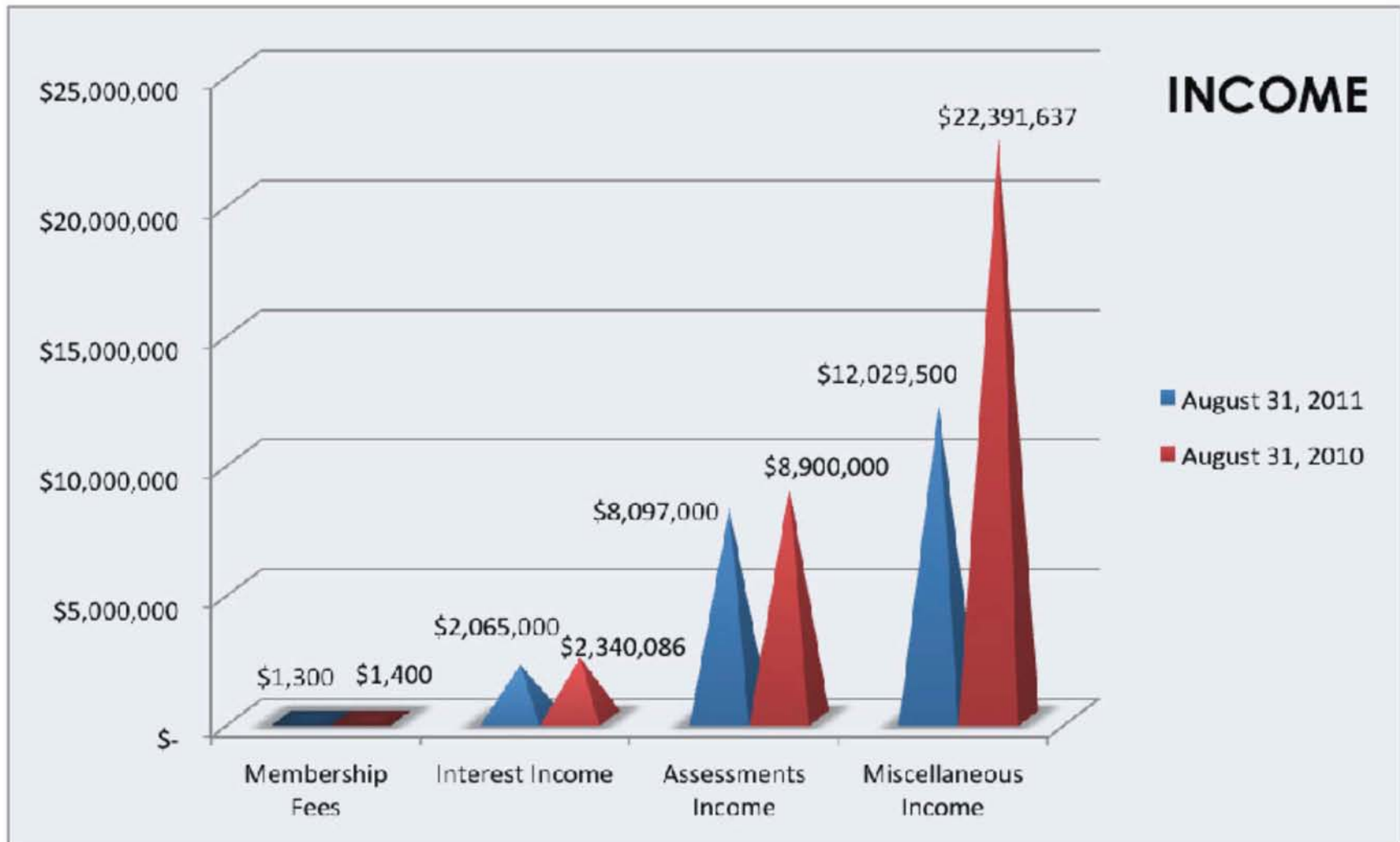
	(3,598,060)	11,507,346
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Income Statement

EXPENSES



Income Statement



Report of Independent Auditors

- Unqualified cash receipts and disbursements opinion
- Basis other than generally accepted accounting principles
- Internal control language



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Report of Independent Auditors

The Board of Directors and Members
North Carolina Insurance Guaranty Association

We have audited the accompanying statements of cash receipts and disbursements of the North Carolina Insurance Guaranty Association (the Association) for the years ended December 31, 2010 and 2009. These financial statements are the responsibility of the Association's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As described in Note 1, the statements of cash receipts and disbursements present a summary of cash activity and are not intended to be a presentation in conformity with accounting principles generally accepted in the United States.

In our opinion, the statements referred to above present fairly, in all material respects, the cash receipts and disbursements of the North Carolina Insurance Guaranty Association for the years ended December 31, 2010 and 2009, and its cash and investment balances at December 31, 2010 and 2009.

Ernst & Young LLP

May 2, 2011

Report of NCIGA Counsel

Nelson Mullins Riley & Scarborough LLP

Christopher J. Blake
Partner



Joseph W. Eason
Partner



As a number of the large insurer insolvencies from earlier this decade begin the phase of winding down, the Association continues to monitor legal issues arising from these insolvent insurer estates. In the domiciliary receivership proceedings in Pennsylvania for Reliance Insurance Company and Legion Insurance Company, the Association continues to work with the domiciliary receivers on expense and reinsurance claim audits, large deductible recoveries, and early access payments.

In Virginia, the receiver of Reciprocal of America is considering a transaction that will transfer any of the remaining liabilities to an assuming insurer that will have the effect of terminating the Association's liabilities for any remaining claims. The Association is evaluating whether this proposed transaction can be accomplished as intended by the receiver for Reciprocal of America. As the receivers make claim priority determinations for different categories of claims, the Association will defend its interests, as necessary, to ensure that the Association receives the maximum recovery on its claims against these insolvent insurer estates.

In addition, the Association is working with representatives of the North Carolina Department of Insurance to resolve outstanding issues related to two North Carolina domestic insolvencies – Commercial Casualty Insurance Company and State Capital Insurance Company. In the case of State Capital Insurance Company, the Association anticipates a closing of that estate in the near future with a payment of 100% of the outstanding claims of all insurance guaranty associations.

REFERENCE

Click on an item to open the PDF

1. Plan of Operation
2. Antitrust Compliance
3. Conflicts of Interest Statement

Plan of Operation

ARTICLE 2. BOARD OF DIRECTORS.

D. The Board shall hold an emergency meeting promptly after receiving notice from the Commissioner of the insolvency of any member insurer. At least 48 hours oral or written notice shall be given each Board member. At such meeting or a subsequent meeting the Board shall:

1. Consider and decide whether or not an insurer has, in fact, become an insolvent insurer within the meaning of the North Carolina Insurance Guaranty Association Act.
2. Consider and decide what method or methods, as permitted under Section 58-48-35 of the North Carolina Insurance Guaranty Association Act shall be adopted to pay and discharge covered claims of the insolvent insurer for each of the three categories of kinds of insurance as identified in Section 58-48-25 of the Act but in no event shall an insolvent insurer be appointed as a servicing facility. If the Board decides to contract with a servicing facility, the Board shall seek to secure the receiver, liquidator or statutory successor's participation in such contract to assist the Association in the performance of its legally imposed duties. The Board shall pursue all recoveries permitted to the insolvent insurer.
3. Consider and decide what immediate action, if any, should be taken to assure the proper retention of the records of the insolvent insurer necessary to the prompt, economical handling by the Association of covered claims. In this effort, the Board or a designated servicing facility shall work closely with the receiver, liquidator or statutory successor and seek his approval of having the Board, or a designated servicing facility, take direct physical control of that portion of the insolvent insurer's records deemed by the Board to be necessary for the discharge of its duties imposed by law.

4. Consider and decide what persons, if any, should be hired by the Association to implement and carry out broad directives of the Board made pursuant to its statutorily imposed duties. Such persons may include a managing secretary who shall be knowledgeable about insurance matters, conversant with the law as it relates to covered claims, and administratively capable of implementing the Board's directives, and who would have such authority as is properly delegated to him by the Board. Such persons may also include attorneys at law, insurance actuaries, accountants, claims men and others whose advice or service is deemed by the Board to be necessary to the discharge of its duties. The Board may agree to compensate such persons as to best serve the interest of the Association.

5. Consider and decide to what extent and in what manner the Board shall review and contest settlements and releases or judgments, orders, decisions, verdicts and findings to which the insolvent insurer or its insureds were parties in accordance with Sections 58-48-35(a)(4) and 58-48-85 of the Act.

6. Consider and decide what assessment, if any, should be levied or whether any refund should be made to member insurers. If such assessment is determined to be necessary, the Board shall levy such assessment in accordance with Sections 58-48-35(a)(3), 58-48-115(a)(3), or 58-48-120(b) of the Act. Notice of assessment shall be in sufficient detail to enable member insurers to understand the action taken by the Board. If such refund is determined to be necessary, the Board shall make such refund in accordance with Sections 58-48-35(b)(6) or 58-48-115(a)(2) of the Act. The Board may waive the collection from or refund to a member insurer when the amount produces an assessment or refund of less than ten dollars (\$10.00).

7. Take any legal steps deemed necessary to protect the Associations' rights against the estate of the insolvent insurer.

8. Consider and decide any other matter deemed by it to be appropriate for the proper administration of the Association.

**NORTH CAROLINA INSURANCE GUARANTY ASSOCIATION
CONFLICTS OF INTEREST STATEMENT**

Whereas, the North Carolina Insurance Guaranty Association affirms its confidence in the loyalty and integrity of its Board of Directors, Association employees, agents, consultants and member representatives including those individuals and alternates who serve on and attend Association committees, subcommittees and task forces; and

Whereas, it is the policy of the Association that individuals who represent the member-companies who serve on the Board of Directors, Association employees, agents and consultants and member representatives, including those individuals and alternates who serve on and attend Association committees, subcommittees and task forces conduct their personal and business affairs in such a manner as to avoid any possible conflict of interest with their duties and responsibilities owed to the Association; and

Now therefore, it is resolved that the Board of Directors hereby adopts the following policy addressing conflicts of interest:

It is the Association's policy that the Board of Director representatives, Association employees, agents and consultants and member representatives, including those individuals and alternates who serve on and attend Association committees, subcommittees and task forces shall not permit private interests to conflict with the proper discharge of his or her duties, nor shall one's position or the knowledge gained therein be used to further such private interests. In addition, each said person shall conduct his or her private affairs in such manner as to avoid giving the appearance of any such conflict.

Any person having a direct and substantial conflict of interest on a matter shall not vote, take action, or use his or her personal influence on the matter. However, he or she may be counted in determining the quorum for a meeting where action on the matter may be taken. Whenever any question arises with respect to whether a potentially disqualifying conflict exists, a person should disclose the underlying facts and circumstances to the Chair of the Board of Directors, or the Managing Secretary, and the Association's counsel for such further advice, disclosure or action as is deemed appropriate. The minutes of any such meeting shall reflect that a disclosure was made and the abstention from voting.

It is understood and acknowledged by the Board of Directors that, as a result of the Association's unique structure and relationship to its members, many representatives of the Association will have certain inherent and obvious interests unique to his or her position held outside of the Association structure. This Policy is not intended to require a disclosure of such obvious situations at every meeting. This Policy should however serve as a reminder to those individuals who find themselves in that situation that, when taking action on behalf of the Association, they must make decisions that they believe to be in the best interest of the Association and its member companies and put aside other interests they may represent.

**NORTH CAROLINA INSURANCE GUARANTY ASSOCIATION
ANTITRUST COMPLIANCE POLICY AND
BOARD RESOLUTION**

Whereas, it is the established policy of the North Carolina Insurance Guaranty Association to comply fully with all laws and regulations applicable to its operations; and

Whereas, the creation and operation of the North Carolina Insurance Guaranty Association brings together representatives of insurance companies that may be in competition, it is the policy of the NCIGA, in the course of its activities and functions, to discourage and prohibit the disclosure of competitive information.

Resolved, that the following antitrust guidelines are adopted by the Board of Directors of the NCIGA.

These guidelines apply to those individuals and alternates who represent companies which serve on the NCIGA Board of Directors, NCIGA committees and subcommittees and NCIGA task forces, and any other individual in attendance at an NCIGA meeting.

1. In performing the statutory duties of the North Carolina Insurance Guaranty Association, avoid any action or statement which would give the appearance of private motivation.
2. Conduct business at regularly scheduled, formal meetings where minutes are kept and counsel is present.
3. Do not hold "informal" meetings or "rump sessions" at which any agreements or understandings are reached or any decisions are made.
4. Do not authorize, agree to, engage in or even discuss any activity which might be interpreted as boycott, coercion or intimidation.
5. Specifically, do not authorize, agree to, engage in or even discuss any division of markets, allocation of customers or refusal to do business with any individual or business organization.
6. Do not discuss individual company results, or current or future marketing or pricing strategies or business plans.

| 7. When in doubt, consult counsel.