2004 Risk Management Honor Roll
Joan Conner — Maine Municipal Assn.

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April 19, 2004

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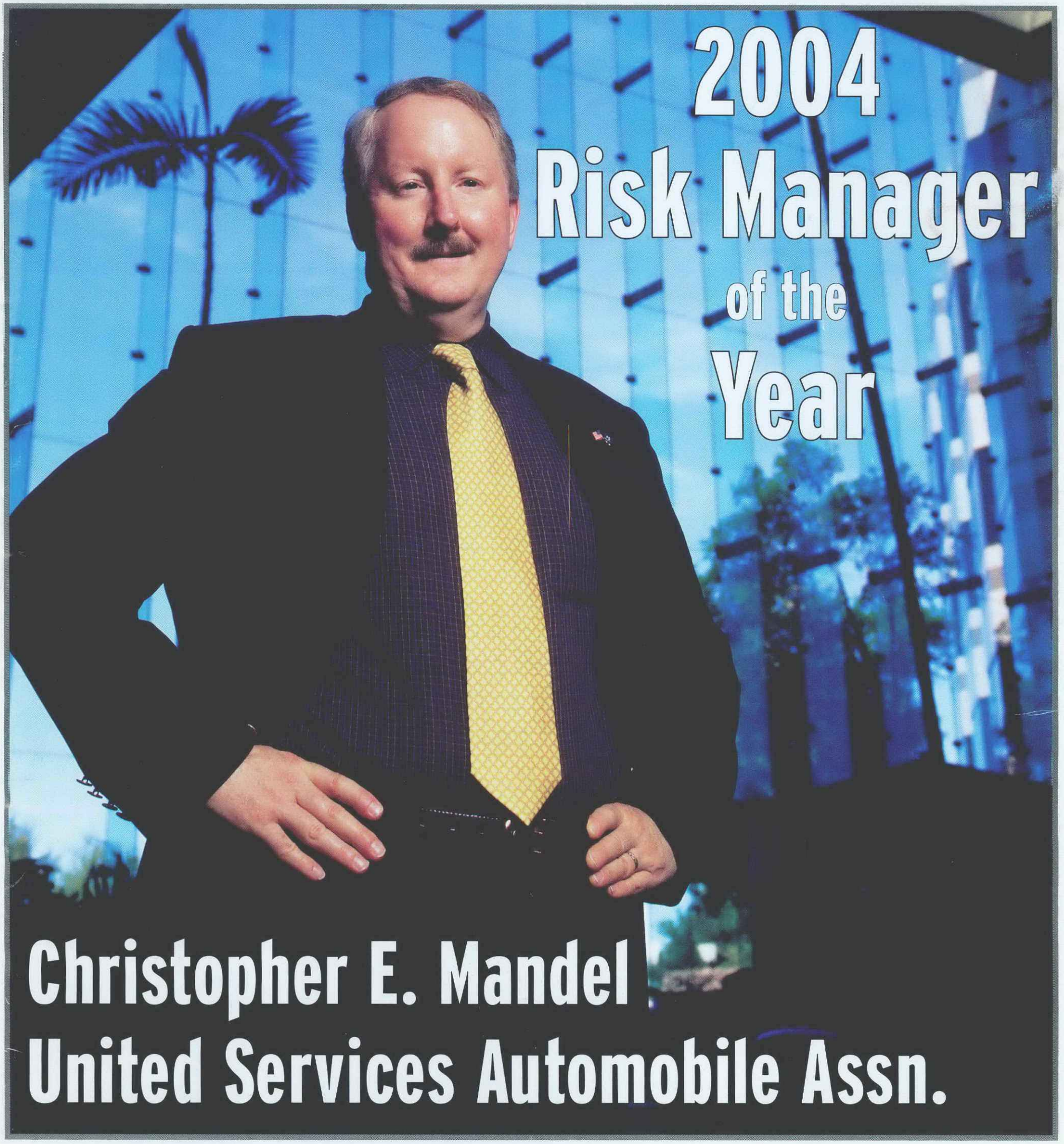

2004 Risk Manager of the Year

Christopher E. Mandel
United Services Automobile Assn.

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April 19, 2004

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Jury to get WTC occurrence dispute

By DOUGLAS McLEOD

NEW YORK—World Trade Center leaseholder Silverstein Properties Inc. and a dozen of its insurers offered sharply conflicting versions of the WTC insurance placement last week as the two sides summed up their cases in the $3.55 billion coverage dispute after 10 weeks of testimony.

Attacking the credibility of each other's witnesses, lawyers for the two sides sparred over the trial's single issue: whether broker Willis Group Holdings Ltd. shifted the WTC program in the weeks before the Sept. 11, 2001, terrorist attacks from Willis' own policy form to a form produced by Travelers Property Casualty Corp.

The Travelers form, Silverstein contends, would treat the Sept. 11 loss as two $3.55 billion events, while courts have ruled the Willis form, known as WilProp, treats the loss as a single occurrence.

Herbert Wachtell, a lawyer representing Silverstein, told jurors last Wednesday that the insurers either knew of the switch to the Travelers form or had waived their right to agree.

"After 9/11, everybody's got a story," said Mr. Wachtell of Wachtell, Lipton, Rosen & Katz. "But before 9/11, none of these insurers bound to WilProp. If these insurance companies really wanted WilProp back in the summer of 2001, their underwriters could very easily have written a single word on their binders or slips: 'WilProp.' Not one of them did."

The insurers countered that they were never told of any such form switch, never agreed to the Travelers form and in most cases never even received a copy of a proposed Travelers policy before Sept. 11.

Swiss Reinsurance Co., the program's principal insurer, "never agreed to switch its binder contract from WilProp to any other basis of coverage," Barry Ostrager, a lawyer for Swiss Re, told jurors.

The alleged shift to Travelers, he charged, was a post-loss invention of Willis brokers who realized that the WilProp form's occurrence definition would restrict Silverstein's recovery to a single policy limit.

"Willis manufactured a story," charged Mr. Ostrager of Simpson Thacher & Bartlett L.L.P. "The position the Silverstein parties are

See TRIAL/page 84

Late News

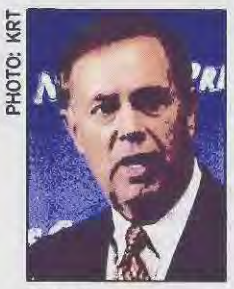
P/C insurer profits soar in 2003

U.S. property/casualty insurers' profits surged to $29.88 billion in 2003, which is an almost tenfold increase over the $3.05 billion the insurers collectively reported in 2002, according to the Insurance Services Office Inc. and the Property Casualty Insurers Assn. of America. The huge increase is largely attributable to an 85% drop in underwriting losses, to $4.64 billion, according to the report by ISO and PCI. Among other factors, investment income increased 3.9%, to $38.69 billion. The combined ratio of the insurers fell to 100.1% in 2003, compared with 107.3% in 2002.

Insurers call for TRIA extension

Six property/casualty insurance trade groups have sent a joint letter to House Financial Services Committee Chairman Mike Oxley, R-Ohio, calling for an extension of a federal terrorism insurance backstop. The current backstop, under which the federal government would help pay for losses stemming from future catastrophic terrorist attacks, will end when the Terrorism Risk Insurance Act expires on Dec. 31, 2005. The six groups are the AIA, the Council of Insurance Agents & Brokers, the Independent Insurance Agents & Brokers of America, the Property Casualty Insurers Assn. of America, the Reinsurance Assn. of America, and UWC-Strategic Services on Unemployment & Workers' Compensation.

PHOTO: KRT



Rep. Oxley

See LATE NEWS/page 83

California OKs major reforms to cut costs in comp system

By ROBERTO CENICEROS

SACRAMENTO, Calif.—Sweeping workers compensation reform legislation that could slash billions of dollars in costs from the system will become law upon the governor's signature this week.

Employers hailed the legislation, S.B. 899, and applauded Gov. Arnold Schwarzenegger for helping push reforms that businesses have sought for years but that were repeatedly rejected by state lawmakers. Reforming workers comp to improve the state business climate was a key plank in Gov. Schwarzenegger's 2003 campaign.

Among the many reforms contained in the measure are provisions that would improve California's controversial process for awarding permanent partial disability benefits, said Tim East, risk manager for the Walt Disney Co. in Burbank. The current process is a major source of litigation over workers comp claims in the state.

Another key reform would allow employers to direct injured workers to physician networks.

"Employers should feel gratified that the issues they have talked about for so many years have finally been addressed," Mr. East said.

See CALIFORNIA/page 81

But traditional hazard risks still a main priority: Survey

Leading risk managers advising top management on strategy

By GAVIN SOUTER

Leading risk managers are being called on to interact with senior management on strategic issues, but they still spend much of their time dealing with traditional hazard risks.

A group of award-winning risk managers who responded to a survey reported that, on average, they spend more than half of their time dealing with hazard risks, and most of them view this as a "high-value activity."

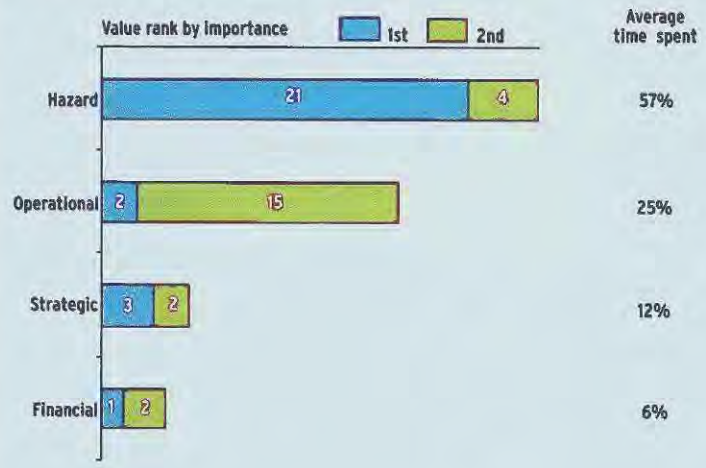
But despite the significant amount of time spent on traditional risk management activities, the risk managers report that they are taking on a broader role within their companies and that their contributions are valued by senior management, according to the survey.

The survey, which was sponsored by the Risk & Insurance Manage-

See SURVEY/page 82

ON RISK MANAGERS' AGENDA

A group of leading risk managers ranked their top priorities and the percentage of their work time spent dealing with hazard, operational, strategic and financial risks.



Source: Risk & Insurance Management Society Inc./Marsh Inc.

Risk Manager of the Year

CHRISTOPHER E. MANDEL

Begins on page 10

Risk Management Honor Roll

JOAN CONNER

Begins on page 50

Legislation, market conditions, economic pressures and more are reshaping risk management.

The evolution of a challenging role: A salute to the risk manager

Michael D. O'Halleran is president and COO of Aon Corporation. Aon is one of the world's leading providers of risk management, insurance and reinsurance brokerage, and human capital consulting services.

The role of risk manager evolves continuously, but the pace at which it changes is accelerating. More sophisticated, more complicated, more pressures applied from more sources: If you like a challenge, you couldn't choose a better career.

Globalization has had tremendous impact. Global programs have various exposures, differing by country, government regulation, industry and local custom, to name a few. It's not a "one size fits all" world, and extensive expertise is required to deal with it successfully. Terrorism risk compounds the complexity as risk managers face uncertainties that didn't exist a decade ago.

Government regulation is also changing the landscape. Sarbanes-Oxley has affected how we think in areas such as directors' and officers' liability – and that's just one example. Jury awards for product and professional liability are growing exponentially. Tort reform might help, but passage is far from certain. These factors are reshaping numerous industries, increasing the cost of risk as well as the complexity.

It's still a hard market, and that brings uncertainty, too. Increases in premium and retention rates appear to be stabilizing, but as competition increases, can risk managers be certain they have the right partners? The cost of risk today is another overwhelming factor for every risk manager, and frankly, it challenges brokers as well. Larger deductibles and increased accruals to cover losses from previous years are forcing companies to bolster reserves – another source of financial pressure.

Some of the perils risk managers face are more generic in nature. Organizations are cutting budgets, and it's not only risk management that must do more with less. Smaller staff size forces the risk manager to take on additional responsibilities – loss control, loss prevention, safety, claims management – the list goes on.

On a brighter note, many positive factors are shaping the risk manager's role. As technology advances, more timely and accurate data is available to help make tough decisions. Additionally, expert counsel in every industry is a phone call away, and risk managers can rely on others to provide services such as claims management and outsourcing.

It's a difficult but essential role in any organization. While it's a special honor to salute the "2003 Risk Manager of the Year," on behalf of my Aon colleagues, I would like to take the opportunity to salute risk managers everywhere.

Businesses search insurance markets for coverage solutions

Global corporations are scanning the insurance marketplace for new financing strategies that embody creativity and self-evaluation. Significant increases in rates and retentions over recent years, combined with the withdrawal of some key coverages and markets, have resulted in corporations looking for more stable, long-term, financially secure and cost-effective solutions. As global risks intensify, particularly in emerging economies with little historical and technical experience, and as some major providers exit the marketplace altogether, business leaders are searching for worldwide approaches to risk that can effectively cover their exposures. To read a full report that includes solutions to five global questions, visit **www.aon.com/focus.**

Sales organizations use scientific selection to improve hiring strategies

Sales force performance has a direct impact on revenues and profits. Consequently, many leading organizations are implementing hiring strategies that leverage the science of effective sales selection. This science is based on a growing body of research that has identified a core set of factors that are consistently associated with professional sales success across a wide range of industries, products and services. The recommended hiring strategies focus on proven methods for identifying core factors in sales candidates, including validated test batteries, behavioral interviews and role-play simulations. To read a full report, visit **www.aon.com/focus.**

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Employers bilked of $45 million, prosecutors charge

Offshore health insurance scheme nets indictments

By DOUGLAS McLEOD

HOUSTON—A federal grand jury has charged eight men with using a series of offshore insurers to bilk employers out of $45 million of health insurance premiums in a scam that has left millions of dollars of claims unpaid over an eight-year period.

The alleged scheme involved purported "single-employer self-funded" health plans marketed nationwide and managed by American Heartland Health Administrators, a now-bankrupt Houston-based third-party administrator, an indictment filed in U.S. District Court in Houston charges.

The defendants falsely claimed the program was exempt from state regulation and knowingly placed "reinsurance" for the plans with insurers based in Belgium, Costa Rica, Cyprus and Ireland that they knew were unlikely to pay claims "in a timely manner, if at all," the indictment alleges.

As each insurer failed to meet its obligations, the defendants "falsely pretended to be shocked and dismayed" and shifted the plans' coverage to another offshore company that in turn failed to pay claims, prosecutors charge.

Named in the 54-count conspiracy, mail fraud and money-laundering indictment are:

- Jack H.M. Ferguson, principal of the unlicensed AHHA and a successor TPA, Southern Plan Administrators, which Mr. Ferguson formed in 2002 "as a result of negative publicity generated by AHHA," prosecutors charge.
- Milton Doke Wilkinson, AHHA's marketing director.
- John A. Claro, an Oklahoma City lawyer who allegedly helped create or locate the offshore insurers that the plans used.
- Gary I. Hoskie, a Hutchinson Island, Fla., intermediary who allegedly placed coverage with several of the offshore insurers.
- James A. Glidewell and his son, Brian S. Glidewell, operators of a Memphis, Tenn.-based insurance agency, Mid South Benefit Group, that marketed the AHHA program.
- Michael A. Reeve, owner of London-based St. John Management Services Ltd., an intermediary on some of the offshore placements.
- Euan D. McNicoll, a resident of Scotland, who was allegedly a partial owner of two of the offshore entities and an intermediary on several of the placements.

Messrs. Ferguson, Wilkinson and Claro have pleaded not guilty

See SCAM/page 82

PHOTO: ROLL CALL

Sens. Bill Frist, left, and Orrin Hatch are sponsors of the Senate's latest asbestos liability reform legislation.

Asbestos fund plan draws insurers' ire

By MARK A. HOFMANN

WASHINGTON—Many advocates of asbestos liability reform say that a bill slated to go before the Senate today needs more work if it is to make a significant improvement in what they regard as an asbestos liability crisis.

At the heart of the latest version of the Fairness in Asbestos Injury Resolution Act—S. 2290—is a trust fund, paid for by defendant companies and their insurers. Rather than pursue their claims in court, claimants who met specific medical criteria would receive compensation from the $114 billion fund.

Critics of the existing asbestos liability environment have long claimed that the current system encourages people who were exposed to asbestos but who manifest no symptoms of illness to seek compensation in the courts, thus cutting into the resources available to compensate those who are ill.

As a result, claimants target an ever wider circle of defendants—even those with only the most tangential tie to asbestos—creating an unfair system of liability that has led to dozens of bankruptcies, according to those critics.

Insurers praise Senate Majority Leader Bill Frist, R-Tenn., Sen. Orrin Hatch, R-Utah, chairman of the Senate Judiciary Committee, and Sen. Arlen Specter, R-Pa., for their efforts to reform the system for compensating victims of asbestos-related diseases through the bill. But they have serious questions about how financial responsibility for the trust fund the bill proposes would be allocated among individual underwriters.

In fact, late last week, three industry groups issued a joint statement concerning the measure. It reiterated praise for the bill's three chief proponents and promised to continue working with lawmakers to resolve remaining issues including allocation. The statement also called on senators to resist any attempt to increase the insurers' collective financial responsibility for the trust fund.

The National Assn. of Mutual Insurance Cos., the Property Casualty Insurers Assn. of America and the Reinsurance Assn. of America joined in the statement.

Employer groups are split in their assessment of the measure, while organized labor opposes it, holding that it would not pro-

See ASBESTOS/page 80

Complex pension reform law challenging plan sponsors

By JERRY GEISEL

WASHINGTON—While pension reform legislation signed into law earlier this month by President Bush will allow employers to use more reasonable interest rate assumptions to calculate plan liabilities, it won't simplify plan administration.

Employee benefit consultants warn that unless more significant reforms are enacted, this measure will only slow or delay the exodus of employers from defined benefit plans.

The complexity of the new law boggles many employers, consultants say.

Consider the calculations that employers now will have to make, which take into account the yields on a new corporate bond index as well as on U.S. Treasury bonds. These calculations include:

- To determine the current funding level of their pension plans, which drives how much an employer has to contribute to the plan, employers now will use an interest rate based on the four-year weighted average yield on a composite long-term corporate bond index assembled from several bond indexes by the Treasury Department.

If a pension plan is between 80% and 90% funded, employers also will have to look at yields from the composite bond index for, in some cases, three prior years to determine if the plan is exempt from a federal rule that requires employers to accelerate contributions to the plan.

That rule exempts employers from making so-called deficit reduction contributions if a plan is less than 90% funded, so long as the plan was at least 90% funded in two consecutive years out of the last three years.

- To calculate a plan's funding level to determine how much in premiums it owes the Pension Benefit Guaranty Corp., an employer, to value plan liabilities, must use an interest rate equal to 85% of the yield on the composite bond index

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Inside Business Insurance

Drug reimportation task force hearing

A federal task force hears testimony on the safety of reimporting prescriptions from Canada. Page 4

Casino's luck takes turn in four-day blackout

The Bellagio Hotel & Casino is insured for business interruption losses stemming from a four-day power outage. Page 4

Winstonia is still a domicile to watch

Now's a good time to look at Winstonia, writes Editor and Potentate Paul Winston. Page 6

Putting their mark on risk management

The Risk Manager of the Year and Risk Management Honor Roll awards recognize honorees who strive to continually improve. Page 8

Second-hand asbestos exposure nets award

The employer of a boilermaker who regularly came home coated with asbestos is liable to the man's wife, who has mesothelioma, the London High Court has ruled. Page 77

Online

- A new, comprehensive archive of articles, court documents and information about the **World Trade Center coverage dispute** is now online.
- **Searchable directories** of all of the risk and benefits management vendors found in *BI*'s Market Sourcebook.
- New **Opinion Poll** for readers: How likely do you think the Senate is to pass the new asbestos liability reform bill?

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Ride Along Enclosed in Editions 07 and 08

Insurer-funded study concludes capacity would be inadequate, continuing federal backstop needed

Workers comp terrorism pool not feasible

By JUDY GREENWALD

A terrorism reinsurance pool funded by workers compensation insurers could not provide enough capacity to respond to a major terrorism event, and a federal backstop is needed, concludes an insurance industry-backed study.

In the absence of federal protection that caps industry losses, a major event "could exceed the entire workers compensation industry's capital," states the study, which was conducted by Stamford, Conn.-based Tillinghast and the Philadelphia-based reinsurance businesses of Towers Perrin.

The Terrorism Risk Insurance Act, which provides a temporary federal backstop for future catastrophic terrorism losses, is set to expire Dec. 31, 2005.

The report notes that the workers comp industry has about $30 billion in capital, yet a terrorist event generating more than $90 billion in workers comp losses is plausible.

Stephen Lowe, property/casualty practice leader for Hartford, Conn.-based Tillinghast, said, "In the final analysis, what we concluded is, an industry pool would only solve about an order of magnitude of 10% of the problem."

As a result, the 14 insurers that sponsored the study decided they needed to focus on "the bigger piece of the problem," which is the need for a continuing federal backstop, Mr. Lowe said. The 14 insurers account for about 40% of the workers comp market.

The study also concludes that an employee headcount by geographical location—rather than workers comp premium or payroll—is the best measure of workers comp terrorism exposure. However, while developing an equitable pricing for mula for a pool arrangement is the oretically possible, it "would un doubtedly be very difficult."

In light of its conclusion that pool would be inadequate, th sponsoring insurers decided agains pursuing its design or implementa tion at this time, though, the repor notes.

Copies of the "Workers' Com pensation Terrorism Reinsuranc Pool Feasibility Study" are available at *www.towersperrin.com/tillinghast/wcterrorism_pool.htm*.

No special max limit on auto compensation deferral percentage

401(k) auto-enroll rules clarified

By JERRY GEISEL

WASHINGTON—New Internal Revenue Service guidance will give employers with 401(k) plans more flexibility in automatically enrolling employees in the plans.

Such programs address a real-world problem: employees who haven't told their employer whether they will participate in the 401(k) plan. In some cases, as many as 20% of employees don't say one way or another if they will participate.

To address that problem, roughly 15% of employers now offer so-called automatic enrollment plans, which the IRS first gave its blessing to about five years ago. Such plans pass muster provided they are explained to employees and employees have the opportunity to opt out.

But since that initial IRS green light, new questions have arisen about how employers can design the plans, which the IRS has addressed in its most recent guidance. The guidance was provided in an information letter. Those letters lack the same weight as rulings but do indicate the IRS' thinking on an issue.

The most important clarification in the IRS letter involves whether there must be a low percentage cap on the employee salary deferrals that their employers automatically are funneling into the 401(k) plan.

An earlier IRS ruling gave an example in which it approved of an employer automatically contributing 3% of pay for those employees who didn't say whether they wanted to participate in the 401(k) plan. A subsequent ruling approved a design with an automatic 4% employee salary deferral design.

Based on those rulings, some employers may have been reluctant to implement automatic deferral percentages higher than 3% or 4%, notes Mercer Human Resource Consulting.

But the information letter makes clear there is no special maximum limit on the automatic compensation reduction percentage, beyond limits that apply to all 401(k) contributions, such as the current $13,000 deferral cap.

Additionally, the letter clarifies that the initial automatic compensation reduction percentage can automatically be increased or otherwise changed over time under a specific schedule. This automatic bumping up of the deferral percentage would be allowed only if an advance notice, explaining the feature and informing employees of their right to opt out, were to be provided.

Finally, the information letter said that increases in the deferral percentage can be tied to employ-

See IRS/page 84

Federal task force has hearings on Canadian drug reimports

WASHINGTON—Wisconsin Gov. Jim Doyle, in testifying Wednesday before a federal task force, urged the group to certify that prescription drugs can be safely reimported from Canada.

"Prescription drug prices are skyrocketing out of control, forcing too many of our citizens to make unbearable choices between food and medicine," Gov. Doyle told the Task Force on Drug Importation.

PHOTO: AP/ EVAN VUCCI

Wisconsin Gov. Jim Doyle was one of several dozen individuals to testify before the federal Task Force on Drug Importation last Wednesday.

"If they look at this honestly and objectively, I believe the task force will come to the same conclusion that Wisconsin has reached—that buying drugs from approved Canadian pharmacies is safe and offers significant savings for consumers," he said.

Gov. Doyle was one of several dozen people who testified before the task force last week. The body was created by Secretary of Health and Human Services Tommy Thompson to explore issues related to drug reimportation.

The task force will offer its recommendations to Secretary Thompson after holding a series of meetings with consumer groups, drug industry officials and other interested parties. Today's hearing is the only one currently scheduled to be open to the public.

The U.S. Food, Drug and Cosmetic Act bars anyone other than the original manufacturer from reimporting prescription drugs into the United States. However, the 2003 federal Medicare prescription drug law allows the HHS secretary to issue waivers to individuals for drug reimportation if safety standards are met.

The legislation directed the Department of Health and Human Services to complete a study on drug reimportation by December 2004.

—By Gloria Gonzalez

PHOTO: REUTERS/LAS VEGAS SUN/STEVE MARCUS

A four-day power outage at the Bellagio Hotel & Casino in Las Vegas kept the casino floor clear last week.

Casino blackout loss could hit $10 million

LAS VEGAS–The Bellagio Hotel & Casino is tallying its losses after a blackout that closed the facility for most of four days.

The Las Vegas resort, which lost power April 11, was closed until last Wednesday. Guests were forced to leave the 3,000-room facility, and the outage forced Bellagio to shut down its gambling tables and machines. Casual dining outlets and gourmet restaurants at the Bellagio also were closed, and shows at the hotel were canceled.

No cause had been determined as of late last week.

The Bellagio is equipped with "plenty of backup power," said a spokeswoman, but she noted that such power could not be used because all power had to remain off while repairs were made to the damaged system.

Meanwhile, the facility expects to recoup at least some of the business interruption losses from its insurer, which the spokeswoman could not identify. She confirmed that those losses are expected to amount to between $3 million and $10 million, an estimate offered in a published report by Jim Murren, president and chief financial officer MGM Mirage, Bellagio's parent.

—By Michael Bradford

Errors & omissions

- An April 12 story about high-deductible insurance plans linked to health savings accounts gave an incorrect example of cost-sharing. In the case of a $1,500 hospital bill that was incurred, an employee with individual coverage and a $1,000 deductible would have to pay $1,000 of the bill, not $500, as the story incorrectly stated. If the same $1,500 claim were incurred by an employee with family coverage, which, under law, must have a deductible of no less than $2,000, the employee would have to pay the entire $1,500, assuming no claims from other family members could be applied to the deductible.
- Due to an editing error, a word change in an April 12 letter on wellness programs altered the author's meaning. Hank Kearny wrote "However, these organizations and others belie the reality of the changing U.S. workplace: employment growth is in small companies and in part-time jobs." The word "belie" had been changed to "believe."
- An April 12 story incorrectly stated that employer health plans with fewer than 50 participants are exempt from HIPAA privacy rules. Such plans, if self-insured and administered solely by the employer, are exempt. Insured plans, however, are subject to the HIPAA rules.

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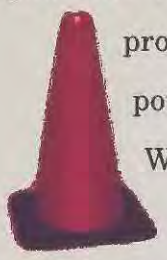

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Paul Winston

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By now, you should have received the solid gold-toned Rolexx in the mail. It's just our big way of thanking you for remembering to visit us at the big conference this week.

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Paul Winston

You didn't receive your Rolexx? Perhaps it was held up in customs, or maybe someone in your mailroom is sporting a flashy new wristwatch. Regardless, please stop by our booth and we'll give you another one...because you're worth it. And surely you won't mind spending a few hours out of your busy schedule at the WIMS Conference to hear what we have to offer.

That's no typo. As you know, after the wild success of the annual RIMS conference in Chicago last year, Winstonia, the world's biggest little domicile, owing to its unique offshore-onshore status in Illinois, decided to host its own conference this year. With thousands of risk management and insurance professionals willing to brave the nine-month winters of Chicago to attend RIMS in 2003, the creative geniuses in our domicile decided to see whether snowstorms could strike twice, so to speak. Like the makers of the Rolexx, we know quality imitation is the sincerest form of making a buck off of a confused public. The Winstonia Insurance Marketing Symposium, WIMS, is the result.

Winstonia has continued to gain attention on a national scale, as evidenced by this year's Democratic primaries, when Howard Dean, disparaging the tough competition for his own captive domicile, referred to it as a "windy Bermuda." Yet, Winstonia remains standing, while Mr. Dean and his jealous rhetoric have been blown away. Now it's time to show the world that we mean business.

The WIMS Conference is designed to showcase Winstonia's many services and features for the discerning captive owner with a sma travel budget. But WIMS is much more than glitzy booths and mind-boggling multimedia presentations.

It also offers a full educational agenda hosted by Winstonia officials and executives from its small but efficient professional community. Sample sessions include: "Putting Your Tax Refund to Work in Winstonia," "Making Sense of Winstonia's Fee Structure," "We'll Never Tell: A Review of Winstonia's Secrecy Act" and "How to Make Winstonia Regulators See Green," among others. All of the educational programs are designed to be enriching for all.

The WIMS Conference kicks off with a thought-provoking and informative keynote address on profiting in the offshore-onshore arena by Jean-Bertran Aristide (invited).

Entertainment is not lacking at the WIMS Conference. You'll be dazzled by Winstonia's own musical prodigies, performing "Chopsticks" on the piano as it has never been heard before and an avant-garde interpretation of "Mary Had a Little Lamb" on the recorder that may very well make you weep. In the tradition of Siegfrie and Roy, we also have scheduled a wild animal performance involving three miniature beasts related to the lion family under the influence of catnip. You'll be enthralled. And fear not for your safety; the beasts have been declawed.

The WIMS Conference also has thought of all your gastronomic needs, catering lunch and dinner from local purveyors of fine cuisine with such exotic names as Domino's, Einstein Brothers and Tasty Dog.

And after a busy and informative day of sessions and fine dining, you can relax at one of the many networking opportunities at our well-lubricated hospitality suites.

What, us worry that no one has registered yet for this fine forum? That's because we know how busy you—the conference-hungry risk management or insurance professional—are, so we have done away with the need for advance registration. Just show up, and we'll kick things off once your registration fee has cleared.

The next move is yours. The clock's ticking (or if it isn't, just stop by our booth and we'll find you one that is).

Editor Paul Winston, who in the interests of full disclosure is the potentate of Winstonia, can be reached at pwinston@businessinsurance.com.

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Editorial

More work needed on asbestos bill

PROBABLY THE MOST favorable way to look at the asbestos compensation reform bill before the Senate this week is as a work in progress.

That may seem a bit odd, given that the original version of the Fairness in Asbestos Injury Resolution Act emerged from the Senate Judiciary Committee more than nine months ago and that various interested parties have been working to polish the measure ever since.

What has emerged certainly is an improvement over the current litigation-based system for compensating victims of asbestos-related diseases. The proposed requirement that claimants meet specific medical criteria before they receive compensation alone should help ensure that the truly injured are cared for and that dubious cases don't eat up scarce resources.

That being said, we believe a lot more work needs to be done on the bill before it becomes law. For example, it remains vague how the expense of capitalizing the trust fund to pay claimants would be allocated among individual insurers.

This is an issue of understandable concern among insurers, and should be a concern for risk managers as well.

What's particularly troubling is a provision that says the commission overseeing the allocation among individual insurers may—in addition to considering such matters as past premiums and asbestos reserves—base its allocation formula on "any other factor the commission may determine is relevant and appropriate."

That's an open door to all sorts of mischief. For example, what's to stop the commission from using some sort of arbitrary standard—perhaps an insurer's relative market position regardless of its past asbestos exposure—to determine its contribution?

The result could be that insurers would be stuck with unjustified costs. Who pays for that? Ultimately, of course, it's their policyholders.

We're also concerned that the trust fund may not be the last word in compensating victims. As the bill is currently written, if the fund runs out of money, everything would r vert back to the courts. While th trust fund would provide som breathing room for defendant com panies and their insurers, it woul do so with the possibility that e erything could end up back square one.

There must be more certainty- both for the payers and th claimants—that the current syste would be replaced, not merely s aside temporarily.

No piece of legislation is perfec As realists, we fully believe that yo can't allow the perfect to be the e emy of the good.

The asbestos reform bill, howe er, needs to be made considerab better before it can be counted acceptable.

Honorees advancing the profession

ASK MOST RISK managers how they got into the profession and they will say they stumbled into it by accident.

Such is the case with the winners of this year's Risk Manager of the Year and Risk Management Honor Roll accolades, both of whom look back at their entry into the field as an unexpected step yet one they are glad to have taken.

Regardless of what brought them to their current jobs in risk management, it's what they did once they were there that sets them apart. Both of this year's honorees not only seized opportunities to improve and enlarge risk management but also put their own unique stamp on their organizations' programs.

Christopher E. Mandel, the 2004 Risk Manager of the Year, followed a twisting path to the risk management profession, but he has risen to become one of the best-known risk managers in the world.

In his current role as assistant vp-enterprise risk management for United Services Automobile Assn., Mr. Mandel continually strives to make risk management more effective throughout the organization. He has implemented a company-wide structure to evaluate and drive better management of USAA's risks. This has involved the application of his management and communication skills, as well as the use of technology to exchange data and make the entire process far more efficient for all.

For risks that can result in insurable losses, Mr. Mandel has restructured the financial services company's property/casualty insurance program so that it is more cost efficient and effective. And he has won important concessions from the market to provide USAA with coverage insurers are unwilling to write for others.

Because of Mr. Mandel's efforts, USAA is more aware of its expo- sures, better prepared to manag them and better protected should loss occur.

The 2003 Risk Management Ho or Roll member is Joan Conner, d rector of Risk Management Servic for the Maine Municipal Assn. i Augusta.

Ms. Conner also did not expe to wind up in risk managemen having spent a very successful c reer as an underwriter and insur executive. Relocating to Maine i 1995, she did not have much hop of finding a job suitable for h skills until she came across th MMA's opening.

Once she was hired, she too steps to expand the MMA's self-i surance pools for public entities, e hancing their financial stabilit while keeping rates as stable an competitive as possible.

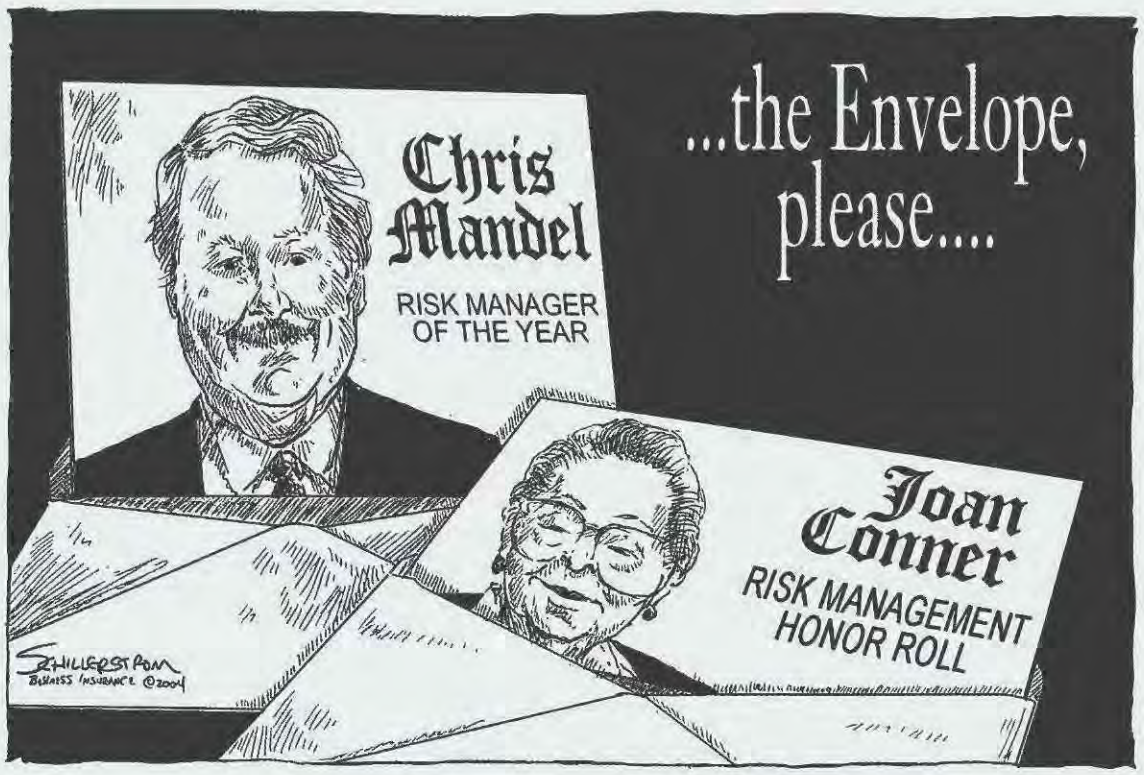
She also expanded communic tion with pool members, includin instructing them in better safet and loss control approaches to hel them reduce future claims and, ult mately, their premiums.

Ms. Conner also relies on info mation technology to improve ri management, from implementin an in-house claims administratio program to using data in sophist cated ways to reduce paperwo and streamline processes.

Ms. Conner's management skill work ethic and professionalism a an inspiration to her staff. Altogeth er, her risk management prowe has helped the MMA to better ser its clients, the diverse towns an cities of Maine.

Neither Mr. Mandel nor Ms. Co ner may have expected to end u working in the field of risk manag ment, but once there, they seize opportunities to make their pr grams the best and to be successfu making them worthy of the award they are receiving.

Schillerstrom



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We applaud your commitment to excellence.
Congratulations on a job well done.

Christopher E. Mandel
Business Insurance
Risk Manager of the Year, 2004

Lance Ewing
President of RIMS,
2003 - 2004

Marsh would like to thank Lance for his untiring efforts and ongoing dedication during his term in office. We would like to congratulate Chris for being recognized as the 2004 Business Insurance Risk Manager of the Year. The 38,000 risk specialists of Marsh salute you.

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Christopher E. Mandel
Assistant Vp-Enterprise Risk Management
United Services Automobile Assn.

PHOTO: MICHAEL MARCOTTE

Finding smarter ways to be of service to those who've served their nation

By DAVE LENCKUS

The bulletin board, which has been hung in quiet pride at the San Antonio headquarters of United Services Automobile Assn., is unlike typical displays of employee notices.

On this board, located 50 feet down the aisle from the few cubicles that USAA's small enterprise risk management department occupies, there are no notices about job openings or company holidays. No one has pinned up a personal ad to sublet an apartment or sell a car.

Instead, the bulletin board is a shrine in snapshots—some recent and crisp and others shadowed in the decades-old purple tinge of aging photo paper. The pictures of USAA employees' loved ones honor those who have served their country in various military conflicts and serves to remind employees of their mission to provide high-quality personal lines insurance and financial services to the nation's soldiers, sailors and aviators and their families.

The enterprise risk management staff does not dress in even a corporate uniform, and there is no hint of military formality in its easygoing demeanor. But, like many of the pictured veterans, the staff of four does operate with military-like efficiency, under the direction of Christopher E. Mandel, assistant vp-enterprise risk management.

They have to. USAA management retained Mr. Mandel three years ago expressly to march all 16 divisions of the Fortune 250 company into unfamiliar territory—an enterprisewide approach to risk management.

Mr. Mandel and his supervisor readily characterize the effort as ongoing and evolving.

But a panel of 10 independent judges has determined that the inroads Mr. Mandel already has made best fulfill the criteria for selection as the 2004 Risk Manager of the Year.

"There are some very impressive parts of his program," said award judge Roger L. Andrews, director o risk management at E.D. Bullard Co. and a 2003 Risk Management Honor Roll member.

"He's done an excellent job in re lation to his short time at USAA ir putting together an effective risk management program," Mr. An drews said.

Shortly after arriving at USAA Mr. Mandel created an enterprise risk committee consisting of abou

Continued on next page

ontinued from previous page

hree dozen executives from companies within USAA's 16 operating ivisions and developed a set of ools to help them identify and neasure the company's various isks. While Mr. Mandel chairs the ommittee, the committee members do not otherwise report to him.

Meanwhile, Mr. Mandel and vhat is now a special advisory roup drawn from the committee re devising strategies and tactics hat the members of the full committee can use to better manage risk vithin their specific companies.

"I'm sort of traditional on this. nterprise risk management is risk nanagement. It's not anything ew," Mr. Andrews said. "But being ne new man on the team, he rought a bunch of players together om other departments. That's tough to do as a new man on the block."

Sheila Small, the 2003 Risk Manager of the Year and a judge for the 2004 competition, agrees.

"One of the things he does is he spends a lot of time interacting with top managers," said Ms. Small, assistant treasurer-risk management and insurance with Verizon Communications Inc.

"You can't do it alone. I think that's the real message here. You can't do it alone. You have to do it in committee," she said. "I felt that was quite a feat."

The efficiencies do not stop there. They are evident in several other areas, as well.

One such area is risk financing.

For example, Mr. Mandel negotiated a blended professional liability insurance program after the insurance market had stopped writing those programs. Mr. Mandel employed savvy marketing that included producing a CD-ROM containing all the financial reports underwriters needed to assess USAA, as well as various video presentations to give underwriters a better feel for the company. He and broker Marsh USA Inc. not only secured a blended program with no exclusions, but also at reduced rates that saved USAA about $2.7 million.

"I was very impressed with his professional liability program" because the market, particularly directors and officers liability insurance, had hardened when he put the program together, Mr. Andrews said.

'Ever since Chris has been here, he's challenged us to look for process improvements.'

Jeffrey L. Vernor
United Services Automobile Assn.

Mr. Mandel has restructured much of USAA's risk financing program to make it more efficient by dropping some insurers, combining coverages and creating a captive insurer. Those efforts have saved USAA more than $3 million, compared to similar insurance buyers' coverage costs, according to the company's property/casualty insurer.

The captive currently writes federally reinsured terrorism coverage for USAA that the commercial insurance market was not offering. Mr. Mandel also is investigating opportunities to write numerous other coverages through the captive. Among those is coverage for a third-party risk, which would give a USAA division an additional product offering.

"It's one thing for risk managers to take credit for lower costs when the market is soft; it's another thing to reduce the cost and restructure the program in a hard market," Mr. Andrews said. "Good risk managers are able to do that."

In an example of building bridges rather than fences, Mr. Mandel worked with several USAA departments after one of them submitted a proposal on managing the company's occupational and nonoccupational disability claims more efficiently. Even though workers compensation costs initially are higher under the new integrated disability management program, Mr. Mandel advised senior management to adopt it because of the millions of dollars USAA will save overall by helping injured workers return to their jobs sooner.

Mr. Mandel's department also is working smarter in other ways.

"Ever since Chris has been here, he's challenged us to look for process improvements," noted Jeffrey L. Vernor, director-operational risk process at USAA.

For example, the department has scanned years' worth of insurance policies into the company's computer system. Now, any policy or related document is accessible to department staff and others within USAA in a matter of seconds instead of the hours it previously took—assuming the entire file could be located.

Mr. Mandel's department also has developed a training program that shows USAA's contract analysts how the two groups can work together to more quickly resolve contract language questions involving insurance requirements.

The judges also recognized Mr. Mandel for what he has meant to risk management outside of USAA.

Mr. Mandel has been a prominent deputy member of the Risk & Insurance Management Society Inc. since the early 1990s. Among other things, he was involved in overseeing the formation of the organization's quality council, served as the organization's 2002-2003 president and currently is its chief risk officer.

Additionally, he serves on various industry advisory boards and has been a member of several others.

And, he has published numerous articles on risk management, including serving as author of *Business Insurance*'s "Ask A Risk Manager" advice column since 1996.

Mr. Mandel's "desire to professionalize the job" is "extremely, extremely strong," Ms. Small said.

"You can't do much more than he's done over his career" to advance risk management as a profession, Mr. Andrews said. "Throughout his career, he's really contributed to his profession. He's about as good as you can get there."

Christopher E. Mandel

Title: Assistant vp-enterprise risk management for United Services Automobile Assn.

Previous experience: Director-global risk management for Tricon Global Restaurants Inc., 1997- 2001; director-worldwide risk management for PepsiCo Restaurants/KFC Corp., 1993-1997; director-risk management division of the American National Red Cross, 1989-1993; risk manager for Bell Atlantic Corp., 1985-1989; senior consultant-risk management for Marsh & McLennan Inc., 1983-1985; claims supervisor for Liberty Mutual Insurance Co., 1978-1983.

Professional memberships: Chief risk officer and secretary for the Risk & Insurance Management Society Inc.; RIMS president, 2002-2003; member of the RIMS Health and Safety Advisory Group, 1995-present; a vp and first vp on the RIMS Executive Council, 1998-2002; board member of the Spencer Educational Foundation, 2001-2003; member of the National Restaurant Assn.'s Executive Study Group, 1993-present; member of Zurich American Insurance Co. Risk Manager Council, 1995-1998 and 2002-present; member of American International Group Inc.'s advisory board, 2002-present; Executive Council member for Factory Mutual Insurance Co., 2003; member of Willis Group Holdings Ltd.'s national risk management panel, 2001-2003; current board member for the Risk Retention Group of the American Orthodontics Assn.; instructor for Ball State University risk manager in residence program, fall 2003.

Professional designations: Associate in Risk Management, 1992; Certified Property & Casualty Underwriter, 1987; Associate in Claims, 1982.

Education: Master of business administration degree in finance, George Mason University, 1994; bachelor of science degree in business administration with a focus on management, Virginia Polytechnic Institute & State University, 1978.

Family: Wife, Mary Anne; sons Brian, 21, and Michael, 14; daughter, Megan, 12.

Hobbies: Family activities, guitar, golf and racquetball.

Company history shows focus, yet diversity

Reciprocal insurance exchange setup benefits military personnel, families

By DAVE LENCKUS

United Services Automobile Assn.'s Property and Casualty Insurance Group subsidiary is unlike other insurers that formed in the early 20th century to insure a specific group of individuals who could not find traditional markets willing to affordably underwrite their automobile and homeowner risks.

Other such insurers, which formed to cover the risks solely of firemen or farmers, for example, long have opened their doors to the general public. While USAA's P/C unit also has expanded its niche target market, it remains focused on the risks of military personnel and their families. Opening up to other risks would force USAA to drop its reciprocal insurance exchange structure, under which members share in the company's profits, and split its attention and loyalties between members and shareholders, according to the company.

USAA has catered to military personnel since 1922. That's when 25 Army Air Corps officers stationed at Kelly Field in San Antonio decided to abandon their unsuccessful search for traditional insurance and instead create a pool of their own money to cover their automobile repair expenses. The officers agreed that they would split any profits from pool investments at year's end.

The same basic model remains today, but the insurer now has more than 5 million members and writes homeowners, condominiums, renters, boats, high-value personal property, flood and umbrella liability insurance in addition to auto coverage. The insurer is one of the few in the country that has earned the highest ratings from A.M. Best Co., Moody's Investors Service and Standard & Poor's Corp.

At year-end 2003, the USAA Property and Casualty Insurance Group reported $9.06 billion of policyholders' surplus, a more than 26% increase since year-end 1998. Its combined ratio had improved to 88.4% from 101.1% five years earlier.

Despite embracing the military personnel market niche, USAA has evolved tremendously over the past 82 years. Its members now include enlisted personnel as well as officers from all branches of the military. In addition, former dependents of veterans also are eligible for coverage.

USAA, now with six U.S. locations and two more overseas, also has grown into a diversified organization with numerous subsidiaries that offer a range of other insurance and financial services to the general public. USAA companies offer life and health insurance, mutual funds and discount brokerage services, mortgages and other consumer loans and credit, financial planning services, and discounted consumer goods and services.

At year-end 2003, USAA companies reported: nearly $158.84 billion of life insurance volume in force, a 77% increase since year-end 1998; $28.3 billion of assets under management in its mutual fund unit, a 10% increase over five years; nearly 1.5 million brokerage trades per day on average, almost a threefold increase over the previous five years; and $10.77 billion of customer deposits in its savings bank unit, a more than twofold increase over the previous five years.

USAA reported $1.5 billion of net income on nearly $10.6 billion of revenue in 2003.

The following are milestones for USAA over its 84-year history:

1922 Twenty-five Army Air Corps officers form the United States Army Automobile Assn. to write auto coverage. USAA ends its first year of operation with 358 members.

1923 USAA begins extending eligibility to other branches of the armed services and to military academy students and surviving spouses.

1924 As it expands membership eligibility, USAA renames itself United Services Automobile Assn.

1933 The insurer launches its second product: households goods insurance.

1948 Full-time employees receive USAA membership privileges.

1952 USAA opens its second office, located in Frankfurt, Germany.

1960 Homeowners' insurance is offered.

1961 Membership eligibility begins expanding to officers who have left the service, military reservists, National Guard Ready Reservists, former dependents of members and FBI special agents.

1963 Life insurance products are added.

1970 USAA begins offering mutual funds services.

1972 USAA becomes licensed in all 50 states to sell auto insurance.

1974 The company moves into its current headquarters complex in San Antonio.

1983 The company launches USAA Federal Savings Bank and Alliance Services Co., which uses its members' purchasing power to settle claims and replace lost items. It also opens USAA General Agency Inc. to place coverage for members' risks it does not write.

1988 USAA begins offering home equity loans.

1996 The company expands membership eligibility by a record amount in extending eligibility to noncommissioned officers and enlisted personnel. The company also adds financial planning and automobile purchasing services.

1999 USAA makes its products and services available on the Internet at *www.usaa.com*.

Mandel, USAA find their own way with ERM

By DAVE LENCKUS

The problem with trying to go by the book on enterprise risk management is that there isn't a book.

"The problem is, this isn't a science," said Ed McQuiston, senior vp-corporate finance at United Services Automobile Assn. in San Antonio.

"The answer is unique for each organization," asserted Mr. McQuiston, who oversees USAA's risk management team, headed by Christopher E. Mandel.

In USAA's case, Mr. Mandel, assistant vp-enterprise risk management, has fashioned a tailor-made ERM program designed to be efficient as well as effective for the organization.

Subscribing to the notion that to do a job right, you need the right tools, Mr. Mandel's team has spent much of its time designing and assembling their tools during the three years since he took charge of risk management at USAA.

That was imperative for the team of five, whose charge is to lead a cultural change in risk management at the huge personal lines insurance and financial services organization. USAA, a Fortune 250 company that reported $10.6 billion of revenue last year, has 16 business units engaged in various insurance, banking, securities and other financial services. It owns and manages a total of $73 billion of assets and has more than 21,000 employees in eight locations domestically and overseas.

To get the team's arms around USAA's operational, financial and business risks, Mr. Mandel first expanded risk management's outreach and drove risk management deeper within the organization by tapping at least one official at each USAA company to serve as a risk management officer. Those RMOs also sit on the enterprise risk committee that Mr. Mandel chairs.

Now, Mr. Mandel's enterprise risk management team is focusing on creating the tools that the department and the RMOs can use to identify, assess and manage risks in a consistent manner across the or ganization.

In February 2002, the importanc of the department's mission wa highlighted when Robert G. Davis USAA's chairman, president an chief executive officer, and USAA' executive council identified ris management as one of the organi zation's 14 core competencies. Tha move elevated risk managemen to the status of such corporate func tions as financial management workforce management and devel opment, information technology and contracts and purchasing.

Mr. Davis, whom Mr. Mande said was the primary driver o that move, had reviewed USAA' business operations and concluded that the organization needed to bet ter review and manage all of it risks.

In defining risk management as core competency, USAA's to management charged the risk man agement department with identify ing and assessing risks that could af fect the company, its members o employees—"especially those risk that could jeopardize the continua tion of USAA as a world-class com pany."

That was "exactly the definition sought," said Mr. Mandel, who ha begun working to that end month earlier. "Now it's up to us to put th flesh on the bones."

As a USAA core competency, th risk management department ob tained official recognition as th owners of the enterprise risk man agement process, and it meant th department was responsible fo achieving its objectives, Mr. Mande said.

Additionally, its recognition as core competency brought risk man agement a higher level of coopera tion throughout the organizatior he said.

Setting the stage

Mr. Mandel explains that a cor objective of the enterprise risk man agement program he is developin is to change the company's cultur so that the organization can b "more risk assumptive through bet ter risk-adjusted decision making by top management.

Meeting that goal is crucial in th current economy, he said. The com pany faces the challenge of boost ing profits while cutting profit mar gins to remain competitive, he said That means USAA will have t boost its business volume, and tha raises the organization's risk level– particularly operational risk.

USAA had launched its enterpris risk management effort before Mr Mandel joined the organization i March 2001, but because of som personnel changes, the program had not progressed beyond man agement's visionary phase.

Even after his arrival, Mr. Mande was unable to focus directly on en terprise risk management for abou six months. An operational review that he performed after joinin USAA showed that he first had t

See ERM/page 1

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ERM: Company finds its own way with enterprise risk

Continued from page 12

resolve some problems with an existing owner-controlled insurance program for a renovation project at the company's San Antonio headquarters.

Attending to that problem first, however, would pay dividends for the risk management department, according to Mr. Mandel. The program was troubled by ineffective administration, which he traced to the broker on the account.

The problems with the program hit risk management another way as well. Mr. Mandel saw that they were hurting risk management's reputation throughout the organization.

During his first summer at USAA, Mr. Mandel cleaned up the OCIP program, which shored up his department's reputation.

By the fall of 2001, Mr. Mandel was ready to turn to enterprise risk management.

USAA defines its enterprise risks as:

- Operational risks, which result from providing products and services to its members. Those risks include physical damage, catastrophic losses, business interruption, information security breaches, systems availability problems and contract issues.
- Financial risks. Those include potential problems with interest rates, debt, cash, foreign exchange risks as well as any other balance sheet-related risk.
- Business risks, which are all other risks not classified in the other two categories. Those include damage to USAA's reputation, economic downturns, accounting changes, legislative or regulatory developments, association member retention problems and any other external influence could prevent USAA from attaining its goals.

Spreading ERM

"We think we have our arms around the business and financial risks," said Mr. Mandel, with a nod toward the corporate asset management committee and various departments at USAA that oversee those areas.

Enterprise risk management's role is not to monitor those groups' work or the efforts of various auditors responsible for measuring the performance of existing risk mitigation controls.

Instead, enterprise risk management's charge is to identify additional risks and to provide those groups, which "own" the risks, the tools to promote consistent risk assessments and responses across the organization.

"Our challenge is to get the different company subsidiaries and staff agencies to a consistent approach to risk management," said Charles Ely, director of the business risk process in the enterprise risk management department.

"Risk management is really providing oversight and governance," Mr. McQuiston said.

In launching his enterprise risk management efforts, Mr. Mandel first created an enterprise risk committee consisting of at least one senior operating manager from each of USAA's 16 business segments. Those managers assumed the additional role of risk management officer for their units.

'Our challenge is to get the different company subsidiaries and staff agencies to a consistent approach to risk management.'

Charles Ely
United Services Automobile Assn

The key responsibilities for the committee, which began its work in late summer of 2001, are to help assess the organization's aggregate risk and drive enterprise risk management into their respective segments "as a critical imperative," Mr. Mandel said.

Within their respective units, every RMO has been asked to define, identify and classify operational risk; identify key risk indicators, metrics; devise policies and procedures for managing each operational risk; and identify and document those practices.

With several units appointing more than one RMO to handle those duties, the committee typically numbers around 35.

USAA's property/casualty insurance unit, for example, has five committee members. They head the insurer's claims, underwriting, policy services, actuarial and field operations. The legal department also has five committee members. They represent each of that department's specialties, such as litigation and government affairs.

"It was an apportionment of responsibility that had to happen because I have to operate with a minimum-sized staff," Mr. Mandel said.

"We're such a large and diversified organization, Chris can't be expected (to oversee everything) so there are risk officers in every company. And Chris is the focal point so people have a place to go," Mr. McQuiston said.

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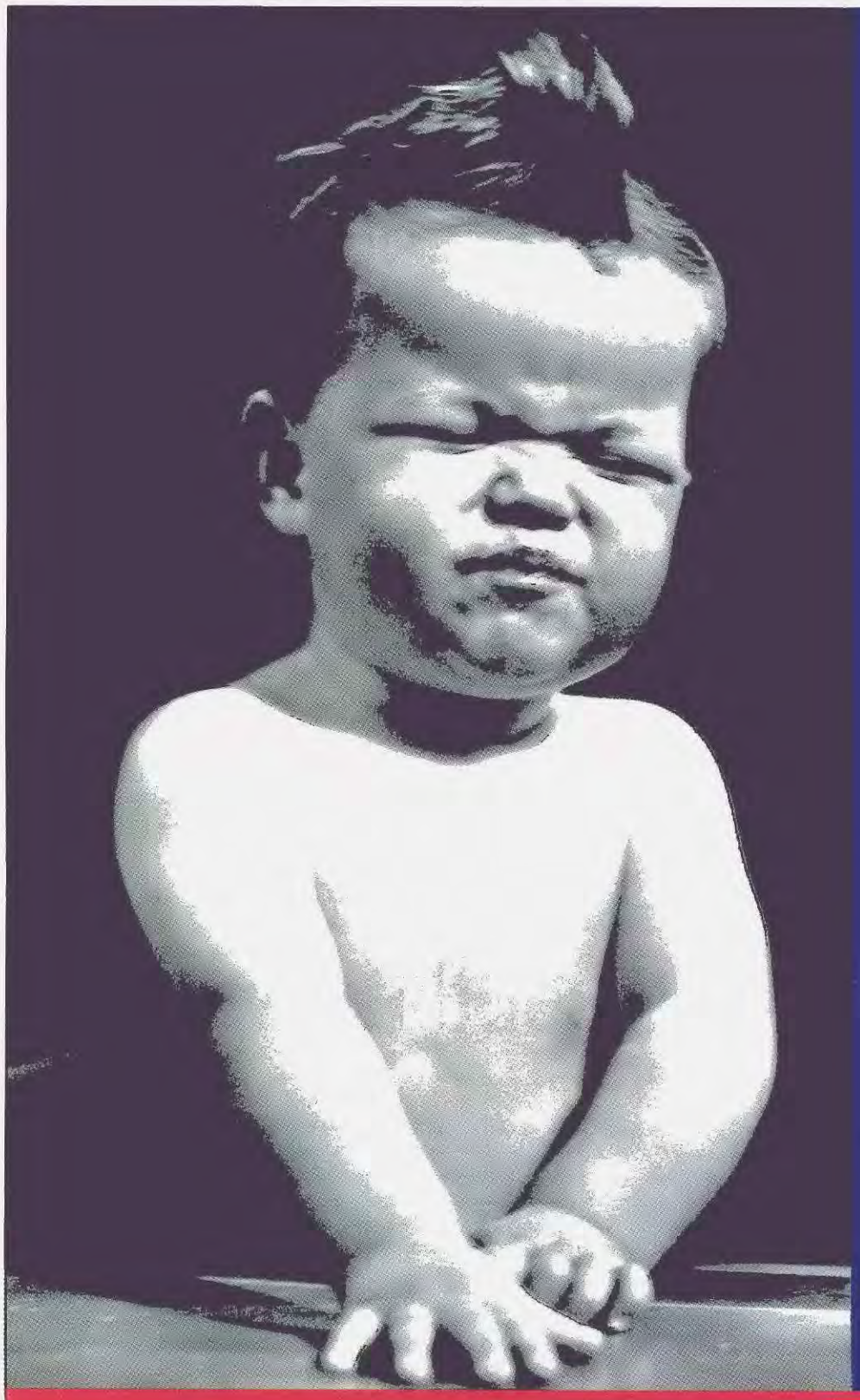

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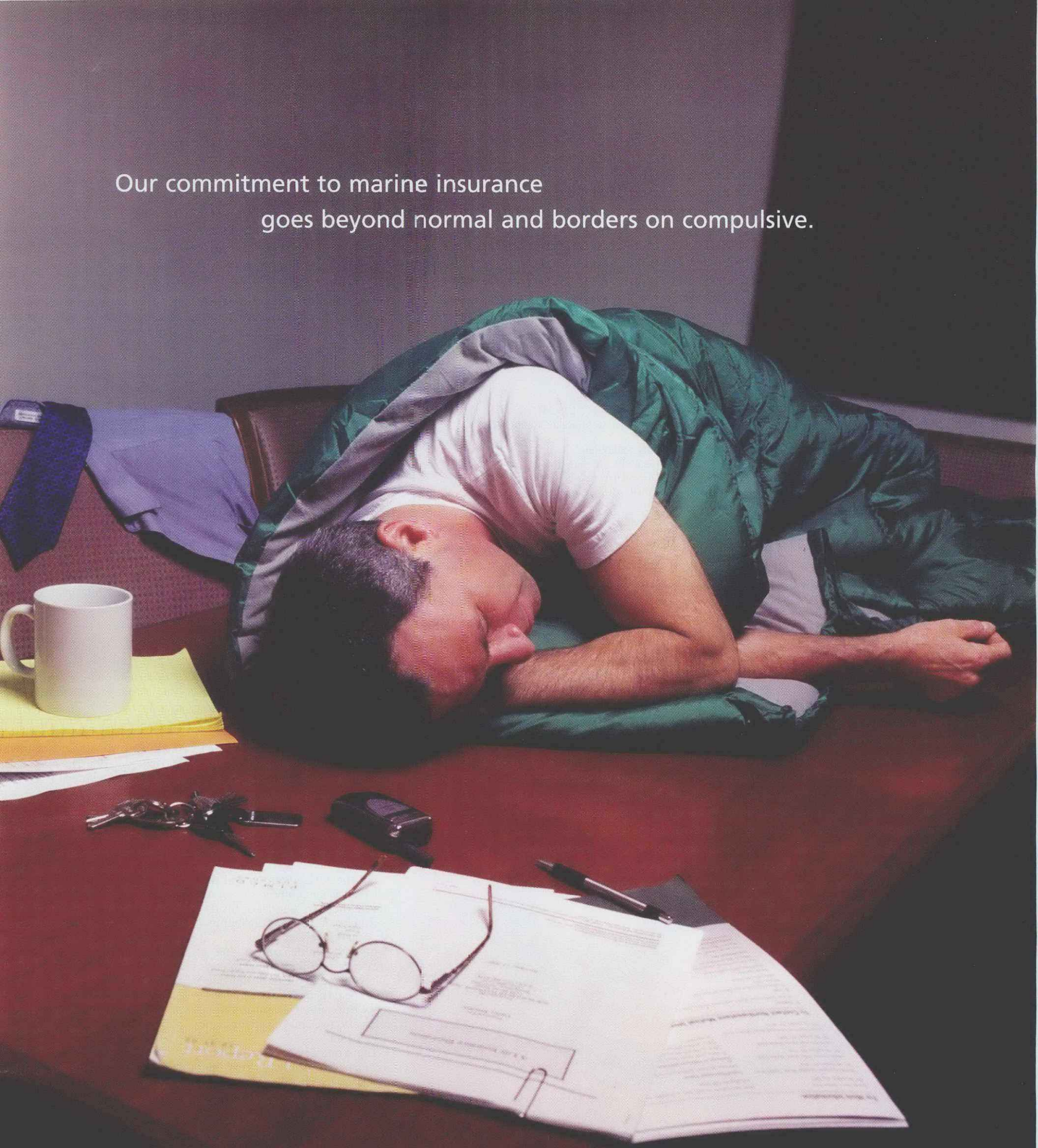

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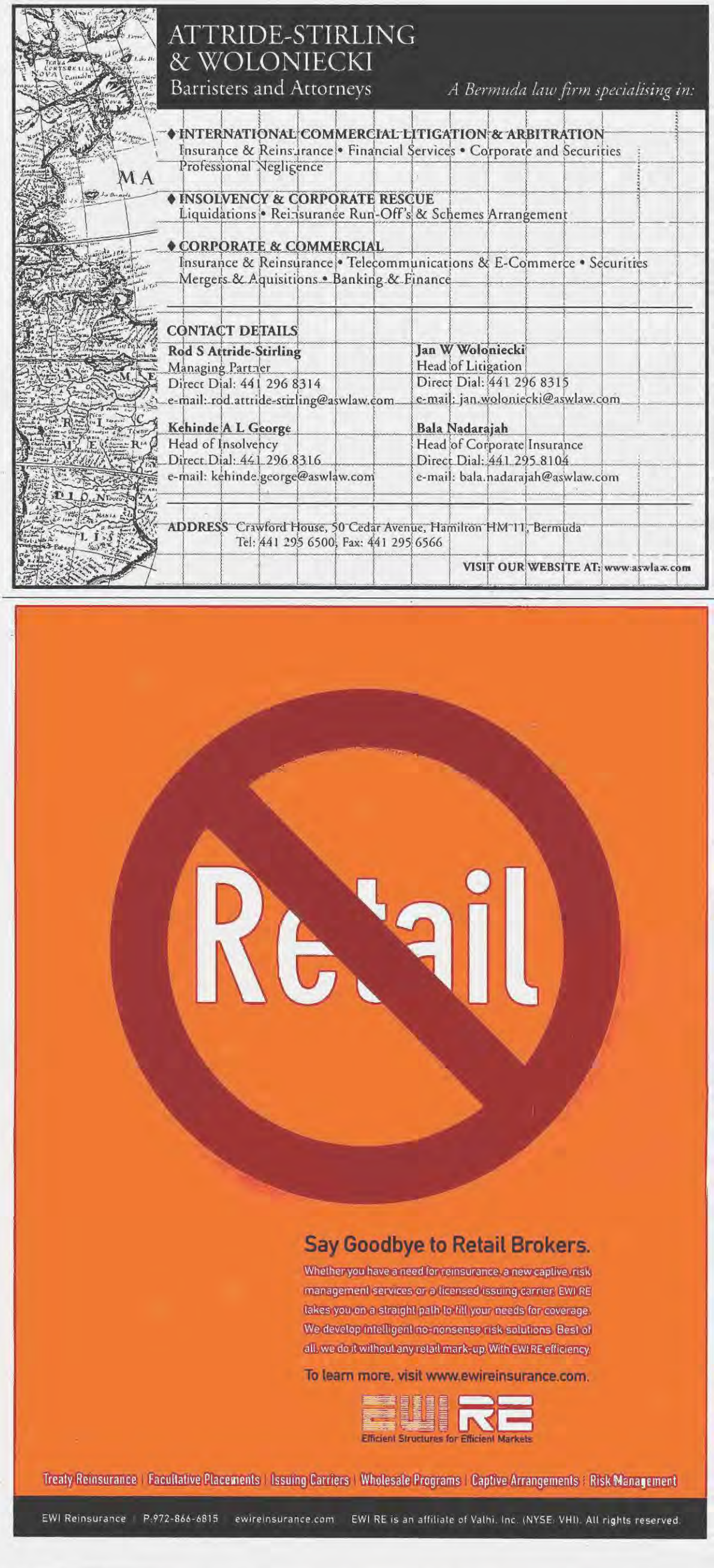

ERM: USAA finds its own way

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While the part-time RMOs sit on the committee that Mr. Mandel chairs, they do not report to him. So his leadership responsibility is "a pretty tall one," he said.

That dynamic would be different "if I were a CRO and reported to the highest level of the company's senior management team," Mr. Mandel said. But, Mr. Davis, the USAA CEO, is "the de facto CRO," he explained.

Regardless, Mr. Mandel said, "I get the attention and responsiveness I need."

And, he continues to fine tune the committee's form and function.

In March, he asked the vps and assistant vps who sit on the committee to delegate more of their risk management work to subordinates so that the committee can operate as an information-sharing body. The subordinates should have the primary role of determining which aspects of the enterprise risk management strategy should be deployed in their business units and how that should be accomplished.

From the committee's ranks, Mr. Mandel has formed a six-member working group. Those group members are Mr. Mandel's chief advisers on developing new enterprise risk strategies, tactics and tools. Those developments then will be shared with the full committee during quarterly meetings.

Mr. Mandel said he expects to be able to develop enterprise risk policies more effectively with the smaller advisory board than he would have been able to with a large committee.

But the advisory group and the risk management officers do not relieve either Mr. Mandel or his department of any responsibilities, Mr. Mandel stressed.

Instead, his department has a greater responsibility now to consult with and advise those individuals to help them drive risk management throughout the organization in an effective and consistent manner, he said.

The scope of USAA's enterprise risk management strategy "is so humongous that it still eats up all of our time and then some," Mr. Mandel said.

Tools of the trade

To facilitate improved decision making, the enterprise risk committee has determined that USAA management must be aware of and proactively engaged in managing all key risks. To that end, the committee found that USAA management needs:

- Consistent and actionable risk metrics.
- Analytical and data-supported risk assessments.
- Value-added management and governance reporting.
- More effective post-loss response though improved risk event readiness.
- Clear communication, which necessitates a common risk vocabulary.

To aid RMOs with their risk identification, assessment and mitigation responsibilities and to help senior management with its risk-assumption decisions, Mr. Mandel's department is using several analytical tools.

The first versions of these were rolled out during the summer of 2002, but they are constantly evolving. Mr. Mandel's department is now refining some of the tools it uses and is planning to introduce another software-based tool that is expected to allow Mr. Mandel's staff to map USAA's risks more quickly.

The scope of USAA's enterprise risk management strategy 'is so humongous that it still eats up all of our time and then some.'

Christopher E. Mandel
United Services Automobile Assn

The department currently is nearing completion of a consequence matrix to assist RMOs in identifying and assessing risk. The matrix identifies numerous known risks and illustrates senior management's tolerance for them. This risk tolerance is based on how they impact the organization's finances, reputation, technology and employees.

The notion behind the matrix is that before additional risks can be identified and assessed, top management must provide guidance on what it considers low, medium and high risks, Mr. Ely explained.

The consequence matrix tool should be available by the end of May, he said.

The matrix would tie in with another new tool that the enterprise risk management department is planning to use: Enterprise Risk Assessor software from Methodware Ltd., which has offices in Toronto, London and Wellington, New Zealand.

This software would allow Mr. Mandel's department to more quickly develop risk maps that would show where USAA has acceptable levels of risk and where it is vulnerable, "so we can better target our efforts," Mr. Ely said.

To get to that point, RMOs would use a special form to provide Mr. Mandel's department with several pieces of information about the risks that they have identified. They would assess both the probability of a loss and its likely severity; list the reasons the risk was identified; explain the efforts already underway to mitigate the risk; and note any additional risk mitigation steps that are necessary.

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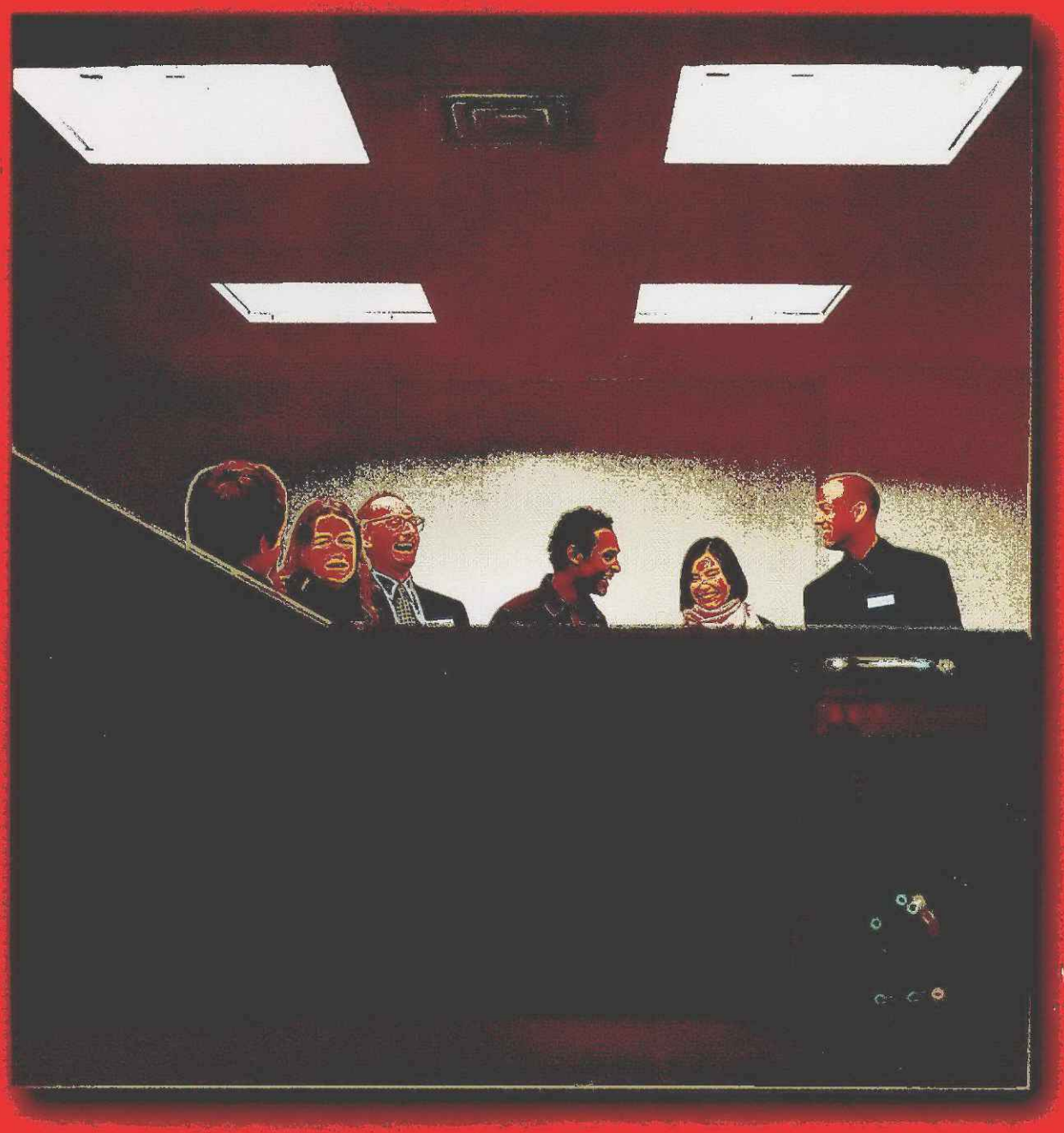

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ERM: USAA finds its own way with enterprise risk

Continued from page 16

The Enterprise Risk Assessor software should be available sometime this summer, he said.

Mr. Mandel's department also is refining how it would like RMOs to assess risk, after getting some push-back over the method it previously used, Mr. Ely noted.

"Now we're trying to make it more user-friendly," he said.

For example, one tool under development is a matrix that RMOs can use for guidance in assessing operational and strategic risk. A couple of the risk measures in the matrix had troubled RMOs because they either lacked specificity or were difficult to defend when applied to a risk.

One of those measures is a one-to-five rating scale, with five equating to a high level of probability of loss and one equating to a low probability. The other measure is a range of probabilities, with 100% to 80% risk of loss equating to five or high on the other rating scale.

A new measure designed to help RMOs assess operational risks defines a risk rated as a five as something that the company currently is dealing with or a problem that has just occurred. A risk rated as a three would be something the company likely will have to contend with the following month, and a risk rated as a one is something that the company may face three years from now.

In evaluating strategic risks, such as potential unfavorable regulatory changes, a risk that is rated high would mean it likely would occur during the next six years, and a risk that is rated low would mean that it very likely will not occur.

Another matrix under development will attempt to define how severe USAA will consider certain losses.

For example, a financial loss rated as a five, or catastrophic, would have to exceed $1 billion. A loss of $250,000 or less would be rated as a one, or low.

But some risks defy such quantifications, according to Mr. Ely.

For example, a business risk of a negative story broadcast on a major new network might be considered catastrophic because of its potential to damage USAA's reputation. An internal news release that causes some employee grumbling might be rated as a low risk, he said.

Similarly, an operational problem that imperils service to at least 100,000 USAA members in a wide area might be considered catastrophic, while another miscue that affects 10,000 members in a local area might be considered a level two, or medium, risk.

The matrix also would define financial risks, such as those that affect USAA's credit and debt ratings.

Another tool that RMOs will use to help Mr. Mandel's department better understand USAA's risks are risk mitigation assessments. Those assessments show how USAA is managing risk currently and how well those efforts are working.

From that assessment, the enterprise risk management department creates a risk profile, in which a risk is assigned gross, residual and target plot points that will be used in plotting the risk map.

Every analysis 'is subject to testing by auditors, so it can't be done in a whimsical way.'
Christopher E. Mandel
United Services Automobile Assn.

The gross plot point shows the likelihood of a risk occurring and its potential severity without any mitigation efforts. The residual point is where the risk falls on the severity scale with current mitigation efforts. The target plot point is where USAA would like to move a risk, if that point is different from the residual plot point. All of the plot points take into account a risk's potential impact on several key financial performance measures.

The Enterprise Risk Assessor software eventually will be used to create the risk maps. Until then, Mr. Mandel's department is relying on Microsoft's Excel and Power Point computer programs to create maps of risks for each of USAA's 16 divisions. Enterprise Risk Assessor will allow Mr. Mandel's departments to more quickly complete the individual risk maps and their consolidation into a summary risk map for each division.

To evaluate whether USAA is managing its risk any better from one year to the next, the enterprise risk department has created a residual risk trend report.

Mr. Mandel acknowledges that some biases and subjectivity creep into these analyses.

But every analysis "is subject to testing by auditors, so it can't be done in a whimsical way," he said.

Every analysis has to be defendable, he said. When auditors review a business unit, they sift through those analyses and test the assumptions they contain.

Based on the methods and tools he implemented, Mr. Mandel began submitting analyses of USAA's enterprise risk to the company's chief financial officer in 2002. The CFO then presented the information to the USAA board of directors.

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Technology, education increase efficiency at USAA

By DAVE LENCKUS

With only a four-person staff for support as he manages enterprise risk at United Services Automobile Assn., Christopher E. Mandel saw that his team's effectiveness would hinge on more than just establishing risk management officers in every business segment.

That select group could be counted on to foster risk management within the organization, but the enterprise risk management department still would have to work more efficiently to be most effective.

Two moves have both saved a tremendous amount of time for the team and improved communications and relations between the team and various segments of USAA, according to Mr. Mandel's staff:

- Scanning several years of insurance policies into USAA's computer system.
- Developing an education program that shows USAA's contracting department how to more quickly resolve questions and problems that arise over insurance-related contract language.

"Chris recognized that our department is smaller, so we can't do things the same way we did it two years ago," said Paul G. Beattie, risk management adviser.

Scanning USAA's insurance policies into the company's computer system so that the risk management team and other departments could access them quickly went a long way toward helping risk management and others work more efficiently, according to Mr. Beattie and Jeffrey L. Vernor, director-operational risk process.

"Policy research is a big part of any risk management department," Mr. Beattie said.

USAA has 69 active policies, counting the excess layers of coverage for many risks, he said.

Many policies are voluminous. For example, the workers compensation insurance policy is 575 pages thick, and 85 pages comprise the general liability insurance policy, he noted.

"One of Chris' pet peeves was that we had all of our policies in filing cabinets in the office or in archives—stuffed with invoices, endorsements, etc.," Mr. Beattie said. "It was a pain. There wasn't a way to look at all of the policies" in an efficient way.

Often, a policy search could take hours, he said.

Locating files could be extremely difficult as well as time-consuming. In some cases, they had been misfiled. Other times, unknown to whoever was looking for a policy, another member of the staff was working with it.

Finding a policy file also did not always mean the search was successful. Files occasionally got mixed up and contained the wrong information.

In 2002, Mr. Mandel concluded that the department's policy management was not as organized as it should be.

The department approached USAA's document imaging unit with its problem and was shown an imaging program that another part of the company was using. Mr. Mandel decided the program would meet his department's needs.

Beginning in the summer of 2002, the department—with the aid of an intern—began collecting, sorting and fixing hundreds of policy files dating back to 1998.

If piled in one stack, the files would have been at least 13 feet tall, Mr. Beattie noted.

As the files were collected, the risk management department organized each file and used green sheets of paper to indicate which segments of each file—such as policy endorsements, invoices, correspondence and claims information—should have their own bookmarks so users could quickly find and pull up those sections. Of course, users also can review an actual policy itself.

The document imaging unit completed the scanning project in January 2003, working the task in between scheduled activities.

"We would not be able to do it if we were a small company and had a scanner we bought at Costco," Mr. Beattie noted.

The cost of the undertaking was not a factor, because USAA already had a document imaging unit and the chief financial officer had additional data storage capacity for his group that he assigned to the risk management department to accommodate the scanned documents, according to Mr. Vernor.

"The key is really having time and taking time to organize data and formatting it," he said.

"Now it's easy to maintain," he said. As additions to a file come in throughout the year, the document is immediately scanned into the system by the document imaging department—or by risk management itself, if the new documentation is small enough or is submitted electronically.

Risk management holds new paper policies, which are immediately scanned into the system, for 90 days and then shreds them. But the department has asked insurers to deliver policies electronically in PDF format. Some documents, such as endorsements, still have to come

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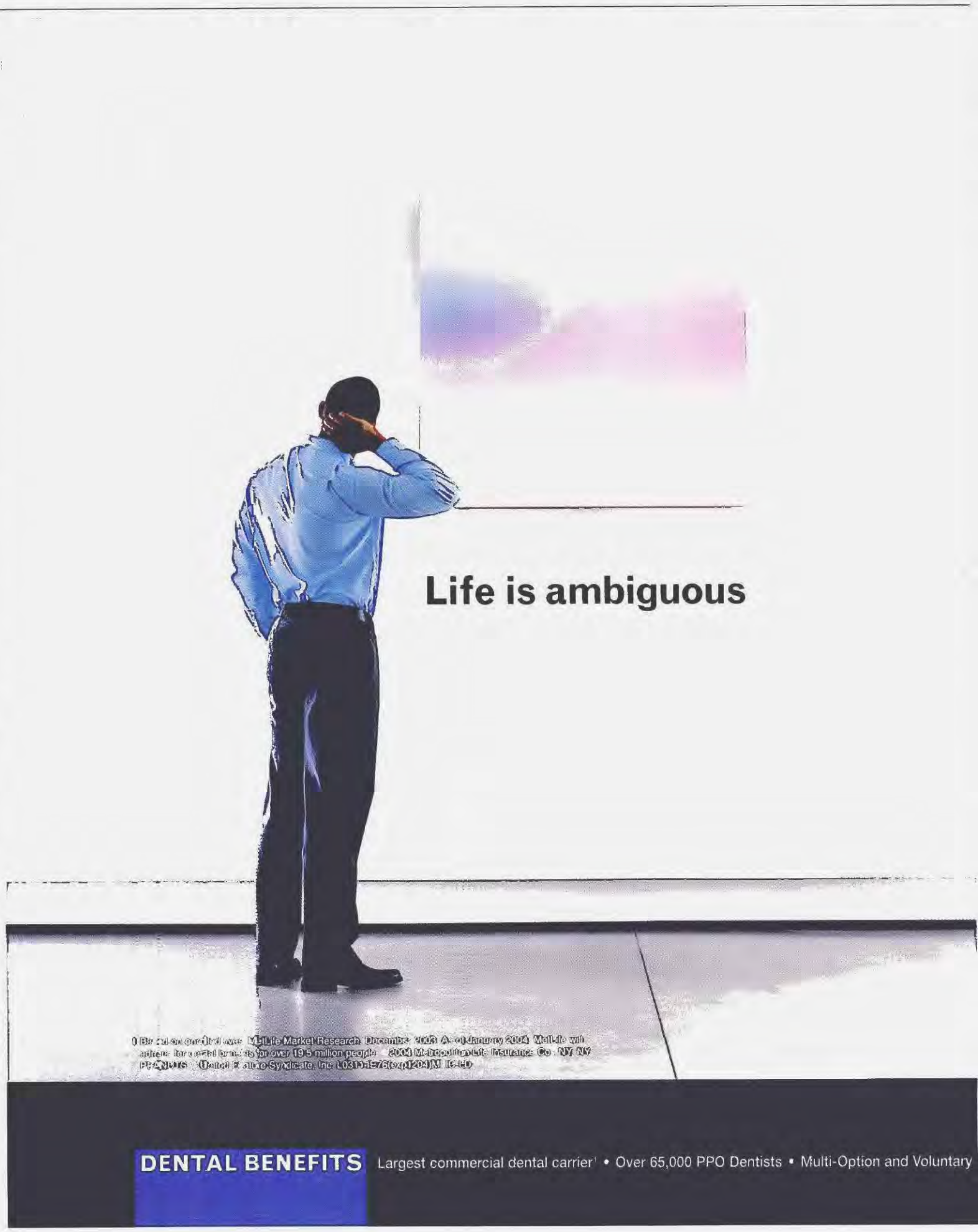

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in paper format, because they have to be signed, Mr. Beattie noted.

The enterprise risk management department can now make the online policies available to other USAA staff, including company attorneys and the real estate unit, so they can conduct some policy research themselves.

While offering policies online has aided several USAA units and departments, it has particularly benefited the risk management staff, because it has speeded up its research capabilities, Mr. Beattie said.

Mr. Vernor agreed. "It's become one of those power tools on my desktop."

For those questions it still must field from other departments, the risk management staff can quickly find the answers and e-mail them and the link with the supporting information to the individual who requested the information.

Online access to policies also has greatly reduced the research time needed to complete risk management's own projects, Messrs. Beattie and Vernor agree.

For example, within seconds, risk management staff can find which insurer participates on a particular layer of coverage and how much premium is in force in the aggregate for a particular program or with a particular insurer. That information is useful for understanding USAA's relationship with an insurer, particularly as renewals approach, according to Mr. Vernor.

"Taking paper out of our office saved us a lot of headaches," he said.

Another task that needlessly ate up valuable time for the enterprise risk management department was resolving many of the insurance-related contract language questions that USAA's contract department posed.

The risk management department got away from that and improved its strained relations with the contract department by instituting a program that trained USAA contract analysts how to resolve most of those questions themselves.

Since mid-2001, the risk management department has conducted two or three training sessions annually for contract analysts, with each session accommodating 10 to 15 analysts. The department plans on conducting refresher courses for the analysts every couple of years.

Before Mr. Mandel's department began offering the training, the feedback from the contracting department was that risk management was not as responsive as it should be.

"But we thought their requests were too urgent and didn't give us enough time," Mr. Vernor explained. "We found that there was too much volume coming to us that didn't need to come to us."

The problem, risk management found, was that contract analysts were not very knowledgeable about insurance. Risk management partially resolved that issue by working with the contract department to draft standard insurance language for contracts.

In addition, Mr. Mandel's department created several contract templates that are available to contract analysts on the USAA intranet.

That still left the contract department with questions over the meaning of some provisions and uncertainty about which insurance provisions were negotiable.

"So we created a basic training program," Mr. Vernor said. "It showed them what they could do themselves and what they needed to come to us about."

'We don't want to be in the position that risk-management review is holding up a contract. That's just not acceptable to us.'

Jeffrey L. Vernor
United Services Automobile Assn.

For example, in contracting with a vendor that will not work within any USAA building, requiring workers compensation or auto coverage may not be necessary. Even a small organization hired to conduct a training seminar at a USAA site may not have standard workers comp coverage and perhaps should not be required to obtain it, Mr. Vernor said. But even a small contractor hired to work on the lighting in a vaulted courtyard at company headquarters would have to prove it had workers comp insurance, he said.

Before the training program, answering those kinds of questions "took up too much of our time," Mr. Vernor said. Now, contracting department staff who have gone though the training can and do answer those kinds of questions themselves.

Contract analysts still come to risk management for what Mr. Vernor called "high-risk support."

Risk management had to adjust its approach to handling such requests, which require a response within a specified time.

"We realized that as much as we don't want urgent requests, we realized that sometimes that's necessary," Mr. Vernor said. "That really helped the relationship a lot."

The result of this spirit of cooperation is that risk management has not missed a response deadline in "well over a year," Mr. Vernor noted. Indeed, risk management's policy is to respond to all urgent requests from contract analysts within a few days, even when it has a week to reply, he said.

"We don't want to be in the position that risk-management review is holding up a contract," Mr. Vernor said. "That's just not acceptable to us."

And contract analysts are submitting far fewer urgent requests, because they can answer questions themselves, he said. "It's definitely down to a trickle now."

Professional liability program bucks market trend

By DAVE LENCKUS

In a professional liability insurance market that long ago stopped writing blended programs, Christopher E. Mandel continues to purchase the coverage for United Services Automobile Assn.

A large part of his success is attributable to communicating to the market what makes USAA an exception to the market rule against writing blended programs.

But as part of the process, Mr. Mandel, assistant vp-enterprise risk management for USAA, had to make some hard choices that meant severing some business relationships.

For a single premium, blended programs provide buyers with a shared limit that covers directors and officers liability, fiduciary liability for pension and benefit plan assets, errors and omissions liability, and employment practices liability coverages.

But, a couple years ago, professional liability insurance underwriters stopped writing blended programs in an effort to drive up their premium volume. With insurers writing the coverages separately, buyers must spend more for each coverage individually than they paid previously for the packaged coverages.

Mr. Mandel says he understands why professional liability underwriters determined they had to make that change. With heavy losses in recent years on two components—D&O and EPLI—of their blended programs, insurers "had gotten burned" with that product, he said.

But since December 2001, nine months after Mr. Mandel took charge of risk management at USAA, a blended professional liability insurance program has covered the organization's directors and officers.

An unusual feature of USAA's professional liability insurance program is that it has two separate primary layers. One layer covers the board of directors that oversees all of USAA except for USAA Investment Management Co.—the mutual funds and discount brokerage operation.

IMCO has its own board of directors. That board has the comfort of knowing it has a primary layer of coverage it does not share with another board, Mr. Mandel explained.

Hartford Financial Services Group Inc. writes the primary layer covering the board that oversees the broader of the two USAA operations. Zurich American Insurance Co. writes IMCO's primary coverage.

In a move designed for cost efficiency, Mr. Mandel structured the remaining coverage so that the boards share the same excess program, in which 14 underwriters participate. USAA management is comfortable with that coverage because of the company's clean loss history.

Ed McQuiston, senior vp-corporate finance and Mr. Mandel's supervisor, applauds the professional liability insurance program as well as Mr. Mandel for pulling it together.

The structure of USAA's professional liability program 'speaks to Chris' negotiating skills. It also speaks to the quality of the organization.'

Ed McQuiston
United Services Automobile Assn.

By not having to build separate excess policies for different entities, "it's akin to cross-collateralization of risk across an organization," Mr. McQuiston said. "It's a more efficiently priced vehicle."

That is especially significant because of the hardening professional liability insurance market for mutual funds, according to Mr. McQuiston. The shared excess program "smoothes out the problem in one sector," he said.

"It speaks to Chris' negotiating skills. It also speaks to the quality of the organization," Mr. McQuiston said.

Before December 2001, USAA's professional liability program was "devoid of some efficiencies and synergies," Mr. Mandel said. Until then, USAA's insurer had been underwriting several professional liability risks separately for USAA, and USAA had different limits for each risk.

Mr. Mandel wanted more consistent coverage for each risk, "because there wasn't a great feel for where future losses could come from," he explained. For USAA, though, E&O is a more significant exposure than EPLI, because of the risk inherent in claims handling at the organization's property/casualty unit, Mr. Mandel said.

USAA "has a pretty clean history," Mr. Mandel said. When Mr. Mandel first sought blended coverage, USAA had had one large professional liability loss in the previous 10 years. But that was in a business line that it had since exited: a partnership in a real estate operation. USAA faces "occasional" EPLI claims, he said.

See BLENDED/page 26

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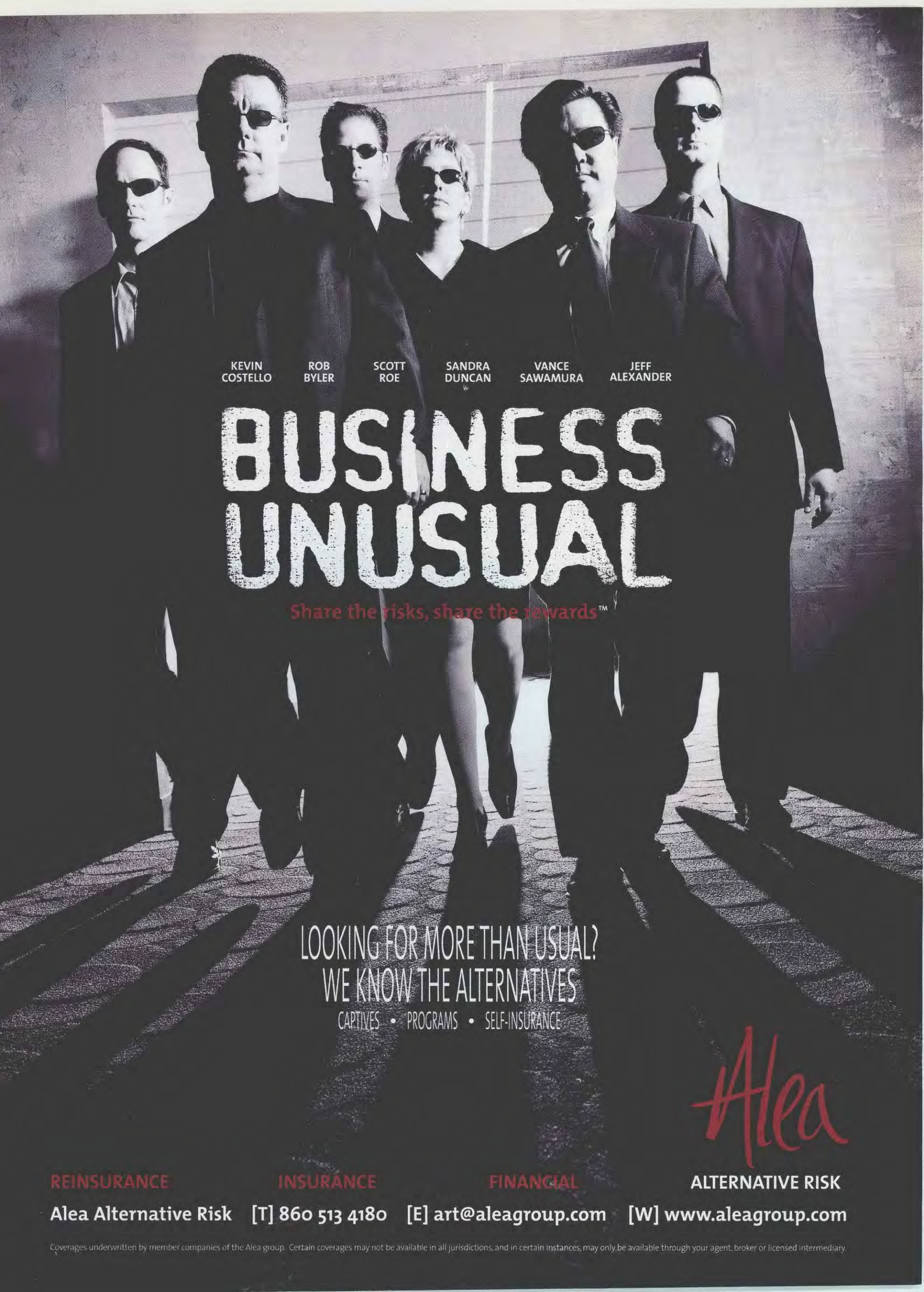
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PHOTO: MICHAEL MARCOTTE

Christopher E. Mandel stands alongside a replica of one of United Services Automobile Assn.'s earliest risks.

Program: Retooling aids USAA

Continued from previous page

wouldn't be adding value," he said.

The arrangement redirects administrative work out of the small enterprise risk management department, and it gives the real estate division the direct involvement it sought in the process, Mr. Vernor said.

Enterprise risk management keeps on top of the arrangement through monthly meetings with the real estate division. The meetings focus on the real estate division's planned activities, rather than already completed transactions, Mr. Vernor said.

USAA's in-house agency, meanwhile, became responsible for placing all of the bonds that the organization requires.

The agency previously had placed only some of those bonds, while the risk management department arranged several ancillary bonds. Those smaller bonds, like a master electrician bond and utility payment bond, could have values of several hundreds dollars to less than $100. Securing those bonds was not time well-spent by the risk management department, Mr. Mandel said.

The general agency also places USAA's aviation insurance, which covers the company's three corporate jets.

Meanwhile, Mr. Mandel retained Marsh USA Inc. to place a blended professional liability program for USAA. Previously, two other brokers had placed USAA's directors and officers liability and errors and omissions liability coverages separately (see story, page 24).

Mr. Mandel eventually awarded USAA's environmental coverage account to Marsh as well.

Managing three brokers is much easier, Mr. Vernor noted. "But we didn't want all of our eggs in one basket. We wanted competition."

Property coverage

Like other insurance buyers, USAA saw its property coverage change dramatically after the Sept. 11, 2001, terrorist attacks.

USAA values its U.S. corporate property and contents at about $1.4 billion, and it values its real estate investments at about the same amount.

Until the terrorist attacks, Factory Mutual Insurance Co., which does business as FM Global, wrote blanket limits that covered USAA's corporate property. Limits now are tied to USAA's possible maximum loss.

Mr. Mandel noted that as a nearly 100% highly protected risk on the corporate side, USAA's possible maximum loss due to fire is $300 million. Unlike a probable maximum loss estimate, the possible maximum loss is risk management's estimate of the "worst-case scenario absent terrorism," and it is an important factor in determining how much USAA purchases in property limits .

For its real estate investment properties, USAA purchases separate limits from Zurich American Insurance Co.

USAA purchases U.S.-reinsured terrorism coverage for its corporate and real estate investment properties. That coverage would respond to losses that the U.S. government certifies were caused by foreign-based terrorists.

But USAA also purchases coverage that would respond to noncertified terrorist acts, such as those by eco-terrorists, Mr. Mandel noted.

FM Global "had an extremely reasonable price" for its coverage and Zurich American also negotiated a "reasonable" deal, Mr. Mandel said.

In addition, under Mr. Mandel's guidance, USAA has created a captive insurer that, among other things, covers the organization's corporate and investment properties for terrorism risks that FM Global and Zurich American do not cover (see story, page 33).

As Mr. Mandel prepares to renew the property program in June, he expects a rate decrease, as risk managers at other companies with clear loss histories have been negotiating this year.

That would be the second con

See PROGRAM/page 30

2003 Gross Premiums Written

up 35%

To $2,558 million

2003 Return on Average Equity

20.4%

2003 Stockholders' Equity (in millions)

$1,390

2003 Statutory Surplus

up 57%

To $1,553 million

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Program: Retooling efforts help lower P/C costs

Continued from page 28

secutive price break for USAA. Last year, Mr. Mandel and Summit negotiated a 5% cut for the corporate program and a 17% reduction for the investment property.

"We beat the market by a considerable amount last year," said Mr. Mandel, who is on both insurers' advisory boards and says he leverages those relationships. "Now we're looking at another decrease, which is appropriate. They took a little too much of our hide in 2002, using Sept. 11 as an excuse."

USAA has not increased its retention "for a long time," Mr. Mandel noted. The price break available for assuming more risk is too small to warrant a higher retention, he explained.

While it is not the industrial-type property risk that FM Global often insures, USAA has purchased coverage from the insurer since the early 1990s.

"I really have enjoyed the relationship with them," particularly because of the attention the insurer has paid to loss control at USAA's new Phoenix facility, Mr. Mandel said.

'We beat the market by a considerable amount last year. Now we're looking at another decrease, which is appropriate. They took a little too much of our hide in 2002, using Sept. 11 as an excuse.'

Christopher E. Mandel
United Services Automobile Assn.

The Phoenix facility, which USAA has been opening in stages since early this year, is a vital business continuity location. While USAA will use it for various daily operations, its primary purpose is to be the emergency backup site to USAA's San Antonio headquarters.

As part of its loss control services, FM Global conducted a comprehensive study of USAA's business continuity plan to determine its impact on USAA's business interruption risk. Mr. Mandel expects that when the business continuity plan is fully implemented, which is expected by the end of the year, USAA's business interruption risk will be slashed to $30 million from $300 million.

Former astronaut John Blaha, assistant vp-business continuation, is devising a plan that, among other things, consists of redundant high-tech communications. Those redundancies ensure as much as possible that top management would still be able to direct operations during a crisis.

Mr. Mandel also enlisted FM Global's aid in assessing USAA's earthquake exposure, which is much lower now that USAA has sold a high-rise investment property in San Diego. A property in Sacramento is the company's biggest California earthquake exposure now, and it's a small one, Mr. Mandel noted.

With USAA's reduced exposure, Mr. Mandel last year was able to shave USAA's earthquake limits to $65 million from $100 million.

To get the best deal, Mr. Mandel has restructured the earthquake program and has moved most of it into the surplus lines market. USAA realized a 15% to 20% rate-on-line savings last year as a result, according to Mr. Mandel.

FM Global writes a small primary layer that covers corporate properties, and Zurich American writes a small primary layer for the investment properties. Several surplus lines insurers write excess coverage which would respond to either corporate or investment property losses.

For its U.K. and German property risks, USAA purchases coverage from local insurers. Those exposures are too small to be wrapped into the same program that covers the company's domestic property. In addition, the domestic program would have to be modified to cover international risks.

Casualty and umbrella

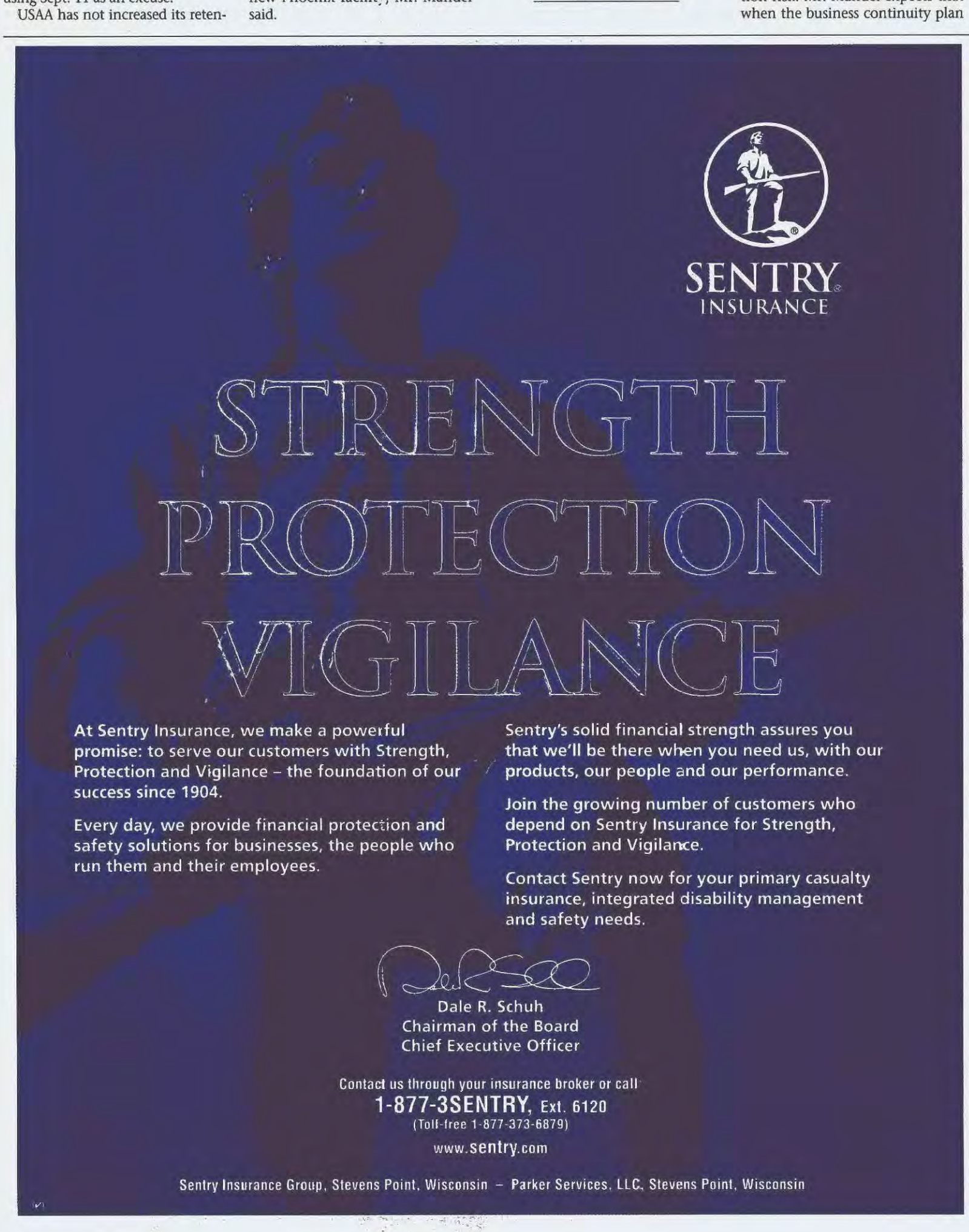
Mr. Mandel waited longer, though, before revamping USAA's casualty program. That program was "effectively supplanted" by the new integrated disability management program, he said.

Under the IDM program, which was implemented in September 2003, Liberty Mutual Insurance Co. and USAA's health services department are working together to better manage the cases of all disabled USAA employees, regardless of whether they were hurt or became ill at home or at work (see story page 33).

Those cases comprise USAA's major casualty risk, according to Mr. Mandel.

As USAA was preparing to implement the IDM program, Mr. Mandel was looking to replace USAA's general liability insurer. With Liberty Mutual already set to help USAA better manage its major casualty exposure through the IDM program, Mr. Mandel also turned to the insurer to cover USAA's small general and auto liability risk.

See PROGRAM/page 32



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IDM: Could save USAA millions

Continued from previous page

role under the IDM program, though Liberty Mutual has assumed much of the administrative responsibility.

More importantly for USAA, though, Liberty Mutual brings its case management and loss control expertise to the process.

The insurer's case management expertise is so strong because of its database on the most effective approaches for managing employee injuries and illnesses, Mr. Mandel said.

The "crucial piece" of the program is the information system behind it, Dr. Wald said.

Mr. Mandel and Dr. Wald also applauded Liberty Mutual for helping USAA prevent losses.

Liberty Mutual is "very attentive to us," Dr. Wald said. It assists USAA's safety group with "strong loss prevention" consulting, which includes conducting workplace walk-throughs with USAA managers to train them how to spot situations that could lead to employee injuries.

The IDM program 'takes the workers comp model and brings it to the nonoccupational side.'

Dr. Peter Wald
United Services Automobile Assn.

Safety is not under the auspices of the enterprise risk management department, but Mr. Mandel sits on USAA's safety oversight committee.

A strong element of the loss control piece of the IDM program is USAA's ergonomics program, which a Liberty Mutual official called "world class." A majority of USAA's worker comp cases involve repetitive motion injuries, (see story, page 24).

Even so, Liberty Mutual could not match the incumbent workers comp insurer's pricing, which was "materially cheaper," Mr. Mandel said.

But because the program is expected to save USAA millions of dollars over the next few years by returning many more injured employees to work sooner and preventing injuries, Mr. Mandel supported it.

And Liberty Mutual agreed to caps on the extent to which it could raise its workers comp rates over the next three years, Mr. Mandel noted.

So "I thought it was my fiduciary duty" to convince USAA Chief Financial Officer and Corporate Treasurer Josue Robles Jr. that the program would benefit USAA overall, he said.

The IDM program is still too young to have produced any measurable results, but Mr. Mandel and Dr. Wald say anecdotal evidence suggests that the program is working well. "We're getting less complaints from employees about the process," Dr. Wald said.

How well the program cuts into the number of lost work days will take a few years to assess, but responses to USAA's request for proposals estimate reductions of 10% to 30%, depending on how well the cases were managed previously, Dr. Wald noted.

Because USAA previously managed those cases in-house through the company's health services department, Dr. Wald said he expects that the new program will trim the number of lost work days by less than 30%.

"The nice thing about the workers comp model is it's a mutually integrative model," as it includes medical treatment, medical equipment, disability and retraining costs, Dr. Wald said.

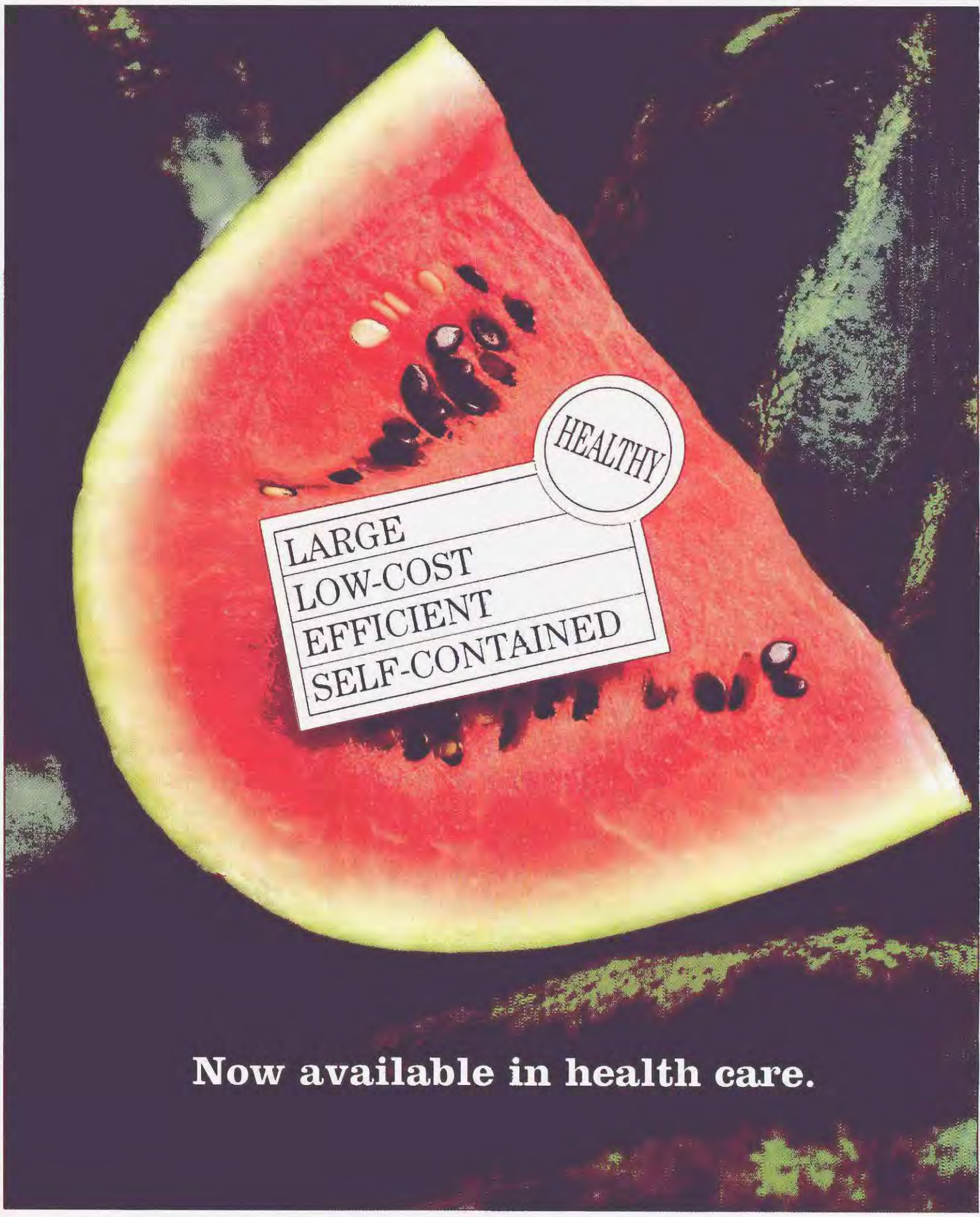
Essentially, the IDM program "takes the workers comp model and brings it to the nonoccupational side," Dr. Wald explained.

Medical care for employees who are hurt or become ill on the job typically is more aggressive, Dr. Wald said. Workers comp tries to get people back to work as soon as possible, because of the "wage clock" that continues ticking for the employers without the commensurate production from the injured or ill employee, he said.

Continued on next page

PHOTO: MICHAEL MARCOTTE

Christopher E. Mandel, second from left, and, from left, Summit Global Partners of Texas Inc.'s Robert F. Dobat, senior vp; Sue Prince, senior account manager-commercial insurance; and Perry Smith, senior vp.



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The IDM program brings that same approach to nonoccupational disability cases, with which case management traditionally has not been as strong, Mr. Mandel and Dr. Wald explained.

"So they're getting a better level of case management, " Dr. Wald asserted.

USAA also has designed the program so that injured and ill employees can tap their disability benefits and trigger the case management process more easily.

Referring to workers comp, short-term and long-term disability and sick days, Dr. Wald said: "Before, we asked employees to understand four different pots. Now they call one 800 number when they become ill or are injured."

Employees injured on the job, though, still are required to take the additional step of reporting to their supervisors before calling health services.

"When it's simple for employees, the better it is for the company," Dr. Wald asserted. "They're not confused. They don't stay out of work because they can't figure out how to make each process work."

Mr. Mandel agreed. "It creates a more seamless program for employees."

While USAA did not fold employee health care into the integrated disability management program, there is a degree of coordination between the two programs designed to reduce employee hassles. Instead of directly billing an employee who is on nonoccupational disability for the cost of services that are provided by medical professionals at the clinic, other than clinic nurses, the clinic will bill the employee's health care provider.

'You've got to work together, because there are no clear boundaries in what we do' as part of the integrated disability management program. 'Some things are specific, but there's a lot of gray area.'

Dr. Peter Wald
United Services Automobile Assn.

Mr. Mandel, Dr. Wald and Randy Norton, the director of safety/environmental affairs at USAA, concur that the IDM program's success largely will be a function of the close working relationship the trio has.

"You've got to work together, because there are no clear boundaries in what we do" as part of the IDM program, Dr. Wald said. "Some things are specific, but there's a lot of gray area."

Mr. Mandel agreed. For example, he said, any one of the three could intervene in a specific case to ascertain how the injured or ill worker is progressing.

And all three are involved in developing the strategy for handling complicated workers comp cases.

The department heads also do not foresee any turf battles erupting.

"We've always worked closely with safety and risk management" to deliver service to employees suffering from nonoccupational and occupational injuries and illnesses, Dr. Wald said.

The IDM program is "a good example of the collaborative culture" throughout USAA, Mr. Mandel pointed out.

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Comp: Workers comp management a team effort

Continued from page 36

user-friendly and easy-to-understand format, Mr. Russell said. It also provides answers to frequently asked questions and has "excellent" pictures and graphics, he added.

Employees also can use the site to schedule an appointment with one of several ergonomics specialists the company has on staff to adjust their work stations or show them how to rearrange their desks in an ergonomically prudent manner. The site allows employees to see at a glance exactly when the specialist has time available for a consultation.

"I haven't seen that before," Mr. Russell noted.

The site draws 1,000 hits per month, and between 100 and 150 employees each month schedule ergonomics consultations, Mr. Norton noted.

Along with the hit count, the site shows the kind of information employees are seeking, which helps in planning site content, he said.

USAA also works closely with its office equipment manufacturers to modify their furniture designs to meet USAA's ergonomics standards.

'I'd say (USAA has) been the most effective company I've worked with in following through and making sure their (ergonomics) changes have been made.'

John Russell
Liberty Mutual Insurance Co.

For example, a manufacturer installed computer monitor support arms that allow workers to adjust the height of monitors to appropriate levels.

Another USAA-inspired design modification allows workers to move as well as adjust the fluorescent lighting fixtures in their desk stations.

Some employers have tried to work with equipment manufacturers, but persuading them to make modifications can be difficult, Mr. Russell noted.

"So, I'd say they've been the most effective company I've worked with in following through and making sure their changes have been made."

USAA also has "an excellent working relationship with software manufacturers" that has led to software modifications designed to minimize unusual key commands in programs and applications specially written for USAA.

"A lot of companies don't consider that," Mr. Russell said.

The various USAA companies and staff agencies, such as human resources and information technology, can see how they are faring in minimizing injuries by reviewing a series of reports that Mr. Mandel's department has created.

The monthly "flash report," for example, provides "actionable data on a routine basis," said Paul G. Beattie, risk management advisor. "Before, it was too late, or we gave them numbers without causes."

For each unit, the report illustrates key claim information in several ways. It shows the number of claims and the cost of claims for the year to date and for the same period the previous year.

The report also analyzes the claim cost per full-time equivalent and the claim count per full-time equivalent.

Color-coded graphs display how the unit's or agency's performance compares with its prior performance and how it compares with other USAA companies and agencies.

Enterprise risk management staff also discuss the reports with unit and agency representatives in monthly video conferences.

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PHOTO: MICHAEL MARCOTTE

Christopher E. Mandel and his wife, Mary Anne, will celebrate their 25th anniversary later this year.

Eye injury brings career focus

Sports mishap sets Mandel on risk management path

By DAVE LENCKUS

If not for a serious injury he suffered during a racquetball game shortly after earning his undergraduate degree, Christopher E. Mandel may never have gone into risk management—or have heard of it.

Instead, Mr. Mandel—the 2004 Risk Manager of the Year and a prominent leader of the Risk & Insurance Management Society Inc.—might be in grocery store management.

Aside from the injury, Mr. Mandel says he feels fortunate that his career path was redirected—shuddering a little at the thought of what might have been.

Mr. Mandel, assistant vp-enterprise risk management at United Services Automobile Assn., said he never aspired to manage a retail operation. Indeed, after high school, where he said he compiled a "mediocre" academic record, he decided to major in business administration, focusing on management. But he had "no thought" about where that degree would take him professionally.

"I was completely at a loss as to what I would do for a living," he said.

One course he was certain he would not take, though, was the military, with which he and his seven younger siblings became familiar growing up. Mr. Mandel's father flew aboard U.S. Navy jets as a radar specialist and navigator for 24 years.

New orders from the Navy brass required the aviator to move his wife, who was a registered nurse, and their children about every three years. Mr. Mandel grew up in, among other places, San Diego; Washington, D.C.; the Philadelphia area; Pensacola, Fla.; and central Japan, a couple-hour drive from Tokyo.

Although his father would have liked to see him join the Navy and he investigated his options, Mr. Mandel said he could not see himself working in the area that was offered: procurement.

Two of his three brothers joined the military, and one is a major in the Marines, serving in the president's Marine One helicopter unit.

Mr. Mandel played in the fateful racquetball game shortly after his 1978 graduation from Virginia Polytechnic Institute and State University in Blacksburg, Va.

During the game, a hit ball slammed into his left eye. "I got knocked silly," Mr. Mandel recalled. About a week after the game, the vision in his eye was deteriorating, and an exam revealed that the trauma had partially detached his retina.

Surgery repaired the eye. But, to undergo the procedure and recuperate, Mr. Mandel was forced to give up a seat he had landed in a retail grocery management training program.

A series of employment moves that followed, beginning with his "happenstance" hiring by Liberty Mutual Insurance Co., channeled Mr. Mandel into risk management.

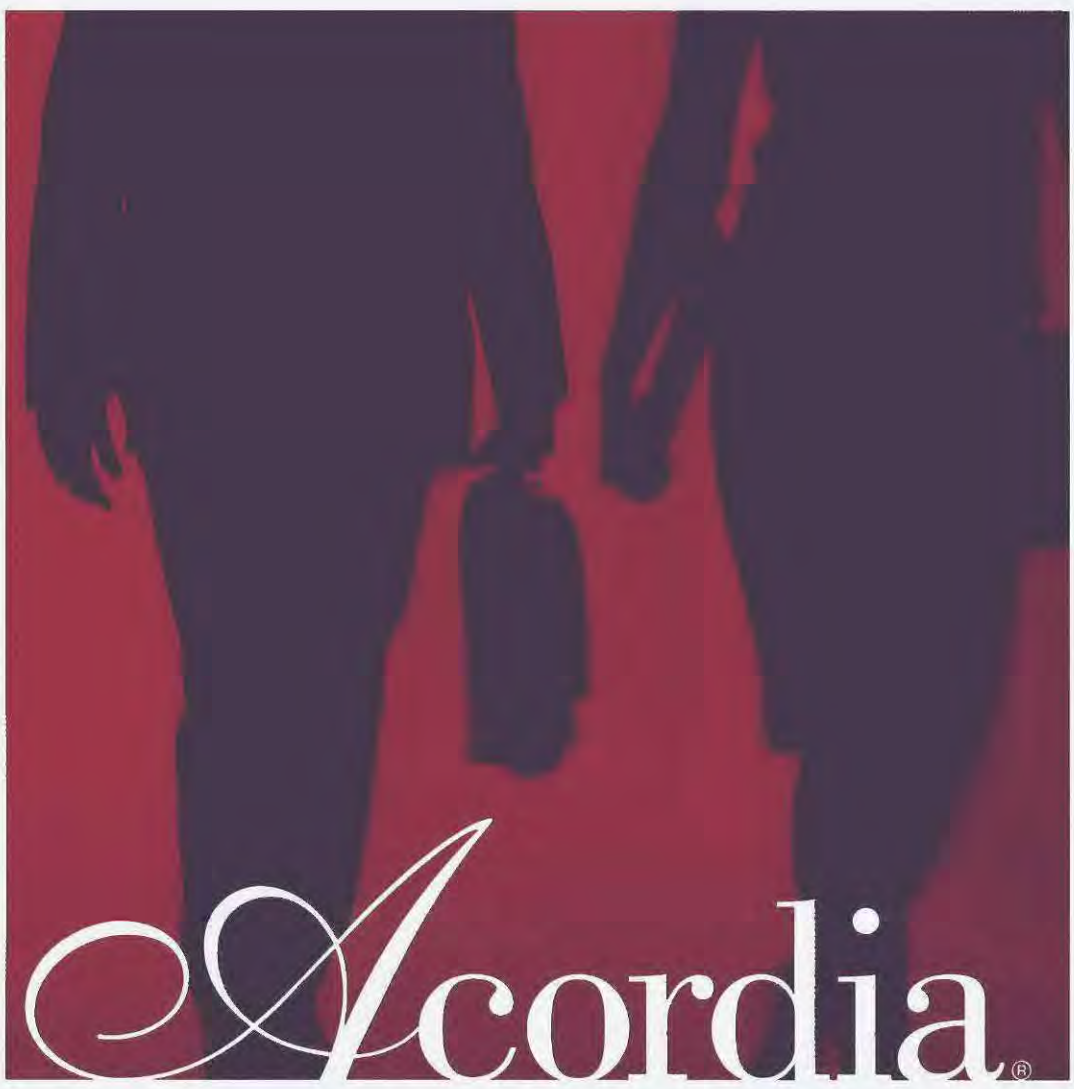
After losing his retail management training opportunity, Mr. Mandel signed on with an employment agency. Liberty Mutual, an agency client, was searching for personnel for its claims operation and hired Mr. Mandel to investigate workers compensation and automobile accident claims.

At Liberty Mutual, Mr. Mandel put his "nose to the grindstone" and worked 12-hour shifts, setting a record for the number of claims closed in one month.

The insurer promoted Mr. Mandel to a supervisory position in about three years and moved him from its Fairfax, Va., office to Rockville, Md.

But the promotion created some difficulties for Mr. Mandel. No longer investigating claims, he lost the use of a company car. Meanwhile, the office move doubled his commute time. His higher salary

See PATH/page 44



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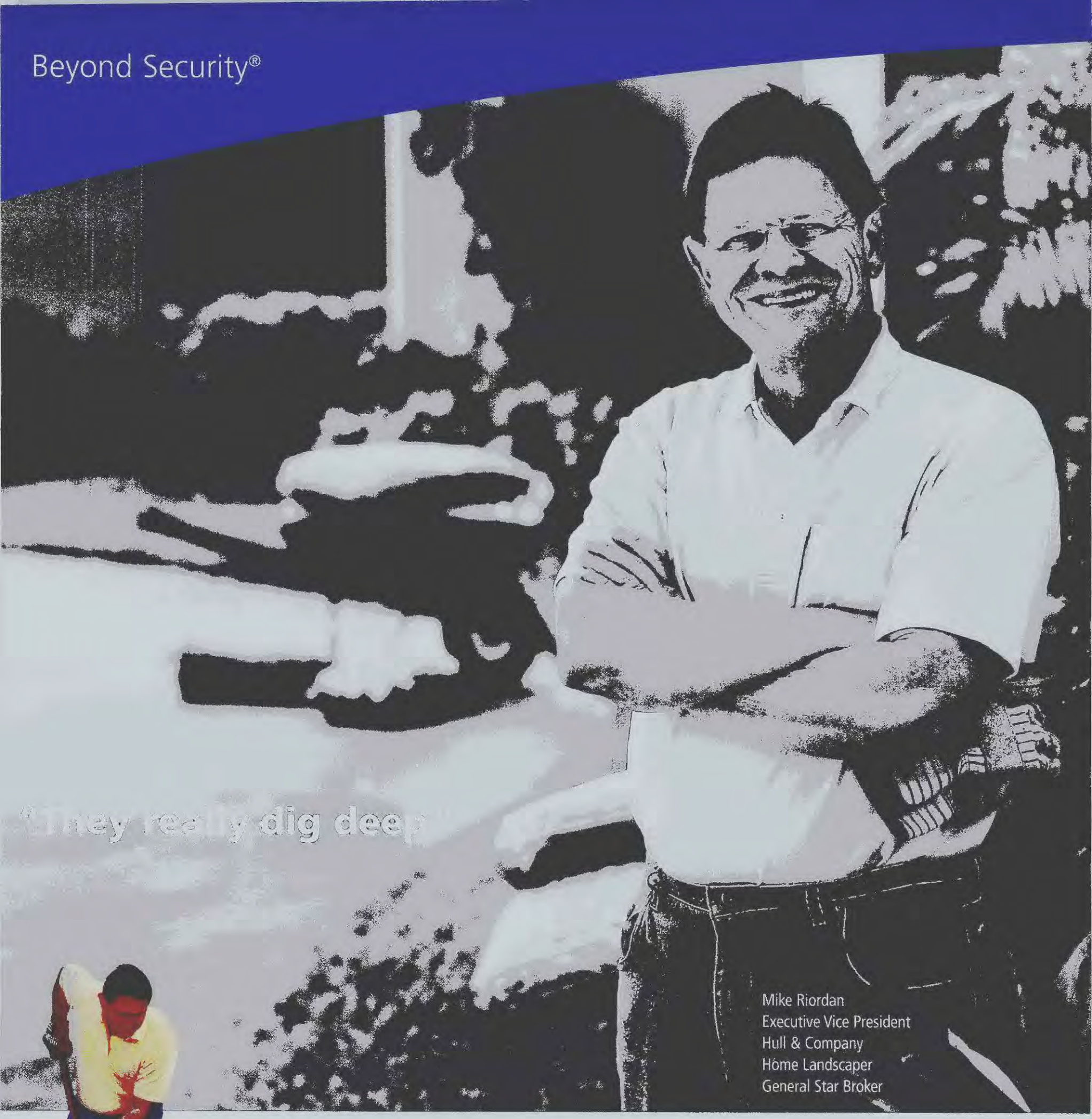

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PHOTO: MICHAEL MARCOTTE

2004 Risk Manager of the Year Christopher E. Mandel, second from left, is congratulated by, from left to right, *Business Insurance* VP/Publisher Martin J. Ross III, Editor Paul D. Winston and Senior Editor Dave Lenckus.

Luncheon: Teamwork stressed

Continued from previous page

"Without management support, we can't get done what we've gotten done."

In particular, Mr. Mandel cited his supervisor, Ed McQuiston, senior vp-corporate finance; Josue Robles Jr., executive vp-chief financial officer and corporate treasurer; and Robert G. Davis, chairman and chief executive officer.

"It's great to have a CEO who is passionate about risk," Mr. Mandel said. "So, that's a big deal to me."

He also thanked the executive who hired him, but then he took a good-natured jab at her for "ditching" him by retiring before his first day on the job. Mr. Mandel said he believed that he would be working alongside the executive, Laurie Blank, then vp-finance for USAA, in developing an enterprise risk management program.

Most important, though, has been his family's support, he said. "Without their support and love, I wouldn't have accomplished anything in my career—at least anything that matters."

'Without management support, we can't get done what we've gotten done....It's great to have a CEO who is passionate about risk. So, that's a big deal to me.'

Christopher E. Mandel
United Services Automobile Assn.

Mr. Mandel also recognized the efforts of several broker and insurer representatives who service USAA.

There also were several lighthearted moments when various luncheon guests took the podium to congratulate Mr. Mandel.

Among those who saluted him was Ms. Blank. But she prefaced her congratulations by telling the gathering, "Chris is a big fat liar. I told him I was leaving." She also noted that things have turned out well for Mr. Mandel without her support.

Jeffrey L. Vernor, the director of operational risk process on Mr. Mandel's staff, gave the gathering a glimpse of what USAA officials saw in Mr. Mandel before he was hired in 2001. Mr. Vernor held a different position when USAA was looking for a risk manager and was involved in assessing about a half-dozen candidates, including Mr. Mandel.

He told the gathering that his evaluation of Mr. Mandel was that "he definitely is the most technically accomplished of the risk management group—but is very expensive."

Taking a cue from Mr. Mandel's suggestion that the award also recognizes the accomplishments of a

See LUNCHEON/page 48

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Laurie Blank, retired vp-finance for United Services Automobile Assn., left, saluted Christopher E. Mandel at the March 30 luncheon in San Antonio honoring the 2004 Risk Manager of the Year.

Mr. Mandel, center, shows his award to John Hampton, executive director of the Risk & Insurance Management Society Inc., left, and Lance Ewing, outgoing RIMS president, right.

PHOTOS: MICHAEL MARCOTTE

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Luncheon: Honoree, co-workers stress teamwork

Continued from page 46

risk management department, Mr. Vernor introduced the rest of Mr. Mandel's staff: management data specialist Rachel Tavitas, "the technician of the year"; Paul G. Beattie, "the risk management adviser of the year"; and Charles S. Ely, "the director of business risk of the year."

Outgoing RIMS President Lance J. Ewing, vp-risk management for Caesars Entertainment Inc. in Las Vegas, recounted a tale of the day when, due to travel scheduling snafus, he arrived three hours early for an 8:30 a.m. breakfast meeting at Mr. Mandel's house.

Unsure of whether he had the right address, Mr. Ewing said he asked the cab driver to wait while he rang the front doorbell.

A sleepy-eyed woman in a bathrobe answered the door, and Mr. Ewing asked her whether Mr. Mandel lived there.

"She looked at me, then she looked at the taxi that was waiting and sighed, 'Yeah. Bring him in.' "

Before the laughter died, Mr. Ewing assured the gathering that his story was not true.

But "what is true," Mr. Ewing stressed, is that Mr. Mandel is a driving force behind enterprise risk management. In his position at USAA and as the chief risk officer for RIMS, "I think he's taken us to the next level."

Mr. Ewing also credited Mr. Mandel, the 2002/2003 RIMS president, for his role in boosting membership in the organization to the current record level. "A lot of that is due to Chris," who has held numerous positions with RIMS.

Building on Mr. Ewing's remarks, Mr. McQuiston observed: "Although the award's for 2004, it goes to say all he's contributed for 20-plus years in risk management."

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Joan Conner
Director of Risk Management Services
Maine Municipal Assn.

Meeting challenges large and small

Maine Municipal Assn.'s Conner assists diverse communities

By MEG FLETCHER

As the director of Risk Management Services for the Maine Municipal Assn., Joan Conner has a challenging mission: meeting the diverse insurance and risk management needs of communities that range in population from 66,000 in Portland to nine in Kingsbury Plantation.

In the nine years she has held her position, Ms. Conner has created a successful and advanced insurance program for the association's public entity members. At the center of the program are two group self-insurance pools that provide property/casualty and workers compensation services for Maine communities large and small.

Despite the relatively small size of some of the pools' members, "it's as finely run an organization as I've encountered among both public and private clients in my 30-year career," said William C. Brouillard, executive vp of The McCarthy Cos. in Wilmington, Mass., a brokerage unit of Hub International Ltd.

The quality of her organization is no surprise to people who know Ms. Conner's background. Colleagues and others cite her extensive management skills and high standards of professionalism.

And her successes with the Maine Municipal Assn. program earned her a spot on the 2004 Risk Management Honor Roll, representing public entities. The honor is presented jointly each year by *Business Insurance* and the Risk & Insurance Management Society Inc.

After decades of experience in the insurance industry, which included handling major brokerage accounts and overseeing insurance underwriting operations, Ms. Conner moved to Maine so her husband could retire near where he grew up (see story, page 66).

When she became director of MMA's risk management services unit in 1995, Ms. Conner undertook steps to expand the program and enhance its financial stability, while keeping rates as stable and competitive as possible. She also expanded communication with pool members, including instructing them in safety and loss control approaches to help them reduce future claims and, ultimately, their premiums.

Her first significant change in the program was to establish a comprehensive claims management unit, primarily for workers compensation claims. Prior to the change, such claims were handled by a third-party administrator.

"That's the key to success: Managing your claims," Ms. Conner said. "The only good claim is a closed claim."

'That's the key to success: Managing your claims. The only good claim is a closed claim.'

Joan Conner
Maine Municipal Assn.

Ms. Conner's active review of claims and documentation of ongoing progress have allowed MMA to move several million dollars from case reserves to surplus in the following two years, which helped the program offer competitive rates while still avoiding market swings in the commercial insurance marketplace, Mr. Brouillard said.

In addition, the project resulted in declines in workers compensation premiums despite rising payrolls.

Meanwhile, membership in the workers comp fund—which includes a broader group of public and quasi-public entities than the property/casualty program—has increased 31% since 1995 to 564 members.

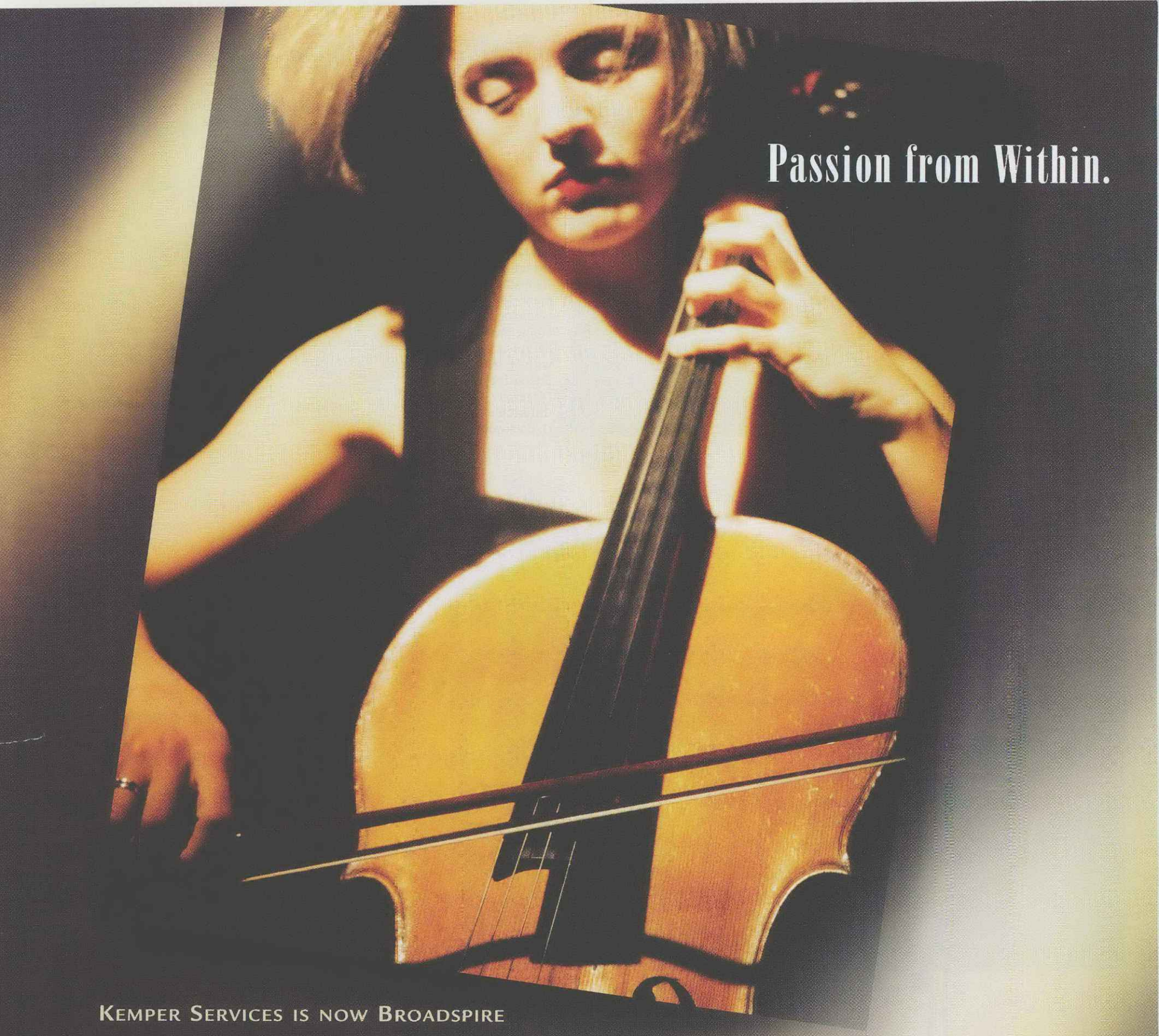
Another major challenge, Ms. Conner said, was to increase membership in the Property and Casualty Pool, which had fewer than 200 members in 1995 and "was not large enough to be financially viable for the long term."

Ms. Conner's goal was to increase membership to 300, which she accomplished in five years. Then, with the commercial market hardening, membership jumped to more than 400 just eight months later. The pool now has 422 participants.

In addition, she incorporated the pool members' liability coverages for public officials and employment practices into the property/casualty pool on an occurrence basis on July 1, 2000. And she made those moves even though several insurers had warned her that adding those lines into the program could not be done profitably, Mr. Brouillard said.

With careful planning and a three-part notification process, all members were informed of the changes, but no claims were reported under the tail coverage. As a result of coverages' inclusion in the pool, both indemnity and defense costs have been reduced "dramat-

See CONNER/page 52



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Association's self-insurance programs take two forms

By MEG FLETCHER

The Maine Municipal Assn.'s Risk Management Services unit offers two major self-insured group programs to association members.

The older of the two programs is the Workers Compensation Fund, established in 1978 to allow public and some quasi-public entities to meet the statutory requirements of the Maine Workers Compensation Act. The group self-insurance program operates under a certificate of authority issued annually by Maine's Bureau of Insurance.

The newer program is a Property and Casualty Pool, which began writing coverage in 1987, when municipalities were unable to find affordable insurance.

The MMA drafted the legislation that allows public entities to participate in public self-funded pools to meet their property/casualty coverage needs during hard markets. In the early 1990s, the state also tightened its workers comp laws and commercial insurers began writing workers comp insurance coverage again.

As of March, the workers comp fund had 564 members and the property/casualty pool had 422.

Property/casualty

Under Maine's tort law, a public entity's liability for many types of property damage, bodily injury and death claims is capped at $400,000 per occurrence.

As a result, the MMA program "fully utilizes the governmental immunity protections available under the Maine Tort Claims Act," said Joan Conner, director of MMA's Risk Management Services.

The coverage contains two separate liability limits: a $400,000 lower limit that reflects protections under the tort act and a $1 million limit for actions outside the act, such as those brought under a federal or state law for which immunity is not available.

The latter limit, however, can be increased to $10 million should a member desire additional protection for claims falling outside the tort law's scope. The additional coverage is available because many MMA members still face large potential liability for such claims.

For example, governmental entities are not shielded from liability for property damage, bodily injury or death stemming from the ownership, maintenance or use of vehicles, machinery and equipment, as well as the construction, operation or maintenance of any public building. In addition, public entities also may be liable for the discharge of pollutants as well as for claims stemming from construction, street cleaning or repair operations on any highway, sidewalk or other type of thoroughfare.

As a result of this potential liability, the property/casualty pool excludes nearly all pollution-related claims.

A board made up of elected and appointed public officials, as well as two representatives from the public, governs the program.

The standard property/casualty coverage document used by the pool was developed with the help of the law firm of Morrison, Mahoney & Miller L.L.P. in Boston.

Under Maine law, a public entity's liability for many types of property damage, bodily injury and death claims is capped. As a result, the MMA program 'fully utilizes the governmental immunity protections available under the Maine Tort Claims Act.'

Joan Conner
Maine Municipal Assn.

Standard coverage provides a broad range of property protection to public entities, including individualized limits for: building and contents, mobile equipment, inland marine, electronic data processing, automobile physical damage and equipment breakdown/boiler and machinery.

Also provided are specific limits, such as $100,000 in property coverage limits for extra expense, valuable papers and records, accounts receivable, shipping-related losses and loss of rents. Other coverage limits are $25,000 for forest fire suppression, $10,000 for fine arts and $5,000 for extra expenses related to electronic data processing problems.

Other standard coverage tends to follow exposures as defined in the tort claims act and includes liability insurance for a public entity's general liability exposures, including ambulance/nurse malpractice and law enforcement; liability for "host liquor" exposures; automobile liability; firefighters legal liability; and public officials and employment practices liability.

In addition, standard coverage offers $400,000 in uninsured/underinsured motorist coverage as well as crime coverage limits ranging from $100,000 to $1 million.

Pool participants also can purchase some enhanced coverages, if needed.

MMA's property/casualty self-in-

See PROGRAMS/page 56

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Chris Brisbee, ARM, a partner in the Portland, Ore., office of insurance agency Woodruff-Sawyer, feels secure in this police officer's ability to apprehend a hidden perpetrator with the help of a FLIR Scout hand-held infrared imaging device, outside FLIR Systems' corporate headquarters in suburban Portland.

Woodruff-Sawyer won a bid to provide directors & officers liability coverage for FLIR, but only if a certain insurer was involved.

"RLI had already provided an excess layer for FLIR Systems' D&O coverage before we picked up the account," Brisbee said. "In fact, what differentiated us from the competition was our willingness to bring RLI to the forefront for the coverage."

So RLI had earned a great degree of *respect* from Woodruff-Sawyer from the outset of their business relationship.

"I've always been impressed with (RLI AVP) Blake Rea's integrity — a vital issue for this kind of coverage," Brisbee continued. "It's no wonder that my company's relationship with RLI is built on great mutual respect."

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Programs: Workers comp fund, P/C pool

Continued from page 54

surance program, which covers more than $2 billion in total insured values, is supported by extensive excess and reinsurance coverage from outside sources. Much of that coverage is written on three-year contracts that expire this year.

For example, AmRe Managers Inc., a unit of Princeton, N.J.-based American Re-Insurance Co., provides reinsurance to a limit of $700,0000 excess of a $300,000 self-insured retention. Limits apply per line of business/per entity/per occurrence subject to a maximum limit of $25 million per occurrence. An additional $5 million limit is purchased on the property above the $700,000 limit.

The MMA recently increased its retention level to $300,000 from $100,000. It generally does not purchase aggregate coverage, said Ms. Conner.

Excess property insurance is purchased in the following layers: Crum & Forster Managers Group, $25 million excess of $6 million; Chubb Corp., $25 million excess of $31 million; The St. Paul Cos. Inc., $50 million excess of $56 million; Chubb, $50 million excess of $106 million; Travelers Property Casualty Corp., $150 million excess of $156 million.

In a heavily forested state such as Maine, it was particularly challenging to arrange for forest fire suppression coverage to help small towns meet state-imposed assessments for forest firefighting services.

In addition, flood and earthquake coverage is purchased for separate sublimits of $60 million each as part of the excess property coverage program.

Also, forest fire suppression costs are insured for a pool sublimit of $1 million. The coverage provides a limit of $25,000 per occurrence with a $500 deductible per member per occurrence. The pool's annual aggregate limit is $1 million, which is shared by all members.

In a heavily forested state such as Maine, it was particularly challenging to arrange for forest fire suppression coverage to help small towns meet state-imposed assessments for forest firefighting services, Ms. Conner said. It took nearly seven years to develop an approach that was economically feasible for the municipalities, she added.

Boiler and machinery coverages are written by The Hartford Steam Boiler Inspection & Insurance Co. for up to $50 million in limits for each equipment breakdown, subject to a $1,000 deductible.

Workers comp

The MMA's Workers Comp Fund helps members meet their statutory obligations to workers.

As a first step in determining the price of each member's premium, the MMA begins with the loss costs calculated by the National Council on Compensation Insurance. A member's premium also reflects the actual loss experience of that particular member and of the program.

"The workers comp fund has eight tiers, ranging from 15% above

See PROGRAMS/page 58

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PHOTO: MICHAEL MARCOTTE

The underwriting and loss control departments, standing, from left: Tracy Pushard, underwriting clerk; Tom Stacey, senior loss control consultant; Pamela Corrigan, marketing consultant; Deborah Balmer, loss control technician; Edward MacDonald, loss control manager; Joan Conner, director, risk management services; Peter Noddin, senior loss control consultant; Corina Steeves, underwriting technician; Susan Caston, senior underwriter; Kathryn Norton, underwriting manager; Ruth VanArsdale, unemployment compensation coordinator. Seated: Michelle Pelletier, senior underwriter; Ann Schneider, senior loss control consultant; Robert Thomas, senior loss control consultant; Carol Flick, administrative assistant.

Programs: Training stressed

Continued from page 56

to 27% below NCCI loss costs," said William C. Brouillard, executive vp of The McCarthy Cos., a Wilmington, Mass., brokerage unit of Hub International Ltd. in Chicago.

The workers comp program is supported by excess coverage placed with St. Louis-based Safety National Casualty Corp., which includes $4 million in aggregate coverage above a $1 million self-insured retention.

The program's SIR was recently increased from $500,000, and that move "made good economic sense" because of the pool's strong surplus, its resources and favorable claims experience, Ms. Conner said.

Varied services

The MMA's Risk Management Services staff provides extensive underwriting, marketing, loss control and claims management services to the pools' participants.

Ms. Conner uses consultants to help reduce property/casualty losses by conducting hazard surveys and building inspections, as well as holding training sessions.

On the workers comp side, Ms. Conner and her staff developed the Leader Program, which enables participants to earn credits for compliance with recommendations made by consultants. The credits are applied to reduce premium contributions.

Training topics include office ergonomics, back injury protection, equipment lockout/tagout, hazard communication and safe vehicle operation.

In addition, expedited return-to-work is encouraged through the activities of a nurse case manager as well as a program called HERO, which stands for "Help Employees Recover Occupationally." That program helps members learn about their responsibilities in dealing with injured workers and encouraging their return to work.

Workers comp fund members also are eligible to apply for safety enhancement grants and scholarships, which are provided by an MMA fund.

Municipalities must vote to join either the property/casualty or workers comp programs, because of the requirements of joint and several liability.

That concept is a cornerstone of public entity self-insurance pools generally. So, theoretically, any member could be assessed to help pay any outstanding claims of other members of the group. However, prudent management practices and the purchase of appropriate excess insurance are designed to prevent that from happening, according to Ms. Conner.

In addition to coordinating the MMA's insurance needs, Ms. Conner oversees the association's Unemployment Compensation Fund.

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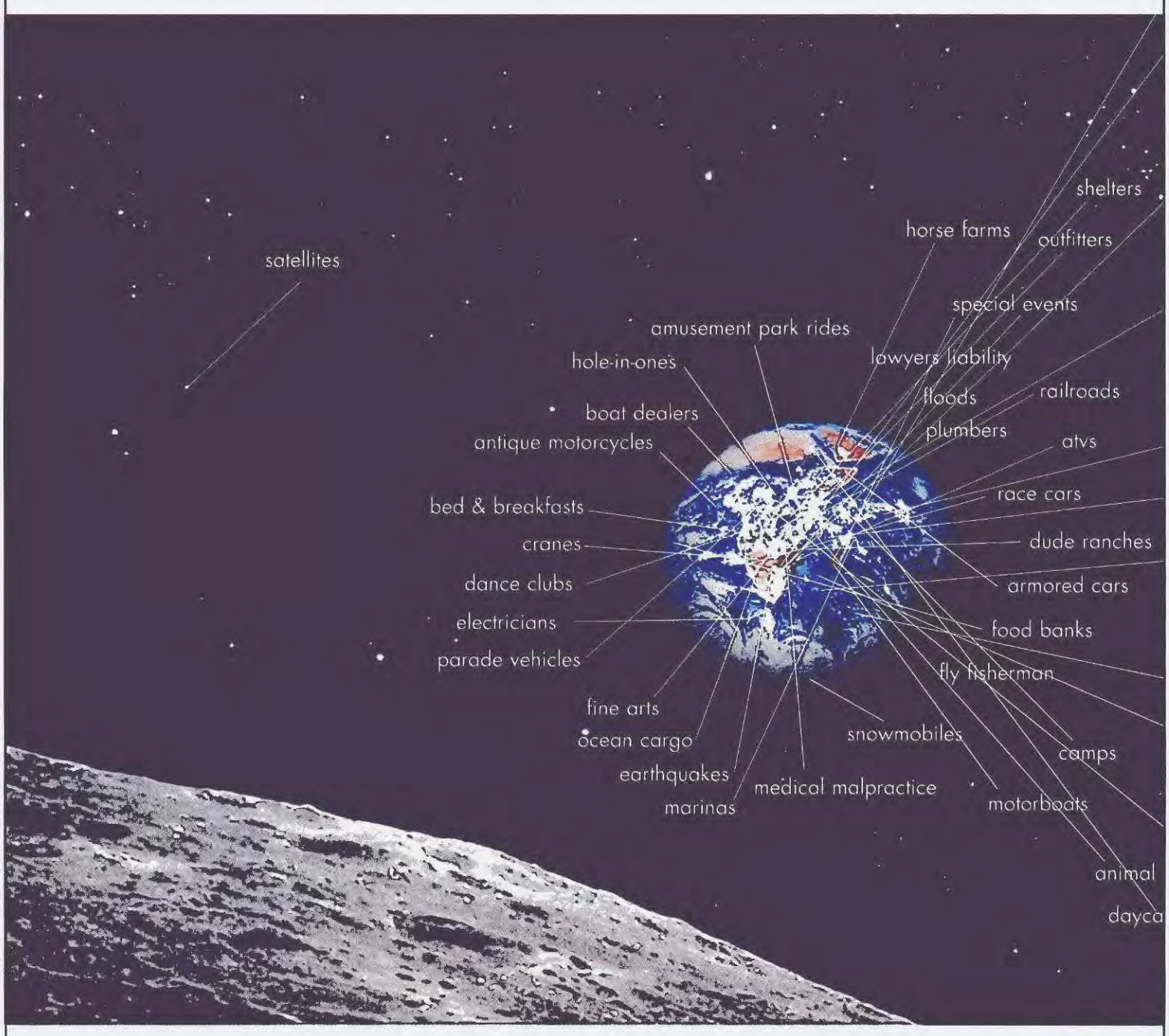

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OLD REPUBLIC
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Maine's largest city home to wide array of risks

By MEG FLETCHER

Managing risks for the city of Portland presents challenges because of the diverse sea, land and airport-related operations overseen by Maine's largest city.

Portland is Maine's business, financial and retail capital; but it is first and foremost a coastal town that has the deepest seaport north of Boston.

As a result, the city has 'unique' needs, which it meets with help from the Maine Municipal Assn., said Joan Conner, director of the MMA's Risk Management Services.

Ms. Conner's input is frequently sought in determining the most cost-effective way of meeting those risk management needs, according to members of the city's risk management team.

Some of the city's property and liability exposures stem from its working waterfront, which is New England's largest tonnage seaport and its third-largest fishing port. The port also is the largest foreign inbound transit tonnage port in the United States and the second-largest oil port on the East Coast, according to the city's 2003 report.

A city fund helps operate Portland's seaport enterprises, which include the international terminal housing a Nova Scotia-based ferry operation. The wharf also houses a container shipping operation of Hamburg, Germany-based Hapag-Lloyd Group. The city owns a $2.5 million crane to help load and unload goods.

Portland also has several other wharf-related facilities, including a fish exchange, and it operates piers at which 23 cruise ships tied up last year.

In addition, the city is building a $16 million shopping, hotel and parking complex, which is expected to attract more visitors.

Portland's 66,000 full-time residents are outnumbered by visitors and part-time residents, which total about 2 million annually, city officials report. Visitors include more than 206,000 international passengers, including 41,000 from the cruise ships last year, and about 165,000 passengers using the ferry service.

To help protect those residents and their property, the city operates a fire boat and a rescue boat, which can serve as "a water ambulance" to speed sick or injured residents from nearby islands to mainland hospitals, said Cressey A. Mollison, Portland's workers compensation and safety program manager.

In addition, Portland's 26 square-mile land area includes typical municipal property risks posed by government buildings, schools and recreational facilities that include an ice arena and golf courses. The city also features the only municipal-owned nursing home in Maine.

There is no better illustration of the diversity of the city's risks than its responsibility for a 50-ton wooden pipe organ used for concerts in the city-owned Merrill Auditorium at the rear of city hall.

The world-class Kotzschmar Memorial electric organ, which was dedicated in 1912, actually consists of eight separate organs and uses an "air chest" system of 6,518 wooden pipes. City workers faced a challenging task in trying to protect the organ during an auditorium renovation project. They took it apart, carried it across the street and stored it in an empty building until it could be reinstalled.

PHOTO: MARCUS LAWRENCE

Shipping operations on Portland's wharf create some of the city's diverse exposures.

The city's six-member risk management operation is under the direction of Gloria Thomas, head of the Human Resources Department.

Staff members work with employees, supervisors and safety committees to address injury prevention, as well as to incorporate risk management techniques to reduce losses in all areas of municipal operations, according to Cheryl Main, the city's liability program manager.

Portland obtains its property coverage—written above a $50,000 per occurrence retention—from the MMA's Property and Casualty Pool.

The city self-insures most of its liability exposures except for those associated with the Portland International Jetport's operations, which have full liability coverage through American International Group Inc. unit AIG Aviation, Ms. Main said.

The jetport, which is currently served by eight airlines, is one of the largest facilities in terms of pas-

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PHOTO: MICHAEL MARCOTTE

Portland's risk management team, which is accommodated in its Human Resources Department, includes Cheryl Main, liability program manager; Cressey A. Mollison, workers compensation and safety program manager; and Gloria L. Thomas, department director.

Portland: Wide array of risks

Continued from page 60

senger volume in northern New England, city officials report.

To protect the city's assets, "we take advantage of the Maine Tort Claims Act," which in many circumstances caps municipalities' liability for property damage, bodily injury and death to a maximum of $400,000 per occurrence, Ms. Main said.

Because the tort law historically "holds up very well" to court challenges and protects the city from litigation, Ms. Main said she insisted during airport coverage negotiations a few years ago that the jetport's insurer include an endorsement that incorporated the protections related to that act.

The tort law's protections proved particularly important after the Sept. 11, 2001, terrorist attacks.

Two of the Sept. 11 hijackers had traveled through the Portland airport before the attacks, resulting in victims' families filing about 100 lawsuits against the airport. A typical lawsuit alleged that the airport was negligent for not screening the terrorists properly, even though passenger screening was the responsibility of the airlines at that time, Ms. Main said.

Ultimately, a judge dismissed all but one plaintiff's suit "because they didn't meet the notification requirements of the Maine Tort Claims Act," Ms. Main said. Specifically, they did not notify the municipality in writing about the details of the claim-causing event within 180 days of its occurrence.

On the waterfront

The city's most common liability exposure from waterfront operations is slip-and-fall claims, Ms. Main said.

Portland also makes use of risk transfer agreements, such as those that help protect the city from liability related to the operation of the waterfront crane as well as to workers' crane-related incidents, Ms. Main said.

Overseeing the handling of city workers' onshore accidents—and working to prevent them—are among Mr. Mollison's responsibilities.

While the city self-insures its workers compensation exposure, it uses MMA to administer its workers comp claims for the city's workers.

The job can be challenging, in part because of the work ethic of Portland's employees and their general aversion to going to doctors, Mr. Mollison said. For example, a typical claimant will start out by saying: 'I haven't lost a day of work yet…'" he said, and that too often means that the ailment, such as a maintenance worker's sore shoulder, will need much more treatment than if the worker had sought care sooner.

When an employee with a work-related injury does have to go to the doctor, state law helps Portland control the case. Under Maine law, any employer can dictate what doctor the patient sees during the first 10 days after a work-related injury.

Because Mr. Mollison refers patients only to occupational specialists who have agreed to see patients promptly, most injured workers stay within the employer-controlled system, he said. This holds true even though all but 200 of Portland's workforce of 1,386 in 2003 belonged to one of several unions.

In addition, injured workers' cases are reviewed and supervised with the help of Portland's occupational health nurse, who is involved in front-line case management as well as easing return to work through transitional duty.

When he and his staff are not supervising injury cases, they are working to encourage safety on the job because "we try to be proactive rather than reactive," said Mr. Mollison, who honed his loss control skills by working five years for Ms. Conner at MMA.

Portland's workers comp program is demonstrating progress, as evidenced by the fact that its workers comp experience rating modifier dropped to 0.87 for the year beginning July 1, 2004, from 1.04 a year

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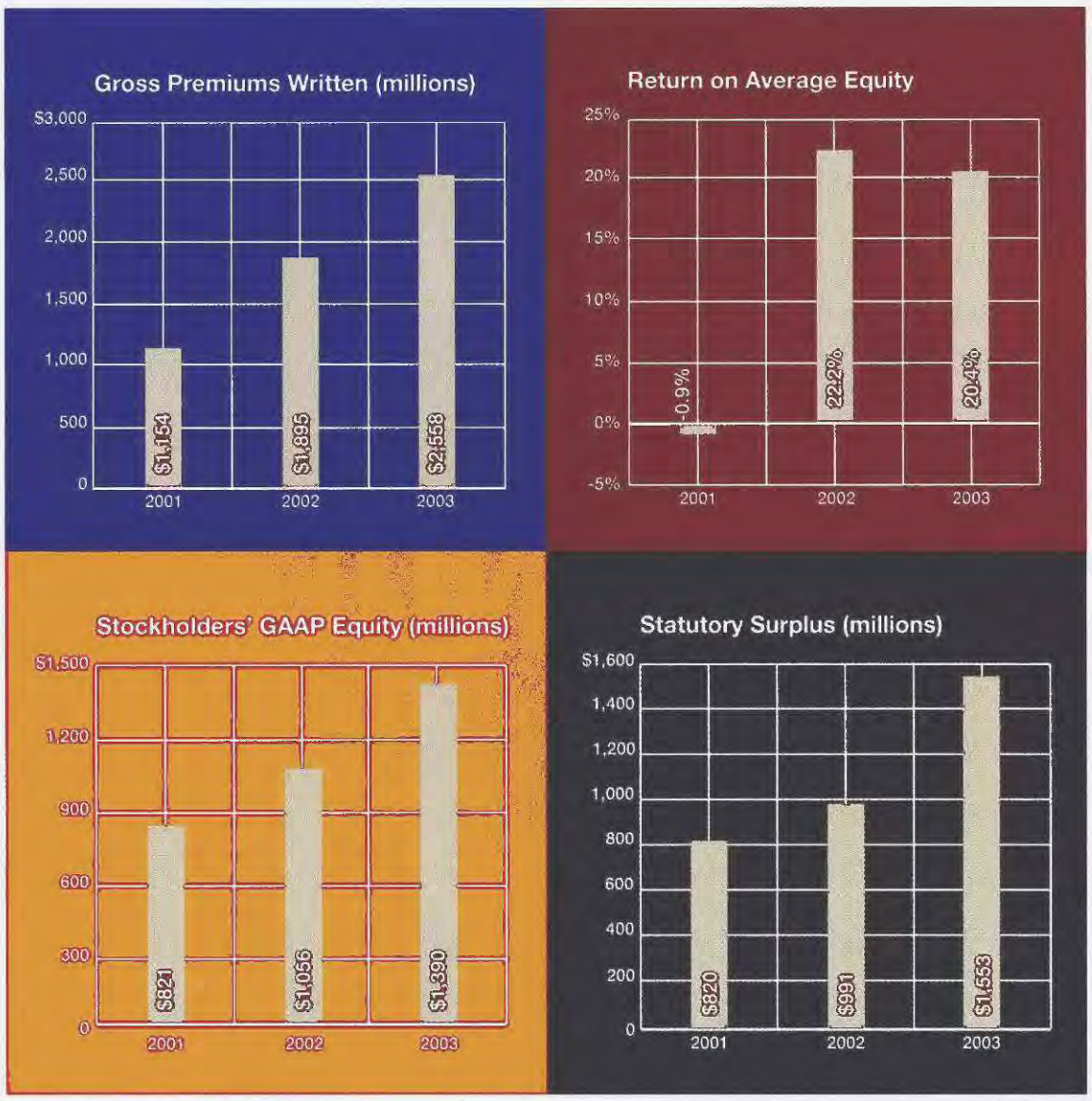

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Portland: Varied risks

Continued from page 62

earlier, Mr. Mollison said.

However, the city still carries large reserves on its books for earlier workers compensation claims, he said.

The city also seeks advice from the MMA on nearly all insurance related matters, including reviewing contracts for various construction-related projects such as schools, Ms. Main said. In such negotiations, Ms. Conner "is very tenacious in getting what she wants," Ms. Main said.

In addition, Ms. Conner "is always thinking of projects to save the city money," and calls when she comes across new ideas that might help, Ms. Main said.

For example, Ms. Conner urged Portland to obtain the appropriate "wharfinger" coverage to protect the city from personal injury claims resulting from incidents at a city-owned pier. In one case alone, having that coverage saved the city about $100,000 in defense and other legal costs after a man's toe injury developed into a much more complicated claim, Ms. Main said.

Portland International Jetport's liability exposures are covered through American International Group Inc. unit AIG Aviation. The insurer's coverage includes an endorsement that incorporates the protections of the Maine Tort Claims Act.

High-tech software links up underwriting, claims handling

By MEG FLETCHER

A sophisticated computer system that integrates underwriting and claims functions is a key factor behind the success of the risk management operations of the Maine Municipal Assn.

The current system, which was purchased about nine years ago from a vendor that subsequently became part of Computer Sciences Corp. in El Segundo, Calif., consists of two programs: PABBLO for underwriting and PACCASSO for claims handling.

People are impressed by the underwriting and claims handling system because it is 'Windows-based, point-and-click and very intuitive with the end user.'

Christina St. Pierre
Maine Municipal Assn.

Having an integrated software system "is absolutely essential" said Joan Conner, the MMA's director of Risk Management Services. "Otherwise, you spend your time chasing paper. We don't way to pay people to chase paper."

The computer system's technical capabilities reflect Ms. Conner's commitment to using accurate data in all aspects of her risk management program, from pricing through claims management.

The MMA's risk management services unit receives about 1,500 new property/casualty claims and 4,000 new workers compensation claims each year, Ms. Conner estimates.

"This system has become the envy of virtually every insurer and reinsurer that has witnessed a demonstration," said William C. Brouillard, executive vp of The McCarthy Cos. in Wilmington, Mass., a brokerage unit of Hub International Ltd. in Chicago.

Despite the praise, MMA expects to significantly enhance the existing system next month by replacing its claims-handling component.

People are impressed by the PABBLO/PACCASSO system because it is "Windows-based, point-and-click and very intuitive with the end user," said Christina St. Pierre, MMA's director of administration and management information systems in Augusta. It makes the processes of underwriting and claims handling "a lot simpler," she said.

But the most important aspect of the system, users say, is the high level of integration between its two programs, including the ability to toggle between them.

For example, Ms. St. Pierre explained, when a city participating in the MMA's Property and Casualty Pool reports a claim for a truck accident, the claim handler types in

See COMPUTER/page 66

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Computer: High-tech software

Continued from page 64

the name of the member and line of business. If the system recognizes that entity as a member, it will allow the handler to enter additional information about the driver and vehicle.

With a mouse click, the handler can access a complete list of that city's vehicles by category and can highlight the one involved in the accident. The handler knows that the program covers the vehicle and also can check additional details, such as the vehicle-specific deductible or whether additional insurance was purchased for it—as at least one Maine public entity did for an antique fire truck.

The claims handler can then continue processing the claim, she said, without needing to call the underwriting department to confirm coverage, locate a paper file or flip through schedules searching for coverage information such as deductibles or special circumstances.

"The goal is to reduce the amount of paperwork and the amount of time it takes to process the claim from the time the accident or injury happens," Ms. St. Pierre said.

The risk management unit not only uses the system to handle claims but also to identify claims trends and establish individual member pricing. The system also lets Ms. Conner review specific claims at any time and helps her underwriting staff update exposure information.

The system also allows MMA to reduce paperwork through the use of document imaging and digital photos, which speed up the handling of property damage claims, Ms. St. Pierre said. She estimates that the current system has reduced paperwork by about one-third.

And a new system that MMA expects to begin using next month will cut paperwork by 85% from pre-1995 levels, Ms. St. Pierre said. "It's a huge goal. It's a huge change in the workflow," she said.

Essentially, MMA will retain the PABBLO underwriting component and combine it with a new claims-handling component, because the provider of the current claims-handling component decided to no longer support that program, according to MMA.

The new component, iVOS, was developed by San Ramon, Calif.-based Valley Oak Systems Inc. The Web-based claims administration system allows a user to access payment processing, litigation, correspondence, reporting, form generation and other administrative functions over the Internet, according to the company.

Combining the databases will be "a bit of a challenge, but we can do it," Ms. St. Pierre said. Once online, MMA's combined system is expected to further streamline claims handling and other administrative processes.

MMA expects the $650,000 enhancement to pay for itself within two to three years, Ms. St. Pierre said. Savings will stem mainly from a reduction in processing time, but MMA also expects to reduce its postage, paper and offsite storage costs, she said.

Ms. St. Pierre credits Ms. Conner with encouraging the technological upgrades. Ms. Conner is "very forward-thinking and in tune with technology" and "is very articulate about it" and "can put it together and can sell it," Ms. St. Pierre said.

Despite the enhancements, though, "we'll never replace paper entirely because some people don't have the desire or the ability to file electronically," said Ms. St. Pierre.

"We try to serve them and give them all the advantages they can take of technology, but still hold their hand and do the paperwork and do the whole process, if that's what they need," she said.

Volunteer work helped Joan Conner win Maine position

By MEG FLETCHER

Honoring personal commitments to family and faith led insurance industry executive Joan Conner to her current job, where she helps Maine municipalities of every size manage and transfer their risks.

Ms. Conner bought a home in Kennebunk, Maine, in 1990 because she had promised her husband that he could retire near the town of Scarborough, where he grew up.

At the time, Ms. Conner—who had worked for Crum & Forster since 1982—was commuting to Toronto, where she oversaw three Canadian offices for Crum & Forster of Canada Ltd. As senior vp and chief underwriting officer, she was responsible for the company's Toronto, Montreal and Calgary operations, which had a combined premium volume in excess of $75 million.

Two years later, when Crum & Forster sold its Canadian subsidiary to General Accident Assurance Co., she returned to Kennebunk rather than accept a transfer to New Jersey, Ms. Conner said.

When she began looking for a job, it initially appeared that Maine offered few opportunities for someone with her extensive background in the private sector.

However, the concept behind the Maine Municipal Assn.'s risk pooling program was similar to a nonprofit pooling program for Episcopal churches that Ms. Conner had been involved with—as a volunteer—since the mid-1980s. She continues that commitment today, serving as an informal insurance adviser as well as a member of the board of directors of a self-insurance program. The program provides protection for all the Episcopal dioceses in the six-state New England area.

Ms. Conner found she had sufficient background in pool-related issues to make the transition and joined the MMA's Risk Management Services' underwriting unit in

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Joan Conner

Experience: Led to Maine Municipal Assn.

Continued from page 66

September 1993. She began as an underwriting supervisor and then served as underwriting manager before accepting the post of MMA's director of Risk Management Services in July 1995.

This was "a critical juncture" for the MMA and its risk management programs, because the organization began to cease relying on an outside third-party administrator and to bring in-house the functions of underwriting, claims management and loss control services, said Christopher G. Lockwood, MMA's executive director.

Directing MMA's Risk Management Services division allowed Ms. Conner, a Harvard, Mass., native, to draw on her decades of experience in the insurance industry.

After two years of business college, Ms. Conner began her insurance career at Brewer & Lord Managing General Agents in Boston. She learned both commercial and personal lines coverage during her 10-year tenure there.

After giving birth to twin daughters, she left the workforce for five years to raise them until they were ready to enter school.

When she returned, she moved to the company side of the business and joined The Atlantic Cos., where she became a commercial lines underwriter. She earned her Chartered Property & Casualty Underwriter designation in 1973.

When the company moved from Boston to Hartford, Conn., she was transferred with it and handled accounts for many of the national brokerage houses in Boston as well as Hartford and Stamford, Conn. She earned her Associate in Management designation in 1979. She then joined Crum & Forster in 1982 and with her husband, Malcolm—who was a claims professional and subrogation specialist—followed the path that led to Maine.

According to Mr. Lockwood, the MMA "is extremely fortunate that a person of Joan Conner's experience and knowledge, particularly at this stage of her distinguished career, would commute from Kennebunk to Augusta—a three-hour round trip drive each day." Ms. Conner does, however, hope to telecommute from home a few days a week in the future.

"She has a tremendous work ethic," said Susan Lessard, the MMA's immediate past president. "The highest and best is Joan's only standard," said Ms. Lessard, who is the town manager of Hampden, Maine.

'She has a tremendous work ethic. The highest and best is Joan's only standard.'

Susan Lessard
Town of Hampden, Maine

According to colleagues and friends, adhering to such goals is typical of Ms. Conner, whose professionalism is underscored by her traditional office wardrobe of dark, skirted suits accented by her CPCU lapel pin.

Ms. Conner said a career in the insurance industry has sustained her interest and high energy level. "I've been in this business for more than 40 years, and I've never been bored," she said.

Her office prominently displays the designations she has earned as well as a photograph of her identical twin daughters—Sarah, who lives in Arlington, Mass., and Lu-Anne, who lives in Hackensack, N.J. When raising their daughters, the Conners "didn't dress them alike and tried to bring them up as individuals," Ms. Conner said.

So, it is pleasant irony for her that both girls ultimately decided to become Episcopal priests. In the framed photograph, they are wearing identical clerical garb of white collar and black shirt. "They did it to themselves," she added, smiling.

Having two daughters in the ministry emphasizes the importance of faith in Ms. Conner's life.

Although she carries a prayer book in her purse, she does not proselytize. When asked, she said: "Religion is what gives you the strength to go on when things don't go your way."

"I believe in: Love God and do good," said Ms. Conner, who plans to become a hospice volunteer when she is no longer works full time.

Also, she said, "Whatever you do—do well."

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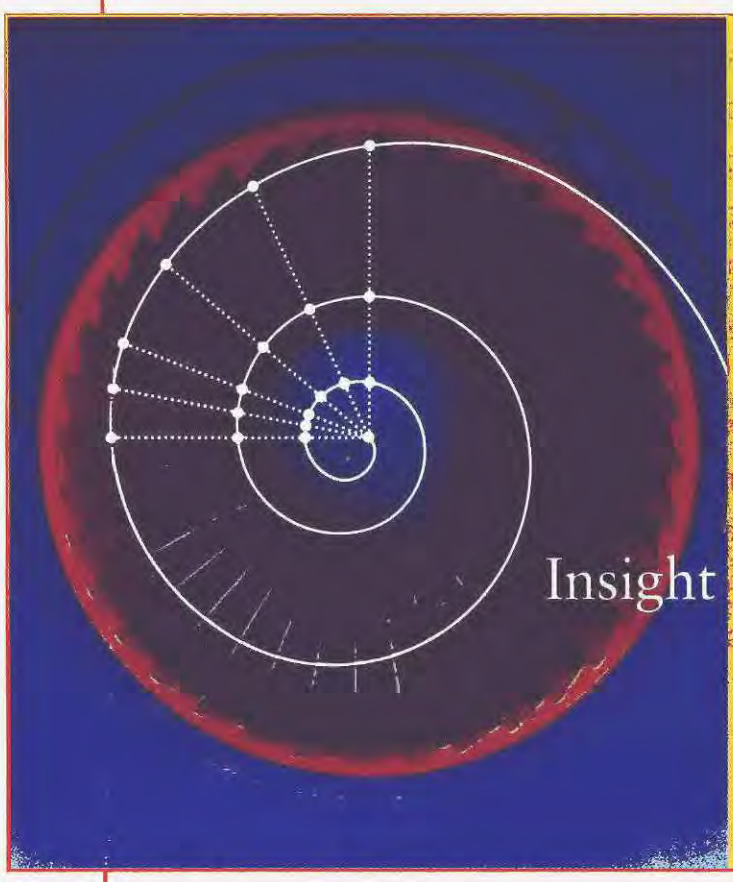

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Conner the Maine attraction for many of her staff

By MEG FLETCHER

Maine can be a tough place to find and develop a team of professionals committed to meeting the insurance needs of mostly small public entities.

"It's a tough market for finding the right people," said Daniel J. Ferguson, director of risk management for the Bath Iron Works, a Bath, Maine-based shipbuilding subsidiary of General Dynamics Corp. In addition to protecting operations where 6,700 employees build guided-missile destroyers, Mr. Ferguson serves on the board of directors of the Maine Municipal Assn.'s Property and Casualty Pool.

The pool of applicants from which public employers can draw can be limited by the state's location: While many "Downeasters" cherish Maine's remoteness, some applicants do not.

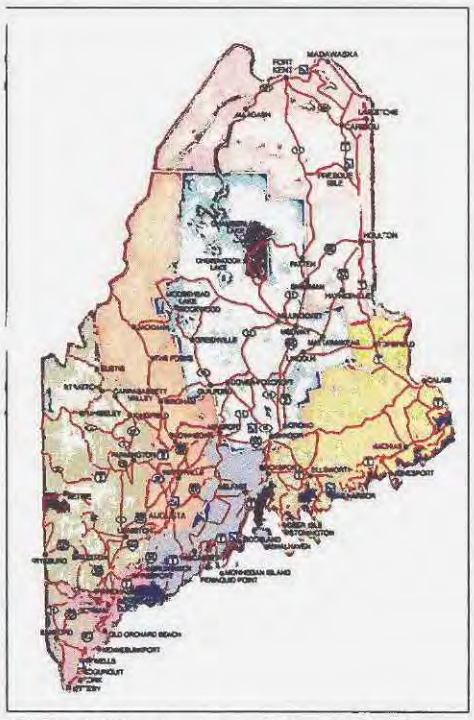
But Joan Conner, MMA's director of Risk Management Services in Augusta, has worked to overcome that problem.

Ms. Conner "has positioned the Maine Municipal Assn. to attract and retain well-qualified staff members despite challenges resulting from MMA's geographic location somewhat distant from an insurance marketplace," said Christopher G. Lockwood, the organization's executive director.

Since becoming director of MMA's Risk Management Services in 1995, Ms. Conner has enhanced the organization's workers compensation capabilities by establishing in-house claims handling and prevention services, including obtaining a third-party administrator license for claims processing. She also revived a nascent property/casualty claims handling department and developed in-house loss control and technical services.

With those integrated operations in place, she has worked hard to develop a staff with the technical knowledge and understanding to respond to members' needs for services and information.

Meanwhile, many staff members said they have been attracted to jobs at MMA by Ms. Conner's expertise, management skills and commitment to helping willing workers at all levels develop professionally.



MMA staffers log tens of thousands of travel miles visiting various communities.

Ms. Conner has extensive technical background and a "phenomenal" grasp of detail, said Kathryn Norton, underwriting manager.

In addition, Ms. Conner "is very organized and disciplined," said Donald Vickery, claims manager. "She feels structure is important to good claims handling."

She has an "unmatched work ethic," Mr. Lockwood said. All agree she expects much from herself and from every staff member.

"She's tough," said Edward A. MacDonald, loss control manager. At the same time, "she is accepting of mistakes that are honestly made, but not those resulting from a lack of motivation, caring or effort," he said.

Ms. Conner manages personnel issues "very, very well," said Charles Jackson, the MMA's general counsel. While she assesses an individual's job performance "with real fairness," she also is sensitive to the job-related impact of developments in their personal lives, he said.

Ms. Conner also encourages staff members to be sensitive to the situations and needs of pool participants, especially those from small, rural towns.

While some MMA staff members are native "Mainers," Ms. Conner said in her Boston accent, "several of us are 'from away,'" which is an important distinction for many local residents.

"We don't want to look too slick," she said, so MMA brochures describing coverage options are printed in a simple style. Also, she noted that MMA staff members dress more casually when they visit pool members in places such as northern Aroostook County.

In addition, Ms. Conner emphasizes that a small-town clerk may be very capable, despite the fact that the clerk's "desk" is her kitchen table.

Providing personal loss control and claims service to so many small communities means that MMA staff members have to travel an estimat-

See STAFF/next page

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MMA's Claims Department. Seated, from left: Lisa Cunningham, claims technician; Tamii Krallman, claims representative; Paul Nixon, assistant director-Risk Management Services; Susan Smith, assistant claims manager. Middle row: Tracie Anair, claims clerical supervisor; Michelle Fecteau, nurse case manager; Tracey Ayotte, claims representative; Ann Willette, workers compensation claims supervisor; Randa Veilleux, claims technician; Diane Pelletier, claims processor; Joan Conner, director-Risk Management Services; Amanda Knowlton, claims representative; Mark Brown, senior claims representative; Wayne Martin, claims technician; Crystal Chavarie, claims office assistant; Collette Robbins, claims representative; Debra Marquis, claims processor. Back row: Gail Trask, claims technician; G. Scott Kibler, senior claims representative; Joseph Slocum, property/casualty claims supervisor; Donald Vickery, claims manager.

Staff: Conner a draw for many

Continued from previous page

ed 175,000 miles annually. In addition, five loss control specialists are in the field nearly all the time.

In some cases, such as the death of a worker covered by the MMA's insurance program, a claim representative will fly to the community to reassure survivors about the availability of funds to pay funeral expenses and other benefits. "Sometimes, that is all you can do," Ms. Conner said.

In addition, staff members appreciate her encouragement and help in developing their skills and maximizing their potential.

"She gives everyone who works for her the opportunity to succeed," said Ms. Norton, who holds a Certified Insurance Counselor certification that she earned before joining MMA.

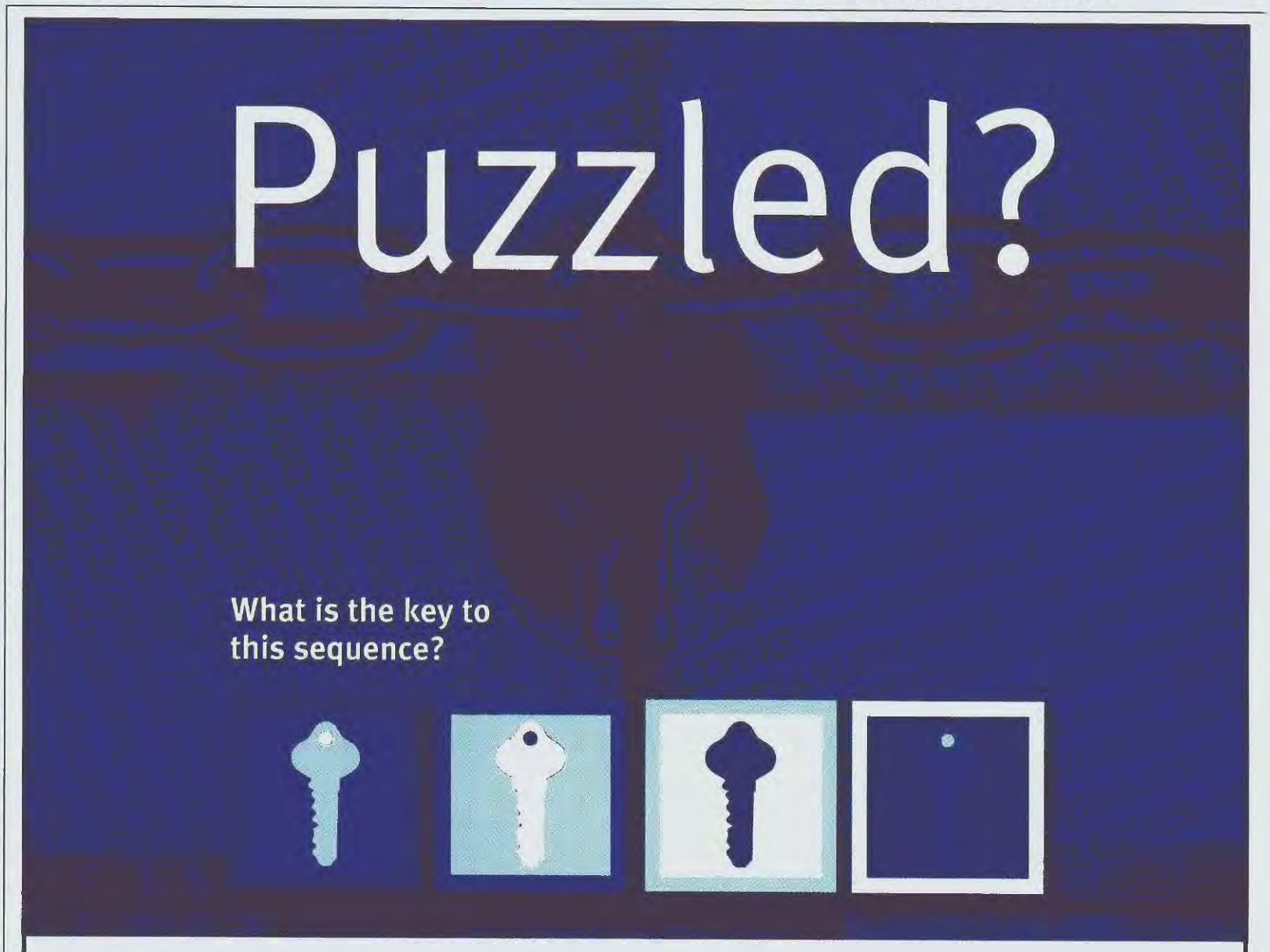
For example, Ms. Conner encouraged Cressey A. Mollison, workers compensation and safety program manager for Portland's risk management unit, to seek that post after working as a loss control consultant at MMA.

Ms. Conner also encourages the development of in-house talent. "Some of our very best people started in support roles," she said.

"She's been a mentor, coach and boss," said Paul Nixon, assistant director of MMA's Risk Management Services. For example, Ms. Conner is encouraging him to complete the two remaining courses he needs to obtain his Chartered Property Casualty Underwriter designation, he said.

Ms. Conner also encourages staff members to participate in insurance-related organizations such as the Public Risk Management Assn. and the Assn. of Governmental Risk Pools. The MMA belongs to both.

In addition, Ms. Conner has served on the board of directors of the Maine Council of Self-Insurers for the past six years, and was succeeded recently by Mr. Nixon.



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Independent panel of judges chooses award winners

Ten independent judges from all sectors of the risk management and insurance profession selected the 2004 Risk Manager of the Year and Risk Management Honor Roll.

Nominations for next year's awards, which will be announced in April 2005, may be submitted now.

The 2004 Risk Manager of the Year is the 27th person to receive this honor. *Business Insurance* created the Risk Manager of the Year competition in 1977, on its 10th anniversary of publication, to recognize outstanding risk management practices. The first award was presented in 1978. Beginning with the 2002 awards, the Risk & Insurance Management Society Inc. joined *Business Insurance* in honoring the winners.

Business Insurance created the Risk Management Honor Roll in 1981 to recognize outstanding achievements in risk management in employment categories that are not represented by the Risk Manager of the Year.

Winners of the awards are profiled each year in *Business Insurance* and recognized during RIMS' Annual Conference and Exhibition.

Ten independent professionals judged entries for this year's awards. Honorees are selected on the basis of the judges' opinions of each nominee's program as it is detailed in the nomination form.

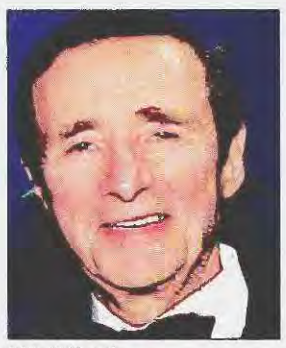
This year's panel comprises the 2003 Risk Manager of the Year recipient, the 2003 Risk Management Honor Roll members, two insurer executives, two brokerage executives, a risk management consultant and an insurance educator.

Judges for the 2004 awards are:

- Joseph H. Albert, chairman of J.H. Albert International Insurance Advisers Inc. of Needham, Mass., representing risk management consultants.
- Roger Andrews, 2003 Risk Management Honor Roll member and risk manager for E.D. Bullard Co.
- Judith A. Blades, senior executive vp-property and casualty for The Hartford Financial Services Group Inc. in Hartford, Conn., representing stock insurers.
- Mark Browne, professor in the School of Business, Actuarial Science, Risk Management and Insurance at the University of Wisconsin in Madison, representing educators.
- William Chapin, 2003 Risk Management Honor Roll member and risk manager for the Diocese of Rockville Centre, N.Y.
- Frederick de Grosz, president and CEO of ABD Insurance & Financial Services Inc., representing regional brokerages.
- Dale Schuh, chairman and CEO of Sentry Insurance, A Mutual Company, of Stevens Point, Wis., representing mutual insurers.
- Sheila Small, 2003 Risk Manager of the Year and risk manager for Verizon Communications Inc.
- Mario Vitale, chairman and CEO of Willis North America, representing international brokerages.
- Johanna Zschomler, 2003 Risk

See JUDGES/next page

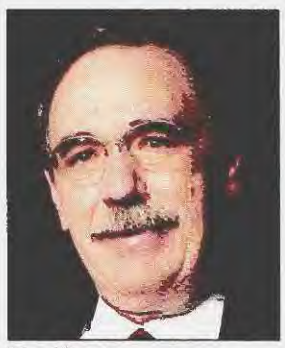
2004 RMOY judges

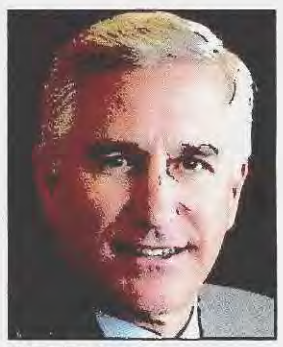

Mr. Albert

Mr. Andrews

Ms. Blades

Mr. Browne


Mr. Chapin


Mr. de Grosz

Mr. Schuh

Ms. Small

Mr. Vitale

Ms. Zschomler

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Judges: Panel picks award recipients

Continued from previous page

Management Honor Roll member and risk manager for the State of North Dakota.

Judges will evaluate each entry based on 10 criteria (see related story). The nominee with the highest total score will be Risk Manager of the Year; the remaining individuals will be placed into one of four categories:

- Corporations with sales exceeding $300 million.
- Corporations with sales of less than $300 million.
- Government entities, including public entity pools.
- Tax-exempt or nonprofit entities.

The highest-scoring individual in each field not represented by the Risk Manager of the Year will be considered for the Risk Management Honor Roll.

A nominee need not handle risk management responsibilities full time, but he or she must be a full-time employee of the organization whose program he or she directs. Risk managers anywhere in the world are eligible to enter the competition.

To obtain a nomination form for the 2005 Risk Manager of the Year and Risk Management Honor Roll award competition, or for more information, please contact Paul Winston, editor of *Business Insurance*, at *pwinston@businessinsurance.com*, or visit *www.businessinsurance.com*.

Risk management award criteria

Ten criteria are used to score the nominations for the annual Risk Manager of the Year Award and the Risk Management Honor Roll.

The panel of 10 independent judges scores each nominated candidate on a scale of one to 10, according to how well he or she:

- Established and implemented an effective risk management program within the organization.
- Tackled and solved one or more major problems for his or her organization.
- Innovatively applies the diverse tools of risk management and insurance.
- Creatively and effectively uses the insurance markets to structure an insurance program that serves the needs of the organization (specifically addressing the types of policies purchased and manuscripted policies, if any).
- Established a workable intelligence system inside and outside the organization, culminating in a flow of information about events and activities that affect the organization's risk management and insurance (how the risk manager secures information from other departments in his or her organization and the use of risk management information systems are addressed in this criterion).
- Skillfully performs the functions of management in the overall organization and within the risk management/insurance department. The functions include planning, organizing, directing and controlling.
- Achieves the most effective risk management program at the optimum cost over the long term.
- Developed technical expertise in any or all of the broad categories included within risk management, leading to a better managerial grasp of the operational aspects of the job.
- Exhibits an attitude and performs activities fostering the advancement of the risk management profession (such as professional activities, speaking engagements, teaching and related activities).
- Develops in his or her career (as exhibited by job history, including current job description, education, honors and memberships).

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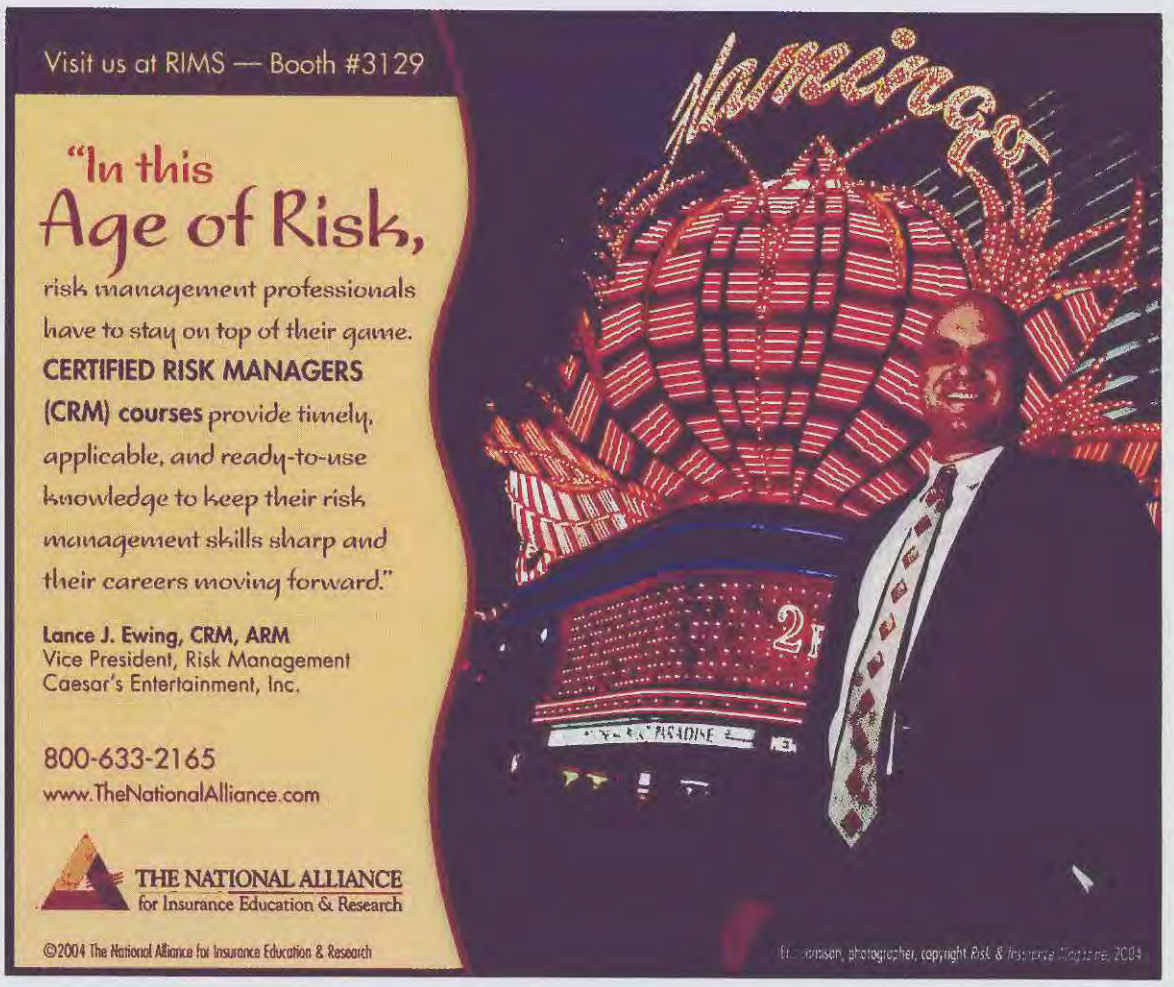

Risk Managers of the Year

2003: **Sheila Small**, Verizon Communications Inc.; 2002: **Daniel H. Kugler**, Snap-on Incorporated; 2001: **Dan Hartman**, State of Oregon.

2000: **Paul F. Buckley**, Lucent Technologies Inc. 1999: **Merritt W. Fabel**, American International Group Inc.; 1998: **Philip J. Grewar**, Government of British Columbia.

1997: **Judy Lindenmayer**, FMR Corp.; 1996: **Brian D. Casey**, Corning Inc. 1995: **Scott K. Lange**, Microsoft Corp.

1994: **Lucille A. Gallagher**, ConAgra Red Meat Cos./Monfort Inc.; 1993: **Richard C. Heydinger**, Hallmark Cards Inc.; 1992: **Millicent W. Workman**, Belz Enterprises.

1991: **Arnold L. Davenport**, Marriott Corp.; 1990: **Stephen M. Wilder**, The Walt Disney Co.; 1989: **Jeffrey W. Pettegrew**, Contra Costa County Municipal Risk Management Insurance Authority.

1988: **William L. Mather**, The Gillette Co.; 1987: **Edith F. Lichota**, Irving Trust Co.; 1986: **Donald Nelson**, ARA Services Inc.

1985: **Harold C. Lang**, Leaseway Transportation Corp. 1984: **Richard M. Inserra**, American Can Co.; 1983: **John A. O'Connell**, Holy Cross Shared Services Inc.

1982: **Eckart Russell**, Alcan Aluminium Ltd. 1981: **Duane E. Allen**, Hanna Mining Co.; 1980: **Thomas V. Hallett**, General Motors Corp.

1979: **Edward L. Erickson**, American Broadcasting Cos. Inc.; 1978: **Howard T. Weber**, Minnesota Mining & Manufacturing Co.

Nominations sought for 2005 awards

It's never too early to begin preparing nomination forms for the 2005 Risk Manager of the Year and Risk Management Honor Roll awards.

The competition is open to risk management professionals worldwide. Nominees need not handle risk management responsibilities full time but must be full-time employees of the organizations whose programs they direct.

Anyone familiar with a candidate's work may submit a nomination form.

For more information or to obtain a nomination form by e-mail, send a request to Paul Winston, editor of *Business Insurance*, at *pwinston@businessinsurance.com*.

In addition, online nomination forms can be accessed at the Risk & Insurance Management Society Inc.'s Web site, *www.rims.org*, and at *www.businessinsurance.com*.

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Risk Management Honor Roll

2003: **Roger L. Andrews**, E.D. Bullard Co.; **William G. Chapin**, The Diocese of Rockville Centre; **Johanna M. Zschomler**, State of North Dakota.

2002: **Lauren M. Gregory**, Metropolitan Transportation Authority.

2001: **Gary Baxter**, Weyerhaeuser Co.; **Peggy Nakamura**, Adventist Health System/West.

2000: **Theodore G. Jeske**, Historic Tours of America Inc.

1999: **David A. Holcombe**, International Speedway Corp. & NASCAR; **Lewis Leigh**, Washington Cities Insurance Authority; **Sheryl A. Pixler**, Storage Technology Corp.

1998: **James E. Green**, Justin Industries; **Mark L. Hubbard**, Loma Linda University Adventist Health Science Center; **Edward Molloy**, Aetna Inc.

1997: **John J. Carney**, National Freight Industries Inc.; **Betsy Kutska**, Park District Risk Management Agency; **William R. Powell**, Salt River Project; **Russell Opferkuch**, Bankers Trust Co.; **Jeannie Sedwick**, AHA-Insurance Resource Inc.

1996: **Craig S. Macdonald**, Bi-State Development Agency; **Michael Tawney**, Loomis Armored Inc.

1995: **Lee D. Holland**, Tennessee Municipal League Risk Management Pool; **K.C. Kidder**, Norwest Corp.; **Judith Payne**, South Dakota, **Bruce Zaccanti**, Jupiter Mechanical Industries Inc.

1994: **Sal M. Bianchi**, Intergovernmental Risk Management Agency; **Judith Moses McDonald**, Comerica Inc.; **Ronald J. Guilfoile**, City of St. Paul, Minn.; **Thomas J. Hickey**, Malcolm Pirnie Inc.

1993: **David G. Adler**, The Portman Cos.; **Thomas E. Bell Sr.**, Middle Cities Risk Management Trust; **June Dickinson**, SunTrust Banks Inc.; **C. David White**, State of Oregon.

1992: **Marc Darby**, Bombardier Inc.; **Jerry Newsom**, State of Georgia; **Judith Tornese**, Transamerica Corp.

1991: **Donald D. Batchelor**, Union Planters Corp.; **Mary L. DeCampli-Stewart**, Metropolitan Washington Airports Authority, **Rod Umscheid**, University of California.

1990: **Josephine Goode Johnson**, University of Maryland Medical Service System; **Roger D. Oaks**, Tennessee Farmers Cooperative; **M. Michael Zuckerman**, Thomas Jefferson University.

1989: **John A. Lindquist**, Browning-Ferris Industries Inc.; **J. Douglas Higley**, State of Louisiana.

1988: **Gregory L. Daniels**, American National Red Cross; **Timothy G. Galarnyk**, Lunda Construction Co./Phoenix Steel Inc.; **Stephen A. Finley**, City of Lakewood, Colo.; **Edward G. Weiss**, First of America Bank Corp.

1987: **Susan M. Werner**, Hardee's Food Systems Inc.; **Mark F. Wilson**, First Mississippi Corp.

1986: **Delmer Ison**, Washington Metropolitan Area Transit Authority; **William E. Rogers**, Conemaugh Valley Memorial Hospital.

1985: **Susan N. Weiner**, Dade County Public Schools; **Eva F. Goodrich**, Cincinnati Electronics Corp.

1984: **Sidney D. Blatt**, Holloway Cos.; **Gene Snyder**, State of Oregon.

1983: **Jerri Nelson MacMillian**, Aetna Life & Casualty Co.'s Real Estate Investment Department; **Robert Sinclair**, Metropolitan Government of Nashville and Davidson County.

1982: **Spencer J. Traver**, BF Goodrich Co.; **Paul B. Harvey**, Ponderosa Homes; **Gene M. Marsh**, General Conference of Seventh-Day Adventists; **George N. Pierce**, Orange County, Fla.

1981: **Robert Bieber**, Westchester County, N.Y.; **William Ryan**, University of Michigan.

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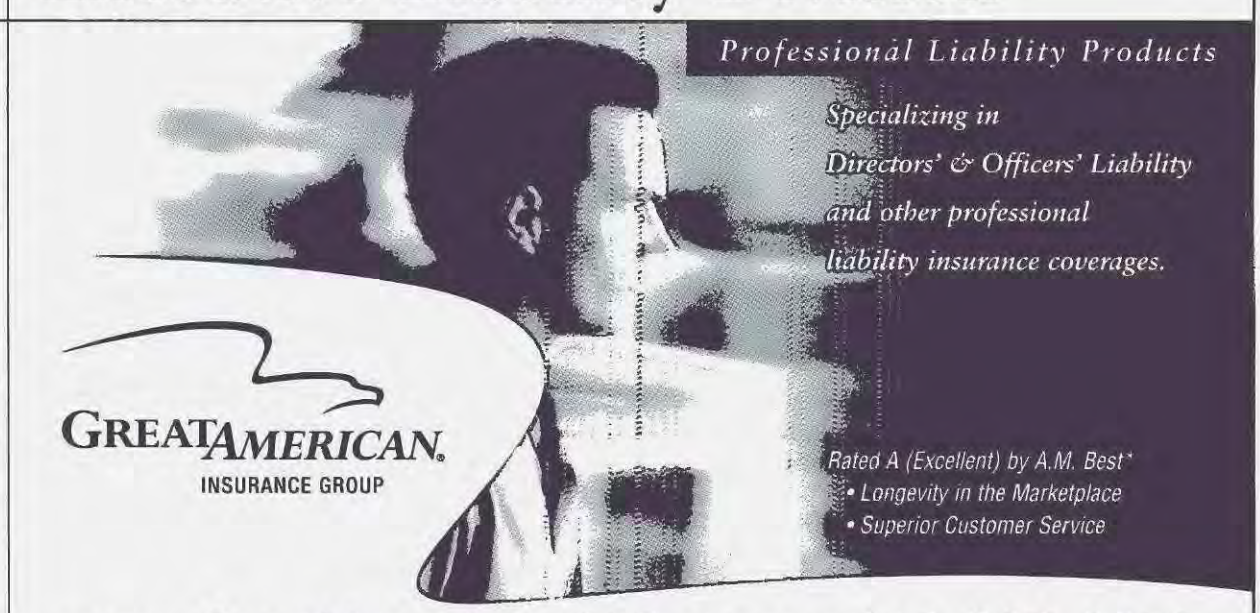

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NEW YORK—Marsh Inc. has introduced a directors and officers liability insurance program for publicly traded midsize companies, including those that have filed for an initial public offering.

The program, ExecutivePreferred, features a board governance assessment allowing companies to qualify for more prenegotiated terms and conditions, including errors and omissions for in-house counsel. The assessment comprises board practices analysis, structure and composition, work processes and working relationship with senior management. To round off the evaluation process, a planning workshop is set up for board members, in which best practices and areas of improvement are addressed.

ExecutivePreferred is underwritten by ACE USA; Chubb Corp.; National Union Fire Insurance Co. of Pittsburgh, Pa.; The Hartford Financial Services Group Inc.; XL Capital Ltd.; and Zurich American Insurance Co.

For more information, visit New York-based Marsh's Web site, *www.marsh.com*.

Schinnerer unit offers guidance on EPL risks

CHEVY CHASE, Md.—Victor O. Schinnerer & Co.'s Architects and Engineers Risk Management division has produced a booklet that addresses employment practices risks.

The publication, "Managing the Risks of Employment Practices," is an educational resource offering general information on workplace exposures by presenting potential scenarios. The booklet covers risk-related topics, such as discrimination in hiring, sexual harassment and claims stemming from the Americans with Disabilities Act and Family and Medical Leave Act, among others. The booklet is available to Schinnerer clients.

For more information, contact VP Joe Jones at 301-951-5466 or visit Chevy Chase, Md.-based Schinnerer's Web site, *www.schinnerer.com*.

GE GAP Services enhances loss prevention product

AVON, Conn.—GE Global Asset Protection Services has enhanced its online loss prevention program, MyAnalysis, by adding a feature to help risk managers convey their recommendations to those within their organization.

The additional feature, Recommendation Response, allows risk managers to communicate their recommendations to underwriters, brokers and plant managers. The product includes a history of completed recommendations along with commentary.

For more information on the program, visit GE Global Asset Protection Services' Web site at *www.gegapservices.com*.

St. Paul Travelers adds to global cover

ST. PAUL, Minn.—St. Paul Travelers Cos. Inc. has released an enhanced version of its international commercial property and general liability product, Global Companion.

The St. Paul, Minn.-based insurer's product is designed to help protect U.S.-based companies with international operations from exposures related to conducting foreign business. The enhanced product provides coverage for exposures including kidnap and ransom of company executives, incidental ocean cargo, foreign voluntary workers compensation, excess auto liability and property.

More information is available at *www.stpaultravelers.com*.

AICPA offers resources on benefit plan auditing

NEW YORK—The American Institute of Certified Public Accountants has launched a voluntary membership center for certified public accountants to promote the quality of employee benefit plans audits and awareness.

The program, Employee Benefit Plan Audit Quality Center, aims to help CPAs perform proper pension, health and welfare, and 401(k) audits. It features an online forum tool allowing members to post best practice methods, as well as share information on auditing, accounting and regulatory issues.

For information, e-mail the New York-based American Institute of Certified Public Accountants at *ebpaqc@aicpa.org* or visit *www.aicpa.org/ebpaqc/homepage.htm*.

HRcertification.com offers benefits training

ATLANTA—HRcertification.com has launched a suite of online training and certification programs designed for employee benefits, human resource and compensation managers.

The four new programs include human resources management, recruiting and hiring, performance management and compensation.

Each training course takes up to eight hours to complete and is followed by a certification test. Individuals who score 85% or higher earn the certified administrator designation in the specific area. Users can take the online courses at their own pace, and they are also available in 30-minute lessons.

More information on the programs is available by phoning the company's Atlanta office at 678-366-3959 or by visiting *www.hrcertification.com*.

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Between the Lines

Compiled by Joanne Wojcik

Humiliation of suspect spurs lawsuit

The Denver chapter of the American Civil Liberties Union has filed a lawsuit against a local drug task force, two cities and firefighters on behalf of a woman who claimed that she was humiliated during a drug bust.

The lawsuit alleges the woman was forced to undergo an "unjustified, humiliating and degrading decontamination ritual," when police raided her home two years ago searching for a suspected methamphetamine lab.

According to the lawsuit, the officers filled a small plastic children's wading pool with water and forced the woman to stand in it naked while they shielded her with a makeshift wall of cloth tarps that flapped in the wind, allowing her to be visible to bystanders.

When asked whether such procedures were standard in such arrests, a spokeswoman for the North Metro Fire Department in Northglenn, Colo., referred calls to National Jewish Medical and Research Center in Denver, which recently produced a report citing the importance of decontamination because of the "toxic brew of chemicals cooked up in meth labs."

The City of Thornton, also named in the suit, issued a statement disputing the claim made by the ACLU "that the standard decontamination procedure approved by the Adams County and Jefferson County Hazmat Team and used during the incident in question was in any way inappropriate....The scene was treated from start to finish as a contaminated site and handled accordingly."

No meth lab was found in the woman's home.

Paging Dr. Super Mario

The next time you're scheduled for laparoscopic surgery, you might want to ask what your doctor's high score is on Pac Man.

Researchers have found that doctors who spend at least three hours a day playing video games make about 37% fewer mistakes in laparoscopic surgery and performed the task 27% faster than their counterparts who did not indulge in gaming activities.

It makes sense, because laparoscopic surgery requires enhanced motor skills, quick reaction time and good hand/eye coordination to maneuver a tiny camera and instruments controlled by joysticks outside the body—a little like playing the game Space Invaders on an Atari.

The study on whether good video game skills translate into surgical prowess was conducted by researchers at Beth Israel Medical Center in New York and the National Institute on Media and Family at Iowa State University in Ames.

Kids' antidepressant use growing

The fastest growing segment of antidepressant users is preschoolers age 0-5 years, according to a recent study by St. Louis-based Express Scripts Inc.

In a study of antidepressant use among approximately 2 million commercially insured pediatric patients 18 years old and younger from 1998 to 2002, antidepressant use increased from 1.6% in 1998 to 2.4% in 2002, a 49% increase. Over the course of the study, the growth in use was greater among girls (68%) than boys (34%). By gender, growth was higher among younger boys and among older girls.

PHOTO: KRT

Use of antidepressants by children is increasing, a study has found.

Selective serotonin reuptake inhibitors including paroxetine (also known by the brand names Paxil, Prozac and Zoloft) were the most commonly used antidepressants, according to the study. Their use gained 113% among girls and 91% among boys, the study found.

The U.S. Food and Drug Administration has recommended that these drugs not be given to children and adolescents because in that population their efficacy has not been established for depression, and their use is associated with increased risk of suicidal thinking and suicide attempts.

Tips and feedback from readers are welcomed. Please send information to jwojcik@businessinsurance.com.

Comings & Goings - Buyers

Ms. Hanna

Ms. Graham

Mr. Van Huben

Nancy L. Hanna has joined Minneapolis-based Ceridian as senior vp of human resources. Ms. Hanna will oversee the human resources department for Ceridian's Human Resources Solutions business. She replaces **Leigh Hennen**, who left Ceridian. Ms. Hanna's responsibilities include employee benefits, training, recruitment and overall human resources policy. She reports to Robert Ewald, president of Ceridian Human Resource Solutions. Previously, she was senior human resources executive at PLATO Learning Inc., an educational software company in Bloomington, Minn. Ms. Hanna holds a bachelor of arts degree in French from Hamline University in St. Paul, Minn. and a master of arts in human development from Saint Mary's University of Minnesota in Winona, Minn.

***

Collette Taylor has been appointed vp of human resources at Mylan Laboratories Inc., a Pittsburgh-based pharmaceutical company. In this newly created position, Ms. Taylor will oversee the entire human resources department, including employee benefits, recruitment and staffing, compensation, employee communications, workplace learning and career development. Before joining the company, she was vp of human resources and administration at Golin/Harris International, a Chicago-based global public relations firm. She earned a bachelor of arts degree in psychology and sociology from Emory University in Atlanta and a master's of science degree with an emphasis in industrial management from Loyola University in Chicago. She also holds a juris doctorate degree from Chicago-Kent College of Law.

***

Julia Graham has joined DLA, an international law firm based in London, as director of risk management. Ms. Graham is responsible for developing the firm's risk management policies and standards for all offices throughout Europe and Asia. She replaces **Clive Pracy**, who retired last year. Before joining DLA, Ms. Graham served as group operational risk manager at Royal & SunAlliance Group P.L.C. for over 25 years. She earned a bachelor of science degree in geography and American studies at the Open University in Milton Keynes, England.

***

L. Thomas Van Huben has been appointed vp of human resources at SafeNet Inc., a Baltimore-based technology firm that develops network security systems. In this newly created position, Mr. Van Huben will oversee the entire human resources department for all business practices worldwide, including employee benefits, employee relations and compensation, performance management, retention and training, talent acquisition and development. Prior to joining the company, he served as vp of human resources at Giganet Inc. in Concord, Mass., which was acquired by Emulex Corp. during his employment with the company.

•

We'd like to report on staff changes in your risk management, safety and employee benefits departments. Contact Carrie A. Brittain, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; phone: 312-649-5313; fax: 312-280-3174; e-mail: cbrittain@businessinsurance.com.

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U.K. court finds second-hand asbestos liability

By CAROLYN ALDRED

LONDON—A woman who contracted mesothelioma after being exposed to asbestos dust on her boilermaker husband's clothes in the early 1960s should be compensated for her illness by his employer, London's High Court has ruled.

The ruling will likely lead to more successful claims for second-hand exposure to asbestos, said James Thompson, an Oldham, England-based partner of law firm John Pickering & Partners who represented the claimant.

Judge Morland ruled late last month in *Teresa Maguire vs. Harland & Wolff P.L.C.* that it should have been "reasonably foreseeable" to the boilermaker's employer, Belfast, Northern Ireland-based Harland & Wolff Holdings P.L.C., that his wife, Teresa Maguire, was at risk of serious injury to her health as a result of exposure to asbestos dust carried home on Mr. Maguire's clothes. Mr. Maguire worked at the Harland & Wolff shipyard from 1961 to 1965.

Harland & Wolff accepted that Ms. Maguire was suffering from mesothelioma as a result of exposure to dust on her husband's clothes but claimed that it was not foreseeable in the early 1960s that she would be at risk.

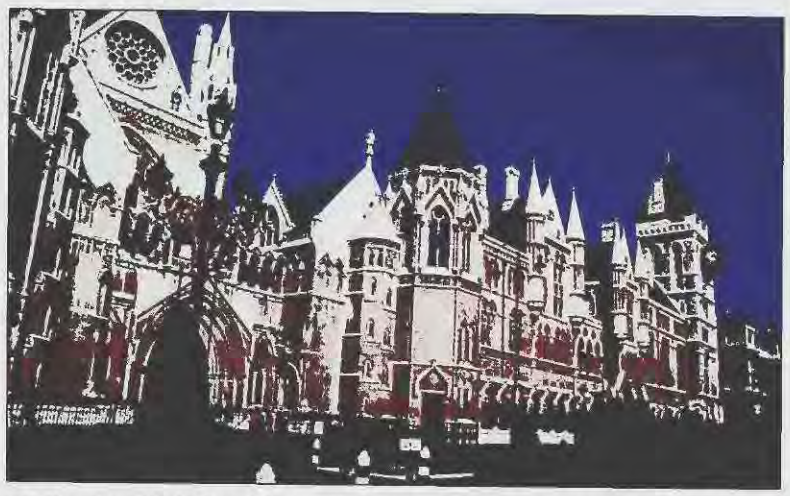
Harland & Wold also cited a similar case before the High Court in 1988, *Gunn vs. Wallsend Slipway and Engineering Company Ltd.*, in which the judge ruled that the employer owed no duty of care to an employee for the death of his wife from mesothelioma caused by inhaling asbestos dust from his clothes. In that case, Judge Waterhouse ruled that Wallsend owed no duty of care to the wife because no one in the industrial world prior to October 1965 had considered the risk of industrial injury from domestic exposure to asbestos dust and no prudent employer would have foreseen the risk of such injury.

However, in the latest case, Judge Morland ruled that the risk of serious injury was reasonably foreseeable. Brushing down, shaking or washing their husband's clothes would have exposed the wives of asbestos workers to considerable quantities of asbestos dust and the risks of asbestos were well known at that time, the judge ruled, noting that Harland & Wolff did not take any action to protect Mr. Maguire or his wife.

"The judge was careful to say he was making the decision on the facts of the case," noted Mr. Thompson, "But if the same standards are applied to other cases, a lot more families will now succeed in getting compensation."

"The big ship builders should have thought about the consequences of sending workers home covered in asbestos dust. *Gunn* was wrongly decided and we hope that defendants will now see sense and settle more of these secondary exposure cases," he said.

Harland & Wolff did not return calls seeking comment.



The London High Court has ruled that an employer may be held liable for a person who becomes sick after second-hand exposure to asbestos.

Pool Re exemption from competition law upheld by U.K.

By PETA MILLER

LONDON—The U.K. government-backed terrorism reinsurer, Pool Reinsurance Co. Ltd., has been exempted from the country's competition laws on the grounds that its benefits continue to outweigh any potential ill effects on competitors.

The London-based Office of Fair Trading acknowledged that certain aspects of Pool Re's structure do prevent, restrict or distort competition, which is prohibited under the Competition Act 1998.

The OFT, which has the power to investigate suspected infringements under the act, said the anticompetitive aspects of Pool Re include its requirements that:

- Insurers that participate in the pool offer terrorism coverage only in conjunction with general commercial property cover.
- Members reinsure all their terrorism insurance for commercial property with the pool.
- Policyholders insure their entire portfolio of properties with Pool Re members.

But the OFT also outlined the benefits it believes Pool Re provides, which it says continue to outweigh these anticompetitive effects.

The benefits, the OFT said, include that Pool Re:

- Ensures that commercial properties have access to terrorism cover.
- Facilitates investment in businesses by reducing risk.
- Could help businesses survive a terrorist act, minimize the adverse impact of an attack and improve economic progress.

Commenting on the exemption, Rod Armitage, head of company affairs for the Confederation of British Industry, said the employer organization's members have always been supportive of Pool Re.

He noted that some insurers at Lloyd's of London offer terrorism coverage outside of Pool Re, but the coverage available does not compare to that offered through Pool Re.

"Lloyd's attempts to provide an alternative market where you can cherry pick. It is much smaller than Pool Re, but there is something of a competitive market," Mr. Armitage said.

When OFT announced in February its provisional conclusion that Pool Re should be exempted from the Competition Act, some underwriters commented that there that was sufficient capacity in the stand-alone terrorism market.

The OFT concluded its review of Pool Re last week.

Faster rehab sought for injured workers

U.K. employers, insurers seek reforms

PETERBOROUGH, England—Employers and insurers in the United Kingdom are pressing the government to reform rehabilitation services for injured workers.

At a seminar hosted by Marsh Ltd. earlier this month in Peterborough, England, speakers stressed that changes to rehabilitation services are needed to help reduce the growing cost of employers liability insurance in the United Kingdom. Employers liability insurance, which is compulsory, provides coverage for employees' work-related injuries and illnesses.

Digby Jones, director general of the Confederation of British Industry, said in a presentation that "speedier rehabilitation" of injured workers is key to reducing employers liability costs.

Mr. Jones suggested that the government could help ensure prompt rehabilitation by paying for rehabilitation treatment—only some of which is available from the National Health Service at no charge—while claims are settled.

This would "really help immediately get something done," Mr. Jones said, as quicker rehabilitation should reduce the cost of a claim.

Bruce Carnegie-Brown, chief executive of London-based Marsh Ltd., agreed that reforms are needed to the employers liability system. He noted, for example, that 40% of claims goes to pay legal fees rather than to compensate injured or ill workers.

However, speaking later in an interview, Mr. Carnegie-Brown said that it might be a struggle to get the government to pay for rehabilitation services in advance of insurer payments. He suggested that there could be an opportunity for insurers and buyers to establish a system of funding payments prior to claims settlements.

A spokesman for the London-based Assn. of British Insurers, which was not represented at the seminar but has been lobbying for employers liability changes, said it would soon publish the results of research into the business case for improving rehabilitation. That research is expected to show how encouraging faster return to work of injured workers in United Kingdom, which is less prevalent there than in other parts of Northern Europe and the United States, would provide a cost benefit to firms.

Government involvement is needed because rehabilitation services across the country vary, the ABI spokesman said. Some treatments available from the NHS in one part of the country may not be available elsewhere, and when NHS-provided treatment is available, it can take longer than that received in the private sector.

The U.K. government is examining the issue of rehabilitation. A 2003 report by the U.K. Department of Work and Pensions pledged to "help establish a new approach to rehabilitation" in the United Kingdom (*BI*, Dec. 8, 2003).

—By Peta Miller

World Updates

U.K. companies increase pension contributions

The United Kingdom's largest companies increased contributions to their defined benefit pension plans by an average of 95% in 2003, according to a study by Watson Wyatt Worldwide. The study, which examined the defined benefit pension plans of 40 FTSE 100 companies–the 100 largest companies on the London Stock Exchange–found that 75% of the companies had increased such contributions last year. Despite increased contributions and an improvement in equity markets in 2003, the overall deficit of all of the FTSE 100 companies' defined benefit plans changed little from 2002, standing at about £60 billion ($107.41 billion) at the end of last year, Watson Wyatt said.

RSA reviews business in Scandinavia

Royal & SunAlliance Insurance Group P.L.C. is conducting a review of its operations in Scandinavia. The London-based company said in a statement that it had received approaches for the group's operations in Denmark and Sweden and has "initiated a review of possible options." RSA's Scandinavian nonlife insurance business produced an underwriting loss of £4.0 million ($7.2 million) in 2003, a company spokeswoman said.

German market outlook stable, Moody's says

Moody's Investors Service Ltd. says it has a stable outlook on the German nonlife insurance market. Moody's said in a statement that although German property/casualty insurers' earnings in recent years have been depressed by volatile investment markets and underwriting losses, the rating agency expects the market to be profitable in 2003.

Briefly noted

Paris-based reinsurer **SCOR S.A.** has applied for a license to conduct nonlife reinsurance business in China. SCOR currently has a representative office in Beijing....Users of the **ri3k** reinsurance data hub are now able to create slips that are compliant with the London Market Principles slips recently mandated by Lloyd's of London. The LMP-compliant structure, known as InSynch, will be available for June renewals, ri3k said....London-based reinsurance broker **Benfield Group Ltd.** has sold its insurance and reinsurance technology subsidiary Wildnet Group Ltd. to a consortium of private investors and the current management of the company. Terms of the deal were not disclosed.

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REQUEST FOR PROPOSALS

The Pharmacy RFP Issuing States (RXIS), including the States of West Virginia, Missouri, New Mexico and Delaware, request proposals to provide **Pharmacy Benefit Management Auditing Services.** For bid package, contact: Mr. J. A. Haught, CPA, Chief Financial Officer for the West Virginia Public Employees Insurance Agency, State Capitol Complex, Building 5, Room 1001, 1900 Kanawha Boulevard, East, Charleston, West Virginia 25305-0710. Telephone: (304) 558-7850, Ext. 242; Fax: (304) 558-4969.

A mandatory bidder's conference will be held May 4th at 1:00 PM EDT, at the State Capitol Complex, Building 7, Gaston Caperton State Training Center. Proposals are due no later than 5:00 PM EDT, on June 8, 2004.

LEGAL NOTICE

IN THE MATTER OF AN INTENDED APPLICATION
IN THE HIGH COURT OF JUSTICE
OF ENGLAND AND WALES
CHANCERY DIVISION
COMPANIES COURT
IN THE MATTER OF
BLACKFRIARS INSURANCES LIMITED
AND IN THE MATTER OF THE COMPANIES ACT 1985

Notice is hereby given that the above named company ("the Company") intends to apply to the High Court of Justice (in England and Wales), Chancery Division, Companies Court on 29 April 2004 for an Order to convene a meeting of creditors ("the Creditors' Meeting"). The purpose of the Creditors' Meeting will be to consider, and if thought fit, to approve (with or without modification) a solvent scheme of arrangement proposed by the Company to be made pursuant to Section 425 of the Companies Act 1985 ("Scheme").

The creditors under the proposed Scheme will include all claimants in respect of any contract or policy of insurance, reinsurance or retrocession entered into by or on behalf of the Company ("Scheme Creditors").

The primary objective of the proposed Scheme is to terminate the run-off of the Company's business earlier than would be the case if claims were left to mature in the normal course of business. The Scheme will establish a method by which current, contingent and future claims of Scheme Creditors will be valued and paid in full.

The Company is of the opinion that the rights of Scheme Creditors are so similar as to make it possible for them to consult together with a view to their common interests. Accordingly, the Company has concluded that there is only one class of Scheme Creditor and it is proposed that only one meeting of Scheme Creditors be convened for the purposes of considering and, if the Scheme Creditors think fit, approving the Scheme.

Further information may be obtained by contacting Elaine Crawford, Unilever UK, Legal Department, Walton Court, Station Avenue, Walton-on-Thames, Surrey, KT12 1UP, tel: 01932 263000, fax: 01932 261705, email: Elaine.Crawford@unilever.com

LEGAL NOTICE

NOTICE OF THE CREDITORS' MEETINGS

CASE No. 71 OF 2004
IN THE SUPREME COURT OF BERMUDA
IN THE MATTER OF
THE BERMUDA FIRE & MARINE INSURANCE COMPANY LIMITED
(IN LIQUIDATION)
AND IN THE MATTER OF THE COMPANIES ACT 1981 OF BERMUDA

CLAIM No. 1321 OF 2004
IN THE HIGH COURT OF JUSTICE OF ENGLAND AND WALES
CHANCERY DIVISION
COMPANIES COURT
IN THE MATTER OF
THE BERMUDA FIRE & MARINE INSURANCE COMPANY LIMITED
(IN LIQUIDATION)
AND IN THE MATTER OF THE COMPANIES ACT 1985 OF GREAT BRITAIN

(the above company being subject to a scheme of arrangement, which became effective on 14 January 1997, with its Scheme Creditors pursuant to Section 99 of the Companies Act 1981 of Bermuda and Section 425 of the Companies Act 1985 of Great Britain)

NOTICE IS HEREBY GIVEN that, by an Order dated 1 April 2004 made in the Supreme Court of Bermuda in the matter of The Bermuda Fire & Marine Insurance Company Limited (In Liquidation) and in the matter of the Companies Act 1981 of Bermuda and by an Order dated 31 March 2004 made in the High Court of Justice in England and Wales in the matter of The Bermuda Fire & Marine Insurance Company Limited (In Liquidation) (the "Company") and in the matter of the Companies Act 1985 of Great Britain, separate meetings (the "Meetings") were ordered to be summoned of Scheme Creditors (as defined in the Amending Scheme hereinafter mentioned) of the Company for the purpose of considering and, if thought appropriate, approving (with or without modification) an amending scheme of arrangement (the "Amending Scheme") proposed to be made between the Company and its Scheme Creditors (hereinafter mentioned) pursuant to section 99 of the Companies Act 1981 of Bermuda and section 425 of the Companies Act 1985 of Great Britain. The purpose of Amending Scheme is to amend certain provisions of a scheme of arrangement dated 2 October 1996 which became effective on 14 January 1997 (the "Original Scheme") between the Company and the Scheme Creditors.

The Scheme Creditors referred to herein are:

(i) Protected Scheme Creditors (being Scheme Creditors whose claims are eligible for protection under the applicable provisions of the Policyholders Protection Act 1975 by the Financial Services Compensation Scheme Limited); and
(ii) General Scheme Creditors (being any other Scheme Creditors).

Such Meetings will be held on 18 May 2004 at The Fairmont Hamilton Princess, Pitts Bay Road, Hamilton, Bermuda, at the following times (or as soon thereafter as the Chairman's introductory address referred to below or the previous Meeting shall have concluded or been adjourned):

(i) in the case of General Scheme Creditors, at 10.00am
(ii) in the case of Protected Scheme Creditors, at 10.20am (or as soon thereafter as the previous meeting shall have concluded or been adjourned)

The chairman of the Meetings will address Scheme Creditors generally on the Amending Scheme and on issues relevant to voting immediately prior to the commencement of the first meeting.

A copy of the said Amending Scheme, a copy of the Explanatory Statement, prepared in connection with the Amending Scheme under Section 100 of the Bermudian Companies Act and Section 426 of the Companies Act and the Form of Proxy (including Claims Table) for use at the Meetings can be downloaded from www.bfmic.bm. Alternatively, copies of those documents can be obtained from our Creditor Help Desk by telephone on +44 (0) 20 7645 4995, fax +44 (0) 870 600 7582 or email creditor.helpdesk@bfmic.bm or by post from the Liquidators:

The Bermuda Fire & Marine Insurance Company Limited (in liquidation), John Stow House, 18 Bevis Marks, London, EC3A 7JB, United Kingdom

Scheme Creditors may attend and vote in person (or, if a corporation, by a duly authorised representative) at such of the Meetings as they are entitled to attend. Alternatively they may appoint another person, whether a Scheme Creditor or not, as their proxy to attend and vote in their place.

In any event, whether or not Scheme Creditors are intending to be present at any Meeting in person, they are requested to complete the Form of Proxy in accordance with the instructions contained therein and within pages 4, 5, 21, 22, 48, 49 and 79 to 83 of the Scheme Document and return it to the Liquidators at the address indicated above by 5.00 p.m. (GMT) on 17 May 2004. If not so returned, Forms of Proxy will be accepted at any time prior to the commencement of the Meetings (and may be handed in no earlier than 8.30a.m on the day of the Meetings and at the place fixed for them).

The chairman of the Meetings will accept faxed Forms of Proxy received before 5.00 p.m. (GMT) on 17 May 2004 on +44 (0) 870 600 7585, if legible, subject to receipt of the original within 7 days of the Meetings.

Each Scheme Creditor or his proxy will be required to register his attendance at such meetings as he is entitled to attend prior to its commencement. Registration will commence at 8.30 a.m. on the day of the Meetings.

The Amending Scheme is proposed between the Company and its Scheme Creditors (being creditors in respect of any claim arising out of a liability to which the Company was subject at 16 December 1994 (the date of the order of the Bermudian Court winding up the Company) or to which it became subject thereafter, by reason of an obligation incurred before that date) but excepting any claim which is preferential in the liquidation of the Company or a claim in respect to the costs or expenses of the Original Scheme or Amending Scheme which will be payable in full.

By the said Orders, the courts have appointed John Christopher McKenna or, failing him, Gareth Howard Hughes, or, failing him, Leon Anthony Joaquin to act as chairman of the Meetings and has directed the chairman to report the results thereof to the respective courts.

The said Amending Scheme will be subject to the subsequent sanction of the respective courts.

Dated 15 April 2004

APPLEBY SPURLING & KEMPE, Canon's Court, 22 Victoria Street, Hamilton HM 12, Bermuda
and
CLIFFORD CHANCE, 10 Upper Bank Street, London E14 5JJ, United Kingdom
Legal Advisers to John Christopher McKenna/Gareth Howard Hughes/Leon Anthony Joaquin

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LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re
Petition of Board of Directors of
LUDGATE INSURANCE COMPANY LIMITED,
Debtor in a Foreign Proceeding.

In a Proceeding Under Section 304 of the Bankruptcy Code
Case No. 04-B-10590 (RDD)

NOTICE OF PERMANENT INJUNCTION AND ORDER PURSUANT TO SECTION 304 GIVING EFFECT TO SCHEME OF ARRANGEMENT IN THE UNITED STATES

NOTICE IS HEREBY GIVEN THAT, in connection with the petition filed on January 30, 2004, pursuant to section 304 of the Bankruptcy Code (the "Petition") by the Board of Directors (the "Petitioner") of **LUDGATE INSURANCE COMPANY LIMITED** (the "Company"), the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") has entered a permanent injunction order dated April 8, 2004 (the "Order"), among other things:

1. Providing that the Scheme of Arrangement (as defined in the Order) shall be given full force and effect in the United States, and shall be binding on and enforceable against all Scheme Creditors (as defined in the Order) in the United States;

2. Permanently enjoining all Scheme Creditors from taking any action in contravention of, or inconsistent with, the Scheme of Arrangement;

3. Permanently enjoining all Scheme Creditors from (a) seizing, repossessing, transferring, relinquishing or disposing of any property of the Company in the United States, or the proceeds thereof, to any person or entity other than the Scheme Advisors (as defined in the Order); (b) commencing or continuing any action or legal proceeding in connection with any Claim (as defined in the Order) (including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever), including by way of counterclaim, against the Company, or any property in the United States that is involved in the foreign proceeding, or any proceeds thereof, and seeking discovery of any nature against the Company; (c) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order, or arbitration award obtained in connection with any Claim, and commencing or continuing any act or action or legal proceeding in connection with any Claim (including, without limitation, arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) or any counterclaim to create, perfect or enforce any lien, attachment, garnishment, setoff or other claim arising out of a Claim against the Company or any of its property in the United States, or any proceeds thereof, including, without limitation, rights under reinsurance or retrocession contracts; (d) invoking, enforcing or relying on the benefits of any statute, rule or requirement of federal, state, or local law or regulation requiring the Company to establish or post security in the form of a bond, letter of credit or otherwise as a condition of prosecuting or defending any proceedings (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative or regulatory action, proceedings or process whatsoever) and such statute, rule or requirement will be rendered null and void for proceedings; (e) drawing down any letter of credit established by, on behalf or at the request of, the Company, in excess of amounts expressly authorized by the terms of the contract or other agreement pursuant to which such letter of credit has been established; and (f) withdrawing from, setting off against, or otherwise applying property that is the subject of any trust or escrow agreement or similar arrangement in which the Company has an interest in excess of amounts expressly authorized by the terms of the contract and any related trust or other agreement pursuant to which such letter of credit, trust, escrow, or similar arrangement has been established; provided, however, no drawing against any letter of credit shall be made in connection with any commutation unless the amount has been agreed in writing with the Scheme Advisors or permitted by further Order of the Court;

4. Requiring that all persons and entities in possession, custody or control of the Company's property in the United States or the proceeds thereof, shall turn over and account for such property or its proceeds to the Petitioner or Scheme Advisors;

5. Requiring that all Scheme Creditors that are beneficiaries of letters of credit established by, on behalf or at the request of the Company or parties to any trust, escrow or similar arrangement in which the Company has an interest, to: (a) provide notice to the Scheme Advisors' United States counsel of any drawdown on any letter of credit established by, on behalf or at the request of, the Company, or any withdrawal from, setoff against, or other application of property that is the subject of any trust or escrow agreement or similar arrangement in which the Company has an interest, together with information sufficient to permit the Scheme Advisors to assess the propriety of such drawdown, withdrawal, setoff or other application, including, without limitation, the date and amount of such drawdown, withdrawal, setoff or other application and a copy of any contract, related trust or other agreement pursuant to which any such drawdown, withdrawal, setoff, or other application was made, and provide such notice and other information contemporaneously therewith; and, (b) turn over and account to the Scheme Advisors for all funds resulting from such drawdown, withdrawal, setoff, or other application in excess of amounts expressly authorized by the terms of the contract, any related trust or other agreement pursuant to which such letter of credit, trust, escrow or similar arrangement has been established; and

6. Requiring that every Scheme Creditor that has a claim of any nature or source arising out of a Claim and that is a party to any action or other legal proceeding (including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) in which the Company is or was named as a party, or as a result of which a liability of the Company may be established, to place the Scheme Advisors' United States counsel (Chadbourne & Parke LLP, 30 Rockefeller Plaza, New York, NY 10112, Attn: Francisco Vazquez, Esq.) on the master service list of any such action or other legal proceeding, and to take such other steps as may be necessary to ensure that such counsel receives: (a) copies of any and all documents served by the parties to such action or other legal proceeding or issued by the court, arbitrator, administrator, regulator or similar official having jurisdiction over such action or legal proceeding; and, (b) any and all correspondence, or other documents circulated to parties named in the master service list.

Copies of the Order, the Scheme of Arrangement and Petition are available upon written request to the undersigned counsel:

CHADBOURNE & PARKE LLP
Attorneys for the Petitioner • 30 Rockefeller Plaza • New York, New York 10112 • (212) 408-5100
Attn: Howard Seife, Esq. • Francisco Vazquez, Esq.

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More managed care plan consolidation forecast

By LAURA B. BENKO

The pending megamerger between Anthem Inc. and WellPoint Health Networks Inc., announced last September, appears to have set the stage for a new round of managed-care acquisitions this year.

Since January alone, at least a half-dozen health plans have been snapped up by larger rivals, and rumors now abound about a potential merger involving Blues plan giant WellChoice Inc. and a key East Coast rival. Even national players such as Aetna Inc., which had sworn off acquisitions over the past few years, are back in the fray.

Insurers have long looked to mergers as a way to gain greater bargaining clout with providers while reducing administrative costs and spreading their medical expenses across a larger pool of patients. But the pace of such deals could pick up this year as insurers begin to enjoy renewed profit growth thanks to moderating medical-cost increases and higher premiums, according to Thomas Carroll, a health care analyst with Legg Mason Inc.

"This is a consolidating industry. It's been consolidating for 10 years, and it's going to keep consolidating, helped in part by insurers' improved financial strength," Mr. Carroll said.

By far the largest deal in the works is the $16.4 billion merger between Anthem and WellPoint. That deal, expected to close by midyear, would vastly alter the managed care industry, bringing 13 Blues plans and 27 million members—or one of every 11 Americans—under the umbrella of a single for-profit entity (*BI*, Nov. 3, 2003).

But industry observers are already bracing for a possible merger involving another dominant Blues plan, WellChoice. The New York-based parent of Empire Blue Cross & Blue Shield—the nation's last remaining independent, publicly traded Blues plan—is reportedly in advanced talks to acquire Oxford Health Plans Inc. of Trumbull, Conn., in a multibillion-dollar deal that would create an insurance powerhouse with 6.3 million members in Connecticut, New Jersey and New York. Officials at both companies declined to comment.

In many ways, the deal makes sense. The two insurers are already market leaders in metropolitan New York, and combining their operations could generate annual savings of up to $38 million, Mr. Carroll estimates.

And while Oxford is more profitable than WellChoice, WellChoice holds the advantage in membership. Though each insurer posted 2003 revenue of about $5.4 billion, Oxford's net income jumped 59% to $352 million, while WellChoice's earnings fell 47% to $201 million. Still, WellChoice boosted its enrollment 3% last year to 4.75 million members, and it expects another 3% to 4% increase in 2004. Oxford saw its enrollment slip 4% to 1.54 million members in 2003 and foresees losing more members by year-end due to price competition and an uncertain economy.

'This is a consolidating industry. It's been consolidating for 10 years, and it's going to keep consolidating, helped in part by insurers' improved financial strength.'

Thomas Carroll
Legg Mason Inc.

The rumored merger, though, is anything but certain. The deal—which would give the combined company a market share of more than 35%—could be stymied by antitrust concerns or complications surrounding use of the Blues trademark.

Opposition from providers could pose another obstacle, Mr. Carroll said. "The Greater New York Hospital Assn. is a very powerful lobby, and hospitals are invariably against any transaction that reduces the number of insurers, thereby giving the remaining players that much more clout in negotiating rates," he said.

Blues plans aren't the only ones behind the recent merger activity. For instance, Aetna in December acquired the Chickering Group, a Boston-based provider of health benefits for college students.

Aetna had been dormant over the past few years as it worked to slim down its membership, which had ballooned to 21 million following a rash of acquisitions in the 1990s. But the insurer, with about 13 million members at year-end 2003, is again scouting for smaller, regional plans in the $500 million range, company officials said.

Meanwhile, current industry leader UnitedHealth Group continued its buying binge this month, agreeing to acquire the 137,072-member HMO business of Touchpoint Health Plan of Appleton, Wis., for $40 million. UnitedHealth acquired Golden Rule Insurance Co. for $500 million in November 2003 and 2 million-member Mid Atlantic Medical Services for $2.95 billion in February 2004. UnitedHealth currently covers more than 18.7 million members nationwide.

Local provider-owned plans have become increasingly attractive acquisition targets for large national insurers looking to fill gaps in their geographic reach.

In January, for instance, Coventry Health Care agreed to acquire Illinois' Rockford Health System's 20,000-member health plan to strengthen the foothold it established in the state last year when it bought 78,000-member PersonalCare from Provena Health in Frankfort, Ill.

And this month, Humana Inc. completed its purchase of Ochsner Clinic Foundation's 188,000-member HMO in New Orleans, giving it a new hub from which to expand throughout the fast-growing Southeast.

Laura B. Benko is a reporter for Modern Healthcare, a sister publication of Business Insurance.

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Asbestos: New bill to go before Senate

Continued from page 3

vide enough protection to claimants.

The new bill provides for a smaller fund than that in a version the Senate Judiciary Committee approved last July (*BI*, July 14, 2003). The previous bill could have cost more than $150 billion because of a contingent funding mechanism.

Under the new bill, insurers would contribute $46.025 billion—the maximum insurers said they could accept—with defendant companies contributing the rest. Corporate defendants could be assessed an additional $10 billion if the fund could not meet claims. In addition, if the fund ran out of money, claims would once again be handled through litigation, although cases could be brought only in federal rather than state courts.

The amount a claimant could receive from the fund would be determined by the seriousness of his or her illness. For example, victims of mesothelioma—a fatal lung cancer associated with asbestos exposure—would receive $1 million under the new bill, $250,000 more than the original bill provided. Awards could be offset by collateral sources of compensation, excluding statutory benefits provided by workers comp or veterans' benefits programs.

A five-member "asbestos insurer commission" appointed by the president would allocate liability among insurers. According to the bill, the commission could consider such factors as an insurer's historic premium volume associated with asbestos, recent asbestos-related loss experience or asbestos liability reserves.

The commission also could consider "the likely cost to each insurer participant of its future liability under appropriate insurance policies," according to the bill, and "any other factor the commission may determine is relevant and appropriate."

Employer groups had varied reactions to the bill.

The Risk & Insurance Management Society Inc. "remains committed to resolving the asbestos liability crisis in the United States," said Janice Ochenkowski, RIMS vp-external affairs and senior vp-risk management at Chicago-based Jones Lang LaSalle Inc.

"We are heartened that the Senate continues to push forward toward an agreement on legislation that will fairly compensate the victims of asbestos-related illnesses," Ms. Ochenkowski said. "RIMS encourages all affected parties to work together for a solution to this important issue."

The employer-backed Asbestos Alliance "supports S. 2290 as introduced and pledges to work with Senators Frist, Hatch and others on both sides of the aisle to secure the votes necessary to move the legislation forward," Mike Baroody, chair of the group's steering committee and executive vp of the National Assn. of Manufacturers, said in a statement.

But Dirk Van Dongen, president of the National Assn. of Wholesaler-Distributors, sent Sen. Hatch a letter announcing the NAW's "strong opposition" to the bill. The proposed trust fund would mean that "many wholesaler-distributors and others face larger out-of-pocket asbestos-related costs under S. 2290 than they do under the tort system now in place," he wrote. He called the trust fund "fundamentally flawed."

Among the PCI's concerns is 'the lack of specificity regarding allocation.'

Charles A. Taylor
Property Casualty Insurers Assn. of America

Insurers also questioned the trust fund mechanism.

"We applaud Senate Majority Leader Frist and Judiciary Committee Chairman Hatch for their continued efforts to try to find a solution to the asbestos litigation crisis," said Charles A. Taylor, assistant vp-government relations in the PCI's Washington office.

Among other things, the insurer group "is pleased that the new version of the asbestos trust fund legislation preserves the agreement reached by the industry with Sen. Frist to limit insurer liability to $46 billion," said Mr. Taylor.

The group, however, has a number of concerns about the bill, including "the lack of specificity regarding allocation" and the use of premium as a factor in determining allocation, he said. He noted that the measure also would give the commission the right to specify reserve levels, a power that seems to give a federal commission insurance regulatory powers.

"It's more of a matter that there's a lot of work to be done on issues that still haven't been solved," said a spokesman for the American Insurance Assn. "For example, the issue of foreign reinsurers and what they will have to pay and how. As the debate goes on, we want to make sure that the trust fund achieves true finality and certainty for victims as well as the business community."

Like the other groups, NAMIC praised the senators who took the lead in crafting the new version "for all their hard work" in attempting to address the asbestos problem, said Marliss A. Browder, NAMIC's director-federal affairs in Washington.

"But there are still some issues that need to be addressed," Mr. Browder said. "One of the major ones is an 'orphan share tax.' It requires insurers and reinsurers to basically assume liability for the inability of other insurers to meet their obligation."

The nation's largest labor organization opposes the measure.

"In many respects it's a step backward from what was reported out of committee," said Peg Seminario, director-safety and health for the AFL-CIO in Washington. "The funding in the bill is about $40 billion less than" that provided in the original, she said. She said the new version also eliminates a provision that would have allowed victims of asbestos-related disease to pursue court cases during the fund's startup period.

"We strongly oppose it—we think it's a bad bill. It's quite possible that the fund would be overwhelmed in its early years. It is quite possible that the fund would be overwhelmed, unable to pay claims and collapse," Ms. Seminario said.

The AIA spokesman noted that the bill's backers still must garner 60 votes to block a possible filibuster.

"I don't think anybody thinks that there are 60 votes right now. As debate begins, I think you can expect a good bit of pulling and tugging and maybe even some wailing and gnashing of teeth," he said.

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California: Comp reform passes

Continued from page 1

Mr. East chairs the Sacramento-based employer group California Coalition on Workers' Compensation. In that capacity, he sat alongside labor representatives to advise the governor in negotiations with Democratic lawmakers, who hold a majority in the Legislature.

After weeks of closed-door negotiations, a legislative conference committee unanimously adopted the bill at 3:45 a.m. Thursday. On Friday, the measure passed both the Assembly and Senate. It is expected to be signed into law by the governor, taking immediate effect, this week.

Gov. Schwarzenegger had threatened to put workers compensation reform before voters on the November ballot if state legislators did not produce a bill that met his goals for reforming the system. A political committee formed by the governor to engage in grass-roots lobbying for his initiatives contributed $1 million to a signature drive to put workers compensation reforms on the ballot.

Provider network

The legislation would allow employers to direct injured employees to a network of "quality" doctors for treatment of occupational claims.

Currently, California employers can direct employee medical care for 30 days following an injury, with some exceptions. Under the new legislation, employers could continue to follow the 30-day rule, or they could direct injured employees to a network within which employees could chose a doctor.

"That is something employers have been asking for for a long time," Mr. East said.

An employer's provider network would need to meet regulatory approval, and employees would be allowed to change physicians a limited number of times within the network, Mr. East explained. The legislation also establishes an appeals process for employees dissatisfied with network doctor opinions.

AMA disability guidelines

The bill would also require physicians to use American Medical Assn. guidelines to rate permanent partial disability injuries.

That would lend greater objectivity and consistency to the awarding of benefits for such injuries, Mr. East said.

Detractors of California's system have long complained that the current method of rating PPD disabilities, based on a provider's subjective opinion, helps make California's system one of the most litigious in the nation.

They also contend that the use of subjective criteria leads to excessive claim payments in some cases, while in others, injured workers do not receive fair compensation.

Disputes arising from PPD claims currently account for 80% of all litigation in the state's workers compensation system, according to the California Chamber of Commerce.

Meanwhile, employers' overall costs have skyrocketed 136%, on average, during the past four years, the Chamber reports.

The new reforms "will fundamentally change the system for determining the level of injury and the amount of disability assigned to that injury," states a release from the Chamber, which applauded the governor for addressing system cost drivers in the reform measure.

Other PPD reforms

The new legislation would also eliminate a requirement that PPD benefit awards factor in an injured employee's "diminished ability to compete in the open labor market," Mr. East said.

Because that clause is vague, disputes over its meaning have fueled litigation over PPD awards, he said.

The legislation would instead require that determinations of benefit amounts include consideration of the average wage-losses suffered by workers in a similar line of work with a similar injury.

The legislation also addresses the "apportionment" of PPD injury claims. Doctors would have to assess whether pre-existing injuries contributed to a current injury claim. If so, employers would not be liable for the amount of the injury apportioned to a pre-existing condition, Mr. East said.

Under current apportionment rules, for example, a claimant might receive a permanent disability rating of 30%. At a later date, he or she could file another claim for a similar injury to the same body part and receive a rating of 40%.

Under the new legislation, the employer would not be responsible for indemnifying the entire 40% disability rating for the second claim, Mr. East explained. The employer instead would be responsible for the equivalent of a 10% disability rating; that is, a 40% disability rating minus the equivalent of the 30% disability rating that had already been compensated.

"That's huge," Mr. East said.

Employers have long complained that California's apportionment system in some cases allows claimants to receive disability ratings exceeding 100%.

In total, the legislative reforms could result in billions of dollars in savings for California employers, Mr. East said.

While praising the workers comp reform package, the American Insurance Assn. cautioned that it is premature to discuss specific savings or rate reductions the reforms might produce in workers comp premiums. The Workers' Compensation Insurance Rating Bureau would have to determine that, said an AIA spokeswoman in Sacramento.

"A lot of people are going to rush to put price tags on this," she said. "While we certainly are encouraged by the cost savings that are going to be generated by the bill, conclusive predictions are really premature at this point."

While employers praised the measures, the Sacramento-based Applicants' Attorneys Assn. said that using AMA guidelines would cut off benefits for many injuries because medical science cannot measure the full extent of certain injuries, such as back pain.

The claimant attorneys group has called for insurer rate regulation as a way to lower employers' workers comp premiums, an idea the governor has rejected.

While employers received much that they asked for in this reform measure, they still face challenges over the next year developing administrative rules that maintain its effectiveness, Mr. East said.

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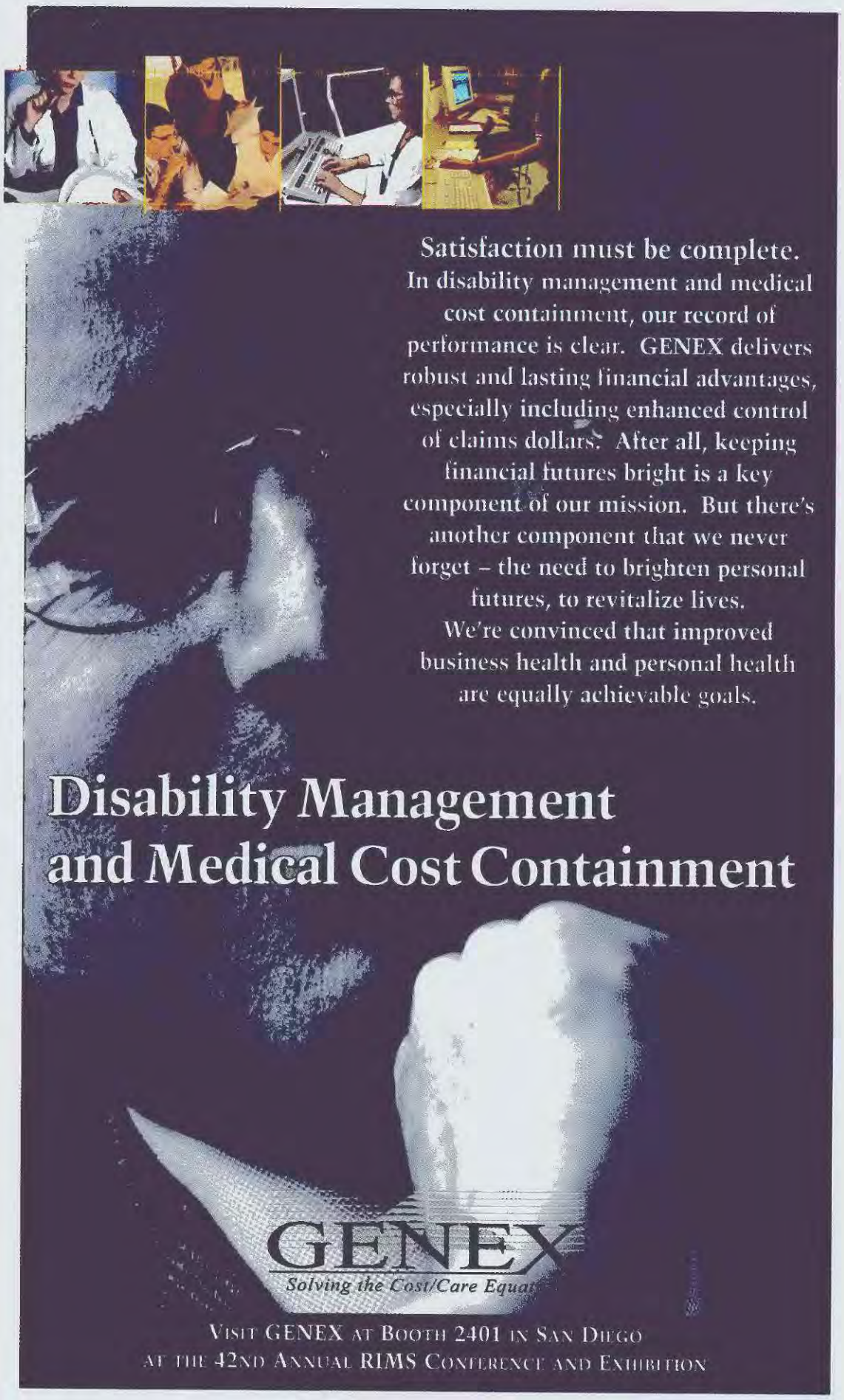

Scam: Eight charged in connection with fraud

Continued from page 3

to the charges and have been released on bond. Their lawyers either declined to comment on the indictment or could not be reached.

James and Brian Glidewell are also free on bond and will plead not guilty, James Glidewell said. Referring to the other defendants, Mr. Glidewell added, "These people fooled us just like they fooled everyone else."

The other defendants have not yet entered pleas and could not be reached. Prosecutors said they will attempt to extradite Mr. Reeve and Mr. McNicoll from the United Kingdom.

The indictment is not the first legal trouble for some of the defendants.

During the period he was allegedly involved in the AHHA fraud, Mr. Hoskie was under federal indictment in Los Angeles, charged with participating in a scheme to bilk Occidental Petroleum Corp. of $22.5 million in a bogus property reinsurance placement in the 1980s.

The Los Angeles charges against Mr. Hoskie, originally filed in 1992, were dismissed by a federal judge in 2000 after a series of delays in bringing the case to trial.

Mr. Reeve was arrested in 1997 and held for questioning by Belgian police investigating the collapse of the fraudulent Dai Ichi Kyoto Reinsurance Co. of Brussels. Mr. Reeve, who was not charged in that case, was then chairman of CRM Insurance Services Ltd., Dai Ichi Kyoto's London-based management company.

The alleged AHHA fraud was launched in 1995 and continued until September 2003 as the defendants conspired to shift employers' health insurance plans through a succession of offshore insurers that ultimately failed to pay claims, the Houston grand jury indictment charges.

AHHA falsely sold its program to employers and staff leasing companies as a single employer self-funded trust plan that was designed to "act, look and work" like a fully insured plan, prosecutors charge. The defendants falsely represented that AHHA would retain about 30% of employer premiums as a management fee and remit the other 70% to insurers that would purportedly be responsible for paying 100% of all health claims, prosecutors charge.

The premiums AHHA charged were substantially lower than commercial market health premiums, and the defendants falsely claimed this was because the insurers did not have to comply with expensive state regulations, the indictment alleges.

AHHA falsely sold its program to employers and staff leasing companies as a single employer self-funded trust plan that was designed to 'act, look and work' like a fully insured plan.

Federal prosecutors

The insurers repeatedly failed to pay claims when they came in, though, according to the indictment. That prompted the defendants to move the employers' plans to new insurers and falsely promise that they would perform better, the indictment stated.

Over an eight-year span, prosecutors allege, the insurers included:

- Merrion Reinsurance Co. Ltd. of Ireland, to which Mr. McNicoll directed AHHA business from 1997 to 1998 and which left about $2.2 million of claims unpaid.
- United Fidelity, a surety bonding company based in the Cook Islands in the South Pacific, which wrote AHHA business brokered by Messrs. Hoskie, Reeve and McNicoll from 1999 to 2000.
- North American Indemnity NV of Belgium, which was formed by Mr. McNicoll and a Scotland-based partner, John Fowler Anderson, in October 2000. It wrote AHHA business from 2000 to 2001. An English translation of NAI's Dutch financial statements was not provided to AHHA until about six months after inception of the business; that statement revealed that NAI's main asset was stock in a Bahamas company that "was incapable of valuation by auditors," the indictment says. NAI failed to pay $4.8 million of claims.
- MarkeTrends Insurance Ltd. of Cyprus, into which Messrs Reeve and Hoskie brokered AHHA business from 2001 to 2002. MarkeTrends—which was the subject along with NAI, of a Texas Insurance Department cease and desist order in late 2002—left $5.9 million of unpaid AHHA claims.
- Centennial Insurance Co. of Costa Rica, to which Messrs Reeve and Hoskie shifted AHHA clients for four months in 2002 and 2003. Centennial President David King notified Texas regulators in 2003 that the insurer had stopped paying AHHA claims "due to nonpayment of due premiums," the indictment says.
- Cosmos Insurance Co. Ltd. of Cyprus, which took over the business briefly from January to March of 2003, when it notified Mr. Reeve and Mr. Ferguson it was rescinding its coverage. The insurer told the two defendants that its decision was based in part on "the withholding on your part of vital information from the Texas Department of Insurance pertaining to this business," the indictment says.

In all, the insurers left at least $13.6 million of claims unpaid after AHHA had collected more than $45 million of premiums from its clients, the indictment alleges.

The eight defendants, named in all 54 counts of the indictment, face prison terms ranging from five years to 20 years on each count if convicted.

A trial has been scheduled for June.

Survey: Leading risk managers

Continued from page 1

ment Society Inc. and Marsh Inc., was based on responses from 30 risk managers who had been honored as the *Business Insurance* Risk Manager of the Year or had been named to the Risk Management Honor Roll within the past 10 years. The survey was conducted by Greenwich Associates, a Greenwich, Conn.-based consultant. *BI* and RIMS have awarded the honors jointly since 2002.

The survey's results show that risk managers clearly are valued by their organizations' senior managers, said Richard Duncan, chief executive officer of Marsh's risk management practice for North America in New York.

"The best risk managers seemed to be very skilled at interfacing with their own senior management," he said.

Risk managers have a diverse role within their organizations, according to the survey.

"The risk manager now functions on a variety of levels within the organization, ranging from claims administration and insurance placement; to risk identification and loss control; to litigation, safety and security; to the creation and management of insurance captives," according to the survey report.

Furthermore, senior managers pay attention to the risk managers' activities, and the survey participants often are involved at the strategic level where their activities affect the profitability of their organizations and their overall culture, the report notes.

And as they take on a wider, strategic role, risk managers increasingly are expected to understand the financial consequences of their role outside of traditional insurance costs, said Mr. Duncan.

"I don't think that they need to become a tax expert, but they need to be able to understand and make decisions in risk areas in terms of earnings per share, rather than just in loss dollars," he said.

Still, the surveyed risk managers, on average, spend 57% of their time on hazard risks, 25% of their time on operational risks, 12% of their time on strategic issues and 6% of their time on financial issues.

'The best risk managers seemed to be very skilled at interfacing with their own senior management.'

Richard Duncan
Marsh Inc.

That concentration on hazard risk may stem in part from risk managers focusing on areas in their "comfort zone," said Mr. Duncan. But if they seek to take on wider responsibilities, there are opportunities for risk managers to become involved in broader areas, he said.

As they carry out their role, risk managers must reach out to the operating units of their organizations on a regular basis in order to understand business risks, the surveyed risk managers said.

One of the other departments they work with closely is benefits management, several respondents said. While only five of the respondents had direct responsibility for employee benefits, others worked together with their benefits departments on certain issues, including 11 who cited coordination of workers compensation benefits.

Within their organizations, few of the respondents thought that risk management offered opportunity for advancement.

"The successful risk managers appear to have blazed their own trails within their organizations by demonstrating leadership qualities and innovation, managing expectations, and building day-to-day working relationships," the report said.

And few of the risk managers surveyed had any succession plan in place in the event that they left their organizations.

This may be due in part to the small size of many risk management departments, said John Hampton, executive director of RIMS in New York.

"There is nobody backing up the risk manager that has the expertise to take over," he said.

Outside of their organizations, the risk managers differed regarding their relationships with brokers.

Nineteen of the respondents used more than one broker, while 11 used only one. And while 13 respondents viewed their brokers as trusted advisers, 12 regarded their brokers as extensions of their organizations, and three regarded the relationship purely as a vendor relationship.

"Many identified the communication of their companies' risk profiles to the insurance markets as a joint effort with their brokers," the report states.

Results of the full survey will be presented at the RIMS 2004 Annual Conference & Exhibition in San Diego during session RM219 at 9 a.m. Wednesday, April 21.

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Late News

Continued from page 1

Outlook for global reinsurers negative: S&P

The outlook for the global reinsurance market remains negative, despite expectations that reinsurers will produce an underwriting profit in 2003, according to Standard & Poor's Corp. In a report, Stephen Searby, a credit analyst at S&P, noted that despite generally improved results and rate increases, other factors, including the so-called "flight to quality," have hampered some reinsurers. "It is not just the small players that are suffering," Mr. Searby said. Meanwhile, S&P has changed its criteria for evaluating the loss reserves of global reinsurance groups and certain non-U.S. insurance groups that write casualty business. The rating agency said each of these groups and companies will be asked to complete a loss reserving spreadsheet model for individual casualty classes of business representing at least 85% of total casualty loss reserves. This will exclude asbestos and environmental claims, which will be subject to separate analysis, according to S&P.

Docked riverboat not covered by Jones Act

Employees of a riverboat casino cannot be compensated for workplace injuries under the federal Jones Act because the gambling boat was indefinitely moored to a dock, a U.S. appeals court has ruled. The case involved claims by 46 plaintiffs who charged that they had sustained injuries after exposure to chemicals for two days in 2000 while working aboard the Players II, a riverboat casino docked on the Ohio River near Metropolis, Ill. The workers sought compensation under the Jones Act, which provides a federal negligence remedy for seamen. The U.S. Court of Appeals for the 7th U.S. Circuit Court of Appeals on April 9 ruled that the riverboat was "an indefinitely moored dockside casino at the time of the alleged injuries and was never moved except to be tested. As a matter of law, we conclude that it was not 'in navigation' for purposes of the Jones Act, and thus that these plaintiffs were not within the class protected by that statute."

USI buying DWP of Los Angeles

USI Holdings Corp. has agreed to acquire Los Angeles-based broker Dodge, Warren & Peters Insurance Services Inc. Terms of the transaction, which is expected to close by the beginning of May, were not disclosed. DWP offers a full range of commercial property/casualty and employee benefits through four offices in Southern California. In 2003, DWP was the 87th-largest broker of U.S. business, with $23.4 million in 2002 brokerage revenues, according to *Business Insurance's* annual broker rankings.

Ohio governor offers med mal insurance reform

Ohio Gov. Robert Taft has proposed a plan to overhaul Ohio's medical malpractice liability insurance market. The Republican governor spelled out his plan as he signed into law legislation that authorizes the state's insurance director to create a state-run insurer if the medical malpractice insurance market in Ohio deteriorates. The insurer would be funded by the transfer of $12 million from the Ohio Joint Underwriting Assn., a medical malpractice insurance provider that is being terminated. The governor's plan includes passage of legislation that would require medical malpractice insurers to provide 60 days' notice of cancellation or rate increases to policyholders and 120 days' notice to state insurance regulators of plans to cease underwriting coverage of a specialty or in a specific geographic area.

Gov. Taft

ACE offers workers comp for defense contractors

ACE US International is offering workers compensation coverage for companies working on U.S. government-authorized contracts overseas, including contracts in Iraq. The coverage complies with the requirements set out under the Defense Base Act, which mandates a compensation schedule based on the level of injury. Under the act, compensation cannot exceed the lesser of the employee's weekly wage or 200% of the average national wage. The ACE USA unit is one of several U.S. and international insurers that offer coverage for workers in Iraq.

Longtime brokerage exec Frank Schiff dies

Frank Schiff, the former chief executive officer of brokerage Schiff Terhune International Inc., died April 8 at age 83. Mr. Schiff joined his father's insurance brokerage after World War II and was named its president in the 1950s. After his father's death in 1965, Mr. Schiff was named chairman and CEO of New York-based Schiff Terhune International. Under his management, the company grew to become the 17th-largest U.S. brokerage, according to *Business Insurance* rankings, before the business was sold to Reed Stenhouse Cos. Ltd. in 1982. Mr. Schiff is survived by his wife of 50 years, Gloria, and his nieces and nephews.

Briefly noted

Robert E. Vagley has announced that he will resign as president of the American Insurance Assn. at the end of 2004. Mr. Vagley, 64, has served as the AIA's president since 1986....The Washington-based CIAB is dropping a lawsuit challenging **West Virginia's countersignature law** because the state is repealing the law. The CIAB is suing to have similar laws repealed in Nevada, South Dakota and the U.S. Virgin Islands....Massachusetts Insurance Commissioner Julianne Bowler last week approved Canadian life insurer Manulife Financial Corp.'s acquisition of John Hancock Financial Services Inc. of Boston.

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Items in the Late News column originally appeared in *BI*'s Daily News feature on *www.businessinsurance.com*. Visit the *BI* Web site to sign up to receive *BI*'s Daily News by e-mail.

Pensions: Complex plan administration

Continued from page 3

or the month preceding the month in which the plan year begins.

• To calculate the amount of lump-sum payments for terminating employees who elect or are required to take their accrued benefit that way, employers will use the yield on the 30-year Treasury bond in a month several months before the employee leaves.

This mishmash of interest rates—which doesn't even include the interest rate assumptions that publicly held companies must use for financial statements they provide to investors and the Securities and Exchange Commission—stuns many employers.

"It leaves employers with total disbelief. They cannot believe the complexity of all this," said Larry Sher, director of research and a principal with Mellon's Human Resources & Investor Solutions in New York.

As long as this complexity remains, the new law will provide only a temporary reprieve in the erosion in the number of defined benefit plans, benefit experts warn. But the law will reduce employers' contributions by billions of dollars over the next two years through the replacement of Treasury bond yields with higher-yielding corporate bond yields to value plan liabilities.

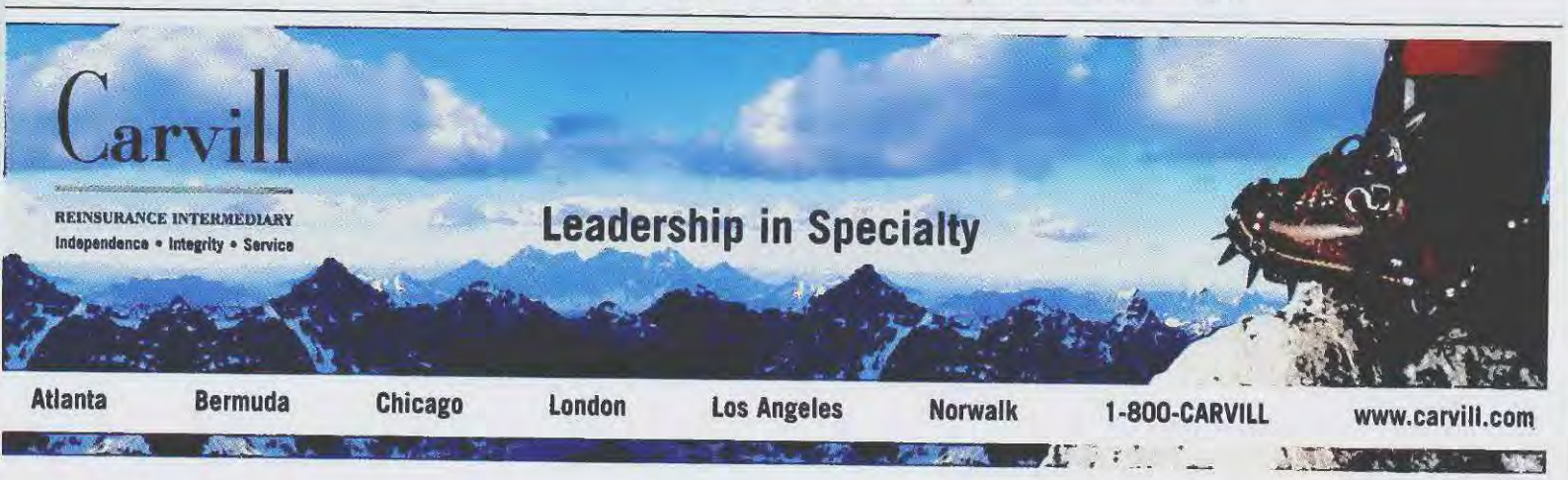
"No one should think that this is any more than a temporary fix," said Michael Johnston, a consultant with Hewitt Associates Inc. in Lincolnshire, Ill.

To slow that erosion, experts say, employers will need more than temporary fixes.

"What employers need is certainty, reasonable permanent rules" that address funding issues, said Jack Abraham, a principal with the human resources unit of PricewaterhouseCoopers L.L.P. in Chicago.

"Employers are crying out for an ability to plan properly. How can they prepare if they don't know what the rules will be?" asked Charles Clarke, a senior vp with Aon Consulting in Somerset, N.J.

Still, the new law is a start in that direction, giving employers, at least for the next two years, a more-appropriate instrument with which to measure plan liabilities, Mr. Clarke said.



Online Poll

[4/12 - 4/16]

Should the stop-gap measure Congress passed to allow employers to use a corporate bond index to value pension liabilities in 2004 and 2005 be made permanent?

Yes	21.2%
No	69.7%
Do not know	9.1%

BI Stock Index

[4/12 - 4/16]

Up-to-the-minute data for all 87 companies that comprise the *BI* Stock Index can be found at *www.businessinsurance.com.*

Percentage change of *BI* Stock Index vs. key indicators

***BI* Stock Index**	2342.34	-1.67
Dow Jones	10452.00	0.10
S&P 500	1134.57	-0.42

Largest gains

PMA Capital Corp.	11.34%
USI Holdings Corp.	11.33%
Meadowbrook Insurance	9.94%
Vesta Insurance Co.	8.19%
ACE Ltd.	7.16%

Largest losses

ESG Re Ltd.	-16.67%
Fairfax Financial	-8.52%
PacifiCare Heath Systems	-8.45%
CNA Surety	-7.39%
Aetna Inc.	-6.29%

Weekly change by market segment

Brokers	1.11%
Insurers/Reinsurers	-0.77%
Managed Care Organizations	-4.70%

Source: FinancialContent Inc. *(http://financialcontent.com)*

WTC: Litigants sum up their arguments in dispute

Continued from page 1

sponsoring against Swiss Re cannot be reconciled with the true facts."

David Boies, a partner with Boies, Schiller & Flexner L.L.P. representing London underwriters, pointed out that Willis continued to send the WilProp form to London and other underwriters after the broker had allegedly decided to use the Travelers form. In addition, Mr. Boies said that Silverstein Risk Manager Robert S. Strachan faxed sections of the WilProp form the day after the terrorist attacks to Silverstein's lender and the WTC's owner in response to requests for coverage documents.

"You have to believe all that's a mistake to believe what the Silverstein parties want you to believe," Mr. Boies told the jury.

Jurors are expected to begin deliberations April 19, after U.S. District Judge Michael B. Mukasey instructs them on the law that applies to the case.

Swiss Re launched the coverage litigation in October 2001, in the wake of a developing dispute over whether the Twin Towers' destruction was one $3.55 billion occurrence or two. The dispute arose in part because no final policy had been issued by Sept. 11, despite the program having been bound effective July 18, 2001.

In his closing argument, Mr. Wachtell told jurors that Willis brokers, led by Assistant Vp Timothy Boyd, decided on July 12, 2001, that the program would have to be shifted to the Travelers form from the WilProp form that Willis had included in its underwriting submission to insurers.

The reason, he said, was that Travelers insisted on using its own form for its primary and excess layer participation, and Willis needed concurrency on the terms governing the program's roughly two dozen participants.

Swiss Re initially signed a binder for its 22% quota share of all layers excess of the primary on July 9. Swiss Re underwriter Daniel Bollier had raised several objections to terms in the WilProp form, though, and issued the binder "subject to wording to be agreed."

"It is crystal clear that Swiss Re...was not willing to bind to the WilProp form unless substantial changes were made," said Mr. Wachtell, arguing that this meant that Swiss Re never actually agreed to the form.

On July 23, 2001, Willis' London office sent an e-mail to Mr. Bollier that attached a blank Travelers declaration page and a specimen property form. Three days later, Mr. Bollier signed a revised binder that incorporated, among other things, changes to the program's limits and premiums.

With this revised binder, Mr. Bollier committed Swiss Re to the Travelers form, Mr. Wachtell told jurors. Although the July 23 e-mail did not mention a form change—and no written evidence was introduced that a switch was ever discussed—Willis executive Paul Blackmore testified that he told Mr. Bollier of the switch in a phone conversation.

In his own testimony, Mr. Bollier denied this and said he attached "no significance" to the July 23 e-mail. Although he looked at the Travelers attachments, Mr. Bollier said he disregarded them, expecting other unrelated changes he had requested in the WilProp-based binder.

"He insists this supposedly came out of the blue," Mr. Wachtell said of Mr. Bollier. "Is that credible?

"He knew exactly what he had received," contended Mr. Wachtell. "Paul Blackmore had told him that it was coming, and there it was."

All but one of the London insurers on the WTC program, meanwhile, bound coverage on slips providing that the policy form would be "as per co-insurers, agreement of wording waived."

The WilProp form was part of Willis' underwriting submission to the London market, and Mr. Wachtell acknowledged that London underwriters were never told about the shift to Travelers.

Nevertheless, he argued, many underwriters never looked at the submission and didn't care which form was used before the loss. "They didn't remotely believe that they were binding themselves to the WilProp form," he said.

'Negotiation, ladies and gentlemen, is not rejection.'

Barry Ostrager
Simpson, Thacher & Bartlett

In addition, the phrase "agreement of wording waived" effectively means that neither WilProp nor Travelers was in force as of Sept. 11, he argued. In this case, the court may impose terms of an insurer's standard form policy, he told jurors.

Most of the other insurers in the case—including Federal Insurance Co., Employers Insurance of Wausau, Lexington Insurance Co. and Zurich American Insurance Co.—were told verbally by Willis' Mr. Boyd before they issued binders that the Travelers form would be used for the program, Mr. Wachtell said.

Underwriters for these companies denied the alleged conversations with Mr. Boyd during trial testimony.

Summing up Swiss Re's case, Mr. Ostrager asserted that the insurer was bound on WilProp at the time the WTC coverage went into effect July 18 and that had never changed, despite the Willis July 23 e-mail with the Travelers attachments.

Willis' Mr. Blackmore conceded at trial that Mr. Bollier never expressly agreed to the Travelers form, Mr. Ostrager noted, and Mr. Bollier in fact spent considerable time reviewing the WilProp form and negotiating changes to the binder on which it was based.

"Negotiation, ladies and gentlemen, is not rejection," he told jurors, rebutting Mr. Wachtell's claim that Swiss Re never agreed to WilProp.

Willis' July 23 e-mail, he added, had nothing to do with a form switch. Instead, it was following up on discussions between Mr. Bollier and Mr. Blackmore about adding a computer virus exclusion, and the Travelers language was meant to address that point, Mr. Ostrager argued.

Mr. Ostrager went on to point out several inconsistencies in the testimony of Willis witnesses. Mr. Boyd, for example, initially testified that Willis was forced to use the Travelers form for the entire program because Travelers insisted on it, but later conceded that Travelers only insisted on its form for its own participation. Mr. Boyd also testified that he told a Willis Bermuda broker of the Travelers form switch, but was later contradicted by the Bermuda broker, who testified that he was never informed. The program's two Bermuda insurers—ACE Ltd. and XL Capital Ltd.—have already settled with Silverstein on a one-occurrence basis.

The notion that the program had been shifted to the Travelers form, Mr. Ostrager charged, was invented by Willis brokers who were stranded at a meeting in Nashville, Tenn., in the wake of the Sept. 11 attacks, and who focused almost immediately on the program's occurrence definition.

While Silverstein's Mr. Strachan was faxing the WilProp form to WTC business partners on Sept. 12, "the Willis brokers are down in Nashville and they are trying to determine whether a form other than WilProp would be more advantageous to their client Silverstein," Mr. Ostrager charged.

Mr. Boies, representing the London insurers, told jurors that the waiver of agreement to wording applies only to the wording of a final policy—which was never issued in this case—and not to the coverage during the binder period.

"When you know that the WilProp form was the only form exchanged, you must conclude that that is the form that governs," said Mr. Boies.

"Nobody did or would agree to no form," he added.

Mr. Boies also rebutted the idea that Willis had decided before Sept. 11 to shift the program to the Travelers form. Even if it did "that's irrelevant, because it was never communicated to us," he said.

"If they really thought people would be happy to switch and they were really trying to get people to switch, why didn't they ever ask?" Mr. Boies asked the jurors.

WTC archive, resources at *BI.com*

To help readers stay informed of insurance and risk management developments arising from the Sept. 11, 2001, terrorist attacks, especially as the pivotal World Trade Center insurance coverage trial goes to jury, we have compiled online a collection of *Business Insurance* articles and additional resources.

Visit *businessinsurance.com* for an archive of stories and documents related to the 9/11 attacks, which will be updated as new information is available.

IRS: 401(k) automatic-enrollment rules clarified

Continued from page 4

ees' compensation hikes. For example, an employer might start off with an automatic 1% salary deferral and then boost the deferral by one percentage point each time an employee received a pay increase, until the deferral hit a specified maximum rate.

The new guidance provides additional assurance to employers that designs they had been using or want to use will not run afoul of the IRS, said Michael Weddell, a consultant with Watson Wyatt Worldwide in Southfield, Mich.

"Employers wanted to know how high they could go," said Rich Koski, a principal with Mellon's Human Resources & Investor Solutions in Secaucus, N.J., referring to the portion of the IRS letter that made clear that a 3% or 4% deferral cap was not required.

The periodic bumping up of the automatic deferral rate endorsed in the IRS letter likely will appeal to employers that want to start out with a low rate and then, to boost savings, gradually increase it, said Lori Lucas, head of participant research at Hewitt Associates Inc. in Lincolnshire, Ill.

Automatic enrollment programs are driven by a basic but frustrating fact: While employers often have good communications and investment education programs, as well as generous matching, a significant percentage of employees—often as high as 25%—do not participate in 401(k) plans.

In many cases, the employees haven't actually rejected participation in the 401(k) plans; rather, they haven't made a decision one way or another.

That inertia has consequences for employers, as well as for both the employees who do and don't participate in 401(k) plans.

For employers, if a significant percentage of rank-and-file employees don't contribute to the 401(k) plan, that increases the likelihood that the plan will not pass a basic annual IRS nondiscrimination test used to compare contributions by highly compensated employees—those earning at least $90,000—with those by rank-and-file employees. Generally, the average aggregate contributions by highly compensated employees cannot exceed by more than two percentage points the average aggregate contributions made by rank-and-file employees.

If the nondiscrimination test is not passed, an employer must cut back on the contributions it lets highly compensated employees make to the plan. Or, if late in the plan year, the employer may have to return contributions already made by its highly compensated employees, which can be complicated.

By boosting employee participation through automatic enrollment, the likelihood of failing the nondiscrimination test decreases. "Fear of not passing the test is a significant motivator" behind the programs, said Mr. Weddell.

Employers also have set up the plans for altruistic reasons: They fear employees will lack sufficient retirement income if they don't participate in a company-sponsored savings plan.

"We want to help employees save for retirement. Some employees just don't think of doing it on their own," said Cindy Stolber, defined contribution plan manager at Lear Corp., a Southfield, Mich.-based manufacturer of automotive interiors. Under Lear's automatic enrollment plan, the company defers—unless employees object—5% of pay into the 401(k) plan. Through the program, Lear has achieved a 401(k) plan participation rate of 85% of eligible employees. That compares to a typical rate of about 75%.

Still, the plans are not for everyone, experts say. Some employers believe the programs are too intrusive. "Philosophically, senior management may say employees have made their decisions and that the company should not interfere with those personal decisions," Mr. Koski said.

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