Logistics Risk Management and the Impact of MAP 21 Changes

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Premier Provider of Innovative Insurance and Surety Solutions

Logistics Risk is what we do at Avalon

- More than 15 years in business focused on Logistics Risk Management
- Endorsed by the Transportation Intermediaries Assn (TIA) for Insurance and Surety products and endorsed by NCBFFA for customs bonds
- Participating members of:
  - Transportation Club of Houston
  - ITMA (International Transportation Maritime Assn)
  - TMTA (Texas Motor Transportation Assn)
  - HCBFFA (Houston Customs Brokers and FF Assn)
  - HMAA (Houston Maritime Arbitration Assn)

AVALON 2013 15 YEARS RISK MANAGEMENT

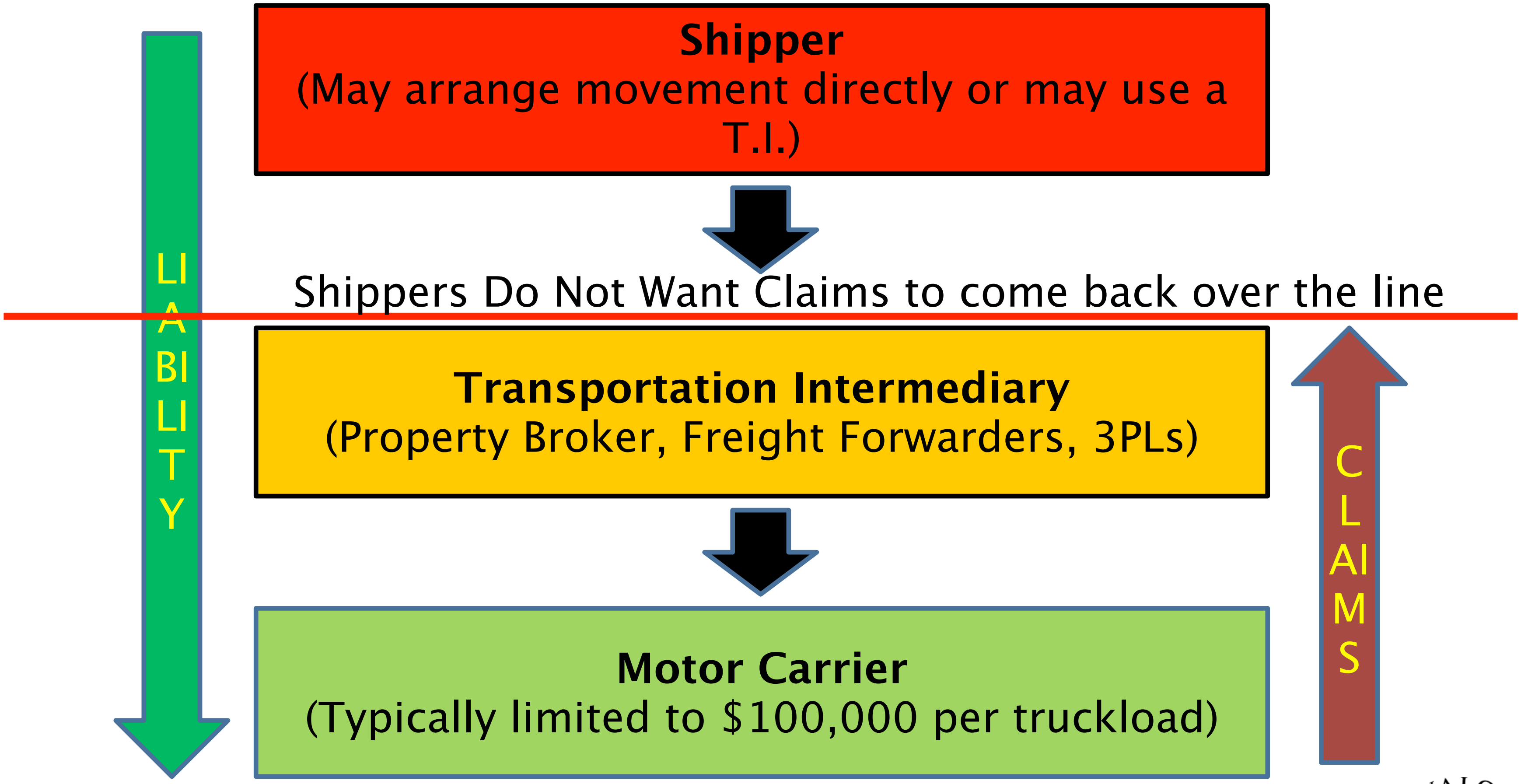
Typical Supply Chain Relationships

Shipper
(May arrange movement directly or may use a T.I.)

Transportation Intermediary
(Property Broker, Freight Forwarders, 3PLs)

Motor Carrier
(Typically limited to $100,000 per truckload)

Liability Transfer Relationship



Shipper
(May arrange movement directly or may use a T.I.)

Shippers Do Not Want Claims to come back over the line

Transportation Intermediary
(Property Broker, Freight Forwarders, 3PLs)

Motor Carrier
(Typically limited to $100,000 per truckload)

What Kinds of Claims Can Occur?

- **Cargo Claims** (Damage to Cargo, Wrong Delivery, Loss, Theft, Identity Theft, Spoilage, etc)
  - Liability based claims (carrier is at fault)
  - Contingent Cargo Claims – T.I. (typically same as underlying MTC coverage)
  - "All Risk" based claims (not based on negligence – perils based coverage)
- **Contingent Auto Liability Claims**
  - Covering Bodily Injury and Property Damage to Third Parties during auto accidents (better than Hired and Non Owned Auto Coverage – Auto)
- **Professional Liability Claims** (E&O) – T.I. negligent hiring claims, etc

Transportation Bill Changes – MAP 21

- The FMCSA requires all companies (few exceptions) in the business of arranging freight to be registered either as a Freight Forwarder or Property Broker
- Property Brokerages must be set up as a separate legal entity and registered with the FMCSA with a proper authority to broker freight

Transportation Bill Changes – MAP 21

- **The FMCSA increased the bond amount from $10,000 to $75,000 for Property Brokers and Domestic Freight Forwarders**
- This change takes effect 1 October 2013
- Enforcement begins 1 November 2013
- The bond on file must be an approved surety bond as determined by the FMSCA (see updated rulemaking on this point in the Federal Register)
  - **Group Surety Bonds** with shared collateral **are no longer considered authorized bonds** and they will not be accepted per the Federal Register announcement dated 9/5/2013

Are you a Property Broker?

Do you arrange for the movement of cargo by a Motor Carrier for a Fee?

Yes – you are a Property Broker!

Rules:

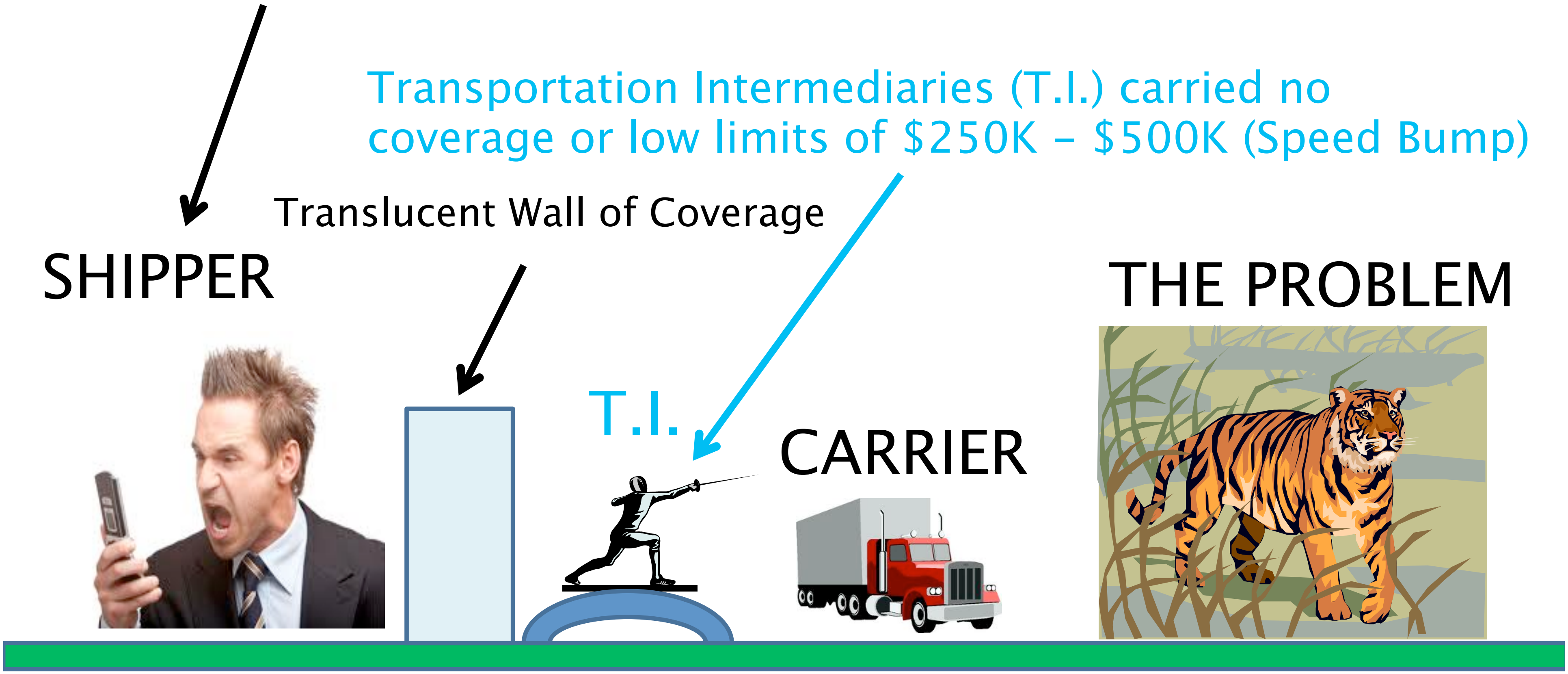
1. You must maintain an authority issued by FMCSA as a Motor Carrier or Freight Forwarder
2. You must have a $75,000 bond on file
3. If you accept a load to move and you then give it to another Motor Carrier to move you must notify the client (big change and hard to administer)
4. You can interline cargo as a Motor Carrier but only if you carry the cargo for a portion of the movement and remain liable for your movement

Industry Trends – Trucking Losses

- The courts are finding Shippers and T.I.'s more liable for Motor Carrier losses than they have in the past
- **Using a higher Due Diligence process when selecting carriers is expected**
- Liability is no longer only with the Motor Carrier's Insurance or business – these claims are swimming back up stream to the T.I.s and Shippers
- Shippers are pushing more liability in special contract wordings to T.I.'s but not to Motor Carriers – T.I.'s have increased exposures
- **T.I.'s are being required to procure more insurance and higher limits in order to protect the Shipper from losses**

The Good Old Days – Pre 2004

Shippers did not worry about down stream liability very much



Transportation Intermediaries (T.I.) carried no coverage or low limits of $250K – $500K (Speed Bump)

Translucent Wall of Coverage

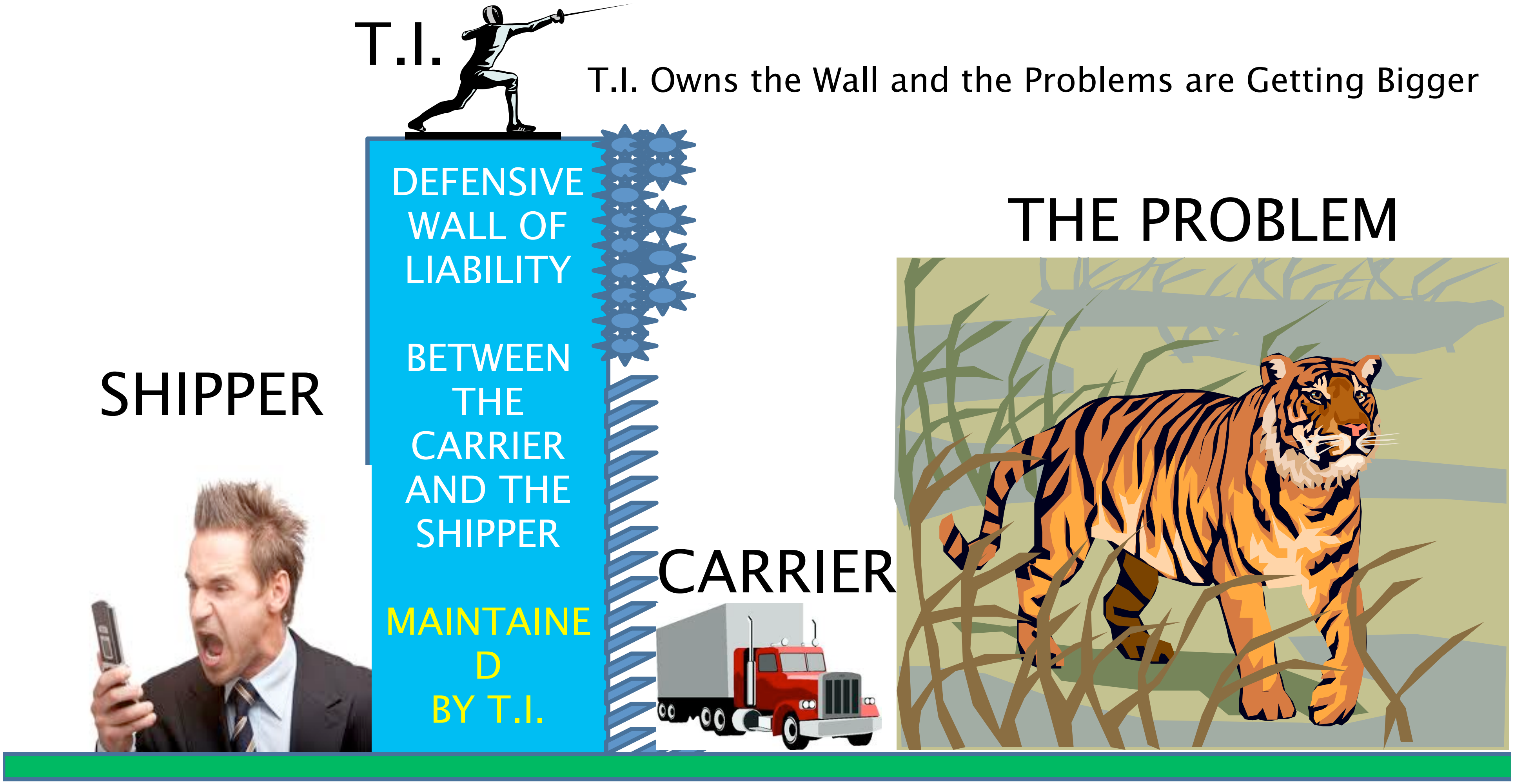
SHIPPER

THE PROBLEM

T.I.

CARRIER

The New Normal – Post 2010



T.I.

T.I. Owns the Wall and the Problems are Getting Bigger

SHIPPER

DEFENSIVE WALL OF LIABILITY

BETWEEN THE CARRIER AND THE SHIPPER

MAINTAINED BY T.I.

CARRIER

THE PROBLEM

What Shippers Really Want Today

A well coordinated big wall of coverage from the T.I. and no excuses

- **Professional Liability** (E&O) above $1M and now often $5M
- **Contingent Auto Liability** at least $1M and often higher up to $5M
- **Contingent Cargo Coverage** at $250K – $500K with no following form restrictions (who can verify the MTC's underlying coverage anyway?)
- **Theft Coverage** to include ID thefts
- **Full Value of goods coverage on an "All Risk" basis** when required (Shippers Interest Coverage – Marine Cargo Policy Open Form)
- **Absolute adherence to best practices (see TIA)**

Best Practices

- Great legal advice is essential along with good standard contracts and thorough review of any "special contracts"
- Insurance should be part of the review process in conjunction with legal review and provide necessary coverage seamlessly across all lines of coverage – well coordinated , no gaps, no excuses
- Use industry groups like the TIA for additional T.I. assistance and legal trends
- **Work with reliable partners <u>no matter what the cost</u>**

The Near Term Future

- Smaller Motor Carriers with minimum limits insurance and poor internal risk management procedures and controls will evaporate – Shippers and T.I.s will not use them
- T.I.'s will be under increased pressure to assume risks that used to stay with MTCs and additional risk overall
- T.I.'s and Truckers that fail to get up to speed on the new MAP 21 requirements will hit the wall very soon – 1 Oct
- Good T.I.'s will focus on Risk Management and Compliance

Thank you for your attention

We will be in the back after this presentation if you have questions