RIMS risk management report . . . Page 3

APRIL 28, 1986

business insurance®

Reporting weekly for corporate risk, employee benefit and financial executives/$1.50 a copy; $60 a year

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update

NICO disputes FTC claim that inquiry cleared insurers

WASHINGTON—The National Insurance Consumer Organization says the Federal Trade Commission probably never conducted an investigation that the FTC claims showed no evidence of price-fixing or "boycotting" by insurance companies.

J. Robert Hunter, the outspoken consumer advocate and president of NICO, said he never was aware that such an investigation was ongoing,

Continued on next page

Florio urges standards for risk retention groups

By JERRY GEISEL

WASHINGTON—A key House subcommittee chairman is suggesting that risk retention groups should have to meet uniform federal standards in order to operate.

Rep. James Florio, D-N.J., said last week at a House Commerce, Transportation and Tourism subcommittee hearing on alternatives to "traditional" insurance that he is concerned risk retention groups could be chartered in a state with minimal requirements and then be free to operate throughout the country.

The subcommittee, which has jurisdiction in the House over legislation to expand the Risk Retention Act, also heard a number of other proposals about ways to deal with the insurance availability crunch.

The Risk & Insurance Management Society urged the subcommittee to consider its proposal, first unveiled at this month's annual RIMS conference in Toronto, to establish a federal corporation to provide reinsurance capacity for difficult-to-place risks (*BI*, April 21).

And, the American Bankers Assn. recommended giving banks the authority to enter the insurance business.

Both proposals, however, appeared to get a cool reception from some subcommittee members.

Rep. Ron Wyden, D-Ore., who appeared before the subcommittee as a witness, said Rep. Florio's suggestion about federal standards for risk retention groups was "an appealing concept."

But Rep. Wyden, sponsor of House legislation to expand the Risk Retention Act, said he was worried about the perception federal standards could create.

"It could raise fears—contrary to the McCarran-Ferguson Act—that we (Congress) are regulating the insurance industry," Mr. Wyden said. The McCarran-Ferguson Act, passed in 1945, leaves primary regulation of the insurance industry with the states.

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Omaha Indemnity sues MGAs for failing to report premiums

By DOUGLAS McLEOD

KANSAS CITY, Mo.—The Omaha Indemnity Co. is suing two of its former managing general agents, charging that the MGAs failed to report $67 million of $118 million in premiums written on reinsurance and excess and surplus lines business.

So far, that business has produced incurred losses of $169 million, the insurer charges.

The suit, filed earlier this month in U.S. District Court in Kansas City, names Royal American Managers Inc., known as RAM, and World American Underwriters Inc., whose reinsurance management operation RAM acquired in 1984.

Also named are three companies that RAM retroceded risks to on behalf of Omaha Indemnity:

- Administrative Management Services Syndicate Ltd. Inc. and RAM Syndicate Inc., two of the largest syndicates on the Insurance Exchange of the Americas in Miami. RAM Syndicate is a wholly owned subsidiary of RAM.
- Fielding Reinsurance Ltd., domiciled in Turks and Caicos and owned by Kensu Holdings Inc., an insurance and real estate holding company that also owns RAM.

Kensu is also named as a defendant in the lawsuit.

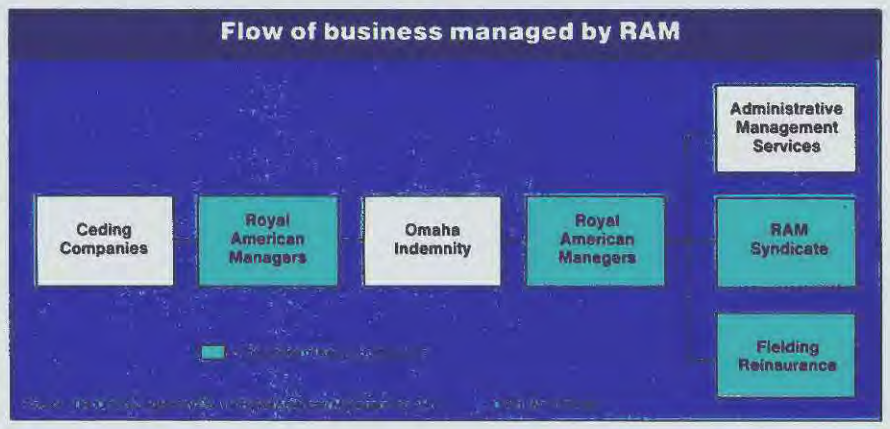
Charging among other things that RAM wrote amounts of business that it knew were far in excess of the reinsuring capacity of the three reinsurers, Omaha Indemnity's suit demands an accounting of the RAM business and the payment of premiums that RAM and World American allegedly withheld from Omaha Indemnity.

According to court papers, unreported premiums totaled $67 million—$52 million related to RAM and $15 million related to World American.

Omaha Indemnity, which is a subsidiary of Mutual of Omaha Insurance Co. and domiciled in Wisconsin, also applied for a preliminary injunction barring RAM from conducting further business on its behalf. The insurer had given RAM notice in August 1985 that its MGA agreement would be terminated as of Dec. 31, 1985.

In a stipulation approved by the court on April 9,

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Senate benefit bill better, observers say

By JERRY GEISEL

WASHINGTON—The employee benefit rovisions tentatively agreed to this month y the Senate Finance Committee, as it conues to consider tax legislation, are a clear nprovement over the House tax bill, experts ay—but they warn it's too soon to celebrate.

Benefit experts are encouraged that Fiance Committee members sweetened 401(k) alary reduction plans and liberalized maxium pension benefits and contributions ompared with the House bill, H.R. 3838.

In addition, the Finance Committee agreed o give a permanent lease on life to such taxavored benefit programs as educational assistance benefits and group legal benefits. The House bill calls for limited extensions of hose programs.

"Clearly what the Finance Committee did was preferable to the House tax bill," observed Stuart J. Brahs, executive director of the Assn. of Private Pension and Welfare Plans in Washington.

"The Finance proposal is far superior on most fronts compared to the House," added Edward J. Davey Jr., vp-research department at Johnson & Higgins in New York.

THE NEW TAX BILL

But the Finance Committee package does include provisions—not contained in the House bill—that will boost pension costs for many employers. Those provisions include five-year pension vesting and new integration rules for pension plans that will, for some companies, reduce their ability to reduce pension benefits by the Social Security benefits that plan participants will receive.

And, the Finance Committee package contains extremely complex non-discrimination tests for welfare and pension plans. While many companies should be able to pass, the tests are very complicated and cumbersome, Mr. Davey noted.

There is some doubt, benefit experts warn, whether improvements such as more liberal 401(k) rules can stick. They note that the Finance Committee is far from meeting its goal of producing a revenue-neutral tax bill that would offset basic corporate and individual tax rates with the elimination of hundreds of tax deductions.

As of last week, the Finance Committee's package—by keeping many tax breaks contained in current law—would add about $30 billion to the federal budget deficit.

There is concern that Finance Committee members could revisit benefit issues to look for more revenue to get out of its deficit hole.

For example, benefit experts say one major improvement—lifting the maximum annual deferral to a 401(k) to $12,000—could be vulnerable to change. The House bill calls for a $7,000 limit, which also was the original recommendation of Senate Finance Committee Chairman Robert Packwood, R-Ore. The current 401(k) limit is $30,000.

"I don't know how committed Sen. Packwood is to $12,000," points out Theresa Stuchiner, a partner with benefit consultant Kwasha Lipton in Fort Lee, N.J.

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West Virginia officials act to stop professional liability cancellations Page 2

New Manville plan increases payment to creditors, but hurts stockholders Page 2

NEWSPAPER

update

FTC didn't probe insurers: NICO

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and he charged that if the FTC did conduct an inquiry, "I think they got pressure from the insurance companies to say it was over."

The FTC refused to comment on the matter. A spokeswoman said, "We don't comment on antitrust investigations that do not reveal violations."

Mr. Hunter said his organization wrote a letter to the Justice Department six months ago, charging insurance companies with price-fixing and boycotting, or "getting together and agreeing not to write coverages or pulling out of certain lines."

Mr. Hunter said he recently received a letter from the Justice Department and a phone call from the FTC that indicated an investigation into the charges had been closed and that no wrongdoing had been found.

In a letter to Jay Angoff, legal counsel for NICO, Assistant Attorney General Douglas Ginsburg said, "I understand that the commission has now closed the investigation because it was unable to find any evidence of collusion.

"The structure of the insurance industry is such as to make collusion among competitors unlikely," Mr. Ginsburg said in the letter to Mr. Angoff.

Mr. Hunter said that when he asked for copies of a report of the investigation, the FTC said there were no reports.

But, Mr. Hunter said, "You can't do an investigation like that and not have a report."

High court voids Aetna award

WASHINGTON—In a case that attracted wide notice from the insurance industry, the U.S. Supreme Court last week voided a $3.5 million punitive damage award in a bad-faith lawsuit against Aetna Life Insurance Co. in Hartford, Conn., but declined to rule on the constitutionality of punitive damages.

On an 8-0 vote, the high court ruled Aetna was denied due process because an Alabama Supreme Court justice who wrote the decision affirming the award was at the same time personally involved in bad-faith litigation seeking punitive damages against insurance companies.

However, the high court declined to rule on whether punitive damages violated the excessive punishment clause of the Eighth Amendment, noting it was one of several issues in the case that "raise important issues which, in an appropriate setting, must be resolved."

Various insurers and insurance trade associations had filed an amicus curiae brief with the court, raising constitutional objections to punitive damages (*BI*, Dec. 2, 1985).

The case involved Aetna's failure to pay $1,650 of a $3,028 bill for treatment, hospitalization and tests of a Mobile, Ala., woman who was covered under a group medical insurance policy written by Aetna.

The case now returns to the Alabama Supreme Court where Aetna will continue to press its objections to the punitive damage award, an attorney for the insurer said.

CGL available in 36 jurisdictions

NEW YORK—The new claims-made and occurrence commercial general liability policy forms are now available for use in 36 jurisdictions, according to the Insurance Services Office.

ISO also said four states—Michigan, Nebraska, New York and Oregon—have approved the occurrence version, but are still reviewing the claims-made CGL policy form.

The jurisdictions in which both new forms can be used are: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, the District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland and Minnesota. The forms also will be used in Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Puerto Rico, Rhode Island, South Dakota, Tennessee, Utah, Wisconsin and Wyoming.

Fred R. Marcon, senior executive vp and chief operating officer of ISO, said the insurance industry trade group will "aggressively seek" approval of the claims-made form in all states where it hasn't yet been approved.

Carbide files appeal to OSHA

DANBURY, Conn.—The Occupational Safety and Health Administration has until Tuesday to file with its review commission Union Carbide Corp.'s appeal of health and safety violations cited by OSHA at Carbide's chemical plant in Institute, W. Va.

Danbury-based Union Carbide is appealing "all items within each and every" of the 221 alleged violations cited by OSHA on April 1.

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Vol. 20, No. 17—*Business Insurance* (ISSN 0007-6864) is published weekly at 740 Rush St., Chicago, Ill. 60611. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to *Business Insurance*, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich., 48207; 313-446-1611.
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New Manville plan aids commercial creditors

By STEPHEN TARNOFF

NEW YORK—Manville Corp.'s revised plan of reorganization increases the amount commercial creditors would receive but would have a "material adverse effect" on the value of the outstanding stock held by shareholders, the company says.

Agreement to the revisions removes opposition by the commercial creditors and represents another step toward obtaining approval of a plan that would bring Manville out of Chapter 11.

However, common and preferred shareholders remained vehemently opposed to the plan and vowed to challenge it in court, their attorney said last week.

The plan with the revisions potentially dilutes the value of stock held by common shareholders by about 96% and that held by preferred shareholders by more than 80%, the attorney said.

Manville unveiled the revised plan at a hearing before U.S. Bankruptcy Court Judge Burton R. Lifland last Tuesday. It follows negotiations with creditor groups over the reorganization plan filed by the company Feb. 14 (*BI*, Feb. 24).

That plan already had the support of committees representing present and future asbestos claimants as well as those with property damage claims against Manville.

However, even with the support of commercial creditors, agreement on the plan was still not guaranteed because of a dispute over who will run the company after it emerges from Chapter 11.

Judge Lifland scheduled another hearing in the case for late last week.

The dispute over management includes certain creditor groups that want to name the company's board of directors.

Manville has agreed to allow the directors of the trust fund for asbestos health claims that would be created under the plan to appoint two members of the company's board.

John McKinney, Manville's chairman and chief executive officer, said in a prepared statement that while some parties want to force changes in certain key Manville officers and its board, this "would impair management's ability to manage the company and its relationship to the board."

Mr. McKinney said the company's board and management have strongly demonstrated their ability to run the company under adverse conditions and have the support of customers and employees.

"The people making requests to change management have no knowledge of industrial organization," he added. "They also are delaying resolving the bankruptcy settlements with claimants and injured asbestos workers."

The revised plan, while providing for some major changes for commercial creditors and shareholders, does not significantly alter the amount of money or method of paying asbestos health and property damage claimants originally proposed in Manville's Feb. 14 plan.

That plan provides for a $2.5 billion trust fund for bodily injury claimants funded by more than $800 million in cash, notes, receivables and insurance; a $1.6 billion bond to be paid in $75 million yearly installments; and Manville common stock equaling 50% of the company's outstanding shares, plus preferred stock that could be converted to the equivalent of an additional 30% of the company's common shares if needed to pay claims.

Continued on page 6

Chemical firms, S&Ls, banks plan captives

By STEVE TARAVELLA

Risk managers in the chemical and banking industries continue to look beyond the commercial market for answers to their property/casualty insurance problems.

A group of medium-sized U.S. chemical companies hopes to establish its own insurer in Barbados to write about $15 million excess of $1 million in liability coverage, sources say.

A private stock offering for PRIMEX Ltd. was made April 18 to members of the chemical industry. Because the offering is not open to the public, risk managers spearheading the project say they cannot discuss their plans at the moment. Doing so could violate Securities and Exchange Commission regulations, they say.

They expect to close the offering in late June, at which time details of PRIMEX will be made public.

The project is being spearheaded by a three-member interim board composed of Bill Gladden, corporate risk manager at Columbia Ni-

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W.Va. officials act to stop malpractice cancellations

By CAROL CAIN and MEG FLETCHER

CHARLESTON, W.Va.—State officials are advancing on two fronts against five property/casualty insurers that are notifying thousands of policyholders that their professional liability insurance will be canceled May 31.

The West Virginia Insurance Department has scheduled an "adversary hearing" for Tuesday, at which time it will gather evidence to determine whether to revoke the licenses of three units of CNA Insurance Cos. of Chicago; St. Paul Fire & Marine Insurance Co. of St. Paul, Minn.; and Ohio Hospital Insurance Co. of Columbus. The results of the hearing will be released within 45 days.

The hearing, being held at the request of Gov. Arch A. Moore Jr., is in response to the cancellation notices of between 6,000 and 10,000 professional liability insurance policies.

Gov. Moore has indicated that he believes if these insurers cease to write certain lines of insurance, they should be prevented from writing altogether in the state.

On the other front, the West Virginia attorney general's office was scheduled to appear in court last Friday to argue its motion for a temporary injunction against the same insurers to prevent them from canceling the policies.

The insurers announced the notices of cancellation in response to legislation that will, among other things, establish a $1 million cap on non-economic damages in medical malpractice cases.

However, according to the legislation—S.B. 714—juries hearing these cases must be informed of the cap by the judge. Insurers say the cap is twice as high as in other states, and that they believe juries, upon being informed of the ceiling, will automatically award the $1 million in every case (*BI*, April 14).

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Law firm sues Shand, General Accident

By STEPHEN TARNOFF

LOS ANGELES—A prominent law firm that represents major insurers is suing its professional liability insurer and the insurer's underwriting manager for allegedly failing to properly notify the firm that its legal malpractice policy would not be renewed.

The Los Angeles-based firm of Buchalter, Nemer, Fields, Chrystie & Younger recently filed the suit in state Superior Court against Evanston, Ill.-based underwriting manager Shand, Morahan & Co. Inc. and General Accident Insurance Co. of America, based in Philadelphia.

The 135-member law firm contends that because the defendants did not give timely notice of the non-renewal of its 1984-1985 policy, the policy should be renewed automatically and at the same terms and conditions.

It also asks the court to cancel a subsequent policy it purchased from Shand and General for a substantially higher premium and lower limits.

Under the new policy, covering Nov. 1, 1985, until Nov. 1, 1986, the firm's limits were slashed in half and its premium increased by more than 700%.

Among Buchalter, Nemer's clients are insurers in major insurance litigation. These include insurers in coverage disputes stemming from the 1980 fire at the MGM Grand Hotel in Las Vegas and insurers of Shell Oil Co. in coverage disputes over who will pay billions of dollars in cleanup costs at toxic waste sites.

Last week, Shand and General Accident declined to comment on the suit, citing policies of not commenting on matters in litigation.

At issue in the litigation are the terms of a lawyers professional liability policy Buchalter, Nemer purchased from Shand, which ran from Nov. 1, 1984, until Nov. 1, 1985. The policy had limits of $10 million for each claim and $10 million for all claims made during the policy period.

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Not even these guys face a bigger deficit than company retirement health care plans

spotlight report

RIMS 1986

U.S. civil justice system 'pretty terrific,' ATLA chief says

By JERRY GEISEL

TORONTO—Leave the U.S. civil justice system alone, the top lobbyist for the Assn. of Trial Lawyers of America says.

Marianna Smith, executive director of Washington-based ATLA, concedes the nation's civil justice system isn't perfect, but "it's pretty terrific."

Ms. Smith adds she is "terrified" that attempts to overhaul the civil justice system will strip consumers of important legal rights.

Risk managers, many of whom think the system needs change, should not forget that they as consumers will be hurt by limitations on liability, she told the general session at the 24th annual Risk & Insurance Management Society conference in Toronto.

"Someone you love will be hit by a drunk driver . . . or hurt by faulty products. Those are your rights that we are talking about.

"I know there are problems, but they are not as bad as you might think," she says.

But at a jam-packed session at the RIMS conference entitled "The North American System—Neither Civil nor Just," Ms. Smith's views were challenged by other panelists.

Franklin Nutter, president of the Alliance of American Insurers, a property/casualty trade group based in Schaumburg, Ill., said the legal system in the United States has changed so fundamentally and quickly that insurers no longer have the predictability to measure risk.

"It is not just that the rules have changed, but the rapidity of those changes," he said.

One of the most significant changes is the development of a psychology of entitlement in American society, he says.

"What we do not understand is that with a psychology of entitlement someone will have to pay," he said.

Patrick Head, vp and general counsel at FMC Corp., a Chicago-based manufacturer, said the liability explosion in the United States is forcing companies to take products off the shelves and making it difficult for U.S. companies to compete because they have higher liability insurance costs than foreign businesses.

Mr. Head said that because each state has developed its own product liability statutes, a multistate manufacturer like FMC finds that cases, based on similar facts, can produce strikingly different and often contradictory judgments, depending on the state in which they are tried.

"Such inconsistency in product liability judgments has produced enormous confusion among manufacturers and consumers alike, with neither side knowing what rights or responsibilities they have and what limits, if any, there are on liability," according to Mr. Head.

Eugene R. Anderson, an attorney with Anderson, Russell, Kill & Olick in New York, said there have to be alternatives to a civil justice system in which "transaction costs"—including fees paid plaintiff and defense attorneys—are three times more than the benefits received by personal injury victims.

Mr. Anderson also questioned just how much reform the defense bar and insurers really want.

"Insurance companies profit enormously from this system. The liability system is the fuel that runs the insurance engine," Mr. Anderson said.

In addition, trial attorneys "love" the contingent fee system, whether they are receiving contingent fees or whether they are battling plaintiffs' attorneys on contingent fees, he said.

Americans who are troubled by their civil justice system would do well to look at the Canadian legal system, suggested the Canadian Justice Allen M. Linden, president of the Law Reform Commission of Canada.

"I think in this country and province (Ontario) we may have one of the most generous and civilized civil justice systems in the world," Justice Linden said, noting that the Canadian legal system already includes many of the reforms that groups in the United States are seeking.

'I know there are problems, but they are not as bad as you might think,' says ATLA's Marianna Smith.

He also pointed out that Canadian and U.S. social character differs, which leads to a smoother-running civil justice system.

"You'll find that Canadians are somewhat less adversarial, more respectful of authority, more tolerant of diversity, more compassionate and more willing to compromise," Justice Linden said.

But Ms. Smith, the ATLA executive director, challenged any contention that the U.S. civil justice system needs reform.

At a rapid pace, with scarcely a pause, she defended existing components of the legal system that have frequently been attacked in risk management and insurance circles.

For example, Ms. Smith deplored tampering with the collateral source rule to allow personal injury awards to be reduced by other sources of compensation, like medical insurance.

"If you are prudent enough to buy life and health

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REACH FOR THE TOP!

Risk and Insurance Management Society, Inc.

Slow D&O market recovery expected

By DOUGLAS McLEOD

TORONTO—Although directors and officers liability coverage is available from some insurers, an easing of the D&O capacity crunch is not expected soon, experts say.

Insurance buyers should not count on major reinsurers of D&O risks to "resuscitate themselves" any time soon by writing new business at higher rates and under restricted terms, said Joseph P. DeAlessandro, president of National Union Fire Insurance Co. of Pittsburgh, Pa., a unit of American International Group Inc.

At a seminar on the D&O liability capacity shortage during the 24th annual Risk & Insurance Management Society conference in Toronto April 13-18, Mr. DeAlessandro explained that the major reinsurers of D&O risks that withdrew from the line entirely in 1985 after suffering frequent and severe losses will need time to recover from the effects of the soft market.

And, that will extend the D&O capacity shortage, he noted.

"The cycle is not going to be, in my opinion, a short one," he observed. "I believe 1987 will be as bad as—or worse than—where we are in 1986. And, unless we take steps to entice back the reinsurers, it will not be any better in 1988."

The cause of the disastrous D&O losses and the root of the capacity shortage is the breakdown in the partnership among corporations, directors and insurers that is needed for D&O coverage to work, Mr. DeAlessandro said.

"The partnership was fractured when we saw people within the corporation looking at the D&O policy as an asset," he said, referring to cases in which corporations suffering losses sue their own directors or officers to recover the losses from D&O insurers.

And, for example, in the case of some insolvent banks, state regulators who were covered under D&O policies as bankruptcy trustees have sued the banks' former directors and officers to recover D&O limits, he noted.

"The very sensitivity of this policy does not allow it to exist—it will not exist—if the three parties are adversaries," he said.

"Reinsurers have said, 'Hey, I can't defend from

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The world's highest observation deck on the 1,815-foot CN Tower provides the best view of Toronto.



Photo: Kathryn J. McIntyre

Capacity likely to remain tight, experts say

By DOUGLAS McLEOD

TORONTO—The commercial insurance markets will remain tight for at least another year, though property coverage may be easier to obtain, according to three industry officials.

Reinsurers will continue to use their capacity conservatively throughout 1986, devoting it mainly to the first $25 million layer of coverage rather than to upper excess layers, according to Peter Nance, vp with General Reinsurance Corp.

"While there is a strong desire to write this business, I think you will see a slow return of capacity as managements regain confidence," he predicted in a seminar on "The Capacity Crisis: Where Is It Headed?" at the Risk & Insurance Management Society conference.



Mr. Nance also predicted that reinsurance price increases probably will not be as dramatic during the upcoming round of renewals for insurers with good experience and steady relationships with their reinsurers.

However, more reinsurers will adopt the claims-made commercial general liability form or will write occurrence-based coverage with sunset clauses cutting off the reinsurers' liability after a defined period, Mr. Nance said.

"We are seeing them applied to us on our retrocessional covers," he said, referring to sunset clauses.

Mr. Nance observed that the best solutions to the liability insurance capacity crunch are applying risk management principles and controls and training underwriters better.

"I think risk management was put on the back burner in the last few years," he reflected, adding that insurers must make a renewed commitment to loss control and safety engineering.

John G. Gantz Jr., vp with AIG Risk Management, a unit of American International Group Inc., predicted that the market will grow still worse for casualty insurance buyers in the next year.

"There will not be any great restoration of capacity," he said, explaining that many insurers still are underreserved and that additions to reserves will continue to drain capital that might otherwise be used for new business.

He predicted that casualty insurance prices will begin to level off after "a couple of years."

Meanwhile, insurers probably will continue to devote available capacity to safer lines, Mr. Gantz said. Insurers recently have reallocated capacity to property lines and to more predictable casualty lines at the expense of such high-risk business as professional or pollution liability.

Mr. Gantz also predicted that less commercial insurance will be available for working-layer casualty coverages with frequent, predictable losses.

"We do not want to be trading dollars with you," he noted.

The market for property insurance may ease somewhat sooner, according to Norman Barham, senior vp with Johnson & Higgins of New York.

Property insurance rates should level off by early- to mid-1987, Mr. Barham said. He added that if a company already has renewed a property program at much higher rates, the worst may be over for that company.

"If you haven't yet taken a major hit, you probably will. If you have already been hit, you probably will not be hit again," Mr. Barham said.

However, he added property coverage continues to be especially hard to place for California risks.

J&H was surprised by the degree of tightening in the property markets last year, when it recommended clients budget for price hikes of 20% to 50%, he said.

"We were probably off by hundreds of percentage points," he said. "We had to learn again what markets were available at what capacity."

Mr. Barham added that with the rise of more careful underwriting "the lead time is substantial"—at least 90 days—to prepare renewal submissions to insurers.

He also noted that layered property programs have returned. Instead of buying a large single layer of coverage, a company now may take a large deductible and line up several insurers to write a primary layer where premiums are high and bring the same insurers back in the upper layers.

But, for the first time in the property area, policyholders face the possibility of non-concurrency of forms, as insurers enter the market with their own forms, Mr. Barham added.

The three panelists also traced the origins of the hard market.

"Tort erosion has been a contributing factor, but underwriters haven't helped themselves with the application of cash-flow underwriting," Mr. Nance observed. "The market is a real zoo out there."

He estimated worldwide reinsurance premium volume at $55 billion, about $11.9 billion of which is written by U.S. companies.

Reinsurers have fallen into six categories, he noted:

- Professional reinsurers.
- Primary insurers with reinsurance departments.
- Specialty companies, writing risks such as satellites or financial guarantees.
- "Unconventional" reinsurers specializing in loss portfolio reinsurance.
- Captives.
- Pools, such as the Mutual Atomic Energy Reinsurance Pool.

About 93 U.S. reinsurers representing about $200 million in capacity withdrew from the market in 1984 and 1985, Mr. Nance said.

Some 34 surplus lines companies —representing $30 million in reinsurance capacity—also withdrew along with about 22 other companies with a total of $20 million in reinsurance capacity, he added.

Several factors also have limited the capacity of Lloyd's of London which wrote $7 billion in net premiums last year, Mr. Nance noted.

These factors include limitations on the addition of new "names" to underwriting syndicates during the year, the recent strength of the dollar against the pound and the increasing scarcity of retrocessional capacity for Lloyd's business.

Also speaking at the session was David Urbani, assistant treasurer for Air Products & Chemicals Inc.

popular with insurers because the unpaid portion of the loss is deducted from the insurer's surplus.

Other retro options vary the treatment of the loss content of the program and include: a note program, under which the client takes a loan from the insurer to cover expected losses; a cash collateral plan, under which the insurer is paid what is needed to cover expected losses but the insurer credits the policyholder with interest earned on funds held until losses are paid; and an investment credit retro, under which the expected losses are discounted to the net present value for determining the loss content charge. ■

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Manage D&O risks creatively, experts say

By MEG FLETCHER

TORONTO—Risk managers should explore creative methods for managing their companies' directors and officers liability risks, experts say.

Non-traditional methods are needed because commercial D&O insurance will continue to be in limited supply and increasingly restrictive in the wake of increased shareholder litigation, said panelists discussing "Directors and Officers Liability: Corporate Issues and Current Marketplace" at the Risk & Insurance Management Society conference.

In lieu of insurance, some companies are signing private indemnification agreements in which they promise to pay judgments and defense costs incurred by a director or officer, said Theodore A. Boundas, an attorney with the Chicago-based firm of Peterson, Ross, Schloerb & Seidel.

"It sounds great, but there are two problems," Mr. Boundas said.

First, if the corporation becomes insolvent, the agreement would not guarantee the directors' protection, he said.

However, this problem could be solved by the corporation obtaining



"It's a morass," he said.

Risk managers should be concerned wih finding creative solutions to D&O coverage problems because of today's legal climate, Mr. Boundas emphasized. Some court decisions, especially in takeover-related suits, have partially eroded the "business judgment rule," so that judges hearing cases challenging directors' actions are now less inclined to presume that the directors acted with due care and "utmost loyalty," he said.

Previously, the plaintiff had to prove that a director had not met those standards of conduct, he explained.

In addition, judges are destroying contractual rights between D&O insurers and policyholders through their rulings in bad-faith cases, Mr. Boundas said.

Judges are finding more insurers guilty of bad faith when they refuse to settle a case and the policyholder eventually suffers a judgment that exceeds its policy limits, he explained.

"Another growing source of potential liability for directors and officers is the Racketeer Influenced and Corrupt Organizations Act," Mr. Boundas said.

RICO prohibits any person from acquiring or conducting the affairs of any enterprise through a pattern of racketeering activity. Such activity is established by proving the commission of at least two specific prohibited acts, such as securities fraud and bankruptcy fraud, within 10 years.

A person injured by a RICO violation may recover triple damages and legal costs, including reasonable attorney's fees.

Risk mangers need to beware of new D&O policies that include exclusions for RICO damages, Mr. Boundas said. Some of those exclusions are worded so the policyholder receives no coverage for defense or any part of the judgment if a RICO accusation is upheld by a court.

If a policyholder must accept a RICO exclusion, it should be limited to the multiples of the award but include any initial judgment and defense costs, Mr. Boundas said.

More frequent exclusions in D&O policies is just one result of the shrinking market for D&O liability insurance, pointed out John Whelan, senior manager-underwriting for CNA Financial Corp. in Chicago.

Insurers also are refusing to write D&O coverage, are reducing the limits they will write, shortening the term of the policies to one year or less, increasing deductible, requiring coinsurance and excluding whole lines of business like hospitals and high-tech industries, he added.

In addition, he said, the growing list of exclusions includes:

Continued on next page

gram consisting of a properly collateralized indemnification agreement and a companion insurance policy covering only those actions like negligence for which a company could not legally indemnify a director.

D&O policies typically include coverage for negligence, but exclude coverage for dishonest acts, he explained.

Both the indemnification agreement and the insurance policy could then be topped by a single excess insurance policy, he added.

Mr. Boundas also cautioned risk managers against another creative solution to D&O problems: using a single-parent captive to write D&O coverage.

That solution raises "serious" questions about the captive's ability to indemnify a director for a judgment in cases like negligence for which the company itself could not legally do so, Mr. Boundas said.

There have been no court tests of whether a D&O coverage written by a captive is so restricted, but directors need to be concerned that a court could someday void such coverage, he said. Such a ruling could be followed by a shareholders' lawsuit alleging negligence in the formation of the captive.

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D&O risks

Continued from previous page

- "Insured vs. insured exclusions," which prohibits directors of the same company from suing each other and the corporation from suing its own officers.
- Exclusions relating to nuclear energy or pollution.
- Exclusions for mergers and acquisitions.
- Limiting discovery periods to 90 days or less.
- Covering some but not all of a company's officers.
- Covering directors only while they are sitting on the company's board and not while they are sitting on boards outside the company.

The future is expected to bring even more restrictive policy terms, Mr. Whelan said, including: no duty to defend, keeping defense costs within limits, excluding punitive damages and perhaps coverage for trebled awards, caps on coverage in cases when policyholders refuse to settle and refinement of coverage for mergers and acquisitions.

According to Mr. Whelan, other controversial alternatives insurers may consider include:

- The elimination of coverage for companies that indemnify directors and officers on its own.
- Providing coverage only for directors who are not company employees.
- Coverage only for defense costs or only judgment costs.

Risk managers seeking to avoid these restrictive provisions may try to find creative solutions, but most underwriters are "buried" in submissions and do not have time to consider them, Mr. Whelan said.

Mr. Whelan suggested that risk managers seeking D&O coverage for their companies try to re-establish a sense of partnership between themselves and potential insurers.

Applicants having problems over the form of a proposed policy should visit the underwriter face-to-face, he said. "Attempt to understand where the underwriter is coming from," Mr. Whelan said, emphasizing that each insurer has different standards.

Risk managers can improve the chances of having their application reviewed seriously if it is submitted at least 60 days before renewal to an existing insurer or 90 days if coverage from a new insurer is sought, he said.

The application from the specific insurer should be filled out, rather than submitting an application from another underwriter, he said. Attention should be paid to details like properly signing and dating the submission, he added.

He also noted that a risk manager with a problem D&O risk should be "very frank" and explain what the company is doing to counteract the problems.

H. Don Akin, senior vp of Bayly, Martin & Fay International Inc. in Tulsa, Okla., said that risk managers need to develop a strategy to mesh the D&O coverage available through insurers into an optimal program.

In addition, Mr. Akin suggested as partial alternatives to D&O coverage other types of policies, including governmental actions legal expense reimbursement insurance, which would cover a company's directors and officers in Securities and Exchange Commission dealings or a bank's directors and officers when dealing with the Federal Deposit Insurance Corp.

Limits are generally about $100,000 and most policies carry 10% deductibles and 10% coinsurance requirements.

Another line of legal expense reimbursement insurance covers directors and officers in the event of sexual harassment, wrongful termination and discrimination, he said. ■



Spencer donations now total $60,000

TORONTO—Pledges and contributions to the Robert S. Spencer Memorial Scholarship Foundation now total about $60,000.

That total includes about $10,000 in additional pledges and contributions received during and immediately following the Risk & Insurance Management Society conference in Toronto earlier this month, said Ron Judd, RIMS executive director.

The Spencer Foundation was established in 1979 by the RIMS Atlanta Chapter to honor the late Robert S. Spencer, a former RIMS president. The program has awarded about four dozen scholarships since 1980 to students of risk management and insurance.

Claims administrator Adjustco Inc., a Tarrytown, N.Y., subsidiary of broker Frank B. Hall & Co. Inc., is donating at least $2,500 on behalf of 121 people who attended Adjustco's third annual RIMS conference breakfast.

"Adjustco salutes RIMS for its steadfast commitment to creating educational opportunities for its membership and the industry at large," said Thomas V. Hallett, chairman, president and chief executive officer of Adjustco.

Other recent contributions to the foundation include: RIMS' Los Angeles Chapter, $2,000; RIMS' Arizona Chapter, $1,000; Barry Griffin, former RIMS president, $1,000; American Greetings Corp., $500; Trenwick American Reinsurance Corp., $250; and Norman Chanzis, recipient of the 1986 Dorothy and Harry Goodell Award, $250. ■

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Financial guarantees need stable market: Svensk

By JUDY GREENWALD

TORONTO—New financial guarantee products need a stable environment in which to develop, not the on-again, off-again market caused by the insurance cycle, says Robert Svensk, president of New York-based Trade Credit Underwriters.

However, Charles Berry, managing director at broker Berry Palmer & Lyle Ltd. in London, maintained that the London market has continued to encourage the growth of new financial guarantee products despite the hardening market.

In the last two years the number of new financial guarantee products under development "has tended to fall off rather dramatically," Mr. Svensk said during a session at the Risk & Insurance Management Society conference. He noted it is important to distinguish between "genuine" new products and the "repackaging" of old products under new names.

The factors influencing the decline in new products, he said, include:

- A perceived lack of capacity in the primary insurance market.
- Lack of reinsurance capacity.
- The regulatory environment.
- Underwriters' reluctance to approve new products.

Despite complaints about a capacity shortage, Mr. Svensk said that since 1985, about $650 million in new capital has been flowing monthly to U.S. property/casualty insurers.

"I really think it's an allocation problem and not an availablity problem," he said.

Another problem is the availability of reinsurance from Lloyd's, Mr. Svensk said, noting that Lloyd's can control the introduction of new types of coverage. Lloyd's has been reluctant to support financial guarantee insurance, he said.

"It doesn't conform to the way they perceive the world, and it trickles down," he added.

Yet another factor is the "inhospitable" regulatory environment, he pointed out.

For instance, the New York Insurance Department is considering proposing a bill based on a model developed by the National Assn. of Insurance Commissioners that would establish minimum capitalization requirements for financial guarantee insurers, he said (*BI*, Sept. 23, 1985).

Another regulatory factor blocking development of new financial guarantee products has been proposals to reduce the tax benefits of municipal bonds. This has "created tremendous uncertainty in the minds of underwriters."

In addition, "There is tremendous reluctance on the part of underwriters to make a decision" on whether to write financial guarantee coverage, Mr. Svensk said. "In uncertain times, nobody wants to stick their necks out." Obviously, he said, there is an "industry mindset" where new products do not have a "great chance of success."

Mr. Svensk said that in other industries products are evaluated on the basis of their return on equity and "those that meet the hurdle rate get a second review." But with certain exceptions, this is not true of the property/casualty industry.

The "gut reaction" of a significant number of insurance executives is that they must stay in traditional lines regardless of a new product's expected profitability, he said. This tends to have a "devastating effect" on the ability of new products to "even get into the cycle."

New financial guarantee products need a stable environment within which to develop, noted Mr. Svensk. "If rates and terms are not reasonably consistent," the insurance industry will lose ground in the financial guarantee area to other industries, such as banks, he warned.

For instance, a bank letter of credit can be used to back up a Eurodollar issue as easily as a surety bond written by an insurer, he said.

Financial guarantee products cannot survive in an on-again, off-again atmosphere, he noted. For instance, if an exporter rearranges his program to obtain trade credit or political risk insurance from an underwriter that subsequently pulls out of the market, it will be "very difficult" to attempt to sell coverage to the exporter when the cycle turns and the insurer returns to the market.

The response will be, "Now you want to start all over again? Forget it.'"

One possible solution, said Mr. Svensk, is to introduce more sophisticated ways of allocating insurer capital to various lines. Another is to "get rid of the uncertainty in the regulatory environment."

Mr. Svensk said commercial banks may replicate insurance companies as a source of new financial guarantee products over the coming years, recognizing that a stable, long-term development plan is needed and that these products must be available on a long-term basis.

Mr. Berry took issue with some of Mr. Svensk's comments, especially those concerning Lloyds.

Mr. Berry said he disagreed that more product development occurred during the soft market than the hard market. Lloyd's is always innovating, he said, and there is "no link between new products and the soft market."

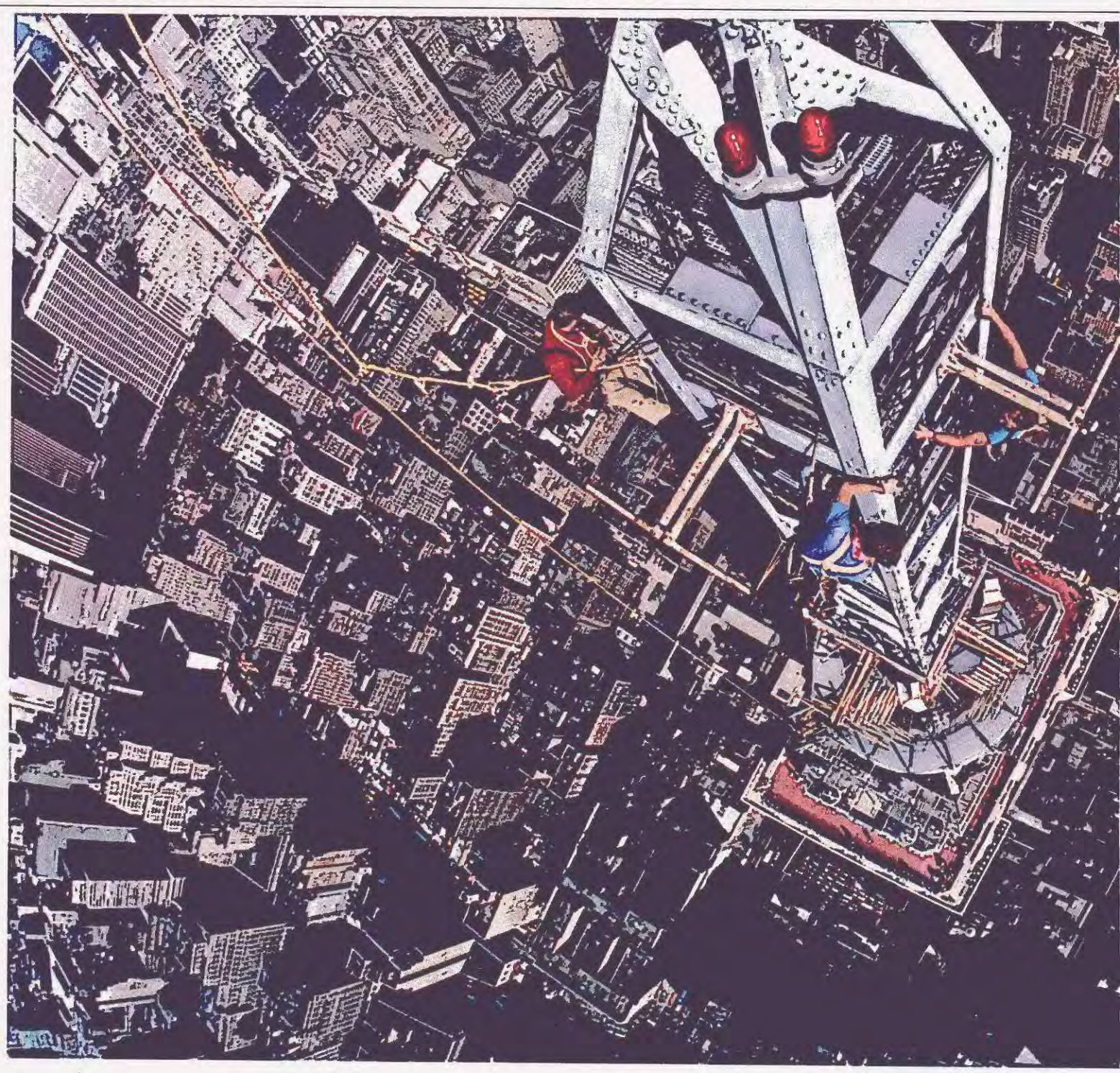
Mr. Berry also denied that new types of coverage that were introduced in the past several years disappeared in the hard market.

While Mr. Berry said he was not suggesting that no new products were either dropped or suffered a decline in capacity, he said, "I see a continuing flow of new products" and "no basic change" in Lloyd's desire and ability to innovate.

Also speaking was John Foley, vp and national director of Alexander & Alexander Inc.'s financial products group, who agreed with Mr. Svensk that senior management at insurance companies often have the attitude, "Let's not do anything new." But at the bottom level, where things are "really done," he said, there is "tremendous creativity."

Moderating the session was Frank Keebaugh, insurance supervisor, projects, for the Bechtel Power Corp.

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Hard market wiping out manuscript forms

By KATHRYN J. McINTYRE

TORONTO—Manuscript policy forms are a casualty of the liability insurance crisis.

During the last 12 months, manuscript policy forms were "restricted, gradually, quickly then terminally," says Alan F. Shirek, senior vp of Fred S. James & Co. of California in San Francisco.

"Today, we don't start with a blank piece of paper," says Erin Oberly, senior vp of Warren, McVeigh & Griffin Inc. in San Francisco. "Instead, we are relying on existing forms and changing them as needed."

Mr. Shirek and Ms. Oberly spoke at a seminar on "Manuscript Forms in a Sellers' Market" at the Risk & Insurance Management Society conference, held in Toronto April 14-18.

Also on the panel were H. Paul Breslin, an attorney with Archer & McComas in Walnut Creek, Calif., and Barrie C. Pedersen, vp with American Re-Insurance Co. in San Francisco.

"Manuscript forms have all but disappeared," especially for liability insurance, observed panel moderator Ralph F. Perry Jr., vp-risk management at Amfac Inc. in San Francisco.

Nonetheless, risk managers can try to amend existing policy forms to provide consistency in coverage, observed Ms. Oberly.

Risk managers should analyze their policies to determine where the inconsistencies are, Ms. Oberly advised.

In analyzing policies, risk managers should look for "longstanding diversity in forms," she said. These include inconsistencies on who is covered, the expression of aggregate limits, coverage for defense costs, required underlying limits and variances in what is covered.

Risk managers should expect to spend at least several days of "close reading" to analyze their insurance policies and compare the coverage, Ms. Oberly said. "It takes more time than most people realize," she commented.

And, risk managers should not just read the forms or they will miss a lot, she said. Instead, risk managers should use a detailed checklist to guide their policy analysis.

"Checklists will help you find the problems," she said.

Mr. Breslin advised risk managers writing manuscript forms to involve a lawyer when drafting the form and not wait until there is a controversy over the coverage provided.

"A lawyer almost never is involved in manuscripting, but I'm hired after a loss has occurred and you don't have coverage," he commented.

A lawyer should be engaged initially to help find the ambiguities in the form and to alert the risk manager to new cases that could affect the coverage provided, Mr. Breslin said.

In analyzing insurance policies, Mr. Breslin said he most often finds inadequate or non-existent definitions. Exclusions also present problems when they are not specific, he added.

Mr. Breslin also noted that risk managers manuscripting policy forms sometimes cull out the good clauses from different policies but then fail to correct the resulting conflicts.

Mr. Pedersen of American Re-Insurance suggested that risk managers can still negotiate a manuscript form if the company is willing to self-fund expected losses. However, "must exclusions" will include pollution, asbestos, product recall, directors and officers liability and faulty workmanship, he noted.

"We don't mind taking risk if it is measureable, but not open-ended," he commented.

And, the insurer will no longer accept policy language that says for purposes of resolving a coverage controversy the policy will be interpreted as written by the insurer.

When negotiating a manuscript policy form, an insurer also will consider the professionalism of the risk manager and his flexibility and willingness to negotiate. The insurer also wants to see complete disclosure of prior losses, he stressed.



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Mr. Shirek of James suggested that if a company is increasing its self-insured retention to $5 million from $100,000, "a lot of things in a broad manuscript form won't be needed."

Risk managers' objectives have changed since the insurance market changed, he said. From 1981 through 1984, risk managers wanted insurance at a competitive cost, written on a broad form, from a financially well-rated insurer and with high limits.

Since 1985, however, the objectives have been adequate limits, with a fairly financially stable insurer willing to issue an adequate form at an affordable cost, Mr. Shirek said.

In the face of such a difficult commercial insurance marketplace, Mr. Shirek suggested that risk managers "maintain high standards but be practical."

The practical risk manager, he suggested, will "go back to basics" of risk management: identifying and quantifying risk and concentrating on insuring the known risks.

Risk managers also should reevaluate their risk-taking philosophy and look for alternative ways to cover expsosures, Mr. Shirek advised.

In approaching the insurance market, risk managers should consider what is practical and what is possible, Mr. Shirek emphasized.

"It is not practical or possible to get full professional liability cover, a full following form as broad as the primary policy and coverage for punitive damages," he said.

What may be practical and possible is "anything you want as long as the measurable exposure bears a reasonable relationship to the premium."

In that case, "maybe you can get up to $20 million in capacity, but then it quickly becomes plain vanilla coverage," Mr. Shirek observed.

"You will have to mix and match" policy forms, he warned.

However, Mr. Shirek predicted that the current conditions in the commercial insurance marketplace "won't last more than 18 months before some sanity returns." ■

Computers can be used to track litigation

By JERRY GEISEL

TORONTO—It's time risk managers set up computerized systems to keep track of litigation, a panel of experts says.

By keeping a close check on litigation, risk managers can reduce litigation expenses and may improve their chances of obtaining excess liability coverage, according to a panel on controlling litigation expenses and tracking defense costs, held during the annual Risk & Insurance Management Society conference earlier this month.

"There is a genuine opportunity to take leadership in this area through technology to monitor litigation," said Richard F. Denning, president of consultant Risk Sciences Group Inc. in Atlanta.



"There is a strong need to have a litigation management system in place," added Kenneth M. Krenicky, director of risk management and benefit investment at Certainteed Corp. in Valley Forge, Pa.

He said that as employers self-insure more exposures, they will have to develop more systematic ways of keeping on top of ongoing litigation, as well as closed cases.

Mr. Krenicky noted that if a company self-insures its primary liability coverage, excess liability insurers will want assurance that claims are being handled properly, including that proper reserve levels are established.

A computerized litigation management system that keeps track of claims and shows the status of litigation will help satisfy excess insurers that "you are doing everything right," Mr. Krenicky said.

The key to a litigation management system is storing pertinent data in a computer.

"The bedrock is data collection," said Mr. Denning. "Keep it simple. If the system is too unwieldy, it won't be used."

According to Mr. Denning, key litigation-related information that should be collected and computerized include:

- The attorneys handling the case.
- Fees and other costs that already have been paid to attorneys handling a case.
- Critical dates, such as when company personnel are scheduled to give depositions.

The goals of a computerized litigation management system should be evaluating cases uniformly, monitoring the activities of counsel and reviewing reserves established to pay claims, Mr. Denning said.

"You no longer have a situation where someone is trying to remember the facts" when a company sets up a litigation management system, Mr. Denning observed. "Instead, you have a systematic record."

Compared with the substantial sums of money employers spend on litigation, the costs of developing and operating a computerized litigation management system are modest, Mr. Denning said.

For example, basic computer hardware, such as various models of the IBM Personal Computer, cost between $6,000 and $10,000.

When the costs of a printer, modem, software and training corporate staff to operate the system are included, a company's total expenditures probably will be between $20,000 and $35,000, Mr. Denning said.

"This isn't an area where you have to invest half a million dollars," he said.

Mr. Denning advised selecting software that is "user friendly."

"If you have to invest more than two or three days to feel comfortable, then you don't have the right system," Mr. Denning said.

It is important that records for both open and closed cases be maintained, Mr. Denning said.

For example, records of closed claims that are similar to pending cases can guide an employer on the expected costs of such cases.

In a paper he presented at the session, David W. Eryou, an attorney with the Canadian law firm of Buset & Eryou in Thunder Bay, Ontario, advised employers to establish litigation "budgets" to get a better handle on legal costs.

"Litigation budgets are estimations of projected expenses based on the assumption that certain matters remain within the control of the corporation and defense counsel. In spite of this limitation, they form an essential guideline to controlling litigation expenses," Mr. Eryou noted.

According to Mr. Eryou, points that should be addressed in a corporate litigation budget include:

- Tasks to be performed and whether they should be handled by in-house or outside counsel.
- The level of skill required to perform a legal task. For example, a paralegal may be able to perform the task, thus saving money.
- The number of legal personnel required to perform a task.
- The amount of time required to perform the task. "This must be carefully assessed to include supervision, review and redrafting of the work to achieve the desired end result," Mr. Eryou noted in his paper.

Also, a litigation budget should include anticipated expenses for travel, discovery, photocopying and fees charged by technical experts, according to Mr. Eryou.

"The in-house counsel should also show the involvement of corporate non-legal personnel such as paralegals, internal auditors, technicians and others. The total involvement of the insured must be considered," Mr. Eryou explained.

A litigation budget can help companies decide when to settle a claim out of court rather than go to trial, Mr. Denning said.

"You can identify if you'll be spending $35,000 a month for a case that could be settled for $200,000," he explained.

In his paper, Mr. Eryou noted that companies with a large staff of in-house attorneys may be able to reduce litigation costs if the attorneys do most of the work instead of farming it out to outside counsel.

And, in-house attorneys offer a number of advantages compared with outside firms, Mr. Eryou noted. In-house attorneys:

- Usually are available at all times.
- Are more aware of the needs of the company.
- Are directly accountable to management.

Also speaking at the session was Farid M. Malek, president of CIP Systems Inc., a management and data processing consultant in Beverly Hills, Calif. ■



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Several points to weigh in choosing broker

By DOUGLAS McLEOD

TORONTO—Risk managers who undergo the arduous process of choosing a broker should judge candidates on a variety of points ranging from the quality of the broker's proposal to the scope and quality of its services, a panel of experts advises.

Criteria include services, quality of staff, responsiveness to clients' needs and cost, said Cristina D. Haley, director of risk and insurance management for Levi Strauss & Co. in San Francisco.

One broker service that has become especially important in the tight property/casualty market is the broker's marketing ability, Ms. Haley told an audience at the Risk & Insurance Management Society conference earlier this month in Toronto.

Before deciding on the adequacy of a broker's marketing services, risk managers should assess their own needs, deciding, for example, whether they need both domestic and international markets for their coverage, or whether they need offshore services for a captive insurance company.

Having completed this needs assessment, risk managers should look at a broker's marketing approach: What is the broker's relationship with its markets, and how does it approach those markets directly or through a surplus lines broker or other intermediary?

If other intermediaries are used, risk managers should find out if this could make a placement more



complicated or expensive, Ms. Haley advised.

Risk managers also should determine the extent of the broker's network of international offices or correspondents, and should find out if brokerage subsidiaries have underwriting authority for any markets, she added.

Another increasingly important criterion is the broker's ability to create markets, she said, noting the involvement of Marsh & McLennan Cos. Inc. and Johnson & Higgins in the creation of excess liability facilities (*BI*, March 17).

Along with marketing services, brokers' loss-control services should be examined, Ms. Haley said. Risk managers should weigh a broker's familiarity with highly protected property risks, its loss-control engineering capabilities and its ability to review underwriters' loss-control recommendations.

While compliance with underwriters' recommendations was often voluntary during the soft market, it may be mandatory today, she noted.

"This is becoming more of an issue as the market becomes tighter," she said. "You are talking big money on some of the underwriters' engineering recommendations these days."

Risk managers also should assess the broker's environmental engineering capabilities and its familiarity with federal and state environmental regulations, she said.

If risk managers need financial management services, they should examine a broker's ability to assess risk financing alternatives like cash-flow programs, retrospectively rated plans, captives and self-funded programs, Ms. Haley noted.

The broker's actuarial services also should be assessed, along with the computer data base and audit services it can provide, she added.

Given the financial problems facing many insurers after years of rate competition, another consideration is the broker's ability to evaluate insurer financial statements to determine a market's stability, she said.

Finally, risk managers should evaluate the broker's claims management services, including any claims management computer systems and pre- and post-loss planning abilities.

When in the market for a new broker, risk managers should ask other risk managers for broker recommendations, and may even ask underwriters which brokers impress them, said Ginny Talucci, a consultant with Coopers & Lybrand in San Francisco.

A risk manager's request for proposal from a broker should be well-organized and clearly state the company's objectives in seeking a new broker, Ms. Talucci added.

"The more information you provide the broker, the more easily the broker will be able to respond."

The request for proposal should spell out which coverages the company will expect the broker to handle and what services it will be expected to provide, she noted.

The broker also should be given the same information it would need if it were actually marketing the account, including full details of company operations and finances, loss histories and a summary of pending litigation, she said.

Brokers also should be told who in the company will decide on the proposals and should be given ground rules for the proposal process. Such rules could include deadlines for submitting segments of the proposal and automatic disqualification of any broker who actually approaches an insurer on the account before being selected, she said.

Broker selection should be a two-step process: Evaluation of the broker's written proposal and an oral interview.

"The written proposal is really an indication of how that broker will communicate with you and your chief financial officer," Ms. Talucci observed.

If the proposal is disorganized or does not address the points specified in the request for proposal, future communications with the broker also may be difficult, she noted.

If the broker misses deadlines in the proposal process, it may not act in a timely way in marketing the account, she added.

The oral interview also will tell risk managers whether they can deal with the brokerage executives who will handle the account, and this often is what makes or breaks a selection, Ms. Talucci said.

Risk managers should always explain to the losers in the selection process the reasons for the company's decision, she concluded.

Loss forecasting and reserve analysis are among the more important technical services risk managers should expect from brokers, added Lawrence I. Geneen, senior vp with J&H in New York.

Without a good actuarial analysis

Continued on page 22

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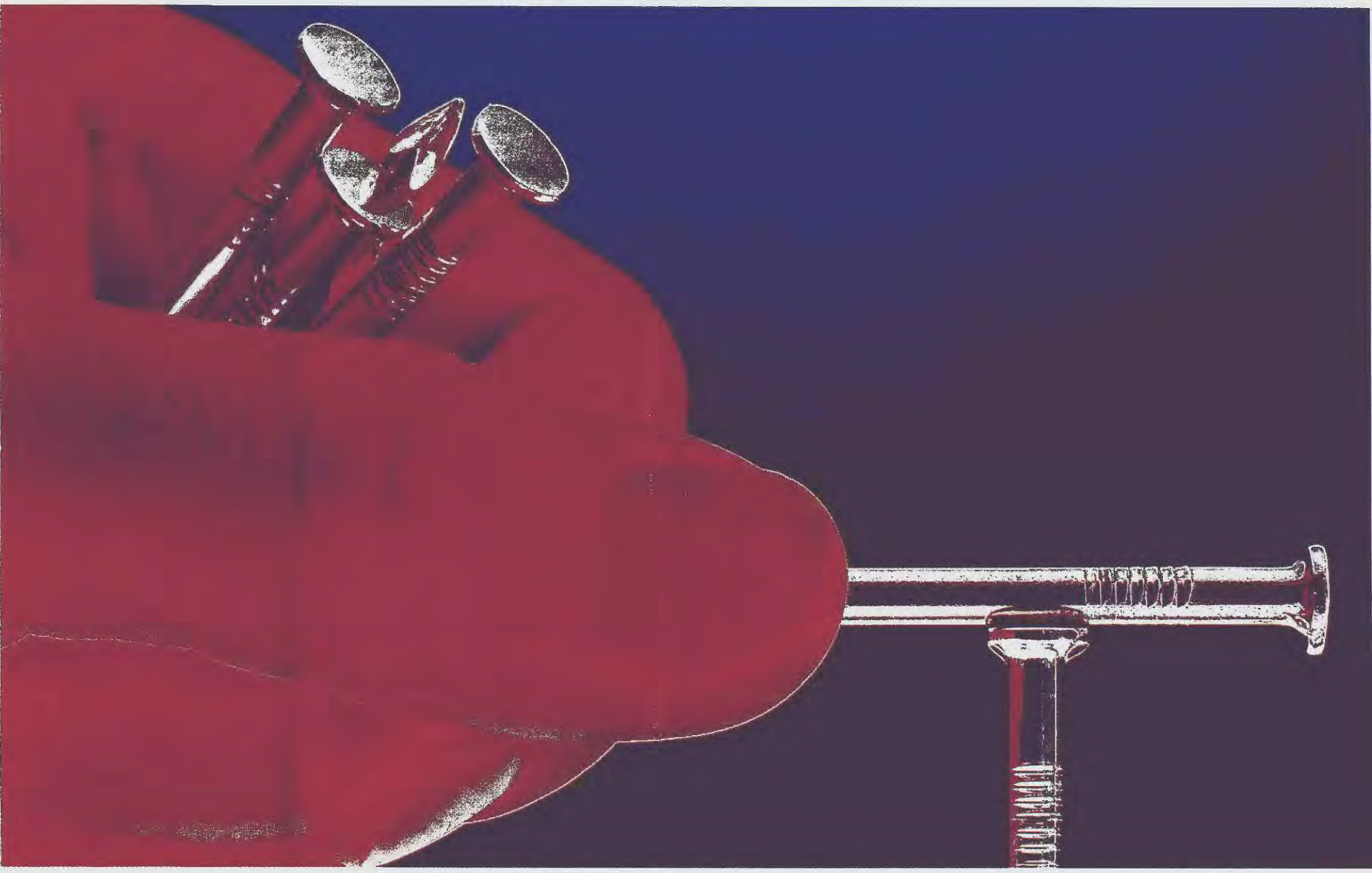
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Choosing a broker

Continued from page 20

of losses, brokers cannct negotiate with underwriters, he noted.

Reserve analysis also can affect negotiations, he added: If reserves are set too high, companies will have a tougher time at renewal.

Brokers also should have the legal expertise to review a client's contracts and leases for risk management problems and to assess potential liabilities connected with mergers and acquisitions, Mr. Geneen added.

Mr. Geneen also stressed the "paramount importance" of broker accountability.

A broker should have a strategic plan for each account every year and should have an action plan setting deadlines for the accomplishment of various tasks connected to that account, he said.

The broker also should have team meetings concerning accounts in which risk managers participate, and should have in-house peer review teams reviewing the account team's work, he added.

Mr. Geneen advised risk managers to ask prospective brokers about their track records in retaining accounts.

Wayne Morrison, director of risk management for General Motors Corp., noted that companies may choose more than one broker to handle different parts of the corporate insurance program.

General Motors uses five national brokers and the international networks of three of these brokers, he said.

Mr. Morrison added that decisions on the choice of a broker should include consideration of the broker's own financial strength.

GM has placed a moratorium on new business with at least one broker that has encountered financial problems, said Mr. Morrison, who did not name the broker. ■

Have a plan when meeting with underwriters: Experts

By KATHRYN J. McINTYRE

TORONTO—Risk managers should have a strategy when meeting with insurance underwriters, a risk manager advises.

"Know what you want to accomplish" when meeting with an underwriter, said John P. Polakovic Jr., director of corporate risk management for RCA Corp. in New York.

"And, know when to back away and let the broker negotiate with the underwriter," he added. "No risk manager ever thinks he's getting a good deal."

Mr. Polakovic participated in a special-interest group discussion on "Risk Manager/Broker Liaison" at the annual Risk & Insurance Management Society conference, held April 13-18 in Toronto.

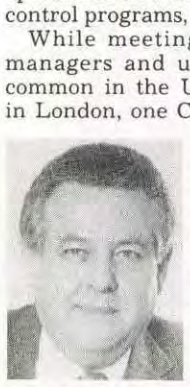
The meeting was chaired by Donald Nelson, director of risk management for ARA Services Inc. in Philadelphia. Also participating was Ben Gill, vp/general counsel of Alexander & Alexander Services Inc. in Baltimore.

"You have a right and a duty to meet the underwriter," Mr. Polakovic told risk managers.

Mr. Gill said "nothing sells a risk better than the risk manager."

When meeting with an underwriter regarding a specialty risk, Mr. Nelson said he brings along the president of the company whose risks are being discussed. The president can better explain operations and loss prevention and control programs, he noted.

While meetings between risk managers and underwriters are common in the United States and in London, one Canadian attendee said Canadian risk managers do not often meet with underwriters.



Mr. Nelson

Commenting that a risk manager is entering into a contract with an insurer, Mr. Gill observed: "You have a right to meet the other part to the contract." But, there is nothing a risk manager can do if the insurer does not want to meet with the risk manager, Mr. Gill noted.

Mr. Nelson observed brokers often do not keep risk managers fully informed of the progress in trying to place insurance. "Brokers string you out till the last minute—not intentionally, but they do.

"Shouldn't they say at some point, 'Let's get another broker involved?'" Mr. Nelson asked.

"The broker should keep you appraised on an ongoing basis," Mr. Gill said.

But, he also advised risk managers to alert brokers to the key dates by which they need information such as the date of a board meeting.

Beyond marketing insurance programs, the amount of service a broker delivers to a client depends on the size of the company, Mr. Polakovic observed.

"I have a staff of six professionals," Mr. Polakovic noted, so RCA does not need the same amount of services from brokers as a company with a smaller staff.

For example, brokers get involved in handling RCA claims only if the claim is large or if there is a question about coverage. "Usually I deal directly with the insurer," Mr. Polakovic said.

However, he stressed that he always gets brokers involved in business interruption claims because brokers have specialists who can sort through the complexities of filing these claims.

Noting a growing number of insurers are going broke, Mr. Nelson advised risk managers to review the financial condition of insurers with whom claims are pending.

"If you fear insolvency, push for claims settlement, even if you have to contribute to it," he advised.

When selecting a broker, Mr. Nelson said, "I deal with individuals, not houses."

"I look for professional expertise in a person," agreed Mr. Polakovic who added he would follow a person who had successfully handled his account if the person left a major brokerage house for a smaller company.

"It would depend on the line of insurance," he added. "The best of all worlds is finding an individual in a major house. But, given either/or, I'd follow the individual."

However, Mr. Gill advised the risk manager to be sure he knows what backup support the individual has at the new company.

Mr. Polakovic responded: "When a good guy goes, he usually takes his team with him." ■

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Fleet safety programs curb corporate waste, experts say

By DONNA DiBLASE

TORONTO—Trucking and transport companies can reduce their operating costs and expand the longevity of trucks and equipment by implementing fleet safety programs, transport experts say.

"Why do you need a safety policy? Because accidents, incidents and workers' injuries are not only wasteful, they disrupt operations and result in low employee morale, high turnover and misuse of supervisors' time," explained Sam Calder, president of Sam Calder & Associates, a trucking safety consulting firm based in Colgan, Ontario.

Mr. Calder spoke at a session on fleet safety programs during the Risk & Insurance Management Society conference in Toronto.

A company's fleet safety policy should state management's commitment to safety and demand involvement from everyone, he said.

"A fleet safety program starts with the selection of employees," noted Colin Venning, director of safety and security for the Ontario Trucking Assn. in Toronto.

Mr. Venning said employers should check a prospective driver's previous employment records regarding driving skills, absenteeism, drinking and drug problems, rapid employment changes, thefts, injuries and general physical fitness.

Once an employee has been hired, complete personnel files should be kept and updated, he added.

A good fleet safety program should include an accident review committee, an accident reporting and record-keeping system and good employee supervision, said Peter Pagani, general manager of Truckit Transport Inc. in Toronto.

"You need good supervisors to implement and carry out your safety policy," he said. "It is the attitude of the supervisor and management that will make or break your safety program."



It is also important that the accident review committee emphasize the preventability of accidents, he said. "You want to know what your driver could have done to prevent the accident—don't confuse liability with preventability."

Accident reporting should always be done in writing, he said. The reports should include the name and age of the employee involved; the length of his employment; the date and time of the accident; the cost; the type of accident, weather conditions and speed of the vehicle at the time of the accident.

When investigating accidents, "you should look for parallels or common occurrences and patterns," said Mr. Pagani. And, the investigation should never be considered complete until costs have been recorded, all claims have been settled and a hearing has been held to determine the preventability of the accident, he added.

When disciplining employees, corrective action such as training and communication should be emphasized. "Punitive discipline doesn't make good employees," he said.

Another speaker, Jean-Louis Lefebvre, a consultant with Sam Calder & Associates, stressed proper equipment maintenance as a way to prevent accidents.

"Preventive maintenance is the best way to reduce costs and accidents, prolong the life of equipment and improve fuel efficiency in a fleet," Mr. Lefebvre said.

For example, he said, "Tires can be the source of wasted money if they are not maintained. A simple flat tire can result in claims of thousands of dollars."

Mr. Lefebvre emphasized the need for regular inspections of vehicles and current and complete inventories of all repairs.

"You should keep an ongoing inventory of each unit, which includes preventive maintenance records, repairs, inspection results, results of road tests following the repairs and reports from drivers operating the vehicle," he said.

The panel was moderated by Alec Milne, assistant risk manager for Canada Packers Inc., a transport company based in Toronto. ■

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Prepare before coverage negotiations begin

By DOUGLAS McLEOD

TORONTO—Risk managers can take a number of steps before and during coverage negotiations to help them find the coverage they need, experts say.

Risk managers and brokers should get together to "pre-underwrite" a program before actually submitting it to an insurer, advised Hugh Vinson, senior vp with Alexander & Alexander of Texas Inc. in Dallas.

"The objective is to give the underwriter a clear mental picture of the entire risk," Mr. Vinson told an audience at a seminar on "Negotiations Strategies in a Hard Market" at the Risk & Insurance Management Society conference.

Mr. Vinson said the information collected for underwriters should include:

- Summaries of pending and prior litigation.
- Claims analysis and projections of future liabilities for each line, along with an explanation of factors that could affect those liabilities.
- Safety programs and physical improvements to a company's plants.

Risk managers placing property risks should consider several options that may ease completing a program. These include:

- Separate placements for difficult-to-insure locations or coverages.

For example, highly protected risks may be separated from non-HPR locations, and habitational



structures like apartment buildings, which are tough to insure, may be separated from non-habitational property.

Risk managers also should consider insuring flood and windstorm exposures through pools, he added.

- Layering or attaining quota-share coverage of property risks, using the in-house net line capacity of numerous insurers.
- In a layered program, setting the attachment of excess layers high enough so excess insurers are beyond the level of probable maximum loss.
- Considering higher deductibles, with or without an aggregate cap.
- Considering a loss-sensitive program, such as a retrospectively rated or dividend-paying program.

Risk managers placing casualty programs likewise should consider alternative program structures to complete programs more easily, Mr. Vinson said, including:

- Higher self-insured retentions or deductibles.
- Separate placement of difficult-to-insure exposures.
- Increases in the attachment point of umbrella coverage. For example, in some cases, the primary insurer writing the first $1 million of $2 million of underlying coverage can be persuaded to provide an additional $1 million straight excess policy, bringing the underlying coverage up to the umbrella attachment point, he explained.
- A high deductible on the umbrella portion of the program.
- An "umbrella swing plan," under which the premium varies between minimum and maximum amounts based on loss experience.

Mr. Vinson also noted that risk managers should consider several factors in the scramble for insurers with adequate capacity:

- Market stability, which is a function of underwriting philosophy and underwriting results, quality of management and stability of reinsurers.

"We all know that instability translates into higher prices and less coverage," Mr. Vinson said.

- The insurer's track record in the particular class of business to be written.
- Claims, loss control and other services.
- Price.
- Net-line capacity. Because of the difficulty insurers are having lining up their own reinsurance, risk managers should target those insurers who have significant in-house capacity.

"Believe it or not, there are markets that have in-house capacity and are willing to use it," Mr. Vinson said.

To negotiate coverage effectively, risk managers, their brokers and insurers must show trust, interest in a long-lasting relationship, knowledge of their business, commonality of goals and ability to listen to one another, advised William H. Bolinder, executive vp with Continental Insurance Co. in New York.

Preparation is the key to successful coverage negotiations, he noted. He explained that risk managers must understand their corporations' objectives in building an insurance program.

"If you don't know your corporation and your objectives, you are really wasting everybody's time by coming to the table," Mr. Bolinder said.

Risk managers also should:

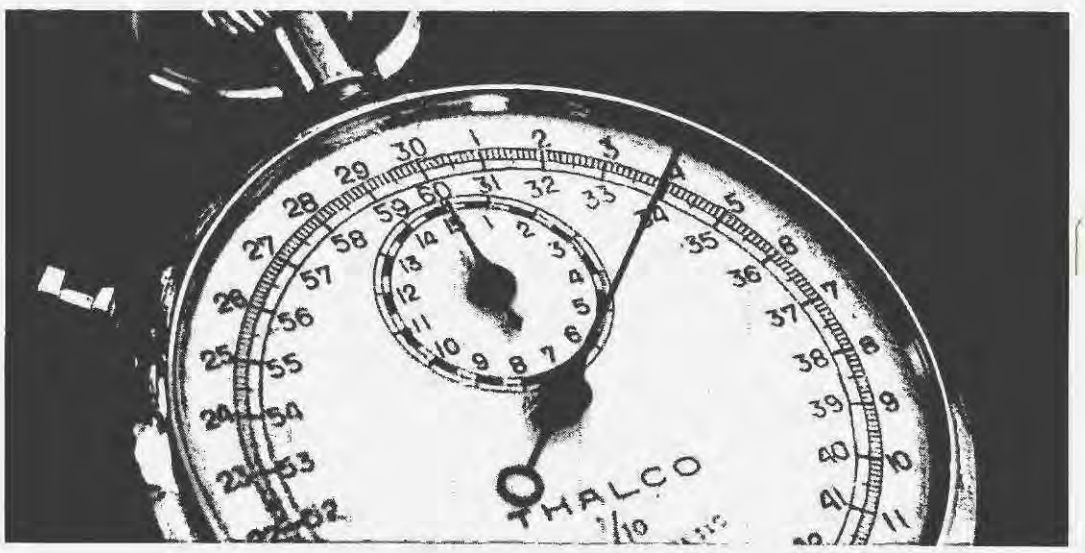
- Review the specific insurance products and services to be negotiated.
- Set specific goals for the negotiations in conjunction with others in the company, including legal and finance executives.
- Agree with top management on the company's broad strategic aims.
- Properly select a team to participate in negotiations, possibly including claims and legal representatives and a broker.
- Plan offensive and defensive tactics and prepare alternatives for negotiation.

The root of the change in the underwriting climate is the horrendous results posted by many insurers, Mr. Bolinder explained. He noted that between 1981 and 1985, U.S. insurers suffered underwriting losses of $76.7 billion.

There were many reasons for this slide, he noted, including poor underwriting selection, rate cutting, lack of casualty actuarial expertise, ambiguously worded insurance contracts, weak claims handling practices, a "sick" reinsurance industry, inflated jury awards and the growth of such extra-contractual liabilities as bad-faith awards against insurers.

Also speaking at the meeting were D. Michael Sipe, director of risk management for Dresser Industries Inc. of Dallas, and Ian A. Waite, chairman and chief executive officer of the oil, gas and energy division of Alexander Howden Ltd., a London-based unit of Alexander & Alexander Services Inc. ■

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Norman Chanzis wins RIMS' Goodell award

TORONTO—This year's recipient of the Dorothy and Harry Goodell Award, the highest honor bestowed on a deputy member of the Risk & Insurance Management Society, is Norman B. Chanzis, director of risk management for American Standard Inc. of New York City.

The award, which recognizes outstanding and continuing achievement, was presented at the breakfast meeting kicking off the 24th annual RIMS conference held April 13-18 in Toronto.

The society also presented several other awards during the conference.

Mr. Chanzis, who has been a RIMS deputy member for 15 years, currently chairs the RIMS Governmental Affairs Committee.

The committee is pushing for legislative passage of the Risk Retention Act Amendments of 1986 and tax equity for self-insurers.

He also is a member of the RIMS CGL Task Force, which developed the society's strategy for responding to the Insurance Services Office's introduction of a new claims-made commercial general liability form.

Last year, Mr. Chanzis participated in a widely distributed videotape that introduced RIMS-backed changes to the new form.

During the late 1970s and early 1980s, Mr. Chanzis was a member of and chaired the International Cooperation Committee, which established many contacts for RIMS in Europe.

He also assisted in forming the ANRA, the Italian risk management association, and in organizing the first International Risk Management Conference in Monte Carlo in 1981.

Mr. Chanzis also chaired the Industry Liaison Committee between 1978 and 1981.

The committee identified for insurers and brokers the views and needs of risk managers.

One of the other RIMS members honored was William Blick Jr., assistant treasurer and corporate risk manager for The Allen Group Inc. in Melville, N.Y.

Mr. Blick received the Richard W. Bland Memorial Award, which recognizes outstanding performance in the area of legislation and regulation.

"His tenacious efforts on behalf of RIMS have enabled the society to gain high visibility and maintain a pro-active stance on urgent risk management issues," a RIMS spokesman said.

As chairman of two RIMS committees, Mr. Blick spearheaded the society's drive contesting the ISO's claims-made policy.

Robert D. Nelson, director of finance for the city of Ashland, Ore., received the Research Award.

Mr. Nelson was selected on the basis of a paper he submitted: "Suggested Program for Earthquake Insurance for the City of Ashland."

The award was established in 1984 to encourage research hat contains significant new information, theses or conclusions nd is potentially useful to some



segment of the Risk & Insurance Management Society's membership.

And, the Cristy Award was presented to Rebecca A. McQuade, insurance manager for Paccar Inc. of Bellevue, Wash.

The award is presented to the risk manager with the highest cumulative average in the three exams required to attain the designation of Associate in Risk Management. ■

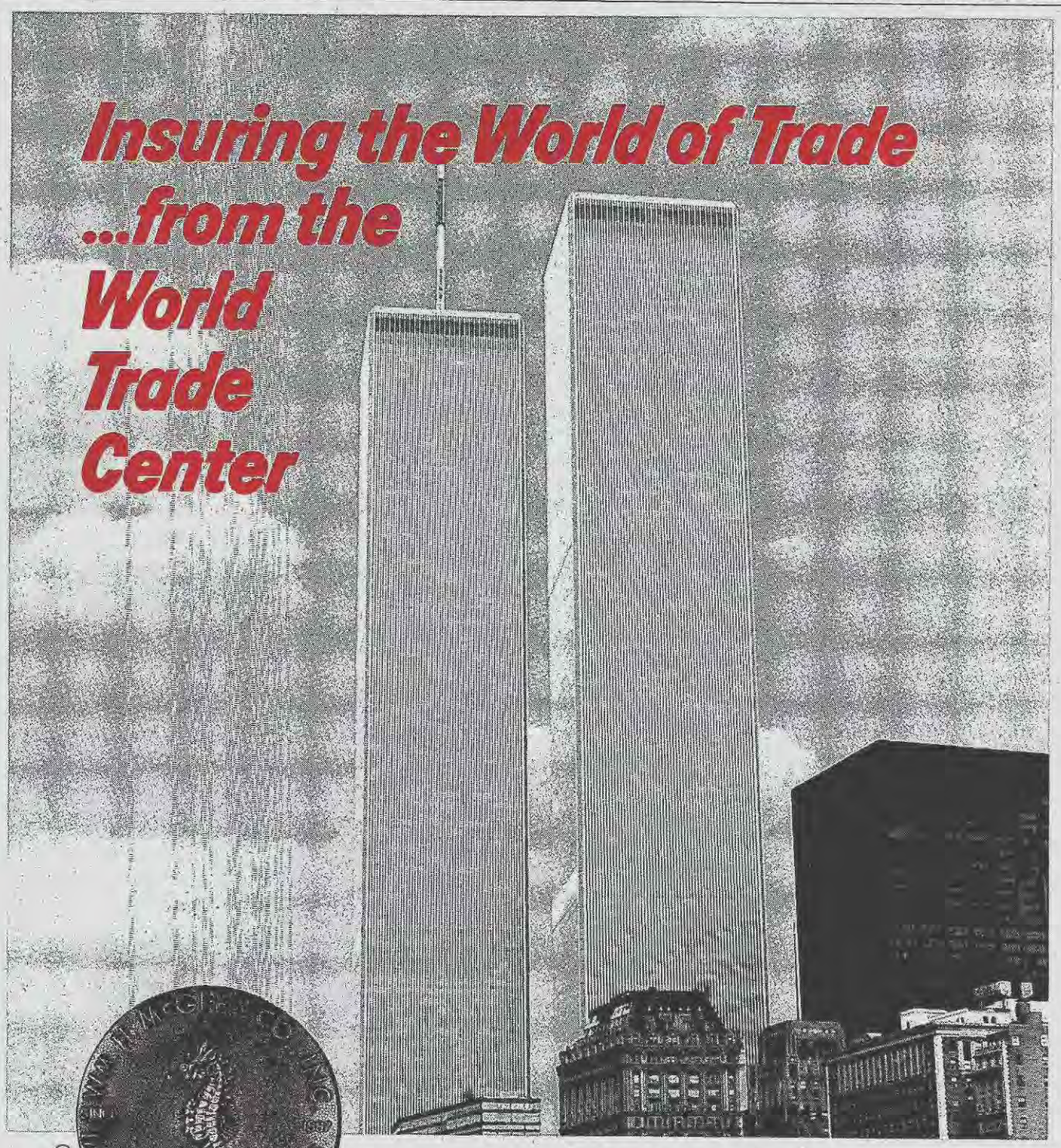
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Correspondents throughout the World

Tax changes would increase rates: Reinsurer

By JERRY GEISEL

TORONTO—The cost of comprehensive general liability insurance could rise by 10% if Congress accepts property/casualty tax increase provisions in tax overhaul legislation already approved by the House, an industry official warns.

"The provisions will cause an increase in the product price," says Owen M. Gleeson, second vp with General Reinsurance Corp. in Stamford, Conn.

"Under standard economic theory, if my costs increase, I will have to raise my prices," he said.

Speaking at the annual Risk & Insurance Management Society conference in Toronto, Mr. Gleeson outlined his calculations of how much insurers will have to raise rates if Congress increases the industry's taxes.

For example, assuming an insurer's combined ratio was 100%, it would have to raise CGL rates by 10% and workers compensation rates by 7.5% to prevent an erosion of its aftertax income if Congress passes the House tax bill, H.R. 3838, Mr. Gleeson said.

By contrast, a tax proposal released in March by Senate Finance Committee Chairman Bob Packwood, R-Ore., would impose smaller tax increases on the property/casualty industry.

As a result, Mr. Gleeson said, if Sen. Packwood's proposed property/casualty provisions were adopted, an insurer with a combined ratio of 100% would have to raise rates for CGL coverage by about 3% and for workers compensation coverage by 2.5% to maintain the same level of profits.

"Obviously, the House bill is much more burdensome, and there would be substantial price increases," Mr. Gleeson said.

For example, the House bill would slap property/casualty insurers with a number of tax increases not contained in the Packwood proposal (*BI*, Nov. 25, 1985). According to these provisions:

- All insurers would be liable for a new minimum tax, or "alternative tax," that would be equal to 20% of the company's "net gain." The net gain would be taken from Line 18(b) of Page 4 of the annual statement an insurer files with state regulators. Line 18(b) includes tax-exempt income.

The alternative tax would be imposed if it is greater than the tax the insurer would otherwise pay.

Also, the alternative tax could not be offset by carryforwards created by tax losses in prior years.

- Insurers would be taxed on a portion of tax-exempt income generated by investments acquired on or after Nov. 15, 1985, the date that provision cleared the House Ways and Means Committee.

Under this provision, an insurer, starting this year, would be required to reduce its deductions for loss reserves by an amount equal to 10% of the tax-exempt income generated from investments acquired after Nov. 15, 1985.

Starting in 1988, the insurer must reduce its loss reserve reductions by 15% of its tax-exempt income from investments acquired on or after Nov. 15, 1985.

- Insurers would be taxed on a portion of their unearned premium income over the next five years. Premium income currently is not taxed until it is earned.

This tax would be 4% during the 1986 tax year and increase four percentage points each year until the tax reaches 20% in 1991.

- The federal excise tax on casualty reinsurance premiums paid to foreign insurers would, starting on Jan. 1, 1986, rise to 4% from the current 1%.

By contrast the Packwood proposal does not call for a special minimum tax on insurers, nor would it tax insurer income that is now tax-exempt. And, it would keep the excise tax on foreign reinsurance premiums at 1%.

Like the House measure, the Packwood plan would tax insurers on 20% of unearned premium income. This tax would be phased in over 10 years, compared with five years in the House bill.

However, the Packwood proposal does contain one major property/casualty provision not found in the House bill: Insurers would be required to discount their reserves by 5% annually for tax purposes. The discount rate would be adjusted over three years to conform to "an appropriate rate," though the proposal does not explain how the rate would be determined.

Each insurer would be allowed to determine the length of time over which reserves for each line of business would be discounted based on their own experience.

At this point, negotiations are bogged down and there is a question of whether Congress will pass any tax bill. However, Mr. Gleeson said that, "The chances are taxes will be increased and that will increase prices" for property/casualty insurance.

If the industry tries to pass on those tax increases to buyers in the form of higher premiums, businessess have new incentives to establish alternative risk-financing mechanisms, said Charles Ruoff, senior vp with Fred S. James & Co. Inc. in New York.

Turning to other bills affecting risk management, P. Bruce Wright, an attorney with LeBoeuf, Lamb, Leiby & MacRae in New York, noted the Senate Commerce Committee has passed S. 2129, to expand the Risk Retention Act.

Under the legislation, employers could set up captives or buy insurance on a group basis for all commercial casualty coverages—except workers compensation—with little interference from state regulators. The 1981 Risk Retention Act only gives this freedom from restrictive state regulation for groups providing product liability coverage.

Mr. Wright noted that state insurance commissioners have been hostile to the original act, which may have discouraged employers from setting up risk retention groups.

Mr. Wright said the attitude of some commissioners has been: "'I'll be dammed if they (risk retention groups) operate in my state.'"

Also speaking at the session was Edward A. Tepper, senior manager with Ernst & Whinney in New York. The session was moderated by Merritt W. Fabel, assistant treasurer—risk management with Long Island Lighting Co. in Hicksville, N.Y. ■



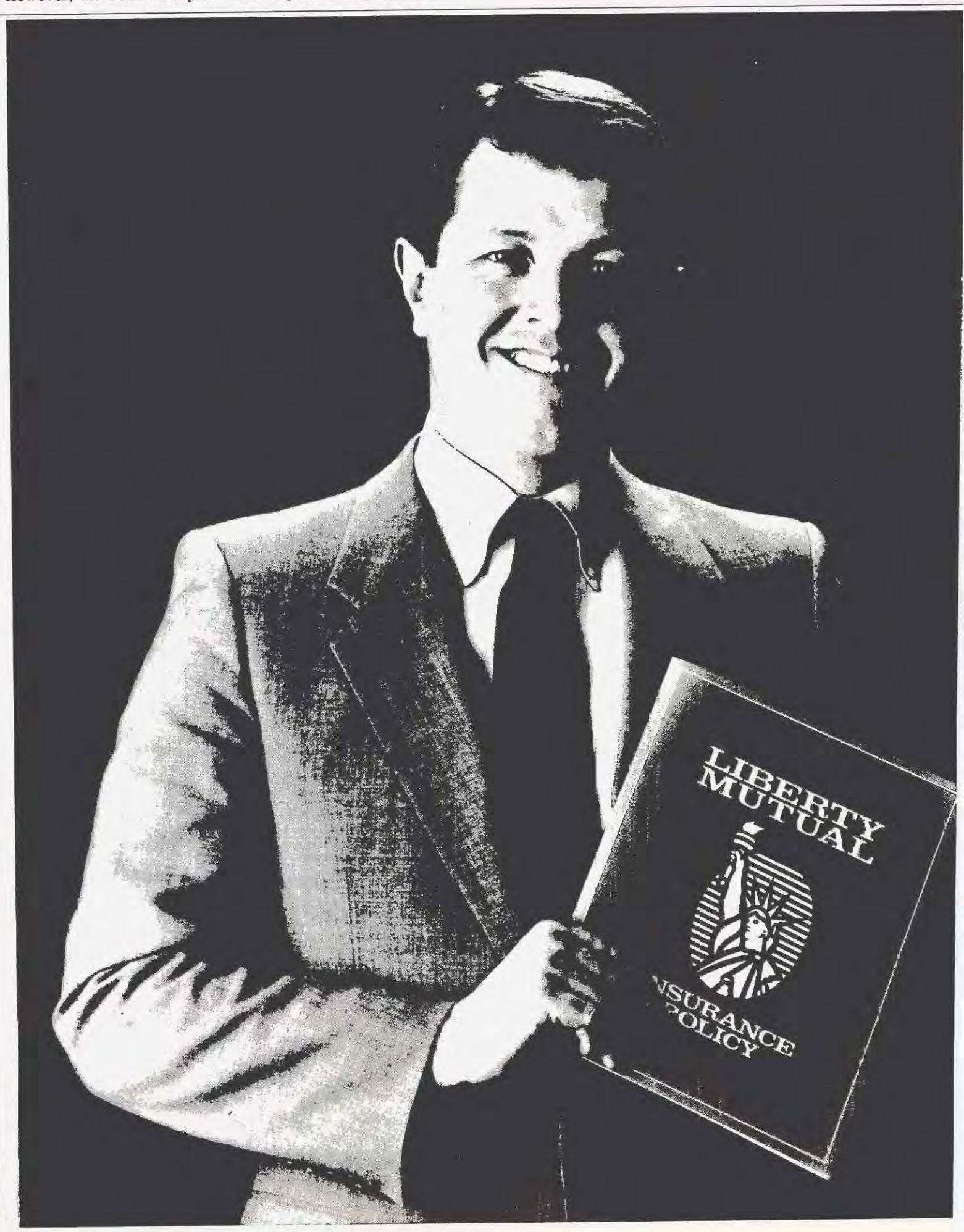




Photo: Kathryn J. McIntyre

Anistics' Faith Lamberts joins Wild Kingdom's Peter Gros and a furry friend at Mutual of Omaha's booth.

RIMS exhibition hall is 'Wild Kingdom' of buyer attractions

By MICHAEL BRADFORD

TORONTO—From Mutual of Omaha's Wild Kingdom to the docile shores of Grand Cayman, convention-goers took their annual tour through promotions, gadgets and gimmicks in the exhibition hall at the Risk & Insurance Management Society conference.

The exhibition hall takes on a carnival appearance each year, and the methods of wooing prospective clients to the exhibit booths seems to become more creative at each meeting.

The most-talked-about booth at RIMS' 24th annual gathering in Toronto was Mutual of Omaha's Wild Kingdom. After word got out that RIMS-goers could have a photo snapped with a live llama, the Mutual of Omaha booth did a brisk business.

And, if the llama was not to the attendees' liking, the Wild Kingdom also featured a parrot, a 3-month-old cougar, a 3-foot boa constrictor and a python.

Receiving noticeably less attention than the animals was the host of the popular television show, Peter Gros.

"We wanted to do something from a name-recognition standpoint," said John C. McCandless, second vp and director of national accounts with the Omaha-based insurer. This marked the first time Mutual of Omaha manned (animalled?) a booth at the RIMS conference.



"We're starting a big image campaign, and we're using the Wild Kingdom, to a point." Mr. McCandless explained.

The insurer's booth also featured oversized reproductions of print ads the company will be using in its new marketing campaign.

The animals were a lure to visitors, who also heard about Mutual of Omaha's group insurance operations, the focus of the insurer's marketing effort in Toronto.

In particular, the insurer was touting its preferred provider organization, called Mutually Preferred, and a program called Specific Reporter.

The Specific Reporter program is a series of reports and analyses that are aimed at helping clients monitor health care costs. An example of the reports is a summary of benefits that gives data on claims experience, types of services, total and allowable charges and coordination of benefits efforts.

The reports also track hospital utilization, medical fee trends and suspected abuse of benefits.

To display its menagerie, Mutual of Omaha bought $6 million in personal injury coverage for RIMS and the convention center that housed the exhibition hall.

Aetna Life & Casualty Co. wrote the coverage on the animals, which were supplied by Animal Actors Ltd., a Wassaga Beach, Ontario, firm that supplies animals for commercials, movies and other productions.

The policy written for RIMS had limits of $1 million, while the policy covering the convention center had limits of $5 million.

In addition to the lure of the wild, the lure of the islands was in evidence.

The increased competition among captive insurance company domiciles was evident at this year's RIMS conference, as Bermuda, the Cayman Islands, Barbados and the Bahamas all had booths in Toronto.

All the marketing material supplied by the offshore domiciles touted sandy shores and clear water. But, Barbados leaned more heavily in its promotion toward an image of a thriving and healthy

Continued on next page

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RIMS exhibits

Continued from previous page
economy: Color photos of hard-working laborers were just as prominent as shots of peaceful ocean shoreline in Barbados' literature.

Response to the Caymans' booth was encouraging, according to Steven Butterworth, who is the domicile's deputy insurance superintendent.

"We've certainly had a lot of inquiries," he commented.

Mr. Butterworth added that he was pleased that last-minute preparations for setting up the booth and printing a four-color brochure had been completed.

The Bermuda booth, complete with a stone roof, conjured up images of a day at the beach. It was built by a Bermudian hired specifically to give the display an island look.

Not to be outdone, Brenda Cunningham, an executive officer with the Bahamas government's Ministry of Finance, commented: "We can give the best service possible to captives.

"We may not have anything over the others, but we are just as good. We offer a stable government, a good banking system, and accommodations are good."

She also mentioned an attraction in the Bahamas that the other domiciles represented at RIMS can't offer: casino gambling.

CIGNA Corp. did nothing to tarnish its image as mega-booth builder at this year's conference. The company's exhibit, "The Key to Better Service," took up at least six normal-sized spaces.

Explaining the way the booth worked, a CIGNA spokeswoman said, "We identify different products and services and put them in buildings that represent the particular market."

For example, a building resembling a warehouse held information about insuring marine exposures and loss-control services for cargo carriers.

David Woods of Adjustco explained that whenever Mutual of Omaha displayed its llama, a new sign went up in front of the shoe-shine kits Adjustco was giving away. The sign read, 'Free llama stain remover (shines shoes too).'

The spokeswoman explained that visitors to the exhibit were given a paper key with the answers to multiple-choice questions printed on the back. The key was inserted into a "lock" below a video screen in each building and activated a presentation about each product or service.

Each video asked a question relating to the subject and participants were asked to check the correct answer.

The spokeswoman explained that the completed "keys" then were collected and follow-up information will be sent to interested players.

Adjustco Inc., a subsidiary of Frank B. Hall & Co. Inc., made good use of its position, across the aisle from Mutual of Omaha's Wild Kingdom.

David Woods, an Adjustco senior vp, explained that whenever Mutual of Omaha displayed its llama, a new sign went up in front of the shoe-shine kits the company was giving away. The sign read, "Free llama stain remover (shines shoes too)."

And when the python or boa constrictor made an appearance, out popped another Adjustco original: "Free snake bite kit (shines shoes too)."

The Tarrytown, N.Y., claims-management firm, was promoting its litigation management consulting services.

Mr. Woods said the company unveiled the service about seven months ago, partly in anticipation that it would become popular after the introduction of Insurance Service Office's controversial claims-made commercial general liability form.

And, the response so far to the litigation management service "has been excellent," according to Mr. Woods.

The services offered under the program include developing a network of attorneys to handle clients' legal needs, analyzing the claims-made form's effect on litigation, structuring in-house counsel operations and training aimed at improving techniques used in making settlements.

Big Eight accounting firm Ernst & Whinney provided calculators that proved to be popular among souvenir hunters. The firm was in Toronto to let attendees know about its risk management consulting services.

John F. Riley, senior manager in Ernst & Whinney's New York office, explained that the firm's 4-month-old claims oversight service is helping risk managers "make sure claims are handled in the best way possible."

Mr. Riley said the service reviews the way insurers, third-party administrators or others are handling claims to ensure that claims-handling is efficient and cost-effective.

INRECON, with offices in Houston and Dearborn, Mich., was among a number of property reconstruction and restoration firms represented by booths at the exhibition.

J.R. Creech, director of national services for the company, explained that unlike many similar operations, INRECON provides total restoration of damaged property.

Mr. Creech said INRECON was formed several years ago after a hurricane battered the Houston area.

INRECON goes into areas hit by natural disasters and works with insurers and property owners in establishing the cost of reconstructing damaged property, Mr. Creech explained.

As usual, many large insurers were represented at the exhibit hall.

Travelers Corp. took the opportunity to talk about its national accounts department created about one year ago and to display a new advertising campaign.

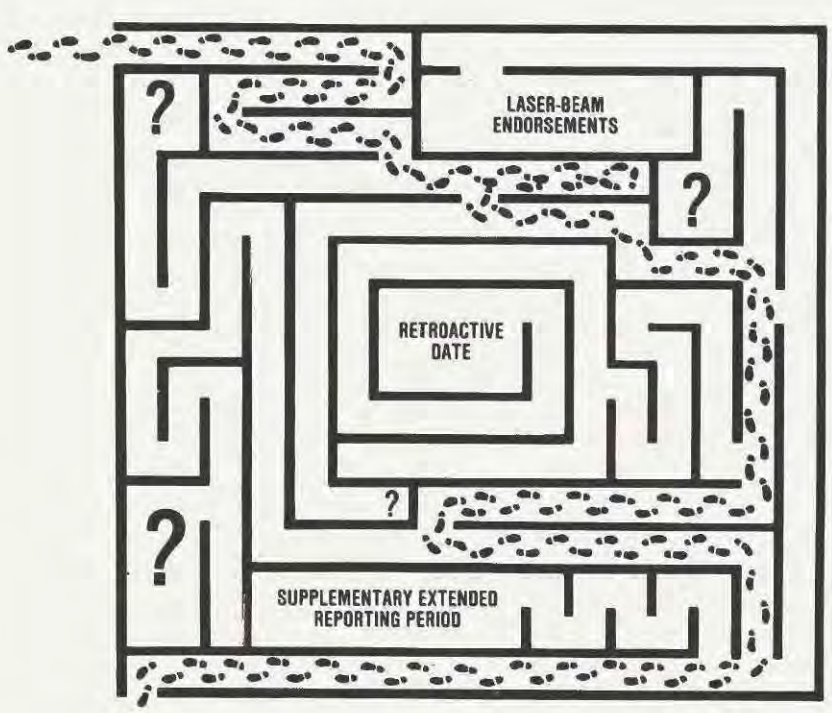
Travelers first lured exhibit-goers by offering caricatures. A quick-draw specialist immortalized visitors in a portrait in which the visitors were holding a red umbrella, which is the company's trademark.

Travelers also offered highlights of the Masters golf tournament, interspersing commercial messages in the video of the classic contest won earlier in the month by Jack Nicklaus.

Bill Draznik, an account executive in the employee benefits division at Travelers' Chicago office, explained that the national accounts group is trying to attract corporate insurance buyers for companies with 500 or more employees.

The group offers employee benefit plans, asset management and pension services, property/casualty coverage and administrative services. ■

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Risk manager tells colleagues to learn more about insurance

By MARK ROSATI

TORONTO—To cope during the current hard market, most risk managers need to learn a lot more about insurance, one risk manager says.

"Most risk managers are not qualified" to deal with insurance issues, claims Bill F. Tronnier, vp of corporate risk management for Parker Drilling Co. of Tulsa, Okla.

"They are engineers or accountants. . .people who have been with the company for a period of time. . .but they are generally not knowledgeable in insurance," he told a session at the Risk & Insurance Management Society conference in Toronto.

"Even today, in an insurance negotiation or relationship, the risk manager tends to be the least knowledgeable in that relationship of the technical terms of that insurance," Mr. Tronnier said.

"Risk management, in many ways, is insurance buying gift-wrapped," he pointed out. "You must know about insurance."

But Mr. Tronnier, who moderated a panel on "What Risk Management Should Be: A Viewpoint," added that even with little knowledge of insurance, the risk manager has an advantage over underwriters and brokers.

"He is always the most knowledgeable of the business he is in," Mr. Tronnier said.

Therefore, it is the risk manager's responsibility to "make the insurer and the broker aware of the problems of that business."

A key to accomplishing that, Mr. Tronnier commented, is direct communication, not only between the risk manager and the broker but also between the risk manager and the underwriter.

"With the best of intentions, communications that are filtered often go awry," he warned.

And, preparing a sound loss-control and insurance program is a job that "all of us do better than one of us," Mr. Tronnier said.

George Hallmark, senior vp of Alexander & Alexander of Texas Inc., agreed that "risk management takes a team effort."

But, "The risk manager has to be the team leader," he said, noting, "there has got to be good communication between the buyers and the underwriters."

The need for direct, open and frequent communication is not limited to the risk manager's communication with brokers and insurers, Mr. Tronnier added.

"There are some very good risk managers looking for jobs because they did not warn top management that a downturn (in the insurance market) was coming," he said. "It's not that they didn't do their jobs well," but they failed to communicate effectively, he said.

"Toot your horn—tell them you've done a good job. (And) don't surprise them with losses or huge increases," he advised.

Mr. Tronnier also said it was essential for risk managers to have authority for hiring and firing those accountable to them.

And, he urged risk managers to establish personal contact with operations personnel in the field, including on-site visits.

"You must find the time," he said. "They will tell you off the record about problems. . .they won't tell you in a letter."

Panelist Alexander H. Szabo Jr., director of the corporate accounts division-national accounts group for Travelers Corp. in Hartford, Conn., said some long-term benefits can actually result from the hard market.

"The best loss-control efforts are usually made in a hard market," he said. If those efforts could be sustained, Mr. Szabo added, "the hard markets would be a little softer."

Walter Luker, senior vp of Mead Loss Control Consultants in Dayton, Ohio, agreed that loss-control is essential.

"Today's insurance environment dictates that you cannot transfer all of your risk and you cannot depend 100% on insurance," he said.

The market requires a return to basics on the part of risk managers, Mr. Luker said.

"At this point, as a risk manager you've got to decide: 'Is that loss-control program effective?'" Mr. Luker said.

Mr. Hallmark of A&A also urged vigorous loss-control efforts, saying such programs are essential in the current market.

He also noted, wryly, that times have changed.

"I'm convinced that three years ago I could have placed coverage on a building that was already on fire," he said. "It was that easy." ■





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EIL market's future hinges on tort reform: Lawyer

By ROBERT A. FINLAYSON

TORONTO—The future of the environmental impairment liability insurance market depends in large part on whether the tort system is overhauled, one attorney predicts.

"Whether the insurance or reinsurance industries will ever have the confidence to return to underwriting pollution liability on a broad-scale basis may well depend on the success of the efforts being made to reform the tort system generally in the United States," said Robert E. Freer Jr., a partner with Barnett & Alagia in Washington.

Until the tort reforms are made, insurers will leave the burden of assuming environmental risks with the corporate risk manager, Mr. Freer told a session on EIL insurance at the Risk & Insurance Management Society conference.

Mr. Freer observed that the passage of Superfund Act and 1984 amendments to the Resource Conservation and Recovery Act created a "broadly focused liability scheme" that provides a basis for liability against any person or group



responsible for the release or the threat of release of any hazardous substance into the environment.

In some instances, that liability is imposed under those laws regardless of whether a polluter caused any environmental damage to third parties, Mr. Freer noted.

"In fact, the government need not even establish 'causation in fact' to link the potentially responsible parties' waste to the recovery of the government's cleanup costs."

Mr. Freer noted this concept contrasts sharply with the traditional concept of liability under tort law. Under the traditional concept, a party is liable only for actual physical harm to persons or property.

He added this traditional concept of tort law has been the underpinning of insurability under most types of insurance policies.

However, by providing the government a broad right to sue for environmental harm on merely the basis of a chemical release or the threat of such a release, "we have created a tremendous source of litigation," Mr. Freer said.

Furthermore, persons and businesses located near Superfund sites will be the greatest source of future litigation because they are certain to sue on the grounds that they have been exposed to harmful substances, Mr. Freer predicted.

The imposition by courts of joint and several liability under the Superfund Act greatly concerns insurers, because a policyholder can be required to pay the entire cleanup costs at a Superfund site regardless of how much waste the policyholder dumped at the site, Mr. Freer explained.

As a result, an insurer may have to pay for damages caused by polluters that it never intended to cover, he said.

To avoid such liability, insurers and reinsurers have withdrawn from the pollution liability market, Mr. Freer explained.

"The impact of the trends and decisions under Superfund, the subsequent threat to insurance contracts and the threat of passage of future legislation has been to further destabilize the already fragile reinsurance market, which has been rocked by asbestos, toxic tort and product liability claims," Mr. Freer said.

Many former EIL underwriters 'did all the wrong things,' PLIA's Mr. Morrow says.

Thus, the environmental impairment liability insurance market, which four years ago included 12 major insurers, now has dwindled to just a handful of underwriters, he noted.

The absence of a vibrant EIL market has made it difficult for many companies that handle hazardous wastes to meet state financial responsibility requirements, because some states do not allow business to self-insure as an alternative to the purchase of EIL insurance, explained William Mahoney, a vp with Marsh & McLennan Inc. of New York.

However, several states currently are revising their environmental regulations in view of the fact that EIL coverage is not readily available, Mr. Mahoney noted.

In contrast to the concerns raised by Mr. Freer, James C. Morrow, vp of commercial lines for Nationwide Insurance Co. and chairman of the Pollution Liability Insurance Assn., an EIL underwriting pool, told seminar attendees that EIL coverage can be underwritten.

Mr. Morrow said that many of the insurers that previously wrote EIL coverage "did all the wrong things." Mr. Morrow explained that those insurers tried to write only gradual pollution coverage, rather than writing sudden and gradual coverage on one policy form.

"I think that is a very basic mistake," Mr. Morrow commented.

Pollution liability coverage should be written to cover both sudden and gradual incidents because the courts often do not make a distinction between different types of pollution.

Further, insurers that have withdrawn from the EIL market sold coverage only to companies that had serious pollution problems or were expecting them, he said.

Mr. Morrow said there are three existing markets for pollution liability coverage, but he noted that some other insurers will sometimes write pollution coverage for their larger clients.

The three remaining markets are AIG, PLIA, and Federated Mutual Insurance Co., of Owatonna, Minn., which writes pollution coverage for underground storage tanks, according to Mr. Morrow.

Mr. Morrow noted that 24 insurers currently participate in the PLIA pool, which offers EIL policies with limits of $2 million per occurrence with an annual aggregate of $4 million

Also speaking on the panel was Chester S. Swalm, a vp with M&M. The seminar was moderated by David B. Kuhnke, director of risk management for The Stanley Works in New Britain, Conn. ■

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Risk reports should be brief, but honest: Kloman

By JUDY GREENWALD

TORONTO—Risk managers should make their risk management reports brief but honest, a consultant advises.

"If you bomb out, say so, because that will defuse the criticism," said H. Felix Kloman, a principal with Tillinghast, Nelson & Warren Inc. in Darien, Conn.

"There is both risk and reward in writing an annual report," Mr. Kloman told a session at the Risk & Insurance Management Society conference.

If you do not communicate, you won't be noticed, but you also won't risk your job, he added.

However, in today's hard commercial property/casualty market, "it is more important than ever that we communicate intelligently with senior management," Mr. Kloman said.

He advised risk managers that departmental reports "should begin with a clear statement of objectives." One report that Mr. Kloman presented as an example said the risk management department's objective was to maintain an "integrated program of risk management," with no mention of insurance.

Try to emphasize the whole risk management process in the report, he suggested, not just the insurance element.

In planning the remainder of the report, he said, factors that should be taken into consideration include the audience for which it is intended. "Who is the audience?" he asked. Is it just the board of directors, just senior management or is it operating managers as well?

The frequency of the report must also be decided upon, as well as style, including whether it is written or oral and whether it contains charts, graphs or slides.

"The graph can help the understanding of the board and the ideas you're trying to put across," he said.

The report should include goals for the next two to three years as well as a description of the year under review, he said.

Underfunded or non-funded risks should be described, he said. "You've got to indicate where the holes are."

If your policies are now written using claims-made rather than occurrence forms, or if any of your insurers have gone bankrupt, that should be included as well, he advised.

The report also should include cost comparisons with your brethren in the same industry, as well as companies of similar size, he said.

Various outside opinions should be included, including those of consultants, internal auditors and brokers, he said.

Suzanne H. Crager, corporate risk manager at Provident National Bank in Philadelphia and another panelist, said her written risk management report is 15 to 20 pages long. "It's what my board wants to see," she said.

But her accompanying oral report, is kept to only about 15 minutes to capture board members' attention. "Brevity is really a key here," she explained.

Ms. Crager recommended the annual report be used partly as an educational tool about risk management. "The more senior management knows and understands, the easier your job becomes," she said.

As a result of recent widespread publicity, senior management is aware of problems in the insurance industry. "They're going to be more than willing to listen to you about risk management," she said.

Ms. Crager said in addition to giving management a complete description of her company's risk management program in her written report, each year she provides a different "extra" as well.

One year, she said, this consisted a copy of the bank's risk management manual, while another year it was an outline of the insurance program for an affiliate that was not a wholly owned subsidiary.

The oral report, said Ms. Crager, is in some ways even more important than the written one. "It is your chance to sell yourself before the board," she said.

But, "Don't make promises you can't keep," she warned. Make sure that you have at least a "good shot at accomplishing anything you promise."

"You have to be creative and try to find something positive," noted Kathleen G. Carangi, risk manager at Scott Paper Co. in Philadelphia and the moderator of the session. But, "You have to be up-front and you can't try and hide anything," she said, echoing Mr. Kloman's call for honesty.

Outline significant changes that occurred during the year in your report, recommended Ms. Carangi. This should include higher deductibles, the retention of risks that were previously insured or the new use of a captive for a particular line of insurance.

She also said it is important as well to highlight policy exclusions like pollution exclusions—"the ones your senior management and board of directors really want to hear about."

You also should discuss significant accomplishments and events, such as the establishment of a captive, and describe how the hard market has affected your company, said Ms. Carangi.

In addition to information about losses and premiums, the report also should mention your loss-control program, she said.

"You have to be responsive to your audience and not get too overly detailed," she cautioned.

Direct the report to your audience and communicate "on their level," agreed Herbert L. Cunningham, vp-administration at Transamerica Corp. in San Francisco. For instance, if you are reporting primarily to financial officials, then "report in numbers."

But, be sure that you know what you are talking about, he advised. Be clear whether you are reporting on an aftertax or a pretax basis, and don't talk about writing losses off against earnings when there are no earnings to write off against "because it makes you look really dumb," Mr. Cunningham explained.

One of the biggest mistakes a risk manager can make is using insurance nomenclature in the risk management report, warned Mr. Cunningham. "They just don't understand our terminology at all." ■







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New RIMS chief to boost society's 'clout'

By MEG FLETCHER

TORONTO—William L. Mather, the incoming president of the Risk & Insurance Management Society, says he's determined to increase the organization's "clout," so it can improve the worldwide climate for risk management.

He feels RIMS has a "missionary" role to help spread the risk management gospel. Heightened sensitivity to risk management concerns overseas also will pay dividends for U.S.-based companies operating there, he said.

Mr. Mather, who is risk manager for Boston-based Gillette Co., describes current market conditions as a "roller coaster" and views the availability and affordability problems of the current marketplace "with alarm."

"I think we face a year when uncertainty abounds," he said.


Mr. Mather

Yet Mr. Mather, who takes office May 1, views those market problems as challenges.

While RIMS can't directly create capacity, it will continue its efforts to persuade those in power to do so. Specifically, RIMS will continue to lobby Congress and regulators to create solutions to businesses' insurance problems, he said.

RIMS has been encouraged by industry's formation of excess capacity facilities like A.C.E. Insurance Co. Ltd., he said. But the industry has not been able to respond in all problem areas, and RIMS will urge governmental leaders to consider more direct intervention, Mr. Mather said.

RIMS recently proposed that a federal reinsurance corporation be established to provide reinsurance support to insurers. The proposal, made to a U.S. House subcommittee, calls for individual state insurance commissioners to authorize use of the reinsurance facility for a specific line of coverage in their states.

To be eligible for the reinsurance coverage, insurers must be participating in a state's joint underwriting authority or market assistance program for the specific line of coverage (*BI*, April 21).

Government intervention "is certainly one of the things that has to be looked into," Mr. Mather said. In addition, RIMS officials are testifying at hearings and lobbying legislators for such things as expansion of the Risk Retention Act, allowing self-insurers to deduct reserves and some tort reforms.

"This reform will take a long time," Mr. Mather said. "We must stay the course and ultimately prevail" if U.S.-made goods are to continue being made at competitive prices, he said.

RIMS must be careful when dealing with other industry interest groups now, because its legislative positions have caused its allies to vary depending on the specific issue.

For example, some members of the National Assn. of Insurance Commissioners provided strong support for RIMS' opposition to the Insurance Services Office's new claims-made form, while opposing RIMS' stance on the Risk Retention Act expansion, he said.

Mr. Mather's self-described management style, emphasizng consensus rather than confrontation, is expected to help him in developing alliances for RIMS. One observer likened him to "a rapier, not a blunderbuss."

In addition to lobbying legislators, RIMS will monitor use of the the ISO's new claims-made form for commercial general liability policies.

"We're not happy with the CGL," Mr. Mather said. Despite its acceptance by the majority of states, it has not significantly increased capacity, he noted.

RIMS also will work for improvements in the CGL claims-made form and lobby to keep insurers from including defense costs within policy limits, Mr. Mather said.

RIMS also plans to keep an eye on the pricing of both the new claims-made and surviving occurrence-based policies, he added.

However, for RIMS to increase its clout, it will need its members to "beg, borrow and steal time" from their increasingly busy schedules to make the organization's positions known.

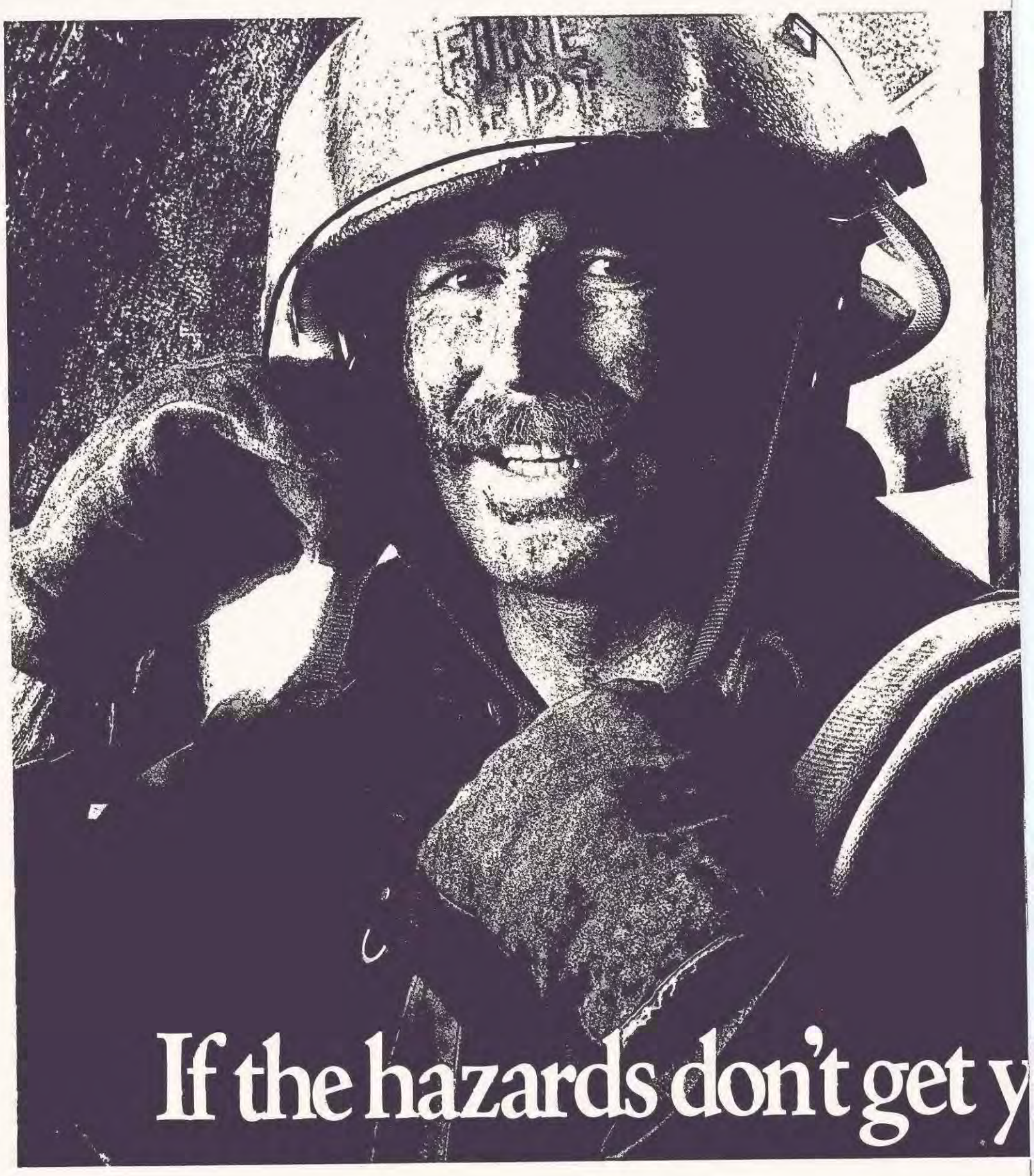
"The fuel that powers RIMS is the voluntary activities of its members," Mr. Mather said. "The goal is to be a better society, not just a bigger one."

Mr. Mather has demonstrated his willingness to do just that himself. His past efforts for RIMS have taken time from his work as well as his wife and two daughters in Needham, Mass.

Elected as an officer of RIMS in 1980, he has served as vp-research, vp-conference, vp-business and industry liaison, vp-finance and treasurer and first vp. He is also a director of Risk Management Society Publishing Inc., a wholly owned subsidiary of RIMS.

Mr. Mather is past president of the Massachusetts Chapter of RIMS and also served as a director. He

Continued on next page



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Continued from previous page
was a member of RIMS' International Cooperation Committee for a number of years and a member of the Risk Management Magazine's Editorial Advisory Board.

In addition to helping RIMS increase its clout, Mr. Mather will be reaching out to growing numbers of small businesses, which are the fastest-growing segment of RIMS members.

RIMS membership has grown to 3,800, including 400 Canadian members, and is expected to increase in light of a newly adopted strategic management plan.

While small companies are joining on their own, RIMS plans to woo employee benefit managers by demonstrating that RIMS has broadened its original property/casualty orientation.

RIMS will continue to help its members during these trying times by disseminating information, especially about alternative insurance mechanisms, through its conferences and publications, Mr. Mather said.

More diverse membership will make that more complicated, he noted, but RIMS will continue to meet the challenge by offering programs to meet members' different interests and levels of expertise.

"We've always been somewhat schizophrenic about employee benefits," Mr. Mather said. Yet about 40% of RIMS 3,800 members are "fairly heavily" involved in benefits and an additional 20% have some involvement in benefits.

However, 40% of RIMS members have no involvement in benefits, he said.

Services for members are funded by conference revenues and publications. Less than 20% of the organization's revenues comes from dues, he said. Basic national dues, which are $220 for two deputy members from a single company, are expected to remain the same at this time.

However, RIMS officials are exploring the feasibility of a two-tiered system of national dues that would generate more income. Members also pay chapter dues, which vary.

Mr. Mather is especially interested in improving the climate for risk management in both the United States and abroad.

In October, RIMS will host its first Asia/Pacific conference in Singapore. This year it also will plan the fourth annual International Risk Management Conference in Monte Carlo, which it cosponsors with the Association Europeenne Des Assures De L'Industrie.

Two years ago, RIMS, AEAI and risk management organizations in about seven other countries founded the International Federation of Risk & Insurance Management Assns.

With the growing emphasis on international risk management, it seems almost symbolic that the United Nations became a member of RIMS earlier this year.

Other RIMS officers whose terms begin May 1 include:

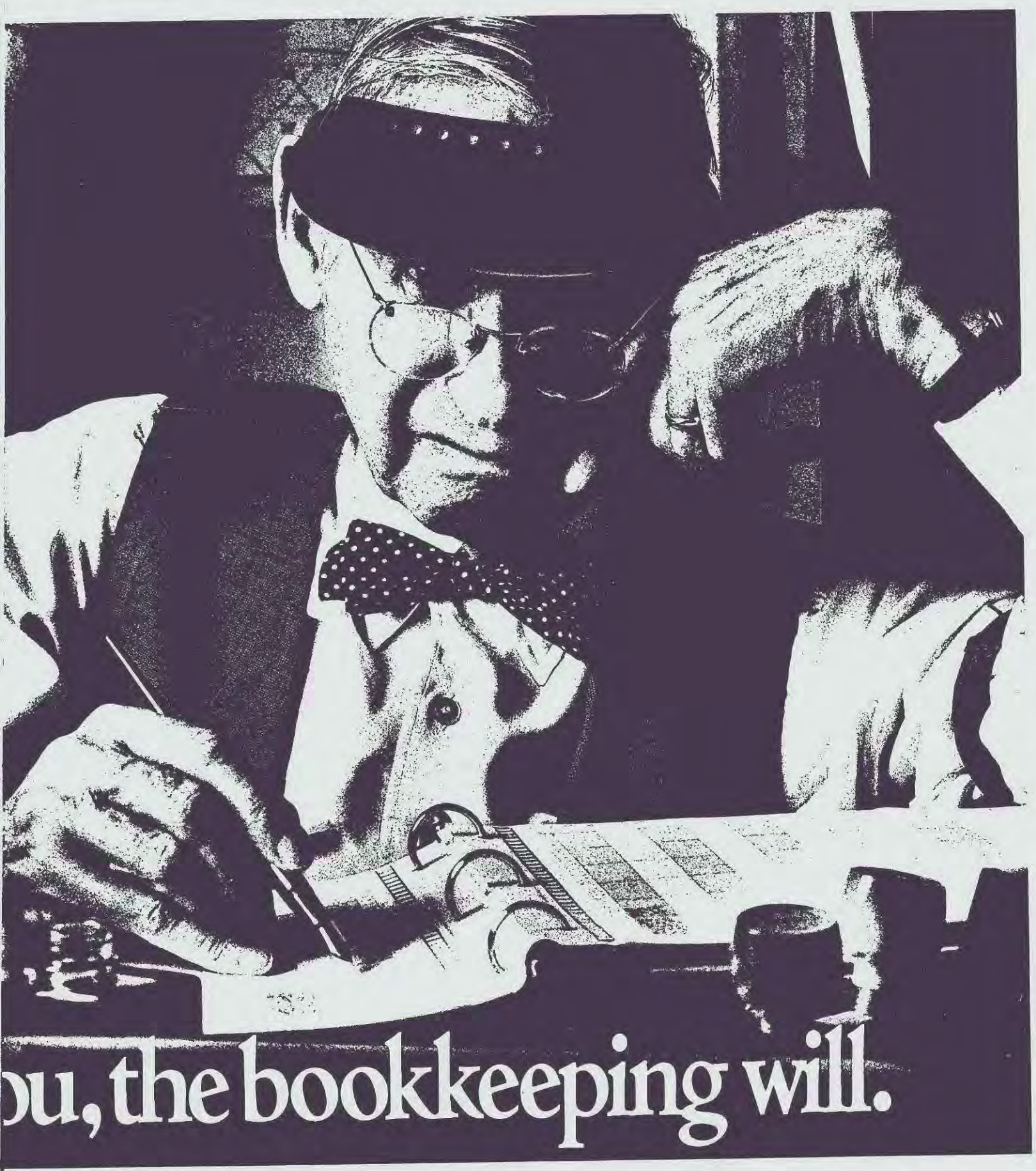
- Newly elected First Vp Arthur P. Bostwick (Chicago Chapter), risk manager at Stone Container Corp. in Chicago.

Re-elected as officers were:

- Woodrow B. Anderson (Cincinnati Chapter), operating vp-risk management for Federated Department Stores Inc. in Cincinnati, vp-business & industry liaison.
- Cheri J. Hawkins (Washington state Chapter), assistant director of insurance for Weyerhaeuser Co. in Tacoma, Wash., vp-conference.
- Richard C. Heydinger (Kansas City Chapter), risk management director for Hallmark Cards Inc. in Kansas City, Mo., vp-governmental affairs.
- Daniel W. Houston (Dayton-Miami Chapter), director of risk mangement & insurance for NCR Corp. in Dayton, Ohio, vp-education.
- Ronald W. Stasch (Detroit Chapter), corporate risk manager for Federal-Mogul Corp. in Detroit, vp-finance & treasurer.

Newly elected to the executive committee were:

- Robert W. Esenberg (Virginia Chapter), risk management administrator for the City of Virginia Beach, Va., vp-member affairs & secretary.
- Hal Johnson (Chicago Chapter), director-risk management for State Farm Insurance Cos. in Bloomington, Ill., vp-communications.
- Justin A. Murphy (Fairfield-Westchester Chapter), director-insurance for Nestle Foods in White Plains, N.Y., vp-research. ■



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Preparation improves legal defense: Panelists

By ROBERT A. FINLAYSON

TORONTO—The U.S. legal system stacks the deck against businesses named in lawsuits, but a well-planned legal defense can hold down settlements and stave off frivolous and groundless claims, according to a risk manager and defense attorney.

It is almost inevitable that risk managers will become involved in litigation, noted H. Gordon Heile, risk manager for Asplundh Tree Expert Co. of Willow Grove, Pa., and Phillip E. Tatoian, Jr., of Tatoian, Devlin, Peters & Davis of Somers, Conn., at a seminar entitled "Your Best Legal Defense Is Often a Good Offense" at the Risk & Insurance Management Society conference.

"I don't know any way you can avoid the risk of litigation and be in business in today's society," Mr. Heile said. "And, I'm talking about litigation that is not restricted by reasons, that isn't limited by logic, that isn't even founded in fact in many cases," he added.

But, while the picture appears grim for businesses, there are ways to fight back "and there are ways to win," Mr. Heile said.

Both Messrs. Heile and Tatoian noted that defense attorneys often will provide little information about the status of litigation until the 11th hour, when the risk manager is faced with having to make a quick decision on whether to accept a six- or seven-figure out-of-court settlement in the case.

Further, insurers often will authorize settlements in litigation against a policyholder with little information about the case, and the risk manager will not learn about it until he sees the loss run, they said.

"I submit that this kind of a procedure is a reactive, passive legal defense which accepts defeat as inevitable and strives to minimize the losses," Mr. Heile concluded.

He advised risk managers to become actively involved in litigation by selecting a defense attorney that will take a pro-active stance and report frequently on the status of litigation.

However, Messrs. Heile and Tatoian acknowledged that insurers usually select defense counsel with little or no input from the risk manager.

As a result, buyers often are not represented by the highest-caliber legal talent, and cases may be passed from attorney to attorney within the law firm retained by the insurer, Mr. Heile said.

Risk managers should attempt to obtain the right to select counsel, Mr. Heile maintained. "It can be done, especially if your deductible is high enough," he said.

In cases when the insurer will not allow the risk manager to select defense counsel, the risk manager should ask the insurer for a list of the defense attorneys from which to choose, Mr. Tatoian recommended.

In this way, the risk manager can investigate how well those attorneys have performed in the past, Mr. Tatoian said.

If the insurer will not agree to that selection process and simply assigns defense counsel without consulting the risk manager, the risk manager and the company's general counsel should meet with the attorney in an effort to develop a relationship with him, he said.

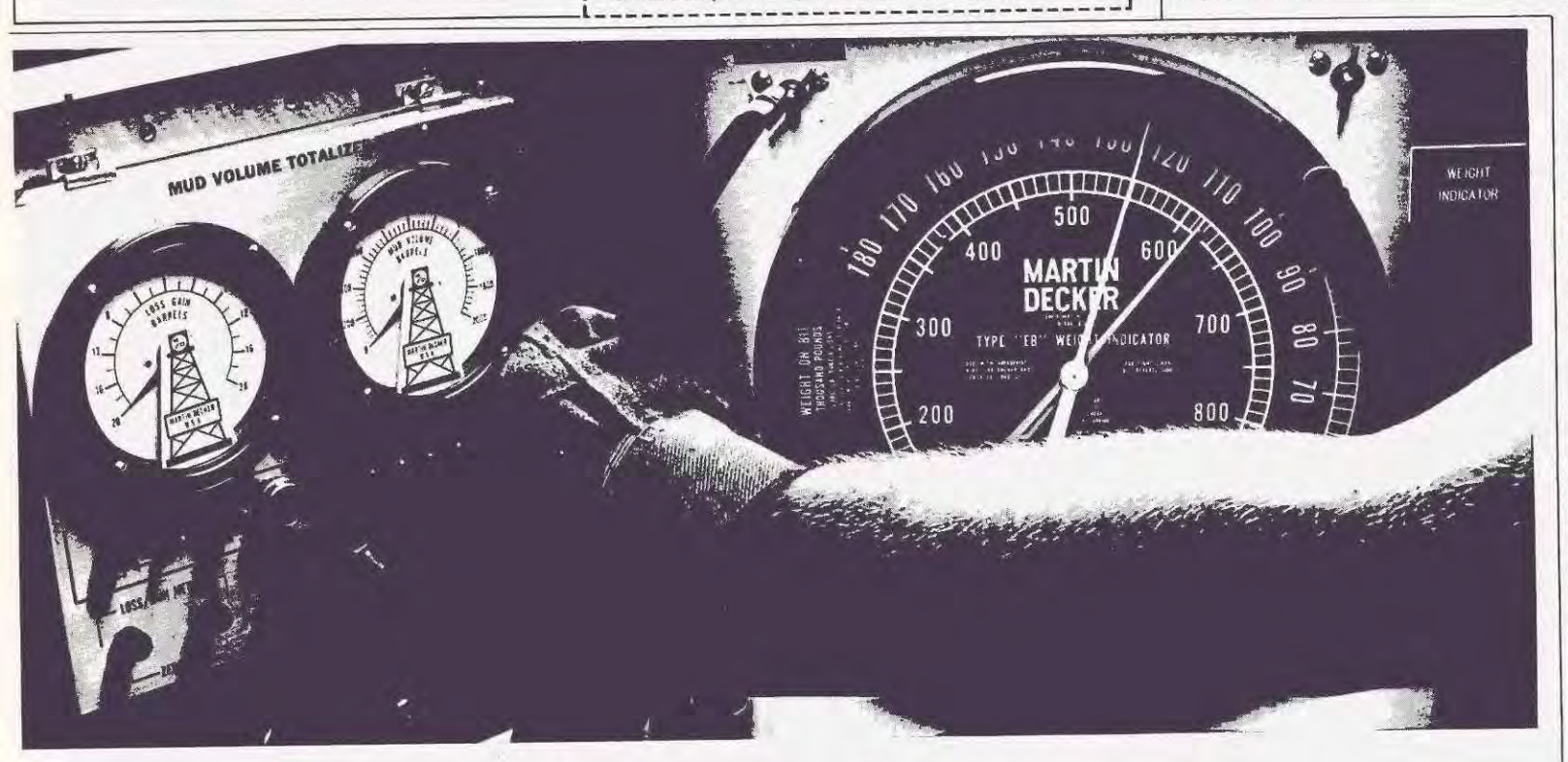
In this way, the insurer's counsel knows that "you're interested and available for help and assistance, and he know's he's being watched."

Mr. Heile offered several suggestions to help risk mangers select a good attorney in situations when the insurer allows the risk manager to participate in selecting defense counsel.

First, he advised that risk managers ask their insurers for the names of several top defense lawyers.

"They have some good people in the wings out there, but they don't use them too often because they're damned expensive. But, they know who they are," Mr. Heile said.

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Consulting other risk managers or trade groups is another method of finding a good defense attorney, he said.

However, that defense counsel should not be selected on the basis of price, Mr. Heile noted.

"That's false economy," he said. "The last place in the world I think you should try to economize is in legal defense costs. They are a very small portion of the ultimate cost of an adverse verdict."

"In order to be effective, counsel must be familar with you, with your company, what your objectives are, how you want your claims handled, how you want your information structured, what the billing arrangements are, and what level of participation you want in the litigation process," Mr. Tatoian said.

"He's got to be somebody with the good sense to let you know when a particular matter is outside of his area of expertise and with the capability of finding the people with that expertise," he added.

In addition, a good defense attorney is "somebody you can talk to without a Black's Law Dictionary by the telephone," Mr. Tatoian said.

Once a defense attorney is selected, a risk manager should make sure that the attorney answers every allegation in the complaint, Mr. Heile noted.

The risk manager can take an active role in the investigation of the complaints by talking to company employees that have specific knowledge and technical skills in areas related to the case, he said.

These in-house experts can help defense counsel formulate the correct questions to ask the plaintiff's experts, Mr. Heile observed.

"There are a lot of critical questions about the performance of a product that your people know about," Mr. Heile explained.

"The plaintiff may be claiming a situation that couldn't exist or doesn't exist, but there's no way you're going to know that unless somebody who is familiar with your product points it out," he said.

Risk managers should insist that defense counsel visit the site of the alleged incident, or at least review photographs, and talk with any employees that are involved, Mr. Heile maintained.

In product liability suits, defense counsel should visit the manufacturing plant and become familiar with the product—how it works and how it is made, including manufacturing quality control mechanisms, Mr. Heile said.

"These guys like to sit behind their desks, read a report, form an opinion and go on from there. That's not satisfactory," he added.

Acknowledging that many risk managers may not have the time to get personally involved in every lawsuit facing their employer, Mr. Heile said they should establish procedures for handling litigation.

When developing a defense strategy for a case, risk managers should work with defense counsel to develop a timetable to complete the necessary preparatory actions in order of their importance to the case, Mr. Heile advised.

Mr. Tatoian recommended the "critical path" approach. Under this approach, defense counsel sets up a detailed flow chart that shows how the case is to be handled from investigation to evaluation.

The flow chart helps crystallize the legal and procedural issues and isolates the weak points in the plaintiff's case, the plaintiff's counsel and the defense case, according to Mr. Tatoian.

When a case proceeds to the deposition stage, risk managers should be sure an employee of the company familiar with the technical issues behind the case is present, Mr. Heile recommended.

"You can help your own attorney ask the right questions of the other party," he said. "You can also assist your attorney in limiting the scope of questions that the plaintiff's counsel is asking of your defense witnesses."

Mr. Heile also advised that defense counsel brief company employees before depositions are taken.

"Your employees should be well-schooled in what they should and should not say, what they must and must not say before they face counsel representing the other side," he said.

Once the defense counsel has collected all the information and investigated the case, the risk manager and counsel should huddle and evaluate the plaintiff's case and the company's defense, Mr. Heile said. He explained that when this evaluation is complete, the risk manager has several alternatives.

"If you can't win the case, attempt an immediate settlement," he said. "If the win is questionable, attempt a favorable compromise. If the company's position is favorable, move for summary judgment," Mr. Heile advised.

"And, if the plaintiff's case is unfounded, demand that plaintiff's attorney withdraw under the threat of a countersuit for abuse of the judical process and frivolous prosecution," he said. ■

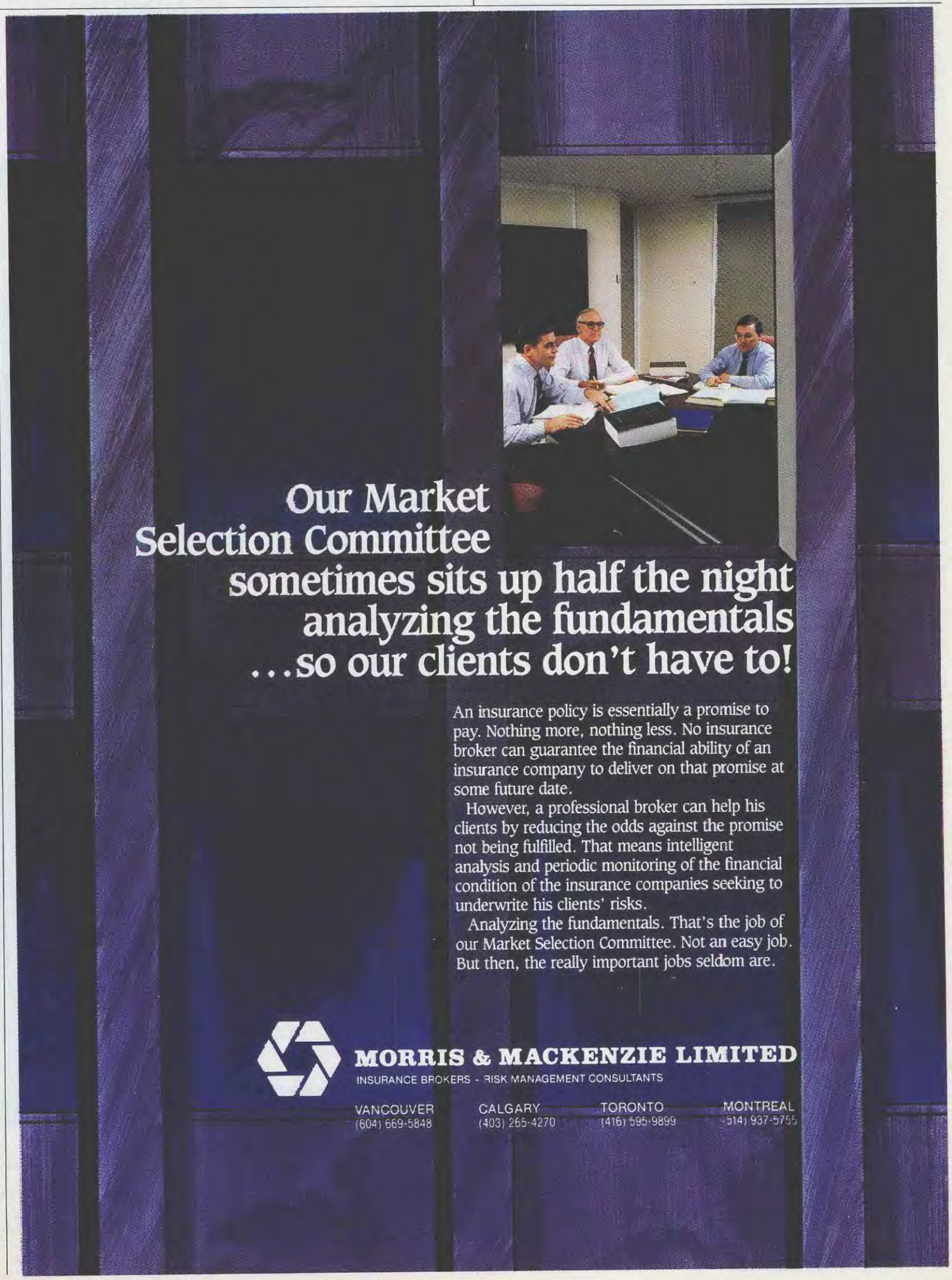
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Broker urges release of insurer financial data

By JUDY GREENWALD

TORONTO—Insurance regulators should release whatever financial information they have about an insurer, even if that information could lead to its collapse, said J. Patton Kline, vice chairman of broker Marsh & McLennan Inc.

"We feel that all information should be made public," Mr. Kline said at a session on "Insurer Insolvency" at the Risk & Insurance Management Society Conference, held April 13-18 in Toronto.

If the release of information about an insurance company causes policyholders to switch to other insurers, triggering the troubled insurer's collapse, "so much the better," he remarked. At least problems were discovered "early in the game," he said.

Mr. Kline, who said he was "bitterly disappointed" in the number of insurer insolvencies over the past year, also detailed how M&M evaluates insurers.


Mr. Kline

M&M will only consider using insurers that have an A.M. Best Co. rating of at least B-plus, and a minimum capital and surplus of $12.5 million, he explained, noting that M&M does not consider itself to have "an obligation to prove to anybody that an insurer might go insolvent. Companies that don't meet our standards don't exist. They're just a non-event to us."



Mr. Kline said M&M's view of a company also depends to an extent on the class of business the company writes. For instance, if a company actively writes third-party liability insurance, M&M might require a minimum capitalization of $50 million.

But, on the other hand, if the insurer has an adequate reinsurance program, a somewhat lower capitalization might be acceptable, he said, noting that the identity of an insurer's reinsurers is an important consideration.

"Insurer insolvency is not only a financial matter," Mr. Kline commented.

The character of management also should be examined, as well as where the company is domiciled. If an insurer is based in a country with an unstable government or legislative history, he said, "you're taking a chance."

The rapid dissemination of financial information in foreign countries is also a consideration when deciding whether to use an insurer, he added.

Mr. Kline observed he is now seeing an increase in the use of real estate as an insurer asset, implying that real estate may not be as meaningful an asset as cash or bonds.

Another issue that concerns M&M is the role of managing general agencies and other wholesalers in the placement of coverage. M&M has used a total of 700 wholesalers over a period of time, but is now trying to pare this list down to "less than 50," he said.

When insurance companies do not meet M&M's guidelines, business will not be placed with them unless clients sign a letter of instruction requiring that the insurer be used, Mr. Kline noted. In some cases, he said, M&M will refuse to place business with an insurer even if a client does request it.

If they still insist, "they'll just have to get another broker," he said.

M&M has a staff of five people who analyze publicly available insurer financial statements, said Mr. Kline. "Contrary to popular belief," he added, M&M has no access to information not in the public domain.

M&M's job is a question of getting hold of publicly available information and disseminating it "so the insured can make a good choice," he said, noting that M&M will continue to rely on information gathered by A.M. Best.

"In the endpoint, the main resource we have is public information" and discussion, he said, noting that the main issue in the insurance industry today is not tort reform. "The issue is character, the issue is good management.

"Do you believe that company will actually be there when you need them?" he asked.

If you believe that, and if your broker and other sources confirm your opinion, "I think you've got a good bet."

But if a company is "near the line" and writes long-tail coverage, "I wouldn't touch it."

Also speaking at the session was W.R. Andrus, an associate actuary with The Wyatt Co. in Toronto, who said that "ultimate responsibility" for determining an insurer's financial condition lies with the buyer.

Determining whether an insurer is solvent is not that complex of a process, he said, "but you have to be prepared to accept the truth, and you may have to be unpopular."

He noted judging an insurer's financial condition is easier in the United States than in Canada, because more information must be disclosed in the United States.

The "key thing," he said, is to understand the definition of surplus, which is an insurer's assets minus its liabilities. If an insurer's management were perfect, he said, surplus would not be needed because both assets and liabilities would be perfectly balanced, he explained.

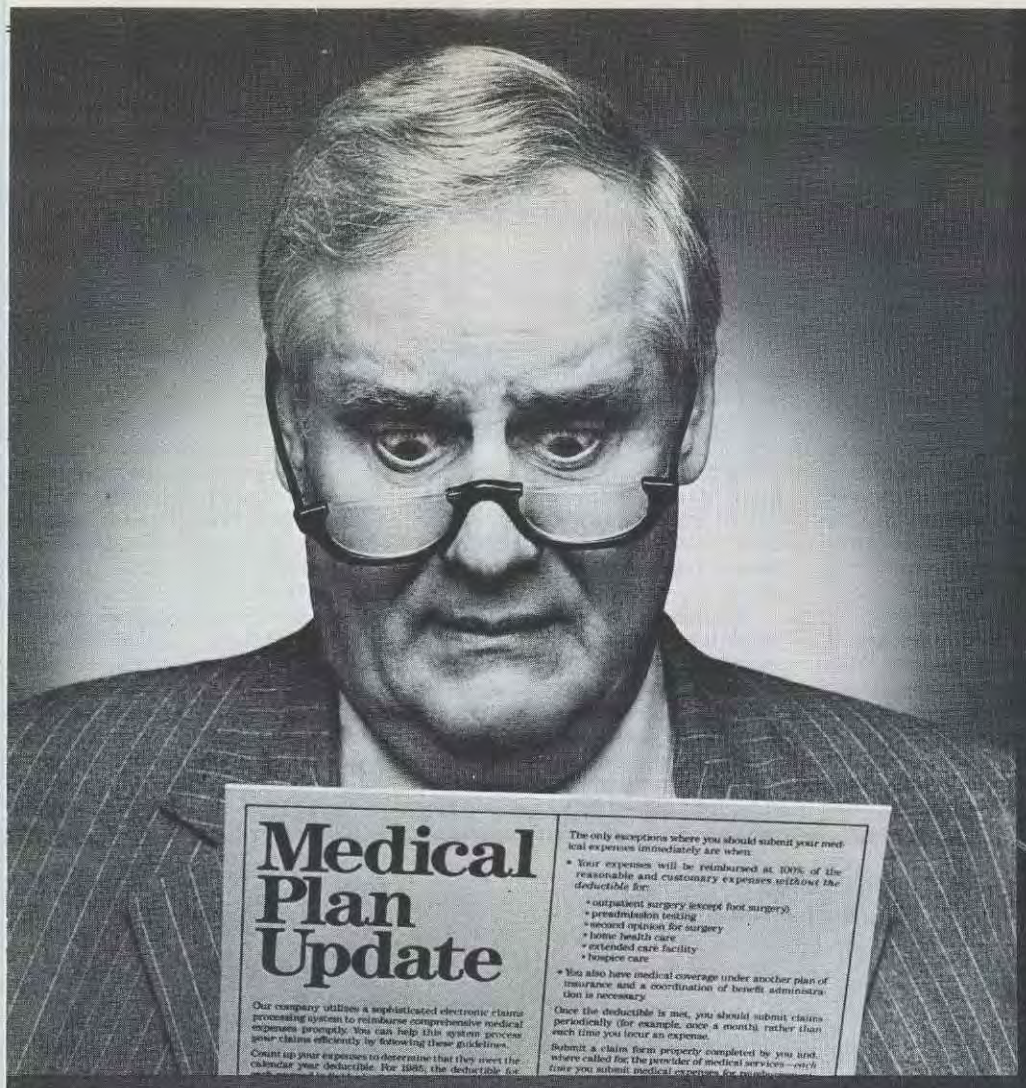
"I think of surplus as the room to make mistakes. The fatter the surplus, the more room you have to make mistakes."

Mr. Andrus also suggested that to be assured of financial stability, reserves should not be greater than 250% of surplus. A 10% error in reserves, he said, could erode surplus by 25%.

Also speaking at the session was Dick Mabee, director of the property and casualty division of Canada's Department of Insurance, who delivered a speech written by Canadian Insurance Superintendent Robert M. Hammond.

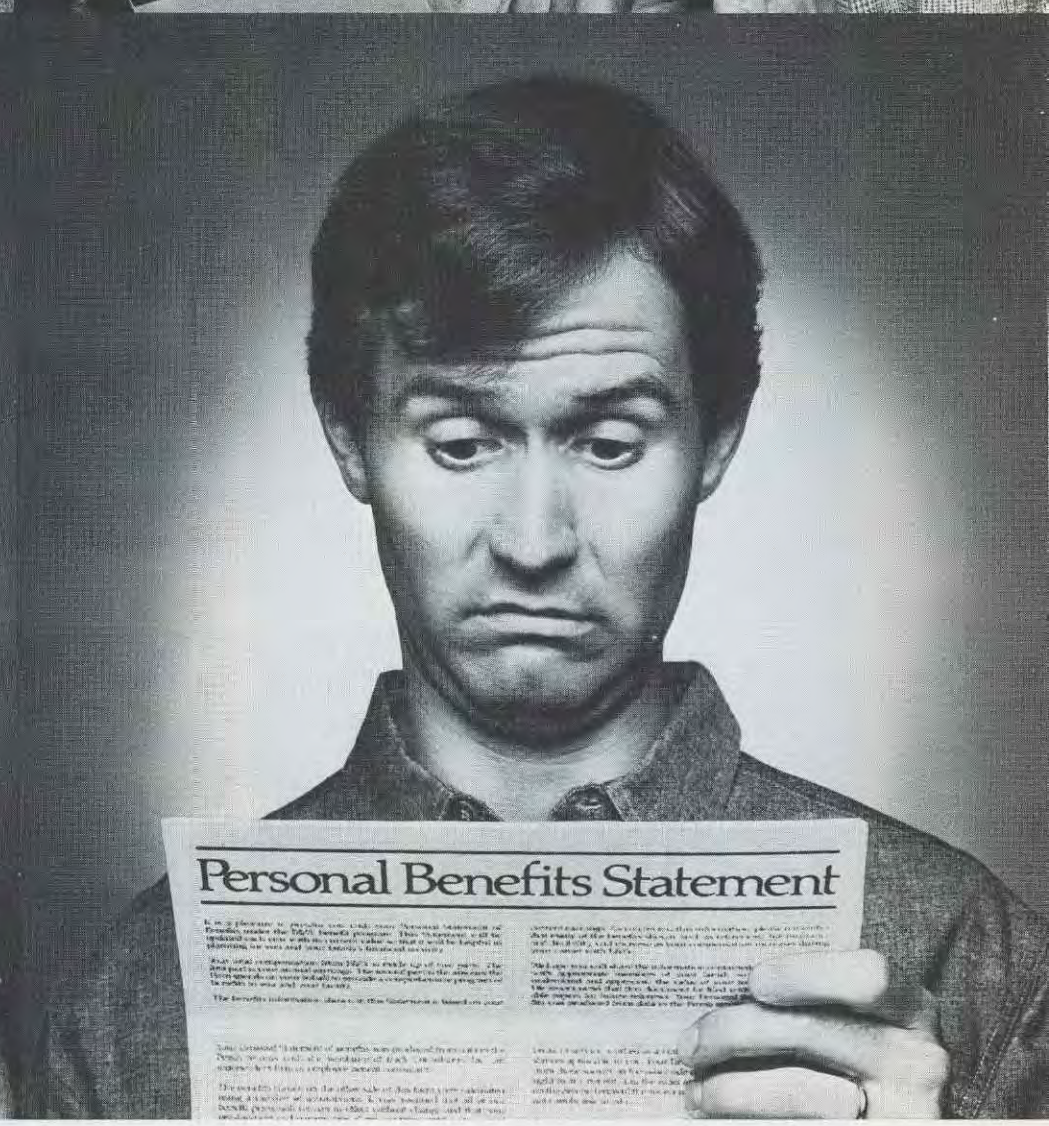
Patrick J. Greene, vp-financial services division and international department at A.M. Best Co. in Oldwick, N.J., also spoke. The session was moderated by T.A. Singer, administrator, corporate risk/insurance, for Northern Telecom Ltd. in Mississauga, Ontario. ■











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Decide your RMIS needs before you begin: Panelists

By MICHAEL BRADFORD



TORONTO—Risk managers should know how much storage capacity and what functions they will need when developing a risk management information system, a panel of experts says.

Factors to consider when coordinating an RMIS were discussed at a session of the Risk & Insurance Management Society conference held April 13-18 in Toronto.

Three options are available for accessing data with an RMIS, all of which offer different degrees of capacity and capabilities, explained Jack Gardner, second vp with Travelers Insurance Co. in Hartford, Conn.

Those options include a basic unit that is usually nothing more than a keyboard and television screen hooked up to a mainframe; a personal computer connected to a mainframe; and a stand-alone personal computer with its own storage capacity.

With the first two options, the information is stored on a mainframe that is either company-owned or accessed through a time-sharing arrangement.

In the time-sharing arrangement, the hookup is usually through a phone line, and the mainframe is located off site because it generally is owned by a computer time-leasing company.

The difference between a "television with a keyboard" and a personal computer hooked up to a mainframe is flexibility.

With the former, "What you have in your office is nothing more than a television set with a keyboard that is giving you access to data and processing capabilities that are in that mainframe," Mr. Gardner explained.

However, with a mainframe/PC system, programs can be stored and replayed and software can be used, he said.

"The advantage of the big mainframe machine is that it can store significantly more data than the personal computer. And it has the processing power to process that large amount of data where the personal computer more than likely does not," he said.

The third RMIS option is a personal computer that "stands alone," without access to a mainframe computer.

The personal computer is generally a user's first experience with computer automation, Mr. Gardner pointed out. And, as a stand-alone system, it offers notable features, he said.

"You've probably already got information stored for use on a personal computer" in the form of software like Lotus or other similar programs, he said. "So that is something you can take advantage of."

In addition, the cost associated with tying into a mainframe is eliminated when the RMIS is a stand-alone personal computer, Mr. Gardner said.

However, a stand-alone PC has some constraints, he warned, pointing out that storage capacity is limited and processing speed may be slower than if the system is tied into a powerful mainframe.

"The unit of measure (for capacity) is usually the number of claims you can store," he explained.

"Most (PC) systems . . . store in the range of 3,000 to 5,000 claims. If you get over that, you've got to get into the mainframe/PC link."

Richard Bikenfeld, sales representative with Corporate Systems Inc. of Amarillo, Texas, agreed that the stand-alone PC system has "a lot of restrictions" and touted the mainframe/PC hookup as the best method for structuring an RMIS.

Choosing a system means knowing what functions are important, says Mr. Gardner. He said available functions on most risk management information systems include:

- Loss reporting.

"Basically, you just want to know what the losses are," said Mr. Gardner.

- Claims administration.
- Loss control, including the "who, what and where" of losses.
- Loss projections.
- Risk retention analysis.

The new claims-made commercial general liability form introduced by the Insurance Services Office is making claims management functions more critical to an RMIS, said Richard Kieffer, president of Gallagher Risk Data in Rolling Meadows, Ill.

"There are different types of systems that do different things," Mr. Kieffer stressed, adding that some are structured basically to track claims.

"I think we all realize with the implementation of claims-made, being able to manage claims against the policy and all the different rules . . . is a key factor in today's environment," said Mr. Kieffer.

Policy management also has become more difficult with implementation of the claims-made CGL form, according to another panel member.

"Before the introduction of the claims-made policies, policy management was not particularly a difficult subject, added James Blinn, a vp with risk management consultant Tillinghast, Nelson & Warren Inc. in New York.

"In my view, the filing cabinet was probably the most effective policy management system," he said.

However, the introduction of the claims-made form will create an "increasingly complex task to be able to track the different policies from year to year and how the policies fit together," Mr. Blinn added.

Keeping up with retroactive policy dates, applications of tail coverage and other features of the claims-made form should all be part of an effective policy management system, he noted.

"But also, as you can imagine, some people right now have occurrence coverage over claims-made coverage with certain exclusions," Mr. Blinn added.

"And it becomes an increasingly complicated exercise to make sure that you've got coverage that mates on a year-to-year basis," he said.

"So we will be seeing from vendors increasingly sophisticated policy management systems. Hopefully these policy management systems will have a good interface between policy management and claims management," Mr. Blinn said.

RMIS users should be willing to work on a "two-way street" with vendors of the programs they are purchasing, he said.

"You should both spend time to develop the system right and make sure there is a commitment on the part of the vendor" to service the system and make necessary changes if data requirements change.

John Brouch, corporate insurance manager of National Can Corp. in Chicago, was moderator of the panel. ■



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Computer vendors woo risk managers

By MICHAEL BRADFORD

TORONTO—Risk managers are still eager to find the best information systems for their companies.

And computer vendors at this year's Risk & Insurance Management Society conference showed they were just as eager to cater to risk managers' interest in bringing loss control and claims management further into the computer age.

Some of this year's computer vendors could be accused of "double-dipping," or displaying their wares in the well-traveled exhibit hall upstairs in the convention center, while at the same time holding space in the computer seminar tucked away in a downstairs corner of building.

This was the second year RIMS has provided a separate space away from the main exhibit area to allow prospective computer buyers to get hands-on experience from system experts.

However, fewer vendors were represented at this year's separate computer show than at last year's, and one vendor mentioned that traffic was slower in the downstairs exhibit room than in 1985.

He also said complaints last year that some of the vendors were displaying systems that could not perform as well as they had been publicized may have helped to weed out some of the less-reputable dealers.

"There were people last year that were saying their systems could handle 20,000 claims," the vendor said.

"But when you saw the system, it would only have around 20 claims on it."

Vendors at this year's RIMS show were eager to demonstrate new systems and expansion of old applications.

One vendor, Jack Conway, president of Conway Computer Consultants in Jackson, Miss., displayed software for a new program not yet on the market.

Mr. Conway explained that Pro-Claim, a claims-processing program that will soon be available to "anyone that processes claims," has the capacity to handle from 30,000 to 40,000 claims.

The minicomputer-based system was developed because Mr. Conway said he saw a need for claims processing capabilities that microcomputer systems could not provide. Pro-Claim operates on an IBM-36 computer.

"Many micros are not big enough to handle large numbers of claims," he noted.

Mr. Conway said he expects the system to be used not only by large self-insured companies, but also by claims servicing operations and managing general agents that service claims.

According to Mr. Conway, an operation processing 6,000 claims on the system could recoup its investment in hardware and software in 18 months, compared with the cost for contracting the work.

Pro-Claim programs will sell in the range of $20,000 to $30,000, he said.

Travelers Corp. in Hartford, Conn., which last year offered systems only to its policyholders, this year introduced PC Carma. The system is available to Travelers clients as well as to companies that don't have coverage with the insurer.

'There were people last year that were saying their systems could handle 20,000 claims. But when you saw the system, it would only have around 20 claims on it,' one computer system vendor complains.

The hallmark of the PC Carma system is its flexibility, according to Annette M. Gutosky, account information specialist with Travelers in Hartford.

"We've kept the pre-programmed programs to a minimum to allow users to create what they want," she said.

Ms. Gutosky explained that the software allows PC Carma users to create their own programs without knowing a programming language. The feature allows users to set up files in categories covering claims, policies and exposures for all lines of insurance.

The system can access the mainframe storage of the Travelers' in-house system, giving users added processing power, Ms. Gutosky noted.

For example, losses can be tracked in one file, regardless of whether they are covered by a Travelers plan, self-insurance or another insurer.

On a stand-alone basis, the system costs $15,000.

If the user is a Travelers policyholder, the cost varies from $5,000 to $15,000, depending on the number of claims processed, she said.

Continued on next page

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System vendors

Continued from previous page

The Travelers program can be downloaded into programs like Exhibitmaker Plus, the second generation of actuarial software introduced by Coopers & Lybrand at this year's conference.

Douglas H. Hartman, director of risk management consulting for the accounting firm, explained that the menu-driven system operates on IBM-compatible computer hardware and can be used with most printers.

"It's made for the microcomputer enthusiast," he noted.

The program takes raw information on losses, claims and reserves and converts it to exhibits that help companies make financial decisions and projections such as determining amounts of future retentions, he said.

Exhibitmaker Plus is useful for risk managers with self-insured programs, including programs written through captive insurers.

And with 34 actuarial methods available, it can be a tool for "overall planning" and loss forecasting, according to Mr. Hartman. It can convert data into as many as 201 exhibits.

The $7,500 system also analyzes information included in Schedules P and O of an insurance company's annual statement and provides information that can be used for the Securities and Exchange Commission's loss reserve disclosure requirements.

With a graphics card, the software also produces line graphs or bar charts and users do not need programming experience to operate Exhibitmaker Plus, Mr. Hartman explained.

Risk Sciences Group Inc., an Atlanta-based subsidiary of Crawford & Co., was on hand to promote its SIGMA-plus and SISDAT-plus risk management information systems.

'We've kept the pre-programmed programs to a minimum to allow users to create what they want,' says Annette M. Gutosky, explaining the PC Carma, a new computer system offered by Travelers Corp.

The SIGMA-plus system is available to companies that have various risk financing and insurance systems. It allows data to be gathered from multiple sources and analyzed to produce loss information and claims activity.

SIGMA-plus features applications like loss forecasting, litigation management, governmental reporting and various financial analysis.

SISDAT-plus is available to clients with administrative services provided by Crawford & Co. It includes all the features of the SIGMA-plus system, and in addition, provides daily claim updates and payment details.

The system is compatible with IBM hardware.

Rollins Burdick Hunter Co. was on hand to show off its on-line system, RISKAN.

Users are able to access RISKAN's data bases that are maintained on an IBM mainframe via telephone from any IBM Personal Computer, a compatible PC or an IBM 3270 terminal.

RBH says the system will allow the user to allocate claims, premiums and other costs to appropriate departments or other locations and will provide claims data that fully detail circumstances surrounding a claim.

Safety and loss-control information indicates how a claim occurred, including data on the type of injury and accident, cause of a loss, products involved, and factors contributing to an injury.

Details regarding litigation, like court dates, lawyers involved, witnesses' names and other information can also be accessed.

Premium and risk costs are tracked by RISKAN and exposure information that allows the user to compare accident rates and frequency are kept on the system as well.

Weyerhaeuser Information System's CompTrack is the Tacoma, Wash.-based company's program for management of workers compensation claims.

The system handles claims partly by auditing medical bills, issuing checks and providing financial control through cost analysis, account forecasting and cost allocation functions.

In addition, the system identifies problems in loss control and helps analyze cause and nature of injuries. CompTrack is designed to maintain Occupational Safety and Health Administration records and keeps data required for annual reports.

Eastern Benefit Systems Inc. of East Orange, N.J., introduced at the conference its software designed to automate the administration of employee benefit flexible spending accounts.

Flex/Net already is being used by U.S. Trust Corp. in New York and was made available to other users for the first time at the RIMS conference.

The system tracks payroll deduction data against an employee's FSA, determines benefits and detects duplicate or ineligible items, prints checks and generates statements for employees after each payment.

Flex/Net can be used as a standalone system or with the EBS's Claim/Net System, which was introduced at the beginning of this year. Claim/Net is an automated claims processing system for medical, dental, vision and disability claims.

Flex/Net operates on IBM hardware or compatible personal computers and the software system typically sells for $10,000. ■

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Buying cover from a captive carries risk, expert cautions

By JUDY GREENWALD

TORONTO—Management's degree of comfort in dealing with a company without a Best's rating is one question to consider when deciding whether to buy coverage from an offshore insurer or pool, according to William G. Watson, vp of American Risk Management Inc.

Risk managers must ask, "Does management feel comfortable with a non-rated company?" he told a session at the Risk & Insurance Management Society conference.

The risk manager will have neither A.M. Best Co. nor an insurance commissioner looking at the insurer's balance sheet, he added.

Mr. Watson noted that deductibility of premiums paid to a captive should be the last thing that should be considered when buying coverage from an offshore insurer. "I don't think it should be a driving force," he said. First look for a good business transaction, "then look for good deductibility," he said.

Mr. Watson noted there are three types of offshore captives and pools from which commericial policyholders can buy coverage.

One type is the highly capitalized company. For instance, A.C.E. Insurance Co. Ltd., the Cayman-domiciled insurer organized by Marsh & McLennan Cos. Inc. last year, has collected a "staggering" amount of capital in the nine months since its formation, Mr. Watson observed (*BI*, April 14).

Another approach is a captive or a pool with an assessment feature, he said. With this approach—which is used by Cayman-based Tortuga Casualty Co.—the offshore insurer relies on its ability to assess members rather than relying on high initial capitalization.

Tortuga is managed by Transnational Ltd., the Cayman-based affiliate of The Reiss Organization, which is also American Risk Management's parent.

The third approach is to create a pool or captive that relies on reinsurance written by commercial underwriters and other captives, Mr. Watson said. United Insurance Co., a Cayman captive pool managed by Transnational, writes a "fantastic amount of business" because of its reinsurance, he said.

Another speaker, Michael Curio, vp of AIG Risk Management Inc. in New York, noted that buyers use alternative risk financing mechanisms to increase their retentions to $2 million to $5 million, at which point they can buy excess coverage.

The buyers are trying to develop a program that not necessarily transfers risk, but provides the advantage of the insurance mechanism to the point where the insurance can attach at a reasonable point, added A. Hunter Long, vp of Frank B. Hall & Co. Inc. in Briarcliff Manor, N.Y.

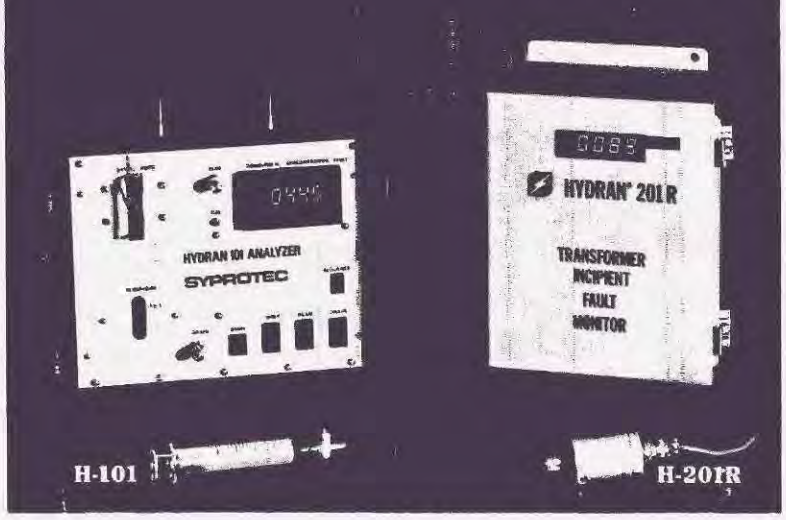
Another alternative to traditional insurance is obtaining insurance "after the fact," Mr. Long noted. MGM Grand Hotels Inc. purchased such back-dated liability insurance after a 1980 fire at its Las Vegas hotel.

The session was moderated by William J. Warren, director, corporate risk and insurance, at the Philadelphia-based Berwind Corp. ■

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Easing workplace stress cuts costs: Experts

By DONNA DiBLASE

TORONTO—Stress-related problems in the workplace are increasing, resulting in expensive workers compensation claims and losses due to accidents and decreased productivity, experts say.

"The stress trend will definitely continue," said Donald T. DeCarlo, vp and general counsel of the National Council on Compensation Insurance in New York.

But, there are ways for employers to assess and control losses due to these claims, including careful handling of workers compensation claims and the use of stress management programs in the workplace.

Mr. DeCarlo spoke at a session on stress claims at the Risk & Insurance Management Society conference held earlier this month in Toronto.

In California alone, the number of "pure stress claims" increased to 4,200 in 1984 from 1,200 in 1982, he said.

"One of the reasons for the increase in these claims is the publicity they get. And, there is more legal recognition of these claims. Judges and courts will accept these claims," said Mr. DeCarlo.

There are three types of stress claims, he said:

- Mental-physical, in which a mental stimulus causes a physical disability, such as a stress-induced heart attack.
- Physical-mental, in which a physical injury causes a psychological disability.
- Mental-mental, in which stress worsens an existing psychological problem. This is also known as a pure stress claim.

John W. Jones, director of the human factors loss control department at The St. Paul Cos. Inc. in St. Paul, Minn., said an employer's costs due to occupational stress include stress-related accidents; sabotage of equipment and products; theft; poor decisions resulting in loss of productivity; and antagonism that can disrupt operations.

"Stress can lead to accidents, which in turn lead to injuries and losses," he said. "You need to interrupt this cycle in order to prevent losses."

Other indirect costs also add up, he said. Stress can result in increased property/casualty insurance costs, higher medical expenses, low employee morale and wage losses, he added.

Because the potential compensability for mental stress claims varies from state to state, NCCI's Mr. DeCarlo urged risk managers to proceed with caution in handling such claims and to consult with specialists in the field.

"Take a careful look at your handling of these claims; investigate them thoroughly and make sure you have appropriate legal preparation," he said. "Use appropriate experts in the courtroom, like lawyers and doctors."

Other ways in which employers can control the costs of stress in the workplace include implementing wellness programs and employee assistance programs; identifying employees with the most stressful jobs and educating them; and providing rehabilitation programs for emotional problems, he said.

And employers should analyze and correct any causes of stress in the workplace, Mr. Jones said.

"I'm amazed at how many companies buy wellness programs and employee assistance programs, and they have no idea what their employees' needs are," he said. "The problems could be right there in the workplace—correct this first."

To determine causes of occupational stress, Mr. Jones suggested



risk managers begin by surveying employees on an individual basis.

The Human Factors Inventory, a detailed survey of employees' attitudes about their work environments and their lifestyles, is used by The St. Paul Cos. to identify occupational stress by job level, department and company location, he said. The survey is one of the corporate stress management programs offered by the insurance company.

"The St. Paul Cos. has a data base of about 200,000 employees" compiled through the use of these surveys, he said. "We use the national norms established by this data base to identify a company's and a department's risk for losses due to stress."

But, he said, "the most important comparisons are not with national norms, but within departments or company branches."

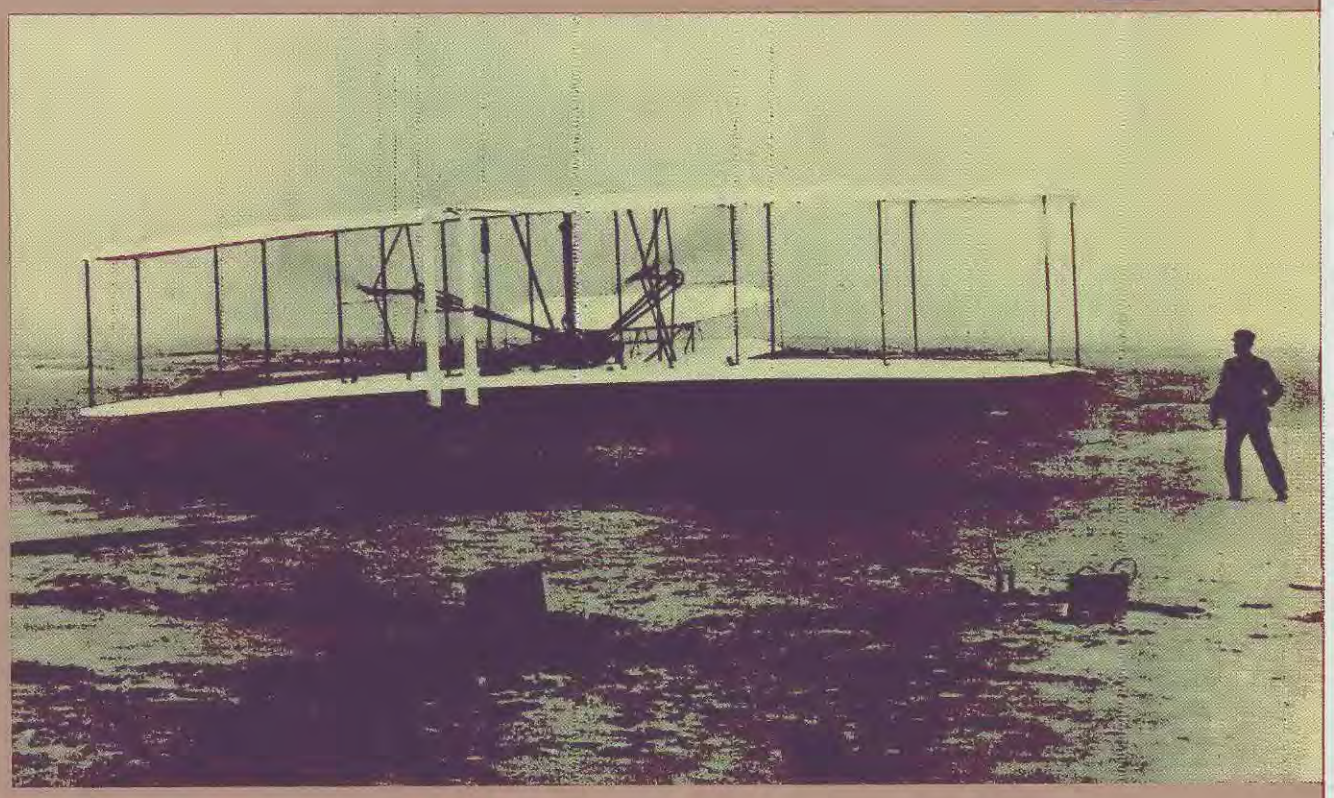
According to Mr. Jones, some of the reasons for conducting these surveys are that employers can "pinpoint strengths and weaknesses and create an awareness of the causes of stress.

"You also get employees involved in the program this way. The survey also helps the employer to focus his efforts on areas needing the most work. And, most important, you can work on prevention of stress-related problems," after the problems and their causes are identified, he said.

Mr. Jones also urged pre-employment screening so employers can identify applicants who have a history of theft, drug abuse and accidents.

William E. Vogel, corporate safety officer for Associated Milk Producers in New Ulm, Minn., was moderator of the session. ■

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Marine market offers some non-marine capacity

By MICHAEL BRADFORD

TORONTO—If properly approached, the market for excess liability marine coverages still can provide capacity for some non-marine risks, according to experts.

But, that capacity is limited by many of the same factors constricting other commercial insurance markets, they say.

Charles Steers, vp with Johnson & Higgins in New York, explained that the marine liability market has changed like other markets, with reduced capacity, reduced coverages and increased costs.

And, like their colleagues in other areas, marine underwriters had to rethink their underwriting guidelines when the market turned, he added.



Mr. Steers was part of panel discussion on using marine markets for excess liability coverage for both marine and non-marine risks, held during the annual Risk & Insurance Management Society conference earlier this month.

Despite the reluctance of marine underwriters to accept a lot of non-marine exposure, "The marine market in some ways continues to be capable of providing coverage for non-marine risks," Mr. Steers said.

He explained that there is currently about $150 million in capacity per-risk available in the U.S. market for excess marine liability risks. U.S. insurers generally like to write layers excess of $100 million, he said.

And, there might be an additional $150 million per risk in coverage available from line slips in the London market, he said, adding that there also is some capacity available in Scandinavia.

He said that, when writing excess liability coverage for marine and non-marine risks, most marine underwriters are holding companies to the standard "80-20 rule," which means 80% of a company's risks must be marine-related and only 20% can be non-marine.

It is possible to get coverage with less than an 80-20 ratio, but it is much more difficult, he noted.

However, he pointed out, problems exist in determining what is a marine risk and what is not, and underwriters can vary widely in their interpretations.

Determining what is marine-related involves not only physical proximity to water; it also includes financial factors connected to the risk, including revenues and assets, Mr. Steers explained.

"The scenario is to try and show as much marine as possible," said Mr. Steers.

And, he stressed, risk managers should attempt to show excess liability underwriters a well-structured program of underlying coverage on the marine and non-marine sides.

Also, he said, it is likely that any coverage will be written on a claims-made basis, although some occurrence-form coverage may still be available.

Geoffrey Jones, vp in charge of marine liability and hull underwriting for American International Marine Agency, an affiliate of American International Group Inc. in New York, said his company is still a market for non-marine coverages. But, he added that, "It's got to be incidental or we'll lose our reinsurance."

Mr. Jones said clients seeking to renew coverages that were written on less than an 80-20 ratio will probably have as much trouble as buyers seeking new coverage.

"My reinsurers don't treat new and renewal business any differently," Mr. Jones said.

For example, he said some business written in 1985 was not renewed this year because reinsurers would not support programs with heavy non-marine exposures.

"Reinsurance plays a big role in marine liability, as it does in virtually any business. Most of our reinsurance is in London, and London has apparently not fared well in the marine liability classes," he explained.

Mr. Jones said the most recent round of renewals from marine liability underwriters saw rate increases of 25% or more, "and most of them were a lot more."

"Retentions on excess-of-loss programs were by and large doubled, there were aggregate retentions thrown in on top of that, restrictions on the types of accounts being written and exclusions aimed at certain types of risks," have also become commonplace, he added.

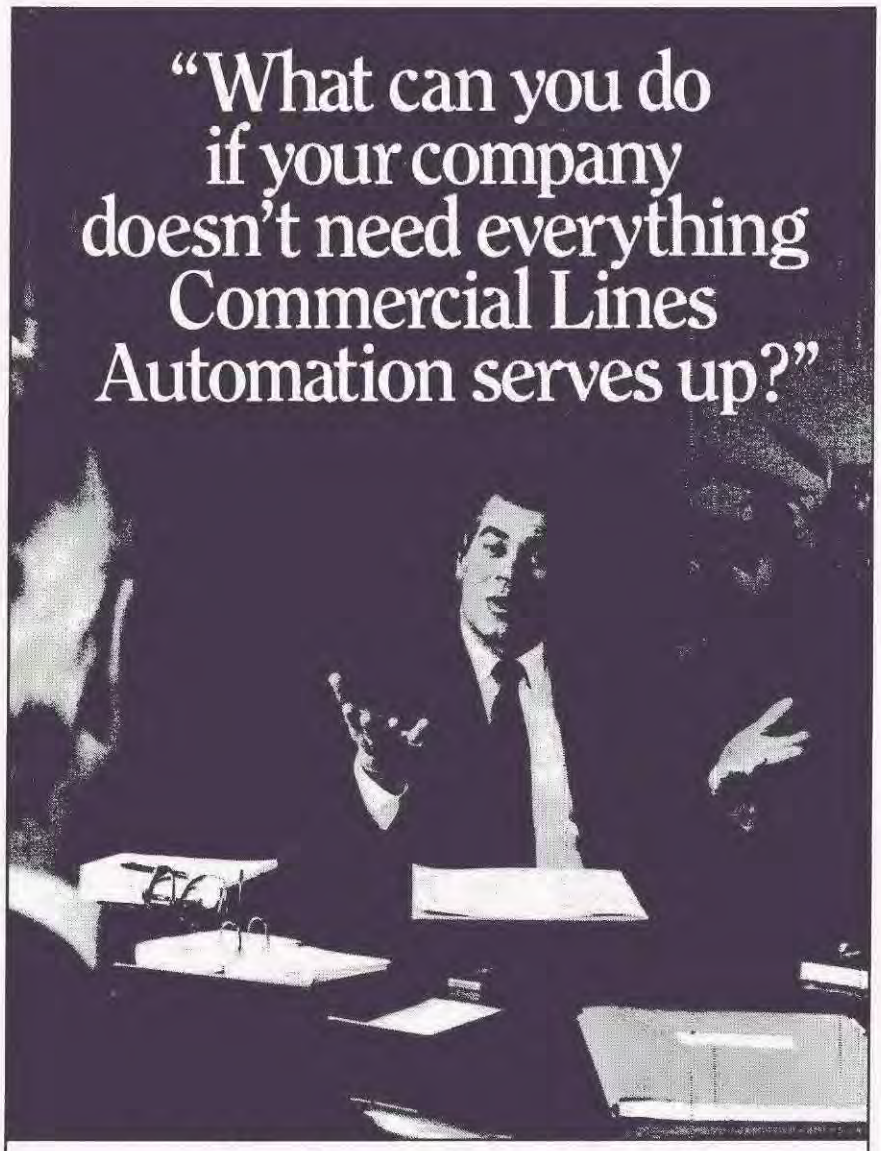
"It's very difficult to see what the cost of all that is, but as an underwriter, it seems to me that we're probably going backward" unless rates are increased at least 50%.

"The marine liability market is going through an adjustment," Mr. Jones said. "There was a lot of money lost along the way by some of the (insurers) and that accounts for some of the adjustment."

But, despite some uncertainty among marine liability insurers about the stability of the current market, he said, "Most of us in the business today are still optimistic. We think we're in pretty good shape to make a profit in this category over the next three to five years."

Lois H. Fuchs, insurance manager of B.P. North America in New York, was moderator of the panel. ■

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Audits reduce pollution exposure: Panel

By ROBERT A. FINLAYSON

TORONTO—Conducting an environmental audit and carefully monitoring hazardous-waste cleanup contractors can help risk managers control pollution exposures and losses, according to a panel of experts.

During a session of the annual Risk & Insurance Management Society conference, experts in environmental risk management advised risk managers to get a better handle on their environmental exposures.

In addition, they advised risk managers to keep a close watch on any cleanup contractors called in to handle a release of polluting materials.

Lynne M. Miller, president of environmental consultant Risk Science International in Washington, said that more risk managers are either asking consultants to conduct environmental risk assessments so they can gauge their exposures or attempting to do their own in-house risk assessments.

Since there is no effective risk transfer mechanism for pollution liability, risk managers want to know exactly where they stand in terms of pollution risk, she explained.

Ms. Miller also said that a more varied range of companies are seeking environmental risk assessments.

For example, such assessments are now used by firms involved in mergers and acquisitions to avoid unknowingly acquiring an environmental problem, she explained.



And soon, she said, financial institutions routinely are likely to seek information about environmental exposures as part of loan applications.

When conducting an environmental audit, risk managers should consider the following factors, according to Ms. Miller:

- Environmental pathways that would allow toxic materials to move off-site, including groundwater contamination, direct water discharges, air emissions and soil movement.

For example, she noted that an underground tank is one of the most frequent sources of environmental contamination.

- The potentially exposed population. This should include not only the community nearest the site being studied, but other communites that may be affected by surface and groundwater contamination and air emissions.

Also, non-human populations should be considered, especially when they have some economic value, like fish and shellfish, for example.

- The facility operations, including the environmental management function and past disposal practices.
- The materials used at the facilities, including an examination of their toxic properties and potential to move off-site.

When the assessment is complete, the information should be evaluated to determine steps to decrease potential pollution liabilities, Ms. Miller concluded.

Michael H. Tiller, president of Tiller Consulting Group Inc. in Corona del Mar, Calif., stressed that risk managers should carefully monitor the work of environmental consultants and cleanup contractors after a contamination incident.

Mr. Tiller warned that investigative techniques used by some consultants to determine the extent of contamination from a pollution incident can sometimes spread the contamination or turn up false data that make the situation appear worse than it is.

For example, Mr. Tiller said, if contamination is trapped on top of a clay layer in the soil, drilling a groundwater well through that layer may open a pathway for the contamination to go deeper into the soil.

This could dramatically increase the ultimate cleanup cost, he commented.

Groundwater wells also must be properly designed so that a single layer or zone of ground water can be sampled.

If the well allows crossover between the zones, the resulting samples will make the contaminated area appear larger than it may actually be, Mr. Tiller explained.

Mr. Tiller said risk managers should tell contractors to minimize the amount of soil they use for testing. If the soil turns out to be contaminated, he noted, it must be disposed of in an approved facility, and that is expensive.

'Don't do anything until the regulators say yes. And, put in the scope of work that the consultant must get all required permits. If he can't do that, fire him,' advises Michael H. Tiller of Tiller Consulting Group Inc.

And, the materials used in the well must be compatible with the type of contaminant, Mr. Tiller said.

For example, if a solvent is present in the groundwater and plastic pipes are used for the well, the solvent may dissolve the plastic pipes. Thus, samples taken from the well will turn up not only the solvent, but also organic compounds from the plastic pipe.

"You have to explain that to the regulators, which can cost you a lot of money," he said.

Mr. Tiller advised risk managers to resist efforts by government regulators to require that groundwater monitoring wells be drilled outside a facility's property line.

The area inside the property line is finite, and only a finite number of monitoring wells can be drilled there, Mr. Tiller said.

But, once a company agrees to drill wells outside the property line, "there is an infinite area you can drill in, and you better have an infinite pocket to pay for it," he said.

Mr. Tiller also advised risk managers not to allow contractors to use the word "contaminated" when referring to samples taken from monitoring wells. He said there is no regulatory definition of "contaminated" and using it on drilling logs amounts to "signing your own verdict."

When contracting with hazardous-waste cleanup and disposal companies, Mr. Tiller advised risk managers to place stringent controls on their activities.

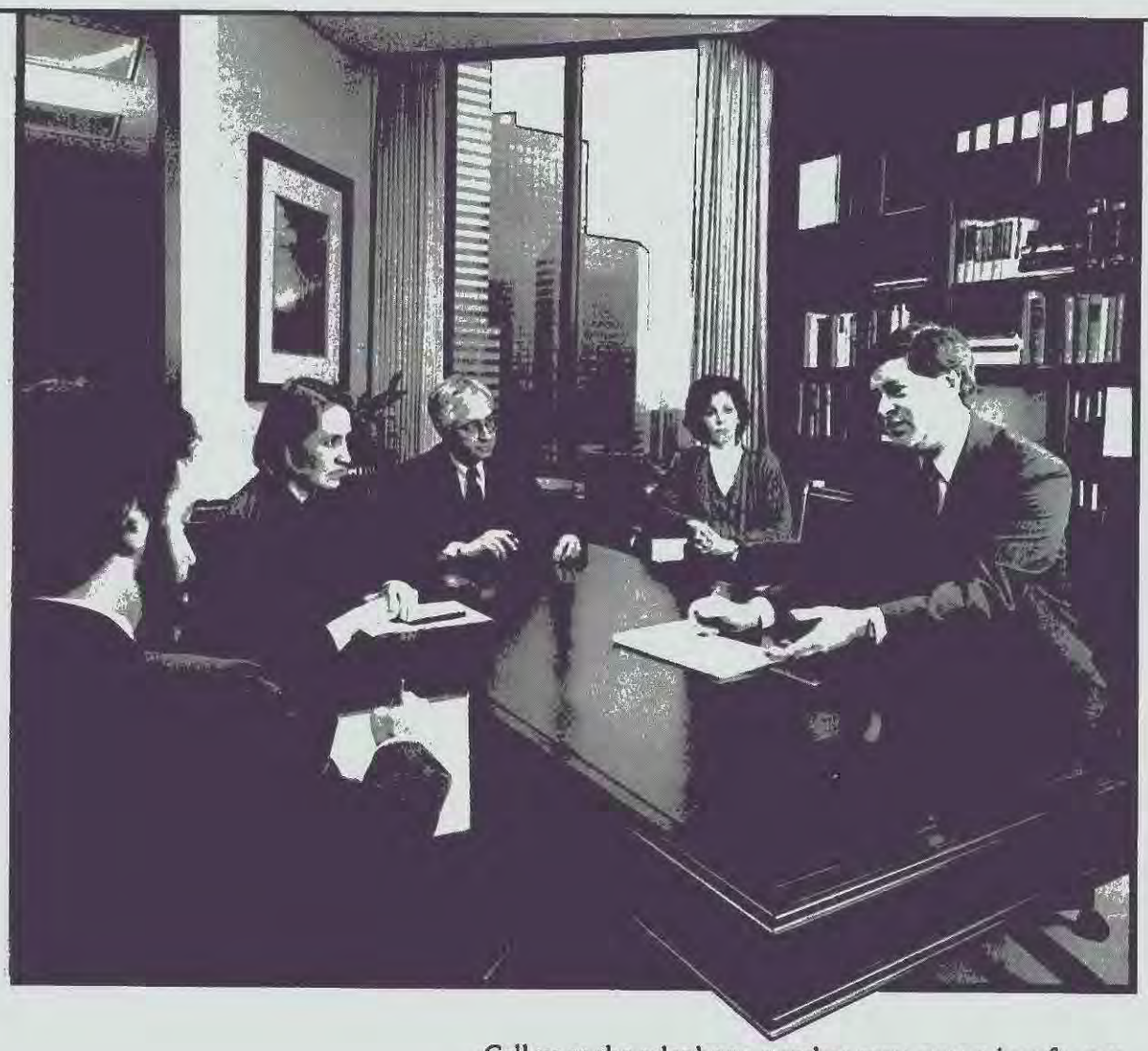
For example, he said that at one site, he only allowed the waste hauler to scrape an inch of soil off at a time.

Then, he said, he negotiated additional cleanup with the regulators using new soil samples collected a few inches below the surface.

Mr. Tiller said risk managers should anticipate delays in obtaining necessary government permits needed for any hazardous-waste cleanup opeation.

"Don't do anything until the regulators say yes," he said. "And, put in the scope of work that the consultant must get all required permits. If he can't do that, fire him."

George L. Head, vp of the Insurance Institute of America, served as moderator for the panel, which also included Daniel A. Cacchione, manager of occupational health for CNA Insurance Cos. in Chicago. ■



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Be sure of coverag

By DONNA DiBLASE

TORONTO—The hard commercial insurance market is bringing many changes in casualty coverage, and risk managers should study their policies carefully to make sure they and the underwriters agree on what is covered and excluded, an expert says.

"When you're looking at any insurance policy, start in the middle and look for the insuring agreement. This is where the underwriter giveth. Then, look for the exclusions—this is where he taketh away," said Carl Luecke, a vp in the casualty department of Johnson & Higgins in New York.

Mr. Luecke discussed the basics of a casualty insurance program during the Risk & Insurance Management Society conference held earlier this month in Toronto.

The key policy of a casualty insurance program is the general liability policy, Mr. Luecke explained. But, workers compensation, automobile, errors and omissions and professional liability coverages usually are not covered under a general liability policy and must be purchased under separate policies, he said.

An employer seeking coverage for automobile liability should buy three coverages: one covering the vehicl
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ever, he cautioned, "Our peril has changed" from just accidents and injuries to legal liability.

The increase in litigation and confusion in determining legal liability has prompted changes in the insurance industry, especially changes in policy forms, he said explaining that the Insurance Services Office has issued two versions of its new general liability policy forms.

In the occurrence form, coverage is triggered by an occurrence resulting in injury, he explained. In the claims-made form, coverage is triggered when the claim is brought.

"This is very dangerous because the new policy is the same, word for word, except for the trigger," he pointed out.

"Make sure you understand what triggers the policy."

Some of the changes the new form will make include the exclusion of liability for automobile accidents that occurred before the effective date of the policy, he said.

"This will be particularly bad for companies in merger situations," where accidents may have occurred before the merger, he added.

Also, all coverage for pollution incidents may be excluded except when related to product liability.

And, if an underwriter cancels a claims-made policy, he must sell the policyholder tail coverage, providing a period during which the policyholder still can file claims against the policy, he said.

Another concern risk managers should have under the new claims-made policy form is the retroactive date. The policy excludes all claims stemming from incidents that occur before this date.

The date of the policyholder's first claims-made policy will usually be the retroactive date, Mr. Luecke said. However, he advised risk managers to make sure that the same retroactive date is used in all subsequent claims-made policies or else gaps in coverage could occur.

"You have to make sure the retroactive date stays the same and be especially alert to any clerical errors when the policies are signed and dated," Mr. Luecke warned.

But, the most important change under the new CGL policy form is a pending ISO proposal to include all defense costs within the policy limits.

"This is going to be a bigger problem than the differences between claims-made and occurrence," Mr. Luecke said. "This will leave holes in umbrella coverages."

And, along with the changes in policy forms, Mr. Luecke cautioned about another change—one that even the most inexperienced risk managers may know something about:

"Another thing going on in insurance is that the prices appear to be going up," he observed.

Gloria Adamo, investment officer and risk manager for Teachers' Insurance Annuity Assn. of America, a New York-based nonprofit organization, served as moderator of the session. ■



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Hard market cuts down on bidding

By MEG FLETCHER

TORONTO—The lack of capacity available in many lines of commercial coverage during the current hard market means that relatively few buyers can use a traditional competitive bidding approach, experts say.

Competitive bidding is still a viable alternative for retail stores and other "Main Street"-type businesses, said Ron Massa, executive vp in the San Francisco office of broker Rollins Burdick Hunter Co.

But, he said, in today's market, risk managers should not try to bid directors and officers liability coverage, bankers blanket bonds or earthquake coverages.

Mr. Massa was among a panel of experts discussing placing coverage at a session of the annual Risk & Insurance Management Society conference, held earlier this month in Toronto.

Ron Dial, risk manager for Equitec Financial Group Inc. in Oakland, Calif., reminded risk managers to seek alternative sources of



coverage, including direct writers, single-parent and association captives, risk pools and, for property coverage, Factory Mutual System units.

In today's market, "the biggest change is that you have to become a salesman," he said.

Previously, it was the insurers who were the salesmen, noted panel moderator Blaine N. Trunnell, a vp with Alexander & Alexander in San Francisco.

"Put together a show, or a team," Mr. Massa urged. Visit a potential insurer's home office so they can get to know you.

However, he noted that if a submission is not "first-rate," it will sit on the bottom of a pile.

A good submission should include a copy of an insurer's record of the company's loss experience for the past five years, financial information and a business plan that outlines the company's goals and how it is handling any problems that exist.

It also may be necessary to deal with a non-local broker if it has a particularly good relationship with an insurer willing to write a needed coverage, said panelist Thomas G. Briggin, a managing consultant with The Wyatt Co. in San Francisco.

It is also important to review the broker's approach, Mr. Briggin said. He knows of one broker who so widely presented a client's application to insurers in a particular market that none would consider it seriously, he said.

Mr. Massa said that risk managers who want to compare brokers' services are best off with "conceptual competition," including surveying brokers on the basis of expertise, kinds of services offered and personal chemistry.

In addition, when negotiating with insurers, a risk manager should find out the cost of getting a copy of loss experience data if the company later decides to get insurance elsewhere, the experts emphasized.

Mr. Briggin said he knows of one insurer who had said in the contract that a "reasonable" fee would be charged for the data, but then asked for $10,000 per year for the information. ■

Far right threatens freedom, Ferraro warns

TORONTO—Beware of the emergence of the far right in the United States, warns Geraldine Ferraro.

"The far right constitutes a force that threatens to shake the foundation of democracy and pull our liberties out from under us," Ms. Ferraro said in an April 15 luncheon address at the the Risk & Insurance Management Society conference in Toronto.

Speaking to an overflow crowd, the former Democratic vice presidential candidate acknowledged that "it may not be the subject you expected, but I am anxious to prod you to be aware of the matter."

"These right-wing ideologues are convinced they are on the side of God and patriotism. Meanwhile, many of us who would die for our country are covering our eyes and hoping the problem will disappear," she said.

The right wing's agenda, Ms. Ferraro said, is to "tell us how to think, what to read, where to pray to God. They preach a sermon of intolerance, practice religious discrimination and propose breaking down the wall between church and state.

"As an American and a person of faith, this scares me," Ms. Ferraro said. "I love the freedoms in my country, cherish my religion and value the separation of the two."



Ms. Ferraro

To illustrate the far right's influence, Ms. Ferraro pointed out that last year there were 1,000 attempts to ban reading material, compared with 300 attempts that were made five years ago.

"I don't have to tell you that something is terribly, dangerously wrong here," she said. "The printed word, whether in books or daily newspapers, is the currency of the nation's ideas. Those thoughts are vital to the nation's spiritual, cultural and intellectual health."

The far right also is trying to reshape curriculum in the nation's schools, she commented.

And, the far right is trying to influence foreign policy, Ms. Ferraro said, citing the opposition to the Panama Canal treaty and support for former Philippine President Ferdinand Marcos.

Observing that "there always will be people who think they are the sole arbiters of moral and religious truth," Ms. Ferraro said, "we have always rejected their attempts to impose their views on others."

Now, however, the far right is trying to "screen nominees for federal judgeships, write prayers for schoolchildren and impose their views on our private choices.

"If they succeed, the liberty of all of us will be diminished," Ms. Ferraro said.



Planning can help even out market swings

By ROBERT A. FINLAYSON

TORONTO—Risk managers should consider using strategic planning to weather the ups and downs of the property/casualty insurance market, a panel of experts suggests.

Ward R.H. Ching, a senior vp with broker Rollins Burdick Hunter Co. in San Francisco, described strategic planning as "various methods and approaches which can be used by managers to set objectives, goals and methods of conducting business in a systematic and consistent context."

Speaking at a seminar entitled "Strategic Planning in Risk Management: A Critical Tool for Success" at the Risk & Insurance Management Society conference, Mr. Ching explained that risk managers can use strategic planning to help them "determine what actions they can take today that will help them take advantage of future conditions in the insurance market."



Mr. Ching said risk managers first may want to attempt strategic planning through "WOTS-UP" analysis, which he described as a "formalized way of thinking about certain topics or projects."

Such analysis can be used to evaluate a competitor, an entire company or a risk management department, he explained.

WOTS-UP stands for Weaknesses, Opportunities, Threats, Strengths-Underlaying Plan, according to Mr. Ching. Each of these categories is examined in the context of its implication for strategic planning, he explained.

"The value of WOTS-UP is that it gives you the opportunity to discuss a problem within a generalized framework and it allows you to be brutally honest about the project," Mr. Ching said.

Formal strategic planning, Mr. Ching said, combines three major types of planning processes: medium-range and short-range planning; budget and operating planning; and strategic planning.

But Mr. Ching cautioned risk managers against using extremely long-range planning, such as planning more than five years into the future.

"One of the largest organizations in the world has proven that five- to 10-year planning doesn't make a whole lot of sense," he said. "That's the Soviet Union."

Mr. Ching described the Soviet Union as the epitome of a planning type of organization, but he said that much of the Soviets' planning has not panned out.

"What happened is they based a lot of their estimates on reasonable expectations of the future, but didn't build enough contingency or flexibility into the plan to give them enough room to move," he concluded.

Wayne C. Wickham, director of risk management and insurance for National Semiconductor Corp. in Santa Clara, Calif., described how he used strategic planning to improve National Semiconductor's risk management department.

The first step, he explained, was to set the goals and objects of the plan. The overall goal was to prevent an uninsured loss that would have greater than a 5-cent-a-share impact on the company.

Specifically, the plan was to address the computer chip manufacturer's business interruption problems, which stem from the fact any interruption of the chip production operation is extremely costly, Mr. Wickham explained.

Also, he wanted to reduce rising automobile losses for both self-insured physical damage and insured third-party liability. He noted that National Semiconductor services computer equipment and thus has a large number of technicians driving both company-owned and privately owned vehicles.

Finally, Mr. Wickham said he wanted to develop a risk management information system that would give him good loss and claims data.

To implement these objectives Mr. Wickham said he negotiated a policy wording change for his business interruption coverage that was tailored to National Semiconductor's operations.

In the area of auto liability, Mr. Wickham said the company decided to view the self-insured physical damage exposure as "a mini-insurance company."

To do this, the company required all drivers of company and non-owned vehicles to fill out applications much like a personal auto insurance application. And, motor vehicle checks were run on all drivers.

"The result was long-term stability in our auto liability and self-insured physical damage. We've really got this under control," he said.

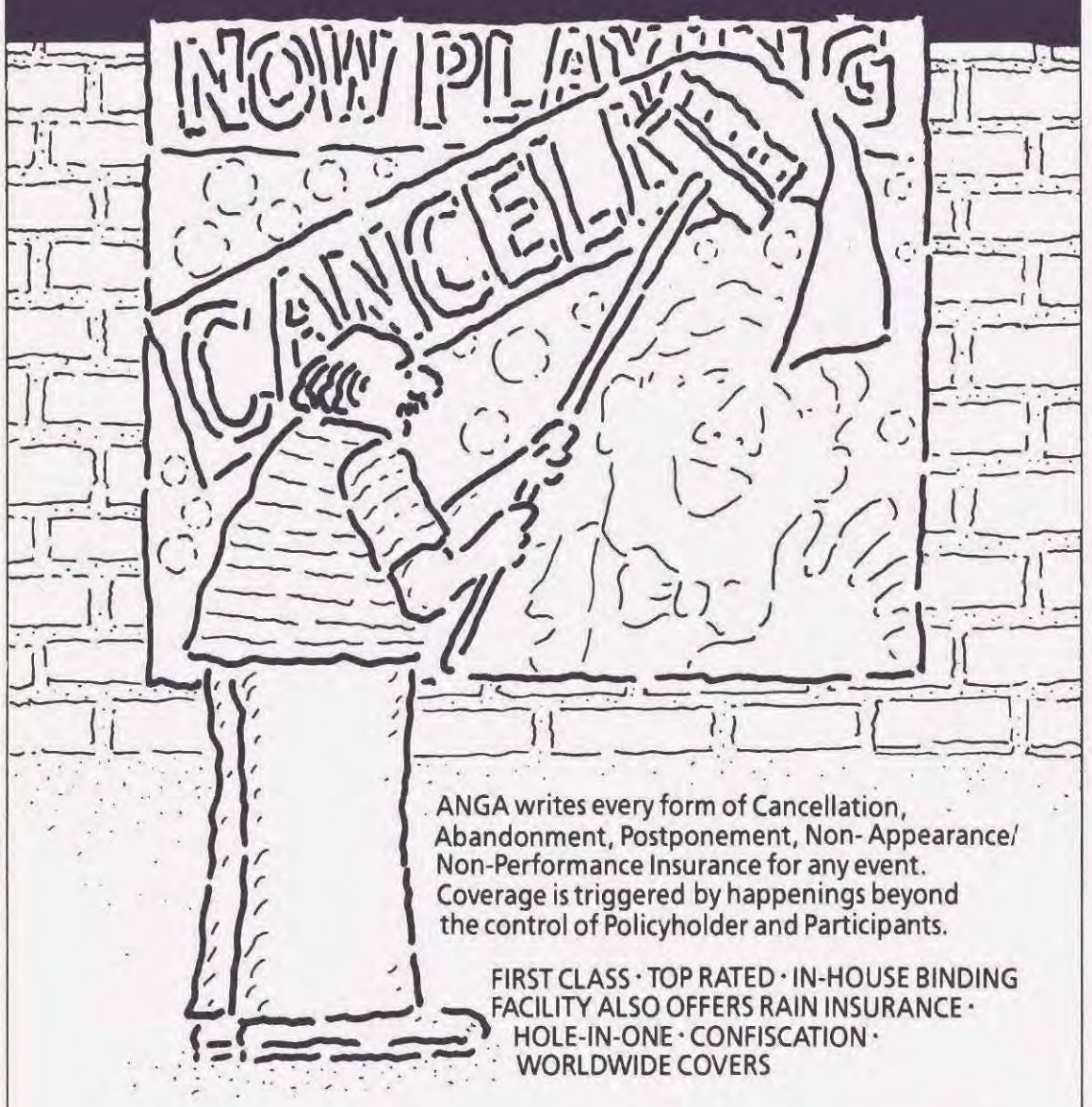
Finally, he said the RMIS has provided a wealth of data on loss control and claims management.

Currently, Mr. Wickham said he is developing a new strategic plan, the goals of which will be enhancing the risk management information system; examining alternatives to commercial insurance; and integrating the plant safety and risk management functions.

Also speaking on the panel was John L. Buysschaert, manager of insurance for Trizec Corp. Ltd. in Calgary, Alberta. ■

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Shand lawsuit

Continued from page 2

The policy's deductible was $50,000 and the annual premium was $79,812, although the firm actually paid $83,654, incurring an additional $3,842 in finance charges for financing the premium.

Also included in the policy was a provision requiring that if Shand or General did not intend to renew the policy, they must mail written notice to the law firm at least 60 days before the expiration date of the policy.

On Sept. 3, 1985, or less than 60 days before the policy's Nov. 1 expiration date, Shand mailed written notice to the firm stating that coverage would not be renewed, the suit charges.

It adds that in October 1985, as a precautionary measure and to comply with the California Business and Professions Code, the law firm was forced to enter into the new contract of professional liability insurance with Shand and General.

Under the new policy, which runs from Nov. 1, 1985 to Nov. 1, 1986, the policy's limits of liability are $5 million per claim and $5 million aggregate. The deductible is $250,000 and the annual premium is $600,000, which comes to $623,293 including the finance charges.

Thus, under the new policy, the firm's limits were reduced 100%, its premium shot up more than 700% and its deductible rose 500%.

Buchalter, Nemer informed Shand in October that proper notice for not renewing the 1984-1985 policy was not timely mailed and, thus, that policy was automatically renewed on the same terms and conditions.

But in November, Shand rejected that position, contending that the new policy was in force, the suit adds.

"Plaintiff contends that the language of the policy . . . is mandatory, requiring defendants to have mailed their notice of non-renewal at least 60 days prior to Nov. 1, 1985 . . .," the suit says.

"Accordingly, plaintiff contends that defendant's failure to timely mail notice resulted in automatic renewal of the policy, at the same terms and conditions, including the $10,000,000 limits of liability, the $50,000 deductible, and the $79,812 premium."

The suit asks the court for a declaration that the old policy is automatically renewed, that the new insurance contract should be canceled and that the firm is entitled to a pro-rata refund for the premium paid under the new policy.

Last week, Buchalter, Nemer attorney Leonard D. Venger, a partner of the firm, said that although the letter of non-renewal from Shand to the firm was dated Aug. 29, it was mailed Sept. 3, and "the language of the policy refers to the mailing date."

The law firm had to buy the new policy because California requires professional corporations to maintain a minimum $5 million in legal malpractice insurance.

"We simply had no choice," Mr. Venger said. ". . . Essentially, they were the only game in town. They were as competitive as any other at that point in time."

The firm purchased the new policy although advising Shand it was not prejudicing its rights to assert the present action, he added.

Mr. Venger also denied there was any irony in the fact the firm, which represents insurance companies, is now suing Shand and General Accident.

"It really is a private contract dispute between us and our insurance company and underwriting manager," he said.

"There is no irony at all and no inconsistency."

He emphasized that, to his knowledge, the firm has never represented Shand or General.

However, if the dispute involved insurance industrywide issues, the firm might have taken a different stance, according to Mr. Venger.

He added that the current tight insurance market played a role in the filing of the lawsuit.

"I think had we been able to replace this policy in coverage and premium in a similar amount or a very small increase, we might well have not resorted to litigation," Mr. Venger commented.

"The tight market definitely had an impact," he said.

Shand and General Accident have until May 16 to file an answer to Buchalter, Nemer's suit. Recently, the court held that the fact that 60 days prior to Nov. 1, 1985 (Sept. 2) was Labor Day—a legal holiday with no mail service—did not as a matter of law give Shand and General an extra day to provide notice. ■

Lloyd's acts to boost role of senior staff

By STACY SHAPIRO

LONDON—Recent action by the Council of Lloyd's of London leaves intact the post of chief executive but makes several changes in the corporate structure of Lloyd's.

Acting on recommendations of the Berrill Working Party, set up in September 1985 under the chairmanship of Sir Kenneth Berrill, the Lloyd's Council agreed that:

- The role of the chief executive will remain unchanged, and senior staff members will report to the chief executive. The chief executive will take steps to ensure better coordination among committees.
- More executive decisions should be made by senior staff than by the chairman and deputy chairman, except for those decisions the chairmen are required to make under Lloyd's bylaws.

However, the change in the decision-making process will be gradual and depend on the abilities of the senior staff.

- Routine matters currently dealt with by the Lloyd's Committee will be delegated to the senior corporation staff and to the chairman and deputy chairman.
- Corporation staff will be strengthened through training and recruitment.
- The Committee of Lloyd's will meet three times a month instead of weekly.
- The number of committees should be reduced.
- The chairman should not chair any committee unless required to do so by bylaw, and the chief executive should chair a committee only under "exceptional circumstances."

The strengthening of the role of senior staff members was prompted by the Berrill committee's belief that senior staffers' time was not being used to the best advantage.

"Too much of it is spent at committees, preparing papers for meetings or in attendance on one or more of the chairs," the panel said.

"Instead, senior staff should be running their departments, working on longer-term issues and generally improving the quality of their service to the council and to committees."

The appointment of the Berrill committee in 1985 prompted the resignation of then-Chief Executive Ian Davison, who feared that the role of the chief executive might change as a result of the committee's report.

But, current Chief Executive Alan Lord said of the Berrill panel's report, "I have found it extremely helpful." ■



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Panel hearings

Continued from page 1

But Rep. Florio said business organizations often are not savvy about insurance matters and that safeguards are needed to ensure that the risk retention groups are properly structured.

"Would not the groups be established in states with the lowest requirements?" he asked.

While speaking mostly in general terms about his proposed federal standards, the New Jersey Democrat suggested that risk retention groups be required to obtain independent third-party actuarial certification that their reserves and underwriting are sound.

The lengthy discussion between Reps. Florio and Wyden at the April 22 hearing is evidence that congressional consideration of legislation to expand the Risk Retention Act is far from over and that more amendments to the legislation can be expected, observers say.

'I would be receptive to fine-tuning (the Risk Retention Act extension bill). . .but I would hate to see it loaded down with restrictive amendments so that the groups don't get to square one,' says Rep. Wyden.

Under legislation, S. 2129, that cleared the Senate Commerce Committee in March, the 1981 Risk Retention Act would be expanded in a major way (*BI* March 31).

Under the original act, captive insurance companies—known as risk retention groups—can be set up by product manufacturers, sellers and distributors to cover their product liability exposures.

After a risk retention group has been chartered in one state as an insurance company, it can operate nationwide without having to be licensed in other states. This, among other things, eliminates the need for a risk retention group to obtain a licensed, fronting insurer to issue policies and thus avoid run-ins with state regulators.

In addition, under another section of the Risk Retention Act, employers can establish so-called purchasing groups to buy product liability insurance on a group basis from commercial insurers.

Under S. 2129 and the similar bill introduced in the House, H.R. 4301, by Rep. Wyden, risk retention groups would be allowed to insure all commercial casualty coverages except workers compensation.

But, as Rep. Wyden noted at the hearing, a number of amendments are being proposed as the legislation winds its way through Congress.

For example, the National Assn. of Insurance Commissioners has submitted amendments that would make clear that risk retention groups could not cover exposures, like punitive damages, that may not be legally insurable in a state where a group is operating.

Rep. Wyden, apparently aware that other suggestions have been made to alter the legislation, urged a limit on amendments.

"I would be receptive to fine-tuning. . .but I would hate to see it loaded down with restrictive amendments so that the groups don't get to square one. Let's not weigh it down with so much baggage," Rep. Wyden said.

At the hearing, business groups made other pitches for alternatives to traditional insurance.

Allowing banks to underwrite insurance would add important new capacity to the insurance industry and cut the price of insurance, the banking industry said.

Edward Yingling, the ABA's executive director for government relations, said the liability insurance crisis is "the most visible symptom of an insurance system whose economic inefficiencies result in billions of dollars in excessive costs to consumers and businesses, and repeated cyclical crises in the availability and supply of insurance."

Mr. Yingling predicted that full scale bank entry into the commercial and personal lines insurance markets could slash premiums by about 10%—or an annual total of between $8 billion and $10 billion because banks, he contended, can operate more efficiently than insurers.

But Mr. Yingling's recommendation, predictably opposed by some insurance trade associations, also received a chilly reception from one subcommittee member.

Rep. Daniel Coats, R-Ind., questioned if bank entry into the insurance market would do much to ease the liability insurance availability crisis.

Banks would only go for the predictable risks, such as health and life insurance, and shun the more difficult risks, Rep. Coats said.

Rep. Coats pointed to Mr. Yingling's testimony that bank entry into insurance underwriting would focus on actuarially predictable products and more exotic lines would be left to the experts.

"So, not much would be gained" by bank entry to ease the liability crisis, Rep. Coats said.

But Mr. Yingling countered that the overall increase in insurance capacity through bank entry would promote long-term stability in the insurance market.

Under the RIMS proposal, each state insurance commissioner would be able to authorize commercial insurers and reinsurers to seek excess-of-loss reinsurance from the federal corporation for specific lines. The insurer would have to participate in a joint underwriting association or a market assistance plan for the line to be reinsured by the corporation.

The corporation would be able to deny coverages to an underwriter if it decides the risk is unsound.

Rep. Coats described a federal government reinsurance corporation as a "bottomless pit."

The government experience in this area has been horrendous, he said, noting that the federal flood insurance program has lost money almost every year it has operated while the federal crop insurance program would have gone broke except for congressional intervention.

But outgoing RIMS President P. Richard Hackenburg, who also is staff vp at Allegheny International Corp. in Pittsburgh, told the subcommittee that a federal reinsurance corporation could be successful if properly structured.

"It can be organized efficiently. It has been done in the past," Mr. Hackenburg added, citing the continual profitability of the Overseas Private Investment Corp., the federal agency that provides political risk insurance to U.S. companies investing in less developed countries.

One witness, much to the surprise of subcommittee members, said there wasn't a widespread liability insurance availability problem and that there was no justification for broad federal alternatives to traditional insurance.

David J. Brummond, assistant general counsel for the National Assn. of Independent Insurers in Des Plaines, Ill., said availability problems were isolated and that the free market could handle those problems if left alone.

But Rep. Florio said the availability problem is significant and "a lot of businesses won't be around" unless something is done. ■

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INTEC proposes launch safety review panel

By STACY SHAPIRO

WASHINGTON—The presidential commission investigating the explosion of the space shuttle Challenger is considering a proposal for an independent launch safety review board made by the leading U.S. satellite underwriter, International Technology Underwriters.

James W. Barrett, president of Washington-based INTEC, said the safety review board would include the very best aerospace technology we could have."

"Manufacturers, scientists, universities. . . .It really doesn't matter, but what we are trying to achieve is a thoughtful overview," he said, adding that the National Aeronautics & Space Administration also should participate.

And, he said, private interests, including insurers like INTEC, should have access to the panel and its information.

"We (INTEC) don't want to get into the business of trying to decide whether to launch or not," Mr. Barrett said.

But, he stressed: "The United States should have a standing panel of experts who have the rights and the responsibilities for safety oversights in all commercial and scientific launch activities. And we (INTEC) want unfettered access to it."

Such a panel, Mr. Barrett said, would help restore underwriters' confidence in space risks, reduce satellite insurance costs and increase capacity.

On the other hand, he said, "The continued absence of technical review and a forum for information with participation by insurance underwriters can only lead to loss of confidence, higher premium rates or the disappearance of insurance for space projects altogether."

Mr. Barrett made his proposal in March in a letter to William P. Rogers, chairman of the presidential commission.

And, Mr. Rogers replied that he had instructed the commission's panel on mission planning and operations to give "serious attention to your proposal."

Mr. Barrett said that in establishing the review board, "We would not wish to create another bureaucracy, but rather to provide a forum to review safety issues and audit the risk-reduction and safety process."

He suggested that the review board, which would be given broad oversight powers, would be kept fully informed on all matters of flight safety and provide a forum to receive any last-minute objections to launch, "should they occur."

"Commercial shuttle customers and their insurers could depend on such a board to review launch readiness and safety implications of ongoing modifications to this advancing technology to be satisfied that each mission is within acceptable boundaries of safety and prudence and possesses the highest probability of success," he wrote.

"We are only now crossing the threshold of the commercialization of space. Space technology will continue to evolve and present new challenges to safety. The ability of shuttle cargo owners and their insurers to understand these events will greatly enhance their willingness to go forward," he said.

Mr. Barrett noted shuttle launch insurance underwriters have paid out $500 million more in claims than they collected in premiums during the last two years, resulting in "an extraordinary increase in premium rates and a severe restriction in the amount of space insurance available."

And, he said, the January explosion of the Challenger, which killed all seven crew members aboard, was a further blow to the space insurance industry. Only $1 million in claims related to the disaster has been paid—a life insurance policy written by Lloyd's of London underwriters for teacher Christa McAuliffe (*BI*, Feb. 3).

The loss of Challenger, 'coming on the heels of these unprecedented losses . . . has severely shaken the confidence of the insurance community and raised concerns about our going forward in space insurance,' says Mr. Barrett.

But, Mr. Barrett said, the loss of the Challenger, "coming on the heels of these unprecedented losses . . . has severely shaken the confidence of the insurance community and raised concerns about our going forward in the space insurance business."

He noted that insurance is critical to the continuation of commercial space ventures, because financial backing usually cannot be found for ventures such as communications satellites unless they have insurance coverage.

And, he warned, "Should concern develop into hopelessness in our industry, then the expected benefits of commercial space exploration may be delayed or lost for a long time to come.

"The enormous financial commitment of the insurance industry, measured in excess of $1 billion annually, cannot be taken for granted," he said.

Mr. Barrett also has suggested the formation of a similar safety review board for the European Space Agency, Arianespace, and NASDA, the Japanese space agency.

"We believe that insurance underwriters throughout the world would welcome the creation of this element of confidence," he said.

In addition to the response from Mr. Rogers, Mr. Barrett's proposal drew interest from others involved in space shuttle safety.

Rep. Bill Nelson, D-Fla., chairman of the House subcommittee on space science, said his panel is in the process of holding hearings on shuttle safety.

"As we learn more over the next several months, I will keep in mind your recommendations and others like it to ensure than any shuttle launch be conducted with the greatest degree of confidence," Rep. Nelson wrote.

And, Madeline Johnson, director of the Transportation Department's commercial space transporation division, also is interested.

"Our new regulations address launch safety questions. It is critical for this issue to receive the appropriate attention," she wrote to Mr. Barrett.

"We look forward to working with you on this matter." ■

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Continued from page 2

The provisions of S.B. 714, signed by the governor late last month, are to take effect June 6.

The insurers initially planned to cancel professional liability policies early in May. But, Gov. Moore said he will call a special session of the Legislature before the end of next month, but after the May 13 primary election, to give lawmakers a chance to amend the "troublesome" provisions in the bill. So, the insurers moved back the cancellation date to have time to revoke the notice of cancellations if the changes they seek are made.

(In that special session, legislators also will be asked to deal with the municipal liability market crunch.)

S.B. 714 is "anti-malpractice industry" and "severely restricts our ability to properly underwrite," said Dan Snouffer, vp of OHIC. The insurer, created in 1978 by the Ohio Hospital Assn., covers more than half of the eligible private hospitals in West Virginia.

"We have informed our agents and policyholders of our intention to cancel (professional liability) policies," he said, adding that the notices were scheduled to be mailed April 24, with May 31 cancellation dates.

Besides placing the $1 million cap on jury awards for non-economic damages, S.B. 714 also limits insurers' ability to put into effect "proper" rate adjustments, Mr. Snouffer said.

And, he says, the law sets reporting requirements of physicians and hospitals that, if followed, will breach confidentiality.

The law also requires insurers to file with the State Medical Board information, such as the number of claims and the amount of premiums written, they already file with the Insurance Department, he said.

"We originally wanted to give more authority to the State Medical Board. We're not opposed to that, but not when you already can get that information from the Insurance Department, or when it breaches confidentiality," Mr. Snouffer said.

S.B. 714 refers only to health care providers, but action by insurers and comments from the public indicate the law is being interpreted to apply to all professions.

Thus, St. Paul Fire & Marine sent cancellation notices April 7 to both medical and non-medical professional liability policyholders, which include physicians, attorneys, bankers, beauticians, real estate agents and insurance agents.

St. Paul estimates the policies to be canceled represent $4.7 million in premiums.

The same day, April 7, CNA mailed cancellation notices to about 5,300 professional liability policyholders, which include some 5,000 health care providers.

According to a CNA press release, the insurer interprets the word "malpractice" in the new law to include other professions, such as architects, engineers, directors, officers, attorneys and accountants.

CNA said it took the step to cancel policies because it believes S.B. 714 has "intolerable consequences . . . (that) severely restrict the pricing and underwriting rights of malpractice injurers."

"The law has inflicted unreasonable restrictions on how insurance companies conduct business by mandating who will be insured under what conditions and by imposing punitive and unproductive procedures on pricing and underwriting," said Kevin J. McHugh, CNA vp for specialty operations.

The three CNA underwriting units involved in the legal and administrative actions are American Casualty Co. of Reading, Pa.; National Fire Insurance Co. of Hartford, and Continental Casualty Co., all based in Chicago.

Because all these insurers acted on the same day, the attorney general's office believes they violated the state's antitrust act.

According to that act, "it is illegal for any group of two or more individuals or companies to discontinue a service for the purpose of fixing or controlling the rate of a market service," said Walt Auvil, an assistant attorney general.

The legal action was scheduled to continue last week in the Kanawha County Circuit Court in Charleston. Earlier this month, insurers tried to have the case moved to federal court, but it was remanded to circuit court.

Meanwhile, the West Virginia State Medical Assn., which supported S.B. 714, was assisting local medical groups in placing ads in newspapers telling the public that physicians' medical malpractice policies were being canceled.

"We're being very careful. We're *not* saying that all physicians should *not* provide care after May 31. We're leaving that up to the individuals," said Dee Crabtree, manager of government affairs for the medical association.

Last week, local medical societies in the state were trying to put together contingency plans, in case the May 31 cancellations occur.

One scenario being studied was creation of self-insurance pools. A spokesman for the governor said Gov. Moore "promised" physicians that if legislators did not amend S.B. 714, the governor would seek to have legislation introduced allowing self-insurance pools.

When asked why the governor signed S.B. 714 instead of vetoing it, the spokesman said: "The governor didn't really think a whole lot of the plan, it wasn't what he suggested, but it was something—movement."

Captive alternatives

Continued from page 2

trogen Corp. in Augusta, Ga.; Mark F. Wilson, corporate risk manager at First Mississippi Corp. in Jackson; and an attorney in Barbados, whose identity was not available.

If PRIMEX is formed, each shareholder company will be able to name one director to the board.

A request for license was filed in Barbados on April 8. Barbados authorities expect to decide by the end of the month whether to issue a license, said Ivan Bradshaw, supervisor of insurance in Bridgetown.

A study on the feasibility of PRIMEX was conducted by consultants at Johnson & Higgins in New Orleans, which declined to comment.

PRIMEX is one of at least two efforts by chemical industry risk managers to generate their own capacity. The first, a mutual insurer called Casualty Excess Assurance Ltd. (CEAL), now has seven companies committed and is seeking eight more before June 1.

Organizers of CEAL, originally dubbed CASEX (for "casualty excess"), are considering Bermuda and Barbados as domiciles, says Donald W. Illingworth, corporate insurance manager at Hercules Inc. in Wilmington, Del.

CEAL would write $50 million excess of $50 million in liability coverage. Unlike other major mutuals being established, directors and officers liability insurance is included within these limits.

Each member would contribute to the company's resources in two ways, Mr. Illingworth says.

First, it would pay a flat reserve premium of $2 million, half in cash and half guaranteed with a letter of credit. And, it would pay a variable premium of $500,000 plus a sum based on annual gross sales.

Fred S. James & Co. Inc. in Boston is aiding in CEAL's formation.

While PRIMEX and CEAL try to ease the woes of chemical industry risk managers, financial institution insurance managers are seeking similar solutions (*BI*, July 22, 1985).

The latest effort is at Chicago-based U.S. League of Savings Institutions, the largest S&L trade group. The League is developing plans for a captive to provide its 3,400 members with D&O insurance and bankers blanket bonds.

The company hopes to write bond limits of $5 million, above a retention of $500,000, and D&O insurance limits of $5 million, above a retention of $1 million, says Clark Sutton, president of the group's insurance arm, U.S. League Services.

The association is seeking support from commercial reinsurers for coverage excess of its retention. The limits could be used as either primary or excess coverage.

The company will be capitalized at $30 million by selling stock to League members, he says. But investing does not guarantee any S&L an insurance policy because underwriting criteria will be independent of company ownership.

According to a recent survey of League institutions, more than 1,300 S&Ls are willing to invest at least $25,000 in such a company. The League itself will contribute up to $3 million to capitalize the company: $1 million up-front, and then 10% of whatever is generated by stock sales, up to $2 million.

The Wyatt Co. in Washington is assisting with the captive.

The League has not selected a domicile, but is considering Bermuda, says Mr. Sutton. If Bermuda is chosen, the insurer will be managed by Rollins Burdick Hunter Co. (Bermuda) Ltd., he says.

Regardless of the domicile selected, Virginia Surety Co. Inc. in Chicago will front the policies, issued by Chicago managing general agency Scarborough, he says. Both are units of Combined International Corp., as is RBH.

Another bank group considering captive options is the New York-based Institute of Foreign Bankers. The captive would offer D&O insurance and bankers blanket bonds to IFB members—some 250 banks in about 60 countries.

A three-man IFB committee is evaluating a survey mailed to IFB members March 17 to assess their interest in a captive.

Responses to the one-page survey will be presented to the IFB's board to decide if a feasibility study should be undertaken, explains J.D.Cockwell, committee head and past chairman of the Institute.

He is also assistant general manager of Canadian Imperial Bank of Commerce in New York. The other committee members are Frederick B. Hard Jr., president of N.T. Butterfield & Son (Bermuda) Inc. and Donald W. O'Leary, senior vp and general manager of Bank of Bermuda International.

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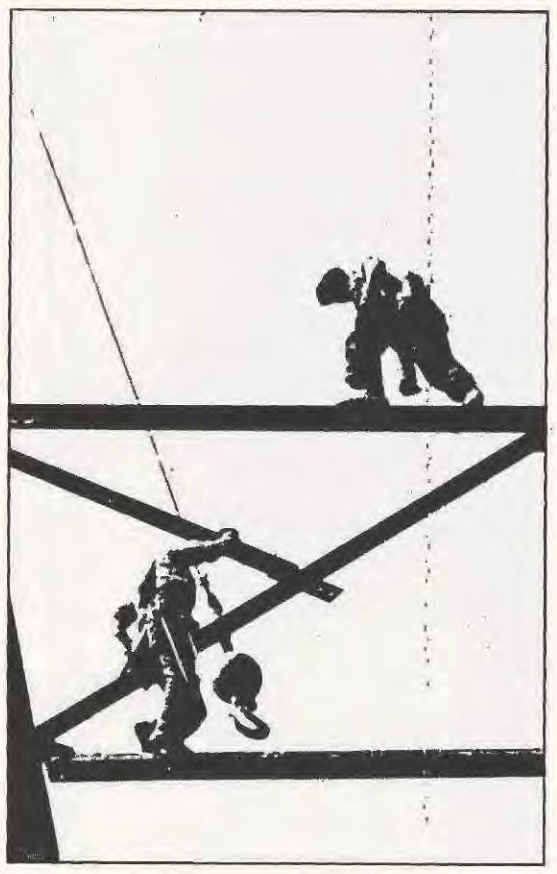
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Manville plan

ontinued from page 2

The Manville plan also created a ust fund for payment of asbestos roperty damage claims, providing 125 million in cash as well as in- rance proceeds and net profits ot used to settle asbestos bodily in- ry claims.

One change affecting health laimants brought about by the re- isions is that the trust for asbestos ealth claims will pay approxi- ately $25 million for claims set- ed by the company prior to filing r Chapter 11 in August 1982 but ot yet paid.

In exchange, two annual pay- ents of $75 million were added to e bond funding the trust, while e payments are to begin in year ur after reorganization instead of ear five.

Thus, the $1.65 billion bond is alued at $1.8 billion under the re- isions.

Where the plan makes signifi- ant changes is in providing inter- st payments for commercial credi- rs and a further dilution of the alue of shareholders' stock.

Commercial creditors and share- olders strongly opposed Man- ille's reorganization plan when he company presented it in ankruptcy court on Feb. 14.

That plan provided commercial reditors, which include banks and anufacturers, about $450 million principal that Manville owed but ot the approximately $200 million post-petition interest generated fter Manville filed for reorganiza- on.

On March 19, the unsecured reditors filed their own reorgani- ation plan with the court calling r increased payments for general reditors and preferred and com- on shareholders (*BI*, April 7).

Under Manville's revised plan, he commercial creditors would re- eive full payment of principal hrough a combination of $225 mil- on cash at consummation of the lan and the rest through a $275 illion bond payable over 4½ ears.

In addition, creditors will receive partial post-petition interest" of pproximately $200 million to be aid through:

- 11 million shares of common tock.
- Warrants for the purchase of n additional seven million shares f common stock.
- Bonds payable at $17.5 million ach year for 10 years, beginning even years after the reorganiza- on plan is consummated.

The revised plan also further di- utes the value of common and pre- erred stock of shareholders. Man- ille's Feb. 14 proposal called for he transfer of potentially 50-80% f Manville stock.

The revised plan provides for a reverse split" of common shares. vith approximately one new share eing issued for six old shares, eaving common shareholders with n aggregate of approximately four illion total shares.

"This represents a substantial re- uction in the participation allo- ated to Manville's present com- on stockholders as compared vith the plan filed on Feb. 14," the ompany said.

For preferred shareholders, the nnual dividend on each share will e reduced from $3 to $2.70 with ayment to begin seven years after onsummation. However, pre- erred shareholders will now re- eive nine million shares of com- on stock, the company added.

Manville said that if the com- ercial creditors exercise the war- ants, which are options to pur- hase shares, it will result in fur- her dilution of the interests of tockholders from the Feb. 14 plan.

George Hahn, an attorney for hareholders in the reorganization roceedings, said last week that the ommittee would legally challenge he plan on various issues.

Mr. Hahn, of the New York firm of Hahn & Hessen, said one issue to be challenged will be whether interest—at the expense of shareholders—can legally be paid to creditors already getting 100 cents on the dollar.

Mr. Hahn also said the committee intended to challenge other provisions in the plan including payments for charitable contributions, property damage claimants, and plaintiffs' contingent legal fees.

Despite the opposition of shareholders, an ultimate reorganization plan may not require their approval, some observers say.

Also last week, Manville agreed to settle for $27.25 million its dispute with Sun Alliance & London Insurance P.L.C. over coverage for asbestos claims, part of the massive insurance litigation in San Francisco.

The named insured on the policies was Canadien Johns-Manville, a former subsidiary. The insurer provided coverage from the mid-1940s to 1970. ■

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update

Carbide files appeal to OSHA

Continued from page 2

OSHA has proposed leveling $1.38 million in fines against the company, the largest penalty the agency has ever proposed (*BI*, April 7).

The citations and fines stem from an investigation of the West Virginia plant following a gas leak there last August that hospitalized 134 people and has prompted at least two lawsuits (*BI*, Aug. 26, 1985).

After Carbide's appeal is filed, the review committee will appoint an administrative law judge to hear the case. But, the review commission is not under any deadline to appoint an administrative law judge, according to an OSHA spokesman, who noted that the case "could go on for a couple of years."

In another matter, Union Carbide still hopes to persuade the government of India to support the company's proposed $350 million settlement of claims that stem from the December 1984 gas leak in Bhopal, India, which killed approximately 2,000 and injured thousands of others.

The Indian government does not support the proposed settlement, claiming it is inadequate (*BI*, March 31).

"We're hopeful that, upon reflection, the Indian government will agree to facilitate the distribution of funds to the victims" of the Bhopal incident, said a Union Carbide spokesman.

"We're continuing to work for an out-of-court settlement," the spokesman added.

'Name your price' D&O offered

OMAHA, Neb.—Companies willing to pay premiums of at least $1 million may be able to buy excess directors and officers liability coverage from Berkshire Hathaway Insurance Group.

The group has expanded the "name your price" campaign it started for various excess liability risks last year and made the offer available to companies searching for excess D&O coverage.

Under the program, brokers submit premium bids, and coverage is written if the price, in Berkshire's eyes, is right. If the insurer feels the terms and price aren't appropriate, it won't review a revised proposal.

The coverage is written by National Indemnity Co., Columbia Insurance Co. and National Fire & Marine Insurance Co., three Berkshire units.

Donald Wurster, vp at National Indemnity, said about $18 million in premiums have been written for D&O coverage and about $47 million in premiums have been written for "across-the-board excess liability" coverages.

He said policies have been sold to about 15 buyers but could not provide a breakdown of how many have coverage for D&O, which the Berkshire units began offering about the beginning of the year.

Mr. Wurster said the D&O program is targeted at large risks and will generally be offered as a $10 million layer excess of $15 million. He said the insurer probably eventually will consider lowering the $1 million premium threshold.

datebook

APRIL 30-MAY 2. "Forging Public Policy: Benefits Security and the Future" conference in Washington, sponsored by the Assn. of Private Pension & Welfare Plans; $425 for members; $480 for non-members. Sue Ransom, APPWP, 1331 Pennsylvania Ave. N.W., Washington, D.C. 20004; 202-737-6666.

MAY 1-2. Intergovernmental Risk Sharing Pools: An Idea Whose Time Has Come conference in Houston, sponsored by the Joseph Ivy Co.; $495. Pooling Conference, The Joseph Ivy Co., 5511 Parkcrest, Suite 101, Austin, Texas 78731; 512-451-6275.

MAY 1-2. National Medical Case Management Seminar in Dallas, sponsored by Intracorp; $265; $258 for more than one registrant from the same organization. Linda Cox, Intracorp, 4100 McEwan, Suite 175, Dallas, Texas 75244; 214-386-9914.

MAY 4-6. 1986 Ottawa Legislative Update conference in Ottawa, Ontario, sponsored by the International Foundation of Employee Benefit Plans; $450 for members; $525 for non-members. Registration Department, IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

MAY 5-7. Training the Trainer: Training Methods and Techniques in Occupational Safety and Health course in Los Angeles, sponsored by the Institute of Safety and Systems Management of the University of Southern California; $400. University of California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, Los Angeles, Calif. 90089-0021; 213-743-6523/6524.

MAY 5-9. Fundamentals of Industrial Hygiene Monitoring course in Long Grove, Ill., sponsored by the National Loss Control Service Corp.; $500; $450 for two or more registering at the same time. Also **Sept. 8-12, Nov. 10-14.** National Loss Control Service Corp., K-3, John N. Garis, Long Grove, Ill. 60049; 312-540-2026.

MAY 11-15. American Assn. of Managing General Agents' 60th Anniversary Meeting & Trade Mart conference in Orlando, Fla.; members and associate members only, $350. Randy Dyer, AAMGA, 1001 Connecticut Ave. N.W., Suite 800, Washington, D.C. 20036; 202-223-0388.

MAY 12-13. Health Care Cost Containment Workshop in Washington, sponsored by Health Research Institute; $495. Also **June 2-3** in Houston; **June 23-24** in Atlanta; **July 14-15** in Denver; **July 21-22** in San Jose, Calif.; **Aug. 11-12** in Minneapolis; **Sept. 22-23** in New Orleans; Health Research Institute, 49 Quail Court, #200, Walnut Creek, Calif. 94596; 415-676-2320.

MAY 12-14. Fundamentals of Insurance course in New York, sponsored by the Risk & Insurance Management Society; $490 for members; $590 for non-members. Also **May 28-30** in Chicago; **Sept.8-10** in Boston; **Dec. 1-3** in Atlanta. Continuing Education Program, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

MAY 12-14. Techniques of Loss Control course in San Francisco, sponsored by the Risk & Insurance Management Society; $490 for members; $590 for non-members; $50 discount for registration six weeks prior to course. Also **Sept. 17-19** in Chicago. Continuing Education Program, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

MAY 12-16. National Assn. of Insurance Brokers' 1986 Annual Meeting in Pebble Beach, Calif.; $500 for members; $750 for non-members; $200 for spouses. NAIB, 1401 New York Ave., Suite 720, Washington, D.C. 20005; 202-628-6700.

MAY 13. Risk Management of PCBs in Electrical Systems seminar in Chicago, sponsored by Electro-Test Inc.; $175; $30 discount for cash payments. Also **May 14** in Des Moines, Iowa; **May 15** in Minneapolis; **May 20** in Long Island, N.Y.; **May 21** in Clifton, N.J.; **May 22** in Niagara Falls, N.Y.; **May 28** in Baltimore; **May 29** in Harrisburg, W.Va. Electro-Test Learning Center, P.O. Box 159, 3470 Fostoria Way, San Ramon, Calif. 94583; 415-866-8566.

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Omaha Indemnity

Continued from page 1

RAM agreed to cease managing the Omaha Indemnity book of business it had written, while Omaha Indemnity agreed to hold RAM harmless for claims that may result from the insurer's administration of claims on the business after April 8.

Mutual of Omaha has contributed $75 million to the insurer so far this year, most of it to cover losses on business produced by RAM and World American, an Omaha Indemnity spokesman said. In addition, Mutual of Omaha in late 1985 contributed a $30 million surplus note to Omaha Indemnity.

In an agreement reached with the Wisconsin Insurance Department last month, Mutual of Omaha also promised to cover contingent liabilities that may arise from a lawsuit filed against Omaha Indemnity by Central National Insurance Co. of Omaha, says Randy Blumer, deputy director of the Wisconsin department's financial examination bureau.

Omaha Indemnity reinsured Central National, a unit of St. Regis Group, under an aggregate excess-of-loss agreement bound by World American. The two insurers are now disputing the terms of the agreement in a Nebraska court. Omaha Indemnity claims its maximum liability is limited to $3 million, while Central National contends Omaha Indemnity is liable for claims exceeding $30 million.

Omaha Indemnity also has been ordered by the Wisconsin department to stop writing new and renewal reinsurance business and to maintain a 3-1 net premium-to-surplus ratio, Mr. Blumer said.

In its 1985 convention statement filed with the Wisconsin Insurance Department, Omaha Indemnity reported a policyholder surplus deficit of $39.5 million after the contribution of a $30 million surplus note but before the $75 million contribution this year. Omaha Indemnity also reported $32.9 million in earned premiums, an underwriting loss of $8.8 million and a net loss of $4.3 million.

Meanwhile, insurance regulators in Missouri, Nebraska and Illinois confirm they are investigating RAM's activities, though they would not comment on details of the investigations.

In addition, the Florida exchange is investigating RAM to determine the extent of the liabilities of the two IEA syndicates that reinsured Omaha Indemnity, according to William Sadowski, a lawyer with Akerman, Senterfitt & Eidson in Miami and a member of the exchange's board of governors.

At an emergency meeting of the board earlier this month, Administrative Management Services and RAM Syndicate agreed to stop writing all new and renewal business and to assist the exchange in collecting information on the RAM-produced business, Mr. Sadowski said.

"About the only thing I could say is that we don't have a complete handle yet on the facts of the situation," he noted.

Mr. Sadowski and the Omaha Indemnity spokesman said that they don't know exactly how much of the $87 million in total premiums allegedly written by RAM between June 1983 and September 1985 was ceded to the syndicates and how much was ceded to Fielding.

RAM officials told the exchange board most of the business went to Fielding, Mr. Sadowski said.

James R. Wining, president of Kensu Holdings, said that RAM allocated premiums to the reinsurers in amounts that properly reflected their capital and surplus.

"We allocated a proper amount of premium and reported to Omaha the premium ceded to the exchange syndicates," said Mr. Wining, who is also a defendant in the Omaha Indemnity lawsuit.

Administrative Management Services reported net premiums of $16.4 million and policyholders surplus of $1.1 million at year-end 1985, while RAM Syndicate reported $12.2 million in net premiums and surplus of $2.05 million.

Fielding, meanwhile, reported net premiums of $37.5 million and policyholders surplus of $10.1 million at year-end 1985. Fielding increased its surplus by $6.9 million in 1984 with the proceeds of a bank loan arranged by Kensu, according to the companies' financial statements.

The two syndicates wrote combined gross premiums of $44.2 million from 1983 to 1985, while Fielding wrote gross premiums of $56.8 million during the same period.

Mr. Sadowski said the exchange is investigating the possibility that premiums were ceded to the syndicates and not reported—as required by exchange guidelines—to the exchange's central processing facility.

If the syndicates assumed a significant amount of Omaha Indemnity's business and if the liabilities are as large as the insurer claims, the losses could exhaust not only the surplus of the two syndicates but also the exchange's own guarantee fund, he conceded.

The guarantee fund—intended to cover the liabilities of insolvent syndicates—currently stands at $12.5 million. An additional $10 million could be raised through assessments of exchange syndicates.

"Taking the numbers at their most extreme certainly presents a serious challenge for the exchange," Mr. Sadowski said. "Obviously one of the purposes of our effort is to get a fix on what the range of exposures is." He added, however, the exchange may have defenses against Omaha Indemnity claims and that the guarantee fund mechanism may block some recoveries.

Administrative Management Services, meanwhile, filed suit earlier this year against Omaha Indemnity, RAM, Mr. Wining and and William A. Schonacher, chairman and chief executive officer of RAM, in U.S. District Court in Miami.

The suit, charging fraud and violations of the Racketeer Influenced and Corrupt Organizations Act, seeks an unspecified amount of compensatory and punitive damages, along with recision of the reinsurance agreement with Omaha Indemnity.

The suit filed by Omaha Indemnity also named Mr. Schonacher, along with Program Administrative Services Inc. and Patrician Realty Inc., two other Kensu Holdings subsidiaries.

Mr. Schonacher and Mr. Wining own Kensu Holdings.

Omaha Indemnity entered into its MGA agreement with World American Underwriters in June 1982, according to the complaint.

Under the agreement, Kansas City-based World American wrote reinsurance risks for Omaha Indemnity and arranged a retrocessional agreement under which 95% of each risk was retroceded to Union Indemnity Insurance Co. of New York, a unit of Frank B. Hall & Co. Inc.

In May 1985, Union Indemnity notified RAM that it intended to rescind the retrocessional agreement on the grounds that up to 90% of the business written by World American had been written in violation of the authority granted by the MGA agreement.

Union Indemnity was ordered liquidated by a New York court in July.

Omaha Indemnity's complaint charges that World American wrote more than $31 million in gross premiums between 1982 and December 1985, while reporting less than $16 million to Omaha Indemnity.

The unreported premiums were retained by RAM, which had purchased the reinsurance division of World American in 1984, as "loss funds," according to court papers filed by Omaha Indemnity.

Incurred losses and expenses on this business of $31 million in gross premiums so far total more than $62 million "and are increasing daily," the complaint says.

In its 1985 annual statement, Omaha Indemnity reported a $75 million liability for unauthorized reinsurance, $40 million of which was attributable to Union Indemnity and $35 million of which was attributable to the Florida exchange syndicates and Fielding.

RAM's MGA agreement with Omaha Indemnity became effective in June 1983, after Messrs. Schonacher and Wining—who had been employees of World American—left the MGA to form Royal American Managers.

RAM was to retrocede 95% of Omaha Indemnity's participation on each risk to Administrative Management Services, the complaint says.

RAM had reported total premium volume of about $8 million by the fall of 1984, and after Omaha became "concerned" about the volume of business being ceded to Administrative Management Services, RAM added RAM Syndicate as an additional reinsurer and agreed to retrocede 100% of each risk, according to the complaint.

During a May 1985 audit, Omaha Indemnity found that in cases where it thought it had been bound on only a portion of a risk, RAM had actually bound it for 100% and arranged retrocessions to Fielding or other companies related to RAM, the complaint says.

The audit also revealed that RAM had written premiums far in excess of what had been reported to Omaha Indemnity.

Between June 1983 and September 1985, RAM wrote more than $87 million in premiums for Omaha Indemnity, while reporting only $35 million to the company, according to the complaint.

The bulk of the $52 million in unreported premiums was transferred to Fielding as retrocessionaire on risks that RAM bound for Omaha Indemnity but did not disclose to the insurer, according to court papers filed by Omaha Indemnity.

About $4 million of the undisclosed premiums were held by RAM to purchase excess of loss reinsurance for Omaha Indemnity's retrocessionaires, while about $5.2 million was retained by RAM in a "loss fund," court papers say.

To date, Omaha Indemnity's incurred losses and expenses on the RAM business exceed $107 million and are increasing, the insurer says.

Omaha Indemnity also alleges in its complaint that:

- World American and/or RAM bound it as a reinsurer of Lafayette Reinsurance Co. Ltd., an offshore reinsurer, on policies issued in Australia in violation of coverage limi and territorial restrictions in th MGA agreements.
- On business ceded to Omah Indemnity from Protective Casualty, RAM reported written premiums of $2.6 million as of Sept. 30 1985, and a net loss of $1.5 millio on the program after paid losses reserves and expenses, but Protective had actually reported to RAM $45 million in premiums and a ne loss of $27.7 million as of that date.
- In its purchase agreement fo World American's reinsurance division, RAM agreed to pay World American's parent, Financia Guardian Group Inc., 1% of premiums collected on business originally written by World American These premiums were deducted a "commission expenses" from amounts reported to Omaha Indemnity, "thus causing Omaha Indemnity unwittingly to pay fo RAM's purchase of WAU's business," court papers say.

None of the defendants has ye filed an answer to the Omaha Indemnity complaint, though Kensu and its subsidiaries will file an answer and a counterclaim shortly according to Mr. Wining.

Mr. Wining denied any failure to report premiums or losses to Omaha Indemnity, noting that RAM was using a computer software system designed by Omaha to allocate premiums and losses by company.

"Information was furnished to them as they had stipulated in a computer program that they designed," he said. "We reported to them 100% of the premium we wrote here in Kansas City."

He added that Omaha Indemnity was aware of its participations on risks and the related retrocessions.

"Omaha Indemnity Co. has known all along that they have treaty reinsurance and facultative reinsurance that we placed on their behalf," he said, noting that the reinsurance with Fielding was facultative while cessions to the Florida exchange syndicates were under a 50/50 quota-share treaty between the two syndicates.

Mr. Wining also said that RAM's purchase of World American was carried out with the "knowledge and inducement" of Omaha Indemnity. Omaha wanted RAM to acquire the business so that it would continue under the management of the same individuals, he said.

He added that the 1% of premiums payable to Financial Guardian, World American's parent, would have been "absolved" by an increase in the MGA fee to 7.5% of written premiums under the RAM agreement from 5% under the World American agreement.

Mr. Wining also said that Omaha Indemnity has no legitimate claim concerning the World American purchase, since it was retroceding 100% of the premiums and therefore suffered no loss from the payments to Financial Guardian. ■

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Benefit legislation

ontinued from page 1

The Finance Committee package also akes it easier for 401(k) participants to con-ibute funds to Individual Retirement Ac-ounts than the House bill.

Under the Finance Committee proposal, mployee contributions to IRAs would be re-uced dollar for dollar for 401(k) deferrals xceeding $10,000. Under the House bill, owever, IRA contributions would be re-uced by any amount deferred to a 401(k) lan.

The Finance Committee also approved omewhat less restrictive rules—compared ith the House—in figuring who is a highly ompensated employee to determine if a 01(k) discriminates in favor of the highly aid.

Under the Finance Committee proposal, lan discrimination would be tested by com-aring deferrals made by a newly defined roup of highly compensated employees with eferrals made by lower-paid employees. ighly-paid employees would include:

- Employees who own 5% or more of a ompany.
- Employees earning more than $100,000 nnually.
- Employees earning more than $50,000 nnually who also are among the top-paid 0% of employees.
- Officers who earn at least 1½ times the efined contribution maximum—currently 45,000.

The House bill's definition of who is con-dered a highly compensated employee is omewhat more restrictive (*BI*, Nov. 11, 985). For example, employees earning more an $50,000 would be considered highly ompensated under the House bill, compared ith a general $100,000 threshold in the Fi-ance Committee package.

The lengthy definitions of highly compen-ated employees in the Finance Committee ackage and in the House tax bill contrast harply with the current non-discrimination est, which simply compares deferrals made y the highest paid one-third of a company's mployees to deferrals made by the lower-aid two-thirds.

However, the Finance Committee agreed retain the current actual deferral percent-ge test for 401(k) plans to compare deferrals y the highly compensated to the lower-paid mployees.

Under that test, the average salary deferral ected by the highly compensated group can ot exceed the greater of two amounts:

- 150% of the average deferral percentage ADP) of the lower-paid.
- 250% of the average deferral percentage mong the lower-paid as long as the differ-nce between the average of the two groups oes not exceed 3%.

The deferral tests contained in the House ll are much stricter. In the House bill, the verage salary deferral elected by the highly compensated group could not exceed the greater of these two amounts:

- 125% of the ADP of the lower-paid employees.
- The lesser of 200% of the ADP of the lower-paid employees or the ADP of the lower-paid employees plus 2%.

'It seems to be politically popular to expand benefits—even benefits that may not be significant—to a larger group of employees,' says Frederick Rumack, director of taxes and legal services at Buck Consultants Inc. in New York, referring to the move toward accelerated vesting in pension plans.

In addition, the House bill would slap a 15% excise tax on employees who receive 401(k) funds before age 59½ and don't roll the money over into an IRA. The Finance Committee, by contrast, would shield employees from that 15% excise tax if the 401(k) funds were used to pay for uninsured catastrophic medical expenses or after unemployment benefits ran out following an involuntary termination.

The Finance Committee package also gives the green light to tax-exempt employers to establish 401(k) plans. Under the House bill, only those tax-exempt employers that received Internal Revenue Service approval as of Nov. 6, 1985, can sponsor 401(k) plans.

In the area of maximum pension benefits and contributions, the Finance Committee package is a significant improvement over the House bill, benefit experts agree.

Under the Finance package, the maximum defined benefit and defined contribution limits would remain at the current $90,000 and $30,000 limits, respectively.

Calculating increases in maximum pension benefits and contributions would be changed. These limits would be indexed to annual increases in the Social Security wage base. Currently, increases in the limits are indexed to the Consumer Price Index.

The $30,000 defined contribution limit would be frozen until the defined benefit limit reaches $120,000. After that, the maximum defined contribution limit would be held to 25% of the maximum defined benefit limit.

By contrast, the House bill calls for cuts in maximum benefits and contributions. For example, the maximum annual benefit funded through a defined benefit plan would be cut to $77,000 from $90,000. The maximum contribution to a defined contribution plan would be reduced to $25,000 from $30,000.

Under the House bill, the new, lower defined benefit limit would be increased, starting in 1988, to match increases in the CPI. However, the defined contribution limit would not be raised until the maximum defined benefit limit reaches $100,000.

It isn't clear when indexing of the benefit maximums would begin under the Finance Committee package.

The Finance Committee package would require employers to adopt new, faster vesting schedules.

The package gives employers a choice of two vesting schedules: allowing employees to be 100% vested after five years of service; or, 20% vesting after three years of service and then 20% vesting annually until 100% vesting is achieved after seven years.

Multiemployer pension plans still could offer 10-year vesting, the standard that now exists among single-employer plans.

Most employers would have to offer either of these new vesting schedules by Jan. 1, 1989.

In the case of pension plans offered through collective bargaining agreements, the vesting provision would go into effect after the expiration of the agreement or Jan. 1, 1991, whichever is earlier.

While faster vesting would boost many employers' costs, it is doubtful much lobbying will occur to oppose the change because of the support it has in Congress.

"It seems to be politically popular to expand benefits—even benefits that may not be significant—to a larger group of employees," said Frederick Rumack, director of taxes and legal services at Buck Consultants Inc. in New York.

Similarly, despite potentially greater costs, there probably won't be any significant opposition to a Finance Committee provision to change the way companies can integrate their pension plans with Social Security.

Many employers now use 50% of the Social Security benefits a retiree receives to reduce pension benefits.

For example, assume that a worker was entitled to a monthly $500 corporate pension and also was entitled to a $600 Social Security benefit. Under a 50% offset, the pension benefit could be reduced to $200.

By contrast, under the Finance Committee package, regardless of the integration formula, the plan benefit generally could not be reduced by more than 50%.

In the above example, the retiree's pension only could be reduced to $250—or 50% of the original $500 benefit.

Many experts say an overhaul of integration rules is overdue and the Finance Committee package has the advantage of simplicity.

"The rules are very simple and should cause no trouble for professionals," said Ms. Stuchiner of Kwasha Lipton. ■

X.L. capitalization to be $250 million, Clements says

NEW YORK—X.L. Insurance Co. Ltd., the new Barbados-domiciled insurer organized by Marsh & McLennan Cos. Inc. and Morgan Guaranty Trust Co., will be capitalized with more than $250 million on May 1, says Robert Clements, president of M&M Inc. (*BI*, March 17).

Mr. Clements said either $5 million or $10 million in capital will be contributed by each of more than 50 businesses representing a broad range of U.S. and foreign industrial and service companies.

X.L. expects to begin writing coverage for sponsors May 1 and for non-sponsors, who would be required to buy shares in EXEL Corp., X.L.'s parent company, on or about June 1.

X.L. will provide excess liability insurance coverage of $25 million excess of not less than $25 million, says Mr. Clements.

X.L. is expected to be "complementary" to the line slip now being organized by M&M and Johnson & Higgins with a group of U.S. property/casualty insurers, Mr. Clements says.

Marsh & McLennan said last month the tentatively named American Slip is intended to write liability limits of $75 million excess of $25 million, but X.L. would be used to provide part of that capacity if insurer participation fell short.

X.L. will also provide $15 million of directors and officers liability insurance in excess of not less than $20 million. M&M originally said that X.L. would only write D&O limits of $10 million.

Any D&O coverage provided by X.L. will be matched by A.C.E. Insurance Co. Ltd., the Cayman-domiciled insurer M&M helped organize last year.

A.C.E. writes D&O coverage excess of at least $25 million, with a maximum limit of $50 million excess of $50 million (*BI*, Dec. 30, 1985). ■

British Issues

22 April Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence	pence
Commi Union	333	30.3	16.9	5.0	333—323	
Genl Accident	895	16.3	31.4	3.5	927—890	
Gdn Royal Exch	925	20.1	40.7	4.4	930—925	
Royal	924	16.8	36.7	3.9	924—892	
Sun Alliance	740	24.7	23.6	3.3	740—727	
Brokers						
CE Heath	645	8.7	36.0	5.5	653—645	
Hogg Robinson	331	11.0	13.4	4.0	333—323	
JH Minet	251	9.3	10.7	4.2	257—250	
Sedg Grp	343	12.7	15.7	4.5	350—343	
Stew Wrightson	395	12.5	15.7	3.9	397—382	
Willis Faber	410	15.2	12.5	3.0	410—400	

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

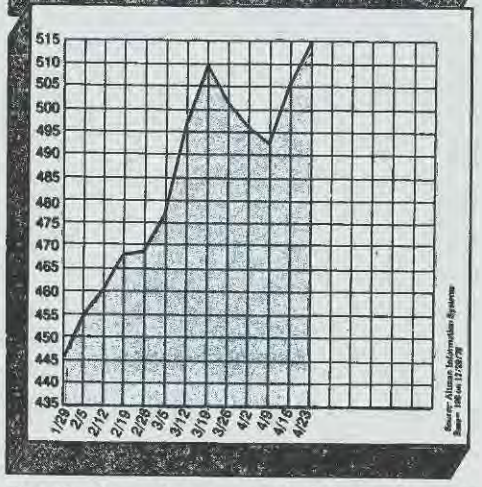
BI Industry Stock Report

April 23, 1986 4/17/86 thru 4/23/86

		Price	% Chg.	P/E	$ Div.	% Yld.	High	Low	Vol.(000)
Brokers									
Alexander & Alexander Svcs	NYSE	36.63	2.1	0.0	1.00	2.7	36.75	36.38	362.9
Baldwin & Lyons Inc	OTC	98.00	2.1	376.9	0.80	0.8	101.50	94.00	1.8
Corroon & Black Corp	NYSE	70.50	9.7	22.4	1.30	1.8	70.50*	65.25	119.2
Crump E H Cos Inc	OTC	25.75	6.2	21.8	0.25	1.0	25.75*	25.25	157.5
Emett & Chandler Cos Inc	OTC	18.50	1.4	27.6	0.00	0.0	19.00	18.25	4.7
Gallagher Arthur J & Co	OTC	54.50	-0.9	23.5	0.40	0.7	55.00	53.00	29.6
Hall Frank B & Co Inc	NYSE	20.25	0.0	0.0	0.00	0.0	20.25	19.88	398.9
Marsh & Mclennan Cos Inc	NYSE	112.63	6.8	25.3	3.00	2.7	113.50*	106.13	351.4
Poe & Assoc Inc	OTC	20.00	0.0	0.0	0.80	4.0	20.00	20.00	4.2
AGENTS/BROKERS	AVERAGE			157.0		1.7			
Conglomerates & Holding Cos.									
American Express(Fireman's Fd)	NYSE	62.88	-7.5	14.7	1.36	2.2	67.13	62.88	5,546.1
Anderson Clayton(Ranger/PanAm)	NYSE	52.00	-8.6	29.7	0.00	0.0	57.13	52.00	513.5
Amaco Inc	NYSE	9.13	0.0	0.0	0.00	0.0	9.25	9.13	493.0
Berkley W R Corp	OTC	49.75	-2.5	52.6	0.36	0.7	51.50	48.75	378.0
CIGNA Corp	NYSE	66.75	-6.2	0.0	2.60	3.9	70.88	66.75	1,008.0
CNA Finl Corp (CNA)	NYSE	65.13	-9.2	21.6	0.00	0.0	71.00	65.13	277.9
General Re Corp	NYSE	118.50	-1.3	85.6	1.76	1.5	122.00	118.50	525.3
ITT (Hartford Group)	NYSE	46.88	1.6	24.8	1.00	2.1	46.88	46.13	2,582.8
Sears Roebuck & Co. (Allstate)	NYSE	44.38	-8.5	12.9	1.76	4.0	48.38	44.38	6,143.3
Teledyne Inc (Argonaut)	NYSE	346.75	-1.0	8.3	0.00	0.0	353.00	343.75	215.5
Transamerica Corp (Occidental)	NYSE	35.63	-3.7	17.0	1.68	4.7	37.00	35.63	805.9
CONGLOMERATES/HOLDING COS.	AVERAGE			18.8		1.2			
Insurers									
Aetna Life & Cas Co	NYSE	62.25	-2.0	16.2	2.64	4.2	64.63	62.25	1,216.7
American General Corp	NYSE	39.38	-5.7	12.2	1.12	2.8	41.25	39.38	1,318.9
Amern Heritage Life Invt Co	NYSE	40.25	1.3	15.1	1.20	3.0	40.25	39.75	2.3
American Indty Finl Corp	OTC	22.00	0.0	0.0	1.12	5.1	22.75	22.00	83.6
American Intl Group Inc	NYSE	130.00	-1.7	26.5	0.44	0.3	131.75	130.00	712.3
Aneco Reins Ltd	OTC	2.88	83.9	0.0	0.00	0.0	2.88*	2.06	46.9
Avemco Corp	NYSE	41.00	7.9	15.2	0.60	1.5	41.00*	38.50	15.2
Business Mens Assurn Co Amer	OTC	29.75	0.4	13.8	1.10	3.7	30.25	29.63	100.7
Chubb Corp	NYSE	72.13	-1.4	0.0	1.56	2.2	74.13	72.13	291.8
Combined Intl Corp	NYSE	62.25	-0.8	12.9	2.24	3.6	64.50	62.25	112.8
Continental Corp	NYSE	47.00	-4.1	0.0	2.60	5.5	49.13	47.00	885.8
Crown Life Ins Co	OTC	300.00	8.1	18.1	0.00	0.0	300.00*	277.50	2.3
Durham Corp	OTC	43.50	0.0	12.0	1.36	3.1	43.75	43.00	13.5
Farmers Group Inc	OTC	83.00	-1.8	15.3	2.00	2.4	85.50	83.00	278.7
Fairmont Finl Inc	AMEX	25.38	6.8	21.1	0.00	0.0	25.50*	24.50	63.5
Fireman Fd Corp	NYSE	39.88	-7.8	0.4	0.30	0.8	42.50	39.88	801.5
Fremont Gen Corp	OTC	29.38	-3.7	0.0	0.48	1.6	30.13	29.38	283.4
Great West Life Assurn Co	OTC	630.00	0.8	6.3	18.00	2.9	630.00*	625.00	0.4
Home Group Inc	AMEX	27.50	-2.7	0.0	0.00	0.0	28.75	27.38	560.2
Hanover Ins Co	OTC	65.75	0.8	64.5	0.56	0.9	65.75	65.00	106.8
Hartford Steam Boiler Insptn	OTC	72.75	3.9	13.4	2.00	2.7	72.75*	71.50	18.6
Kans City Life Ins	OTC	31.50	-2.3	12.4	0.87	2.8	32.25	31.50	21.4
Kemper Corp	OTC	100.75	4.9	21.8	1.80	1.8	102.00*	96.50	451.3
Liberty Corp S C	NYSE	43.13	0.3	18.0	0.72	1.7	43.50*	42.88	21.2
Lincoln Natl Corp Ind	NYSE	59.13	-1.0	13.7	2.00	3.4	60.88	59.13	222.0
Mission Ins Group Inc	PAC	4.00	0.0	0.0	0.00	0.0	4.38	4.00	620.0
Monumental Corp	OTC	41.00	0.3	13.9	1.40	3.4	41.50*	41.00	9.7
Nac Re Corp	OTC	34.25	3.0	0.0	0.00	0.0	34.25	33.25	108.1
Nobel Ins Ltd	OTC	17.50	2.9	23.0	0.25	1.4	17.50	17.00	48.3
Northwestern Natl Life Ins	OTC	28.38	5.6	14.0	0.86	3.0	28.50	26.88	732.0
Ohio Cas Corp	OTC	83.75	-2.3	24.6	3.00	3.6	86.75	83.75	55.2
Old Rep Intl Corp	OTC	39.50	-4.0	14.3	0.74	1.9	41.00	39.50	230.6
Orion Cap Corp	NYSE	36.50	-3.9	0.0	0.76	2.1	37.00	36.50	152.6
Protective Corp	OTC	23.50	6.8	13.6	0.66	2.8	23.75	22.50	69.4
Provident Life & Acc Ins Co	OTC	29.63	-2.9	10.3	0.84	2.8	30.50	29.63	318.1
St Paul Cos Inc	OTC	99.50	-0.7	44.0	3.00	3.0	101.25	99.50	310.4
SAFECO Corp	OTC	59.25	5.6	18.0	1.60	2.7	59.25	57.50	801.3
Sri Corp	OTC	23.75	0.0	0.0	0.80	3.4	24.13*	23.75	315.5
Seibels Bruce Group Inc	OTC	20.50	-1.2	11.4	0.80	3.9	20.75	20.50	14.8
Statesman Group Inc	OTC	7.00	9.8	0.0	0.05	0.7	7.13	6.50	235.0
Tokio Marine & Fire Ins Co	OTC	341.00	6.5	64.2	1.05	0.3	347.50	325.50	15.0
Torchmark Corp	NYSE	34.13	1.1	14.8	0.60	1.8	35.63*	34.00	755.6
Travelers Corp	NYSE	51.63	-0.7	12.9	2.16	4.2	53.00	51.63	3,588.8
United Fire & Cas Co	OTC	23.00	0.0	766.7	0.80	3.5	23.00	23.00	33.5
United States Fid & Gty Co	NYSE	41.88	-2.9	0.0	2.32	5.5	43.00	41.88	1,171.9
Uslife Corp	NYSE	43.25	-4.4	11.7	1.12	2.6	45.00	43.25	306.7
Washington Natl Corp	NYSE	35.00	0.0	15.9	1.08	3.1	35.38*	34.13	110.3
Zenith Natl Ins Corp	OTC	30.25	-6.2	0.0	0.80	2.6	32.25	30.25	126.8
INSURANCE COMPANIES	AVERAGE			11.3		2.1			

System design: Altman Information Systems

BI Insurance Index



The *Business Insurance* stock index has set another record high. The *BI* index of insurance stocks closed at 514 points April 23, up 8.9 points from 505.1 points on April 16, and up 5 points from the previous high of 509 points, set March 19. A total of 26 stocks rose, 26 fell and eight were unchanged. The biggest gains were by Aneco Reinsurance Co. Ltd., up 83.9%; Statesman Group Inc., up 9.8%; Corroon & Black Corp., up 9.7%; and Crown Life Insurance Co., up 8.1%. The biggest losses were by CNA Financial Corp., down 9.2%; Fireman's Fund Corp., down 7.8%; Zenith National Insurance Corp., down 6.2%; and CIGNA Corp., down 6.2%. The *BI* index rose an average of 1.8% for the trading period; the NYSE composite fell 0.2% and the Dow Jones 30 Industrials fell 1%.

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Q. The Hartford—you mean the company with the moose?
A. It's a stag. I've got an option with my Hartford policy that replaces lost income for as long as a year.
Q. No kidding?
A. Yep. It can even pay the expenses of starting up again.
Q. Sounds great. How long have you been insured by The Hartford?
A. Ever since I got started in shoelace cleaning thirty years ago.
Q. And just how did you get started?
A. I pulled some strings.

PIA

Year after year, you'll like doing business with The Hartford, the insurance people of ITT.

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