

business insurance

update:

Building inspectors named in Hyatt suit

KANSAS CITY, Mo.—A Kansas City couple have named two city building safety inspectors in a suit arising from last month's disaster at the Hyatt Regency Hotel.

Ray and Antonia Lopez claim in the suit, filed in Jackson County Circuit Court, that the inspectors did not spend enough time at the hotel construction site to do their jobs

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Borden wins a reprieve from new pension costs

By JERRY GEISEL

DETROIT—Trustees of a multiemployer pension plan cannot unilaterally increase benefits if the action creates new unfunded liabilities for employers, a federal judge has ruled.

The Multiemployer Pension Plan Amendments Act of 1980 creates potential liabilities that employers never bargained for when they joined a plan, U.S. District Court Judge Charles Joiner said.

As a result, plan trustees no longer have an "unfettered authority" to set benefits, Judge Joiner said as he granted a preliminary injunction barring the United Dairy Workers Pension Program from increasing benefits that would create new unfunded liabilities without the employers' consent.

Judge Joiner's decision came in a suit filed by Borden Inc., which is seeking a permanent injunction to block the plan trustees from making any change in the benefit factor that would result in unfunded liabilities. The company wants to keep the current benefit formula until it can negotiate an increase with the union.

The ruling marks the first major victory for employers who are beginning to fight the Multiemployer Amendments Act that places, in many cases, huge new financial responsibilities on employers who participate in the multiemployer pension plans.

Several lawsuits have been filed by employers who withdrew from the plans and were hit with enormous liability claims to pay for a share of unfunded benefits. The

employers charge that the act is unconstitutional because it allows the taking of property without a trial. The cases are pending.

The plan trustees in the Borden case proposed raising the benefit factor so that a participant in the dairy plan would receive a pension benefit of \$10 to \$11 per month for each year of service, instead of the current benefit of \$7.14 to \$8 per month for each year of service. The average monthly benefit now is \$255.

That increase, Borden contended, would result in \$1 million in unfunded liabilities. The small plan, which has 343 employee-participants, including 268 Borden workers, and 844 retirees, is currently fully funded.

Until last year, Borden, like thousands of other employers that participate in the nation's 2,000 multiemployer pension plans, did not fight bene-

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Employee pension write-offs pose pitfalls for employers

By JAMES LAWSON

NEW YORK—The new tax-cut law that allows workers to take tax deductions for pension contributions could be troublesome and costly for some employers who attempt to establish voluntary retirement plans.

President Reagan's Economic Recovery Tax Act, signed earlier this month, has many employers and benefits experts wondering whether it's feasible to change existing pension plans to accommodate voluntary employee contributions.

And many companies that presently do not allow employees to make pension contributions or have other contributory investment programs may choose not to

establish new plans, say employee benefits consultants.

Benefits experts say establishing such voluntary plans would be a good company benefit that would allow employees an easy way to save for their retirement through payroll deduction. They say such employee savings can relieve pressures on the troubled Social Security program and ease the demand for a mandatory pension system.

However, some say administrative costs, communications problems and increased competition from outside marketers of Individual Retirement Accounts and other retirement plans will be deterrents.

Employers may prefer to allow IRAs, also made available to persons covered by a corporate pension

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Another firm protests act

By JERRY GEISEL

CHICAGO—Another trucking company is challenging the constitutionality of the Multiemployer Amendments Act.

Essex Group Inc. and its trucking subsidiary, Transport Motor Express Inc., both of Fort Wayne, Ind., are battling in federal court a multiemployer pension plan that wants more than double TMX's net worth to help cover the plan's unfunded vested liabilities.

The Multiemployer Pension Plan Amendments Act of 1980 gives multiemployer pension plans the power to collect the enormous payments for unfunded liabilities from employers who withdraw from the plans.

The Central States, Southeast and Southwest Areas Teamsters' pension fund is claiming TMX owes it more than \$8 million.

The TMX/Essex suit comes on the heels of a suit filed in July by Republic Industries of Kansas City, Mo., and Johnson Motor Lines Inc. of Charlotte,

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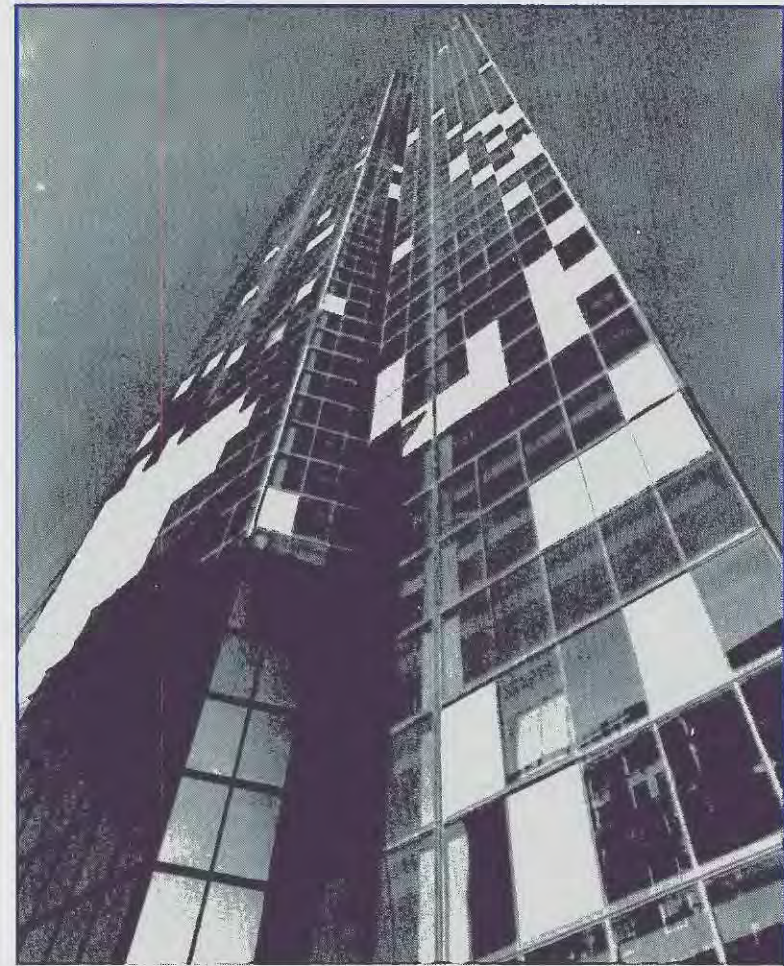


Photo: Wide World

Windows in the John Hancock building in Boston were boarded after the panes started popping out.

Hancock settles falling-window case out of court

By WILLIAM BOOTH

BOSTON—After a six-year legal battle and lots of falling glass, John Hancock Mutual Life Insurance Co. has settled with four companies involved in the construction of its 60-story office tower in Boston.

Hancock sought more than \$160 million from five designers, contractors and manufacturers named in the original suit filed in 1975 after large panes of glass began peeling off the tower and plummeting to the sidewalks below.

At least seven primary and excess insurers are participating in the settlement with coverage limits exceeding \$67 million, *Business Insurance* has learned. However, the details on how much each defendant will pay and the exact total Hancock will receive have been sealed.

As part of the out-of-court agreement, Hancock and the designers and contractors are refusing to release details of the settlement. The suit was still in the pretrial discovery stage after six years.

One industry source suggests the reason for the secrecy surround-

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properly. By the use of ordinary care, the suit states, the inspectors could have discovered defects in the skybridges that crashed to the floor of the hotel's lobby July 17.

Mr. Lopez, who was hurt in the accident, is seeking \$600,000 in compensation and \$2 million in punitive damages from the inspectors and other parties named in the suit. Mrs. Lopez is seeking \$700,000 for the loss of his services and \$6 million in punitive damages.

Eighteen new damages suits have been filed in the circuit court and another has been entered in U.S. District Court, bringing the total amount of damages so far sought by victims and relatives of those hurt or killed at the Hyatt to \$1.37 billion. The suits represent claims filed in the names of 40 people who were killed and 38 who were injured (BI, Aug. 17).

In a separate action, U.S. District Court Judge Scott O. Wright called an Aug. 27 meeting of the lawyers involved in the nine federal court cases. He said he would appoint a committee of the attorneys to discover evidence.

Nearly 50 plaintiffs' lawyers involved in the 60 circuit court suits already filed have met informally several times, said Norman O. Sanders, one of those involved.

Another victim died last week, raising the death toll to 112. Cathy Jean Carver, 32, a first-grade teacher from Mission, Kan., had been in a coma for 33 days.

OSHA noise rules modified

WASHINGTON—The Occupational Health and Safety Administration last week allowed an often-delayed noise standard to go into effect, but it eased employer requirements on noise monitoring and hearing tests.

The final rule, which went into effect Aug. 22, still requires that employers provide earmuffs or earplugs to employees if they are exposed to daily noise levels of more than 85 decibels.

If the noise level exceeds 90 decibels daily, workers must wear protective devices. In addition, employers must offer periodic tests if workers are exposed to more than 85 decibels a day.

However, OSHA scrapped its original, complex rules, issued Jan. 16 and delayed three times, that detailed how employers were to measure noise levels.

The provisions that went into effect last week simply require noise monitoring; employers are free to decide whether to monitor the noise exposure of individual workers, measure general noise at a work station or use some other method to determine whether workers are exposed to noise exceeding 85 decibels.

Strike claims paid until Aug. 2

NEW YORK—Lloyd's of London underwriters have agreed to pay strike insurance claims to major league baseball club owners through Aug. 2, three days before the Aug. 5 expiration date of the \$50 million policy.

Underwriters and club owners reached the accord last week, warding off a potential dispute over payment of claims between the settlement of the strike on July 31 and the policy expiration (BI, Aug. 17).

Ray Grebey, the attorney for the owners, said underwriters agreed to pay \$100,000 per canceled game through Aug. 2 but not after that date because the players were in uniform and once again being paid by the teams.

Bank, Grant stockholders settle

NEW YORK—Morgan Guaranty & Trust Co. has agreed to pay about \$400,000 as its share of a \$2.8 million lawsuit filed by W.T. Grant shareholders, accusing the bank of concealing the defunct retailer's financial condition and of selling substantial holdings of Grant stock.

Twenty-six other banks are participating in the settlement, attorneys for Morgan said.

The firm would not disclose whether it is insured for the loss.

Exposure theory supported

BOSTON—The date of diagnosis of an asbestosis-related disease and not exposure to the substance should be used to decide which insurance policy will pay damage claims, a U.S. District Court judge has ruled.

The long-awaited decision in the Eagle-Picher Industry vs. Liberty Mutual Insurance Co. et al case is a victory for Liberty Mutual and other insurers who favor the manifestation theory.

The Insurance Co. of North America and Liberty Mutual have petitioned the United States Supreme Court to review the issue in another case in which an appellate court ruled for the exposure theory.

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OMB inquiries may delay pollution insurance again

By EILEEN NORRIS

WASHINGTON—The Environmental Protection Agency's proposed regulations for hazardous waste liability insurance are likely to be delayed yet again—this time by the Office of Management and Budget.

The OMB, which is charged with reviewing the EPA's proposed regulations, has "raised some questions" about the requirements, said James Tozzi, deputy administrator of OMB's Office of Information and Regulatory Affairs.

Mr. Tozzi declined to disclose the nature of the questions and said the information is confidential.

"We've asked the EPA for addi-

tional data so it could be a while before the regulations are firm," he said. "We'll know more in a couple of weeks."

The questions are almost certain to delay the compliance deadline for the several thousand hazardous waste treatment, storage and disposal facility (TSDF) operators mandated to have pollution insurance. The target dates for compliance could be pushed back another 30 to 90 days, Mr. Tozzi said.

The EPA has been postponing the compliance deadline for about a year.

The Oct. 13 deadline for sudden pollution liability insurance, for which most companies are covered under their general liability policy,

is likely to be delayed.

And the April 12, 1982, deadline for the largest owners and operators of TSDFs to buy non-sudden pollution liability insurance—\$3 million per occurrence and \$6 million aggregate—will also be extended, said George Garland, chief of the economic and policy analysis branch of the EPA's solid waste division.

Compliance deadlines for mid-sized and small companies will be delayed accordingly, he added.

He said he couldn't talk about the regulations or what changes might come from the OMB's questions, but he said the EPA would still like to allow solvent companies

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Photo: Wide World

Debris from the balloon accident rests in front of the house through which one of the passengers fell.

Balloon coverage with Lloyd's

By STEPHEN TARNOFF

CHICAGO—Lloyd's of London could pay out more than \$500,000 after a hot-air balloon swept into high-voltage wires in a Chicago suburb and burned Aug. 15, killing four passengers and the pilot.

Only one of the passengers survived the less-than-one-minute ordeal when he jumped from the flame-engulfed balloon onto the median strip of a highway from 40 feet above ground. However, he is in critical condition.

The crash is believed to be the worst accident in U.S. ballooning history.

Lloyd's wrote the policy for professional pilot Jim Bicket, 26, according to Kent Urbine of the Urbine Balloon Agency of Greensboro, N.C., an excess/surplus

lines broker who placed the risk with Lloyd's.

Mr. Urbine said that Mr. Bicket's policy contained three separate coverages that included:

- Approximately \$10,000 in hull insurance.
- Third-party liability coverage of up to \$100,000 per passenger.
- \$1 million combined single limit third-party bodily injury/property damage coverage for injuries to people not in the balloon or damage to property caused by the balloon.

The pilot's death is not covered under the policy, Mr. Urbine said.

The policy had a \$50 deductible on property damage caused by the balloon and \$250 deductible for damage to the balloon. There was no deductible for bodily in-

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Firms fight change in interest rule

By RHONDA L. RUNDLE

SACRAMENTO, Calif.—Employer groups in California are battling a proposed law that could add hundreds of millions of dollars to insurance costs by charging interest on damages from a date before judgment is rendered.

Critics argue the proposal unfairly puts pressure on the defendant to settle since interest would be assessed from the date of an initial settlement demand offer rather than from the date of judgment, as current law provides.

Senate Bill 203, authored by Sen. Omer Rains, D-Santa Barbara, began as an uncontroversial measure to raise interest charges to 10% from 7% on post-judgment damage awards. After the bill passed the

Senate, it was amended twice to include pre-judgment interest. The current version, passed on an 8-4 vote by the Assembly Judiciary Committee Aug. 19, starts interest running from the date of an initial settlement demand offer by the plaintiff's attorney.

The measure will be heard on the Assembly floor in the next 10 days. If it passes, it must go to the Senate for a vote of concurrence.

"It's unfair to assess pre-judgment interest on an award that hasn't even been decided yet," said Paul Gladfely, director of the California Manufacturers Assn.

There is no doubt the measure would substantially increase premiums for most kinds of insurance, he added, but employer groups could not estimate the impact after

the bill was amended last week.

Other groups opposing the bill include the California Chamber of Commerce, the California Self-Insurers Assn., the American Automobile Assn. and the Assn. of California Insurance Companies.

The California Trial Lawyers Assn., which is sponsoring the bill, believes the change is necessary to prevent insurance companies from delaying claims payments to collect additional investment income.

But the Assn. of California Insurance Companies denies that insurers are delaying claims for this reason. Companies do need time to investigate the validity of claims, pointed out Edward Levy, general manager of the Assn. of California Insurance Com-

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MGM insurance

Hotel says back-dated cover has been placed, but plaintiffs' attorneys dispute amount

By RHONDA L. RUNDLE

LAS VEGAS, Nev.—The MGM Grand Hotel's back-dated liability insurance program to add \$170 million in coverage to pay claims from last year's tragic fire is complete, a senior company executive has confirmed.

Binders or commitments have been received from insurers for the full amount of the back-dated coverage bringing the hotel's compensatory damage insurance to \$200 million from \$30 million before the fire, according to the company's fiscal third-quarter report.

But attorneys representing more than 450 people who were injured or lost family members in the fire say documents filed with them show that the hotel-casino has only \$95 million in additional insurance.

They have filed a motion in U.S. District Court in Las Vegas demanding that MGM Grand Hotels furnish evidence of the full amount at a pretrial hearing scheduled Sept. 9.

The hotel executive could not explain the flap, citing information disclosed in the company's quarterly report indicated that the coverage is in force.

"I guess they can't read," he said, adding documents supporting insurers' commitments have been submitted to plaintiff attorneys.

Federal rules of procedure permit attorneys to discover the amounts of insurance and underwriting companies in a case like this one, said Neal Galatz, co-chairman of the plaintiffs' legal committee in Las Vegas.

"This is one of the factors used by plaintiff attorneys to seriously evaluate the collectability of the defendant, what its total assets are and how much should be sought in damages," Mr. Galatz explained.

The plaintiffs' legal committee is comprised of 12 attorneys in Nevada, California, Minneapolis, Philadelphia, Cincinnati, New Orleans and other locations. About 450 to 460 claimants are represented by
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Photo: Wide World
The MGM Grand is open for business again even though claims from last year's fire are unsettled.

Allstate to contest bad-faith judgment

By RHONDA L. RUNDLE

SANTA ANA, Calif.—Allstate Insurance Co. will fight a \$3.85 million award against it for failing to settle a suit against a policyholder who was then slapped with a judgment that exceeded the policy limits.

If post-trial motions fail, Allstate will appeal the bad-faith judgment handed down Aug. 10 by an Orange County Superior Court jury, a company spokesperson says.

The award included \$3 million in punitive damages against Allstate, plus \$500,000 for emotional suffering and distress to be paid equally by the insurer and its lawyers in the original automobile accident case. Allstate also was ordered to pay the \$350,000 still owed the plaintiff in the accident case.

The punitive damage award is the largest ever against the Chicago-based insurer, the company confirmed. It is also believed to be the largest jury award made in this type of excess judgment case.

The Allstate policyholder was able to sue Allstate on the grounds that the insurer is supposed to negotiate in good faith on behalf of the insured to
Continued on next page

Insurers try to trim rising legal costs

By STEPHEN TARNOFF

New battle plans are in force at insurance companies to fight the rising cost of litigation, changing the way insurers defend claims against their policyholders.

Legal expense cost-control programs are developing at many major insurance companies.

Leading the attack is Commercial Union Insurance Co., which is radically changing its approach toward claims defense. The company uses all the following methods in handling claims:

- A "mock trial" is staged to introduce an adversary proceeding into the claim evaluation process. Objectives include making sure the insurer is not failing to settle large cases solely out of concern for the amount involved and to avoid errors in considering a plaintiff's case.

- A "national account claims team," made up of trial lawyers and claims people, becomes familiar with a policyholder, its line of business, prior litigation experience and recent product design changes that might be the source of potential liability. The intent is to strengthen resistance to overstated or non-meritorious claims.

- Auditing litigation to discover which files are not being monitored adequately, any improper evaluation of a counsel's performance and any failure to review attorneys' bills.

- Using expanded in-house counsel to help avoid the more expensive hourly rates paid to outside attorneys.

Other insurers, including Aetna Life & Casualty, The St. Paul Cos. and The Travelers Corp., are emphasizing similar approaches. They include expanding use of in-house counsels and hiring less-experienced lawyers to handle smaller claims.

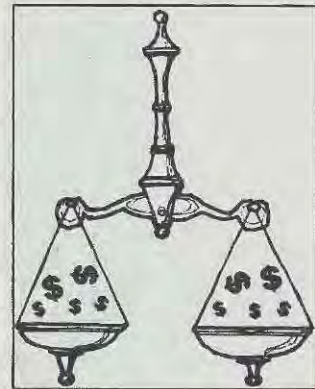
And some insurers have begun to take cost-containment measures, often similar to those used in monitoring health care costs, and apply them to the legal profession. Instead of monitoring doctors, insurers are monitoring their attorneys.

These procedures are in response to rising attorney fees, increasing litigation and more liberal discovery procedures, all of which are increasing the cost of defending claims and inflating the expense component of an insurance policy.

"We paid our attorneys more in 1980 than we paid in the entire claims department," said William T. Corbett of The Travelers.

Commercial Union says its efforts are paying off. "A lot of these are new concepts for the insurance industry," said William E. Bailey, the company's senior claims vp and claims counsel. "Many of the programs have proven to be of tremendous benefit."

Formulated in 1978, Commercial Union's program seeks to pay less
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Firms using universal life as part of benefit package

By JAMES LAWSON

NEW YORK—Universal life insurance, that hot new individual life coverage, is appealing to employers as a component of the corporate employee benefit program.

Some companies have started to use or are considering the new high-yielding, flexible life product to provide corporate key man insurance protection and to provide employees a deferred compensation benefit for post-retirement years.

Employers also consider universal life a useful instrument for providing their employees additional, low-cost current life coverage through voluntary payroll deductions. It also can be used for replacement insurance for retirees who want to continue life protection and for estate planning benefits.

Universal life insurance is a permanent life product that acts like "super whole life insurance," according to one insurance industry official. "It pays a high yield on cash value—generally 10% to 12%, compared with whole life's 2% to 6% yield; has separate protection and cash value portions; and has flexible premiums and an adjustable face value."

With a universal life policy, the policyholder can adjust premium payments to suit financial ability, change the face value to suit insurance needs and adjust the payout. Universal life generally costs less, industry officials say, allowing the policyholder to either purchase more insurance or pay less than he would with a traditional whole life policy.

A 33-year-old male purchasing a \$100,000 universal life insurance plan from one life insurer, for instance, would pay only \$600—half the annual premium he would pay for some whole life policies.

While most corporate users haven't adopted universal life as a replacement for their traditional group term plans, some are finding it is an investment tool that provides a good financial return both for themselves and employees who participate in corporate profit-sharing, thrift and savings plans.

"Many giant corporations within the next few months will begin participating in universal life programs as an added employee benefit," notes the Liberty Life spokesman, "especially as long as inflation is high and interest rates soar."

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Minnesota banks not hiking pension benefits

MINNEAPOLIS—While major corporations are increasing pension benefits to keep pace with inflation, small companies are not following that trend, a survey of Minnesota banks suggests.

The survey, commissioned by marketing consultants IntraMark Inc. in May and conducted by Touche Ross & Co., shows that only 6% of the 50 banks polled have increased pension benefits to current retirees in the last five years.

This contrasts sharply with the results of a Bankers Trusts Co. survey of the nation's largest corporations last fall. It showed that 72% of pension plans for salaried workers boosted benefits to retired workers between 1975 and 1980.

Of the 240 companies surveyed in the Bankers Trust poll, 216 were Fortune 500 firms. In the Touche Ross survey, the range of total assets for most of the banks was only \$25 million to \$50 million, and the number of em-
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Minnesota banks pension costs

Percent of payroll	Banks with more than 50 employees	Banks with fewer than 50 employees	All banks
2 - 4%	6	19	14%
5 - 7%	38	29	32%
8 - 10%	6	9	8%
11 - 13%	6	14	11%
14 - 16%	38	29	32%
N/C*	6		3%

*No contribution was made since plan was overfunded.



Allstate to contest bad-faith judgment

Continued from page 3
 prevent litigation resulting in judgments that exceed the insurance limits.
 The jury, however, ruled that the Tustin, Calif., law firm of Ruston & Nance, hired by Allstate to defend the auto case, was not responsible for the verdict exceeding the policy limits. During the trial, evidence was submitted showing the firm had recommended pretrial settlement to Allstate.

But the \$250,000 the law firm does have to pay the plaintiff is a reminder to defense attorneys that their first obligation is to the policyholder and not to the insurer who retained them and is paying them.

The \$3.85 million judgment in the Allstate suit contrasts sharply with \$450,000 awarded to accident

victim Anne Gallucci in the original automobile case. Ms. Gallucci was severely brain-damaged and paralyzed when her automobile was struck by another driven by Deborah Betts, who allegedly ran a red light.

Ms. Gallucci's family sued Ms. Betts for negligence and won a \$450,000 judgment in a 1977 trial, although Ms. Betts maintained she drove through a green light.

Allstate paid the \$100,000 limit under Ms. Betts' policy, leaving her with a \$350,000 debt. But an attorney she hired contacted Ms. Gallucci's attorneys, who said they believed Allstate and Ruston & Nance had inadequately represented their client.

Ms. Betts, now represented by her own attorney and Ms. Gallucci's former attorney, sued All-

state and Ruston & Nance for bad-faith failure to negotiate a settlement in the accident case.

Six weeks before the first trial, plaintiff Gallucci offered to settle the case for \$100,000, the limit of the defendant's liability insurance with Allstate, reports Neil Bahan, the Santa Ana attorney who represented Ms. Gallucci and now represents Ms. Betts.

"Allstate responded they would not pay a dime on this case," Mr. Bahan said. Evidence presented at the second trial, however, indicated that local Allstate claims adjusters and Ruston & Nance attorneys had urged the home office to settle.

"No offer was made because it was our considered opinion that there was no liability," said an Allstate spokesperson in Chicago.

"Further, Ms. Betts consistently maintained that she had the green light.

"The judgment of the Allstate claims adjusters who worked on the case, as well as our law firm, was that on an objective basis there was no liability. They did express opinions, based on the possibility a jury might disregard the facts because of the severe injury, that some offer might be considered.

"However, no offer was made because, in our judgment, there was no liability," explained the Allstate spokesman.

Allstate said it did not yet know whether its reinsurance treaties would pay part of the award, although industry sources were doubtful that such agreements would cover punitive damages in an excess-of-policy limits loss.

Besides the \$3 million in punitive damages and its \$250,000 share in the emotional suffering and distress damages, Allstate must pay an additional \$350,000 plus interest that Ms. Betts still owes to Ms. Gallucci.

Some daily newspapers in the Los Angeles area mistakenly reported that the punitive damages were against Ruston & Nance. And an attorney representing the law firm says the large emotional suffering and distress award against his clients was also an error.

"The jury violated the court's instructions on damages by including the excess verdict (Ms. Betts' debt to Ms. Gallucci) in the emotional distress category," explains Ronald C. Kline, the law firm's attorney in Santa Ana.

Jurors did not understand that the excess verdict would be paid automatically, he says. They came to the \$500,000 award figure for emotional suffering and distress damages by including the 350,000 debt and interest that Allstate automatically would have to pay.

Mr. Kline's plans to press his client's case that the lawyers don't owe anything for emotional distress brought on Ms. Betts by the debt because they had urged the insurer to settle.

In post-trial conferences, Mr. Kline says he was told by jurors they had intended to hit the law firm for \$25,000 but were confused about the court's instructions on damages.

The bad-faith suit was complicated by the lack of file documentation on the Gallucci case. Company employees testified at the trial that Allstate has a deliberate policy to keep settlement communications oral and not to write anything down, according to Mr. Bahan.

Balloon pilot was covered for accident

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 jury claims for passengers or people on the ground.

Mr. Urbine said premium on this type of policy averages \$500 to \$2,000.

He said it is unlikely that any waivers of liability were signed by the passengers because it is "hard to waive negligence," and in most cases such a waiver would be thrown out of court.

Mr. Urbine said it appears the accident probably involved pilot error. The Federal Aviation Administration is investigating the incident.

According to various accounts of the accident, Mr. Bicket attempted to land the balloon in a restaurant parking lot about 6:30 p.m. when the wind rose to an unsafe speed shortly after takeoff.

Before he could set the balloon down, however, a gust of wind reportedly swept it into a 34,000 volt power line causing the gondola to burst into flames.

Three of the passengers, including lone survivor Harry Evans of Florida, jumped from the gondola as it gained altitude after striking the power line. One fell through the roof of a home.

The gondola landed in the front yard of a home where the balloon's exploding propane tanks hampered the efforts of rescuers.

Of the six people in the balloon, two, including Mr. Evans, were experienced parachute jumpers. Three others had chartered a ride to celebrate the 24th birthday of one of the passengers.

CROSSWORD PUZZLE

ACROSS

1. Primary property coverage in which insurers accept stated percentage of risk. 2 words pl.
9. Auditor of accounts. abbr.
12. Person who runs a business. abbr.
13. E.g. Eskimo and pizza
14. A kind of session
15. The first one occurred in New Mexico on July 16, 1945. comp.
19. Am. dramatist. *The Man Who Came to Dinner*
20. Insurance payment
22. What one does with initial stated portion of insurance claim
23. Compass point
24. Musical compositions intended mainly for practice of technique
26. U.S. Attorney General, 1961-1964. Initials
27. Island of Immigration entry
29. Shortened version of girl's name
30. Realistic, practical
32. ___ and behold
33. You might have one of these in the fire
35. Type of excess insurance coverage. abbr.
36. Leader in underwriting management of excess and surplus lines
41. Cubic meter. abbr.
42. Capital of Tarn. France
43. ___id. Roman poet
44. Agreement between primary insurer and reinsurer
45. Section of playing field. abbr.
46. Cowboy
48. New England state. abbr.
49. One of President Reagan's principal advisers. first initial and last name
52. British scientific institution. abbr.
53. Vertical windows projecting from sloping roof
55. Baccala & Shoop's northwesternmost city
58. God of love

60. Duke or Day. 2 words
 61. ___ Paulo
 63. In a ___ jiffy
 65. Actor Colman
 66. Dutch airline. abbr.
 67. When an insurance company has not been licensed in a state. comp.
- DOWN**
2. Commercial casualty coverage insuring third parties against any risk
 3. Stare at
 4. Trolley
 5. Unit of mechanical energy. abbr.

6. N ____, national insurance organization
7. Insurance prefix
8. Affirmative. Sp.
9. What Baccala & Shoop is known as. 2 words
10. Go separate ways
11. Urban living spaces. abbr.
15. Vaulted semicircular recess in building
16. Midday rest
17. For shame!
18. Mail a letter a second time
19. Exclamation of joy
21. Stan the Man
22. Plaza ___ Toros
25. Free of wear or decay

28. Place to store belongings during athletic participation. 2 words
31. Affirmative. a 1a Gary Cooper
34. Where Kings and Red Wings play. 2 words pl.
36. Louisville Slugger
37. Payments in accordance with insurance policies
38. How excess coverage is structured. pl.
39. Division of risks among insurance companies
40. Commitment by insurer beyond normal capacity
47. Salmon eggs and lobster coral

50. Title prefixed to woman's name that does not indicate marital status
51. Red or Dead
53. Office furnishing
54. Spoken
56. Act for which injured party is entitled to compensation
57. Gait between a walk and a run
59. ___ culpa
62. Attendant of sick. abbr.
63. Chemical symbol for tin
64. Money market instrument. abbr.

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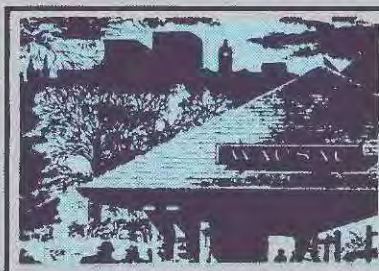
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Pension tax write-offs posing problems

Continued from page 1
plan by the new tax law, to be marketed to employees under a payroll deduction plan.

Accepting voluntary contributions to the corporate pension plan, however, may be a lot of work. "In a monetary sense, the employee gets the deductions and the employer has the added expense," explains Gerard Uslander, national director of technical & research services for Meidinger Inc., a benefits consultant in Louisville, Ky. "Higher-paid employees will tend

to use IRA plans. The consideration for an employer is 'how many of my employees will participate.'"

Failure to attract employees from all sectors of the income spectrum could cause discrimination problems with the Internal Revenue Service, some experts say.

But a study by William M. Mercer Inc. discounts that argument.

"An employer-sponsored program need not be concerned with discrimination issues; heavier participation by higher-paid employ-

ees than lower-paid will not present an obstacle," the report says.

Another deterrent, experts note, is the possible erosion of funds from other voluntary payroll deductible investment plans employers may offer.

Employees may choose to invest in a tax deductible pension plan rather than other corporate voluntary plans, such as profit-sharing or savings plans.

"It's probably easier for some larger employers because they have more of the administration in

place," Mr. Uslander explains.

"The only companies with a decision to make are the ones with a mandatory pension plan or a mandatory contributory savings or thrift plan," says David H. Gravitz, a benefits consultant with Buck Consultants in New York.

Companies with existing savings plans, Mr. Gravitz contends, would have to decide what to do with them. "Companies with no type of savings plan probably would be better off letting the employee get his own IRA."

Under the new pension plan provision in the Tax Act, workers will be allowed to take up to \$2,000 in tax deductions for voluntary contributions to a qualified company plan or an IRA.

Employees who withdraw funds before age 59½ are subject to a 10% excise tax and income tax on the distribution. They would not be able to take tax deductions after reaching age 70.

Under the old law, employees covered by a corporate pension plan could not purchase their own IRA account. Those who did purchase IRAs could only deduct \$1,500.

To get a tax deduction for contributions to the corporate pension plan, the employee must volunteer to make the contribution. It can't be a mandatory or company-matched contribution. The new regulations become effective Jan. 1.

An employee cannot contribute to both a corporate plan and an IRA for double deductions, but he could split contributions between them.

A recent report compiled by Hewitt Associates, a benefit consulting firm based in Lincolnshire, Ill., says a company can take three approaches to the new law:

- No employer involvement.
- Limited involvement. For example, an employer could offer a choice of IRAs from outside sources on a payroll-deduction basis. The company's involvement would include selecting the IRAs, deducting the contributions from payroll and publicizing the plan.
- Full involvement. The company would have to amend an existing plan to accept deductible employee contributions or establish a separate plan for that purpose.

If a company without an existing voluntary plan decides on the third route, it "will have to set up the monies collected," explains Charles Ginsberg, manager of research and technical services for the Human Resource Group of Alexander & Alexander Inc. Those contributions will have to be kept separated from other accounts.

Hewitt says that deductible voluntary contributions will not have to be maintained separately for investment purposes.

But, the Hewitt report says, "Individual participants must be given a separate accounting for their deductible contributions and the earnings thereon."

Government-mandated reports on pension investment will require additional information on the voluntary contributions, the report adds.

"I don't think a lot of employers will set up plans. They will encourage employees to purchase their own plans because there seems to be little benefit for an employer," says Anna Rappaport, vp and manager of Mercer's Chicago office.

Employers, she explains, would have to implement changes that would allow them to monitor contributions, accept them from spouses and communicate program performance to employees.

"Companies with basic pension plans and profit-sharing plans would have something different to keep track of," explains Neil Burger, senior vp with the New York office of Martin E. Segal Co.

Adds Judith Mazo, the firm's director of research, "The employer will have pressure competing with the outside market for money. IRAs are so aggressively marketed. The employer may be doing the best it can, but the employee will constantly see ads telling how much they can earn. The investment performance of the employer will become much more important. It will be scrutinized more than in the past."

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editorial opinions

Reverse logic?

THE REAGAN ADMINISTRATION'S handling of the safety concerns raised by the air traffic controllers strike seems a bit backward to us.

Consider the scenario: The administration announces Aug. 3 that air traffic can safely continue as the controllers walk out. But on Aug. 18, the administration says it is commissioning two studies on the safety of air traffic during the current strike.

It seems to us that first you study the safety and then announce the results, not declare a situation safe and then two weeks later say you will commission a study to see if that is so. And one of the investigations will be a 90-day study! What are we supposed to think as we board the planes?

Granted, someone has looked at the current capabilities of the air traffic controllers on duty and determined it is safe to continue fly-

ing. But it would have made more sense, and would be more reassuring to the traveling public, if the administration had said on Aug. 3 that the safety of air traffic was being monitored and any unsafe situations would be corrected immediately as part of a longer study of air traffic safety and an investigation into the striking controllers' complaints.

The Reagan administration's handling of this is analogous to a product manager saying, "Don't worry. This new product is safe, but we'll get around to studying its safe use after we release it." Unfortunately, we fear that is done too often.

Given the horrifying prospects of an aviation disaster, the Reagan administration is at best doing a bad public relations job of explaining how it is protecting the traveling public's safety.

At worst, the administration is risking lives.

To the rescue

JUDGES, often maligned for making bad law, sometimes come to the rescue of business interests.

Judge Charles Joiner of the U.S. District Court in Detroit rescued employers that are members of multiemployer pension plans when he ruled that plan trustees may not unilaterally increase benefits if the increase creates new unfunded pension liabilities for employer members of the plans.

Every employer who is a member of a multiemployer plan should thank Borden Inc. in Columbus, Ohio, for bringing the suit that resulted in this ruling.

As *Business Insurance* Washington Editor Jerry Geisel reports this week in his continuing study of the Multiemployer Amendments Act and its effect on employers, this ruling is very important. It protects employer members of multiemployer pension plans from being slapped with huge new unfunded pension lia-

bilities they can't control.

It's bad enough the Multiemployer Amendments Act imposes new liability on employers for past unfunded pension liabilities, but to allow plan trustees to create new unfunded liabilities is like handing them a blank check signed by the employers who are members of the plan.

Employers can sigh in relief that Judge Joiner ruled that they do not have to open their checkbooks to multiemployer plans, but we caution against becoming complacent. We believe employers must push Congress to reconsider the Multiemployer Amendments Act and the liabilities it has thrust upon employers. At the very least, the law should restrict any multiemployer plan benefit increases in the future to those negotiated at the bargaining table by the employers, which now have to foot the bill for the unfunded liabilities of these plans.

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letters

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Others can learn from policy details

To the editor: Your July 27 issue was a repeat of many other articles wherein you have speculated or printed actual limits carried by those involved in big catastrophes. Even if you ignore the invasion of privacy contained in such reporting, what earthly good can come from such an article other than to encourage larger suits and resulting higher rates for all to pay?

Dan L. Dillingham
Dillingham Insurance
Enid, Okla.

■ We do not consider our reporting an invasion of privacy, nor do we think the publication of insurance limits encourages larger suits and resulting higher rates. Those in-

jured or the families of those killed in such a disaster will sue regardless of insurance and juries will award their conscience.

As to the benefits of reporting the insurance angle on such a disaster, there are many. Risk managers in other corporations can learn from the preparedness of their colleagues—or in some cases learn from the obvious mistakes when the too little coverage is purchased. Also, after every disaster the insurance grapevine starts humming. We plug in, confirm all that we can to try to set the record straight and inform those not so lucky to be a part of the grapevine. In simple terms: It's news.

Periodic payments pose questions

To the editor: I enjoyed reading Margaret LeRoux's article, "Insurers structure more liability awards" (*BI*, July 20).

As a note of correction, Benefit Designs Inc. is a multiprofessional consulting firm based in Cincinnati, not St. Louis, with a second office in Detroit. We have specialists with skills in actuarial science and taxation, as well as law, accounting and investment banking.

Also, I am not really skeptical of the "periodic payment boom." Rather, I am concerned that many of the important questions—tax, accounting, legal, financial—have been ignored or given too little attention to the detriment of all concerned.

Patrick J. Hindert
President
Benefit Designs Inc.
Cincinnati

Disclaims connection with brokerage

To the editor: In response to your article that appeared in the Aug. 3 issue of *Business Insurance*, I wish to make it clear that Loudon French Ltd. Inc. never provided Commander Agency with insurance certificates or insurance policies from Lloyd's, Alexander Howden Insurance Brokers Ltd. or Halford, Shead & Co., and Loudon French Ltd. Inc. never brokered insurance policies or certificates from Lloyd's, Alexander Howden Insurance Brokers Ltd. or Halford,

Shead & Co. for Commander Agency.

Please print this correction to your article.

Stuart Bernbach
Commander Agency
Long Beach, N.Y.

■ LeBoeuf, Lamb, Leiby & MacRae, Lloyd's counsel, reiterates that the New York Insurance Department told them that Mr. Bernbach said Loudon French provided Commander Agency with insurance certificates.

Social Security needs radical changes

To the editor: I am writing regarding Robert Meyers' letter (*BI*, Aug. 3) commenting that A. Haeworth Robinson's proposed revisions in the Social Security program are "... not feasible, either policy-wise or from a political standpoint." I, for one, am still young enough (40) not to have such a defeatist attitude. True, the American ship of state is very large and has a lot of inertia; this means

we only have to work harder to change course.

To me, it seems that the patchwork reforms in Social Security in the past decade have succeeded in keeping us on course—right toward the iceberg. A radical change is necessary.

Richard S. Wargo
Managing consultant
William M. Mercer Inc.
Cleveland

Giving credit where credit is due

To the editor: "Federal ruling permits ERISA control of METS" by Jerry Geisel (*BI*, Aug. 3) was an excellent overview of the case brought by Insurance & Prepaid Benefits Trusts against the U.S. secretary of labor.

Although I have had the privilege of representing IBT as special counsel in the area of ERISA matters, IBT's general counsel is

George Rogers of Huntington Beach, Calif. Although I appreciate the publicity, it would be unfair on my part not to mention Mr. Rogers' major role in the IBT case. Simply put, he deserves substantial credit for any favorable result that was achieved in the case.

Claude J. Dorais
Attorney
Los Angeles

Insurance reform in Florida praised

To the editor: I encourage you to continue to report on the outstanding success of the wage-loss workers compensation legislation in Florida (*BI*, Aug. 3, June 22). It is largely responsible for the headline from the July 29th Orlando Sentinel Star, "Workers comp rates ordered cut by \$156 million."

Florida, as you know, is also one of the very few states that passed and has been able to defend, with some success, an automobile-no-fault liability statute. Both of these pieces of legislation are under continual attack by small, self-interest

groups. Intelligent exposure in the press is one important means of protecting these significant steps.

Having enjoyed these successes, the Florida insurance buyers are looking forward to the possibility of corrective legislation in the areas of product liability and attorneys' contingent fees. I am at a loss to understand why this same activity is not occurring in many other state legislatures.

C.E. Frost
Director of insurance
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Insurers told to cover drug dependency care

around the states

AUSTIN, Texas—Legislation requiring health insurance companies to offer group coverage for alcoholism and other drug dependency treatments was approved by the state Legislature this month and sent to Gov. William Clements.

The bill, recommended by William P. Daves Jr., the chairman of the state Board of Insurance, is designed to increase the availability of chemical dependency treatment for workers. It is the first of its kind in Texas.

The legislation was the product of a 12-month study that Mr. Daves supervised for the National Assn. of Insurance Commissioners. The study was adopted in June by the NAIC and contains recommended benefits, including coverage in

free-standing treatment centers and outpatient counseling for family members.

The bill is scheduled to go into effect Jan. 1.

Insurance rating

BATON ROUGE, La.—Insurance Commissioner Sherman A. Bernard has called for appointment of a blue-ribbon committee to reform the way insurance rates are determined in the state.

Mr. Bernard cited workers compensation, property/casualty insurance, automobile and homeowners insurance as areas where new rate-setting methods are needed.

The commissioner's comments came in anticipation of meetings in Baton Rouge this week when members of the Insurance Rating Commission consider proposed rate increases of more than \$52.5 million.

Mr. Bernard said rates should be determined by a full-time professional staff and not the six part-time, appointed members of the Insurance Rating Commission.

Among the requests that will be considered are \$15.8 million for commercial auto coverage by the Insurance Services Office. Hartford Fire Insurance Co. wants to collect \$2.3 million more from commercial auto policyholders.

Liquidation order

ATLANTA—State Insurance Commissioner Johnnie Caldwell has obtained a temporary order from Fulton County Superior Court placing Proprietors Insurance Co., an Ohio-domiciled insurer, into liquidation in Georgia and appointing himself as ancillary receiver.

Proprietors primarily insured bowling alleys, tire establishments and automobile dealers who sold extended automobile warranties to their customers. The company-extended automobile warranty insurance program was administered by North American Dealer Services Inc., which is now the subject of a federal bankruptcy proceeding.

Mr. Caldwell says that Proprietors exercised poor supervision and poor recordkeeping with respect to its warranty business and that the insurer suffered a drastic decrease in its policyholder surplus during the past year.

The Insurance Department first became involved with Proprietors' problems with its extended warranty insurance program in late 1980. In January, Proprietors agreed to cease issuing extended warranty insurance in the state.

Work comp rate cut

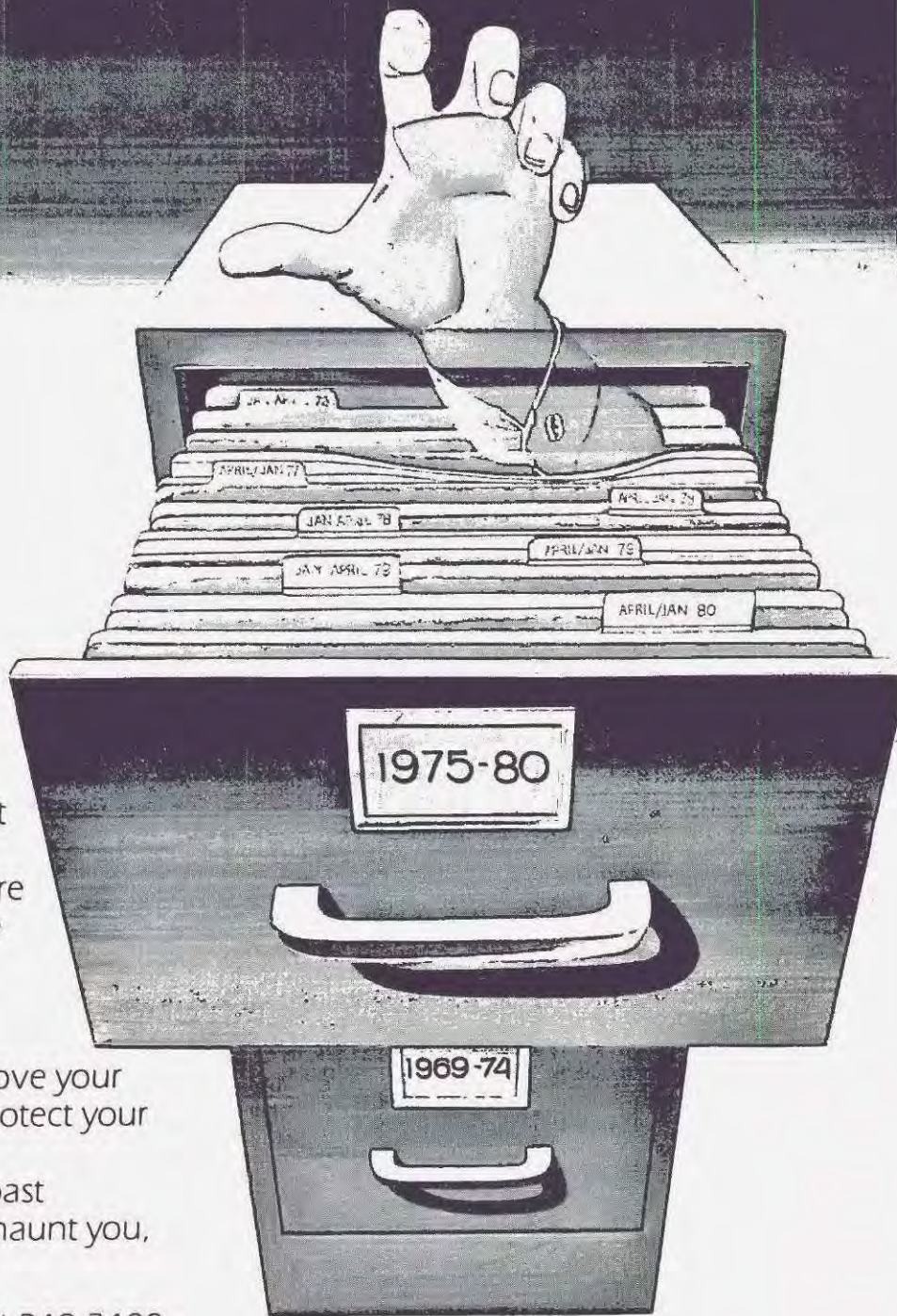
PHOENIX, Ariz.—State Insurance Director J. Michael Low has approved an average overall rate reduction of 17.2% for workers compensation rates in Arizona.

The cut, which takes effect Sept. 1, reflects premium decreases in the following categories: manufacturing, 13.1%; contracting, 15.3%; and all other categories, 17.1%.

Mr. Low said that the reduction attempts to take into account favorable loss experience. Last year, all work comp insurers in the state, including the State Compensation Fund, developed a 43% loss ratio.

Based on last year's premium volume of \$306 million, the net savings to Arizona businesses will be about \$52 million.

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Joseph Lynch joins Consolidated Edison

Joseph M. Lynch has joined the risk management staff of Consolidated Edison Co. of New York as insurance supervisor. Mr. Lynch will report to William Collins, director of risk management. His responsibilities include administering Con Ed's corporate insurance program. Mr. Lynch previously was employed by the American Electric Power Service Corp. where he was supervisor of corporate insurance. He has a bachelor's degree in economics from Manhattan College and is enrolled in the MBA program at The College of Insurance.

British Columbia Resources Investment Corp has appointed C.E.H. Port as director of risk and

comings & goings: buyers

insurance management and W.J. Holmes as manager of risk and insurance. Mr. Port was transferred from B.C. Timber, where he was corporate risk manager. In his new capacity, he will be responsible for risk and insurance management matters for the B.C. Resources group and will report to Vp/Treasurer Clive Symons. Mr. Holmes was transferred from B.C. Coal, where he was risk manager. In his new capacity, he will be responsible for risk and insurance for the BC Resources group and will report to Mr. Port.

Anthony J. Robertello, 27, has been named manager of property insurance for NL Industries Inc. in Hightown, N.J. He will report to John Harrington, assistant treasurer. As a member of the company's corporate risk management department, he will be responsible for administering its property conservation program, insurance policy negotiations, claims settlements and other matters relating to corporate property programs. Before joining NL, Mr. Robertello was an insurance analyst with the C.E. Lummus Co. He holds a bachelor's degree in management science and accounting from Kean College of New Jersey and a master's of business administration in finance/taxation from Fairleigh Dickinson University. He is in the process of completing the requirements for the CPCU designation.



Robertello

Terence Meehan, 37, has been named safety officer for the city of San Jose, Calif., risk manager Edward J.L. Stevens announced. Mr. Meehan formerly was corporate safety administrator at Continental Grain Co. and Swift & Co. He also served as safety representative for the California State Compensation Insurance Fund.

Besides bachelor and master of arts degrees, Mr. Meehan has a master of science degree in safety management and finance from the University of Arizona.

We'd like to report on staff changes in your risk management or employee benefits department. Just drop a note to Stephen Tarnoff, Associate Editor, Business Insurance, 740 N. Rush, Chicago, Ill. 60611 or call 312-649-5482. We'd also like to receive pictures.

Ex-RIMS president Thomas Murphy dies

Thomas Murphy, who served as president of the Risk & Insurance Management Society in 1961, died Aug. 5 of heart failure in Baltimore at age 81.

Mr. Murphy, the former risk manager for the Archdiocese of Baltimore, was the first president and the co-founder of the RIMS Chesapeake Chapter. He was the chapter's public affairs chairman at the time of his death.

He was one of only 13 honorary RIMS members.

Mr. Murphy is survived by his wife, Cecilia, and two sons.

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Executive Vice President



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Captives offer both advantages and perils

Action Line: I enjoy your magazine very much, but sometimes it is a little over my head.

I'd appreciate information on the reasons behind joining a captive, what the risks are, what claims services are available for the self-insurers and how a company forms a captive.

I don't want to talk to someone selling services; I just want to become more knowledgeable.

Ben D. Rowe
Director of loss prevention
Richardson, Texas

Mr. Rowe: A captive insurance company, which is an insurance company formed to underwrite the insurance of its owner, can offer a number of advantages to a corporation.

These advantages include the ability to create one's own policy forms, which can be the form excess insurers will follow on higher limits of insurance; a vehicle to pre-fund self-retained losses; access to the reinsurance market that may want to deal only with other insurance companies and can offer less expensive insurance than the primary insurance market; and control over claims handling.

The risks associated with a captive can include too much risk assumption for either the capitalization or the reinsurance program established, and tax problems if the owner takes a tax deduction for premiums paid to the captive and the Internal Revenue Service challenges the arrangement as self-insurance, which lacks the tax advantages of insurance purchasing.

Many insurance companies or claims administrators handle claims for owners of captives and self-insurers. *Business Insurance* listed many of these companies in its Jan. 5 and Feb. 2 issues.

To form a captive, a company needs expert insurance and legal advice, especially regarding the tax implications. You can start by asking your insurance broker for help, or you can contact a risk management consultant.

Many risk management consultants listed captives as an area of expertise in an editorial listing compiled by *BI* for our Feb. 16 issue.

You also may want to background yourself by ordering some of the information listed in response to the next request.

Captive information

Action Line: I want to obtain one complete book or one source of information on captive insurance.

Charles Clark
Account executive
Frank B. Hall & Co.
of Oregon
Portland, Ore.

Mr. Clark: There are a number of sources of information on captive insurance companies. The College of Insurance in New York has extensive resources. To receive a list of the books it possesses, write The College of Insurance, Library, 123 William St., New York, N.Y. 10038.

Two especially well-done booklets are available free from two different sources. The Insurance Co. of North America has published "The Captive Insurer: A Review by INA," which is available by writing INA SuperService, Department R, 1600 Arch St., Philadelphia, Pa. 19101. Bank of America has published a booklet called "Captive Insurance Companies." To request a copy, write Mercedes Moraza, Bank of America, 299 Park Ave., New York, N.Y. 10171.

The Society of CPCU also offers a 78-page booklet entitled "Insurance and Reinsurance in Ber-

action line

muda." It contains articles by 15 authors. The booklet, dated September 1980, can be purchased for \$20 by writing Deanne Sherman, Society of CPCU, Kahler Hall, Providence Road, Malvern, Pa. 19355. Pennsylvania residents must add 6% sales tax.

Business Insurance also publishes a special issue on captives annually.

The dates for past issues that are still available for sale are: April 6, 1981; Jan. 7, 1980; and Jan. 8, 1979.

To order copies of these special captive insurance issues please write: *Business Insurance* Single Issue Sales, 740 N. Rush St., Chicago, Ill. 60611.

Insurance studies

Action Line: In the past year, you have published many articles extolling the benefits of MBA studies for insurance professionals in all facets of the industry. At the same time, you have printed a series of very informative articles on colleges offering insurance studies.

As an insurance professional presently considering studying for an MBA, I would find it extremely helpful for you to publish a similar series surveying the top schools offering MBAs in finance for individuals pursuing insurance-related careers.

Robert Cohen
Penn General Agencies
of New York Inc.
New York

Mr. Cohen: These schools offer MBA degrees in insurance and related fields: California State University at Los Angeles, Golden Gate University, Florida State University, Georgia State University, University of Georgia, University of Illinois at Champaign-Urbana, Indiana University, University of Michigan, University of Minnesota, University of Missouri, The College of Insurance, Syracuse University, Ohio State University, Temple University, University of Pennsylvania, Memphis State University, North Texas State University, Southern Methodist University, University of Dallas, University of

Texas and University of Wisconsin.

Business Insurance has published profiles on Golden Gate University (*BI*, July 8), Florida State University (*BI*, Feb. 2), Georgia State University (*BI*, Dec. 12, 1980), University of Georgia (*BI*, Feb. 9), University of Illinois at Champaign-Urbana (*BI*, Dec. 1, 1980), The College of Insurance (*BI*, Dec. 8, 1980), University of Pennsylvania (*BI*, March 9), University of Dallas (*BI*, Dec. 29, 1980) and North Texas State University (*BI*, March 2). Look for profiles of other universities and colleges offering insurance courses in future issues of *BI*.

Have a question regarding insurance or your profession? Write Action line, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611.

What's the Benefit of the GMID Multinational Benefit Program? You Get Worldwide Control.

Social Security change delayed one year

By JERRY GEISEL

WASHINGTON—Congress has delayed for one year lowering the age at which a retiree can collect full Social Security benefits while remaining on the job.

The landmark Social Security Amendments Act of 1977 mandated that starting Jan. 1, 1982, retirees age 70 and older would not have their Social Security benefits reduced by \$1 for every \$2 they earned working.

However, in the budget reconciliation bill President Reagan signed earlier this month, the enactment date is delayed until Jan. 1, 1983.

As a result, retirees under 72 who earn more than \$5,500 a year will have their Social Security benefits reduced.

The postponement is expected to

washington

save the financially troubled Social Security system \$500 million.

Mine-rescue contest

The Labor Department's Mine Safety and Health Administration will hold a national mine-rescue and first-aid contest for the coal industry Sept. 24 and 25 at the Kentucky Fair and Exposition Center in Louisville.

About 1,200 participants in three contests—two mine-rescue and one first-aid events—will be judged to determine the top teams in the coal mining industry.

The events will test the teams' ability to respond to situations that

might be found in underground coal emergencies.

Two-hour and one-hour simulated mine rescue problems must be solved by the teams, who then will be evaluated by judges. The first-aid contest presents a series of emergency injury situations that must be handled by teams in a minimum of time.

For more information, contact Frank O'Gorman, Mine Safety and Health Administration, 703-235-1452.

Lead regulations

The Occupational Safety and Health Administration will have a

public hearing Sept. 22 in Washington on proposed changes to the agency's requirements for fit testing of respirators used to protect lead workers.

Fit testing is the means of determining the effectiveness of a respirator for an individual wearer.

OSHA proposed in May to permit specified methods of qualitative fit testing instead of the quantitative fit-testing procedures now required by OSHA's lead exposure standard.

Quantitative fit testing requires special equipment to assign a numerical value to protection afforded the wearer; qualitative fit testing relies on the subjective reaction of a respirator wearer to an irritant fume or other test substance.

People who want to speak at the hearing should contact Tom Hall,

OSHA Division of Consumer Affairs, Room N3635, U.S. Department of Labor, 200 Constitution Ave. N.W., Washington, D.C., 20210; 202-523-8024. Requests must be made by Sept. 11.

Flood insurance

The Federal Insurance Administration has proposed increasing flood insurance rates for employers in flood plain areas.

Under the proposal, which is expected to take effect Oct. 1, flood insurance rates for property would rise to 50 cents per \$100 of value, up from the current 40 cents.

In addition, rates for contents coverage would climb to \$1 per \$100 of value from 75 cents.

The rate hikes are necessary because of mounting losses in the 12-year-old program, which is heavily subsidized by the federal government.

Tax penalties

The Internal Revenue Service says it collected \$638,000 in federal excise tax penalties during the first three months of 1981 from employee pension plans that ran afoul of various federal regulations.

The IRS slapped \$179,000 in excise tax penalties on employers sponsoring plans that engaged in transactions that are prohibited by the Employee Retirement Income Security Act.

Investigators blasted

The Labor Department's five-year investigation of the \$2.2 billion Teamsters Central States pension fund was a failure, a victim of incompetence and bureaucratic infighting, a Senate subcommittee says.

The report by the Senate Subcommittee on Investigations said Labor Department lawyers investigating the plan were inexperienced and untrained in investigative work.

"The tragedy is that the Labor Department wasted a historic opportunity to reform one of the nation's largest pension funds," said Sen. Sam Nunn, D-Ga., the subcommittee's chairman.

Tim Ryan, the Labor Department's solicitor, said the subcommittee's allegations pertained to the investigation conducted by previous administrations. Mr. Ryan said 35 Labor Department attorneys are currently investigating the Teamsters plan.

We're the Group Management Division (GMD) of American International Group. And we've a big story to tell large and small companies when it comes to benefit programs, domestic or multinational. Our story originates from our uniqueness as an organization. A uniqueness that can mean lower costs and convenience. And greater control for you.

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Defending against the inherent risks.

-Aerojet General's
Edward Riordan

"Since nearly every facet of our business involves exotic substances or environments, the safety of our employees and of third parties has always been of primary concern to us," says Edward Riordan, director of risk management for Aerojet General.

As a major defense contractor, with corporate subsidiaries active in the construction and maintenance of chemical plants and petroleum refineries, Aerojet has for several years looked to INA for help in structuring its often-sensitive insurance programs.

"INA writes our workers' compensation coverage throughout the United States," Riordan notes, "and their safety engineers are adept at helping us spot and correct potential hazards." This has been important in the contract maintenance end of Aerojet's business, where its employees are charged with safeguarding the mechanical

integrity of a refinery or chemical plant—environments which Aerojet neither owns nor controls.

For third-party liability coverage, the company self-insures its first million dollars of risk, and uses INA's ESIS subsidiary to handle any claims that fall within that layer. "It's a valuable service," Riordan explains, "because our products are often used in parts of the world where we don't have a strong physical presence."

Finally, Riordan sees INA's safety and loss control engineers as performing an on-going audit function for Aerojet: "Their reports help me determine whether we're delegating internal responsibility for safety in the most effective way possible."

A few years ago, the Michigan Licensed Beverage Association (MLBA) faced a serious dilemma. Its members—primarily restaurant and tavern owners—were finding adequate "liquor liability" coverage almost impossible to obtain. Yet this insurance was essential to their staying in business.

"The MLBA solved the coverage problem by creating its own captive insurance company," says Ike Dobre, vice president of Ward S. Campbell, Inc., the association's broker. "But funding the captive required substantial annual outlays from the members."

A finance plan with benefits all-round.

-Ward S. Campbell's
Ike Dobre



In order to ease the burden, Dobre contacted INAC, the INA subsidiary which specializes in premium-financing. INAC responded with a custom-designed program under which each member's annual premium is spread out over nine months. And the finance rate, according to Dobre, has consistently been lower than the rates charged by commercial lenders.

"Each member sends us a premium down-payment," he explains. "We then receive the remaining portion from INAC." Before these funds are remitted to the captive, the Campbell agency can use them to generate income, thus enhancing its cash flow. "The beauty of the INAC program is that it benefits the MLBA's members in the same way," observes Dobre. "They can hold on to their premium dollars for much of the year, and that improves *their* cash positions."

The program's success has led the agency to use premium financing for a growing number of its clients. Says Dobre: "We currently involve INAC in roughly 80% of our commercial business."

The rapid growth of the broadcasting industry has led to the emergence of more than 30 broadcasters' organizations—each related to a specialized area of TV and radio operations.

"We focus specifically on the needs of the stations' financial and business affairs people," says Robert McAuliffe, president of the Broadcast Financial Management Association (BFM). "One of this group's primary concerns is insurance protection, particularly as it affects bottom-line performance."

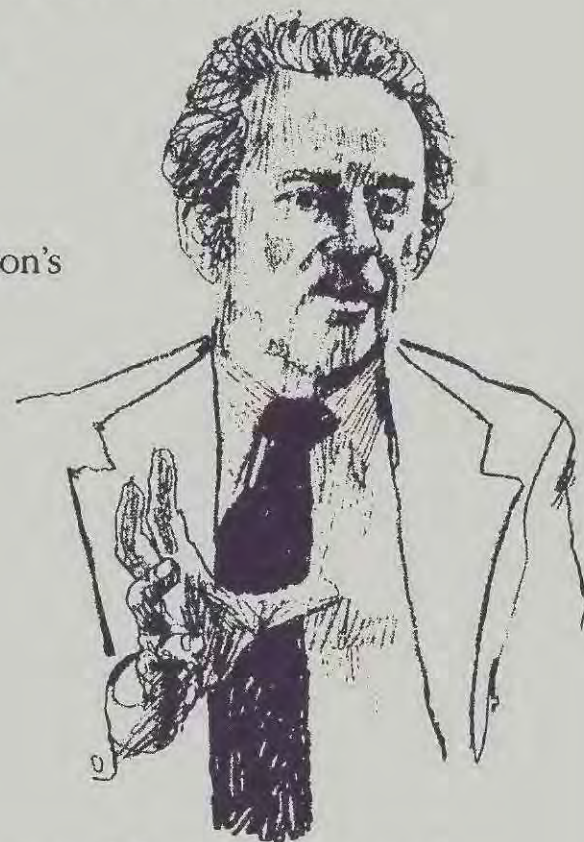
For this reason, the BFM began participating almost ten years ago in an insurance "safety group" organized by MarketDyne, an INA subsidiary. By pooling their risks, the 900-plus BFM members are able to obtain comprehensive insurance coverage at attractive group rates.

"Among the coverages available through MarketDyne are property, business liability and workers' compensation insurance," explains McAuliffe. "We can also give our members protection against slander suits—an increasingly common peril for broadcasters."

Besides saving money on premiums, participating members benefit from INA's risk management and loss control services. Through broadcast magazine articles and industry seminars, INA regularly advises financial personnel on ways to reduce losses and control insurance costs. "These efforts can really pay off," notes McAuliffe, "since our members receive dividends against their premiums for years in which the group's loss experience is favorable. Our safety record has always been good, and that's meant an average annual dividend of approximately 20%."

Pooling risks to lower costs.

-Broadcast Financial
Management Association's
Robert McAuliffe

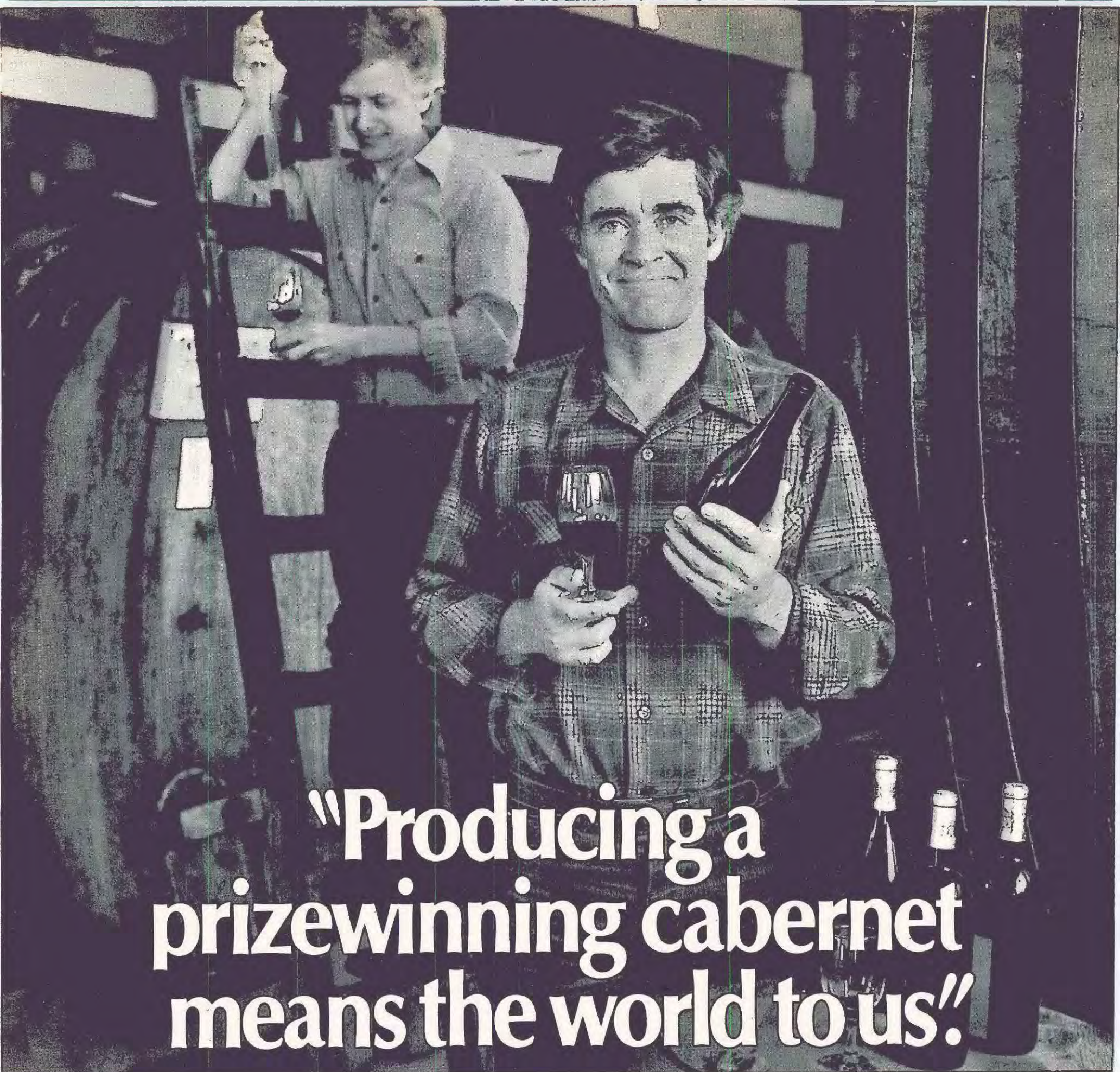


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**BUSINESS
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perspective

Canceled

The buyer must be aware of laws, rules governing cancellation notice

By Henry Salfeld

ONE OF THE MORE aggravating experiences for a policyholder is receiving a notice of cancellation, particularly for non-payment of premium.

Therefore, it's important that the buyer beware of the implication of cancellation notices. This is not easy because they are governed not only by the conditions of the policy that may vary, particularly if umbrella or excess coverages are involved, but also by law.

Courts have interpreted the cancellation requirements strictly, declaring notices void even if only an apparently minor requirement was not fulfilled. However, it's not easy to determine how the laws will be applied. For example, an Illinois court decided that a policy issued in Washington through an agent in Illinois to an insured in Kentucky was governed by the laws of the latter state.

Usually, either party to a property/casualty policy may terminate the contract by mailing or delivering a notice of cancellation to the other. Problems generally arise only when the insurance company decides to send notice, and that notice is not delivered personally.

Many policies state that an insurer may cancel by mail. The address to be used may be that shown on the policy or the policyholder's last known address. Whereas policies may not require that the notice be sent by registered or certified mail, or that a postal receipt of the letter be obtained, some state laws such as the New York workers compensation law do contain such provisions.

The insurer should always be able to produce some proof of mailing even if it is only a postage stamp on a computer list of mailings.

Although the notice may comply with the contractual and statutory mailing provisions, courts have voided the cancellation unless actual receipt of the notice can be proven. In addition, it is implied in some cancellation notices that the cancellation is effective a certain number of days after receipt rather than a period of time after the notice is mailed.

Policies generally require notice by or to the named insured. If more than one person or corporation is named, it must be assumed that the notice has been sent to each one. Also, if only one of these named insureds wishes to cancel the policy, it usually cannot be done without the consent of the others. However, some policies specifically state that the first named insured may cancel and notice by the company is sufficient.

If certain state authorities are to be notified of a policy's cancellation, the interpretation of the statute determines whether omission or delay affects the validity of the cancellation. If a workers

compensation policy is canceled either by the insured or the company under New York law, the cancellation cannot be effective until at least 10 days after the insurer has sent a copy of the notice of the state workers compensation board.

The cancellation's effective date must be definite. Different time periods may be used depending upon the reason for the cancellation. They are frequently reduced in case of non-payment of premium.

An example of equivocation is a cancellation notice from a large stock insurance company that stated: "This is to notify you that Policy No. . . . is canceled at noon on Oct. 23, 1974. The reason for this action is non-payment of premium. If payment in full of the amount of the premium due is received by the company or by an agent or broker authorized to receive such payment within 10 days after receipt of this notice by you, this notice will be void."

The notice was mailed Oct. 15, 1974, and not received before Oct. 16 or Oct. 17. If the insured pays the premium as stated on Oct. 26, the policy is reinstated retroactively, but what is the law if there is an accident after October 23

and prior to payment of premium?

An exception to the strict interpretation of cancellation notices seems to be the specification of a shorter period than required by law. In that case, courts have permitted the cancellation to be effective after expiration of the statutory period. But if the notice is received later than the cancellation day, it is void.

Where the law provides that notices include prescribed statements concerning proof of financial security, a notice not complying with these requirements is void.

The most frequent reason for cancellation of a policy by the insurer is non-payment of premium.

The first question that arises is whether non-payment entitles the insurer to cancel not only the policy in default, but other policies issued to the same insured for which the premiums have been paid.

Wherever the state restricts cancellation of policies in the interest of the insured, it must be assumed that only those policies for which premiums have not been paid may be canceled. As such restrictions are generally enacted only for non-business policies, companies are free to cancel an active commercial account if they so desire.

Policies or law often permit cancellation if the named insured has failed to discharge obligations, so the company may frequently cancel a policy for non-payment of an additional premium, even though the original premium was paid. However, if the insured did not agree to an additional premium requested by the company, the validity of a notice for non-payment is questionable.

If the premium has been financed, the insurance company has received the premium from the finance company and the insured owes installment payments to the finance company. In case of non-payment of an installment, the finance company may be authorized to cancel the policy where the insurer may not.

As cancellations for non-payment may be sent only if premium is not paid when due, the question arises: When does a premium become due? A notice of cancellation sent prior to the due date and stating that the policy is canceled on the effective day of the insurance unless premium is received prior to that date is void.

But that does not answer the above question. Premium due date cannot mean the effective date of the insurance since, in the vast majority, premiums are billed after the coverage has taken effect. Is the due date the date when a policy and bill have been delivered to the insured or the broker or agent? This would be unfair when renewals are sent out in advance of the effective date.

Some insurers have made it a practice in cases of direct billing to the insured to mail a second notice setting a due date. Most annoying to an insured is getting a notice after the premium has actually been paid either directly to the company or its agent or to the insured's broker. The company's computer may not be up-to-date or the company may not have asked the agent or broker whether the premium was received.

Due to the stringent rules governing cancellation notices, it may be wise to assume that a notice received by the insured after proper premium payment is void.

Nevertheless, in order to avoid complications, the insured receiving a cancellation notice whether or not they consider it justified, should immediately contact their broker or agent.



Henry Salfeld is a consultant with Frankel & Co. insurance brokers.

perspective

Push your product

Design an ad campaign for benefits

By Dennis Hommel

Second of three parts

BENEFIT MANAGERS must show management how future benefits communication efforts will be better than what's been done in the past, not only in terms of what can be accomplished, but how they can be accomplished in a cost-effective manner.

To do so, benefit managers must see themselves in a new role. They must think of benefits as their products, themselves as the advertising managers of their products and employees as their customers.

Your company may have excellent benefits, but your employees probably don't realize it. Your "product" must be sold. And the best way to sell any great product to as many consumers as possible at the lowest possible cost is through advertising. Management knows this; certainly, no major company would be where it is today if it did not use advertising effectively to reach the consumers of its products.

Here's how to market your benefits to your employees:

- Step One: Evaluate your product.

The first step in creating an effective benefits advertising campaign is to thoroughly evaluate the product for its strengths and weaknesses, from both the employer's and employee's points of view.

Consider any new options such as health maintenance organizations, dental, vision care, group legal, auto or homeowner's insurance, along with child care, flexitime, maternity leave or other benefits. Also consider any new cost-sharing provisions and be particularly sensitive to the impact any co-insurance programs may have on employees and organized labor.

The trend toward sharing benefit costs with employees may be desirable to the employer and a step in the right direction toward controlling rising benefit costs. But how cost-sharing is accepted by employees depends on how well it is explained.

- Step Two: Evaluate your market.

What is the current level of public opinion among your employees regarding their benefits? An adequate sampling should determine the average level of appreciation or understanding of value. What current attitudes prevail? What are the sensitive areas?

If your company is located near a college or university, perhaps one of the graduate classes would be willing to conduct your survey. Employees will often be much more candid with students than they would be with your own staff or professional consultants. You will also gain a valuable outside, impartial opinion of the results for a very minimal cost.

- Step Three: Evaluate your media choices.

Most companies have probably never evaluated their benefits communication media as thoroughly as your advertising department or ad agency examines its campaigns. They should.

In advertising, each medium is recognized for its specific merits. No one medium can accomplish all goals or reach

Benefit advertising costs over 3 years

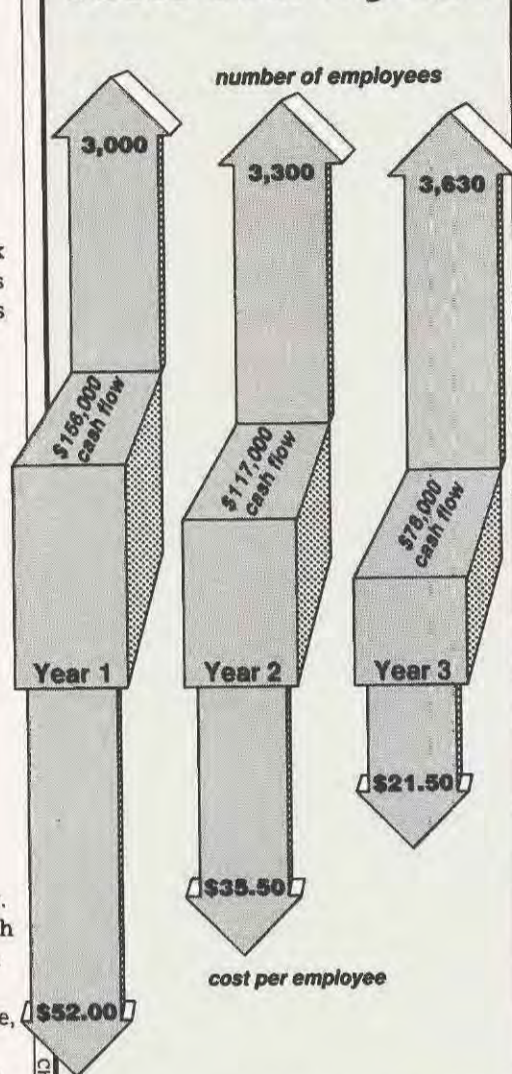


Chart: Tom Roberts

Average benefits \$5,200 per year per employee

This example shows the cost of an in-house benefit advertising campaign over a three-year period. The costs include employee attitude surveys, handbooks, personalized computer statements, posters, audiovisual presentations and related expenses.

Source: Adaptation from The Employee Benefit Communications Handbook

all segments of the market. Each method of benefits communication has its unique advantages.

The traditional or most frequently used tools, such as summary plan descriptions, booklets or handbooks and meetings without the use of an audiovisual program, lack most of the advantages of personalized statements, internal publicity and audiovisual programs.

Employee benefits booklets or handbooks offer greater creative selling potential, but they too should be recognized primarily for their reference value. They should be oriented and organized by events; for example, what happens if the employee is sick, has an extended illness, becomes disabled or needs an operation.

Personalized statements provide individualized data in a way no other media

can. They should be designed to give a concise summary in clear language and in a consistent format so employees can see how benefits have kept pace with their earnings and inflation.

Audiovisual displays can do more for benefits appreciation than any other media. It can teach thrifty benefit consumption and explain the interrelationships of ideas far better than any printed material.

The purpose of the audiovisual display should be to sell your company's genuine concern for your employees' well-being. It should point out that the company is only as strong as its employees and that's why you provide the benefits you do.

Publicity, posters and ads in your company newspaper should be used on an ongoing basis to promote specific benefit plans. Colorful paycheck attachments and lunchroom posters can push optional stock ownership or savings plans, which will make employees feel that they have more of an interest in company profit performance. Messages can be created to reinforce concepts in the audiovisual program, handbook or summary plan description.

- Step Four: Establish a budget.

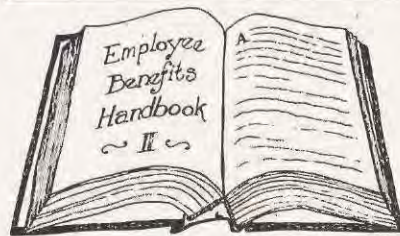
With so many media choices available, it becomes imperative to establish a budget that will allow an effective media-mix to be used on an ongoing basis.

For example, the accompanying illustration shows the cash-flow requirements for a three-year benefits advertising campaign prepared for a company with 3,000 employees.

The company had completely restructured their benefit programs and needed completely new materials in all media. They were willing to invest 1% of their annual benefit costs in the first year, with a desire to stabilize this amount at 0.5% by the third and each subsequent year.

Their total benefit costs were approximately \$15.6 million per year, which meant the first year's budget totalled \$156,000. For budget purposes it was assumed that 20% of the handbook pages and slides would be modified each year because of minor changes or new, added benefits.

Costs were based on purchasing all services, printing and materials from outside vendors and included all of our consultation fees and creative work including planning, creative direction, writing, design, artwork, photography, recording, music and audiovisual programming. The company did provide text drafts for the summary plan description and handbook that we reorganized, edited and put into layman's terms.



Dennis Hommel is president of Dennis Hommel Associates, consultants. This series is from his Employee Benefit Communications Handbook.

legal briefs

Insurer must pay injured worker

A beneficiary's ignorance of the existence of a group insurance policy, not due to his own negligence or fault, excuses his failure to provide notice of the claim to the insurer within the time period set by the policy, according to the Supreme Court of North Dakota.

John A. Finstad sued his employer, Steiger Tractor Inc., in 1976, alleging that he sustained injuries on the job. He sought to recover benefits under a salary continuation plan.

Mr. Finstad claimed that he did not have knowledge of a group indemnity insurance policy written by an insurance company for Steiger's employees until November 1978. Upon learning of the policy, Mr. Finstad promptly notified the insurance company of his claim. The policy required notice within 10 days of any loss "or as soon thereafter as is reasonably possible." The insurance company denied coverage. The trial court ruled for the insurer.

The appellate court reversed, concluding that there was a question of fact as to whether Mr. Finstad, who denied receiving a certificate of insurance, had knowledge of the policy. *Finstad vs. Steiger Tractor Inc.*, Supreme Court of North Dakota, Jan. 23, 1981 (BI/03/Jy.-\$5).

Contractors' liability

The Supreme Court of Alabama held that insurers have the right to employ the term "occurrence" instead of the term "incident" so as to expressly provide that coverage was extended to accidents.

A construction company was covered for manufacturers' and contractors' liability by Employers Insurance Co. of Alabama. The policy excluded "completed operations hazards."

The construction company, during the policy period, built a house for the Ginwright family in 1972. Seven years later, the Ginwrights sued the construction company, alleging breach of agreement, negligence, breach of warranty and misrepresentation. In part, they asserted a wooden frame was substituted for a concrete slab. They said this caused moisture to rot the frame and damage the house. The construction company called upon Employers to defend. When the insurer refused, the trial court ruled for the insurer.

The appellate court emphasized that the policy obligated Employers to pay for damages "caused by an occurrence," defined in the policy as "an accident which results, during the policy period, in bodily injury or property damage." *R.A. Owens Construction vs. Employers Insurance Co.*, Supreme Court of Alabama, Jan. 23, 1981 (BI/04/Jy.-\$5).

A copy of an entire decision may be obtained by sending \$5 to Cases Unlimited in care of Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. List the case number.

Insurers attempt to cut legal costs

Continued from page 3
in loss dollars, control expenses and improve the quality of service.

In some cases, this might initially involve higher attorney fees, but in the long run reduces them through wiser settlements and reduced awards, according to Mr. Bailey.

The results can be a "chilling effect" on frivolous lawsuits.

"In the long run, it will have the effect of keeping legal costs down," Mr. Bailey said.

An example of this "spending money to make money" approach is a recent case involving a seriously injured Florida youth who inhaled a deodorant spray in an effort to get high. He then sued the manufacturer, Gillette Co., a Commercial Union policyholder, for his injuries.

The insurer estimated a jury would award the youth \$1.5 million to \$2 million. But instead of settling out of court as it would have done previously, the insurer first conducted a mock trial of its own.

The results of the mock trial convinced the insurer it stood a chance of winning the case for its policyholder. The actual result: no damages due the plaintiff.

All of the insurance companies surveyed emphasized the better communication with attorneys as an important method of monitoring lawsuits and reducing unnecessary expenses.

Too often, insurers have "abandoned the file" to the law firm, resulting in higher costs and inadequate review, company spokesmen said.

Various methods have been implemented to remedy this. At The Travelers, insurance personnel and attorneys draw up a "litigation plan" that charts the future course and cost of the suit.

"We monitor the case on a regular basis," Mr. Corbett said.

The insurer has a major say in the discovery procedures an outside attorney may initiate as well as drafting of legal memoranda and other cost-inducing steps, he added.

Aetna Life & Casualty Co. has developed a booklet defining principles and guidelines for claims personnel and counsel, according to John F. Shea Jr., senior vp and claims counsel.

In addition, periodic meetings between attorneys and claims people are held and billing procedures are reviewed, he said.

Commercial Union has instituted monthly meetings between attorneys and claims department personnel and also publishes a newsletter and circulates questionnaires that more effectively monitor cases and increase communication.

"It's opened up a tremendous dialogue," Mr. Bailey said.

Often overlapping with the increased communication are additional techniques used by the companies to reduce legal costs.

Commercial Union has instituted a legal research bureau through which personnel can get information on the law in various jurisdictions via computer, end-of-case billing and access to a computer to store data for future evaluation of lawsuits and attorneys.

The Travelers has a "suit committee" at each office that tries to settle with the plaintiff rather than proceed to trial.

The company also reserves the right to select attorneys of less experience to handle smaller claims rather than more expensive senior counsel.

Aetna has a "minimum legal expense program" where monetary limitations are placed on defense counsel in cases of smaller value.

The aim is to limit detailed defense work and use of discovery and dispositions to the more complex cases, Mr. Shea said.

Several firms surveyed said they also have increased staff counsel in recent years partly to avoid the more expensive hourly rates of outside firms.

Mr. Corbett said The Travelers has a staff counsel of about 225 in 37 offices handling more than 30% of the litigation.

The St. Paul has also increased its staff counsel, now handling more than 20% of the work.

"It's not a complete answer, but there is a great deal they can handle," said J.M. Homer, senior claims officer of the claims divi-

sion's legal department.

Mr. Bailey says there is a "broad movement all around the country" for staff counsel.

The regular salary and benefits provided often outweigh the benefits of being independent for many attorneys. And insurers save on the hourly rate charged by independent firms, he said.

Indirect benefits for the insurer include having the lawyers available to the claims department for consultation on cases, discussions on trends in the law and creation of serious loss-review panels.



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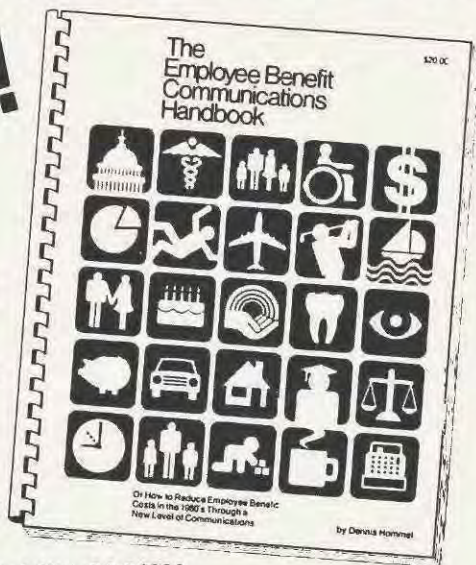
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Frank B. Hall forms risk science division

markets

Frank B. Hall & Co. Inc. has formed a new division, Risk Science International, to conduct scientific environmental assessments, monitor regulatory developments and perform underwriting analyses for the placement of environmental impairment liability insurance.

RSI will assist corporations and Hall's retail brokerage operations in the application of the principles of scientific risk management, according to Thomas V. Hallett, RSI chairman and corporate vp of Hall.

The new division will be headquartered at 1101 30th St. N.W., Washington, D.C. 20007.

Specialty coverages

The Hartford Specialty Co. has

been formed by The Hartford Insurance Group to market customized programs and specialty coverages for large risks.

Joseph F. Quinn, the newly named president of the subsidiary, said the firm will include its parent company's existing large account department; medical, professional and excess department; and its Cameron & Colby affiliate.

The new subsidiary will be headquartered in Hartford, Conn., with branches in New York, Chicago, Dallas, Los Angeles and East Hartford.

INA consolidation

Insurance Co. of North America has consolidated its INAPRO and INAX professional liability insurance operations into a single unit headquartered in New York.

INAPRO had previously provided medical malpractice insurance, and INAX handled all other errors and omissions coverage.

The unit, INAPRO Inc., will offer errors and omissions coverage to professionals, including doctors, attorneys, architects, engineers, insurance agents, directors and officers, public officials and accountants.

Adjusting company

The Underwriters Adjusting Co. has been registered in New York and Maryland to offer services to independent adjusting firms and to develop franchised companies.

Franchisees will pay an initial fee and royalties in return for marketing, advertising, educational and training support services.

UAC, a subsidiary of Continental Corp., is a nationwide adjusting firm providing claims services for insurance companies, agents, brokers and self-insureds. UAC expects to have 50 franchise offices operating by the end of the year.

Leaving Bermuda

Reinsurance intermediaries O'Connor & Associates has closed its Bermuda office, feeling it can better serve its facultative business clients from its branch offices in the United States.

Joseph O'Connor, the firm's president, says the company still has confidence in the Bermuda market and will continue marketing business there.

Acquisitions

The Nelson Co., an independent retail insurance brokerage in Los Angeles, and Stephen L. Way International, a specialty surplus lines broker with offices in Houston and Los Angeles, have merged, effective Aug. 1. Nelson is the parent company of Bermuda-based Trafalgar Insurance Co. Stephen L. Way owns International Indemnity Co. of Texas. Both Nelson and Stephen L. Way will continue to operate independently.

Continental Resinsurance Corp. has agreed to buy 97% of Magdeburger Ruchversicherung A.G., a reinsurance company based in Hamburg, West Germany.

New offices

Bierly and Associates has opened a new office at 7750 Dagget St., Suite 206, San Diego, Calif. 92111; 714-569-2013.

The FPE Group has expanded its Chicago area office, relocating at 3755 E. Main St., Suite 118, St. Charles, Ill. 60174; 312-584-9530.

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In lots of ways. For one, we develop fast, accurate and in-depth data on plan performance. In fact, we are now expanding computer capabilities to monitor our programs even more closely. For another, we work

with our Associate Insurers to maintain our programs' cost effectiveness. A good example is the cost containment program we recently set up with an Associate Insurer. By applying sophisticated, U.S.-style claims control and approval procedures, we were able to help a client succeed in bringing their disability claims into line.

HOW DOES IGP HELP CLIENTS TRACK THEIR PROGRAMS' PERFORMANCE?

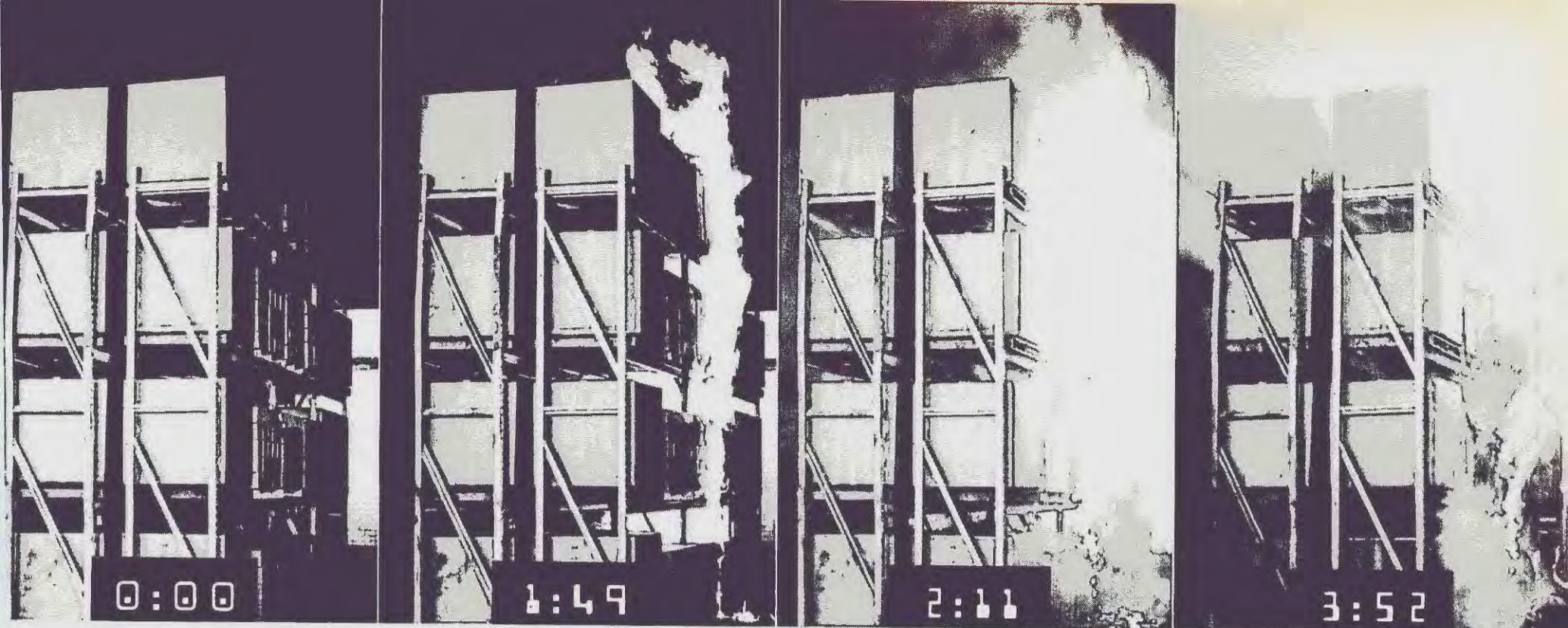
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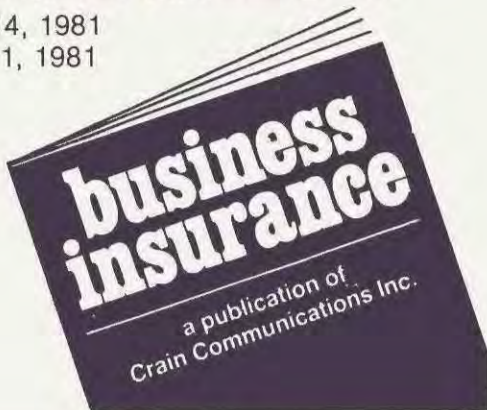
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Doyle named to direct division at The Hartford

Lawrence S. Doyle has been promoted to director of international property/casualty operations at The Hartford Insurance Group.

Mr. Doyle joined The Hartford in 1966. He was previously a staff assistant to the company's chairman and president.



Doyle

Other insurer changes:

William H. Klemm promoted to assistant vp of engineering/claims at The Hartford Steam Boiler Inspection & Insurance Co.

Gene Pierceall named senior

comings & goings: industry

executive vp and chief operating officer of Omaha Indemnity Co., Mutual of Omaha's property/casualty affiliate.

John P. Cole promoted to vp of the group insurance department at The Prudential Insurance Co. in Newark, N.J.

Charles W. Anderson elected senior vp of regional operations for Allendale Insurance. **Wayne B. Peacock** named vp of staff engineering at Allendale.

John R. Carp named director of special risk underwriting at Western Employers Insurance in Santa Ana, Calif.

The Insurance Co. of North America has announced a number of promotions. Named resident vps were **Bruce E. Drury** for the Tampa office, **Jack D. Miller** for the Phoenix office and **Charles M. Wenger** for the Orange office. **Michael P. Miles** elected vp of INA's commercial property product management. **John D. Nolan** and **C. Walter Stewart** elected vps/actuaries.

UniCARE Insurance Co., a workers compensation insurer in Irvine, Calif., has appointed **Paul S. Kuhn** underwriting manager.

Other suppliers

Dennis R. McDonald elected president and chief executive officer of Nittany Loss Control Services Co., a member of Insurance Management Cos. in Chevy Chase, Md.

Three promotions were announced by **Booke & Co.**'s employee benefits division. **Roger Vaughn** promoted to senior vp/manager of defined benefits; **Eric Freden** named senior vp/actuary; and **Sandra G. Bell** named assistant vp.

Joe D. Hefner named president of United Enterprise Security Corp., a Dallas-based firm specializing in employee and executive benefit programs.

Thomas G. Littell elected president of Risk Treatment Services, a subsidiary of Risk & Benefit Management Systems.

Thomas P. Beresky named president of Self-Insurers Service Inc., a division of Ryan Insurance Co.

Reinsurers

Arlan K. Shorey named senior vp of International Reinsurance Services Inc. **William J. Braet** named vp.

Excess/surplus

Kevin P. Hannon named claims supervisor of Jersey/International Group Inc., an underwriting management firm.

Anita M. Chanpong appointed senior vp of Swett & Crawford in Los Angeles.

Mary K. Wagner named casualty underwriter for Universal Security Insurance.

Robert B. Phillips named assistant vp at Talbot, Bird & Co. Inc., a marine underwriting and management firm based in New York.

Agents/brokers

Joseph S. Silverman, senior vp of Bayly, Martin & Fay Inc., named to direct the newly formed BMF Marketing Insurance Services Inc. **Eileen Fein**, vp of employee benefits, has also joined the division.

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Pollution cover rules questioned

Continued from page 2
to self-insure their risks.

Meanwhile, there appears to be little incentive for hazardous waste operators to secure coverage when the requirements could still be changed or modified. And few firms have lined up outside consultants to perform the elaborate risk assessment testing most insurers are expected to demand before accepting a hazardous waste risk.

The major chemical companies are hoping that the EPA will allow financially solid operators to self-insure the primary layer of risk.

"We are waiting," said Thomas Caldwell, risk manager for American Cyanamid in Wayne, N.J. "And we hope the final regulations will permit some semblance of self-insurance," he added.

"If the EPA allows self-insurance, it will be our decision here not to have an outside risk assessment performed," Mr. Caldwell said, adding that it was his understanding that excess insurers would provide coverage above the self-insured retention without requiring an elaborate environmental risk survey by an outside consultant.

Another chemical corporation risk manager, however, said his company is performing its own risk

assessment and is working out plans with its insurer for excess insurance on the chance that self-insurance will be allowed by the EPA.

"We want to self-insure as much as possible," said R.R. Ingham, risk manager for Du Pont in Wilmington, Del. "We're on top of everything," he added.

The Dow Chemical Co. of Midland, Mich., will use its internal experts to evaluate any potential risk, said risk manager W.C. Zacharias.

"We haven't bought the coverage yet, and we're looking at self-insurance," he added.

There are an estimated 8,000 to 40,000 companies that will need pollution policies under the EPA proposal, but very few hazardous waste TSD operators have yet to make arrangements for coverage.

Medium- and small-sized companies have more time to meet the deadlines and few, if any, have contracted for a risk assessment survey or bought any insurance coverage, sources say.

Fewer than 100 companies are estimated to have contracted for an independent risk assessment survey of its premises, they agree.

Without an independent study in hand, few insurers will be willing

to write what could be a hefty risk, said Rich Powals, assistant vp and manager of waste management services for Clayton Environmental Consultants Inc. in Southfield, Mich.

He said Clayton has performed at least two dozen environmental risk assessments for clients awaiting final EPA regulations.

"Even if self-insurance is allowed, a hazardous waste operator will need a survey done," said Mr. Powals, who estimated a risk survey usually takes from three to four months. In an emergency situation, however, surveys can be completed in as little as a day or two, he said.

There are currently five underwriting managers who have actually written policies for non-sudden pollution liability insurance.

They are Lincoln Insurance Co. through Alexander Howden Insurance Services of Cranford, N.J.; National Union through the American International Group; Evanston Insurance Co. through Shand, Morahan & Co; Pacific Insurance Co. through Swett & Crawford Management Services Inc.; and Great American Excess & Surplus Lines Co. through Stewart-Smith.

Universal life offered as benefit

Continued from page 3

One large institution, Harris Trust & Savings Bank, a Chicago banking firm with 3,500 employees, began offering universal life insurance through its employee savings and profit-sharing plan in April.

Harris employees don't contribute to the plan, which is owned by the bank's savings and profit-sharing plan trust fund. But once a year they can transfer a portion of their profit-sharing balance into a universal life policy that offers both savings and insurance protection. The employee can choose the

amount of the policy.

While employees don't own the policy, they do share the benefits when they retire or leave the company. More than 650 of the bank's 2,400 eligible employees have signed up. Premium volume for the policy, underwritten by First Penn Pacific, is about \$31 million.

"We decided to offer universal life because many employees were concerned that group term insurance ends when they leave the company," explains Mary Peterhans, benefits manager for Harris Bank.

"This policy allows a person to keep his coverage in force after retiring," she says.

United Airlines, another Chicago-based company, is considering some "sort of Universal Life product" to provide its 20,000 non-union employees with additional life insurance coverage that will be fully paid upon retirement.

The Federated Union of Firefighters of California now has 12,500 union members enrolled in a universal life insurance program. That program provides additional current life insurance protection, permanent replacement life insurance after retirement and a savings plan that will give members post-retirement benefits to supplement pension benefits.

Universal life insurance "is an attractive fringe benefit that provides an employee something he may not be able to get for himself," says a spokesman for Liberty Life Insurance Co., a South Carolina insurer.

Insurers say that universal life is attractive because it allows employees to acquire more insurance under "group insurance conditions," including lower prices and often no need to take a physical examination.

"It (universal life) has tremendous benefits for an employer," says Ronald J. Helow, executive vp of First Penn Pacific Life Insurance Co., an Oakbrook, Ill., insurer that solely markets universal life plans. "This is a major benefit that costs little and builds good will."

Christian J. Derochers, an actuary with The Hartford Life Insurance Cos. in Hartford, Conn., doesn't see universal life as a replacement for group term insurance, but he says he thinks it will gain popularity.

"As employers come up with ways to provide additional benefits for their employees, there will be a market," he says.

Adds Peter Welles, an assistant vp in the Chicago office of William M. Mercer Inc.: "The commissions for selling universal life insurance are so low, companies will look for different ways to market it through stockbrokers and employers. They will reach people who have need to purchase insurance and have the discretionary income with which to purchase it."

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Minnesota banks fail to increase pensions

Continued from page 3
 ployees ranged from 15 to 425, with most employing 35 to 55 people.

However, the survey did show that 17% of the Minnesota banks do plan benefits increases this year and that 77% reviewed their pension-funding program with an actuary within the last three years to determine if the current funding policies are appropriate.

Moreover, the average contribution to a pension plan by the Minnesota banks is larger as a percent of payroll than banking and non-banking industries' averages.

The average contribution to pension plans for the banks in the Minnesota survey is 9.4% of payroll. In the U.S. Chamber of Commerce survey of 1979 employee benefits released in autumn 1980, the average contribution by banks was 6.4% and the average contribution for all industries was 5.4%.

The survey says that these contrasts accentuate the importance of regional industry specific studies for analyzing benefit trends.

The Touche Ross study also showed the following about retirement plans among the small Minnesota banks:

- Larger banks are more likely to have retirement plans than smaller ones. Eighty-one percent of those with 50 or more employees provide some type of plan while 74% of those with fewer than 50 workers have one.

- Defined benefit plans are more plentiful in the banking field. Fifty-two percent of the plans are defined benefit plans while 42% of the plans are defined contribution and 6% are a combination of the two.

- Only 6% of the surveyed banks require employee contributions to retirement plans, but 36% permit voluntary contributions.

- Thirty-two percent of the banks contribute between 5% and 7% of total bank payroll to the plan. The same percentage contributes 14% to 16% of payroll. Fourteen percent of the banks contribute 2% to 4%, some 8% of the banks contribute 8% to 10% and 11% of the banks contribute 11% to 13%.

- About one-third of bank plans (31%) have full vesting after 10 years, 12% vest employees at 10% a year after four years, 17% vest 40% after four years with 10% every year thereafter. Another 17% vest at a rate of 10% annually from the first year. Twenty-three percent have other vesting schedules.

- Early retirement is permitted by 81% of bank plans. Of those, 45% allow retirement at age 55, 10% at age 60, 10% at 62 and 16% at other ages below 65. The normal retirement age is 65 in all plans surveyed.

The Touche Ross survey also studied health, life and disability insurance benefits. It showed that most bank group health plans (88%) are insured, using Blue Cross/Blue Shield, a commercial insurer and/or HMOs. Only 12% of the surveyed institutions self-insure group health coverage.

The banks also pick up most of the cost of health insurance, the study shows. Fifty-six percent pay the entire expense, 16% pay between 67% and 99% and 6% pay 51% to 66%. Another 22% pay half the cost.

Other findings about bank health and life insurance plans include:

- The entire cost of dependent coverage is paid by 29% of the employers, while another 29% pay half and 18% do not cover dependents.

- Forty-two of the 50 surveyed banks provide long-term disability coverage and 88% assume the en-

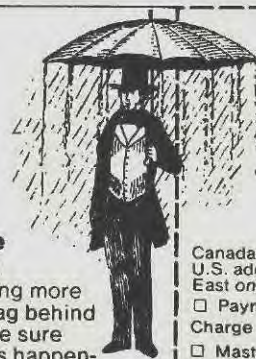
tire cost. Nearly half the banks (45%) require a three-month waiting period for LTD benefits to begin while 37% of the banks require six months. Eight percent require two months and 10% have a one-month rule.

- No more than 10% of bank long-term disability programs are self-insured.

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38. IIAA CONVENTION ISSUE	SEP 21	Sep 8
39.	SEP 28	Sep 16
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Circulation Breakdown*

Commercial Consumers	
Administrative Management: owners, presidents, vps, etc.	6,635
Financial Management: chief financial officers, vps of finance, secretaries, treasurers, etc.	9,335
Insurance Management: vps, directors, managers of insurance, risk, benefits, compensation, safety, security, etc.	5,112
Government, Associations, Unions, Educational Institutions	952
Commercial Consumers Sub-total	22,034
Insurance Agents & Brokers	9,486
Insurance Cos.	4,486
Financial Institutions	292
Actuaries, Attorneys, Adjusters, Appraisers & Consultants	2,135
Others allied to the field	752
TOTAL	39,185

*Source: Business/Occupational breakdown of qualified circulation, May 4, 1981 issue, as submitted to BPA for June 1981, BPA Publisher's Statement.

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Falling-windows suit settled out of court

Continued from page 1

ing the case is that those involved do not want the settlement in this case to be used as a precedent for settlements in other cases involving design and building problems.

Hancock settled out-of-court with I.M. Pei & Partners, the architect; Libbey-Owens-Ford Co., the glass manufacturer; Gilbane Building Co., the general contractor; and the office of James Ruderman, a structural engineer.

H.H. Robertson Co., the contractor responsible for the construction of the tower's exterior, has not settled and is still being sued.

Business Insurance did learn that Libbey-Owens-Ford's share of the settlement exceeds \$26 million. The glass manufacturer confirmed that third-quarter earnings would show a charge of \$6 million out of operating income after it tapped \$20 million in insurance coverage and a warranty fund consisting of an undisclosed amount.

"The settlement was historic," said Robert Fast, an attorney with Hale & Dorr in Boston, which represents Hancock.

"It was a very big case that involved a lot of money, some very big companies and a very visible problem."

Mr. Fast, like other participants, would not disclose the settlement

total, but he did confirm that Hancock sought more than \$100 million in damages in the original suit for the cost of replacing 10,348 Thermopane windows, additional construction and consulting fees and the lost revenues resulting from a three-year delay in occupying the building.

The settlement also includes an interest charge of 10% per year for the six years the case was in litigation, bringing the total sought to more than \$160 million, Mr. Fast explained.

Although the companies would not reveal their insurance coverage, court documents show:

- A \$21 million construction wrap-up policy written by CNA that lists Hancock, Gilbane and Robertson as the policyholders.

- Liability coverage for Libbey-Owens-Ford with the first \$10 million underwritten by Commercial Union Insurance Co. and an additional \$10 million layer underwritten by American Home Assurance Co.

- Umbrella liability coverage for Robertson with the first \$10 million written by Liberty Mutual Insurance Co. and an additional \$10 million layer written by Lloyd's of London.

- Professional liability insur-

ance of \$5 million for I.M. Pei underwritten by Continental Casualty Co., a subsidiary of CNA.

- Professional liability insurance of \$1 million for Ruderman underwritten by The Travelers Insurance Cos. and an additional \$500,000 layer by an undisclosed insurer.

Although Hancock's original 19-count suit did not specify a total claim against the defendants, Hancock's costs were revealed during the pretrial discovery stage. Mr. Fast said.

The cost of replacing the 18.5 acres of glass was \$8.5 million, said Paul Rennie, second vp in charge of building management for Hancock.

The company also had to install electronic sensors to monitor the troublesome windows and use additional security forces to clear the streets whenever one of the panes fractured.

The whole fracas began in fall of 1973 when 43 windows were damaged or crashed to the ground during a windstorm. Hancock executives refer to the incident as "The September Revelation."

Even today, no one is certain why the windows constantly broke, though both Massachusetts Institute of Technology and Purdue

University were involved with wind tunnel and pressure tests of the building.

"Each party would say that there is an explanation," Mr. Fast said, "but they would all be different explanations. That's why there were lawsuits."

Mr. Fast said that the nature of glass was a big factor in placing the liability. "Glass is an unpredictable animal," he says. "It's just melted sand; it's really a crude product. That's what makes this case so messy. When the glass breaks, you don't really have any evidence left. It self-destructs."

But Mr. Fast said the litigation

was not settled "by a battle between the experts." He said that a large bulk of the litigation involved getting internal documents from the companies involved, either voluntarily or by court order.

The situation at the \$165 million office tower became so bad that in 1973 much of the building's bottom 30 floors were covered by plywood because of fractured or fallen glass. All the two-ply Thermopane windows were replaced by single-ply glass in 1975.

Today, Mr. Rennie, the building's manager, says there is still an occasional fracture, but refers to the problem as "minimal."

MGM says back-dated cover complete

Continued from page 3

the committee, which is in the process of setting up an office in Las Vegas.

Mr. Galatz estimated that the hotel already has settled 1,000 minor claims that were never filed with the court.

Approximately 700 lawsuits have been filed, he said, adding that only a small number of these have been settled.

Documents on file with attorneys in Las Vegas reportedly indicate that \$95 million in back-dated liability insurance has been placed through broker Frank B. Hall in Briarcliff, N.Y.

Insurers believed to be participating in the first approximately \$70 million of additional coverage

placed in January include Union Indemnity Insurance Co. of New York, a subsidiary of Frank B. Hall, \$35 million; Central National Insurance Co. of Omaha, Neb., \$16 million; American International Group, \$3.5 million.

Also, General Reinsurance Corp., \$3.5 million; Chubb & Sons Inc., \$2 million; Crum & Forster International Surplus Lines, \$1.1 million; and unspecified London insurers for \$1.7 million.

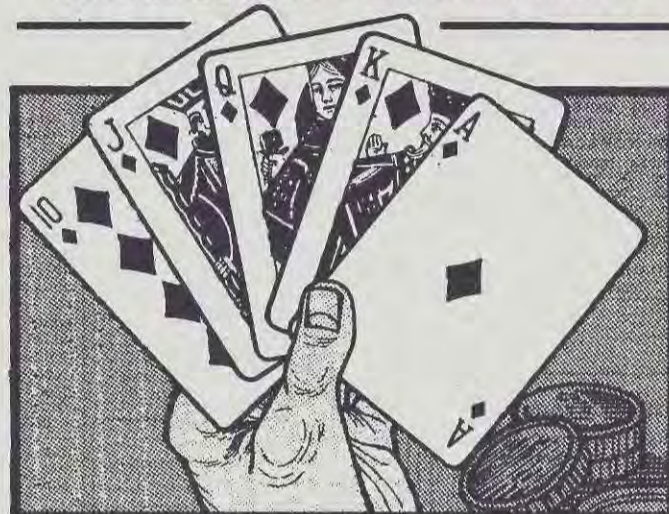
Insurers believed to be participating in a \$25 million layer placed in April include the National Union Fire Insurance Co. of Pittsburgh, a member of AIG, \$10.3 million; Insurance Corp. of Ireland, \$5 million; Northbrook Excess & Surplus Insurance Co., \$2.5 million; St. Paul Surplus Lines Insurance Co.,

\$3.2 million; The Travelers, a Crum and Forster affiliate, and The Home Insurance Co., \$1 million each; Northumberland General Insurance Co. of Toronto, \$750,000; and Guardian Insurance of Canada for \$250,000.

Earlier this year, it was believed that the hotel might settle for \$95 million in back-dated coverage rather than the full \$170 million it originally sought because insurers and reinsurers were reluctant to underwrite it. Some companies issued disclaimers that they would not pay on back-dated policies.

According to the hotel company's fiscal third-quarter report, it has recovered \$49,417,000 in business interruption insurance through May 31.

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SEPT. 15-17. Financial Analysis for Risk Management Decisions seminar in Chicago, presented by Dr. John Cozzolino; \$685 per person plus \$50 registration fee per company includes workbook and calculator. Also **Oct. 20-22** in New York and **Nov. 17-19** in San Francisco. Cozzolino Associates Inc., 12 Chippenham Drive, West Berlin, N.J. 08091; 609-784-7105.

SEPT. 21-22. Association Captives conference in New York, sponsored by Interforum Group Inc.; \$595. Interforum Group Inc., 68 William St., New York, N.Y. 10005; 212-269-2240.

SEPT. 21-24. Fundamentals of Reinsurance seminar in Irving, Texas, sponsored by the University of Dallas Risk Management Institute; \$395. Professo Bruce D. Evans, University of Dallas Risk Management Institute, International Center, University of Dallas Station, Irving, Texas 75061; 214-579-5360 or 214-579-5299.

SEPT. 30-OCT. 2. 12th Annual Educational RIMS conference in Myrtle Beach, S.C., sponsored by the Carolinas Chapter of the Risk & Insurance Management Society; RIMS members, \$45; non-members, \$50. Donald Duncan, Collins & Aikman Corp., P.O. Box 32665, Charlotte, N.C. 28232.

OCT. 1. A New Look at CGL and Products Liability workshop in Saddle Brook, N.J., sponsored by the Society of CPCU; members, \$85; non-members, \$95. Society of CPCU, Providence and Sugartown Roads, Malvern, Pa. 19355.

OCT. 1-3. Risk Management Techniques for Municipalities seminar in Atlanta, sponsored by the Society of CPCU; \$250. Also **Oct. 20-23** in Merrimack, N.H. Society of CPCU, Providence and Sugartown Roads, Malvern, Pa. 19355.

OCT. 2. Conference on Second Surgical Opinions in New York, sponsored by Second Surgical Opinions Conferences; \$150. Also **Nov. 1** in Los Angeles. Second Surgical Opinions Conferences, 411 E. 69th St., Room 305, New York, N.Y. 20021;

212-472-6393.

OCT. 7-9. Western Regional RIMS conference in Phoenix, Ariz., sponsored by the Risk & Insurance Management Society; \$175. Jim Mullen, Arizona Public Service, Box 21686, Phoenix, Ariz. 85036; 602-271-2806.

OCT. 9. Hazardous Materials, Substances & Wastes Training & Compliance seminar in Cincinnati, sponsored by Transportation Skills Programs; \$135. Also **Oct. 30** in Honolulu and **Nov. 19** in Detroit. Jessie Sterner, Transportation Skills Programs, 320 W. Main St., Kutztown, Pa. 19530; 215-683-5098.

OCT. 11-14. Health Care Cost Containment seminar in Palm Springs, Calif., sponsored by the International Foundation of Employee Benefit Plans; \$360. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wisconsin 53005; 414-766-6700.

OCT. 15. Insurance in the '80s seminar in Dallas, sponsored by the Dallas-Fort Worth Chapter of the Risk & Insurance Management Society; \$70. Don Hairston, Lone Star Steel Co., P.O. Box 35888, Dallas, Texas 75235; 214-352-3981.

OCT. 15-16. Insider and Employee Thefts seminar in New York, sponsored by the Practising Law Institute; \$275, including handbook. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 212-765-3700.

OCT. 18-23. Reinsurance Practice course in Warwick, Bermuda, sponsored by Risk Research Group Ltd.; 595 pounds (about \$1,190). Also **Nov. 1-6** in London. Risk Research Group Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD; 01-236-2175.

OCT. 19-22. 69th National Safety Congress in Chicago, sponsored by the National Safety Council; members, \$60; non-members, \$90, \$80 in advance. Congress Planning, National Safety Council, 444 N. Michigan Ave., Chicago, Ill. 60611; 312-527-4800.

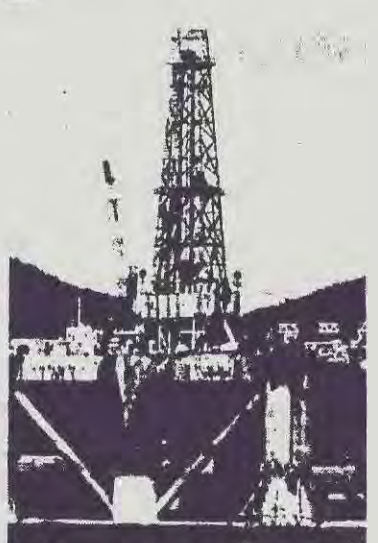
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Borden gets reprieve from new pension costs

Continued from page 1
fit increases proposed by trustees.

Employers were content to make the annual contributions negotiated in labor agreements and leave benefit decisions to the trustees, half of whom are appointed by employers and the other half by the union.

That hands-off policy made sense because unless a multiemployer plan collapsed within five years of the time an employer withdrew, a company's liability was limited to its negotiated contribution.

But last year, Congress altered employers' pension promises in the Multiemployer Amendments Act. That law, which was passed Sept. 26, 1980, but is retroactive to April 29, 1980, requires an employer who leaves a plan to pay a share of the plan's unfunded vested liabilities.

Because employers' contributions often failed to match the benefits promised, many of the plans are badly underfunded. Therefore, under the new law, employers who want to withdraw from a plan face a huge withdrawal liability bill.

For example, when Johnson Motor Lines Inc. of Charlotte, N.C., withdrew from the Central States, Southeast, and Southwest Areas Teamsters' pension fund last year, Johnson's parent firm, Republic Industries of Kansas City, Mo., was socked with a withdrawal liability bill of \$16.5 million. That is more than double Republic's net worth (BI, July 20).

And earlier this month, Transport Motor Express Inc. of Fort Wayne, Ind., filed suit in U.S. District Court in Chicago to block the Central States Teamsters' plan from collecting a withdrawal liability claim of \$8 million, more than double TMX's worth (see accompanying story).

It was this fear of massive new liabilities that led Borden to file suit against the dairy workers plan and its trustees to hold the line on benefit increases and give the \$3.3 billion corporate giant new power at the bargaining table.

"There should be a meeting of the minds" between an employer

and a union before benefits are increased, which can lead to the imposing of enormous liabilities, "particularly where we are 80% of the plan," said James King, employee relations counsel at Borden's Columbus, Ohio, office.

The collective bargaining agreement between Borden and the dairy workers union sets a contribution rate by Borden. The dairy plan trustees, however, set the benefit factor. The plan places no limit on the trustees in adopting benefit increases.

The Multiemployer Amendments Act was passed, however, after Borden and the dairy workers union signed the collective bargaining agreement.

Borden contends that granting the plan trustees the power to set the benefit factor was made at a time when Borden would have had to help pay the costs of any unfunded vested liabilities only if the plan folded within five years of it leaving it, but the new law makes

its withdrawal liability absolute rather than contingent.

The trustees should not be allowed—without authorization—to increase the benefit factor and expose Borden to substantial liability it didn't bargain for, the company said.

But representatives of the dairy workers plan argued that the terms of the plan make it clear that the trustees have the sole power to set benefits, a point that Judge Joiner did not find convincing.

"This court is persuaded that the imposition of liability under the ERISA amendments does operate to impose on Borden unbargained-for obligations and that this change in law was not one which could have been foreseen by the parties when entering into the collective bargaining agreements," he said.

"The decision to grant the committee (plan trustees) unfettered authority to set the benefit factor under the conditions existing prior to September should not be binding on the employer under the condi-

tions existing today," he added.

Judge Joiner said he was aware of the public interest in providing adequate pension benefits for retirees to ensure economic security.

"On the other hand, however, is the public interest in maintaining the soundness of pension funds, a state which has been achieved by the plan in this case," he said.

In addition, the public interest is served by limiting the obligations of a contracting party to the amount it agreed to, he added.

Judge Joiner said his ruling does not bar increases in the benefit factor that would lead to unfunded liabilities.

"Rather, this opinion simply stands for the proposition that such a change in status should be effected only after the employer has agreed to it, in light of the September 1980 ERISA amendments."

In addition, the plan trustees still retain the full power to increase benefits if the increase doesn't create unfunded liabilities, Judge Joiner said.

Another firm challenges multiemployer act

Continued from page 1

N.C., who also have sued the Teamsters' plan to fight a \$16.5 million withdrawal liability claim after Johnson left the plan last summer (BI, July 20).

Both suits charge the Multiemployer Amendments Act is unconstitutional.

And in both suits, employers have called on the nation's best legal talent. Republic and Johnson have hired Philip B. Kurland of Chicago, one of the nation's top constitutional law experts, while the battery of attorneys retained by Essex and TMX include Washington lawyer Richard Fay, who played a key role in the passage of ERISA in 1974 while on the staff of the Senate Labor Committee.

Federal judges in Chicago have issued temporary restraining orders blocking the Teamsters' plan from taking any action against the employers in both suits until the cases come to trial.

The plan, one of the nation's lar-

gest, also has thrown its hat into the litigation ring. It charges in the Robbins case that ERISA and the Multiemployers Amendments Act are unconstitutional because they take away property, the payment of insurance premiums to the Pension Benefit Guaranty Corp., to help other plans. The Teamsters' plan, which has \$3.5 billion in unfunded vested liabilities, does not believe it will ever make use of the PBGC insurance system.

And in the Peick case, Local 705 of the International Brotherhood of Teamsters Pension Fund and a group of Illinois trucking trade groups charge that the Multiemployer Amendments Act violates the Constitution because it serves "no overriding, legitimate public purpose or interest."

The Robbins and Peick cases are pending in federal court.

The lawsuits that have already been filed are only the tip of the iceberg, legal experts say. They

predict a wave of litigation as more employers that withdraw from multiemployer plans are hit with the kind of enormous claims now pending against Republic, Johnson, Essex and TMX.

TMX was a member of the Teamsters' plan until the company closed last summer. TMX also had been a member of several small multiemployer pension plans that will seek withdrawal liability payments.

Essex, a major manufacturer of wire and cable products, and TMX say the multiemployer act violates the due process clause of the Constitution because it gives plan trustees the power to determine liability but does not give employers the opportunity to directly challenge the decision.

At the same time, the act's retroactivity violates the due process clause that bars Congress from imposing severe liabilities without warning, the suit says.

"President Carter signed the bill September 26, 1980, but it applies to all withdrawals after April 28, 1980.

"This statute is clearly unconstitutional. Its procedures are so shot through with unfairness as to deny employers the most basic protec-

tions of due process," according to the brief.

"From top to bottom this deck is stacked in favor of the multiemployer plan and against the employer from whom huge sums are demanded. Not a single authority remotely suggests that such a statute can be squared with the Constitution of the United States," the suit adds.

TMX, which had incurred severe business losses, ended 41 years of operations last June, about four months before the multiemployer amendments were signed.

On June 23, 1981, TMX received the Central States withdrawal liability claim: \$8,071,885.29, payable immediately or in monthly installments of \$132,940 starting July 1.

The withdrawal claim is more than double TMX's current net worth of \$3.6 million, but only a fraction of parent company Essex's worth of about \$395 million.

The method used by Central States trustees to calculate TMX's withdrawal liability, one of four permitted under the statute, allocates to Central States unfunded vested benefits in proportion to TMX's share of contributions to the fund.

If TMX fails to make a monthly

withdrawal payment, Central States has the right, after giving the company 60-days notice, to require immediate payment of the remaining balance, plus interest.

"Requiring the payment, which is utterly unrelated to any actions or fault of the employer, violates the Seventh Amendment, which requires a judicial hearing before the taking of property," the TMX brief says.

The TMX brief notes that employers can protest to an arbitrator the amount of withdrawal liability set by plan trustees. But the company's constitutional rights still would be violated because it would be required to make withdrawal liability payments during arbitration hearings, it says.

In addition, compulsory arbitration violates TMX's right to access to the courts and a jury trial to resolve the withdrawal liability claim, a point made by Johnson in its suit against Central States.

"The employer's money is commandeered just as effectively as it would be by a writ of garnishment or by a sheriff carrying an attachment. The employer is deprived of the use of its property on the mere assertion of a self-proclaimed creditor that an amount is due," the TMX brief says.

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Bill would hike interest due on judgments

Continued from page 2

panies. "This simply is not fair.

"In addition, this amendment would create an imbalance in our system of justice because it would increase pressure to settle on only one party—the defendant," he explained.

Government entities would be exempt from the proposal, making it easier to enact the legislation since bills that would have a fiscal impact on public entities require a two-thirds rather than a simple majority for passage, according to California law.

"This is another unfair aspect to the bill," explained an industry source.

"If a manufacturer were sued with a government entity, interest could not be charged against the public entity and would have to be paid in full by the private sector defendant."

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Insurers' quarterly earnings surprise some doomsayers

By MYRON M. PICOULT
Special to Business Insurance

BI ticker

EXTENDING THE pattern set in the first quarter, property/casualty companies' second-quarter earnings were better than expected.

Their combined ratios did not deteriorate as much as projected and net investment income continued to grow at a stronger-than-expected pace. As a result, operating earnings declined only about 7.5%.

As was the case in the first quarter, there were wide variations among the companies' results. However, there were two common threads: Premium growth was virtually negligible and there was evidence that the cash-flow squeeze was intensifying.

Data for the second quarter shows that net written premium growth continued to slow. Written premiums were up an average of 0.7%, a paltry increase. This compares with an increase of 1.4% for the first quarter and increases of 9.1%, 6.8%, 5.3% and 2.5% in the four quarters of 1980.

Of the 16 property/casualty insurers studied, nine posted premium gains above the average. It is obvious that the sluggish premium growth reflects the soft market environment and the postures that managements have taken. Some managements appear to be aggressive, while others appear to be "sticking to their knitting."

Unfortunately, most companies, perhaps by design, are too obtuse in their comments about premium growth to provide intelligible

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Picoult

insights as to which companies are reaching for business and which are not. Only a handful of companies are providing meaningful statistics indicating what portion of premium growth relates to unit growth, rate increases or adjustments to the premium base.

While there were some hefty hail and wind losses in the Midwest during the second quarter, catastrophic losses continued to compare favorably with the 1980 experience.

The average combined ratio (after policyholder dividends) for the insurers surveyed was 103.7% compared with 101.8% in the second quarter of 1980. The ratio for the first quarter this year was 103.4%.

It is interesting to note that the swing in combined ratio between the second quarter of 1980 and the corresponding period of 1981 was almost evenly divided between expense and loss ratios. The loss ratio rose to 72.1% from 71.1%, while the expense ratio edged up to 31.6% from 30.7%.

While the averages do mask individual results, it is clear that some companies are feeling more pressure than others on their expense ratios because of particular mixes of business. Only time will tell whether underwriting prudence will prevail over production pressures.

Seven of the companies posted combined ratios greater than the average, eight were below the average and one company's ratio was even with the benchmark. Only four companies posted combined ratios below the 100% level. Three of them—Ohio Casualty, SAFECO and Geico—are heavily oriented toward personal lines. The fourth company was American International Group.

In many respects, you can call the property/casualty companies the good news/bad news group. The good news was that results were not as bad as expected. The bad news was that since the results weren't so horrible, some managements may not be more aggressive in responding to the current negative trends that are evident throughout the industry.

It now appears that property/casualty pre-

mium growth will rise only about 3.5% in 1981, compared with 6.2% last year. However, it appears that the industry's combined ratio is now likely to hit 107.5%—compared with a previous projection of 108.5%.

Investment income, perhaps reflecting some easing of interest rates and a further reduction in cash flow, will likely rise about 13.5% for the year.

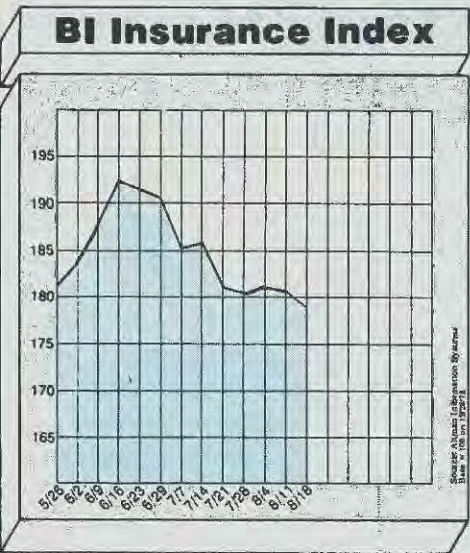
The bottom line is that the industry's operating earnings will probably decline about 8% in 1981 compared with 1980. Looking ahead to 1982, assuming an 11% increase in premium volume, a 10% increase in investment income and a combined ratio of 108.5%, the industry's earnings will rise about 3%.

Hence, industry earnings will be relatively flat through 1982. While this may not be a particularly happy investment scenario, it may well be a better showing than was expected by industry observers when the current downturn began. Admittedly, the recovery from these levels may not be as robust as originally expected, but this does not kill the possibility that industry results may show a greater level of consistency than has heretofore been predicted.

Traditionally, combined ratios do not improve until premium growth increases. We still believe that there will be a moderate but nonetheless perceptible move to increase rates throughout 1981 and into 1982.

Property/casualty stocks usually do not outperform the market until combined ratios start to improve. However, there have been notable exceptions to this rule in 1968, 1974, 1978 and 1979. Thus far in 1981, property/casualty stocks have outperformed the market by a wide margin, increasing in value by 14% vs. a 3.5% decline in the Standard & Poor's 400 Index.

The reason for the increase has been perceptions about the rate of inflation and perceptions about the value of holding a financially oriented asset. These factors will be key to the group's performance in the next year and a half, considering the lackluster underwriting outlook over the next several quarters.



Insurance industry stocks slipped last week as the *Business Insurance* stock index dropped 2.6 points to 178.7 from 181.3. Forty-two stocks dropped, only 16 rose and 15 were unchanged. Recording the largest drops were: MGIC Investment Corp., 10.5%; Frank B. Hall & Co. Inc., 10.4%; PennCorp Financial Inc., 9.4%; Continental Corp., 9.2%; and U.S. Life Corp., 7.5%. Largest increases were: E.H. Crump Cos. Inc., 10.8%; Aneco Reinsurance Ltd., 9.1%; Fred S. James & Co. Inc.; Crown Life Insurance Co., 5%; and First Colony Life Insurance Co., 3.2%. The 1.4% index decrease was less than the decline in the major market indicators.

British Issues

8/18 Companies	Price	P/E	Div. pence	Yield %	High—Low pence
Comml Union	167	11.1	16.07	9.6	174—164
Eagle Star	312	10.4	21.43	6.9	312—306
Genl Accident	380	8.8	21.07	5.5	384—376
Gdn Royal Exch	372	9.5	22.14	5.9	372—364
Phoenix	306	9.0	21.29	7.0	306—294
Royal	411	10.5	35.00	8.5	425—397
Sun Alliance	1013	10.1	47.14	4.6	1013—980

Brokers	Price	P/E	Div. pence	Yield %	High—Low pence
CE Heath	310	12.1	15.00	4.8	315—308
Hogg Robinson	107	8.5	8.57	8.0	108—106
Alex Howden	129	8.5	10.00	7.8	134—129
JH Minet	144	13.1	6.50	4.5	150—144
Sedg Grp	154	12.6	7.14	4.6	157—152
Stenhouse Hldg	95	8.5	6.64	7.0	96—94
Stew Wrightson	217	11.4	17.14	7.9	222—217
Willis Faber	380	13.1	17.14	4.5	390—380

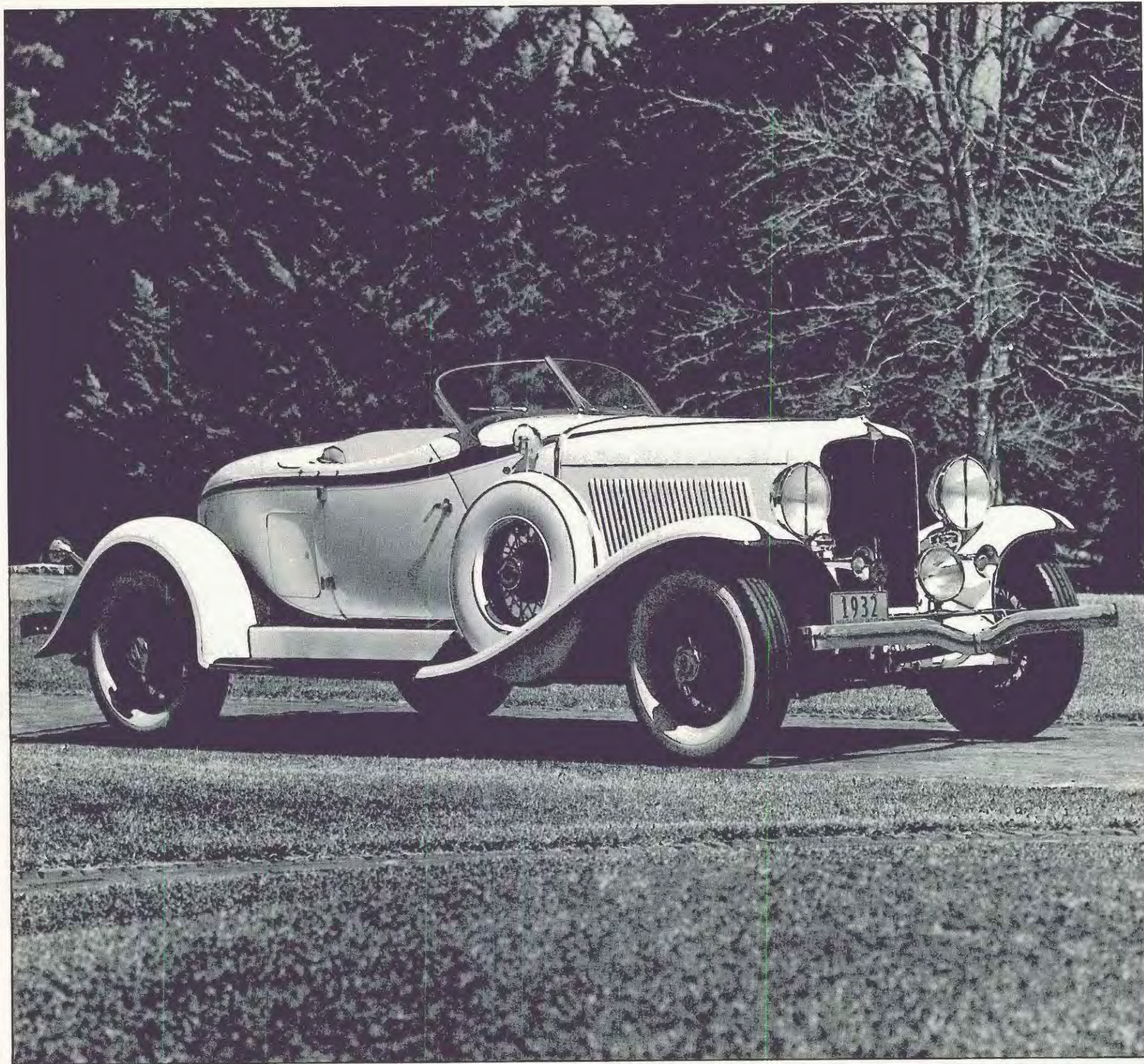
Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

BI Industry Stock Report

Insurance Cos.	AUG. 18, 1981					8/12/81 THRU 8/18/81					Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol. (000)	
	NYSE	OTC	AMEX	Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low									Vol. (000)
Aetna Life & Cas Co	NYSE	38.00	-2.9	6.7	2.32	6.1	39.38	38.00	283.2	Travelers Corp	NYSE	44.50	-3.8	5.2	2.88	6.5	46.00	44.50	265.7
American Bankers Ins Group	OTC	6.63	-1.9	12.5	0.44	6.6	6.75	6.63	55.6	United Fire & Cas Co	OTC	35.50	0.0	9.3	1.00	2.8	35.50	35.50	0.0
American Gen Ins Co	NYSE	40.75	0.0	6.4	2.00	4.9	41.25	40.75	131.5	United States Fid & Gty Co	OTC	42.38	0.0	6.3	3.20	7.6	42.63	42.25	71.8
American Indty Finl Corp	OTC	16.13	-0.8	6.5	1.12	6.9	16.25	16.13	4.5	United Svcs Life Ins Co	OTC	13.38	-4.5	5.5	1.00	7.5	13.88	13.38*	9.5
American Intl Group Inc	OTC	58.75	-0.8	10.7	0.40	0.7	60.25	58.75	215.7	USlife Corp	NYSE	24.75	-7.5	5.9	0.76	3.1	26.38	24.75	88.5
American Natl Ins Co	OTC	12.88	0.0	5.8	0.68	5.3	12.88	12.88	55.3	Washington Natl Corp	NYSE	27.75	-1.3	8.3	1.08	3.9	30.00	27.75	80.0
American Sts Life Ins Co	OTC	20.25	0.0	6.5	0.72	3.6	20.25	20.00	2.2	Zenith Natl Ins Corp	OTC	17.00	1.5	9.4	0.60	3.5	17.25	16.75	9.9
Aneco Reins Ltd	OTC	3.00	9.1	0.0	0.00	0.0	3.00	2.75	13.8	INSURANCE COMPANIES	AVERAGE			7.7		4.0			
Appalachian Natl Corp	OTC	2.50	0.0	7.1	0.00	0.0	2.50	2.50	1.0	Agents/Brokers									
Avesco Corp	AMEX	10.25	-2.4	3.5	0.50	4.9	10.38	10.13	11.9	Alexander & Alexander Svcs	OTC	30.75	2.5	10.6	1.84	6.0	31.00	30.75	206.9
Banks Iowa Inc	OTC	40.00	-5.9	5.4	1.44	3.6	41.00	39.00	11.6	Baldwin & Lyons Inc	OTC	34.75	0.0	5.9	0.80	2.3	34.75	34.75	0.5
Bitco Corp	OTC	39.00	0.0	6.0	2.16	5.5	39.00	39.00	2.7	Corroon & Black Corp	NYSE	23.00	-1.1	12.1	1.76	7.7	23.25	22.88	138.2
Carolina Cas Ins Co	OTC	6.50	-3.7	4.7	0.32	4.9	7.00	6.50	1.2	Crump E H Cos Inc	OTC	14.13	10.8	15.9	0.40	2.8	14.13	13.00	61.6
Central Natl Finl Corp	OTC	10.00	2.6	3.7	0.65	6.5	10.00	9.75	4.8	Hall Frank B & Co Inc	NYSE	21.50	-10.4	8.0	1.66	7.7	24.25	21.50*	117.5
Chubb Corp	OTC	45.38	-2.7	5.5	2.68	5.9	46.75	45.38	156.3	Integrated Res Inc	AMEX	14.38	-5.7	6.3	0.00	0.0	15.25	14.38*	39.8
Combined Intl Corp	NYSE	20.75	-2.4	5.7	1.60	7.7	21.50	20.75	47.6	James Fred S & Co Inc	NYSE	25.63	7.9	11.8	1.60	6.2	26.13	24.00	76.8
Connecticut Gen Ins Corp	NYSE	49.75	-3.4	6.5	1.76	3.5	50.25	49.75	248.4	Marsh & McLennan Cos Inc	NYSE	36.00	-1.4	11.9	2.00	5.6	36.13	35.63	84.2
Continental Corp	NYSE	29.63	-9.2	7.8	2.40	9.7	27.00	24.63	117.8	PennCorp Finl Inc	NYSE	6.00	-9.4	6.7	0.16	2.7	6.50	6.00	87.3
Crawford & Co	OTC	16.25	0.0	12.5	0.52	3.2	16.25	16.25	13.5	Poe & Asson Inc	OTC	11.00	0.0	9.6	0.80	7.3	11.00	11.00	0.2
Crown Life Ins Co	OTC	105.00	5.0	8.8	2.80	2.7	115.00	100.00	4.8	Reed Stenhouse Cos Ltd	OTC	11.13	-3.3	9.7	0.60	5.4	12.00	10.88	6.1
Crum & Forster	NYSE	31.13	-3.5	5.5	1.64	5.3	33.63	31.13	86.6	Rollins Burdick Hunter Co	OTC	23.50	-2.1	13.1	1.24	5.3	23.75	23.50	14.7
Employers Cas Co	OTC	36.50	-0.7	6.0	1.20	3.3	37.25	36.50	6.5	AGENTS/BROKERS	AVERAGE			9.4		5.1			
Equifax Inc	NYSE	23.75	-5.0	5.4	2.40	10.1	25.00	23.75	13.5	Conglomerates/Holding Cos.									
Excelsior Ins Co	OTC	16.50	0.0	17.6	0.70	4.2	17.25*	16.50	6.8	American Express(Fireman's Fd)	NYSE	44.88	-6.3	8.2	2.00	4.5	47.00	44.88	543.7
Farmers Group Inc	OTC	28.38	-5.8	8.8	1.12	3.9	29.88	28.38	138.9	Anderson Clayton(Ranger/Panam)	NYSE	24.75	0.5	6.1	1.20	4.8	25.38	24.75	20.6
First Colony Life Ins Co	OTC	48.50	3.2	14.8	0.80	1.6	48.50	45.50	11.1	Araco Inc	NYSE	32.63	-1.1	7.5	1.80	5.5	32.75	32.63	137.0
Foremost Corp Amer	OTC	28.25	-1.7	8.4	0.80	2.8	28.75	28.25	15.9	City Investing Co. (Home Ins.)	NYSE	26.25	-3.2	7.6	1.60	6.1	27.63	26.25	217.7
Great West Life Assurn Co	OTC	250.00	0.0	10.1	10.00	4.0	250.00	250.00	1.5	CNA Finl Corp (CNA)	NYSE	15.75	-3.1	6.2	0.00	0.0	16.25	15.75	11.3
Hanover Ins Co	OTC	30.00	0.0	4.1	0.72	2.4	30.50	30.00	6.9	Control Data (Comm. Credit)	NYSE	70.13	-6.5	8.2	1.00	1.4	73.50	69.88	203.8
Hartford Steam Boiler Insptn	OTC	43.50	-4.4	7.8	2.60	6.0	45.50	43.50	3.5	General Re Corp	NYSE	74.75	-4.8	9.8	1.76	2.4	78.50	74.75	36.0
Jafferson Natl Life Ins Co	OTC	35.50	-1.4	28.6	0.64	1.8	36.00	35.50	8.4	Gulf Ut Corp	NYSE	20.13	-0.6	7.3	1.32	6.6	20.50	19.88	171.6
Kemper Corp	OTC	34.50	0.7	5.6	1.60	4.6	34.63	34.50	23.4	INA Corp (Ins. Co. of NA)	NYSE	43.13	-1.4	6.0	2.40	5.6	44.13	43.13	121.6
Lincoln Natl Corp Ind	NYSE	39.88	-5.1	6.1	3.00	7.5	42.13	39.88	111.9	ITT (Hartford Group)	NYSE	27.00	-1.8	4.9	2.60	9.6	27.50	26.88*	1,425.8
Mgic Invst Corp	NYSE	35.00	-10.5	9.1	1.28	3.7	37.50	35.00	166.2	Optimum Hld Corp(Ideal Mutual)	OTC	12.50	0.0	15.4	0.00	0.0	13.38	12.50	13.8
Mission Ins Group Inc	NYSE	42.38	-5.3	7.7	1.00	2.4	44.75	42.25	60.6	Reliance Group Inc	NYSE	90.63	1.3	9.5	3.00	3.3	92.25	90.25	42.7
Nationwide Corp Ohio	OTC	24.63	0.0	7.0	0.70	2.8	24.63	24.63	1.4	Sears Roebuck & Co. (Allstate)	NYSE	17.00	-4.9	8.4	1.36	8.0	17.75	17.00	1,117.6
Northwestern Natl Life Ins Co	OTC	26.38	1.9	6.4	1.36	5.2	26.50	26.13	25.1	S & H Co. (Bayly Martin & Fay)	NYSE	34.63	-0.4	13.5	1.00	2.9	34.63	34.50	3.9
Ohio Cas Corp	OTC	40.13	0.3	6.2	2.04	5.1	40.13	39.88	36.1	Teledyne Inc (Argonaut)	NYSE	152.75	-3.3	8.4	0.00	0.0	156.38	152.38	123.4
Old Rep Intl Corp	OTC	16.00	-2.3	4.1	0.92	5.8	16.38	16.00	88.5	Transamerica Corp (Occidental)	NYSE	22.38	-1.1	7.0	1.28	5.7	23.00	22.38	176.6
Pinehurst Corp	OTC	6.75	-1.9	0.0	0.00	0.0	6.75	6.63	10.3	CONGLOMERATES/HOLDING COS.	AVERAGE			8.1		3.1			
Preferred Risk Life Ins Co	OTC	20.00	1.3	6.2	0.80	4.0	2												

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