

**TESTIMONY OF JANICE M. ABRAHAM
ON BEHALF OF
THE PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA
BEFORE A JOINT MEETING OF THE
SUBCOMMITTEES ON CAPITAL MARKETS, INSURANCE AND
GOVERNMENT SPONSORED ENTERPRISES AND THE OVERSIGHT AND
INVESTIGATION SUBCOMMITTEES OF THE HOUSE FINANCIAL SERVICES
COMMITTEE**

SEPTEMBER 27, 2006

Introduction

My name is Janice M. Abraham and I am President and CEO of the United Educators a Reciprocal Risk Retention Group and a member of the Board of Governors of the Property Casualty Insurers Association of America (PCI). I am here on behalf of my company and PCI. PCI is a trade association representing over 1,000 property/casualty insurers, located in 49 of our 50 states, and writing almost 40 percent of the property-casualty insurance sold in the United States. PCI members write all of the lines of business covered by TRIA, including workers compensation, commercial property insurance, and general liability coverage. Because of this, we're deeply interested in securing a new federal terrorism reinsurance program to replace TRIA when it expires next year. We thank you for your attention to this issue and for the opportunity to appear before you today and to present our views about it.

Education and Terrorism: Why We Need This Protection

You have heard, or will hear, from many insurers about the need for ongoing, long-term federal terrorism reinsurance protection for the workers compensation system, our commercial real estate markets, and many other aspects of our nation's economy. You have also heard, or will soon hear, that the Government Accountability Office agrees that, given the challenges faced by insurers in providing coverage for, and pricing, terrorism risks, any purely market-driven expansion of coverage, in the absence of a federal role, is highly unlikely in the foreseeable future. We support these views and, as PCI's representative here today, assure you that our association will be working with you to enact a program that extends vital protection to insurers and insurance buyers throughout the nation and protects our economy.

However, I also want to use this time to tell you about my company and why this issue is so important to us. United Educators is a reciprocal risk retention group founded in 1987 to provide general liability insurance protection to our member educational institutions. Today, we insure over 1,200 universities, colleges, and schools. These schools enroll approximately 7 million students, served by approximately 500,000 faculty and teachers. We are committed to helping our member educational institutions advance their missions of teaching, research, and service to our country. We insure all types of colleges and schools, from large public universities to small rural K-12 schools. We insure institutions all over the country, including Tulane, Xavier University of Louisiana, Loyola the University of New Orleans, Cornell University, California Institute of Technology, MIT, University of Michigan, Notre Dame, and school districts in New York State and Miami Dade. Our company exists solely for the purpose of assisting these institutions manage the risks they face.

To the casual observer, the idea that international terrorists might strike an educational institution may seem implausible. The 9/11 attacks, after all, targeted the federal government and American business interests. Consider, though, some attributes of the American educational system that illustrate the vulnerabilities our members face:

- *Well-known Symbols.* Many American universities are known throughout the world for their research, teaching, and role in the community. They are strong symbols of an ordered and free American society. Experts tell us that Al Qaeda is particularly interested in attacks on symbols of American society. As such, our universities must be recognized as potential targets.
- *Mass Gatherings.* Colleges and universities host many large gatherings. A graduation may involve thousands of students, family members, and invited dignitaries. Presidential and vice-presidential debates, televised nationally, are held on campuses.¹ Athletic sports competitions, such as NCAA Division 1A football and basketball, attract huge audiences and worldwide attention. The University of Alabama football stadium, for example, holds 84,000 spectators and the University of Nebraska, Lincoln, football team plays before 74,000 fans. The

¹ Venues for the 2004 and 2000 federal election debates included: Washington University in St. Louis; Case Western Reserve University; Arizona State University; the University of Massachusetts at Boston; the University of San Diego; Wake Forest University; and Centre College in Kentucky.

“Big House” at the University of Michigan in Ann Arbor seats even more. Educational institutions sponsor mass gatherings in urban and rural settings. Given the nature of many of these events – open to the public and as major expressions of our national culture – it is impossible to wall them off or protect them completely against terrorist attacks.

- *Wide-ranging Political Expression.* American educational institutions promote the free expression of ideas, including political ideas. They invite controversial speakers who sometimes spark dissent and confrontation. Campus disputes regularly make national and even international news.
- *Research with Dangerous Substances.* Higher education laboratories conduct research using many dangerous substances. Much of this research is done under contract with the federal government. Working on the cutting edge of science, investigators probe pathogens such as botulism, anthrax, and ebola. It is not unthinkable that a terrorist might steal harmful biological agents from a university laboratory. In anticipation of this possibility, Congress imposed new requirements on dangerous research in the 2002 USA PATRIOT Act. Nevertheless, universities engaged in this type of research clearly feel that they are at risk from this type of attack.
- *Students as Past Terror Victims.* In September 2004, Chechen rebels seized a school in the Russian town of Beslan. More than 300 children and adults died in this terrible attack. While international terrorists have not struck an American school to date, the possibility is very real. Domestic terrorists such as the Unabomber and some extreme animal rights activities have targeted universities in the past. We cannot dismiss the possibility of facing this type of threat in the future here in our country.
- *“Soft” Targets.* Security experts often distinguish between hard and soft targets based on their vulnerability. A hard target is well-protected against attack. The White House, for example, has very limited entry points and rigorous screening and identification procedures for access. It is walled off, well guarded, and set back from a street. In the past several years, American facilities such as airports, government structures, and commercial buildings have increased their security. Educational institutions, in contrast, remain relatively soft and vulnerable targets. They often lack perimeter security and impose few, if any, restrictions on entry. As other potential targets increase security, educational institutions may become

more attractive to terrorists. As one observer has noted, “Like the flow of water, terrorists follow the path of least resistance.”²

In each of these cases, our member institutions face the possibility not only of workers compensation and property damage losses (which we do not insure), but also serious questions of liability should they ever be the victims of such an attack. These institutions are today being asked to prepare for and protect against risks they did not face before 9/11 and for which there are often no good security procedures available. How, for instance, can an institution change the fact that a graduation ceremony will attract thousands of citizens to a single facility at a single point in time, thus making them a potentially attractive target for a terrorist organization. Obviously, it can't.

Faced with these disturbing realities, United Educators has been working to protect our member institutions from liability should a terrorist event occur. Since the company's founding in 1987, we have offered broad “all risks” general liability coverage with very high limits of liability coverage that included acts of terrorism. After the tragedies of 9/11, our reinsurers questioned our terrorism coverage, seeking to understand our plans for underwriting and pricing the exposure. We knew that we needed to act in order to continue having reinsurance coverage for this important liability risk. We embarked on a process to identify key terrorism exposures, aid our member institutions in better managing those exposures, and underwriting for the risks. Throughout the process we maintained close contact with our reinsurers. Ultimately the reinsurers were satisfied that the underwriting and risk management steps we were taking, combined with the added protection of the Terrorism Risk Insurance Act, would allow continuation of our reinsurance.

² A report prepared for the Office of Management and Budget explained: “[Some] federal regulations are designed to harden a specific class of targets within the USA, and so reduce their vulnerability to a terrorist attack. These have the benefit of reducing the attack risk at these targets. However, the costs of these ... regulations should allow for the negative externality of risk transfer to alternative softer targets. For example, the hardening of one class of industrial facility (e.g. oil refineries) may enhance the risk to another class (e.g. chemical plants). Similarly, hardening airports against surface-to-air missile attack may divert terrorists to launching such attacks over less protected urban areas. Like the flow of water, terrorists follow the path of least resistance.” “The Benefits and Costs of Homeland Security Rules” by Dr. Gordon Woo, March 2003, www.whitehouse.gov/omb/inforeg/2003report/15.pdf.

When TRIA's extension was being considered last year, we supported modifications to enhance the existing public private partnership and, over time, increase the private role in providing this coverage. At the same time, we felt strongly that the program must remain in place and that general liability should continue to be a part of TRIA. We were pleased to see the program extended as TRIEA and that general liability coverage continued in the program. With TRIEA now facing its own end next December, we find ourselves in almost the identical situation as last year. We feel the same way we did then about the need for this program.

If TRIA lapses with no replacement, United Educators anticipates several serious consequences:

- Without a federal backstop, we expect to have limited coverage for terrorism exposures on policies we write beginning on January 1, 2007. One option might be to sub-limit the exposure to a very small level, but that solution would be essentially useless to the institutions.
- United Educators and other small insurance companies cannot offer significant coverage for this risk in the absence of reinsurance. TRIEA, or some other federal protection and participation is critical to our ability to obtain reinsurance and continue to offer protection to our insureds. Our participation (and that of many smaller insurers) in this market is, in turn, critical to our policyholders' access to a competitive market for their insurance needs.
- Without liability insurance for terrorism, some universities might be forced to limit or discontinue events that gather many people, limit research on dangerous substances, and close themselves off from free political discourse. In "hardening" themselves as targets, they would seriously diminish their contributions to American society.

What Do We Need?

We believe a long-term program should replace TRIA when it expires next year. We believe insurance policyholders and insurance markets generally will benefit significantly from the predictability and structure a long-term program would provide. In addition, we do not believe the Congress wants to be, or should be, asked to revisit this issue every

two years. We believe a new or extended federal program should be enacted before the end of next year and should cover a long-term period, perhaps as long as ten years with a sunset for review.

We believe the same lines of business should be included in the program as are included now. As I noted above, having protection for general liability risks is critically important to my company and our insureds, but we also believe that workers compensation, commercial property insurance, and the other lines of business included in TRIA need and deserve protection. We note that during last year's TRIA extension debate, some lines of business were removed. We believe that those remaining under the protection of this program very much need that coverage.

We believe a true, public-private partnership between the government and private markets is needed for this risk. We believe a structure can be established that continues to increase the role private markets play, but we believe such changes must be gradual and track the real ability of private markets to absorb this risk. As part of our review of this issue and exploration of alternative approaches, we have discussed terrorism risk with significant participants in non-insurance private capital markets. While there are encouraging signs of experimentation and innovation in these markets (and we believe it should be strongly encouraged), it is clear to us that these markets are not prepared to assume significant additional amounts of risk at this time. They cannot replace the role and function the federal government is now performing through TRIA.

We believe a future federal program should cover all losses caused by terrorism and should not draw distinctions between those losses caused by some types of perils or terrorists and not by others. For example, we do not believe a future program should

continue the distinction that currently exists between “foreign” and “domestic” terrorism. As we’ve seen in the London bombings last year and the most recent news of planned attacks on airlines, extremely serious attacks can arise from domestic as well as foreign sources of terrorism. This distinction makes no sense and should be ended in a future program. Further, even though several of my examples involve biochemical threats, we do not believe that a future program should only attempt to cover losses arising from that peril. We do not know what weapon terrorists may attempt to use in the future, but we believe the program must cover any losses that arise.

We also believe the program must be accessible to insurers of all sizes. United Educators is a small company – we write approximately \$135 million in gross premiums each year. But for our member institutions, we are a major source of critically-needed liability protection. We were founded to provide services and protection our member institutions need and to give them choices in a competitive market. We, and they, cannot afford to lose our access to this program because its triggers or insurer deductibles are set at levels inaccessible to smaller carriers. In particular, we urge you and your colleagues to consider using the 2006 program trigger (\$50 million) as the long-term level for this program. If individual insurer deductibles must be increased over time, we believe it should occur gradually in order to allow markets to adjust to the increased risk such changes imply.

Finally, we believe the program should provide opportunities and incentives for insurers to work together to spread the increased risks they’re likely to assume in any long-term program. Our members have repeatedly emphasized the need for such alternatives and opportunities to exist. We have been working throughout this year, and continue to do so, with our colleagues in the industry to develop the specific structure for such a

program. I am not here today to describe such an approach in detail, but want to emphasize to you the importance of the future program allowing or creating such opportunities for companies such as mine. This will be a major focus of PCI's work over the next several months to prepare specific proposals for your consideration.

Conclusion

I want to conclude by thanking you once again for the opportunity to appear before you today to express my company's and my trade association's views on this issue. In closing, I'd like to emphasize again three points. First, we need a long-term program to be enacted before the expiration of TRIA on December 31st next year. This is simply too important an issue to be left to chance. It must be done. Second, this long-term program must cover the same exposures currently covered in TRIA. Purchasers of workers compensation, commercial property insurance, and general liability are all significantly exposed to catastrophic terrorism losses and need this protection. Third, the long-term program must be accessible to all insurers, regardless of size, and offer meaningful opportunities for risk-spreading to all. Smaller insurers, such as my company, provide essential competition in the market today. We need program triggers and deductibles that are accessible to smaller and medium-size insurers and meaningful ways for all insurers to spread the increased risk they are likely to assume in the future. We believe these principles can be met in a future program. I pledge to you the assistance and cooperation of my company and of my association, PCI, in designing and enacting such a program.