

business insurance

Dalkon Shield claims push Robins into reorganization

RICHMOND, Va.—With less than \$50 million in liability insurance remaining to respond to mounting Dalkon Shield damage claims, A.H. Robins Co. has filed for reorganization under Chapter 11 of the Federal Bankruptcy Act.

Dalkon Shield liabilities aside, Robins' balance sheet is strong. However, it filed for Chapter 11 to allow it to work out a plan to deal with the

Continued on next page

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Tax rulings sting captive owners

By STEPHEN TARNOFF

In a setback for companies with captive insurance company subsidiaries, two more court decisions say that premiums paid to captives for insurance are not tax deductible.

Both decisions cited the landmark 1978 decision by the U.S. Tax Court in *Carnation Co. v. Commissioner*, in which the Tax Court ruled that premiums paid by a corporation to its wholly owned subsidiary do not constitute insurance premiums.

Tax Court Judge Jules G. Korner ruled on Aug. 14 that Humana Inc. could not deduct the more than \$21 million it paid in 1977 through 1979 to its Colorado captive, Health Care Indemnity Inc.

And, U.S. Claims Court Judge James F. Merow on Aug. 1 also denied Mobil Oil Corp.'s claim for a refund of \$35 million in taxes paid because deductions were disallowed for payments to four offshore captives between 1961 and 1969.

Citing the Carnation decision, both recent decisions say that the companies did not transfer risk to their captive subsidiaries, and consequently the transactions did not consti-

tute insurance for tax purposes.

Thus, the amounts paid by the companies were not premiums and were not deductible as ordinary and necessary business expenses.

Judge Korner, however, refers in a footnote in the Humana case to a dissenting opinion he joined in a decision of another tax case, *Clougherty Packing Co. v. Commissioner*. The dissenting opinion held that premiums paid to captives should be tax deductible.

"While I still adhere to the views expressed in the dissenting opinion in *Clougherty*, I of course accept the majority opinion in that case as the law in this Court," he wrote.

And, in the Mobil decision, Judge Merow did not directly address whether the underwriting of risks unrelated to the parent by a captive affects the tax treatment of premiums paid by the parent to the captive for related risks, even though Mobil stressed this

issue in its briefs.

Last week, an executive of Humana said the company has not yet decided if it will pursue the case further. Humana could ask the Tax Court to rehear the case and ultimately appeal the decision to the 6th Circuit U.S. Court of Appeals in Cincinnati.

William Ballard, Humana executive vp and chief financial officer, also said the company has not calculated how much it would have to pay the government as a result of the decision.

Humana, however, has been deducting premiums paid to its captive from 1977 through 1984.

"It is a significant slug of green dollars plus interest that Humana will owe Uncle Sam," Mr. Ballard said, but the amount will not affect the company's earnings because provisions have been made for the payment.

Mobil also has not decided on the course it would take. "We're still studying the decision

and the options available to us," said Thomas DuBos, an attorney for Mobil.

However, unlike Humana, which faces a tax bill, Mobil has already paid the deficiencies assessed by the government and sued in the Court of Claims for a refund.

While another adverse decision in the Tax Court involving Humana is significant to companies that would like to contest the IRS position on premiums paid to captives, Mobil's loss in claims court is even more significant.

Mobil was the first and only company to bring a captive tax case in the claims court.

Had the decision been in favor of Mobil, other companies using captives would have been able to get the same favorable ruling if they brought their cases in the claims court, which is a court of national jurisdiction.

"If we lost here, it would have been all over," said Kevin Shea, an attorney for the government in the Mobil case.

The decisions are the fifth and sixth to hold that companies cannot deduct payments to their captives. In only one case has a court held for the taxpayers on this issue.

Continued on page 28

'It is a significant slug of green dollars plus interest that Humana will owe Uncle Sam,' says Executive Vp William Ballard.

Cal-Farm's MGA says it was victim of fraud

By ROBERT A. FINLAYSON

LOS ANGELES—The managing general agent accused of driving Cal-Farm Insurance Co. into bankruptcy by improperly underwriting financial guarantee bonds contends it was the victim, not the perpetrator, of fraud.

Eagle Bonds & Insurance Brokers of Agoura, Calif., charges in a lawsuit filed earlier this month that Cal-Farm was brought down by a scheme perpetrated by a mortgage brokerage firm and the officers and directors of the insurance company.

The suit was filed Aug. 19 in U.S. District Court in Los Angeles by Errol P. Coughlan; his brother, John M. Coughlan; and their companies, Eagle Bonds and California-Pacific Construction Inc.

The 14-count complaint, which includes allegations of racketeering, fraud, breach of contract and bad faith, names Cal-Farm and its officers and board of directors; Barclays Mortgage Corp. and its officers; 58 other Barclays real estate partnerships; and the California insurance commissioner, as conservator of Cal-Farm.

The suit alleges that Cal-Farm's officers issued false financial statements to cover up the insurer's bond losses and permitted officials at Barclays Mortgage Corp. of Irvine, Calif., to violate Eagle Bonds' MGA agreement by issuing bonds without its knowledge, to keep premium due Eagle Bonds, to cause claims to be filed on bonds so that Barclays-related projects would be released from loan obligations and to issue bonds in violation of California state law.

Eagle Bonds and its owners charge they were duped into playing the middleman in the scheme and raked in millions of dollars of allegedly worthless financial guarantee bonds, including some bonds that covered loans to a business they owned.

Eagle Bonds and its owners also contend that they have lost at least \$150 million as a result of the fraud that cost them business opportunities and \$8 million in lost fees and commissions.

The suit by Eagle Bonds is the latest action in the dispute between

Continued on page 27

Rate increases begin to show in insurers' first-half results

By JUDY GREENWALD

Buoyed by steep rate increases, commercial property/casualty insurers are continuing down the road to respectable earnings, analysts say.

The aggregate aftertax operating income of 25 major commercial property/casualty insurers surveyed by *Business Insurance* dropped 2.4% in the first half to \$774.1 million, a modest decline considering earnings declined by 46% in the first quarter and profits plummeted 60.1% during the first half of 1984.

Seventeen of the 25 insurers reported improved earnings in the first half of 1985; only 15 of the companies reported earnings improvements in the first quarter, while just three saw their earnings rise in the first half of 1984.

Insurers will post even better results as the year progresses, insurers and analysts agree.

"Things are looking much better every single month that we go forward," says a spokesman for Chubb Corp.

"It'd be pretty hard to imagine the results doing anything but getting better, barring major catastrophes," adds Norman L. Rosenthal, a vp and analyst with Morgan Stanley & Co. in New York.

"The second-half results should benefit from higher levels of earned premiums compared with the first half," says David Anthony, an analyst with Smith Barney Harris Upham & Co. in New York.

However, some analysts note that any celebration is still premature.

"The sharp rate activities taken to date have not resulted in major bottom-line improvements yet," says Michael A. Lewis, a vp and financial stock analyst with E.F. Hutton in New York.

Mr. Lewis adds, however, that it's only a matter of time before rate hikes work their way down to improve

bottom lines of insurance companies.

"If the price increases that companies are saying have happened have indeed happened, it can't be too long before earnings start turning dramatically," agrees Robert V. Brokaw Jr., senior analyst at Miller, Tabak, Hirsch & Co. in New York.

Business Insurance's survey of major property/casualty insurers demonstrates the transition in insurers' first-half results:

• Fueled by rate hikes, net premiums written by the surveyed insurers jumped a healthy 17.6% compared with the first half of 1984 to \$27.9 billion.

• Aggregate underwriting losses deepened during the first half by 6.9% to \$5 billion. But, this is a substantial improvement over the first quarter, when underwriting losses increased 12.5%.

• Despite the increased underwriting losses, the insurers' aggregate combined ratio in the first half improved slightly to 119.0%, compared with 119.4% in the first quarter and 120.3% in the first half of 1984.

The aggregate combined ratio, however, reflects a wide range of

results among the surveyed insurers.

For instance, The Hartford Steam Boiler Inspection & Insurance Co., which reported a combined ratio of 96.9%, became the first insurer in *BI's* survey since 1983 to post a combined ratio of less than 100% (see chart). However, the combined ratios of a handful of insurers continued to rise, with Mission Insurance Group Inc. posting a combined ratio of 159.0%, the worst of the companies surveyed.

• Investment income increased by 9.5% in the first six months of 1985 to \$3.8 billion, down slightly from the 10% growth rate generated during the first quarter.

• Policyholder surplus among the 23 insurers supplying this data soared 18.1% to \$15.9 billion, as many of

Continued on page 32

Best combined ratios		
Insurer	1985	1984
Hartford Steam Boiler	96.9%	118.1%
American International Group Inc.	107.4	103.5
American General Corp.	108.7	126.1
Chubb Corp.	109.9	113.8
Ohio Casualty Corp.	112.2	114.4
Worst combined ratios		
Mission Insurance Group Inc.	159.0%	142.9%
The Home Group Inc.	143.2	125.8
Fremont General Corp.	132.5	128.2
Fireman's Fund Insurance Cos.	132.5	120.7
Commercial Union Insurance Cos.	126.3	118.7

Source: BI survey

Occidental charges broker BMF botched reinsurance placement
Page 3

update

Robins files for reorganization

Continued from previous page
mounting cost of claims brought by the women who used the Dalkon Shield intrauterine device.

Its action is similar to that taken by Manville Corp., which filed for reorganization three years ago because of overwhelming asbestos litigation. Manville recently agreed to a proposal to emerge from Chapter 11 by paying \$2.5 billion to settle asbestos injury claims (see story below).

As a result of the bankruptcy petition, all litigation against Robins is halted while it is in reorganization.

As of June 30, about 5,100 Dalkon Shield claims were pending against Robins and the company expects "a substantial number" of new cases.

This year, it was facing an average of 371 claims each month compared with 160 per month last year.

As of June 30, Robins and Aetna Casualty & Surety Co., its primary and excess liability insurer from March 1968 through February 1978, had paid \$378.3 million to settle 9,230 Dalkon Shield cases. Legal fees and other costs associated with the cases have totaled \$107.3 million.

Late last year, Robins entered into an agreement with Aetna that capped Aetna's liability while providing Robins with \$70 million more in insurance. As of June 30, only about \$50 million of that coverage had not been exhausted, and Robins has not purchased new coverage for Dalkon Shield injuries because of the cost.

The bankruptcy petition lists Robins' total assets at \$466 million and total liabilities at \$206 million, but the figures do not include the impact of a \$615 million reserve established in April to cover Dalkon Shield claims.

Robins sold the Dalkon Shield from 1970 to 1974 in the United States and until 1975 in foreign countries. Plaintiffs contend that it causes uterine perforations, pelvic inflammatory disease, sterility, and other complications.

Manville group files motions

NEW YORK—Manville Corp. shareholders have filed motions in federal and state courts seeking to force Manville to hold an annual meeting in an apparent attempt to block the recent proposed reorganization plan worked out between Manville and the representative of future asbestos claimants to allow Manville to emerge from bankruptcy (BI, Aug. 12).

George Hahn, who represents shareholders in the reorganization, said the plan, proposed by attorney Leon Silverman representing future claimants, is "completely unacceptable" to shareholders and is "fundamentally flawed."

Mr. Hahn said Manville is required by law in Delaware, where it is incorporated, to hold a meeting every year, but no meeting has been held for at least three years. The shareholder group also wants Manville to pay for the meeting.

Under the plan, the shareholders would have to pay up to 80% of the company's stock to finance a trust fund for asbestos victims.

P.C.W. members prepare to sue

LONDON—Nearly 400 members of the Lloyd's of London syndicates once managed by the now-defunct P.C.W. Underwriting Agencies Ltd. are preparing to sue several companies and Lloyd's to recover the 130 million pounds (\$180.7 million) of losses faced by the syndicate members.

The suit is expected to be filed in High Court in London next month or in early October, said Keith Whitten, a P.C.W. member acting as a spokesman for other members. British courts are currently closed for vacation.

Mr. Whitten said the defendants will include Minet Holdings P.L.C., P.C.W.'s parent company, and units of Lloyd's brokers Alexander Howden Group P.L.C. and Sedgwick Group P.L.C. In addition, Mr. Whitten said that Lloyd's "almost certainly" will be named as a defendant.

Howden and Sedgwick units placed reinsurance for the P.C.W. syndicates. Approximately 40 million pounds of P.C.W. funds were allegedly misappropriated through premiums paid to offshore reinsurers.

The members were required by Lloyd's to show they had sufficient assets to pay 62 million pounds (\$86.2 million) of the losses by July 31. However, about 300 members did not meet the solvency test, forcing Lloyd's to set aside a record 65.5 million pounds from its Central Fund to meet the members' liabilities (BI, Aug. 12).

Mr. Whitten said the suit will allege breach of contract, fraud, deceit and negligence against some or all of the defendants. The suit also will allege that Lloyd's breached its duty to its members, he added.

Continued on page 31

index

A.R.M. exercises	22	Washington	14
Benefit beat	17		
Classifieds	30		
Comings&goings: buyers	11	Vol. 19, No. 34—Business Insurance (ISSN 0007-6864) is published weekly at 740 Rush St., Chicago, Ill. 60611. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to Business Insurance, circulation department, 740 Rush St., Chicago, Ill., 60611; 312-649-5221. Copyright 1985 by Crain Communications Inc.	
Comings&goings: industry	16		
Datebook	24		
Info	10		
Insurance services guide	32		
Letters	6		
London line	23		
Markets	12		
Opinions	6		
Perspectives	21		
Ticker	33		

Asbestos producers win property damage case

By STEPHEN TARNOFF

GREENVILLE, S.C.—Two former asbestos producers are not liable for the cost of inspecting and removing asbestos materials from five buildings owned by a South Carolina school district, a federal court jury has found.

The Aug. 15 verdict in favor of U.S. Gypsum Co. and National Gypsum Co. marks the second time in two trials that a jury has found the defendants not liable in an asbestos property damage case.

Last March, a U.S. District Court jury in Knoxville, Tenn., ruled that National Gypsum and U.S. Gypsum were not liable for the costs of removing asbestos and repairing walls and ceilings in two local school buildings (BI, March 18).

There have been no verdicts in favor of plaintiffs in asbestos property damage cases.

Defense attorneys see the latest verdict as a hopeful sign that asbestos producers may not face the huge liabilities in the property damage litigation that they face for personal injury suits.

EPA weighs coverage requirement

By JERRY GEISEL

WASHINGTON—The unavailability of pollution liability insurance is prompting the U.S. Environmental Protection Agency to reconsider rules requiring hazardous-waste facilities to purchase pollution coverage.

The EPA is asking for public comment on whether the so-called financial responsibility rules issued under the federal Resource Conservation and Recovery Act should be changed.

"In response to the dilemma posed by the growing shortage of third-party liability insurance... EPA is considering and seeking public comment on the advisability of alternatives to the current requirements," the EPA said.

In a notice in the Aug. 21 issue of the Federal Register, the EPA outlined five alternatives:

- Maintain the current financial responsibility rules.

Under those RCRA rules, all hazardous waste facilities must have

Continued on page 31

An estimated 100 property damage suits have been filed by school districts and other public and private entities. The suits seek billions of dollars in damages from scores of asbestos producers.

However, an attorney for Spartanburg School District No. 7, the plaintiff in the South Carolina case, contends that the two property damage verdicts reached thus far do not indicate a trend in favor of defendants.

Terry Richardson of the Columbia, S.C., firm of Blatt & Fales, also said the school district is requesting a new trial and, if that motion fails, will appeal to the 4th U.S. Circuit Court of Appeals. "We think our case was meritorious," he said.

The school district had sought to recover \$284,000 for the removal of acoustical ceiling plaster containing asbestos from four schools and an administration building built between 1955 and 1970.

The district removed the plaster in 1982 and 1983, in part because the state Department of Health and Environmental Control strongly recommended that the asbestos materials be removed.

Continued on page 26

British Airways crash adds to record losses

LONDON—The crash of a British Airtours Boeing 737 owned by British Airways at the airport in Manchester, England, last Thursday will add to already record aviation losses for 1985.

The plane, bound for Corfu, Greece, crashed when one of its engines exploded on takeoff. It was estimated late last week that 60 of the 137 passengers and crew were killed.

Sources at Lloyd's of London estimate the aircraft was valued at \$13 million to \$14 million.

Last week's crash was the fourth major air disaster in two months. In addition to the victims of the British Airways crash, at least 1,341 people have been killed in commercial aviation accidents this year, including 520 people in the Aug. 12 crash of a Japan Air Lines Boeing 747 in Japan, 131 people in the Aug. 2 crash of a Delta Air Lines L-1011 in Dallas, and 326 people in the June 23 crash of an Air India Boeing 747 off Ireland.

Total hull losses this year are \$319 million. In 1984, only two people died, and hull losses were only \$60 million (BI, Aug. 19).

British Airways has \$700 million in liability coverage and up to \$95 million in hull coverage for each aircraft, according to a London underwriter. The hull and liability coverage is led jointly in London by British Aviation Insurance Co. Ltd. and the Ariel Syndicate at Lloyd's, the underwriter says.

Neither British Airways nor its broker, Sedgwick Group P.L.C., would comment on the insurance coverage.

But, the London underwriter said British Airways renewed its coverage April 1 with slightly higher rates. Liability rates rose to 17.5 cents for every 1,000 revenue passenger kilometers from 16 cents, and hull rates rose to 33 cents for every \$100 of insured value from 32 cents, he said.

Small accountant fighting to keep Big Eight firm in suit

By MEG FLETCHER

CLEVELAND—A small New York accounting firm is fighting to keep a Big Eight accounting firm in liability litigation involving audits they both performed for a bankrupt securities dealer.

errors & omissions

- Harbor Insurance Co., not The Home Insurance Co., was the underwriter of \$10 million in directors and officers liability insurance that is to contribute to a \$23.5 million settlement with former shareholders of Trans Union Corp. (BI, Aug. 19).

Harbor wrote a three-year policy beginning Dec. 27, 1978, with limits of \$10 million that is responding to the Trans Union shareholder suit, said an attorney at Marmon Group.

Business Insurance incorrectly reported that The Home was the insurer, based upon information provided by another attorney who represents the Marmon Group. BI regrets the error.

- About 70% of California Union Insurance Co.'s policyholders are renewing today, up from about 50% a year ago. Due to an editing error, its 1984 renewal rate was misstated (BI, Aug. 12).

Both firms—tiny Frederick Todman & Co. and giant Arthur Young & Co.—audited Bell & Beckwith, a Toledo-based securities broker-dealer that was placed into court-ordered bankruptcy in 1983.

Todman audited the accounts of B&B from 1977 until its collapse in 1983; Arthur Young was the prior auditor.

Todman is being sued by B&B's trustee for \$45 million in compensatory damages and \$20 million in punitive damages for its allegedly inadequate auditing, and Arthur Young has reached a court-approved settlement with the bankruptcy trustee totaling \$388,512.

Young's settlement is half the sum the trustee originally had requested.

Todman is appealing to stop Young from settling, contending that the Big Eight firm owes more. Todman is joined in its appeal by Irene Smith, a former limited partner in Beckwith who also wants Young maintained as a potential source of funds.

Todman has a primary errors and omissions insurance policy with estimated limits of \$10 million underwritten by American Home Assurance Co., a member of American International Group.

A source close to the case said that American Home rejected an earlier offer to settle the litigation for \$10 million.

Bell & Beckwith also had excess errors and omissions coverage, which was provided by underwriting manager L.W. Biegler in Chicago.

Young, with more than 700 partners and annual

Continued on page 25

Occidental sues Bayly, Martin & Fay over reinsurance

By DOUGLAS McLEOD

LOS ANGELES—Occidental Petroleum Corp. is suing broker Bayly, Martin & Fay International Inc. for more than \$120 million, claiming that BMF failed to properly place a portion of Occidental's worldwide property insurance program.

Occidental thought that property reinsurance for its Bermuda-based captive had been placed with Phoenix Assurance P.L.C. of London, a unit of Sun Alliance & London Insurance P.L.C., according to the company's lawsuit.

However, the coverage—which became effective Dec. 31—was actually placed with another reinsurer that Occidental claims is not "a bona fide insurer capable of providing the reinsurance."

The actual reinsurer has been identified as Phoenix Insurance Co., according to BMF President Joseph N. Tate. Mr. Tate said that the three London brokers that placed the Occidental coverage for BMF have since been unable to locate Phoenix Insurance Co., which is not related to a Travelers Indemnity Co. subsidiary of the same name.

"Right now, we have no information on Phoenix Insurance Co.," Mr. Tate said. "We don't know anything about them."

Bernard Hubscher, a New York attorney who said he represents the reinsurers behind Phoenix Insurance Co., told BMF officials that Phoenix's reinsurers will honor valid claims on the Occidental coverage, Mr. Tate said.

Mr. Tate added, however, that he doesn't know who these reinsurers are, and that Mr. Hubscher refused to tell him.

Mr. Hubscher could not be reached for comment.

BMF executives had hoped to resolve the problem with Occidental by offering the company a "guarantee package"—including substantial letters of credit—to back up the Phoenix reinsurance, according to William A. Baxter, a BMF executive vp who handled the Occidental account and who was fired earlier this month.

But the guarantee package was never put together, and Occidental filed its lawsuit against BMF on Aug. 9 in California State Superior Court in Orange County.

The coverage at issue in the suit is the first \$10 million per-occurrence layer of Occidental's worldwide property program, which is insured by the company's Bermuda-based captive, Piper Indemnity.

The reinsurance program for Piper, brokered by BMF, was divided into two parts: aggregate stop-loss reinsurance covering Piper's \$1 million retention and reinsurance for \$9 million excess of \$1 million.

The aggregate stop-loss reinsurance was supposed to have been placed on the Insurance Exchange of the Americas in Miami through Countach Intermediaries Ltd., a New York broker, Mr. Tate said.

However, the coverage—which was fronted by Phoenix Insurance—never was placed on the Miami exchange, according to Mr. Baxter.

Gary I. Hoskie, an executive of Countach, could not be reached for comment.

Reinsurance for the \$9 million excess of \$1 million layer also was placed with Phoenix through London brokers Bijou Insurance Services and Hill Leonard Ltd. and through Lloyd's of London broker W.G. Hill & Sons (Insurance) Ltd., Mr. Tate said.

Occidental has substantial excess property insurance above the first \$10 million layer, but this excess coverage is not in dispute.

The Phoenix reinsurance policies purportedly covered a three-year period starting Dec. 31, 1984. Occidental paid upfront premiums for the cov-

Continued on page 29

Reinsurers sue to rescind The Home's E&O treaties

By STEVE TARAVELLA

NEW YORK—Sixteen reinsurers are asking a federal court to rescind their treaties involving errors and omissions insurance policies issued by The Home Insurance Co. in 1983 and 1984.

The plaintiffs, all reinsurers located outside the United States, contend that The Home misrepresented its intentions for handling E&O insurance at the time the treaties were negotiated.

Specifically, the reinsurers charge that The Home violated a written agreement when it delegated underwriting authority to an unaffiliated managing general agent without obtaining the agreement of the reinsurers, which expected Home employees to write the policies.

The reinsurers also contend that the premium volume exceeded expectations and that the type of risks written fell outside the underwriting guidelines they understood.

"If plaintiffs had known the true and correct facts concerning Home's insurance program and its actual conduct and activities," they would not have participated in either treaty, 13 London-based reinsurers say in a lawsuit filed July 25 in U.S. District Court for the Southern District of New York.

Three reinsurers based in West Germany make substantially the same allegation in litigation filed five days later, also in U.S. District Court for the Southern District of New York.

At issue are E&O policies with limits up to \$5 million written for law firms, real estate agents, accountants and other professionals in the United States and Canada. The Home's E&O program excluded architects and engineers liability and medical malpractice, except for nurses and nursing homes, according to court papers.

The policies were written on both an occurrence and claims-made basis, with limits applying per occurrence or per claim and sometimes in the aggregate.

The Home retained 20% of the first \$1 million of loss on each policy, reinsuring the other 80% with quota-share reinsurers.

In addition, the Home purchased excess-of-loss reinsurance for \$4 million excess of \$1 million.

Of the 16 plaintiff reinsurers, all wrote excess-of-loss reinsurance either in 1984 or 1983, or both. In 1984, the contested excess-of-loss reinsurance amounts to 48% of the treaty and in 1983 it amounts to 41.5%.

In addition, two of the German companies participated in the quota-share reinsurance treaty: Hannover Reinsurance Corp., for 7.5% in 1984 and 17.5% in 1983, and Insurance Corp. of Hannover, for 7.5% only in 1984.

If the reinsurers are successful in rescinding the treaties, the premiums paid by The Home would be returned and liabilities transferred under the treaties would revert to The Home.

If the court does not order rescission, the London companies ask that the treaties be rewritten to respond only to E&O policies that meet the underwriting guidelines as they understood them.

The German companies ask as an alternative to rescission that The Home be held liable for any losses they sustain under the treaties.

In addition to rescission of the treaties, the reinsurers also seek unspecified monetary damages and legal costs.

Chiefly, the reinsurers claim that The Home had said that all the underwriting of the E&O insurance would be centralized at The Home's New York headquarters and handled by Home employees and agents, but that in fact many of the policies were written for The Home by Professional Liability Underwriting Managers Inc. (PLUM) in Minneapolis.

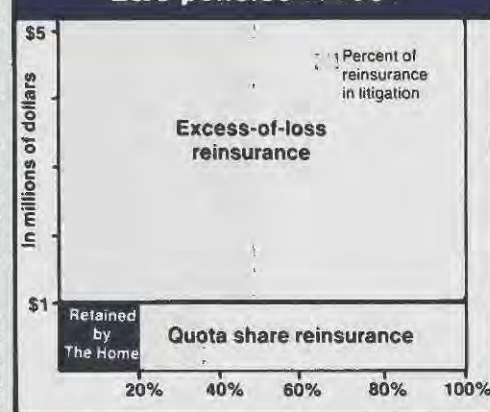
PLUM, a unit of Corroon & Black Corp., produces business for The Home in 32 states, writing only lawyers and real estate agents professional liability, according to Vp Paul Mahaffey. He says PLUM generates the bulk of The Home's E&O business, but that The Home also receives E&O business from other sources.

The Home's E&O program is currently PLUM's sole source of business.

PLUM does not arrange its reinsurance or administer claims, Mr. Mahaffey said, adding that PLUM routinely refers very large accounts—like a large group of attorneys seeking high excess limits—to The Home's New York or Minneapolis office for underwriting.

Continued on page 26

How The Home reinsured E&O policies in 1984



Source: Court documents

Chart: Amy Palmer

Use of pension hybrid expected to grow

By JERRY GEISEL

SAN FRANCISCO—Following the lead of BankAmerica Corp., hundreds of employers could replace traditional defined benefit pension plans with a new hybrid pension product, consultants predict.

In July, BankAmerica introduced a new pension plan that combines aspects of both defined benefit and defined contribution plans. The plan, called BankAmeraccout, was formally qualified by the Internal Revenue Service this month.

At the same time as it introduced its new pension plan, San Francisco-based BankAmerica also significantly altered its existing 401(k) plan (see story, page 4).

Labeled a "cash balance pension plan," the new BankAmerica pension plan establishes a cash balance account for each employee when he or she becomes a member of the plan. Each month thereafter additional benefit credits are added to the account based on pay and the employee's years of service, and the account earns interest based on a predetermined rate.

The monthly credit for employees with 10 or more years of service is 5% of pay, minus a Social Security offset; employees with less than 10 years of service receive credits equal to 4% of pay, minus the Social Security offset.

The accounts at BankAmerica also will earn 10% interest in 1985.

Any benefits BankAmerica employees had already accrued under the old pension plan

Significant changes in BankAmerica pension plan

	New plan	Old plan
Pension formula	Benefits credited to account monthly based on service and current pay over a percentage of the Social Security wage base: 5% of pay with 10 or more years of service. 4% of pay with fewer than 10 years of service.	Benefits calculated at retirement, based on highest five-year average pay, years of service and assumed Social Security benefits.
Vesting	10% for each year of service.	After 10 years of service.
Benefits paid	When employment ends, regardless of age. At retirement, employee can choose single payment or monthly payment.	Monthly after employment ends at age 55 with 15 years of service or at age 65 with 10 years of service.

Chart: Amy Palmer

were transferred to the new account balances.

Although the plan is considered a defined benefit plan because the employer promises to provide a specific benefit, it has many features typical of a defined contribution plan.

For example, BankAmerica employees vest immediately in their account balance and, regardless of age, receive the vested

portion of this balance if they leave the bank. They can take the money either in a lump sum or leave it in the plan until retirement, when they would have the option of a lump-sum benefit or monthly payments.

BankAmerica's new plan, which was conceived and planned by benefit consultant Kwasha Lipton of Fort Lee, N.J., could usher in a new era in pension plan design—a largely stodgy field where little has hap-

pened in decades despite dramatic demographic changes in the workforce during that period.

In addition to BankAmerica, Kwasha Lipton also has set up cash balance account plans at Keuffel & Esser, an engineering concern in Morristown, N.J.; Consolidated Laundries Inc. in Secaucus, N.J.; and an East Coast-based savings and loan association that did not want to be identified.

Many more companies could follow. "My phone has been ringing off the hook," said Larry Brennan, a partner at Kwasha Lipton.

Since BankAmerica's plan started in July, Mr. Brennan has received calls from a Fortune 500 oil company, a major apparel manufacturer, a Fortune 50 heavy industrial equipment manufacturer and a large multi-employer pension plan.

All of them either want more information on cash balance plans or want Mr. Brennan to analyze whether the concept is feasible for them.

One New York bank—one of the 25 largest banks in the country—was so hungry to learn more about cash balance plans that it asked Kwasha Lipton to immediately send it all the information available on the plans, said Mr. Brennan.

Meanwhile, consultant Towers, Perrin, Forster & Crosby in New York also is touting the cash balance plan approach to its clients. Vp Ed Lane says two cash balance proposals

Continued on next page

401(k) plan sweetened, too

SAN FRANCISCO—Besides overhauling its pension plan, BankAmerica Corp. also is sweetening its 401(k) salary reduction plan.

First, the company will open the plan to employees with only one year of service. Previously, there was a three-year waiting period to join the plan.

In addition, for employees with 10 or more years of service, the company will fully match pretax salary deferrals, up to 4% of pay. The company also will match 50% of the next 2% of pay deferred.

For those with less than 10 years of service, BankAmerica is fully matching deferrals for the first 2% of pay and 50% for the next 4%.

"By going to a 100% match, we think we will get a lot more employees to participate," said John Tobey, vp-financial analysis and planning.

In addition, employees can choose from five funds—including an equity fund, a bond investment fund, a money market fund, an income accumulation fund and BankAmerica common stock—in which to invest matching employer contributions. Previously, matching contributions only could be invested in BankAmerica common stock.

Also, after five years, employees can withdraw matching contributions. Previously, a "hardship" generally was required to withdraw a matching contribution.

Pension hybrid

Continued from previous page
that TPF&C has developed are awaiting approval from the boards of directors at two Fortune 500 companies and the benefit committee at a third smaller company also is considering a cash balance plan.

"Based on the calls I'm getting, I'd say half of our offices are talking to clients" about the plans, said Mr. Lane.

Corporate interest will increase as more plans are set up and receive publicity, Mr. Brennan said.

"This is a plan that responds to today's workforce in which employees often leave after a few years and have little appreciation for a plan in which they won't earn a benefit," he adds.

Conventional defined benefit plans often are "invisible" to employees because they don't deliver benefits until an employee reaches retirement age. And, in most cases, an employee must have at least 10

years of service with the company to vest in the plan.

But the benefits are very real in a cash balance pension plan because the employee knows the exact size of his account and he only has to work one year to be entitled to part of that money.

Because of this quick vesting, cash balance plans will appeal to the increasingly mobile workforce, said Mr. Lane at TPF&C.

"We think these plans will be like flexible benefit plans. Only a small number of employers may initially have them, but those employers will be riding the wave of the future," Mr. Lane said.

"Like flex, the cash balance plans will grow because the benefits are more meaningful and employees will have more choices," he adds.

And, while employees enjoy all the advantages of a defined contribution plan with a cash balance plan, they also have the security inherent in a defined benefit plan:

the benefits promised are insured by the federal Pension Benefit Guaranty Corp. and there is no investment risk to employees because the company promises to provide a specific benefit.

Cash balance plans also are expected to appeal to employers that want a way to better measure pension costs and accurately fund their programs.

Since employers know employees' current salaries and how much they are likely to increase in the coming year, they will know how much to contribute to the plan in any given year.

By contrast, in a conventional final average pay pension plan, the benefits are based on an employee's highest salary often averaged over his or her last five years of service.

Since salaries may rise substantially over an employee's service, forecasting an employee's ultimate salary and pension benefit can be difficult.

If salaries rise much faster than expected, then the plan becomes underfunded. But if salaries rise slower than anticipated, the plan can accumulate unnecessary surplus.

Despite the advantages of cash balance plans for both employers and employees, the unveiling of the BankAmerica plan is sparking controversy among benefit experts.

Opponents charge that cash balance plans will hurt "fast track" employees whose salaries rise substantially during the last years of their employment. Such employees won't have high salaries long enough for the contributions to accumulate in value commensurate with their salaries in later years.

These fast track employees would fare better in a final average pay plan, they say.

"This is really giving a little bit of candy for short-term employees while penalizing others," contends Kevin Meehan, an attorney with The Wyatt Co. in Washington.

"Anything based on career average (like cash balance accounts) turns out well for short-term employees, but it won't be enough for those on the fast track," said Lloyd Kaye, a principal with William M. Mercer-Meindinger Inc. in New York.

And, those fast-track employees may be the workers for whom the company wants to provide the richest benefits, Mr. Kaye added.

BankAmerica is aware that certain employees may not accumulate as rich a benefit under the new plan as they would have in BankAmerica's former final average pay pension plan.

However, to compensate for this BankAmerica could later add an additional unqualified pension plan for those fast-track employees, said Paul Nordine, benefit consultant at BankAmerica.

In addition, BankAmerica already is providing transitional benefits for older or longer-service employees whose benefits could have suffered by the introduction of the new plan. The bank is guaranteeing that anyone who retires in the next five years will receive at least what their benefits would have been under the old plan.

Others note that fast-track employees usually are well compensated through other corporate benefits, such as stock options. They contend final average pay plans only reward a handful of employees at the expense of many.

In the end, a company has to decide its pension objectives and design a plan that meets those objectives, said Mr. Kaye.

"A cash balance could be the answer for some companies, but certainly not for all," said Gerald Wilson, a partner with Hewitt Associates in Lincolnshire, Ill.

For BankAmerica, a cash balance plan is the answer, company officials say.

"We wanted a pension plan that

Continued on page 8

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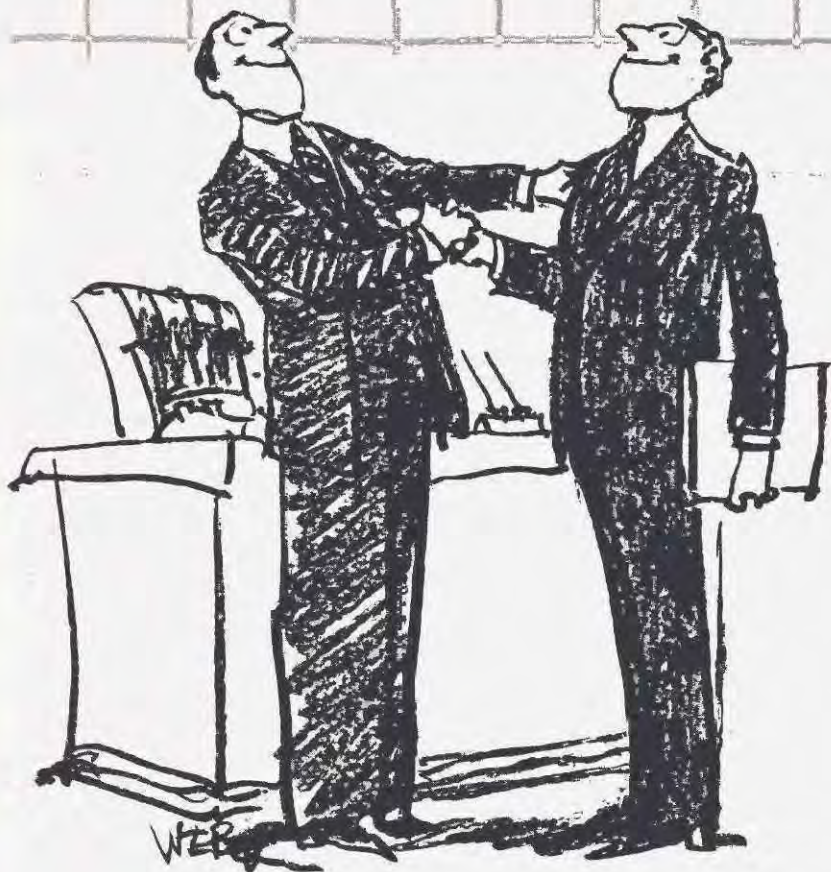
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opinions

New reasons to hate tax plan

JUST WHEN WE thought everything there was to hate about the Reagan administration's tax reform proposal had been uncovered, more ridiculous provisions targeting employee benefit plans are exposed.

We're referring to the two proposals recently uncovered that are designed to tax higher-paid employees on their benefits (*BI*, Aug. 19).

Both proposals are discriminatory in their application and destructive in their implementation.

One proposal targets corporations that sponsor different benefit plans for different subsidiaries.

The so-called uniform non-discrimination rules test benefit plans sponsored by one corporation to see if too many higher-paid employees are covered by one plan. If the plan flunks, higher-paid employees are taxed on the cost of their employer-paid benefits.

But, generally only higher-paid employees unfortunate enough to work for a corporation with more than one plan face possible taxation of their benefits. That's discriminatory.

The uniform non-discrimination rules also could effectively force employers with different benefit plans

for different subsidiaries to adopt one plan for all employees. The higher cost of a uniform benefit plan for some subsidiaries could so severely diminish their profits that those subsidiaries would no longer be viable businesses. That's destructive.

The other proposal is the so-called concentration test, which is applied to all benefit plans. Any benefit plan in which contributions made on behalf of the 20 highest-paid employees exceed 25% of all contributions flunks the test. The result: The higher-paid employees would be taxed on the value of their benefits.

Benefit plans sponsored by small, professional firms are more likely to flunk this test than benefit plans sponsored by large companies. So, even though two executives may make the same income, the one working in a small corporation could be taxed while one working in a large corporation would not. That's discriminatory.

And, small companies whose plans flunked the test might scrap their benefit plans, leaving lower-paid employees with no group benefits. That's destructive.

Who is dreaming up these rules? And, were discrimination and destruction the goals?

Court decisions won't kill captives

IT DOESN'T TAKE a Philadelphia lawyer to figure out corporations with captive insurance companies can't beat the Internal Revenue Service in court.

Corporations that pay premiums to wholly owned insurance companies are not going to win a tax deduction for those premiums. The IRS says it's not insurance for tax purposes, and the courts clearly agree.

The two decisions this month for the IRS' stand in the Humana Inc. and Mobil Corp. cases dash hopes a court can be convinced premiums paid to a captive are tax deductible as insurance premiums (see story, page 1).

We hate to admit that, but we must.

Efforts to convince Congress to amend the tax code also have unfortunately failed so far.

No one, however, should leap to the conclusion that just because the IRS is winning its tax battle over captives that corporations will fold their captives.

We expect to see existing captive insurers fed with more premiums and more captive insurers formed in

the coming months. Corporations that are unable to purchase commercial insurance to cover their risks will continue to use this risk-funding alternative.

Where possible, of course, captives will swap their risks or will be owned by more than one corporation in order to introduce the risk shifting and risk distribution the IRS demands to approve tax deductions for premiums paid to captives by their owners.

But when captives find it impossible to swap risks and when corporations are unable to form a group-owned captive, we expect companies will continue to form and utilize their own wholly owned insurers. These captives will provide them with the advantages of prefunding for losses and gaining access to reinsurance markets.

And, of course, the Philadelphia (or New York, or Chicago, or Atlanta) lawyers will keep up the good fight against the IRS—as long as clients keep paying their fees. And just maybe someone will win.

letters

Financial guarantees not root of Cal-Farm's losses

To the editor: We are disturbed at the headlines in the July 29 issue about the financial guarantee losses of Cal-Farm Insurance Co. in California: "Financial Guarantee Losses Shatter West Coast Insurer" (see story, page 1).

The basic problem of Cal-Farm's financial woes has absolutely nothing to do with the product of financial guarantee insurance. In fact, as your article reported, it has been alleged in litigation

that Cal-Farm's losses were caused by the inappropriate and improper underwriting activities of the managing general agency that represented Cal-Farm. If Cal-Farm chose the wrong administrator of the program, the program itself is not at fault.

Financial guarantees are an extremely important product to a number of insurance agents and especially to ours, as our agency writes in excess of \$2 million in insurance premiums in direct financial

guarantee insurance and products related to that type of insurance exposure.

Based upon this, I think it would have been more responsible reporting on your part if the headline had read something like this: "Managing Agency May Have Caused Enormous Financial Losses for California Insurer."

I trust you will take this letter in the spirit in which it is intended and would hope that you would be more careful in your future reporting activities.

Buddy Richman
President

Meadowbrook-Richman Inc. Insurance
Elmsford, N.Y.

Story about health care 'on target,' reader says

To the editor: Jerry Geisel did an outstanding job in capturing the real flavor of the revolution in health care delivery in "The Changing Health Care Market" (*BI*, July 22). As a former national consultant for Ernst & Whinney who now is developing, operating and introducing new preferred provider organization products for employee benefit plans, I found the article to be not only informative and well-written, but right on target, too.

Robert P. Brook
Vp

Employee Benefit Plans Inc.
Walnut Creek, Calif.

International Insurance Seminar to meet in Cairo

To the editor: As a follow-up to the excellent Perspective column by S. Robert Beane, "Unraveling Egypt's Insurance Scene" (*BI*, Aug. 5), your readers may be interested in knowing that the 22nd International Insurance Seminar will be held in Cairo on June 22-25, 1986, at The Cairo Marriott Hotel.

Dr. Fathi Mohamed Ibrahim, chairman and managing director of Misr Insurance

Co., is the 1986 chairman of the IIS board of governors. He will also serve as chairman of the coordinating committee responsible for hosting the 1986 seminar in Cairo.

IIS is meeting next year in Cairo for two reasons: the strong interest of insurers throughout the world in insurance activities in the Arab world, plus the strong support given over the years to the IIS by the Egyptian insurance company.

People interested in participating in the Cairo IIS seminar should contact the Administrative Headquarters, International Insurance Seminars Inc., Insurance Area, P.O. Box J, University of Alabama, Tuscaloosa, Ala. 35486.

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Pension hybrid

Continued from page 4

would be easy to understand and that would provide more benefits to more employees. We believe the cash balance plan is it," said Mr. Nordine.

Like many employers in the financial services industry, BankAmerica has high employee turnover.

"With a lot of tellers and clerical employees, our employee population turns over quickly," said Dan Rowland, vp and director of compensation and benefits.

In fact, 46,000 employees out of a fulltime workforce of 60,000 were not vested in the company's old pension plan, which had 10-year cliff vesting.

Because the employees weren't vested and because the benefits were not portable, many employees didn't appreciate the bank's pension plan.

"If you don't let employees take

the money out (when they leave) it removes a lot of the value of the benefit," according to John Tobey, vp-financial analysis and planning.

It also is possible many employees didn't understand what their benefits would be under the old plan. When benefits are based on an employee's final average pay, it is difficult to project what final benefits will be because the employee's ultimate salary is still unknown.

In the end, BankAmerica realized that the majority of its employees did not appreciate the pension plan that cost the company \$67 million a year. In fact, when the bank surveyed its employees, it found that only 32% were satisfied with the plan.

"When you are spending that kind of money and only 32% of employees are satisfied, that tells you are not spending your benefit dollars in a very effective manner," Mr. Rowland said. ■

Insurers seeking new trial over huge tuna boat award

By DANA DAVIS

SANTA CRUZ, Calif.—A group of marine underwriters and their underwriting manager are asking for a new trial after a jury hit them with \$7.6 million in bad-faith damages for failing to reimburse a California man for the loss of his \$400,000 fishing boat.

A hearing on these motions is scheduled this week in Santa Cruz County Superior Court.

The jury awarded the \$7.6 million to John Tidwell of Aromos, Calif., who filed suit last year against seven insurers and West Coast Marine Managers Inc., a Monterey, Calif., underwriting manager that wrote on behalf of

the seven insurers.

The insurers, which all wrote hull coverage for Mr. Tidwell's boat, are Republic Insurance Co. in Dallas; Midland Insurance Co. in New York; Reinsurance Corp. of New York; Pennsylvania Lumbermen's Mutual Insurance Co. in Philadelphia; Ranger Insurance Co. in Houston; The Lumbermen's Mutual Insurance Co. in Mansfield, Ohio; and Northeastern Insurance Co. of Hartford in Des Moines, Iowa.

The jury award, approved July 19 by California Superior Court Judge Chris Cottle, included \$456,000 in compensatory damages and \$7.1 million in punitive damages.

The punitive award represents 2.5% of each of the insurer's net worth and 15% of West Coast Marine Managers' net worth, according to Mr. Tidwell's attorney, Frederick Ebey, of the Watsonville, Calif., firm of Grunsky, Pybrum Skemp, Ebey & Farrar.

Hank Allen, a broker with Marks-Clark Insurance Associates of Santa Cruz, Calif., who placed the coverage, also was named as a defendant in Mr. Tidwell's suit, but was later dropped from the action.

Mr. Tidwell's 60-foot tuna fishing boat, Jude, sank off the Hawaiian coast of Oahu in March 1984, one year after Mr. Tidwell, a 54-year-old commercial fisherman, inventor and machine shop owner, purchased it.

After the boat sunk, it was refloated and towed to Honolulu, where it remains.

Mr. Tidwell's boat was covered by a \$400,000 hull and machinery policy underwritten by West Coast Marine Managers on behalf of the seven insurers. The same seven insurers also wrote protection and indemnity, breach of warranty and war risks coverage for the boat.

Mr. Tidwell paid a total of \$14,150 in premium for the various policies, which were in force from May 20, 1983 to May 20, 1984. The premium was divided equally among the seven insurers.

Mr. Tidwell filed a notice of the loss on or about March 8, 1984, according to court papers.

Initially, the insurers thought the boat may have been scuttled intentionally and denied coverage. However, according to Mr. Ebey, "Some valves were left open by human error," adding that Mr. Tidwell was not on the boat at the time it sank.

Two weeks later, insurers sought a declaratory judgment to allow them to deny coverage on the basis that there was a change in skippers without notice, according to Mr. Allen's attorney, Larry Hayes of the Monterey, Calif., firm of Hoge, Fenton, Jones & Appel.

In their suit requesting the judgment, the insurers also alleged that the identity and experience of the skipper, purchase price and condition of the boat were all misrepresented when the claim was filed, Mr. Hayes said.

Mr. Tidwell filed a countersuit in April 1984, charging that the insurers misrepresented the terms of the hull policy, improperly withheld payment on his claim, failed to provide reasonable explanation for withholding payment and breached the insurance contract.

Mr. Tidwell's lawsuit also charged that the insurers' failure to comply with the terms of the contract was intentional and therefore represented fraud.

Subsequently, upon further investigation of the sinking, the insurers offered to pay Mr. Tidwell \$170,000 to cover damages to the boat, according to Mr. Ebey.

However, Mr. Tidwell refused the offer, claiming the boat was a total loss, and continued his suit, which asked for payment of the full \$400,000 limits of the hull policy, the boat's fair-market value.

The suit also asked for unspecified general damages for mental and emotional distress and unspecified punitive damages.

Attorneys at the San Francisco firm of Dorr, Cooper & Hays, which represented the defendants, refused to discuss the case. Officials at the defendant companies either refused to comment or were unavailable.

However, Mr. Hayes, the attorney for Mr. Allen, said the defendants filed a motion of a new trial, which will be heard this week. ■



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info

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• "For the Sitting Worker" is a 16-page booklet from Dray Publications designed for the **sedentary worker**. The booklet covers occupational safety topics and provides advice on wellness, including how to avoid back problems and stress.

Cost ranges from 46 cents each for 50-100 copies to 18 cents each for 10,000 or more copies. Order from Dray Publications Inc., Route 5, Deerfield, Mass. 01342; 413-773-5491.

• "Employee Decision Patterns in a Full-scale Flexible Benefit Plan," a reprint article offered by Kwasha Lipton, is now available. The article discusses the BASF Wyandotte Corp.'s new **flexible benefit program**, "Benefits With a Choice." For a free copy, write Department M, Kwasha Lipton, P.O. Box 1400, Fort Lee, N.J. 07024.

• "Civil Justice Reform: Ten Proposals That Can Make a Difference," a booklet from the Alliance of American Insurers, discusses alternative dispute resolution, comparative negligence and product liability, along with 10 steps to restore equity to the U.S. **civil justice system**. Copies are \$1 from Eileen M. Kelliher, Alliance of American Insurers, 1501 Woodfield Road, Suite 400 West, Schaumburg, Ill. 60195-4980; 312-490-8545.

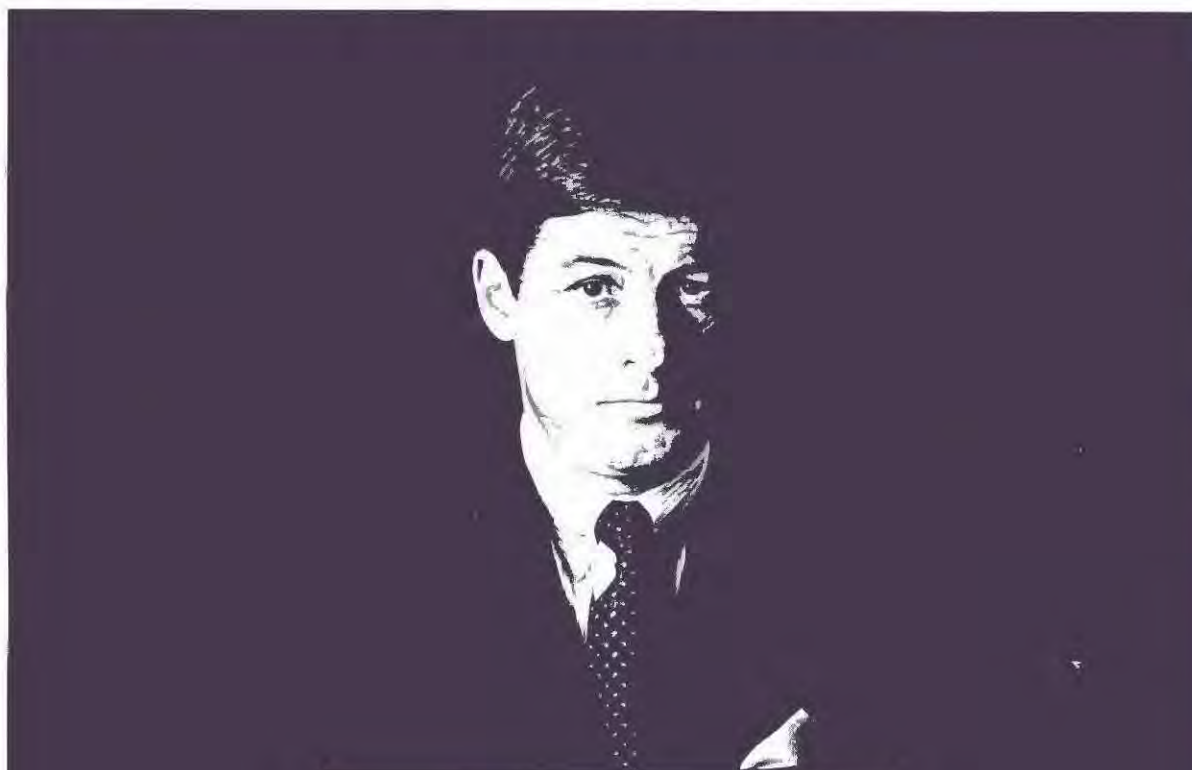
• "Facts About Backs: Your Guide to a Healthy, Pain-Free Back" is offered by Fax Communications Inc. The 16-page booklet covers **back care**, including safe lifting techniques, body mechanics, good posture, back exercises and pain relief. Cost ranges from 79 cents each for 50-79 copies to 42 cents each for 25,000 or more copies. Order from Fax Communications Inc., Department BI, 3279 20th St., San Francisco, Calif. 94110; 415-641-7422.

• "Protecting Workers in Hot Environments," a two-page fact sheet, is available from the Occupational Safety and Health Administration. It describes the stress a worker faces in a **hot work area** and includes precautions for preventing heat stress. For free copies, send a self-addressed label to OSHA Publications, Room S-4203, Frances Perkins Department of Labor Building, Third Street and Constitution Avenue N.W., Washington, D.C. 20210; 202-523-9667.

• The 1984-85 edition of "Insurance Facts," a **statistical yearbook for the property/casualty industry**, is available from the Insurance Information Institute. Included in this edition are a new section on occupational disease and figures on economic loss from motor vehicle accidents, along with a breakdown of efforts by states to curb drunken driving. The cost is \$4.50 for Institute members and educators, \$9 for all others and \$4.50 a copy for orders of three or more. To order, write Publications Service Center, Insurance Information Institute, 110 William St., New York, N.Y. 10038; 212-669-9200.

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Jaguar Cars names Lenihan to new risk management post

John P. Lenihan, 31, has been named risk manager for Jaguar Cars Inc. in Leonia, N.J. In this newly created position, Mr. Lenihan is responsible for placing property/casualty insurance, coordinating product liability cases with Jaguar's investigation service and supervising warranty litigation. He reports to Edward J. McCauley, vp of finance and administration. Previously, Mr. Lenihan was insurance and safety manager for Grand Union Co. in Elmwood Park, N.J. He received a bachelor of arts degree in business administration from William Paterson College in Wayne, N.J. in 1976. Mr. Lenihan also has received the Associate in Risk Management designation and is a deputy member of the Risk & Insurance Management Society.

Ben. S. Stiff has been named risk manager at Lone Star Steel Co. in Dallas. Mr. Stiff, 42, will direct the company's insurance programs and report to P.E. Palmer, treasurer. He replaces Don Hairston, who is now assistant treasurer. Before joining Lone Star, Mr. Stiff was a regional claims manager in the Dallas office of Mobil Corp. He earned a bachelor's degree in business administration from Texas Tech University in Lubbock. He is a member of the American Iron & Steel Institute's insurance subcommittee and a deputy member of the Risk & Insurance Management Society.



Mr. Stiff

Howard M. Danziger, 28, has been promoted to assistant manager of risk management at Pickands Mather & Co. in Cleveland, a supplier of raw materials to the iron and steel industry. He will be responsible for overseeing the department's casualty insurance operations and will report to Larry Farrier, manager of risk management. Mr. Danziger previously served as insurance administrator at Pickands Mather. In addition, Mr. Danziger has a bachelor of arts degree in accounting from Ohio Northern University in Ada.



Mr. Danziger

John P. Ross has been named director of insurance at Siemens Corporate Research & Support Inc. in Iselin, N.J. Mr. Ross, 61, will be responsible for overseeing the purchase of property/casualty insurance programs for Siemens' U.S. operations. He was named to the position following the death of Richard DeBow, and will report to Dr. Guenter Jaensch, the company's president. Mr. Ross, who was previously senior vp at Reed

Stenhouse Inc. of New York, has a bachelor of arts degree in economics from Princeton University in Princeton, N.J. Mr. Ross also is a past director of the National Assn. of Insurance Brokers, as well as a past director of the Insurance Brokers Assn. for the State of New York.

We'd like to report on staff changes in your company's risk management, safety or employee benefits department. Just drop a note to Marla Antelis, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611, or call 312-649-5282. In addition, please send a photograph.

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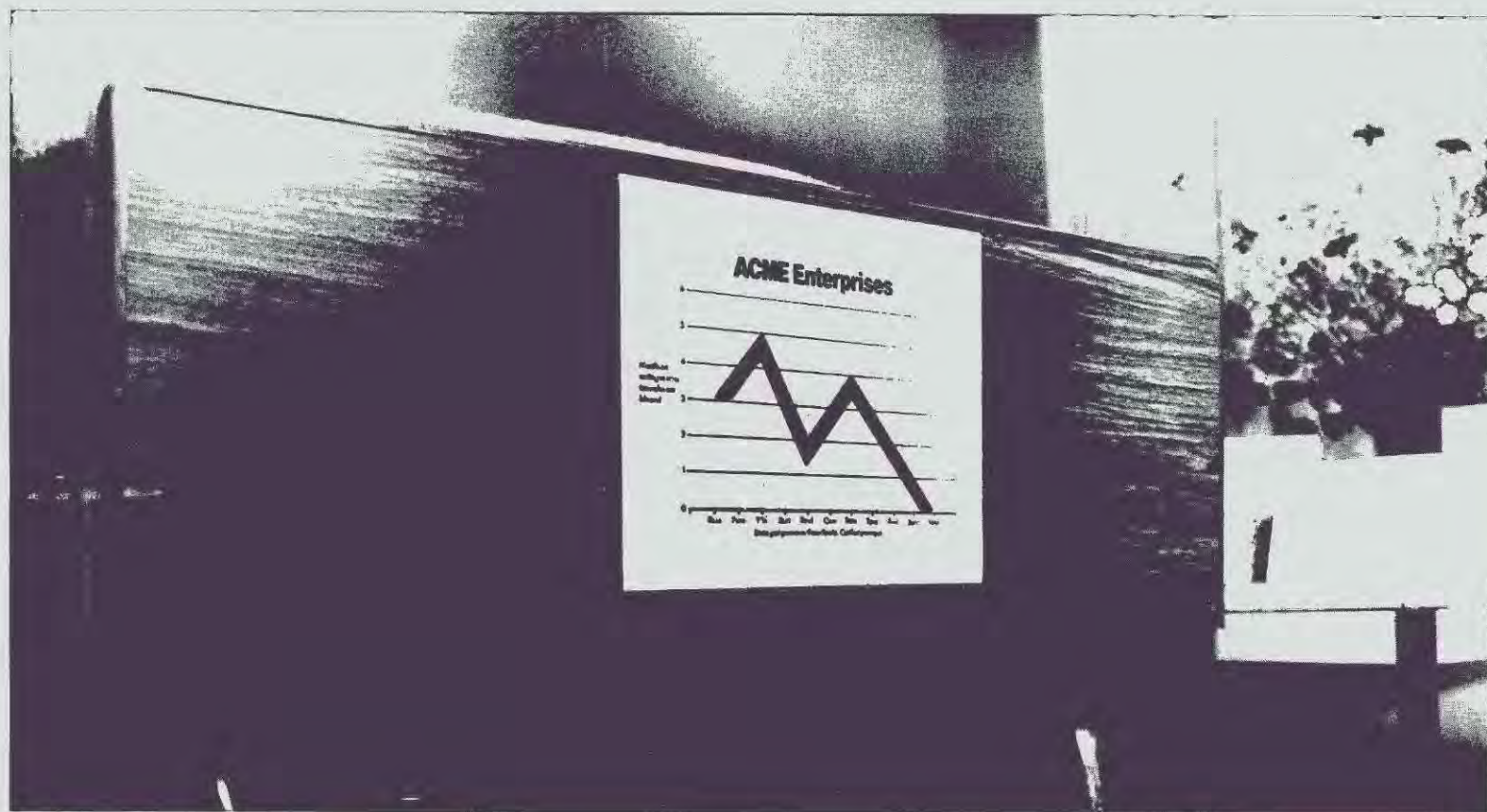
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Reliance expands reinsurance operation

Reliance Reinsurance Management Inc., which writes treaty reinsurance on behalf of The Reliance Insurance Cos., is beefing up its operations.

"Our objective is to provide highly responsible long-term capacity to the brokered reinsurance market, with a focus on hiring a highly experienced and proven staff," said George H. Roberts, recently appointed president of Reliance Reinsurance Management.

Mr. Roberts, who became the company's president on June 30, was formerly vp at American Re-Insurance Co. in charge of all domestic treaty underwriting. He spent 12 years prior to that with INA Reinsurance Co.

"The tightening of the foreign reinsurance marketplace, particularly in London, and the strain on

markets

the U.S. reinsurance marketplace have created a favorable market in which to expand on our writings in the reinsurance market," Mr. Roberts explained. "The improvement (in pricing) in the primary markets has also helped in both pro-rata and excess-of-loss business," he added.

Currently, Reliance Reinsurance Management writes as a following-line treaty reinsurer, meaning that it accepts small shares of treaties whose terms and conditions have been set by other reinsurers, called leads.

"We will become a lead market," Mr. Roberts said. "We plan to quote terms and put ourselves out as a

lead underwriting operation."

Becoming a lead reinsurer "will require more significant participation on our part," Mr. Roberts noted, with Reliance extending larger lines than it has in the past, but "we haven't decided how large at this point."

Although Reliance currently writes both domestic and international treaty reinsurance, Mr. Roberts said that "our new focus will be primarily domestic reinsurance." The company writes property and casualty pro-rata and excess-of-loss coverage.

Although the company does not currently write facultative reinsurance, it is exploring the option, Mr.

Roberts added.

"We wrote approximately \$20 million in gross written premiums in 1984," he said, "and 1985 will be coming in pretty close to 1984. For next year... I would say that in the traditional treaty reinsurance market we expect above-average growth—particularly because of the tightening of the market."

Reliance Reinsurance Management, which hopes to be geared up for the change by Oct. 1, is currently adding underwriting and claims personnel. "We expect to have about 30 employees by year-end if we can locate the proper talent," he explained.

Reliance Reinsurance Management has already hired key experienced reinsurance executives. In addition to Mr. Roberts, Reliance has appointed:

- Henry Walsh as senior vp responsible for financial products and special programs. Mr. Walsh was most recently with General Reinsurance Corp.

- Arthur Mella as senior vp in charge of claims. Mr. Mella was most recently in charge of claims for Skandia America Reinsurance Corp.

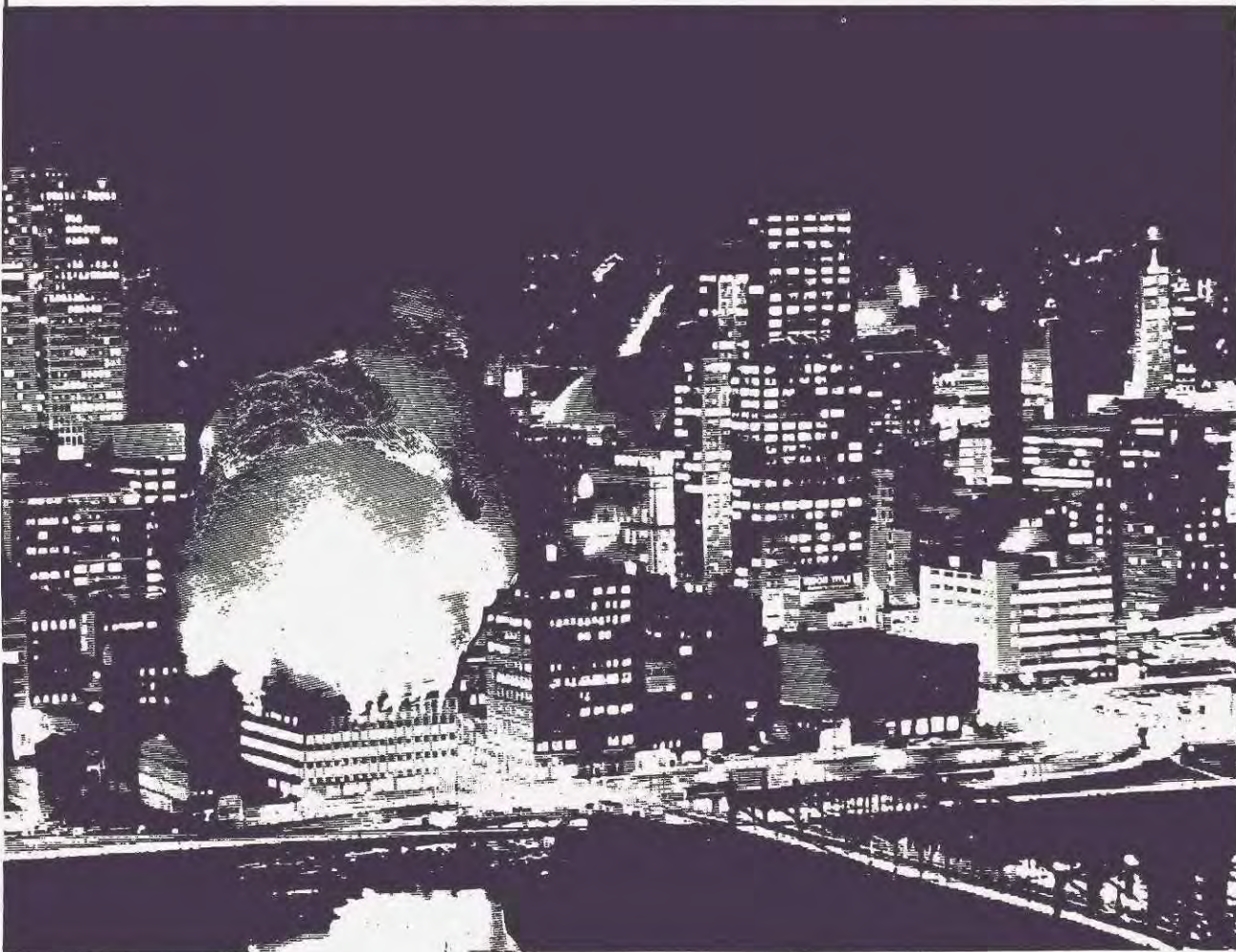
- David Bradford as assistant secretary-underwriting. Mr. Bradford was formerly with Allstate Insurance Co.'s reinsurance operations.

In addition, Richard Forchetti, who has been with the reinsurance subsidiary since it was founded, was recently promoted to assistant vp-underwriting.

Reliance Reinsurance Management Inc. was incorporated in December 1981, though Reliance Insurance Co. has been writing a small volume of assumed treaty reinsurance business since the early 1970s, Mr. Roberts said.

Plans call for the facility, which is now housed in Reliance's home office in Philadelphia, to have a separate office in Philadelphia by the end of the year.

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Continental Re

Continental Reinsurance Corp. in New York is entering the domestic assumed treaty reinsurance market, an area "relatively untapped" by the company, said firm's president, Nigel Harley.

Continental Re, a unit of Continental Insurance Co., is "taking a broad role" in the treaty business and will write business placed by brokerages and on a direct basis.

Mr. Harley said, "Dedication to the world's premier reinsurance arena during a time of recovering prices and improving results offers us great future potential."

Mr. Harley said it is difficult to predict how much premium volume domestic treaty reinsurance might generate for the company, but noted, "It is going to be a modest amount against our international account."

Continental Re is among the largest U.S. reinsurers of foreign treaty business, and manages a broad book of treaty and facultative business. Continental Re wrote net premiums of \$118.3 million in 1984.

Brokerage services

Hobbs Brook Agency Inc., a brokerage unit of Arkwright-Boston Insurance Co., is expanding its business.

Formerly, Hobbs Brook's services were offered only to Arkwright-Boston policyholders for the placement of casualty and property risks not insured by Arkwright-Boston, which is a member of the Factory Mutual System. However, the agency is now seeking clients that do not insure a portion of their risks with Arkwright-Boston, said Glenn Yancey, an Arkwright senior vp who will serve as president and chief executive of Hobbs Brook.

While Arkwright and Hobbs Brook specialize in Fortune 1,000 accounts, Hobbs Brook will also service middle-market accounts, Mr. Yancey said.

Hobbs Brook's marketing activities had previously been handled by the Arkwright-Boston sales force, but the agency will now hire its own marketing staff, he added.

Hobbs Brook has agency or brokerage agreements with most major stock insurance companies, Mr. Yancey said.

The agency will continue to operate out of Arkwright's Waltham, Mass., headquarters and through seven regional offices.

Continued on next page

Continued from previous page

Name change

Aneco Risk Management Co. Ltd., a Bermuda-based captive insurance company manager, has changed its name to Mutual Risk Management Ltd.

In addition, underwriting subsidiary Aneco Mutual Ltd. has changed its name to Mutual Indemnity Ltd., while another subsidiary, Aneco Marketing Co. Ltd., has changed its name to IPC Group of America Ltd.

Aneco Risk Management and its subsidiaries were purchased from Aneco Reinsurance Co. Ltd. late last year by Aneco Mutual preferred shareholders and Aneco Risk Management executives (BI, Jan. 21).

The company says the name changes reflect its new ownership and clarifies its status as an independent organization.

Iowa HMO expands

Total Health Network of Iowa, a health maintenance organization and affiliate of Blue Cross & Blue Shield of Iowa, is now in operation in Des Moines.

The HMO has 1,055 employee members and has contracted with about 100 Des Moines-area physicians to provide medical services.

Total Health Network covers all hospital care and major health expenses, and the program is designed to encourage regular checkups and other preventive care measures.

Physicians under contract with the HMO are primary care specialists in internal medicine, family practice, pediatrics, obstetrics and gynecology. Other specialists contract with Total Health Network to provide services on a referral basis.

Primary care physicians are compensated on a fee basis that pays them a fixed per-person/per-month amount to cover all services they provide to HMO members.

"Des Moines-area residents now can be guaranteed cost-effective, quality health care and comprehensive benefits," said D. Eugene Sibery, president of BC/BS of Iowa. "This program also emphasizes health education for patients and communication between patients and their physicians."

The HMO also is operating in Dubuque, Iowa.

Altamid's new name

The name of M.A. Hanna Co.'s Bermuda management subsidiary is being changed to Hanna Insurance Management Ltd. from Altamid Management Co. Ltd.

"We decided to adopt the Hanna name for Altamid to underscore the parent company's commitment to the growth and development of the insurance management subsidiary," said Dan A. McCoy, the subsidiary's chairman and chief executive officer.

The firm earlier this month acquired fellow Bermuda captive manager S.H. Grayston Management Ltd. With the addition of Grayston, Hanna Insurance Management will have about 60 management clients with a combined premium volume of about \$200 million (BI, Aug. 5).

Kansas City HMO

CIGNA Healthplan Inc., is opening a Kansas City-area health maintenance organization in a joint venture with Associated Business Services Inc., a wholly owned subsidiary of Baptist Health Systems.

The new HMO, CIGNA Healthplan of Kansas City, will be based on the individual practice association model, whereby employees can select a primary care physician from a list provided by the HMO. Employers will receive care at the primary physician's private office and from specialists and specific

hospitals associated with the HMO.

The HMO will begin offering its services in the fall.

"Kansas City has a primary role in CIGNA Healthplan's expansion plans," said William J. McBride, president and chief executive officer of the CIGNA Corp. subsidiary, CIGNA Healthplan Inc. currently operates health maintenance organizations in 11 cities and has more than 750,000 members enrolled.

Benefit consultant

Actuarial Finance in West Orange, N.J., is a new investment and financial consulting firm formed to serve sponsors of employee benefit plans.

The new firm is focusing on sponsors of savings, thrift, profit-sharing, 401(k) and pension plans that invest assets in insurance company contracts.

Steven B. Schwartz, a former principal at the Fort Lee, N.J., consulting firm Kwasha Lipton, is the

president of Actuarial Finance.

The newly formed consulting firm is located at 659 Eagle Rock Ave., West Orange, N.J. 07052-2138; 201-736-6964.

Unionmutual PPOs

Unionmutual Corp. of Portland, Maine, has contracted with preferred provider organizations in Colorado Springs, Colo., and Los Angeles to offer employers health care programs aimed at controlling medical costs.

The Unionmutual program is a comprehensive medical plan, which includes an employee wellness program and health-risk profiles. The plan offers employers reduced premiums and utilization reviews.

Employees receive reduced deductibles and lower coinsurance requirements if they use preferred providers.

In Colorado Springs, Unionmutual is affiliated with Preferred

Health Care Inc., a PPO with 200 doctors who provide 35 medical specialties. The plan contracts with two area hospitals.

The Los Angeles arrangement involves Unionmutual and CaPP Care, a PPO made up of 2,200 physicians practicing more than 25 specialties. CaPP Care uses more than 30 area hospitals.

Acquisitions

A&F Mongiello Insurance Agency in Revere, Mass. has merged with Elliot, Whittier, Hardy & Roy, an independent agency in Winthrop, Mass.

New offices

Western Security Surplus Insurance Brokers has moved its headquarters to 350 W. Colorado Blvd., Suite 210, Pasadena, Calif. 91105; 818-584-0110.

The Overseas Private Investment Corp., a federal agency that

markets political risk insurance to U.S. companies, has moved its Washington office to 1615 M St. N.W., Washington, D.C. 20527; 202-457-7010.

Galahar Settlements, a firm specializing in structured settlements, has new locations for its Boston, Chicago and New York offices. The new office in Boston is at 15 Broad St., Suite 700, Boston, Mass. 02109; 617-723-6105. In Chicago, Galahar is at 2 N. La Salle St., Suite 1900, Chicago, Ill. 60602; 312-726-5170. The New York office is located at One Exchange Plaza, 55 Broadway, Seventh Floor, New York, N.Y. 10006; 212-809-2110.

Towers, Perrin, Forster & Crosby has opened a new consulting office in North Carolina. The address is Suite 1300, Charlotte Plaza, 201 S. College, Charlotte, N.C. 28244; 704-374-1230.

Samuel Montagu & Co. (Cayman) Ltd. has a new mailing address: P.O. Box 1109, Grand Cayman, Cayman Islands. B.W.I. ■

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business insurance

New coalition to fight against comp benefit tax

By JERRY GEISEL

WASHINGTON—Employers, insurers and unions are banding together to lobby against a provision in the Reagan administration's tax reform package that would tax employees on workers compensation and black lung benefits.

Such benefits now can be provided tax-free to sick and disabled workers.

The newly formed Workers Compensation Tax Coalition in Washington will be lobbying Congress during the coming months to convince legislators that the tax-free status of these benefits should not be changed.

"The proposal is not fair, is not simple and is not consistent with economic growth," according to Kevin Ryan, who is president of the National Council on Compensation Insurance, an insurance industry ratemaking and statistical organization and a member of the coalition.

Coalition members intend to tell legislators that work comp wage-replacement formulas are set on

the basis the benefits are tax-free and that taxing the benefits would disrupt those formulas.

Individual coalition members include Ford Motor Co., General Motors Corp., the Alliance of American Insurers, CIGNA Corp., Kemper Group, the AFL-CIO and the United Mine Workers of America.

More information about the Workers Compensation Tax Coalition can be obtained from Preston, Thorgrimson, Ellis & Holman, 1735 New York Ave., Suite 500, Washington, D.C. 20006, 202-628-1700.

New pension chief

President Reagan, as expected, has nominated Dennis Kass to direct the Labor Department's Office of Pension and Welfare Benefit Programs.

Mr. Kass, who had been managing director of Equitable Investment Management Corp. in New

York, is the first person to head the pension office with the title of assistant secretary.

Secretary of Labor William Brock recently upgraded the position to assistant secretary from administrator, placing the office at the sub-Cabinet level.

"The importance of the private pension system clearly warrants that the office regulating it be headed by an assistant secretary," Mr. Brock said.

However, the elevation of the position to assistant secretary means that Mr. Kass will need Senate confirmation.

The Senate is expected to vote on the appointment after Congress returns in September from its monthlong recess.

If he is confirmed, Mr. Kass will replace Robert Monks, who resigned in January.

Also, as expected, Mr. Brock named Kathleen Utgoff as executive director of the Pension Benefit

Guaranty Corp. Ms. Utgoff had been a senior staff economist at the Council of Economic Advisers. She replaces Charles Tharp, who resigned in January.

In addition, David Walker, who had been the PBGC's acting executive director since Mr. Tharp departed, will move to the Labor Department as deputy assistant secretary, a newly created position.

Mr. Walker will report to Mr. Kass.

The Utgoff and Walker appointments are not subject to Senate confirmation.

Hearings scheduled

Two House Ways and Means subcommittees will hold joint hearings Sept. 5-6 on retirement income issues.

The hearings, by the Social Security and Oversight subcommittees, will begin each day at 9:30 a.m. in Room 1100 of the Longworth House Office Building.

The hearings are the second in a series of hearings held as the subcommittees review U.S. retirement income security issues.

The subcommittees are reviewing several issues, including the major sources of retirement income, defining adequate retirement income and the role federal tax policy plays in retirement income.

Tax reform package

The House Ways and Means Committee will meet privately for several days starting on Sept. 7 for an off-the-record retreat to discuss the administration's proposed tax reform package.

The location of the retreat has not been disclosed.

If Committee Chairman Daniel Rostenkowski, D-Ill., finds enough enthusiasm for the tax package among committee members, he will have the committee begin work on the bill later in the month, observers say.

The Reagan tax package has major importance for the employee benefit and risk management communities.

Among other things, the package calls for new, complex non-discrimination rules and sharply lower contribution limits for 401(k) salary reduction plans; taxing employees on a portion of employer-paid health insurance premiums; and imposing a special excise tax on the excess assets employers recapture when they terminate over-funded pension plans.

The measure also would prevent insurers from taking an immediate, full deduction for the full cost of future claim payments and impose a per-country limit on the use of excess foreign tax credits, which could hurt captive insurance companies (BI, June 3).

If the Ways and Means Committee does proceed on a tax bill, no one expects the committee to accept the administration's tax package verbatim. Many changes in the package are expected if the committee begins drafting sessions.

In fact, the 13 Republican members of the Ways and Means Committee already have signed a statement expressing their concern about burdens the package imposes on retirement plans, an apparent reference to the proposed 401(k) non-discrimination rules.

Health coverage

The number of people without health insurance coverage is on the rise, the Employee Benefit Research Institute says.

In 1983, more than 33 million non-elderly Americans lacked health insurance, up from 26 million in 1976, according to EBRI, a

Washington-based benefits think tank. EBRI says non-coverage has increased because of high unemployment rates and a shift in the workforce toward the service sector, where employer-provided coverage is less common.

Park ride probes

The U.S. Senate has approved an amendment by Sen. John Danforth, R-Mo., to give the National Bureau of Standards authority to investigate serious accidents at fixed-site amusement parks if an investigation is requested by the appropriate state or local authority.

The amendment, attached to S. 1077, authorizing \$70 million in appropriations during the next two years for the Consumer Product Safety Commission, also would establish a temporary federal commission to examine the scope and adequacy of amusement ride safety regulation at the local, state and federal levels.

The commission would have five members: the director of the National Bureau of Standards, who would be the chairman; the chairman of the Consumer Product Safety Commission, who would be the vice chairman; and three others who will be appointed by the president.

The three presidential appointees would be a state official who administers an amusement ride safety program, an industry safety expert and a representative of consumer groups.

New ERISA advisers

Four new members of the Labor Department's ERISA Advisory Council have been sworn in for three-year terms.

George Cowles, senior vp at Bankers Trust Co. in New York, will represent the corporate trust field, and R. Todd Gardenshire, assistant vp in the Chattanooga, Tenn., office of Merrill Lynch, Pierce, Fenner & Smith, will represent investment managers.

In addition, Thomas Oliver, a partner with Winstead, McGuire, Sechrest & Minick in Dallas, will represent multiemployer pension plans, and Timothy Ryan, a former solicitor at the Labor Department and now a partner with the law firm of Pierson, Ball & Dowd in Washington, will represent the general public.

The 15-member council advises the secretary of labor on issues affecting the administration of the Employee Retirement Income Security Act of 1974.

Meanwhile, the Labor Department is looking for five pension experts to serve on its Advisory Council on Employee Welfare and Pension Benefit Plans.

The council, established in 1974 by the Employee Retirement Income Security Act, advises the Secretary of Labor on various ERISA and retirement issues.

Individuals or organizations can nominate a candidate for the council by submitting a recommendation to the Secretary of Labor, U.S. Department of Labor, 200 Constitution Ave. N.W., Washington, D.C. 20210.

The new members will replace five members whose three-year terms expire this year.

The vacancies on the panel will be filled by representatives of various sectors: employee organizations, employer organizations, investment managers, actuarial consultants and the general public.

The council meets at least four times a year in Washington, with all expenses paid by the federal government. Each member earns \$220 a day for each day spent on council business.

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CIGNA

Haftl succeeds Hewitt as MetRe president

Franklin D. Haftl has been named president and chief operating officer of Metropolitan Reinsurance Co. in New York, a subsidiary of Metropolitan Life Insurance Co. He succeeds **Charles C. Hewitt**, the company's president and chief executive officer, who retired.

Mr. Haftl will be responsible for all MetRe's financial and underwriting activities and for the day-to-day operations.

Mr. Haftl, who joined the company in 1978, most recently served as executive vp.

Before joining MetRe, Mr. Haftl had been a vp at The Home Insurance Co., and he also had held various positions with Stuyvesant Insurance Co. and Continental Insurance Co.

Also at Metropolitan Reinsurance Co., **Gregory R. Cuilwik** named vp-treaty department. Mr. Cuilwik, who joined MetRe in 1978, most recently served as an assistant vp.

Other reinsurer changes:

Dale N. Hoemke joins San Bruno, Calif.-based H.A. Enan & Co. Ltd. as executive vp responsible for marketing of treaty business. Mr. Hoemke most recently served as senior vp of InterOcean Agency Inc., which is a reinsurance subsidiary of Frank B. Hall & Co.

Roy G. Krings joins Zeman Krings Inc., a New York-based reinsurance broker, as vp for marine treaty business. Mr. Krings previously had served as a vp at Willcox Inc.

Excess/surplus

Roger S. Walsh named presi-

comings & goings: industry

dent of Stewart Smith East Inc. and director of Stewart Smith Holdings in New York. Mr. Walsh previously was president of



Mr. Walsh

Glanville Special Risk Insurance Brokers Inc., which he founded in 1979.

Also, **Carol S. Vance** named vp/manager of the property/casualty department of Stewart Smith East Inc. Ms. Vance previously was assistant vp/manager of the casualty department of Bache Special Risk Brokers Inc./Glanville Special Risk Insurance Brokers Inc.

Richard Nahas promoted to senior vp at Sherwood Insurance Services in San Francisco. He has been with the company for five years.

Nicholas M. Briante joins Jefferson Insurance Co. of New York as senior vp in charge of property and casualty claims.

Gary E. Micetich joins Chicago-based L.W. Biegler Inc. and International Surplus Lines Insurance Co. as vp-property underwriting. Mr. Micetich previously was senior underwriter-treaty reinsurance division with Allstate Insurance Co.

Insurers

Josephine A. Johnson named senior vp of The Equitable Life Assurance Society of the United

States in New York. Ms. Johnson, who joined Equitable in 1970, most recently was vp and head of Equi-Claims.

John D. Nolan named executive vp and chief operating officer of Gulf Insurance Co. in Dallas, the property and casualty subsidiary of Commercial Credit Co. Mr. Nolan previously was Gulf's chief financial officer and actuary.

Herbert S. Frank named vp-claims at Warwick Group in Morristown, N.J. Mr. Frank previously was claims supervisor at Midland Insurance Co.

Ted W. LaBedz named president and chief operating officer of Toledo, Ohio-based Independence Health Plan of Northwest Ohio Inc., a unit of Health Care USA. Mr. LaBedz previously was vp of Parkside Health Management Corp. in Toledo.

Bernard E. Laabs named regional vp in Chicago of Westchester Fire Insurance Co., a unit of U.S. Insurance Group. Mr. Laabs joined Crum & Forster, Westchester's parent company, in 1952. He was branch manager of the Detroit office for the past 15 years.

Warren D. Smalley also named regional vp of Westchester Fire Insurance Co. in San Antonio, Texas. Mr. Smalley, who joined USIG in 1983, most recently was manager of the company's Houston office.

Phillip E. Frakes named president of Beacon Insurance Co. of America and American Select Insurance Co., based in Westerville, Ohio. Mr. Frakes most recently was vp-underwriting at Citizens Insur-



Mr. LaBedz

ance Co. in Howell, Mich.

Courtney C. Smith named vp-special accounts at San Francisco-based Industrial Indemnity Co., a Crum & Forster unit. Mr. Smith, who joined Industrial in 1979, most recently served as assistant vp-special accounts.

Elliott P. Gleason named vp-claims administration at Design Professionals Insurance Co. in Monterey, Calif. Mr. Gleason joined DPIC in 1979 and most recently was vp and manager of the San Francisco claims office. Succeeding him in that capacity is **Richard D. Currie**, a claims supervisor with DPIC since 1983.



Mr. Gleason

Other suppliers

Paul J. Kovacic promoted to president and chief executive officer of Biles & Cook Administrators Inc. in Los Angeles, a subsidiary of Corroon & Black Corp. He succeeds company President and founder **Richard Biles**, who retired July 1. Mr. Kovacic, who joined Biles & Cook in 1982, most recently was executive vp and chief operating officer.



Mr. O'Hara

Terence J. O'Hara joins Adjustco Inc., a claims management unit of Frank B. Hall & Co. Mr. O'Hara is senior vp and regional executive of the Western Region, and is based at Adjustco's regional headquarters in Santa Clara, Calif. Also at Adjustco, **Joseph M. Ravich** named senior vp responsible for national claims coordination

and litigation control services. Mr. Ravich will be based in Tarrytown, N.Y.

Sandra B. Respass named vp and assistant actuary in the employee benefits division at Boone & Co. in Winston-Salem, N.C. Ms. Respass, who joined the company in 1979, most recently was assistant vp.

Robert Lang joins the Los Angeles office of William M. Mercer-Meiding Inc. as a consultant specializing in flexible benefits, salary reduction plans, human resources and communication practices. Mr. Lang previously was vp and senior consultant at Johnson & Higgins.

Garry N. Nelson named vp and chief operating officer for Anaheim, Calif.-based Lancer Claims Services Inc., an independent claims services subsidiary of Cal-Surance Associates Inc. Mr. Nelson most recently was vp-claims at Insko Ltd., a Bermuda-based subsidiary of Gulf Oil Corp.



Mr. Nelson

Ralph Weinberg named managing principal of the Chicago office of benefit and compensation consultant A.S. Hansen Inc. Mr. Weinberg, who joined the company in 1966, succeeds **Robert Lindgren**, who will serve as a consulting director. Mr. Lindgren has been with the company since 1976 and had been both Chicago managing principal and a consulting director.

Also at A.S. Hansen, **Robert Behar**, **Daniel Frankenstein** and **Lance Weiss** named consulting principals. Mr. Behar and Mr. Frankenstein will work in the company's Chicago office, and Mr. Weiss will be in the company's office in Deerfield, Ill.

Agents/brokers

Edmund E. Heartstedt named president of McDonough Caperton Cleveland Property/Casualty Services. Mr. Heartstedt, who joined the company in May 1983, most recently served as vp.

Robert F. Powell Jr. named branch manager and senior vp of Johnson & Higgins of Tennessee Inc. in Nashville. Mr. Powell, who joined J&H's Philadelphia office in 1967, most recently was Employee Benefits Department manager.

Also at J&H, **Lawrence I. Geneen** named senior vp at the company's New York headquarters. Mr. Geneen, who joined the firm in 1974, most recently was vp.

Ralph R. Winkel promoted to president of TCF Agency Inc. in Minneapolis, a wholly owned subsidiary of Twin City Federal Savings & Loan Assn. Mr. Winkel, who joined TCF Agency in 1982, most recently was vp/general manager.

David Beattie promoted to executive vp of Corroon & Black Co. of New York Inc. Mr. Beattie joined Corroon & Black in 1976, and he most recently had served as a senior vp.

Also at Corroon & Black, **E. Ray Carter** named president and chief executive officer of Corroon & Black of Massachusetts Inc. in Boston, and **James Kickham** promoted to president of Corroon & Black of New Jersey Inc. in Parsippany. Mr. Kickham, who joined Corroon & Black in 1973, previously served as an executive vp.

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Northern Telecom Inc., Nashville, Tennessee

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UTC to sweeten pension pot for retirees

United Technologies Corp. in Hartford, Conn., will add as much as \$1,500 a year to the pensions of retirees who left the company during or before 1981, a move that will cost the company about \$16 million.

A company spokesman said the pension increases are an effort to help retirees cope with the escalating cost of living and will affect about 28,000 out of the company's 44,000 retirees.

The spokesman said retirees began receiving the increases July 1. The amount of the annual increase is divided equally among each retiree's monthly or bi-monthly pension check, and the increases are given according to the following schedule:

- Retirees who retired in 1961 or earlier receive an additional \$1,500 a year.
- Retirees who retired from 1962 to 1966 receive an additional \$1,200 a year.
- Retirees who retired between 1967 and 1971 receive an additional \$900 a year.
- Retirees who retired between 1972 and 1976 receive an additional \$600 a year.
- Retirees who retired between 1977 and 1981 receive an additional \$300 a year.

The spokesman said retirees who retired in 1982 or later will not receive an increase because the company feels their pensions more accurately reflect the cost of living, and because they had the opportunity to supplement their pensions.

Alabama employees

Alabama state educational employees will pay less for their health care coverage beginning Oct. 1, as a result of a \$15 million increase in the legislative appropriation for health insurance.

According to William Walsh, deputy secretary of the Retirement Systems of Alabama, which administers the self-insured health care plans for all state employees, the Legislature appropriated \$50 million for health care for employees of elementary and secondary schools and junior and technical colleges in the 1985-86 fiscal year, which begins Oct. 1. In fiscal year 1984-85, the appropriation was about \$35 million, he said.

Mr. Walsh said this extra money will mean that about 73,000 educational employees of the state will see their contributions to health insurance premiums reduced.

For individual coverage under the traditional fee-for-service plan, employees will pay \$10 a month, down from \$30.75 a month last year. For family coverage, they will pay \$120 a month, down from \$137.25 a month last year.

Retired educational employees will pay \$6.90 a month for their health insurance, down from \$19.65 a month last year.

Under the state's traditional health care plan, employees must pay a \$100 per-person deductible for major medical coverage, up to a maximum of \$300 for family coverage. In addition, they pay 20% of expenses over the deductible, up to a maximum out-of-pocket expenditure of \$2,000 a year. The plan pays 100% of expenses after this maximum is reached, up to the lifetime maximum benefit of \$500,000.

The premium for the traditional fee-for-service plan is \$70 a month for individual coverage and \$180 a month for family coverage, Mr. Walsh said.

The state will contribute \$60 a month to the premium beginning Oct. 1. Prior to Oct. 1, the state's contribution is \$35.

In addition, about 45,000 educational and other state employees in the Jefferson, Montgomery, Mobile and Tuscaloosa counties will be of-

benefit beat

ferred participation in health maintenance organizations operated by HealthAmerica Corp. beginning Oct. 1, Mr. Walsh said.

The HMOs cost \$75 a month for individuals and \$190.08 a month for families. With the state's \$60 monthly contribution, participation in the HMOs will cost employees \$15 for individual coverage and \$130.08 for family coverage.

Although they cost more than the traditional coverage, the HMOs provide dental care as well as medical care, Mr. Walsh said.

The state of Alabama also offered state employees an option to participate in a state-sponsored Preferred Medical Doctors plan on July 1. Like a preferred provider organization, the PMD program allows employees to choose between a

doctor in the PMD network or a doctor outside the network each time they need care.

Employees who go to a PMD doctor pay no deductible and pay only 20% of the doctor's bill, which is predetermined according to a fee schedule, with no out-of-pocket limit.

However, if employees go to a non-preferred doctor, they receive the same benefits they would under the state's traditional health care plan, rather than decreased benefits, Mr. Walsh said.

The state contributes \$60 a month

for employees in the PMD plan, the same amount contributed for workers in the traditional plan. Workers in the PMD plan, like those in the traditional plan, pay \$10 a month for individual coverage and \$120 for family coverage.

Benefit beat keeps insurance and employee benefit managers informed of current developments in the employee benefit field. If you've made any changes, write Diane Kastiel, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611; 312-649-5393.



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CPISM THE ENLIGHTENED ERA IN HEALTH CARE

From the desk of Stuart J. Brahs

Rep. Dan Rostenkowski
U.S. House of Representatives
Washington, D.C. 20515

Dear Rosty,

SOME TIME AGO I listened with considerable interest to your response to the president's proposals to reform and simplify the tax code. You told the television viewers on that Tuesday evening that, "Apathy is the fatal disease of reform."

You said, "We need to hear your voice," and urged that Americans "Write Rosty." Well, I'm taking you at your word; I want to share with you the views and concerns of the benefits community about what the president has proposed and what you seem to embrace.

Tax reform, tax simplification, whatever it may be called, if enacted, will be a fundamental shift in economic policy for the United States. It will impact every American and every institution, *far beyond what we can know or imagine*. Simplification and equitable reform are laudable goals; this may be the time to pursue them. However, Rosty, we cannot, in the name of reform, spawn revolution in the lives of millions of American workers, their families and their secure futures. We cannot unravel the nation's employee benefit system, which has been carefully built over seven decades as sound, valid social policy.

While the president does not appear to appreciate the importance of the federal budget deficit, many in Congress are frantically searching for sources of revenue wherever they believe those sources can be found. Unfortunately, it has become axiomatic that employee benefits in general, and retirement security programs in particular, are easy targets for revenue. Frankly, Rosty, in the guise of tax reform, an attack on benefits has been launched.

In your May 28 remarks, you spoke of those people from your childhood who worked in Chicago's breweries, steel mills and packinghouses. Well, my friend, their modern-day counterparts—their children and grandchildren—are the ones who will bear the greatest burden of the so-called-reform's impact on benefits.

These American workers like the current system! In a recent national survey by the Assn. of Private Pension & Welfare Plans and ERISA Industry Committee, employed Americans clearly indicated that they prefer the convenience, the lower cost and the security of knowing they are enrolled in a group plan at work. Seventy-two percent said they liked having their employer administer their benefits and take care of the details. Seventy-nine percent said they liked having their employer pay for these benefits. Three in four said that even if they had a higher salary, they probably would not have the discipline to put aside enough money to buy the same coverage for themselves and their families.

Eight in 10 Americans say their employer-sponsored pension is important to them, and less than one in four think they would have enough retirement income if their pension were reduced.

How do these responses stack up against the administration's tax reform initiative or some of those previously advanced in the Congress? Some of these proposals would count the employer's contribution to employee benefits as part of a worker's salary. That would mean a bite out of the average worker's take-home pay.

Other proposals would restrict popular programs such as 401(k) salary reduction savings plans, and the cafeteria plans that enable workers to tailor their benefits package to suit their own needs. Still other proposals would increase taxes on profit-sharing plans and increase penalties on early distributions of pension and savings funds. Their overall impact will be to discourage younger workers from participating in

plans that depend on their contributions.

The benefits community understands that, in an effort to keep the administration's tax reform plan revenue-neutral, all existing tax incentives may have to be re-evaluated to ensure that the social policy the incentives were designed to achieve still have the necessary vitality to pass muster when considered in the framework of the rising federal deficit.

We remain strongly convinced, however, that employer-sponsored group employee benefit arrangements are critical to the well-being and economic independence of the nation's workers, young or old.

These vital life security benefits are being viewed as "fringes"—something on the periphery of worker's income. They are not! This viewpoint demonstrates a lack of understanding over the tax *deferred* nature of the benefits. The government will recoup 60% to 80% when the workers retire!

A recent study by the Employee Benefit Research Institute reveals that, of the more than 80 million non-agricultural employees in the United States, more than 47 million—or 59%—are covered by retirement plans, including more than 37% of employees earning less than \$10,000, more than 57% of those earning between \$10,000 and \$15,000, and almost 72% of those earning between \$15,000 and \$20,000.

The statistics on group health coverage are even more impressive. Of the more than 15 million employees earning between \$5,000 and \$10,000, almost half were covered by group health arrangements on their current jobs. Of the almost 18 million employees earning between \$10,000 and \$15,000, more than two-thirds were covered. In higher wage brackets, coverage ranges from more than 80% to nearly full coverage.

In the face of statistics such as these it is indeed difficult to maintain that benefits are extra "perks" or that employers provide statutory benefits only to the highly paid. There is simply no factual basis for these arguments.

Prefunded benefit programs are an extraordinarily important source of capital in the United States. Pension funds provided more than \$1 billion in investment capital in 1984—more than one-third of the capital committed for new businesses and new jobs. If incentives for savings in employer-sponsored plans are weakened, our country would be at an even greater disadvantage to our foreign competitors. Japan's savings to gross national product ratio is already almost twice as high as our own.

Frankly, Danny—if I can get personal—it's going to cost the government a great deal more to duplicate the benefit coverage offered by private-sector employers. For example, employers provide more than \$100 billion in health insurance coverage to workers at an estimated revenue loss of around \$30 billion. Absent the employer programs, taxpayers would have to foot the bill for the *entire* \$100 billion. Just think of the pressure on national resources posted by the retiring baby-boom generation.

The need for employee benefits will not vanish, even though the level of availability for them would be reduced by ill-conceived tax policies. A recent survey showed that 73% of corporate chief executive officers believe that if employers cut back on benefits, the government will be pressured—particularly by the aging baby boom—to increase Social Security and add other welfare benefits. At best it would be expected to do no better than private enterprise has done, but it would be safe to suggest that it would probably do

much worse! All one has to do is examine the government's current record of efficiency in delivering health care, food and other life security benefits, and compare it with this exemplary private-sector structure.

While many who "Write Rosty" will, at best, provide only vague generalities about their views on tax reform, tax fairness, tax simplification, I fear that few specifics about proposals currently under consideration by the 56 congressional tax writers will be provided. Permit me to correct this situation.

An especially ill-considered suggestion is the new non-discriminatory coverage test that would be applied to all qualified plans and to all welfare benefits. This scheme is not a rational means of achieving the supposed goal of greater coverage.

Thus, the current Internal Revenue Code provisions in Section 410 for qualified plans would be replaced by a strictly mechanical numerical test that would eliminate the current flexibility in the coverage rules that allows commonly controlled companies with many different plans, covering groups with differing salary structures, lines of business and geographical locations, to accommodate these differences in their plans without fear of disqualification. The president's proposal treats all employees at all wage levels and at all ages and in all occupations as fungible and would discard the flexibility that is a hallmark of America's current employee benefits system.

In light of its serious shortcomings one could assume that, having considered its effects, the administration chose to propose the change because of its enormous revenue implication. The opposite is true. It raises no revenue at all.

One also might think that the change is supported by clear and convincing evidence that the current rules are not working, and that the new coverage tests will result in far greater coverage at all levels. Again, a false conclusion; the new tests may allow the exclusion of middle-income employees in far greater numbers than is permitted under current law, thus disadvantaging middle-income employees in the benefits area in the same way that the rest of the administration tax reform proposal serves to do.

Especially onerous, Rosty, have been the persistent attacks on cash-or-deferred arrangements under Section 401(k) of the Internal Revenue Code. As you know, last November the Treasury Department recommended the elimination of 401(k) plans and their replacement by Individual Retirement Accounts. While the president no longer proposes 401(k) elimination, the complex rules and unreasonably reduced dollar limits have prompted many to assume that the changes are simply a way of slow death for these valuable and popular retirement programs.

The coverage and discrimination tests proposed by the administration are inordinately complex and will add immeasurably to the administrative costs of maintaining these plans. Tests will be made on an

Continued on next page

Stuart J. Brahs is executive director of the Assn. of Private Pension & Welfare Plans in Washington. This is the text of his open letter to Rep. Dan Rostenkowski of Illinois, chairman of the House Ways and Means Committee. The letter was delivered at the Business Insurance Employee Benefits Communication Conference earlier this month in New York.



datebook

SEPT. 9-10. Principles of Petroleum Insurance workshop in Dallas, sponsored by the Professional Development Institute and Self-Insurance Resource Inc.; \$450. Also **Sept. 25-26** in Houston, **Oct. 16-17** in Denver, **Oct. 29-30** in Oklahoma City, **Nov. 6-7** in New Orleans, and **Nov. 20-21** in Fort Worth, Texas. Jonathan Jeffrey, Professional Development Institute, P.O. Box 13288, NTSU, Denton, Texas 76203-3288; 817-565-2483.

SEPT. 9-11. Risk Management Information Systems course in San Francisco, sponsored by the Risk & Insurance Management Society's Continuing Education Program; \$545 for members; \$645 for non-members. Also **Oct. 7-9** in Arlington, Va. Fran Jordan, Administrator-Continuing Education Program, Risk & Insurance Management Society, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

SEPT. 9-13. Fundamentals of Industrial Hygiene Monitoring course in Long Grove, Ill., sponsored by the National Loss Control Service Corp.; \$500; 10% discount for two or more registrants from the same company. Also **Nov. 11-15** in Long Grove. John Garis, NATLSCO, Long Grove, Ill. 60049; 312-540-2026.

SEPT. 9-13. Fundamentals of Money Management workshops in Philadelphia, sponsored by the International Foundation of Employee Benefit Plans; \$700 for members; \$825 for non-members. Registrar, International Foundation of Employee Benefit Plans, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53005-0069; 414-786-6701.

SEPT. 9-13. Hazardous Materials: Handling and Disposal course in Los Angeles, sponsored by the University of Southern California; \$675. Registrar, USC, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, Los Angeles, Calif. 90089-0021; 213-743-6523/6524.

SEPT. 9-14. Fifth Annual Educational Conference of the Self-Insurance Institute of America in San Francisco; \$525 for members, \$500 for additional registrants from the same company, \$625 for non-members; for the property/casualty sessions Sept. 10 and 11: \$355 for members, \$330 for additional registrants from same company, \$425 for non-members; for the employee benefit sessions Sept. 11-14: \$405 for members, \$355 for additional registrants from same company, \$475 for non-members. Registrar, SIIA, P.O. Box 15466, Santa Ana, Calif. 92705; 714-261-2553.

SEPT. 10. Data Workshop and NSDB Briefing in Seattle, sponsored by the Health Research Institute; free. Also **Oct. 22** in Boston, **Nov. 5** in New York, **Dec. 10** in Chicago. Workshop Coordinator, Health Research Institute, 49 Quail Court, Suite 200, Walnut Creek, Calif. 94596; 415-676-2320.

SEPT. 10-12. Basic Safety Management seminar in Los Angeles, sponsored by the International Safety Academy; \$445; \$415 for three or more registrants from the same organization. Also **Nov. 5-7** in Boston; and **Dec. 2-4** in Houston. International Safety Academy, P.O. Box 8527, 1600 Arch St., 12 Tower, Philadelphia, Pa. 19101; 800-231-3147.

SEPT. 10-12. Petroleum/Chemical Fire School in Marinette, Wis., sponsored by Ansul Fire Protection; \$650. Also **Oct. 1-3** in Marinette. Sara Lambrecht, Ansul Fire Protection, 1 Stanton St., Marinette, Wis. 54143.

SEPT. 10-12. Establishing and Auditing an Effective Product Safety Management Program course in Chicago, sponsored by the National

Safety Council; \$375 for members; \$470 for non-members. Russell Marhefsk, Director-Product Safety Programs, National Safety Council, 444 N. Michigan Ave., Chicago, Ill. 60611; 312-527-4803.

SEPT. 11. Health Improvement/Prevention Workshop in Seattle, sponsored by the Health Research Institute; \$195. Also **Oct. 23** in Boston, **Nov. 6** in New York, **Dec. 11** in Chicago. Workshop Coordinator, Health Research Institute, 49 Quail Court, Suite 200, Walnut Creek, Calif. 94596; 415-676-2320.

SEPT. 11. Advanced "Post-Graduate" Cost Containment workshop in Seattle, sponsored by the Health Research Institute; \$195. Also **Oct. 23** in Boston, **Nov. 6** in New York, **Dec. 11** in Chicago. Workshop Coordinator, Health Research Institute, 49 Quail Court, Suite 200, Walnut Creek, Calif. 94596; 415-676-2320.

SEPT. 11-12. Washington, D.C.: The Arena for Congressional Impact on our National Retirement System meeting in Washington, sponsored by the National Employee Benefits Institute; free for members; \$395 for non-members. Thomas G. Schendt, National Employee Benefits Institute, 2550 M St. N.W., Suite 785, Washington, D.C. 20037; 800-558-7258.

SEPT. 11-12. "Controlling the Pipeline," the Fourth Annual Banking and Insurance Forum in Washington, sponsored by Tillinghast, Nelson & Warren Inc.; \$650; \$600 for subsequent registrants from the same company. Eileen B. Callahan, Conference Coordinator, Tillinghast, Nelson & Warren Inc., 722 Post Road, Darien, Conn. 06820; 203-655-9791.

SEPT. 11-13. Consumer Concerns Today are Tomorrow's Opportunities conference in Denver, sponsored by the Insurance Consumer Affairs Exchange; \$250 for members; \$300 for non-members. Norman E. Godden, ICAE Vp, Washington National Insurance Co., 1630 Chicago Ave., Evanston, Ill. 60201; 312-570-5705.

SEPT. 11-13. Fundamentals of Insurance conference in Chicago, sponsored by the Risk & Insurance Management Society's Continuing Education Program; \$445 for members; \$545 for non-members. Fran Jordan, Administrator-Continuing Education Program, Risk & Insurance Management Society, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

SEPT. 12. Environmental Impairment Liability workshop in New Orleans, sponsored by the Society of Chartered Property and Casualty Underwriters; \$80 for members; \$95 for non-members. Professional Services Department, Society of CPCU, Kahler Hall, Providence Road, Malvern, Pa. 19355; 215-251-2736.

SEPT. 12-13. Labor/Management workshop in Seattle, sponsored by the Health Research Institute; \$195. Also **Oct. 24-25** in Boston, **Nov. 7-8** in New York, **Dec. 12-13** in Chicago. Workshop Coordinator, Health Research Institute, 49 Quail Court, Suite 200, Walnut Creek, Calif. 94596; 415-676-2320.

SEPT. 12-13. Financing Employee Benefit Programs: The Captive Alternative seminar in Copenhagen, Denmark, sponsored by the International Benefits Information Service; \$430. Registrar, International Benefits Information Service, 222 W. Adams St., Suite 629, Chicago, Ill. 60606; 312-236-2615.

SEPT. 12-13. Financial Analysis for Risk Management Decisions seminar in New York, sponsored by The College of Insurance; \$750. Also **Oct. 17-18** in St. Louis. Registrar, The College of Insurance, 101 Murray St., New York, N.Y. 10007; 212-962-4111, Ext. 303.

SEPT. 12-15. Annual Convention of the National Assn. of Professional Surplus Lines Offices Ltd. in Boston; \$350. Contact Registrar, NAPSLO, P.O. Box 1507, Roswell, Ga. 30077; 404-993-9075.

SEPT. 17-19. Industrial Fire School in Marinette, Wis., sponsored by Ansul Fire Protection; \$650. Also **Oct. 7-9** in Marinette. Sara Lambrecht, Ansul Fire Protection, 1 Stanton St., Marinette, Wis. 54143.

SEPT. 17-19. Fundamentals of Reinsurance seminar in Irving, Texas, sponsored by the University of Dallas Reinsurance Management Institute; \$495. Bruce D. Evans, University of Dallas, Reinsurance Management Institute, 1845 E. Northgate Drive, Irving, Texas 75062-4799; 214-721-5360/5062.

SEPT. 18. Fitness or Health seminar in New York, sponsored by The New York Business Group on Health Inc.; \$15 for members; \$25 for non-members. The New York Business Group on Health Inc., 622 Third Ave., 34th Floor, New York, N.Y. 10017; 212-808-0550.

SEPT. 18. Back Injury Prevention Using NIOSH Guidelines seminar in Houston, sponsored by the International Safety Academy; \$185. International Safety Academy, P.O. Box 8527, 1600 Arch St., 12 Tower, Philadelphia, Pa. 19101; 800-231-3147, 215-241-5800 in Pennsylvania.

SEPT. 18-20. Soaring to New Heights in Safety conference in Lanham, Md., sponsored by Maryland National Capital Park & Planning Commission in cooperation with the National Capital Region of the National Park Service and the Mid-Atlantic Regional Council of the National Recreation & Park Assn.; \$100. Patricia Deavers, M-NCPPC, 9915 Moreland St., Fort Washington, Md. 20744.

SEPT. 18-20. 16th Annual Educational Seminar in Charleston, S.C., sponsored by the Carolinas, Palmetto, Piedmont, and Western Carolinas chapters of the Risk & Insurance Management Society; \$73 for members; \$75 for non-members. Cathy F. Breitman, The Seibels Bruce Group Inc., P.O. Box 1, Columbia, S.C. 29202.

SEPT. 18-20. Techniques of Risk Management course in Chicago, sponsored by the Risk & Insurance Management Society's Continuing Education Program; \$445 for members; \$545 for non-members. Fran Jordan, Administrator-Continuing Education Program, Risk & Insurance Management Society, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

SEPT. 19. Redesigning the Work Environment to Avoid Carpal Tunnel Syndrome seminar in Houston, sponsored by the International Safety Academy; \$185. International Safety Academy, P.O. Box 8527, 1600 Arch St., 12 Tower, Philadelphia, Pa. 19101; 800-231-3147.

SEPT. 19-20. New Directions in Health Care Management conference in Memphis, Tenn., sponsored by the National Assn. of Employers on Health Care Alternatives; \$495 for members, \$445 for additional member from same company; \$595 for non-members, \$545 for additional non-member from same company. NAEHCA, 1134 Chamber of Commerce Building, 15 South Fifth St., Minneapolis, Minn. 55402; 612-338-4823.

SEPT. 19-20. Casualty/Loss Reserve seminar in Kansas City, Mo., sponsored by the American Academy of Actuaries and the Casualty Actuarial Society; \$300. Registrar, AAA, 1835 K St. N.W., Suite 515, Washington, D.C. 20006; 202-233-8196.

SEPT. 19-20. Self-Funding Your Employee Benefits meeting in Chicago, sponsored by American Management Assns.; \$620 for members; \$715 for non-members. Also, **Oct. 10-11** in New York, **Oct. 24-25** in San Francisco. Registrar, American Management Assn., P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

SEPT. 20. Employee Education conference in Chicago, sponsored by the Illinois State Chamber of Commerce; \$90 for members; \$135 for non-members. Registrar, ISCC, Center for Business Management, 20 N. Wacker Drive, Chicago, Ill. 60606; 312-372-7373.

SEPT. 22-24. International Benefits seminar in St. Thomas, U.S. Virgin Islands, sponsored by the International Foundation of Employee Benefit Plans; \$500 for members; \$575 for non-members. Registrar, International Foundation of Employee Benefit Plans, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53005-0069; 414-786-6701.

SEPT. 22-25. 1985 Canadian Risk Management conference in Ottawa, Ontario, Canada, sponsored by the Canadian Capital Region Risk & Insurance Management Society; \$250. John Harris, City of Nepean, 3825 Richmond Road, Nepean, Ontario K2H 5C2; 613-829-1510.

SEPT. 23-24. Managing the Self-Funded Health Care Plan conference in Chicago, sponsored by Charles D. Spencer & Associates; \$475. Patricia Ibb, Charles D. Spencer & Associates Inc., 222 W. Adams St., Chicago, Ill. 60606; 312-236-2615.

SEPT. 23-25. 1985 Trustees and Administrators Institutes in Banff, Alberta, sponsored by The International Foundation of Employee Benefit Plans; \$420 for members; \$495 for non-members. Registration Department, IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069.

SEPT. 26-27. Construction Safety and Health seminar in Chicago, sponsored by Lakeside Management Services; \$90; \$25 for students. James Opoka, Lakeside Management Services, Saint Joseph Hospital, 2900 N. Lake Shore Drive, Chicago, Ill. 60657; 312-975-3388.

SEPT. 26-28. Malpractice Self-Insurance Program in Grand Cayman, British West Indies, held by APA Ltd.; \$250. Joan McNulty, Management International Inc., 7480 Fairway Drive, Suite 106, Miami Lakes, Fla. 33014; 305-822-1414.

SEPT. 30-OCT. 1. New Approaches To Finding Reinsurance Capacity for 1986 seminar in New York, sponsored by Executive Enterprises Inc.; \$750; \$650 for each additional registrant from the same organization. Registrar, Executive Enterprises Inc., Session #59INS15, 33 W. 60th St., New York, N.Y. 10023-7988; 212-489-2680.

SEPT. 30-OCT. 1. Perinatal Risk Management: Understanding and Preventing the Multimillion Dollar Claim seminar in San Francisco, sponsored by the American Society for Hospital Risk Management and The Structured Settlements Co.; \$175 for ASHRM members; \$235 for non-members. Registrar, American Hospital Assn., Division of Education, 840 N. Lake Shore Drive, Chicago, Ill. 60611; 312-280-6083.

SEPT. 30-OCT. 2. Techniques of Loss Control course in Denver, sponsored by the Risk & Insurance Management Society; \$445 for members; \$545 for non-members. Fran Jordan, Administrator-Continuing Education Program, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

OCT. 1. Substance Abuse in Corporate America conference in New York, by The New York Business Group on Health Inc.; \$75 for members; \$150 for non-members. The New York Business Group on Health Inc., 622 Third Ave., 34th Floor, New York, N.Y. 10017; 212-808-0550.

OCT. 1-3. Effective Training Skills: A Three-Day "Train the Trainer" Workshop in Norwood, Mass., sponsored by Factory Mutual Engineering; \$485. Training Department, Factory Mutual Engineering, 1151 Boston-Providence Turnpike, P.O. Box 9102, Norwood, Mass. 02062; 617-762-4300.

OCT. 1-2. RMIS85—Risk Management Information System Conference and Show in Stamford, Conn., sponsored by the Risk Planning Group division of Tillinghast, Nelson & Warren Inc.; \$495. Micki Briskin, Risk Planning Group, 722 Post Road, Darien, Conn. 06820-4798; 203-655-9791.

OCT. 1-3. Effective Training Skills workshop in Norwood, Mass., sponsored by Factory Mutual Engineering Corp.; \$485. Registrar, Training Department, Factory Mutual Engineering, 1151 Boston-Providence Turnpike, P.O. Box 9102, Norwood, Mass. 02062.

OCT. 2-4. West Coast Regional Conference sponsored by the Los Angeles Chapter of the Risk & Insurance Management Society in Palm Springs, Calif.; \$290 for members; \$270 for additional registrants from the same company; \$80 for spouses. Greg Breed, Director of the Corporate Insurance Campus Crusade for Christ Inc., Department 76-20 Arrowhead Springs, San Bernardino, Calif. 92414; 714-886-9711, Ext. 1439.

OCT. 2. Accident Investigation and Analysis seminar in Houston, sponsored by the International Safety Academy; \$185. International Safety Academy, P.O. Box 8527, 1600 Arch St., 12 Tower, Philadelphia, Pa. 19101; 800-231-3147, 215-241-5800 in Pennsylvania.

OCT. 3-4. Quantitative Techniques for Risk Management seminar in New York, sponsored by The College of Insurance; \$495 for sponsoring participants; \$535 for all others. Registrar, Professional Development Programs Division, The College of Insurance, One Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

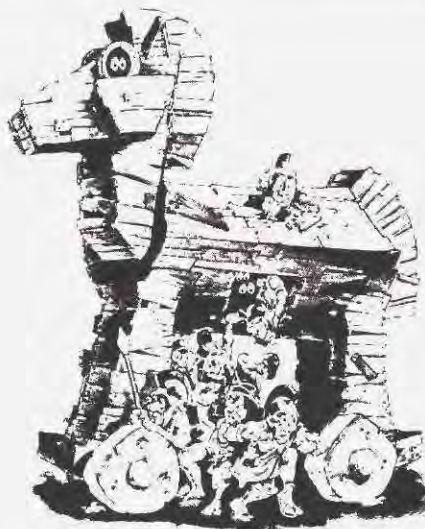
OCT. 6-9. Third International Risk Management Conference in Monte Carlo, Monaco, sponsored by the Risk & Insurance Management Society and the Assn. Europeenne des Assures de L'Industrie; \$420 (4,200 francs) for risk managers; \$550 (5,500 francs) for others; pre-registration for conference seminars is required. Marilyn Maffucci, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

OCT. 6-10. Washington Insight on Employee Benefits conference in Washington, sponsored by the U.S. Chamber of Commerce; \$1,175. Suzanne Lulewicz or Deborah Murphy, U.S. Chamber of Commerce, 1615 H St. N.W., Washington, D.C. 20062; 202-463-5575.

OCT. 7-9. Risk Management Information Systems course in Arlington, Va., sponsored by the Risk & Insurance Management Society's Continuing Education Program; \$545 for members; \$645 for non-members. Fran Jordan, Administrator-Continuing Education Program, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

OCT. 7-9. Basic Risk Management Techniques seminar in Washington, sponsored by the Public Risk & Insurance Management Assn.; \$350 for members; \$400 for non-members. Dean Phelus, PRIMA, 1120 G St. N.W., Suite 400, Washington, D.C. 20005; 202-626-4650.

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Florida hospitals pay into claim fund

TALLAHASSEE, Fla.—Ninety-eight hospitals have agreed to pay almost \$100 million to Florida's Patients' Compensation Fund to cover outstanding medical malpractice claims.

In addition, many of the hospitals have agreed to a system to pay future assessments by the fund without costly legal challenges.

"For the first time, we have a mechanism that allows us to collect future assessments without dragging each one through the courts," said state Insurance Commissioner Bill Gunter.

"This virtually wipes out our waiting list of malpractice victims. It means these people can be com-

pensated immediately, instead of waiting for years of expensive litigation to be completed."

The PCF was created by the state Legislature in 1975 in order to provide medical malpractice coverage to doctors and hospitals. Increasingly higher malpractice judgments in the early 1980s caused the PCF to raise its rates, and all 120 hospital members withdrew from the fund by 1982.

Since then, the PCF has assessed the former hospital members six times for a total of \$183 million to pay incoming claims. The most recent two assessments, totaling \$95 million, were issued earlier this summer.

Many of the hospitals legally challenged the first four assessments, and as a result many medical malpractice claims filed with the fund remained largely unpaid for two years, according to an Insurance Department spokesman (BI, July 2, 1984).

Eventually, both the Florida and U.S. Supreme Courts ruled that the fund had a right to assess the hospitals, and the bulk of the first four assessments, which totaled \$88 million, were eventually paid by the hospitals.

Now, agreements have been reached with 80 of the hospitals to pay the two most recent assessments, plus two future assessments whose amounts have not yet been determined. The payments will be made by the hospitals in quarterly installments.

In addition, nine hospitals had previously agreed to pay the fifth and sixth assessments, though these hospitals still must pay the future assessments. Nine other hospitals have been identified as hardship cases and have worked out individual payment plans with the department.

However, the department says that 16 hospitals are still contesting the assessments in court, while the state is suing 12 other hospitals for lack of payment.

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Auditors battle

Continued from page 2

revenues of \$465 million, has a substantial self-insured retention and excess insurance placed in the London market. The settlement falls within its self-insured retention.

While liability suits charging accountants with faulty auditing have increased in recent years, legal wrangling between accounting firms is highly unusual.

Todman partner Bernard Weiner says that Arthur Young should be equally responsible for any damages awarded in the litigation because if Arthur Young had properly audited Bell & Beckwith, the securities broker would have been closed down in 1976 for insufficient net capital.

"There doesn't appear to be anything qualitatively different between what Arthur Young failed to discover and what Todman failed to discover," said Todman attorney Joel M. Wolosky of the New York-based firm of Parker, Chapin, Flat-tau & Klimpl.

"They should be charged with the same degree of wrongdoing and let the jury decide," he said.

Arthur Young's general counsel Carl Liggio counters: "We have no liability, and it is ludicrous for Todman to suggest that we should be made to pay money for this. Also, during their tenure of auditing the amounts of misstatements grew to such ludicrous material amounts."

While denying liability, Arthur Young is willing to settle with the Bell & Beckwith trustee to avoid the potential legal fees to defend the claim, estimated in the seven figures, said Mr. Liggio.

Mr. Liggio noted that Arthur Young had been fired in 1976 by Bell & Beckwith after the accounting firm notified the Securities and Exchange Commission that the broker had significant inadequacies in its internal account controls.

Mr. Liggio also pointed out that Todman had been censured by the SEC.

Todman was censured by the SEC in 1984 for allegedly failing to adhere to generally accepted auditing standards in auditing Bell & Beckwith, according to SEC records.

Also, the SEC suspended Todman partner Victor M. Marchioni

Comp self-insurers form group in Idaho

SUN VALLEY, Idaho—Employers in Idaho that self-insure their workers compensation risks are joining forces to stay on top of legislative and regulatory activity.

"I think the self-insurers have an interest to examine what is happening, not only in their own state, but throughout the country, legislative-wise and policy-wise, both at the state and federal level," said Paul Jauregui, vp and general counsel with Idaho Power Co. in Boise.

Mr. Jauregui will be president of the Idaho Self-Insurers Assn., which is expected to file its charter papers with the state this week.

"There's a need to know what is occurring in the Legislature, from an administrative standpoint," Mr. Jauregui said.

During the past Idaho legislative session, work comp regulations were changed on a piecemeal basis, with little input from self-insurers, he said. An association could monitor such legislation and offer unified comments, he said.

"I personally hope we can work with workers compensation commissioners, the Legislature and government groups in solving problems that occur from time to time in Idaho," Mr. Jauregui said.

Besides Idaho Power, Boise Cascade Corp. and several mining companies are expected to be charter members of the new self-insurers association. ■

before the SEC for six months.

However, Todman did not admit or deny the allegations.

Bell & Beckwith's court-appointed bankruptcy trustee Patrick McGraw sued Todman in 1983 for failure to discover or failure to disclose "material deficiencies" in Bell & Beckwith accounting procedures, system of internal controls and procedures for safeguarding securities.

The suit also alleges that Todman failed to conduct an audit in accordance with generally accepted auditing standards and SEC rules by using inexperienced and unqualified auditors, providing inadequate supervision, failing to communicate with Arthur Young and inadequately confirming securities.

Bankruptcy trustee Mr. McGraw also alleged that he has a cause of action against Arthur Young because the Big Eight accountant failed to discover about \$320,000 in unsecured net credit balances and to render an adverse opinion on the

1976 Bell & Beckwith financial statements disclosing omissions and misstatements, according to court papers.

Both the appeal of the Arthur Young settlement and the underlying litigation against Todman are pending before Judge Alice M. Batchelder in U.S. District Court in the Eastern Division in Cleveland.

Todman's attorney Mr. Wolosky said that in defending Todman, he will cite a recent decision by the New York Court of Appeals that makes it more difficult for third parties to sue accountants for negligence (BI, July 29).

Bell & Beckwith was driven into bankruptcy by the actions of Edward P. Wolfram Jr., a former managing partner of the 86-year-old brokerage that had 7,000 client accounts. Mr. Wolfram was convicted of securities fraud and is serving a 25-year term in federal prison.

From at least 1974 to February 1983, Mr. Wolfram systematically

'It is ludicrous for Todman to suggest we should be made to pay money for this,' says Mr. Liggio.

manipulated margin and other accounts to misappropriate \$32 million in funds and \$15 million in accrued interest, according to the amended complaint filed against Todman on behalf of the trustee.

For example, court papers said Mr. Wolfram caused the value of 1,875 shares of stock in Toto Ltd., a Japanese firm, that was held as collateral to be valued at \$187 million, when they were worth about \$3,318.

The Federal Insurance Co. paid \$700,000 under a brokers bond covering Mr. Wolfram in connection with Mr. Wolfram's fraudulent ac-

tivities.

Any recoveries in the litigation brought by the bankruptcy trustee will cover creditors' claims. The largest creditor of Bell & Beckwith is Security Investors Protection Corp., the federal program that insures brokerage clients' accounts against bankruptcies.

SIPC paid \$40 million to clients of the securities firm.

An additional \$2.6 million in claims is outstanding from 13 clients whose losses exceeded SIPC limits of \$500,000.

Meanwhile, seven Bell & Beckwith general partners are also suing Todman for \$25 million in compensatory damages and \$15 million in punitive damages, according to James A. Hofelich, a partner in Spangenberg, Schibley, Traci and Lancione in Cleveland. The general partners, who could be held ultimately liable for some unreimbursed claims, are seeking compensation for the brokerage firm's collapse. ■

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Asbestos defendants win verdict

Continued from page 2

In its suit, the school district alleged that the companies were negligent in failing to warn districts of the potential danger from the material. The school district also charged that the defendants had breached an implied warranty that the material was fit for its particular purpose.

The school district also sought punitive damages. However, the jury did not decide that issue because Judge Frank Dupree had earlier ruled that punitive damages were to be addressed by the jury only if compensatory damages were awarded.

U.S. Gypsum and National Gypsum argued the presence of building products containing asbestos did not substantially increase the risk of disease for building occupants.

The defendants also argued the occupants' exposure to asbestos was minimal.

"We believe there is no realistic health hazard from ceiling matter in buildings," said Richard P. Brown Jr., an attorney for U.S. Gypsum with the Philadelphia firm of Morgan, Lewis & Bockius.

In addition, the companies also argued they should not be held liable because the state of scientific knowledge at the time the buildings were built did not contemplate that any potential danger to building occupants would be caused by acoustical material that contained asbestos.

The jury took only 2½ hours to find the defendants not liable following an eight-day trial.

"I think that the jury's verdict coming in as quickly as it did underscores the fact that juries when faced with this litigation will take their responsibilities seriously..." said Arlene Fickler, an attorney for National Gypsum with the Philadelphia firm of Hoyle, Morris & Kerr.

"They will not be stampeded into plaintiffs' verdicts merely because the words 'cancer' and 'children' are mentioned."

Defense attorneys said that the South Carolina verdict may indicate juries will rule in favor of defendants in future cases and that it possibly could reduce the settlement value of pending property damage cases.

"We're certainly hopeful that this is the second of what will be a series of defense verdicts," Ms. Fickler said.

"I certainly think that for any company considering settling this kind of case the settlement value would be very, very minimal," said Mr. Brown, U.S. Gypsum's attorney.

Mr. Brown added that school districts, after noting the verdicts in favor of the defendants, may decide not to spend the time and money to sue asbestos producers.

However, Mr. Richardson, the attorney for the Spartanburg school district, said the decision does not indicate how juries will rule in future cases.

"It is one little ripple in the ocean," he said.

He pointed out that the first trials in the asbestos personal injury litigation and the DES litigation resulted in defense verdicts, but added that juries eventually began finding in favor of plaintiffs as more information on the defendants' conduct was released.

The Spartanburg case was to have been tried along with another case brought by the Greenville, S.C., County School District, which is seeking to recover more than \$3 million in damages for the costs associated with removing products containing asbestos from 33 buildings. However, that case since has been severed and is pending in U.S. District Court in Greenville.

U.S. Gypsum, which had been a defendant in that case, settled the suit for \$27,000 because of the minimal use of its products in the district's buildings and the fact that the cost of trial would far exceed any liability, Mr. Brown said.

"It was purely a nuisance settlement," he said.

National Gypsum remains a defendant in the case.

Home reinsurance treaties

Continued from page 3

The reinsurers claim they were not told of PLUM's involvement despite a written agreement from The Home not to delegate any underwriting authority without obtaining the agreement of the reinsurers.

The reinsurers also claim that the E&O business PLUM produced was not what they were told would be written, and that The Home failed to exercise control over PLUM's underwriting guidelines.

The plaintiff reinsurers charge that:

- No policies were supposed to be issued in either New York or California, but actually a "substantial" number were.

- No urban firms were to be insured, but some actually were.

- No businesses with more than 100 employees were to be insured, but many were.

- No law firms that engaged in Securities and Exchange Commission activities would be insured, but some were.

- Premium volume to the excess-of-loss reinsurers was significantly higher than the projected \$1 million to \$1.5 million.

The lawsuits do not state exactly how much premium was received by the excess-of-loss reinsurers or written by The Home.

Further, the plaintiff reinsurers say that The Home has "failed and refused to render proper, adequate and timely accounts, details of forms and ratings, and other information" that it was bound to provide by the reinsurance agreements.

The London reinsurers claim they have been exposed to risk and claims that would not have arisen if misrepresentations had not been made.

The German companies say they were unaware of the true nature of The Home's E&O business until two of the reinsurers conducted an audit in September 1984.

The Home was expected to file its response to the London companies' suit last Friday, Aug. 23. The insurer declined to comment on the action while it is in litigation.

Seattle-based John F. Sullivan Co., a Fred S. James & Co. subsidiary, and London-based Ballantyne, McKean & Sullivan Ltd. were the brokers that arranged the excess-of-loss treaty, according to the suit.

Sullivan, which declined to comment, also arranged the quota-share treaty, according to Anthony M. Lanzone, an attorney with the New York firm of Lanzone & Kramer who represents the London-based plaintiffs.

The 13 London-based excess-of-loss reinsurers suing for rescission are: CNA Reinsurance of London Ltd.; St. Katherine Insurance Co. P.L.C.; Excess General Insurance Co. Ltd.; Sovereign Marine & General Insurance Co. Ltd.; The Tokio Marine & Fire Insurance Co. (U.K.) Ltd.; Taisho Marine & Fire Insurance Co. (U.K.) Ltd.; Allianz International Insurance Co. Ltd.; Storebrand Insurance Co. (U.K.) Ltd.; San Francisco Insurance Co.

(U.K.) Ltd.; Mercury Reinsurance Co. (U.K.) Ltd.; The Nippon Fire Marine Insurance Co. (U.K.) Ltd.; Insurance Corp. of Singapore (U.K.) Ltd.; and Ancienne Mutuelle Reassurance.

All have their principal office in London except Ancienne Mutuelle, whose main office is in Paris but which underwrites in London. All but Insurance Corp. of Singapore took part in both the 1983 and 1984 treaties; Insurance Corp. of Singapore took part only in the 1983 treaty.

Joining Hannover Re and Insurance Corp. of Hannover in the litigation brought by the German companies is Eisen Und Stahl Reinsurance Corp., which was an excess-of-loss reinsurer in 1983 with only 1.5% of the treaty.

In 1984, the plaintiffs that took the greatest percentage of the excess-of-loss treaty were: CNA Re, 12.5%; Insurance Corp. of Hannover, 10.5%; Hannover Re, 7.5%; Excess General and Ancienne Mutuelle, both 5%; St. Katherine, 2.5%; and San Francisco and Mercury Re, both 1.1%. The other six reinsurers in the suit each took less than one percent.

In 1983, the plaintiffs that took the greatest percentage were: CNA Re, 12.5%; Hannover Re, 10%; Excess General and Ancienne Mutuelle, both 5%; St. Katherine, 2.5%; Eisen Und Stahl, 1.5%; and San Francisco and Mercury Re, both 1%. The other seven plaintiffs each took less than 1%.

The London excess-of-loss reinsurers paid The Home a ceding commission of 32.5% of written premiums ceded, according to copies of the placement slips.

The allegations are being litigated instead of arbitrated because the reinsurance agreements had no arbitration provisions, explains Mr. Lanzone. Instead of signing reinsurance contracts, which might have included an arbitration clause, the companies committed themselves by affixing their names to a reinsurance placement slip, he explains.

The German companies are represented by Werner, Kennedy & French in New York.

In addition to Hannover Re with 7.5% of the 1984 quota-share treaty and Insurance Corp. of Hannover with another 7.5%, the other 1984 quota-share reinsurers as identified in the court papers included American Reinsurance Corp. for 40%; General Reinsurance Corp. for 20%; Employers Insurance of Wausau for 2.5%; and GTE Reinsurance Co. for 2.5%.

In 1983, the four quota-share reinsurers and their participation were: American Re, 30%; Gen Re, 30%; Hannover Re, 17.5%; and Wausau, 2.5%.

American Re, which has not joined either of the two actions, was negotiating with The Home last week, according to T. Darrington Semple Jr., resident counsel and secretary.

Wausau declined to comment on its participation and GTE Re said only that the Bermuda-based insurer is no longer on the treaty.

General Reinsurance Corp. said it is not contesting the treaty and is handling claims under it in the ordinary course of business.

Committee to study Ohio work comp

COLUMBUS, Ohio—Ohio employers will join labor and state legislators on a committee to study problems with the Ohio workers compensation system that employers say were created by recent state Supreme Court decisions.

The state Senate president and the speaker of the House earlier this month appointed the 16 members of the Joint Select Committee, mandated by legislation passed earlier this year. The committee's report is due Nov. 1, although at least one committee member says that

date is optimistic.

The legislation creating the committee said an in-depth evaluation of the state's workers comp system is needed "if the General Assembly is to maintain the system as a valued facet of Ohio's economy."

The committee is made up of four employer representatives, four labor representatives, four senators and four representatives.

Employers say the problems with the work comp system can be traced to 11 state Supreme Court rulings within the past several

months that have expanded the scope of employers' work comp liability (BI, Feb. 25).

"The Ohio Supreme Court continues its ruinous course of corrupting the state's entire workers compensation law beyond all recognition and transforming Ohio into an industrial and economic wasteland," says an Ohio Manufacturers' Assn. newsletter.

For example, two decisions last month expand employers' "intentional tort" liability by allowing civil suits for damages, not only in cases of workplace injuries or illnesses, but also in cases where self-insured employers interrupt payment of benefits because an injured worker fails to submit required medical information.

And, in a third case last month the Supreme Court expanded the definition of intentional tort further in a case where an injured worker who no longer is totally disabled turned down another job offered by the employer.

In this case—*Horne vs. Great Lakes Construction Co.*—a company truck driver injured his leg on the job, leaving him unable to drive. Two years later, the company offered the worker another job that would not require prolonged standing or heavy lifting. He turned down the job and also declined vocational rehabilitation, says the Ohio Manufacturers' Assn.

The Supreme Court ruled that, since the injured worker could not return to his job as a truck driver—the job he held when he was injured—his workers compensation benefits must be continued.

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Eagle Bonds sues Cal-Farm

Continued from page 1

Eagle Bonds and Cal-Farm over the issuance of millions of dollars in financial guarantee bonds. Losses on those bonds led to the insolvency of the once profitable Sacramento-based insurer.

Cal-Farm has \$116 million in assets but has unknown liabilities from financial guarantee bonds and unknown collateral available to offset these losses, according to the California Insurance Department.

Cal-Farm sued Eagle Bonds and its owners in January in U.S. District Court for the Central District of California, charging the MGA with fraudulently writing financial guarantee bonds. The suit charged that these bonds were written by the Coughlans through Eagle Bonds and used by the Coughlans to secure loans for their Cal-Pac company, but that Cal-Pac never intended to repay the loans.

When that action was dismissed for failure to show a cause of action under the federal Racketeer Influenced and Corrupt Organizations Act, Cal-Farm filed a second lawsuit in June in California Superior Court against the owners of Eagle Bonds that included similar allegations (BI, July 29).

The California Insurance Department, which took over as conservator of Cal-Farm in March, is pressing both lawsuits in an attempt to recover millions in bond losses.

And, the California attorney general's office is investigating Eagle Bonds in connection with Cal-Farm's insolvency.

Now, Eagle Bonds and its owners cite RICO in their own suit and demand \$450 million in damages, the triple damages available under the federal law.

The lawsuit also asks the court to impose a constructive trust over all of Barclays' assets and demands a jury trial.

Defendants in the Eagle Bonds litigation contend the suit is a diversionary tactic in response to litigation pending against Eagle Bonds.

"This is simply a reflex reaction to a suit filed against them," says J.F. (Fred) Parrish, chairman of the board and president of Barclays Mortgage Corp. Mr. Parrish characterizes the suit as "absolutely ludicrous."

Cal-Farm President Henry J. Voss agrees the Eagle Bonds lawsuit is a reaction to the suits filed by Cal-Farm against it and the Coughlans. "We'll let them have their day in court. We don't have any concern there," he says.

Eagle Bonds' version of why Cal-Farm went broke writing financial guarantee bonds is entirely different from Cal-Farm's characterization of events as contained in the lawsuits filed by Cal-Farm.

Eagle Bonds and its owners charge that Cal-Farm purposely chose Eagle Bonds in May 1983 as its MGA for surety and financial guarantee bond business because the firm was inexperienced and could be manipulated to suit the purposes of Cal-Farm's officers and Barclays.

"These purposes included the fraudulent issuance of financial and mortgage guarantee bonds, the violation of California insurance statutes and other laws, and the use of an inexperienced and unsuspecting insurance broker as a means by which to mulct Cal-Farm and enrich Cal-Farm's officers... (and) the Barclays and Parrish defendants," the suit alleges.

Eagle Bonds contends that Cal-Farm urged the MGA to sign a sub-agent agreement with Barclays Mortgage Corp. The agreement, which was purportedly prepared by Mr. Parrish, Barclays' chairman, was presented by Barclays just days after the MGA agreement between Eagle Bonds and Cal-Farm was signed, the suit says.

The lawsuit alleges that this sub-agency agreement made Mr. Parrish and Barclays the sole representative of Eagle Bonds to underwrite, process and deliver all financial guarantee bonds and mortgage guarantee bonds, "with Eagle Bonds retaining only certain limited rights to write such bonds."

Shortly after the execution of the sub-agency agreement, the Parrish defendants, Barclays' affiliates and Cal-Farm began dealing among themselves to the exclusion of Eagle Bonds, the lawsuit says.

But Mr. Parrish denies that Barclays dealt directly with Cal-Farm and says his firm did not have the authority to issue Cal-Farm financial guarantee bonds. That authority, he says, rested solely with Eagle Bonds.

"Barclays never issued or signed any bonds," Mr. Parrish says. He says that Barclays' role as sub-agent was to present Eagle Bonds with real estate packages that required a financial guarantee bond. "Eagle could then issue a bond or not issue a bond at its discretion," Mr. Parrish says.

The first time Barclays had direct contact with Cal-Farm was in connection with Cal-Farm's attempts to gather infor-

mation in connection with the financial guarantee bonds issued by Eagle Bonds, he adds.

The lawsuit, however, says that in total disregard of the exclusivity provision of the MGA agreement between Cal-Farm and Eagle Bonds, Cal-Farm directed Mr. Parrish and Barclays to solicit additional financial guarantee bonds business and that Cal-Farm sought new business through its own facilities.

Eagle Bonds had issued 135 financial guarantee bonds under its MGA agreement with Cal-Farm representing a face amount of \$56 million, while Parrish-related entities had issued 367 of such bonds for a face amount of \$170.2 million, the lawsuit says.

Mr. Parrish says that Barclays never issued any Cal-Farm bonds, and that the value of the total projects that Barclays offered to Eagle Bonds was substantially less than \$170 million.

Of the \$56 million in financial guarantee bonds issued by Eagle Bonds, the suit continues, \$12.6 million have been exonerated, leaving a face exposure of \$43.4 million. Of that total, \$24.2 million were issued to Coughlan-related interests, according to Ivan W. Halperin, attorney for Eagle Bonds and the Coughlans.

The Eagle Bonds lawsuit also contends that "but for conduct of defendants," all of the bonds issued to Coughlan-related entities would be exonerated.

Contrary to Cal-Farm's allegation that Eagle Bonds violated the MGA agreement by issuing financial guarantee bonds without collateral on the loans, Eagle Bonds contends that the MGA agreement contained no restrictions as to the type of bonds that could be issued, the suit says.

Eagle Bonds contends that Cal-Farm encouraged Eagle Bonds to solicit applications for financial guarantee bonds and to use financial guarantee bonds in transactions with the companies owned by the Coughlans.

It was common practice for lenders to require a financial guarantee bond in lieu of collateral when issuing a loan to an out-of-state company, the lawsuit says. And, in most cases, lenders communicated directly with Cal-Farm to confirm the validity of the bonds and Eagle Bonds' authority to issue such bonds, the suit says.

And, although the MGA agreement was canceled by Cal-Farm in September 1983, with an effective date of March 1984, the lawsuit says that Cal-Farm specifically solicited Eagle Bonds to continue to provide it with premiums from the sale of additional bonds with terms and project maturities far beyond March 1984.

In fact, the lawsuit alleges, Cal-Farm complained to Eagle Bonds in September 1983 that not enough premiums were being generated by Eagle Bonds.

Cal-Farm officials discussed with Eagle Bonds various alternatives to increase the generation of premium, "specifically including arrangements whereby plaintiff Cal-Pac (the Coughlans' California-Pacific Construction Co.) would be the borrower and would later use the funds at its discretion in various projects," the suit says.

Cal-Farm wrote Eagle Bonds specifically consenting to the participation of Cal-Pac where Cal-Farm bonds would be used, the suit says.

A copy of this letter, attached to the lawsuit, is dated Sept. 26, 1983. It is written on Cal-Farm stationery, is addressed to Jack Coughlan, father of the Coughlan brothers and an agent for Eagle Bonds, and is signed by Richard L. Vavra, assistant vp at Cal-Farm.

The letter says in its entirety: "You have informed us of your participation, either corporate or individual, in projects wherein you have issued a Cal-Farm bond. This letter will confirm our knowledge and consent of this action."

While Cal-Farm contends in its lawsuit against Eagle Bonds that these bonds were issued on loans to Coughlan-related companies that could not be repaid by the expiration date, Eagle Bonds charges that Cal-Farm was "systematically and continuously" involved in the transactions.

Cal-Farm knew that these loans would have to be rolled over and replacement or rollover bonds issued to maintain the loans, the suit contends.

Then, "suddenly and without cause," Cal-Farm attempted to injure Eagle Bonds and the Coughlans by refusing to issue more bonds to Coughlan-related projects, the suit charges. "Cal-Farm knew that the lenders would cease to do business with Cal-Pac after Cal-Farm refused to bond loans to Cal-Pac," the suit says.

The failure of Cal-Farm to provide renewal and rollover bonds has cost the Coughlans and their companies at least \$150 million, the suit says. The injury "continues to arise out of the destruction of Eagle Bonds' insurance brokerage busi-

ness and the impairment of numerous business opportunities of plaintiffs," the suit maintains.

"Defendants' conduct has exposed Eagle Bonds, Cal-Pac and the Coughlans to substantial liability and has damaged their good reputation in the financial community with lenders," the suit also says.

While Cal-Farm alleges that the Coughlans never intended to repay the loans, the Coughlans counter that Cal-Farm "never intended to issue bonds to renew short-term obligations."

The lawsuit alleges that Mr. Parrish, Barclays and the Cal-Farm officials "looted" Cal-Farm and Eagle Bonds in a variety of ways, including: not accounting for bonds; not disclosing premiums collected on bonds; issuing bonds to related entities; reusing bond power for bonds that had been exonerated; using fees and premiums collected on bonds to make high-interest loans; creating claims on bonds, thereby relieving them of the underlying loan obligation; and circulating the Coughlans' personal and corporate financial statements without their knowledge to obtain loans and assets for the Parrish and Barclays defendants.

As a result, Barclays "siphoned off significant amounts of money," the suit charges, and Eagle Bonds lost commissions, fees and profits of at least \$8 million.

Cal-Farm's part in the scheme, according to suit, involved issuing false financial statements that failed to disclose the liabilities arising from the issuance of bonds, "thereby causing individuals and lenders to be misled as to the ability of Cal-Farm to respond to claims rising out of the bonds..."

As a result, the lawsuit explains, Eagle Bonds "was placed in a position of marketing illegal and worthless instruments, Cal-Pac was encouraged to incur debt which required the support of bonds to be renewed, Eagle Bonds' customers expended substantial sums to purchase worthless and illegal instruments and the Coughlans and their assets were subjected to jeopardy and the prospect of financial ruin."

The suit also alleges that Cal-Farm's board of directors allowed the alleged scheme between Cal-Farm's officers and Barclays officials by failing to exercise their duties as directors of the company.

"The Cal-Farm directors conducted themselves in a largely ceremonial capacity and failed to properly direct the affairs of Cal-Farm, thereby allowing the scheme to develop without the impediment of intervention by the board of directors. Because of the unprofessional approach to the discharge of their duties, the Cal-Farm directors created the environment in which the scheme came to fruition with the failure of Cal-Farm and the damages to plaintiff as its ultimate result," the lawsuit charges.

The suit also alleges that these financial guarantee bonds were issued in violation of the California insurance law.

"Based upon warranties and representations made by the Cal-Farm defendants and based upon the provisions of the underwriting manager's agreement, Eagle Bonds was led to believe that the Cal-Farm defendants were authorized to issue financial and mortgage guarantee bonds and would provide proper supervision of the underwriting activities of Eagle Bonds," the Eagle Bonds suit says.

"In fact," it continues, "financial guarantee and mortgage guarantee bonds were fraudulently issued by Cal-Farm in violation of California law and Cal-Farm did not provide any supervision or expertise related to the underwriting activities of Eagle Bonds."

However, the question of whether the financial guarantee bonds issued by Eagle Bonds on behalf of Cal-Farm were fraudulent hinges on a determination as to whether such bonds are mortgage guarantee insurance or sureties under the California insurance code since Cal-Farm was not licensed to write mortgage guarantee insurance. Several attorneys in the California Insurance Department expect the courts will have to settle the question.

Eagle Bonds' lawsuit also charges that when the alleged scheme to defraud Eagle Bonds and Cal-Farm was discovered by Eagle Bonds and redress was requested from Cal-Farm and the Barclays defendants, the Cal-Farm defendants and the Barclays defendants "accelerated their scheme to destroy Eagle Bonds, Cal-Pac and the Coughlans," the suit says.

The defendants' tactics, the suit says, included refusing to arbitrate any disputes; initiating specious litigation against Eagle Bonds; demanding that Eagle Bonds, Cal-Pac and the Coughlans deliver to the Barclays defendants all of their records and virtually all of their assets; destroying or making unavailable business records; refusing to reimburse Eagle Bonds for loss adjustment expense; and spreading false information about the Coughlans to lenders, regulators, customers, and the general public."

Florida orders comp insurers to refund \$3 million

By MEG FLETCHER

TALLAHASSEE, Fla.—Florida employers may receive more than \$3 million in excess profits earned by 16 workers compensation insurers doing business in the state.

The state Insurance Department ordered the reimbursements after a review of the insurers' 1982 records. Florida employers paid \$502.45 million in work comp premiums in 1982, according to A.M. Best Co.

Under Florida law, an insurer that wants to write workers compensation coverage in the state must justify its rates to the state Insurance Department, which then must approve the rates. An insurer is allowed to keep up to 5% more than a pre-authorized

profit margin. However, any additional profit must be returned to policyholders or given as a credit for future premiums, according to the department spokeswoman.

The bulk of the excess profits is allegedly owed by Los Angeles-based Transit Casualty Co., which is to return \$1,495,071, and American Liberty Insurance Co. of Birmingham, Ala., which is to return \$479,559.

Officials for both insurers say the amounts are inflated because of errors made in their reports to the department. Both insurers also have asked for informal hearings with a department attorney.

All 16 insurers ordered to refund profits to workers compensation policyholders had until late last week to contest the order by

Insurance Commissioner Bill Gunter.

At press time, five other insurers had joined Transit Casualty and American Liberty in requesting informal hearings before an Insurance Department attorney.

The insurers and the amount the department says they owe are: Central Mutual Insurance Co.-All American Insurance Co. of Van Wert, Ohio, \$132,404; Georgia Casualty & Surety Co. of Atlanta, \$105,099; National General Insurance Co. of St. Louis, \$58,387; American Universal Insurance of Providence, R.I., \$57,556; and Public Service Mutual Insurance Co. of New York, \$4,694.

Four insurers requested formal hearings with the Division of Administrative Hearings. Those insurers and the amount they

allegedly owe are: Utica Mutual Insurance Co. of New Hartford, N.Y., \$271,793; Employers Casualty Co. of Dallas, \$127,220; Central National Insurance Group of Omaha, Neb., \$71,769; and Michigan Millers Mutual Insurance Co. of Lansing, \$52,272.

Five insurers had not contested the order late last week. Those insurers and the amount they allegedly owe are: Pennsylvania Millers Mutual Insurance Co. in Wilkes-Barre, Pa., \$74,603; Comis Insurance Society Inc. in Madison, Wis., \$54,681; Houston General Insurance Co. in Fort Worth, Texas, \$49,066; Shelby Mutual Insurance Co. in Shelby, Ohio, \$48,270; and Indiana Lumbermans Mutual Insurance Co. in Indianapolis, \$5,699.

Humana decision

Continued from page 1

Carnation Corp., Stearns-Roger Corp., Beech Aircraft and Clougherty Packing Corp. all lost in tax court their arguments with the federal government that premiums paid to captives are deductible (BI, March 16, 1981; Jan. 8, 1979; Nov. 21, 1983; Sept. 10, 1984; June 3).

Carnation, which appealed its adverse decision, lost in the 9th Circuit Court of Appeals and its request for U.S. Supreme Court review was denied.

Appeals filed by Stearns-Roger and Beech are pending in the 10th Circuit U.S. Court of Appeals. An attorney for Clougherty said the company intends to appeal the decision in its case to the 9th Circuit U.S. Court of Appeals.

In the only case won by a taxpayer, Crawford Fitting Co. did not directly own the insurance company, which was a deciding factor in the judge's ruling (BI, Feb. 18).

Still undecided is a suit involving Gulf Oil Corp., which took deductions for marine, property and casualty premiums paid to its Bermuda-based captive insurer, Inso Ltd. The Gulf suit is still pending in the U.S. Tax Court in Dallas (BI, April 15).

Companies with captives stand to lose millions of dollars if they cannot deduct premiums paid to them. The government contends it loses approximately \$2 billion in income taxes each year as a result of corporate risk funding through captive insurance companies.

Humana incorporated its captive, HCI, in Colorado on Aug. 5, 1976, after Humana's general and professional liability insurance was not renewed and it had difficulty finding the coverage elsewhere.

The more than \$21 million in premiums paid to HCI by Humana and its hospital subsidiaries in tax years ending Aug. 31, 1977, 1978 and 1979 involved coverage for personal injury, property damage and professional liability or malpractice.

Those covered included Humana, any officer, hospital administrator, stockholder or member of the board of directors, while acting for the named insured; any employee, student or volunteer worker; and residents, interns, physicians, surgeons or dentists, and certain independent contractors.

HCI's limits of liability were \$2 million per occurrence for all three types of coverage, \$2 million in the aggregate for personal injury and property damage and \$10 million in the aggregate for professional liability.

HCI filed its own federal income tax returns and did not file on a consolidated basis with Humana.

Also, HCI had no employees other than its officers, most of

whom were also officers of Humana.

Marsh & McLennan Inc., Humana's broker, provided HCI with resident managing officers and various administrative and management services including consulting, underwriting, risk control, recordkeeping and accounting services.

A trial in the Humana case, *Humana Inc. and Subsidiaries v. Commissioner of Internal Revenue*, was held in Louisville, Ky., in June 1984.

In the Mobil case, the demand for a refund of more than \$35 million in tax dollars involved denied deductions for premiums paid to four overseas captives by 35 subsidiaries during tax years 1961-1969.

Those captives were General Overseas Insurance Co. Ltd. (GOIC) of the Bahamas, Bluefield Insurance Ltd. of Bermuda, Bishopsgate Insurance Co. Ltd. of the United Kingdom and Westchester Insurance Co. Ltd. of Cape Town, South Africa.

GOIC and Bluefield wrote both direct insurance and reinsurance for a wide variety of risks of Mobil and numerous Mobil affiliates. Bishopsgate primarily insured marine and fire risks and risks of parties unrelated to Mobil.

Westchester wrote insurance principally for Mobil affiliates in Southern Africa.

When the IRS disallowed deductions for the premiums paid, the oil company paid the disputed taxes but filed suit seven years ago in the Claims Court for a refund. A trial in *Mobil Oil Corp. v. The United States* was held in New York in 1983.

Both Humana and Mobil argued that payments to their captives constituted valid transfers of risk, for which they should be entitled to deduct the premiums.

They contended that the government, in opposing the deductions, was seeking to carve out an exception to the well-established rule of separate tax treatment for separate corporate entities.

However, the government contended that the transactions between companies and their captive subsidiaries involved "one economic family" and that losses or gains of the captive would affect the parent.

Thus, there was really no transfer of risk and payments to the subsidiaries should not be deductible, the government contended.

The government also called Mobil's captives "profit maximization centers" and said the captives were "incredible tax avoidance mechanisms," while contending Humana achieved "bloated tax benefits."

In disallowing Humana's deductions, Judge Korner primarily relied on the Carnation and Clougherty decisions, both of which said

there is no transfer of risk between a parent company and its captive insurer.

In Carnation, the U.S. Tax Court found there was no transfer of risk involved when Carnation insured with an unrelated insurance company which reinsured 90% with Carnation's Bermuda-based captive, Three Flowers Assurance Co. Ltd.

The court also relied on the fact that Carnation agreed to increase Three Flowers' capitalization to a maximum of \$3 million if necessary to cover losses over the initial capitalization of \$120,000.

In Clougherty, the U.S. Tax Court said the company could not deduct \$2.1 million in workers compensation premiums paid to a Colorado captive owned by an Arizona subsidiary of Clougherty.

Clougherty negotiated coverage for its workers compensation liabilities with an unrelated insurer which agreed to reinsure the first \$100,000 of any risk with Clougherty's captive. The unrelated insurer then ceded 92% of its premium to the captive for the coverage.

Clougherty had not made any agreement to inject additional capital into the captive.

Of the 18 judges who ruled on the Clougherty case, seven dissented.

And even though Judge Korner dissented from the decision in Clougherty, he ruled in the Humana case: "We believe that the instant case is controlled by the prior decisions of this Court in Carnation and Clougherty."

"It is clear that because Humana Inc., either directly or through its wholly-owned foreign subsidiary, owns all of HCI, it has not shifted the risk of losses covered by the subject policies."

"Since risk has not been shifted, insurance does not exist and the payments in issue are not insurance premiums."

Judge Korner also said he was not persuaded by Humana's argument that its case differed from others because not only the risks of Humana but also the risks of its subsidiaries were insured by HCI.

He noted the court in Carnation also did not allow the deductions even though captives insured and reinsured the risks of the company and their subsidiaries.

"In light of Carnation, therefore, the fact that HCI insured not only Humana Inc. but also its subsidiaries does not help petitioners," Judge Korner said.

The court also rejected Humana's argument that \$3.3 million of the \$21.05 million it paid to HCI was deductible as an expense of providing insurance on behalf of certain employees, officers, directors, and contractors covered under the policies.

"The coverage of certain employees, officers and others was clearly an integral part of the protection of Humana Inc. and its subsidiaries," the court said.

Judge Merow's ruling in the Mobil case also relied on the decisions in Carnation and Clougherty as well as the decisions in Stearns-Roger and Beech.

"Mobil, in reality, did not shift the risk of loss," said Judge Merow.

"Any losses suffered by the insurance affiliate would be reflected on Mobil's financial statements. Conversely, any profits realized by the affiliates benefited Mobil."

"Insurance through a wholly-owned insurance affiliate is essentially the same as setting up reserve accounts," he added. "The risk of loss remains with the parent and is reflected on the balance sheet and income statements of the parent."

"In the present situation, there was no transfer of the risk of loss. Therefore, premiums paid to or ceded to Mobil's wholly-owned insurance affiliates are not deductible as ordinary and necessary business expenses."

Judge Merow also rejected Mobil's argument that the government's position conflicted with the legal doctrine of separate corporate entities.

"Disallowing insurance premiums paid to captive insurance companies does not totally disregard the separate nature of corporate entities," he noted. "Rather, it is an example of reclassification of a transaction."

Humana's Mr. Ballard said the Humana decision is "one more hurdle all companies have to get over who have this type of arrangement."

Attorneys knowledgeable on the issue of deductibility of premiums paid to captives expressed disappointment with the decisions last week.

Ben Sciortino, a partner with Baker & McKenzie in New York, said the Mobil case was the "most frustrating" because the issue of whether underwriting of risks unrelated to the parent affected the tax treatment of premiums paid to the parent was not addressed.

He said companies could not take encouragement from these decisions and they could cause IRS agents to take a harder line on the issue of deductibility of premiums paid to captives.

"It's getting to the point where companies with captives have to be more realistic," he said, adding that companies with wholly-owned captives writing business for the parent could have a "tough road."

Sidney Pine, a partner with the New York firm of LeBoeuf, Lamb, Leiby and MacRae observed that the Humana decision does not break new ground.

He called the decision in the Mobil case a "very weak opinion" that fails to address some of the basic issues addressed by the parties. But, the government attorney in the Mobil case, Mr. Shea, said, "We're very happy with the decision."

Attorneys for the government in the Humana case could not be reached for comment.

Court decides cities in pool have immunity

CHICAGO—Thirty-eight Chicago suburbs in the Intergovernmental Risk Management Agency pool are applauding an Illinois Court of Appeals ruling that communities that join an insurance pool do not lose statutory immunity from some liability claims.

Since IRMA was founded in 1979, some lower courts have denied IRMA members immunity from some liability claims granted by the state's Local Governmental and Governmental Employees Tort Immunity Act, said Edward Hansen, manager of IRMA in Downers Grove, Ill.

Public entities that buy conventional insurance are not covered by the state's immunity act.

In what Mr. Hansen calls a precedent-setting decision, the appellate court on Aug. 12 granted IRMA member Hinsdale, Ill. immunity in reversing a lower court liability award. That award was \$9,800 to a girl who was injured in a sledding accident in Hillside.

The case was one of two test cases being pursued on behalf of IRMA by the Chicago law firm of Ancel, Glink, Diamond, Murphy & Cope. The plaintiff in the decided case has until Sept. 16 to seek review by the Illinois Supreme Court, said her attorney, Ralph Hruby of Carl, F. Schroeder Ltd. in Wheaton, Ill.

As a result of the decision, about 25% of the 2,500 to 3,000 claims filed annually against IRMA members now should fall under the Immunity Act, Mr. Hansen said. These include claims arising from municipal officials' administrative acts and many injury claims, but exclude traffic accidents, injuries on sidewalks and federal civil rights cases, he said.

Such statutory immunity can reduce not only a pool's need for excess insurance but also the rates insurers charge. That is especially welcome at a time when municipalities generally are facing huge rate hikes and coverage cancellations (BI, July 8).

Mr. Hansen said the decision should ease IRMA's renewal of its excess coverage, which expires Jan. 1, 1986.

The pool provides members with liability, property, automobile, police and public officials coverages with liability limits of \$24.75 million and property limits of \$29.75 million. The coverage attaches above a self-insured retention by individual members of \$1,000 per occurrence for property and liability losses and a self-insured retention by the pool of the next \$249,000 per occurrence.

Louisiana awards decrease: Survey

The average size of awards in personal injury cases in Louisiana has decreased, according to a recent survey by Jury Verdict Research Inc.

However, the survey shows awards in Louisiana still average 7% above national norms. In 1984, they averaged 11% above national norms.

The study by the Solon, Ohio-based research agency showed Louisiana has reported a total of 32 verdicts of \$1 million or more to date, including 10 in 1984 and one so far in 1985.

Jury Verdict Research surveys and analyzes verdicts in every state. Copies of the Louisiana Verdict Survey are available for \$17.50 from Jury Verdict Research Inc., 5325 Naiman Parkway, Suite B, Solon, Ohio 44139-1065; 800-321-6910 or, in Ohio, 216-248-7960.



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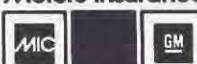


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MENTOR INSURANCE LIMITED—IN LIQUIDATION

Mrs. A. Verbena Daniels and Charles W. Kempe Jr., C.A., joint provisional liquidators of Mentor Insurance Limited—In Liquidation have given notice that the first meeting of creditors will be held on September 20, 1985 at 10:30 A.M. at the City Hall, Hamilton, Bermuda.

Notices convening the meeting together with forms enabling filing of proofs of debt and other information have been sent to all identified creditors of the company which was ordered to be wound up by the Supreme Court of Bermuda and went into liquidation effective June 6th, 1985.

Every effort has been made by the Joint Provisional Liquidators to notify all creditors, but the possibility exists that some creditors will not have been identified. Parties who believe that they are creditors of the company and who do not receive the above notices and other information in due course should telex the Joint Provisional Liquidators in Bermuda at 3253 Ayck BA with details of their name, address, telephone number and contact person, so that the materials may be sent to them.

Occidental sues Bayly, Martin & Fay

Continued from page 3
erage of \$22.5 million, according to the lawsuit.

The suit claims that the Phoenix reinsurance coverage does not exist and that Phoenix Insurance itself was never capable of providing the coverage.

Occidental charges that BMF negligently "failed to verify the validity and bona fides of the alleged reinsurer and failed to discover its utter inability to provide the reinsurance which, with the exercise of reasonable diligence and proper investigation, defendants should and could have discovered."

In addition to charging negligence, the Occidental lawsuit accuses BMF of breaching an oral agreement to obtain reinsurance for Occidental and of breaching its fiduciary duties and duties of good faith and fair dealing.

The suit seeks to recover the \$22.5 million premium paid to BMF; \$1.125 million that BMF deducted from the premium as com-

mission; and \$100 million in punitive damages.

Reading from a prepared statement, Mr. Tate suggested that BMF had also been misled about the coverage.

"We received representations from the London brokers that the coverage was being placed with Phoenix Assurance, a member of the Sun Alliance group, when in fact the coverage was with the Phoenix Insurance Co.," he said.

"To date, the London brokers have been unable to locate the company or confirm the coverage," Mr. Tate added.

This was echoed by Mr. Baxter, who said that "assurances had been laid on in spades" by W.G. Hill that the Sun Alliance unit was reinsuring the risk.

Acting on the instructions of the other brokers involved on the program, BMF remitted the Occidental premium—\$21.375 million after BMF deducted its commission—to an account at the Chase Manhattan Bank in New York, according to Mr. Tate.

BMF is investigating where the premium funds went from there, he said.

In the course of its investigation, BMF management concluded that several employees involved in the Occidental placement had violated company procedures requiring an assessment of the insurers being considered for clients' programs, Mr. Tate said.

Several employees—including Mr. Baxter—were dismissed, and BMF "is confident that this is an isolated incident," Mr. Tate said.

Reading from his own prepared statement, Mr. Baxter said he is "shocked and dismayed that BMF terminated me while the investigation was in progress with my full cooperation."

Mr. Baxter added that he had "followed standard industry and BMF standards in this placement."

He also said that he "held back delivering binders to Occidental until after a BMF representative went to London to obtain the London brokers' cover notes and other documents." The binders were not delivered to

Occidental until Jan. 4, 1985, he said.

After the problem with the reinsurance was discovered, BMF tried to put together a package of guarantees—including letters of credit secured by the personnel assets of BMF officers—to back up the Phoenix reinsurance, Mr. Baxter said.

"I was prepared to be personally liable on this transaction along with other shareholders of BMF," including Mr. Tate, Mr. Baxter said.

However, other BMF shareholders balked at the guarantee proposal, and the package subsequently fell apart, he said. Mr. Baxter would not identify the shareholders who opposed the plan.

BMF's holding company is 50%-owned by the oil-rich Bass family, with control of the other half divided among about 40 BMF officers and key employees.

A lawyer for Occidental refused to answer questions about the lawsuit, and a company spokesman did not return phone calls.

Officials of the three London brokers could not be reached at press time.

RIMS records profit in 1984

NEW YORK—An increase in operating expenses in 1984 kept the Risk & Insurance Management Society in New York from equaling its 1983 net profit, although RIMS continued in the black, according to the society's annual report.

In 1984, RIMS reported total revenues of \$3,547,414 and a tax benefit of \$1,952, reflecting the carry-back of the net operating loss of subsidiary Risk Management Society Publishing Inc. Expenses totaled \$3,375,342, leaving a net profit of \$174,024.

In 1983, expenses totaled only \$2,788,237. The society also reported total revenues of \$3,327,344 and tax payment of \$21,441, for a net profit of \$517,666.

However, RIMS ended 1984 with \$1,349,954 in its general fund, an increase of 14.8% over the 1983 balance of \$1,175,930, according to the annual report.

In the annual report, William L. Mather, RIMS' vp-finance and treasurer for 1984-85, says most of the increase in expenses was due to sharply higher costs for the 1984 RIMS convention, which was held in New York, over the costs for the 1983 conference, held in Los Angeles; increased production and mailing costs for Risk Management magazine; and generally higher costs for products and services provided to the society.

The revenue breakdown was as follows:

- Membership dues: \$516,141.
- Advertising (less commissions): \$508,883.
- Subscriptions, \$371,186.
- Other publications, \$20,499.
- Conferences, \$1,689,314.
- Interest, \$193,731.
- Schools and seminars: \$166,402.
- Executive referral, \$28,385.
- Miscellaneous, \$52,873.

The breakdown of expenses was as follows:

- General and administrative costs, \$536,931.
- Risk Management magazine, \$848,700.
- Other publications, \$71,801.
- Conferences, \$906,825.
- Government and industry relations, \$207,979.
- Membership, \$77,231.
- Education and schools, \$137,373.
- Research, \$100,631.
- Finance, \$92,711.
- Administration, \$77,116.
- Clerical, \$30,664.
- Executive counseling and placement service, \$130,995.
- Communications, \$156,385.

According to the annual report, RIMS had \$1,546,380 in total assets at the end of 1984, compared with \$107,934 in total liabilities.

At year-end 1984, RIMS had 3,697 members and 6,669 deputies.

WAREHOUSE FIRES

Several Major Fire Losses of the Last Decade have involved warehouses, which were fully sprinklered and yet completely destroyed. In some cases, the sprinkler system was designed to minimum specifications. In others, the occupancy was changed to a more hazardous storage than originally anticipated. And in still others, temporary storage clogged aisles. A few of these conditions existed in two of the world's largest losses, which are reviewed here:

Automotive Supplies. Fire started in the temporary storage of plastic parts and spread to nearby cans of motor oil in cartons, which were palletized and stored in the aisles. Two employees attempted unsuccessfully to put out the fire with a hose stream from a nearby hose station within the building. A few minutes later, the plant fire brigade arrived and tried to fight the fire but was hampered by storage piled in the aisles. Although sprinklers were operating, the available water densities could not penetrate the intense fire plume generated by the burning plastics and oil. A total of 250 firemen fought the blaze, which continued to rage, overwhelming the sprinkler system and destroying about 18 acres of building. Estimated loss: \$145 million.

Retail Products. A carton of aerosol cans, containing carburetor and choke cleaner, was dislodged from its storage rack, fell to the floor, and split open. One or more cans discharged their contents which became ignited by a nearby electrically powered lift truck. Fire spread quickly over the 15-foot high palletized storage of aerosols, overpowering the existing sprinkler protection. Flaming, rocketing aerosol cans started fires in adjacent storage that included foamed plastic plates, plastic toys, additional aerosols and motor oil.

Within six minutes, the fire alarm had sounded, four sprinkler risers were flowing, the electric fire pump had started, and the fire department was on its way. In the meantime, the warehouse fire brigade entered the building but in less than two minutes was forced out by thick, black smoke. Within 20 minutes, flames broke through the roof and aerosol cans could be seen rocketing through the air. Some 300 firefighters got the blaze under control nine hours later. Estimated loss: \$125 million.

IRI Recently Concluded a Review of Its Major Warehouse Exposures, evaluating the adequacy of existing protection, specifying additional protection as necessary, and isolating exposures that are ticking "time bombs." Here are some of the "time bombs" most commonly encountered:

1. **Aerosol storage** is mixed with otherwise ordinary hazard storage.
2. **Hazard levels** have increased as the result of a change in commodities and their packaging.
3. **Storage height** is greater than planned by protection designers.

Specific suggestions for isolating aerosol storage are available from Mrs. P.A. Sasso, IRI, 85 Woodland Street, Hartford, Connecticut 06102 or telephone (203) 525-2601. Ask for a complimentary copy of **The Sentinel**, 2nd Quarter 1985, which features "The Hazards of Aerosols".

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Closing: Published every Monday. Copy must be in written form by noon Tuesday, 6 days preceding publishing date. No verbal phone copy accepted. Prepayment required. Mail ads to Beverly Kluxdal, Classified Advertising, 740 N. Rush St., Chicago, IL 60611. For more information call 312-649-5340.

Business Insurance Circulation Breakdown*

Commercial Consumers

Administrative:
CEO's, presidents and owners 2,531
Vice-presidents, general managers and other administrative personnel 2,547

Financial:
Chief financial officers and vice-presidents of finance 2,075
Secretaries, treasurers, controllers, and other financial personnel 6,886

Risk/employee benefits:
Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations 8,048

Sub-total 22,087
Associations 804
Government, unions and educational systems 1,030

Commercial Consumers
Sub-total 23,921

Insurance agents and brokers 9,548
Insurance companies 6,089
Financial institutions 536
Actuaries, attorneys, adjusters, appraisers and consultants 3,464
Others allied to the field 1,320

TOTAL 44,878
* Source: Business/Occupational breakdown of qualified circulation, May 6, 1985 issue, as submitted to BPA for June 1985, BPA Publisher's Statement.

PROFESSIONAL LIABILITY UND.

Professional Liability Dept. of a leading wholesale/specialty insurance operation is seeking a D.O./E.O. underwriter to assist manager of its metropolitan New York office. The successful candidate needs to possess a working knowledge of these coverage areas, have a familiarity with financial statements, and be well-versed on today's business issues. Salary commensurate with experience, please send resume to:

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We are a \$1.5 billion revenue NYSE listed Telecommunications Company headquartered in suburban Chicago, searching for an individual to fill the Staff Associate position reporting to our Risk Manager.

Responsibilities of the position will include the administration of Corporate Insurance Accounting, Property and Casualty Claims Administration, and assistance in the implementation of a Risk Management information System.

This individual will work closely with various Corporate staff departments, management and staff of operating companies as well as brokers, consultants and insurance company representatives.

The ideal candidate will have a four-year college degree in Risk Management and a minimum of three years experience with a Risk Management Department, an insurance company or an insurance broker. A computer background would be a definite plus.

Salary will be commensurate with qualifications and experience. Interested applicants should forward a complete resume, including salary history.

Box 1842 Business Insurance
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The University of Missouri-Central Administration seeks an individual to manage the property, casualty, surety insurance and self-insurance programs of the University system.

Duties include determining coverage form and amounts; negotiating form and premium for new coverage; monitor existing coverage; assist with self-insured medical, professional and patient liability plan; administer accident/incident reports; administer insurance claim reports; and evaluate and develop insurance self-insurance programs.

A Bachelor's degree in Business Administration with emphasis in Insurance/Risk Management or an equivalent combination of education and experience is necessary. Four to five years of experience in insurance and loss prevention and control is necessary. CPCU and experience in a higher education environment is preferred. Please submit letter of application and resume by September 16, 1985 to:

University of Missouri
Personnel Services
201 South 7th Street, Room 130
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The salary for this position is in the \$68,000 to \$72,000 range with a very competitive relocation package. We also offer a very flexible benefits package plus a progressive and demanding work environment. All of our current employees know of this opening. For prompt consideration, qualified candidates should send their resume and work history to:

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update

Lloyd's group predicts profit

LONDON—A group of Lloyd's of London members led by John Rew and Charles Sturge predicts Lloyd's will show a profit of 64 million pounds (\$89 million at current exchange rates) when its global results for 1982 are released Sept. 5. The group's estimates are based on financial data from 314 of the 401 syndicates at Lloyd's, representing 95% of the market's total premium capacity.

Earlier this year the Assn. of Lloyd's predicted a loss of about 70 million pounds (\$97 million) for 1982, the year just closing under Lloyd's three-year accounting system (BI, May 20).

Mr. Rew and Mr. Sturge were members of ALM at that time, but they have since resigned.

Mr. Rew and Mr. Sturge's group estimates Lloyd's will show an overall underwriting loss of 439 million pounds (\$610 million) but investment income and capital appreciation will create a net profit.

However, the group says, the profit in which members actually will share will be much lower. The group estimates that 50 million pounds (\$69 million) of the profit will go to pay commissions to members' agencies.

Previously, Lloyd's Chairman Peter Miller estimated Lloyd's global profit for 1982 at 50 million pounds (\$69.5 million).

Four hijack victims sue TWA

NEW YORK—Trans World Airlines Inc. faces two lawsuits filed by four men held hostage by Shiite Moslems following the June 14 hijacking of a TWA Boeing 727 on a flight from Athens to Rome.

A class-action suit was filed Aug. 19 in federal court in Boston on behalf of Stuart R. Darsch of Boston and Jack McCarty and Victor Amburgy, both of San Francisco, seeking unspecified compensatory and punitive damages, says their attorney, H. Glenn Alberich of the Boston firm of Mahoney, Hawkes & Goldings.

The second suit was filed Aug. 19 in Cook County (Ill.) Circuit Court by Peter W. Hill of Hoffman Estates, Ill. It seeks \$1 million in punitive damages and unspecified compensatory damages, including \$75,000 to be paid under the 1966 Montreal Agreement. The agreement, which applies to international flights from U.S. airports or that carry U.S. passengers, sets the airline's maximum liability at \$75,000 per passenger, including legal costs.

The four plaintiffs, who were among the 39 hostages held captive for 17 days, charge TWA with willful misconduct in negligently operating from Athens airport, where a similar hijacking occurred in 1976.

The lawsuits were filed despite the airline's attempt after the hijacking to stave off potential suits from the plane's 145 passengers with up to an estimated total \$3 million in settlement offers.

In return for waivers of liability, TWA had offered \$35,000 to each of the three men filing suit in Boston, Mr. Alberich says. Others were offered \$15,000 to \$35,000, Mr. Alberich estimated.

It appears that TWA's liability under such settlements could be about \$2.95 million if \$35,000 were offered to each of the remaining 39 hostages and a minimum \$15,000 were offered to each of the other 106 passengers. Representatives of TWA and Associated Aviation Underwriters Inc. in New York, lead underwriter on the TWA aviation liability risk, would not say how many passengers had accepted the settlements.

TWA has \$500 million in liability coverage, according to a London underwriter (BI, July 1).

Besides being offered the settlements, passengers who were members of TWA's frequent flyer program could receive credit for the mileage they traveled during the hijacking, though TWA does not fly to some of the airports involved, said a spokeswoman.

Judge won't lift stay in Shell suit

REDWOOD CITY, Calif.—A state judge has refused to lift a stay in a suit filed by Shell Oil Corp. against more than 200 liability insurers over who will pay what could amount to billions of dollars in cleanup costs at two hazardous-waste dump sites.

San Mateo County Superior Court Judge William Lanam originally stayed the lawsuit last April, saying Bermuda-based Oil Insurance Co. Ltd., a petroleum industry mutual insurer, must be brought into the suit or arbitration proceedings between Shell and OIL must take place before the litigation could proceed (BI, April 22).

In his Aug. 8 decision, the judge said that without OIL's involvement, the court could not decide the case.

In addition, Judge Lanam dismissed cross-complaints brought by insurers against OIL, saying the court has no jurisdiction in the complaints.

Carbide sued for \$88 million

NEW YORK—Union Carbide Corp. has been named in two lawsuits seeking a total of \$88.2 million in damages as the result of a gas leak earlier this month at the company's plant in Institute, W. Va., that left 134 people hospitalized. The manager of the Institute plant also is named as a defendant in one of the suits.

A spokeswoman for plaintiffs' attorney Stanley Preiser said a suit filed in Kanawha County Circuit Court in West Virginia charges Union Carbide and Institute plant manager H.J. Karawan with "intentionally misleading the public and public authorities as to the nature and danger of the leak." Mr. Preiser, of the Charleston, W. Va., firm of Preiser & Wilson, is one of the attorneys representing the plaintiffs in both suits.

The Kanawha County suit seeks \$100,000 in compensatory damages and \$1 million in punitive damages for each of the 22 plaintiffs.

Another suit, filed in U.S. District Court in New York, charges Union Carbide was negligent in failing to warn residents of the danger of leaks. It seeks \$3 million in compensatory damages and \$5 million in punitive damages for each of eight plaintiffs.

The accident follows last December's poisonous gas leak at a Union Carbide plant in Bhopal, India, that killed more than 2,000 people (BI, Dec. 24-31, 1984). Union Carbide has a \$50 million self-insured retention under its current insurance program (BI, Aug. 19).

EPA regulations

Continued from page 2

ardous waste treatment, storage and disposal facilities must have liability coverage against sudden and accidental pollution incidents of \$1 million per occurrence and \$2 million annual aggregate.

Firms that manage hazardous-waste landfills, surface impoundment or land treatment facilities are required to have non-sudden and gradual pollution coverage with minimum limits of \$3 million per occurrence and \$6 million annual aggregate.

- Amend or lower the coverage requirements.

- Authorize other financial responsibility mechanisms, such as corporate guarantees or indemnity contracts. Under such arrangements one party, the indemnitor, would reimburse the other party for losses.

- Issue case-by-case waivers to current financial responsibility requirements for a limited period of time based on companies' demonstrated good-faith efforts to obtain insurance.

- Suspend or withdraw the financial responsibility requirements.

The EPA says it will select one of these five options by Nov. 8.

However, the option selected by the EPA would only affect the 11 states that either do not have state financial responsibility rules or

whose rules have not been formally approved by the EPA.

In the other 39 states, waste facility owners and operators will continue to be subject to the requirements set by the state. However, if the EPA reduces its financial responsibility requirements, states may adopt equivalent requirements, the agency said.

To determine whether the financial responsibility requirements should be modified, the EPA says it needs a better understanding of the availability of pollution liability coverage and is, thus, asking for public comment.

Among other things, the EPA wants to know which insurance companies are offering environmental impairment liability and/or comprehensive general liability coverage for facilities covered under financial responsibility requirements.

Only a handful of companies currently write EIL coverage, including American International Group Inc., Pollution Liability Insurance Assn., underwriting manager Swett & Crawford Group, Travelers Corp. and Hartford Insurance Group.

However, Travelers and Hartford only write EIL coverage for policyholders who buy other lines of insurance from them.

Other major EIL underwriters—including Shand, Morahan & Co. Inc., Stewart Smith Inc. and Environmental Risk Assessment Ser-

vices (International) Ltd. in London—have stopped writing pollution liability coverage in the past 18 months (BI, Jan. 28).

Among the other questions that the EPA wants answered include:

- How much in claims have been paid out under EIL policies?

- How have claims payments compared to what insurers have collected in premium?

- How have premiums risen during the last three years?

- How many policies have been canceled by an insurer?

- What limitations are there in the availability of reinsurance?

- What companies offer reinsurance in this line of coverage?

- Why have reinsurers withdrawn from the market?

- Are any captive insurance companies providing coverage for RCRA facilities?

- Are any efforts underway to establish new captive insurance companies to cover environmental risks?

- What limits the establishment of such captives?

The EPA says comments should be filed by Sept. 20. Comments can be mailed to Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460.

In addition, EPA has set up a special toll-free hot line for those who want more information. That number is 800-424-9346.

Unions ratify Westinghouse pact

PITTSBURGH—Seven unions at Westinghouse Electric Corp. have ratified a three-year contract that includes an early retirement incentive and enriches some benefits.

The contract was ratified by the last of the unions on Aug. 19, and is retroactive to July 1. It affects 28,500 union workers and mirrors the agreement reached at General Electric Co. in July (BI, Aug. 5).

The contract immediately increases monthly pension benefits to between \$15 and \$21 per year of service, a Westinghouse spokesman said. Monthly benefits will rise again Jan. 1, 1987, to \$16 to \$22 per year.

Monthly benefits had been between \$14.50 and \$19.50 per year of service, depending on length of service.

In addition, workers with at least 25 years of service have three months after reaching age 60 to accept an early-retirement offer of full retirement benefits plus an additional \$200 a month from age 60 to 62.

Previously, workers could retire at age 60 with full benefits but no bonus, the spokesman said.

The contract also sets up a company-paid vision care program that reimburses workers on a fee schedule.

The contract increases medical deductibles to \$100 from \$50 for individuals and to \$250 from \$125 for family coverage. But, it waives the deductibles for generic prescription drugs, the spokesman said. Under the new contract, workers pay only 15% of the cost of generic drugs, up to a maximum of \$1,000 a year.

The dental plan was changed so that workers can be reimbursed up to \$1,500 over a two-year period, rather than the former maximum of \$750 per year.

The proposed contract also increases sickness and accident benefits to \$250 a week from \$225.

And, it gives hourly workers between \$26,500 and \$43,000 in life insurance, depending on wage level. Previously, they received between \$22,500 and \$39,500.

Cost-containment measures, including mandatory pre-certification of non-emergency hospital stays and second opinions on selected surgical procedures, also are set in the contract.

Westinghouse's medical plan is underwritten by the Equitable Life Insurance Co. and various Blue Cross plans. Its life, sickness and accident, dental and vision plans are underwritten by Equitable.

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Insurers' results

Continued from page 1

the insurers made public offerings to bolster their surplus.

Although some have expressed worry that property/casualty insurers could overwrite their surplus because of rising rates, analysts generally say they are not alarmed by the insurers' surplus position.

At the end of the first half, the net written premium-to-surplus ratio among the companies *BI* surveyed stood at a very comfortable 1.4-to-1.

Insurers' premium-to-surplus ratio is rising but is "probably not too much to bear" and is "not causing a great deal of concern among major companies," says James B. Stradtner, a general partner with Alex. Brown & Sons, based in Baltimore.

The premium-to-surplus ratio is "certainly very tight" for some insurers but because the companies concerned can make a profit, says one analyst, it is unlikely to "constrain them particularly."

The premium-to-surplus ratio at present, is "not all that bad," said Sean Mooney, an economist with the Insurance Information Institute.

The ratio is not as high as it was in 1974, when it hit 4-to-1, notes Smith Barney's Mr. Anthony.

E.F. Hutton's Mr. Lewis says he believes the industry in general "could use a lot more surplus," though he notes that the major companies are in a relatively comfortable position compared with some smaller insurers.

One reason that the major property/casualty insurers' premium-to-surplus ratio has not been strained is because many insurers have turned to the stock market to increase their surplus.

Analysts say the major companies have generated an estimated \$2.5 billion through public offerings since the beginning of the year.

Companies that have gone to market at least once include:

- Chubb, whose policyholder surplus increased 124.4% in the first half to \$692.2 million.
- General Re Corp., whose surplus increased 50.3% to \$1.03 billion.
- Continental Corp., whose surplus increased 42.4% to \$1.07 billion.
- USF&G Corp., whose surplus increased 41.0% to \$942.1 million.
- Fireman's Fund Insurance Cos., whose surplus increased 30.2% to \$906 million.
- CIGNA Corp., whose surplus increased 25.9% to \$1.36 billion.
- Aetna Life & Casualty Co., whose surplus increased 21.9% to \$1.20 billion.
- CNA Financial Corp., whose surplus increased 15.3% to \$1.14 billion.
- Travelers Corp., whose surplus increased 8.7% to \$1.2 billion.
- Hartford Insurance Group Inc., whose surplus increased 6.0% to \$1.38 billion.

In addition, The Home Group Inc., whose policyholder surplus decreased 17% in the first half to \$521.6 million, recently completed a sale of cumulative preferred shares for a total of \$285 million. The Home also recently completed the sale of two life/health insurance subsidiaries, which the company said will add \$75 million to its statutory surplus.

Fremont General Corp., whose surplus increased 20.1% in the first half to \$118.7 million, plans to boost surplus by an additional \$50 million to \$100 million by the end of the year, says James C. McIntyre, president and chief executive officer. The funds will come from the \$250 million Fremont raised from the sale of its in-

terest in Maxicare Inc., an operator of health maintenance organizations.

Industry observers disagree over whether property/casualty insurers' rush to the market for additional surplus will continue.

Most of the major insurers have already raised funds in the market and are "not too worried" about further increases in surplus at this point, said one analyst.

The Chubb spokesman says his company, which raised \$100 million in a common stock offering in August 1984 and another \$150 million in a convertible preferred stock issue in April, does not plan to return to the market.

"I think we're pretty much set," he said. "I think we have the capital and surplus in place to continue. We have no intentions of going back."

But other insurers may return to the market, some analysts speculate.

"I think you'll see some more of it," says David P. Wells, an analyst with Merrill Lynch, Pierce, Fenner & Smith in New York.

"We expect, because of continued rapid premium growth, the need for additional, substantial equity capital in 1985 and 1986," says Thomas Rosencrants, research director at Conning & Co. in Hartford, Conn. "I think we'll see another flurry of activity late in '85 or sometime in '86."

The \$2.5 billion raised by insurers so far "is only a drop in the bucket," compared to what is needed, says Denis J. Callaghan, first vp at Paine Webber Mitchell Hutchings in New York, who described the industry's premium-to-surplus ratio as "strained."

"If we saw a business opportunity where we can employ the capital and get an excellent return, sure, we'd go back to market," said a Travelers spokesman.

Future market offerings will depend on opportunity as well as necessity, says Gerald E. Lewinsohn, vp and analyst at Merrill Lynch Capital Markets' securities/research division in New York.

Over the past several months, he said, "a lot of companies felt the (stock) prices were higher than expected... and took advantage of the window in the market."

"They may feel the prices aren't as high anymore," he adds.

Some insurers are earmarking their additional surplus for specific goals.

Hartford, with a policyholders surplus of \$1.38 billion, "plans to use its resources in the hardening market to build market share," says Executive Vp Dale Colmy.

Hartford reported a 29.9% boost in net premium written during the first half, including a 44.6% jump during the second quarter alone. Mr. Colmy said he expects premium growth to stay at the 40% to 45% level for the rest of the year.

Hartford's strategy, he says, was to hold back writing unprofitable new business during the soft market, so it could maintain a "consistent open door as the business became more profitable," he said.

"We fully anticipate it will result in an increased market share for us," he said.

Others say, however, they do not plan to increase their market share.

Travelers, according to a spokesman, is not using its increased surplus to write large amounts of new business but rather to support the price increases it is obtaining on existing business. "The net effect is we're not adding business."

"We are not making a concerted effort to increase unit growth," adds the Chubb spokesman, although he says that if opportunity arises, he would go back to market.

Continued on next page

Rate hikes 'gouge' buyers: Consumer group

By JERRY GEISEL

WASHINGTON—Property/casualty insurers are "gouging" commercial insurance buyers through unjustified, astronomical rate increases, a consumer group charges, adding the federal government should step in to stop the practice.

Recent rate hikes by commercial insurers are a "manufactured crisis intended to bloat insurer profits and reduce victims' rights," contends J. Robert Hunter, president of the National Insurance Consumer Organization in Alexandria, Va.

Mr. Hunter said insurers need to

raise their rates because their return on net worth is too low, but he said a 5% increase would be reasonable, rather than the triple-digit increases he says have occurred in many commercial lines, including day-care liability and architects and lawyers professional liability coverages.

This "gouging" amounts to a "strike" by insurers in a campaign to "extort excessive rates from the public," added consumer advocate Ralph Nader.

Mr. Hunter and Mr. Nader are asking the Justice Department to investigate whether industrywide rate hikes and other actions, such as the withdrawal of insurers from certain lines of coverage, constitute an illegal boycott.

In addition, Mr. Hunter, who served briefly as federal insurance administrator in the late 1970s, says he wants Congress to review the McCarran-Ferguson Act to determine if the federal law, which leaves primary regulation of the insurance industry with the states, provides adequate regulation of the industry.

Mr. Hunter also wants Congress to give the federal government standby authority to reinsure certain lines of coverage when rates soar.

For instance, such authority should immediately be given to allow the government to reinsure day-care liability coverage, said Mr. Hunter.

Many leading day-care liability underwriters have withdrawn from the market, while others have increased rates substantially (*BI*, June 10).

The charges and recommendations made this month by Mr. Nader and Mr. Hunter at a press conference in Washington were quickly dismissed by insurance trade groups.

"Categorically, we deny charges of manufacturing a crisis or engaging in boycotts," said Tom O'Day,

assistant vp in the Washington office of the Alliance of American Insurers. He said Mr. Hunter and Mr. Nader "misinterpret some of the real problems that are going on today."

Mr. O'Day said there are several reasons, which were not addressed directly by Mr. Hunter and Mr. Nader, why insurers are raising rates.

- Those reasons include: A civil justice system that is out of control. "Hardly a day has gone by when courts aren't asking us to pay for something not covered by policies," Mr. O'Day said.
- High inflation rates during recent years, which have made claims incurred years ago more expensive to settle now.
- Heavy or potentially massive losses in some lines, like day-care liability and environmental impairment liability.

"Day-care operations have received so much attention, due to child abuse cases, that they have become the target for potentially tremendous liability," noted Dennis Connolly, vp-liability for the American Insurance Assn. in New York.

"Insurers are exhibiting neither panic nor hysteria by taking a conservative stance on writing certain lines of commercial liability coverage. Rather, they are being prudent in the face of unprecedented losses and a rapidly changing environment," Mr. Connolly said.

Mr. Hunter said today's rate hikes for day-care liability coverage are an example of how the property/casualty industry is applying a lesson it "learned" during the product liability insurance crisis of the 1970s. Insurers raise rates for some lines as part of a campaign to convince legislators that laws that protect consumers should be scrapped or overhauled, he said.

Mr. Hunter, who briefly served as federal insurance administrator in the late 1970s, said that rate hikes constitute a "joint action" by insurers conducted to create an atmosphere in which legislators will be "intimidated" to take away consumer rights.

Mr. O'Day labeled such charges as "garbage," noting that large self-

funded manufacturers as well as insurers have been seeking tort reform for more than a decade.

"If the legal system is just a concern of the insurance industry, why are self-insured companies seeking reform?" Mr. O'Day asked. "It is because the legal system is out of control."

Mr. O'Day also said the operations of the insurance industry are more complex than Mr. Hunter and Mr. Nader believe.

"They say there is collusion. They make it sound like thousands of companies get together and set prices."

"The industry doesn't work like that," he said.

Mr. O'Day conceded state regulation of the industry isn't perfect, but he said a repeal of the McCarran-Ferguson Act would not help insurance buyers.

In fact, Mr. O'Day said, such a repeal could hurt buyers because thousands of small insurers would no longer be able to pool loss experience data to set accurate rates since they would no longer enjoy exemption from antitrust laws provided by the McCarran-Ferguson Act.

And, Mr. O'Day warned, the federal government doesn't have a good track record regulating complex industries. For example, he cited the rash of failures of banking and savings and loan associations, which are regulated by federal agencies.

Few industry observers expect a Justice Department review of the insurance industry, especially in light of the Reagan administration's preference for limiting federal involvement in business affairs.

But, hearings already have been held in the House on the problems day-care centers are having finding liability coverage.

In addition, more congressional hearings on insurance availability and affordability are expected this fall.



Mr. Nader



Mr. Hunter

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Summary of major property/casualty insurers' first-half results

(All amounts in thousands of dollars)
(Ranked by change in aftertax operating income)

Corporate				Property/casualty operations												
Rank 1985	Consolidated revenues 1985	Aftertax ¹ operating income 1985	Percent increase (decline) 1984-1985	Combined ¹ ratio 1985	Combined ¹ ratio 1984	Net premiums written 1985	Percent increase (decrease) 1984-1985	Pretax underwriting income (loss) 1985	Percent increase (decline) 1984-1985	Pretax investment income 1985	Percent increase (decrease) 1984-1985	Policyholders surplus 1985	Percent increase (decrease) 1984-1985			
1	Reliance Ins. Co. & subs.	789,682	18,572	698.4	113.6 ²	115.9 ²	720,159	14.3	(73,549)	24.8	90,791	10.3	429,700	10.4		
2	Kemper Corp.	1,375,557	22,123	549.0	117.3	120.7	350,668	(18.8)	(59,290)	33.2	37,415	(4.6)	304,777	12.6		
3	Hartford Steam Boiler	148,243	11,712	457.4	96.9	118.1	111,075	36.3	2,934	121.0	11,483	14.7	136,578	31.6		
4	The St. Paul Cos. Inc.	1,259,121	22,310	158.9	121.1 ²	127.2 ²	992,624	16.3	(195,445)	14.2	178,479	17.6	746,300	10.2		
5	CIGNA Corp.	7,795,326	17,356	149.9	123.6 ²	133.3 ²	2,224,003	10.0	(538,038)	19.5	320,057	11.7	1,360,000	25.9		
6	Aetna Life & Casualty Co.	9,052,900	157,100	132.1	117.4	117.8	2,262,900	16.9	(342,800)	(10.3)	283,000	9.0	1,200,350	21.9		
7	Chubb Corp.	1,190,900	46,700	69.8	109.9 ²	113.8 ²	879,600 ²	31.2	(85,900) ²	4.8	93,800 ²	27.6	692,177	124.4		
8	CNA Financial Corp.	2,136,300	74,700	58.6	123.1	125.0	1,269,700 ²	38.1	(327,600) ²	(32.9)	259,900 ²	18.5	1,141,500	15.3		
9	Mission Ins. Group Inc.	246,745	(38,332)	34.3	159.0	142.9	181,045	(20.9)	(61,839)	32.4	22,849	(11.3)	53,822	(72.0)		
10	Fremont General Corp.	268,890	(10,178)	29.1	132.5	128.2	214,883	51.1	(61,520)	(56.0)	37,825	69.7	118,727	20.1		
11	Continental Corp.	2,388,046	37,564	22.6	114.1 ²	113.6 ²	1,425,087 ²	9.4	(189,157)	(8.7)	172,248	0.5	1,067,943	42.4		
12	American General Corp.	2,798,000	218,000	16.0	108.7	126.1	577,000	11.2	(40,000)	68.5	65,000	(1.5)	812,000	17.7		
13	Hartford Insurance Group	3,143,145	46,888	5.4	115.0	123.2	2,007,937	29.9	(286,282)	19.2	221,888	(3.5)	1,383,258	6.0		
13	Royal Group (U.S. subs)	N/A	(62,656)	5.4	118.8	123.4	742,681	24.3	(146,506)	(4.7)	101,029	8.2	N/A	N/A		
15	Travelers Corp.	7,322,500	151,600	4.6	113.1	115.9	2,058,900	23.2	(281,900)	(9.0)	138,500	(4.5)	1,196,300	8.7		
16	Sentry Insurance Cos.	275,608	(10,881)	2.7	118.0	117.0	444,790	6.2	(80,321)	(5.1)	50,546	9.5	152,154	(17.6)		
17	SAFECO Corp.	1,122,012	54,409	2.2	112.3	108.8	564,472	20.2	(64,577)	(61.7)	60,028	11.4	424,752	(2.5)		
18	Ohio Casualty Corp.	545,067	11,482	(0.1)	112.2 ²	114.4 ²	515,646 ²	18.0	(60,879)	(0.6)	58,662	19.2	362,266	0.2		
19	Old Republic Int'l (incl. life) ³	376,600	25,807	(11.4)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A		
20	General Re Corp.	957,083	59,935	(15.9)	113.5 ⁴	114.2 ⁴	647,823 ⁴	26.7	(85,115) ⁴	(22.6)	130,719 ⁴	30.3	1,028,892	50.3		
21	American International Group	2,464,086	164,692	(19.1)	107.4	103.5	1,810,729	48.0	(130,013)	(161.7)	177,109	8.1	N/A	N/A		
22	Crum & Forster Inc.	1,246,807	(35,600)	(113.2)	128.3	122.1	1,123,200	1.1	(304,100)	(25.1)	184,100	13.4	599,995	37.4		
23	USF&G Corp.	1,692,994	(23,347)	(140.3)	119.8 ²	124.7 ²	1,474,701 ²	38.1	(263,292)	(0.3)	243,205	15.8	942,165	41.0		
24	The Home Group Inc.	954,293	(123,417)	(429.2)	143.2	125.8	845,569	10.6	(346,718)	(81.2)	154,732	(4.4)	521,620	(17.0)		
25	Fireman's Fund Ins. Cos.	1,997,265	(62,380)	(437.4)	132.5	120.7	1,535,373	5.9	(456,759)	(54.6)	230,199	15.8	905,965	30.2		
—	Liberty Mutual Ins. Co.	N/A	N/A	N/A	117.8	118.0	1,925,446	28.0	(281,820)	(35.2)	290,309	10.1	N/A	N/A		
—	Commercial Union Ins. (U.S.)	N/A	N/A	N/A	126.3 ²	118.7 ²	493,300	(28.7)	(124,400)	5.2	79,900	(9.8)	365,000	(12.8)		
—	Wausau Insurance Cos. ²	N/A	N/A	N/A	126.1	125.4	515,326	(3.6)	(133,293)	1.9	84,476	10.9	N/A	N/A		
Cumulative				51,547,170	774,159	(2.4)	119.0	120.3	27,914,637	17.6	(5,018,179)	(6.9)	3,778,249	9.5	15,946,241	18.1
¹ After dividends.		² Statutory.		³ Before dividends.		⁴ Domestic only.		N/A—Company did not provide data.								

¹ After dividends.

² Statutory.

³ Before dividends.

⁴ Domestic only.

N/A—Company did not provide data.

Continued from previous page
nities to write new business arise, "we won't turn our heads."

Smith Barney's Mr. Anthony adds that "by and large" it does not appear that insurers are aggressively seeking market share.

While analysts generally believe that the major commercial property/casualty insurers have adequate capital, many are still questioning the adequacy of their reserves.

"We think the industry is still under-reserved and there will be a further need for reserve increases," says Conning's Mr. Ro-

sencrants, noting that Fireman's Fund boosted its reserves by \$187 million during the second quarter.

The need to add to reserves is one reason why rate hikes have not quickly translated into improved earnings, he says.

"The industry appears to be in an under-reserved situation," agrees E.F. Hutton's Mr. Lewis, who estimates the industry's reserves are deficient by at least 10%.

"Even the top 30 are not in solid shape," he says.

But one analyst who asked not to be named

disagrees that insurers need to quickly add to their reserves. "I think most companies are probably in a position where they can rebuild the adequacy of reserves over several years" because of improved cash flow, he said.

Most companies are continuing to put their investment dollars into higher-yielding taxable investments because the insurers' underwriting losses are still offsetting taxable investment income.

Mr. Lewis says that, except for isolated instances, there has been a continued pattern by insurers toward taxable investments. "I

don't think too many of the companies are gearing up toward (underwriting) profitability," he said.

An exception is Chubb, which has put an estimated \$200 million to \$250 million of its \$800 million in short-term investments into tax-exempts. The move has been made, said the spokesman, in anticipation of a return to underwriting profits.

"I think the general direction will eventually be in tax-exempts again" as companies return to underwriting profitability," the spokesman says.

BI Industry Stock Report

August 21, 1986

8/15/85 thru 8/21/85

Brokers		Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol.(000)		Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol.(000)	
Alexander & Alexander Svcs	NYSE	27.13	0.5	0.0	1.00	3.7	27.13	26.63	307.9	Avenco Corp	NYSE	30.00	0.4	13.2	0.60	2.0	30.00	29.38	9.6
Baldwin & Lyons Inc	OTC	61.00	1.7	10.1	0.80	1.3	61.00	60.00	0.4	Business Mens Assurn Co Amer	OTC	26.75	3.9	7.8	1.04	3.9	26.75	25.75	60.2
Corroon & Black Corp	NYSE	49.50	1.5	0.0	1.00	2.0	49.75*	49.25	31.5	Chubb Corp	NYSE	70.50	0.4	17.2	2.20	3.1	70.50	69.50	311.1
Crap & H Cos Inc	OTC	32.00	0.0	20.6	0.50	1.6	32.50	32.00	22.6	Combined Intl Corp	NYSE	44.38	-1.9	8.4	2.16	4.9	45.38	44.25	287.2
Emett & Chandler Cos Inc	OTC	15.75	0.5	40.4	0.00	0.0	15.75*	14.75	33.7	Continental Corp	NYSE	41.50	0.0	20.3	2.60	6.3	41.50	40.75	298.5
Gallagher Arthur J & Co	OTC	39.25	0.0	21.9	0.28	0.7	39.25	39.00	112.8	Crown Life Ins Co	OTC	200.00	14.3	12.1	0.00	0.0	200.00*	175.00	0.7
Hall Frank B & Co Inc	NYSE	30.38	0.0	0.0	1.00	3.3	31.25	30.13	1,022.8	Durham Corp	OTC	39.88	1.9	7.4	1.28	3.2	39.88	39.13	18.6
Marsh & McLennan Cos Inc	NYSE	70.63	0.4	18.1	2.40	3.4	71.75	70.63	106.2	Farmers Group Inc	OTC	60.75	-1.4	10.4	1.76	2.9	61.50	60.75	333.8
Poe & Assoc Inc	OTC	8.00	0.0	0.0	0.80	10.0	8.00	8.00	13.8	Fremont Gen Corp	OTC	24.75	0.0	0.0	0.48	1.9	24.88	24.75	117.5
Reed Stenhouse Cos Ltd	OTC	21.25	3.7	27.6	0.00	0.0	21.25	20.25	44.2	Great West Life Assurn Co	OTC	420.00	0.0	10.8	1.60	0.4	420.00	420.00	0.0
AGENTS/BROKERS	AVERAGE			38.4		2.2				Hanover Ins Co	OTC	46.75	0.5	64.0	0.56	1.2	47.25*	46.75	63.1
										Hartford Steam Boiler Insptn	OTC	54.50	9.5	17.2	1.60	2.9	54.50*	50.50	22.7
										Kans City Life Ins	OTC	25.50	0.0	10.0	0.87	3.4	25.50	25.50	3.0
										Keap Corp	OTC	57.25	1.1	16.5	1.80	3.1	57.25	56.63	174.1
Conglomerates & Holding Cos.										Liberty Corp S C	NYSE	30.00	1.7	13.2	0.72	2.4	30.00	29.50	44.0
American Express(Fireman's Fd)	NYSE	42.75	-1.2	14.8	1.28	3.0	42.88	42.00	2,873.9	Lincoln Natl Corp Ind	NYSE	42.88	2.1	10.3	1.84	4.3	42.88	41.50	73.9
Anderson Clayton(Ranger/PanAm)	NYSE	40.13	0.9	29.5	1.32	3.3	40.38	38.75	39.6	Mission Ins Group Inc	NYSE	6.25	6.4	0.0	0.00	0.0	6.25	6.00	65.0
Arco Inc	NYSE	10.50	5.0	0.0	0.00	0.0	10.50	10.00	767.7	Monumental Corp	OTC	33.25	0.4	12.2	1.40	4.2	33.50*	32.88	34.8
Berkley W R Corp	OTC	19.75	3.3	58.1	0.32	1.6	19.75*	19.13	130.9	Nobel Ins Ltd	OTC	12.25	0.0	16.1	0.25	2.0	12.63*	12.25	96.4
CIGNA Corp	NYSE	55.25	-1.3	77.8	2.60	4.7	56.13	55.25	510.6	Northwestern Natl Life Ins	OTC	23.00	0.0	5.9	0.80	3.5	23.13	22.75*	376.0
City Investing Co. (Home Ins.)	NYSE	27.63	-0.9	4.3	0.00	0.0	27.63	27.00*	215.0	Ohio Cas Corp	OTC	61.13	1.2	22.9	2.80	4.6	61.13	60.50	72.5
CNA Finl Corp (CNA)	NYSE	55.63	0.2	19.2	0.00	0.0	56.75	55.50	321.9	Old Rep Intl Corp	OTC	30.75	-14.6	8.3	0.74	2.4	36.00	30.00	1,042.3
General Re Corp	NYSE	84.75	-2.4	134.5	1.56	1.8	86.50	84.50	338.2	Orion Cap Corp	NYSE	24.25	-6.7	0.0	0.76	3.1	25.50	24.25	69.2
ITT (Hartford Group)	NYSE	32.50	-0.8	9.4	1.00	3.1	32.50	32.13	1,235.9	Protective Corp	OTC	19.75	1.3	7.3	0.66	3.3	20.25	19.75	136.2
Sears Roebuck & Co. (Allstate)	NYSE	35.63	0.7	9.5	1.76	4.9	35.63	35.13	1,397.0	Provident Life & Acc Ins Co	OTC	23.50	-2.1	6.4	0.76	3.2	24.00	23.50	502.3
Teledyne Inc (Argonaut)	NYSE	249.38	-0.4	5.3	0.00	0.0	249.75	247.25	54.9	St Paul Cos Inc	OTC	69.88	-0.9	0.0	3.00	4.3	70.50	69.88	389.1
Transamerica Corp	NYSE	29.13	1.3	15.0	1.64	5.6	29.13	28.38	323.5	SAFECO Corp	OTC	40.25	0.6	13.1	1.60	4.0	40.50	40.00	204.7
(Occidental & Fred S. James)	NYSE	29.13	1.3	15.0	1.64	5.6	29.13	28.38	323.5	Sri Corp	OTC	21.50	2.4	63.2	0.80	3.7	21.50	21.25	20.9
CONGLOMERATES/HOLDING COS.	AVERAGE			10.4		1.7				Seibels Bruce Group Inc	OTC	16.50	-2.9	0.0	0.80	4.8	16.75	16.25	126.6
										Statesman Group Inc	OTC	4.25	6.2	0.0	0.15	3.5	4.25	4.00	71.5
Insurers										Tokio Marine & Fire Ins Co	OTC	188.23	6.1	32.6	1.05	0.6	190.25	180.25	14.4
Aetna Life & Cas Co	NYSE	46.00	-0.5	18.9	2.64	5.7	46.13	45.88	1,409.3	Torchmark Corp	NYSE	43.75	0.3	9.1	1.20	2.7	43.75	43.63	244.9
American General Corp	NYSE	31.75	-3.1	9.9	1.00	3.1	32.50	31.75	669.2	Travelers Corp	NYSE	43.25	-2.0	10.5	2.04	4.7	44.00	43.25	712.3
Ameri Heritage Life Invmt Co	NYSE	32.50	-1.5	9.5	1.20	3.7	33.00	32.38	3.1	United Fire & Cas Co	OTC	24.50	-3.9	21.3	0.80	3.3	25.50	24.50	1.1
American Indty Finl Corp	OTC	20.00	-1.2	0.0	1.12	5.6	20.25	19.75	2.7	United States Fid & Gty Co	NYSE	34.50	-0.4	143.8	2.20	6.4	34.63	34.25	503.2
American Intl Group Inc	NYSE	84.88	0.0	22.7	0.44	0.5	84.88	84.38	273.2	UsLife Corp	NYSE	37.00	1.0	8.3	1.04	2.8	37.00	36.38	97.0
										Washington Natl Corp	NYSE	24.38	-3.0	7.1	1.08	4.4	25.13	23.75	57.0
										Zenith Natl Ins Corp	OTC	20.25	9.5	0.0	0.68	3.4	20.50*	18.25	399.8
Aneco Reins Ltd	OTC	1.25	0.0	0.0	0.00	0.0	1.25	1.25	0.0	INSURANCE COMPANIES	AVERAGE			17.3		2.3			

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