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Asbestos fund bill draws fire

*Specter introduces measure in face
of criticism by insurers, trial lawyers*

By MARK A. HOFMANN

WASHINGTON—Long-awaited legislation that would establish a no-fault trust fund to compensate victims of asbestos-related diseases is drawing a decidedly mixed reaction.

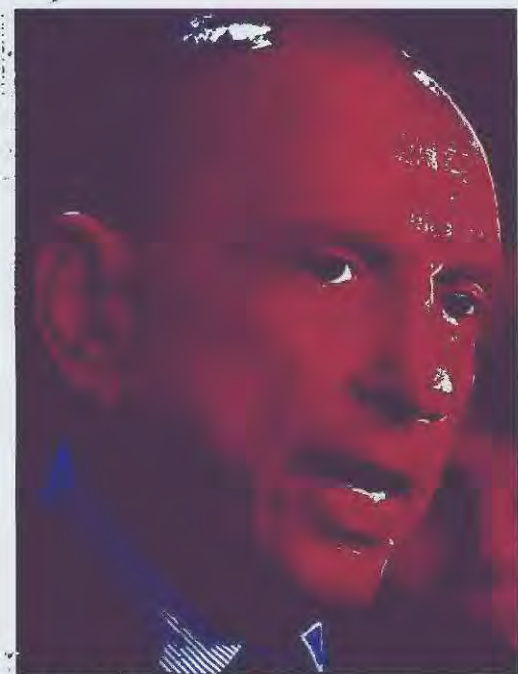
Both the Assn. of Trial Lawyers of America and the Property Casualty Insurers Assn. of America—which rarely agree on any issue—oppose the Fairness in Asbestos Injury Resolution Act, although for different reasons. The business-backed Asbestos Alliance, while stopping short of an outright endorsement, praised the measure. Other stakeholder groups have chosen to reserve judgment.

Senate Judiciary Committee Chairman Arlen Specter, R-Pa., introduced the bill on April 19 after months of negotiations with stakeholders and lawmakers. The bill would replace the cur-

rent litigation-based system for compensating victims of asbestos-related disease with a \$140 billion trust fund, which would be paid for by defendant companies, their insurers and existing asbestos trust funds. Under the bill—S.852—the U.S. Department of Labor would administer the fund, paying benefits to victims of mesothelioma and other less-serious asbestos-related diseases.

A press release for Sen. Specter's office announcing the introduction of the bill notes that it "does not provide compensation to individuals who do not have markers from asbestos with a clear line that their cancer was caused by asbestos." Critics of a draft version of the bill had feared that claimants whose cancer stemmed from smoking rather than asbestos exposure

See ASBESTOS/page 30



Senator Arlen Specter R-Pa., who is undergoing cancer treatment, faces opposition from insurers and trial lawyers to his asbestos bill.

Bar raised on securities suits

*High court requires plaintiffs
to prove economic loss*

By JUDY GREENWALD

WASHINGTON—Defense attorneys are hailing a U.S. Supreme Court decision in a shareholder securities fraud case as a major victory for businesses, one that will make it easier for companies to defend similar cases and that may reduce the number of lawsuits filed.

In its unanimous decision last week in *Dura Pharmaceuticals Inc. vs. Michael Broudo*, the U.S. Supreme Court held that plaintiffs must prove the fraud caused an economic loss.

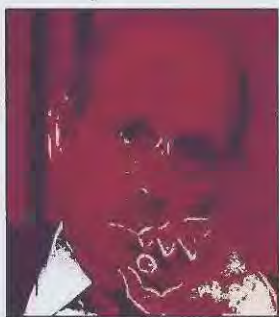
The decision provides a "unified national standard" that gives defending companies "another important tool to challenge any complaint" that does not meet that standard,

said William Sullivan, an attorney with Paul, Hastings, Janofsky & Walker L.L.P. in San Diego, who represented Dura in the litigation.

Plaintiff attorneys, though, contend it is a narrow decision that will have little impact on securities litigation.

The April 19 decision overturned a 2003 decision by the 9th U.S. Circuit Court of Appeals that said a plaintiff can satisfy the loss causation requirement simply by alleging that the price of a security was inflated on the date of purchase because of the misrepresentation.

It "should not prove burdensome for a



Associate Justice Breyer

See SECURITIES/page 30

PBGC's liability for United pensions totals \$6.6 billion

By MARK A. HOFMANN

WASHINGTON—The Pension Benefit Guaranty Corp. has reached a settlement with United Airlines under which the PBGC would terminate and take over the airline's massively underfunded pension plans, which would saddle the federal agency with its biggest loss ever.

The four United plans are underfunded by \$9.8 billion, of which about \$6.6 billion is guaranteed by the PBGC, according to the agency.

The agreement, whose terms were not disclosed, must be approved by the bankruptcy court overseeing United's restructuring.

Under the deal, the terminations would proceed and the agency's claims against the company would be set-

See PBGC/page 30

Late News

Vermont House OKs universal health plan

The Vermont House of Representatives passed a bill that would create a single-payer, government-run health care system by 2009. The bill, H. 524, calls for the creation of the Green Mountain Health plan, which would initially provide primary and preventive care coverage for all Vermont residents by July 2007. Hospital coverage would be added by October 2007, and all other medical needs would be covered no later than July 2009. The plan would be financed by "broad-based taxes," and cost-sharing would be applied, with deductibles and copayments based on plan participants' ability to pay.

Connecticut allows same-sex civil unions



Gov. Rell

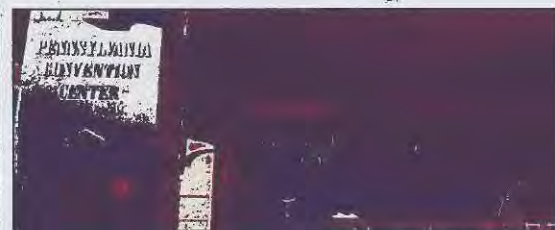
Connecticut Gov. M. Jodi Rell on Thursday signed legislation to permit same-sex couples in the state to enter civil unions. "Parties to a civil union

shall have all the same benefits, protections and responsibilities under the law...as are granted to spouses in a marriage," states the bill, which will become effective Oct. 1. Vermont granted civil-union status to couples in 2000 and Massachusetts last year made same-gender marriages legal.

Zurich Specialties unit downgraded to B++

A.M. Best Co. has downgraded the financial strength rating of Zurich Specialties London Ltd. to B++ from A. Best said the downgrade reflects "the diminished importance" of the company to its

See LATE NEWS/page 31



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APRIL 25, 2005

Managing the tide of tort reform in the health care industry



Greg Morris is chief operating officer for Aon Healthcare. He is advancing Aon's proprietary Return-on-Risk methodology for health care organizations nationwide. Greg can be reached at greg_morris@aon.com.

The current medical liability crisis began in the mid- to late-1990s. Nationally, median liability jury awards for medical malpractice increased from \$157,000 in 1997 to \$300,000 in 2003. The average award for the same period increased from \$212,861 to \$322,544.

In many states, the medical liability crisis has reached a breaking point. According to the Georgia Board for Physician Workforce, as of October 2003, 17.3 percent of physicians stopped providing high-risk procedures during the previous year as a result of rising liability insurance premiums. Georgia is one of the 20 states identified by the American Medical Association as a crisis state – one in which patients' access to health care is threatened by the cost of medical liability insurance and expensive medical liability lawsuits. In an effort to change this trend, several states, including California, Florida, Texas and Georgia, have implemented tort reform, and it won't be surprising if several other states follow suit in the near future.

While the tide of tort reform is rolling through the country, health care organizations must be prepared for certain issues when new legislation finally reaches their state legislatures. First, health care organizations should not expect premiums to fall dramatically in the short term. Although some underwriters will automatically offer modest, if not symbolic, premium decreases, much of the industry will take a wait-and-see approach until it is certain that exposures are truly reduced. Carriers are concerned, as such reforms have been overturned and underwriters have been burned in historically litigious venues. It could take two years or longer for the true impact of tort reform to be realized.

Second, health care organizations can expect a flood of claims to be filed just before the reform deadlines pass. This too will hinder the short-term benefits of tort reform.

Third, health care organizations should recognize that there is a host of tort reform provisions that could create great discrepancies among reforms in each state. Variations in damage cap levels and whether they are absolute, actual and punitive damages, limits on noneconomical damages, abolishment of joint and several liability, statutes of limitations, attorneys' fees and constitutional amendments, all would create new questions for the marketplace and new opportunities for litigation.

Health care providers are realizing that tort reform, while a significant and positive step, is not the sole answer to the medical liability crisis. What is also required is a solid investment in the identification of those behaviors, processes and events that harm and benefit their own medical outcomes. It is imperative to take a close look at the link between quality of medical care provided and patient outcomes. Health care organizations can do this by comparing the performance and outcome data of their peers to get a clear understanding of their own standards and protocols – good and bad. Once a true picture is identified, quantifiable quality-of-care initiatives based on actionable benchmarks can be implemented and turned into specific cost-savings efforts for insurance and risk management programs. Undertaking and measuring these initiatives not only will help providers improve their practices, but it will also prove to insurers that they are high-quality risks, thus reducing the cost of risk and improving their bottom lines.

Companies can adopt strategies for better employee absence management

For many organizations, employee absenteeism is decreasing productivity at a rapid rate. To minimize the financial impact of employee absence, organizations can adopt new, more effective absence management strategies. One such strategy, gaining in popularity, is attending a disability management boot camp – a short, intensive training session in which organizations can share lessons learned and best practices in absence management. The boot camp sessions cover key topics such as disability management approaches, incident reporting and return-to-work programs. To read the full article, visit www.aon.com/focus.

Businesses may face expanded IRS audits on executive compensation packages

When the large- and mid-sized business division of the Internal Revenue Service (IRS) rolls out an executive compensation package audit program, many companies will feel the impact. Routine audits will be expanded to include this program, according to the IRS executive compensation branch chief. During the program's pilot in 2003 when employers were asked to furnish executive tax returns, employer resistance forced the IRS to approach executives directly or to obtain tax returns from archives. To read more about U.S. regulatory developments, visit www.aon.com/focus.

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Inside

Railroad safety program may be sidetracked

Cost concerns may jeopardize implementation of a rail safety program.
Page 4

Class action lawsuits over pay are on the rise

Employers are facing more lawsuits alleging pay and promotional discrimination.
Page 4

Commercial insurance rates soften in the first quarter

Commercial insurance brokers report lower rates in the first quarter of 2005.
Page 4

Equitas settles with tire maker for \$61 million

The Lloyd's of London reinsurer reaches a liability agreement with Goodyear.
Page 25

Online poll - [4/18 - 4/22]

When are brokers justified in charging insurers for services they provide in the course of placing business?

Never 61.0%



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Departments

Advertiser Index	38
Business Resources	24
Commentary	24
International	25
Letters	8
Opinions	8
Perspectives	6
Products & Services	27
Professional MarketPlace	26
Ticker	31
World Updates	25

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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N.Y. regulator sets get-tough agenda

Seeks to hire additional attorneys to probe corporate practices

By MEG FLETCHER

NEW YORK—In taking over as New York's top insurance regulator during such a tumultuous period for the industry, Howard Mills may need all the stamina he has built up as a five-time marathon finisher.

The 40-year-old former state legislator faces ongoing issues raised by the broker compensation scandal as well as fallout from probes into insurers' use of finite reinsurance.

As he addresses these and other concerns, Mr. Mills has outlined an agenda for the department, assuming his confirmation. The regulator, who was named acting commissioner in January to succeed former Superintendent of Insurance Gregory V. Serio, expects to be confirmed by the Senate by May.

Mr. Mills' departmental agenda includes creating a corporate practices unit, which will be staffed primarily by attorneys. That unit will increase the department's ability to oversee market conduct-related practices and may reduce its need to reach out for in-

vestigative help from the state's attorney general. The department has been working closely with New York Attorney General Eliot Spitzer, whose fraud and antitrust suit against Marsh & McLennan Cos. Inc. ignited the broker compensation scandal.

Gov. George E. Pataki praised Mr. Mills' "extensive knowledge of insurance regulation, legislative expertise and management experience" when he nominated him late last year to the \$127,000 per-year post.

As New York's top regulator, Mr. Mills oversees a \$125 million-plus budget and more than 900 employees, second only to California.

Probing corporate practices

Among the most pressing issues the New



Mr. Mills

York Insurance Department faces is the question of whether finite insurance and reinsurance transactions are being used legitimately (BI, April 18).

New York-based American International Group Inc., whose accounting for certain finite deals remains under investigation in the state, recently admitted that it had improperly accounted for one such transaction.

This question "is very serious" and "has great ramifications for the entire industry," said Mr.

Mills, who issued a directive earlier this month that requires insurer chief executive officers to attest under oath that all such contracts used by their companies constitute valid reinsurance and to submit an analysis detailing such deals.

See MILLS/page 29

AIG adds committees in oversight initiative

By RUPAL PAREKH

NEW YORK—Embattled insurer American International Group Inc. moved last week to bolster its corporate governance, establishing new oversight committees and appointing two outsiders to the board, among other changes.

In addition, AIG last week confirmed that two more employees have been put on leave amid the ongoing probes into certain of AIG's accounting practices.

"AIG's board of directors and its new management team have been taking decisive action to resolve regulatory issues, enhance transparency and improve corporate governance," Frank G. Zarb said in a statement.

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Frank G. Zarb
American International Group Inc.

The board announced that Mr. Zarb, the lead director at New York-based AIG, has been named interim chairman. AIG's longtime chief Maurice R. Greenberg last month resigned as chairman and chief executive officer.

As part of its corporate governance initiatives, the AIG board has established two new

committees: a regulatory, compliance and legal committee; and a public policy and social responsibility committee.

The board also said it reconstituted its executive committee. Among other changes, Martin J. Sullivan, AIG's president and CEO, replaced Mr. Zarb as chairman of that panel.

Additionally, two new directors were elected to AIG's board: George L. Miles Jr., president and CEO of WQED Multimedia; and Morris W. Offit, co-CEO of Offit Hall Capital Management L.L.C.

The new appointments ensure that over two-thirds of AIG's directors are outsiders, Mr. Zarb said.

Under scrutiny by state and federal authorities is AIG's accounting for a number of transactions, including a 2000 deal involving a retrocessional loss portfolio transfer with the General Reinsurance Corp. unit of Berkshire Hathaway Inc.

AIG has acknowledged improper accounting for that finite risk deal and said it will restate its financials and file a 2004 10-K statement with the U.S. Securities and Exchange Commission no later than April 30.

The insurer last month fired its former chief financial officer, Howard I. Smith, and a former vp-reinsurance, Christian M. Milton, for refusing to cooperate with the accounting investigation.

Meanwhile, AIG last week confirmed that it has placed Michael J. Castelli, its chief administrative officer, and Vincent Cantwell, assistant vp and deputy comptroller, on leaves of absence.

A spokesman for the insurer declined to comment on the reasons for the move.

Mr. Castelli assumed the chief administrative officer post and was named an AIG senior vp in January after serving as the insurer's comptroller since 2000. He joined AIG in 1989 as comptroller of its domestic general insurance operations.

Douglas McLeod contributed to this report.



Firefighters spray water on the rubble of the World Trade Center on Sept. 12, 2001.

Aon insurer unit loses dispute with reinsurers over WTC death claims

By CAROLYN ALDRED

LONDON—Reinsurers are not liable for about \$90 million paid out to families of Aon Corp. employees who were killed in the Sept. 11, 2001, terrorists attacks on the World Trade Center under a business travel policy, a London court has ruled.

The unsuccessful evacuation of 169 Aon employees from their offices in the WTC's South Tower did not constitute a business trip and the reinsurers of the Aon's insurance unit, Combined Insurance Co. of America, are not liable under the terms of the policy, London High Court judge Justice Cresswell ruled.

The reinsurance policy, which was led by Lloyd's of London syndicate 510, managed by Kiln P.L.C., only covers employees on authorized business trips, Justice Cresswell ruled.

A reasonable person, if asked whether the Aon employees, whose regular place of employment was the WTC, were "on an autho-

See WTC / page 31

Rail safety technology may get sidetracked

Sophisticated but costly system aims to reduce train crashes

By MICHAEL BRADFORD

WASHINGTON—New technology being developed to make railroads safer may never make it to the tracks because of the enormous cost of implementing the systems.

The Federal Railroad Administration recently issued new performance standards for what are known as "positive train control systems," which are computerized systems that large freight and passenger railroads are considering implementing, primarily to prevent train collisions. The systems are able to electronically control train speed and monitor train movements, which can reduce crashes and afford greater protection for crews working on tracks.

The FRA says that, eventually, the systems could also be used to reduce crossing accidents, by warning motorists in vehicles with global positioning system technology that trains are approaching.

"This is a next-generation technology," said a spokesman for the Washington-based FRA. "These are not off-the-shelf systems."

Railroads are involved in testing the systems, but they admit that they want more of a return on their investment than just the safety improvements.

"We have to know whether the technology works, then make a decision on whether it is cost-effective," said a spokesman for the Assn. of American Railroads in Washington. Railroads are in various



Railroad companies are still undecided on whether new safety technology will be cost-effective to implement.

ous phases of testing, he said.

As for the cost, the numbers are not encouraging, the railroad group says. "So far, every cost analysis has

indicated that it is not cost-effective," the AAR spokesman noted. Some estimates have put the cost to the railroads at as much as \$10 bil-

lion to implement the systems, he said.

That number could fall, though, the spokesman acknowledged. "The technology continues to improve," he noted, "and as technology improves, the cost goes down."

The railroads may be able to make up some of the cost through efficiencies that can be generated by PTC systems. They want to know, for example, whether the systems' monitoring and speed control capabilities will allow the rail lines to operate more trains by keeping them closer together.

"Most of the benefits are safety-related," the AAR spokesman acknowledged of PTC systems. But collisions amount to "under 2% of all rail-related fatalities," he said, which means that if the railroads spend billions on the systems, that is money that is unavailable to be

See RAIL/page 28

Employment practices lawsuits increasing, PLUS speakers say

By ROBERTO CENICEROS

LOS ANGELES—Class action lawsuits alleging discrimination stemming from employers' pay and promotional practices are on the rise, speakers told the Professional Liability Underwriting Society.

Such lawsuits may trigger coverage under employment practices liability insurance policies, the speakers told PLUS' Employment & Fiduciary Issues Symposium, held in Los Angeles April 13-14.

Despite the Class Action Fairness Act that President Bush signed in February and hailed as a step toward ending the lawsuit culture in the United States, plaintiffs continue to file an extraordinary number

of class action "wage and hour" lawsuits, noted Bryan T. McMillan, a partner at Littler Mendelson in San Jose, Calif. The trend is especially intense in California.

Wage and hour lawsuits fall into three categories. There are employees who claim they were wrongly classified as independent contractors and those who claim they were wrongly classified as ineligible for overtime pay and benefits.

A third category includes plaintiffs who claim discrimination in pay or promotional practices. They may allege, for example, that male employees or younger workers are paid better or promoted more frequently.

Increasingly, plaintiffs making

such claims allege those practices stem from discrimination, Mr. McMillan said. That is the situation in the ongoing and widely publicized class action case in which female employees of Wal-Mart Stores Inc. claim in a San Francisco court that the Bentonville, Ark.-based retailer unfairly denied them promotions, compensation and job assignments because of their gender.

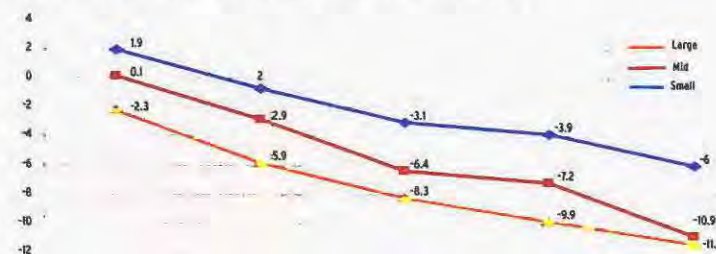
Lawsuits alleging that such practices stem from discrimination may trigger coverage under EPLI policies, Mr. McMillan added.

Michael Maloney, senior vp and global EPLI/first-party product manager for Chubb Specialty Insurance

See PAY/page 28

Commercial rates continue to decrease

Reductions observed for companies of all sizes



Source: CIAB

Broker survey reveals drop in property/casualty rates

By MARK A. HOFMANN

The commercial property/casualty insurance market continued to soften during the first quarter of this year, according to the Council of Insurance Agents & Brokers latest market survey, which was released last week.

The survey, which was based on responses from 108 brokers across the country, found that premium rates for accounts of all sizes dropped during the first three months of 2005, and have reached their lowest levels since 2001.

More than 80% of the respondents reported that rates had dropped anywhere from 1% to 40% for large accounts, which the survey defines as generating annual commissions and fees of more than \$100,000.

Only a handful of lines of coverage, such as broker errors and omissions liability coverage and medical malpractice liability, experienced any significant frequency of rate in-

creases, and even in those lines, the frequency of rate cuts or unchanged rates outnumbered increases.

An analysis of the CIAB data by Lehman Brothers Equity Research found that for all types of accounts, rates declined by an average of 9.4%. The average decline was greatest for large accounts—11.4%—and was smallest—6%—for accounts generating less than \$25,000 in annual fees and commissions. Midsize accounts, those generating annual revenues between the two other classes, experienced average rate cuts of 10.9%.

In a statement accompanying the survey, CIAB President Ken Cramer cautioned that when insurers "start competing for business based on who can offer the lowest premiums, issues such as solvency come to the forefront. Insurance is fundamentally based on a promise to pay, and if that promise cannot be honored, the best price may not be the best deal."

Religious disputes likely to increase in both number, contentiousness

By ROBERTO CENICEROS

LOS ANGELES—Workplace expressions of religious belief have become increasingly contentious, a speaker told the Professional Liability Underwriting Society.

Historically, religious challenges in the workplace included "pretty modest accommodation issues," such as time off for religious observances or the need to wear certain attire, noted Richard Lehr, a labor and employment attorney at Lehr Middlebrooks Price & Vreeland P.C. in Birmingham, Ala.

But now that religion in the workplace has become more significant, Mr. Lehr said, "it has become more contentious." He pointed out

Now that religion in the workplace has become more significant, "it has become more contentious."

Richard Lehr

Lehr Middlebrooks Price & Vreeland P.C.

that "now there is the issue of employees proselytizing to others or employers proselytizing to employees."

Recently, for example, Mr. Lehr said he heard from an employer with employees who want to add scriptural quotes to their e-mails to

customers and fellow employees. There have also been a number of workplace controversies reported in the media, such as retail pharmacists who, because of their beliefs, refuse to dispense morning-after birth control pills.

With legislators and politicians increasingly citing their religious beliefs and referring to "activist judges" when criticizing judicial decisions on religious matters, challenges in the workplace likely will increase as religious believers grow emboldened, Mr. Lehr predicted. "We see this dynamic that is happening in our country, and, of course, it comes into the work-

See RELIGION/page 28

Errors & omissions

• Due to a production error, an incorrect photo was included in an article on outgoing Risk & Insurance Management Society Inc. President Nancy Chambers in this issue.

The photo was not of Ms. Chambers but of RIMS Executive Director Mary Roth. *Business Insurance* was unable to correct the error before the page went to press.



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By Ken A. Crerar

I have been reading with interest exchanges in this publication stemming from a March 28 column—"Industry's Silent Defense Offensive"—criticizing the insurance industry for failing to launch a vigorous defense in response to allegations of misconduct from New York Attorney General Eliot Spitzer and other regulators.

Although Mr. Spitzer and others have painted the industry with a broad brush when instances of malfeasance were limited and isolated, I would suggest that it does little good to hunker down in a bunker and fight to retain the status quo. The best way for the industry to show its integrity and honesty is to act aggressively, not seek to deflect criticism by talking about what fine folk we are.

For the good of our industry and the good of the marketplace, we must not "just say no." It is time for affirmative steps to restore the public trust.

Whether you agree with Mr. Spitzer or not, you have to recognize that his investigations have inalterably changed the face of the industry. The forced departure of

Jeffrey Greenberg from Marsh & McLennan Cos. Inc. was startling enough. Who would have believed that a few months later, the greatest Greenberg of them all, Hank, would be dislodged from the helm of American International Group Inc.? Business as usual is no longer; accountability reigns.

It was clear just how much business is changing during a recent meeting of the World Council of the World Federation of Insurance Intermediaries in Amsterdam. Representatives from countries around the world spent several days discussing the new marketplace environment created by the investigations into major brokers and insurance companies.

The World Council, which represents insurance agents and brokers from 80 different countries, wrapped up the meeting by passing a resolution favoring transparency in compensation arrangements. The resolution urged insurance intermediaries to provide all insurance buyers with "sufficient information to make informed decisions ... in a way which is clear, fair and not misleading."

The Council of Insurance Agents & Brokers has been advocating

transparency in compensation arrangements long before the Spitzer investigations hit the front pages. We know that client confidence

Reticence to provide compensation information to customers rightly or wrongly suggests there is something to hide.

and trust are at the core of every business relationship. Being up front with customers about who you are, what you do for them and what you receive in compensation cements those business relationships; it does not undermine them.

Although we fully support the model disclosure statute proposed by the National Assn. of Insurance Commissioners, it is highly unlikely that regulators will move fast enough to implement uniform transparency requirements along

the lines of the NAIC model. And producers who are relying on regulators to provide guidance on issues such as disclosure and transparency are likely to be sorely disappointed.

But just because regulators aren't providing the answers doesn't mean customers won't be asking the questions. When they ask, producers must be ready to respond. Hiding behind the screen of secrecy will not meet that business challenge.

The Council of Insurance Agents & Brokers is ready to help its member firms, the most successful property/casualty and benefit brokers in the country, meet the challenges of this new business environment. For example, we recently provided a set of business tools to our members that can help them transition to greater transparency in their own operations.

Reticence to provide compensa-

tion information to customers rightly or wrongly suggests there is something to hide. We are professionals who do an important job for our clients, and we do it well. Transparency is the right way to go, from both a moral and a business standpoint. We have nothing to hide.

The new business environment may also affect customers, particularly as the market moves to a softer cycle. When prices—and producer compensation—fall, brokers will be focusing more on what the costs are to service an account, and some of those costs may be passed on to the customer. Customers need to remember that the lowest price for risk management is not necessarily the best investment.

Ken A. Crerar is president of the Council of Insurance Agents & Brokers in Washington.

CPA group likes benefits of HSAs

By JERRY GEISEL

REDWOOD CITY, Calif.—A group insurance program offered through the California Society of Certified Public Accountants is adding a plan linked to health savings accounts as a new coverage option for its 28,000 members.

Under the program, CPA firms and their employees will fund the HSAs, which are used to pay for expenses not covered by the high-deductible health insurance plan to which the accounts are linked. This year, the maximum allowable HSA contribution will be \$2,600 for individual coverage and \$5,150 for family coverage.

John Phillips, executive director of The Group Insurance Trust of the California Society of CPAs in Redwood City, Calif., described the HSA-based plan as the "best deal out there."

"I don't know of a better tax deal," Mr. Phillips said.

HSA contributions are tax-deductible, while funds and accumulated interest can be withdrawn tax-free to pay for health care-related expenses.

Premiums for the HSA program will be about 30% less than the least expensive plan the CPA Society now offers members, Mr. Phillips said.

The HSAs will be administered through Mellon Financial Corp.'s Human Resources & Investor Solutions unit. Among other things, Mellon will provide custodial, record-keeping, debit card and reporting services.

Additionally, health savings account enrollees will be able to invest small HSA balances of \$2,000

and under in interest-paying Mellon checking accounts. For account balances above \$2,000, three mutual funds, including an equity fund, a balanced fund and a fixed-income fund, will be available as investment options. Those funds are offered by The Dreyfus Corp., a Mellon subsidiary.

The high-deductible plan will be provided through The Group Insurance Trust, a multiple employer welfare arrangement licensed under California law and sponsored by the CPA Society. The trust, which purchases stop-loss coverage from Blue Cross of California, generated about \$30 million in revenues last year from other health, life and disability insurance plans it offers to members of the California CPA Society.

Like the other medical plans provided through the trust, the HSA program—known as ProtectPlus HSA—will offer a Blue Cross of California preferred provider network.

Conceptually, Mr. Phillips said, he is a big fan of HSA-linked high-deductible plans, noting that the exposure to medical expenses makes individuals more careful consumers of health care services compared with more traditional plans with fewer cost-sharing requirements.

"People spend their own money more carefully than if it is the insurer's money," he said.

Mr. Phillips said member interest drove the CPA society to explore HSAs as a coverage option. "We got many inquiries," he said.

Currently, about 8,000 people are covered in health care plans offered through the society's sponsored MEWA.

"Dempsey, Myers' BI Values study provided our first real-world assessment of potential losses at every location."

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Editorial

GM employees need exposure to health costs

IF EVER A COMPANY and the union representing its hourly employees needed a wake-up call about the absolute necessity of reining in health care cost increases, it is General Motors Corp. and the United Auto Workers.

In reporting a \$1.1 billion quarterly loss last week, GM said uncertainty about resolving what it calls a "health care cost crisis" is such that it will not be able to provide investors with earnings guidance for the remainder of the year.

Indeed, GM Chairman and Chief Executive Officer Rick Wagoner said there is a great need for the huge automaker to accelerate its efforts to bring health care costs under control.

GM's health care costs, even for a company its size—it generated nearly \$200 billion in revenues last year—is staggering. Its annual health care tab for employees, retirees and dependents now is around \$5.5 billion, and its unfunded liability for accumulated retiree health care obligations is in the \$57 billion range.

GM, like any company, is not immune to

the forces, such as medical provider consolidation, that have driven up health care costs.

But GM and the UAW have to accept part of the blame. Currently, GM's hourly employees pay less than 10% of health care costs. By contrast, GM's salaried workers, who are not bound by union contracts, pay closer to 30% of costs.

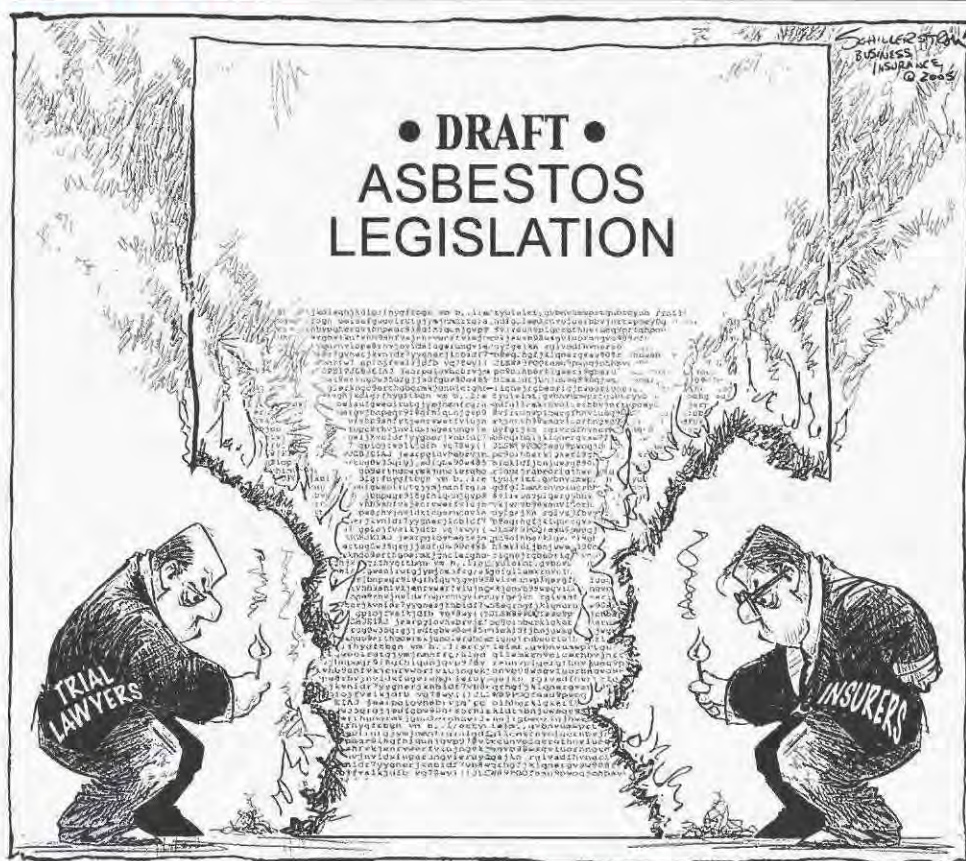
The UAW has long prized the rich health care benefits GM and the other major U.S. automakers have provided.

But we hope GM's recent dismal earnings provide the catalyst for top company executives and union leaders to begin negotiations to overhaul GM's health care plans.

Indeed, we don't think it is possible for GM to bring its health costs under control if organized employees have such a low exposure to those costs. Common sense dictates that if employees know that the company, not them, bears most of the expense, they are not going to seek the most cost-effective care.

Other industries—the steel industry for one—where companies and unions were slow to recognize the absolute necessity of re-designing health care plans to bring costs un-

Schillerstrom



der control have withered away.

GM and the UAW still have time—and we hope the will—to prevent such a catastrophe in their arena.

Letters

Kemper policyholders should consider options now

To the editor: All policyholders with Kemper Insurance Cos.' insurance policies in their programs, including Lumbermens Mutual Casualty Co. and American Motorist Insurance Co. policies, may be well advised to act now to reduce risks that will be associated with any potential rehabilitation or liquidation of Kemper.

Kemper is now operating in runoff mode. Rehabilitations and liquidations present a host of issues for policyholders, including: the loss of further coverage, thus yielding gaps in coverage; the potential necessity to replace workers compensation policies in short order; and the reduction of collateral for any "fronting" programs. In consideration of these risks, policyholders may wish to pursue negotiations with Kemper now to determine whether a novation or buyback agreement would be advantageous.

Part of Kemper's runoff plan to keep a positive surplus and continue to pay claims includes efforts to buy back coverage obligations from certain targeted large policyholders and to commute reinsur-

See LETTERS/page 26

RIMS has a duty to speak its mind

THE RISK & INSURANCE Management Society Inc.'s 2005 Annual Conference & Exhibition last week highlighted both challenges and opportunities for RIMS and its members.

As we report in this week's issue, starting on page 11, RIMS attracted a big crowd to Philadelphia to meet peers and industry vendors, attend educational sessions and learn where the association and the market are headed next.

One of the main subjects of discussion during the conference was broker compensation. RIMS attendees heard the topic addressed in the Monday keynote speech by Willis Group Holdings Ltd. Chairman and Chief Executive Officer Joe Plumeri and in a Tuesday panel that featured Marsh & McLennan Cos. Inc. CEO Michael Cherkasky and Aon Corp. Chairman Patrick G. Ryan.

RIMS also devoted several sessions to the topic, but it opted to close two sessions on broker contingency fees to the press. *Business Insurance* and other industry media tried to persuade the society to open these sessions, but RIMS declined, saying some association members had requested the closed sessions.

It's more than a little ironic that these closed sessions occurred at a time when brokers and RIMS' leaders are trumpeting "transparency" and "disclosure." That aside, we think it's important that risk managers discuss these issues with each other and that RIMS' leaders speak their minds.

During the conference, incoming President Ellen Vinck said RIMS' diverse membership and its sometimes-conflicting interests make it difficult for the society to take positions on industry issues. For example, some risk managers support the Terrorism Risk Insurance Act, and some don't. Some risk managers want to see contingent compensation abol-

ished, while others have no objection.

No organization is ever going to be able to completely satisfy every constituent, but RIMS surely has something to say publicly about issues that affect professional risk managers. Ms. Vinck suggested that individual risk managers need to make their voices heard to their brokers and insurers, and not expect RIMS to do it for them.

If RIMS isn't willing to take a position for fear it may offend some members, then the society has a real problem. Who better to speak out on the importance of risk managers than the nation's largest association of them? If RIMS isn't going to speak for professional risk managers, who is? With so much attention focused now on the insurance industry and its interaction with buyers, RIMS has a golden opportunity to help inform the debate and show leadership. It would be a shame if the society were to pass up that chance.

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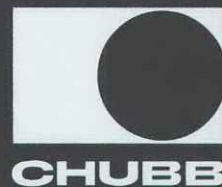


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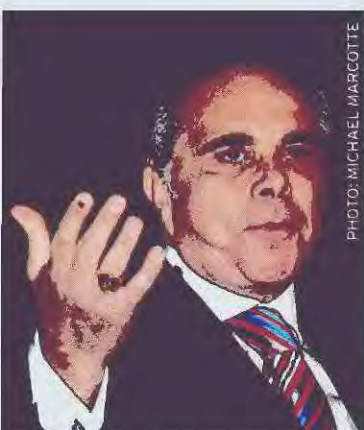
Spotlight

RIMS 2005 Conference Report

Brokerage executives
debate industry reforms/ page 14

Risk managers urged to build
on tort reform success/ page 20

RIMS honors chapters,
risk managers/ page 22



Joe Plumeri, chairman and CEO of Willis Group Holdings Ltd., calls for industrywide reforms.

Broker exec says buyers are owed a better deal

By SALLY ROBERTS

PHILADELPHIA—Risk managers, brokers and insurers are at a crossroads, with a unique opportunity to change industry conventions, according to the chief executive of the world's third-largest brokerage.

Discussing the ongoing investigations into brokerage compensation practices, Joe Plumeri, chairman and CEO of Willis Group Holdings Ltd., said that attorneys general, commissioners of insurance and other government authorities have framed the discussion. "They're asking all of us to reassess accepted industry practices."

He noted, however, that it should not have taken outsiders asking questions for the industry to review its processes or to think about ways in which it can operate better.

"We have the obligation to get this right," he said. "Not just the mechanics that we are now changing and not just the result, but the foundation, the value equation itself."

During a standing-room-only keynote address at last Monday morning's general session at the Risk & Insurance Management Society Inc.

See PLUMERI/page 18

Vinck tells risk managers to act Buyers must control broker relationships, RIMS chief says

By SALLY ROBERTS

PHILADELPHIA—Risk managers must make their voices heard on the issue of contingent commissions and transparency if they want to ensure that their brokers are putting their best interests first, according to the incoming president of the Risk & Insurance Management Society Inc.

Too many risk managers are sitting back and not doing anything, said Ellen Vinck, who also is vp-risk management, benefits and safety for United States Marine Repair Inc. in San Diego.

Ms. Vinck referred to two *Business Insurance* online polls in which a number of respondents answered "do not know" to questions about whether the risk management profession should have taken a harder line years ago on contingent commissions and whether risk managers were going to change brokers in light of the investigations.

"It infuriates me that people don't know what they are going to do," Ms. Vinck said.

"RIMS can't do this for you," she



Too many risk managers are being indecisive on the issue of broker compensation, Ellen Vinck, incoming president of the Risk & Insurance Management Society Inc., said last week at the 2005 RIMS conference.

said. "You are the risk managers. You are the insurance professionals. You are the insurance buyers. You are the clients. You need to know what you're doing," Ms. Vinck said.

In addition to risk managers, Ms. Vinck said another segment of the industry also has been silent on its views about contingent commissions.

"What are the carriers thinking? Their silence has been deafening, and they are the ones paying the fees," she said.

Ms. Vinck made her remarks at the end of a luncheon keynote panel last Tuesday at the Risk & Insurance Management Society Inc.'s 2005 Conference & Exhibition in Philadelphia. That panel also featured Michael G. Cherkasky, president and chief executive officer of Marsh & McLennan Cos. Inc.; Patrick G. Ryan, executive chairman of Aon Corp.; and Susan R. Meltzer, assistant vp-insurance and risk management with Sun Life Financial and current president of the International Federation of Risk & Insurance Management Assns. (see story, page 14).

During the discussion, which was titled "Next Steps in the Client-Broker Relationship," Ms. Vinck remarked that she, like many risk managers in the audience, has been "distressed" about what has happened in the industry.

"However, I'm here to tell you to-

See VINCK/page 14

Investigations, soft market won't curb captives

By MICHAEL BRADFORD

PHILADELPHIA—A softening commercial insurance market and uncertainty over whether captive insurers will become the next insurance sector to be investigated by New York Attorney General Eliot Spitzer have not dampened new formations or caused a lot of worry over how existing captives operate.

Despite indications that the prices for many coverages have stabilized or are dipping, interest in using captives as an alternative funding mechanism has continued apace, experts say. And while Mr. Spitzer's remarks that his office has concerns about some captive relationships have caught the attention of those who fund their risks in captives, they have not caused them to panic.

"You want to make sure any business you have outside your own state, especially insurance business, is there for the right reasons."

Michael Seitz
Fairview Health Systems

In January, Mr. Spitzer told legislators that, as his office continued its investigation of potential collusion and fraud between brokers and insurers, his staff had "begun to

look at other troubling areas of the insurance industry beyond steering and bid rigging, such as conflicts of interest that arise between brokers and captive insurance and reinsurance companies that are operated or owned by brokers."

Industry sources say they are unaware that Mr. Spitzer's office has carried through on those remarks with any investigation into captives, and a spokesman for the attorney general refused to say whether any investigation is looking specifically at captive insurers.

"I think there's concern, but it's too early to have that kind of thing happen," said William Granahan, managing consultant at Albert Risk Management Consultants in Needham Heights, Mass. "He's preoccupied with a lot of things," Mr.

Granahan said of Mr. Spitzer, such as "running for governor."

Scrutiny imminent

"I believe, at some point, that his office will start to look at captives," predicted Mr. Granahan. Captives have been under scrutiny in other ways for "years and years," he noted, mentioning the U.S. Internal Revenue Service's longtime interest in the tax deductibility of premiums paid to offshore insurers.

"Obviously, it's something you're paying attention to," said Michael Seitz, vp-risk management services at Fairview Health Systems in Minneapolis. "You want to make sure any business you have outside your

See ART/page 12

SEE NEXT WEEK'S ISSUE FOR MORE RIMS CONFERENCE COVERAGE

ART: Investigations, soft market won't curb captive use

Continued from page 11

own state, especially insurance business, is there for the right reasons. We're confident our captive in Bermuda is there for the right reasons. We don't see where those issues would raise flags for us."

"Everybody's always nervous," said Gregory P. Lang, senior vp with Munich-American Risk Partners in Princeton, N.J. "You never know where the gun is going to be pointed. But if you're acting with regard to best practices," and, "as long as there is disclosure to let folks know what's going on," there's no reason to worry, he said.

Broker-owned captives, though, "are another issue completely," said Mr. Granahan of Albert Risk Management Consultants. Questions have arisen, he said, as to whether the brokers are stocking their captives with their best risks instead of marketing those accounts. Still, it is unclear as to how much interest Mr. Spitzer might actually have in such arrangements, given the difficulty of obtaining information on them, he added.

Mr. Spitzer's stated concerns about captive operations have not affected formations, sources say.

The companies continue to form

in offshore domiciles such as Bermuda and Cayman, and there is "robust development stateside" in Vermont and South Carolina, Mr. Lang pointed out.

Captive formations

While formations typically decline when policyholders find some coverage to be more affordable in the commercial market, interest in captives hasn't yet tapered as traditional market prices have begun to fall.

"The general market is softening," acknowledged Charles R. Lee,

managing principal with Towers Perrin in Dallas, "but I don't think that is necessarily going to limit or restrict the use of captives or captive formations."

Even though the commercial market can be more attractive to buyers when rates fall, captives still offer advantages to some policyholders, Mr. Lee said. "Any time individuals or groups of companies perceive that the traditional insurance or reinsurance market is not responsive to their needs, you'll see interest in captives," regardless of market conditions, he said.

"There is a huge amount of interest in captives, even though there is a softening," Mr. Granahan agreed. "We have 800 clients, and a large percentage of them have come to us and asked us to look at a captive and see if it is right for them."

There will, though, be those who take advantage of soft market conditions to buy the coverage they need rather than fund all or part of it in a captive.

A risk manager with a large retailer noted that "when there is a soft market like this, you really have to justify doing a lot of sexy things" with a captive. "With the softening of rates and terms and conditions, we're not putting as much in our captive as we had planned. We recently did an analysis and are satisfied that we can tap the market" for some needed coverages at a reasonable price, he said.

Benefits funding grows

A hot captive topic these days is their use to fund employee benefits. Recent rulings by the U.S. Department of Labor have made it easier to establish captives for that purpose, and interest among employers is growing.

"The general market is softening, but I don't think that is necessarily going to limit or restrict the use of captives or captive formations."

Charles R. Lee
Towers Perrin

Now that the DOL has put in place an expedited process for funding some benefits in captives, "we're not expecting a tidal wave, but a continued growing interest," said Paul Obolensky, president of the captive management and business development divisions of American International Group Inc. in New York.

Mr. Obolensky said he expects AIG to be involved in an increasing number of formations as employers realize the value associated with funding benefits in captives.

Terry Gilbreth, vp-risk management at Safeway Inc. in Pleasanton, Calif., said the grocery retailer is considering relocating its Bermuda captive to Hawaii in order to fund the company's employee benefits in the insurer.

Federal regulations require benefits to be insured through a domestic captive, as opposed to one located offshore.

"We're looking at areas where we have true risk transfer," Mr. Gilbreth said of Safeway's plans to fund benefits in its captive. Those risks include life insurance, disability coverage and accidental death and disability insurance, he said.



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Cherkasky, Ryan differ on compensation issue

By SALLY ROBERTS

PHILADELPHIA—While Marsh & McLennan Cos. Inc. and Aon Corp. both have stopped accepting contingent commissions, top executives at the two companies differ over whether the entire industry should follow suit.

During a question-and-answer keynote panel last Tuesday at the Risk & Insurance Management Society Inc.'s conference in Philadelphia, Michael G. Cherkasky, president and chief executive officer of MMC, said, "I firmly believe the marketplace needs to say 'no' to contingencies."

Noting that he does not favor further regulation, Mr. Cherkasky said, "what I'm hoping for is that risk managers will make the decision that 'we're not going to deal with a company that accepts contingent commissions,'" he said.

While Mr. Cherkasky advocates an end to contingent commissions, Aon Executive Chairman Patrick G. Ryan said that while his company did away with the commissions and



Michael G. Cherkasky, president and CEO of Marsh & McLennan Cos. Inc., and Patrick G. Ryan, executive chairman of Aon Corp., answer risk managers' questions at RIMS.

that was right for Aon, he can't speak for other agents and brokers and their relationships with insurers and clients.

"It's a free market," Mr. Ryan said. "If the buyer says, 'I think it's fine that my broker or agent takes contingent commissions,'" then it should be allowed.

Mr. Ryan said he does think it's "essential" that there be full transparency about compensation.

During Monday's keynote address at the society's general session, Joe Plumeri, chairman and CEO of Willis Group Holdings Ltd., the world's third-largest broker, also called for the abolishment of con-

tingent commissions throughout the industry (see story, page 10).

Another participant in Tuesday's panel—Ellen Vinck, vp-risk management, benefits and safety for United States Marine Repair Inc. and RIMS' incoming president—asked Messrs. Cherkasky and Ryan, "Without a unified response to a compensation model, wouldn't that open the door to regulation?"

Mr. Cherkasky said he thought it would. "Contingents are inappropriate in this day and age," he said.

Mr. Ryan then noted that there's no standard commission structure that insurers pay brokers on commission-based accounts. "It's a free market," Mr. Ryan reiterated.

"We can't have a market where insurers pay differently," Mr. Cherkasky countered. Transparency is vital, but "it doesn't cure all the ills....The industry needs to go in a new direction," he said.

Ms. Vinck then asked the executives about potential conflicts of interest arising from retail brokerages owning wholesale and reinsurance operations.

Mr. Ryan noted that Aon is in the process of selling its wholesale business, Swett & Crawford Group, not because "we can't cure conflicts, because we can." Instead, he said that the move was in the best interests of shareholders, because he thought many of Aon's retail brokers would be "gun shy" about placing business through Swett & Crawford due to the conflicts-of-interest debate.

On the reinsurance front, "we are going to stay in the reinsurance brokerage business," he said. "There's been no, in my opinion, conflict there."

Rather than shedding various business units, "we believe conflicts are best cured by disclosure," Mr. Ryan said.

Mr. Cherkasky noted that MMC is spinning off its MMC Capital unit because there is no client interest in owning it, he said.

He said that MMC will continue to operate its wholesale and reinsurance operations and disclose the use of the units to clients, noting that it is more efficient to operate the business that way.

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Vinck: Risk managers must make voices heard

Continued from page 11

day that I disagree with Mr. Spitzer," she said, referring to New York Attorney General Eliot Spitzer, whose investigation into insurance industry practices continues.

"I do not believe the industry is rife with corruption. I think we have many terrific people that work on our accounts, and I think there have been some problems," she said.

At the same time, though, Ms. Vinck said she still has concerns about potential conflicts of interest within insurance brokerages as they develop their new business models.

She said that she believes there should be several business models for brokerage operations, because of the varying nature of the clients being served, but there should be only one model for compensation.

"And that is that the broker gets paid by one source and that source should be the client," Ms. Vinck said. "We depend on you to represent us, and we want to make sure our interests are first and foremost."

"Let us not, as risk managers, be put in a position again wondering whose best interests are being looked after," Ms. Vinck told her audience. "It's incumbent on us and nobody but us."

In responding to criticism that RIMS has not been more vocal on the issue of contingent commissions and transparency, Ms. Vinck said that the society itself has done its job.

RIMS has represented its members on the issue before Congress and before Mr. Spitzer and in providing information to the National Assn. of Insurance Commissioners, she said.

"We, the risk managers, are RIMS," Ms. Vinck noted. "RIMS

cannot go out and do this for you, you cannot sit back and expect it to be done. You've got to get out there and get involved in this issue."

She noted that in 1998, when RIMS first challenged the industry for transparency on contingent commissions when asked by clients, "we found most of you did not insist on it," she said.

"I wonder if we would be discussing this today had every risk manager settled for no less than

"Let us not, as risk managers, be put in a positional again wondering whose best interests are being looked after."

Ellen Vinck
United State Marine Repair Inc.

transparency in its truest form back in 1998—if we had been more vocal about the conflicts of interests that many of us were concerned about? But we didn't," she said. "And I say that collectively."

"Are we now going to allow regulators to dictate whether valuable risk financing mechanisms that have been abused by some be thrown out with the bath water?" Ms. Vinck asked, referring to ongoing regulatory scrutiny of finite insurance and reinsurance.

"Are you going to sit back and wait to see what happens?" she asked the audience. "I really hope that the voices will be deafening, not the silence."

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Meeting the challenge of motivating employees to embrace wellness.

As more and more employers see the link between a healthy workforce and a healthy bottom line, many are running into a common issue. They don't know how to get employees involved in improving their health and wellness.

Luckily, some employers have found that, with the right tools and the right support, motivating employees to improve their health can be easy and also fun.

Unhealthy numbers.

Employees living unhealthy lifestyles are taking their toll on balance sheets from coast-to-coast. For instance, recent studies have shown obesity – a largely preventable condition that affects more than 59 million Americans – has cost U.S. business in excess of \$12.7 billion in health care, sick leave, and life and disability insurance.¹

But obesity isn't the only avoidable condition that is affecting the productivity and health care spending of businesses. In fact, 50% to 70% of all diseases can be associated with lifestyle choices and are therefore preventable.²

After seeing numbers like those, it's no wonder employers are clamoring for ways to get their employees to consider how they're spending their time on and off the clock.

Ready and willing.

The good news is that most consumers believe health and wellness is important. A recent survey showed that 68% of Americans believe it is important to encourage people to live healthier lifestyles, to eat well and not to smoke.³

However, for many people, wanting to eat right, exercise more, and reduce stress is much easier than taking action and actually doing it. That's when it's good to enlist the help of people who know

something about getting employees engaged in their health.

It's also why UnitedHealthcare, a health and well-being company, has begun to include its UnitedHealth WellnessSM program with its standard medical plans at no additional cost. UnitedHealth Wellness focuses on the five areas of total well-being- physical, spiritual, intellectual, social and emotional health.

"As a company, our number one priority has always been to help people stay healthy," said Dave Wichmann, President and Chief Operating Officer of UnitedHealthcare. "With the UnitedHealth Wellness program we've put our years of health experience into a program specifically designed to engage individuals in living healthier lifestyles."

Getting over the cost hurdle.

One thing that can stand in the way of people getting engaged in health programs is personal cost. After all, fitness club memberships can be a significant investment. The UnitedHealth Wellness program attempts to curb that with its Health Value Program.

"We've partnered with a long list of businesses to give employees



OR



up to 50% off many non-covered health-related products and services," said Chris Gibson, Senior Vice President of Product and Marketing of UnitedHealthcare. "Our hope is it will help people overcome some of the cost barriers that keep them from pursuing wellness."

Good health is a personal thing.

"It's easy to just give people a set of general guidelines on how to improve their health and wellness," continued Gibson. "But that's not very motivating."

That's the reason Gibson recommends that employees with access to the UnitedHealth Wellness program take the personalized online health assessment and a wellness survey as a first step.

"This program gives each employee a personalized look at their current health and also gives them a customized plan to help them achieve their desired level of wellness," Gibson said. "It takes into account the fact that everyone is not the same."

Set your goals. Track your progress.

Once employees have their own plan, the best way to keep them on that plan is to set incremental goals and help them track their progress.

The online resources of UnitedHealth Wellness do just that.

Gibson explained, "Through our online health improvement programs, we help people achieve their objectives, whether they want to lose weight, gain energy, reduce stress, or quit smoking. We offer a variety of six-week programs that allow them to chart their progress

online. This puts a goal right in front of them that they know they can reach if they just put in the daily effort. Once that goal is reached, they can start another six-week program. And just keep going, and going."

"Of course, if they prefer, we also offer ways for people to chart their own path to wellness and keep a journal of their progress," Gibson added. "So everyone can participate in a way that works best for them."

Get everyone involved.

The encouragement and support of friends and the workplace is important to staying on track and living a healthy lifestyle. One way UnitedHealth Wellness encourages that is to help employers start a "Wellness Challenge" at their business, to get all employees working with each other, and providing that encouragement and support.

"These 'Challenges' can often be a fun way to get everyone in the company to participate," said Gibson. "And you can reward your employees in many different ways. We've seen businesses offer incentives like rebates on employee coverage premiums. Others use our online communication tools to educate employees via email, create a customized health and wellness newsletter, or learn how to organize an on-site health fair."

"Offering these tools is just one of the many ways we're supporting people's goals to live healthier lives," said Wichmann.

And that, in turn, can make business healthier for their employers.

Your employees make important decisions each day.

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Hit the couch or hit the gym? It's the proverbial fork in the road for employees after a hard day's work. Unfortunately, all too many of them take the easy path. We're out to make the road less traveled a lot more popular.

That's why we've developed the UnitedHealth WellnessSM program to give employees the knowledge and inspiration they need to make smarter decisions. Through a new portfolio of online and on-site resources, this program is designed to help them live well, eat well, think well, and simply be well.

Best of all, it's included with our benefit plans. Because access to good health care isn't limited to helping people get the medical treatment they need when they're sick. It's also about helping them make more of those smart everyday choices that help them stay well.

Most importantly, this new approach to employee wellness further emphasizes what's always been our number one priority – keeping people healthy. After all... **Health. It's in our name.SM**

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1 - American Journal of Health Promotion, 2003

2 - Whitmer, et al, JOEM, September 2003

3 - Association of Schools of Public Health, February 2000

Marsh settlement may not suit all policyholders

By RUPAL PAREKH

PHILADELPHIA—Policyholders eligible to participate in Marsh & McLennan Cos. Inc.'s \$850 million restitution settlement must carefully weigh the benefits and drawbacks of taking part, two attorneys and a consultant advise.

Many employers will find that "opting in" to the settlement will best serve their interests, but others may discover they can better benefit from the "go it alone" litigation alternative, panelists said during a Hot Topic session at the 2005 Risk & Insurance Management Society Inc. conference last week in Philadelphia.

Paul W. Sugarman, a partner and coverage attorney at Heller Ehrman White & McAuliffe L.L.P. in San Francisco, opened the session by reviewing for attendees the timeline of events that led up to New York Attorney General Eliot Spitzer's fraud and bid-rigging lawsuit against New York-based MMC.

MMC in late January agreed to settle charges that the brokerage steered business to insurers paying the high-

est contingent commissions.

Under terms of the settlement, which has become a template for similar settlements by Aon Corp. and Willis Group Holdings Ltd., MMC created an \$850 million fund to compensate policyholders that placed coverage with the broker's Marsh Inc. retail unit between Jan. 1, 2001, and Dec. 31, 2004, and on which contingent compensation was collected. The brokerage also agreed to reform its business practices.

Policyholders eligible for restitution include Marsh's U.S.-domiciled clients as well as foreign clients that used Marsh's U.S. offices to place business, according to Mitchell J. Auslander, a partner with Willkie Farr & Gallagher L.L.P. in New York and an attorney for MMC. The terms of the settlement do not require that clients demonstrate they suffered harm, and the entire fund, including any interest earned, will be distributed to clients over a four-year period, he said.

On May 20, MMC will send a notice to each client detailing their in-

dividual potential settlement amount calculated under a formula agreed upon by MMC, Mr. Spitzer's office, and the New York Insurance Department.

MMC estimates that the settlement figure will represent approxi-

"Doing nothing makes no sense. You've got to make a decision to opt in or go it alone."

Paul W. Sugarman
Heller Ehrman White & McAuliffe L.L.P.

mately 50% of contingent commissions recorded on eligible policies issued during the 2001 to 2004 period, Mr. Auslander said.

Clients will have until Sept. 20 to decide whether to join the settlement.

One factor to consider, Mr. Auslander said, is that a client that takes the distribution must agree to release all claims against MMC re-

lated to contingent commissions, client steering and bid rigging—even on policies prior to 2001—with the exception of securities claims and standard errors and omissions claims.

"If a client does not elect to participate, it may pursue legal remedies on its own or as a member of a class," Mr. Auslander said.

However, litigating alone offers no assurance of recovery, the panelists warned.

One benefit of opting into the settlement is the lack of legal, consulting or other transactional costs, said Sharon Siegel Voelzke, managing director of Chicago-based Navigant Consulting. "You may or may not get significantly more through legal action," and "you could get paid out in earlier than four years," depending upon on how many clients elect to join the settlement, she said.

Mr. Sugarman of Heller Ehrman, meanwhile, urged employers that are considering litigation alternatives to consider the "relationship costs" of litigating against MMC while still using the company as

their broker.

To help in the decision-making process, there are certain steps policyholders can take before receiving their letters from MMC next month, said Ms. Voelzke. These include collecting documents related to agreements and disclosure on broker compensation, insurance billing and premiums.

She also suggested that policyholders obtain publicly available guidance from the National Assn. of Insurance Commissioners, state insurance departments, industry trade magazines and RIMS, among others.

Once letters are received, an economic analysis should be undertaken with the help of lawyers and insurance or underwriting experts to determine whether the settlement amount is less than or greater than the potential amount of actual damages that might be recovered through a separate action, Ms. Voelzke said.

"Doing nothing makes no sense," said Mr. Sugarman. "You've got to make a decision to opt in or go it alone."

Plumeri: It's time to reassess the industry

Continued from page 11

ety Inc., Mr. Plumeri proposed a new model for the industry based upon the fundamental principles of client advocacy, transparency and innovation.

"Client advocacy is about listening, not selling," he said. "It's about understanding the client's unique needs. It's about developing innovative solutions so that a client can focus on his or her core business. It means delivering the intellectual capability to the client through consultation and advice," he said.

Discussing his second key principle, Mr. Plumeri emphasized that transparency goes "way beyond" compensation.

"Sure, we have to disclose how much we make, but the discussion should be much more than that," he said.

Transparency "is about explaining what we as the broker are going to do, what the carrier's participation will be, and, ultimately, how we are going to deliver what we promised," he said.

With regard to innovation, the industry is making progress, Mr. Plumeri said, but it is still lacking.

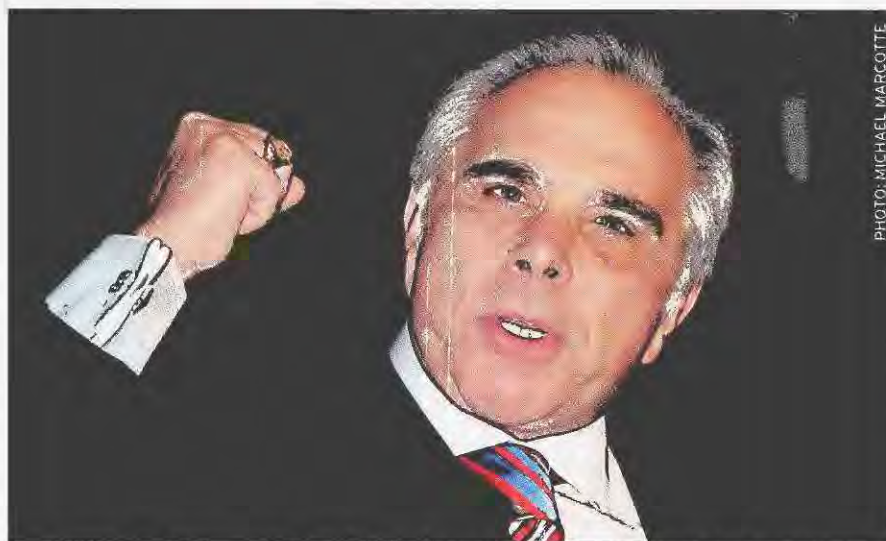
"When I got to this industry, I thought pigeons were faster" than the computer systems that were in place, he said.

The industry is full of intelligent people who can solve complex problems, but a lot of efficiency, value and service is lost because of antiquated computer systems, Mr. Plumeri said.

A new model

Those fundamental principles—client advocacy, transparency and innovation—underlie Mr. Plumeri's business model, which comprises three key components: manufacturing, distribution and service, he said.

"For too long, this business has been about the placement only, what I've



Joe Plumeri, chairman and CEO of Willis Group Holdings Ltd., says that all contingent commissions should be abolished.

come to call 'manufacturing,'" he said.

Such a limited approach leads to the commoditization of insurance, and "I don't think anyone in this room would equate insurance to soy beans," he said.

That approach has also invited the perception of conflicts of interest stemming from the use of contingent commissions, a form of compensation Mr. Plumeri said must be abolished.

"It must be 100% clear who the broker is working for, and that means a broker can only be paid by one party in any transaction," he said.

"It's time we step up to a higher standard and get rid of this stuff," he said. "Contingents should be abolished throughout the industry. Carriers shouldn't pay them, and brokers shouldn't accept them."

For agents that say they should receive contingents based on the profitability of the insurer's book, Mr. Plumeri said, "that's fine, just make 100% clear up front that you are acting for the carrier and not for your client."

Distribution in the new industry model is about delivering solutions, not products, Mr. Plumeri said. "It's about finding what the client needs rather than selling what's in the store room."

"It's human beings relating to other

human beings and helping each other. It's what we used to call relationships," he said.

The final element of the model is service, Mr. Plumeri said. And too often in the past, service has been treated as an afterthought in the industry.

"It seems to me that when you buy insurance, you have two questions. The first question is: What's the deal, and how much time does it take to print the policy?"

"I can't think of any other industry as complex as insurance with so much at stake, where the parties shake hands one day and figure out in the days, weeks and months ahead what exactly they shook hands about," Mr. Plumeri said, referring to the time it takes for policies to be issued.

Changing this will require investments in technology, and collaboration among insurers, risk managers and brokers, he said.

"Unless you don't mind waiting an average of nine months to get your policy, it's too important to accept the status quo any longer," he said.

The second question is, How are you going to get paid? Mr. Plumeri said.

"Nothing else matters if you don't get your claims paid," he said. "The balance sheet should be replenished before eight months."

Retail, reinsurance can coexist: Exec

PHILADELPHIA—As long as the operations are run ethically, there is no business need to separate retail insurance brokerage business from reinsurance brokerage business, says the chairman and chief executive officer of Willis Group Holdings Ltd.

Despite findings by New York Attorney General Eliot Spitzer that some insurance brokerages have linked reinsurance brokerage business to retail placements, Joe Plumeri said he doesn't see a brokerage operating both types of operations as an inherent problem.

"As long as you do business properly, you have the right Chinese walls and you don't depend on one business to do another, it's no different than a bank taking money and lending money at the same time," Mr. Plumeri said during a press conference after his keynote address last Monday morning at the Risk & Insurance Management Society Inc. conference in Philadelphia.

"It's a question of how you conduct your business, and it's a question of the integrity that you have," he said. "I think it's an interesting debate brought on by brokers that do not have reinsurance brokers and reinsurance brokers who don't have brokers."

Mr. Plumeri noted, however, that because the issue has been thrown into debate, the "Chinese walls" may have to become more transparent to clients. Such a change is acceptable if it makes people more comfortable with such arrangements, "but I don't really see a business purpose to separate the two," he said.

He did see a business purpose for selling Willis' wholesale business, Stewart Smith Group, to American Wholesale Insurance Group Inc. earlier this month.

"I simply did it because I think if you make the manufacturing piece more efficient, then you shouldn't have to have a need for a wholesale brokerage," he said.

Mr. Plumeri also said he doesn't see a need for standardized commission rate cards from insurers—a compensation approach being adopted by Willis' competitor Marsh & McLennan Cos. Inc.

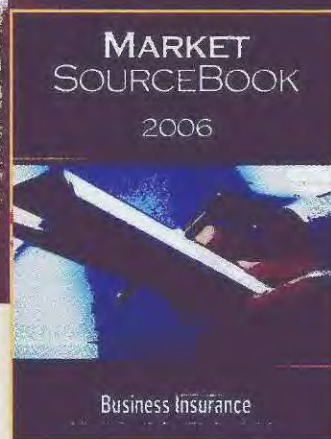
"I think we should get paid fairly for what we do, but I don't think there should be a standardized rate card," he said.

"That standardization goes too far. It suggests every client is the same, every risk is the same and every solution is the same, and that's not the way it is," he said.

—By Sally Roberts

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Probes draw attention of senior executives

By SARAH VEYSEY
and RUPAL PAREKH

PHILADELPHIA—Risk managers are facing increased scrutiny from senior executives as the recent high-profile probes into broker compensation have shone a spotlight onto risk management departments.

As a result of the investigation into insurance brokering practices by New York Attorney General Eliot Spitzer and others and the subsequent settlement deals announced by major brokers, senior executives are demanding more information on the insurance buying process, according to attendees at the recent Risk & Insurance Management Society Inc. conference in Philadelphia.

Although several brokers—including Marsh & McLennan Cos. Inc., Aon Corp. and Willis Group Holdings Ltd.—have announced changes in business practices as part of the their settlement deals, risk managers still need to ensure that their insurance purchasing arrangements meet the expectations of their bosses, they say.

The visibility of risk managers' relationships with brokers has been raised as a result, according to Lance Ewing, vp risk management at Caesars Entertainment Inc. in Las Vegas.

Chief executive officers and chief financial officers have been questioning risk management departments about whether their relationships with brokers are transparent, whether those relationships are "too cozy" and when those relationships were last evaluated.

In Mr. Ewing's view, it likely would be healthy for the insurance buying and brokering community to re-examine and reframe those rela-

tionships.

One action risk managers—particularly those at large corporations—can take to assuage fears about whether they are getting the best deal and service is to use more than one broker for the placement of their risks, Mr. Ewing said. That allows risk managers to make comparisons, he said.

The ongoing investigations have "certainly attracted the attention of senior management at companies," agreed David Bradford, an executive vp for New York-based consultant Advisen Ltd. "It has put risk managers in the spotlight—which they perhaps have never been in before—and that could be a good or a bad thing."

Broker investigations

Senior executives are particularly wary of brokers that have faced allegations of bid rigging and other abuses of contingent commissions, which have been at the center of Mr. Spitzer investigations.

"The last thing that senior management wants to hear is that they are with a broker that's being investigated," said Reed Wykes, director of risk management for Parker Drilling Co. in Houston, who was also a speaker at this year's RIMS conference.

Mr. Wykes said that he did not have to hold such a discussion with senior executives because his company had not placed business through any of the brokers targeted in the probes. But the impact of the investigations into insurance industry practices has been "dramatic" and "career-changing" for many of his peers who happened to be clients

of those brokers, he said.

In certain of those cases, Mr. Wykes said, senior managers stepped in and pushed to move business to different brokers, "because they have to answer to their boards."

Risk managers were concerned about whether they had been the victims of bid rigging and whether their own jobs might ultimately be in danger as a result when Mr. Spitzer sued MMC last October, said a risk manager who did not want to be identified. Suddenly, risk managers were being questioned by their chief auditors, general counsels, CFOs and CEOs about their insurance brokering relationships, he said.

"The last thing that senior management wants to hear is that they are with a broker that's being investigated."

Reed Wykes
Parker Drilling Co.

"I know three people who retired as a result of this," the risk manager noted.

Several brokers from small or independent firms said they had seen a lot more business going out to tender since the findings of Mr. Spitzer's investigations came to light.

"Risk managers are having to justify their existence," said one broker at the conference, and they have to

demonstrate to their CFOs what services it is that their brokers perform.

One underwriter, who did not want to be identified, said he believed risk managers had started to become more actively involved in the placement of their risks since the Spitzer investigations and were asking more questions during the placement process.

Increased disclosure

"I'm not sure that broker contingency fees, in and of themselves, was the problem but it was the fact that they were not disclosed to customers," said James Crockett, manager of risk and benefits for the Denver Water Department, who was also a speaker at the RIMS conference last week.

According to Mr. Crockett, hidden practices place risk managers for nonprofit entities at the greatest exposure. In the public sector, he noted, information that is otherwise discussed internally is subject to public scrutiny. "In the private sector, the reason why a company chose a particular broker, insurer, type of coverage or deductible is usually proprietary information that remains in the company itself," he said.

The recent probes have "opened the eyes of many midmarket companies who maybe don't have a full-time risk management professional," according to Mr. Ewing. It has made them question their brokers about whether they are working for the buyers or for the insurers, he said.

"The buyer now has the understanding that when he was getting a premium quote, there were a lot of other things that may have been

thrown into it," said Bud Schade, president of North American Risk Management Inc. in St. Petersburg, Fla.

But the increased disclosure and other changes may not ultimately benefit buyers, said one risk manager for a small privately held firm. He said he feared the changes could result in greater regulatory oversight and, ultimately, higher costs for the insurance buyer.

"Our concern is whether the various brokers are going to increase rates," commented a former employee of Bermuda-based ACE Ltd., who is now a risk manager. In the absence of contingent commissions, he said, "they're going to have to come up with that lost revenue somehow."

Risk managers from overseas attending the RIMS conference said that the Spitzer findings would likely have less impact on risk managers based outside of the United States.

Thierry Van Santen, executive vp in the corporate risk department of Paris-based Groupe Danone, said that because there has been evidence of wrongdoing by brokers only in the United States, there is not the same perception that there is a problem with the broker model in Europe.

But Mr. Van Santen noted that the senior management of foreign companies might, as a result of the high-profile probes, require more transparency about broker payment.

Another non-U.S. risk manager echoed the view that there will likely now be a greater call for transparency about how brokers are compensated and in whose interest they are working.

Risk manager activism called integral to legal reforms

By MARK A. HOFMANN

PHILADELPHIA—The enactment of landmark class action reform legislation can be a first step toward further legal reforms, say some risk managers.

They say they hope to see reforms implemented that range from curbs on punitive damages to changes in the way that medical malpractice liability is handled. The Risk & Insurance Management Society Inc., as well as individual risk managers, also are seeking to win the extension of the Terrorism Risk Insurance Act, which provides a federal financial backstop to insurers facing losses from future catastrophic terrorist attacks.

But to achieve such goals, risk managers must become more involved in the political arena, a panel of experts—including a risk manager—stressed at RIMS' annual conference, held in Philadelphia last week.

"It's very important our voices get heard inside the Beltway," said Robert Cartwright Jr., loss prevention manager-northeast zone for Bridgestone Firestone Retail &

Commercial Operations L.L.C. in Exton, Pa., and vice chair of RIMS' external affairs committee.

"The members and the people in this room really carry the most weight" in discussing legislative issues of interest to buyers, Mr. Cartwright told those attending a discussion of risk managers' potential influence on Capitol Hill.

Enactment of the Class Action Fairness Act, the most significant federal tort reform in years, may provide the impetus for more progress, according to some risk managers interviewed both before and during the RIMS conference.

CAFA, which requires that certain class action lawsuits involving defendants and plaintiffs from different states be filed in federal rather than state court, is a "good first step," said Lance Ewing, vp-risk management for Caesars Entertainment Inc. in Las Vegas.

"But I don't believe it went far enough," particularly in terms of dealing with frivolous lawsuits and reining in attorneys' fees, said Mr. Ewing, who is a former president of RIMS.

Plaintiffs have a better chance of

hitting a payoff in court than "they do pulling the lever on a slot machine," he said.

"The time is ripe for us to continue to push. We've been so close to the finish line on so many different types of tort reform, and we've either tripped at the line or the officials have changed the rules," he said.

Mr. Ewing said medical malpractice liability reform is particularly important to "help stop the bleeding. They really need to rein in some of the runaway costs."

Risk managers are looking for reform at the state level as well as federal level.

"Medical malpractice reform is probably most appropriate at the state level, but any type that would relieve some of the issues we have would be welcome," said Millicent Workman, director-risk financing at Baptist Memorial Healthcare Corp. in Memphis, Tenn. The medical malpractice climate "has such an impact on how we deliver health care," Ms. Workman said.

"Two years ago, we had sweeping tort reforms in Florida," said John Phelps, director-risk management for Blue Cross & Blue Shield of

Florida Inc.

"My own personal opinion is that economic damages are, without a doubt, an entitlement of the injured party, but there should be a cap on punitive awards," said James E. Crockett, risk and benefits manager for Denver Water in Denver.

But as Mr. Cartwright told his audience, risk manager participation in the legislative process is critical to achieving such goals, a sentiment shared by all of the other members of the panel. The extension of TRIA, which is slated to expire at the end of the year unless reauthorized by Congress, is an effort in which risk manager involvement could prove to be particularly critical, said several speakers.

TRIA extension "is very, very important for everybody," said Matt Campbell, senior vp and general counsel for Chubb Corp's commercial operations in White House Station, N.J. "Ultimately, we need to find a long-term solution to the problem of terrorism risk," he said, adding that "a two-year extension of TRIA is not enough."

"It's time for RIMS to get in the middle of the game," he said.

Joel Wood, senior vp-government affairs for the Council of Insurance Agents & Brokers in Washington, reminded his listeners, "It's the old Woody Allen line; 90% of life is just showing up," as he urged them to become get involved in promoting their policy positions with Congress.

But when Marcus N. Rayner, the Warren, N.J.-based district director for Rep. Mike Ferguson, R-N.J., asked how many people in the audience had actually met their members of Congress, only four or five individuals out of the 40 or so present raised their hands.

"If you don't have a seat at the table, if you don't share your opinions," then Congress could well enact legislation that doesn't serve risk managers' best interests, Mr. Rayner said. "We're starved for information," he said.

"It's important that risk managers get actively involved," said Marylu Korkuch, Chubb's federal legislative director in Washington.

"I don't want you to think that Congress won't listen to you. They will," Ms. Korkuch said. "They need your perspective."

Creativity key to watching over a magic kingdom of exposures

By MICHAEL BRADFORD

PHILADELPHIA—Standard approaches to safety and loss control are only part of an effective risk management program, according to the risk manager for an entertainment company with a vast variety of exposures.

"Risk management creativity—I don't think that's an oxymoron," said Stephen M. Wilder, vp-risk management with The Walt Disney Co. And, he stressed, creativity is one of the necessary ingredients for making his company and others safer.

Disney, a company that operates theme parks, makes films and owns news and sports networks, a cruise line and other entertainment interests, has come up with several creative and effective risk management approaches, said Mr. Wilder, who is based in Glendale, Calif.

Speaking during a luncheon at the Risk & Insurance Management Society Inc.'s annual conference in Philadelphia last week, Mr. Wilder explained how creativity among Disney's risk management staffers has made the company's parks safer for children and adults.

He referred to a Disney staffer's idea for food safety icons as one example. The development of kid-friendly safety materials in a highly visible safety campaign at the company's theme parks is another, according to Mr. Wilder.

One member of the Disney staff responsible for environmental health at Walt Disney World in Orlando, Fla., suggested that the company "invent a language," Mr. Wilder said. He wanted to create a language of international symbols for businesses that would make food handling and preparation safer.

One reason for such a language was that "the number of food workers with English as a second language was increasing," Mr. Wilder said, and the symbols could be easily understood regardless of an employee's native tongue. And while such symbols were widely available to alert consumers as to how food should be handled and cooked, no such icons had been created for businesses that handle food.

The symbols were designed and presented to focus groups who narrowed the alternatives to those most easily understood, Mr. Wilder said, and the result was a language of symbols now commonly used by businesses that handle food.

On another front, Disney made changes in 2003 to the safety materials it used in its parks, employing a creative approach that brought safety further into the public eye, Mr. Wilder told his audience.

Safety "has been in our blood forever," he said of Disney's attitude toward protecting its customers. "But we didn't want the (customers) to see it," Mr. Wilder said of the company's previous safety efforts.

Then, in 2003, "we totally changed our perspective," he said.

Safety came out of the closet at

Disney that year and has been in front of customers since. Visitors to the parks receive safety-themed literature illustrated with Disney characters. There are safety trading cards that customers collect, activity books for children with safety reminders and safety messages on trading pins the company distributes.

In addition, "we now have strong lines in our theme parks" that create painted boundaries where it is un-

safe for visitors to venture, Mr. Wilder said. Those bright yellow stripes near rides would not have been welcomed by those in charge of creating the parks' themes until recent years, he said, but now are embraced by a staff that has been convinced that risk management is part of everyone's responsibility.

Such moves, Mr. Wilder said, are part of a "fundamental change in the way we think about safety and being more visible."



Stephen M. Wilder, vp-risk management for The Walt Disney Co., spoke during a Wednesday luncheon at the RIMS conference.

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PHOTOS: MICHAEL MARCOTTE



RIMS President Ellen Vinck, left, and immediate past President Nancy Chambers, right, present Susan Meltzer with the 2005 Harry and Dorothy Goodell Award.



Mary Isbell, center, accepts the 2005 Ron Judd Heart of RIMS Award from Ms. Vinck and Ms. Chambers in recognition of her outstanding performance on behalf of RIMS' Houston chapter.



William Zachry, center, receives the 2005 Richard W. Bland Memorial Award from Ms. Chambers and Sally Bradley, president of the Greater Kansas City chapter of RIMS.

RIMS awards salute service to the profession

Susan Meltzer receives top honor

By SALLY ROBERTS

PHILADELPHIA—Susan Meltzer, assistant vp-risk management for Sun Life Financial in Toronto, has been awarded the 2005 Harry and Dorothy Goodell Award, the highest honor bestowed by the Risk & Insurance Management Society Inc.

Ms. Meltzer accepted the award last week at the society's annual membership meeting, which kicked off the 2005 Conference & Exhibition in Philadelphia.

The Goodell Award recognizes an individual who has furthered the goals of risk management and of RIMS. It is named after Mr. Goodell, the society's first president, and his wife.

Ms. Meltzer entered risk management in 1983 with the Canada Development Corp., as coordinator of risk and insurance. In 1986, she earned a Canadian Risk Management diploma and a year later became a Fellow in the Insurance Institute of Canada and at the University of Toronto. Joining Sun Life Financial in 1996, Ms. Meltzer became the company's first risk manager and has built a risk management program from the ground up, including the adoption of an enterprise risk management approach.

Ms. Meltzer has been an active member of RIMS since 1983 and served as president of the Ontario chapter of RIMS from 1989-1990.

As RIMS' 1999/2000 president, Ms. Meltzer presided over the society's 50th anniversary celebration and was instrumental in coordinating a \$100,000 contribution to the Spencer Educational Foundation. Ms. Meltzer also is president of the International Federation of Risk & Insurance Management Assns.

RIMS presented several other awards during Monday's membership meeting.

The Ron Judd Heart of RIMS Award was given to Mary Isbell, vp-risk management at Friedkin Cos. Inc. of Houston. The award is given to an individual nominated by his or her chapter for outstanding performance on behalf of the chapter. Ms. Isbell was nominated for the award by RIMS' Houston chapter, which saluted her volunteer work on behalf of the chapter and her commitment to the risk management profession.

William Zachry, vp-workers compensation at Safeway Inc. in Pleasanton, Calif., won the Richard W. Bland Memorial Award, which recognizes a RIMS deputy member who has made significant contribution in the area of legislation or regulation related to risk and insurance. In particular, Mr. Zachry's efforts to promote California workers compensation reform were cited.

The automated Risk-Based Inspection Model developed and implemented by the Technical Standards & Safety Authority of Ontario, Canada, was awarded the Arthur Quern Quality

Recognizing achievement

Susan Meltzer
Assistant vp-risk management for Sun Life Financial
Harry and Dorothy Goodell Award

Mary Isbell
Vp-risk management at Friedkin Cos. Inc.
Ron Judd Heart of RIMS Award

William Zachry
Vp-workers compensation at Safeway Inc.
Richard W. Bland Memorial Award

Technical Standards & Safety Authority of Ontario, Canada
Arthur Quern Quality Award

Marilyn Campbell
Director of financial resources, Aurora University
Cristy Award

Samuel Isaacs
Review officer, Workers' Compensation Board of British Columbia
Fred H. Bossons Award

ity Award.

The award recognizes significant contributions within the field of risk management that raise the quality of products, processes, programs, systems and/or services.

Created in 1996 to administer and enforce public safety legislation within the province, the TSSA developed the Risk-Based Inspection Model to enable inspectors to focus their attention on facilities and devices that pose the highest safety risks.

RIMS also recognized several individuals for educational achievement.

Marilyn Campbell, director of financial resources at Aurora University in Aurora, Ill., won the Cristy Award, which is presented annually to the risk manager with the highest cumulative average in the three examinations leading to the Associate of Risk Management designation.

The Fred H. Bossons Award, which recognizes the highest academic average in Canadian Risk Management courses for the previous year, was presented to Samuel Isaacs, review officer at the Workers' Compensation Board of British Columbia.

Among the many awards presented at the meeting, the San Diego and Dallas/Fort Worth chapters won overall chapter excellence awards.

The Greater Quad Cities, Chesapeake, Eroward County, Orange County and Houston chapters won outstanding chapter programming awards.

The South Texas, Palm Beach, San Diego and Dallas/Fort Worth chapters won awards for advancing the risk management profession.

And the Greater Quad Cities, Chesapeake, San Diego and Ontario chapters won outstanding member services awards.

Ewing fellowship helps RIMS members grow and learn

National Alliance also launches professional certification program for school risk managers

PHILADELPHIA—The National Alliance for Insurance Education & Research announced the first recipient of a scholarship award exclusively for Risk & Insurance Management Society Inc. members, as well as the launch of a professional certification program for school risk managers.

Cheryl Pugliese, a loan and insurance specialist with BetaWest Ltd., a Denver-based property management company, was chosen to receive the first Lance J. Ewing RIMS and CRM Fellowship.

The fellowship, announced at last year's RIMS conference in San Diego, is given to professional development students who display a commitment to continuing education and personal growth in the risk management field.

Two fellowships are awarded annually. Applicants must be a member of RIMS, be employed full-time in risk management or insurance and demonstrate a commitment to continuing professional education.

The honor is named for Mr. Ewing,

ing, vp-risk management for Caesars Entertainment Inc. Mr. Ewing, who is a past president of RIMS, also is a faculty member for the National Alliance's Certified Risk Manager program.

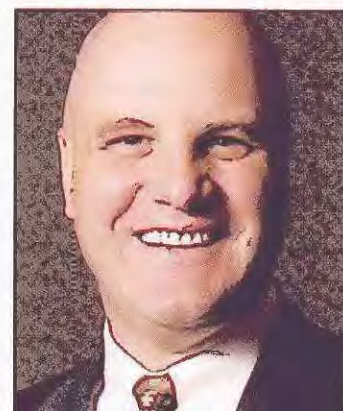
Ms. Pugliese, who already holds the Associate in Risk Management designation, will attend the CRM "Practice of Risk Management" course in Denver next month.

New designation

Meanwhile, the National Alliance

earlier this month announced a new education and designation program for school risk managers, titled the Certified School Risk Manager Program. Developed in conjunction with the Texas Schools Risk Managers Assn., the program encompasses five courses: Fundamentals of Risk Management, Measuring School Risks, Handling School Risks and Administering School Risks.

For more information about the CRM and CSRM programs or the Lance J. Ewing Fellowship, visit www.thenationalalliance.com.



Mr. Ewing

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COMMENTARY

Senior Editor Dave Lenckus

Enterprising ideas for generating business

As the concept of enterprise risk management draws interest in an increasing number of organizations, experts are consulting, floating white papers and conducting seminars on how to go about managing risks other than those traditionally financed with commercial insurance.

It looks like those experts will have lucrative consulting practices ahead of them. Just a few well-placed cold calls should generate some healthy business.

The first call should be placed to the discount cell phone service that is marketing its product to high school students.

The marketing ploy—play to the kids, not the parents who will be doling out the service fees—is nothing new or especially troubling, if done right.

But the message in the radio spot I heard is something that should have troubled a risk manager with an enterprise risk management agenda.

In the spot, a student raves about how easy her phone makes it for her to surreptitiously text message girl-talk to her friends during boring classes.

Well, thank you very much for that ad. It's just what I'm looking for—another distraction for Junior during algebra class.

In case the company has not noticed, there are some individuals around who like to gripe loud and long in court after they feel they have been slighted.

Maybe the company won't ever face a class action lawsuit from parents who are concerned that the ad will promote inattentiveness in class and consequently lower grades, thereby forcing their children into third-rate colleges and such undistinguished careers as hack ad copywriters or unthinking discount cell phone marketing executives.

But if an aggressive plaintiffs' attorney did file a case like that, it would generate some bad publicity for the company, regardless of the outcome. And even if no lawsuit is filed, the commercial does nothing to ingratiate the company with the consumers who would be paying for the service. It will—or, at least, should—alienate some.

ERM experts also should consider ringing up some grocery and retail stores. ERM apparently isn't in the works there, because even some traditional risk management isn't being conducted.

Has anyone else noticed how awkward it is in some stores to traverse what are supposed to be aisles but are much more like fissures in rock formations?

On the plus side, you can combine your grocery shopping with your gym workout, as you have to lift your shopping cart above your head to negotiate around totally unnecessary product displays. Half of the display items, such as dress shirts, you never would purchase from a grocery store anyway. And you've probably already picked up the other half of the items when you passed them in the aisles where they normally are stocked.

On the negative side is the risk of impaling your neck on the nasty prong poking out from the display on your left as you dodge the display on your right.

In clothing stores, parents no longer can monitor the activities of their rambunctious children by keeping an eye on clothes racks that appear to be moving on their own. The kids no longer are squirreling through the racks. There's no room, because that's the only passage for adults.

If store management believes that consumers really need so much choice, can we at a minimum get some emergency floor lighting installed? At least in an emergency, we'd have a chance to live and choose again.

Another good source of potential ERM clients would be any risk manager in Arizona, now that residents forced lawmakers to kill a bill that would have forced risk managers to be frantically consumed with how to protect visitors and workers.

The measure would have allowed anyone to bring a concealed firearm into any institution. Guns would have been allowed in schools, the workplace and anywhere else that they expressly had not been permitted. Indeed, under the measure, not even rules against bringing guns onto the state House floor would have carried any weight.

The bill was on track to be passed last month, until some newspaper articles about it prompted a large protest.

Thank goodness for the children. Their book-stuffed backpacks are too heavy already without the additional weight of weapons and ammo.

Departing RIMS president reflects on eventful tenure

By JOANNE WOJCIC

PHILADELPHIA—Outgoing Risk & Insurance Management Society Inc. President Nancy Chambers is passing the torch to new President Ellen Vinck, ending her tour of duty leading RIMS through one of the insurance industry's most tumultuous years.

"What a year it's been," said Ms. Chambers, who headed the society during a year marked by New York Attorney General Eliot Spitzer's investigations of the industry, congressional debate over the extension of the Terrorism Risk Insurance Act and a change in the society's governance structure and executive director.

"I was looking forward to a number of breathless moments throughout my term. Well, I can tell you that, with all the challenges this year, as part of our risk management program, RIMS staff was standing ready with oxygen on a few occasions," she said in a speech last Monday that opened this year's RIMS conference in Philadelphia.

Throughout the year, RIMS has worked vigorously to serve the interests of risk managers at the federal, state and regulatory levels, according to Ms. Chambers.

"From tort reform to the Terrorism Risk Insurance Act, contingency fees to insurance industry modernization, RIMS has played a critical role in shaping the issues that affect your business the most," she said.

"As the contingency fee investigations came to the forefront last year, RIMS pursued a variety of avenues to ensure the voice of the risk manager would be heard on this important issue," she said.

For example, RIMS Vp for External Affairs Janice Ochenkowski testified in November 2004 "before the Senate Subcommittee on Financial Management alongside New York Attorney General Eliot Spitzer and others in high-profile positions to



PHOTO: MICHAEL MARCUTTE

"It is clear that the nature of the broker relationship will continue to be a focal point of the government affairs agenda, and RIMS will be ready to continue its constructive role in the dialogue."

Nancy Chambers
Risk & Insurance Management Society Inc.

discuss the various aspects of the broker-client relationship," Ms. Chambers said.

At the state level, RIMS met with former New York Insurance Superintendent Gregory Serio and the office of Massachusetts Attorney General Tom Reilly to respond to inquiries regarding contingency fees, she said.

"When the New York State Assembly held a hearing on broker contingency fees in January, RIMS board member Michael Gaona was there to testify before the insurance

committee and responded to their questions," Ms. Chambers noted.

And, on the regulatory front, RIMS played "an integral role" in shaping broker disclosure proposals by the National Assn. of Insurance Commissioners, Ms. Chambers said. RIMS submitted comments to the NAIC on a proposal to increase transparency between brokers and their clients, she added.

"It is clear that the nature of the broker relationship will continue to be a focal point of the government affairs agenda, and RIMS will be ready to continue its constructive role in this dialogue," Ms. Chambers pledged.

RIMS also addressed the issue with the Insurance Bureau of Canada and the Insurance Institute of Canada, as well as in discussions with the Canadian Council of Insurance Regulators, she said.

Ms. Chambers also noted that RIMS' advocacy of federal class action reform produced results in February with the passage of legislation signed into law by President Bush.

During her speech, Ms. Chambers also recounted several other developments during her term as RIMS' president. Among them:

- RIMS' house of delegates approved a new governance structure in which the executive council and the board of directors were combined into one board, and the number of elected officers was reduced from 10 to four.

- Mary Roth, formerly RIMS chief operating officer, was named executive director, replacing Jack Hampton, who resigned to pursue consulting work.

- The society's New York headquarters relocated to new offices.

- RIMS' financial status improved significantly, providing the organization with a nearly \$2 million budget surplus.

- RIMS' membership swelled to a record 9,297 as of the end of March.

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Equitas agrees to settle with Goodyear in \$61 million deal

Agreement with tire maker follows trend of settlements

LONDON—Equitas Ltd. has agreed to settle asbestos and pollution liability claims of Goodyear Tire & Rubber Co. for an immediate payment of \$22 million and establishment of a \$39 million trust fund for future claims.

Under the settlement, Akron-based Goodyear will receive the \$22 million during the second quarter of 2005, the company reported. The \$39 million trust fund will be used to reimburse Goodyear for future asbestos-related costs, subject to a monthly limit on payments from the fund and other confidential criteria, according to a Goodyear 8-K filing with the Securities and Exchange Commission.

If federal asbestos reform legislation is enacted before Jan. 3, 2007, London-based Equitas may recover some or all of the money then remaining in the trust under the terms of the deal. If no legislation is enacted, funds left in the trust will be paid to Goodyear, the company and Equitas reported.

The settlement covers pre-1993 policies issued to Goodyear by Lloyd's of London underwriters and reinsured by Equitas. As part of the agreement, Goodyear has released Lloyd's underwriters from any further liability under the policies.

Goodyear was a defendant in lawsuits filed by 127,300 claimants as of the end of 2004, and the company and its insurers spent \$29.9 million defending and settling asbestos claims last year, according to Goodyear's 2004 10-K report.

From 1914 to 1973, Goodyear manufactured rubber-coated asbestos sheets used to manufacture gaskets, and before 1987 produced aircraft brake systems that contained asbestos, the filing notes.

The Goodyear settlement is one of several high profile deals that Equitas has entered into with U.S.-based policyholders over asbestos and pollution related liabilities in the past two years.

- In March, Equitas, which is the runoff reinsurer for the pre-1993 liabilities of Lloyd's, agreed to pay \$415 million in to a trust to settle the asbestos liabilities of The Babcock & Wilcox Co., a subsidiary of Houston-based McDermott International Inc.

- In January, Dana Corp. and other unnamed policyholders settled with Equitas for \$200 million.

- In March 2004, Travelers Property Casualty Corp. settled with Equitas for \$245 million.

- In January 2004, Halliburton Co. settled with Equitas for \$575 million.

- In April 2003, Honeywell International Inc. settled with Equitas for \$472 million.

More settlements are in the pipeline, according to Equitas.

"We are pleased to have begun our new fiscal year with another major settlement," said Glenn Brace, claims director for Equitas in London.

"We are actively negotiating with a number of other policyholders and expect that they will also result in settlements," he said.

—By Douglas McLeod



PARIS (Reuters)—Aéroports de Paris said last week it would cost an estimated 150 million euros (\$195.9 million) to rebuild the roof of the boarding area at terminal 2E at Charles de Gaulle airport, which partially collapsed in an accident last year. The cost of the reconstruction will mainly be covered by the group's insurers, led by French insurer AXA S.A., ADP Chairman Pierre Graff told journalists. "The (financial) impact of terminal 2E is completely under control," he told reporters before a news conference on the Paris airport operator's annual results. Four people were killed when a large part of the terminal roof at France's main international airport collapsed in May 2004, just 11 months after the futuristic building opened. ADP said its capacity at Charles de Gaulle would return to pre-accident levels by the summer of 2005.

McGill to help lead Benfield foray into primary business

Former JLT chief to advise reinsurance broker on expansion

LONDON—Steve McGill, the former head of Jardine Lloyd Thompson Group P.L.C., is helping JLT rival Benfield Group Ltd. drive its expansion into the primary insurance brokerage sector.

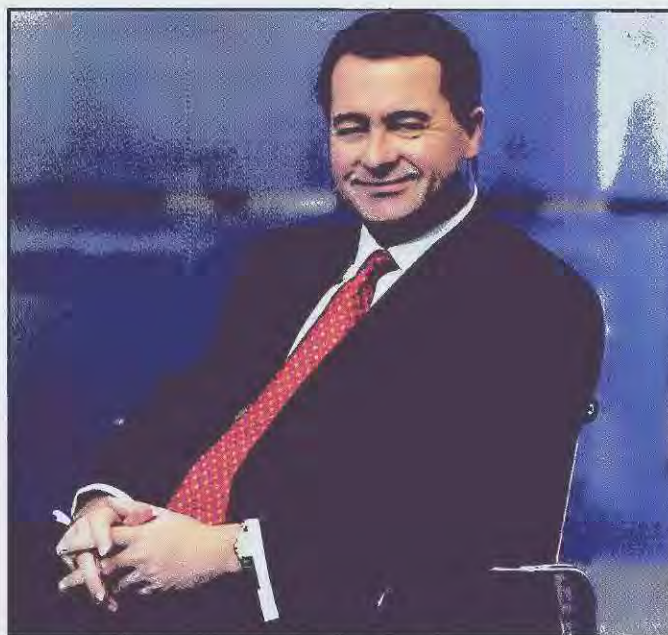
Mr. McGill resigned as chief executive of London-based JLT late last year after JLT announced lower-than-expected profits (*BI*, Dec. 6, 2004). He had been JLT's CEO since 2002, when he replaced Ken Carter, who has returned to the helm until Mr. McGill's successor is found.

A spokesman for London-based Benfield confirmed last week that Mr. McGill recently joined the company "as a consultant to advise on the group's plans to establish a primary insurance broking business."

The reinsurance intermediary's decision to bring in Mr. McGill is the latest step in that effort.

John Lapsley, former worldwide chairman of Marsh Inc.'s marine and energy division, joined Benfield last month to develop a primary specialty business in the energy, marine and power sector, focusing on major corporate customers worldwide, said the spokesman.

Although Benfield already operates in the primary sector of specialty areas such as aerospace, it has identified current client dissatisfaction with major brokers as an opportunity to expand its primary business, he said.



Steve McGill, who resigned as chief executive of Jardine Lloyd Thompson P.L.C. last year, has joined Benfield Group Ltd.

Benfield's move "is a response to corporate buyers of risk solutions who are now dissatisfied with the flawed business approach of the major brokers as highlighted by the New York Attorney General Eliot Spitzer," Benfield Chief Executive Officer Graham Chilton said in a statement.

Mr. Chilton stressed that a "key aspect of our primary business model will be complete and real separation of our reinsurance and primary business."

—By Carolyn Aldred

Updates

Cooper Gay expands into Eastern Europe

London-based insurance and reinsurance broker Cooper Gay Group has opened offices in Belarus and Russia. The Lloyd's of London broker said the new offices in Minsk and Moscow were part of its strategy to expand into Eastern Europe. The company already has offices in France, Germany and the United Kingdom.

Pilot granted request for part-time work

A female pilot for British Airways P.L.C. has won an employment tribunal for her request to work 50% part-time in order to look after her young daughter. Jessica Starmer had said she was the victim of indirect sexual discrimination when her request to work part-time was denied. Ms. Starmer currently works 75% time. At the tribunal in Watford, England, last year, BA said that it had denied Ms. Starmer's request on health and safety grounds. It said it did not allow pilots to work 50% part-time until they had completed at least 2,000 hours of flying. BA said it would appeal the decision, which was announced last week.

Brit appoints two to underwriting teams

Toby Stubbs has been appointed reinsurance property treaty underwriter at London-based Brit Insurance Holdings P.L.C. Mr. Stubbs previously was a founding member of the property treaty team at Aspen Insurance Holdings Ltd. Meanwhile, Matthew Wilson has been appointed aerospace underwriting director at Brit. He will carry out this new role in addition to his current duties as property underwriting director.

Willis completes Polska purchase

Willis Group Holdings Ltd. has acquired the 30% of Polish subsidiary Willis Polska S.A. that it did not already own. The London-based broker also announced it has set up a new, fully owned subsidiary in Kiev, Ukraine. The new Ukrainian company will provide a full range of insurance services, Willis said in a statement.

Briefly noted

Manfred Gentz has been appointed chairman of the board of Zurich Financial Services Group in Zurich, Switzerland. He succeeds Lodewijk van Wachem, who retired. Mr. Gentz will serve a three-year term....Hubert Oeckl has been chosen to head the aviation excess-of-loss treaty team of GE Insurance Solutions in London. The company said in a statement that he rejoins GE Insurance Solutions from a similar role at Munich Reinsurance Co.

Letters

Continued from page 8

ance agreements. Kemper's buyback plan involves paying policyholders immediate payments to buy back policies in exchange for accepting less than Kemper's reserved amount for claims. This helps Kemper to reduce its liabilities and increase its surplus, thereby increasing its ability to pay other policyholders' claims.

In the past, one of the impediments to policyholders entering

into such buyback plans had been the preferential settlement provision that can undo such buybacks if they occur too close to the insurer's insolvency. Recently passed legislation in Illinois—Kemper's home state, where any rehabilitation or liquidation will proceed—changes the landscape, though, and takes away this concern for all policyholders, wherever they reside,

when the new exception to this rule is triggered. The exception states that a settlement cannot be voided as preferential when the director of insurance has specifically preapproved it in writing.

The legislation, which went into effect in February, was specifically written to encourage more policyholders to enter into such policy buyback negotiations with Kemper.

With the major impediment for such negotiations gone, coming to the table with Kemper sooner rather than later may increase a policyholder's chance of obtaining more cents on the dollar, because Kemper will likely have more surplus with which to negotiate.

Angela R. Elbert

Senior Counsel

Neal, Gerber & Eisenberg L.L.P.
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UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

In re:
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Subject of a Foreign Proceeding.

In re:
Petition of Catherine Geraldine Regan, as Foreign Representative of **SPHERE
DRAKE INSURANCE LIMITED**, formerly Odyssey Re (London) Limited,
Subject of a Foreign Proceeding.

SUMMONS AND NOTICE OF HEARING IN AN ANCILLARY PROCEEDING

SUMMONS: TO ALL UNIDENTIFIED U.S. PARTIES-IN-INTEREST OF THE U.K. SCHEME COMPANIES, INCLUDING THOSE WITH NO KNOWN ADDRESSES:

Petitions ancillary to a foreign proceeding, pursuant to 11 U.S.C. Section 304, were filed on April 19, 2005 in the United States Bankruptcy Court for the Southern District of New York (the "304 Petitions"). The 304 Petitions were filed together with a verified petition for an order giving full force and effect to the U.K. Scheme sanctioned by the High Court of England and Wales in London, England on December 15, 2004, with respect to RiverStone Insurance (UK) Limited ("RiverStone") and Sphere Drake Insurance Limited ("SDI," and together with RiverStone, the "U.K. Scheme Companies"). The U.K. Scheme effects a transfer of SDI's business, including policies, reinsurance, liabilities and assets, which comprises and is supported by U.S. trusts and contracts of reinsurance, and which is governed by U.S. law or which was written in the U.S. (the "U.S. Requirements Business") to RiverStone. If the relief requested in the Verified Petition is granted, the U.K. Scheme will become binding on and enforceable against all of SDI's U.S. policyholders, creditors, reinsureds and litigants.

YOU ARE HEREBY SUMMONED and required to submit an answer or motion if you contest the relief sought in the Verified Petition within 20 days after publication of this summons, to the Office of the Clerk, Room 632, One Bowling Green, New York, New York 10004-1408. At the same time, you must also serve a copy of your answer on the undersigned attorneys for the Petitioner, Lovells, 900 Third Avenue, New York, New York 10022, Attn: Karen Ostad, Esq. and Dina Gielchinsky, Esq. If you fail to respond to this summons, the relief requested in the Verified Petition may be granted.

This summons is served on you by publication pursuant to an Order of the Honorable Robert D. Drain, United States Bankruptcy Judge, dated April 20, 2005, and filed with the 304 Petitions and other papers in the office of the Clerk of the Bankruptcy Court.

PLEASE TAKE NOTICE that copies of the 304 Petitions, the Verified Petition, the proposed order giving full force and effect to the U.K. Scheme and a copy of the U.K. Scheme are available upon written request to the Petitioner's counsel, Lovells, 900 Third Avenue, New York, New York 10022, Attn: Karen Ostad, Esq. (karen.ostad@lovells.com) and Dina Gielchinsky, Esq. (dina.gielchinsky@lovells.com).

PLEASE TAKE NOTICE that if objections or answers are filed to the relief requested in the Verified Petitions, a hearing will be held on May 24, 2005 at 10:00 a.m., before the Honorable Robert D. Drain, at the United States Bankruptcy Court, One Bowling Green, New York, New York 10004-1408 in Room 610.

LOVELLS • Attorneys for Petitioner
900 Third Avenue, New York, New York 10022
Tel: (212) 909-0600, Fax: (212) 909-0666
Attention: Karen Ostad, Esq. • Dina Gielchinsky, Esq.

/s/ Kathleen Farrel-Willoughby
Clerk of the Court
By: /s/ Venice Leggett
Deputy Clerk

April 20, 2005
Date of Issuance

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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

**COMPAGNIE EUROPÉENNE DE
RÉASSURANCES SA**

(IN PROVISIONAL LIQUIDATION)

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 of England and Wales (the "Court") on 20 May 2005 for an Order for permission to convene a meeting of creditors of the Company (the "Scheme Meeting"). The purpose of the Scheme Meeting will be to consider, and if thought fit, to approve (with or without modification) a scheme of arrangement proposed by the Company pursuant to section 425 of the Companies Act 1985 (the "Scheme") between the Company and its creditors.

The purpose of the Scheme is to reduce the length and cost of the administration of the run-off of the Company's London Market business, currently taking place within the provisional liquidation of the Company in England. The Scheme will impose a bar date for the submission of claims and establish a method by which current, contingent and future claims of creditors will be valued and a dividend paid.

The Company is of the opinion that the rights of the creditors affected by the proposed Scheme are not so dissimilar as to make it impossible for them to consult together with a view to their common interest. Accordingly, the Company has concluded that there should be only one class of creditor under the Scheme and it is therefore proposed that only one meeting of creditors be convened for the purposes of considering and, if the creditors think fit, approving the Scheme.

If any creditor has any observations or queries in relation to this approach it should contact the Provisional Liquidators in writing at the address below as soon as possible, and in any event by no later than 13 May 2005, so that any points can be considered prior to the application to the Court being issued.

Compagnie Européenne de Réassurances SA, c/o PricewaterhouseCoopers LLP, 31 Great George Street, Bristol BS1 5QD, United Kingdom (Contact: Claire Barnes)

Further information about the Company and the proposed Scheme is set out in a letter to creditors dated 15 April 2005, which can be viewed at www.pwc.com/uk/ceer. Alternatively, a copy of this letter can be obtained by contacting Claire Barnes of PricewaterhouseCoopers LLP at the above address or by telephone on +44 (0) 117 928 1137.

Need a Legal Notice, Request For Proposals or Announcement published?

Contact Tina Vasilakis (312) 649-5340

www.BusinessInsurance.com/Notices

PRODUCTS & SERVICES



Keller offers series on HR training

NEENAH, Wis.—J.J. Keller & Associates Inc., a safety and compliance product provider, is offering a video series of human resources training programs.

The series, "Winning Workforce: Raising Your Employees' Awareness," includes four programs on issues that can affect corporate productivity. The topics include diversity and discrimination, substance abuse in the workplace, sexual harassment and violence in the workplace. Each training video lasts seven to 10 minutes and uses a story line approach to illustrate an incident. The package also includes a trainer's guide providing tips and techniques and employee skill cards used to recap key points.

The series is available on DVD and VHS and can be purchased separately or as a four-program package. To order from Neenah, Wis.-based Keller, call 800-327-6868 or e-mail sales@jjkeller.com. More information can also be found at www.jjkeller.com.

Companies form alliance to offer disability coverage

Broadspire Services Inc. and Highmark Life & Casualty Group and have formed an alliance to offer large employers short-term and long-term disability coverage.

Through the partnership, Pittsburgh-based Highmark will provide the insurance coverage and Plantation, Fla.-based Broadspire will administer the claims management services. The program is available to employers with more than 2,500 insured lives.

For more information on the Broadspire and Highmark program, visit the companies' Web sites, at www.highmarklife.com and www.choosebroadspire.com.



The Hartford offers property endorsement

HARTFORD, Conn.—The Hartford Financial Services Group Inc. has introduced an endorsement for ocean and international air cargo that attaches to the company's Property Choice policy.

The Ocean Companion endorsement is available to midsize

companies and provides coverage for importing and exporting products by ocean or air and also includes war coverage.

The two coverage limit options include \$50,000 per shipment and \$100,000 per occurrence or \$100,000 per shipment and \$200,000 per occurrence.

More information can be obtained by contacting Lauren Berry, assistant vp of marine, at lauren.berry@thehartford.com, or by visiting the company's Web site, at www.thehartford.com.

AIG company expands aviation offerings

NEW YORK—AIG Aviation Inc., an American International Group Inc. member company, has expanded its insurance portfolio with the Aviation War Liability offering.

The coverage is marketed to corporate flight departments and owners of private aircraft. It is designed to help risk managers meet the new minimum liability requirements mandated by the European Union.

The coverage is designed to apply in excess of a \$50 million primary aviation liability policy and also works with a corporate umbrella placement to fill coverage gaps. The program responds to covered losses on an occurrence basis with limits up to \$300 million.

For more information, telephone Kyle Sparks, senior vp-AIG Aviation Inc., at 800-554-8420.



Model estimates potential wind losses to plate glass

BOSTON—AIR Worldwide Corp. has developed a catastrophe modeling service to estimate insured losses to plate glass due to windstorm.

Boston-based AIR's modeling methodology estimates the vulnerability of glass by analyzing the effects of wind pressure and wind-borne debris and the resistance of various types of glass. Results from wind tunnel studies and wind engineering research are also used.

Loss estimates are generated by combining information on the windstorm hazard along with property information such as building height, occupancy, and glass type, size and thickness.

The modeling capabilities cover commercial properties, churches, condominiums, apartments and other residential structures. The glass types covered include annealed, tempered, impact-resistant and stained glass. This product was developed in collaboration with the Westchester, Ill.-based US Plate Glass Insurance Co.

For more information, visit the company's Web site, at www.air-worldwide.com.

ACE USA unveils network risk insurance product

PHILADELPHIA—ACE USA, in conjunction with ACE Professional Risk, has launched a network risk insurance program for businesses of all sizes.

The ACE Digital Data Network Availability program intends to protect against network security and privacy exposures companies face. Some of the coverages include digital asset loss, which covers costs incurred to replace, restore or recollect data that has been corrupted or destroyed due to a network security failure; cyber extortion, which covers extortion expenses arising from a criminal peril, such as a threat to bring down the insured's network; and business interruption, which covers the loss of income and extra expenses from a network services interruption caused by a network attack such as by



criminal hackers and malicious insiders.

To learn more about the ACE Digital DNA product, contact Brad Gow, vp-ACE Professional Risk, in Philadelphia at 215-640-1949; or visit www.ace-usa.com.

OnlineBenefits expands benefit information system

UNIONDALE, N.Y.—OnlineBenefits Inc., a benefit information systems provider, has expanded its Benergy system with the addition of its Real Value Statement feature.

Real Value Statement allows benefit managers to create

personalized total compensation statements for employees that present the total value of their cash compensation, employee benefits and estimated tax savings. It does this by aggregating employee data, compensation and benefits through the Uniondale, N.Y.-based OnlineBenefits' Benergy system. The statements can be delivered to employees online or printed for mailing.

For more information, contact Andrew Ceccon, chief marketing officer, at 516-414-7008, or at aceccon@onlinebenefits.com. More information can also be obtained by visiting www.onlinebenefits.com.

We'd like to report on new risk management and employee benefit products and services offered by your company. Send information about your new offerings to: Carrie A. Peinado, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; telephone: 312-649-5313; fax: 312-649-7801; e-mail: cpeinado@businessinsurance.com.

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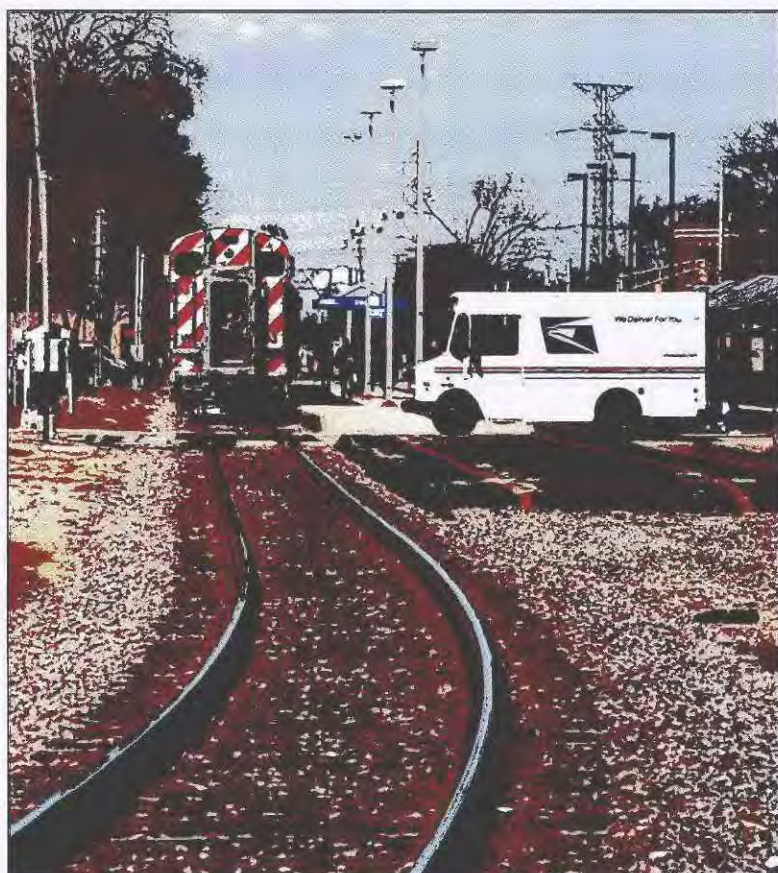


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Computerized safety programs that monitor trains in an effort to reduce train collisions could be used to make rail crossings safer.

Rail: Safety tool derailed?

used toward other safety improvements that could have a greater effect.

"Clearly, the railroads are interested in a return on investment," said Tom Sullivan, president of Transportation Systems Design Inc., an Oakland, Calif.-based transportation consultant. And their cost-benefit analyses are showing that will be tough to achieve, he noted.

"Safety is really the No. 1 benefit," Mr. Sullivan said of the PTC systems, but if other efficiencies are achieved, such as "getting more utilization out of the track" with the ability to run more trains, railroads may be able to make up for some of the cost that won't be returned merely by running safer operations.

One major railroad says it is testing a system that will provide the efficiencies and safety benefits without the full-blown implementation of a PTC system.

Burlington Northern & Santa Fe Railroad Co. has finished two phases of testing an electronic train management system that can control train speeds and provide train operators with warnings about equipment on tracks.

Because the system works with currently installed signal and control systems and is not as fully integrated into railroad operations, it is not regarded as a full-blown PTC system. But a spokesman for the Fort Worth, Texas-based railroad says the system is good enough.

"We're working on this system because it accomplishes what we need," the spokesman noted. He would not provide details on the cost of the BNSF system.

The BNSF system is being tested on track running between the Illinois cities of Beardstown and Centralia.

And the FRA and AAR are working with the Illinois Department of Transportation and U.S. Depart-

ment of Transportation on testing for a system that could be installed on rail lines between St. Louis and Chicago. That testing is about two-thirds completed, according to the AAR spokesman.

Under the FRA's new rules, railroads that do implement the technology will have to meet certain performance standards. Those include, among other things, software management controls that show whether the correct software is installed for the systems, the development of operations and maintenance manuals, training and qualification programs for operating the systems and safety plans that details risk assessment procedures related to the PTC systems.

But before the systems can be implemented, there remain a "number of issues" that have to be worked out, the FRA spokesman noted. One big hurdle is the issue of "interoperability," he pointed out, which means that because railroads often share equipment and power, the PTC systems will have to allow trains to move at track speed from one system to another while under constant supervision.

That's a big issue with the railroads, Mr. Sullivan agreed. "When you go from one railroad system to the other, you don't want to have to carry two racks of equipment on the train," he said.

But while railroads want a standardized system for the entire rail system, manufacturers are busy developing PTC systems according to their own internal standards, Mr. Sullivan said, and each wants to make its system the standard for the industry.

"We haven't gotten to the point where there's a clear winner," he said, and until one systems maker is recognized as the leader, railroads are going to balk at investing in PTC technology.

Pay: Employment practices suits increase

Continued from page 4

in Warren, N.J., agreed.

Insurers have made it clear that their EPLI policies do not cover an employer's obligation to properly pay employees. But policyholders should have coverage under EPLI policies for the discrimination portion of such claims, Mr. Maloney said.

Allocating the coverage that policyholders are entitled to is challenging, though, and requires separating an employer's obligation to properly pay its employees from allegations of discrimination, Mr. Maloney said. Chubb resolves the issue through discussions with its policyholders, he added.

The Class Action Fairness Act has provided employers with some advantages in defending against employment class action lawsuits, the speakers noted. For example, it has made it easier to remove cases to the federal court system from local jurisdictions, where judges tend to favor plaintiffs and more easily agree to grant class action status.

But the act has done nothing to stem the number of lawsuits filed.

"In Los Angeles County alone,

"In Los Angeles County alone, there are four to five employment-related class actions filed everyday."

**Bryan T. McMillan
Littler Mendelson**

there are four to five employment-related class actions filed every day," Mr. McMillan said. "Mainly with wage and hour issues, but we have seen more and more tied to pay practices and promotional practices, à la Wal-Mart."

The Class Action Fairness Act may eliminate some plaintiffs' firms from filing employment class action lawsuits, especially those that dabble only occasionally in that practice. It will not deter well-financed plaintiffs' firms that specialize in bringing such lawsuits,

though. They are likely to focus more on picking better cases, the speakers agreed.

"You will see a shakeout (among law firms), but the big hits are still going to be there," said Joseph M. English, a partner at Fisher & Phillips L.L.P. in Atlanta.

With the threat of employment class actions still something to fear, employers can take some mitigation steps, the speakers agreed. Audit to determine whether workers classified as independent contractors really fit that description, they advised.

Analyze pay practices, giving particular attention to the lowest-paid workers categorized as salaried employees, Mr. McMillan suggested.

"Also, do some analysis into whether or not your pay practices are having a disparate impact on certain classifications, whether it's race or age or gender, or whatnot," Mr. McMillan said. Carry out such analysis with the help of attorneys, he advised, so that the findings can be guarded under privileged attorney-client protections and are not discoverable by plaintiffs.

PLUS employment issues symposium attracts 175

LOS ANGELES—About 175 people attended the Professional Liability Underwriting Society's Employment & Fiduciary Issues Symposium, held April 13 and 14 in Los Angeles.

The event covered an array of professional liability issues, with speakers discussing topics such as Department of Labor and Internal Revenue Service enforcement actions, the use of company stock as an investment option and potential liabilities stemming from religion in the workplace.

Victoria Bradshaw, secretary of California's Department of Industrial Relations, gave a luncheon keynote address, discussing her appointment by Gov. Arnold Schwarzenegger and current events in Sacramento, such as regulations regarding overtime pay.

PLUS has not yet determined when and where its next Employment & Fiduciary Issues Symposium will be held. For more information, visit www.plusweb.org.

Religion: Disputes grow contentious

Some of the most contentious expressions of beliefs in the workplace stem from proselytizing.

**Richard Lehr
Lehr Middlebrooks Price & Vreeand P.C.**

place," he told the symposium, held April 13 and 14 in Los Angeles.

Additionally, Senate Bill 677, referred to as the Workplace Religious Freedom Act of 2005, is now before Congress and would "highly ratchet up" employer obligations to accommodate religious beliefs, Mr. Lehr said.

Currently, Title VII of the Civil Rights Act of 1964, the Equal Employment Opportunity Commission and court rulings set the standards for employers to follow. For instance, employers must make reasonable accommodations for employee religious practices. Otherwise, employers must demonstrate that accommodation would result in undue hardship on the conduct of their business, Mr. Lehr explained.

An employer might have to make scheduling changes, allow time off during work hours for prayer, or incur incidental costs such as a certain amount of overtime pay to cover for employees who leave work for religious observances.

But substantial costs resulting from a disruption in workflow, safety concerns, interference with customers or the costs arising from inconsistency in implementing work-

place policies could extend beyond a reasonable accommodation, Mr. Lehr said. Recurring overtime pay is also more likely to be considered an undue hardship, with the frequency and amount of pay as determining factors.

Accommodation for one worker also does not require another employee to give up rights or privileges extended by contract or policy, he noted.

The U.S. Equal Employment Opportunity Commission has essentially found that a religion of one adherent can exist, while courts have shied away from deciding whether individuals sincerely hold certain religious beliefs, Mr. Lehr

said. For example, in deciding whether a well-known retailer was right to fire a worker with multiple face piercing, the 1st U.S. Circuit Court of Appeals in *Kimberly Cloutier vs. Costco Wholesale Corp.* considered both the employer's offer to accommodate and its need for professionalism among its workforce. But the court, which ruled the termination was appropriate, did not weigh whether the fired employee was sincere in her adherence to the beliefs of the 1,000-member Church of Body Modification, as she claimed.

Therefore, arguing whether a particular belief is sincere is not the way to go, Mr. Lehr said.

Some of the most contentious expressions of beliefs in the workplace stem from proselytizing, Mr. Lehr said. Proselytizing should be evaluated similarly to, say, sexual harassment, with the frequency and severity of behavior among the factors to consider, he said.

Mr. Lehr advised that a workplace harassment policy include religion as a protected class, but he stressed that it should also discuss behavior that would be regarded as offensive, intimidating, or threatening.

Mills: Nominee for top NY regulator position sets get-tough agenda

Continued from page 3

As chair of the National Assn. of Insurance Commissioners' reinsurance task force's working group addressing the issue, he expects the NAIC to adopt tighter rules for minimum risk transfer standards by the end of 2005.

In the wake of the broker compensation scandal, Mr. Mills said he is actively seeking additional attorneys to form a separate unit that "would be able to do the type of investigation into corporate practices to prevent a Marsh Mac type of situation from getting to the attorney general's office in the future."

He also plans to ask the Legislature to give him additional authority to cope with such situations, such as being able to summarily suspend or revoke a licensee's authority to operate.

In addition, Mr. Mills said the Insurance Department would follow more closely its 1998 requirements that a broker disclose to his or her customers all compensation arrangements.

On the controversial topic of contingent commissions, Mr. Mills said that the issue is "of such importance, of such significance and of such longstanding practice—and is different between megabrokers and Main Street brokers—that it is not something that should be decided" by regulators but by legislators, he said.

Observers reacted to Mr. Mills' plans with both support and concern.

Most supported his efforts to have the Insurance Department take a more-active role in enforcing producer disclosure requirements, as well as overseeing the activities of insur-

ance industry participants.

The industry should comply with existing statutes, but if it doesn't, then the insurance regulator should primarily "oversee and enforce compliance, when necessary," said Francine Semaya, a New York-based partner with the law firm of Cozen O'Connor.

Debbie L. Gramer, a risk manager with Melville, N.Y.-based Arrow Electronics Inc., said Mr. Mills' plan to seek the authority to summarily suspend a broker or insurer's li-

Mr. Mills plans to ask the New York Legislature to give him the additional authority to summarily suspend or revoke an insurance licensee's authority to operate.

cense was "excellent," because it would make people "a lot more careful in their business dealings."

That proposal, though, "greatly concerned" a spokeswoman for the Indianapolis-based National Assn. of Mutual Insurance Cos.—as well as other insurer trade associations—because it raises due process issues.

In addition, William Newberg, director of risk management for Pleasanton, Calif.-based Ross Stores Inc., disagreed with Mr. Mills' pro-

posal that legislators should decide the issue of contingent commissions. It "would be appropriate" for insurance regulators to handle that, Mr. Newberg said.

Other agenda items

Mr. Mills' current regulatory agenda also includes implementing regulations for an on-line risk management program for physicians, surgeons and dentists so they can become eligible to participate in an excess medical malpractice insurance program that the state previously established.

In terms of national issues, Mr. Mills recently testified before Congress in support of extending the Terrorism Risk Insurance Act and said he has spoken recently with drafters of the proposed State Modernization & Regulatory Transparency Act. Drafters think that the NAIC "should be at the table," he said, despite the group's recent letter criticizing the proposal (*BI*, March 28).

Mr. Mills also places a priority on getting the New York's Insurance Department reaccredited under a program that the Kansas City, Mo.-based NAIC launched more than a decade ago to improve financial regulation nationwide.

"It's kind of embarrassing" that New York is now the only unaccredited jurisdiction in the United States, he said. The department lost its accreditation in 1993, when the Legislature failed to adopt a needed risk-based capital bill, which has been reintroduced this year and is currently pending in the Assembly.

Rupal Parekh contributed to this report.

Accomplishments to date

Following are highlights of the career of Howard Mills, who has been nominated to be New York's top insurance regulator:

- 1989-1993: Councilman of Wallkill, N.Y., population 28,000.
- 1993-1998: Town supervisor of Wallkill. Mr. Mills said the elected position in the self-insured town gave him "a crash course" in the realities of risk.
- 1998-2004: Served as a three-term Republican assemblyman for Orange and Rockland counties. Served as deputy minority leader and sat for four years on the Assembly's Insurance Committee, among other committee posts.
- 2004: Ran an unsuccessful bid for a U.S. Senate seat against Democratic incumbent Charles Schumer.
- Before beginning his political career, Mr. Mills worked as a college director of development, a business consultant to the telecommunications industry and in business development and public relations for a financial services firm.
- Mr. Mills holds a master's degree in government and public affairs from American University in Washington.

Find out first.

- Broker compensation crisis
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- Impact of the softening market on the cost and scope of coverage
- Fallout in market if Congress fails to extend TRIA
- Losses from major hurricanes and ongoing catastrophe perils
- Battle in the Senate over how to reform asbestos liability

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THE BENEFITS OF BETTER COVERAGE.

Asbestos: Newly introduced bill already drawing fire from all sides

Continued from page 1

would seek compensation from the trust fund.

If the fund runs out of money to pay claims, a victim could file suit in federal court, the state court for the state in which he or she resides or the state court for the state in which the exposure occurred.

The bill enjoys bipartisan support, and the Judiciary Committee is scheduled to begin marking up the measure on April 28.

A group of insurance trade associations sent Sen. Specter a letter outlining their concerns with a draft version of the bill shortly before he formally introduced the measure. The three groups—the American Insurance Assn., the National Assn. of Mutual Insurance Cos. and the Reinsurance Assn. of America—said that, “without substantial modifications, insurers would not be able to support the legislation.” Of particular concern was the fact the fund would not be an exclusive remedy

for all asbestos claims.

“Our letter is our letter; that speaks for itself,” said Julie Rochman, an AIA senior vp in Washington. “We are looking at the bill as introduced to see if there were any changes because, as always in a 300-page bill, even the smallest details are very important.”

The Property Casualty Insurers Assn. of America wasted little time, though, in announcing its “strong opposition” to the bill in its present form. In a statement issued less than 24 hours after Sen. Specter officially introduced the bill, Carl Parks, PCI’s senior vp-federal government affairs, said that the bill “will not remedy the asbestos crisis” and promised that PCI’s members “will actively fight the passage of this bill.”

Des Plaines, Ill.-based PCI listed three major concerns with the legislation. PCI said that the bill does not provide an exclusive remedy for all asbestos-related

claims; would not be affordable; and allows the trust fund to sunset

“While we are reviewing the details of the legislation, it is clear that introduction of the bipartisan S.852 represents a significant milestone in the decades-long push for an asbestos solution.”

Michael Baroody
Asbestos Alliance

at any time, thus “creating significant uncertainty for claimants and

insurers.”

Also opposing the bill is Washington-based ATLA, which issued its own statement saying the plaintiffs’ bar group is “very troubled with the direction of the asbestos bill and especially disappointed” that some Democratic members of the Senate Judiciary Committee support it. “There is considerable evidence that \$140 billion may be insufficient to help all current and future victims,” said ATLA in its statement.

The chair of the Washington-based Asbestos Alliance’s steering committee issued a statement saying that the group is “very pleased” with the introduction of the legislation.

“While we are reviewing the details of the legislation, it is clear that introduction of the bipartisan S.852 represents a significant milestone in the decades-long push for an asbestos solution and will provide an excellent basis for passage of com-

prehensive and fair legislation,” said Michael Baroody, who is also executive vp of the Washington-based National Assn. of Manufacturers, in a statement.

“I think it’s fair to say that S.852 represents somewhat of an improvement over Sen. Specter’s earlier draft,” said James A. Anderson, vp-government relations for the Washington-based National Assn. of Wholesaler-Distributors, which is a member of the Asbestos Alliance.

“However, NAW hasn’t taken a position on the bill specifically yet because the allocation scheme continues to unacceptably disadvantage wholesaler distributors. It has many of them paying more into the fund than they would pay under the tort system now in place.”

“We’re willing to work in good faith with anyone who’s willing to work in good faith with us to resolve this issue, and that’s exactly what we’re doing,” Mr. Anderson said.

Securities: Suits may be easier to defend

Continued from page 1

plaintiff who has suffered an economic loss to provide a defendant with some indication of the loss, and the causal connection that the plaintiff has in mind,” but plaintiffs have not done so, said the opinion, which was written by Associate Justice Stephen Breyer.

The case centered on shareholders who bought Dura stock between April 1997 and February 1998. The stock price dropped dramatically after the company announced its earnings would be lower than expected. The investors charged that the company had earlier made false statements concerning both its drug profits and the expected approval by the U.S. Food & Drug Administration of its new asthmatic spray device. San Diego-based Dura has since merged with Dublin, Ireland-based Elan Corp.

The case was initially dismissed by a federal district court but was reversed by the 9th Circuit appellate court. The appellate court was wrong, the Supreme Court said. “For one thing, as a matter of pure logic, at the moment the transaction takes place, the plaintiff has suffered no loss; the inflated purchase price is offset by ownership of a share that at that instance possesses equivalent value,” said the decision.

“Moreover, the logical link between the inflated share purchase price and any later economic loss is not invariably strong,” said the court, which cited changed economic circumstances, changed investor expectations and industry- or firm-specific changes among other possible factors.

“Given the tangle of factors affecting price, the most logic alone permits us to say is that the higher purchase price will sometimes play a role in bringing about a future loss.”

Furthermore, the decision said, precedent does not support the 9th Circuit decision, nor is it consistent

with requirements of the Private Securities Litigation Reform Act of 1995 on this issue.

Mr. Sullivan said the case will be remanded to the 9th Circuit and then probably back to the district court for further proceedings.

Mr. Sullivan said he is not sure if the decision will necessarily reduce litigation. However, Robin Conrad, senior vp of the National Chamber Litigation Center, the legal arm of the U.S. Chamber of Commerce, which filed an amicus brief supporting Dura in the case, said it will.

“The court made it very clear that you can’t base loss causation on an artificially inflated price. That’s going to knock a lot of securities class actions out of the box.”

Robin Conrad
National Chamber Litigation Center

“The court made it very clear that you can’t base loss causation on an artificially inflated price. That’s going to knock a lot of securities class actions out of the box,” she said. The decision will deter frivolous securities litigation and mean that fewer cases are going to have to settle, said Ms. Conrad.

Paul Kamenar, senior executive counsel with the Washington-based Washington Legal Foundation, which also filed an amicus brief on Dura, said also that, as a result of the decision, “security class action cases should be reduced, at least the frivolous ones, especially in the 9th Circuit.”

The opinion’s strong language

sends the message “that the plaintiff’s bar better have the evidence” to back up its charges, and that it cannot “simply file suit at the drop of a price of stock and then go on some kind of fishing expedition to see if there was an injury and any wrongdoing by the company,” Mr. Kamenar said.

Mr. Kamenar said the decision in particular affects high-tech and biotech companies, which are prone, by their very nature, to swings in their stock prices because of the numerous market variables to which they are subject.

However, Christopher Patti, Oakland, Calif.-based counsel for the University of California, which is the lead plaintiff for investors in the Enron Corp. securities litigation, said, “I would say the decision is a fairly narrow one.” While the Supreme Court rejected “a particular view of loss causation,” it “didn’t really describe in any detail what the standards of loss causation should be,” said Mr. Patti. As a result, he said, “it will require plaintiffs to plead loss causation a little bit differently,” but otherwise have little practical impact.

Kevin P. Roddy, a plaintiff attorney with Wilentz, Goldman & Spitzer in Woodbridge, N.J., agreed that the decision “did not gut investor litigation. It clarified what investors have to plead in order to stay in court. That’s all it did.”

Mr. Roddy is president of the Washington-based National Assn. of Shareholder & Consumer Attorneys, a trade group of law firms that specialize in representing consumers and investors in class actions. He filed an amicus brief in the case on behalf of NASCAT, as well as the AARP and the Consumer Federation of America, both of which are Washington-based.

Dura Pharmaceuticals Inc. et al., vs. Michael Brando et al., Supreme Court of the United States, No. 03-932



The PBGC is preparing to take over four United Airlines pension plans, which were underfunded by \$9.8 billion.

PBGC: Facing its biggest loss

Continued from page 1

tled, the PBGC noted in a statement.

The PBGC and its financial advisers “believe the settlement is superior to the recovery the agency would have received as an unsecured creditor in bankruptcy,” the statement reads.

“We expect we will be the trustee of these plans in a timely fashion,” said a spokesman for the PBGC.

A representative of United could not be reached for comment.

The four plans are:

- The UA Pilot Defined Benefit Plan, which covers 14,100 participants and has \$2.8 billion in assets to pay \$5.7 billion in promised benefits.

- The United Airlines Ground Employees Retirement Plan, which covers 36,100 participants and has \$1.3 billion in assets to pay \$4.0 billion in promised benefits.

- The UA Flight Attendant Defined Benefit Pension Plan, which covers 28,600 participants and has \$1.4 billion in assets to pay \$3.3 billion in promised benefits.

- The Management, Administrative and Public Contact Defined Benefit Pension Plan, which covers 42,700 participants and has \$1.5 billion in assets to pay \$3.8 billion in promised benefits.

The PBGC had moved in recent

months to terminate the pilots’ and ground workers’ plans (BI, March 14).

The PBGC’s largest single hit to date was the \$3.6 billion loss it absorbed in December 2002, when it took over the pension plan of failed steelmaker Bethlehem Steel Corp.

The agency reported a \$23.3 billion deficit for its last fiscal year.

ADVERTISER

INDEX

Issue of April 25

ADVERTISER	PAGE #
Ace	10
Aetna Corporate	7
AIG	32
Aon Corporation	2
Burnham System	24
Business Insurance	19, 23, 29
Carvill	31
Chubb Group of Insurance	9
CPG International	14
Dempsey, Myers & Company LLP	6
First State Management	21
Harvard Pilgrim Health Care	19R
Lexington Insurance	15
Liberty Mutual	5
RMTS, LLC	27
St. Paul Travelers	12
Swiss Re	13
United Healthcare	16/17

RRG victory on North Dakota auto cover issue

BISMARCK, N.D.—North Dakota Gov. John Hoeven has signed into law legislation requiring auto dealers and distributors selling vehicle service contracts to purchase reimbursement policies from insurance companies that meet certain financial standards.

The governor's action ends a controversy that erupted earlier this year when the state Senate passed a bill, developed by the North Dakota Insurance Department, that risk retention groups vigorously opposed.

That measure would have required dealers and distributors to

buy the policies from insurers that are members of the North Dakota state guaranty association. Such a requirement automatically would have excluded RRGs from the reimbursement policy market, because federal law prohibits RRGs from being members of such associations. RRGs argued that the proposed requirement would have violated the Risk Retention Act, which preempts state laws and rules that discriminate against the groups.

Responding to that concern, the North Dakota House moved in a different direction. It passed a bill—

later accepted by the Senate—that establishes criteria that a reimbursement policy must have to be considered eligible coverage for auto dealers and distributors that provide service contracts, often known as extended warranties.

Among other things, the policy will have to be issued by an insurer that maintains capital and surplus of at least \$15 million or maintains capital and surplus of at least \$10 million and a ratio of written premium to capital and surplus of no greater than 3-to-1.

—By Jerry Geisel

WTC: Court rules for reinsurers on 9/11 coverage

Continued from page 3
rized business trip when they died, would answer no," Justice Cresswell ruled.

"In my opinion...the meaning of the policy and the parties' intent did not extend to include as an 'authorized business trip' an evacuation/attempted evacuation in the unique circumstances" involved, according to the judge's ruling.

The policy provided various levels of coverage for employees and dependents, including benefits of six times the annual salary, up to \$1 million, for certain grades of employees.

Reinsurers already have paid out a total of \$6.4 million to the relatives of seven employees who were visiting Aon's WTC offices at the time of

the attacks but had sought a court declaration that the policy was not valid for those victims whose regular place of work was Aon's WTC offices.

In 2002, Aon booked a \$90 million pre-tax first quarter allowance for potentially uncollectible receivables related to the Combined policy.

Approximately 1,100 Aon employees worked in the World Trade Center and 176 were killed as a result of the attacks, which destroyed the Twin Towers and other buildings in the complex.

The Lloyd's syndicates that led the reinsurance program in November 2001 filed for a declaration in London that they were not liable to cover Aon workers who died at their workplace.

Combined later filed suit in New York, arguing that the Lloyd's underwriters had agreed to underwrite its business travel policy "as original," thus providing 100% coverage to Combined with respect to all losses under the business travel policy." (BI, May 6, 2002).

In fighting the London action, Combined argued that the evacuation constituted an authorized business trip under the terms of the policy, court documents say.

Justice Cresswell gave Combined Insurance leave to appeal the ruling.

A spokesman from Aon, which has compensated dependents of its employee victims, said that the company was exploring its options to appeal.

BI Stock Index [4/18 - 4/22]

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 
2279.96 **-0.69**

Dow Jones 
10157.71 **0.70**

S&P 500 
1152.12 **0.83**

Largest gains

Clark Inc.	5.84%
Meadowbrook Insurance Group	5.57%
SAFECO Corp.	5.49%
Gainsco Inc.	4.76%
Harleysville Group	2.87%

Largest losses

Ambac Financial Group	-10.88%
Vesta Insurance Co.	-7.67%
Transatlantic Holdings	-5.25%
CNA Financial Corp.	-4.86%
Odyssey Re Holdings	-4.58%

Weekly change by market segment

Brokers	-0.51%
Insurers/Reinsurers	-0.79%
Managed Care Organizations	-1.72%

Source: FinancialContent Inc. (<http://financialcontent.com>)

Late News

Continued from page 1

parent, Zurich Financial Services Group Inc., and Zurich Specialties London's weak financial performance, among other factors.

CIGNA hires former Definity Health execs

Signaling its intent to expand its share of the consumer-driven health plan market, CIGNA HealthCare has named four former Definity Health executives to key sales positions. Mark Bailey, Rodger Kemp, Bill Reindl and Linda Schulte join the Bloomfield, Conn.-based subsidiary of CIGNA Corp. as vps of sales based at various CIGNA HealthCare offices nationwide. Definity Health, a pioneer in the field of consumer-driven health care, was recently acquired by Minneapolis-based UnitedHealth Group Inc.

Wholesale broker forming in Texas

IMS Insurance Market Solutions expects to launch a full-service, wholesale brokerage in the next 30 to 60 days. The Houston-based operation will offer property/casualty coverages from a broad range of carriers and programs to midsize and large commercial clients as well as some small businesses. Co-owners include Lawrence Mennes and Stephen Vallender, who most recently were employed by U.S. Risk Inc., a Houston-based wholesale brokerage. Also holding an ownership stake is Burnett Holdings Inc., which owns Burnett & Co., a New Orleans-based managing general agent that also has operations in Houston, a spokesman said.

Maine mulls premium tax to fund health reforms

State officials in Maine are proposing an assessment of 3% on the premiums collected by health insurers and the premium equivalents of self-insured health plans. The tax is permitted under the Dirigo Health Reform Act, enacted in 2003 to achieve universal coverage through a state-subsidized health plan, voluntary provider price controls and initiatives to ensure the highest quality of care statewide. DirigoChoice, the state-subsidized health plan, would get the majority of the estimated \$40 million to \$50 million that will be generated by the assessment. The remaining funds would go to Dirigo Health, the quasi-

public agency running the programs.

AIG forms terrorism risk, continuity consulting unit

AIG Consultants Inc. is launching a division to provide consulting services designed to help companies assess and limit their exposure to terrorism and business continuity disruptions. The Business Protection Division also will provide clients access to geopolitical intelligence through the AIG Companies' Executive Briefing Book, a Web-based source of country-by-country risk reports and commentary on industry-specific terrorism risk exposures.

Consumer-driven plans proving effective: Survey

Half of employers responding to a survey released today said that since introducing consumer-driven health plans, their overall medical trends improved, while prescription drug costs or claims decreased. One-quarter of the 27 employers responding to the survey said that a majority of their workers still resist the plans. But 62% said that most employees are now on board, although some were skeptical at first, according to the "2004 Survey of Consumer-Driven Health Plans," conducted by The Segal Co. The survey was open only to employers that have had a consumer-driven plan in place for at least a year.

Briefly noted

Colorado Gov. Bill Owens appointed David Rivera, his senior policy adviser on health care and auto insurance, as the state's new insurance commissioner. Pending confirmation by the Colorado Senate, Mr. Rivera, 34, will replace Doug Dean, whom the governor recently appointed as director of the Colorado Public Utilities Commission. ...Lauren M. Gregory, the former director of risk and insurance management for New York's Metropolitan Transit Authority, has joined insurance brokerage Allied North America. Ms. Gregory, who was named to the *Business Insurance* Risk Management Honor Roll in 2002, has joined Allied's head office in Jericho, N.Y., as senior vp/risk management specialist....The Pennsylvania Senate approved legislation that would allow contributions to and withdrawals from health savings accounts to be exempt from state income tax. Federal legislation that created the accounts in 2003 provides a similar exemption from federal income tax.

At BusinessInsurance.com

New Online Poll: How likely is Congress to enact legislation to shore up the PBGC's financial condition?

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.



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