

“CALL THEM AS YOU SEE THEM”

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During my professional career as a sea-faring man, shipowners’ engineering superintendent, underwriters’ surveyor and marine consultant, I have listened to many papers, some very fascinating, some very boring.

Harry Ottaway, my late business partner, was the Chairman of this distinguished Association in 1985. When he prepared his address, he studied several prior Chairman’s addresses presented to the Average Adjusters annual meetings over the preceding years, and he told me that it struck him that many of the Chairmen had commenced their speeches by bemoaning the lack of a meaningful topic, or their difficulty in making a choice.

I am pleased to say that I did not have that problem, not because I am so extremely innovative or smart, but because the title of this paper was unintentionally sparked by our past Chairman, Mr. Don Rogers, when he introduced me to those assembled for the 1997 annual meeting of the Association.

I remember my good friend, Andrew Sinclair, formerly Chief Surveyor with The Salvage Association, whom I am proud to say was one of my many mentors, commenting one day that if one were to write a paper, such a paper should contribute something to the know-how of the industry and should have a message that would stimulate the audience to think about the topic. “Otherwise”, I remember him saying, “don’t write it!”

Obviously, I am not a professional Average Adjuster, and in that regard you do not want to listen to more opinions about General Average and the York-Antwerp rules. You will not get one from me today.

A paper addressed to a professional society should include professional opinions, probably should be outspoken and, above all, should not shy away from being critical where such is deemed necessary and justified.

Please keep in mind that opinions are free, and one does not necessarily have to agree with them.

I am very honored that this Association has given me the privilege of being its Chairman this year, and I would like to take this opportunity to present to you some thoughts on the subject of the marine surveying and marine consulting field as a profession in general. Not specifically and exclusively as it relates to assisting Average Adjusters and practicing underwriters' surveying, but also where it concerns marine consulting in general, which includes rendering service to shipowners, vessel managers, financial institutions, the legal profession, government agencies and, of course, to the Average Adjuster, who is the "trusted man in between".

Where in this presentation I shall refer to the "surveyor" or the "consultant", I am having in mind the person, who by education, training and experience functions as an instrument in a great variety of commercial, financial and insurance-related transactions; somebody who not only serves the marine underwriting world, but also addresses the needs of professionals and institutions involved in the many maritime processes.

To start with the marine underwriting field, the claims process is and should, most of all, be one of fairness and reasonableness. Besides that, an absolute essential ingredient in that process is utmost good faith being practiced by all parties concerned.

I would like to believe that I am not living in a dream world when I am making these statements, and I sure hope you certainly do not think that I am.

In addition, there is the very important human factor, one to seriously consider and to keep in mind.

The reality is that the ultimate goal of the claims process is money changing hands upon completion of a series of activities and procedures, which are all required by and are all based on a contractual agreement between parties, a contract, named “the insurance policy”.

Recently I had a meeting with a London insurance broker of high repute, who had gained a lot of experience in dealing with “the human aspect” while trotting around the London underwriters’ world making his house calls to seek coverage for his clients, something he had been doing for many years.

He and I discussed the effects of the modern E-mail exchange, something we seem to be unable to do business without these days.

With an undertone of nostalgia, but also with a note of concern, he alluded to the fact that E-mail was killing eye-to-eye contact and dialogue, whereby people could sound out other people and air thoughts without making an immediate and eternal commitment, using the written word.

He was right! We are diligently and actively killing the human relations factor and tend to be turning a more relaxed world of personal contacts and dialogue into a rigid, automated system upon which to select and interpret information, but without having the benefit of the originator’s understanding, so often in the wrong way.

Coming back to my “utmost good faith” subject, where human beings are involved, obviously utmost good faith is not always practiced, as sad as that is. Utopia does not exist and few of us are very close to perfect.

I will still start with the premise that the assured, the insurance broker, the Average Adjuster and the underwriters’ claims manager all are primarily interested in concluding that process of settling claims smoothly and expeditiously, after which everybody goes home with the feeling that all interests involved have gotten a fair shake.

We all know that in real life things very seldom work out that way. Like in a school playground there are always naughty boys around and those should be kept under control by an existing regulated system applying rules that society has developed over a number of years.

Since this is a presentation about the marine surveyor and his function, let us now look at his role in particular.

In the claims process his job compares somewhat with that of a policeman, but then more specifically of a trusted neighborhood policeman, who combines the basics of law enforcement with common horse sense and fairness, and, so is trusted by the people in his district.

The marine surveyor's judgment on the technical aspects of a case, his engineering opinion, his opinions on the repair cost and other facts, once committed to paper, will from then on be used as key input to judgments and conclusive decisions made later on by Average Adjusters, insurance brokers, underwriters' claims examiners and, in some instances, also cargo interests, the legal profession and others.

I would like to present to you that this is not an insignificant task, and I am not so certain that it is always recognized that errors and/or incorrect decisions made by the man in the field at an early stage quite often have far reaching consequences.

“We all know that,” you will say now, and I accept that. But have you actually sat down and thought about the actual size of this responsibility?

The surveyor's or consultant's decisions should be based on fairness and reasonableness, but they also depend very much on the pure technical qualifications and the training and the experience of the individual. One cannot separate that.

Some form of a working knowledge of the various components of the world this individual is supposed to function in is absolutely essential. That does not mean that he should feel qualified to act or opine in areas outside that of his own expertise, or that he should try to sit in the chair of his principal, the client – not at all!

Who is this person or what should he be?

First of all, the marine surveyor should have a proper academic background so that he will not come out with technical statements that are in clear conflict with accepted engineering principles, in that manner not only making a fool of himself, but also of the firm or organization employing him. He should stay abreast of new developments in his field.

It is equally important that knowing the temperatures used when tarring ropes in the days of sailing ships is of little value when evaluating failed polypropylene lines.

Secondly, I feel the marine surveyor should not be thrown into the field by his superiors without being properly guided and trained for a period of time by an experienced senior in his organization.

Learning, gaining experience by falling and getting back up is all right, is normal and is a process that never ends from soon after birth as long as one lives.

However, the more seasoned colleagues in the organization should lead and coach the newly engaged consultant/surveyor until both the coach and the player are comfortable with the player's consistent performance.

Thus trained, this person should have no hesitation to speak his mind at the survey site and certainly not chicken out by writing dissenting opinions much later, after the vessel has departed, and after some time has passed, and after everybody else thinks that all

questions covering the matter were resolved and concluded, and after others have issued their findings.

A professional marine surveyor should be able to render an opinion right there and then on the spot!

Going home and thinking about it, asking others, after the survey, if there are any bases for his “doubts”, coming up with an exception to the presented matter later on, because he did not have the guts to stand up in the crowd and speak up about his reservations, is highly despicable.

Such attitude only muddles up and prolongs the claims process.

The consultant/surveyor should also have a working knowledge of the interactions of all the organizations and the institutions directly and peripherally involved in the maritime industry, because this knowledge places him in a position to collect all the appropriate and proper data in the field and produce an all-inclusive report for his principals.

I would like to present to this audience that in this marine industry we all have an obligation to contribute to this educational aspect of each marine surveyor’s development, and we all, including each of you, have to work towards maintaining high professional surveying standards.

In addition, consultants and surveyors have an obligation to advise all other interested parties of any concerns that they feel might in any way affect a given situation.

The often criticized, but also praised, “Field Survey Report” whereby everybody agrees in writing in the field on what was found and what is recommended does exactly that – agrees and documents the agreement – and, above all, that is part of the fairness and reasonableness of the claims process.

Too bad that the faint-hearted become shaky and nervous when it comes to placing their signature on this document.

How often have you seen marks little resembling signatures as though consciously or sub-consciously the person was distancing himself from the document?

The Field Survey Report, which actually originated in the USA, and which offers the opportunity for each participant to note possible exceptions taken, documents exactly what the survey is all about – dealing with the matter in a fair and reasonable fashion, up front, “calling them as you see them”.

I appreciate the often-heard underwriters’ concern that the surveyor in the field may tend to make decisions that may compromise the rights of the underwriters. Such is certainly not an unfounded concern. But then again, looking at damaged steel or machinery (the “Found”) and professionals determining what has to be done in restoration (the “Recommended”) does not compromise the underwriter at all. All that happens when this is reduced to writing is to create that instrument that everybody needs at the end to settle the matter without disputes. And is that not what it is all about?

But, at the same time let me voice another possible concern: “What if there were indications of a breach of expressed or implied warranties in the insurance policy?” The answer is that the surveyor should be capable of timely detecting such a situation and should have no hesitation in advising the other participants, the shipowner and/or the underwriters, or, for that matter, whomever he is representing that there are questions about this situation.

If the surveyor feels he should take exception to whatever aspect covered in the Field Survey, he can say so in writing.

The professional and, above all, technically well educated, intelligent surveyor will understand the concerns of all parties interested in a given matter and will not create unnecessary problems for his principals.

And why is that? He was properly trained and groomed by his seniors at the organization he is a part of and, not to forget, guided by all parties in the industry with whom he has come into contact who know how to communicate.

Believe me, a great part of this education also has to come from you, from all of us as we are assembled here. It is not good to mark a youngster in the business as a “Greenhorn” and “let him drift”. He may become your problem on the next encounter, just because nobody told him.

Once we shall have reached the stage whereby everybody functions in an appropriate manner, there will be no longer reason for concern.

Unfortunately, I must say that this is not now the case, but this is exactly what it is all about. We must keep working towards the goal.

Basically very competent engineers and naval architects, as we see time and time again, are hired by a surveying or consulting firm one day and are sent out alone into the field the very next day, representing a client, while perhaps not having the slightest notion of what that client really needs.

I am pleased to admit that a significant part of my education came from the underwriters I worked for, and also from my clients, Average Adjusters, lawyers and those others who took the time to ask for my opinions and shared their thoughts on the subject, and in doing so were educating me. I would like to thank all those people for that. When I wrote this address, I realized that I am still receiving the benefit of that process.

I would suggest to you, do not accept a report that has a poor quality in content or style, or lacks opinions and conclusions. That is not what you are paying for. And if you do receive such a poor product, more often than not, you may have been shopping around for the cheapest rate for service.

All too often do we find incomplete reports, reports that include sheer technical nonsense and, on top of that, contain no opinion. Such reports are worthless and cause unnecessary hardship not only to the client, but to everybody involved. Do not just grumble or moan – reject them, I suggest.

The surveyor should be outspoken, have opinions, be able to speak in clear language and express himself well in writing and, above all, he should not play “hide and seek” with the assured or anybody he is having contact with in business by not being specific. Above all, he should be a diplomat and reasonable.

As an additional thought that fits within this context, let us not forget that P&I Clubs rely on the surveyor’s field relationship with the Club members and his ability to communicate with the member, his ship’s Master, or whoever is representing the shipowner.

Having served P&I Clubs for many years, I am delighted to note that nowadays the Clubs are adjusting their beacons, too, and are actively setting new rules and increasingly giving more guidance to the surveyors they employ to conduct Entry and Condition surveys.

The days when a surveyor rightly condemning the leaking hatch covers of a vessel, next finding the Owner, the Club member, screaming about this “dumb surveyor”, whereupon the diligent surveyor finds himself in the position of the accused standing alone in the arena defending himself for being a professional, fortunately are, for the most part, in the past.

P&I Clubs nowadays want to know exactly what the score is. Their understanding, in my opinion, has enormously improved, and we all are enjoying doing Entry and Condition surveys because there is response from and exchange of thoughts with our clients, the P&I Clubs.

Certainly, this is one situation that has been considerably improved by the initiation of the ISM and the STCW codes.

Professional surveyors/consultants are not created overnight; that is for sure.

I am sure you accept the fact that starting from childhood a person is molded and developed by his parents to begin with, but after that each person will absorb what the world and the people he or she encounters afterwards will impress upon him or her. Then it makes sense when I state that in the normal course of our business everybody, including the vessel's Owners, the Average Adjusters, the insurance brokers, the underwriters, those in the legal profession and many others, all have a function in keeping the industry standard at a high level.

Do not accept what you feel deep in your heart is sub-standard.

More interaction and communication between the surveyor and all these parties will improve that facet. Education is also experience! We all together, as we are present here today, are "the experience".

Let me assure you that one cannot come off a ship as a marine engineer one day and be a consultant the next morning. I would suggest that you speak to my managing partner, Jim Dolan, who worked in the shipping industry all over the world and held an executive position with a Classification Society before he joined us. He will be the first to tell you about the surprises he was in for when he entered the marine consulting business.

It fills me with great concern when I receive in the morning mail pamphlets that advertise correspondence courses for anybody to become a marine surveyor, admission without any prerequisite. What good does this do to you or, for that matter, to the industry?

As I said, the ignorant, uneducated or untrained surveyor can cause disasters.

There is a trend in many countries, particularly in Europe, to form national societies of marine consultants (shipping industry experts), whereby these professional societies control the level of training and professionalism from the top. One requisite for admission to such organization is a recognized academic education.

This is all laudable and certainly a step in the right direction, but it does not eliminate the fact that the industry, as a whole, should participate in increasing the quality of these professionals.

In order to sketch for you the level of responsibility resting with the surveyor/consultant, I would like you to think for a moment, together with me, about a situation, a real case that concerns a one-or-two-vessel shipowner who suffers a major engine breakdown and whose representatives present a reasonable, and what seems to be a viable, claim. The surveyor/consultant either does not have the technical background to properly evaluate the validity of the Owner's allegation, or decides for whatever other reason to take exception to the assured's allegation, a presentation which in reality is a totally legitimate and sustainable one.

The vessel is tied up; the surveyor's opinion keeps the claims examiner in limbo; no decisions are made; the Owner's bills run high; creditors are knocking on the door; the Owner has to file bankruptcy; the ship is sold and the Owner goes out of business. End of the story! Certainly one hell of a responsibility!

How often does it happen that the surveyor during his attendance on drydock leaves the ship's superintendent in the belief that he accepts the allegation, only for the Owner to

discover by surprise, more than six months later, that the report contains an exception and that he is left with empty hands. What is he going to tell the shareholders?

Who is to blame? The insurance brokers? No! The Average Adjusters? No! The underwriters' claims examiners? No! None of them.

All parties involved rely on that one man and what he reports. What does this show? The system cannot adequately function without the surveyor, a competent surveyor. His report may be incomplete, have wrong technical observations, wrong conclusions, or all of the above. Such defects should be detected and corrected by whoever supervises the surveyor before his written position is sent to its end users.

The competent surveyor does not necessarily have to be of an advanced age. Professional performance in my opinion has nothing to do with age. Training and the willingness and capability of the individual to absorb whatever every day's working environment offers him takes him halfway to the top of his growth potential. I have seen many examples of well-trained people, star performers, who were young in age but mature in judgment.

I remember my elder son and business partner saying soon after he joined our firm, bearing in mind that we stem from a family of seafarers, "Dad, you really cannot survive in this business if you don't like ships." I think that is the secret and a very appropriate statement.

Leaving the underwriters' world alone for a moment and focusing on the arena of the shipowners, the bankers, the attorneys and so on, here the marine consultant has an even heavier task in maintaining his maximum level of professionalism.

This requires a constant alertness by all members within a firm, whereby all the surveyors keep their eyes and ears open and discuss with their colleagues their newly found

information. Not only does that benefit the client, but also it undoubtedly improves the standard of reporting.

New engineering developments simply cannot be kept up with by an individual who is working in the field all day. Keeping abreast of all the new developments and advances in technology in shipping alone, including the ever-changing rules and regulations, is a full-time task in itself. The best firms employ a support staff, in addition to the surveyors exchanging and sharing their professional know-how and analyzing unusual problems when they occur.

Most importantly, there have to be standards of professional and ethical behavior. I would like to call those standards the “ground rules”.

First of all, the surveyor/consultant is a servant of the industry and obviously as such should try and render the best service possible to whoever retains him.

Besides that, there is the “code of ethics”. Few people actually realize that for the engineering and marine consultant there is more than one aspect to that subject; namely:

1. Pure engineering ethics. Do not approve anything that is not technically sound, or may place people in danger, or cause material damage, or harm the environment. Such ethics are found in written codes published by recognized professional engineering societies.
2. Commercial ethics, like what is right or wrong in the world of commerce and trade. Again, this requires more savvy about that particular industry than just engineering.
3. Ethics from the heart, which very much boils down to the question: “Do I like what I see when I face my own mirror reflection while shaving in the morning?”

At the risk of sounding like a Sunday school teacher, something I doubt I would be very good at, I would like to belabor this a little further by giving you some examples.

- A structure or piece of machinery is observed to be in bad shape and although this may not be the problem the surveyor was called in for, it is apparent that what is observed is bound to fail and may endanger the ship or cause bodily harm, or worse. Without antagonizing the client, the engineer surveyor should in a diplomatic way bring this to the attention of the responsible person with whom he is dealing. Just walking away from such a situation is in conflict with the code of ethics.
- Another example is where the consultant is representing an underwriter in a controversial matter and his investigation shows that the assured's allegation or attribution is correct, as opposed to how it initially seemed to be. The consultant should not only immediately advise the underwriter, but, above all, explain "why" and speak in understandable language for the underwriter. In other words, don't give the principal technical magical gibberish.
- Representing a member of the legal profession, at the onset of reviewing the case, it is apparent that the attorney's client has a weak case from a technical point of view. One should immediately advise the attorney and not draw the review out for the sake of staying involved in the case.

These are only a few examples. I could give you many more like this, and I am certain that each of you as you are sitting here can outdo me in that.

There are two main issues when it comes to the consultant telling the client something he may not like to hear, "giving him the bad news":

1. Explain to the client in as much detail as possible what led you to your conclusion and present it to your principal in language that he will understand so that he will be as convinced as you once you are done with your presentation.

2. Do not sit on a bad case and let it linger. Be outspoken and speak clearly when it comes to final opinions. “Call them as you see them” and, above all, do not create a situation whereby you are caused to hang on to the assignment. Building up a large bill on a bad case only makes it worse and doing so hurts your reputation.

It all boils down to one thing – be forthright with whoever is your client. In my experience one will make more friends and will quite often secure a lot of goodwill that will lead to future business and happier clients by “calling them as you see them”.

The reward lies in the appreciation of a satisfied client – and – you sleep much better!

What are the ramifications of this all? The consequences of being frank and open, even if it hurts somebody’s feelings?

Facing reality, a consulting business has to have income, pay salaries, suppliers, the rent and, above all, advance the expenses of conducting business for his client till he gets reimbursed. In order to stay in business, he in turn needs to get paid.

If you by now are still awake, I would like to ask you to remember back to when the International Salvage Union told the lead underwriters that due to the meager salvage awards they received they could no longer keep their salvage tugs on the salvage stations around the world “on speculation”. The simple reason given was that the salvage awards were not sufficient to finance and maintain tugs and equipment all over the globe. The awards did not provide a reasonable return on the salvors’ investment.

Consequently, a relatively small breakdown had the potential to result in a Constructive Total Loss for underwriters due to the lack of available salvage vessels and equipment and consequently lack of assistance from salvors in a timely manner.

I am sure that there was no ill intent by the Salvage Award Committees in allowing this situation to develop. The fact of the matter is that everybody, so to speak, just drifted into these shallow waters and was just short of grounding. The underwriters understood the salvors' complaint and the beacons were adjusted.

I would suggest that the marine industry as a whole should draw a lesson from this and consider that it is necessary for surveying organizations, such as The Salvage Association and other underwriters' surveying organizations, as well as established marine consulting firms, to maintain a reasonable income level.

By trying to "negotiate" fees or contracting for services at the lowest possible prices, the buyer is contributing to a degrading situation whereby that particular supplier may soon be barely hanging on to his livelihood and consequently cannot afford to "call them as he sees them", since that particular assignment may be the only thing between him and bankruptcy. He could conceivably try to be less outspoken or take shortcuts, which is not in anybody's best interest. There is no heroism here; the man's family has to eat, and this is basic reality. Remember living in a dream world? A healthy service organization can afford to be ethical and outspoken and will do what is right.

This presentation is not meant to sound as criticism of anybody at all. What I have presented to you is the hard reality, let's admit to that.

Coming to the end of my presentation, I first would like to thank you for your patience with me. This may have been somewhat of a heavy-handed message, but the business we are all associated with in some way sometimes is a heavy undertaking. Having grown into the maritime world with my father from my kindergarten stage onward, I still find it all absolutely fascinating. I trust that you feel the same.

Furthermore, as we are all making a living out of this ever fascinating shipping and marine industry, I would like to leave you by reading to you a prayer, which I understand

originated in the 19th century, as voiced by the “Cornish wreckers”, and as remembered by a retired London Average Adjuster:

“Oh, Lord, we do not wish this ship to go aground
But if it does, we pray that we may share
The Bounty provided equally amongst us.”

Ladies and Gentlemen, I am not suggesting that Average Adjusters are running up and down the beach with oil lamps in their hands to lure vessels into stranding, and I am not making innuendoes that they are descendants of the Cornish wreckers, but you must admit that they and we, as consultants, have a lot in common with the Cornish wreckers.

Let us not forget that we are all making a living from this industry, and it can be a very rewarding livelihood, provided we all “CALL THEM AS WE SEE THEM”.

Thank you very much.

The End