

The E&S Empire Express



One Exchange Plaza,
55 Broadway, 29th Floor, New York, NY 10006-3728

Tel: 646-292-5500
E-mail: elany@elany.org Web site: www.elany.org

HERE COMES **CyberCompass™** + MORE!

ELANY is rolling out its latest complimentary offering for active members—**CyberCompass™**. This online compliance tool has been specially tailored for ELANY and its members. CyberCompass™ will allow excess line brokers to create New York regulation-compliant risk assessments and individualized cybersecurity policies and procedures, manage third party vendor compliance, and file required compliance certifications. We believe this product is unique and ELANY is excited to provide it gratis to actively-licensed members who have filed insurance policy documents with us since January 1, 2018. Look for information on how to enroll and to whet your appetite, check out this [video](#).

In addition, ELANY is extending its free cybersecurity awareness training offer through the end of 2020. Beginning January 1, 2020, any actively-licensed members that have filed insurance policy documents with us since January 1, 2018 will be eligible for a new or renewal one-year subscription to our sponsored online training. Of course, any actively-licensed member that has filed insurance policy documents with us since January 1, 2017 may enroll or renew their subscription through the end of this year (and doing so will entitle the member to a 2020 renewal assuming they qualify at that time). To date, ELANY has paid to train 19,000 individuals at 175 firms.

A TRIBUTE TO THE LATE SENATOR BILL LARKIN



New York State Senator Bill Larkin, one of the greatest of the greatest generation, passed away on August 31 this year. Bill enlisted in the Army in 1944 at the age of 16 and served in combat in the Pacific Theater and later saw combat in Korea. Private Bill Larkin rose through the ranks during his 23 year Army career and retired in 1967 as a Lt. Colonel. He received numerous medals for his distinguished service.

Bill's career in public service spanned another 40+ years, first as a town supervisor in New Windsor, then as an Assemblyman and ultimately as a Senator for almost three decades.

The staff and Board at ELANY had the pleasure of working with Senator Larkin on numerous insurance projects and legislation. He was a stalwart of the Senate Insurance Committee. Bill supported the causes and legislation in which he believed.

He was the type of Legislator that would support legislation without regard to whether it was sponsored by Republicans or Democrats. He was able to do so without criticism regarding party loyalty because he brought an incredible sense of ethics and fairness to any matter he thought worthy of support, or for that matter opposition.

Bill was also a true gentleman. He listened to his constituents, his fellow legislators and industry representatives

and demonstrated a keen sense of interest and understanding in the matters that came before him. When he agreed with you, he took on your cause like Teddy Roosevelt charging up San Juan Hill. If he disagreed, he rarely took it personally or showed his temper or disdain for a proposal. When Bill retired from the Senate, he was the second to last WWII veteran serving in a state legislature. He leaves behind his loving wife Pat, 8 children and stepchildren, 17 grandchildren and 2 great grandchildren.

Inside...

- Excess Line Broker Dos and Don'ts 2
- Reporting of Multi-Year Premiums 2
- ELANY Is Getting New Digs 3
- Annual Meeting A Grand Slam! 4
- ELANY Welcomes Steve Guest As Financial Director 4
- 30 Years Of Advocacy 4
- Congratulations Janet Pane! 4
- Major EEFS Enhancement Coming Soon! 5
- Annual Report And ELANY Elaborates 5
- 2nd Annual Surplus Lines and Reinsurance Forum—Another Success. 5
- Farewell to Christine Briglia 5-6

EXCESS LINE BROKER DOS AND DON'TS

ELANY Executive Director Dan Maher recently discussed excess line Dos and Don'ts on the **Spot on Insurance podcast**. Here are some of the highlights.



DOS

1. Anytime you are expanding your business into a new state, do your homework first. While obtaining the proper licenses is step one, you should also find and utilize resources to help guide you. Check with the state stamping office if one exists or the **Wholesale & Specialty Insurance Association (WSIA)**. You can also contact local trade associations.
2. Pick the right *home state* for compliance purposes. If you don't, it's impossible to have complied with the applicable law and you get no credit for complying with the wrong state's law.
3. Report your transactions in a timely manner. When you don't and one or more slips through the cracks, you'll probably underpay your taxes. New York will fine you based on the assumption you never intended to file, as happened to a New Jersey broker that recently paid a \$150k+ fine.
4. Every New York E&S licensee must file a tax return by March 15th of the following year even if they didn't utilize their E&S license. The state imposes a financial penalty if you fail to file a tax return, including a "zero" return. All premiums must be reported on a WRITTEN BASIS and not on a cash received basis. If a policy is written for a term which exceeds one year, the premium for the FULL term, i.e., two, three or more years, must be reported in the year the policy is written.
5. Renew your licenses as early as possible. Small mistakes can require a resubmission of the application and sometimes results in an unlicensed gap between licenses.

DON'Ts

1. Don't deliver copies of excess line insurance policy declarations pages or cover notes to policyholders unless they have been "stamped" by ELANY, even when a binder or confirmation of coverage on the same transaction was previously stamped. Both Section 2118 and Regulation 41 state that it is unlawful for an excess line broker to deliver an excess line insurance policy declarations page that does not bear the "stamp" applied by ELANY. The ELANY

"stamp" indicates that the excess line transaction, submitted by the excess line broker, was reviewed by ELANY and determined to be in compliance with all applicable excess line laws and regulations in New York.

2. Don't assume that all states permit the placement of certain coverages and risks or other conduct simply because one state allows it. In fact, never assume New York agrees with other states—it often doesn't.
3. Don't issue group or master policies in New York unless it is for a Purchasing Group or falls under a limited exception. The New York Department of Financial Services (DFS) has fined brokers for filing illegal group policies, and fined others for not filing New York insureds within such group policies. Break out New York risks and issue separate policies. That is the correct way and will avoid New York fines.
4. Online on-demand use-based price insurance is here to stay and will grow in the future. However, it's not here for "direct to the public" E&S products yet. Don't get ahead of changes to the law.
5. Don't procrastinate when responding to a regulator's inquiry. They will interpret that to mean you see them as unimportant. If you need more time to respond, ask for it.
6. Don't operate a New York office binding E&S business without a proper legal status. While eligible E&S insurers can share office space with a licensed insurer affiliate, don't operate a separate management company to bind E&S business from a New York office without an excess line license.

REPORTING OF MULTI-YEAR PREMIUMS

In response to recent inquiries and confusion about how taxes are calculated on multi-year excess line policies, please be advised that the New York Department of Financial Services (DFS) has consistently interpreted Section 2118(d) (1) to mean that excess line brokers are to pay premium taxes on 100% of gross premiums for the FULL term of the insurance policy coverage period in the tax year the policy is written based on the policy's effective date.

The "Instruction Section" of the New York Premium Tax Statement informs excess line brokers of the following with regard to taxes paid on multi-year excess line policies: "All premiums must be reported on a WRITTEN BASIS and not on a cash received basis. If a policy is written for a term which exceeds one year, the premium for the FULL term, i.e., two, three or more years, must be reported in the year the policy is written."

Any other interpretation or understanding of this requirement is contrary to the position of the DFS.



ELANY IS GETTING NEW DIGS

During the first quarter of 2020, we will be saying au revoir to our current office on Broadway and bonjour to our new home on Wall Street. With a sleek design and views of the Brooklyn Bridge, our new headquarters will position us for future excess line marketplace growth and technological innovations.

We are especially excited to announce that our new space will include a conference center capable of accommodating up to 50 people. This facility will have state-of-the-art audio and visual capabilities and the ability to accommodate multiple configurations, including split rooms.



Now for the stunner—the facility will be available *at no cost* to members and other industry organizations. That's right, free meeting space in the middle of New York City's financial district. We'll even throw in coffee, soft drinks and a continental breakfast for morning meetings. Look for details in the near future.



ANNUAL MEETING A GRAND SLAM!

What could be better than spending a beautiful evening at Yankee Stadium with 140 of our friends? It was wonderful seeing members and colleagues out at "The Stadium" for ELANY's Annual Meeting. Executive Director Dan Maher reviewed highlights of the year and financials, and gave attendees a look at the exciting developments that are in the works. Check out our [gallery of photos](#).

ELANY WELCOMES STEVE GUEST AS FINANCIAL DIRECTOR

ELANY is pleased to welcome **Steve Guest, CPA, CFE, ACI** to ELANY's senior management team as Financial Director.

Steve comes to ELANY as a 26 year independent regulatory contractor working primarily as a field supervisor of National Association of Insurance Commissioners (NAIC) multistate, lead state and domestic company financial examinations of excess line, property-casualty and life and health insurance companies, as well as reinsurers and captives. In addition, Steve has worked on troubled companies, fraud investigations, supervisions, liquidations, captive manager operations assessments and has presented training to national conferences, state insurance departments and the NAIC on a variety of insurance subjects, examination matters and regulatory topics. Steve has a total of 33 years working in the industry and is a graduate of Lamar University.



"Steve brings a deep set of skills to ELANY, which will help brokers assess the financial condition of carriers in the excess line marketplace," said ELANY Executive Director Dan Maher. "Moreover, his broad and deep experience in the insurance community will significantly add to ELANY's senior management team."

30 YEARS OF ADVOCACY

As part of our 30 year anniversary celebration, we released our **ELANY-30 Years of Advocacy video**. Commemorating ELANY's advocacy efforts throughout its history and the role we play in public policy debates, the video features commentary by key legislators and industry players in Albany. We view part of ELANY's role as being a frontline voice for the needs and interests of excess line consumers, brokers and insurers in New York. ELANY has advocated for and against legislation over the past thirty years in fulfillment of that mission. Consistent with this long tradition, we are currently working on three bills in Albany that would streamline the declination and affidavit process, open the medical malpractice insurance market to excess line brokers and insurers, and permit the insurability of punitive damages awards in New York. Our work on your behalf continues.

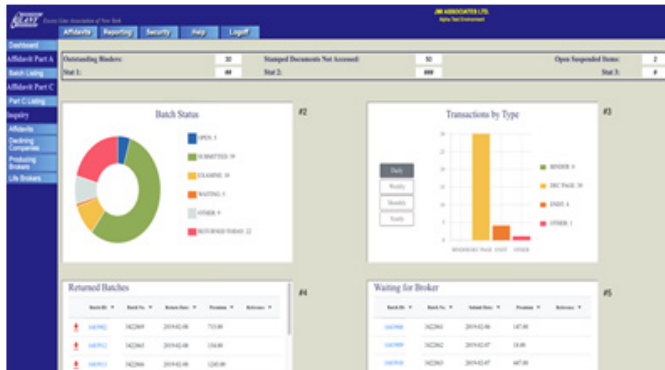
In case you missed it, take a peek at our [30 Year Anniversary video](#).

CONGRATULATIONS JANET PANE!

ELANY Immediate Past Chairwoman **Janet Pane** has been named to Insurance Business America's 2019 Elite Women list. Janet is Managing Director and Head of Global Services & Solutions for Willis Towers Watson. ELANY has benefitted from Janet's extraordinary vision and energy since she joined its Board of Directors in 2009. Under Janet's leadership, ELANY instituted a free cybersecurity awareness training offer for its members, a unique and unprecedented service to New York licensed excess line brokers.

"We at ELANY can attest to Janet being elite and we congratulate her on this honor, which recognizes what we have known for the past 10 years," said ELANY Executive Director Dan Maher.





MAJOR EEFS ENHANCEMENT COMING SOON!

The ELANY Electronic Filing Portal (EEFS) is getting a major enhancement that will provide dynamic data via a newly designed Dashboard display. It will be interactive and customizable by brokers to display pertinent on-demand information and metrics, all at their fingertips. Brokers will be able to uniquely tailor the Dashboard to capture and track their filing data.

ANNUAL REPORT AND ELANY ELABORATES

Take a look at our **2018 Annual Report**. It provides an excellent and attractive overview of ELANY's 2018 activities, including statistics, member services and advocacy. ELANY Chairman Lance Becker's message emphasizes technology, our new headquarters, and his focus on ELANY's branding so that a broad cross section of the marketplace will understand our role and the value ELANY offers.



We published another edition of **ELANY Elaborates**, our in-depth look at insurance industry issues of interest to the excess line community. This one is entitled **New York E&S Regulatory Modernization: A Common Sense Approach**. The publication discusses legislation that ELANY is advocating for in Albany that would eliminate the need to obtain declinations for commercial insurance policies placed by unaffiliated retail and wholesale brokers, as well as reduce the number of elements that must be reported on affidavits where declinations were still required.



2nd ANNUAL SURPLUS LINES AND REINSURANCE FORUM—ANOTHER SUCCESS

ELANY, **The Insurance Federation of New York (IFNY)** and **Stroock and Stroock and Lavan** held the 2nd Annual Surplus Lines and Reinsurance Forum on May 22nd at the Union League Club in New York City. The program was comprised of three panels:

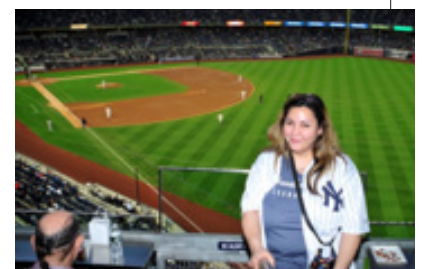
Surplus Lines—Serving Unmet Needs, featuring ELANY member firm representatives Nancy McCabe, Compliance Director, North America, Willis Towers Watson; Jon Lipton, CIC, CRIS, President, Castle Rock Capacity, LLC, an Epic Company; Maya Cruz, CPCU, Area Vice President, Risk Placement Services, Inc.; and excess line insurer executive, Richard E. Jodoin, Vice Chairman, Allied World Assurance Company US.

Reinsurance Panel—Insurance Business Transfers—Pros and Cons featuring Matthew Gendron, Esq., General Counsel for the Rhode Island Insurance Division and Robert Redpath, Senior Vice President and US Legal Director at Enstar.

Former Commissioners' Roundtable featuring Kevin McCarty, former Commissioner of Insurance for the State of Florida; Katherine Wade, former Commissioner of Insurance for the State of Connecticut; and James J. Wrynn, former Superintendent of the New York State Insurance Department.

Farewell to Christine Briglia

Although she was only at ELANY for a short time, Christine Briglia left her mark.



continued on page 6

continued from page 5

An Executive Assistant extraordinaire, Christine was a beloved member of the team who had the wonderful ability to anticipate needs and meet them before anyone even knew they existed. Many ELANY members had the pleasure of dealing with her and no doubt enjoyed her ever-cheery and welcoming demeanor. An avid KISS and Joan Jett fan, Christine sings lead vocals in a rock band when not enjoying her family and making everyone else's life that much brighter and easier. She will be missed and we wish her all the best in her new position.

CALENDAR	
2019	
NOVEMBER	
Friday November 8	The Insurance Federation of New York (IFNY) 105th Annual Award Luncheon Union League Club New York, New York
Wednesday–Thursday November 13–14	The New York Insurance Association (NYIA) Annual Meeting Century House Latham, New York
DECEMBER	
Saturday–Tuesday December 7–10	National Association of Insurance Commissioners (NAIC) Fall Meeting JW Marriott Austin Hyatt Place Austin Austin, Texas
Tuesday–Thursday December 10–12	The National Conference of Insurance Legislators (NCOIL) Annual Meeting JW Marriott Austin, Texas
Friday December 11	Insurance Industry Charitable Foundation (IICF) Benefit Dinner Gala Cipriani New York, New York

2020	
JANUARY	
Sunday–Tuesday January 12–14	California Insurance Wholesalers Association (CIWA) CIWA Industry Days Hilton La Jolla Torrey Pines La Jolla, California
Thursday January 30	Professional Insurance Agents of New York (PIANY) MetroRAP 2020 Sheraton New York Times Square, New York
MARCH	
Sunday–Wednesday March 1–4	Wholesale and Specialty Insurance Association (WSIA) WSIA Underwriting and Leadership Summit JW Marriott Desert Springs Resort and Spa Palm Desert, California
Thursday–Saturday March 5–7	The National Conference of Insurance Legislators (NCOIL) Spring Meeting Charlotte Marriott City Center Charlotte, North Carolina
Saturday–Tuesday March 21–24	National Association of Insurance Commissioners (NAIC) Spring Meeting Sheraton Grand Phoenix, Hyatt Regency Phoenix, Phoenix Convention Center Phoenix, Arizona
APRIL	
Thursday April 23	Buffalo 1 Day Buffalo Niagara Convention Center Buffalo, New York
Wednesday April 29	Professional Insurance Agents of New York (PIANY) LI RAP Crest Hollow Country Club Woodbury, New York



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