



THE RESTORATION INDUSTRY ASSOCIATION

**ADVOCACY AND GOVERNMENT AFFAIRS COMMITTEE**

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## RESTORATION ADVOCACY REPORT #1

TO: All Restoration Industry Professionals

FROM: Edward H. Cross, Esq., Chairman of the RIA Advocacy and Government Affairs Committee

DATE: June 1, 2019

RE: **MAJOR STEPS TAKEN BY RIA TO ADVOCATE FOR THE LEGAL AND FINANCIAL INTERESTS OF RESTORERS**

An infusion of fresh thinking and younger leadership at the Restoration Industry Association (RIA) has led to the conclusion that to give members a good return on their investment of dues, the RIA must *advocate* for the legal and financial interests of restorers. Accordingly, I am excited to report that the RIA has formed the industry's first unified advocacy team, called the **Advocacy and Government Affairs (AGA) Committee**. Its sole purpose is to advocate for the property restoration industry. What's more, the RIA and the Institute of Inspection Cleaning and Restoration Certification (IICRC) have executed a "Mutual Benefit Agreement" whereby the two industry giants will work together to establish areas of mutual interest that will include advocacy for restorers. The RIA is the grandfather of the restoration industry, and the IICRC is the preeminent source of publications on restoration industry standards of care. They are in full agreement about the dire need for a unified voice of advocacy on behalf of the restoration industry and are ready to level the playing field. This will be a shining example of strength in numbers. The powerful alliance will lead to several transformative changes in the industry that we will report on in months to come.

With sufficient support from you, the AGA will provide advocacy for restoration professionals across the country and seek to influence legislation and/or reform as needed, on a priority basis. I was honored to be chosen as Chairman of this important group and I extend my sincere thanks to the RIA Board of Directors for this challenging but rewarding opportunity.

With growing frequency, restorers report frustration and exasperation with price-slashing, administrative burdens and Monday morning quarterbacking by Third Party Administrators (TPAs), insurance adjusters and third party claims consultants. Restorers suffer from stagnant or declining prices in standardized pricing/scoping platforms that do not reflect real world increases in labor and operating costs. They also struggle to comply with laws that fail to take into account the unique challenges faced by emergency service contractors. For example, "time and materials" pricing models are illegal for residential work in many states, like California, and many contractors don't know it. Many if not most of those states require a written "lump sum" (fixed price) contract signed by the residential customer before any work begins. Most emergency service contractors find it extremely difficult or impossible to render a meaningful price in the short time they have to commence emergency service. If the restorer guesses too high, he may lose the job. If he guesses

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too low, it could bankrupt him. The problem is that generic construction laws apply equally to emergency service contractors, apparently because no one has notified state legislators of the special challenges encountered by emergency mitigation contractors. Requiring an emergency service contractor to have a fully-executed fixed price contract before any work begins is like requiring an emergency room physician to commit to a written cost for saving a patient's life immediately upon the arrival of the ambulance to the hospital—before the physician has had time to initiate emergency life saving measures for the patient.

The net effect of these problems is far-reaching. Some of the best and the brightest contractors are withdrawing from insurance company preferred vendor programs, or greatly limiting the geographic areas they will serve, in order to minimize travel expenses. Others are getting out of the business altogether. This attrition gradually forces insurers to assign work to contractors with less training, efficiency and expertise, which lowers the quality of service received by insureds. When lower quality service is provided, the insurance companies' liability exposure increases because when customers take legal action for substandard work performed by a preferred vendor, they usually sue the insurance company as well. When insurance companies are sued, they raise premiums to offset the loss—and the insured suffers again. Obviously, when jobs are assigned to less efficient contractors, it delays the resolution of claims, which *increases* the insurance companies' expenditures for additional living expenses. This tarnishes the reputation of the restoration industry and decreases the confidence of the public and the insurance companies in the restoration industry. That becomes another potential motivation to raise premiums.

Ladies and gentlemen, this is not sustainable. For the well-being of consumers and all industry stakeholders, something significant has to change to avoid continued and irreparable harm to restorers, their customers and even insurers. I was delighted to hear that the RIA has stepped up and assumed the mantle as the industry's voice on the front lines. The blueprint for the AGA was laid out in the brilliant article *Our Greatest Need*, by RIA Vice President Mark Springer. It appeared in *Cleaning & Restoration Magazine*. The RIA is the oldest and largest restoration industry trade association. At the ripe old age of 74, it has proven its resilience, and now, it has been revitalized with fresh new ideas from progressive and enthusiastic leaders. I submit that it is clearly the best-suited association to represent the industry on critical issues. The RIA is now actively seeking a pathway to become involved in lobbying activities to help the restorer, something it never did before the AGA was born. The RIA, through the AGA, will thoughtfully evaluate issues and publish and disseminate white papers taking definitive positions intended to ensure that restorers are treated fairly, stop the downward spiral and help restorers sustain long term financial and operational health. Restorers, large and small, will be able to hang their hats on those positions and will know they are in good company sticking to their guns on those issues, instead of feeling like they are alone on an island being chased by a wild beast that refuses to negotiate. Our hope is that the industry will finally band together through this effort.

The message from TPAs continues: they want more and more documentation and administrative hoop-jumping, and faster work at even *lower* prices. When will it end? Who has the robust financial and human resources and is properly equipped to stand for the restoration industry as a whole? Only the RIA. Like most 74-year-olds, RIA has had its share of ups and downs, but this is not the time to debate past grievances. That accomplishes nothing. The industry needs to shift its

focus to action-oriented solutions that will allow restorers to be treated fairly in the future. The RIA has a fresh new spirit. It needs your support and I respectfully submit that you need to support it.

In fairness, insurers and their allies are not the only ones to blame for the current state of the industry. Inexperienced and misguided contractors created the need for the third party claims consultants in the first place. Those contractors need education on restoration methodology, pricing and ethics from the RIA. And many others simply do not have the right information to defend themselves. The information exists, we just need to get organized, and deliver it where it is needed. If you support the AGA, this can be accomplished. Otherwise, the decay will continue.

In 1754, Benjamin Franklin created the historic “Join, or Die” cartoon that shows an institutional body as a segmented snake. It vividly represented the disconnection among the eight American colonies. Franklin wrote that mere prayer is not enough to stop the invasions of property by privateers. Sarah Duke, a curator at the Library of Congress was quoted by the Washington Post as saying that “The image proved so evocative that colonists used it to defeat the British during the American Revolution.” Franklin showed that the whole was greater than the sum of its parts. Fortunately, the colonies united—and formed the greatest nation in the history of the planet.



The AGA will unite the restoration industry and become the leading voice advocating for the best interests of restoration contractors nationwide. It will develop and implement strategies to help create and maintain equity between restorers and insurers and their partners. The AGA will advocate for the financial and legal interests of restoration contractors, while working collaboratively and fairly with insurers and the other stakeholders involved in the restoration process.

This can only be accomplished with a large unified body of restorers who are ready to commit time and treasure to protect the industry that has provided them with such rewarding careers. The automobile repair industry banded together to oppose lowball insurance repair programs and pricing and it prevailed—because it was united.

It is important to state that the AGA does not exist to wage war against TPAs or anyone else. This is not a contest to see who can shout the loudest. The goal of the AGA is to work tactfully with industry stakeholders, intelligently citing applicable coverage language in insurance policies, as well



as labor statistics, the law and the facts. This is the only way to sustainably reverse the trend of decreasing profit margins in the restoration industry.

<b><u>IF:</u></b>	<b><u>THEN:</u></b>
You want someone to advocate to Xactware for fair prices on your behalf	<p><b>Please</b></p> <p><b>support</b></p> <p><b>the</b></p> <p><b>AGA</b></p>
You would benefit from a consensus paper about fair and reasonable ground rules for project documentation requirements	
You believe TPA programs are not in alignment with accepted industry best practices that have been established as the Standard of Care	
You believe you would be well served by a position paper from the industry about overhead and profit and general conditions	

It is time for restorers to unite before irreversible damage is done. Taking on these challenges will not be easy or pretty, but the benefits justify the costs. It may create some discomfort, but please ask yourself: “What is the worst case scenario if restorers protest the fact that many standardized prices have not risen in over 25 years despite reports from the United States Bureau of Labor and Statistics which show that labor costs have increased?” Will the pricing platforms retaliate by lowering prices even further? That would only *support* our argument. Well-qualified contractors that perform high quality work deserve to earn a good profit. The AGA does not advocate for contractors getting paid whatever they want—we just want prices to reflect the actual labor market, and right now, in many cases, they do not. Insurers and those who work for them are organized. They share well-crafted positions to argue for lower prices, but most restorers do not sing from the same sheet of music. But now, by supporting the AGA, financially and otherwise, you have the ability to acquire standardized messaging so your profession can deliver consistent messages with a unified voice. The RIA believes this needs to start now, without the delay of waiting for a perfect plan. General George S. Patton, Jr. changed the world in World War II with swift and decisive action. He famously said: “A good plan, violently executed now, is better than a perfect plan executed next week.”

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*-General George S. Patton, Jr.*



The AGA consists of a team of highly seasoned and respected restoration professionals from some of the biggest names in the business. We need your input about which issues you feel need the most attention first. We are collecting ideas and prioritizing issues. We will then analyze and debate the issues and formulate specific plans for real change.

Please support the AGA now. This will be labor-intensive, so we need people, ideas and money. We need people to perform research, write papers and serve on subcommittees and task forces. Please volunteer to help on whatever level you can, and please submit ideas for issues that warrant examination by the Committee, by emailing me at [EdCross@EdCross.com](mailto:EdCross@EdCross.com) or calling the AGA Headquarters at (760) 773-4002. Please write “AGA” in the subject line of your emails. We will carefully consider all ideas submitted, using a triage system.

As for the money, Contractors have suggested the very modest investment of 1/100<sup>th</sup> of one percent of each restoration company’s annual gross revenue, i.e., \$100 per one million in gross revenue. My personal

investment will be much more than that, and I know that many contractors will be inspired and willing to invest considerably more. Each member of the AGA Committee has pledged to make an investment of *at least* 1/100<sup>th</sup> of 1% because they know the investment will pay off if the industry unites, and they believe the RIA is in the best position to effect this change. Will you please join them by sending a check to the RIA at 330 N Wabash Ave., Suite 2000, Chicago, IL 60611. Please make your check payable to “AGA.” Even small investments will help.

I wish to extend my sincere appreciation to the talented restoration professionals who have invested their time as Committee members and have conveyed so much commitment and enthusiasm to pursue a mission for transformative action, and to many of my fellow Committee members who reviewed and contributed to this Report. Many hands make light work, and pulling together, we *will* make a difference.



Thank you for the opportunity to serve the restoration industry.

Respectfully,

**RIA ADVOCACY AND GOVERNMENT AFFAIRS COMMITTEE**

Edward H. Cross, Esq., Chairman



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