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Session 58
Starting Your Own Business Seminar

Track: SCF/A/M/CCA

Moderator: Charles E. Ritzke

Panelists: Christopher H. Hause
David C. Miller
David S. Rintoul
Margaret Tiller Sherwood

Summary: *Have you ever thought about starting your own business? Obtain insights from actuarial entrepreneurs who have started their own businesses. Speakers include actuaries and other business professionals specializing in life insurance and investments, as well as other disciplines and nontraditional areas. Discussion includes the following:*

- *Determination of services to offer customers and marketing approaches*
- *Billing (invoicing) and financial (expense) management of the business*
- *How do you know whether your business plan is working?*
- *What insurance coverage should one buy (e.g., professional liability, general liability, employee benefits, other)?*
- *What are your resources (e.g., legal issues, technology, outside industry data sources, Internet, disaster recovery backups)?*
- *Managing the intangibles, such as the day-to-day challenges (highs and lows) of the business*

MR. CHARLES E. RITZKE: This seminar is co-sponsored by the smaller consulting firm section of the Society of Actuaries (SOA), the Actuaries of the Future section of the SOA, the Management and Personal Development section of the SOA and the Conference of Consulting Actuaries (CCA). If you enjoy what we do today, we hope you'll think about getting involved in some of these SOA sections and/or the CCA. If you don't enjoy what we're doing today, maybe you'll get involved, and you will come up with new ideas on how to serve our members. These SOA sections are, in particular, looking to the future, and I think doing a lot of the things related to the Society's initiatives on risk management and trying to widen horizons of actuaries. I think these initiatives would be interesting to get involved in if you're looking at starting a business and maybe get involved in new areas.

We have an interesting group. We'll cover a lot of different areas in starting a business. We have a lawyer on the panel who will talk about some of the legal issues and when you need a lawyer. We'll talk about some technology issues that you have to deal with in starting a business, insurance and benefit issues, resources that you need and then finally, marketing issues. How do you go about getting customers? How do you decide what your business is? We'll cover the ups and downs, especially for actuaries who may have some services to offer and feel they can really provide some benefits, but who just really aren't sure how to go about finding customers and how to go about framing what their business is and what they do.

We'll start out by taking five minutes and talking about how we got in the business, what our business is and just a general overview to give you an idea of who we are. The first consultant on the panel who is going to talk to you, Margaret Tiller Sherwood, is a fellow of the Casualty Actuarial Society and Associate of the Society of Actuaries, a member of the American Academy of Actuaries and a Fellow of the Conference of Consulting Actuaries. In addition to her actuarial qualifications, Sherwood also is a chartered property and casualty underwriter and has earned the Associate and Risk Management diploma from the Insurance Institute of America. She is an author of *Foundations of Casualty Actuarial Science* and has many articles published in professional and trade publications. Sherwood has been very active in the profession and is the current past president of the Conference of Consulting Actuaries and the secretary-treasurer of the International Association of Consulting Actuaries. Sherwood started Tiller Consulting Group 20 years ago.

MS. MARGARET TILLER SHERWOOD: Tiller Consulting Group is an actuarial and risk-management consulting firm. We have a nationwide clientele based out of St. Louis. I do primarily property and casualty consulting, but I do some health consulting as well. I have an interesting background. I'm one of the few consultants who has only been a consultant. I've never worked other than in a consulting environment. I'm not sure if that's a good or a bad thing, but it makes me sometimes look at insurance companies in a different way.

This started when I learned that such a thing as an actuary existed. I thought it sounded interesting and wanted to try it out before I went to graduate school at Stanford in statistics, so I got a summer job with Booz-Allen Consulting Actuaries, which probably none of you have ever heard of. It was very short-lived. After graduate school at Stanford, I went to work for Tillinghast in Atlanta. I was there for a little more than a year and then moved up to the Hartford Office of Tillinghast. Then I went to a risk-management consulting firm, Warren, McVeigh & Griffin, located in Newport Beach, Calif., and headed up their small, but very vibrant, actuarial department.

Then in 1984, my now deceased husband, who was an engineer, and I decided that we would start our own consulting practice because we wanted flexibility to have a family and still work without turning our children over to someone else. We started Tiller Consulting Group in California. We decided early on not to have employees because he and I had both been managing people and discovered that people are a problem and take up about 50 percent of your time. We didn't want to deal with that, so we had to do all of our own administrative work. Unfortunately, he passed away after we had moved to St. Louis, and then I used a part-time contract administrative assistant for several years. That worked well, and then she had some sort of a personal crisis, and I was without anyone for about 1 1/2 years. When I became president of the Conference of Consulting Actuaries, it became clear that if I was going to keep my clients and my sanity, I needed to hire someone, so now I have a part-time administrative assistant. I also have a variety of people I network with for trading consulting projects, and one young man who is a stay-at-home dad and to whom I subcontract some of my overflow work or work that doesn't require expertise at my level.

MR. DAVID S. RINTOUL: I'm the lawyer, and you don't want to know how I became a lawyer. When I do my legal presentation I'll discuss it more, but let's keep the focus more on the actuaries.

MR. RITZKE: Chris Hause is president of Hause Actuarial Solutions in Overland Park, Kan., which specializes in credit insurance, debit cancellation, actuarial and illustration software. Prior to forming Hause Actuarial Solutions, Hause was managing partner of William M. Buchanan & Associates and has worked in the insurance industry for almost 30 years. Hause has worked at Pyramid Life Insurance Company in Mission, Kan., and Alianz Life and ITT Life in Minneapolis. Hause received his bachelor's degree in math from the University of Wyoming in 1975. He's a Fellow of the Society of Actuaries, a member of the American Academy of Actuaries and a chartered life underwriter. Hause has been involved in special interest sections and other SOA activities, including serving as a recent chair of the Nontraditional Marketing Section and editor of their newsletter and as chair of the Credit Insurance Experience Committee. He is also a past president of the Kansas City Actuaries Club.

MR. CHRISTOPHER H. HAUSE: Contrary to Margaret, I started out working for companies. As I look back, it seems fairly apparent that I started out at large companies and kept getting smaller and smaller and smaller, until I was a company of one as an independent consultant. That was in late 1996. I became the managing partner of William Buchanan & Associates, managing a staff of one (myself). The firm was started in the 1970s.

The challenge I had in restarting the firm of Buchanan & Associates was twofold. The first was to rebuild the client base; hopefully leveraging off the fact that Bill had been in business for a number of years prior to that. The second challenge was raising the technology aspects. I actually had a 486 machine there with floppy drive in it. That was my first challenge because to me, your clients will expect you to have technology that is at least up there with the leading edge and at least competitive with what they have.

I've always been strong in the programming area. A lot of my academic rewards — the things that made me feel very good at the end of the day, that made me feel I had accomplished something — usually involved making something work, and that came naturally to me in the form of programming. So that was to be a cornerstone of my practice. Our practice is now up to eight people. We have three actuaries, two information technology (IT) people and one person who's primarily in charge of promoting our services, both compliance and IT. We have a part-time office manager. She's able to accomplish office manager duties for us in three mornings a week, so we find that our needs are actually fairly modest in that area. One of the things we'll talk about is using outside resources, and we do use professional outside resources where available.

I'll talk about my best idea that turned out to be the absolute worst idea in the world, and then I'll talk about something that I'm very proud of. Back when XXX came along and everybody was going to have to certify their X factors used to calculate their deficiency reserves; we had several Monte Carlo simulation routines. Everybody was telling me that to do their Monte Carlo simulations for their X factor testing, they turned on the machine and went home that night and hopefully it didn't crash sometime during the night. We had developed some routines that were just blazing fast. We were running 10,000 trials in a matter of five minutes on 10,000 policies.

We honed that and made a very neat interface that would track the mean and the standard deviation as it went along. It would graph the Monte Carlo results. It had a vertical line where your actual mortality was. It gave reports by X factor class, showing the mean and standard deviation by policy and by face amount. We're still looking forward to selling our first one of those systems and at an extremely modest price. I think we were charging $5,000 for that. This is a slam-dunk, an absolute give-me price, and we're still looking forward to selling our first one of those systems. We are using that as an in-house tool, so it wasn't a complete bust. But that was probably the best idea I ever had.

Then sometimes successes come from the oddest places. We were doing a very small project for someone who wanted to develop a generic policy design for various testing purposes. The idea evolved into one where it was used as a disclosure tool for people who didn't understand how variable variable life is. This software program, again with a Monte Carlo-type of approach against stock market historical returns, demonstrated exactly how variable variable life is. Well, originally the NASD didn't like that approach because they like to show those nice, level returns. Until recently, you couldn't show a client a Monte Carlo probability analysis of performance. This has turned into a very resounding success story. It will be an industry standard. If not my product (which I've joint ventured with someone), then certainly something of this type will be the standard in demonstrating to clients the truth about variable life. We feel that's where it's headed. That came from a fairly odd place and was something I wasn't sure of that's turned into something very successful and very visible in the industry.

MR. RITZKE: I think that will be a consistent theme. A lot of us went into business not exactly sure where we were going to end up. We just knew that we wanted to do something different. I'm the owner of Problem Solving Enterprises. I'm an independent actuary. I work with associates in other small firms, but I'm pretty much on my own. When I first started, another independent actuary told me, “Welcome to the ranks of the self-unemployed.” That's sometimes how you feel, at least when you're starting out. I specialize in three major areas. I've developed custom marketing software and marketing tools for the Web and desktop. I've also done some work on variable products, doing variable performance reporting and illustrations for customers on their Web sites to illustrate the volatility and the benefits of asset allocation and things of that nature to clients and to help provide agents with tools to work with their customers.

A second area I've developed — and I really just fell into this area — is working with start-up companies and new ventures, both inside and outside of the insurance industry. That was an interesting area because I was doing some work for my former company. They had a Web site, and I was writing insurance articles for their consumer Web site. I got a call one day from a guy who said, "I think I'm starting this dot-com business and I'm not sure why, but I think I need an actuary to help me formulate the business." This was back in the dot-com boom era. I didn't realize it at the time and I really didn't realize it until recently, but I think what I was doing was enterprise risk management. Which is the big buzzword right now, except I'm specializing in enterprise risk management where there's not much of an enterprise yet, just the risk management.

I worked with this guy to develop a financial plan and financial projections for his start-up company. It's one of the things I'm most proud of now because it was a dot-com company that went to initial public offering (IPO), and it still exists today, which is kind of unusual for dot-com companies from that era. It's www.mypoints.com. It was very interesting. It was an opportunity to apply my actuarial expertise in an area that was completely outside of the insurance business, although I saw all kinds of ways to apply my actuarial skills to this venture. It's a shopping rewards program for the Internet like frequent flier miles or, if you're a little older, S&H Green Stamps. Maybe you remember those from when you were a kid. They sell these rewards points and manage the programs for different companies that sell things on the Internet to induce customers to come and visit and shop. It's also used for business. If you want to collect demographic data, they'll help you set up surveys, and they pay their members to do that.

It was really an actuarial kind of business because what they are doing is selling these points up front. They knew the points would result in a claim sometime out in the future, some unknown time. Some of those points would lapse, would never become a claim. He came to me and said, "I have this idea, but I really don't know how much to charge for it. I don't know how to measure the profitability of this business because I'm selling these points and I'm getting this cash in up front, and I'll have to pay cash out in the future at some unknown time and in some unknown amount." That sounded very much like an insurance company, so I worked with him in setting that up.

That led to me being able to work with three or four other businesses outside of the insurance industry. When you're in the insurance industry and you're working as an actuary, you don't realize that we're used to the number crunching. We're used to modeling. There are a lot of really smart people running businesses who have no idea how to model their businesses. Particularly when you're talking about start-ups. They really need to understand how to price their products or services, how it all works together, what the drivers are and how to build a financial picture of what they're trying to do, and whether it's going to make money. I felt like a lot of what I was doing with these first few ventures was pretty rudimentary. I wasn't doing a lot of really advanced actuarial or mathematical work. But they really needed somebody who had that kind of modeling mind-set to sit down and work through what they're trying to do and turn it into a model that could identify what the profit picture is. It was all so they could go to venture capitalists and try to raise money and things of that nature. So that was pretty exciting.

Prior to consulting, I worked for Zurich Life Insurance Company of America in Schaumburg, Ill. That was also somewhat of a start-up. It was a big property casualty company, but it didn't have much of a life operation. I also was involved with the founding of Zurich Direct, a direct-to-consumer term insurance company. So, I had a theme in my work of working with start-up operations, and that's really what led me to go into a business of my own. Zurich eventually merged with Kemper, which was bought by Bank One and is now owned by Chase Insurance. The company got bigger and bigger. It was when the discussions of Zurich buying Kemper and becoming a big operation occurred that I decided I wanted to go out on my own because I really enjoyed the new venture type of thing. I enjoyed the creative stuff.

Also, when I worked at an insurance company, I used to get in trouble from my boss all the time because I wanted to work with the IT department and talk about things they were doing. I wasn't satisfied with just designing products. I wanted to work with marketing people and talk about how they sold their products and how there were software tools that we could build to help agents sell products. I always wanted to get involved in the administrative areas because I would see inefficiencies in the operations and want to work with that. My boss would say, "You're an actuary. You should go in the back room and crunch some numbers. You really shouldn't be doing that kind of stuff. That's not what we're paying you for." So that was really my impetus to go out on my own because I wanted to be able to find the type of work that I wanted to do and that I enjoyed doing.

That's basically my story. Now we're going to start out with the guts of our presentations this morning. David Rintoul is a lawyer with the law firm of Brown, Paindiris and Scott in Glastonbury, Conn. In addition to a general business practice, he advises independent consultants, including actuaries, regarding the challenges and opportunities they face as professionals and entrepreneurs. He has a regular legal issues column in the *Independent Actuary*, the newsletter of the Smaller Consulting Firm section of the Society of Actuaries. David will talk to you about when you need a lawyer and why, and what he can do for you.

MR. RINTOUL: Take a look at the *Independent Actuary* e-newsletter. All the issues that we're discussing today are commonly discussed in there, and also I have a legal issues column in each issue.

As far as some of the nuts and bolts of legal issues when you're setting up a business, I'll refer you to the materials (Rintoul pages 1-7, 23-28). It discusses agreements, contracts that you have with your clients, contracts you have with employees, the employee versus independent contractor decisions, and issues you need to know about if you're reviewing an office lease. What I'd like to discuss today, however, is when you should be talking to a lawyer and when you can do legal issues on your own. Independent consultants like to be independent, and most people don't particularly want to pay a lawyer. There are lots of instances when people think, "I'd better get a lawyer," that I think you can probably do it on your own. There are other areas that are the opposite situation. The idea of consulting a lawyer only comes up once you get the demand letter from the big New York law firm saying cease and desist from using the software you've been developing for the last 20 years because you have a dispute over who owns the intellectual property.

When don't you need a lawyer? If the business you're setting up largely will be a vehicle for your consulting, depending on your state laws, you'll probably want to set up a limited liability company (LLC). I don't know if people are familiar with that. It’s an entity that is taxed like a partnership. All the tax attributes flow through to the owners. But it has the limited liability of a corporation, so you’re not on the hook for the general obligations of the entity. Most states have limited liability companies. There may be an issue, depending on the type of consulting you do, whether you’re ethically allowed to limit your personal liability for professional malpractice. Lawyers can’t do that. Most states, however, have something called a limited liability partnership, which is the same as an LLC, but there is personal liability. Professional malpractice does flow through to the owners. In almost every state you can set up your LLC online. It costs about $50. It’s not a big deal. Furthermore, with an LLC, in most states, you don’t have to have annual meetings or sign a consent form to have an annual meeting. Every year or two, you’ll get a notice from your Secretary of State asking you to pay another $50 or $100.

If you are going into business with somebody else and each person will be servicing his own clients — revenue will be divided up according to who generates it, essentially a glorified office-sharing arrangement — you may not need a lawyer for that. If you’re hiring an employee who won't have client contact and won't have access to your source code, then you probably don’t need a lawyer for that either. But there are some areas where it’s very important. All sorts of agreements are available on the Web, and many of them are free. It’s a good place to start to get an idea of the issues you need to address, just by Googling the name of the form you want. But there are some things for which that can be dangerous. At best, what a lawyer can do is to make sure that all the parties to a deal articulate what they’re expecting to get out of it. What they’re expecting to deliver and what they’re expecting to get back in return so that everyone can agree and know about what everyone else’s expectations are — and then to draft a document that will do the best it can to make sure those expectations are fulfilled.

Often when you get a new contract, a big contract, or you’re thinking about forming another business, you don’t necessarily focus on the negatives. But it’s important. It’s easier to resolve things in the beginning before the business is started rather than at the end. Something I’ve seen over and over again with businesses is that dissension doesn’t arise in the early days, when everyone’s working really hard and making big sacrifices and making no money. Dissension arises when the money starts coming in, and everyone is thinking, "I’ve made a success of this." There’s a natural tendency to think that you’re the one who is responsible for the success of the business, particularly if you have a very technical person and a marketing savvy rainmaker type in the same business. There are intrinsic difficulties there. In the beginning, you want to try to work out issues of how the entity will be governed and how the money will be split up.

What are some specific areas for which you should consult with a lawyer? The first is covenants not to compete, or non-competes. If you’re thinking of hiring somebody or going into business with somebody, the default rule in most states is that a former employee or a former partner, the day after he or she leaves the company, can call clients. He or she may not be able to take a paper customer list with, but if you have the names and addresses in your head and you say, "Bill, I'm out of here. I'm setting up my new business tomorrow." Bill can call all your clients and try to solicit their business. In most cases, that will be legal. So in that situation you need to consider having a non-compete. It may be a covenant not to compete, which means that the person can't compete with you in a certain geographical area, in a certain market segment over a certain period of time. There are also non-solicitation agreements; an agreement that the employee won't go after your clients for a certain period of time. You'll find a lot of these forms on the Web.

FROM THE FLOOR: Could I ask a question about that? Certainly who called whom first is going to be an issue in those situations, right? The ex-employee could just say, "Well, they called me."

MR. RINTOUL: Right, and that's why there are many different ways to draft around this. One is just no competition. Most consulting actuaries will have a national practice. The point about non-competes is that they have to be narrowly drafted to protect your actual market interest. Let's say that Margaret just did property and casualty (P&C) consulting. That's all she had ever done. She doesn't have a marketing plan in the hopper to market in the health consulting area. In some states, if she had an employee sign a non-compete that said you can't consult in P&C and health, the whole non-compete would go away. It wouldn't even be effective to keep that person from competing in the area in which Margaret has her practice.

It has to be a reasonable time period, which depends on what the client cycle is. In other words, if you're talking about a business in which the customer comes in, buys the product and you won't see him or her again — there's really no chance to market to that person again — a very long-term non-compete might be held to be unreasonable. If you have a 90-day turnaround between when the customer comes into the office and when everything is done, a five-year non-compete will be too long. To have these things be enforceable, you really have to sit down and define what's the market segment that I have an actual interest in? What geographical area do I operate in or do I have a reasonable possibility of going into? And what's the customer cycle, such that the length of the non-compete is reasonable? Many of the details of this are contained in the materials.

Non-competes come up in a lot of different circumstances. You have the potential for non-competes in 360 degrees. Particularly if you're doing subcontracting work for another consulting actuary, they'll want some sort of non-compete or non-solicitation agreement. If you're joint venturing with another actuary, essentially as a peer, again, if you're the one with the client contact, you want to protect that client relationship. You'll want your peer to agree that he won't do any marketing to this company for six months or a year. If you have employees or independent contractors who are doing technical work and they're learning client identities, you'll want to make sure that they can't steal your clients the next day.

Another area where you should consider talking to a lawyer is when you are going into business with somebody else. As I said before, if it will be a glorified office-sharing arrangement in which each person is to sell to his or her existing clients, and revenue is divided up such that the office gets the first third and then the person who generated the revenue gets the rest, that's a pretty simple circumstance. Maybe you don't need something in writing. But a lot of other common circumstances can present more problems.

For instance, frequently there will be an older, established consultant who is starting to think of cutting back time and thinking of retiring. The natural thing to do is hire a younger person who will have a longer career and transition the business to that person. Then the older person can cut back but still get revenue, and draw some of the value of the business that he built up. In the beginning, you'll have the older, more established actuary subsidizing the younger actuary, with the idea that the trade-off is later on, when the younger one will subsidize the older one. What happens when they get to the point where the younger is subsidizing the older? The natural financial inclination is to ask, "Why do I have to carry this guy? I have the contact with all of these clients. I'll just go set up my own business and market to all my people. He did good things for me, but life is life." You have to draft around that. You want to have a non-compete.

Something else you could have is some debt, in which the younger person, in return for getting some of the partnership interest, has to sign a note. What that gives you is a personal obligation for him to pay for some of the value of the business, no matter what he's done. Suing somebody over a non-compete is not pleasant, and it's expensive. If you deal with that issue up front, you can avoid trouble later. An issue also can arise if one person is technical and the other is a marketing person. Sometimes those two types of people speak different languages and have a tendency to value their own contribution. "I am the one who's making this successful because I have this really sexy program that I've done," and the other person is thinking, "There are lots of really great products that aren't successful because nobody can sell them. So I'm the one who is really responsible for this." You want to try to draft around that in the beginning of the arrangement. For instance, you want to make sure that who will own the intellectual property created is specified.

Third, there are considerations if you'll be creating an operating business. For instance, if you wanted to form a company to develop and sell software, particularly if it were to be a retail business, you have issues of corporate governance and who gets what when and if the two of you go your different ways. For instance, you may want to provide for arbitration, which I'll discuss further later on. Second, if one partner wants to get out, how will you value that interest? Will it be book value, which is very low? Will it be fair market value? Will it be a discount for the fact that maybe you're selling a minority stake? Will it be a discount for the fact that the minority stake is not marketable? In some circumstances, it would be appropriate to take those discounts. When you're talking about a conflict, valuation among two or three partners, those discounts aren't appropriate, but you don't want to have a court make that decision $10,000 to $20,000 in legal fees down the road.

I'd like to talk a little bit about arbitration. Most people think that arbitration always will be a better way to resolve a dispute rather than a lawsuit, but you need to consider that decision. Arbitrations are becoming more and more expensive. Arbitrators are allowing more and more motion practice. They're allowing discovery. The initial fees are quite high. You could be talking about filing initial arbitrator's fees of several thousand dollars. If you have a contract that's for $20,000, it's hard to justify. Even starting the arbitration can be a significant expense. Starting a lawsuit, filing it, does not cost a lot of money. For the price of filing an arbitration, you can get decently down the road with a lawsuit and get in a position where something might settle. Also, if you're having a dispute with a partner, it will be in court anyway because one of the first things you'll want to do is to get an injunction to prevent him from stealing the intellectual property, approaching customers and things like that. So arbitration is not necessarily a panacea.

A third issue is intellectual property, and this is a crucial point that you have to raise with employees, your partners and with the clients you are doing work for. One of my clients had a situation where he thought he was being hired to provide an analysis, and to do this analysis he was to use some proprietary software. The insurance company thought that they were buying his software; that they had the right to use it without paying him any more. They claimed the right to sell it. Because the software was the foundation of this person's business, it was potentially a disastrous thing if they weren't able to use it with other clients and provide the same services for other people. Maybe what you want to have is their agreement that your copyright will be maintained on all copies, and there will be a notation that it could be copied for internal use only.

Intellectual properties with employees and independent contractors must be considered. If they're of a technical nature, you should have an exhibit that says the contractor has listed all of their intellectual property on this exhibit. That way, when he's claiming that he had already developed this thing that you thought you were hiring him to develop and that you were going to own, you can say, "Look, you didn't disclose this on the exhibit. So it was clearly developed for me, and I own it." Furthermore, with partners you have the same issues of who is bringing what intellectual property into the business, so you can tell what's been developed by the business and is part of the value of the business and what was contributed and possibly does not belong to the entity.

One of the really crucial areas in which you need to consider talking to an attorney is when you're leaving a company to start your own business in the same area that you were when you were employed. Especially if you are hoping that some of the clients you serviced for your employer, you'll also be able to service with your own business. An existing employee in many states can do lots of things to prepare to open his own business. He can rent space. He can get letterhead. He can arrange for Yellow Page listings. He can prepare the announcement, put it in an envelope, stamp it and put it in a box, ready to go. In most states you cannot talk to clients about coming with you if you leave while you are still employed. You have a fiduciary duty to your employer not to steal their business. It's a very close stance that has to be done to set up the business so you don't violate your legal duties.

It's also important to come up with a strategy of how you'll disclose the fact that you're going off on your own. The worst problems are caused by employers who are surprised when they come in Monday morning and there's a note on the desk that says, "Here's my announcement that I'm sending out to all your clients today. Good luck." There has to be a discussion. What's the nature of the person? Has he or she sued any employees who left before? Have there been any discussions of possible cooperation in setting up a new business? Also, if you have a non-compete or a non-solicitation agreement or a no-hire-away clause, something where you agree not to hire any of their employees away, that's another thing. They're not always enforceable. But even if you have a non-compete that's not enforceable, they can stop your business in its tracks. In Connecticut it costs at least $5,000 to $20,000 to get rid of an invalid non-compete, and that can be a fair amount of your start-up capital. You can have an injunction issued by the court that stops you from doing business, and it is extremely difficult to determine ahead of time whether a judge will issue an injunction or not. I always tell my clients that it depends on what they had for breakfast that morning. It depends on which judge you get, and sometimes you don't know what judge you'll get until you show up Monday morning at the hearing with all your witnesses, having written that $10,000 retainer check to your lawyer. So, when you're coming up with a strategy of setting up your own business and how you'll approach it and what your legal risks and rewards are, this is a crucial time to go talk to your lawyer.

One of the things I discuss in my materials and in the articles I'm doing in *The Independent Actuary* is flexible work arrangements. That is essentially forming a virtual firm where for a project that you get in, you pick out the peers or subordinates that you need to do the specific project. It's something all of us do. Lawyers do it, too, on an ad hoc basis. I can bring the litigation background, but maybe I need somebody else to bring in an intellectual property background. Maybe we need a programmer to just crunch numbers, so you'll want to bring him into the project. The materials discuss what agreements you want to have and what issues you need to address in creating the virtual firm, because we all know there are lots of issues with hiring employees. It should be something you hesitate to do unless you really don't have a choice. If somebody is really good and you want him to always be at your disposal, then you'll have to hire him so he doesn't have conflicting assignments.

Here's a question from someone in the audience. The question is in regard to a non-compete agreement that applies to a 250-mile radius and for two years after he leaves the job. In the past, the employer hadn't enforced the non-compete agreements. If that question came into my office, the first thing I would ask is, do they actually serve a 250-mile radius? If all their customers are located within driving distance, 40 miles, then 250 miles is too broad. If he wants to market to someone who is 100 miles away, the court probably will say that's OK. The example I often use with this geographical issue involves a convenience store in New London, Conn. There was a non-compete that applied to all of New London County. For you folks out in the west, it was not a big area. But this court said that this store really only draws people from adjacent towns, so having it cover all of New London County is too much. It's void.

In another case, the person sold the sorts of presses that *Newsweek* and *Time* magazines are printed on. There are three companies in the world that make these presses. Clearly, it was a global market that this company operated in. Therefore, a global non-compete was enforceable. The issues that courts are just starting to grapple with are what do you do with the Internet? I think the way that will go is that you can't market in that segment, that you won't be able to do Internet marketing. That's the way I've been drafting the non-competes for people who will be working for my folks.

The issue of the employer's propensity for enforcing non-competes is crucial. If it's somebody who sues all the time, even if it's a non-enforceable non-compete, you're going to have to pay me $5,000 to $20,000 to get rid of it. I had one client whose former employer was a nut. Everyone in the industry knew he was a nut, and everyone knew that if they hired my client, there would be an injunction filed the next day. I had to file suit to get the non-compete knocked out because nobody dared hire this guy.

Let's go back to the question from the audience. He's saying that there's a good relationship with the current employer, and he wants to do business in the future. In almost all the circumstances, I urge people to discuss the fact that they want to start their own business ahead of time. It can be a difficult thing because you can be fired right away and you were counting on that last three weeks of pay to help finance your business. You're giving your current employer a chance to call up all the existing clients and say, "This whatever will call you and try to steal clients. He's a crook, so don't listen to him." However, if you can identify an area that would be valuable for you to market to, that your employer doesn't particularly care about, and there is a concern that you've actually got an enforceable non-compete, then it certainly makes sense to go ahead of time. Not a lot of ahead of time, but some ahead of time — and say look, "If I stay in this area, will it be OK? Will you come after me?" That's what happens after lawsuits are filed. These things never go to trial. The whole issue is decided on a preliminary injunction, and they're all settled by the lawyers standing in the hall, working something out. Because nobody knows what the judge will do because the law is so unsettled. By saying, "I'd like to do this, and here's an area that you don't get a lot of money from. I'm happy to do this for a year, to limit it to this area," you can avoid a lot of difficulty.

There’s also the issue that the audience member who submitted this question had been told that non-competes are interpreted in favor of the employee. Hardly anyone talks to me before they’ve signed a non-compete. If they do, there’s a smart person. People come in after they’ve gotten that first nasty letter from the big New York law firm and they say, "These things aren’t enforceable, are they?" They are. They have to be narrowly drawn, but they’re still enforceable, and every state is different. For instance, in California you can’t have a non-compete. An employee can’t do a non-compete, but an employee can do a non-solicitation agreement that’s binding. You can’t call their clients. So even in California, these are enforceable. The non-compete issue is crucial to address early. You must come up with a strategy to dispose of it in an economical way and in a way that won't blow off your business.

MR. RITZKE: Chris Hause will discuss some technology issues now.

MR. HAUSE: I want to talk about technology resources. Most of this will be framed along my personal decision-making process and my experience on whether that has turned out well. Fortunately, more often than not, it has been the case that it turned out well. First of all, why do you need technology? If you’re an actuary, I think your clients expect you to be not necessarily on the leading edge of technology, but certainly if they send you an Excel spreadsheet, that you’re not dealing with Excel 95 or something and can’t open it. The other area is efficiency. Using software or technology can pay for itself many, many times over. I can’t tell you how many times we’ve made an investment, and we just patted ourselves on the back every time. We are really glad we did it or we did it this way.

I don’t care whether you’ll have just yourself or you’ll have 10 or 20 employees. If you plan to have a service organization, you need billing and time-management software. Writing your time on the back of en envelope and handing it to the secretary at the end of the month is not good. The first reason it’s not good is because you won’t know how you spent the time that you didn’t bill, and that is extremely important.

If you are to have an efficient organization, you must know how you’re spending your time when you’re not billing. We establish billing codes for things that we bill for and things we don’t, whether it’s client development or student studying, for example. The other area is in the tracking of fixed-cost jobs. For example, let's say you bid out a job and believe it will cost $20,000 to do the work. If you don’t get any smarter, the next time you do it, you'll lose money because you didn’t count the hours and it actually cost you $35,000 to do this instead of $20,000. It’s a learning process, too, if you don’t write down your time. Don't think, "I don’t have to write this down. It’s a flat-bill thing." That’s a bad idea. Write it down. Figure it out. Get better at your bidding process, and, of course, the retrieval of information. You may want to know about a job you did two years ago. You can retrieve that information, not only the data, but how long it took and what type of things you did and probably even where those files are stored if your billing and time-management software is effective.

Computers, network, IT support — there was a bit of a lull in the progress of operating systems, and now it's accelerating again. We'll see 64-bit operating systems before too long, and no one will be able to run them on their 32-bit processors. So, get ready for another shift.

Outside versus inside is an important decision. Who will manage your IT resources? Because we're an IT-intensive firm, obviously we chose inside. I was fortunate enough to hire an extremely capable software and hardware gentleman who is very professional and stays up on everything. For most people, I would think that an outside firm would be best, and there are several of them. I won't endorse one or another, but look around in the neighborhood, whether it's a The Geek Squad or some other firm, and evaluate the people. Don't evaluate the company. Evaluate the person. Tell them to send over a person, and do your best to figure out what that person knows. If you have a knowledgeable friend, ask if this guy telling me the truth before I hire him. Usually you can determine that pretty well straight away.

The first thing a lot of people want to do is set up a Web site. The first thing that you want to ask yourself is, "Why do I want to set up a Web site?" Will it be informational? Will it be functional? Will I try to sell something from my Web site, or is it just to get people to know my contact information? For $10 you can probably get a Web site set up that has your basic information. There are services like that all over the Web.

The last consideration is how can I possibly stay up-to-date with technology? The answer probably is you can't. You cannot stay up with technology unless that's your business, and that's why you need either an inside person or an outside person to do that for you. You're an actuary. You have to worry about all sorts of things. The last thing you want to worry about is all the quirks of XP Service Pack II.

I can't stress enough that the telephone is your primary business tool. Most likely, the phone will be your primary business tool. We got a new phone system. I was proud of it. I was on a conference call, and they had me on the speakerphone. This I didn't anticipate. A couple of reinsurers and some other potential clients were gathered around in a conference room, and they put me on a speakerphone. I had to put them on hold for a moment, and I when I came back on the phone after coming off hold, there was uproarious laughter. Apparently I forgot to check to see what kind of hold music I had. They said it was the most God-awful hold music, and to change it immediately. Obviously, I don't put myself on hold, and I had no idea what hold music was canned with the phone system when I bought it.

We bill long-distance phone service to our clients. Some companies choose not to. We have a toll-free number that's not billable. If you're on a conference call for 2½ hours, you'll pay a fairly significant amount of money on behalf of the client. You should have the capacity to record that and bill the client. We have billing codes that we punch in on long-distance calls. If it's a long-distance toll number, our phone system requests a three-digit billing code. That's how we keep track of it. As far as the other office equipment, when you're setting up an office from scratch, you just can't believe everything you'll need. Just go to Staples and get a huge cart. You just can't believe all the stuff you'll need and how much it costs to set it up, whether you're talking staplers, desks or telephones.

One area I want to talk about is actuarial software. We are a software firm, and we are also an actuarial firm. About four years ago, we started off in credit insurance, which is what I know. We had done some financial reporting. Occasionally we do some client-based software development. We were just working on our tool kit, and I turned to my associate actuary and I said, "We're an actuarial firm, right?" He said, "Yes." I said, "How can you have an actuarial firm without actuarial software? If somebody comes to us and says to price this product, what will we do? If somebody comes to us and says to do an appraisal on this little block of life insurance business, what will we do?" We were very lucky because about two months later, I engaged someone who had been converting an old DOS-based actuarial software system into Windows, and he was tiring of that effort. We completed it for them, so we developed our own in-house actuarial software that we use internally and now have commercially available.

I would not recommend that. However, if you have niches that you serve for which you can develop reasonable software, I would highly recommend that you do it in a package environment, not in Microsoft Excel™. Excel™ is a great tool for doing very simple things. I think it's asked very often to do things outside its area of expertise. People end up with large, interlinked, unmanageable, complex spreadsheets and they don't even know what's coming out the other end by the time they're done with it. It has to be changed every time for every client anyway. So I would highly recommend at least using the visual basic aspects of Excel™ or Microsoft Access™ or some other tool like that to put it into code and to build in all the flexibility that you can on the front end.

If you go outside to a vendor, obviously there's one vendor of actuarial software that is the dominant force, the big gorilla, if you will, and there are a number of secondary vendors. One of the things you'll want to consider is that it's not only the strength of the software. Because different software will do things more efficiently or better than others, certainly. But consider what your clients are using as well. There's probably a reason that they chose that package. They chose that package because it does certain things the way that they like. You can do work for them, develop models and transfer them, and you'll be much more effective, regardless of whether you like this package versus that package. If your clients use it, you have to at least consider that.

The last point is how do you keep up? Certainly actuarial science changes via regulation frequently, but certainly by product design as well. If you do it inside, you'll spend a lot of time keeping your toolbox up to date. If you go outside, it will be done for you, perhaps for a charge, but at least you stand a chance.

As far as accounting software goes, there are considerations. You'll have to bill. We use accounting software that's specifically for companies that bill time. It handles multiple companies, and it produces many reports, 98 percent of which I have absolutely no use for. The one thing I like about it is you can custom-design your own reports. I would highly suggest getting that feature because most accounting software is built for general use, and you may have specific needs. For example, I have a couple of joint ventures, so we account for those separately from our main company.

I want to talk about networks. We have gone strictly wired because my IT manager feels that wireless networks and Internet connections offer insufficient security, and I trust him implicitly. If he says it's not safe, I believe him, so we are staying strictly wired. When we wired our office we had six employees, and we have about 22 outlets. That may seem like overkill to you. However, printers are now networkable, so you plug your printers in. We have visitors. We have laptops. We have summer students. And we have never been sorry that we made 22 ports to our network. So the key there is overbuild, over-wire and use better than minimum standards when it comes to your wiring, and you'll never be sorry. We haven't been yet.

How do you stay up in that area of networks? We're strictly a Microsoft shop because that's the big gorilla and the most portable. Microsoft has done a fairly good job staying abreast of small business needs. In terms of other software needs, I'm sure you probably have a better idea than I do of what types of software will be needed to run your particular business. Staying up-to-date is not an option; it's a necessity.

In closing, be safe, overbuild and back up. I've had three hard drive crashes since I've been in business. The first one cost me about a month of work, the second one cost me about a week of work and the third one cost me about an afternoon. So I got smarter. It's just a matter of backup. We have redundant backup systems. We have computers backing up to each other or to a central server, and then that central server is backed up again. Removable hard drives are a godsend. You can plug them in, back them up overnight and take them home, and you have a hard drive at home with all your data on it. The worst you'll get set back is that you have to reinstall your operating system and you're in Microsoft Office or something like that. Load your data back out, and most of the time, within a day you're right back where you were. Chuck probably will talk more about backup as well. Remember to use redundant backups and cross backups and to take it home with you. Get it off-site. You don't want your practice of 20 years or all your life's work to go up because somebody left the heater going in one of your cubicles.

MR. RITZKE: Margaret Tiller Sherwood will talk about benefits and insurance needs when starting a business.

MS. TILLER SHERWOOD: I'll approach this from a property/casualty point of view, mostly because that's the way I approach everything. It's how you need to start thinking of the risk in your life, even if you are not an independent consulting actuary or a small-firm actuary. We'll talk about ways to handle risk. We'll go over property risks, liability risks, workers' risks, and errors and omissions risk. There are some other risks, too. Then we'll also talk about employee benefits that aren't covered in these items. We'll talk about some of the insurance products available for small businesses and then have some follow-up comments. This is not meant to be a comprehensive list of the risks that businesses face, but because we're talking about how to handle them, it's illustrative of the process that you need to go through.

There are primarily two different ways to handle risk. One is risk control. The other is risk financing. Risk control is any conscious action or decision not to act, which is intended to reduce the frequency of loss, or how often, and the severity of loss, or how bad; and the unpredictability of accidental loss. It deals with the actual harm and not the money to restore. The money to restore comes from how you choose to do the risk-financing piece of this. There are many different ways to use risk control in your business. Exposure avoidance is one. You may decide that you don't want to work on mergers and acquisitions projects because the errors and omissions exposure on them is too large. You may decide you don't want to do expert witness work. Those are decisions to completely avoid having that kind of exposure.

You can try to prevent the loss. For example, you can have an engagement letter that says you don't have any liability if something bad happens. Almost no one will sign a letter like that, but you can certainly make that attempt. You can reduce the loss once it happens. I was interested in Dave's comments earlier that sometimes the beginning of arbitration is more expensive than litigation because one of the ways you normally think of to reduce a loss that has occurred is, for example, to put mandatory arbitration into your engagement letters. So that may not always be the best way to handle it.

There are several different ways to handle segregation of exposures. The most obvious one we've talked about already is duplication. Duplicate your computer records. Not only do you need to duplicate them, you need to separate them. You need to put them off-site. Another method that sometimes is talked about is combination. For example, if you sell two different kinds of products, and you have all product A in storehouse A and all of product B in storehouse B, it would actually make more sense to put half of product A and half of product B in storehouse A and the other half in storehouse B. That way, if one of your storehouses burns to the ground, you haven't lost all of your product; you've only lost half.

You can contractually transfer some of your risk to a non-insurer. It's a risk-control technique if you actually transfer the legal liability. In a few minutes we'll talk about a risk-financing technique for which you keep the legal liability, but make the financial arrangements. An example of a contractual transfer to a non-insurer is if you use an independent contractor for certain types of jobs and you make it clear that for the jobs you are subcontracting to the independent contractor, it's their errors/omissions insurance that will respond, not yours.

If you can't avoid the technique or handle it with some method such as duplication, then you need to think about how you'll finance the loss. How will you find money to restore your business entity or individuals? There are three primary ways. One is risk retention. This is sometimes called self-insurance. That term really drives me nuts because insurance implies that there's pooling and that there is a transfer of risk, and when you're retaining risk, you're not transferring or pooling normally. You can choose to say, "I'm not going to buy errors and omissions insurance, I'm just going to retain that risk myself." Pooling is a very specialized kind of risk retention. The large consulting firms, in fact, have a captive insurance company where they pool their errors and omissions risks, so they share with each other. For small firms, that's a little more risky. Second, you can do a contractual transfer to a non-insurer. For example, if you're an expert witness in a project, you can transfer your errors and omissions to the attorney who is subcontracting the work to you. Third, and probably the one that you're most familiar with, is you can transfer the financial risk to an insurer. Note that when you do this as a risk-financing technique, you're making a financial arrangement. You're not actually transferring the legal liability. For example, if you buy insurance from a company that goes out of business and then you have what would have been a covered loss, you still have the legal liability, and you're still responsible for making good on it because the insurer cannot.

For all of the different kinds of risks we need to talk about, you need to walk through what is often referred to as the risk-management process. You need to identify your exposures to loss, and we'll go through some examples that will help make this clearer. You need to measure the exposure to loss. What's the probability that there will be an occurrence, and what impact does it have on your financial affairs if that occurrence actually happened? You need to choose how you'll handle it. You need to implement that choice, and then you need to monitor it to make sure it's working as expected.

Let's talk about a small firm, and I'll pretty much use Tiller Consulting Group as a model because that's what I know best. Real property is your land. What property risk can you possibly have? My office is a completely separate part of my house. It's over my garage, and it's about 800 square feet. You need to worry about people coming onto your property. You need to worry about things that can happen to your property. For example, we had a hailstorm that damaged the roof and trees, so you need to worry about that. A company has what's called personal property. It's the desk, the filing cabinets and the chairs, for example. Computers are a special type of personal property, and there are obviously a lot of issues that you've already heard about that need to be considered.

You should consider automobile physical damage. You may think, "I don't have a company car. This isn't an issue." I do have a company car, so we have to worry about collision and comprehensive. Collision is the damage to your car if you hit something. Comprehensive is things that happen to the car that are not anyone's fault *per se* in terms of an accident. The hail damage I referred to earlier totaled one of my cars. The car can be stolen. You can have a tree fall on the car. You can have the car be hit in a parking lot while you're in a building. Those are all comprehensive losses. Even if you don't own a car, you have what's called "drive other auto." If you're on a business trip and you rent a car for business and the car is damaged, you are responsible for the physical damage to that car. If you've rented a car or you've borrowed a car and you're on business and you're in an accident, you need to make sure you have liability coverage for that as well.

You have liability risks for bodily injury. What if someone is coming to deliver office supplies and slips and falls on your property? What about property damage? I keep coming back to the tree falling on a car in the street. When I lived in California, I had just bought a house where I was going to have my office. The first call I got from my next-door neighbor was, "Do you own 509 Goldenrod?" I said, "Yes, I do." The neighbor said, "Your tree is in my yard." That was not a nice phone call to get, but we took care of that.

Let's consider automobile liability. What happens if you are driving an auto and are in an accident that is your fault? You are responsible for bodily injury to the other person, property damage to the other vehicle or if you hit a telephone pole, to the telephone pole. Some states have no-fault insurance, and so they have personal injury protection (PIP). You have to be concerned about uninsured motorists. What happens if somebody hits you, and it's his fault, but he doesn't have insurance? You still want to make sure you are compensated. Then there's another coverage that most people don't think about, which is called underinsured motorist. What if the person hits you, it is the other person's fault and he's carrying minimum limits, which in some states is $25,000 per person, $50,000 per occurrence for bodily injury and only $10,000 in property damage? That won't go very far to replace your Bentley or your Mercedes.

Workers have a lot of risk. That means even if you're a sole proprietor, you need to worry about this for yourself. You certainly need to worry about all these risks if you have employees. It's important to go through this kind of an exercise to make a conscious decision about what the business will cover and what the business won't cover. You don't want to not cover something accidentally or find that you've covered something accidentally.

You should consider workers' compensation and employer's liability. Many small firms are not required to buy it. In Missouri, I think it's if you have less than four employees, you don't have to buy workers' compensation coverage. But do you know what? You still have workers' compensation or employer's liability exposure. In fact, it can be endorsed to cover the owner, so even when I worked by myself I had workers' compensation coverage because I flew on an airplane down here. What if something had happened to me on this trip or happens when I go home? I want that to be covered.

You may have employees who you don't realize are employees. For the last 1½ weeks, I have had a high-school student following me around as an intern. I am his senior project to learn what being an actuary is. I'm not paying him anything, but under the law of Missouri, he technically is considered an employee. If he gets injured while he is in my office, I will have to make sure his injuries are covered.

MR. RINTOUL: Just to note, there's a discussion in my materials about the independent contractor versus employee issue.

MS. TILLER SHERWOOD: Sometimes you might think someone is an independent contractor, but for workers' compensation purposes, he's not.

Who will provide health insurance, including medical, dental, vision and wellness? I happen to be a big proponent of wellness plans. I think you can dramatically reduce your medical, dental and vision costs if you have wellness plans. If the employer pays for it, the benefits are taxable, so it's not necessarily a good thing to have your company pay for disability insurance. I pay for my own disability insurance for that very reason. There are some similar tax issues with life insurance premiums, and for similar reasons I pay my own life insurance premium.

You need to think about retirement, not just for yourself, but also for your employees. How will you handle that? Is everybody on his own? Will you set up some very simple plan? We have a simplified employee pension (SEP) IRA.

The one risk that most consulting actuaries think about is errors and omissions. How do you handle that? Back to risk control, one of the best ways you can handle it is by having a clearly spelled out engagement letter. Dave did a great job of explaining the kinds of things you need to cover in that. The Conference of Consulting Actuaries also has a white paper on engagement letters and the items to consider.

Peer review is often a sticky issue for small firms. Who will do peer review? On what types of projects is peer review appropriate? There's also something accountants do, which is sometimes an alternative for small firms, called practice review. They don't review individual projects, but every three years or so, you have another firm come in and pick projects at random, go through the files and comment on what they see.

I know a lot of consulting actuaries who choose not to buy insurance. They think that errors and omissions insurance makes them a target for lawsuits. I understand that argument. However, I felt that it was important to have errors and omissions insurance. The Conference of Consulting Actuaries has an errors and omissions insurance program. I know the Society of Actuaries has one as well. It's through the same insuring entity. The Conference of Consulting Actuaries program is cheaper because it has some risk-control items that are guaranteed by contract not to be available to other entities, such as the Society of Actuaries. I didn't negotiate that.

There are other risks, and, again, this is a partial list of things you need to think about. One is business interruptions and continuations. There are two parts to that. You not only will lose money while you're shut down, but if, for example, the hailstorm had damaged the roof badly enough that I had to move out of my office, I would have had to rent an office somewhere else. So I would have had extra expenses that I would need to cover to continue my operations, as well as the income I lost for the several days that I would be moving the office.

I know a lot of people don't think about fidelity. I have my part-time administrative assistant on a fidelity bond. I know at least two small-practice people who have had long-term, trusted employees abscond with money, and we're talking $50,000 or $100,000. It's definitely something you need to be aware of. There also are some risk-control measures you can take. This is where you need a good accountant, and this is very difficult with a small firm. You don't want the same person handling deposits, writing checks and balancing the books. It might be easier to have one person do that, but every month I'm the person who reconciles the statements when they come in, and I'm the person who signs the checks. Sometimes you have to require two signatures on large checks. So there are other ways to handle the fidelity risk, in addition to getting a bond.

There's something called "key man" insurance. What happens if the lead person or a critical person can no longer work because he's disabled? Even if he's out sick for a few days and you have an information technology (IT) crisis, if your IT person is not there, you can have an issue. You need to think about if that person cannot function short-term, who can handle that job if that person cannot function long-term or even dies? How will you handle that? Sometimes you want to obtain a life insurance policy on a key person to cover the business's expenses of continuing in operation and getting someone to replace that person on maybe a subcontract basis until you can hire someone new.

A lot of small firms publish newsletters, and you may need to look at whether you have publisher's risk.

There are other employee benefits, and I had to think through all of these things when I hired someone, because originally I had my husband doing a lot of the administrative work. Then I had a contract employee. I didn't have to think about these things. When I decided I would hire an employee, I had to think through all of these issues.

What are the firm's holidays? If you're a consultant, you almost never get a holiday. But trust me, administrative assistants like holidays. She doesn't really want to work on Memorial Day weekend. I will be working on Memorial Day weekend. What kind of vacation benefits will you provide? What will you do about sick leave? Will you let your employees have flexible hours? Will you let them work at home? What if they don't need sick leave, but they have a sick child? Will you let them take time off for that? How much? What happens in terms of time off for a new child? There are some legal requirements for that. Some firms choose to be more generous. What will you do about adoption? There are a lot of companies that let people have time off when they've adopted a child.

Will you pay for education? I paid for my part-time administrative assistant to take a course to learn how to use QuickBooks because that is our accounting software, and I wanted her to be able to do a lot of things in that so that I wouldn't have to do it anymore. It was well worth the $450 for her to take a course at a community college in QuickBooks.

What will you do about legal benefits? Sometimes, particularly when you're dealing with professionals, you can cover legal costs that they might have in terms of doing their own retirement planning. The firm would not cover the retirement benefits, but you can cover the legal costs to help them figure out what they're doing on their own. Again, that's when you need a very good attorney and a very good accountant to make sure you're doing things in a way that is appropriate.

What will you do about retirement planning? Will the firm cover retirement? As I said, we have a SEP IRA, but that may not be sufficient. You may need to do something else as well or help your employees do something else as well.

There are some insurance products for small businesses that make this a little easier. You can get what's called a small-business package policy. It will usually cover your property and liability. It will cover computers, although sometimes it has to be done by a separate endorsement. It will also cover business interruption, but, again, you sometimes have to have a separate endorsement for that. Sometimes they want computer hardware and software listed on separate endorsements, so you actually have to read your policies. There's something called a business automobile policy, which you can buy even if you do not have a company car. Again, you will need a good insurance agent to help you work your way through this. But you need to think about collision, comprehensive, all the liability coverages we talked about and the property and liability for the drive-other-auto situation because almost all of us take business trips and rent cars.

In addition to that, there's something called a business umbrella policy. A lot of times, package policies have liability limits that are fairly low — $100,000, for example. You'll have a similar limit on your business automobile. But $100,000 of liability coverage probably isn't enough for small-business owners. You really need to have, say, $1 million. You can buy an umbrella policy that goes on top of your general liability and your auto liability coverage that will take it from the $100,000 up to the $1 million or whatever you choose as appropriate.

I think it's prudent to go through this risk-management process of identifying your exposures, deciding how you'll handle them, putting everything in place and then monitoring it, in your personal life as well as in your business life. You need to be aware of coverage conflicts that usually arise when you have different insurers. I have the same insurer for my house as I do for my business. The classic case occurred in my prior office when I was eight months pregnant with one of my children. There were two steps from my house down to my office, and some other small child of mine had left building blocks at the bottom of the stairs. Because I was eight months pregnant, I was about out to here and I couldn't see anything, and I fell on the blocks going into my office from the house. The baby was fine. I wrenched my ankle and tore ligaments. But the point is, if I would have had two different insurers, they would have gotten into an argument about who would cover that claim. Because I had the same insurer, there was no argument. You need to be aware of those issues.

You also must be aware of your deductibles and your limits. How is loss defined? Is it the actual amount of the loss, or does it include attorney's fees? That is very important, particularly for errors and omissions insurance coverage. You definitely need to have a good insurance agent and a good accountant. You need a good employee benefits consultant. Because I don't do employees' benefits consulting, I went to one of my pension buddies and bought him lunch, and he told me what I needed to do. You definitely need to have a good attorney. Then you need to reassess your risk at least every three years. Or if there's a major change in the organization or a major change in the situation of the owners or of your key employees, make sure the tools you put into place are still the appropriate ones to use.

MR. RINTOUL: A couple of benefit issues always come up. One is pre-existing conditions. If you go from one group policy to another, with no break, the second policy cannot assert a pre-existing condition limitation. If you or a member of your family has a pre-existing condition, it's very important that you don't have any lapse in group coverage. That means you may have to pay for COBRA from your former employer until you can transition into another plan. If you don't have a pre-existing condition and you're on your own, you're probably better off getting individual catastrophic coverage. Just retaining the risk of doctors' visits and all will be less money.

MS. TILLER SHERWOOD: For example, Tiller Consulting Group only pays for full-time employees — that would be me — for medical coverage. We have a $2,500 per person, $7,500 per family deductible.

MR. RINTOUL: I haven't seen people using health savings accounts, but I think that's going to be done more and more by small firms and independent consultants. On disability insurance, it's really important that you read the policy. You want to make sure that you're disabled if you can't do consulting actuarial work any more. If your job requires that you climb on a plane every week and fly, and for whatever reason you can't fly anymore, but you can still sit at your computer, you want to make sure that you'll be considered disabled.

MR. RITZKE: I'll just cover a few things very quickly. It's basically a laundry list of resources that are available that you might not think of when you're starting a business. Chris talked about backing up your software. Really, all I want to emphasize, in addition to what Chris talked about, is whatever you decide to do in backing up software, you have to remember to do it. You don't have an IT department. If you're working in your insurance company, they back up everything every night. If something goes bad, you just have them to get it off the tape. You don't have that available anymore. When I first started out — as Chris said, you get smarter and smarter — I backed up the computer once every couple of weeks. Once every couple of weeks is not enough. You must back up daily.

It's not just a matter of losing a week's worth of work. It's your reputation with your client that you have to be concerned with. Because if you have to go to them saying you have a week's delay because you lost all the work you did in the last week, you'll not only lose the billings from that last week, you'll probably lose a client because they know you're not reliable. You really have to concentrate on that. I know when you get busy it's very easy to forget about it. I finally got this tape machine that reminds me every morning to stick in a new tape. I have an off-site Web server that I upload files to so that I don't have to worry. If my house burns down, at least I still have my important business files. My computer is about four years old, and when I rebooted it the other day I heard a click, click, click noise. I know just from having my hard disk crash several times that it means I have to buy a new computer because sometime soon thing will go down. I just want to reemphasize all of that.

Another issue is, "I have no protection." Again, when you have your own IT department, everything is kept up-to-date for you. You really have to establish a routine to make sure your computer is well protected with antivirus software — you guys know about all of this. It's just a reminder. You need to guard against spyware and keep operating systems up-to-date. You have the Windows update facility you can use to keep your operating system up-to-date. You really have to make an effort to keep on top of that. Even if you go outside and have outside support and the Geek Squad helping you with that, there are certain things that you have to get really disciplined to do on a daily basis to protect your machine and protect the data you've developed. You have to be up-to-date with firewalls and be very careful about security.

Here's a big one now. If you have your own office, you don't have to worry about this. I work out of my house. You really want to make sure that you just keep the rest of the family off your machine. For example, I had my peer-to-peer networks in the house, including the family machine. One of the things I learned is that when you copy data over the network and you write over something over a network, the recycle bin doesn't work. It doesn't go to the recycle bin. When you erase data over the network, it's gone. I paid for that one time, so now I make sure that even though I'm connected to the family machine and sometimes use it as a backup machine, I make sure that you can't write over the network. In my case, it's just too big of a risk. Also, kids run instant messages and download other things, and it can really screw up your machine. You want to be careful about that. I know when you work at a company, all the power-PC users are typically in the actuarial department. You really didn't want to listen to IT telling you that you can't do this, or you can't install this. When you go on your own, you want to do all of that. The truth is that they really had a point about security and being careful about what you put on your PC.

Another thing when you go out on your own is that you have no secretary, at least initially. One of the things I've found that is really helpful is I go through a great effort to minimize paper. One of the ways I do that is, when I have a conversation with a client or he calls me and I'm talking over the phone, I make a point of following up that conversation with an e-mail. Just for the very reason that when I follow up with an e-mail, I don't have to write that conversation that I had down, put it in a file and never be able to find it again. I have a system for organizing all of my e-mails. I can go back to a conversation I had in 1999 and pull that up in a few seconds because I've always followed that up with an e-mail. I have an e-mail archiving approach to keep track of all that.

You should get a good scanner. If you're like a lot of actuaries, you're not exactly the most organized person. You get papers, documents, memos and letters. You can stick them in a file, but there's a good chance that once it goes into that file you'll never see it again. Because my filing system leaves a lot to be desired, I take documents I get and I scan them to save them in the computer. I can archive them on CDs. Even if I'm not really organized, I can still use the search function and search for text and retrieve that information. It's also really valuable to do that for clients. If you get some documents — maybe you're on a committee — you scan useful documents into an Adobe PDF document, send them out to your clients and they find it really useful. They can use the search function in Adobe Acrobat rather than having to scour the document. That's one piece of software that I highly recommend. I'm not talking about just the Reader; I'm referring to the Adobe Acrobat system. You scan documents, they become searchable and they take up a lot less space, especially when you're working out of your house and your wife doesn't want you to fill all the closets with your old papers.

I'm not really into Blackberry planners and all that, but you really need to think about organizing your time because you don't have a secretary to tell you that you have an appointment. I like to use the reminder functions on Microsoft Outlook so that every morning it will pop up with the four or five things I have to remember to do because I have nobody else reminding me.

Another issue is that you have no corporate library when you're out on your own, and that can be difficult. I'll just list some resources that may be of value to you, depending on the kind of practice you're going into (Ritzke Page 27, Slide 3). I've found that if you need to look up insurance regulations or things of that nature, Westlaw has a nice program. Maybe David has some ideas on that, too, but Westlaw has a program that's very affordable for when you're on your own. You can pay about $40 per state per month for online access to state insurance regulations. If you really need a lot more, you can get an ultimate package for about $140 a month that has access to their entire database. Even with the $40-a-month service, if you search outside of your state or you need to look at federal regulations or Securities and Exchange Commission (SEC) regulations or whatever, you can do that, and they just charge you based on time. That's pretty valuable when you don't have a corporate law office that can look up insurance regulations for you. There's another service — Nils Insurance Services — but they don't really have anything for a small practitioner that's very affordable. If you need tax regulations — things like 7702, 7702(a) regulation — The CCH Group has a tax law service (tax.cchgroup.com) that costs about $150 an hour to use. You don't use it an awful lot maybe, but when you need it, you need it. If you can just use it once a year to look up tax regulations that you need, it's often worth it.

Of course, there's all the free stuff. I'm not going to go over this, but I find the Society and Academy Web sites, the SOA library and the practice notes —all of those are available online. I don't keep my Actuarial Standards of Practice folders up-to-date because they're all online on the Academy Web site. These can be very useful when you need to do some research on various issues. You can subscribe to *National Underwriter* newsletter, but they also have an online news e-mail that comes every morning to your e-mail box (Ritzke Page 28, Slide 1). It's really helpful when you don't have much time and you're trying to stay up on what's going on in the industry, such as new laws and regulations or the latest controversies. You can go to the National Underwriter site, sign up for that and get news items every day. I'm sure there are many others available, too. It's something to think about. AM Best has the same kind of thing. They have a Best news e-mail service and, of course, all of their other services. Also, don't forget about the public library. Some things, such as the Best insurance reports, are very expensive. They want hundreds and hundreds of dollars, but there's a lot at your public library that you can get at when you're on your own and doing research.

There are also entrepreneurial resources. I found a Web site that is very useful, particularly if you're looking at writing business plans or looking to raise money.

There are all kinds of services. They have various e-mail newsletters as well that are available to you.
For legal forms and advice, if you have some of those smaller legal issues that you want to handle without a lawyer and you just need a form to fill out or samples of a license agreement for software or whatever, I found this Web site. They have free forms and sample contracts that you can download. The NAIC's Web site is also very valuable. For example, at the NAIC site, they have links to all the state insurance departments. Often there are links you can use to talk to the actuary in the state insurance department. For the state of Illinois, in particular — I'm from Illinois — you can sign up for the actuaries' newsletter, and they'll send out announcements on cash-flow testing and what they're planning to do for the next year. That can be pretty valuable. Then, of course, there are the search engines, which are a pretty obvious resource. There was one I found particularly helpful, www.findarticles.com, for finding insurance articles when you don't have all the resources of a corporate library available.

Finally, when you're out on your own, you find all of a sudden that you have no friends. You have nobody to talk to, nobody to get advice from or peers to look over your work to make sure you know what you're doing. I have a couple of options for you to consider. The SOA Web site has an insurance forum (Ritzke Page 28, Slide 2). Many times when you go out on your own, you have this particular practice that you're focusing on and somebody says, "I'm looking for somebody to do this. Do you do this?" You're thinking, "Yes, I do that," and then you really need to scramble to get some information and some background. Maybe it's something you worked on four or five years ago, but a lot has been going on and you haven't kept up with it. You can go to the forum, post a question and get answers from a lot of very knowledgeable people who are willing to give you some of their time, information and advice. I found that very helpful.

Also, there's a second Web site that has a lot more traffic because it's anonymous. Some of you may be familiar with it. The Actuarial Outpost is independent of the SOA or any other actuarial organization. But SOA office candidates go to that Web site, or people who are tax experts will go there. You can pose a question on 7702 or 7702(a) tax reserves or mergers and acquisitions, and you'll find many people who will give you some useful information and places to look. That's very helpful.

Finally, you want to stay involved in professional activities. This is one of the things that I've learned after being in business for 10 years. When I first started, I was very careful about my time and my expenses. One of the things that is really easy to cut out is going to meetings like this. Get involved in Society committees, or maybe on an exam committee. I was on the Illustration Practice Notes Committee. Or you may get involved in the various SOA sections or with the CCA. You may really hesitant to waste time on that. You may look at it as a waste of time because you're not making any money, and you look at it and say it's not even clear that it's helping me drum up business. But I found that, for the most part, cold-calling companies and telling them, "I can do all this. Do you want me to work for you?"

doesn’t really work. Most people hire people who they know and trust and who they’ve done things with and got along with. I have received business just by being involved and not even actively trying to drum up business, but just being involved. In Society activities and other professional activities, people get to know you. You work on different projects where they say, "You know, that guy did some pretty good work there. He seems pretty reliable. This is what he specializes in." You’ll get a referral or business that way.

Our next speaker is Dave Miller. Dave works with entrepreneurs, business owners, coaches, consultants and independent professionals who are struggling to attract enough clients. There are a lot of us doing that. He also works with executives and leaders looking to have more influence and have a greater impact on their organizations. In addition to one-on-one coaching, Dave is a speaker, author and workshop facilitator, leading seminars on leadership, marketing, sales, influence, team-building, relationship-building and how to add significant value to your organization or business. Prior to coaching full-time, Dave worked as a consulting actuary with AON Consulting, advising insurance companies in the areas of life insurance product development, product implementation and product tax compliance. The nice thing about Dave is he’s one of these coaching kind of guys, but he’s an actuary, too, so he knows our psyche. He's also a consultant to Fortune 100 companies about how to use life companies effectively to fund employee benefits. At AON, Dave also trained hundreds of consultants in the skills and strategies of new business development and managing client relationships. Prior to working at AON, Dave ran an annuity product development area at Penn Mutual Life Insurance Co. Dave attained his fellowship in the Society of Actuaries in 1992. He has a bachelor's degree in actuarial science from Lebanon Valley College. He received his master's degree in Christian Counseling in 2004 from the Philadelphia Biblical University, where he also serves as adjunct faculty.

MR. DAVID C. MILLER: We’ll do some interactive things right now that will help your potential business. The first question I’d like you to ponder is — take a minute and just brainstorm, but don’t give it a ton of thought, just kind of off the top of your mind — if you could start three possible businesses, what would you be doing? Just jot down succinct sentences. "I consult to life insurance companies on this particular product development," or whatever you think it is. We’ll do something with that information that’s really important. If you have a business, you can think about, "What particular niches can I focus on? What particular target clients? What particular services?" You’ll refine what you’re doing maybe a little bit more specifically.

While you’re just trying to think about that, Chuck did a really good job introducing me, so I won't spend a lot of time on that. But I'd like to talk about my background really quickly. I spent nine years with an insurance company. I worked in product development, and I tended to gravitate toward the people side of the business. I liked working with product managers and the creative process with the sales teams. I liked the technical aspects as well, yet I found myself gravitating more toward the people side of the business. Then I spent seven years with a consulting firm. It was a benefits consulting firm. They wanted to start a more traditional actuarial practice to insurers, so my charge was to build that. That's where I learned a lot about business development, getting clients and getting big contracts. In doing so, I really ended up training other consultants at the firm on how to do that.

Over that period of time, there were a lot of questions in my mind about identifying my destiny in terms of do I want to do this the rest of my life? That led to me building a coaching practice, my own business, where I helped consultants attract clients and get big contracts. That's primarily what I've focused on for the last 2½ years. Again, the big challenge there was how do I get business? How do I get clients? I'm building something basically from nothing, something I hadn't done before. How do I do that? The best part of this for me was proving that I can do what I love and make a living at the same time.

That's what I want to talk to you about today, because I did some research on this. The biggest reason small businesses fail is because it's too hard to keep their doors open. That's a marketing and sales problem, because if you can get a steady stream of clients, the cash-flow issues can take care of themselves and everything else. It covers a lot of sins. You can stay alive and you can thrive. That is the biggest challenge because many people who start their own businesses are very gifted technically in whatever field they're in. They say, "I've been doing this for 20 years. Let me try it myself." But if you can't sell what you do, money doesn't come in.

That's probably the most powerful aspect of that for me. When I coach people in this, I have them start with this whole power of niching and focus. What is a niche? A popular way to define a niche market is, a similar group of people with common interest and needs. Picture fishing on a big lake or in a big bay where there are tons of different kinds of fish. There are many other boats out there with you. All kinds of different baits could work, so you're out there trying pretty much anything. There is a lot of competition. You're not sure what you're after. You may get some fish; you may not. That's one approach. Now picture finding a small pond stocked with hungry fish of a specific type, and hardly anybody knows about this pond. There's one kind of bait these fish like. You use this kind of bait, and once you drop the hook in, you're pulling fish out.

That's niching. I think the fastest way to grow a practice or a business is to get specific. When I work with people, a common concern with doing this is, "If I get too specific, I'll cut out all kinds of opportunities." It's a natural fear. What I've found is that the opposite is true. If you can get specific, not only do you get that particular target market coming in, but a lot of the other things you wanted to do also will come in with it. For my personal example in coaching, I started out as a general coach — life coach, business coach, all of the above. I'll coach you on anything, from losing weight to earning more money to your business, your relationships — everything. That was pretty hard to sell, to be all things to all people. What I found when I niched in business and sales coaching is that I do a lot of personal coaching. I just had someone hire me last week to help him lose weight. Even though you're niching, it doesn't mean that you're cutting out the possibilities.

The advantage of niching is that you become really familiar with particular specific problems your target market has and how to help them with that. You're focused on one kind of issue, one kind of problem. You get really good at that because you're working with a lot of people in that same area. You see the patterns. You see the commonalities. This leads to you having a more powerful marketing message. That is another common ailment of business owners. They can't articulate effectively what they do so that people really care. Let me go back to the coaching example. I could come to you and say, "I'll take their life to the next level, whether it's business, your physical health, your finances, your relationship or time management. Whatever it is, we can work on this. Or I can say, "One of the things I do is to help small business consultants write large contracts." It's pretty simple and pretty basic. You know what it's about. I'll attract a certain prospect with that message, and they'll know what I do. Your marketing efforts seem more efficient because it's easy to identify whom you're selling to. You're not trying to sell to everyone who breathes and has two legs. You're getting more specific. You're finding who your target market is. When you talk in front of groups, you can talk in front of specific groups. When I started my practice, I was part of a chamber of commerce group on parenting and family. I figured I could do some marriage coaching, some family coaching and some parent coaching. I don't do that anymore. I still stay tied into that group because I'm concerned about that area. But I don't spend as much time there because that's not my target market.

You also gain a greater competitive advantage because your competition will try to be all things to all people, whereas you're being very specific in terms of whom you help and what you do. That's all you work on. If you have a specific physical ailment, would you rather go to a general practitioner or would you rather go to a specialist to have that taken care of? People like working with specialists. Then you'll begin attracting prospects to you. These are some of the advantages to niching. The question is how do you zero in on this? If I buy into that, how do I identify what a good niche is?

It's really, I think, a combination of three things. This is borrowing a little bit from Jim Collins' book, "Good to Great." The first thing is your passion, what your passion is all about — what you'd really like to do. The second area is your strengths, your skills and tying in your experience, what you're really good at. The third area is the needs of the marketplace. There must be a need in there. If you have two of the three, it's not ideal. For example, if you have a lot of passion and a lot of the strengths in the area, but there's no need in the marketplace, what happens? Let's say you have a real passion for building accordions, and you're really good at it. There might be, for all I know, but there's probably not a huge market for accordions. You'll starve, right? It won't work for you. It becomes a good hobby, possibly, for you.

Let's say you have a lot of passion and that you're meeting the needs of the marketplace, but you're no good at it. Let's say that you have a lot of passion for golf, and there are a lot of people who want to learn to play better golf. You could come up with these great videos or whatever to instruct people in golf, but you really stink at golf. You won't succeed in that either, right?

Then let's say you're really good at something and it meets a need, but you don't have passion for it. I think that's where a lot of people are with their careers. You can make this work financially, but how successful can you be if you're really getting bored with it? I think it was a Gallup poll that said 72 percent of those in the work force are not engaged in what they do. Basically, it pays the bills, but there has to be more to life than this. That's where I was doing actuarial work. It wasn't that I hated it, but it wasn't like I was jumping up and down about it either. We spend a lot of time in our professions. A lot of hours of our lives go to that. Wouldn't it be great to be passionate? How much better could we be, how much more creative could we be, if we were passionate? This is the ideal. If you can find the intersection, that is the niche. Does that make sense?

Let me just tell you a story about this last point, about having strengths and needs of the marketplace without passion because this hit me like a ton of bricks. Probably about 10 or 12 years ago, I was at a meeting — I think it was one of the annual meetings. It was at the general session, and the keynote speaker asked in a room of at least 1,000 people, "How many people in this room would like their children to follow in their footsteps?" How many people do you think raised their hands? It was probably something like 10. It was incredible. It just hit me. What does that say? You can't be feeling very passionate about what you do. I'm making some assumptions there, but that's how it hit me.

What I would like to do now is go through those three areas. I've given you a number of questions. Do about eight to 10 minutes of brainstorming. The idea is on each question, I want you to write as furiously as you can. Don't let your pen leave the paper. It's not something that I want you to ponder. This is just something that when you leave today, you'll have put some thought into it. I'm not saying that you'll be ready to start your business when you walk out the door. Maybe you will, but this is how it starts, working through these questions.

The first question is, in the passion area, think about what makes you come alive. What would make you love to jump out of bed each morning and say, "I'm so excited to go to work today." What would that be? Just write whatever comes to your mind. You can even think of the parts of your current job that you love to do. There are probably parts you love and parts you hate. What are those parts that you really love doing in your current job? That will give you a hint; that will give you a clue. What are the things you love? I went to a seminar where I answered just that question, and that really helped me clarify this. What do I hate, and what do I love? It was pretty clear.

Then I want you to look at those three things you wrote at the beginning of my talk, those three businesses. You even might want to look at those three things and rate them on a scale of one to 10, where they rank in terms of the passion scale. If I look at these three things, what would I be most passionate about? If it’s really high, I might rate it an eight, nine or 10. Is it medium, or is it low? See how those businesses look, those three businesses you wrote down. Maybe you said, "I’m not really passionate about any of them." Here’s another idea — maybe you come up with a different business for passion. That’s OK, too. There’s no exact answer in this exercise. It's a different kind of exam.

Let’s go to the next one, the strengths, on the next page (Miller page 4). The first part is just itemize — again, don’t give it tons of thought — what are you really good at? When you think of your skill set, what kinds of things are you really good at? It might be something technical. I’m really good with people. I’m a really good communicator. I’m a good influencer. I’m a good marketer. I’m good at problem-solving. I’m a leader. I’m a good listener. What are the things you’re really good at?

Where does the bulk of your experience reside? If you look at your experience over the years in your career, what are the things people have said you’re really good at or you’ve gotten good feedback on? Write down the things you’ve been involved in that you really have a good track record with. Where have you proven yourself in the past? Take inventory of that. You may want to look outside of your work. If you’re possibly making a career change, it may be activities you do off the job.

Then I want you to look at your potential. Where can you be world-class in an area? What’s an area that maybe I don’t have a ton of experience in, but I’ve done a little bit with this? I’m really good at it, but how can I become world-class? Will this be a 10-year learning curve, or can I climb this learning curve pretty quickly? Maybe it’s something that you say, "I've had a lot of experience with it, but I don’t know if I’m good enough to start a business. What do I need to do to fill that gap, and what’s my potential to really make it good enough that I could go out and sell it?"

Then I want you to look back at the three things you wrote at the beginning, those three businesses, and say, "If I look at my strengths, which ones line up?" If it’s really high, again, it's an eight, nine or 10, and if it’s low, maybe it's a three. How do these businesses line up with my strengths? Maybe some line up better than others.

Let's look at unmet needs in the marketplace. Who would be your ideal client? Who would want to buy your services? If you’re talking about selling to companies, who in the company would be interested? Or is it to individuals? What are the demographics of that individual? Demographics are kind of external measures, such as age, gender, education, income level and those kinds of things. Then there’s psychographics, which are the internal qualities. People who are into taking action is one example. Describe your ideal clients. It's very important to understand who your client is when you have a business, or else you don't know who you're talking to or how to gear your message.

The next question builds on that. What specific problems must your client be experiencing to want your services? Another way to think of it is, what do they have too much or too little of? People hire consultants to either solve a problem or give them a desired result, right? What problems would you need to solve? What problems would these clients be having? Maybe they need more productivity. Maybe they need to turn their profits faster or they have too little profit. Maybe their expenses are too high. Maybe they have too little time to do what they need to get done. My clients want more clients. They're not getting enough clients fast enough. That's probably the most important questions to answer in this section.

The flip side is, what is the solution you would provide for them? At this point, you may not have a specific solution, but just even in general, what do you think you could help them with? What would you help them increase or decrease in your business?

As you think about those two, let me give you some other categories to think about that are important when you think about the clients you'll serve. What's their willingness to pay? Some clients have the money, but they don't want to pay for the service. What's the ability to pay? Some really want your service but don't feel like they have the funds or don't have the funds to pay for your services. How easy is it to access these clients? How easy is it to get in front of them? Do they meet in industry groups, for example, where you can speak? Do they read certain trade journals that you could write articles for? How much competition do you have in these businesses that you're considering? The higher the competition, the less desirable it is for a niche, right? If I can find a pond where no one else is fishing and there are lots of fish, that's more desirable for me. Again, go back to those three businesses and rate them on unmet needs and how in touch you are with them. If you look at those, you can come up with a rating on a needs basis.

You guys are probably tired of doing this now. It's a lot of work, but that was a quick way of giving you some of the things that are important for a niche. Now what I'd like you to do is work with a partner. On the next page (Miller page 6), put this together because we've looked at the pieces now. What I'd like you to do is each get with a partner and each take about three minutes and talk through with each other. "Here's what I think. If I were assured of success, here's the kind of business I would start that I think would best combine my passions, my strengths and the needs of the marketplace."

I just want to make you aware of a couple of things. There's a report I have called a business development checklist, which helps you work through setting up a system to attract business. It's a nice report that gives you the pieces. If anyone is interested in that, give me your card at the end, and I'll send you an e-mail with it. The other thing I want to offer this group, too, is that if anyone wants to talk about this further, feel free to give me a call anytime. We can spend 20 or 30 minutes kicking this around. Sometimes it helps to talk it through.

MR. RITZKE: Does anybody have any questions for the panel on marketing issues, on any of the issues we talked about this morning?

FROM THE FLOOR: I'm just curious if any of you thought about a lot of these things before you went into private practice, or did you learn them after you got into it and encountered all these difficulties?

MS. TILLER SHERWOOD: I actually thought about them before I went into the business because I had moved from a large consulting firm to a small consulting firm to then my own firm. One of the things I learned from the second firm I worked for before starting my own was, in many ways, how not to run a business. When I have my own company, I will not do the following things. Then I said, "I guess that means when I start my company, I will do the following things." I also learned a lot of very positive things there. My writing improved dramatically. I got my chartered property and casualty underwriter (CPCU) and my Associate in Risk Management (ARM) and broadened my own horizons. But in terms of the actual running of the business, it was like a checklist on how not to do it. So I really did think through both of those things and I particularly thought through employees with my husband.

Because this was 1984, it was before home businesses started. I was very concerned that my clients would not take me seriously if I worked out of my house, but I confessed and told them anyway. The vast majority of them were jealous and were trying to figure out how they could work out of their houses as well. So that never really was an issue. In today's environment, it's even easier than it was then.

MR. HAUSE: I'll go ahead and echo what Margaret said. My first three years probably were a litany of all the things you should not do when starting a business. First of all, do business with people who have money. That may sound silly, but you have to qualify your clients by do you have money that you're willing to pay for this service?

Another one is, I think as Chuck said, that running around to every insurance company in Indianapolis, flopping down in the chief actuary's visitor's chair and saying, "You should use me," does not work. I have found another thing that does not work. Responding to every request for proposal (RFP) that comes across your desk is a bad idea. You can spend your entire life responding to RFPs that you have no prospect of getting. The reason they'll hire you is because you have special skills in a certain area or you're known by someone through networking or whatever to have special skills in that area. If you're a small one- or two-person consulting actuarial firm, you have to really ask the question, "If I were sending out this request for proposal, would I hire my firm? If so, give me a good reason why." If you can't come up with a good reason why, don't respond to the RFP. Don't waste your time.

MR. RINTOUL: I would just add that I agree with what has been said. I also would say that you want to do your homework and do due diligence as best you can. Make sure you have some savings when you actually take the step. There are ways to transition into this as well. But you'll never feel 100 percent ready. If I waited until I was 100 percent ready, I'd still be doing what I used to do. So there's a balancing act there in terms of doing your research, but it will feel out of your comfort zone. You'll be taking some risks. You'll have your doubts. At some point, you'll have to take the plunge to make this work.

MR. RITZKE: I definitely went into business blind. I just jumped in and knew it was something I wanted to do. I definitely didn't think this all through. When I first started I took a lot of advice from people who said, "You have to look like a big business. I wanted to call my business "Just a Guy in the Basement," because that's what I was. I spent $1,000 on brochures that basically said I'm an actuary, and I can do anything. I mailed them out to a bunch of companies, and I made a few calls, but I stopped very quickly because I realized that was a complete waste of time.

But what I did find is that I left on good terms from my former company. I was doing some work for them. I got involved in a lot of different areas of the company. People would leave that company and go to other companies, and they would hire me, or I'd get some referrals that way. What I began to realize on that side of it was, as I said before, people hire people they know. So what I really needed to do more of was not trying to cold-call like a life insurance agent selling life insurance. I really needed to continue to get to know more people and not really even worry that much about how or why I got to know them. It was getting involved in Society activities and things like this. Most of you are probably not prospects for me for the kind of work I do, but maybe some day you will be. Maybe some day you'll know somebody, and things like that can happen. That was the big thing I learned in terms of getting business.

Then the other part of it was an issue that Dave discussed. I'm working with Dave, by the way. I'm still struggling, even though I've been doing it now for 10 years, with trying to understand exactly how to explain what it is that I do and how it evolved from my passions and the things I was interested in. Dave did a Webinar and talked about being able to describe what you do in an elevator in a sentence and a half. I realized there was no way in the world I could do that because I really couldn't define it well enough. The second part of it, after getting to know people, was actually getting them to understand what I did, and I realized I first had to understand what I was doing.

SPEAKER: I would just do a sort of plug for using a practice development coach. I used one for about a year. What was interesting was that the initial niche we identified didn't work out, and it seemed to me that I had wasted all this time. But in the six months since we stopped working together, the work that I did with the practice development coach was — this is a hackneyed word, but it was transformational. I approached my business and personal life in a very different, much more constructive, productive, low-anxiety way than I did prior to using this guy.

MR. RITZKE: Anything else?

FROM THE FLOOR: In terms of your personal experience, have you been able to get the majority of your clients through direct personal solicitation, or do they initiate the contact?

MS. TILLER SHERWOOD: When I first started, I had a very nice situation. I gave my employers three months' notice that I planned to do this, realizing that he could fire me the day I told him. But because I was his only credentialed actuary, I thought that unlikely. I said, "You need to decide if you're going to replace me, or if you want to subcontract work to me, that's fine." He didn't think I was really serious about leaving, so he took no steps to replace me and was really surprised when, in fact, on Jan. 1, I said, "That's it. We're done." He ended up subcontracting a lot of work to me because he decided hiring actuaries was too much trouble and that arrangement would be better.

That went on for quite a while, but I also did what I call long-term marketing. I did a lot of speeches to potential client groups. I did a lot of writing in places where potential clients would see the writing. I worked a lot in professional organizations and now, 20 years later, people do know who I am through my writing and through my speaking and through being the president of the Conference of Consulting Actuaries. I was surprised to find that even now, I'm getting new kinds of business that I didn't have before because I was so visible. I took a huge financial hit to be the president because it took more than 1,000 hours of my time last year.

But as I said, all of a sudden I'm getting a whole bunch of other new business. I'm getting more expert witness work, for example. I just got a call about being an arbitration panel's actuary, as opposed to an actuary for either side. I don't think that work would have happened had I not been so visible and so involved in professional activities. Those are the long-term marketing things you can do. I agree with everybody else. Cold calls basically never work. It's whom you know. I got a referral last week from an attorney because our kids go to school together, and we talk to each other at field hockey games. So you can get referrals from many different sources.

MR. HAUSE: By far the people who I don't know who contact me have come to me by virtue of my experience with the Society of Actuaries committee or my existing business relationships. I'll echo what Margaret said. There's no substitute for being out there and talking to people with common interests. There's no substitute for that in this business. It's fine if you have one client who will pay you to do work for them for the next 20 years, but I haven't found that client yet. You have to have 10 to 15 clients per consultant because it's going to come and it's going to go. You'll have clients drop off and merge and things like that. You have to really think about how am I going to really get to that level of 10 to 15 clients? The only way to do that is to network.

MR. MILLER: When you start your practice, a lot more active marketing is required, where you're knocking on doors, you're getting out there, you're speaking and you're approaching potential prospects. It's akin to getting the space shuttle off the ground. It takes a lot of effort. But as time goes on, if you're out there speaking, if you're out there writing and you're out there doing good work, then through referrals and word of mouth, your phone starts ringing. Some of the passive marketing strategies, such as writing a newsletter, keep-in-touch strategies and those kinds of things start kicking in. The thing is that you can't live by that. I know a lot of people who start a business spend a lot of time on their Web site, on brochures and maybe doing a newsletter. It takes some time for that kind of thing to really kick in, where people start calling you. You can't depend on that at first. I think it's an allocation, where there's a lot more active marketing, and you're out knocking on doors first. Then, as your business matures more and you've done a good job, you still have to do that active marketing, but the passive marketing starts kicking in a lot more.

MR. RINTOUL: I do a lot of active marketing. Probably the time that my phone rang the most, though, occurred once when my business was down and we decided to change our e-mail system and change our e-mail addresses. I sent an e-mail to everybody in my address book to tell them that we were changing e-mail addresses. I must have gotten a dozen or 15 calls from people saying, "I've been meaning to call you." There was no business intent in sending out those e-mails, just a notification that I changed my e-mail address. I must have got 10 jobs of varying sizes by changing my e-mail address.

MR.MILLER: I do my calendar so it pops up on my computer if I haven't talked to clients in 90 days. I'll just call them and ask how things are going. I know enough about their business that I can ask about how things have gone, and that very frequently results in business.

As far as establishing the direct connection, lawyers are pretty introverted people, and I think actuaries are, too. While I'm happy to talk to a room of 3,000 people, send me into a cocktail party with no one I know, and it's absolute terror. But do you know what? Everyone wants to talk about their business. Everybody is willing to talk about their business. What do you do? What are your challenges? Who is your ideal client? We're all aware enough of things going on in business that we can come up with some question to ask. By showing the other person that you're interested in their business, you don't have to tell them about your business. That will come. Once they know that you care about hearing about their business, they'll want to hear about you, and trust is established. You don't have to sell. It's a matter of showing that you care about learning about that person's business.

MS. TILLER SHERWOOD: I'll make you feel better, Dave. I actually hired the attorney who does all of our corporate work after meeting him at a cocktail party.

MR. RITZKE: I think the other thing, too, with direct soliciting of business is that if you're in product development and developing life products, you won't convince somebody that they need to develop a new life product unless you have something really unusual, for the most part. So when you do the direct solicitation the results may come way down the road when they hit that point of pain and they remember you. That's the key. They really have to remember you.

The passive business I've gotten is very unusual. I talked about the online forums. I've gotten business just because I've participated in online discussions. People know what I'm talking about and they contact me. I'm one of the few people on the one forum to use my real name because I want people to know that it's me. Sometimes that can get me in trouble, but I've gotten business from that. I got involved in my business incubation with the dot-com company because I wrote articles on a Web site. I had somebody call me out of the blue who wasn't even in the insurance industry and say, "I think I need an actuary." It so happened that when we tried to figure out whether we trusted each other enough to work together, he happened to be the Sunday school teacher for my kids at our church. It sealed the deal. So the other part of it is that you have no idea, even if you're in the industry and doing a very focused, narrow thing, where business will come from, but you just have to keep on the lookout for it.

MR. MILLER: I started doing work for independent consultants because I sang in a choir with somebody. We had stopped singing together for probably three years, but had some casual contact and that resulted in a whole new practice area.