

## JORDAN'S JOURNAL 2006

An overview of how we view (in the rear view mirror) the past year's news is attached, accompanied by a short directory to direct your attention to what is worthy of mention.

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### *Wake of the Flood*

Climate conditions cause climactic conditions as the tide turns from Twin Towers tragedy to tsunami swells, and a wave of emotion wells up as we contemplate affairs of state and the state of affairs in the church, then lurch to political pandemonium with economic encomiums and the farce that ensues with legal actions that court disastrous factions forming opposite reactions equal in Scopes to Christian hopes that nature's laws contain a clause showing some sign of Intelligent Design.

So we open our annual annal of things anal and banal to create a canal to sluice facts fast and loose, theories obtuse and the poor excuse made for much abuse of systems and society by those of notoriety. In the political arena following Katrina, a flood of bad blood courses through this land which may well demand that those in command commandeer corrective courses before calamity forces a change to winning horses in mid stream.

2005 was alive with possibility discounting our ability to focus wholesale attention on matters of criminal detention and minimal mention made of those who passed from the parade unseen beneath the sheen of show business charade. The stunning creativity of Einstein's relativity celebrated its centenary, but we are wary of its worth as years after its birth its originator celebrated that what was really needed was not technology, which exceeded our humanity. Is it human to assume that the news that we consume is more a digest of the truth of his assertions? How profound or silly are fingers found in chili and other buried treasures which monetarily measures credulity's capacity and reason's rapacity. What else can you say of the raucous display where a mother mistook Michael's childish play but the way he Beat It Badly made a scene that sadly twisted the tale of Simpson back. But while Jacko's jury caused a fury the fresh attack on raiders rotten and their gains ill-gotten made their lot in life less pretty when merger models lost their appeal. As they stumbled empires crumbled but Martha's not humbled, Ken Lay lacks dismay and Peterson's prey saw no emotional display when he was sent away and not Scott free. His fate was his choice, while Terry Schiavo lost her voice, but her case put a face on the debate over who decides the fate of those who failed to show how or if they wished to go. A fight which might find cite in a new court of Supremes, or the sort of supreme divination divulged by Saint Peter's reincarnation as church and state can't separate when right to life causes strife. It's gravity needs levity, but Johnny had to leave and Dangerfield's loss we grieve. Carson convulsed us, Rodney repulsed us, but both had the pulse of humanity and heartened us with laughter, which we long remembered after they were gone. Nor did we draw cheer when we saw a year where a litany of literary lions were written off, and we doff our cap in gratitude for sparing us the cr-- of moral rectitude and striking an attitude that posted questions of import. They wrote plays, journals and novels to report the novel idea that we were human in spite of ourselves, and we take their works from our shelves to watch them spear the intellectual, fear the ineffectual and sneer with glee of how actually so much of what they said filled us with some dread their pens pointed at you and me. Saul Bellowed, Hunter's shots roared and never mellowed, while Miller's art sought to impart the melancholy of life's decisions. Which brings us to the start of our contemporary chart where we take it as our task to make sure someone asks if Intelligent Design is all that smart.

Honest criticism is hard to take, particularly from a relative, friend, acquaintance or stranger (Franklin Jones). So thank you for sending (I've done some amending) your reviews of last year's news:

Even with your low standards, you consistently fail to achieve them (Love Mom and Dad)  
Simply stated, it is sagacious for you to eschew obfuscation (Your friend, Peter Drucker)  
Your apparently believe that when ideas fail, words come in handy (Johnny "Go To" Goethe)

My favorite is a Mencken mention: (you) write the worst English I have ever encountered. It reminds me of a string of wet sponges; of tattered washing on the line; of stale bean soup, of dogs barking through endless nights. It is so bad that a sort of grandeur creeps into it. It drags itself out of the dark abyss of pish and crawls insanely up the topmost pinnacle of posh. It is flap and doodle. It is balder and dash.

To which Shaw's riposte is the best to post: The longer I live the more I see that I am never wrong about anything, and that all the pains I have so humbly taken to verify my notions have only wasted my time.

Of course, you can never have self doubt when one is a "man of fixed and unbending principles, the first of which is to be flexible at all times" (Sen. Everett Dirksen)

So outrage is vented, anger's steam scarcely tented, but dreams stay undented and we pray undaunted that ideas highly vaunted will vault the barriers they face. Challenges loom large and someone must take charge or the fears that we won't face will doom us to disgrace and tyranny's embrace won't allow us space to breathe or live free.

We close with three whose prose speaks to me, since we won't see their literary likes again:

A salesman has got to dream, boy, it goes with the territory – Arthur Miller  
When the going gets weird, the weird turn pro – Hunter S. Thompson  
A good deal of intelligence can be invested in ignorance, when the need for illusion is deep – Saul Bellow

## FEDERAL FOLLIES

### *The Ministry of the 3% Majority*

We didn't send you to Washington to make intelligent decisions. We sent you there to represent us (constituent letter to his Congressman)

I do know I'm ready for the job, and if not, that's just the way it goes (George Bush response to a fifth grader about the election)

If the facts don't fit the theory, change the facts (Albert Einstein)

The Presidency is now a cross between a popularity contest and a high school debate, with an encyclopedia of clichés the first prize (Saul Bellow)

Does the President give a dam? Will Iraq be his Viet Nam?  
Will wire Taps blow ill wind like Watergate?  
Encompassing dead reckoning South West Middle East beckoning  
Will direction's lack crack the head of state?

The political arena after Hurricane Katrina  
Depicts a Democratic pas de deux  
The deadly dance of arrogance can't enhance George Bush's chance  
From splitting the Republicans in two

A raging flood of boiling blood has caused some to start slinging mud  
About wheels greased while the nation's grieving  
And well oiled trades produce tirades about political renegades  
Whose deals increased with details deemed deceiving

First Frist missed Bills in Tennessee  
Then Dems DeLayed Tom's Texas spree  
They pulled Abramoff the lobby  
Yet Karl Roves and keeps his job free  
Spying Plame sight opportunity  
Cheney Scoots away from Libby

Whose label sticks to disable McCain's means to glean the fable  
Of what we knew and when about Iraq  
New "administrative error" makes us pica type of terror  
Of us or them when speak of sneak attack

And it may seem idiotic extending acts Patriotic  
Though Murtha hurt a sitting President  
The final score, just one month more, despite spite splayed on the House floor  
So Congress won't progress this precedent

Rehnquist's time passed, bright Day can't last, Bush's choice left all aghast  
Supreme team order depends on Roberts' rule  
Congress got tired when Harriet Meiered, cogito ergo Alito transpired  
But does he dress conservatively in duel?

The right wing flew majestically, some trial balloons domestically  
But New Orleans orphaned ideas they hatched  
Anti-Social Security, Part D's lack of maturity  
Health care snares Medi-Scare from seniors snatched

Images of devastation from imaginary destinations came in waves from sea and desert sand. We gave thanks and relief the others distant grief would never have an impact on our land. But crashing down it came so the South won't be the same and Iraq's flickering flame burns in our collective shame as selectively some blame those who are not they. Entering the fray are those who will say our troubles are of our invention. Steps could be taken for prevention but those who paid the most attention were ignored, deplored and their theories unexplored, but none were humbled when they stumbled on the truth. "What Madness This" said Amherst's Belle as politicians seek to quell the rising tide of outraged swell with questions asked and crooks unmasked. A relapse of wire taps (even John Dean was on the scene to recall governmental collapse) the Plame name game quarrel with Karl the Snarl, Cheney's getaway by scooter, House cleaning of leadership, the Senate's meaning of stewardship. And who will right the ship of state assailing against winds prevailing upon our ability to retain credibility with what's left. Who thought we'd miss John Kerry as Bush's mob made merry with destiny's fate to use their "mandate" to give to the poor and to the rich, never minding which data would create a means to test the hypothesis that the synthesis of salvation and financial renovation would save the nation. The ovation died when others lied and mothers cried and we often spied George crawling back to Crawford to see Cindy...Sheehan. Her public face of suffering made many face the buffering Bush brought as head of body politic and men like Dick and Don and lesser lights who'd con us into believing we'd be achieving peace and the lie we'd all get a piece of the pie. Feels good going down, but something keeps coming up before we can digest what he asserts – so we got our just desserts.

### *New Orleans – Big but not Easy*

The joke was on us: "What is President Bush's position on 'Roe v. Wade?' He doesn't care how people get out of New Orleans."

"Louisiana is a city that is largely underwater" (Homeland Security Chief Michael Chertoff)

And with these words MSNBC's Keith Olbermann shed commentative cant for anti-Republican rant and both crystallized and energized citizens saddened by the absence of preparation, the lack of leadership and the failure to follow up efficiently as refugees flooded shelters then had to swelter in the heat with the look of defeat lingering long in a nation's consciousness. The devastation had several effects:

- 1) Quite simply, it raised the question "How could this happen?" We are aware natural disasters occur, so why didn't it occur to anyone to keep spending on safety? It did, but repeated requests for raises were rebuffed
- 2) New Orleans is the largest port in the United States and its disruption will have a ripple effect on the economy
- 3) Insurance losses amplified and rates will rise elsewhere to cover claims

- 4) A big American city went bare and now we bear the cost of creating an infrastructure – as a start, and when does their economy recover?
- 5) The administration persisted in pursuing permanent tax cuts while promising total relief, at a cost of approximately \$2 billion a day. By the way, the Army Corps of Engineers asked for only \$27 million to improve the levees – and was given only \$5.7 million of it

So Mr. Olbermann was more than peeved when he believed our government was so unaware that it didn't seem they'd care – and he said so on the air:

Nationally, these are leaders who won reelection last year largely by portraying their opponents as incapable of keeping this country safe. These are leaders who regularly pressure the news media to report the reopening of a school of a power station in Iraq and which regularly defies its citizens not to stand up and cheer when something like that is accomplished. Yet they couldn't even keep one school or power station from being devastated by infrastructure collapse in New Orleans. Most chillingly of all, this is the law and order and terror government. It promised protection, or at least amelioration, against all threats, conventional, radiological or biological. It has just proved that it cannot save its citizens from a biological weapon called standing water...for many of this country's citizens, the mantra has been 'whether or not I voted for this president, he is still my president.' I suspect anybody who had to give him that benefit of the doubt stopped doing so last week. I suspect, also, a lot of his supporters, looking ahead to 2008, are wondering how they can distance themselves from the two words which will define his government, our government: New Orleans.

### *Social Security – Easy but too Big*

In an "ownership society" everyone can feel good about the freedom to participate in practical matters which matter so much even if such a role is more than most control:

- 1) 401k gave companies a way to promise investment but not return, so many stay unclear and money stays in fear in accounts which don't amount to inflation
- 2) HSAs are here to stay but their explication leads to complications because health problems' multiplication comes quickly without warning. It's a game of patience except where the patients are family members who remember how things went before the money spent was more their own.
- 3) Medicare Part D is famed for its complexity even though it's framed in terms that all can see, but where it is sold privately it can cause privation except for sellers staving starvation by preying on those praying for some help

Given the success, and projected progress, of these programs, is it any wonder the critics created a firestorm about reform and the promise even Bill Thomas doubted needed braking. The Chair of House Ways and means leans more to VAT if it weans us from the taxing tracks we rail against. Others reported that the facts are distorted and resorted to assorted viewpoints:

New York Times: White House officials privately concede that the centerpiece of Mr. Bush's approach to Social Security – letting people invest some of their payroll taxes in private accounts – would do nothing in itself to eliminate the long term gap

Economist Paul Krugman:

- 1) To save Social Security Bush wants to destroy it by basing success on market whims
- 2) By borrowing \$1.2 Trillion to cover the transition you bank on an economic growth rate of 3 to 4% for 50 years to cover the shortfall when Social Security economists only project a rate of 1.8%
- 3) The people who hustled Americans into a tax cut to eliminate an imaginary budget surplus and a war to eliminate imaginary weapons are now trying another bum's rush

Business Week: The gap is so large (\$3.7 Trillion in today's dollars) that even if the stock market matched its historical average, private accounts would not fill the gap for 90 to 100 years (and that is NOT counting the \$1.2 Trillion in transition costs for the creation of the private accounts)

Several Sources: The crisis is real, but only because the government borrows \$100 billion annually from the current surplus (when it existed), which will drop sharply by 2011 when boomers start to leave the workforce. Thus fiscal responsibility would allow Social Security to responsibly meet its own obligations

Even the Comptroller General said "the creation of private accounts for Social Security will not deal with the solvency and sustainability of the Social Security funds"

What is also wrong is that, for all the talk of personal ownership and some public disavowals of private accounts, there are many restrictions in place: no early withdrawals, limited fund choices and few lump sum payouts or estate transfer. So other than guaranteed debt, economic uncertainty, market risk, plan restrictions, dire predictions and the need to educate a national on financial basics, this proposal gives new meaning to the concept of "Social Security" – but not a positive one.

#### *Medicare – A Bitter Pill to Swallow*

The Part D mystery got all the attention (see outline following) but there's still some tension about health care and pension. For those who go unmediated, what has government dedicated to our financial future?

- 1) Part D cost got lost in interpretation. The original White House assessment was packaged as a promise to legislators that the premise of prescription payment would cost no more than \$400 billion from 2004 to 2013. One year later they changed that to \$534 billion and one year after that to \$724 billion – and this for a program that had yet to be instituted. The Congressional Budget Office agreed with the last best guess (saying \$720 billion) but noted that only came after the federal government saved \$190 billion by not paying states for the drug costs of those on Medicare (which sounds fair) and Medicaid (a charade, since that money is then given back through subsidies promised in the law for those who cannot pay premiums, or their share of cost)

Medicare administrator Mark McClellan says the drug benefit cost will be growing 11% a year by 2013 and the base should be \$109 billion in 2015. That does not count, of course, the additional cost borne by participants for what will inevitably be higher premiums and possible amendments to the law to increase their financial stake.

- 2) Medicaid in need of aid: the states bear a greater load with the drug charges as well as coming cuts in overall health assistance. A 2% annual cut over 10 years is proposed, so it's supposed states' fates are to foot the bigger bill. This while waging their own budget battles and the fact that Medicaid spending itself has increased 63% in the past five years due to inflation, an older population and cuts in employer funded benefits.
- 3) Prescriptive Measures: In South Carolina, give those on Medicaid a fixed amount of money to buy insurance and pay out of pocket costs, rolling over unused funds for insurance when they leave the program (if they can get insurance, can get the education to manage medical money, there's sufficient monitoring and adequate understanding). The Medicaid Commission approved \$11 billion in cuts over 5 years, but recommended a change from AWP (Average Wholesale Price, or "ain't who's paid") and AMO ("ain't much offered"), expanding drug rebates (and how long do discounts count when you reach the end of the pharmacy chain?), tier co payments (so more financial pain) and incentives to abstain.
- 4) Retirement Pleasures: well, maybe not, as they tighten the financial knot to take what you haven't got to cover what you might get. It is estimated that at the current rate of health care inflation a typical retiree could spend 22% of Social Security payments on Medicare premiums alone. Add to that – co payments, uncovered health expenses, Part D drug costs, and the possible reduction in the Social Security payments themselves (a discussion temporarily gone but not forgotten) and the promise of the golden years begins to show a little tarnish.

### *Health Insurance Reassurance*

Recipe for Disaster: take a good idea, mix in some specious economic arguments, make erroneous assumptions about market forces and health care access, blend in the Bogeyman of Big Business vs. small and you can justify almost anything that promises to save money.

Some underlying structure ascribed to "Association Health Plans" (AHP) makes sense:

- 1) Let individuals buy coverage free of state mandates
- 2) Streamline the multiple overlapping rules of state regulations
- 3) Reduce the variety of plan designs from which to choose

These can all cut costs and confusion. What makes less sense is the financial "sales pitch" which, in the very face of market evidence to the contrary, says

"The most coveted health insurance available in America is offered by big companies and unions. All we're trying to do in the bill is to give small employees the same opportunity to provide high quality health insurance to their employees at competitive rates" (John Boehner, Chair of the Education and Workforce Committee)

"By letting small businesses join together to buy insurance at the same discounts big companies get, this bill will help workers and their families have more health care choices and obtain greater savings" (President George Bush)

None of this is actually true, since carriers are already pooling the aggregated group size of small business together, offer choices and may even offer better rates than big businesses, but it sure sounds good when it comes from a speechwriter for the President

*Federal Recap – any traction or retraction?*

The health care and social agenda mapped out at the beginning of the year had something for everyone. It hit rough terrain, which caused blowouts, calls for repairs and even a little despair that there was nothing for anyone in the end:

- 1) Tort Reforms: addressing medical lawsuits
- 2) Purchase health coverage across state lines
- 3) Various measure for biodefense, IT initiatives and safety improvement
- 4) Association Health Plans
- 5) Social Security
- 6) Legislation to promote Health Savings Accounts  
(although there were many favorable tax memos and rulings)

Nothing doing, but something's brewing on the grounds of Tax Reform Commission hearings. For health care, a curtailment not derailment of the employer sponsored premium track has been voiced, not for the first time but with more clarity than before. Though opposed by all sides, it brings reason and reasonable rules to bear on the problem:

The rule: put a cap of \$5,000 annually on individual and \$11,500 for family on the tax exclusion of health insurance

The reason: "Because of the tax preferred status of health insurance, people are more likely to buy health insurance that provides more coverage than they would in the absence of the incentive"

Unfortunately no empirical evidence is given to support this statement – but then, that has been characteristic of an administration whose sense of direction and place has been called into question so often corrections or even random reflections seem beside the point. In the end we may just pass something which makes little sense, will have little impact and will detract from positive acts to keep us from going backwards. But it will be showcased in some school as the presidential rule seems to focus on photo ops and not a long range view.

## CALIFORNIA DREAMING

All the leaves are brown, and the skies are gray...

There he goes, one of God's own prototypes. Some kind of high powered mutant never even considered for mass production. Too weird to live, too rare to die (Hunter Thompson)

Unthinking respect for authority is the greatest enemy of truth (Albert Einstein)

California is like an artificial limb the rest of the country doesn't need – you can quote me on that (so we did) (Saul Bellow)

Capital punishment is society's recognition of the sanctity of human life (Sen Orrin Hatch)

Arnold's sold short in beggar's getup, Downed is Schwarzenegger's setup  
To save the state from a fate it may have deserved  
We chose right wing rara avis to lend color since Gray Davis  
Lacked the energy to see his office conserved

Kevin Shelley clammed up quickly despite being pinned for prickly  
Raising funds to stop further fund raising abuse  
State budget woes the Guv now knows exacerbate when it borrow  
Funds from itself to fund for other programs' use

It still appears that Jackie Speiers can't purport to get support of peers  
HSAs can't conform nor will reform find a place to perform  
Plan mandates fall despite the call for universal care for all  
So Sheila's Kuehl, her last rule for California's state run pool  
Has found allies despite the lies told of funding demand's supplies  
But how can the state rest assured the uninsured will be heard?  
When we don't even want to see what they'll be costing you and me  
So we circle and return to if work'll be safe to turn to  
Or government's the one to say who'll be covered and how we'll pay

Actors start forming their own lines, directing that the stars align  
Behind scripts that claim Crips founder should have a right to live  
And California's magistrate can't win for losing this debate  
With liberal begging he's no pardon left to give

Garamendi will disable carrier rules that enable  
Denials to claimants requiring recompense  
Claiming Workers' rate reduction he slates a state wide seduction  
Hoping voters savings will suspend their common sense

Arnold should have listened to Maria when he thought the panacea was the fight to take his light to people losing sight of what they envisioned when they provisioned Arnold's win. Are we just fickle or is he in a pickle as Democrats relish the chance to buttonhole burghers who've mustered their forces to catch up with hot dogs who think their bankroll overcomes political naivete. Wait, that's French, not German, and the strength of Kaiser's role saved for a different section, but sectional debates will be sure to cause the state's balance and its budget to move if they will nudge it just a bit. Republicans don't rule here but Bush's tool

presides and so we're taking sides on many fronts. Whether capital punishment or punishing capital markets with ways to bring in business while forcing businesses out, no one has the clout to stop the flow and so we doubt the ministrations of the current administration. Despite this fall's election with summary rejection of most of what some thought we'd want to hear we're wondering what's next since no one has the text and it's always what we don't know that we fear.

### *Unknown Zone*

"Everybody knows that health care costs are out of control. The system's broken and tinkering won't fix it. We're beyond the point of cosmetic surgery. What we need is a cure" (Sheila Kuehl, sponsor of a Universal Care bill)

Of course, it helps to find out more about the symptoms, the actual diagnosis and to ensure the cure won't kill you. But why quibble when the state can't afford to make even one slip in this proposed operation? (Our analysis of Single Payer rhetoric and claims choleric follow)

What would life be like if

We had passage of the following bills killed this year:

- 1) HSA Conformity: For Bush it's a go, for Arnold veto, so HSAs can still NOT be deducted from state tax
- 2) Drug Price Negotiations: a dubious creation, negotiated out of existence in several instances
- 3) Seven Swans a Swimming: Nation and Richman act like the beggarwoman and can't get agreement or support despite reaching across the aisle to report 7 bills in one to help the system run
- 4) Mandates don't survive debate
- 5) Healthy Families: changes ruled unhealthy

### *Known Zone*

But we managed to make landmark legal strides:

- 1) Trans gender transition coverage must be paid
- 2) Tobacco cessation counseling and treatment is now required

### *Twilight Zone*

Insurance Commissioner Garamendi, always known for being trendy, takes a bow for how he personally reduced auto rates (let's see the manual) and comp costs (which the market comped after getting stomped when profits romped). He also distinguished himself by trying to extinguish:

- 1) Consumer Directed Health Plans (e.g. HSA): a full White Paper composed of white lies, specious arguments and an arrogant belief that truth consists of ignoring facts. But it was entertaining, even though he's not entertaining any endorsement of usch plans (one critic said his "attack...is based on the threat they pose to his vision of a Single Payer health care system" – so he must be Kuehl with Sheila)
- 2) United Health Care can buy PacifiCare: despite high fives for consumer protection, Big John strives for higher election as his Anthem from last year plays into the hands of those who'll foot some bills. By getting "promises" that rates won't raise as a result of the merger (so they'll be raised because the carrier just feels like it) and \$250 million for the medically underserved (could have gotten twice that), he gave the partnership a christening
- 3) Disability Coverage: The people's champion will cause rate increases by decreasing carrier ability for declination (this is covered in the Legal section)

### *Ozone*

Or the "Oh No" zone – as Arnold's close but no cigar, and must sing a new tune from his Hummer "car" as his plans did not go far to jar us awake to contain runaway government costs. Was it lack of preparation, the seeming desperation or the simple separation shown between reality and that other zone Arnold inhabits.

### *Other Time Zones*

Of course, not much happened in other states:

- 1) Twelve states have still not conformed to HSA tax exemptions – though all but California and Alabama (those perennial cross country compadres) have pending bills to make this happen
- 2) Maryland triumphs by forcing evil HMOs and their ilk to stop miling the system and pay the 2% premium tax. In return, however, these companies are exempt from the state's 7% corporate income tax (quick – call a Baltimore, MD)
- 3) New "Massachusetts Miracle": guess which state's governor wants to be President. Will Mitt admit it? To cut down the large number of uninsured, Romney would require all state residents to obtain health insurance or face tax and wage penalties to pay for services used by the uninsured.

Which follows the theme of every state's dream to have some influence on the confluence of events that shape the way that we pay or pave the way for our people to get help. Is health care a federal problem or one of federalism? As we seek to bind the schism that cracks open when we close off cooperation to succeed in the delicate operation of a healthy care system fragmented by conflicting rules inflicting different schools of thought and the solutions brought by bright theoreticians and mighty politicians who need opticians to improve their vision so they can catch up with Mitt.

## ECONOMIC ENCOMIUMS

It's clearly a budget – it's got a lot of numbers (George Bush)

We cannot solve our problems with the same thinking we used when we created them  
(Albert Einstein)

In the third party payer model, health is a rental car – it's nobody's problem. Nobody has ever washed a rental car (Newt Gingrich)

Capitalism is not a success. It is not intelligent. It is not beautiful. It is not just. It is not virtuous and it doesn't deliver the goods. In short, we dislike it, and we are beginning to despise it. But when we wonder what to put in its place, we are extremely perplexed  
(John Maynard Keynes)

Economic thrust and parry, whom to trust what cache to carry  
Whether boom or bust casts its spell or financial engine's rust dispel  
Our crazed notion that emotion is sufficient locomotion  
To track details of merger sales and holdings that hedge funds entail  
Judged by REFCO some late returns lowered prices and raised concerns  
Of pump priming markets timing and oil costs that are climbing  
So before opposition mounts let's privatize senior accounts

Spending we can't seem to master Savings lives from Gulf disaster  
And billions released for the Middle East  
Who says we need new revenue it depends upon your point of view  
So attacks on tax will not soon be ceased

We must suspend our disbelief when plans amend to give relief  
The ways in which our health care dollars' spent  
But bosses want a greater share of health cost with no wealth to spare  
So workers strike but still can't pay the rent

The more the government requires the less confidence it inspires  
Even when insisting it's assisting  
Part D's not free nor AHP, and new laws lack the clarity  
To keep inflation's symptoms from persisting

So it's more of the same but more so, you can't cut Fed head from torso  
It mite infect the body politic  
In sects we form reflecting norms which affects effects of reform  
We're sure the cure will not soon make us sick

*What's good for General Motors is good for the country (Charles Wilson)*

Which sets the theme for the American dream which doesn't seem to emerge from acquisitions made with some afraid that bush will stop the crop of trades and hedge funds splayed across the landscape that continue to escape despite the clippings shown of investors shorn from hair brained ideas. But ideals are still quite real as we quietly steal supposed surplus to steel our resolve to pay for more when we have less to give. But giving back is what we do because business has seen fit to cut benefits which discomfits those whose rates pay more the freight which is fraught with more potential, as unions sought jobs but bought them with rate concessions.

*This Time it's Different – Market Mayhem*

Just like the last time, fueled by funds whose appetite for deals scarcely conceals a tendency to gloat, while dependency on float may sink this bloated boat of fools. Did we learn nothing last time or is this the national pastime to speculate on when our ship comes in. We'll see if seas stay calm or if Feds sneeze in palms which sweat as some regret going again into debt in hopes they won't get fooled again. Maybe next time it will be different.

*This Time it's the Same – Excuses (ahem)*

“It's a tricky problem to find the particular calibration in timing that should be appropriate to stem the acceleration in risk premiums created by falling incomes without prematurely aborting the decline in the inflation generated risk premium” (Alan Greenspan)

Oh. And you wondered why they asked him to retire. Still, we never tire of the recitation of the rules of risk and premium as if that's sufficient salve to have you forget that any savings to be found won't be sound enough to overcome the cries of those who show surprise that any changes to their health plans must be made. It's never a fair trade as the constant race to keep pace while saving market face without facing employees who are basing their assumptions on a presumption of paternalistic promises is made in a parade of charades. A dissection of the direction of markets, cuts and corrections collects data from diverse resources and the recourses various players chart.

*Inflation*

We have the ability to see the inevitability of price pressure without fresher perspective, since even an introspective look will yield a prospective value book full of chapter and verse on why we can't reverse the trend.

What's Old (Same old, same old, enough to make our blood run cold)

We have published outlines both long and short which fully report the sort of things Which don't surprise and still give rise to health insurance questions and premiums.

Capital expenses, aging workforce, technological advances, specialization, defensive medicine, consumer advertising, medical marketing, retrofits, nursing shortages and basic carrier ineptitude all combine with certitude to underscore the attitude that rates always rise. It's not so much a matter of price but cost, not so much cost as access, and not so much access as, ultimately, utilization. Too much for too little but too little to do unless we change the expectations.

What's New (not much but enough to make matters worse)

- 1) A UCSF study states 21% of private health spending in California goes to paperwork with an additional 13% on administrative tasks (e.g. medical record maintenance) so we end up getting 66 cents on the dollar for medical care (Harvard said the 21% was actually 28%, but they're further away)
- 2) A Milliman study, notably cited by Blue Shield of California, shows an increase in the amount of premiums needed to offset losses to medical professionals due to below cost reimbursement on Medi-Cal and Medicare from 3.6% to 9.4%
- 3) Johns Hopkins reports that the US spends 2.5 times more in the last 6 months of life than in Europe with no difference in outcomes (a polite word for "death")
- 4) Health Affairs, a noted public policy journal, said the focus on inflation misses increases in population risk factors that may be just as if not more important:
  - a) Obesity expansion
  - b) Changing environment (ozone and political)
  - c) Stress
  - d) Exposure to Aeroallergens

Ironically, they point to an increase in treated disease prevalence (better detection methods allow more detection, thus more problems, thus more treatment, thus more cost to the system) and earlier detection can lead to a more prolonged course of treatment

So the system drives itself – administratively, medically and bureaucratically – and we're still asking why insurance is available at a premium?

Review – Numb and Numbers

2004 premium figures show average (8 studies) of	9.28%
2005 premium figures show average (13 studies) of	9.56%
2006 projections show average (5 studies) of	8.84%

When you read the general reviews and the conclusions of the authors of these studies and others where numbers are postulated but not evaluated, you come away with the definite impression that health care cost trends are slowing. Hard to be impressed by what's here – so 'wait 'til next year'

*Review*

Everyone is hopeful, but why? With so many factors conspiring against moderation, it's not inspiring to consider the tenuous hold we have on holding down costs as outlined earlier, money has many forms in health care, and ultimately spending, regardless the reason, drives the price we pay the carrier to pay on our behalf. So when we see carriers play new games, while every player blames the other for what is going wrong (or the cost of what's going right) you can expect to see premium adjustments without a presentiment of reality – but the increases are real enough.

### *Next Time it Will be Different*

But better? Not if you read the letter, which did not announce a Red Letter Day on the horizon. In an “ownership society” we all get a chance to share in health care dreams and the nightmare vision of its expense with less recompense from employees and carriers alike whether we like it or not. Witness the road to fiscal fitness paved with good intentions:

- 1) General Motors adds \$1,525 to every vehicle for health care expense. With 340,000 covered retirees vs. 111,000 active employees, wholesale cuts in retiree payments would save \$1 billion annually – and saw the UAW relent, as did the IBEW with Lucent
- 2) Florida Power and Light saved \$1 million as one example of an employer now requiring employees to pay for part of their spouse’s premium
- 3) Wal Mart will slow annual health care spending increases of 15% (since 2002) by imposing formal management controls (“Wal-Smart?”) and spouse costs (“Wall-Mart”)

With a year beginning with a Safeway strike and ending in management retaliation and union capitulation, is it any wonder workers are nervous? Then consider:

- 1) Carrier cutbacks in benefits: they could give us a choice of what we get (no), let us raise our voice and pay for what we had (no) or allow adoption of more options (maybe) – but basically they will do as they please and appease us when they tease with a lower rate *increase* (why not just lower rates?)
- 2) Carrier consolidation will reduce validation of their methods: where will you take your benefits business when there are no other carriers left for you?
- 3) Lifestyle choices up in smoke: and when the smoke clears, expect lawsuits to appear. In the meantime, we can peer into the future:
  - a) Union Pacific and Alaska Airlines won’t hire smokers, and Weyco went wacko when they said they’d fire those who use tobacco
  - b) Georgia Power & Light and Navistar have gone to war and engage in “Battle of the Butts” (or “Don’t Light Up”) by raising premium payment for smokers
  - c) Butt out: The \$280 billion RICO suit against tobacco companies stubbed its toe in Federal Court, a \$10 billion judgment against Phillip Morris is under review in Illinois, and \$145 billion class action in Florida set aside for the moment. What next? They’ll find smoking is good for you?

Some trends may disturb the status quo, but we’ve nowhere else to go (but up – so these ideas slide Sideways, and have some Chablis with your wine)

- 1) Electronic Evolution: is it really possible the system can squeeze \$85 billion in savings just by mechanizing the many machinations of medical care? So goes one opinion, but hopes are pinioned beneath those stuck with last year’s gear and lasting fear of change. Larger companies aren’t waiting for legal clearance and gain adherents who pay for protocol adherence and the cleaner performance resulting, online records and

consulting, error reduction, efficient production and services. Maybe the number is too large, but at least some charge that lower charges will ensue

- 2) Retread Revolution: “We will get consumers back at the center of the system by giving them more choice, control and convenience – while building the first comprehensive consumer driven health care company” (Steve Case, formerly of AOL, announcing the formation of Revolution Health Group, led by an equally impressive array of those who in their day held sway – so will things no swing their way?) Some revolutions start in turn with those who feel their turn is here to help clear the path while they incur the wrath of those who hath no fury like a system scorned.
- 3) HSA Convolution: through false starts and stutter steps, HSAs splutter amid the clutter of the myriad methods to cut taxes and spin the axis of health care delivery. Projected enrollment is 3.2 million subscribers, but weaknesses still exist:
  - a) States have not universally granted tax exemption
  - b) Plans don’t provide good comparative measures of quality and cost efficiency
  - c) Financial incentives weak and insensitive to value differences in choices made
  - d) People don’t get it

To whom do we look for deliverance? Can carriers deliver the goods, or brokers give good service? We explore what’s in store through a different outlet:

Broker Compensation – see “Cookie Jar War” in the appendix

Carrier Concentration – see “Role Call” in the appendix

Switching topics we are plugged in to industry news. No one’s sure of what it costs to insure health care because lack of wealth is so diffuse, but we’re not inured to what disasters, both natural and man made, can do to increase the cost of business. In the end, it depends on what you spend to suspend the losses of workers and bosses or just keep you in suspense:

- 1) Workers Comp costs go up and they fall and no one has figured how it all works together, despite promises made for many years about how to allay fears of job or income loss
- 2) Employment Practices Liability gets increasing viability as many have not learned that job respect is earned and bad behavior is turned over for prosecution
- 3) The pursuit of lawsuits still occurs, whether or not injury incurs, as lawyers make incursions despite defendants aversion to settle – and insurance costs increase with actions filed without surcease
- 4) Property damage damages the bottom line for those who must get to the bottom of economic reparation, while making sure the preparation for conformance with new codes bodes well to avoid repeat performance. Just one bad season says it all here.

While net income rose 29% in the property/casualty industry , profits were quickly returned as insurers paid even more (\$27.3 billion) in 2004 than when 9/11 hit and losses were even greater with estimates that level just from Katrina alone – then there is Wilma, Rita and the untold cost of business disruption caused by them and others

## LEGAL LEWDNESS

The more corrupt the state, the more numerous the laws (Tacitus)

This is a court of law, not a court of justice (Oliver Wendell Holmes)

Nothing is more destructive of respect for the government and the law of the land than passing laws which cannot be enforced (Albert Einstein)

The overwhelming evidence at trial established that (Intelligent Design) is a religious view, a mere relabeling of creationism, and not a scientific theory (Judge John Jones III)

His confidence must be Supreme it's providence Bush picks the team  
To court court precedent if bench a sitting president  
How far does Homeland safety go, what's prudent for jurists to know  
Surveillance screens domestic scenes of every resident

Wire taps dance when spark terror finds, they'll soon be dipping chips in minds  
Design defines intelligence operation  
So human rights are wronged in spite of legal abuse brought to light  
Of coercion or covert "cooperation"

Blasting Bush abomination with nominal nomination  
As Harriet couldn't carry it alone  
At least John escorts credentials the Esquires esteem essential  
Senate moderates debate Alito's tone

Bush is afraid of Roe v. Wade, creationists join parade  
Life's origins or Original Sin?  
It's all dependent on the court you're in, Dover turnover to Kansas hopes pin  
An Intelligent war? So far Dar-win  
The President shares in charade

Spitzer's spritzer won't spare the spray of contaminants on display  
As brokers were made richer by deceit  
His indicting was exciting, violations bear re-citing  
But thinking things will change is a conceit

While firebrands hoarsely shout commands, new rulings have put out demands  
Changing face of plans showing some tension  
Stiff dependent definitions, arming flex plans with conditions  
We're living with new deadline extensions

The flaw in laws is their subject to interpretation and the object of this administration is to take up legal subjects with its own take and what's at stake is whether democracy's denizens stay citizens and object to being subjects. So what should be analytical is increasingly political and still we cannot separate the battle between church and state though the Founding Fathers' state this is essential to our potential to stay free. Thus we see disharmony in signing "Nearer My God to Thee" with "My Country 'Tis of Thee" while flags are waving with soldiers braving a fight for a disputed concept. Or so the adept spinners weave their tale, while leaving out some key detail, which opens up interpolation

into loopholes lent with law's creation which returns us to what concerns us about who decides and how the tides of terror water down the barriers that keep our freedom safe. Analysis, speculation and prognostications are probably prolifically plastered across the pages of papers you purchase. So we'll focus on the arcane and try to explain what whacks or wanes across the legal landscape. Fortunately our stories are confined to a few defined categories, across borders to tall orders to dealing with diminutive disorders.

### *International*

For those who know all the words to "O Canada!" the idea of imputing their medical methods along with drugs may not be the right prescription for what we need:

- 1) IRS Information Letter 2005-0011: Drugs an individual receives from Canada are not deductible because the Tax Code prohibits breaks for illegal operations, treatments or medications (and the FDA has persisted in reiterating our nation's rules about imported drugs being illegal)
- 2) The recently conducted national election is now contested as a major scandal proves more than they can handle (just like Governor Davis recall, but this time with pictures)
- 3) "Access to a waiting list is not access to health care" wrote Chief Justice Beverly McLachlin in the Canadian Supreme Court decision to strike down Quebec's ban on the sale of private health insurance to compete with the national delivery system (wait – they want to import OUR system?)

### *Federal*

Nothing heavy done in Washington so the imposition of major changes such as HIPAA, FMLA, etc. is delayed for another day. There were some random memorandums made to which attention should be paid:

#### Dependents – Working Families Tax Relief Act

New definitions abound, which are bound to cause some confusion. We add to it by attaching a guide to help you glide through the state and federal rules which affect plan administration. Note this is not done by rote – final rules depend on what you wrote and the state in which you vote we denote the basics to begin but recommend calling in to get the job finished. Also:

- 1) W-2 reporting on Day Care may change (see Flex Plans below)
- 2) DCAP no longer requires the taxpayer maintain the household that includes the qualifying individual (e.g. 3 generations of family where the grandparent provides over 50% of the support – the parent can still use tax free dollars for day care for their child if they work)

#### Flex Plans – Being More Flexible

Treasury Tax Correspondence TNT 234-17 clearly allows the employee to dictate the "runout period" required for an employee to submit flex claims for reimbursement. The actual runout period has never been codified under IRS guidelines

This is not to be confused with the *grace period* rules issued (IRS 2005-42) then certified under IRS Notice 2005-86, which, at the employer's discretion, can give employees the ability to incur charges for the prior plan year up to 10 weeks after the year ends BUT

- 1) Must apply to all plan participants including those on COBRA
- 2) The grace period may be less than 10 weeks
- 3) May limit to certain Cafeteria benefits and not others (e.g. FSA vs. DCAP)
- 4) HSA contributions superseded until the end of the grace period but plan document:
  - a) May amend HSA to a limited purpose FSA during the grace period; or
  - b) Create a post plan deductible FSA; or
  - c) A combination of both

## HIPAA

Three Federal agencies set final rules regarding the use of plan limitations for pre existing conditions (26 CFR Parts 54 and 602, 29 CFR Part 2590, 45 CFR Parts 144 and 146).  
Highlights:

- 1) Certificate of Coverage must be given to someone taking FMLA
- 2) Must have written rules for ex-employee request for Certificate of Coverage
- 3) Model statements on HIPAA protections and FMLA interaction provided
- 4) May change benefit choice if dependent enrolls due to loss of other coverage
- 5) Pre existing rules now supersede some carrier rules
- 6) Covered dependents are allowed based on carrier definition
- 7) Rules on pre existing conditions must be outlined in the Plan SPD

In the face of recent employer policies banning employee smoking or requiring different premium payments to accommodate health risk, it should be noted that proposed Treasury Regulation 54-9802.1(f) says that discounts and plan payment variations are allowable in return for "adherence to programs of health promotion and disease prevention"

## Retirees

The Equal Employment Opportunity Commission (EEOC) ruled that a company can drop health coverage for retirees and force their enrollment on Medicare. This was appealed by the AARP, which got a judge to agree that the EEOC rule violated the ADEA. Then this injunction was removed when a judge found the decision "not contrary to law under the Administrative Procedure Act" – but has enjoined EEOC publication pending yet another court decision (by which time all EEOC staff will be old enough to retire and will change their minds)

## Miscellaneous

HSA Amounts:

- 1) The deductible amount allowed is increased \$50 for individual and \$200 for family (but still capped at the annual deductible)
- 2) The "catchup" amount for those 55 or older will be \$700 in 2006

## HSA Accounts:

- 1) Revenue Ruling 2005-25: Individual can contribute for self and spouse even if they or spouse has non qualifying coverage simultaneously – as long as the individual is not covered with the spouse's plan
- 2) Treasury Regulation 54-4980G-1 to 4980G-5: Proposed comparability requirement
  - a) Comparable employees are only those in the same coverage category (employee or family – not hourly vs. salaried, management vs. rank and file)
  - b) Employer may make contributions to HSAs of former employees without making contributions for those continuing the plan under COBRA
  - c) Contributions are comparable if they are either same dollar amount or same percentage of the underlying High Deductible Health Plan

Medical Mileage: Raised from .15 per mile in 2005 to .18 in 2006 (though there was a mid year adjustment to .22 to reflect rising gas prices)

## Flex – Dependent Care Reporting

Under \*IRC Notice 2005-61, IF the employer has amended the Flex Plan to extend the grace period, the amount for Day Care shown in the W-2 can be a reasonable estimate of the anticipated expenses.

## *State*

### What if they Wrote a Law and No One Cared? – FPL

Just over 1% of eligible California workers took advantage of the “Paid Family Leave Act” for which all California workers pay an additional premium to SDI

### Disability Plans Disabled

As part of a settlement with UNUM Provident about their plan practices, the California Department of Insurance has required changes intended to apply to all disability carriers (who will, of course, pass this on to consumers in due course as higher rates):

- 1) No more “discretionary clauses” to interpret policy language
- 2) End “self reported condition clause”
- 3) Eliminate clauses tying “related” conditions to pre existing limitations
- 4) Cannot require claimants to participate in rehabilitation programs
- 5) Social Security coordination only when Social Security is received not perceived
- 6) New definition of “total disability” (now – “renders one unable to perform with reasonable continuity the substantial and material acts necessary to pursue (their) usual occupation in the usual and customary way”)

## Marriage and Domestic Partnerships

Richard Kramer, the San Francisco Superior Court Judge, and a 57 year old Republican Roman Catholic, said California's statutory ban on gay marriage was a violation of the civil rights guaranteed by its constitution:

- 1) "No rational basis for limiting marriage in this state to opposite sex partners"
- 2) The Attorney General's arguments were another way of promoting "separate but equal" arrangements
- 3) "Simply put, same sex marriage cannot be prohibited solely because California has always done so before"

## *Court Rulings*

### Supreme

*Gonzales v. Raich* – Congress may exercise its power under the Commerce clause and proscribe all production and use of medical marijuana (even if prescribed) – thus California's Compassionate Use Act does not bar the Federal government from prosecuting individuals charged with such activities under the federal Controlled Substances Act

### Federal Appeals

COBRA – *Lifecare Hospitals vs. Health Plans of Louisiana*

- 1) Oral discussions of COBRA are insufficient notification – written is required
- 2) Election period can actually be longer than 60 days (which is a federal *minimum*)

ERISA – *David P. Codesina DDS Profit Sharing Plan and Trust vs. Estate of Swiper*

Said TPA was an ERISA fiduciary and so responsible (in this case for embezzlement by an investment advisor) because plan functions were performed. The TPA received deposits, put them in their business account, then wrote checks to the advisor – thus they were liable for the financial acts of the adviser

### District

- COBRA:
- 1) Gross misconduct must be extreme and flagrant
  - 2) COBRA notice not required for disability termination
  - 3) Separate notice not required for child living at home
  - 4) Extended payment by employer caused confusion about COBRA start date
  - 5) No COBRA notice required if employer had plan cancelled for non payment
  - 6) TPA cannot be held accountable for medical bills incurred after plan ended due to bankruptcy just because they had provided payment coupons

PDA: *Union Pacific Railroad Employment Practices Litigation*

The employer excluded oral contraceptives and a class action suit said this violated the 1978 Pregnancy Discrimination Act. The court said the plan must "treat the *risk* of pregnancy no less favorably than they treat other similar health risks"

## SUBJECTIVE OBJECTIVES

### *Taking the Quantum Leap*

Anyone who has never made a mistake has never tried anything new (Albert Einstein)

As far as the laws of mathematics refer to reality, they are not certain, and as far as they are certain, they do not refer to reality (Albert Einstein)

These are my principles. If you don't like them, I have others (Groucho Marx)

Albert Einstein figured it out with relatively little doubt  
That the only constant is change  
Mathematically persuasive though thematically evasive  
We had to find a way to rearrange

We like the look of Tesseract to describe how we interact  
Adding space in time to find dimension  
We've amended fixed positions with ecstatic crew additions  
Strong theory ties modify attention

We plan to take the concept far, it all depends on where you are  
Absent absolutes in plan solutions  
Network alliance is our play to stage reliance on the way  
Our vision relates to needs resolution

The market changes and the laws, will expose even minor flaws  
In creating company compliance  
Our experts and our expertise, will update you without surcease  
Who says service isn't rocket science?

We've taken the idea of service past the theoretical and engaged in practice a view heretical that says all your needs can be networked. We find large brokers insufficient to make benefits more efficient and provide teams fully proficient in all the tasks you need complete. Our network is replete with experience, knowledge and a dedication to personal service and coordination of the different aspects of a successful benefits program.

"Our Story" is told in some detail on our web site, which is being updated to reflect our connections better. Our major initiatives are highlighted here:

#### *Compliance*

In 2005 alone, we have written:

- 1) "Wrap" Summary Plan Description: To describe all the rules you can ascribe to your benefits, this meets DOL/ERISA specifications as well as permitting a clearer picture of what you try to show employees

- 2) HIPAA Manual: The simplest method of compliance is “don’t ask, don’t tell” but for those who want to do it well (or get some depth) we set up all the forms, procedures and communication pieces, so you won’t have to go to pieces to map a strategy
- 3) COBRA Templates: New initial and termination notification and newly required notices now part of our standard COBRA service package, free to qualifying clients
- 4) Administration Guide: A basic “how to” manual that makes process more automatic to help the plan’s “point person” have something to which to point to make their point to others inside and outside their organization. With growing complexity of compliance and communications, a simple guide to the basics is always helpful.
- 5) Dependent Definitions: With so many places in Federal law and California court cases that discuss dependents, we thought it best to create one document detailing rules on which you could be dependent
- 6) Paid Family Leave: Though most chose to leave it alone, it still needs to be known

### *Alliance*

National We joined United Benefit Advisors in 2003. UBA is the third largest broker in the country (so yes, we are considerably larger than we look) with 140 offices to serve the needs of our clients with employees in other states and share information and resources regularly to better assist those who rightly insist that they want and deserve more.

State California UBA is 16 offices from San Diego to Sacramento. We do joint work (notably now on behalf of the California Bankers Association) and come together several times a year to craft compliance and market strategy, service coordination and ways to combine our resources and size to get us more in the carriers’ eyes. Current projects include creation of a self funded dental and vision trust as a market alternative.

Regional We are moving from

Acquaintance to relationship;  
Relationship to affiliation; and  
Affiliation to partnership

With several firms (see “Our Story”) to cover the gamut of products and services our clients require to run their business and treat their employees well

Pension consulting  
Human Resource – placement, planning, consulting and HRIS  
Financial planning  
Compliance legal, educational and administrative support

We have also expanded in the field to keep up with demand while we keep things well in hand with our burgeoning office staff

In short, we take the long view in finding ways to help you – and we appreciate your continued support.