

“THE CHANGING ROLE OF THE AVERAGE ADJUSTER”

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My first contact with an Average Adjuster dates back to the days that I left the merchant fleet as a sea-going marine engineer with the Holland America Line and joined the shore staff of that company. That was in Rotterdam in the year 1959.

The fleet was insured in London and the Average Adjusting was done in Rotterdam by the same firm that provided the brokering service. The Underwriters’ surveyor was a local consultant trusted by both the Underwriters and the Owners and that person was mentioned by name in the policy, a situation one could call a trusted and sheltered environment of dealing with marine insurance claims. This situation was based on a relationship of longstanding between the lead Underwriters and the assured.

It was not till 1968, when I left the shipowner’s world and became an Underwriters’ surveyor employed by The United States Salvage Association and was stationed in Rotterdam, that I was confronted with the real world; i.e., the outside Average Adjuster.

Doing my thing as an Underwriters’ surveyor and being trained by John van Aalst, who was the Resident Surveyor and one of the finest and most astute Underwriters’ surveyors this profession has ever produced, I quickly learned what the Average Adjuster needed and what the Underwriter wanted and what it was all about.

Sometimes an American Average Adjuster while on an European sojourn would pass through the Rotterdam area. My boss, the senior surveyor, would judge the quality of our own performance by the type and number of questions that the Adjuster would pose during his visit to our office.

No questions being posed by the Adjuster, followed by a relaxed luncheon, without exception resulted in John saying by the end of the day, “We are on the target – no questions!” That was his yardstick of measuring our performance. The Adjuster asking clarification, according to John’s standard, meant to him that our reporting was incomplete and, therefore, needed upgrading.

Average Adjusters on the grand tour were very rare though. They would only travel if there was a dire need for that.

What has changed over the past almost 30 years since then?

The marine underwriting world, to begin with, changed dramatically.

Deductibles were low. I remember that around 1968 Gulf Oil had a deductible of \$1,200 per incident.

That meant that one heavy weather incident, damaging a vent cowl, a lifeboat cover and a deck winch protection, constituted a claim under the hull and machinery policy.

Consequently, it was not uncommon for an Owner during a scheduled drydocking to present 12 to 16 concurrent surveys on a great variety of damage claims, each requiring a separate field survey to be written, and each having some common costs to be adjusted.

The Adjuster’s general workload, it seems to me, was larger and was much more time consuming.

Each case had its own logbook abstract, a Master’s Note of Protest, a specific damage repair bill and a general expense invoice reflecting common costs to Owners’ work and all the damage cases, the incidents, that were dealt with at that time.

To compound the complexity of this all, some cases were of a nature whereby it was not difficult for the Owners to acquire the Classification Society's approval for deferring part or all of the permanent repairs.

We had not yet arrived in the era where the Classification surveyor was being confronted with over-aged vessels and all their structural problems and Class surveyors were more perceptive to the Owners deferring repairs to smaller damages.

An active chartering market, some time-charters being long-term commitments, tempted Owners and Operators to carry out temporary repairs within the scheduled drydocking period, the Owners absorbing the extra costs of temporary repairs, which were offset by the Owners avoiding loss of charter hire.

Shipowners, that means the Owners of longstanding, did not seem to have this immediate and urgent demand for cash in those days like we observe nowadays.

I am not so sure, because I lack factual statistical input, but it seems to me that the "Liners Negligence Clause" was not such an actively sold policy as it became in later years – (and then later on again diminished in numbers). Maybe it would be something the panel of this seminar can reflect on as far as it concerns the Average Adjusters' type of work and workload.

This all had to be digested by the Average Adjuster and so far we have only reflected on the Particular Average.

The way I see it now, looking through the spectacles of a former Underwriters' surveyor, the total package of the Average Adjuster's involvement per ship, the total work volume, in those days was multi-fold of what it seems to be nowadays.

Often we hear comments about the now diminished workload of the Average Adjuster being due to the increased deductibles, which in turn decreases the number of cases.

That may be so, but in my opinion not an insignificant portion of the Adjusters' workload that disappeared relates to the associated work that an Average Adjuster had to deal with per vessel in the old days.

Average Adjusters had to keep track of the loss records as input to the brokerage departments.

If, together with a great number of already outstanding cases spanning a fairly long period of time, the insurance policies were to be renewed, such would complicate matters even more. The Adjuster had to review and consider a great number of cases spread out over various policies and Underwriters.

Very common in those days, some 25-30 years ago, were vessels that were insured both in the London and US market as well, which brought about more paperwork.

In case certain matters required clarification by the Average Adjuster, both The Salvage Association and US Salvage Association had to be approached.

And let us not forget this all had to be done by letter with carbon copies and all the misery of that, not with the aid of the telefax machine and E-mail!

There were other situations where, for instance, the Norwegian Underwriters Agency offices controlled the survey procedures, to include their inviting tenders for repairs and evaluating the bids on Owners' behalf instead of the Owners doing it themselves.

Norwegian Underwriters Agency surveyors, followed by The Salvage Association surveyor and the US Salvage Association surveyor as "observers", with frequently

conflicting opinions on the cause as well as repair costs, called for the Average Adjuster to be the wise man, the arbitrator, the man to find out what and who is for real and to explain the whole can of worms to the Underwriters, Claims Examiners and the Owners.

General Average cases were larger in number because of the world fleet consisting of a great many smaller size vessels and consequently creating the higher odds of collisions, strandings and fires.

Modern electronic navigational aids and collision avoidance systems have greatly influenced the number of casualties decreasing as well. We all know that.

That world, what we call “the old days”, though, created very experienced and seasoned Adjusters, and it was commonly stated among shipping insiders that it would take at least 7 years to grow and groom a fully qualified Average Adjuster.

I am not saying that grooming an Average Adjuster today requires less input or effort. To the contrary! Some other added facets certainly have complicated matters in a somewhat different direction, as I will mention hereafter.

However, one will find it difficult to reflect on what has changed in a situation or business without first having reviewed the past.

Keeping in mind what I just have touched on, let us look at what it seems to be like today.

Average Adjusters have decreased in numbers. One only has to look at the list of the practicing licensed Average Adjusters in the UK, as well as in the USA, to learn that the number of active Adjusters has drastically diminished.

Adjusting firms in both countries, but more so in the UK than in the USA, have amalgamated. For different reasons in the respective countries it seems, though. In the USA probably more because of the brokerage houses merging, whereas in the UK, based on a different system of unattached Average Adjusters, because of the Adjusters apparently seeking strength in unity.

When reviewing the list, one will readily note that in the UK the practicing Adjusters, with the exception of a few independents, are mainly contained in less than three groups, with one large group comprising of approximately 60 percent of the total number of full members.

Furthermore, one only has to listen to the speeches of the British and Canadian Association Chairmen presented this year to detect great concern about the future – great concern and somewhat pessimistic remarks we are hearing all over.

It seems to me, though, that there is a positive aspect to this all.

What is this positive side?

First of all, let us accept that the marine industry will change and that moaning about the present situation and loss of the past will not help.

The way I experience it, the Average Adjuster has become more of an advisor to the industry in difficult situations than he was ever before.

What I see nowadays is a highly qualified individual, who more than ever has to stay abreast of new developments both in the insurance world and in the maritime law field, and who has to deal with a great number of associated matters – all insurance related - that have to be considered in the claims and adjusting process.

Shipowners have moved out of the large shipping centers, their offices scattered all over the rural countryside.

Remember the Whitehall Club in New York and many other clubs, where the shipping industry used to congregate and do their business, going belly up.

The modern day Average Adjuster, I note, is traveling all over the world to converse with Owners, Operators and Insurance Brokers on one side and the Underwriters' Claims Examiners and surveyors on the other side. Besides that, his involvement with the legal profession has become more intense it seems and more time consuming.

Let us also understand at the same time that modern airline transportation has made this traveling a lot easier.

Besides all of this, for many decades break-bulk vessels in general were all the same, so were tankers, and not much did change for the Average Adjuster over those years that the shipping business in general stayed the same.

Now, the Average Adjuster is confronted with a rapidly changing shipping technology world, and it is no longer sufficient for him to just know that tankers carry oil and bulkers carry coal. He has to stay abreast of new developments in regulations like ISM, ISO and many more, all with their typical problems.

A considerable number of specialized craft, all with their typical peculiarities, have made their appearance on the high seas.

The rapidly growing world passenger ship fleet brings with it more involved loss of passage money claims.

If that is not enough alone, aging bulk carriers and tanker fleets brought about many occasions whereby the Owners and Underwriters are differing from opinion as to the cause of structural damage – fortuitous incident versus wear and tear – an entirely new function for the Average Adjuster, bringing the parties together in an effort to come to a fair and reasonable conclusion.

The break-bulk shipping trade over the past 30 years, changing to containerized cargo handling, frequently has not made the General Average and related cargo security-seeking activities any easier.

Shipowners seem to have an increasing need for assistance in their direct claims formulation and need more often claims presentation advice from others.

Many shipping companies do not have their own in-house claims manager any longer but are relying on the Average Adjuster.

The Adjuster, as it seems to me as a consultant, is called in more frequently to assist the Owners in the early stages of the claims process as opposed to former days when most shipowners had the man in the field, the superintendent, deal with that in the first place.

It would appear to me that in a very short period of time the Average Adjuster had to adjust and reposition the beacons to stay in navigable deep waters.

On top of that all, the shipowner, nowadays frequently suffering of cash shortage and lack of operating capital, more than ever before, wants to see quick results from the Average Adjuster in an insurance market where paying claims seems to have become less expeditious, less spontaneous and subject to greater scrutiny than before.

Credit should go to all these professionals for understanding these changes, responding to these additional demands and still being able to improve their service to their client, who, more than ever, is looking for quick results.

Thank you for your attention.