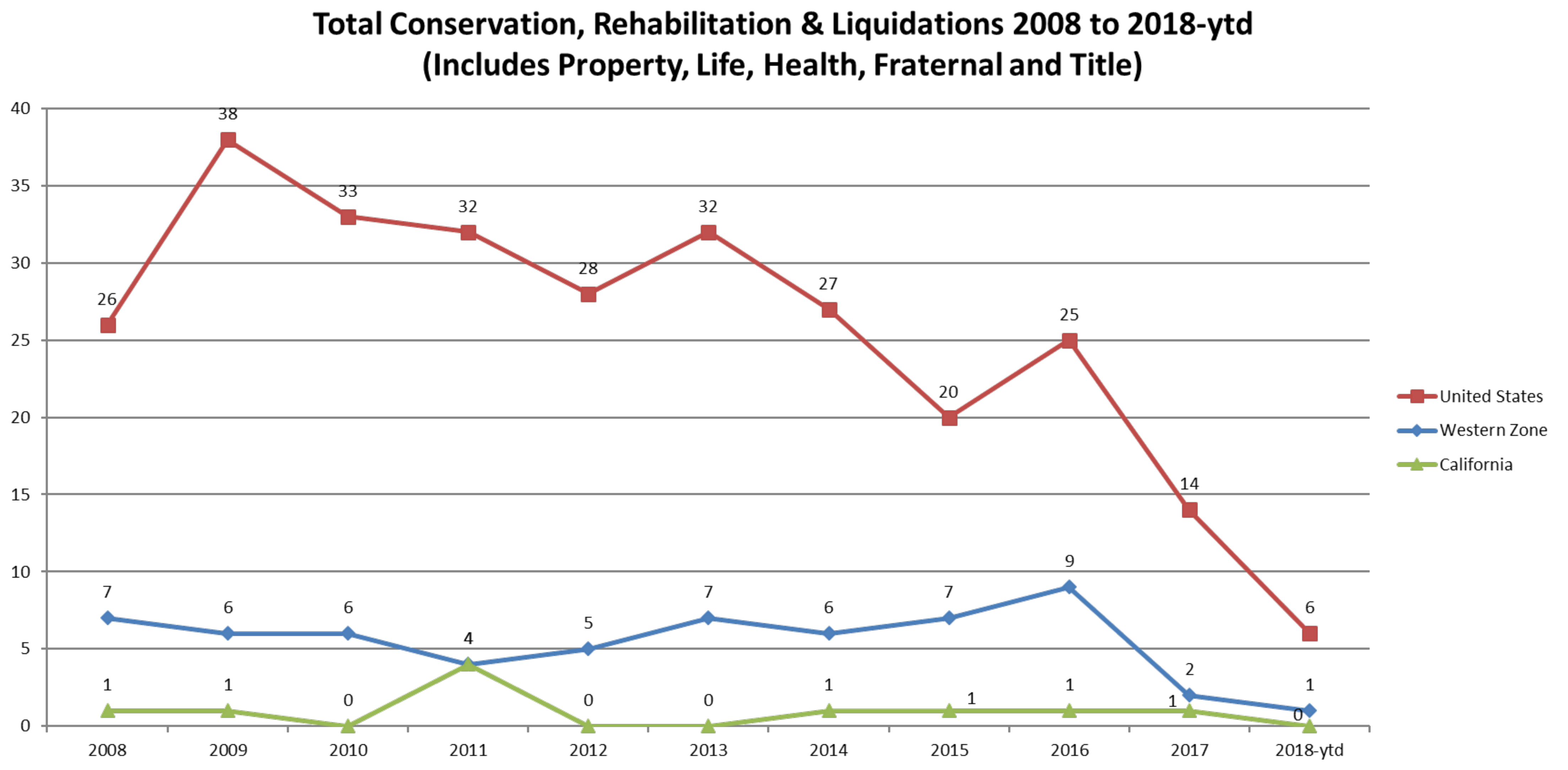
A Strategy of Closing Estates

- **Bill Goddard** - Adjunct Professor of Insurance Law and Partner, Day Pitney (Moderator)
- **David Axinn** - Special Deputy Superintendent, New York Liquidation Bureau
- **David Wilson** - CEO, Special Deputy Ins. Commissioner, California Conservation and Liquidation Office

Closing a Strategic Focus or ongoing Responsibility

- **Priority:** How do closings fit into an overall strategic plan and rank among the Receiver’s priorities?
- **Historical perspective**: how has the priority of closing changed over time?
- **Metric**: Are closings the optimal measure of the Receiver’s success?
- **Tailwinds:** What positive factors are driving the Receiver's priorities?
- **Headwinds**: What institutional, market and cultural forces may oppose closing?



Does not include fraternals not reported to the NAIC

Impediments to Closing

- Resolution of asset recovery (i.e. litigation, collection or recovery of reinsurance and other assets, etc.)
- Final resolution of claim values (tail cutting motions, over cap claims and OSC’s)
- Federal waiver(s)
- Final tax exposure, if any
- Receiver is not in a hurry to close

Benefits of Closing Estates

- Get monies to claimants?
- Lower internal costs?
- Resolution of asset recoveries?
- Finality?
- Cut off litigation?

Closings and the Future of the Receivership Office

- How do different receivership office models impact how closings are managed?
- Who’s got the biggest office: The insource/outsource debate
- What does the receivership office of the future look like:
  - Fewer estates
  - Lower headcount
  - The problem of institutional knowledge
  - Greater focus on complexity and technology

Getting the Job Done

How to Plan and Implement an Effective Closing

- Importance of pre-receivership planning
- Drawing up the post-receivership plan: whack-a-mole and driftage
- Data Management
- The Tool Box:
    - Commutations
    - Liquidating Trusts
    - Tail cutting claims
    - Assign assets/litigation to GA
    - “Low Maintenance Runoff”

Getting the Job Done

How to Plan and Implement an Effective Closing (Continued)

- Skeletons and elephants in the closet: dealing with the hard-to-crack claims and difficult assets
- Guaranty Funds: when to cut the cord?
- Good Judge/Bad Judge: managing the court process
- Federal waiver process: asking permission/begging forgiveness
- Tax: Getting a final accounting of state and federal taxes

A Tale of Many Cities
Managing Closings Across Insurance Lines

- P/C
- Life vs. Healthcare
- Long Term Care
- Specialty Lines
- Long tail
- The future: Volume, Complexity, Novelty

Case Studies

- CastlePoint
- ELIC
- CastlePoint New York Experience

CastlePoint National Receivership

- Pre-Conservation Merger of Ten Affiliated Property and Casualty Insurance Companies into a California Domestic

- Surviving Company (CastlePoint) placed into Conservation on July 28, 2016 based on Hazardous Financial Condition

- Conservation and Liquidation Plan approved September 13, 2016:
  - ➢Deconsolidate CastlePoint from its Parent and from the consolidated taxpayer group
  - ➢Commute stop loss reinsurance treaties for a cash payment of $200 million
  - ➢Allow CastlePoint to enter claims servicing agreements for timely adjudication and payment of claims

CastlePoint National Receivership

- Without the Conservation and Liquidation Plan:
  - CastlePoint had Inadequate cash to pay claims ($44 million backlog)
  - Would have 10 Liquidations in 6 jurisdictions
  - Forced to unwind the Inter-Company Pooling Agreement
- Paid $335 million in claims during Conservation
- Liquidation Order Effective April 1, 2017
  - Guaranty Associations in 47 affected states triggered
  - Stay Orders in different jurisdictions

CastlePoint National Receivership

NCIGF Coordination:

- Provided Claim Images and Transactions as of 12/31/16
- Provided Updated Claims Images and Transactions as of 3/31/17
- CLO IT Incurred 3,300 hours in transferring claim files to Guaranty Funds; to date IT hours are approximately 8,800
- Agreed to pre-fund 2 months of Workers Compensation Indemnity and Pharmacy Benefits (4 months in the case of New York)
- Transition of TPA files to the Guaranty Associations

CastlePoint National

Claim Payment Percentage by State During Conservation

• New York	52%
• California	20%
• New Jersey	10%
• Florida	5%

$335 million in claims paid during Conservation

CastlePoint National Challenges

- Coordination of claims data and images from multiple TPA’s.
- Continuation of reinsurance billings and collections.
- The liquidation of miscellaneous receivables.
- Retention of key Tower employees.
- Transition of Tower operations to the CLO.

Executive Life Insurance Company (ELIC)

- Executive Life Insurance Company ("ELIC") was placed into conservatorship partly due to a decline in value of its multi-billion dollar investment in "junk bonds". A comprehensive rehabilitation plan was adopted and became effective on September 3, 1993.
- As part of the plan, ELIC policyholders either elected to accept new coverage ("Opt-In") from Aurora National Life Assurance Company ("Aurora") or elected to opt-out and surrendered their policies for cash
- In February 1999, the Commissioner commenced a lawsuit entitled Insurance Commissioner v. Altus Finance S.A. et. al., U.S.D.C., against the entities that purchased the junk bonds from ELIC during the rehabilitation, Aurora and the other entities that were purported owners of Aurora's holding company, New California Life Holdings, Inc. ("New Cal.").

ELIC (continued)

- The suit alleged that the defendants intentionally deceived the Commissioner in order to gain control of ELIC's junk bonds and insurance policies. The suit sought disgorgement of all profit gained by them and, alternatively, all damages caused by their deceit.
- Approximately $900 million dollars was recovered by the ELIC estate from the Altus defendants.
- Final settlement was recognized in the 2015 Tax Return.
- Because of the unusual nature of the transaction, a prefilling agreement was filed with and approved by the IRS.

ELIC (continued)

- We have scheduled the process for the final distribution and will petition the Court to approve the distribution and close the estate in the fall of 2019; effect the distribution in late spring 2020; and escheat funds, likely in 2021.
- Then, hopefully, the ELIC story is over!

Final Thoughts

- What really matters in a receivership?
- Do promptness and percentage of distributions matter more than closings?