



# THE RISK MANAGER

Fall 2000

## PRESIDENT'S MESSAGE

Last week a lawyer asked me why he should select Florida Lawyers Mutual, as opposed to a commercial carrier owned by its shareholders, as his firm's malpractice insurer. Here, in part, was my answer.

Florida Lawyers Mutual better serves its insureds in many ways. When a claim is made against you, it is extremely important to you, the insured lawyer, that only your interests be represented by counsel selected by the insurer. It is important, therefore, to know how your insurer selects and uses your defense counsel.

Florida Lawyers Mutual selects your defense counsel based solely upon the competency and experience of the individual attorneys in the defense firm. Florida Lawyers Mutual has never created or imposed arbitrary billing procedures or limitations. On the other hand, many commercial carriers pre-establish limits on hourly fee, unit billing procedures or other fee and cost restrictions and select defense counsel among firms who accept those conditions of engagement.

In many instances, your defense attorneys will be engaged by Florida Lawyers Mutual immediately upon notice of the claim. Your defense attorneys, working with a member of our claims staff, will have the benefit of early knowledge and participation to effect a timely repair, early resolution or construction of a solid defense position in each appropriate situation. Delaying participation by competent defense counsel until suit is filed, the customary commercial carrier practice model, is more often than not in the insurer's but not the insured's best interest.

Florida Lawyers Mutual honors its obligations to choose and use defense attorneys for the exclusive benefit of the defense lawyer's client, you the insured. Unlike most of our commercial competitors, it is only the insured's interest, not shareholder interests, that is our focus and objective.



A handwritten signature in blue ink that reads "William E. Loucks".

William E. Loucks  
President

# dependency and recovery

## **Myer J. (Michael) Cohen**

*was a practicing attorney in Boston until, in May of 1986, he was arrested for attempting to bring drugs to a client in jail. As a result of his arrest and subsequent plea of guilty, Mr. Cohen was incarcerated and indefinitely suspended by the Massachusetts Supreme Judicial Court. Immediately after his arrest, Mr. Cohen entered chemical dependency treatment in Miami and joined Florida Lawyers Assistance (FLA). His license was reinstated in Massachusetts in 1992 and he was admitted to The Florida Bar in 1994. He became Assistant Director of FLA in 1994 and was named Executive Director in 1995, which remains his current position*

Although chemical dependency and psychological illnesses such as depression and bi-polar disorder are not moral or ethical deficiencies, they are diseases which can erode individual values and management practices, giving them the appearance of a personal, professional, or moral failing. This disintegration of ethical values and practice procedures is especially devastating when the person affected is an attorney or other professional to whom the public looks to as an example.

In my own case, a 23 year history of dependence on drugs and alcohol led to the loss of my material possessions, my marriage, my family and friends, my ability to practice law, and finally my license. I wish I could say that I woke up one day, realized I had a drug problem, and got help, but the truth is that as long as I was practicing law, I was able to tell myself I was fine. Such denial is a typical symptom of this disease. In 1986, as the result of an arrest for a major felony, I found that I had no place left to run and no way I could continue to deny I had a drug problem. I entered inpatient chemical dependency treatment and spent the next 6 months in that setting. While in treatment, I was introduced to the two cornerstones of my recovery, a 12 Step program and Florida Lawyers Assistance, Inc. (FLA). Utilizing the tools and support I've been given by these programs, I haven't found it necessary to use a mood altering substance for over fourteen years.

Having been involved with the recovering (and non-recovering) legal community during that time, I have seen a number of factors that seem to encourage the progression of chemical dependency and psychological and compulsive disorders among our brothers and sisters. Historically, our profession accepts the use of alcohol to celebrate a win or lament a loss. We are often in a highly stressed environment, dealing with the emotional roller coaster of trial work, client contact, filing deadlines, and other attorneys who seem to be increasingly less civil to each other. We are often placed in charge of substantial sums of other people's money. Finally, even after it is recognized a lawyer has a substance abuse or psychological problem, partners, associates, and family members may ignore or avoid the problem, either due to their lack of knowledge about how to help or through a desire not to "lose" a valuable member of the firm or family. The irony is that unless the affected attorney receives help, the loss is not only possible, but certain.

Once I reached the point where I was willing to admit I had a problem, I found that help was available. While still in treatment, I became involved with FLA, helping to start two attorney support groups in Miami. These are weekly meetings where recovering lawyers (or lawyers who want to find out more about this "recovery stuff") meet to air out the problems they are encountering both professionally

“*Recovery doesn't guarantee that if you put down the drugs and alcohol or take the proper antidepressant, all your cases will settle, you'll hit the lottery, and marry a rich, beautiful spouse.*”

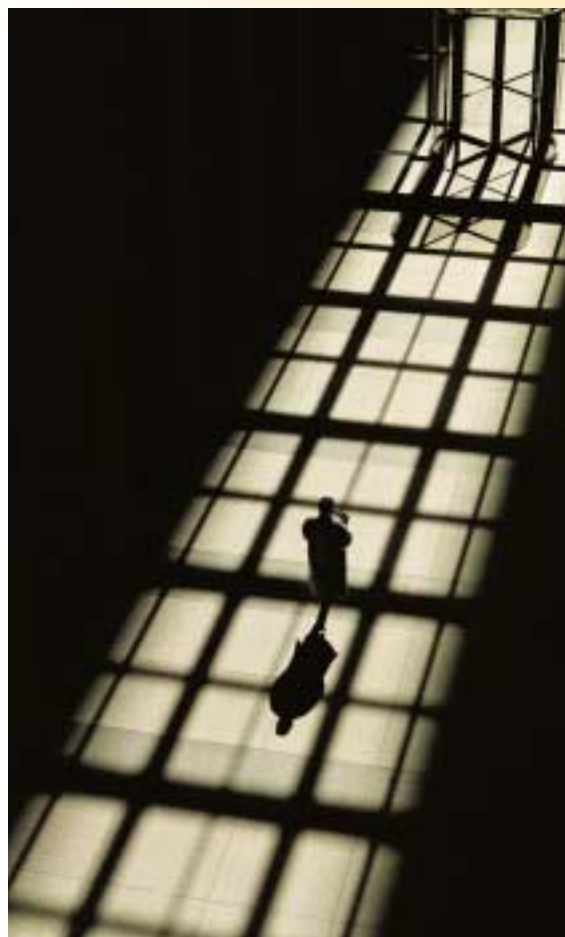
and in maintaining their sobriety. There is a tremendous amount of experience at these meetings; the length of sobriety of the group's members can range from over 20 years to less than a week. It's a great comfort and source of strength to be able to talk about what's been going on during the past week and get back advice, support, and practical experience from other attorneys. The most important thing that FLA gave me was the knowledge that I was not alone, and that there were other members of my profession who had the same problem, met it, and were overcoming it one day at a time.

For a lawyer who is following the recommendations and is in compliance with their rehabilitation contract, the lawyer assistance program becomes not a sword, but a shield. In my case, without the advocacy of FLA, I would likely have been disbarred for my offense, rather than receiving the suspension I did. My reinstatement in Massachusetts and later admission in Florida would likewise have been impossible without FLA's recommendation, supported by monitor reports, negative urinalysis tests, and personal perceptions of my attorney monitor and other recovering lawyers. I have also learned that even in recovery, there can be instances where, based on my previous history, allegations of impairment may be raised before a court or disciplinary agency. In such cases, a documented record of recovery is the best defense.

The attorney assistance program gives me a chance to give back to members of my profession, both recovering and non-recovering, what I have been given. It allows me a vehicle in which to act as a “recovery advocate,” arguing for continued funding for professional support programs, community based treatment programs, employee assistance programs, and similar plans. When the Bar is questioned regarding the effectiveness of FLA, I believe that I and other recovering attorneys are the best argument that can be made. As a result of my recovery, I have achieved a return of my self-esteem and ethical values, have developed (perhaps for the first time) an ability to handle life and professional stress, and have been blessed by the reintegration of my family, friends, colleagues and clients into my life.

Over the past several years, it has become apparent that conditions other than chemical dependency can also adversely affect an attorney's ability to practice law. Such other conditions, which are likely more prevalent within the legal community than chemical dependency, include depression, stress, bi-polar disorders, personality disorders, financial and family problems, and other addictions such as gambling, sex, or food. Failure to address and treat these conditions can result in consequences just as severe as drug addiction or alcoholism.

No one says recovery is easy. During the past 14 years, I have lost and regained my license to practice, went to jail for the crime I committed in 1986, have experienced the deaths of friends and family members, have gone through a divorce, and have dealt with two other potentially terminal illnesses. That's life. Recovery doesn't guarantee that if you put down the drugs and alcohol or take the proper antidepressant, all your cases will settle, you'll hit the lottery, and marry a rich, beautiful spouse. It does guarantee that no matter what life hands you, you will be able to get through it without resorting to your old habits, and that if you don't succumb, things will get better. That's a guarantee I can vouch for.



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