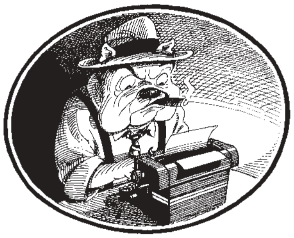

The world's most dangerous insurance publication℠

SCHIFF'S

February 10, 2004
Volume 16 • Number 2

INSURANCE OBSERVER

The Deal Looks Bad and Smells Bad

Dirty MONY

On October 18, 1998, David Schiff testified at a public hearing regarding The Mutual Life Insurance Company of New York's proposed demutualization and IPO. Schiff objected to the deal because the offering was priced way below book value and no provision had been made for the company's policyholders to purchase shares in the offering (which was a hot deal), thereby avoiding financial dilution.

The hearing was provided over by an arrogant, corrupt man, Neil Levin, then New York's commissioner of insurance. Although Schiff and Levin traveled in similar social circles, the two men were not on good terms. Schiff had developed a professional dislike of Levin, and Levin disliked Schiff because Schiff had published a long article that showed Levin for what he was. (See "The Revolution Will Be Televised," Schiff's Insurance Observer, *February 1998.)*

Although the MONY demutualization and IPO didn't meet the standard of being "fair and equitable," Levin did what was expected of him by his cronies who put him in office: he approved the deal. Levin, of course, does not deserve the blame for constructing a despicable demutualization. That was the responsibility of MONY's management, led by its chief honcho Michael Roth.

Shareholders who bought shares in the IPO and afterwards probably didn't give much thought to the fact that MONY's policyholders—who had owned the company—had been cut out of the IPO. Indeed, most who purchased MONY's shares probably figured that Roth was a good guy who had all sorts of incentives to make money for them.

Roth did have all sorts of incentives—to make money for himself.

A version of the following article appeared in the February 6 issue of SNL Insurance Daily. *It was written by that publication's senior editor, Michael Crittenden.*

If you aren't familiar with SNL Financial's insurance publications and databases, you should be. (SNL is an investor in Schiff's, *and we think highly of the company and its employees.) For more information about SNL go to* www.snl.com.

Shareholders continued to put MONY Group's executives on the defensive during a surprisingly short February 5 conference call that was notable for questions asked about the company's planned sale to AXA, which one large institutional investor termed "a vast disappointment."

"Given the fact that you keep talking about capital issues and rating decreases, wouldn't it make sense to explore other alternatives for capital rather than rushing to sell the company?" asked one caller. "Wouldn't that satisfy a lot of the concerns that a lot of shareholders now have—that this is a deal that was made among a few companies, and that when a deal is pretty far along [and has a significant break-up fee] that new players are kind of put off and they don't want to step up because it's a *fait accompli*?"

That question was one of a handful about MONY's pending sale to AXA for $1.5 billion. Michael Roth, MONY's chairman and CEO, had opened the conference call's brief question-and-answer session by requesting that questions be "in the form of a question rather than a speech."

In what has become a familiar refrain (MONY's executives have faced considerable criticism since the AXA deal was announced in September), Roth said the company had pursued other options, to no avail. "If you go through our proxy, you will see that since 2001 we have been doing exactly that." He elaborated: "As is outlined in our proxy, we have been talking to various potential strategic partners, and none of those companies had indicated an interest that would give rise to any more shareholder value than we have today."

The stated purpose of the conference call was the discussion of MONY's fourth-quarter results, which had been announced earlier in the day. The company reported $3 million in net income for the quarter, or 6¢ per share. This included $9.8 million (20¢ per share) from realized gains as well as $5.0 million (10¢ cents per share) of costs related to the AXA sale.

In an attempt to assuage investor concerns, MONY announced that it would pay a 23¢-to-25¢ per-share dividend if the AXA deal closes. (Several shareholders have publicly stated they will vote against the deal because the $31 per share takeover price is inadequate.) MONY said it would pay the dividend, $12.5 million in total, immediately prior to its sale to AXA.

The dividend announcement seemed to have little effect on callers' concerns.

"How can you rationalize selling this business at $31 when as recently as 2002 you were buying stock at a higher price?" asked David Heller of Chicago-based Advisory Research, who noted that between 2000 and 2002 MONY repurchased approximately 4.5 million shares at an average price of $32.17 per share.

"I think the answer to that reflects the significant change in the outlook of our industry, the markets, and in fact, our own rating-agency situation," said Roth, who frequently mentioned the omen of a ratings downgrade during the call. "Markets change [and] we believe there has been a significant change in the economy as it affects life-insurance companies and particularly the MONY Group. And if this transaction is not approved, everyone has indicated the value of our stock would drop precipitously, and therefore I believe the $31 price is a full value for our shareholders.”

Heller, who plans to vote his 900,000-plus shares against the deal, wasn’t convinced. “You know, it’s amazing, Michael,” he said to Roth, “on March 21 of 2003... [in] the last paragraph of your annual report, you tell us how wonderful things are—that the company is superbly positioned,” Heller said. “There is no mention of all of these changes in your last annual report…and all of a sudden you go to a scare tactic to tell everyone that you can’t compete, that the industry has changed. Industries don’t change that quickly. I can only tell you, as you know from other people, this is a vast disappointment.”

Heller subsequently told *SNL Insurance Daily* that “something doesn’t add up” in the explanations from MONY’s management. If they were really afraid of a downgrade, he said, then it brings up the issue of why they repurchased $145 million of stock, reducing shareholders’ equity by ten percent. “If you’re worried about your credit rating, you don’t buy back your common stock and reduce your net worth,” said Heller.

Advisory Research isn’t the only shareholder fighting the deal. One of the leaders in the battle has been Southeastern Asset Management, which last month proposed that insurance veteran Robert M. Devlin take over the management of MONY. On February 4, MONY obtained a temporary restraining order preventing Southeastern Asset Management, Highfields Capital Management, and Longleaf Partners Small-Cap Fund from mailing proxy-voting cards to MONY’s shareholders in connection with the proposed merger.

Restraining order notwithstanding, Heller said he still doubts the deal will be approved by a majority of shareholders at MONY’s scheduled February 24 shareholder meeting. “I don’t think the deal is going to go through,” Heller said. “I don’t talk to any shareholders, but we’re the fourth largest shareholder, and shareholders one, two, and three have said they are going to vote against it. We’re going to vote against it. That’s fifteen percent of the stock right there.”

On the conference call, Roth was also questioned about his—and other senior MONY executives’—change-of-control agreements. A caller estimated the executives would get about $90 million, and asked Roth “whether or not you feel, given the performance of the company, you deserve that payment?” [MONY’s November 11, 1998 IPO was priced at $23.50 per share—67% of book value. The deal was vastly oversubscribed, and the first trade on the NYSE was at $29.]

The response was intriguing. “If you had a policyholder at the time of the early nineties who received stock as part of our demutualization, they [went from a] value of zero to a company of $1.5 billion in value,” Roth said. “So the overall management team has enhanced the value of this organization significantly. I would also add that our change-of-control contracts have been reviewed on at least two occasions by outside consultants." Roth said the agreements "were fair and reasonable" considering MONY's size, performance, and the competitive environment its executives operate in.

Roth used MONY's supposedly precarious position to stress the need for the company to complete its sale to AXA. "We took many steps prior to and after our demutualization to improve our business and financial results, including significant cost reduction initiatives, enhanced product offerings, and expanded distribution channels," he said. "However, these actions did not produce the desired results, primarily because of the challenges we face as a relatively small insurer, the overall outlook for the industry, our lack of scale, rating agency concerns, lower fee income and interest income, and reduced venture-capital income because of market conditions. Given these realities, our board of directors undertook a comprehensive review of strategic options to maximize shareholder value."

Roth's assertion that his severance package (about $22 million) was "fair and reasonable" because policyholders went from a value of "zero" in the early 1990s to $31 per share now, is specious. Immediately after its IPO, MONY's stock was $29. Roth hardly deserves a large severance package for increasing the company's value by $2 per share over five years.

Even if Roth is correct and MONY was worth zero in the early 1990s, Roth was, presumably, compensated for the value that was created between the early 1990s and the November 1998 IPO. Indeed, why would a severance payment compensate him for value he created between the early 1990s and November 1998?

As the company said in its ads, "It's pronounced money.*"*

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