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Update

SEC investigates trading in Allianz, Fireman's Fund deal

NOVATO, Calif.—Top officials of Fund American Cos. Inc. and its Fireman's Fund Insurance Co. unit—including Fund American Chairman John J. Byrne—have been subpoenaed by federal investigators investigating possible insider trading during Allianz A.G. Holding's recent negotiations to purchase Fireman's Fund.

The Securities and Exchange Commission has issued 14 or 15 subpoenas, and more are expected, said a Fund American spokesman. The spokesman would not say

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AP/Wide World Photo

The burned hull of a Northwest Airlines DC-9 lies on the runway after it strayed into the path of a jet preparing for takeoff.

Northwest insured for hull, liability losses from crash

By STACY SHAPIRO and DOUGLAS McLEOD

DETROIT—Northwest Airlines Inc. has ample liability and hull insurance to cover last week's disastrous collision of two Northwest jets at Detroit Metropolitan Airport, aviation insurance sources say.

A Northwest Boeing 727 bound for Memphis with 146 passengers and 10 crew last Monday collided on the runway with a Pittsburgh-bound McDonnell-Douglas DC-9 that had wandered onto the runway in heavy fog.

The 727's right wingtip ripped into the fuselage of the DC-9 and tore off one of its engines, starting a fire that gutted the DC-9.

Seven of the Northwest DC-9's 39 passengers and one of its five crew members were killed and more than 20 others were injured. Nobody on the 727, which rolled to a stop after the collision, was seriously hurt.

Underwriters last week had not established a reserve to pay claims from the crash. But underwriters estimate the total hull loss at $5 million, with the $3.5 million DC-9 a total loss and the $9.7 million 727 sustaining about $1.5 million of damage.

Last week's crash is not expected to increase aviation insurance rates, but London sources report that a shortage of reinsurance capacity already has the market in turmoil and that aviation insurance rates may rise next year.

Northwest's $7.9 billion fleet carries $1 billion in liability limits,

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Benefit costs top $11,500 per worker

By JERRY GEISEL

WASHINGTON—Led by spiraling medical care expenditures, employers' benefit plan costs continue to escalate.

The cost of employee benefit plans last year climbed 7.2% to $11,527 per employee on average from $10,750 in 1988 and $10,705 in 1987, the U.S. Chamber of Commerce found in a recent survey.

And benefit costs as a percent of payroll jumped to 37.6% in 1989 from 37% in 1988.

However, benefit costs as a percent of payroll is still down from 39% in 1987.

The Chamber estimates that total benefit payments made by all U.S. employers—not just those surveyed—was $965 billion last year, up 8.2% from $892 billion in 1988.

If costs keep rising at this rate, employers this year will spend more than $1 trillion on employee benefits.

Rising health care costs are the chief culprit, as they have been over the last few years.

Medical and medically-related benefits—which include employee and retiree hospital and medical benefits, short- and long-term disability benefits and dental and vision benefits—cost employers $2,853 per employee on average last year, up 12.4% from $2,538 in 1988 and up 30.3% from $2,189 in 1987.

In addition, medical and medically-related benefits costs as a percent of payroll rose to 9.3% last year from 8.7% in 1988 and 8% in 1987.

"These kinds of health care costs increases are striking and scary," said Martin Lefkowitz, director of special projects at the National Chamber Foundation, a research arm of the Washington, D.C.-based Chamber of Commerce.

"We're seeing health care costs increase nearly three times faster than wages. These kinds of increases just can't continue," Mr. Lefkowitz said.

To assist employers in controlling rising health care costs, the Chamber this year in its survey report suggests cost-saving measures employers can take (see story, page 14).

Other benefit categories as a percent of payroll are: payments for time not worked, 10.8% in 1989, up from 10.6%; legally required benefits, 8.7%, down from 8.9%; retirement and savings plans, 5.1%, up from 5%; paid rest periods, 2.3%, unchanged from 1988; miscellaneous benefits, which includes employee education expenditures and company-provided meals, 0.9%, unchanged from 1988; and life insurance, 0.5%, down from 0.6% (see chart).

Rising health care and other benefit costs are detailed in the new Chamber survey, the Chamber's 28th survey since the late 1940s and the 12th since annual

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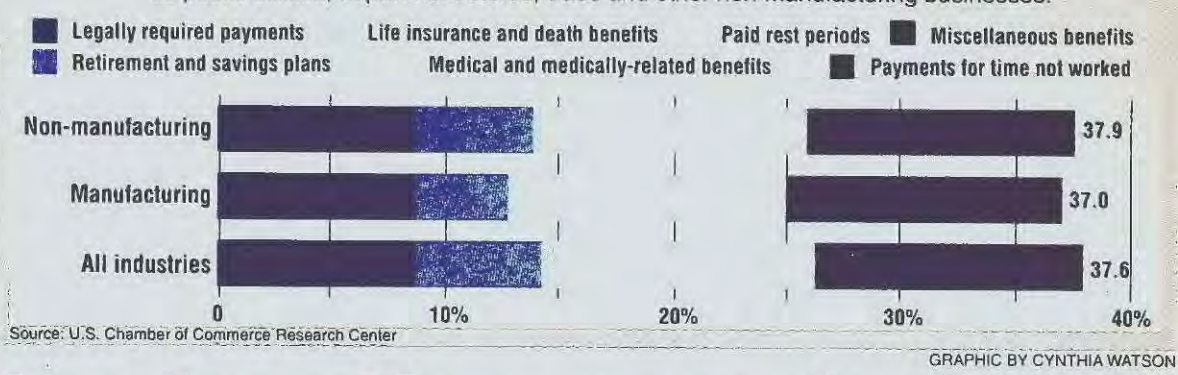
Employee benefits as a percent of payroll

Benefit costs in 1989 are based on survey responses by 957 employers nationwide in manufacturing as well as public utilities, department stores, trade and other non-manufacturing businesses.



Source: U.S. Chamber of Commerce Research Center

GRAPHIC BY CYNTHIA WATSON

NAIC to reconsider fronting restrictions

By MEG FLETCHER

LOUISVILLE, Ky.—Risk managers and insurers are relieved that state regulators will re-evaluate a proposed model law that would have allowed regulators to prohibit many fronting arrangements.

Regulators last week decided to reconsider the proposed law after risk managers, insurers, brokers and others criticized it at a hearing during the winter meeting of the National Assn. of Insurance Commissioners in Louisville, Ky.

An NAIC working group will seek advice in redrafting the measure from industry volunteers who will be named to an advisory group next month.

Among the industry-related groups offering to provide a representative is the Risk & Insurance Management Society Inc. of New York.

RIMS is giving the matter its "highest priority" because many RIMS members have captive insurance company arrangements that could be hurt if fronting arrangements are restricted, said Howard W. Greene, director of governmental affairs for the organization.

The NAIC will act in the coming year to curb fronting abuses, pledged newly-elected NAIC President and North Carolina Insurance Commissioner James E. Long.

The discussion draft of the proposed "Limitations on Reinsurance Activities Insurers Act" would permit states to prohibit a licensed insurer from ceding to an unlicensed company—either directly or indirectly—direct business written to cover risks in the state if the reinsurer:

- Assumes 50% or more of the risk and receives special policy terms or authority over underwriting, marketing or policyholder services like claims handling.
- Controls, or is controlled by or affiliated with, a policyholder, producer or other person that controls the business.
- Is designated by the policyholder, producer or another controlling person.

These conditions commonly exist in policies fronted for captive insurers.

However, the proposed model law gives state regulators authority to personally approve some fronting arrangements.

The four-member Fronting Working Group of the NAIC's Reinsurance Task Force is seeking

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The Supreme Court upholds ERISA pre-emption standard Page 2

Reinsurers glumly predict results to stay soft until '92 Page 3

Businesses sue EPA over ban on private site assessments Page 3

Update

SEC probes Fireman's Fund

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who besides Mr. Byrne was subpoenaed.

The $1.1 billion acquisition of Fireman's Fund by the German insurance giant was announced in August (*BI*, Aug. 6). Observers watching Fund American share prices rise before the announcement speculated that word of the deal may have leaked out early.

Trading also was unusually active in Fund American options at the Chicago Board Options Exchange. A CBOE spokeswoman said the board is continuing an "open inquiry" into the matter and would refer any unusual activity to the SEC. She would not say whether the investigation is the result of information relayed by the board.

Green faces new charges

NEW ORLEANS—A federal grand jury has returned a new indictment charging Louisiana Insurance Commissioner Doug Green with accepting bribes for favorable treatment of the now-defunct insurer.

The Nov. 29 indictment supercedes an earlier federal indictment of Mr. Green, adding 24 criminal counts but containing essentially the same allegations of conspiracy, mail fraud and money laundering (*BI*, June 11).

The new indictment alleges that Mr. Green accepted more than $2 million in campaign contributions from Champion Insurance Co. owners John and Naaman Eicher. In return, he allegedly ensured favorable audits of Champion, personally approved the licensing of a Cayman Islands-based Champion unit without proper review and concealed Champion's deteriorating financial condition.

Mr. Green—who also faces state criminal charges related to Champion—was not available for comment. But he earlier maintained his innocence of the charges in the state indictments.

Separately, the Louisiana Board of Ethics for Elected Officials has found Mr. Green guilty of "technical violations" of the state ethics code by using campaign funds to hire two private detectives to do work for the Insurance Department. The detectives had previously done work for Champion, but the work they did for the department did not relate to Champion, a department spokeswoman said.

The ethics board decided not to fine Mr. Green, finding that two previous insurance commissioners had engaged in similar conduct.

Bridge loss may not be insured

SEATTLE—The state of Washington has no insurance for about $80 million of damage caused last month to two pontoon bridges spanning Lake Washington.

However, once "probable cause" is established for why one of the bridges sank in heavy rain and wind, insurance held by a contractor that was working on that bridge might respond to the loss, said John Cook, claims manager for the State of Washington.

The older of the two bridges was being rehabilitated by Traylor Brothers Inc. of Evansville, Ind. As it sank, it cut cables on a new bridge adjacent to it, causing several million dollars in damage.

Replacing the older bridge will cost between $75 million to $80 million, said Ron Anderson, district administrator at the state Department of Transportation. The newer bridge sustained from $3 million to $5 million in damages, he said.

Traylor may not not have a builders' risk policy, Mr. Cook said, adding its general liability policy may have been endorsed to cover the risk.

Future of GATT talks cloudy

BRUSSELS, Belgium—Further rounds of General Agreement on Tariffs and Trade negotiations could resume in January, but no definitive plans had been made last Friday after last week's round of ministerial talks ended without an agreement.

The breakdown in the world trade talks stymies efforts to remove world trade barriers on insurance and other services. The four-year Uruguay Round of GATT addressed service trade issues for the first time (*BI*, Dec. 3).

The talks may reconvene in January after a "cooling-off" period, said Henry G. Parker III, managing director of Chubb & Son Inc., a Chubb Corp. unit, and chairman of the International Insurance Council, a GATT advisory committee.

The main obstacle to an agreement is a common agricultural policy. The European Community refuses to cut its farm subsidies more than 15% over the next five years or to reduce its export subsidies or market barriers. This stance has frustrated the United States and other farm product exporters.

Rufus Yerxa, the U.S. ambassador to GATT, said the United States plans to negotiate bilateral or multilateral services agreements and would extend unconditional most-favored-nation treatment to signatories that eliminate service trade barriers. Before the final week of GATT negotiations, the United States opposed extending unconditional most-favored nation status to agreement signatories.

Insurers' results slide: ISO, NAII

NEW YORK—The policyholder surplus of U.S. property/casualty insurers dropped 4% between the second and third quarters, according to data released last week by the Insurance Services Office Inc. and the National Assn. of Independent Insurers.

Consolidated surplus dropped to $132.1 billion as of Sept. 30 from $137.6 billion as of June 30, according to the data on 96% of the country's property/casualty insurance business.

However, at the end of nine months, 1990 surplus was just 0.3% less than the $132.5 billion reported for the comparable period last year.

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Errors & omissions

• An update last week, based on information supplied by Owens-Corning Fiberglas Corp., incorrectly reported that Owens Illinois Inc. is a partial owner of the company. The companies are separate entities with separate insurance programs.

Federal pre-emption upheld in pension suit

By DEBORAH SHALOWITZ

WASHINGTON—Workers who claim former employers fired them to avoid paying pension benefits can sue only in federal court under a federal law that precludes punitive damage awards, the Supreme Court ruled last week.

The court, in overturning a Texas Supreme Court decision, found that federal courts have wide authority in such cases because the Employee Retirement Income Security Act of 1974 pre-empts state law.

The decision, involving manufacturer Ingersoll-Rand Co. of Woodcliff, N.J., follows on the heels of another Supreme Court ruling affirming the breadth of the pre-emption clause. States cannot impose benefit requirements on employers that self-fund their health care programs, the court earlier ruled (*BI*, Dec. 3).

Quoting from the court's earlier decision that "the pre-emption clause is conspicuous for its breadth," Justice Sandra Day O'Connor added in last week's opinion that ERISA's "deliberately expansive language was designed to establish pension plan regulation as exclusively a federal concern."

The Ingersoll-Rand decision—unanimous in part and agreed to in part by six justices—overturned a Texas Supreme Court ruling that the case could proceed in state court because section 510 of ERISA gives states "an interest in protecting employees' interests in pension plans."

Texas law allows a plaintiff to seek damages in state court in a wrongful discharge lawsuit "if he established that the principal reason for his termination was the employer's desire to avoid contributing to or paying benefits under the employee's pension fund," the state court said.

However, Justice O'Connor noted that section 514 of ERISA states that federal law "shall supersede any and all state laws" that relate to employee benefit plans.

Because the existence of a pension plan is a "critical factor" in establishing liability under the Texas wrongful discharge law, "this cause of action relates not merely to pension benefits, but to the essence of the pension plan itself," she explained.

"We have no difficulty in concluding that the cause of action which the Texas Supreme Court recognized here. . .'relates to' an ERISA-covered plan within the meaning of section 514 and is therefore pre-empted," Justice O'Connor wrote.

Further, the Supreme Court ruled that the Texas law conflicts directly with section 510 of ERISA.

That section of ERISA states that "it shall be unlawful for any person to discharge, fine, suspend, expel, discipline, or discriminate against a participant or beneficiary. . .for the purpose of interfering with the attainment of any right to which such participant may become entitled under the

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Another fight predicted on anti-trust reform bill

By DOUGLAS McLEOD

WASHINGTON—Insurance trade groups expect to fight a new round next year in the battle over curtailing the industry's McCarran-Ferguson Act antitrust exemption.

The House Judiciary Committee approved a bill in June that would have sharply narrowed the McCarran-Ferguson exemption, but the session ended before a vote in the full House.

The bill, sponsored by Rep. Jack Brooks, D—Texas, drew fierce opposition from insurer groups. The groups say they expect another such bill to be introduced next year, and they will also fight its passage.

The National Assn. of Independent Insurers called H.R. 1663 "an assault on insurance consumers because its passage would result in fewer competitors, higher prices, fewer choices of products and less innovation," according to NAII President Lowell R. Beck.

"We believe Chairman Brooks will introduce identical legislation, or something very similar to it, in the 102nd Congress, and it's pretty obvious that we will continue to oppose it," Mr. Beck said.

An aide to Rep. Brooks on the House Subcommittee on Economic and Commercial Law declined to comment on whether the bill will be reintroduced or what form it would take.

Numerous subcommittee hearings over the last four years have focused on McCarran-Ferguson reform. Rep. Brooks introduced the bill April 4, and the panel adopted it on June 13 (*BI*, June 25). One week later, the Judiciary Committee voted 19-17 to report the bill to the House, where it failed to come up for a vote before the session ended.

H.R. 1663 contains four major provisions. It would:

• Apply federal antitrust law to four types of anticompetitive practices: price fixing; monopolization; allocation of territories by market rivals; and unlawful tying of the sale, or binding the sale of one type of insurance to another.

• Bar application of antitrust law, even in those cases, if there is "effective state regulation" of the insurance industry.

• Provide a "safe harbor" allowing insurers to share loss development and other historical data.

• Provide a transition period phasing out the antitrust exemptions in two to four years for insurers of different sizes. During that period, insurers could continue to share "trending" information on claims, inflation and other ele-

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TPA list deadline near

The deadline is approaching for companies to return questionnaires to be listed in the annual directory of third-party claims administrators, adjusters and auditors.

The directory of TPAs will appear in the Jan. 28 issue of *Business Insurance*, which will contain a spotlight report on self-insurance.

If your company offers property/casualty or health care claims administration, adjusting or auditing services to self-insurers and you have not yet received a questionnaire, please request one immediately by calling Directory Editor Sarah Polster at 312-649-5279.

The deadline for returning completed questionnaires to *Business Insurance* is Dec. 26.

Inside

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✔ Regulators and risk managers should work out a compromise over proposed rules restricting fronting arrangements, says this week's editorial. **PAGE 8**

✔ A security analyst warns of an increase in insurer insolvencies at the Assn. of Risk & Insurance Managers of Australia's annual meeting. **PAGE 27**

✔ The outlook for dividend growth at property/casualty insurers is dim, says analyst Myron Picoult. **PAGE 39**

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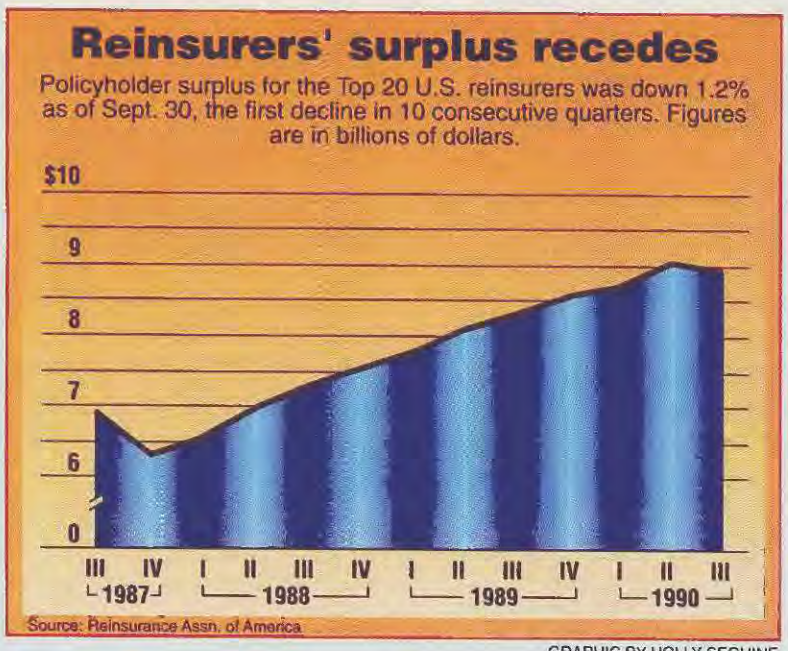

GRAPHIC BY HOLLY SEGUINE

Reinsurers, stuck in rut, see 'worse before better'

By JUDY GREENWALD

U.S. reinsurers' results continue to slump, and company officials say there appears to be little prospect for significant improvement until at least 1992.

Even if predictions by some reinsurance market officials and other observers that the overall market will harden late next year are correct, it will take at least until 1992 for improved pricing to work its way into reinsurers' results, they say.

With the exception of retrocessional and catastrophe business, for which the market is tightening suddenly (*BI*, Nov. 12), reinsurance rates for January renewals generally are flat, it is agreed.

Overall, "We think things are going to get worse before they get better," observed Bard E. Bunaes, chairman and chief executive officer of New York-based Constitution Reinsurance Corp.

While the overall market may turn late next year, reinsurers' results would not improve until sometime in 1992, according to Mr. Bunaes.

"We seem to be in the doldrums right now," said Michael G. Fitt, chairman and chief executive officer of Employers Reinsurance Corp. of Kansas City, Mo. "Nothing's happening, either positive or negative."

Sixty-six property/casualty reinsurers surveyed by the Washington, D.C.-based Reinsurance Assn. of America reported an average combined ratio of 106.8% for the first nine months of 1990, just slightly worse than the 106.7% combined ratio reported by a com-

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Property development suits

No coverage for canceled contract loss

By COLLEEN JOHNSON

SANTA BARBARA, Calif.—A California developer is not entitled to nearly $35 million in damages from the liability insurers of a city agency accused of breach of a development contract and tortious behavior, a trial court judge says.

In an oral ruling last month, Santa Barbara Superior Court Judge Bruce W. Dodds said the failure of the city of Bakersfield's Redevelopment Agency to honor its contract with a local developer could not be considered tortious conduct and granted the insurer's motion for a "non-suit" on the coverage issue.

The judge earlier in the month had ruled that the city's liability insurance does not cover breach-of-contract claims, even though the court found the policy language ambiguous.

The decisions last month are the latest chapter in a tangle of legal disputes involving, among others, developer Terry L. Moreland of Bakersfield; Bakersfield; Kern County, Calif.; Planet Insurance Co. of Philadelphia, a unit of Reliance Group Holdings Inc.; and Mead Reinsurance Corp. of Dayton, Ohio.

The dispute centers on a 1983 agreement between Mr. Moreland and the Bakersfield Redevelopment Agency, under which Mr. Moreland was to build a shopping mall and two office towers in the city.

The deal fell through in 1985 when Kern County, in which Bakersfield is located, refused to sell a piece of land to Bakersfield for development.

Mr. Moreland sued Bakersfield, the Bakersfield Redevelopment Agency, Kern County and three people who are members of both the Bakersfield city council and the board of directors of the redevelopment agency.

Mr. Moreland sought at least $43 million in compensatory damages and at least $50 million in punitive damages.

Bakersfield said it asked Planet and Mead to defend the city against Mr. Moreland's suit but the insurers refused.

Planet and Mead wrote a total of about $82 million in general liability and errors and omissions insurance limits for Bakersfield under four policies from July 1982 to July 1986, said Ernest J. Beffel, one of Planet's attorneys with Hancock, Rothert & Bunshoft in San Francisco.

Mead wrote the first layer of coverage from July 1982 to July 1984, with limits of about $900,000 in each year, according to lead defense attorney Barry Bunshoft of Hancock, Rothert.

The coverage was written excess of self-insured retentions of $100,000 each in 1982 and 1983, $150,000 in 1984 and $500,000 in 1985, Mr. Bunshoft said.

Planet wrote most of the remaining coverage, according to Mr. Beffel.

Bakersfield sued Planet and Mead, alleging, among other things, that the insurers had breached their duty to defend, failed to acknowledge responsibility to pay in the event of a loss and

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'Sinking homes' damages insured

By JOANNE WOJCIK

LOS ANGELES—Most of a $62.5 million settlement of a suit over "sinking homes" in a Los Angeles residential subdivision that was built on a landfill will be covered by commercial insurance.

An agreement calls for a total of $57.3 million to be paid by 25 insurers that underwrote general liability and a small amount of professional liability coverage for the grading contractor, two developers, the city's Community Redevelopment Agency and other parties involved in the project.

Insurers of Sukut Construction Inc. of Santa Ana, Calif., the grading contractor, will pay the largest amount of the settlement: $17.3 million. Insurers for the two developers on the project will pay the second largest chunk: $12.4 million.

And, five insurers that underwrote excess general liability coverage for the redevelopment agency between 1983 and 1985 will contribute $11 million.

Another $1 million will come from the city of Los Angeles, which is self-insured. The redevelopment agency will contribute $4.2 million in cash and $11 million in excess liability insurance.

The agency exhausted its primary insurance in earlier disputes, explained Laurie Zelon, a partner with the Los Angeles law firm of Hufstedler, Kaus & Beardsley, who represented the CRA.

The CRA is also a named insured "on a great number of the developer and contractor policies," she added.

Judicial Arbitration & Mediation Services Inc. of Orange, Calif., a private dispute resolution firm staffed by retired judges, spent three years working out a settlement to a 1984 suit in which The Monterey Hills Homeowners Assns., a coalition of several homeowners groups, had charged that floors sloped, walls cracked, swimming pools tilted and at least one building in the subdivision had to be condemned because the soil beneath the structure had turned to mush.

The original suit named the redevelopment agency, which had hired outside contractors to prepare the 211-acre parcel of land for development and later sold it to California Coast Development Group Inc. of Los Angeles, an agency spokesman said.

But later suits named other defendants, including the developers, the city—which inspected the land prior to construction—contractors, soil engineers and others involved in the development.

The 1,611-unit residential community was built in the late 1970s and early 1980s after the Los Angeles City Council adopted a redevelopment plan designed to create affordable housing for downtown workers.

"Everybody that walked on the

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Minnesota law bars punitive coverage, court says

By STACY ADLER

ST. LOUIS—Punitive damages that are leveled directly against a corporation are not insurable under Minnesota law, a federal appellate court has ruled.

As a result, Goodyear Tire & Rubber Co. cannot tap its liability insurance to pay a $4 million punitive damage award to a Minnesota man seriously injured when a Goodyear tire rim exploded.

Akron, Ohio-based Goodyear is insured for the $3.3 million in compensatory damages awarded.

The 8th U.S. Circuit Court of Appeals' Nov. 30 ruling, interpreting Minnesota law, "does not change the law" in Minnesota, noted Goodyear attorney James Vessey of Dorsey & Whitney in Minneapolis.

Minnesota state courts have never ruled directly on the issue, but have have indicated that punitive damages cannot be insured, explained Mr. Vessey.

Only eight states, not including Minnesota, prohibit policyholders from insuring all types of punitive damage awards, according to Wilson, Elser, Moskowitz, Edelman & Dicker, a New York law firm that pro-

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Suit challenges Superfund rule

By MICHAEL BRADFORD

WASHINGTON—Business groups are challenging a U.S. Environmental Protection Agency move to take over full responsibility for performing risk assessments of Superfund hazardous waste sites from site owners or operators.

Business groups, which argue that the policy change will lead to higher cleanup costs, are suing in federal court in Washington D.C., claiming that the agency's June policy change was improper because no public hearings were held beforehand.

Last month they filed motions seeking rescission of the EPA policy change. The original suit was filed in September by the Chemical Manufacturers Assn., the U.S. Chamber of Commerce, the National Assn. of Manufacturers and American Iron & Steel Institute.

Risk assessments are part of remedial investigations and feasibility studies performed to determine appropriate cleanup measures and the cost of those measures at waste sites identified under the Comprehensive Environmental Response, Compensation and Liability Act, better known as Superfund.

Assessments include identification of chemicals that have polluted the site, their toxicity and projections of future exposures.

Plaintiffs contend that the EPA could not legally change its rule without providing advance notice and the opportunity for public comment.

"A fundamental principle of administrative law is that administrative agencies don't change regulations without public comment," said Robin Conrad, vp of the National Chamber Litigation Center of the U.S. Chamber of Commerce in Washington. "That's the primary issue."

The environmental agency earlier indicated only that it "wanted to talk about implementing the change," Ms. Conrad said. Businesses were given no chance to fight the change, she said.

"It was rulemaking done without proper notification," agreed a spokesman for the chemical manufacturers group.

But an EPA spokeswoman contends that "industry groups declined to meet" with the agency prior to the policy change. "And now they are suing us."

A letter from the EPA's Office of Solid Waste and Emergency Response asked "key industry groups to come together to talk about how the process could go smoothly," she said.

In a memo to regional EPA offices, Don Clay, assistant administrator of the office, said he recognized that businesses potentially responsible for cleanups have "some legitimate issues regarding coordination, scheduling, and accountability" of risk assessments.

"I have therefore agreed to discuss these particular problems with (potentially responsible party) groups and other interested parties with the intent of imple-

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Next PBGC target is Continental

WASHINGTON—Fresh from a victory over LTV Corp. in federal court, the Pension Benefit Guaranty Corp. is set to launch another offensive against bankrupt Continental Airlines Holdings Inc.

The pension agency plans to file a claim against Continental in U.S. Bankruptcy Court seeking to recover $700 million in unfunded pension liabilities Continental pledged to pay on behalf of its bankrupt subsidiary Eastern Air Lines Inc.

Houston-based Continental itself filed for reorganization under Chapter 11 of the Federal Bankruptcy Act last week.

This action closely follows a federal judge's order last week that LTV resume responsibility for three massively underfunded plans.

The Continental claim stems from a tentative agreement between the airline and the agency. The PBGC in October terminated and assumed control of seven Eastern pension plans and Continental was to fully fund the plans over 12 years (*BI*, Sept. 24).

That agreement was contingent on Continental providing $500 million in collateral to assure the security of the pension plans.

However, Continental could not decide which assets to use as collateral since it wanted to sell some assets to raise capital, said Diane E. Burkley, deputy executive director of the PBGC.

"There weren't enough assets to go around to provide collateral for the PBGC and for them to sell to remain afloat," she said.

Continental declined to comment.

Assets for the Eastern plans total about $1 billion and liabilities about $1.7 billion, the pension agency said. The plans cover 51,000 employees and retirees.

Meanwhile, in a decision regarding the LTV plans, New York U.S. District Court Judge Robert Sweet rejected the company's argument that one plan no longer had any assets and that it should not be returned to LTV.

The LTV case was remanded to Judge Sweet after the U.S. Supreme Court in June said the pension agency could return the three plans to the steel and defense concern (*BI*, June 25).

The agency took over the plans in 1987 after LTV said it could no longer afford to fund them. The agency moved to restore the plans to LTV when the company established a new low-cost "follow-on" pension program.

Judge Sweet's ruling, though, is only yet another stage in the long-running battle.

Last month, the agency proposed that LTV repay $3.1 billion in liabilities beginning with a $575.9 million cash payment on Jan. 1 (*BI*, Nov. 26).

LTV, which has been operating under Chapter 11 of the Bankruptcy Code since 1986, earlier said the PBGC's amortization schedule is only the starting point for negotiations with the agency over funding the big pension debt.

—By Jerry Geisel and Adrienne C. Locke

Court uses all income in figuring 'fair return'

LOS ANGELES—The income on all an insurer's business written in California is rightly considered when determining what is a "fair return," a state appellate court has ruled.

The ruling reverses an April 1989 lower court decision allowing Allstate Insurance Co. to raise rates 40% on auto policies it writes within the California Automobile Assigned Risk Plan.

The reversal is viewed as a victory for Insurance Commissioner Roxani Gillespie's strategy to implement Proposition 103, a measure designed to lower insurance costs.

Last June, Ms. Gillespie defined the ranges of rates of return based on an insurer's combined business both for the rate rollback mandated by Proposition 103 and for prior approval of future rates (*BI*, June 18).

And, in September 1989, Ms. Gillespie had ordered rates frozen until after administrative hearings on rate rollbacks and applications for rate increases.

Allstate filed suit in Los Angeles Superior Court in November 1989 seeking either a 112% rate increase in the premiums it charged "uninsurable" drivers or a stay of all assignments from CAARP, the state assigned risk pool for "uninsurable drivers." Allstate argued it was losing money on CAARP policies and was not earning a fair return.

In December 1989, the lower court entered a preliminary injunction permitting Allstate to raise rates 40%. That order was later stayed by the appellate court while it considered the commissioner's appeal.

The appellate court on Nov. 27 said that "even if Allstate was suffering losses on its assigned risk policies, a fair and reasonable rate of return must be judged on Allstate's business as a whole, not just on one sub-line" of insurance.

"We're in the process of seeking a request for a rehearing before the appeals court. If denied, we will seek review by the Supreme Court of California," said David Nadig, Allstate's assistant counsel in Northbrook, Ill.

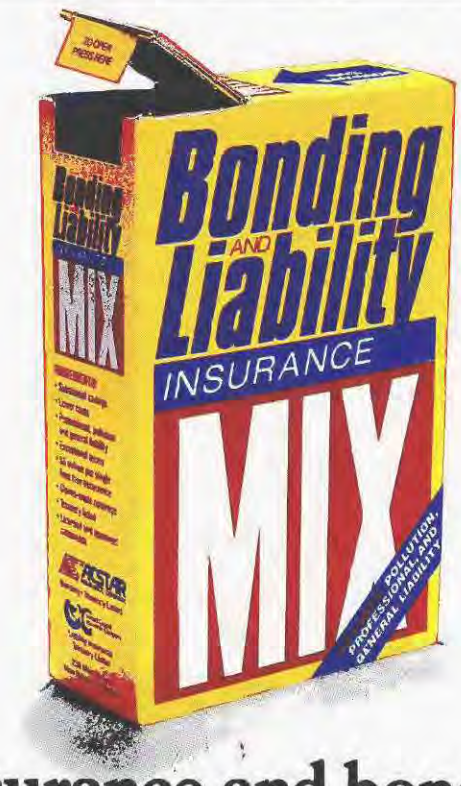
In the rehearing, Allstate will point out that in its decision upholding Proposition 103, the California Supreme Court held that insurers are entitled to interim rate relief, which is what Allstate sought in its suit, Mr. Nadig said.

Administrative hearings ended last month on Ms. Gillespie's order last August that two insurers—SAFECO Corp. and California State Automobile Assn.—refund a total of $133 million. An administrative law judge has until Jan. 7 to issue a ruling (*BI*, Aug. 13). SAFECO was ordered to refund $41 million in property/casualty insurance premiums and CSAA was ordered to refund $92 million in personal auto premiums.

Meanwhile, the first wave of insurer applications for prior approval of rates have been processed, and new rates should go into effect in about 30 days, said Karl Rubinstein of Rubinstein & Perry in Los Angeles, the commissioner's attorney.

Ms. Gillespie will be replaced as insurance commissioner in January by John Garamendi, who will be the state's first elected insurance commissioner. Proposition 103 made the position an elective office.

—By Louise Kertesz



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Opinions

Don't ban all fronting

REGULATORS AND RISK managers should work out a compromise over proposed rules restricting so-called fronting arrangements.

Regulators want to limit the amount of insurance that licensed insurers can underwrite with the intention of ceding all or most of that business to an unlicensed reinsurer and collecting a fee (see story, page 1).

Regulators have good reasons for wanting to limit this practice: Plenty of solvent and insolvent insurers that engaged in fronting arrangements are unable to collect from the unlicensed reinsurers that are now broke.

However, there are different reasons for fronting. In one case, a licensed insurer uses unlicensed reinsurers to support its general book of business. In another case, the licensed insurer is ceding the risks of its policyholder to the policyholder's offshore captive insurer.

Risk managers need a fronting insurer when financing mandated insurance coverages, like workers compensation, through a captive insurer. Even when the captive is underwriting policies that do not require the use of a licensed insurer—like general liability, directors and officers liability and property insurance—risk managers often seek a fronting insurer not only to issue policies but also to assist in the administration of the program, including claims handling and loss prevention services.

The proposed limitations on fronting go too far, especially because they would deny risk managers the use of fronting arrangements for captives.

Yes, some broke captive insurers are among the unlicensed reinsurers that are not paying claims. But these problems stem from the late 1970s and early 1980s when those captives were writing unrelated risk business as well as the risks of their affiliated companies. And it was the unrelated risk business that generally drove those captives into bankruptcy.

Today, captives are far better controlled in their underwriting, with few venturing into unknown unrelated risk underwriting. Those captives that are underwriting unrelated risks are doing so in a controlled manner and with sufficient capital and surplus to support the business. Furthermore, captives underwriting only related risks also are for the most part better capitalized and managed than during the early and mid-1980s, when neither captives nor commercial insurers had much to be proud about when it came to underwriting.

For their part, licensed insurance companies,

burned by broke captives, are far more discriminating about the finances of captives for which they will front and the premiums charged for the coverage. Licensed insurers also are much more security conscious about reinsurers they will do business with on any basis.

We appreciate that insurance regulators want to prevent licensed insurers from being bankrupted by fronting for unauthorized reinsurers.

But, we also agree that risk managers should have access to fronting programs and that there may be other legitimate reasons for licensed insurers to cede a large amount of business to unlicensed reinsurers.

Regulators have many options for better regulating fronting arrangements to preclude abuses that the proposals outlined in what was essentially a discussion draft. Merely increasing disclosure requirements on insurers that cede business to unauthorized reinsurers could be sufficient. Existing model laws, like those governing managing general agents, credit for reinsurance and reinsurance intermediaries, should be reviewed for possible amendment.

To their credit, insurance commissioners appear willing to consider these arguments. An industry advisory committee will be appointed to provide more information and options to the commissioners studying this issue. We encourage the commissioners to appoint a broad-based committee with substantial representation of risk managers.

Letters

Insurer, attorney relations can be improved

The Nov. 19 article, "Defense Bar, Insurers See Widening Rift," clearly states the problem but offers few specific solutions. As a member of the defense bar specializing in financial litigation, I have had the opportunity to observe first hand the deleterious effects of this rift and the need for concrete steps to bridge it.

Insurers are understandably concerned about burgeoning claims expenses, often brought on—in their view—by excessive amounts of time spent by counsel on nonproductive activities, particularly on the discovery process, and by a general duplication of activities by members of the defense team. Defense counsel have chafed under the cost-control measures imposed by insurers in response to these perceptions, complaining about the amount of detail required to be included with invoices, disallowance of charges previously regarded as reasonable and customary and the need for advance approval of various types of legal research, discovery and travel.

Counsel and insurers together can, and should, take concrete steps that will contain costs while not unduly restricting the day-to-day activities of defense counsel. First and foremost, insurers should insist on a thorough analysis and litigation plan from defense counsel at the outset of each case. The litigation plan should also include a detailed budget for each step of the litigation and a rough cost-benefit analysis of the planned activities. Once the plan has been approved by the insurer, any significant change should be undertaken only after written justification is submitted by counsel.

This type of procedure has many virtues, including:

- Counsel is forced to think about and investigate the case at an early stage and to determine which issues and activities are likely both to be cost-effective and to foster a favorable outcome.
- Insurers are provided with a well-thought-out assessment of the case before costs are incurred, as well as a blueprint for the case to which they can refer as the litigation proceeds.

Having approved the initial litigation plan, insurers should feel less need to question particular time charges or dis-

Continued on page 10

Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill., 60611.

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Medical costs per employee

	1989	1988	% change
Public utilities	$3,220	$2,745	17.3%
Transportation equipment	3,064	2,883	6.3
Primary metal industries	2,826	2,383	18.6
Chemicals & allied products	2,752	2,450	12.3
Electrical machinery, equipment & supplies	2,640	2,362	11.8
Instruments & misc. manufacturing industries	2,637	2,252	17.1
Petroleum industry	2,554	2,709	-5.7
Fabricated metal products	2,378	2,360	0.8
Rubber, leather & plastic products	2,195	1,886	16.4
Pulp, paper, lumber & furniture	1,860	1,931	-3.7
Insurance companies	1,812	1,625	11.5
Stone, clay & glass products	1,784	1,740	2.5
Hospitals	1,752	1,635	7.2
Miscellaneous nonmanufacturing industries	1,747	1,492	17.1
Food, beverages & tabacco	1,731	1,676	3.3
Printing & publishing	1,522	1,165	30.6
Machinery (excluding electrical)	1,481	1,581	-6.3
Textile products & apparel	1,450	1,291	12.3
Trade (wholesale & retail)	1,397	1,378	1.4
Banks, finance companies & trust companies	1,369	1,217	12.5
Department stores	588	846	-30.5

Source: U.S. Chamber of Commerce Research Center

GRAPHIC BY JOHN J BOHORQUEZ

Benefit costs

Continued from page 1

surveys began in 1979.

The 1989 survey is based on the responses of 957 firms, including 140 companies with fewer than 100 employees and 136 employers with more than 5,000 workers.

Surveyed firms employ more than 4.2 million workers, making this the largest survey of its kind.

The survey lists exact per-employee expenditures in the seven major benefit categories and in numerous subcategories.

Benefit managers can use the survey to gauge their companies' benefit costs in comparison with industry averages.

As the Chamber points out, the most striking finding of the survey is the rate of escalation in health care costs. Results in several categories detail how much costs have been rising.

For example, average per-employee medical costs jumped 14.5% in 1989 to $2,150 from $1,877 in 1988. That is a 36.3% increase from $1,577 in 1987.

And, average per-employee medical and dental costs rose 13.9% in 1989 to $2,338 from $2,052 in 1988. That is a 35.5% increase from $1,725 in 1987.

Echoing a point first made in last year's survey, the $286 per employee average increase in 1989 medical and dental costs is about 10% more than the $260 employers spent per employee in 1969 for health and life insurance benefits.

At $188 per employee in 1989, up from $175 in 1988, dental benefit costs alone were more than 70% of the amount employers spent in 1969 for health and life insurance benefits.

Advances in medical technology are a major factor in the huge increases in medical costs since 1969.

The Chamber's Mr. Lefkowitz notes the proliferation of expensive treatments like bypass operations. 'We can keep people alive" but with hefty increases in the cost of health care, he said.

Several categories in the Chamber survey indicate how expensive health care benefits have become.

In the broad medical and medically-related area, employers in five different industries spent on average in excess of $4,000 per employee in 1989. A year earlier, only employers in primary metals and petroleum industries spent that much.

Dental and medical costs rose $286 last year. In 1969, health and life coverage cost only $260.

Public utilities spent the most in 1989 on medical and medically-related benefits: $4,480 per employee on average, up 18.3% from $3,787 in 1988.

Other industries in which surveyed employers' medical and medically-related costs exceeded an average of $4,000 per employee in 1989 are fabricated metal products; rubber, leather and plastic products; transportation equipment; and chemicals and allied products.

Spending the least on medical and medically-related benefits were department stores, which spent $776 per employee, down 23.4% from $1,013 per employee in 1988.

Other industries at the bottom of that list are textile products and apparel; the wholesale and retail trade; and banks, finance companies and trust companies.

In the narrower category of medical costs for employees, employers in two industries—public utilities and transportation—spent more than $3,000 per employee on average (see chart). No industry group exceeded the $3,000 mark in 1988.

Again, the public utility industry led all other industries with the highest per-employee medical costs in 1989 were: $3,220, up 17.3% from $2,745.

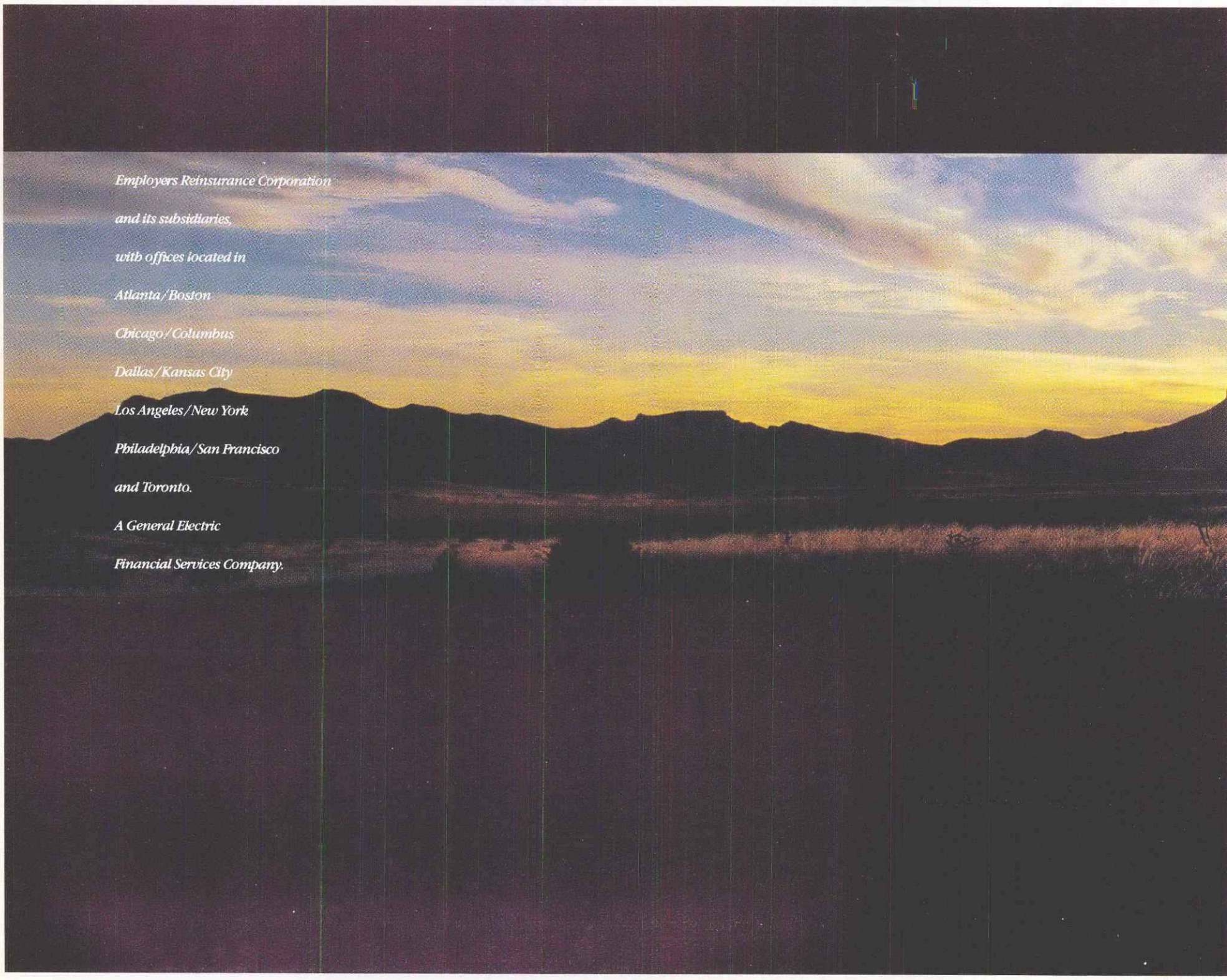
The industries with the next-highest per-employee medical costs last year are: transportation equipment; primary metals; chemicals and allied products; and electrical machinery, equipment and supplies.

Department stores spent the least on medical benefits in 1989: $588, down 30.5% from $846 in 1988.

Other industries that spent the least on medical benefits in 1989 were banks, finance companies and trust companies; the wholesale and retail trade; textile products and apparel; and machinery, excluding electrical.

After several years of decreases, employer costs for retirement and savings plans climbed 6.8% in 1989 to an average of $1,562 per employee from $1,463 in 1988.

Continued on next page



Benefit costs per employee

	1989	1988	% change
Public utilities	$15,174	$15,195	-0.1 %
Petroleum industry	15,027	18,381	-18.2
Fabricated metal products	14,990	11,330	32.3
Chemicals & allied products	14,653	12,544	16.8
Transportation equipment	14,264	14,273	-0.1
Primary metal industries	13,704	13,635	0.5
Rubber, leather & plastic products	13,376	12,380	8.0
Instruments & misc. manufacturing industries	13,190	11,408	15.6
Machinery (excluding electrical)	12,288	10,792	13.9
Electrical machinery, equipment & supplies	11,988	11,658	2.8
Food, beverage & tobacco	11,173	10,274	8.8
Miscellaneous nonmanufacturing industries	11,151	9,905	12.6
Insurance companies	11,019	10,018	10.0
Pulp, paper, lumber & furniture	10,361	9,283	11.6
Printing & publishing	9,693	8,282	17.0
Stone, clay & glass products	9,405	9,599	-2.0
Banks, finance companies & trust companies	8,881	8,746	1.5
Hospitals	8,774	8,731	0.5
Trade (wholesale & retail)	6,981	7,294	-4.3
Textile products & apparel	5,996	6,605	-9.2
Department stores	5,023	5,923	-15.2

Source: U.S. Chamber of Commerce Research Center

GRAPHIC BY JOHN J BOHORQUEZ

Continued from previous page

The Chamber noted that more employers contributed to 401(k) plans while the average contribution to these plans increased.

Industries that spent the most on retirement and savings plans per employee in 1989 were: machinery, excluding electrical, $3,148, up 44.7% from $2,175 per employee in 1988; fabricated metal products, $3,094, up 89% from $1,637; petroleum, $2,518, down 35.8% from $3,923; public utilities, $2,340, down 4.1% from $2,440; and food, beverages and tobacco, $2,327, up 44.4% from $1,612.

Industries that spent the least in 1989 on retirement and savings plans per employee were: department stores, $263, down 23.3% from $343 in 1988; textile products and apparel, $575, down 19.9% from $718; hospitals, $681, down 18.9% from $840; the wholesale and retail trade, $712, down 21.2% from $903; and electrical machinery, equipment and supplies, $849, down 38.3% from $1,376.

The survey also found considerable variation in the cost of benefits as a percent of payroll by industry classification.

Industries with the highest benefit costs as a percent of payroll in 1989 were: fabricated metals, 49.1%, up from 39.5%; rubber, leather and plastic products, 43%, up from 41.1%; and primary metals, 42.1%, down from 42.8%.

Industries with the lowest benefit costs as a percent of payroll were: textile products and apparel, 28.8% in 1989, down from 33.3% in 1988; department stores, 29%, down from 34.5%; and banks, finance companies and trust companies, 32.6%, up from 31.9%.

Regardless of company size, benefit costs as a percent of payroll rose for most employers.

For example, among companies with more than 5,000 employees, the figure rose to 37.8% last year from 37.1% in 1988.

Benefit costs as a percent of payroll also increased for employers with 2,500 to 4,999 employees to 37.2% from 36.2% and for employers with 1,000 to 2,499 employees to 37% from 36.5%.

Who spent the most on savings plans? Metal companies. The least? Textile makers.

In addition, benefit costs as a percent of payroll rose to 37.3% from 35.4% for employers with 500 to 999 employees and to 34.6% from 34.2% for employers with fewer than 100 employees.

However, benefit costs as a percent of payroll dipped to 36.6% from 37% for employers with between 100 and 499 employees.

Other survey findings include:

- Industries with the highest benefit costs per employee in 1989 were: public utilities, $15,174, down 0.1% from $15,195; petroleum, $15,027, down 18.2% from $18,381; fabricated metal products, $14,990, up 32.3% from $11,330; chemicals and allied products, $14,653, up 16.8% from $12,544; and transportation equipment, $14,264, down 0.1% from $14,273.

Industries with the lowest benefit costs per employee in 1988 were: department stores, $5,023, down 15.2% from $5,923; textile products and apparel, $5,996, down 9.2% from $6,605; the wholesale and retail trade, $6,981, down 4.3% from $7,294; hospitals, $8,774, up 0.5% from $8,731; and banks, finance companies and trust companies, $8,881, up 1.5% from

Continued on next page

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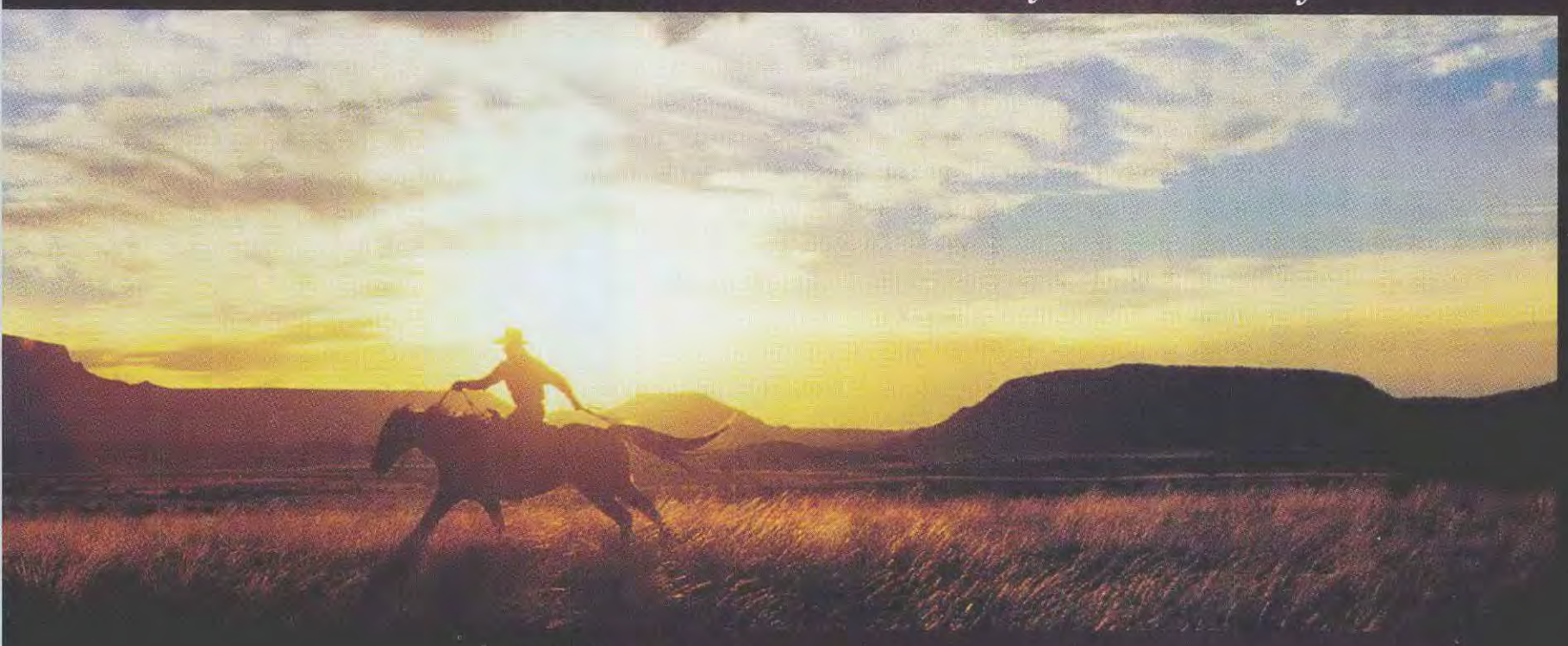

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Chamber offers benefit cost solutions

By JERRY GEISEL

WASHINGTON—For employers that feel powerless against rising health care costs, the U.S. Chamber of Commerce has a few basic suggestions on how they can try to contain health care costs.

In its latest survey on employers' benefit expenditures, the Chamber suggests that employers, especially smaller companies:

• Boost cost sharing by employees.

"This recommendation is at the top of every consultant's list. Research shows that insulating employees from the costs of care encourages unnecessary use of health services," the Chamber report says.

If an employer imposed a $100 deductible in 1955, that deductible should now be about $500 to keep up with inflation, the Chamber report says.

• Establish flexible spending accounts.

In an FSA, an employee contributes pretax dollars to a special account to pay for uncovered health care expenses, such as deductibles and premiums.

An FSA saves employers money by reducing an employee's base salary on which it pays Social Security and other taxes, the survey points out.

"Hire an outside payroll accounting firm to handle the paperwork. You can pay the service fee and still come out with a net savings. The monthly administration fee would run between $2 and $5 per employee depending on the size of the firm," the survey says.

• Replace a traditional indemnity plan with a health maintenance organization.

Two types of HMOs—staff and group models—have proven to be more effective at controlling health care costs than other health care delivery mechanisms, the report says.

A staff model HMO employs physicians directly, while a group model HMO contracts with an independent, multispecialty physician group practice and caps physicians' payments.

• Look for a preferred provider organization.

Switching to a PPO can cut health care costs by between 5% and 10%, the Chamber says.

• Purchase health insurance through a business group or coalition.

"Individual small employers have little or no leverage in buying health insurance, but when a number of small employers band together to purchase insurance, they can wield real clout in the market," the report says.

• Keep track of laws that exempt small firms from state statutes that require health insurance policies sold by commercial insurers to cover specific benefits.

States that have recently passed laws that waive mandated benefit requirements for certain small employers include Virginia, Missouri, Florida, Illinois and Washington.

"Some states require coverage for more exotic procedures, such as in vitro fertilization and acupuncture. By exempting small firms from such mandates, insurers may offer no-frills plans with premiums costing 20% to 40% less," the report says.

• Better manage mental health care and substance abuse benefits by contracting with a managed care company that specializes in these services.

"This strategy can save you 10% to 40% of your health care costs," the report estimates.

• Establish a mail-order prescription drug program.

"Mail-order pharmacies do a high-volume business and offer unit prices based on that volume. They are often more aggressive in providing lower-cost generic drugs, which can be a cost saving in itself when appropriate," the report says. ■

Benefit costs

Continued from previous page

$8,746.

• Benefit costs as a percent of payroll varied by geographic region. The highest benefit costs were incurred by employers in the in East North Central states, which include Illinois, Indiana, Michigan, Ohio and Wisconsin. Benefit costs for employers in the East North Central area averaged 39.9% of payroll in 1989, up from 36% in 1988.

In other regions of the country, benefit costs as a percent of payroll decreased to 38.3% from 37.9% in the Southeast; decreased to 37.6% from 39.1% in the West; and increased to 36.1% from 35.2% in the Northeast.

• Employers spent an average of $316 per employee on 401(k) plan contributions in 1989, an increase of 17.9% from $268 per employee in 1988.

Contributions were highest in the transportation equipment industry: $787 per employee on average, up 21.5% from $648 in 1988.

Contributions were lowest in the textile products and apparel industry: $4 per employee on average, down 81% from $21.

For survey purposes, employers' 401(k) contributions include the funds actually contributed by companies.

Technically, however, employer contributions also include the pretax contributions made by employees.

•

Copies of "Employee Benefits: 1990 Edition" are available from the U.S. Chamber of Commerce, Publications Fulfillment (RKVL), 1615 H St., N.W., Washington, D.C. 20062; 1-800-638-6582. From Maryland, call 1-800-352-1450. The cost is $25 per copy. Discounts are available for bulk orders. Prepayment is requested. Sales tax should be included for deliveries in California and the District of Columbia.

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EPA assessments

Continued from page 3

ment.ng my decision in the most efficient and least disruptive way."

The memo said the change became necessary after a study found that risk assessments by businesses potentially responsible for cleanups "tended to need extensive modifications" by regional offices.

The EPA also says in court papers that its policy change represents "an exercise of enforcement discretion" that is allowed by Superfund.

"The agency feels that decision is ours" to make without holding public hearings, the spokeswoman said.

The business groups' suit further contends the EPA's assumption of full responsibility for risk assessments is "unsound and interferes with the efficient and successful implementation" of Superfund.

Despite the new rule, some "potentially responsible parties" for Superfund sites will hire their own consultants to conduct risk assessments as a way to double check EPA efforts, predicted Robert M. Wenger, senior vp at environmental consultant ENVIRON Corp. of Arlington, Va., which performs between 10 and 15 Superfund risk assessments annually.

That will drive up Superfund site owners' and operators' cleanup costs because the EPA also will bill them for its assessment of the site.

However, a firm could could use results from its own assessment to challenge the EPA conclusions, Mr. Wenger explained. "The Superfund process allows you to exhaust all remedies and ultimately challenge" EPA results in court.

Differences in the assessment of a cleanup may be cleared up through discussions, Mr. Wenger said. But "if there's not a meeting of the minds, PRPs can exercise their legal rights and challenge in court," he said.

Elizabeth L. Anderson, president of Clement International Corp., a health sciences consulting firm in Fairfax, Va., said that the cost of cleanups could rise if businesses do not supplement EPA assessments with their own data.

She said the agency is unable to perform comprehensive on-site assessments in many cases and instead uses a set of universal assumptions—such as air movement and the shape of terrain—that it applies to all sites.

But because that process does not consider "site-specific" data, the EPA's assumptions might overcalculate the actual risk at a site and lead to the EPA requiring a more costly cleanup, she said.

Businesses also claim that the EPA decision will delay the completion of remedial investigation and feasibility studies, which will delay cleanups and increase their costs, among other problems.

The new rule denies businesses the ability to control when assessments are done, Mr. Wenger said.

Under the old rule, "PRPs could exercise control over the timing," he said. "They had more ability to have it done in a timely fashion."

"I can tell you it will probably be more expensive if it's done by the EPA than through a private contractor," said Robert M. Kube, senior vp with Risk Science International Inc., a unit of Frank B. Hall & Co. in Washington.

"There's quite a bit of precedent where government-contracted work is more expensive" than work done by private businesses, he added.

While acknowledging that the EPA works under budgetary constraints, Mr. Kube also noted that "the private sector has more of an interest to save money. . . .When it's coming out of your own pocket." ■

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Hotel fire plaintiffs win ruling

HATO REY, Puerto Rico—Defendants found liable in a Sept. 28 product liability jury decision stemming from the San Juan Dupont Plaza Hotel fire now face ongoing damage trials from 2,300 plaintiffs.

U.S. District Court Judge Raymond L. Acosta on Nov. 26 handed down a decision making the September jury decision for 10 plaintiffs binding for all 2,300 plaintiffs, meaning that the only issue is how much each of the plaintiffs will receive from the defendants.

As a result, an estimated $427 million in damage claims could be brought against White Consolidated Industries Inc., a Cleveland-based conglomerate, and three other companies found liable in the jury verdict, says Wendall Gauthier of Gauthier, Murphy, Sherman, Chehardy & Ellis in Metairie, La. Mr. Gauthier is the chairman of the Plaintiffs' Steering Committee.

However, this amount would be offset by the approximately $200 million in settlements already reached with other defendants and held in trust.

Judge Acosta set January 1991 for the beginning of the trials over damages sought by the 2,300 plaintiffs.

The litigation stems from the 1986 New Year's Eve fire at the San Juan hotel, which killed 97 people and injured 140 others (*BI*, Jan. 19, 1987; Jan. 12, 1987; Jan. 5, 1987).

In the Sept. 28 jury verdict, White Consolidated and three other companies—Aircoustic Wall Manufacturing Co., ACW Airwall Inc., and Hufcor Inc.—were held liable for $5 million in damages to 10 of 12 representative plaintiffs, with judgments ranging from $1,000 to $1.9 million. The companies manufactured partitions in the hotel ballroom where the fire began (*BI*, Oct. 8).

The judge's Nov. 26 ruling came in response to a motion filed by White in October that asserted that the liability applied only to the 12 defendants and a motion filed by the plaintiffs' steering committee requesting that five defendants found not accountable in the jury trial be open to suit from the remaining plaintiffs.

While Judge Acosta determined that the companies found liable could not deny claims of the remainder of the 2,300 plaintiffs, he also ruled that the jury's September verdict clearing the five other defendants was also binding, and that the remaining plaintiffs could not seek damages from them.

The Plaintiffs Steering Committee plans to appeal the latter part of the Nov. 26 decision, said Mr. Gauthier.

White is exploring its options to appeal both the Sept. 28 judgment and the judge's recent ruling.

The five defendants found liable have $52 million in insurance to respond to damage awards, according to Mr. Gauthier.

—By Laura Mazzuca

AMEV names Freedman chairman, CEO

AMEV Holdings Inc., the U.S. subsidiary of Dutch insurance group N.V. AMEV, has appointed President **Allen R. Freedman** to the posts of chairman and chief executive officer of the New York-based holding company.

Mr. Freedman replaces **Peter M.L. Rosenberg**, who will remain on the boards of AMEV Holdings and N.V. AMEV.

M. Gordon Gaddy, president of American Security Insurance Co. and chairman of United Family Life Insurance Co., two AMEV subsidiaries based in Atlanta, will succeed Mr. Freedman as president and chief operating officer of AMEV Holdings.

AMEV Holdings accounts for 29% of the operating income of its Utrecht, Netherlands-based parent, said a spokesman for the company.

In other insurance company changes:

James R. Pouliot appointed vp of commercial marketing for Great American Insurance Co. of Cincinnati.

Russell W. Anderson named vp-retirement products and **Nicholas Desiderio** named vp-audit at UNUM Corp.'s UNUM Life Insurance Co. unit in Portland, Maine.

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Agents/brokers

Sedgwick James Inc. announced these changes: **Darryl Craig Vroman**, who had been executive vp and manager of the Los Angeles and San Diego offices, named vp in the commercial brokerage division of Sedgwick James of California Inc. in San Francisco; **Ric L. Rogers**, who had been a vp at Rollins Burdick Hunter Co., joins as vp in the risk management division of Sedgwick James of California Inc. in San Francisco; **Raymond E. Carver**, who had been a manager in the West Palm Beach, Fla., office, named manager of the Houston office; and **Jim Corbett**, **Karen Haigh**, **Janice Hodge**, **Vicki McNally**, **Donald Preston**, **Robyn Renner** and **John Del Vecchio** named vps in Irvine, Calif., with Sedgwick James of California Inc. Also in Irvine, **Claudia Sellers** and **Kathy Quintana** named senior vps.

Rich Wassall joins Andreini & Co. of San Mateo, Calif., as vp and manager of the surety department. He had been in the surety department of Corroon & Black Corp. in San Francisco.

Jeffrey W. Fernhoff appointed vp of Welsch, Flatness & Lutz Inc., a St. Louis agency.

Peter Wengrenovich promoted to vp for commercial services from marketing/commercial manager at Murray Insurance Associates Inc., an agency in Lancaster, Pa.

Russell T. Campion named vp at James Brady Inc., an agency in Milford, Mich.

Willis Corroon P.L.C. of London announced several changes: **David Q. Laabs** appointed senior vp and manager of risk management services and **James J. Warzyniec** named vp of risk management services at the Corroon & Black of Michigan Inc. unit.

David A. Jollin, formerly president and chief executive officer of the Corroon & Black of Massachusetts Inc. unit in Boston, appointed chairman and will remain CEO. **Brian C. Miller** promoted to president from executive vp of the unit and will remain chief operating officer.

Wayne Brown, who had been chief executive officer with the Anchorage, Alaska, office, appointed director of the Pacific region of the C&B broker services group in Pasadena, Calif.

And **Diane Askwyth** promoted to vp responsible for risk management and insurance programs at C&B in New York.

Dennis O. Lofton, formerly president and chief executive officer of Hilb, Rogal & Hamilton of Savannah (Ga.) Inc., named executive vp with Hilb, Rogal's Richmond, Va., holding company. **J. Clifford McCurry** promoted to president from executive vp of the Savannah unit.

Other suppliers

Charles E. Hahl promoted to principal with Gage-Babcock & Associates Inc., an engineering consulting firm, in Chicago.

Karen M. Kennedy named an employee benefits consultant with Byrne, Byrne & Co., a Chicago brokerage.

Marvin A. Levins, formerly head of group insurance and health care operations with CIGNA Corp., named president and chief executive officer of Beacon Corporate Benefit Services Inc. of Stamford, Conn. The company is jointly owned by Empire Blue Cross & Blue Shield of New York and Blue Cross & Blue Shield of Connecticut Inc.

Robert F. Deger promoted to senior vp and **Henry Kempton** and **Jeanne Price** promoted to vps with Industrial Insurance Management Corp., a risk management and insurance consulting firm in Charlotte, N.C.

Jill Kanin-Lovers, a vp with Towers, Perrin, Forster & Crosby Inc.'s TPF&C consulting unit, named manager of the firm's Seattle office.

Dr. John Ernsberger promoted to medical director from assistant medical director of American Health Inc., a medical management company in Lynwood, Calif.

Douglas A. Gibby named senior vp and actuary with Booke & Co. in Birmingham, Ala. He had been working at the compensation and benefit consulting firm's Winston-Salem, N.C., headquarters since 1987. Booke & Co. also announced: **Thomas A. Ference** joined as vp and consultant in compensation and employee benefits in Winston-Salem; and **Shakuntala Maharajh** and **Mark C. Holloway** promoted to vps.

David G. Schorr appointed national health and welfare practice leader for flexible compensation at A. Foster Higgins & Co. Inc. in New York. And **James Warner** joined Foster Higgins as a principal and practice leader for retirement income consulting in the Southwest. He is based in Los Angeles. ■

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Punitive damages

Continued from page 3

duces an annual book on the subject.

Eight other states prohibit policyholders from insuring punitive awards unless they are awarded for vicarious liability, such as an employer being held liable for the acts of its employee, the firm said.

Minnesota courts have yet to rule on whether punitive damages in cases of vicarious liability can be covered by insurance.

Twenty-nine states allow policyholders to recover insurance for punitive damage awards under certain circumstances, like unintentional acts, according to Wilson, Elser. The law in the remaining states is unsettled, the firm said.

The 8th Circuit decision could be influential in states where this issue has not been resolved, said insurer attorney Scott Johnson of Faegre & Benson in Minneapolis.

"State and federal courts considering the issue of insurability of punitive damages will take into account" both the 8th Circuit and the district court rulings, said Mr. Johnson, who represented U.S. Fire Insurance Co. in the litigation.

U.S. Fire, a unit of Crum & Forster Insurance Cos., wrote a $5 million umbrella policy excess of a $1.5 million self-insured retention for Goodyear in 1981, the year of the accident. Evanston Insurance Co., First State Insurance Co. and Old Republic Insurance Co. each shared a $20 million layer excess of $5 million. Evanston and First State each wrote $7.5 million in limits, and Old Republic wrote $5 million.

The dispute stemmed from a 1981 accident in which Dale Hodder was seriously injured when a Goodyear tire rim exploded.

A jury awarded Mr. Hodder $3.3 million in compensatory damages and $12.5 million in punitive damages.

Goodyear appealed, and the Supreme Court of Minnesota upheld the compensatory damage award but reduced the punitive award to $4 million.

Goodyear challenged the constitutionality of the punitive damage award in a petition of certiorari to the U.S. Supreme Court, but the high court refused to review the case.

Goodyear's insurers agreed to pay the compensatory award, but denied coverage for punitive damages.

The insurers sued in Minnesota state court, seeking a declaration that they owed no coverage for the punitive award. Goodyear succeeded in transferring the lawsuit to federal court in Minnesota. The U.S. District Court in St. Paul in 1989 ruled in favor of the insurers, and Goodyear appealed to the 8th Circuit.

In affirming the district court's ruling, the 8th Circuit cited several Minnesota cases indicating that punitive damages are not insurable in that state.

For example, on July 17, the Minnesota Court of Appeals stated: "Ordinarily, a person may not insure against intentional acts of misconduct serious enough to warrant punitive damages." Allowing such coverage, the appeals court said, "would frustrate the deterrent purpose of punitive damages."

The 8th Circuit said, "In light of these cases, we cannot say that the District Court incorrectly interpreted Minnesota law as prohibiting insurance coverage for punitive damages."

The 8th Circuit also said that the award of punitive damages against Goodyear was not vicarious. The court noted that the jury found that both Goodyear and its wholly owned subsidiary, Motor Wheel Corp., which sold the tire, were negligent for failing to warn of the dangers of an exploding tire rim. Jurors specifically awarded punitive damages against both Goodyear and its subsidiary, the court noted.

Thus, even if Minnesota allowed policyholders to insure against vicarious punitive damages, this exception would not apply to the Goodyear case, the court said.

The court also ruled that it was appropriate to apply the law of Minnesota, where the accident and judgment occurred, rather than that of Georgia, where the insurance contracts were negotiated and issued. Georgia permits coverage for punitive damages.

The 8th Circuit decision that punitive damages are not insurable under Minnesota law is binding on all federal courts in the 8th Circuit applying Minnesota law. The 8th Circuit includes Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota and South Dakota.

Attorneys say the ruling is not binding on state courts in Minnesota.

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The United States Fire Insurance Co., Evanston Insurance Co., First State Insurance Co., and Old Republic Insurance Co. vs. The Goodyear Tire & Rubber Co., U.S. Court of Appeals for the 8th Circuit, No. 90-5022.

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closing:	December 12
issue:	December 31
closing:	December 17
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issue:	January 7
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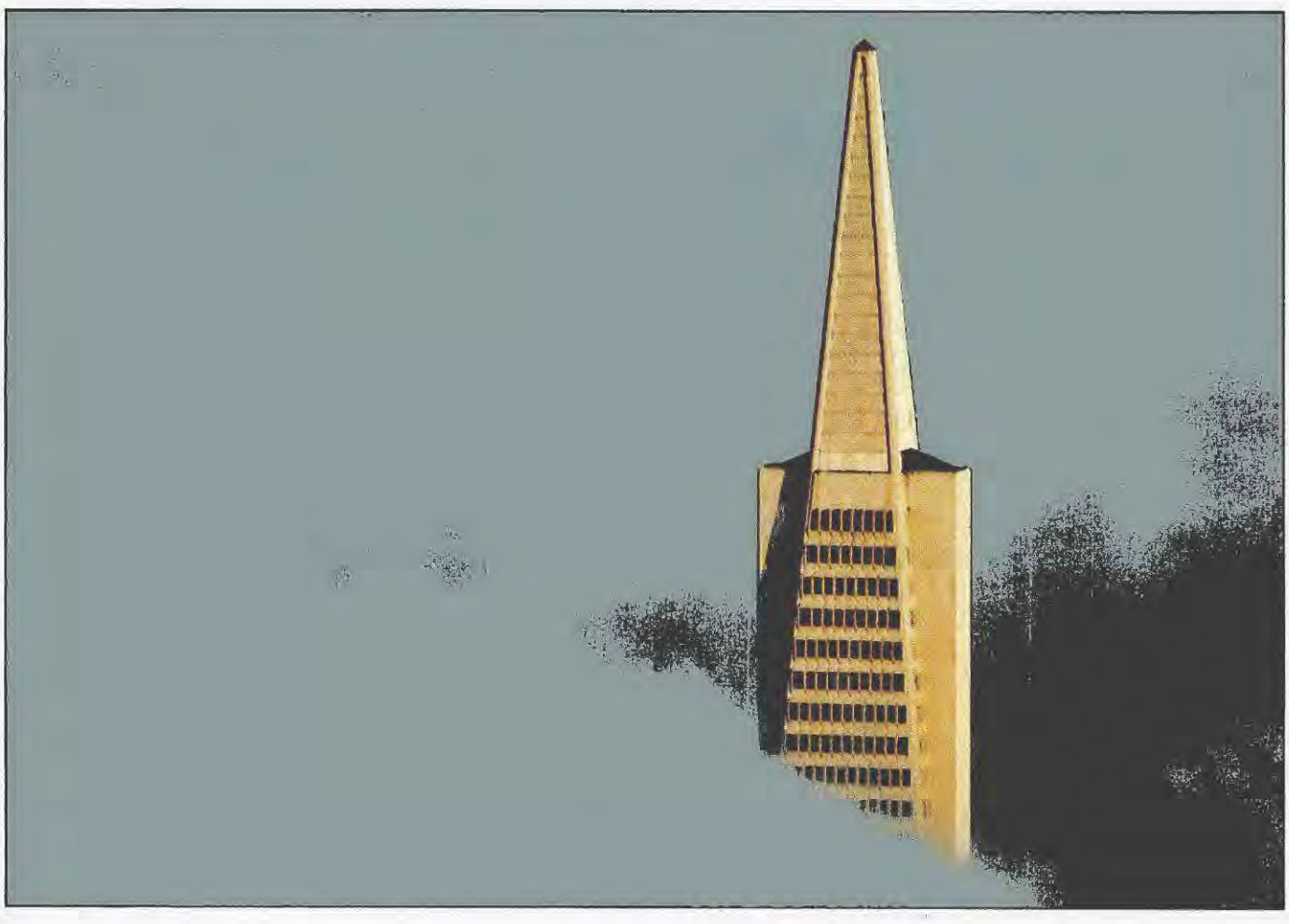

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Markets

New company to write reinsurance on behalf of Lloyd's syndicates

A new U.S.-based company will underwrite international facultative property reinsurance on behalf of a group of non-marine Lloyd's of London syndicates.

Butler Holt Corp. was formed two weeks ago by Paul F. Butler Jr., J. William Holt and RMS Development Corp., a Wayne, N.J. underwriting management firm with approximately $200 million in accident and health reinsurance premium volume.

Mr. Butler brings 32 years of international experience to the new company. He has worked in the New York, Brazil and Venezuela offices of American International Underwriters, a unit of American International Group Inc. in New York.

And he was president of New York-based AFIA Worldwide Insurance before the company was sold to CIGNA Corp. Most recently he was president and chief executive officer of St. Paul Reinsurance Management Corp.

Mr. Holt is a founder of Duncanson & Holt Inc., an accident and health underwriting management company in New York, as well as a number of insurance and reinsurance companies. He is no longer involved with Duncanson & Holt.

Michael P. Kearney will act as chief underwriting officer of BHC. He has more than 20 years of international facultative underwriting experience and has been manager of facultative portfolios underwritten by AFIA, CIGNA, Zurich Insurance Co. and St. Paul Re.

Butler Holt, which will maintain offices in Wayne, N.J., and Long Island, says it will bring capacity to an "attenuated" market for facultative international property risks.

Butler Holt declined to name the syndicates for which it will underwrite, noting that it had not obtained the permission of the syndicates to release their names.

For more information, contact Paul F. Butler, President and Chief Executive Officer, or J. William Holt, Chairman, Butler Holt Corp., 500 Valley Road, Wayne, N.J. 07470; 201-694-0816.

New consulting firm

Bickerstaff & Associates, a new company in Indian Wells, Calif., is offering casualty actuarial and computer system consulting services.

Targeted clients include commercial insurers, self-insured trusts, insurance regulatory bodies, brokers, state medical and hospital associations, trade associations, health maintenance organizations, captives and risk retention groups.

Services include risk consulting and designing custom software packages for assignments dealing with loss reserve projections, risk analysis, financial projections and reinsurance planning and claims management.

David R. Bickerstaff, founder and president, is a fellow of the Casualty Actuarial Society and a Member of the American Academy of Actuaries.

Prior to founding his own firm, Mr. Bickerstaff worked for 16 years as a consulting actuary with Milliman & Robertson Inc. in Pasadena, Calif., including the last 13 as a principal.

Prior to joining Milliman & Robertson, he was a senior actuarial assistant with State Farm Mutual Insurance Co. and vp and actuary with the Southern Farm Bureau Casualty Insurance Co.

For more information, contact David R. Bickerstaff, President, Bickerstaff & Associates, 45-260 Club Drive, Indian Wells, Calif. 92210; 619-360-3833.

Health care consultant

A new independent consulting

Continued on page 20

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So write Ed Denker, CIGNA Special Risk Facilities, Dept. RL, Phila., PA 19192. On the other hand, there's always crabgrass.

We get paid for results.® CIGNA

Markets

Continued from page 18

practice offers employers advice about health care cost containment programs. The Abaris Group Inc. will evaluate utilization review or managed care programs and suggest changes.

The founder and managing director of the firm, Jeanne M. Kennedy, a registered nurse and attorney, is the former president and chief operating officer of Quality Health Services Inc., an independent utilization management company.

The new company's services are offered to claims administrators, employers and independent benefit consultants.

For more information, contact Jeanne M. Kennedy, Managing Director, The Abaris Group, 21 Partridge Court, Newtown, Pa. 18940; 215-579-9998.

Coal mine coverage

A new company is underwriting insurance for coal mining companies.

Van-American Insurance Co., based in Lexington, Ky., will provide surety products to enable companies to satisfy state and federal regulations on reclamation of mined land.

These surety products do not serve as environmental-issue guarantees, but provide companies with bonds, cash collateral, bank letters of credit or other securities to insure payment if they are penalized for failing to meet reclamation standards.

Only preferred middle-market and larger mining companies will be accepted. A mining company is required to provide a deposit equal to a specific percentage of the face value of the bond—based on its financial strength and other risk factors—as collateral. Companies must also allow regular site inspections by Van-Am to supplement state and federal inspections.

Van-American Insurance is an independently owned insurer capitalized at $5 million.

For more information, contact Michael Fromer, Chairman and Chief Executive Officer, Van-Am Insurance Co., 3166 Custer Drive, Suite 301, Lexington, Ky. 40502; 606-271-4418; 800-545-5161.

Self-insurance help

A new company offers to find vendors for self-insurers.

J.P. Lennon Associates in Mission Hills, Calif., will locate vendors to provide, among other things, claims administration and auditing, loss and risk control consulting, managed health care and medical cost control services, structured settlements and data processing services to clients.

The new company will match vendors that offer these services to risk managers, agents and brokers, third-party administrators and government entities.

Jim Lennon, principal of the new company, formerly worked for Equifax Inc., an information services company based in Atlanta. Much of his 21 years with Equifax were spent working with vendors serving self-insurers.

For information, contact Jim Lennon, Principal, J.P. Lennon Associates, P.O. Box 5386, Mission Hills, Calif. 91395-0386; 818-892-4050.

Jeweler, furrier block

A new underwriting division of The PW Group Inc. will specialize in underwriting jeweler and furrier block insurance.

The inland marine division will cover jewelers' and furriers' stock and trade before and during transit. The unit will function independently of the Providence, R.I., insurer's other operations.

For more information, contact Christine M. Foisy, Underwriting Manager, PWN Inland Marine Division, PWN Insurance Services, 4 Liberty Square, 7th Floor, Boston, Mass. 02109; 617-338-3070.

Catastrophic claims

International Claims & Litigation Management Group Inc., a new company in Albertson, N.Y., says it will help insurers and corporations prepare for and respond to catastrophic and complex claims.

Among the services available are operations and contingency planning for catastrophes, emergency procedures training for management and staff, loss prevention and remedial action programs, crisis communication plans, and workers compensation risk protection.

The company also will analyze coverage, coordinate and manage litigation, and select expert witnesses.

ICALM was formed by Robert L. Alpert and David B. Zoffer, two senior insurance executives and attorneys. Both are former vps of an aviation underwriting and claims management subsidiary of General Re Corp. and both have participated in the administration and defense of multiple death and serious injury claims arising out of almost every commercial aircraft accident in the last 20 years.

ICALM Group has assembled a staff of attorneys, claims professionals and computer specialists.

For more information, contact Robert L. Alpert, President, or David B. Zoffer, Executive Vp, ICALM Group, 200 I.U. Willets Road, Albertson, N.Y. 11507; 516-248-1600.

Cost Care expansion

Cost Care Inc., a managed health care firm, has established regional medical processing centers in Atlanta, Boston, Chicago and Huntington Beach, Calif., where it is based.

Each service center, staffed with physicians, medical administrators, registered nurses and case managers for medical, psychiatric and substance abuse cases, will perform utilization review for more than 7,500 clients, the company says.

Cost Care clients include insurers, health maintenance organizations and self-insured employers. Regional centers will let the firm "adapt to local and regional patterns of care and respond more quickly and efficiently," said

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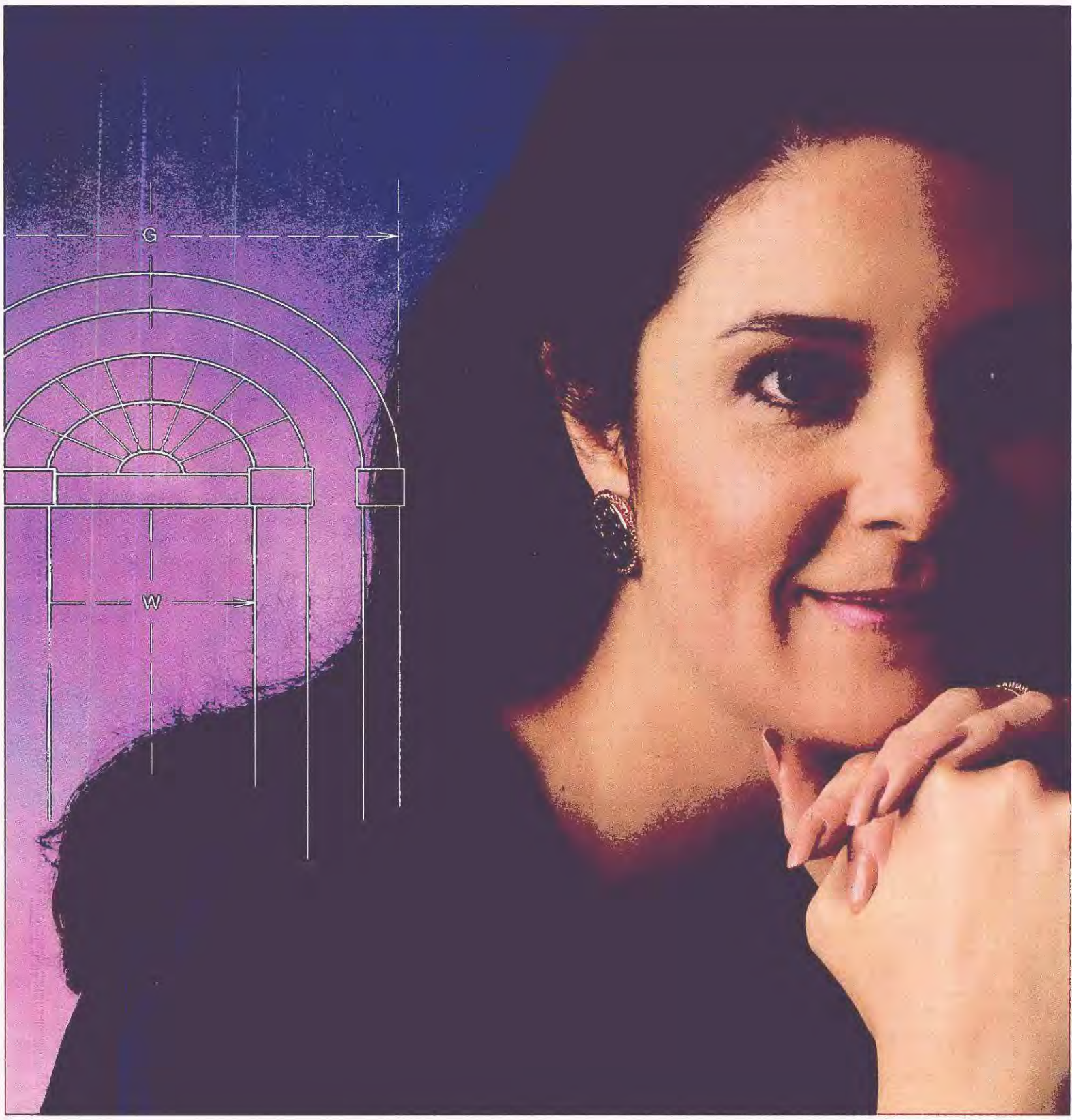
THE HOM



OLD PROS ON

Continued from previous page
Lawrence Goelman, president of the John Hancock Mutual Life Insurance Co. subsidiary.

A mainframe computer at each regional center is linked to a data base in Huntington Beach.

The bulk of Cost Care's UR services were provided in Huntington Beach, prior to John Hancock's June acquisition of the company.

The regional centers, which became fully operational in October, were established to accommodate new business.

The Boston and Chicago centers formerly operated as part of Hancock's Managed Health Service, the insurer's former in-house UR operation. The Atlanta regional center was created to handle Cost Care's business in the state of Georgia and John Hancock's business that was formerly handled out of its MHS unit in Dallas.

Hilb acquisitions

In recent months, several subsidiaries of broker **Hilb, Rogal & Hamilton Co.** completed acquisitions. Those that will move to Hilb offices and operate under the Hilb name are:

- **The Insurance Shop Inc.** in Port Orange, Fla., merging with Hilb, Rogal & Hamilton Co. of Daytona Beach Inc.
- **Kroh, Miller, Knight & Shackelford Inc.** in Baltimore, merging with Hilb, Rogal & Hamilton Co. of Baltimore.
- **Cundiff Insurance Services Ltd.** in Fredericksburg, Va., merging with Hilb, Rogal & Hamilton Co. of Fredericksburg.
- **The James River Financial Group Inc.** in Richmond, Va., merging with Hilb, Rogal & Hamilton Co. of Richmond.
- **Ben Few Insurance Agency Inc.** in Fort Myers, Fla., merging with Hilb, Rogal & Hamilton Co. of South Fla. in Fort Myers.

In other acquisitions:

- Hilb, Rogal & Hamilton Co. of Arizona has acquired **L.H. Edwards & Associates Inc.** in Chandler, Ariz., which will assume the Hilb name but keep its office in Chandler.
- **Dixon Sheehan Titus Inc.** in Savannah, Ga., merged with Hilb's Jones, Hill & Mercer Insurance Services in Savannah.
- **C.P. Brown & Associates Inc.** in Memphis, Tenn., merged with Hilb, Rogal & Hamilton Co. The agency will retain its name and offices in Memphis.
- Hilb, Rogal & Hamilton Co. of Victoria, Texas, acquired **Ken Williams Insurance Agency** in Edna, Texas, which will assume the Hilb name but retain its office in Edna.
- Hilb, Rogal & Hamilton Co. acquired **W.L. Dinn & Co. Inc.** in Corpus Christi, Texas, which will retain its name and offices.
- Hilb, Rogal & Hamilton Co. acquired **Employee Benefit Services Inc.** in Charleston, S.C. EBS, a third-party claims administrator, will retain its offices and operate under its own name.
- Hilb, Rogal & Hamilton Co. of Hartford acquired **The Arthur Noll Insurance Agency Inc.** in Hartford, Conn., which will retain its offices and operate under its own name.

Mergers/acquisitions

Tampa, Fla.-based broker **Poe & Associates Inc.** acquired Golden Eagle Group Inc. and its affiliated companies. Golden Eagle will continue to operate in Lakeland, Fla., as a general agent for property/casualty insurance companies.

First Security Casualty Co. in Madison Heights, Mich., has merged with **SourceOne Insurance Co.** of Troy, Mich. First Security specializes in property/casualty, as well as accident and health coverages, while SourceOne focuses on liquor liability insurance and specialized automobile programs. The company will conduct business as First Security Casualty Co. The address is 30755 Barrington Ave., Madison Heights, Mich. 48071; 313-588-7470.

New addresses

Marsh & McLennan Cos. Inc. opened an office in Dubai, United Arab Emirates. The office will operate as part of the M&M Bowring Marine & Energy Group Ltd. and will provide specialist risk management services to clients in the Middle East. The address is Dubai World Trade Center, 31st Floor, P.O. Box 9364, Dubai, United Arab Emirates; 971-2-368581.

Kernan Associates Inc., an insurance and reinsurance consulting firm, has moved its New York offices to 560 Lexington Ave., 16th Floor, New York, N.Y. 10022; 212-888-5639.

Insurance broker **Montgomery & Collins Inc.** has combined its Indianapolis branch office with its Columbus, Ohio, branch. The address is Montgomery & Collins Inc. of Ohio, 100 Old Wilson Bridge Road, Suite 100, Columbus, Ohio 43085-2297; 614-436-7048.

Frank B. Hall & Co. Inc. opened an office in Omaha, Neb. The temporary address is 12111 Emmet St., Omaha, Neb. 68164; 402-496-2434.

Mutual Insurance Agency Inc. moved its offices to 2275 Research Blvd., Suite 300, Rockville, Md. 20850; 301-948-2422.

Insurance Solvency International, a unit of Standard & Poor's Insurance Rating Services, moved its office to Garden House, 18 Finsbury Circus, London EC2M 7BP; 71-374-0473.

The State Compensation Fund, which writes workers compensation coverage in Arizona, moved its Yuma district office to 1060 S. Fifth Ave., Yuma, Ariz. 85364; 602-782-9821.

The Chicago branch of **Genesis Underwriting Management Co.** has moved to AT&T Corporate Center, 227 W. Monroe St., 49th Floor, Chicago, Ill. 60606; 312-630-3800.

Legalgard Inc., a legal cost management company, has moved its offices from Bala Cynwyd, Pa., to The Corn Exchange Building, Second & Chestnut Streets N.W., Suite 401, Philadelphia, Pa. 19106; 215-923-4200; 800-525-3426.

Arnold & Co., a benefit administration, actuarial and consulting firm, moved its offices to 1301 W. Long Lake Road, Suite 225, Troy, Mich. 48098-6348; 313-641-8686.

The National Assn. of Health Data Organizations has moved from Washington, D.C., to 254-B N. Washington St., Falls Church, Va. 22046; 703-532-3282.

Martin E. Segal Co. moved its Atlanta office to 1000 Parkwood Circle, Suite 200, Atlanta, Ga. 30339; 404-955-4003. ■

E TODAY

Our one-of-a-kind lady in L.A.

Cindy Langbehn says she first learned to see things from the customer's viewpoint as a flight instructor at her dad's flying school.

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"I'm still dealing with the kind of people I gave flight training to," she says. "Like surgeons, attorneys and CEOs. But now my clients also include a few movie stars and celebrities."

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ASK A BENEFITS ACTUARY

Stock value decline affects pension costs

Q **What impact will the decrease in stock values have on our pension costs?**

A This question comes from the chief financial officer of a major corporation. The corporation's defined benefit plan is heavily invested in common stocks. The value of the pension fund has declined by about 15%, moving to $85 million at Sept. 30, 1990, from $100 million as of Dec. 31, 1989.

Since the chief financial officer does not believe the market will turn around before the end of the year, he is concerned about the impact that this loss will have on the net periodic pension cost—the charge against the corporation's income statement for pensions under Statement of Financial Accounting Standards (SFAS) No. 87—for 1990 and 1991. The corporation measures pension assets and obligations as of Dec. 31, the close of its fiscal year, and bases its pension cost on the market value of assets.

The decrease in stock values will not affect the 1990 net periodic pension cost. (The footnote disclosure for the Dec. 31, 1990, financial statements will show the market value as of Dec. 31, 1990, as well as the actual return on plan assets during 1990, but this will not alter the 1990 net periodic pension cost.)

In general, the net periodic pension cost for a fiscal year is based on a snapshot of the pension plan, both asset and obligation values, as of the Dec. 31 immediately preceding the fiscal year. Subsequent changes in asset or obligation values generally do not affect the net periodic pension cost for the year.

The exception to this general rule is a situation in which a significant event occurs that requires a measurement under the accounting principles of SFAS Nos. 87 or 88. Events that might cause a remeasurement include a curtailment of plan benefits or a major plan amendment.

The decrease in stock values will affect the 1991 net periodic pension cost. The net periodic pension cost includes a component—the expected return on plan assets—which is based on the product of the following factors:

- The market-related value of assets as of Dec. 31, 1990 (adjusted for expected benefit payments and contributions), which is $85 million.
- And, 10%, which is the expected rate of return on plan assets.

To the extent that asset values have declined during 1990, the net periodic pension cost will generally increase from its 1990 level by the product of this decrease and the expected rate of return assumption.

For the corporation in question, the expected return on plan assets will go from $10 million in 1990 to $8.5 million in 1991, increasing net periodic pension cost by $1.5 million.

A portion of the loss on assets will also be recognized in net periodic pension cost for 1991, including the pension cost from its 1990 level. The corporation in question has adopted a policy of recognizing its gains or losses in the net periodic pension cost over its employees' remaining future work life (12 years).

Gains or losses are recognized to the extent that the accumulated gains and losses (from current and prior years, and from both asset and liability sources) are greater than 10% of the greater of the projected benefit obligation or the market-related value of assets. This policy will result in an additional $1.1 million increase in the net periodic pension cost for 1991.

Overall, the net periodic pension cost will increase from $5.7 million in 1990 to $9.2 million in 1991, a $3.5 million increase. Of this amount, $2.6 million is attributable to the 15% decline in asset values.

However, the corporation might lessen the impact of the asset loss by adopting a proposed change in the method for determining the market-related value of assets for pension costs purposes.

Instead of valuing assets at market, the corporation might use a method which phases in any unexpected asset gains or losses over a five-year period. This change could be adopted effective Dec. 31, 1990, and initially apply to the asset loss in 1990.

For the 1990 fiscal year, the unexpected asset loss will be $25 million, assuming that the market value of assets as of Dec. 31, 1990, is $85 million. This $25 million amount is determined as follows:

- Assets of $100 million as of Dec. 31, 1989, were expected to earn 10% per year, or $10 million during 1990.
- Instead of earning this $10 million, assets declined in value by $15 million to $85 million.
- $25 million is the sum of $10 million and $15 million.

Under the proposed asset valuation method, only 20% of the $25 million loss, or $5 million, would be recognized in determining the value of assets as of Dec. 31, 1990. The remaining $20 million would be included in the asset value, bringing the market-related value of assets under the proposed change to $105 million as of Dec. 31, 1990.

If this method is adopted, $5 million in losses would also be recognized in the market-related value of assets on each Dec. 31 for 1991-1994.

In addition, gains or losses in subsequent fiscal years would also be subject to the same five-year phase-in.

For example, if a $10 million asset gain were to occur during the 1991 fiscal year, it would be recognized in $2 million increments on each Dec. 31 for 1991-1995.

The impact of the proposed change in the market-related value of assets is dramatic.

The expected return on plan assets is $10.5 million for 1991, rather than $8.5 million without the change.

In addition, there is no amortization of the gain or loss with the change, as compared with a $1.1 million amortization without the change. Overall, a net periodic pension cost is projected to be $6.1 million for 1991 with the change in asset method, compared with $9.2 million without the change.

For these reasons, the corporation in question is giving serious consideration to making the change in the market-related value of assets. If this change is made, it does require a footnote disclosure in the corporate financial statement. ■

Comparison of financial accounting results

Contributions and benefit payments are assumed to be $5 million for each year. Figures in millions of dollars.

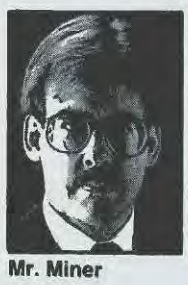
		Fiscal 1991	
	Fiscal 1990	Current	Proposed
Actuarial basis			
Discount rate	9%	9%	9%
Expected return on plan assets	10%	10%	10%
Market-related value of assets	Market	Market	Five-year phase-in of unexpected (gain)/loss
At close of prior fiscal year			
Projected benefit obligation	$(110.0)	$(119.7)	$(119.7)
Assets at market-related value	100.0	85.0	105.0
Funded status	$(10.0)	$(34.7)	$(14.7)
Unrecognized obligation at transition	12.0	11.0	11.0
Unrecognized prior service cost	0.0	0.0	0.0
Unrecognized (gain)/loss	0.0	25.0	5.0
Prepaid pension cost	$2.0	$1.3	$1.3
Pension cost for fiscal year			
Service cost	$5.0	$5.0	$5.0
Interest cost	9.7	10.6	10.6
Expected return on plan assets	(10.0)	(8.5)	(10.5)
Amortization of:			
-obligation at transition	1.0	1.0	1.0
-(gain)/loss	0.0	1.1	0.0
Net periodic pension cost for fiscal year	$5.7	$9.2	$6.1

Source: The Wyatt Co.

GRAPHIC BY HOLLY SEGUINE

Would you like advice from an experienced colleague on a risk management, benefits management or actuarial problem? Four features in the Perspective section of Business Insurance can give you some answers.

Ask A Casualty Actuary, Ask A Benefit Actuary, Ask A Benefit Manager and Ask A Risk Manager answer written questions from readers on risk and benefits management issues and actuarial problems.



Mr. Miner

This month's column on actuarial issues in the benefits field is written by William J. Miner, an actuary with The Wyatt Co. in Chicago. Richard E. Sherman, a principal with Coopers & Lybrand in San Francisco, answers actuarial questions in the casualty field. Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C., answers risk management questions.

Mr. Miner's and Mr. Sherman's columns usually appear alternately on the first Monday of each month, except this month. Ms. Werner's column appears alternately on the second Monday of each month (see page 24). Mr. Miner's next column will appear in February.

Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.

ASK A RISK MANAGER

Driver training proposal could be problematical

Q **What do you know about the proposed Occupational Safety and Health Administration standard that will require employers to have driver training programs in place for those employees who operate vehicles on the job?**

A You are referring to the proposed rule titled, "Occupant Protection in Motor Vehicles."

According to statistics compiled by the U.S. Department of Labor, motor vehicle accidents are the single largest cause of job-related fatalities. Each year there are an estimated 2,100 fatalities and 91,000 lost workday injuries caused by occupational motor vehicle crashes involving employees who would be covered under this rule.

The Bureau of Labor Statistics also estimates that in 1987 there were more than 3,400 occupational fatalities in this country involving business establishments employing more than 10 workers.

Since OSHA currently has no specific regulations requiring employers to promote safety awareness for those employees who operate motor vehicles on official business, the rule is designed to:

- Dramatically reduce the frequency and severity of occupational motor vehicle accidents by requiring employers to make certain each employee uses a seat belt or wears a motorcycle helmet when appropriate.
- Decrease the number of occupational motor vehicle accidents caused by alcohol and drug abuse.
- Provide a national standard of vehicle occupant protection for all industry types.
- Improve employee driving on and off the job by implementing a drivers' safety program.

Let's now take a closer look at each of these four objectives.

For example, it has been proven that states that have enacted safety belt use laws experience both higher use rates and lower fatality rates than states having no mandatory seat belt regulations.

The proposed rule would impose on the employer a requirement that each employee operating a motor vehicle on official business or riding in a motor vehicle equipped with a safety belt must have the belt fastened while the vehicle is in motion.

Regarding the use of motorcycle helmets, there are presently 22 states with comprehensive motorcycle laws.

The proposed OSHA rule does not specify whether the employer would be responsible for providing the helmet in those instances when an employee owns his or her headgear. The concern over motorcycle helmets is largely due to the safety concerns of employees working in the motor courier and delivery service sectors. These employees routinely travel in congested areas at relatively high speeds—situations that increase the potential for serious injury or fatality.

Much has already been written about driving accidents directly related to impaired or drunk drivers. According to OSHA statistics, 50% of all motor vehicle fatalities result from alcohol-related accidents.

In 1988, 38% of all fatally injured vehicle operators were found to be intoxicated. And another 500,000 individuals sustained injuries in alcohol-related crashes. OSHA is considering adding a requirement for employers to provide drug and alcohol awareness training programs for their employees.

The proposed national standard for vehicle occupant protection would require employers to endorse and enforce requirements for the safe use of all classes of motor vehicles driven by employees on official business. The scope is broad in form, since it is intended to include the use of motor vehicles on public highways and off-highway job sites and would apply to all motor vehicles regardless of ownership.

Covered vehicles would include heavy trucks, cars, light trucks and vans. The rule would apply to all employees who use any class of vehicle while on the job. Another item also under consideration for inclusion in the final rules is the creation of a vehicle safety inspection and maintenance program.

Further discussion is needed about the cost and administrative implications of such a program before it is officially mandated. A critical component of this program would involve making sure employees are provided with vehicles that have been inspected according to specific criteria and that appropriate protective equipment is provided with those vehicles.

The section of the proposed rule involving a drivers' safety program presents an interesting and complex challenge to employers for several reasons. Consider, if you will, the employer with a sizable fleet of vehicles located throughout the country. Or, an employer in an industry in which there is a high turnover of employees simply because of the nature of the business.

And, how about the employee who uses his or her personal vehicle to run an errand for the employer? Are these "casual" drivers subjected to the training process? OSHA has not made a determination in this matter.

The task of training the employee drivers will be monumental. OSHA proposes that the training instructors be "qualified" or knowledgeable in the topics being taught. The question becomes: Who trains the trainer?

The standard also addresses the need for recurrent training, possibly at three-year intervals, which will only add to the burden placed on the training function.

Another unresolved training issue is how to provide a way for the employer to document that the training has taken place. I envision that the employer would be required to provide a certificate of completion to each employee who successfully completes the training program.

A public hearing on the proposed standard is set for Jan. 8, 1991. If and when the regulation is enacted every segment of business and industry will be affected. Now is the time for us to educate ourselves and our employers on the compliance issues contained in the current proposal to assure that the appropriate drivers' training program is in place prior to the "yet to be determined" compliance deadline. ■

Would you like advice from an experienced colleague on a risk management, benefits management or actuarial problem? Four features in the Perspective section of Business Insurance can give you some answers.

Ask A Risk Manager, Ask A Benefit Manager, Ask A Benefit Actuary and Ask A Casualty Actuary answer written questions from readers on risk and benefits management issues and actuarial problems.

Ms. Werner

This month's column on risk management issues is written by Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C. William J. Miner, an actuary with The Wyatt Co. in Chicago, answers actuarial questions on benefits issues (see story, page 23). And, Richard E. Sherman, a principal with Coopers & Lybrand in San Francisco, answers casualty actuarial questions.

Ms. Werner's column appears on the second Monday of alternate months. Mr. Miner's and Mr. Sherman's columns usually appear alternately on the first Monday of each month.

Ms. Werner's next column will appear in February.

Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.

Court denies alleged cause of mental impairment

Legal briefs

In a claim asserting mental impairment, an Arizona appellate court held that the understaffing of state police radio dispatchers did not meet the statutory definition of "psychologically traumatic event."

Neils L. Jensen was a New Mexico state policeman. After sustaining a serious and disabling vehicular accident that was not work related, Mr. Jensen was assigned as a radio dispatcher. Because of understaffing, Mr. Jensen began feeling stress in June 1987. His condition progressively worsened. By February 1988, Mr. Jensen left his job and sought early retirement for mental health reasons. His claim was denied.

On appeal, the appellate court said that, under state law, in order for there to be a primary mental impairment there first must be a "psychologically traumatic event." The court said the Legislature intended to limit primary mental impairment to sudden, emotion-provoking events of a catastrophic nature, as opposed to gradual, progressive stress-producing causes and that understaffing did not meet the definition.

Jensen vs. New Mexico State Police, Court of Appeals of New Mexico, Jan. 23, 1990, *certiorari denied* March 5, 1990 (*BI*/05/Dec.-$10).

Heart attack 'accidental'

A worker's fatal heart attack, after climbing a flight of stairs to get to his office, was an accident that arose from and was in the course of his employment for workers compensation purposes, according to a revised ruling of the Louisiana Supreme Court.

Steven Carruthers had long suffered from a number of ongoing medical problems, including childhood polio, high blood pressure, diabetes and emphysema. On Feb. 2, 1983, he arrived at work and, upon entering the building, climbed approximately 13 steps to his office. A few minutes later, an employee found him slumped over his desk. His death was attributed to acute myocardial infarction. His widow applied for workers comp death benefits but was denied. She also lost her first appeal to the state Supreme Court.

On rehearing, the state Supreme Court recalled and vacated its original opinion and awarded benefits to Mr. Carruthers' widow. The court concluded that since Mr. Carruthers was at his desk his accidental death occurred in the course of his employment. Furthermore, the court said the exertion he made to climb a few stairs was more than he expended in his non-working life.

Carruthers vs. PPG Industries Inc., Supreme Court of Louisiana, May 1, 1989, *rehearing granted* June 30, 1989, *on rehearing* Oct. 23, 1989, *rehearing denied* Nov. 22, 1989 (*BI*/02/Oct.-$10). ■

These abstracts were prepared by Cases Unlimited Inc. Copies of these decisions are available by sending a $10 check payable to Cases Unlimited to Business Insurance, *740 N. Rush St., Chicago, Ill. 60611-2590. List the number for each opinion.*

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INTERNATIONAL

Agency formed by LUI chief insolvent

By CAROLYN ALDRED

LONDON

LONDON—C.R. Driver & Co. Ltd., an underwriting agency partly owned by Ronnie Driver, the former chairman of troubled London United Investments P.L.C., is insolvent and being liquidated.

Raymond Turner, a partner with accounting firm Neville Russell, was appointed liquidator of the underwriting agency on Dec. 3.

The agency, which was set up in 1962, underwrote on behalf of a reinsurance pool known in the London market as the "Drivers Pool."

Over the years, many of the companies that backed the pool were the same insurers and reinsurers that underwrote on the line slip managed by LUI subsidiary H.S. Weavers (Underwriting) Agencies Ltd., sources say.

These included four LUI insurers that are now insolvent and Walbrook Insurance Co. Ltd., which was forced to stop underwriting this year because of concerns about its reserves (*BI*, April 2).

LUI itself currently is in administration, a British form of rehabilitation similar to U.S. Chapter 11 bankruptcy proceedings.

The Drivers Pool mainly wrote London market excess-of-loss reinsurance. During the last few years it was writing premiums totaling about 10 million pounds ($19.3 million at current exchange rate) annually, although in previous years its premium volume was higher, sources close to the agency confirm. C.R. Driver & Co. stopped underwriting on behalf of the pool in October 1989.

The agency has assets of about 480,000 pounds ($926,400) and liabilities of about 780,000 pounds ($1.51 million), according to a spokesman from Neville Russell.

The spokesman could not estimate the liabilities of the Drivers Pool, but noted that the policyholders are all insurance or reinsurance companies that were legally represented at a Dec. 3 creditors meeting.

C.R. Driver is owned by three principal shareholders: Mr. Driver; Stanley Mayhew, a director of the agency; and a trust fund set up for Mr. Driver's children.

LUI had no stake in the company although C.R. Driver operated out of the same offices as Weavers and other LUI subsidiaries.

Financial transactions between the agency and LUI and its subsidiaries were disclosed in LUI's annual reports.

For example, the 1988 report disclosed that LUI "and certain of its subsidiaries have in the normal course of business, had dealings with C.R. Driver & Co. Ltd.; a company in which Mr. C.R. Driver has a material interest.

These transactions resulted in reimbursement of expenses of 224,000 pounds ($405,440 at year-end 1988 exchange rate) and payments of 358,000 pounds ($647,980)."

Guaranty fund for LUI

Accountants, lawyers and other professionals with claims against some of the insolvent insurers of the underwriting slip managed by H.S. Weavers (Underwriting) Agencies Ltd. could receive up to 90% of their claims under a British guaranty fund.

Although the United Kingdom has no guaranty fund available for commercial policyholders of insolvent British insurers, a compensation fund is available for individual private policyholders.

Continued on page 32

ARIMA conference

Analyst warns of impending insolvencies

By KATE McILWAINE

MELBOURNE, Australia—More insurer insolvencies will follow the current soft insurance market, warns a security analyst.

The lag time between the onset of a soft market and rising combined ratios and insolvencies has led some people to believe that insurance companies do not go broke in a soft market.

Those people are wrong, says Maureen Purdie, associate director and manager of the insurance security division at Sedgwick James P.L.C. in London.

"When combined ratios rise, it takes time for forced insolvencies to follow," she said at the 14th annual convention of the Assn. of Risk & Insurance Managers of Australia last month in Melbourne. "But it's like a rollercoaster: Put the brake on and it continues for some time afterward."

Insurer failure rates are rising worldwide, Ms. Purdie warns. For example, from 1979 to 1989, 249 property/casualty companies have experienced "forced or voluntary insolvencies" in the United States, she said.

"It's very, very worrying for security managers," said Ms. Purdie.

Forced insolvencies will "jump ahead" because the "last hard market was so short (that) insurance companies don't have the fat in their budgets anymore to withstand fluctuations," she said. "The soft market this time is crippling insurance com-

Continued on next page

Wehl honored for managing Elders' risks

By KATE McILWAINE

MELBOURNE, Australia—Keith D. Wehl, risk manager of one of the nation's largest companies, has been named risk manager of the year by the Assn. of Risk & Insurance Managers of Australia.

The executive director of insurance and risk management for Elders IXL Pty. Ltd., an agricultural, brewing and finance group in Melbourne, received the award at the ARIMA annual conference last month in Melbourne.

For seven years, Mr. Wehl has overseen risk management and insurance for Elders IXL. The concern, which has subsidiaries in New Zealand, the United Kingdom and North America, was one of Australia's most profitable companies in 1989.

Elders IXL has since announced plans to sell off all its non-brewing assets and change its name to Foster's Brewing Group. Major subsidiaries now include wool, grain and meat firms, as well as a merchant bank.

Its insurance requirements include property, directors and officers, professional indemnity, bankers blanket bond, product liability and recall, ocean marine and aviation.

Mr. Wehl said he concentrated on risk management and purchased catastrophe insurance.

"The role of a good risk manager is to provide a surprise-free environment for the board of directors," he said. "If there's a hiccup, at least there will be the right sort of protection in place to

Continued on next page

$13.4 million stolen in armed theft in Montreal

Brink's insured for heist

MONTREAL—The $13.4 million of gold bars and other valuables stolen in a pre-dawn heist at Dorval Airport outside Montreal earlier this month were completely insured in the London market.

Armed thieves Dec. 1 ambushed a private turbo-prop plane chartered by Brink's Canada Ltd. as it sat on a runway after a regular overnight run from New York via Ottawa and Toronto.

At least four men, including one armed with a machine gun, stole the gold bars and securities shortly before 4 a.m., according to Allen Trepanier, a lieutenant detective with the Montreal Urban Community police.

The thieves used a garbage truck to smash through a fence to gain access to the parked plane, owned by Jet All Co. of Toronto, Mr. Trepanier said.

After loading the goods into two stolen vans, the robbers drove off. No one was injured and no shots were fired, Mr. Trepanier said.

Police have no suspects, he said.

Brink's Canada, a subsidiary of Darien, Conn.-based Brink's Inc., is 100% insured in the London market through Lloyd's of London broker Willis Faber & Dumas Ltd., a subsidiary of Willis Corroon P.L.C.

Lloyd's syndicates managed by Sturge Holdings P.L.C. lead the coverage, sources confirmed.

A Brink's spokesman in Darien would not comment on either the robbery or the security company's insurance.

In November 1983, 25 million pounds ($40.6 million) worth of gold ingots and jewelry was stolen from a Brink's-Mat Ltd. warehouse near London's Heathrow Airport.

Coverage for those valuables was led in London by syndicates managed by Merrett Underwriting Agency Management Ltd., which stopped leading the coverage about two years ago.

Underwriters expect to recover between 17 million pounds and 20 million pounds of the Brink's-Mat loss because of investigations by the police and loss adjusters Robert Bishop Adjusters Ltd. (*BI*, Aug. 28, 1989; Dec. 5, 1983).

—By Stacy Shapiro and Michael Schachner

BERMUDA

Cambridge Re expects to pay dividend soon

HAMILTON, Bermuda—Cambridge Reinsurance Ltd. expects to begin paying a third dividend next month, bringing to $13 million the total payout the insolvent company has made since 1985.

But, joint liquidator David Lines says that a final distribution of the Cambridge estate is still some way off.

"We are hoping to declare another interim dividend just before Christmas and expect that it will be paid to creditors sometime in January," said Mr. Lines, a partner with Coopers & Lybrand Bermuda in Hamilton.

Mr. Lines was appointed joint liquidator by the Bermuda Supreme Court shortly after Cambridge went into liquidation in May 1985. His fellow liquidator is Michael Jordan—a partner of Cork & Gully, a unit of Coopers & Lybrand in London—who was appointed liquidator this summer after the previous joint liquidator retired.

The Bermuda company, a subsidiary of Nova Scotia-based National Sea Products Ltd., collapsed with liabilities estimated at $80 million.

Mr. Lines said that like the two previous cash payouts to more than 2,000 Cambridge creditors (*BI*, July 16), the next dividend will be worth almost $5 million and equivalent to nearly 4% of Cambridge's total claims of about $130 million.

The timing of Cambridge's fourth dividend depends largely on how successful the liquidation team is at collecting sums owed to Cambridge, Mr. Lines said.

"We'll probably be in a position to consider another dividend next summer, but I doubt it will be the last," he said. "Though this is strictly a matter for the (creditors') Committee of Inspection to decide, I suspect we will not be able to think about completing this liquidation for another 12 months."

The liquidation of Cambridge Re is regarded as one of the fastest ever of its kind. Liquidators have made unprecedented use of provisions of the Bermuda Bankruptcy Act to actuarially determine the reinsurer's contingent liabilities (*BI*, March 16, 1987).

—By Roger Scotton

1989 Bermuda results

The Bermuda insurance industry continued to grow in 1989, despite a soft market that brought competition from onshore markets, according to government figures released last week.

The government reviewed the results of 1,314 insurance and reinsurance companies registered in Bermuda as of Dec. 31, 1989. It waited until Oct. 31, 1990, to conduct its analysis to ensure that all 1989 figures had been reported.

Gross premiums written increased 7.6% to $11.95 billion as of Dec. 31, 1989, from $11.11 billion in 1988, the government reported.

Net premiums written rose 12.1% to $9.41 billion in 1989, from $8.4 billion in 1988.

"These increases over last year indicate the commitment of our companies to stability; their confidence in Bermuda as a captive domicile; and Bermuda's attractiveness as a domicile for the larger insurance entities marketing a variety of innovative insurance products," said Pamela L. Adams, Bermuda's acting registrar of companies, in a statement accompanying the results.

Assets of all Bermuda-based insurance companies totalled $44.49 billion last year, up 15% from $38.69 billion in 1988, while capital and surplus shot up 20.3% to $17.34 billion in 1989, from $14.45 billion in 1988.

As of Oct. 31, the government reported that the number of companies on register had fallen to 1,309, from 1,314 at year-end 1989. In the first 10 months of this year, 41 new companies were incorporated while 46 insurers were removed from the register.

The government report also noted that several new financial reporting requirements were adopted in 1989.

"On 7th July, 1989, regulations were passed permitting the discounting of loss provisions under certain circumstances; introducing a solvency margin test whereby capital and surplus must equal at least 10% of loss provisions; defining unrelated business; and requir-

Continued on page 33

Insolvencies

Continued from previous page
panies more quickly."

Estimates are that the market will start to turn in 1992, which means forced insolvencies will grow apace, she said. Cautioning risk managers to assess insurers very carefully, she predicted some major insurer collapses before a market turn. Those failures, she said, will "make the market stay harder for longer."

She sought to dispel a mid-1980s "myth" that only U.S. insurers went bust by citing examples from Australia, Germany, Italy and the United Kingdom.

"An insurance company is a money box, with premium flowing in and claims being paid out. An insurance company can be a very frail thing, a porcelain pig," she said as a projector flashed the image of a piggy bank.

Risk managers and security analysts need to assess whether an insurer can withstand market fluctuations or being "buffeted by windstorms and earthquakes," she said.

She defined a secure insurer as one that is willing and able to pay claims expeditiously—"today, tomorrow, next year and in 20 years."

Her definition included reinsurers and intermediaries—as well as underwriting agencies—because intermediaries also bear risk, though not underwriting risk.

Underwriting agents were the primary cause of some major failures that left billions of dollars of unpaid claims, Ms. Purdie said. "Many of those companies gave their pen away, giving agents the right to write their business, and some agents exceeded their authority and misrepresented the amount and type of business they were writing." Uncontrolled growth brought the insurers down, she said.

She warned that executives set up some companies with no intention of paying claims. As an example, she cited New England Surety International of America Inc., a failed Louisiana company supported by a nonexistent Panamanian trust (*BI*, May 1, 1989).

"There are insolvencies in regulated insurance markets. Why?" she asked. No scientific formula exists for forecasting insolvencies, but it should be a "well-practiced art," she said.

After detailing underwriting losses for several major insurers, she noted that insurers rely on investment profits to make up a shortfall. But U.K. insurers and their foreign subsidiaries showed net losses in 1985, even when investment income was taken into account, she pointed out. "I don't know of any (other) industry in the world where that could happen, and it's a direct result of the soft market of the early to mid-1980s," she said.

"In 1989, profits in the United Kingdom took a tremendous dive. People say it's because of the catastrophes—and we've had a few—but in 1987, when the windstorms occurred, profits didn't fall; they started to tip down in 1989. Again, it's the lag effect, and many companies are already pared to the bone," said Ms. Purdie.

"The soft market takes time to bite," she said, predicting profit "dips" in 1990 and 1991.

Turning to Australia, she said figures on private sector investment income showed that investments had "bailed out" underwriting losses in 1988-89. Everything looks "hunky dory" in Australia, said Ms. Purdie. "But take into account that 70% of the profit is being earned by six major insurance companies in Australia, which doesn't leave much for the other 150."

She advised Australian investors to leave their money in the bank rather than buy insurer stocks.

"What shareholders want is return on their investment" and last year they got it, with shareholder funds gaining 8.6% in an economy with high interest rates said Ms. Purdie. Return was 5.8% in 1988 and 6.2% a year earlier.

"You can guarantee next year will be a bad one for the industry, taking into account the Newcastle earthquake and hailstorms in Sydney" she warned.

Security analysts, she added, need faster access to information to accurately analyze companies.

"You can't afford to wait for published information, some of which is 22 months old by the time you get it," she contends, continuing her piggy bank analogy. "You need to be able pick up the pig and shake it to see what's inside."

Regulators, like security analysts and insurance buyers, need more rapid access to information, she said. "You can have the most sophisticated regulation in the world, but if you're not looking at the information soon enough, it's no good. We need more constant assessment." ■

Wehl

Continued from previous page
take care of it."

When he joined Elders, he found that the company—as many other major companies—believed accidents happened only to someone else, Mr. Wehl said. Price was its major consideration in buying insurance.

That soon changed.

The company now recognizes the role of risk management, he said, pointing out that he is an executive director.

Risk managers need to explain to companies the value and functions of risk managers, brokers and insurers, Mr. Wehl said.

"We don't hire auditors and solicitors on the basis of lowest price. We must educate corporations to think more responsibly when buying insurance."

His insurance-buying strategy focuses on market continuity and fair premiums, rather than the lowest prices.

"We don't chop and change each year. We concentrate on building a worthwhile relationship," Mr. Wehl said.

"Providing an insurer has been selected correctly I'm happy to stay with that insurer and build a long-term relationship."

Building a "comfortable" relationship over several years with broker Marsh & McLennan Pty. Ltd. and four insurers was a key to risk management success, Mr. Wehl said.

"A lot of brokers try to keep the client away from the underwriter. I like to meet the insurer; that way we can talk if there are any problems," he said.

As a former broker, he knows "what it's like to be on the other side," Mr. Wehl said.

Some brokers, he added, will demean themselves in order to attract business by "flogging away, cutting prices."

Elders IXL prefers to avoid dollar-swapping with insurers by absorbing small working losses.

All divisions are directly accountable for their claims costs, he said. Insurance costs are allocated on a risk-weighted basis, taking into account exposures, managers' attitudes toward risk management, claims histories and other factors.

Divisional managers must understand that losses relate to productivity and products and they need to cover their own losses with increased sales, he said.

"Once they understand a risk manager's role, then they can see that we are a resource," he said.

Mr. Wehl recently handled a $3.5 million Australian ($2.7 million) claim for an Elders division involved in lot-feeding cattle in

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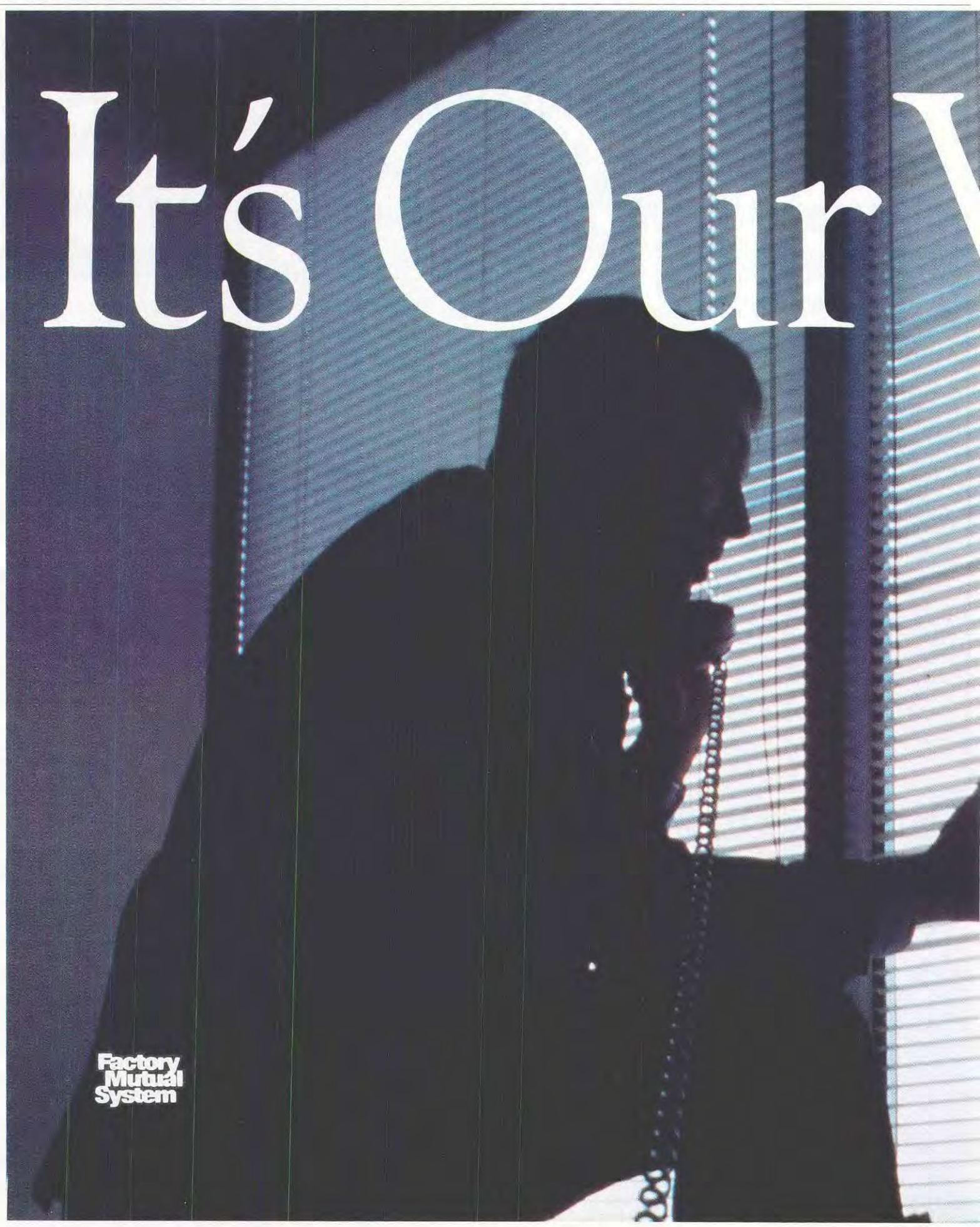

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Queensland. The cattle died after eating contaminated feed.

"It was something no one thought would happen," he said. "We had insurance in place, and the policy operated to our benefit."

Mr. Wehl

Elders IXL purchases loss control services from Marsh & McLennan Protection Consultants. "I don't attempt to take a hands-on approach on the factory floor; that's why we use protection consultants," he said.

"Insurance is an integral part of risk management, but it's not the be-all and end-all," Mr. Wehl said. "It's easier to prevent accidents; insurance is never going to actually put you back in exactly the same position."

Elders IXL, one of the world's largest brewers, owns 50% of Molson Breweries, the biggest brewer in Canada. Its Foster's beer is brewed under license in Europe and it owns breweries in Fiji and other nations.

Mr. Wehl said he expects overseas brewing operations to expand more as the company focuses on its core business.

But he said the risk management philosophy would remain the same.

Mr. Wehl has been in the insurance industry for 42 years. He was an underwriter for 12 years and a broker for nearly twice that long. He also is a former Victorian chairman of a national brokers trade group.

He is a member of the Australian Institute of Risk Management, the Assn. of Risk & Insurance Managers of Australia and an associate of the Australian Insurance Institute.

The risk manager of the year was chosen by an eight-member panel: Robert M. Piper, managing director of Sedgwick James Ltd. in Melbourne; Timothy P. Gibson, managing director of Alexander Stenhouse Ltd. in Sydney; Brian R. Carlisle, general manager-operations for CIGNA Insurance Australia Ltd. in Sydney; Robert G. Pearce, general manager-operations for Commercial Union Assurance Co. of Australia Ltd. in Melbourne; a former winner; Ian K. Dayton, group insurance manager for Inghams Enterprises Pty. Ltd. in Casula; Kevin D. Mutch, general manager-risk management for CRA Ltd. in Melbourne; Kate McIlwaine, an insurance journalist who is a *Business Insurance* correspondent in Brisbane; and Lynda Caporn, manager of ProRM Ltd. in Sydney. ■

ARIMA strategic plan targets membership, healthier financing

By KATE McILWAINE

MELBOURNE, Australia—The Assn. of Risk & Insurance Managers of Australia is relying on a new five-year strategic plan to set its course for the future.

Prepared with the help of a consultant from the Victorian Employers' Federation, the plan aims to increase membership in ARIMA, achieve a higher profile for the association and its members, offer a broader range of services and increase its financial strength, said President Daryl J. Watson at ARIMA's annual general meeting last month.

The association, now 15 years old, needed to know where it was going, according to Mr. Watson, who also is risk and insurance manager for tobacco company Rothmans of Pall Mall (Australia) Ltd. in Granville, New South Wales. "We need to develop the ability to put our case to media and governments," he said.

The ARIMA board, headed by Mr. Watson, who has been re-elected president of the association, will determine the priorities for the strategic plan.

The annual general meeting heralded the start of ARIMA's 14th national conference, titled "Adaptability in the Face of Change," held in Melbourne, Nov. 11-14. Almost 400 people attended the meeting, which included speeches and workshops on risk management, liability issues and occupational health and safety.

In an address on the conference's opening day, Cheri J. Hawkins, president of the Risk & Insurance Management Society Inc., warned risk managers that insurers were becoming more cautious about the business they write, echoing remarks she had made in October at the second Asia Pacific Risk Management Conference in Singapore (*BI*, Nov. 12).

"The trend is for insurance companies to exclude or limit cover for any risk that might lead to a claim," said Ms. Hawkins, who is also assistant treasurer and director of insurance for Washington-based Weyerhaeuser Corp. "The claim is becoming the mother of exclusion."

Ms. Hawkins said risk managers could not count on underwriters to cover political or environmental risks.

Political risk insurance is becoming impossible to obtain, she said. "Even Lloyd's is backing away." And insurers "have fled from sudden and accidental pollution," she said.

Ms. Hawkins issued a warning to insurers: "Don't protect yourselves out of existence.

"With huge deductibles and exclusion clauses, corporations will be looking at other ways of financing risks; not just captives, but new, innovative schemes," she said.

Ms. Hawkins cited company-owned reserves for catastrophic losses and trusts for directors and officers' liability as examples.

"The insurance industry's function is to protect insureds—not itself—against claims," she said.

"It will no longer have a function if it covers only risks with which there will be no claims."

Ms. Hawkins said today's risk manager must think globally. Foreign events have greatly affected business, Ms. Hawkins said. For example, the Persian Gulf crisis has led to significant transportation cost increases, while, at the same time, the fall of the Berlin Wall has increased business opportunities overseas.

Next year's conference will be held in Brisbane Nov. 10-13. For more information, contact The Conference Secretariat, ARIMA, P.O. Box 1280, Milton 4064, Brisbane, Queensland, Australia; 07-369-0477; fax: 07-369-1512. ■

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Promote managing risk for recognition: Panel

By KATE McILWAINE

MELBOURNE, Australia—Risk management will not gain widespread recognition as a profession until more corporations understand what risk managers do, says the president of the International Federation of Risk & Insurance Management Assns.

And getting companies to understand that role is "going to be a tough battle," said Kevin M. Knight, president of IFRIMA and risk management adviser for Australia Post, the nation's postal service. "We're going down a very rough road," he said.

Mr. Knight participated in a panel discussion on the future of risk management at the Assn. of Risk & Insurance Managers of Australia's annual conference last month in Melbourne.

Corporate management, according to Mr. Knight, is able to "come to grips with insurance," but does not "understand risk management in a pure sense."

British executives also regard buying insurance as the risk manager's sole responsibility, said Brian Pountney, chairman of the Assn. of Insurance & Risk Managers in Industry & Commerce.

Insurance, though, is only a part of risk management, not the "driving force" behind it, Mr. Knight stressed.

The field is better recognized in the United States, according to Cheri J. Hawkins, president of the Risk & Insurance Management Society Inc.

Mr. Knight observed that in Australia, "risk management will always be a difficulty while insurance is so cheap because of a soft market. . . .It makes true risk management an uphill battle."

Soft markets are the enemy of risk managers, agreed Mr. Pountney. Companies that find insurance easily available are discouraged from preventing losses and containing costs, he said.

But Mr. Knight warned that companies ignoring risk management principles in a soft market could "get into trouble" when the market turns.

In Australia, risk management in its pure form is most often found in the public sector, according to Mr. Knight.

Government-owned organizations like Australia Post traditionally have purchased only catastrophe coverage and relied on risk management to minimize losses within their self-insured retentions, he said.

Other Australian companies increasingly will do the same, he predicted.

All panelists agreed that to improve companies' understanding of risk management, it should be a core subject in general business management courses.

Too often, when talking to senior managers about a company's exposures and liabilities, "you might as well be talking Swahili," complained Mr. Knight. "We need to talk the same language as executive management."

In the United States, RIMS is "trying to raise risk managers to a higher management level of recognition," Ms. Hawkins said.

AIRMIC's Mr. Pountney observed that risk managers often are kept in the dark about a company's operations by senior management.

One example he cited: A risk manager who found out his company was to be bought out only the day before the transaction occurred.

Ms. Hawkins said that U.S. companies recognize the need for a risk manager's input in an acquisition due to the fact that a company's potential liabilities are acquired along with the company itself.

IFRIMA's Mr. Knight counseled risk managers to be tenacious and overcome their limited recognition.

"As you work within your corporation, you will be in a better position to be able to come in and tell management the problem and the ways to fix it," he said. "You need to stay somewhere and build up your credibility and educate the management."

Meanwhile, Mr. Knight predicted an increase in dialogue between IFRIMA members in different parts of the world.

"If you're operating in a multinational environment, you need to know what's happening on the ground floor. You're more likely to get answers from your colleagues who know of the problems and pitfalls.

"The international association is important as a clearinghouse and as a way of developing a good core for risk management education," he said.

"We need to ensure risk managers are all working from the same ground rules; we need to have the same definitions, the same language," Mr. Knight said.

Also serving on the panel was Daryl J. Watson, president of the Assn. of Risk & Insurance Managers of Australia. ■

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INTERNATIONAL

Unsafe workplaces cost lives, profits

By KATE McILWAINE

MELBOURNE, Australia—Workplace safety problems are inflating occupational health costs and reducing profits, warns the head of Australia's occupational health and safety commission.

Each year, more than 500 Australians are killed in work-related accidents and even more die from occupational related illnesses, said Dr. Edward A. Emmett, chief executive of the National Occupational Health and Safety Commission, also known as Worksafe Australia.

Dr. Emmett, who is also director of the National Institute of Occupational Health and Safety, attributes about 360 of those deaths to mesothelioma, an asbestos-related disease.

"And there are more than 300,000 compensated injuries—160,000 requiring more than five days off work—occurring each year," he said at a panel session on workplace safety at the annual Assn. of Risk & Insurance Mangers of Australia conference last month in Melbourne.

The direct cost of workers compensation claims in 1989-1990 was $4.8 billion Australian ($3.7 billion). Dr. Emmett estimated the total cost of workplace deaths, injuries and diseases at more than $9 billion Australian ($7 billion) annually.

According to Dr. Emmett, studies show that the direct cost of workers compensation increased dramatically from 1977-78 to 1986-87, but has now stabilized at between $700 and $800 Australian ($542-$619) per non-farm wage and salary earner.

All businesses should give high priority to occupational health and safety because 10 times more working days were lost to injuries than to industrial disputes, he said.

He noted that in the New South Wales coal industry, the estimated direct cost of lost time for injuries adds $2 Australian ($1.50) for each ton of coal.

"At a market value of about $40 Australian a ton ($31), occupational health and safety costs represent about 5% of product price," he pointed out.

Inadequate statistics for measuring and evaluating occupational health and safety "have contributed to our dismal experience," he said.

Worksafe Australia, he noted, is improving its records by compiling a national data base.

Stressing the importance of data evaluation in the private sector, Dr. Emmett cited several Australian companies that eliminated problems and saved money by monitoring their own workplace accident data.

Coles Myer Ltd. of Melbourne, the nation's largest retailer and largest private sector employer, reduced its workers comp premiums 20% to 30% in each of the past three years after computerizing its claims and risk management systems, he said.

Another organization that saved money by monitoring workplace accident data is Mater Hospital, a major Brisbane facility, Dr. Emmett said. The hospital's manual handling injuries were isolated in data analysis, and over two years, the organization reduced average lost time from 600 shifts to 500 shifts a year.

Mater Hospital's workers compensation claims were reduced to $35,000 Australian ($27,107) a year from more than $80,000 Australian ($61,960) a year.

Injured employees are better off recovering at work than at home, an employer's medical consultant told the audience.

Dr. Edwin W. Knight, medical consultant for Melbourne-based newspaper publisher The Herald & Weekly Times Ltd., pointed out that injured workers get bored at home, lose their self-esteem and identity, and are isolated from social contact.

"I have seen many injured workers with only a moderately severe physical injury go on to become permanent invalids suffering from a psycho-socio-cultural disability," he said.

Dr. Knight criticized doctors who provide medical certificates stating that an employee is capable of light duties only.

He suggested that doctors provide information on the type of work a person can do, stating the person's capabilities and limitations.

Derek Viner, managing director of Melbourne-based occupational health consulting firm Viner Robinson Jarman Pty. Ltd., said many employers are unaware of codes of practice for manual handling.

Many workers avoid reporting symptoms of pain in the belief that the injuries are not compensable and injury would be detrimental to their work record, Mr. Viner explained. ■

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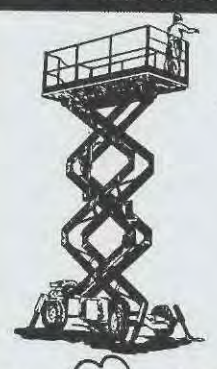

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INTERNATIONAL

Reform of product liability laws sought

By KATE McILWAINE

MELBOURNE, Australia—Australia's proposed product liability law reforms may be referred to yet another government committee, a product liability lawyer says.

But he warned that consumer groups could pressure the government for a faster response.

Geoff Masel, an insurance law consultant with the Melbourne firm Phillips Fox and president of the Australian Insurance Law Assn., spoke at the annual conference of the Assn. of Risk & Insurance Managers of Australia in Melbourne last month.

Reform is needed, said Mr. Masel, but little progress has been made since 1987, when the National Consumer Affairs Advisory Council first proposed changing the product liability law.

"There is almost universal agreement that the current product liability laws need to be changed. Consumers sometimes face difficulty in obtaining justifiable compensation for loss or injury caused by defective products, and manufacturers are sometimes required to fully compensate consumers for loss suffered, even when product misuse has contributed to the loss," Mr. Masel said.

The Trade Practices Act now limits liability to breaches of statutory product standards, and, under common law, negligence or breach of contract must be proven. Only product owners can sue, not third parties who suffer loss or injury.

The federal government initially asked the Australian Law Reform Commission to report on proposed changes.

In June 1989, the commission recommended moving toward strict liability if product performance causes loss or injury. Its report, recalls Mr. Masel, "caused a stir."

Federal officials then turned to the Industry Commission—which was established to consider proposed changes to existing laws. They sought estimates of implementation costs and the effects the proposals would have on product innovation and insurance costs (*BI*, July 9).

The Industry Commission—whose report was dated July 18, 1990, but was not made available until late September—concluded that the ALRC's proposals would reduce economic efficiency and should not be implemented.

The Industry Commission found that the proposals would "impose excessive liability on producers, increase product liability insurance charges and, hence, product prices, and may lead to reductions in innovation, particularly for risky products, such as pharmaceuticals," he said.

Mr. Masel said the Industry Commission suggested:

- A single regime to deal with product liability cases. At present, there are separate actions available under contract law, if a contract exists, and for negligence if one does not.
- Removing the distinction between owners and non-owners of goods, with product misuse being taken into account.
- Incorporating acceptance-of-risk and development risk defenses.
- Placing liability on the government if the loss is caused by compliance with mandatory standards.
- Placing liability on producers for deterioration only if product defects cause a loss.

Mr. Masel said the federal cabinet is unlikely to consider the Industry Commission's report until next year, and the government may refer the matter back to the ALRC before any decision is made.

Reform is "a painful process," Mr. Masel said, but is needed because existing law is "undoubtedly complex."

Australia needs a single product liability law that will be clear and predictable, he said. "If the rules are clearer, it will increase settlement at an earlier stage and lead to greater efficiency."

He agreed with the Industry Commission's comments that a totally new regime is not necessary and said the Trade Practices Act could be appropriately modified.

Cheri J. Hawkins, president of the New York-based Risk & Insurance Management Society, told Mr. Masel that Australia should consider all the ramifications before changing its product liability laws, because "things can get out of hand."

Mr. Masel said the ALRC had considered the U.S. experiences but did not think Australia was following the same path, because there are no lawyers' contingency fees and punitive damages are rare. Also, in most Australian states, personal injury awards of more than $2 million Australian ($1.5 million) for a quadriplegic are unusual and would be considered "extremely high in Australian terms," he said.

He suggested that the amount of damages would not change, even if the law did.

ARIMA also opposes the ALRC recommendations, said Brendan M. Ryan, ARIMA past president and assistant risk manager for Melbourne-based aluminum producer ALCOA of Australia Ltd.

Mr. Ryan said ARIMA had taken part in the Industry Commission's public hearings on product liability reform and participated in the preparation of the Business Council of Australia's submission to the commission.

He said ARIMA considered the proposals "too costly," and felt they would make Australian products non-competitive in world markets.

If the proposals are adopted, he said, insurance premiums and deductibles would rise, especially for goods like pharmaceuticals.

Mr. Ryan supported some reforms, provided that they were achieved by amending the existing legislation and permitted an "appropriate and reasonable" range of defenses for manufacturers.

There needs to be "a better balanced and stable product liability insurance market," he said. ■

LONDON

Continued from page 27

As a result, U.S. accountants, lawyers and other professionals who purchased professional liability insurance directly from LUI insurers could receive up to 90% of their claims, confirmed Derek Wright, secretary of the Policyholders Protection Board, which administers the compensation fund.

"The board has to seek legal advice and it may be necessary to ask a British court for a ruling on the issue," he said.

Meanwhile, the board currently is working closely with the administrators of London United Investments P.L.C., the parent company of several of the insolvent Weavers' insurers, and could play a part in settlements with Weavers' policyholders, according to Mr. Wright.

The administrators of LUI are currently working on a scheme of arrangement to run off four of the LUI companies, three of which are based in London. In addition, the administrators are proposing to arrange commutation deals with policyholders of Walbrook Insurance Co. Ltd. (*BI*, Nov. 12; Nov. 5).

Under the administrators' proposed "scheme of arrangement" to pay claimants, commercial policyholders of the four companies would receive payouts of a maximum of 60% of their claims, probably less.

However, policyholders that fall under the Policyholders Protection Act would be entitled to up to 90%.

Under the act, the board could make payouts to eligible policyholders without the insurer being forced into liquidation.

"The board has had a series of meetings with the administrators and is continuing to look at the situation. Whether the board would act in parallel with the Administrators' plans or independently hasn't yet been decided," Mr. Wright said.

The board consists of representatives of at least three insurance companies plus a member qualified to represent policyholders.

Compensation paid through the board is funded through a levy on all authorized insurance companies within the United Kingdom based on their premium revenues.

Continued on next page

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Business Insurance

BERMUDA

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ing the disclosure of additional information in the annual reporting," the report said (*BI*, July 10, 1989).

"To date, the department has experienced a very positive response with respect to compliance with the new regulations," Ms. Adams noted.

The report also said that application guidelines revised in March 1989 for companies proposing to write product liability, professional indemnity and medical malpractice business led to the formation of eight new captives to write these risks.

—By Paul D. Winston

Pinnacle settles suits

Bermuda-based financial reinsurer Pinnacle Reinsurance Co. Ltd. has agreed to an out-of-court settlement of two identical suits alleging fraud brought against it and numerous other parties in a state court in Miami.

One suit was filed by the receiver of insolvent U.S. Oil & Gas Corp., Eagle Oil & Gas Corp. and The Stratford Co., and the other was a class action suit brought by "persons who sought to purchase oil and gas programs from the aforementioned companies during the years 1979 to 1983," according to Pinnacle.

The suits, which were mentioned in Pinnacle's 1989 financial results under the heading of contingencies, sought $55 million and named 98 defendants. They each alleged conspiracy to defraud investors who sought to purchase oil and gas programs from the three companies.

Pinnacle Chairman Bruce Swann said in a statement that the company is now in the process of being released from the two U.S. Oil & Gas lawsuits "in return for a payment to the plaintiffs of a nominal amount representing a small proportion of the legal costs which would otherwise have been incurred by Pinnacle in defending itself at trial in Florida.

"In contrast to the practice in Bermuda, such legal costs would not have been recoverable from the unsuccessful plaintiffs," noted Mr. Swann.

He would not say how much the settlement cost, although it is believed to be less than $500,000.

Mr. Swann said payment to the plaintiffs "was specifically made without any admission of liability by Pinnacle," which "utterly refuted" the allegations.

"Pinnacle's 1990 results will not be impacted by this settlement. Furthermore, Pinnacle is actively pursuing its cross claims against the leading broker for full indemnity for this payment plus legal costs previously incurred," Mr. Swann said.

The broker is Alexander & Alexander Services Inc., *Business Insurance* learned.

Pinnacle's claims against the broker seek "full indemnity" relating to an annuity contract it brokered eight years ago.

The contract provided that in return for a premium paid by U.S. Oil & Gas to Pinnacle in 1982, the Bermuda company was obliged to pay $1 million in April 1987. The money was paid into court pending the outcome of the lawsuits.

—By Roger Scotton

LONDON

Continued from page 32

Heath refinances debt

London brokerage C.E. Heath P.L.C. is refinancing its medium-term debt to increase capital available for acquisitions.

Heath plans to continue expanding its U.K. retail brokerage network and to look for opportunities overseas, said Finance Director Paul Hughes.

A Multicurrency Credit Facilities Agreement provides the company with a 20 million pound ($38.6 million) multicurrency medium-term loan; a 15 million pound ($28.9 million) revolving credit facility; and a $40 million letter of credit facility, which will be used to support a medium-term loan drawn by the C.E. Heath International Holdings Group in Australia.

C.E. Heath last month began reorganizing its London insurance and reinsurance brokering operations. That move follows the 18 million pound ($34.7 million) acquisition of Abaco Investments P.L.C., a U.K. retail broker.

The Abaco acquisition included the purchase of B&C Insurance Brokers (U.K.) Ltd.; B&C Insurance Brokers (Financial Services) Ltd.; and the ongoing business of B&C Insurance Brokers Ltd.

Brokerage revenues from the 15 B&C offices exceeded 14 million pounds ($27 million) in 1989, according to Heath. The net assets of B&C Brokers total about 8.5 million pounds ($16.4 million), including 5.5 million pounds ($9.6 million) in cash.

"Their merger with Heath's current operations will result in a regional network with one of the widest spread of U.K. offices" of any Lloyd's brokerage group, Heath claimed last month.

The acquisition is expected to strengthen Heath's position as a contender to fill the gap in the UNISON network left by the merger of Willis Faber P.L.C. and Corroon & Black Corp.

Heath was one of several London brokers discussing joining the network, the broker confirmed.

Meanwhile, Heath last month reorganized its operations into two main divisions: retail and wholesale. Both divisions will have their own management structure and will report directly to the Heath board.

Michael Kier, a group managing director, will be chairman of the retail operations, which will trade under the C.E. Heath name.

John Mackenzie Green will be chairman of the wholesale operations, which will trade under the name of Heath Fielding.

Power plant cover

A huge package of non-marine insurance placed in the London market will cover the construction and operation of a 750 million pound ($1.45 billion) gas power plant in Northeastern England.

With a premium of 8 million pounds ($15.42 million), it is the largest non-marine policy placed in the United Kingdom since the Channel Tunnel project, according to Fenchurch Insurance Brokers Ltd., the London broker of the program.

The complex package covers the construction and operation of a 1,725 megawatt combined heat and power gas-fired power station being built by Enron Power Construction Ltd., a subsidiary of Houston-based Enron Corp., at Wilton near Teeside.

Fenchurch began putting the program together in May. It provides more than 600 million pounds ($1.16 billion) in limits for physical damage as well as undisclosed limits for liability insurance and business interruption or delay in start-up coverage.

The package is underwritten 75% by 150 Lloyd's underwriters and 25% by other European insurers, said David Way, a Fenchurch director.

'Brown water' risks

Another protection and indemnity mutual insurer is refusing to renew coverage for inland waterway risks, primarily because of increasing liability claims from U.S. "brown water" risks.

The Standard Steamship Owners' Protection & Indemnity Assn. (Bermuda) Ltd., managed by Charles Taylor & Co. in London, announced last month that it will not be offering renewal terms to "brown water" members beginning Feb. 21.

Another facility Charles Taylor is working on, however, would enable members to insure inland water risks with Lloyd's of London underwriters.

A Standard P&I Club spokesman said the "high liability business of brown water risks, particularly in the U.S., does not fit into the traditional business of P&I Club members."

In September, the West of England Ship Owners Mutual Insurance Assn. said it plans to stop writing those risks.

Brown water risks consist of small inland watercraft such as barges, tugs and tow boats. U.S. claims related to such risks have increased in recent years.

Meanwhile, the Standard also announced recently that liability losses in general would force additional premium increases—known as supplementary calls.

"Regrettably, claims costs for all types of business in the open years have continued to escalate in an unprecedented way and, in addition, the recent closed years have also been subject to unexpected deterioration," the club told members in a recent bulletin.

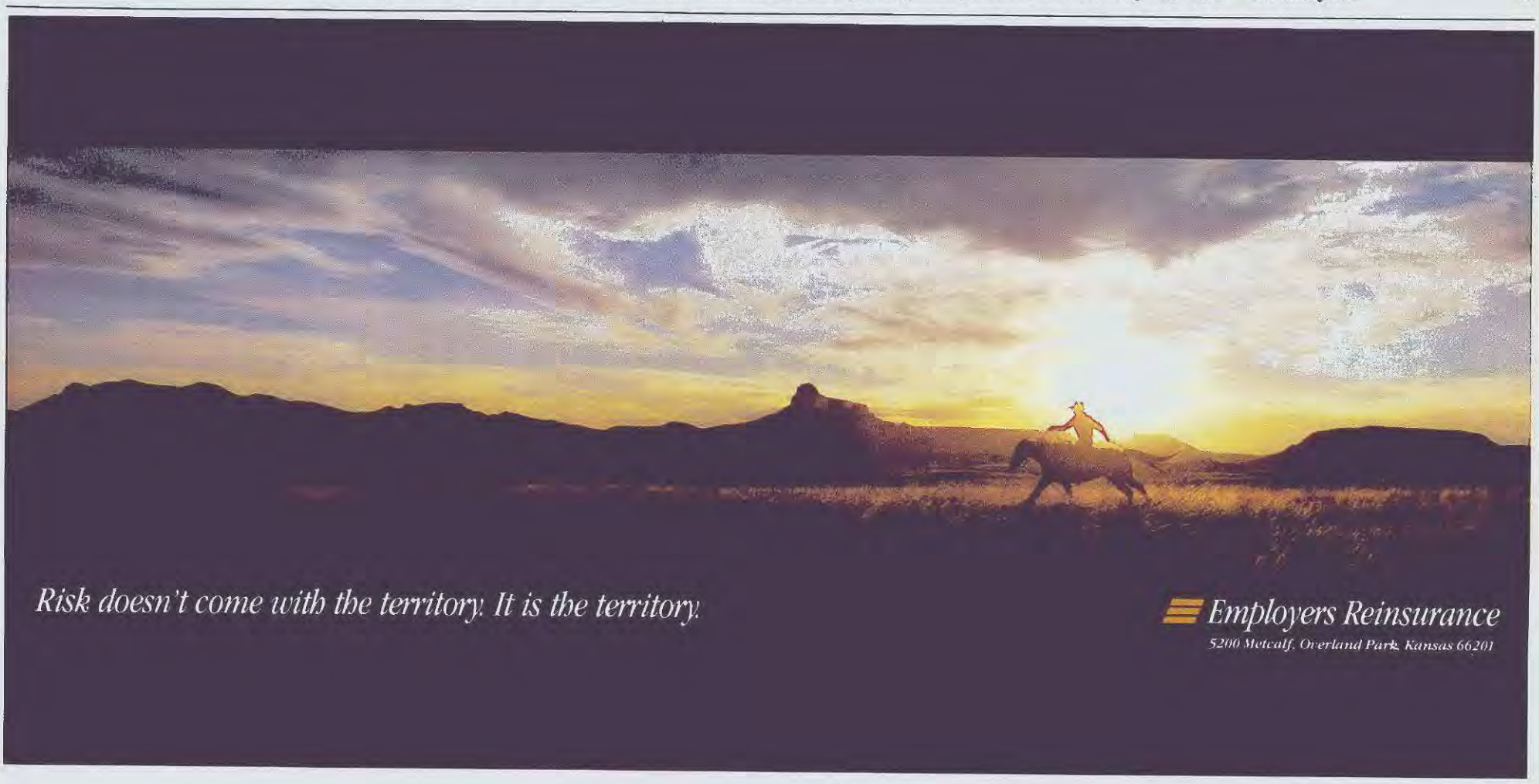
In addition to calls announced earlier, the club is making these supplementary calls:

- For the 1988/89 policy year, the club is charging a further supplementary call of 65% of the estimated total call payable in February. This is on top of the supplementary call of 35% charged in May.
- For the 1989/90 year, an additional supplementary call representing 100% of the estimated total call will now be charged, payable in two equal installments in May and August of 1991.
- For the 1990/91 underwriting year, the club anticipates a supplementary call in excess of the 25% originally estimate, although the year is still at an early stage.

Comings & goings

Roger Cooney and **Michael Vaughan-Fowler** have been appointed senior executive directors at J.H. Minet & Co. Ltd., and **Paul Cotterill** and **C.R. Dixey** have been appointed managing directors. **David Klima** has been appointed managing director of the broker's new International Marine and Energy Division—the combination of the broker's international marine division and the international offshore energy division.

John Parton has been appointed an assistant general manager of Guardian Royal Exchange P.L.C. in charge of the company's U.K. commercial insurances division. Mr. Parton will be responsible for the commercial marine and aviation insurance portfolios. Mr. Parton previously was GRE's marine and aviation underwriter. He also served as chairman of the Institute of London Underwriters until earlier this year. ■



Reinsurer results

Continued from page 3

parable group for the same period of 1989 (see chart, page 35).

But, the combined ratio for the reinsurers for the first nine months was an improvement over the 107.2% combined ratio reported by a similar group of reinsurers for the first half (*BI*, Sept. 17).

Reinsurance officials, though, say the improvement is insignificant.

The combined ratio for the 20 largest reinsurers overall rose to 106.7% for the first nine months, from 106.1% for the same period a year ago, though eight of those companies reported improved combined ratios.

A slightly different group of top reinsurers reported a 107.4% combined ratio for the first half.

The U.S. reinsurance industry's net written premiums improved 5.5% to $7.8 billion during the first nine months this year, from $7.4 billion for the comparable period a year ago. But, the nine-month increase would have been just 3.2% if results for the nation's largest reinsurer, General Reinsurance Corp. of Stamford, Conn., were not included. General Re reported a rise in net written premiums of 16.1% to $1.5 billion for the first nine months from $1.3 billion during the same period of 1989.

In the first half, reinsurers' net written premiums rose 4.5% to $5.1 billion from $4.9 billion for the first six months of 1989.

Premium volume among the Top 20 reinsurers increased 5.8% to $7.1 billion in the first nine months from $6.8 billion for the same period in 1989. But, excluding General Re's results, the Top 20 reinsurers' premium volume would have increased 3.3%.

Policyholder surplus as of Sept. 30 was $11.97 billion, a 5.5% increase from the $11.35 billion of policyholder surplus reported by a similar group of reinsurers as of Sept. 30, 1989. But, policyholder surplus at the end of the first nine months fell 0.5% from $12.03 billion as of June 30, which most reinsurance officials attributed to a weakened stock market.

A *Business Insurance* survey of major primary property/casualty insurers found the insurers' policyholder surplus decreased 5.4% to $35.7 billion as of Sept. 30 from $37.7 billion a year earlier, which observers also attributed to a weaker stock market as well as deteriorating underwriting results (*BI*, Dec. 3).

Some reinsurers consider the nine-month reinsurer results a mixed bag.

"The numbers don't give a very clear picture. Maybe that's the most interesting thing about them," said Mark Mosca, vp and manager of the treaty department at NAC Reinsurance Corp. of Greenwich, Conn.

"There's really a broad range of numbers just among the Top 15 reinsurers," he said.

For example, Mr. Mosca noted that among the 15 largest reinsurers:

- Combined ratios range from less than 99% to more than 131%.
- Movement in premiums volume ranges from decreases of 13% to increases of more than 15%.
- Premium-to-surplus ratios range from 0.75-to-1 to 1.8-to-1.

The five largest reinsurers, all-direct writers, are "way under-leveraged," with a premium-

Continued on next page

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NOTICE IS HEREBY GIVEN, that the New Jersey Commissioner of Insurance, in his capacity as Liquidator of Integrity Insurance Company, has brought suit against a group of defendants including Integrity's officers and directors, Integrity's parent companies and Touche Ross, Integrity's accountant. The Liquidator's suit claims that some of the defendants engaged in negligence, mismanagement, breach of fiduciary duties and fraud, and thereby caused the insolvency of Integrity from 1981 onward. The lawsuit further claims that the defendants then negligently and/or fraudulently failed to disclose the company's true economic condition by preparing and disseminating materially false financial statements which were detrimentally relied upon (either directly or indirectly) by policyholders in purchasing policies, by others in continuing to transact business with Integrity, and by the New Jersey Insurance Department and other regulators in allowing Integrity to continue to transact business. But for such conduct, the pleadings allege, New Jersey's Insurance Department would have shut down the company in 1982 or 1983 instead of 1987 or taken other remedial action to minimize or cure Integrity's insolvency.

Notice has been sent to known policyholders, creditors and other interested persons that anyone wishing to assert a personal claim or to proceed independently of the Liquidator's suit must respond and provide certain information by February 8, 1991 or be barred from doing so. If you wish to receive a copy of the Notice previously sent, please contact the court-designated Special Master listed below:

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/S/ WILLIAM C. MEEHAN, J.S.C.

Holiday Greetings from Business Insurance

Holiday Closings

Issues	*Closes*
12-31-90	*12-21-90*
1-7-91	*12-27-90*

Business Insurance

Circulation Breakdown*

Commercial Consumers

Administrative:	
CEO's Presidents, and Owners	2,670
Vice-Presidents, General Managers and Other Administrative Personnel	4,438
Financial:	
Chief Financial Officers and Vice-presidents of Finance	3,149
Secretaries, Treasurers, contollers and other Financial Personnel	4,505
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	10,830
Sub-total	**25,592**
Associations	511
Government, Unions and Educational Institutions	1,289
Commercial Consumers	
Sub-total	**27,392**
Insurance Agents and Brokers	9,815
Insurance Companies	7,891
Accountants, Actuaries, Attorneys & Consultants	3,377
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers	1,218
Others Allied to the Field	1,693
TOTAL	**51,386**

* Source Business/Occupational breakdown of qualified circulation, May 28, 1990 issue, as submitted to BPA for June 1990 BPA Publisher's Statement.

Largest U.S. reinsurers' nine-month 1990 results

Ranked by net reinsurance premium written. All amounts in thousands of dollars.

Reinsurers	Policyholders' surplus (reinsurers only)	Net reinsurance premiums written 1990	Net reinsurance premiums written 1989	Net reinsurance premiums earned	Losses & loss adjustment expenses	Loss ratio	Underwriting expenses	Expense ratio	Combined ratio 1990	Combined ratio 1989
General Re	$2,708,137	$1,516,518	$1,306,442	$1,468,497	$1,015,088	69.1%	$451,225	29.8%	98.9%	99.9%
Employers Re	1,503,591	838,705	840,589	829,659	647,153	78.0	211,678	25.2	103.2	105.1
American Re	710,519	579,146	664,750	626,648	442,038	70.5	192,253	33.2	103.7	103.2
North American/Swiss Re	552,243	458,457	468,190	492,917	365,984	74.2	160,850	35.1	109.3	117.1
Munich Re	594,626	394,582	454,510	395,245	309,131	78.2	130,627	33.1	111.3	106.8
F&G Re (USF&G)	N/A	386,977	348,108	357,256	227,201	63.6	128,967	33.3	96.9	96.6
Prudential Re	500,627	359,039	360,085	364,234	302,094	82.9	138,663	38.6	121.6	109.6
St. Paul Cos.	N/A	302,252	309,437	279,856	276,045	98.6	98,223	32.5	131.1	121.9
Skandia America Group	318,698	265,083	184,607	250,298	200,753	80.2	84,126	31.7	111.9	112.6
Kemper Re	335,327	263,511	230,955	249,918	222,131	88.9	68,494	26.0	114.9	104.8
Constitution Re	192,656	259,128	173,097	228,208	178,567	78.2	77,762	30.0	108.3	103.8
Transamerica Re	178,921	241,467	200,965	232,700	179,870	77.3	69,661	28.8	106.1	106.0
Transatlantic Re	201,701	240,817	244,591	228,977	185,557	81.0	62,433	25.9	107.0	108.7
CIGNA Re	176,046	236,227	212,122	223,272	185,227	83.0	56,868	24.1	107.0	110.4
National Re	217,752	186,034	179,275	174,499	132,308	75.8	49,949	26.8	102.7	106.4
NAC Re	195,153	160,980	142,715	160,039	120,529	75.3	53,321	33.1	108.4	108.0
Winterthur Re	140,817	128,226	70,277	95,508	69,467	72.7	44,701	34.9	107.6	114.1
Putnam Re	123,230	114,944	112,060	116,204	91,111	78.4	28,237	24.6	103.0	103.0
Continental Re	147,162	112,906	145,913	113,182	103,314	91.3	32,128	28.5	119.7	104.9
Underwriters Re	162,201	96,146	101,828	91,815	70,814	77.1	29,895	31.1	108.2	105.8
Totals for Top 20	**8,959,407**	**7,141,145**	**6,750,516**	**6,978,932**	**5,324,382**	**76.3**	**2,170,061**	**30.4**	**106.7**	**106.1**
Total for all companies	**$11,967,088**	**7,828,924**	**7,423,746**	**7,721,030**	**5,870,927**	**76.0**	**2,409,917**	**30.8**	**106.8**	**106.7**

Source: Reinsurance Assn. of America and Business Insurance

Continued from previous page

to-surplus ratio of less than 0.85-to-1, he said.

And, the premium-to-surplus ratio among the next 15 largest U.S. reinsurers, most of which are broker markets, is less than 1.25-to-1.

All of this suggests there is still overcapacity in the market, Mr. Mosca said. "I think we're going to see for the most part continued upward pressure on combined ratios. I don't see anything that's going to stop that for the next year or so."

Mr. Mosca added that he believes observers who predict a turn in rates late next year may be overly optimistic. He said the market may not harden for another two years, which means reinsurers' results may not improve until 1993.

Indeed, Employers Re's Mr. Fitt, noting slowly deteriorating loss ratios during the first nine months for most reinsurers, said there is more competition in some areas.

Mr. Fitt does not expect reinsurers' results to improve before next year's third quarter.

Steven Bensinger, senior vp and chief financial officer of Skandia America Reinsurance Corp. in New York, said he was surprised at the improvement in the combined ratio to 106.8% at the end of nine months from 107.2% at the end of the first half. But, "I don't think there's any statistical relevance to it," he said.

Mr. Bensinger noted that while there has been a lot of discussion of a turn in the market sometime in 1991, it will be 1992 or 1993 before it will have an impact on financial results. "It takes time to filter through to financial results," he said.

"Apart from General Re, I think the results for the rest of the industry sort of speak for themselves," said Michael Pinter, chairman of Kemper Reinsurance Co., a unit of Kemper Corp. of Long Grove, Ill.

Paul Ingrey, president of F&G Re Inc. in Morristown, N.J., a unit of USF&G Corp., said: "I'm not surprised at the combined ratios. The surprise is the number of people who had an increase in premiums."

The growth is "coming at the wrong time," he said, noting that most of the surveyed reinsurers reported increased net written premiums during the first nine months while rates still dropped.

Reinsurers apparently are under pressure to write more business, Mr. Ingrey said.

He added, though, that those reinsurers are not necessarily seeking greater market share or cutting rates. They are just writing the best business they can find, he said.

The nine-month results reflect "a continuing saga of bigger is better," said Michael Smith, vp and insurance industry analyst with Shearson Lehman Bros. in New York.

The 10 or 15 largest U.S. reinsurers in particular are doing better than reinsurers overall because of a continuing flight to quality, Mr. Smith explained.

He noted that primary insurers continue to seek coverage from the largest and most secure reinsurers. "And, as a result of that, the smaller reinsurers will continue to consolidate and drop out of the market."

Another reinsurance official said the nine-month results "were a bit better" than he had anticipated.

But, he said that General Re's results "distort the perspective, in that if you look at the bulk of the companies—small and large—you still have deteriorating results closer to 110% and up than 110% and down."

Looking to next year, the official predicted that "there is every reason to believe that reported results for '91 will be worse than '90." This reflects the less favorable underwriting conditions for reinsurers in 1990 compared to 1989, he said.

But, he added: "Hopefully, maybe that will be the trough, because I'm beginning to see signs of a hardening market."

One sign is that insurance buyers are beginning to ask for multiyear deals, he said. Buyers have concluded they already have obtained the best rates possible, so they are now seeking more favorable terms instead, he explained.

Most observers attributed the slight decline in policyholder surplus to a weakened stock market.

The stock market had one of its weakest quarters ever, said Skandia's Mr. Bensinger.

The decline in policyholder surplus is "one of the things we're hopeful that's going to cause a turn" in the market, said James Fisher, senior vp and comptroller with American Re-Insurance Co. in Princeton, N.J.

"There's an extraordinary amount of cash-flow pressure on the industry," he observed.

That pressure, plus flat statutory capital growth and other factors, could induce a market turn, Mr. Fisher said.

"I'm cautiously optimistic pricing will turn in late 1991," he said.

But Kemper Re's Mr. Pinter said that he thinks "it's too soon to place any great amount of significance on (declining policyholder surplus) without doing an analysis to see what the causes are."

The extent to which the stock market had an impact would probably vary by company, investment philosophy and the percentage of funds invested in equities as opposed to bonds, he said. ■

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Bakersfield

Continued from page 3

acted fraudulently.

Planet maintained from the onset that the city's general liability policies did not cover breach-of-contract claims, Mr. Bunshoft acknowledged.

However, the insurer informed Bakersfield that the city first would have to satisfy its SIRs before the insurer could consider defending or indemnifying it, he said.

In May 1988, Mr. Moreland reached a settlement with Bakersfield and the Redevelopment Agency after a judge ruled that the Bakersfield Redevelopment Agency must pay Mr. Moreland about $27.8 million in damages plus interest, or a total of about $35 million.

Under the settlement, the city and the agency assigned to Mr. Moreland their rights to the coverage they sought in their suit against the insurance companies.

The court earlier had dismissed Mr. Moreland's charges against the city officials, Mr. Beffel said.

And, in September 1988, the court dismissed Mr. Moreland's charges against Kern County, said Mark Nations, deputy counsel for the county.

Mead settled with Mr. Moreland for $900,000 earlier this year, according to Mr. Beffel.

In the case before Judge Dodds, Mr. Moreland maintained that the Planet policy "should be interpreted in accordance with the common and ordinary interpretation," which would be that Bakersfield is covered for claims arising out of breach of contract, said plaintiff attorney Ralph B. Wegis of Klein, Wegis & Duggan in Bakersfield.

But Mr. Beffel argued that Bakersfield's city manager knew the policy did not cover claims stemming from breach of contract.

"There aren't any insurance policies that cover breach of contract," he said.

On Nov. 6., Judge Dodds said there was "substantial ambiguity" in the language of the policy.

But, he noted that "the appellate courts have said that that language has very specific meanings," and that meaning is the policy covers claims arising from torts but not breach of contract.

Subsequently, the California Supreme Court ruled in a pollution coverage dispute that coverage should be granted whenever policy language is ambiguous (*BI*, Nov. 26).

Mr. Moreland's lawyers then asked Judge Dodds to reconsider his decision in light of the state supreme court ruling.

But the judge denied the request, saying he felt bound to follow the rulings in other appellate cases on which he based his original decision.

Mr. Moreland then sought to prove that the Redevelopment Agency was negligent in its attempt to obtain the property from Kern County and that those acts of negligence were tortious behavior, Mr. Wegis said.

Mr. Wegis explained that the county initially indicated it would sell the property to the city if its Redevelopment Agency could assure it that a building of "historical significance" located on the site could be moved and restored.

However, instead of submitting a detailed feasibility plan to the county, the agency offered a two-page letter from a moving company as proof that the building could be moved and restored, according to Mr. Wegis. The letter did not satisfy the county board, and the board refused to sell the city the land for the development project.

The agency's actions amounted to interference with a contract and interference with a prospective economic advantage, Mr. Wegis said. The agency could foresee that its actions would interfere with the economic advantage to another party to a contract, Mr. Wegis said.

Therefore, Planet should pay the $27.8 million award plus interest the agency was ordered to pay the developer, Mr. Wegis argued.

But, in the latest ruling, Judge Dodds on Nov. 27 granted Planet's motion for a non-suit on the coverage issue. A non-suit is similar to a dismissal. In this case, the court found that even if Mr. Moreland could prove his claims against the Redevelopment Agency, those actions would not be tortious conduct, Mr. Beffel explained.

However, Mr. Wegis said that any action the agency takes must stem from some sort of contract and that "negligence that arises out of a duty to perform a contract is negligence. The court was getting a mind block every time it would see a breach of contract. We felt there were independent torts."

Mr. Wegis said he feels "very good" about the chances for a successful appeal, which he expects to file next month after another allegation in the case is resolved.

Still to be resolved in the case are Mr. Moreland's allegations that Planet fraudulently represented to Bakersfield that it "would defend the insureds and pay the ultimate net loss on behalf of the insureds up to their policy limits" if any claims were filed against the city.

However, Planet's attorneys maintain that Bakersfield's city manager was aware that breach of contract was not covered by the policy and that there is no basis for a fraud claim.

Mr. Beffel said he thinks it would be difficult for the plaintiff to prove fraud after the judge ruled there is no coverage available in the case.

"They don't have any evidence of fraud," he said.

Shortly before Judge Dodds' latest ruling, Mr. Moreland rejected a $7 million settlement offer, Mr. Wegis confirmed, explaining that the offer "wasn't adequate."

Mr. Wegis said his client is looking for more than $20 million.

Mr. Beffel would not comment on the settlement offer, but he said the lowest amount Mr. Moreland would consider was $15 million. ■

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Fronting rules

Continued from page 1

more regulatory control over fronting arrangements so regulators can help keep fronting insurers solvent.

The working group of regulators from Illinois, Missouri, Nebraska and New York notes that the financial woes of some insolvent insurers, like Mission Insurance Co., were caused in part by fronting arrangements with reinsurers that could not or would not pay claims.

The House Oversight and Investigations Subcommittee chaired by U.S. Rep. John D. Dingell, D-Mich., reached a similar conclusion (*BI*, March 5; Feb. 26).

And state regulators claim policyholders would be better protected if regulators had more authority over non-admitted insurers to which insurers cede business.

The New York Insurance Department prepared the discussion draft of the proposed model act, although it has been unable to get a strong anti-fronting measure adopted in its home state.

The NAIC draft also reflects the views of several other NAIC regulators, emphasized Nebraska Insurance Director William McCartney, who chaired last week's hearing on the proposed model law and is the newly elected NAIC vp.

For example, at the hearing, representatives of the North Carolina and North Dakota departments voiced concerns about fronting arrangements.

And, attorney V. Lane Wharton Jr. of Raleigh, N.C., who has represented the North Carolina Insurance Department for 15 years, said that brokers, agents and intermediaries have often used fronting arrangements to make "quick and big" money on books of "risky, underpriced, undesirable or fraudulent business."

Even "legitimate" fronting arrangements made by large, reputable commercial insurance buyers can lead to the demise of insurers, he said, citing the defunct Beacon Insurance Co. in North Carolina as an example.

Beacon, which had only $5 million in total assets in 1978, was able to write $100 million of insurance and reinsurance premiums from 1979 to 1983 through fronting arrangements, Mr. Wharton said.

In addition, "it is an illusion, in my opinion, to believe that fronted risks are likely to be adequately collateralized," he said.

And, other cases demonstrate that corporate risk managers may be tempted to underestimate or underreserve for claims to keep their captive insurers' costs low, Mr. Wharton said.

Outgoing NAIC President and North Dakota Insurance Commissioner Earl Pomeroy said he was frustrated by a questionable fronting arrangement in his state that helped hide an unlicensed reinsurer that was inadequately capitalized.

However, the more than two-hour hearing on the draft was dominated by 15 witnesses who supported fronting arrangements, many of whom also submitted written statements criticizing the proposed model law as vague, overly broad, unworkable and unnecessarily harsh.

"I fear you are shooting a fly with an elephant gun here," said Patrick J. Foley, vp and associate general counsel of American International Group Inc.

RIMS is "extremely concerned" with the "anti-consumer" proposal because, as written, it would essentially eliminate the fronting option for commercial insurance buyers, said the statement submitted by Lucille A. Gallagher, vp-governmental affairs for RIMS and vp-risk management for Monfort Inc. of Greeley, Colo.

Risk managers use fronting arrangements for captives to simplify the administration of multistate insurance programs, she said during the hearing.

However, from a regulator's perspective, fronting permits insurance buyers to circumvent a state's financial responsibility laws for self-insurers of workers compensation, responded Vincent Laurenzano, chief of the New York Insurance Department Property Companies Bureau.

Ms. Gallagher emphasized that controlling losses is an important priority for both the risk manager and fronting insurer.

However, Mr. Laurenzano, a member of the NAIC working group that will re-evaluate the model law, questioned the degree to which a fronting insurer oversees claims, especially when a third-party administrator is handling the claims.

Ms. Gallagher also pointed out in the hearing that under most fronting arrangements the fronting insurer requires collateral in the form of letters of credit.

If captives are prohibited from making fronting arrangements, risk managers probably will self-insure, which means states will lose all regulatory control in these cases and claimants will not have guaranty fund protection, Ms. Gallagher pointed out.

Risk managers also may seek coverage from non-U.S. insurers because the proposed model would be a "straitjacket" for U.S. insurers, AIG's Mr. Foley said. That would place U.S. insurers at a disadvantage at a time when they are trying to expand globally, he said.

Edmond F. Rondepierre, vice chairman of the Industry Advisory Committee to the NAIC's Reinsurance Task Force and senior vp, general counsel and secretary to General Reinsurance Corp. in Stamford, Conn., said in a statement: The Industry Advisory Committee "reviewed the proposed model bill and concluded that it could not be made workable or effective. There are numerous technical problems with the draft, but more importantly, the committee believes that the concept behind the draft is in error."

The bill is designed to prevent damage to ceding companies and their policyholders resulting from fronting arrangements in which the fronting company exposes itself to an unfamiliar class or line of business, relies on a non-admitted insurer for substantial indemnification and relinquishes to the reinsurer control of underwriting and claims, he said.

"In the majority of cases, interposing a licensed insurer is desirable," Mr. Rondepierre said. The licensed company becomes primarily liable for claims, he noted. It also is subject to many state and federal laws, including unfair trade practices, anti-discrimination and rate and form requirements. In addition, a state regulator can examine the fronting company, and the regulator or a court can order it to pay penalties for violating insurance regulations, Mr. Rondepierre pointed out.

The insurer also pays premium taxes, Mr. Rondepierre noted.

And, policyholders of fronting insurers may be protected by a state guaranty fund, he observed.

"If the fronting company takes no credit for reinsurance and is capable of meeting all its liabilities without it, there would seem to be no threat to its solvency," Mr. Rondepierre said.

And, "if the fronting company takes credit for reinsurance, or deductions from liability, it is secured by a trust fund" or by other acceptable forms of security, he said.

The draft model as written "would affect several thousand commercial insurance programs involving several billion dollars in premiums," the National Assn. of Insurance Brokers said in a statement.

In many cases, unlicensed reinsurers, including captives, are the only markets available for needed coverage, the NAIB noted.

In other criticism of the discussion draft of the proposed model law, representatives of several trade associations pointed out unclear wording.

For example, referring to the provision that would allow regulators to prohibit fronting arrangements if reinsurers assume 50% or more of the risk and receive special policy terms or authority over underwriting, marketing or policyholder services like claims handling, some critics said they were uncertain whether the 50% threshold referred to premiums, expected losses or some other measure.

In addition, they did not know whether the prohibitions applying to "unlicensed insurers" in the act would be extended to include authorized but unlicensed reinsurers.

The proposal's approach is "a shotgun" when maybe "an arrow" is needed, said Robert Zeman, assistant general counsel of the National Assn. of Independent Insurers in Des Plaines, Ill.

In addition, Rep. Dingell's subcommittee's complaints about fronting related primarily to problems with uncontrolled managing general agents, Mr. Zeman pointed out.

The NAIC's adoption of model laws to control MGAs and reinsurance intermediaries as well as limit a ceding insurer's ability to take credit for reinsurance have gone a long way to curb such problems, several observers said.

They recommend that the working group refocus its attention on analyzing those models for holes and proposing ways to plug them.

In addition, several insurer representatives suggested new disclosure requirements, such as requiring ceding insurers to report the amount of cessions to unauthorized reinsurers.

That could serve as an early warning to regulators about fronting arrangements that need additional scrutiny, said Donald Greene, an attorney with LeBoeuf, Lamb, Leiby & MacRae of New York.

At the end of the hearing, Nebraska's Mr. McCartney praised the contributors for their solution-oriented comments.

"Some valid points have been raised, but there are still a lot of concerns," New York's Mr. Laurenzano said after the hearing.

Increasing regulatory controls "possibly could be done" through tightening existing model laws and new disclosure requirements, he said.

However, he said he would prefer a separate model law that specifically addresses fronting arrangements.

"The intent in the model is far broader than what regulators seem to be saying now," RIMS' Mr. Greene said after the hearing.

Gen Re's Mr. Rondepierre said he hopes that advisory group members will represent a broad cross-section of insurance buyers and industry representatives. ■

Sinking homes

Continued from page 3

hill was sued," according to Justice John Trotter, chairman of the dispute resolution firm, as well as a former state court judge.

Some hearings were held in the grand ballroom of the Bonaventure Hotel in downtown Los Angeles because there was not a courtroom large enough.

As many as 100 attorneys argued the case.

The dispute was so complex that it took nearly two hours to read the settlement terms into the Los Angeles County Superior Court record, according to court witnesses.

"What was put on the record was just the tip of the iceberg," said Ms. Zelon.

The insurers paying $17.3 million on behalf of the grading contractor, Sukut Construction Inc., are:

- Granite State Insurance Co. of Manchester, N.H., paying $9.75 million.
- Covenant Mutual Insurance Co. of Hartford, Conn., paying $5 million.
- Great American Insurance Co. of Cincinnati, paying $754,744.
- Republic Insurance Co. of Dallas, paying $500,000.
- Harbor Insurance Co. of Los Angeles, paying $422,465.
- Protective Mutual Insurance Co. of Park Ridge, Ill., paying $388,590.

The insurers paying $12.4 million on behalf of developers California Coastal and J.D. Carley, which was the original developer but left the project mid-stream and now is involved in bankruptcy proceedings, are:

- Continental Corp. of New York, paying $5 million.
- Aetna Casualty & Surety of Hartford, Conn., paying $4 million.
- Granite State, paying $1.25 million.
- Fireman's Fund Insurance Co. of Novato, Calif., paying $1 million.
- Upper Peninsula Insurance Co. of Phoenix, paying $667,000.
- Scottsdale Insurance Co. of Scottsdale, Ariz., paying $500,000.

The insurers of the redevelopment agency that are contributing to the settlement are:

- Western Employers Insurance Co. of Fullerton, Calif., which will pay $2 million of its $4.5 million policy limits.
- Fireman's Fund, which will provide coverage up to the full policy limits of $5 million.
- Comstock Insurance Co. of Los Angeles, which will pay $3 million of its $4 million policy limits.
- Federal Insurance Co. of Indianapolis, which will pay $500,000 of its $10 million policy limits.
- Associated International Insurance Co. of Los Angeles, which will pay the limits of a $500,000 policy.

Insurers contributing to the settlement on behalf of more than two dozen contractors and subcontractors include:

- Home Insurance Co. of New York, which will pay $255,802.
- State Farm Insurance Co. of Bloomington, Ill., which will pay $100,000.
- CNA Financial Corp. of Chicago, which will pay $300,000.
- CIGNA Corp. of Philadelphia, which will pay a portion of a $150,000 contribution to be paid by three insurers that underwrote general liability coverage for ConStruct, one of the project subcontractors.
- Wausau Insurance Co. of Wausau, Wis., which will pay $170,000.
- Gulf Insurance Co. of Irving, Texas, which will pay $150,000.
- Transamerica Insurance Co. of Los Angeles, which will pay a portion of a $150,000 policy underwritten by four insurers on behalf of Nelson & Golding, one of the project subcontractors.
- Great American, which also will contribute to the $150,000 Nelson & Golding settlement.
- Fireman's Fund, which will pay another $35,000.
- Upper Peninsula and Fremont Indemnity Co. of Los Angeles, which together will pay $300,000 on behalf of Shye Realty. In addition, Upper Peninsula will pay another $1 million on behalf of others.
- St. Paul Insurance Co. of St. Paul, Minn., which will pay $60,000.
- Imperial Insurance Co. of Waco, Texas, which will pay $300,000.
- Prudential Insurance Co. of Newark, N.J., which will pay $500,000.
- Associated International, which will pay another $2.5 million.
- Allianz Insurance Co. of Los Angeles, which will pay $3 million.
- Sentry Indemnity Co. of Stevens Point, Wis., which will pay $500,000.
- Hartford Insurance Co. of Hartford, Conn., which will pay $500,000.
- National Union Fire Insurance Co. of Pittsburgh, Pa., which will pay $1 million.

All of the insurers of those involved in the project over a 10-year period have contributed to the settlement, according to Judge Trotter.

Most of the insurers underwrote general liability coverage, he added.

Less than $1 million being paid by professional liability insurers that wrote architects and engineers errors and omissions coverage, he said.

However, due to the complexity of the litigation, the judge declined to specify which insurers wrote what types of coverage.

A substantial portion of the settlement is earmarked for all physical damage repairs.

Homeowners will be responsible for seeking repairs, which probably will be completed within the next two or three years, according to the Community Redevelopment Agency spokesman.

The balance of the funds will be divided among the homeowners to compensate them for damages, he added.

A Dec. 14 hearing has been set in Los Angeles County Superior Court to determine whether all of the parties entered into the settlement in good faith. ■

ERISA ruling

Continued from page 2

plan."

"We have no doubt that this claim is prototypical of the kind Congress intended to cover under section 510," Justice O'Connor wrote.

The Supreme Court's ruling is a "very sweeping decision," said Ingersoll-Rand attorney Glen Nager of Jones, Day, Reavis & Pogue in Washington, D.C.

"The court made clear that any state law that depends on the existence of an employee benefit plan is pre-empted," according to Mr. Nager.

The Ingersoll-Rand decision in combination with the Supreme Court's earlier ruling that states cannot impose benefit requirements on employers that self-fund their health care plans shows "that ERISA pre-emption is a broad and strong shield," observed Henry Saveth, a principal with benefit consultant A. Foster Higgins & Co. Inc. in New York.

"It is significant that the Supreme Court keeps saying pre-emption is very broad," agreed Seth Tievsky, an attorney in the Research and Information Center for benefit consultant The Wyatt Co. in Washington, D.C.

The Ingersoll-Rand decision is a victory for employers because federal law limits their liability, noted John Hoos, practice leader of the legal group for Hewitt Associates in Lincolnshire, Ill.

Workers can sue in state courts for back wages, job reinstatement and punitive damages, Mr. Hoos explained.

However, in federal courts, ERISA limits recovery to back wages and reinstatement in the job, "so prospective plaintiffs will be limited in how much they can recover." ■

Northwest

Continued from page 1
aviation insurance sources say.

Northwest renewed its coverage at substantially lower rates July 1. Its previous hull and liability program was written for a 12-month term with a six-month extension period, but Northwest decided to forgo the extension.

Hull rates were cut 39% and liability rates were cut 26% for the St. Paul, Minn.-based airline despite its 156% loss ratio as of July 1, which includes losses from a 1987 crash at the same airport (*BI*, June 4).

The airline's hull and liability insurance program is led in the United States by Associated Aviation Underwriters in Short Hills, N.J., which writes 10% of the coverage as underwriting manager for Continental Insurance Co., a unit of Continental Corp. of New York. AAU also is the claims lead.

About 50% of the coverage is placed in London, led by Lloyd's of London's Ariel syndicate.

Other participants are La Concorde of France with 12.5%; Insurance Co. of North America, a CIGNA Corp. unit, with 10%; Navigators Insurance Co., through Aviators International Insurance Group, with 5%; United States Fire Insurance Co., a Crum & Forster Inc. unit, through Aviation Office of America, with 5%; CAMAT of France, with 5%; and English & American Insurance Co. of London, with 2.5%, according to the U.S. Department of Transportation.

The coverage was placed in the United States by Marsh & McLennan Cos. Inc.'s Minneapolis office and in London by sister company Bowring Aviation Ltd.

Investigators with the National Transportation Safety Board have concluded that the collision occurred after the DC-9 made two wrong turns while taxiing for takeoff in foggy conditions and ended up on the airport's center runway.

After the first wrong turn, the DC-9's flight crew received new taxi instructions from an airport ground controller, an NTSB spokesman said. The crew then made a second wrong turn that left the jet in the path of the 727, which had been cleared for takeoff, the spokesman said.

Neither plane was visible from the control tower, and the airport has no ground control radar.

The DC-9's co-pilot, James J. Schifferns, notified the ground controller just before the collision that he was unsure of the jet's position and that it might be on the center runway, the NTSB spokesman said.

The ground controller then informed others in the control tower about the situation, and a supervisor ordered controllers to "stop all aircraft," the spokesman said.

The controller who had cleared the 727 for takeoff did not radio the plane to order it to abort the takeoff, believing that it was already airborne, the spokesman said.

Investigators are still attempting to determine how much time elapsed between the last call from the DC-9 and the collision, the spokesman said.

The DC-9's pilot, William V. Lovelace, told investigators that he did not hear the co-pilot radio that the plane might be on the center runway. He told investigators that if he had heard the message, he then would have "gone for the weeds," meaning he would have powered the plane off the runway.

The flight was Capt. Lovelace's first unsupervised flight since he returned from five years' medical leave for kidney stones, a Northwest spokeswoman confirmed. Capt. Lovelace, a commercial pilot for 24 years, had flown 12 supervised flights since returning.

The NTSB spokesman confirmed that the Detroit airport changed the designations of its taxiways and installed new signs in 1988. But, he added that Capt. Lovelace did not say whether this played a role in the accident.

In August 1987, 156 people were killed when a Northwest jet crashed moments after takeoff from the Detroit airport.

Investigators later determined that crash was caused by the flight crew's failure to properly set wing flaps and slats on the McDonnell Douglas MD-82 jet (*BI*, June 4; May 16, 1988; Aug. 24, 1987).

Northwest has settled all remaining lawsuits involving the fatalities (*BI*, Nov. 6, 1989).

Northwest's insurers have paid out about $199.9 million of the $200 million liability reserve set up in 1987 for passenger fatalities, a London underwriter told *Business Insurance*.

Daniel M. Izard, president and chief executive of AAU, and Peter Magee, AAU executive vp and director of claims, would not comment on the settlements involving the 1987 crash.

Meanwhile, Northwest continues to press a lawsuit against McDonnell Douglas Corp. of St. Louis in U.S. District Court in Detroit, charging, among other things, that the crash was caused by the failure of the jetliner's warning system to alert the crew that the jet's wing flaps were not positioned properly. The trial has been under way for about a year.

Northwest is separately suing Detroit Metropolitan Airport for the 1987 disaster.

Airports, which are rarely held liable for major airline disasters, carry between $100 million and $300 million of liability coverage if they are the size of Detroit's airport.

London sources say Detroit's coverage is led by Aviation Office of America, one of the major underwriters of airport liability insurance. However, William Gossell, senior vp of Dallas-based AOA, denies that AOA leads the coverage, saying only that it has a small participation on it. He said the coverage is led in London.

Federal Aviation Administration air traffic controllers at Detroit's airport are not named as defendants in the 1987 action, Mr. Magee said.

It was too early to tell last week what new litigation may emerge in the wake of the latest disaster in Detroit. Tape recordings of what was said between the cockpits and the control tower will have to be replayed and evidence gathered to determine what happened and who was at fault, Mr. Magee said.

The FAA could be held partially liable for losses stemming from last week's crash if air traffic controllers are found to have contributed to the accident, said George Tompkins Jr., an aviation specialist with the law firm of Condon & Forsyth in New York.

The Detroit disaster will not affect the aviation market, aviation insurance sources said. That market already is "in turmoil" and next year's rates are "up in the air" as underwriters scramble to find reinsurance, they said.

"We're seeing some rate increases in airlines," said a London aviation underwriter.

"There is no question that rates will go up next year, definitely," said a London aviation broker.

"We seem to be seeing some indications of a turnaround," said a U.S. aviation underwriter.

Major airlines only a few months ago received substantial hull and liability insurance rate reductions for their Oct. 1 and Nov. 1 renewals (*BI*, Oct. 22).

The tightening in the market is being caused by a massive reduction in capacity in London's excess-of-loss reinsurance market, which is affecting all sectors of the marine, non-marine and aviation markets in London (*BI*, Dec. 3; Nov. 19; Nov. 12).

As a result, airline hull and liability reinsurance capacity could be reduced by as much as half for 1991 renewals, which would cause airline hull and liability insurance rates to increase next year.

Aviation insurers currently trying to renew their reinsurance programs are finding it difficult to place the coverage for 1991, underwriters agree.

The aviation reinsurance renewal season is at least two weeks behind, noted Ian Daish, general manager of Transglobe Aviation Underwriters Ltd. in Guernsey.

"No underwriter knows what his position will be on Jan. 1," said Robin Eliot, Lloyd's aviation underwriter for syndicate 53 managed by G.P. Eliot & Co. Ltd.

And, the aviation reinsurance that is available is more expensive. Some underwriters expect a 50% increase in the cost of their airline reinsurance programs for 1991, Mr. Daish said.

However, the cost of reinsurance layers over $300 million could increase 300% to 500% "if they are placeable," Mr. Daish said.

"Underwriters must decide in the next few days what reinsurance to buy without knowing what (insurance) rates will be charged next year," Mr. Daish said.

Ceding companies could pass these costs on to airlines and other aviation policyholders.

The airlines are preparing themselves for big increases next year, said Mr. Daish, whose company manages one of the largest airline-owned captive insurance companies in the world.

But "underwriters don't want to increase rates too much too quickly" as they did in 1986 when airlines were outraged at the sharp price rises they had to pay for insurance. ■

Dividend size

Continued from previous page
dividends as a percentage of estimated 1990 cash flow averaged 18.8% for the primary insurers, 36.5% for the multilines and 8.9% for General Re and NAC Re together.

Our definition of property/casualty cash flow is premiums written, less expenses, less paid losses plus net investment income. No recognition was given to federal taxes paid because of problems in obtaining that information on a quarterly basis. Also, we doubled the June 30, 1990, numbers to obtain a simplistic estimate.

It is interesting to note that the relationships for USF&G were clearly well above the averages in all segments. Based on its new dividend, the payout relative to the Sept. 30, 1990, book of $17.01 would be 5.9% and about 19% of property/casualty cash flow (on an annualized basis without adjustment for payments through June 30, 1990).

The sixty-four dollar question is who might be next on the dividend disappointment list. High payout ratios are not necessarily the only litmus test. Overall balance sheet quality, or lack thereof, cash flow trends and leverage are the various factors that have to be reviewed. We would be surprised not to see other dividend cuts or deferrals of increases until the dust settles. ■

Myron M. Picoult is senior vp and senior insurance analyst with Oppenheimer & Co. in New York. He is the past president of the Assn. of Insurance & Financial Analysts and a member of the New York Society of Security Analysts.

Update

Insurers' results slide: ISO, NAII

Continued from page 2
Among other results, net income fell 12.6% to $7.9 billion from $9.1 billion. The industry's combined ratio deteriorated to 109.2% for the first nine months from 108.7% for the same period in 1989.

Written premiums during the first nine months increased 5% to $165.2 billion. Pretax underwriting losses increased 11.6% to $16.1 billion, and net investment income increased 4.7% to $24.3 billion.

Texas law under fire from union

AUSTIN, Texas—The Texas AFL-CIO is challenging the constitutionality of the new state workers compensation law.

In a lawsuit, the union seeks a temporary injunction to prohibit implementation of the law until a judge rules on its constitutionality. A hearing is set for Dec. 18 in state district court in Maverick County. The law is scheduled to go into effect Jan. 1 (*BI*, Dec. 18, 1989).

Texas AFL-CIO President Joe D. Gunn said the law will deny "basic justice" to injured workers because it repeals the state's trial de novo system. That system led to nearly all Industrial Accident Board decisions being challenged with an appeal for a jury trial.

Insurers settle bank fraud suits

DALLAS—Directors and officers liability insurers of a failed Dallas bank will pay $19.5 million to settle three lawsuits charging that former bank officials misled investors and shareholders about real estate loans.

The suits were filed by investors in securities issued by First RepublicBank Corp. and its predecessor companies. One suit was filed in federal court in Dallas and two were filed in state court in Houston.

Investors charge that management knew the bank's real estate portfolio was in worse shape than was disclosed when InterFirst Corp. and RepublicBank Corp. merged to form First RepublicBank in 1987.

National Union Fire Insurance Co. of Pittsburgh, Pa., wrote primary D&O limits for the bank. Bankers Insurance Co. Ltd., a policyholder-owned insurer in Bermuda, wrote excess D&O coverage.

Attorney John A. Gilliam with Jenkens & Gilchrist in Dallas, who represents several bank officials in the case, said the settlement nearly exhausted the bank's D&O policy limits.

Agency liable for rafting death

CHICAGO—An advertising agency is covered for a $1.1 million award that a U.S. District Court jury has ordered it to pay to the family of a retired agency executive killed during a company-sponsored white-water rafting expedition.

The ruling marks the first time a federal jury has held a company liable for a death on a company-sponsored outing, said plaintiff's attorney Brian Crowe of Henslee Monek & Henslee in Chicago.

Chicago-based DDB Needham Worldwide Inc. was ordered to pay the damages to the family of James Fasules, one of five men who drowned on the trip down Canada's Chilko River in August 1987. An initial jury award of $2 million was reduced to $1.1 million after it was determined that Mr. Fasules was partially responsible for the accident.

DDB Needham is a subsidiary of Omnicom Group Inc. of New York. The firms' primary general liability coverage is written by Hartford Fire Insurance Co. and excess coverage is written by Fireman's Fund Insurance Co. The coverage exceeds $20 million.

The ad agency will not appeal the decision, its attorneys said.

Shipbuilder covered for loss

NANTES, France—A cruise ship under construction at a French shipyard suffered insured fire damage of 500 million to 800 million francs ($98.9 million to $158.3 million), the shipbuilder estimates.

About 40% of the interior of the "Monarch of the Seas" was ravaged by the fire last Monday.

The shipbuilder, Chantiers de L'Atlantique, has 2.3 billion francs ($455.1 million) of shipbuilders coverage led in France by Preservatrice Fonciere Assurances Tiard.

Cabinet Alain Besse placed the coverage in France, and more than half the coverage is placed in the London market by broker Hobbs & Sons, a subsidiary of Hogg Group P.L.C.

Briefly noted

The Senate Antitrust Subcommittee today will begin hearings on insurance industry accounting practices. The hearing is expected to kick off a renewed effort by Chairman Howard Metzenbaum, D-Ohio, to **repeal or amend the McCarran-Ferguson Act**. . . .**Maxicare Health Plans Inc.** has officially emerged from Chapter 11 bankruptcy protection. . . .Storms caused an estimated **$55 million of insured property damage** to portions of Illinois, Indiana and Missouri Nov. 27-28 and Washington state Nov. 21-26, reports the Property Claim Services division of the American Insurance Services Group. . . .The Council of Lloyd's elected David Coleridge chairman of Lloyd's and agreed to set up a company to provide **run-off reinsurance to Lloyd's syndicates** unable to close their open underwriting accounts (*BI*, Dec. 3). . . .The Florida and New York insurance departments last week became the first departments formally **accredited by the National Assn. of Insurance Commissioners**. The designation signifies that those departments meet minimum standards of authority, resources and programs to effectively regulate insurers for solvency (*BI*, Dec. 3). . . .**Eagle-Picher Industries Inc.** has reached an agreement with two of the four plaintiffs attorneys representing asbestos personal injury claimants to pay $500 million over 20 years beginning in 1993 to settle all asbestos personal injury claims against the company. Negotiations are continuing with the remaining two attorneys. . . .An "emergency regulation" that effectively bars non-admitted insurers from writing any automobile insurance in California will hurt **small trucking firms** in the state, agents contend. A Los Angeles Superior Court judge last week upheld the California Insurance Department's authority to prohibit auto risks from obtaining coverage from non-admitted markets unless the risks are rejected by the far more expensive state assigned risk plan.

Outlook for dividend size poor

By MYRON M. PICOULT

Special to Business Insurance

Dividend growth for most property/casualty insurance companies over the next five years will likely fall below the growth rates posted over the past five years. Cash flows, which will deteriorate further before recovering in a few years, will have to be used to address balance sheet deficiencies, including capital problems.

Mr. Picoult

A management normally works hard to maintain the sanctity of its company's dividend. The dividend cut at Travelers Corp. was unexpected and clearly shook the bedrock. One wonders when the various boards of directors will begin to review dividend policy within the context of the industry's changing capital requirements. We believe that the relatively recent USF&G announcement provides a little insight into what may be a more proactive position taken by boards.

In the past, the property/casualty industry was blithely put into a dividend discount model because of what appeared to be an open-ended stream of cash flow and endless dividend growth prospects. In some companies, it appears that one-third of earnings was allocated to building capital and the other two-thirds was allocated for dividends. In other instances, the split was apparently one-third for capital growth, one-third for acquisitions and one-third for dividends.

The operating environment for the industry has changed, and the industry's statutory capital position is coming under increasing pressure. This relates to a combination of tax payments (due to the Tax Reform Act of 1986), increasing underwriting losses and the prospect of continuing asset write-offs (i.e., junk bonds and reinsurance recoverables). In response to pressures on cash flow and capital, we are seeing more and more insurers go through some form of restructuring.

Some of the restructuring is the undoing of changes made several years ago. Even more confounding is the fact that some insurers are now doing what others have tried and subsequently discarded. For example, Travelers is now going back to a more traditional divisional breakdown, versus the previous restructured strategic operational mode. This conjures up the image of bumper cars at the amusement park all going in different directions but still managing to bump into one another. The bottom line is that something must give, and we believe that it will be dividend growth.

The accompanying table provides some statistical dividend relationships for many of the major publicly owned primary, multiline and major reinsurance entities. The table, which is self-explanatory, includes dividend growth rates for the past five- and 10-year periods, dividend payouts as a percent of reported book over the same time frame, the total dollar income needed to cover the dividend, based on June 30, 1990, shares outstanding, and the dividend payout as a percentage of estimated 1990 property/casualty cash flow.

We have assumed that dividends are covered out of property/casualty cash flow. We have also assumed that cash flows from life insurance or group accident and health operations (where applicable) would have to be used basically to cover corporate debt and interest payments, cover corporate overhead and buttress life insurance balance sheets.

Some shoring up of property/casualty balance sheets is also in the wind. We recognize that our cash flow posture may be somewhat extreme, but there is difficulty in assessing life insurance cash flows, and there are asset adjustments that will have to be made (i.e., write-downs of junk bonds, mortgages, real estate holdings and reinsurance recoverables) that will deplete statutory capital.

For a cross-section of primary companies, on average, dividends have grown at a 9.1% rate over the past five years and 10.6% over the past 10 years. The comparable figures for multiline insurers were 4.1% and 6.5%. For the reinsurers (actually General Re), the numbers were 13.6% and 18.5%. In terms of dividends paid as a percentage of reported book, the five-year average for the primary insurers was 4.7%, while the 10-year average came in at 5%. The numbers for the multilines were 4.8% and 5%, while General Re's numbers were 4% and 4.1%.

With respect to the cash flow relationships,

Continued on page 38

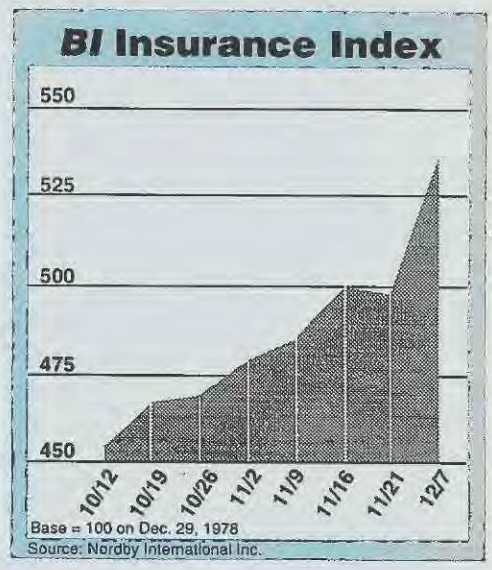
Cash flow devoted to dividends

Company	Dividends: Five-year compound growth rate	Dividends: 10-year compound growth rate	Total dividend payout (millions)	1990 property/casualty cash flow* (millions)	Total dividend as % of 1990 cash flow
Aetna Life & Casualty Co.	0.9	4.4	307.7	595.0	51.7
AmBase Corp.	NA	NA	6.8	IIA	IIA
American Interantional Group Inc.[1]	14.9	15.1	93.4	3,209.4	2.9
Chubb Corp.	9.5	8.8	115.6	950.6	12.2
CIGNA Corp.	2.6	NA	234.7	(138.2)	NM
Continental Corp.	0.0	2.7	140.7	(102.6)	NM
Fireman's Fund	NA	NA	27.9	159.4	17.5
GEICO Corp.	15.4	17.5	30.6	313.2	9.8
General Re Corp.	13.6	18.5	133.9	866.8	15.4
Lincoln National Corp.[2]	8.1	6.3	109.5	623.0	17.6
NAC Re Corp.	NA	NA	2.5	108.6	2.3
Ohio Casualty Corp.	9.2	11.5	45.2	280.0	16.2
SAFECO Corp.	10.2	11.8	86.1	350.0	24.6
The St. Paul Cos. Inc.	7.5	8.7	110.2	929.8	11.8
Travelers Corp.	4.0	8.7	224.0	559.0	40.1
USF&G Corp.	5.8	8.7	244.4	440.8	55.4
Average	**7.9**	**9.4**			**19.8**

1 Shares adjusted for acquisition of International Lease Finance Corp. 2 Estimated property/casualty cash flow adjusted for sale of National Reinsurance Corp. *Defined as statutory net premiums written minus satutory expenses (including policyholder dividends) and paid claims plus net investment income on a GAAP basis. This figure is estimated by Oppenheimer & Co. Inc. Federal taxes not included due to lack of specific data. IIA=Insufficient information available NA=Not applicable NM=Not meaningful.

Source: Oppenheimer & Co.

GRAPHIC BY JOHN SMITHER



Insurance industry stocks continued to climb last week as the *Business Insurance* Index jumped 18.6 points to 534.8 on Dec. 7, from 516.2 on Nov. 30. Advancing issues for the week were led by Hanover Insurance Co., up 15.8%; Kemper Corp., up 14.3%; and Provident Life, up 14.1%. Declining issues followed AmBase Corp., down 12.4%; Poe & Associates, down 8.3%; and Seibels Bruce Group, down 7.5%. The most active issue was United Healthcare Corp., 4.6 million shares traded. The *BI* Index was up 3.6%; The Standard & Poor's 500 climbed 1.7%; the Dow Jones 30 Industrials were up 1.2%; and the New York Stock Exchange Composite was up 1.7%.

British Issues

Dec. 6 Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence	pence
Comml Union	494	22.6	28.7	5.8	494	477
Genl Accident	490	14.8	33.4	6.8	500	487
Gdn Royal Exch	201	17.6	15.3	7.6	205	199
Royal	433	23.1	34.0	7.8	438	430
Sun Alliance	335	12.0	16.7	5.0	335	323
Brokers						
Bradstock	267	18.6	10.0	3.7	267	259
CE Heath	470	13.8	34.5	7.3	470	451
Hogg Group	176	18.7	9.7	5.5	176	168
Lloyd Thompson	306	20.4	10.0	3.3	306	304
PWS Holdings	88	13.3	3.3	3.8	88	85
Sedgwick Grp	243	18.2	16.0	6.6	244	241
Steel Brrl Jones	273	16.2	14.7	5.4	285	273
Willis Corroon	262	19.4	16.0	6.1	262	260

Source: Philip Olsen, Insurance Industry Analyst London

BI Industry Stock Report

DECEMBER 3, 1990 THROUGH DECEMBER 7, 1990

BROKERS		Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
Alexander & Alexander	NYS	23.63	7.39	-25.00	33.88	16.13	715	1.00	4.23	20	9.18	2.57
Corroon & Black	NYS	32.50	0.00	-15.03	39.88	0.13	0	1.36	4.18	16	12.73	2.55
Gallagher Arthur J. & Co.	NYS	24.13	0.00	-2.53	25.50	19.75	32	0.60	2.49	19	5.33	4.53
Frank B. Hall	NYS	2.63	0.00	-12.50	4.25	2.00	113	0.00	0.00	-4	-2.80	-0.94
Hilb, Rogal & Hamilton	OTC	14.75	0.00	-20.81	20.25	11.25	343	0.36	2.44	20	4.60	3.21
Marsh & McLennan	NYS	73.50	-3.29	-5.77	86.75	59.75	658	2.60	3.54	18	10.56	6.96
Poe & Associates	OTC	8.25	-8.33	-37.74	13.00	7.75	29	0.40	4.85	12	1.93	4.27
BROKERS	AVERAGE		-0.6	-17.1					3.1	14		
CONGLOMERATES & HOLDING COMPANIES												
Berkley W.R. Corp.	OTC	38.25	4.08	-8.11	46.25	28.50	335	0.44	1.15	11	25.06	1.53
Berkshire Hathaway Inc.	NYS	6550.00	3.23	-24.06	8900.00	5675.00	1	0.00	0.00	20	2869.00	2.28
ITT (Hartford Group)	NYS	49.00	4.53	-18.16	61.38	40.25	1032	1.72	3.51	6	56.33	0.87
Sears (Allstate)	NYS	26.13	0.00	-32.58	41.88	22.00	2870	2.00	7.66	8	37.75	0.69
CONGLOMERATES	AVERAGE		3.0	-20.7					3.1	11		
INSURERS/REINSURERS												
Aetna Life & Casualty	NYS	38.63	0.00	-33.41	61.00	29.00	2059	2.76	7.15	7	58.11	0.66
Ambase Corp.	NYS	0.44	-12.40	-96.53	13.75	0.31	701	0.00	0.00	0	29.08	0.02
American General	NYS	29.50	2.16	-9.92	50.63	23.50	3756	3.20	10.85	6	34.68	0.85
American Heritage	NYS	21.00	0.60	-26.32	24.63	19.63	9	1.00	4.76	10	22.60	0.93
American Indemnity/Fin'l	OTC	3.75	7.14	-53.13	8.75	3.38	5	0.08	2.13	-2	17.38	0.22
American International	NYS	73.75	0.51	-12.62	87.00	57.00	2480	0.44	0.60	11	41.92	1.76
Aon Corp.	NYS	35.25	2.17	-16.81	43.25	26.75	240	1.52	4.31	10	19.62	1.80
Argonaut Group	OTC	58.00	1.75	-15.79	78.00	53.00	16	1.60	2.76	7	36.83	1.57
AVEMCO Corp.	NYS	26.00	6.12	6.67	30.13	21.13	17	0.44	1.69	17	9.52	2.73
Baldwin & Lyons Inc.	OTC	18.50	-1.33	-13.95	24.00	18.25	4	0.28	1.51	7	20.80	0.89
Belvedere Corp.	ASE	2.38	0.00	-56.82	5.63	1.75	12	0.04	1.68	-3	8.03	0.30
Chandler Insurance	OTC	6.50	8.33	-44.68	12.00	4.50	177	0.00	0.00	4	9.53	0.68
Chubb Corp.	NYS	50.13	0.25	-47.72	51.38	34.63	1428	1.32	2.63	9	55.49	0.90
CIGNA Corp.	NYS	39.75	0.00	-34.02	63.38	33.25	1426	3.04	7.65	11	66.64	0.60
CNA Financial Corp.	NYS	61.38	-0.20	-38.63	102.00	49.50	129	0.00	0.00	11	54.87	1.12
Continental Corp.	NYS	25.75	7.29	-17.93	33.50	15.75	965	2.60	10.10	9	41.36	0.62
Durham Corp.	OTC	27.25	6.86	-11.38	34.00	23.00	26	0.92	3.38	12	26.32	1.04
Fund American Corp.	NYS	49.00	2.08	39.01	51.88	29.50	552	0.68	1.39	123	32.74	1.50
Fremont General Corp.	OTC	13.38	2.88	-33.54	22.50	10.13	239	0.80	5.98	4	19.09	0.70
Frontier Insurance Group	NYS	18.63	0.00	0.68	33.00	14.13	0	0.00	0.00	8	7.29	2.55
General RE Corp.	NYS	88.50	-0.84	-1.67	93.50	69.00	1815	1.52	1.72	13	29.04	3.05
Hanover Insurance Co.	OTC	26.63	15.76	-12.70	32.25	21.00	147	0.44	1.65	12	32.03	0.83
Harleysville Group	OTC	22.25	8.54	-19.09	27.38	13.50	49	0.64	2.88	7	18.94	1.17
Hartford Steam Boiler	NYS	50.25	9.24	-7.37	62.13	43.50	95	1.80	3.58	13	18.94	2.65
Kansas City Life Ins.	OTC	30.25	0.00	-15.68	36.50	30.00	8	1.12	3.70	7	39.22	0.77
Kemper Corp.	NYS	23.00	14.29	-51.32	51.00	17.13	1000	0.92	4.00	82	29.97	0.77
Lawrence Insurance Group	ASE	7.25	1.75	1.75	9.13	6.50	1	0.36	4.97	12	4.40	1.65
Liberty Corp.	NYS	41.75	-0.30	-1.76	50.25	37.00	28	0.92	2.20	9	31.82	1.31
Lincoln National	NYS	42.00	1.82	-31.15	61.25	30.75	320	2.72	6.48	8	49.19	0.85
NAC Re Corp.	OTC	33.50	4.28	-7.59	39.25	25.50	493	0.20	0.60	14	22.81	1.47
Navigators Group	OTC	31.75	8.55	15.45	33.75	24.75	21	0.00	0.00	12	15.22	2.09
Nobel Insurance LTD.	OTC	2.75	0.00	37.50	3.75	1.50	18	0.00	0.00	-275	7.76	0.35
NWNL Companies	NYS	16.38	0.00	-58.54	44.13	11.75	0	1.32	8.06	3	37.50	0.44
Ohio Casualty Corp.	OTC	38.00	1.67	-20.42	50.75	26.75	685	2.32	6.11	10	33.30	1.14
Old Republic Int'l	NYS	23.13	3.35	-9.76	27.50	19.00	75	0.76	3.29	5	30.70	0.75
Orion Capital Corp.	NYS	17.63	11.90	-24.19	24.75	13.00	29	0.92	5.22	5	19.72	0.89
Phoenix RE Corp.	OTC	8.00	10.34	-38.46	14.88	5.00	14	0.20	2.50	-11	12.99	0.62
Protective Life Corp.	OTC	13.50	1.89	-5.26	14.63	10.25	32	0.76	5.63	7	14.54	0.93
Provident Life	OTC	17.25	14.05	-33.33	29.38	12.00	452	0.92	5.33	4	23.24	0.74
Re Capital Corp.	ASE	12.88	6.19	-11.21	15.25	11.50	15	0.00	0.00	9	14.43	0.89
RLI Insurance Corp.	NYS	12.88	3.00	45.07	14.75	8.25	33	0.44	3.42	6	12.42	1.04
St. Paul Companies	OTC	64.50	2.38	7.50	65.50	47.00	1951	2.40	3.72	7	43.47	1.48
SAFECO Corp.	OTC	33.25	10.83	-16.35	42.38	25.13	1327	1.36	4.09	9	24.87	1.34
SCOR U.S. Corp.	NYS	11.50	0.00	-19.30	14.50	8.38	11	0.20	1.74	10	10.61	1.08
Seibels Bruce Group	OTC	4.63	-7.50	-57.47	11.75	4.25	53	0.36	7.78	-1	13.75	0.34
Selective Ins. Group	OTC	13.38	0.94	-30.07	20.25	12.50	151	1.04	7.78	5	15.72	0.85
Statesman Group Inc.	OTC	1.50	0.00	-45.45	2.88	1.25	47	0.04	2.67	3	4.19	0.36
Tokio Marine & Fire	OTC	52.75	9.90	-30.02	76.25	34.50	29	0.26	0.49	31	70.93	0.74
Torchmark Corp.	NYS	48.13	2.94	-15.94	58.75	38.00	470	1.40	2.91	11	13.23	3.64
Transamerica	NYS	34.50	2.99	-22.69	44.75	23.25	639	1.96	5.68	9	34.63	1.00
Travelers Corp.	NYS	14.88	10.19	-59.66	38.88	11.50	3143	1.60	10.76	-8	44.85	-
Trenwick Group Inc.	OTC	21.25	1.19	-12.82	25.25	16.25	9	0.48	2.26	9	16.91	1.26
United Fire & Casualty	OTC	36.00	6.67	9.09	35.00	28.75	5	1.32	3.67	8	22.56	1.60
USF&G Corp.	NYS	9.25	-2.63	-68.78	30.38	7.50	2998	1.00	10.81	6	22.87	0.40
UNUM Corp.	NYS	49.13	3.97	2.88	57.13	32.13	723	0.80	1.63	10	31.20	1.57
USLIFE Corp.	NYS	31.25	5.93	-30.94	45.75	23.25	152	1.48	4.74	7	54.34	0.58
Unitrin	OTC	33.25	5.56	NA	34.75	24.50	436	0.80	2.41	17	54.34	0.61
USLICO Corp.	NYS	15.63	4.17	-34.21	24.50	14.75	109	1.00	6.40	6	27.73	0.56
Washington National	NYS	11.63	1.09	-58.85	28.75	11.25	53	1.08	9.29	48	32.90	0.35
Zenith National Ins.	NYS	11.63	6.90	-38.00	19.00	9.88	166	0.88	7.57	8	13.81	0.84
INSURERS/REINSURERS	AVERAGE		3.8	-22.6					4.1	7.2		
HEALTH MAINTENANCE ORGANIZATIONS												
FHP International	OTC	13.75	-3.51	-35.29	22.75	9.75	1251	0.00	0.00	12	3.54	3.88
HMO America Inc.	OTC	5.88	-4.08	-24.19	8.13	4.25	110	0.00	0.00	8	1.12	5.25
Pacificare Health Sys.	OTC	18.25	8.96	-29.81	27.50	12.00	259	0.00	0.00	12	6.35	2.87
Safeguard Health Enter.	OTC	4.75	2.70	-44.12	9.00	4.00	2	0.00	0.00	11	2.99	1.59
Sierra Health Services	ASE	10.88	2.35	22.54	11.38	5.50	108	0.00	0.00	136	0.62	17.54
United Healthcare Corp.	OTC	22.25	9.88	81.63	23.00	7.88	4649	0.12	0.54	23	0.34	65.44
United Medical Corp.	ASE	7.13	-1.72	18.75	11.38	6.00	1	0.20	2.81	10	5.70	1.25
U.S. Healthcare	OTC	26.50	4.43	85.96	28.00	9.63	0	0.36	1.36	23	3.07	8.63
HMOs	AVERAGE		2.4	9.4					0.6	29		
ALL COMPANIES	AVERAGE		3.1	-18.1				3.5	10			

System design: Nordby International Inc.

"I am a donut."

"Ich bin ein Berliner." With these famous words, John Kennedy assured the people of Berlin that he was a "Berliner" too. Unfortunately, something got lost in the translation; to the local folks, a "Berliner" was, primarily, a jelly donut.

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