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OVERVIEW OF THE LOBBYING PROCESS

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- o A discussion of the process used by lobbyists to influence legislation and regulation.
 - Issue Identification
 - Grass Roots Campaigns
 - Direct One-on-One Lobbying

MR. STEPHEN G. KELLISON: Lobbying is a word which may have negative connotations in some people's minds. Those people who are not close to the political process sometimes think that if politicians were able to make decisions in an environment free of lobbying, then better decisions could be made. This is a misconception of the political process. Today's issues are so complex and the agendas of the politicians are so full that they cannot possibly become knowledgeable in all the issues confronting them. Therefore, the lobbyists fill a very important educational function in our political process. In many cases, lobbyists bring arguments and information, which would not otherwise have surfaced, to the political debate.

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However, lobbying as such is relatively foreign to most actuaries because the political arena is not an arena in which decisions are always made for the right reasons. The political arena is a marketplace for competing ideas. Ultimately, decisions and judgments are made on any number of bases.

Our panel will review the process of lobbying. It will talk about good and bad ways to approach it, how to be effective, some of the various techniques involved and some of the pitfalls to avoid. This is a concept oriented session. As such, we will not spend a lot of time updating particular issues. However, examples will be used to illustrate how some particularly effective or ineffective lobbying approach was handled.

Ms. Barbara Lautzenheiser of Lautzenheiser and Associates is the first panelist. She will discuss the identification of issues by an interest group. She will also offer advice for actuaries on how they can become more effective in the lobbying process.

Ms. Joy Howell is President of Howell Communications. She will discuss coalition development and grass roots lobbying.

Mr. Warren Elliott is Partner of the law firm of Nossaman, Guthner, Knox and Elliott. He will discuss the actual lobbying process itself, that being direct interface with the politician.

I am Steve Kellison, the Executive Director of the American Academy of Actuaries. The Academy deals with government relations issues for the actuarial profession. It has a very active program designed to bring actuarial information into the public debate.

MS. BARBARA J. LAUTZENHEISER: There was a time, not that long ago, that neither the Society of Actuaries nor many of our other industry groups would present a discussion of the issue of lobbying. In the past, we were considered to be regulated mostly by state regulatory officials. We have not thought in terms of being regulated by federal legislation. Lobbying, as such, was thought of as getting a policy form approved by a state insurance department or lobbying for changes like acceptance of new valuation tables. We

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did not think of broader lobbying at the state and federal levels on legislation that affects the insurance industry.

In the past, issue identification was only what the COO or CEO decided he or she wanted to pay attention to. But there are other areas now that you can touch on. You should be devoting time to keeping abreast of current issues. I am not just talking about crisis types of issues. I include general business issues which affect the industry. As new issues are discussed, examine the impact for your company and your products.

You should be involved in various industry committees which are involved in problems that come up. Some issues come up initially as just a hint of what might happen. Store those hints until you come up with an issue that you feel is of major concern or has a dramatic impact on your company. Financial impacts are the most common, but some of those impacts can be rather subtle. That was one of the most difficult aspects of the unisex issue. Some CEOs did not fully understand the impact of elimination of gender-based rating on their bottom line. The actuary needs to identify these impacts.

Once you identify an issue, make the sale first within your own company. Then the issue can move into grass roots campaigns as Ms. Howell will discuss or direct lobbying which will be covered by Mr. Elliott.

If the issue can be handled by local lobbying, then do that. Some issues include an audience wider than that which you can reach alone. This is particularly true at the legislative level. Coalition building is required, and the industry is now doing a better job of this. We are recognizing the impact of the external environment. Instead of reacting to whatever comes along, we are taking action to enact legislation that will help us. The experience with ongoing tax legislation has taught the benefit of proactive versus reactive identification of issues.

With large issues, coalition building is critical. Identify other companies with similar problems. Talk with their people and build support for an issue that you are concerned about. My personal perception is that much more of this

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will occur in the future than has in the past. Networking will help you identify the companies with similar concerns.

Let's go back to the sale you need to make both within your company and at the legislative level. I mean the selling of your idea or your concern. It includes whatever you must construct to motivate your company to act on your idea and a legislator to vote for what you want.

A problem that we often have with legislation is that the problem is not always connected with the merits of the issue. An example of this is the current AIDS issue. Many actuaries, because of their logical background, find it difficult to understand why the question of our ability to test for the presence of the AIDS antibody is an issue which has any impetus. The problem is that the issue is not really insurance. The issue is that the gay community is concerned about the possibility of being identified and quarantined. Some of us may not believe that this is a valid fear, but the fact is that it is a real fear. The result is that we may tend to argue this as an underwriting issue but the real issue is confidentiality. To be effective we must identify the real bottom line issues which often are hidden.

Many issues will be fought on an emotional basis as opposed to a logical basis. We need to recognize that fact and find some way to fight that emotional appeal.

Here are some examples of arguments made against AIDS antibody testing.

1. We should only be able to categorize and identify risks by what we can control.
2. Insurers should bear the costs of the life threatening diseases, not the public. After all, what is insurance for? Isn't it for paying health claims?
3. New York Life Insurance Company's surplus would provide the costs of all AIDS cases in the next four years. Why can't we use that?

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4. We've absorbed the excess costs for cancer and diabetes and heart attacks. Why can't we absorb the excess costs for AIDS?
5. A councilman doesn't think it is fair that he can get life insurance, but someone who has a 20% probability of dying in the next five years can't; after all, he needs it.
6. We can't test for sickle cell anemia, so why should we be able to test for AIDS?
7. The AIDS test is a surrogate for underwriting by sexual preference.
8. The two-year incontestable clause and pre-existing conditions clauses along with standard statements should be adequate for our use. After all, we have collected premiums for two years. That should take care of the claims shouldn't it?
9. The 80% that won't develop AIDS should be allowed to buy. A test that keeps the 80% who won't get AIDS from having insurance is unfair.
10. Do we also discriminate against those with multiple sclerosis?

My reaction to these arguments is "That's absurd." It is, but the people who believe those arguments don't think so. This is their logic base. We have to find some way of overcoming it.

Who are the people testifying at these hearings? They are the mother of a hemophiliac child who died of AIDS. She talks of 200 children in New York City who contracted AIDS from their mothers when only days old and are now abandoned and cannot receive aid. You hear from the sister who watched her brother die as she cared for him. You hear from a hemophiliac whose young daughter is afraid to kiss him because of her fear of being close to him.

These are emotional issues. How do we get around them? We have to find ways to take financial terms and translate them into an equal and important emotional plea, changing the ballgame to a financial emotional plea. We must identify

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that if we allow a small group of people to pay too little it will cost a large group of people significantly more.

The approach worked with the unisex issue by showing that women would pay more if the legislation passed. This had to be done on a one-to-one "what does it cost you" level rather than by using large billion dollar numbers. The final appeal must be simple and understandable. The same type of appeal should be used with AIDS.

MS. JOY HOWELL: We are here to discuss how insurance companies try to affect public policy today. To do this, let's step back and see how the process has evolved.

In the 1950s, there was a post-war industrial dominance. The philosophy of "what is good for General Motors is good for America" dominated the halls of Congress and state legislatures across the country. With the rise of Ralph Nader and the activist consumer movement, business found that it was functioning in a different political environment. If the Pentagon papers and Watergate shook the faith of the governed in those governing, auto safety and energy prices had a similar effect on America's consumer behavior.

Meanwhile, liberal political and consumer groups began to discover that strength in numbers could make a difference in Washington on everything from abortions to gun control. Pioneering direct mail fund raising techniques and membership development techniques became the building blocks of groups such as Common Cause, the National Organization for Women and Planned Parenthood. Many direct mail experts working for their own firms started their careers in membership or fund raising departments of groups like these which depended on organized citizen support to affect public policy debate.

Meanwhile, the more conservative and right wing political groups began to refine the techniques. Richard Vigue is a well known conservative direct mail expert whose clients encompass a range of conservative issues and candidates. The rise of single issue groups like the one organized by Ronald Reagan on the Panama Canal prompted many political observers to worry that perhaps they were subverting the democratic process. They were hardworking, highly organized,

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and enjoyed a healthy grass roots membership which could be activated to influence legislative issues.

What was happening to business in this newly competitive lobbying environment? Basically, business responded by beefing up traditional ways of doing business with politicians. The number of lobbyists increased. Hardly a cubbyhole of office space in Washington was left unoccupied. In addition, corporations and small businesses began to band together. Trade associations representing many different industries and interest groups sprang up and grew steadily. Today there are over 2,500 trade associations in Washington which monitor legislation and administrative agency action which impacts on the associations' specific industry.

The growth of political action committees (PACs) refined the art of fund raising to a Picasso level. There were no more corporate contributions of thousands of dollars. Campaign finance legislation sponsored by public interest groups made that history. Now politicians must keep careful records of every contribution and the amount an individual can give is restricted. Since corporate donations are not allowed, corporate management had to form PACs composed of employees who are encouraged by management to contribute portions of their salary for political action purposes.

A retired ex-lobbyist tells great stories of the good old days. He kept a suite at the Mayfair Hotel in downtown Washington for entertaining. He also kept paper bags around containing cash. That was his idea of lobbying.

Obviously things are quite different today. Influencing the direction of public policy is becoming an increasingly complex challenge for business as a growing number of interests are involved in legislative action. The good news is that more and more citizens are interested in the legislative process and believe that they have the power to affect government.

Because of all these factors, the way corporations have approached their lobbying strategy has changed. Corporations have begun to experiment with activities like shareholder communications, policyholder mailings, and employee action alerts. A few years ago, corporations began for the first time to

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organize their own employees, stockholders, agents and vendors to persuade lawmakers to act in the corporation's interest on policy issues. Some corporations have been very successful through concerted communications with these constituencies.

In 1983, we saw an interesting phenomenon in Washington. The banks organized a highly effective campaign to sway Congress on interest withholding. Many banks inserted stuffers into bank statement mailings to all their customers. Estimates of the number of postcards mailed back to Capitol Hill ranged as high as 25 million. That was perhaps the most successful mobilization of a business constituency its customers ever mounted.

Let's look at what the insurance industry did.

In 1983, the insurance industry pioneered new ground for business. It decided to fight the powerful political groups supporting the so called unisex legislation. The industry tried the traditional tactics first. Insurance lobbyists went to Capitol Hill and knocked on the doors of their friends. They sat down and politely and expertly explained the impact of unisex rating on policyholders and consumers. Guess what happened? They were politely but firmly told that although they might be right, no legislator could afford to vote against the womens' groups, particularly not in the year of the gender gap. This was an issue of equal rights and everyone was in favor of that.

Gradually, the industry decided that it needed to take the battle outside of Washington if it was to succeed. While the insurance industry is composed of thousands of companies, each with its own idea of grass roots communication, some new ideas were tried and some of them worked.

Not only did companies send out policyholder mailings to organize their affiliated constituency of insurance consumers but also a more innovative step was used to defeat unisex rating. A small courageous group bucked the rest of the industry and hired a public relations/public affairs firm, an advertising agency, and a direct mail firm. This group's position was that, in order for the insurance industry to win the battle, the general public had to let its members of Congress know how it felt. The issue now had moved from the

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hall of Congress to the communities across the country. Individual consumers were asked to take action on an issue that affected them directly by sending communications to targeted legislators.

Discussions among insurance groups swirled around the approach. The direct mail package was a new product. It was a sophisticated blend of laser printing, psychographic, demographic, and politicographic targeting and direct mail response theory. In all, over a million pieces of mail were sent to citizens who lived in the districts of Congressmen and Senators on committees considering the unisex legislation. The response rate of letters sent back by consumers to Capitol Hill was a precedent setting 10%.

In addition to the letters, personalized newspaper ads ran in each targeted Congressional district. These ads explained the issue in detail and took the industry case public. The campaign received praise from such unlikely sources as columnist Jack Anderson.

Congressional reaction to using this sophisticated personalized direct mail was mixed, but ultimately those members of Congress who had not made up their mind on unisex decided to listen to what their constituents were saying. What they heard was that people thought that cost-based pricing was the only fair way to price a product. People wanted to pay their fair share for insurance and no more. It was the first time a major campaign was waged by going to the general public rather than an already affiliated constituency. It was successful since the insurance bills never made it out of either the House or Senate Committees.

Since then the proponents of unisex have taken the battle to the states. I recently completed a successful campaign, hard fought and fifteen months long, in Pennsylvania to retain gender-based rating. Ms. Lautzenheiser has worked recently in Massachusetts where the issue is surfacing again. The unisex campaign is a good example of how we go about it when putting a grass roots campaign together.

One of the first things to do is to frame the issue in the most favorable light possible. For example, we tried to make unisex an economic issue, not a civil rights issue.

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That sounds simple and automatic. But when we entered the unisex issue, the bill was cleverly titled the Non-discrimination in Insurance Bill to try to make it a civil rights issue. Many of our own people referred to the issue by that name. So the first thing we did was to re-title it the Unisex Bill.

We then began to analyze our audiences and try to motivate them to take action. We used both free and paid media to frame the issue and begin to motivate. We did advertising in Washington as well as personalized ads in each targeted Congressional district. We also used national media as well as local editorial boards and business reporters to shape and frame the issue.

Recently, the unisex issue was put into an interesting situation in Pennsylvania. The situation was prompted by a young man who claimed unfair discrimination in auto insurance rates. As a result of this case the state supreme court directed the insurance commissioner to implement unisex rates. So, we had a combination of a regulatory and a legislative issue. The regulatory process was moving since the commissioner was bound to implement unisex rating. On the other hand, the insurance industry was working to block implementation of the regulation by legislative action.

We responded with a media campaign targeted at districts where we needed particular support to obtain the vote. The campaign used a combination of letters to the editor, opinion articles in newspapers, and a three-part series of radio ads.

The first ad used a woman's voice reading this script: "Young women's auto insurance rates are about to rise sharply, in some cases by hundreds of dollars a year. Thousands of men and women said no to those increases. Legislators said no by an overwhelming margin, but the Governor vetoed them all. Call your statehouse representative today and urge another vote against unisex auto rates and for fairness. Call today. Ask your representative to override the veto. Sponsored by the Women's Insurance Forum of Pennsylvania."

The second ad used a male voice to broaden the message's appeal out to the adult male population. "You've already heard that young women's auto insurance rates will skyrocket because of unisex rating. Did you also know that many

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adult drivers will pay more to help subsidize the rates of young male drivers? The legislature can stop these unisex rate increases by supporting the veto override of House Bill 452. Call your statehouse representative today and urge a vote to override the Governor's veto. Call today. Sponsored by the Women's Insurance Forum of Pennsylvania."

The third part was a set of ads localized to each of five targeted areas. Rate increases were localized for those particular areas and incorporated into the ads: "What's this I hear about auto insurance rates going up? Yes, parents of teenage daughters are going to pay higher unisex insurance rates. Many women will experience rate increases. A twenty-one year old in this area will pay \$330 more a year despite her better driving record. Let's call our legislators today and urge them to override the Governor's veto and reject any so called compromises. Call today. Let's keep insurance rates based on facts and fairness. Sponsored by the Women's Insurance Forum of Pennsylvania."

In addition to these ads we mobilized a grass roots phone-in effort among citizen activists who had responded to the issue through direct mail. As a result, while the radio ads were running to raise the visibility of the issue, we had already guaranteed a large number of phone calls into the legislators regardless of the impact of the ad campaign.

Another example of a lobbying effort the insurance industry has recently been involved in is the property/casualty tax issue which used a sophisticated and personalized direct mail campaign. Also there is an employee benefits campaign for which the American Council of Life Insurance led the charge.

The tort reform issue is a classic example of trying to define the issues in terms favorable to your own side. The insurance industry is working to define the issue as a lawsuit crisis instead of a liability crisis. The term "lawsuit crisis" implies a legal solution. "Liability crisis" implies the need for a solution within the insurance industry.

MR. WARREN ELLIOTT: I will speak about what we do in Washington and what you will have the opportunity to do in Washington in the years ahead.

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We work with lobbying specialists, trade associations, and our client insurance companies to monitor issues, identify key issues early on, and try to avoid fights with the federal government whenever possible.

If we are unable to avoid a fight, we develop a strategy to deal with the problem. Increasingly, we urge the use of facilities and expertise such as that offered by Ms. Lautzenheiser's or Ms. Howell's firms. We lobbyists have always known that the mail from home is more important than anything we have to say to legislators. We can help to identify what is happening and target the campaign, but the basic job has to be done back in the district. Sooner or later our job comes down to personal contact lobbying. This is what I want to concentrate my remarks on. This type of lobbying is seldom done over dinner or at golf courses any more. It isn't done with stacks of money. It is done by selling your position, by educating the Congressmen that your own interest is in the public interest. Furthermore, it includes demonstrating that it won't hurt him in his own district.

It is important to find a way to state what you want as simply and as briefly as possible. The attention span of a Congressman is fairly limited due to the nature of his work. He is covering many issues and meetings every day. He does not have time to devote to really understanding the nuances of most issues important to the insurance industry.

Don't ever lie to him or even get close to lying to him. If you do that, you will be caught and then your issue will be dead. Don't even exaggerate. There is a lot to be said for understatement. If you can control yourself and understate your case, a Congressman or staffer may even complete your argument for you.

It is even beneficial, especially in a long-term fight to explain the problems and views on the opposing side. That side will come out anyway. You are better off to get the problem out early and deal with it.

You have to relate your problem to the Congressman's situation. If you can't convince him that your position is in the interests of his constituency, then he will never help you.

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After you state your case, try to pin him down on his reaction. Don't be misled by a warm friendly demeanor. Politicians don't like to say no. You will need to ask point blank if he is with you or against you.

The situation is very similar with staffers. It is important to work with them because you will have more access to them. Let the staffer know you think highly of his work. Keep him posted. Make him look good. Don't ever make him think that you don't need him because you have enlisted his boss's support.

An important thing that many people forget is to thank the member who has helped you. Lots of thanks will help you the next time around.

Support your Congressmen. Be resourceful in this effort. There are many things besides raising money that they need help with. You can offer research assistance or other types of support. If you don't know what to do, just ask your Congressman how you can help. It is much easier to communicate about your problems if you already know him and have established a relationship.

The insurance industry has made great progress since the 1960s in establishing a presence on Capitol Hill. That effort along with the grass roots program already discussed has made a difference in the unisex and recent tax debates.

MR. KELLISON: In some cases, I have heard that we lost a battle because Congressmen did not hear from the people back home. In other cases, Congressmen were upset because they were overwhelmed by volumes of mail generated through organized campaigns. Where do you strike the right balance in direct mail activities?

MS. HOWELL: When you do your targeting, you should work closely with your lobbyists. If they say a particular Congressman or Senator is with you, and he no longer wants to hear from anyone back home, then stop the grass roots outreach for that particular district.

MR. ELLIOTT: There is some resentment toward direct mail campaigns that are targeted. Bob Dole once said that he had learned to tell the difference between grass roots and astroturf. But the fact is that astroturf works.

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Congressmen will get irritated when you turn on that mail, particularly if they are against you. But mail from home still works.

MS. LAUTZENHEISER: When the lobbyist says to turn it off because someone is with you, there is an economic piece to that. Each Congressman and Senator does respond to every postcard or letter. So, it costs them money to continue the mail. If someone is with you, it is wise to send a thank you and stop the targeting.

On the other hand, if someone is against you, they will respond to "astroturf" mailings. They will also recognize that when the next issue comes up you will do it again.

MR. ELLIOTT: These direct mail programs are not free. Several dollars per letter is the norm. Heartfelt personal contacts are best, but they are expensive and time consuming to obtain.

MS. LAUTZENHEISER: Targets of direct mail and media campaigns have been known to respond by attacking not the merits of the argument but the techniques used and the money spent by the industry. Some of this is done as an emotional plea against the industry.

A key problem we have is that the public cannot distinguish one kind of insurance from another. The property/casualty debate and emotional pleas against that industry will spill over to the life and health sides.

MR. ELLIOTT: Unless you are a multiline company, you probably don't appreciate how bad the situation is for the next year or two because of the insurance liability crisis. It is getting tough in Washington as well as in some of the states.

A *Washington Post* column opened with this comment last week. The American public upon learning that there is a fight developing between the trial lawyers and the insurance industry feels the same way that they do about the Iraq/Iran war: May it continue forever. They have real trouble choosing who they want to win this fight. We are both right down at the bottom of their list.

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MR. CECIL D. BYKERK: I am curious about direct response mail and grass roots efforts. Are we getting to the point where we have saturated that approach so that recipients of that mail start to disregard everything they get?

MS. HOWELL: I think a saturation point is being reached in Congress. Everyone is trying to find new and better ways to produce constituent response in a more meaningful way. For example, we are trying to go to handwritten letters to achieve a greater impact.

The insurance industry does have an advantage in using direct mail techniques because of the fact that it is so heavily state regulated. State legislators in many states are not accustomed to obtaining heavy mail volumes.

MS. LAUTZENHEISER: Direct mail programs are now able to truly segment a list and get very high response rates. So the potential of direct mail is very dramatic.

MR. ELLIOTT: I would say that we are always in danger of overdoing it. We have generated tremendous amounts of mail in the past and antagonized people by doing it. I am a great fan of restraint. Save for the real fight. Fighting and winning can put us in the position to negotiate some future issues rather than fighting again.

MR. CHARLES A. PEIRCE: The presentations have been aimed primarily at legislative issues as opposed to regulatory. Are there particular techniques or approaches that are more suited to regulators or to local as opposed to national representatives?

MS. LAUTZENHEISER: I agree that there is a major difference between legislators and regulators. There is even a difference at the federal level between a Congressman and a Senator because of the different period of time in which they hold office and the emphasis on re-election.

Clearly with a regulator, you would never want a direct mail emphasis. Talking and negotiating are more appropriate.

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Also, with a regulator you do have the opportunity to explain the issue more deeply because you can get enough of their time. Direct mail is more appropriate where you have to reach a large group of people for a fast vote in a very short period of time.

MS. HOWELL: The regulatory function does not exist in a vacuum. Politicians can have an impact on the regulators. So the legislative and regulatory sides are somewhat symbiotic. You have to analyze each case according to the issue. Most cases will call for one-on-one contact.

MR. ELLIOTT: Regulatory issues are much less emotional but more orderly and logical and slower moving. But it really is the same arena as the emotional political arena. Issues tend to go through the litigation stage, the legislation stage, the regulatory stage, and then back around again through the same process. It is surprising how similar the fight is at each step. The political aspect is always in the background at any level. You will make the same arguments, just in a little different context and a different format.

MS. KATHLEEN M. MCKAY: Ms. Howell, you played a big part in obtaining favorable editorials from the *New York Times* and *Washington Post*. How do you have an impact in the editorial process?

MS. HOWELL: Primarily, we used one-on-one contacts with the editorial boards of those papers to convince them that we had the facts on our side. It is difficult. Editorial board members read what their own news reporters write and talk about it among themselves. If you are aggressive and persistent and lucky enough, you can sit down with them and try to explain your position.

MS. LAUTZENHEISER: If an editorial goes the wrong direction, it gives you the opportunity to express your views through a letter to the editor.

MR. ELLIOTT: Editorial board members like to sit down with CEOs. It is useful preventive medicine to develop a relationship with those boards before the issues hit a crunch stage.

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MR. KELLISON: I would like to close the session with this thought. A famous baseball player and manager and philosopher once said, "It isn't over until it's over." One of the problems with some of the issues we are dealing with here is that they are never over. It is important to keep track of these issues and recognize that we really are in this for the long haul.

