

I-WAYS MAGAZINE

BIG I WNY | APRIL 2021

Promoting the value of **independent**
insurance agents in Western New York



PRESIDENT'S MESSAGE

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Contact our Board at:
www.bigwny.com/officers

What a year 2020 was! On behalf of the Big I WNY Officers and Directors, I would like to express our sincere appreciation for your membership and continued support for our association. We missed all of our networking and in-person social engagements this past year, but are looking forward to slowly re-introducing social events in-person this summer or fall.

In September, our board welcomed three new directors: Ashley Nolan (Tompkins Insurance Agencies), Lisa Hussainov (Walsh Duffield Cos.), and Patrick Erickson (The Evans Insurance Agency). We are also thrilled to have past Big I WNY President Don Houck joining us as Chair of the Board for the 2020-2021 term.

Keeping the health and safety of our members as a top priority, we held all of our Board Meetings and fall programming virtually. NeXtGen was able to modify their 5th Annual Speed Networking Event by using Zoom. On December 3rd, we also held our annual Big I WNY Legislative Breakfast (Virtual) over Zoom. We had an excellent turnout with several local legislators/staff and member representatives that participated in our discussion led by Scott Hobson, AVP of Government Relations at Big I NY.

This year we shifted our Project Invest presentations to local high school students to a virtual format as well. Several of the local schools were operating in a hybrid schedule where some students were in the classroom, others were at home, and our Project Invest volunteers had the ability to present to the entire class using the technology platform preferred by each specific school. Overall, we were able to maintain our curriculum and continued to provide students with exposure to the benefits of Careers in the Insurance Industry through Project Invest. The students that participated in Project Invest are now eligible to apply for scholarships through the National Big I and our local Big I WNY.

Although we had to cancel our annual Holiday Party in December, our board maintained the tradition of collecting donations from our members in order to support FeedMoreWNY. With support from our members, in January Big I WNY donated \$1,500 to FeedMore. Thank you to everyone who supported this wonderful cause!

In March, our board participated in the annual Big I NY Independent Agents Advocacy Day/Month. Instead of heading to Albany to visit legislators, we participated in virtual meetings with a variety of our WNY legislators and staff throughout the month of March. We had the opportunity to meet with Senator Gallivan, Senator Ryan, Assemblymember Morinello and Assemblymember Wallace's office regarding important issues facing our industry. The virtual meetings were very interactive and we hope to see positive changes made as a result of our conversations with each of the legislators!

Over the last few months our board has been discussing the Annual Roger Gurney Memorial Golf Outing. We have decided to hold a virtual fundraiser in 2021 supporting the Roger Gurney Memorial Scholarship Fund, in place of our traditional golf outing. We understand that several members are still not comfortable gathering for a large event and travel and in-person social limitations are still in place for various employers. We plan to coordinate an online raffle in order to fundraise for Project InVest scholarships. Stay tuned for more details on this event!

cont.

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Our Programming Committee has also been working hard to plan some fun events this spring. We are excited to be offering a Sales Seminar with Gary Hoy on Friday, April 23rd. We also invite Big I WNY Members and Affiliates to Save the Date for a Community Clean-Up event on Friday, May 21st. If you are back in the office, we encourage you to get outside for an hour to clean up around your building with co-workers. And for those of you still working from home, feel free to clean up around your own neighborhood! While we can't be "together" yet, we are hoping this is a way for our agents to spend some time volunteering by cleaning up various neighborhoods and show how much we all love our WNY community.

Looking forward to better days ahead!



Ashley Engl, ACSR, GBDS
President, Big I WNY
Lawley Insurance

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Prior to Prospecting

A special sales course.

April 23, 2021 | Virtual

Big I WNY invites you to attend a special virtual sales course with expert sales trainer Gary Hoy!

This course is designed to identify the emotional walls which often go un-addressed during traditional sales training. If sales success were as simple as following a script or process, wouldn't it follow that everyone would succeed? There is one constant for everyone however, and that is anxiety when prospecting.



Prior to Prospecting identifies where the anxiety involved in prospecting comes from, so you can eliminate it from your life. You will not succeed by avoiding the anxiety, oddly you'll thrive by confronting it. We are all built to grow from resistance – therein lies the secret to your future success. Do not look for ways around the anxiety, embrace it! In doing so, you'll rid yourself of a major hurdle in your career – finding new business. Prior to Prospecting lays out a clear one-week path so you can get on with building a successful portfolio of clients.

Sales is not about closing – it's about opening!

Registration Details:

Date: April 23, 2021, 10 - 11 am

Location: Online (Zoom link will be sent when registration is complete.)

Fee: Free for Big I WNY Members | \$10 for non-members

How: Register at <https://www.bigiwny.com/events/salestraining-april2021>

Early registrants will enjoy coffee on us!

Register by April 21 to receive your \$5 Starbucks online gift card!

Special thanks to our Education Sponsor,
Excess Line Association of New York (ELANY)!



CALLING ALL VOLUNTEER LEADERS!

We are currently accepting nominations for the 2021-2022 Directors of the Board.

HERE'S WHAT SOME OF OUR DIRECTORS ARE SAYING:

"Volunteering to serve on the BIG I WNY board has provided many opportunities to advance my career and expand my general insurance knowledge, while representing independent insurance agents



in WNY. Some activities have included attending L-Day in Albany & Washington, DC. During these events, BIG I WNY, along with others, advocate to protect the insurance industry from onerous laws & regulations, while also promoting those that advance our industry. BIG I WNY has a scholarship fund that provides funds to students of local high schools. Each year we host a golf outing that raises the funds that support this scholarship fund. In 2019, I acted as Chairman for this golf outing. This was a great opportunity to work with my fellow board members to host our annual golf outing and raise the funds needed to support our scholarship fund.

Our local Invest chapter is a program that utilizes local insurance agents & carrier employees to speak with students on various insurance topics, with a strong focus on educating students about the career opportunities available in our industry. Using the knowledge and materials provided to them, the students are then able to apply for scholarships that our board awards each year. Last year our board was able to give out \$5,000 in scholarships to students who participated. Serving as Chairman for the local Invest program has given me the opportunity to work with local industry professionals to educate students on the careers available to them when they decided to enter the workforce.

These are only a few examples of opportunities provided to me by volunteering my time with BIG I WNY. I would encourage anyone interested to consider joining BIG I WNY if you're looking for a rewarding opportunity!

Rob Glenn | Commercial Insurance Marketer | Lawley

If you or someone you know is interested in learning more about serving on our board, please contact current board president, Ashley Engl at Aengl@lawleyinsurance.com.

"Big I WNY has been invaluable in helping me grow both professionally in personally in the insurance world. As a relatively young entry into the industry, it was sometimes daunting to be competing against (and working with!) life-long, established property & casualty brokers. Big I helped me establish a better rapport with other independent agents in the area and helped me realize that even though we are technically in competition for business, there can still be a valuable exchange of ideas among professionals, to say nothing of the personal friendships I've developed! Additionally, serving on the board has shown me how important community involvement is – our various fundraising drives and volunteering efforts provide a chance to put aside business initiatives for a moment and focus on giving back. Separately, the outreach programs that Big I initiates also serve the purpose of reminding potential clients of the value of an independent agent. My time serving on the board has been positive both professionally and personally!"



Dan Ludwig | Commercial Lines Account Manager |
United Insurance Agency

I joined the Board of Directors for BIG I WNY on a recommendation from a colleague. Having been in the insurance industry for over 14 years in more of a captive setting I was interested to understand more about the independent channel. The Board has been a great opportunity for me to meet colleagues from other agencies and carriers to expand my knowledge base. It is also a great opportunity to give back, not only to the insurance industry that has provided for me for the majority of my adult life but also to the community through our various volunteering.

Patrick Erickson | Personal Insurance Sales & Retention
Manager | The Evans Insurance Agency





Project Invest Recap: 2020 Program

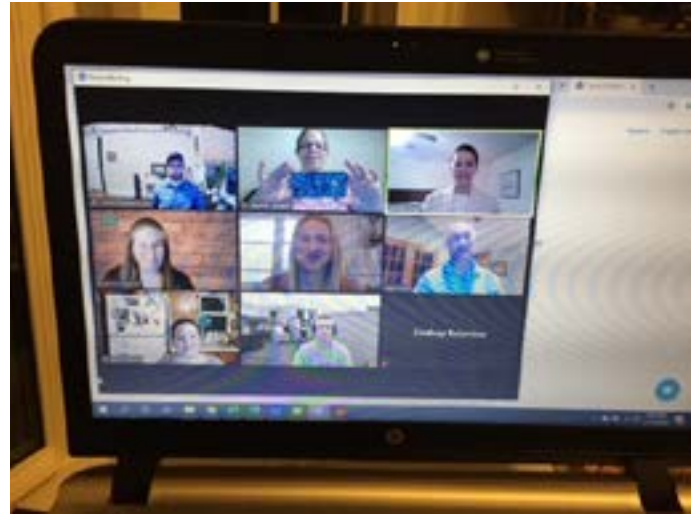
- Over 20 volunteers from local agency and carrier partners spoke to students in the classroom setting about various topics related to insurance using content provide on invest website.
- We had 24 applicants and awarded 10 scholarships totaling to \$5,000 to students from our 4 participating high schools.
- Our annual golf outing, which is typically held in June, was not able to happen. This golf outing is where we raise dollars that support our scholarship fund.
- We typically have students attend Buffalo I-Day, but that did not happen either due to Covid. This year we had additional support from carriers to have more of our students attend, so it was disappointing to see that not happen.
- Transitioned from in-person to remote platform for our volunteers to speak with students.
- Actively, we are holding sessions with the various high schools, using a virtual format. Initial feedback from volunteers is that they found the virtual platform to enhance the students' engagement level and allow them to easily transfer the content to the students.
- As we move past 2020, we are continuing to adapt to how we interact with the students and evaluate how the funds are raised to support this in the future as well as grow our current program footprint. If our golf outing does not happen this year, I believe we'll need to address an alternative to raise the funds and I'm confident our board will find a way to make it happen.

Thank again for your support!

Rob Glenn | Big I WNY Project InVest Chairman

NeXtGen Speed Networking Event Recap

On Tuesday, November 10th, NeXtGen held their 5th Annual Speed Networking Event over Zoom. Our members had a great time rotating through “break-out rooms” and networking with various participants from the comfort of their own home. At the event, we also announced that NeXtGen would be collecting donations to support Grace House in South Buffalo. Throughout the holiday season, NeXtGen members collected donations for this cause online and now the NeXtGen Planning Committee is working with the Grace House to determine what type of donations would be most beneficial for the house/residents.



NeXtGen is currently planning a Happy Hour at a venue with an outdoor patio this June – stay tuned for more details!

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APPELLATE COURT RE-AFFIRMS CASE LAW CONTROLLING RELATIONSHIP BETWEEN INSURED AND INSURANCE BROKERS

The ability of an insured to sue his or her insurance broker recently was examined by a New York appellate court. *Jin Chai-Chen v. Metro. Life Ins. Co.*, 190 A.D.3d 635, 141 N.Y.S.3d 41 (2021). There, the First Department analyzed the impact of language barriers on the procurement of insurance policies. In *Jin Chai-Chen*, the plaintiffs commenced an action against their insurer and its broker after coverage pursuant to the subject policy of insurance was disclaimed due to, among other things, misrepresentations in the insurance application. The plaintiffs argued that they were not responsible for any misrepresentations in the insurance application because they did not know how to read English; however, the appellate court affirmed the lower court and rejected the plaintiffs' argument, because the facts reflected that the plaintiffs were proficient in English. In doing so, the First Department applied longstanding New York legal precedent holding that an insured has the duty to read the insurance policy or have it read to him or her, as well as the duty to correct any inaccuracies present on the insurance application. See *id.*; see also *Minsker v. John Hancock Mut. Life Ins. Co.*, 254 N.Y. 333, 338 (1930).

Similarly, the court rejected plaintiffs' argument that a special relationship existed between them and the insurance broker. Generally, the relationship between an insurance agent and an insured does not create a special relationship that imposes advisory duties; notwithstanding, "[e]xceptional and particularized situations may arise in which insurance agents, through their conduct or by express or implied contract with customers and clients, may assume or acquire duties in addition to those fixed at common law." Although the insured and the insurance broker had a pre-existing personal relationship, by way of a friendship between former coworkers, this failed to satisfy the legal standard to impose a special relationship which gives rise to a heightened or fiduciary duty.

Ultimately, the appellate court affirmed the trial court and dismissed all of the plaintiffs' causes of action against the insurance broker. The court appeared to heavily rely upon the following longstanding New York legal standards to arrive at its holding: (i) there is a high burden to establish a special relationship between an insured and an insurance broker; and (ii) there is no contractual privity

between an insurance broker and an insured. Accordingly, the appellate court affirmed the trial court's award of summary judgment to the insurance broker.

Practice Pointer: The *Jin Chai-Chen* case should serve as a reminder to insurance brokers that while there generally is no continuing duty to advise a client, there absolutely is a duty to obtain requested coverage or to advise a client of the inability to do so. However, insurance brokers **must be aware** that although there is a high burden to establish a special relationship, if an insured can establish same then additional advisory duties are imposed upon an insurance broker. Additionally, although an insured has the duty to read the insurance policy or have it read to him or her, as well as the duty to correct any inaccuracies present on the insurance application, in this case the appellate court made it a priority to examine this issue under the lens of whether or not the plaintiffs were proficient in English. The fact that the appellate court expressly considered the plaintiffs' ability to understand the English language was a deviation from previous appellate case law; nonetheless, the court maintained the status quo by rejecting the plaintiffs argument that the insurance broker should be held liable for misrepresentations in the insurance policy application due to an alleged language barrier. See *Curanovic v. New York Cent. Mut. Fire Ins. Co.*, 307 A.D.2d 435 (2003); see also *Maines Paper & Food Serv. v. Adel*, 256 A.D.2d 760, 761(1998). It is good practice for an insurance broker to make certain that his or her client understands the insurance coverage procured at their request, including their responses on the insurance application. If not, the insurance broker should request (and document) that the insureds seek assistance from someone who can communicate effectively with them so they understand what insurance they purchased and the consequences of the answers they provided on their insurance application.

For answers to your legal questions, feel free to contact Marco Cercone, Esq. or Shawn Byrns, Esq. at Rupp Baase Pfalzgraf Cunningham LLC, 1600 Liberty Building, Buffalo, New York 14202, 716-854-3400, www.ruppbaase.com.

A LOOK BACK

FROM DON HOUCK, BIG I WNY
BOARD CHAIR

I came across these photos while cleaning out my desk.

This was a Big I trip to Albany in the 80's or thereabouts. I feel badly that I didn't date the photos. I think Bob Ruh was President. Anyway, the first photo is Bob Ruh (center) and Roger Gurney (right). The agent on the left was President of the State Big I but I forget his name. His agency was in Arcade.

The second photo is the group that traveled to Albany that day. From left, Bob Sauda (Jacob Hauck Agency), ____ Cassetta (Cassetta Agency), ?, Don Houck (Houck Agency), Eric Keller (Keller & Co.), Sharon Rodke (Rodke-Stevens), Mary Murphy (Murphy Agency, Lockport), Joe Pecora, Bob Ruh (Ruh Agency), Roger Gurney (Como Park Agency) & Fred Stievater.



Can you help fill in
the blanks?

If so, please email
iaawny@gmail.com





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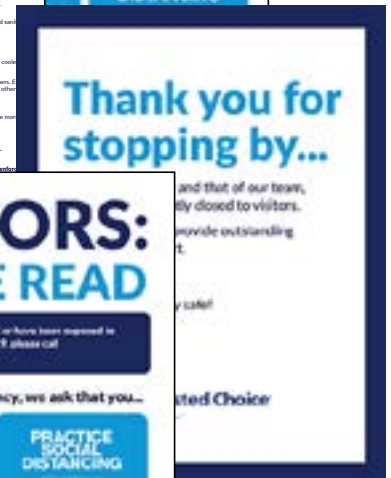
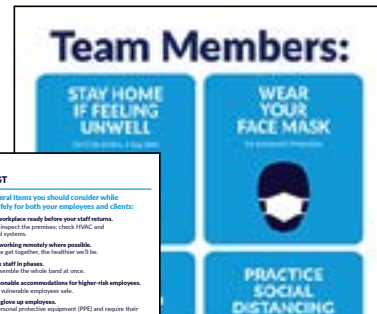
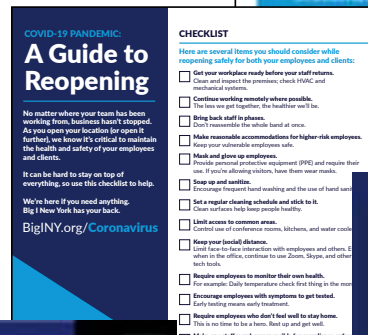


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