

business insurance

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Airport agency may be liable for Spanish jet collision

LONDON—The Spanish Airport Authority may be held liable for some of the loss from last week's head-on collision of two Spanish jetliners on a Madrid airport runway, underwriters say.

Reinsurers for both the authority and the airlines agree that sorting out the claims from the accident will be a "mess," and no liability reserve had been set up as of late last week.

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Coke's newest SODA lets employees taste tax savings

By SALLIE J. DRURY

ATLANTA—New! Improved! A sweetened formula!

The Coca-Cola Co. is promoting a new kind of soda. But this time it's not a soft drink; it's an employee benefit.

SODA, or Savings On Deferred Accounts, is the name of the company's new employee savings plan. With SODA, The Coca-Cola Co. has sweetened and improved its already-popular thrift plan by converting it to a 401(k) salary reduction plan.

The key new ingredient is tax savings for employees.

"About 90% of our employees participated in the thrift plan this year," said Mike Walters, director of the corporate employee benefits department at The Coca-Cola Co. The thrift plan had been in place since 1960.

Mr. Walters credits the high participation rate to 100% immediate vesting, 100% company matching on the first 3% of income an employee contributes and a "fixed income fund" or guaranteed investment return of 14% through June 1984. The company provides its match through company stock. Employees also have the option of investing in company stock.

Now, under the SODA plan to be effective Jan. 1, employees can enjoy all those features plus a tax break, if they want.

Section 401(k) of the Internal Revenue Service tax code allows employees to contribute money to the thrift plan with pretax dollars. Pretax contributions, often referred to as salary reductions or salary redirections, reduce an employee's taxable income. The money deferred accumulates tax-free until an employee reaches age 59½.

At The Coca-Cola Co., employees may contribute from 1% to 10% of salary with the company matching the first 3% of salary.

And, to head off excessive withdrawals from the program, the company has included a loan provision in

its plan.

Section 401(k) restricts when an employee can withdraw savings from a salary reduction plan: The entire amount can be withdrawn when an employee retires or leaves a company or funds can be withdrawn at any point if an employee can show financial hardship. There is no tax penalty if funds are withdrawn from the plan early because of financial hardship, but the employee will have to report the additional taxable income.

But in The Coca-Cola Co. plan, employees can get loans from their 401(k) plan instead of withdrawing funds completely. This is allowed under the Employee Retirement Income Security Act, which permits companies to offer loans to participants of a company savings plan, as long as they are offered on a non-discriminatory basis.

The amount and term of a loan are restricted by the Tax Equity and Fiscal Responsibility Act of 1982. The amount that may be loaned to an employee with up to \$10,000 vested in the plan is the full amount vested; an employee with from \$10,000 to \$20,000 vested may be loaned up to \$10,000; and persons with \$20,000 or more invested may be loaned half the amount vested up to \$50,000.

Also, the loan can be borrowed for no more than five years unless it is for the purchase of a primary residence.

The Coca-Cola Co.'s loan provision, with those restrictions, begins in 1985. The interest rate for loans will be set by then.

To communicate the new salary reduction benefit to its employees, the soft drink giant relied on its marketing know-how.

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Vermont captives to write GE, Weyerhaeuser risks

By DOUGLAS McLEOD

MONTPELIER, Vt.—The Vermont captive insurance industry will roll into 1984 with snowballing premium growth, thanks in part to the recent addition of two new single-parent captives in the state.

General Electric Co. of Fairfield, Conn., plans to reinsure some of its liability risks in Elm Insurance Co., a newly established Vermont captive subsidiary of Electric Insurance Co. of Lynn, Mass.

Electric is owned, in turn, by Electric Mutual Liability Insurance Co., which derives most of its premium volume from GE risks.

Weyerhaeuser Co., the forest products company based in Tacoma, Wash., has formed Ver Bes' Insurance Co. in Vermont to complement its present Bermuda-based captive subsidiary, de Bes' Insurance Co.

The new entrants, licensed last month, bring the number of captive operations domiciled in Vermont to 12, and the state hopes to add three to six more in 1984, according to Donald Kifer, deputy commissioner of the Department of Banking and Insurance.

Meanwhile, The BFGoodrich Co., whose First Charter Insurance Co. became the first Vermont-domiciled captive in 1981, has replaced captive manager Marsh & McLennan Inc. with American Risk Management Inc.

The switch may herald some changes in the captive's

operations and in the risks it will assume, says Spencer J. Traver, assistant treasurer and director of risk management for Goodrich, based in Akron, Ohio.

Although Elm is not owned by GE, its principal business will be providing excess-of-loss reinsurance for GE liability risks written by Electric Mutual, according to Francis X. Barrett, president of Elm, Electric and Electric Mutual.

Managed by Vermont Insurance Management Inc. of Waterbury, Vt., Elm was started with \$2.5 million in capital and surplus, all of which was contributed in

cash, Mr. Barrett said. Electric owns all 2,500 shares of Elm's stock, valued at \$250,000.

Premium flow in the first year of operation will probably amount to about \$2 million,

Mr. Barrett said.

The lines to be reinsured by the captive include workers compensation (Electric Mutual was founded in 1927 principally to insure GE's workers comp risks), auto liability and general liability. For the time being, Elm will retain all of its risks rather than retroceding to another reinsurer or pool, though Mr. Barrett did not rule out a change in this practice.

"That will depend to a great extent on how our loss experience develops," he explained.

Eventually, Elm may also serve as direct underwriter for certain of GE's "exotic" liability cover-

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Graphic: Amy Palmer

Employers forced to pay disputed pregnancy claims

By JERRY GEISEL

WASHINGTON—Employers are retroactively paying equitable pregnancy benefits mandated by the Supreme Court.

The high court ruled last summer that the Pregnancy Discrimination Act of 1978 requires companies to offer equitable pregnancy benefits to the spouses of male employees (BI, June 27).

Employers had argued that the act only mandated equal pregnancy benefits for female employees and did not apply to group dependent health insurance plans covering male employees' wives. And, many of these employers resisted making any changes in their dependent health insurance plans until the Supreme Court resolved the issue.

But now it appears these employers will be required to pay all pregnancy claims denied since April 29, 1979, the effective date of the pregnancy act.

Some employers are doing this voluntarily, but the Equal Employment Opportunity Commission and the

U.S. Justice Department are cracking down on employers that are trying to avoid the retroactive benefits and federal officials say they will continue to do so.

For example, the city of Newport Beach, Calif., must follow a consent decree obtained by the Justice Department that requires the city to pay pregnancy claims that were denied between April 29, 1979, and this Sept. 1, the date the city overhauled its dependent health insurance plan to reimburse expenses associated with a spouse's pregnancy as it would reimburse any other medical expense of a dependent.

The city, which has about 760 employees, has already spent \$40,000 to \$50,000 to pay 30 pregnancy claims that were denied before the city amended its group insurance plan in September. The average cost per claim has ranged from \$1,500 to \$1,800, said Lorenzo Mota, the city's personnel director.

And the costs could go higher. Under the consent decree, the city must send letters by certified mail to current and former male employees whose dependent

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update

Airport may be liable for mishap

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The accident occurred when an Aviaco DC-9 jetliner wandered onto a runway and was struck by an Iberia Airlines 727 jetliner that was taking off. Altogether, 92 people were killed.

The airport had no ground radar to detect that the Aviaco airplane was in the wrong spot, even though the authority said it would install such equipment in 1977.

Because Aviaco is a subsidiary of Iberia, Iberia's hull and liability coverage—placed with Spanish insurer AGARA and about 90% reinsured on the London and European markets—will cover the \$16 million loss of the two hulls. The policy, placed in London by broker Alexander Howden Group P.L.C. and led by British Aviation Insurance Co. Ltd., has a \$350 million per-occurrence liability limit.

The airport authority insures its liability risks with the Spanish Aviation Insurance pool. That coverage is about 70% reinsured in London through Lloyd's reinsurance broker, C.T. Bowring & Co. Ltd. and is led by the Ariel Syndicate at Lloyd's of London.

Greyhound pension proposal

PHOENIX, Ariz.—Union employees of Greyhound Lines Inc., on strike since Nov. 3, would make major contributions to their pension plan if they approve a tentative settlement.

The pact would change a current pension plan funded entirely by the company to one requiring a contribution equal to 4% of annual pay by the employee. Most U.S. corporations do not require employees to contribute to their own pensions and those that do apparently require far less than 4%, consultants say.

Agent Orange defense allowed

BROOKLYN, N.Y.—Companies accused of injuring Vietnam veterans exposed to the controversial defoliant Agent Orange may make a new argument in their defense, a judge ruled.

At a Dec. 5 hearing, U.S. District Judge Jack B. Weinstein said the companies should file briefs arguing there is no proof that any particular plaintiff was harmed by any particular defendant's Agent Orange product. The defendants—Dow Chemical Co., Monsanto Co., Hercules Inc., Thompson Chemicals Inc., Diamond Shamrock Corp., Uniroyal Inc. and T.H. Agriculture & Nutrition Co.—said they would file the briefs soon. The decision was a major blow to plaintiffs' lawyers, who thought the issue had been settled by a judge previously assigned to the litigation.

The defoliant was manufactured for the Army by a group of U.S. chemical makers and placed in sealed drums labeled only by contract number rather than by manufacturer. In all likelihood, the companies say, Agent Orange produced by different manufacturers was mixed together aboard aircraft from which it was sprayed.

Judge Weinstein assumed jurisdiction over the 14,000 Agent Orange claims being heard in federal court in Brooklyn after U.S. District Judge George Pratt was elevated to a U.S. circuit judge.

Judge Weinstein has also vacated an earlier order by Judge Pratt that had allowed Hercules, based in Wilmington, Del., to be dropped from the litigation on the grounds its version of Agent Orange contained no dangerous levels of dioxin, a toxic substance.

IRS revises life tax tables

WASHINGTON—Final tax tables issued by the Internal Revenue Service last week will reduce taxes paid by most employees on employer-provided group term life insurance exceeding \$50,000.

The tax tables, which are retroactive to Jan. 1, are used to calculate the cost of employer-provided group term life that must be included in an employee's taxable income.

Under the new tables, which replace tables published in 1966, the tax rates will remain the same for employees under age 30 at 96 cents per \$1,000 of coverage above \$50,000.

The new annual tax rates for each \$1,000 of coverage above \$50,000 for employees in other age brackets are: ages 30-34, \$1.08, down from \$1.20; 35-39, \$1.32, down from \$1.68; 40-44, \$2.04, compared with \$2.76; 45-49, \$3.48, a drop from \$4.80; 50-54, \$5.76, down from \$8.16; 55-59, \$9, compared with \$13.20; 60-64, \$14.04, down from \$19.56. Employees who are 65 years or older will be treated as if they were in the 60-64 age bracket.

Under the new tables, a 50-year-old employee who received \$150,000 in group term life insurance would report \$576 in taxable income for the coverage, compared with \$816 under the old tables.

Gunter named NAIC president

SAN DIEGO—Florida Insurance Commissioner Bill Gunter is the new president of the National Assn. of Insurance Commissioners, succeeding Utah Insurance Commissioner Roger C. Day.

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Decision increases obligations of asbestos liability insurers

By STEPHEN TARNOFF

PHILADELPHIA—The most recent decision in an insurance coverage suit involving asbestos claims increases the defense obligations of insurers while maintaining the broadest coverage for the policyholder.

In AC&S Inc. vs. Aetna Casualty & Surety Co., U.S. District Court Judge E. Mac Troutman followed the triple-trigger theory of coverage that says all insurers on a risk from the time of exposure to asbestos through manifestation of a related disease are liable for defense and indemnification costs.

But the memorandum opinion and order issued Nov. 29 in District Court also says that for policies issued between 1958 and 1968 to AC&S, based in Lancaster, Pa., primary insurers have an "unlimited duty to de-

fend" even if the policy limits are exhausted.

In an earlier case, Commercial Union Insurance Co. vs. Pittsburgh Corning Corp., a federal court in Pennsylvania ruled the language of pre-1966 policies required primary insurers to have a continuing duty to defend even if the policy limits were exhausted. In this case, though, Judge Troutman extended the unlimited duty to defend to insurers on the risk until 1968.

The AC&S decision is the first time a court has specifically construed policies to provide both unlimited defense and triple-trigger coverage.

The decision also allows AC&S to choose the policies—including post-1968 policies—that must defend and indemnify it. One policy can be chosen for defense and another for indemnification.

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Broker denies charges made by St. Paul

By LEN STRAZEWSKI

CHICAGO—A Chicago broker denies he fraudulently issued marine insurance policies for St. Paul Fire & Marine Insurance Co. and charges that the insurer reneged on its agency agreement, which cost his brokerage \$15 million in commissions and lost business.

He further alleges that St. Paul defrauded the brokerage by refusing to honor and renew policies bound by the brokerage, denied claims filed under the policies and defamed the brokerage by writing Illinois regulators that St. Paul was canceling its agency agreement with them because of collection problems.

George E. Foundos, president of Deerfield Organization Inc., made the allegations in court documents filed late last month in response to a lawsuit initiated by St. Paul last April (BI, April 11). Mr. Foundos is seeking \$15 million in compensatory damages and \$20 million in punitive damages from the insurer.

In the earlier claim, St. Paul sued Mr. Foundos and Deerfield in Cook County Circuit Court for \$800,000, alleging that the brokerage fraudulently issued marine insurance policies and binders for more than 10 U.S.- and Belgian-based shipping concerns.

Although St. Paul admitted it had entered into an agency agreement with Deerfield in 1978 and later expanded the contract to include limited binding authority, the insurer claims the agreement had been canceled in 1981. Mr.

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United Airlines jetisons London aviation insurers

By STACY SHAPIRO

LONDON—Unfriendly skies are hovering over the London aviation insurance market.

Last month, when United Airlines Inc.—the world's largest insured airline—renewed the hull and liability coverage for its \$4.14 billion fleet, it refused to renew with the two London underwriters that have led the coverage for many years: the Ariel Syndicate at Lloyd's of London and the British Aviation Insurance Co. Ltd. In fact, United told both insurers before renewal that they would not be asked for a quote.

Instead, United, a subsidiary of UAL Inc. of Chicago, switched its coverage lead to Orion Insurance Co. P.L.C.

Donald Hansen, United's director of insurance, confirms that the switch was made but he "will not air in public" what his reasons were. But Eddie Simms, underwriter for the Ariel Syndicate, says he believes United was unhappy with the rates it received from Ariel and BAIC last year.

"It is my understanding that United was disappointed with our renewal terms in 1982," Mr. Simms explains. "So, two months before renewal, United informed us that its insurance would not be supported by Ariel (jointly with BAIC)."

Last year, United changed its renewal date to Nov. 15 from the traditional July 1 so it wouldn't be the first airline to renew each year (BI, July 5, 1982). But, despite the change, United was hit with a 29% increase in its annual deposit premium. Its London hull premium rates rose to 0.16% of fleet value, while liability coverage cost 14.11 cents per 1,000 revenue passenger miles.

London market sources said United accepted last year's rate increase because it thought other airlines also would be hit with higher rates during subsequent renewals.

Instead, many U.S. airlines have received rate reductions from London underwriters in that past year (BI, July 11).

Mr. Simms justified the rate hikes charged to United last year, explaining that the airlines rates were too low despite its excellent loss record.

By contrast, in its latest renewal led by Orion, United received a 12% cut in hull insurance rates and about an 8% decrease for liability coverage. However, the airline's fleet value has increased 7.6% from \$3.82 billion last year, which will offset some of the rate reduction.

"Underwriters are strange like that. The more a fleet is worth, the less it is insured for," an aviation reinsurer noted.

In addition to switching lead insurers, United also decreased the amount of insurance it places in the London market by another 10%, following a 10% cut last year. Now, United places 45% of its insurance in London, 10% in France and 45% in the United States. U.S. Aviation Insurance Group serves as United's lead insurer in the United States.



Firms challenge health benefit law

By CAROL CAIN

MILWAUKEE—Six Wisconsin employers that self-insure their health plans are going to court to block a new state law mandating that self-insurers include several benefits in their plans.

errors & omissions

• An article published Nov. 7 regarding a lawsuit filed against Alexander Howden Underwriting Ltd. and Alexander Howden Insurance Brokers Ltd. on behalf of Lloyd's of London members erroneously inferred that Sphere Drake Insurance P.L.C., a Howden subsidiary, was not a reputable reinsurer. The lawsuit specifically notes that Sphere Drake is regarded as a reputable company.

• Delta Holdings Inc. of Fort Lee, N.J., acquired NGM Fire & Casualty Insurance Co., a subsidiary of National Grange Mutual Insurance Co. of Keene, N.H., and not National Grange itself, as incorrectly reported in the Oct. 31 issue.

The employers argue that self-funded benefit plans should be regulated by the federal Employee Retirement Income Security Act rather than state law.

The action is in response to provisions in the Wisconsin 1983-85 Budget Act, which was approved in July (BI, July 25). Included in the act are provisions mandating:

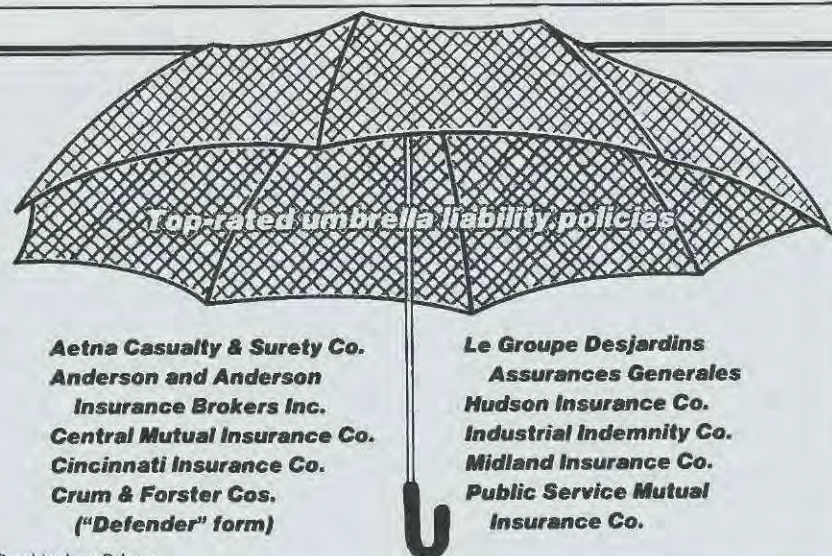
• That employers with more than 250 workers offer at least two health care plans, one of which must be a preferred provider organization or a health maintenance organization if such plans are available. This provision takes effect July 1, 1985, or upon expiration of labor contracts, whichever is later.

• That employers, including self-insurers, offer their laid-off employees and dependents an opportunity to continue receiving health care coverage at group rates for 18 months. This provision began immediately for insured employers and takes effect Jan. 1 for self-insurers.

The state adopted a similar "continuation and conversion" law in 1980, but only required the coverage be extended for 12 months. Initially, self-insurers were included in the law, but were later exempted by a 1981 U.S. District Court ruling.

Employers that do not follow either requirement would lose their state income tax deduction for health

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Aetna Casualty & Surety Co.
Anderson and Anderson
Insurance Brokers Inc.
Central Mutual Insurance Co.
Cincinnati Insurance Co.
Crum & Forster Cos.
("Defender" form)

Le Groupe Desjardins
Assurances Generales
Hudson Insurance Co.
Industrial Indemnity Co.
Midland Insurance Co.
Public Service Mutual
Insurance Co.

Graphic: Amy Palmer

Umbrella policy restrictions dwindling, consultant says

By RHONDA L. RUNDLE

NEWPORT BEACH, Calif.—Insurance companies are plugging up the leaks in their umbrella liability policies, reports an independent risk management consulting firm that scrutinizes these forms.

That's good news for risk managers and their brokers who shop the commercial insurance markets.

And, it shows that competition is improving the quality of protection afforded by the umbrella liability product, as well as reducing—sometimes drastically—the price.

"It's getting increasingly difficult to find restrictions in the forms," reports James A. Robertson, editor of "The Umbrella Book," a two-volume reference work that analyzes, compares and evaluates these forms, published by Warren, McVeigh & Griffin Inc. in Newport Beach, Calif.

"If anyone ever decides to chronicle the development of liability insurance coverage, 1983 should be remembered as the year in which the most improvement occurred in umbrella and excess policy forms since restrictions were introduced in the late 1950s," Mr. Robertson observes.

This improvement has resulted in the listing of 10 insurers' forms in the category described as "Best" in the most recent "Umbrella Book" revision, up from only four in 1982.

One of the forms in this top-rated group contains no restrictions at all. The extraordinary policy is exclusively available through Anderson & Anderson Insurance Brokers Inc. in Irvine, Calif., and is underwritten by Granite State Insurance Co., an affiliate of American International Group Inc. (see story, page 32).

Other insurers' policies listed in the Best category include those offered by Aetna Casualty & Surety Co., Central Mutual Insurance Co., Cincinnati Insurance Co., Crum & Forster ("Defender" form), Le Groupe Desjardins Assurances Generales, Hudson Insurance Co., Industrial Indemnity Co., Midland Insurance Co. and Public

Service Mutual Insurance Co.

In addition to the 10 best, there are 10 insurers' forms listed in the "Above Average" category, 19 listed as "Average," 36 listed as "Below Average" and 23 listed as "Overly Restrictive" for a total of 98 forms reviewed this year (see chart, page 30).

Because the rankings are competitive, it is possible that some insurers' forms have dropped from a higher to a lower position this year even though their policies are unchanged. This happens when rival companies substantially improve their forms, Mr. Robertson explains.

"Some insurers have forms that seemed innovative or unique when they were introduced, but do not compare as favorably today," he says. The Overly Restrictive group is made up mostly of forms that have not been revised in recent years, he notes.

The first edition of "The Umbrella Book" was published in 1976 and included 35 forms from major insurers. Today, the publication is virtually an encyclopedia of all the umbrella policies available in the U.S. insurance marketplace and has become a widely respected reference tool used by risk managers, brokers, insurers and reinsurers.

The gradings, which are based on the number and type of restrictions in the policies, reflect the unwavering view of the editors of "The Umbrella Book" that buyers are better served by broad policies in which restrictions are added through endorsements, rather than those in which restrictions are buried in the basic form itself.

"We favor starting with a broad form and adding restrictions that the insurer does not want to underwrite because restrictions are harder to spot if they are built-in," says Mr. Robertson. Some insurers prefer to start with a restrictive policy and eliminate the restrictions through endorsements, he points out.

However, such insurers' policies are likely to earn a low mark in "The Umbrella Book" even though they can be

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Virgin Islands captives could fund benefit plans

By JERRY GEISEL

WASHINGTON—Employers soon may be able to fund their employee benefit programs in a captive insurance company in one offshore domicile without running into trouble with the U.S. Department of Labor.

The U.S. Virgin Islands passes muster as a domicile where captives could be set up to fund corporate benefit programs, according to a Labor Department advisory opinion letter.

But now it is up to the unicameral Virgin Islands Legislature to pass a measure, 15-0573, that would make it attractive for employers to set up captive insurance companies and thus take advantage of the Labor Department ruling.

The Virgin Islands Exempt Insurance Act, introduced by Virgin Islands Sen. Lloyd Williams, would give the U.S. territory a captive insurance company law similar to the law in Bermuda, the most popular of the many captive domiciles.

But thanks to the Labor Department, the Virgin Islands—if its Legislature passes Sen. Williams' bill—will be able to offer employers something that no other offshore domiciles with tax advantages can match: the option to fund employee benefits through a captive program.

The Labor Department advisory opinion was sought to resolve whether the Virgin Islands is considered a "state" under the Employee Retirement Income Security Act, the 1974 federal law

that set rules for employee benefit plans.

Under a 1979 class exemption to ERISA, the Labor Department said a captive insurance company based in any of the 50 states or the District of Columbia could underwrite its parent's benefit program as long as the business doesn't account for any more than 50% of the subsidiary's business (BI, Aug. 20, 1979).

That class exemption allowed employers like Montgomery Ward & Co. of Chicago that had big domestic insurance subsidiaries with lots of outside business to insure their employee benefits through the subsidiary.

But other employers, like U.S. Industries of New York and Sambo's Restaurants of Santa Barbara, Calif., were forced to pull ashore employee benefit programs that were reinsured in the Bermuda captive insurance companies (BI, Nov. 3, 1980). The class

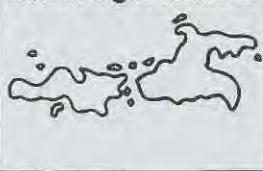
exemption bars non-domestic insurance companies from directly insuring employee benefits. The department, meanwhile, is reviewing requests to reinsure a benefits program on a case-by-case basis.

Last year, when Sen. Williams proposed the Virgin Islands captive bill, he said U.S. companies would be able to fund their employee benefits in Virgin Islands-based captives without objections from the Labor Department (BI, Oct. 4, 1982).

But after Sen. Williams' bill was introduced, a

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U.S. Virgin Islands



Brokerage says it didn't seek product recall coverage for J&J

By BILL DENSMORE

NEWARK, N.J.—Johnson & Higgins, the insurance broker for Johnson & Johnson, says in court papers that it was not told to place or negotiate product recall insurance coverage for the Tylenol manufacturer.

The comment, the first by J&H in the 11-month court battle over coverage for last year's massive recall of Extra-Strength Tylenol capsules, in effect says Johnson & Johnson is demanding a type of coverage that it never asked its broker to obtain.

Johnson & Johnson, however, says the J&H disclosure is of no legal significance because it believes recall expenses are payable under the general language of its excess liability and property insurance policies.

McNeilab Inc. of Fort Washington, Pa., the J&J subsidiary that produces Tylenol, is suing J&J's excess and umbrella liability insurers and its all-risk property insurer to try to recover \$110 million in recall-related expenses. Specifically, the company says in its suit—filed late last year in U.S. District Court in Newark—that the policies written by its excess liability insurers include product recall coverage, even though its primary liability coverage, written by J&J's Bermuda captive, does not.

If the court does not find that these policies should respond, then McNeilab says recall expenses should be covered by its \$50 million all-risk extended property, business interruption and

extra-expense policy written by Affiliated FM Insurance Co., a subsidiary of Allendale Mutual Insurance Co.

The excess liability insurers say their policies do not include product recall coverage (BI, Nov. 21; July 11; Jan. 10).

J&J's Bermuda-based captive, Middlesex Insurance Co. Ltd., wrote J&J's \$5 million primary layer of product and general liability coverage on a standard U.S. policy form containing a "sister-ship" exclusion that excludes "damages claimed for the withdrawal... of the insured's products." The captive also shared in the first and second excess layers.

The London-form policy used by J&J's lead excess insurer, North River Insurance Co. through L.W. Biegler Inc. of Chicago, both units of Crum & Forster Inc., has a slightly different clause. It excludes "claims made against the insured for the withdrawal... of the insured's products..."

McNeilab says the latter language only excludes third-party claims, adding that its own expenses aren't excluded as they clearly are in the Middlesex policy.

The excess insurers and a group of North River reinsurers, which negotiated the terms of the excess policy, say they were never told there was a policy underlying the excess coverage nor that it contained language that differed from the North River policy.

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Public comp pools dropped from model law

By CAROL CAIN

SAN DIEGO—Public workers compensation pools will not be covered by a proposed model law on regulating self-insurance groups.

Risk pools formed by public entities were dropped from the model regulation in the final minutes before the model law was adopted by the Workers' Compensation Task Force of the National Assn. of Insurance Commissioners Dec. 5.

Public pool managers are happy about the change but managers of private pools, which will be covered by the proposed model law, still disagree with several sections of the model law. The model was expected to be adopted by the full NAIC late last week.

The task force, which voted 4-2 to drop the public self-insurance pools from the model law, decided to come back in six months with a companion bill that will regulate the activities of public pools.

Managers of public and private self-insurance pools have been debating the merits of provisions of the bill during the past few months at drafting sessions held around the country (BI, Nov. 28; Oct. 10; Sept. 5).

Public risk managers have argued that public pools operate differently from pools formed by private companies and, therefore, should be regulated separately.

During the Dec. 5 task force meeting, an initial motion by Warren Cooper, chief actuary of the New Jersey Insurance Department, to remove public groups from the

model died for lack of a second.

Public managers were then given a final opportunity to state their case, and, at the conclusion, Mr. Cooper again made the motion. In a surprise move, J. Michael Low, chairman of the task force and Arizona director of insurance, seconded the motion to get the matter on the floor for discussion.

"Most states that regulate groups regulate public and private groups together," Mr. Low said.

But 11 states regulate them separately, said Donald L. Jones, assistant to the executive director for state programs for the National League of Cities in Washington. He was one of the members of a study committee that compiled a report for the NAIC, which became the basis for the model (BI, July 4,

April 11).

"Because of our statutes, we found it absolutely necessary to split the two," New Jersey's Mr. Cooper said.

In noting the deficiencies of the model act, Mr. Jones said 14 of the 24 substantive sections of the bill were nonapplicable, unenforceable or silent when it came to public pools.

For example, "the bill does not furnish substitute mechanisms to protect workers where state or local law prohibits joint and several liability on the part of municipalities," Mr. Jones said, citing five sections of the bill.

There also were at least two provisions of the model law that were in apparent conflict with federal income tax rulings pertaining to

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Phone workers lobby for portable pensions

Telephone workers are calling on Congress in an effort to keep their pension credits portable.

The Communications Workers of America wants Congress to approve a provision in legislation now pending on the House floor, H.R. 4102, that would allow most phone workers to transfer their pension credits when they move from one regional phone company to another after American Telephone & Telegraph Co. divests into smaller units next year.

The provision, which was drafted by the 525,000-member CWA and earlier approved by the House Energy and Commerce Committee, would apply to workers employed by the Bell System prior to Jan. 1, 1984, the official divestiture date.

Under the provision, phone

benefit beat

workers who are not supervisors or who make less than \$50,000 a year would retain pension credits when they move from one new regional phone company to another.

The provision formally proposed by Rep. Tim Wirth, D-Colo., would help ensure pension credit portability after divestiture for the more than 700,000 Bell employees who are not supervisors or make less than \$50,000, according to the CWA. The Bell System now has about 1 million employees.

Pension portability has been a key feature of the Bell System pension program, the nation's largest private pension plan.

Currently, when Bell employees

move from one Bell unit to another, they don't lose credits toward their pensions, a vital benefit in the rapidly changing telecommunications industry where job transfers are frequent.

For example, if an Illinois Bell Telephone Co. employee is transferred after three years of service to California-based Pacific Telephone & Telegraph Co., that service is considered when the pension benefit is computed.

Pension portability is now possible because Bell employees have been covered by one of two system-wide plans: the Bell System Management Pension Plan with 283,000 active participants and the Bell

System Pension Plan covering 637,000 union employees.

But, pension portability could come to an end. Under the divestiture plan, AT&T's pension fund assets will be divided among nine entities: the seven newly formed regional companies, a central services organization owned and operated by the seven companies and the slimmed-down AT&T.

These new firms will then set up their own pension plans.

The divestiture plan, approved by a federal judge this summer (BI, July 15), does protect an employee's current pension credits and benefits. All service with a Bell company prior to Jan. 1, 1984, will be included when calculating future pension benefits.

In addition, under a special "true-up" period, the newly formed

regional companies must honor the pension credits of employees who are transferred from one regional company to another during 1984.

But starting in 1985, pension portability will end. For example, if a worker leaves Pacific Telesis, the phone company that will operate in California and Nevada, after four years of service and joins NYNEX, which will serve New York and New England, those four years of employment with Pacific Telesis won't be counted when NYNEX calculates the worker's pension benefit.

Without pension portability, it will be difficult for telephone workers who frequently move from one new regional phone company to another to vest in a pension. That's because the new phone companies, at least initially, will require 10 years of service before a worker can vest in a pension benefit.

The CWA believes the elimination of pension portability violates the spirit of divestiture. "Divestiture was not supposed to result in diminished benefits," said John Abraham, the CWA's associate director of research.

AT&T is neutral on the pension portability provision in H.R. 4102, a spokeswoman said. However an AT&T attorney earlier warned that other communications companies might say that they were facing unfair competition if pension benefits were portable at the new companies (BI, Feb. 21).

The current Bell System pension program is one of the most generous in private industry. The plan covering union employees, for example, allows a worker to retire at any age with a full pension after 30 years of service. In addition, a worker can retire at age 55 after 20 years of service with full benefits.

A collective bargaining agreement signed by AT&T and its unions this summer will boost pension benefits further after divestiture. Under that agreement, pension benefits for workers who retired before Jan. 1, 1983, will increase by 4.5%.

That agreement ensures identical benefits for the former Bell System employees for the three-year life of the contract, regardless of which one of the new regional phone companies they join (BI, Aug. 29).



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Abortion benefits

Federal employees and their dependents next year will lose health insurance coverage for most abortions under an amendment approved by Congress.

The amendment, attached to a continuing resolution to fund federal agencies, bars health insurance plans that are part of the Federal Employees Health Benefits Program from covering voluntary abortions that are incurred after Dec. 31. The plans still will be allowed to cover abortions that are necessary to terminate pregnancies that endanger the mothers' lives.

The number of abortions covered by federal health insurance plans has been decreasing in recent years. In 1980, about 20,000 abortions were performed under the federal plans.

Since then, though, the Reagan administration has put pressure on the plans to drop coverage for voluntary abortions. As a result, only six or seven of the 181 plans that are part of the FEHBP offered coverage for abortion this year.

About 7,000 abortions are expected to be covered by the federal plans this year.

Made any benefit changes? Write Claudette Dampier, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611; 312-649-5282.

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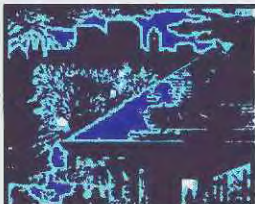
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Aetna unveils contractors coverage

Aetna Life & Casualty Co. has introduced a general liability policy for contractors called the Contractors Liability Policy.

The simplified, plain-English policy features include:

- Blanket contractual coverage. Part of the basic policy, no separate endorsement is necessary. This is basic coverage for risks like fire.
- Broad property liability coverage (including explosion, collapse and underground).
- Personal injury and advertising-offense injury protection, which was previously added to comprehensive general liability policies as an endorsement.
- More "additional insureds" coverage.
- A less-restrictive aggregate limit. This limit applies to completed operations.

products & services

- Sixty days' notice of cancellation. A standard policy required an endorsement to lengthen this notice to 60 days.
- Medical payments for third parties injured at the construction site.

The policy can be written to various limits; there is no maximum.

The Contractors Liability Policy is currently available in California, Colorado, Delaware, Georgia, Florida, Idaho, Illinois, Kentucky, Maryland, Massachusetts, Missouri, Montana, New Jersey, New York, North Carolina, Oregon, Pennsylvania, South Carolina, Virginia and the District of Columbia.

It will be available after Jan. 15

in Alabama, Maine, Michigan, Nebraska, New Hampshire, New Mexico, Rhode Island, Tennessee, Utah, Vermont, West Virginia, Wisconsin. The policy will be available after Feb. 15 in Alaska, Arkansas, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Nevada, North Dakota, South Dakota and Wyoming.

For more information contact your local independent agent.

Oil field loss control

INA Loss Control Services Inc., a CIGNA Corp. unit, announces a new loss-control program for petroleum exploration, drilling and

production.

The oil field program was developed to manage and reduce losses from employee injuries, transportation mishaps and third-party damages.

INA Loss Control Services' risk assessment system analyzes in detail past losses, operating procedures, worksite layout and equipment condition. The assessment results are used to reduce identified hazards.

INA Loss Control Services has petroleum experts based in Houston, Dallas, New Orleans, Oklahoma City and Denver.

The program is tailored to individual needs, and costs vary accordingly.

For more information contact Amnon Benjamini, Director of Energy Technology, INA Loss Control

Services, CIGNA Corp., 1600 Arch St., Philadelphia, Pa. 19103; 215-241-3727.

Software system

Liberty Mutual Insurance Co. is marketing a stand-alone, on-line information system designed to help risk managers more efficiently manage their insurance programs.

The RISKTRAC system enables risk managers to track and manage four major components of a corporate insurance program: claims, coverage, locations and billing. Each module can be purchased separately.

The user-friendly system, developed by A&S Consultants Inc., is currently available to run on Wang VS and Digital PDP11 minicomputers.

The claims module costs \$15,000, while the coverage, locations and billing modules cost \$8,000 each.

All four modules can be purchased for \$35,000, a \$4,000 savings.

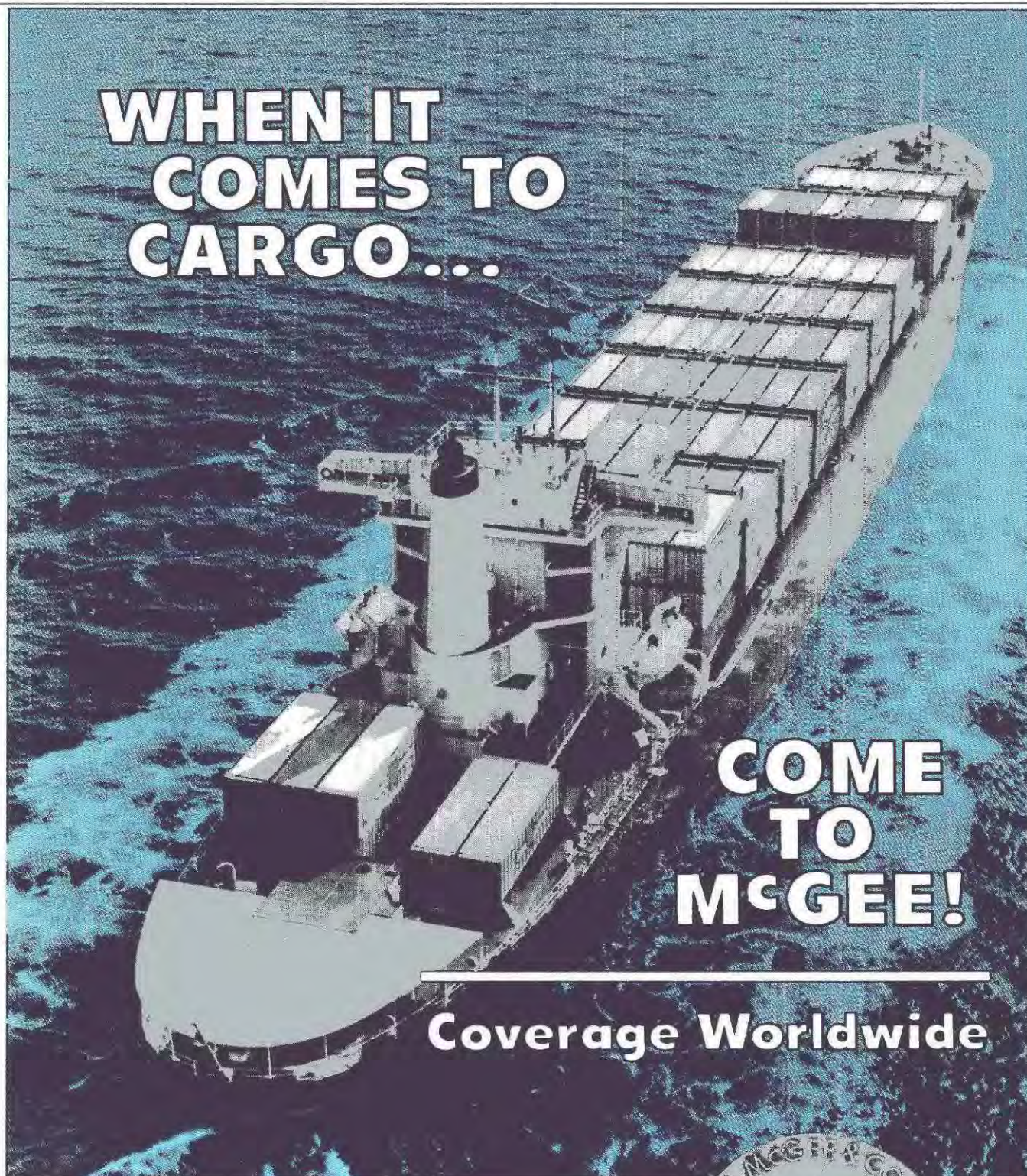
For more information, contact Liberty Mutual Insurance Co., 175 Berkeley St., Boston, Mass. 02117; 617-357-9500.

Health education

A new reference book, "Education for Health: The Selective Guide," is intended to aid the employer looking for material to supplement a health education seminar.

The volume, published by the National Center for Health Education with the Mental Health Materials Center, gives information about more than 2,100 films, videotapes, slides, books and pamphlets.

The volume costs \$90, plus \$5 for postage and handling. For information write the National Center for Health Education, 30 E. 29th St., New York, N.Y. 10016.



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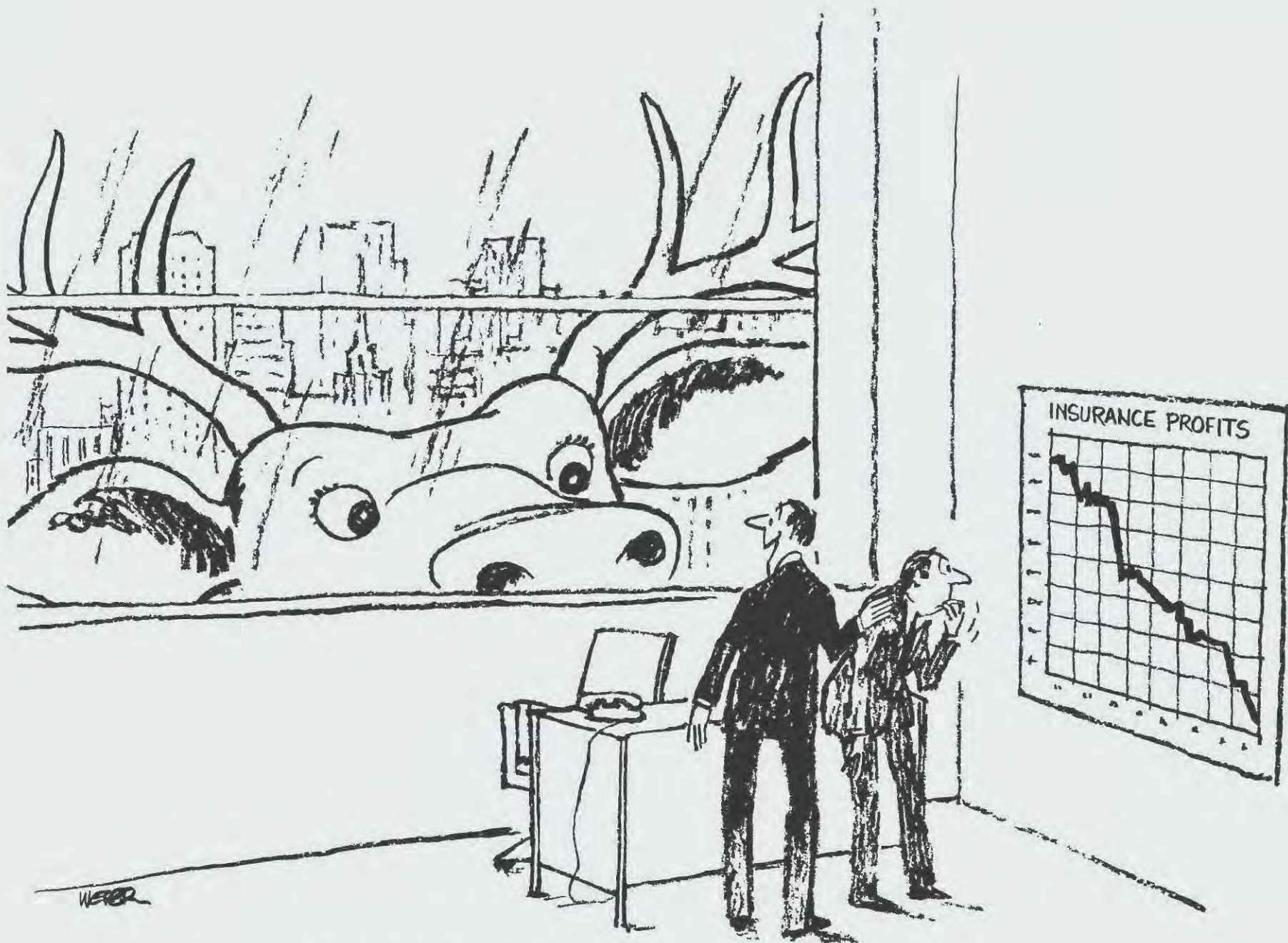
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opinions

Some 'unsettling' advice

WE HAVE SOME HARD ADVICE for insurers fighting with their policyholders over liability for asbestos claims under general liability insurance policies: Settle with your policyholder.

Insurers can no longer deny that they are fighting a losing battle with policyholders when they argue that their specific policies do not apply to asbestos claims or that their policies are not as broad as the policyholders contend.

Insurers in 1980 could have reasonably expected that they had another chance to beat broad liability for asbestos claims after 48 Insulations Inc. won its case for broad coverage by arguing that insurers on the risk when the claimant inhaled or was exposed to asbestos are liable.

Insurers were understandably incredulous in 1981 when Keene Corp. won its case for broad coverage under a policy interpretation radically different from 48 Insulations—that all insurers on the risk from the time of exposure through the manifestation of the injury are liable to pay asbestos claims.

And, in 1982, no one could argue that insurers had a right to be confused about how to interpret coverage when Eagle-Picher Industries Inc. won its case on an even different policy interpretation—that insurers on the risk at the time the injury manifests itself are liable for asbestos claims.

Looking at the three appellate decisions, however, a pattern was emerging. The judges each interpreted the policies to provide the broadest possible coverage to the specific policyholder whose coverage needs differed.

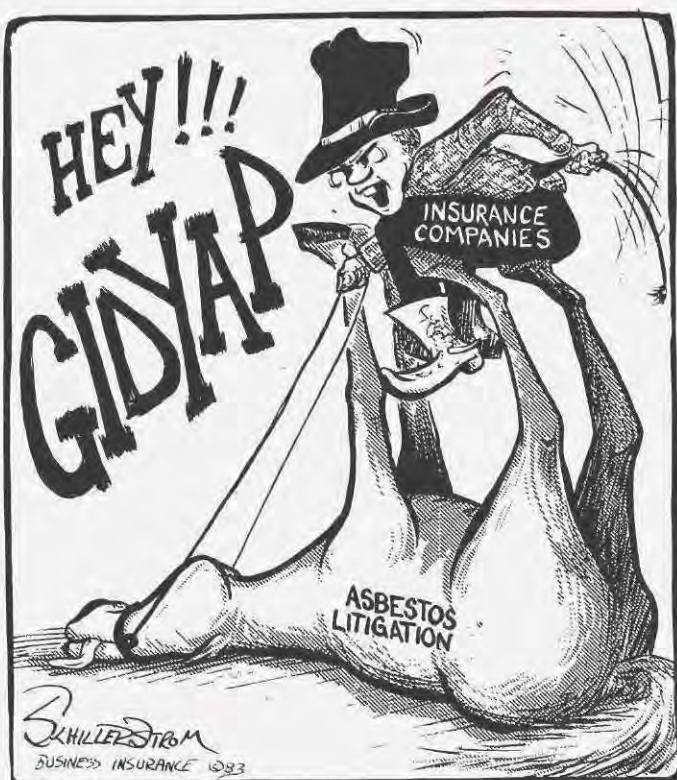
Now, with the decision in AC&S Inc., that pattern is a blueprint for lower courts considering insurers' liability for asbestos claims. Let there be no doubt: Insurers' obligations for asbestos claims will be in each case to provide the broadest possible coverage to the buyer.

The most recent decision by Judge E. Mac Troutman in the AC&S Inc. case makes this very clear (see story, page 2). The judge for the U.S. District Court for the Eastern District of Pennsylvania said he looked at preceding decisions in asbestos coverage cases and found "each sought to maximize coverage for the insureds" and he would "remain faithful to this rule."

We can understand why insurers initially went to court to determine their liability for these enormous claims. Insurers had every right to ask the courts to help settle legitimate disputes over coverage between themselves and policyholders. No one could foresee these claims when policies were written decades ago and the policies were unclear. Long-latent diseases did pose a policy coverage question.

But, insurers, you now have your answer.

Now, insurers should face the reality that judges across the country will rule for the policyholder in these asbestos coverage disputes. Therefore, insurers



should settle their disputes with their policyholders. Insurers are not going to get a better deal in court if they fight their liability.

Insurers fighting liability for asbestos claims are only hurting themselves. Fighting liability for asbestos claims only stacks up a pile of legal bills, adding to the cost of defending and paying asbestos claims. And, as all these decisions show, each fight over coverage only produces another decision broadening insurers' liability for asbestos claims, leaving insurers who want to settle less room in which to negotiate a settlement.

In addition, if insurers continue to fight their liability for asbestos claims in the face of this growing case law establishing their broad liability for asbestos claims, they could find themselves a target of bad-faith suits and judgments as well. This is not a risk to scoff at, considering the large bad-faith judgments that have been awarded recently to policyholders when insurers have been found to have wrongfully denied coverage.

Finally, if insurers continue to fight their obvious broad liability for asbestos claims, they will damage their individual and collective reputations in the marketplace. The unprecedented number of lawsuits between insurers and their policyholders today on a host of coverage issues already reflects poorly on insurance companies. Continued litigation over asbestos coverage surely will damage the faith insurance buyers have in their insurers and the value of their insurance policies.

Losing the faith of the insurance buyers would be the biggest loss of all.

letters

Correcting points about pollution liability policy

To the editor: Your article, "Business not stampeding to buy EIL coverage: Broker" (BI, Nov. 14), which briefly summarizes the coverages available from different insurance companies, contained numerous inaccuracies regarding the American International Group Inc. companies' environmental impairment liability policy. This policy is used by American Home Assurance Co.; National Union Fire Insurance Co. of Pittsburgh, Pa.; New Hampshire Insurance Co.; and The Insurance Co. of the State of Pennsylvania.

The following statements correctly describe the coverage AIG companies offer under the EIL form:

• First, contrary to what the article stated, the policy does cover off-premises cleanup costs; the definition of property damage even includes the phrase "cleanup cost necessitated by pollution

conditions."

• Secondly, if there are several claims arising from the same pollution incident, the AIG companies' policy will, in fact, respond to all such claims and apply only one deductible or self-insured retention to the sum of the claims. Furthermore, the form does not exclude sensory impairment if it arises from a covered pollution condition and if the insured is held legally liable for it. The definition of bodily injury can be specifically amended to include smell, noise, vibration, etc., if the insured so desires.

• Finally, AIG companies do more than, as the article states, "consider" retroactive coverage. Such coverage is standard on the companies' policies.

In the interest of greater accuracy, I would appreciate your printing a clarification of the coverages available under AIG companies' EIL policy. In the future,

please feel free to contact AIG if you need any information on policy forms.

Shane McCaffrey

American International Underwriters
New York

■ **Hugo Standing**, chairman of Alexander & Alexander of California Inc., whose remarks on the AIG policies were reported in the article, responds: "I had no intention of misrepresenting AIG's coverage. I am delighted to know AIG has broadened its coverage."

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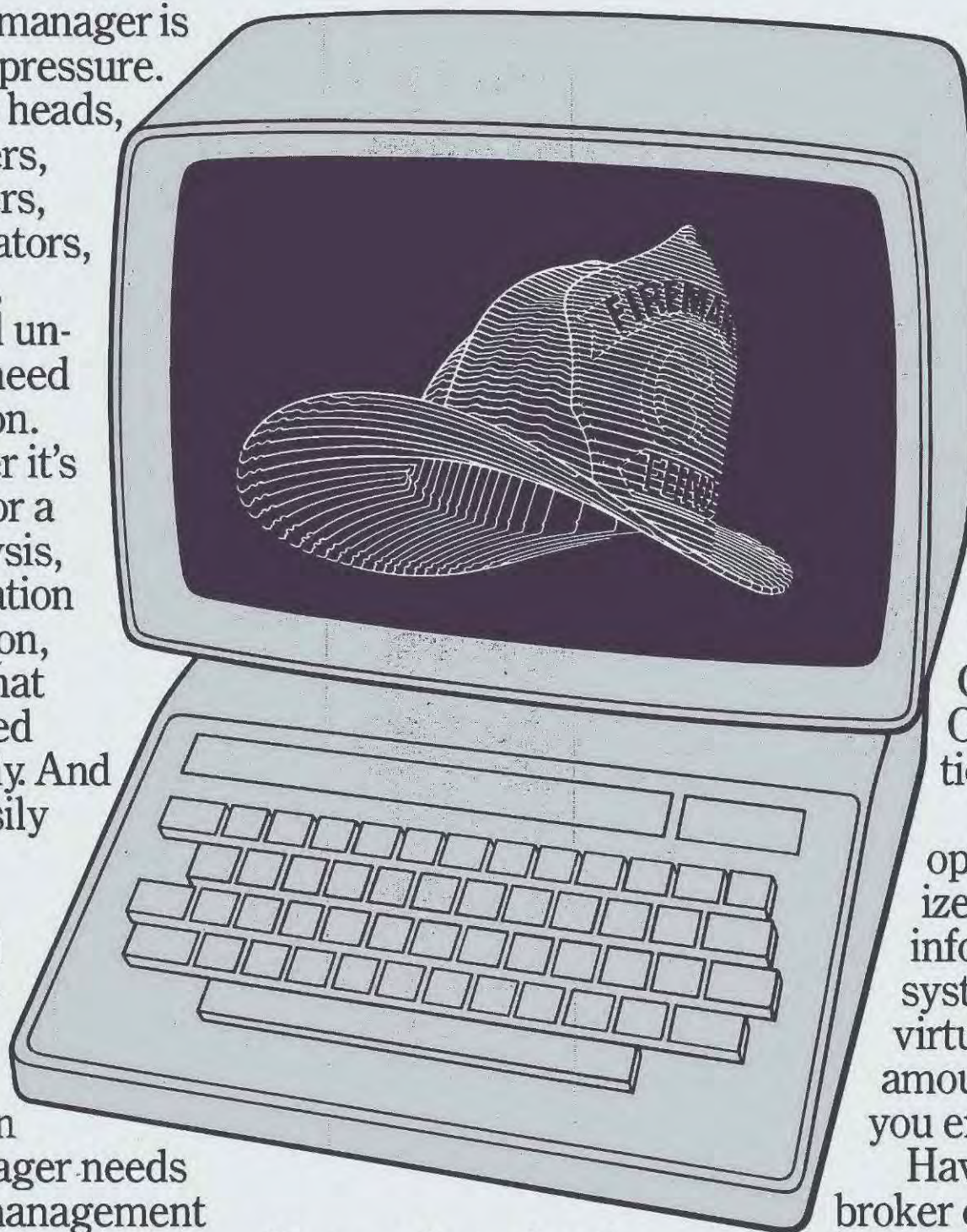
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• A book of **corporate benefits management speeches**, presented

at 1983 International Foundation of Employee Benefit Plans conferences, is available from the Foundation. Copies of the 121-page book are \$8 for IFEBP members; \$15 for non-members. Orders must be prepaid to the Publications Department, IFEBP, P.O. Box 69, Brookfield, Wis. 53005.

• A newsletter from benefits consultant Kwasha Lipton on **post-retirement pension increases and patterns** of foreign subsidiaries is available free. To order write Department M, Kwasha Lipton, P.O. Box 1400, Fort Lee, N.J. 07024.

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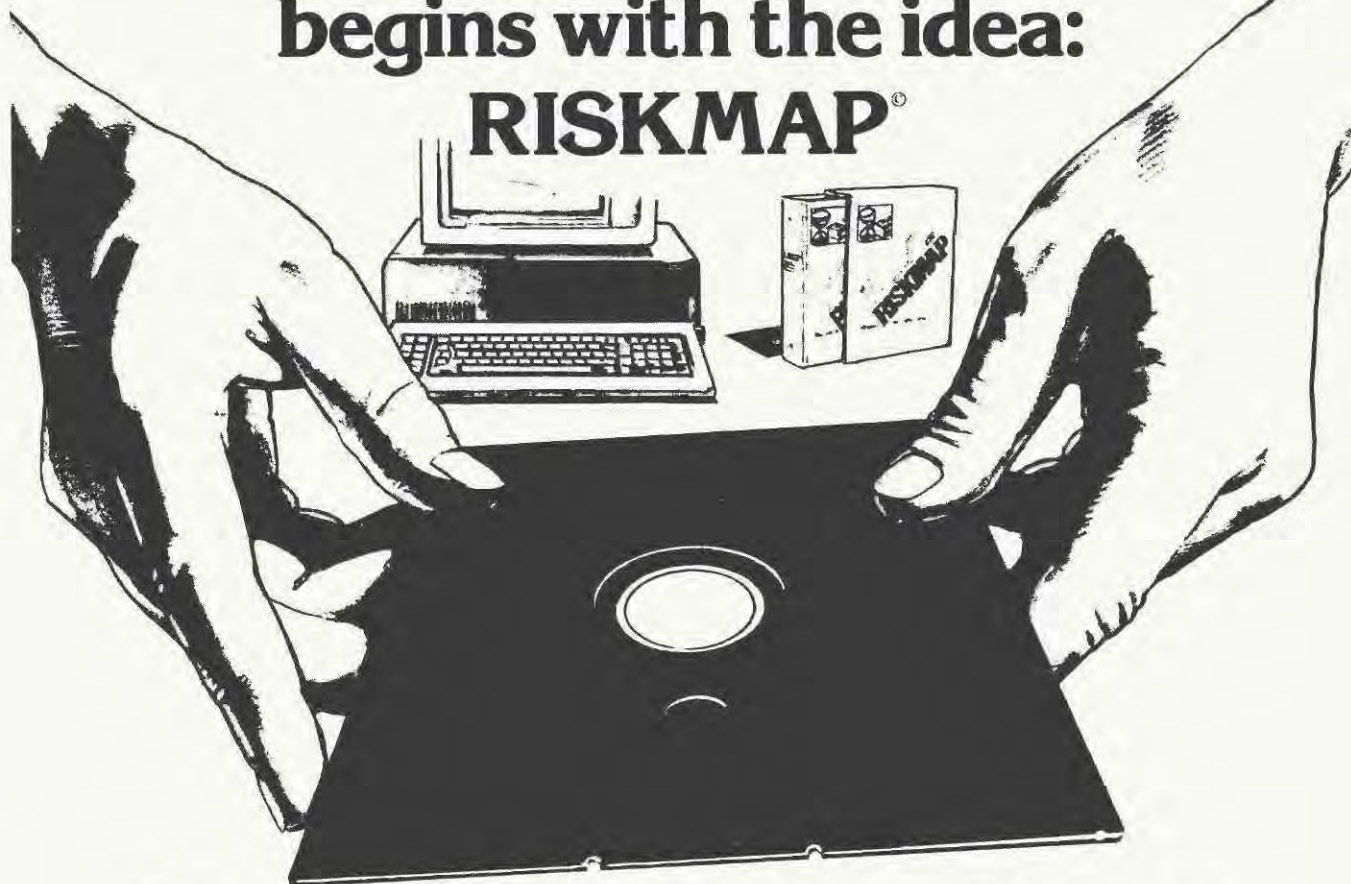
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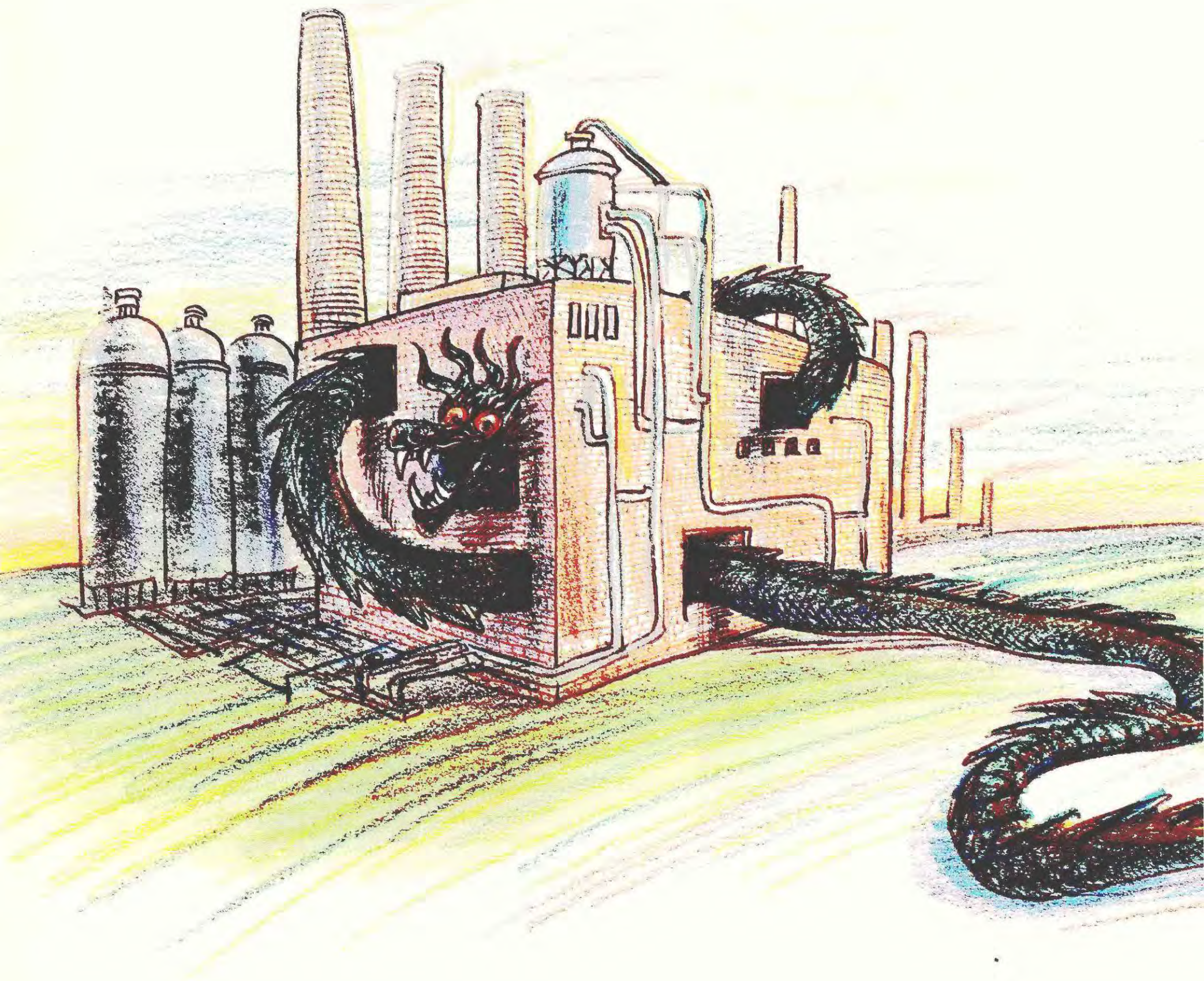


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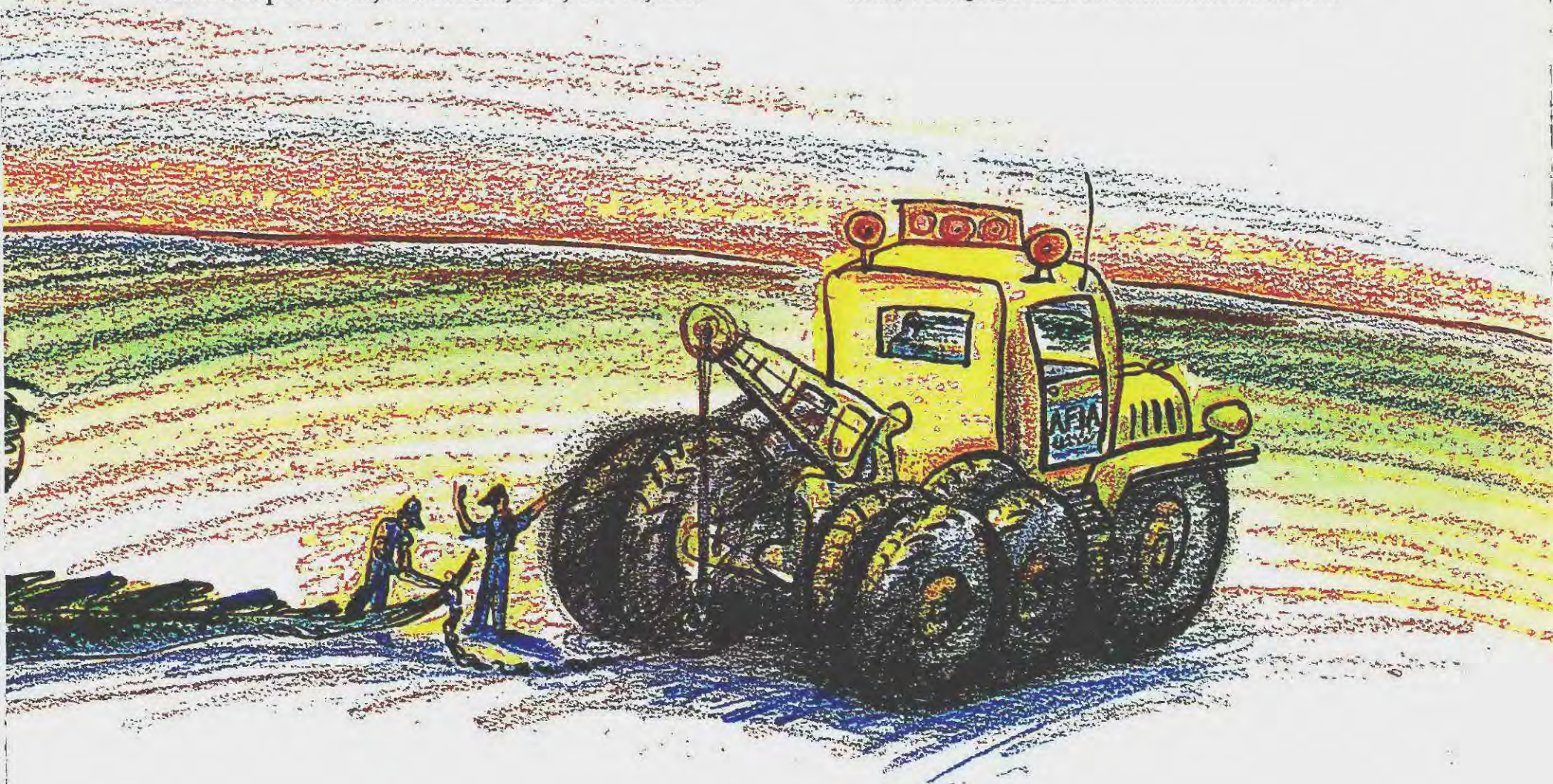
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Some sell Lloyd's brokers rather than underwriters

By STACY SHAPIRO

LONDON—Lloyd's of London brokers are starting to separate from their Lloyd's underwriting agencies, which is mandated in the Lloyd's Act of 1982.

But instead of selling off their underwriting agencies, some Lloyd's companies may sell their brokerage groups.

Recently, F. Bolton & Co. (Holdings) Ltd. entered negotiations to sell its Lloyd's broker, F. Bolton & Co. Ltd., to Frizzell Group Ltd.

"We are in talks with F. Bolton and will reach an agreement sometime in January," said Roger Godden, secretary for Frizzell Group. "Bolton will keep its shipping and underwriting divisions and we will

london line

buy the brokers."

Frizzell Group, which already owns Lloyd's brokers, is one of the largest privately held insurance brokerages in London, specializing in private lines coverage. The group is expanding, however, into commercial lines like marine and aviation and is interested in purchasing small brokerages in the United States, Mr. Godden noted.

There may be other opportunities for acquisitions in London, he explained. "There will be lots of these opportunities around as (London) companies have to divest their interests."

Kidnap coverage

The recent kidnapping of a Dutch brewing executive has increased interest in kidnap and ransom insurance, a leading K&R underwriter notes.

"There must be dozens of kidnaps going on right now," said Tony Cassidy, managing director of Cassidy Davis Ltd. But Mr. Cassidy is "not about" to comment if insurers have had to pay any claims in the past several weeks.

He specifically will not say if underwriters helped pay the ransom delivered two weeks ago to free Freddie Heineken, the head of the Heineken brewery in the Netherlands, and his chauffeur.

Mr. Cassidy estimates that there must be about 400 kidnaps of prominent people, including businessmen like Mr. Heineken, each year. And, "surprisingly," only a few actually are insured, he said.

However, more multinationals corporations are now buying kidnap and ransom insurance to pay for the costs of recovering employees if they are kidnapped, he noted, adding that most large companies request policy limits of about \$25 million per occurrence. Smaller companies should buy about \$10 million of coverage, he said.

According to Mr. Cassidy, about \$60 million in premiums are collected annually by K&R insurers, though he says that fierce market competition is keeping rates at "totally inadequate" levels.

Pension study

The British government has begun a study of the nation's pension system.

Five top government officials, including Norman Fowler, secretary of state for social services, will examine ways in which employees can change jobs without jeopardizing their private pension benefits.

The committee will also review funding mechanisms for government-sponsored pension plans and retirement ages, which stand at 65 for men and 60 for women.

In announcing the study, Mr. Fowler said legislation will be introduced next year to require employers to upgrade pension benefits for employees who leave their jobs before they fully vest in a private pension (BI, Nov. 14).

British fire losses

The number of fire losses in Britain for the first 10 months of this year has billowed to 487.8 million pounds (\$731.7 million), which is 151 million pounds (\$226.5 million) higher than during first 10 months last year.

The British Insurance Assn. also announced that 96 serious fires occurred in November, totaling 35.9 million pounds (\$53.85 million) in insured and uninsured losses.

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Philadelphia Manufacturers taps Moore

John F. Moore elected president and chief executive officer of Philadelphia Manufacturers Mutual Insurance Co. in Valley Forge, Pa. Philadelphia Manufacturers is a member of the Factory Mutual System. He had been a senior vp and chief financial officer for the insurer. Mr. Moore succeeds **Donald H. Moore**, who retired as chief executive officer but will continue as board chairman.

Also at Philadelphia Mutual, **Harry L. Bryant** becomes executive vp and chief operating officer. He formerly was senior vp-insurance operations.

Other insurer changes:

Richard S. L. Roddis elected chairman and chief executive officer of Unigard Mutual Insurance Co. in Seattle. He will succeed **Jay D. Porter**, who will retire Feb. 1. Mr. Roddis had been a law professor at the University of Washington and before that was the California Insurance Commissioner. He has been a Unigard director since 1970.

In addition, **Richard L. Brown** elected director, president and chief operating officer. He was most recently senior vp of Unigard. He replaces **Duane H. Thompson** as president and chief operating officer. Mr. Thompson was elected chairman of the finance committee.

Gerald A. Isom elected senior executive vp and a director of Fireman's Fund Insurance Co., a subsidiary of American Express Co. in Novato, Calif. Mr. Isom had been executive vp in charge of underwriting. He continues as senior underwriting executive. He also is responsible for international and reinsurance operations formerly handled by Vice Chairman **O.D. Oliphant**. Mr. Oliphant is retiring at the end of this year.

Norman D. Boardman, **George A. Eagleson** and **Lawrence W. Pocknett** elected property/casualty division vps at The Hartford Insurance Co. in Hartford, Conn. Mr. Boardman is responsible for the Southern division comprised of eight regional offices in 10 states, plus Puerto Rico and the U.S. Virgin Islands. Mr. Eagleson will continue as manager of the Pacific division. Mr. Pocknett will manage the mid-central division. All are located in the home office in Hartford.

Stephen H. Matheson appointed senior vp in CIGNA Corp.'s group pension division in Hartford, Conn. He is in charge of sales, new business underwriting and major accounts. Mr. Matheson had been vp for planning at CIGNA.

George C. Martin elected to vp-claims of Westchester Fire Insurance Co. in Basking Ridge, N.J., part of U.S. Insurance Group, which is a Crum & Forster unit. In this new position, Mr. Martin will be responsible for claims systems, planning and analysis, as well as pricing and sales of risk management services and stand-alone claim activities. He had been an assistant vp-claims with USIG.

Agents/brokers

George R. Schmelzle appointed executive vp of the Corroon & Black Corp. benefits and specialty sales group. He also has been named president of its Public Entities National Co. division. Mr. Schmelzle, who will be located in Nashville, Tenn., had been serving as president and chief executive officer of Corroon & Black of Ohio Inc. in Columbus and as central regional director of the Public Entities National Co.

Anthony J. Romano promoted to senior vp at Corroon & Black of New York Inc. in New York. Mr. Romano will head the construction services-financial institution de-

comings & goings: industry

partment, a new post. Mr. Romano had been a vp with C&B.

Lawrence Greenfield elected president of The Kaye Group Inc. in New York. The company, primarily a life/health brokerage, was ranked as the 24th-largest U.S. broker in the 1983 *Business Insurance* Agent/Broker survey (BI, June 27). Mr. Greenfield will continue to direct new program development

emphasizing captives and professional liability insurance.

And **Howard Kaye** was elected president of Walter Kaye Associates Inc. It is the main operating subsidiary of The Kaye Group and focuses on property/casualty brokerage business. Mr. Kaye will be responsible for client service and new business.

Both Mr. Greenfield and Mr.

Kaye replace **Walter Kaye** as president of the firms. Walter Kaye is chairman of The Kaye Group Inc.

Other suppliers

David H. Olson appointed executive vp of James Benefits, a subsidiary of broker Fred. S. James & Co. Inc., and central regional benefits director in Denver. Mr. Olson most recently managed the Denver benefits office, Galbraith & Green, a unit of James Benefits.

Robert W. Eby Jr. appointed

Pacific regional loss-control manager for Ctek, the risk evaluation and industrial hygiene consulting subsidiary of Continental Corp. in Rancho Cordova, Calif. Mr. Eby had been administrative manager of Ctek's Eastern region. He has been with Continental since 1972.

Mary Lou Maxie joined Towers, Perrin, Forster & Crosby in New York as a consultant. Ms. Maxie is a specialist in health care cost containment and claims administration and evaluation. She formerly was with a national consulting firm. ■

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Two days ago the plaintiff demanded \$800,000 to settle. The defense offered \$100,000. There was no further movement, and the case was carried to verdict. The jury found for the plaintiff; the award was \$3,356,000.

What went wrong? The defense team had already decided that they were willing to pay \$500,000. The case could have been settled for \$500,000. But after the initial \$100,000, the defense made no further offer.

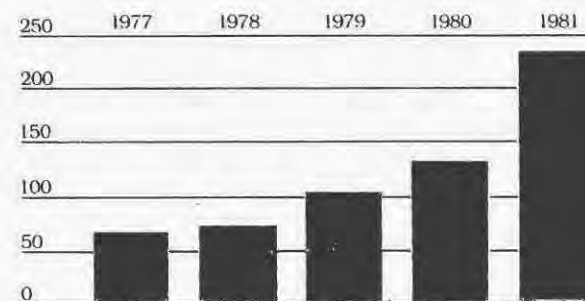
In 31% of the cases we monitored last year, carriers did not offer what they said a case was worth. Back in 1977, however, the figure was an astounding 55%. It was at this time that American Re established a litigation management team, to work for our clients exclusively on these massive cases.

How important litigation management can be is shown by the increase in jury verdicts awarding \$1,000,000 or more in personal injury suits, as shown at the right.

In the face of the national trend, American Re clients who used our specialists increased their percentage of massive injury cases won from 36% to 49%. These victories represent many millions of dollars saved; dollars that flow directly to our clients' bottom lines.

How often do you have a chance to lose a million dollars or more in one case? Possibly once a year, or twice. But these are the ones that can really hurt you. The jury's attitude toward a massively injured person is qualitatively different from that in the ordinary injury case. They want to find for the plaintiff. What's more, the plaintiff is usually represented by a specialist in massive injury cases. The primary company's people, on the other hand, usually handle a large volume of smaller cases. In this unfamiliar type of case, they may hesitate to make hard decisions. They can miss danger signs, or opportunities.

MILLION DOLLAR VERDICTS



The number of jury verdicts in the U.S. each year awarding \$1 million or more to individual plaintiffs in personal injury suits. Information from Jury Verdict Research, Inc., Solon, Ohio.

AMERICAN REDEF

datebook

JAN. 12. Basics of Workers Compensation in Illinois conference in Chicago, sponsored by the Illinois State Chamber of Commerce; \$80 for members; \$120 for non-members. Also **Jan. 19** in Springfield and **Jan. 24** in Chicago. Illinois State Chamber of Commerce, Center for Business Management, 20 N. Wacker Drive, Chicago, Ill. 60606; 312-372-7373.

JAN. 12-13. Risk Management Education conference in Atlanta, sponsored by Risk & Insurance Management Society Inc.; \$85 for members; \$100 for non-members; student discounts available. Gary Meggs, Southern Co., Risk Management, 64 Perimeter Center E., Atlanta, Ga. 30346; 404-399-3098.

JAN. 16-17. Organizing and Operating Agency Captives conference in San Francisco, sponsored by American Risk Management and Conning & Co.; \$545. William T. Torpey, American Risk Man-

agement, 1 Executive Drive, Fort Lee, N.J. 07024; 201-592-7100.

JAN. 16-20. Accredited Safety Auditor seminar in Atlanta, sponsored by the International Loss Control Institute; \$625. Also **April 30-May 4** in Atlanta. Richard Jump, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 800-544-6001; 404-466-2208.

JAN. 19-20. Defense Practice seminar in Los Angeles, sponsored by the Defense Research Institute; \$325. Seminar Department, Defense Research Institute, 733 N. Van Buren St., Suite 650, Milwaukee, Wis. 53202; 414-272-5995.

JAN. 19-20. Organizing and Capitalizing a Syndicate at the New York and Other Insurance Exchanges seminar in New York, sponsored by Executive Enterprises; \$675; \$595 for subsequent registrants. Executive Enterprises, 33 W. 60th St.,

New York, N.Y. 10023; 212-489-2680.

JAN. 23-FEB. 3. Helicopter Accident Investigation course in Los Angeles, sponsored by the University of Southern California; \$1,370. Office of Extension & In-Service Programs, Institute of Safety & Systems Management, University of Southern California, Los Angeles, Calif. 90089; 213-743-6523/6524.

JAN. 24-25. Agent-Owned Offshore Insurance Companies conference in Dallas, sponsored by Advanced Management Research of North America Inc.; \$625; group discounts available. Advanced Management Research of North America, 50 E. 42nd St., Room 301, New York, N.Y. 10017; 212-661-3140.

JAN. 26. Development and Participation in a Preferred Provider Organization seminar in New York, sponsored by Health Systems Associates; \$235. John F. Reilly, Health Systems Associates, Box 404, South Salem, N.Y. 10560; 914-533-6789.

JAN. 27-28. Toxic Tort Litigation seminar in

New York, sponsored by the Practising Law Institute; \$350. Also **Feb. 17-18** in Houston, **March 16-17** in San Francisco. Practising Law Institute, Department KDC, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

FEB. 2-5. National Fire Safety and Burn Prevention conference in Arlington, Va., sponsored by the Federal Emergency Management Agency's National Fire Academy and U.S. Fire Administration in cooperation with International Society of Fire Service Instructors and the National Fire Protection Assn.; \$120. International Society of Fire Service Instructors, 20 Main St., Ashland, Mass. 01721; 617-881-5800.

FEB. 6-10. Basic Government Risk Management seminar at the University of Arizona, Tucson, Ariz., sponsored by the Public Risk and Insurance Management Assn.; \$360. Joseph Hrabosky, 3920 N. Harrison Road, Tucson, Ariz. 85749; 602-749-3137 or Natalie Wasserman, PRIMA, 1120 G. St. N.W., Suite 707, Washington, D.C. 20005; 202-737-7556.

FEB. 6-10. Reinsurance Practice course in Lon-

don, sponsored by the Risk Research Group; \$1,000. Contact Sue Moore, Risk Research Group, Bridge House, 181 Queen Victoria St., London EC4V 4DD; 01-236-2175, extension 22; telex 8811636.

FEB. 13-15. International Foundation of Employee Benefit Plans 1984 Trustees and Administrators institute in Orlando, Fla.; \$420. Also **May 14-16** in Las Vegas, Nev.; **July 23-25** in Monterey, Calif.; **Aug. 13-15** in McAfee, N.J. Public Relations Department, IFEBP, P.O. Box 69, Brookfield, Wis. 53005; 414-786-8700.

FEB. 13-17. Loss Control Management seminar in Atlanta, sponsored by the International Loss Control Institute; \$625. Richard Jump, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 800-544-6001; 404-466-2208.

FEB. 16. Risk Management Information conference in Chicago, sponsored by Corporate Systems; \$50. Matt Davis, Corporate Systems, Box 31780, Amarillo, Texas 79120; 806-376-4223.

FEB. 21-22. Compliance with the New CAL/OSHA Noise Standard and How to Establish an Effective Hearing Conservation Program course in Los Angeles, sponsored by the University of Southern California; \$375. University of Southern California, Institute of Safety & Systems Management, Office of Extension & In-Service Programs, Los Angeles, Calif. 90089; 213-743-6523/6524.

FEB. 22-24. Issues facing captives course in London, sponsored by the Risk Research Group; \$630. Contact Sue Moore, Risk Research Group, Bridge House, 181 Queen Victoria St., London EC4V 4DD; 01-236-2175, ext. 22; telex 8811636.

FEB. 25-MARCH 3. Western Assn. of Insurance Brokers third annual winter conference in Snowmass, Colo.; \$125. Sue Farber, Western Assn. of Insurance Brokers, 235 Montgomery St., Suite 962, San Francisco, Calif. 94104; 415-392-5383.

FEB. 29-MARCH 2. Introduction to International Employee Benefits seminar in Brussels, sponsored by the International Benefits Information Service; \$525. Bruce F. Spencer, 222 W. Adams St., Chicago, Ill. 60606; 312-236-2615 or Vincent J. Simone, Orchard House, 7 Little Austin Road, Farnham, Surrey, England; 01-252-726416.

MARCH 1-2. Ansil Fire Protection school in Beaumont, Texas; \$450. Also **March 5-6, March 8-9 and March 12-13**. Jill Davis, Ansil Training Services, Marinette, Wis. 54143; 715-735-7411.

MARCH 6-7. International Reinsurance conference in London, sponsored by Kluwer Publishing Ltd.; \$475. Kluwer Publishing, 20/24 Rope-maker St., London EC2Y 9AS; 01-588-4274; telex 8811725.

MARCH 12-14. Advanced Government Risk Management seminar at the University of Arizona, Tucson, sponsored by the Public Risk and Insurance Management Assn.; \$325. Dr. Neston Roos, 2030 E. Broadway, No. 110, Tucson, Ariz. 85719; 602-622-5174 or Natalie Wasserman, PRIMA, 1120 G. St. N.W., Suite 707, Washington, D.C. 20005; 202-737-7556.

MARCH 12-16. Fundamentals of Modern Safety Management seminar in Atlanta, sponsored by the International Loss Control Institute; \$625. Richard Jump, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 800-544-6001; 404-466-2208.

MARCH 13-15. Reasoning Reinsurance seminar in Irving, Texas, sponsored by the University of Dallas; \$475. Professor Bruce Evans, Reinsurance Management Institute, University of Dallas, Irving, Texas 75061; 214-721-5360 or 214-721-5299.

MARCH 19-21. Advanced Safety Management seminar in Atlanta, sponsored by the International Loss Control Institute; \$350. Richard Jump, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 800-544-6001; 404-466-2208.

MARCH 19-21. Society of Fire Protection Engineers annual symposium in Leesburg, Va.; \$375; discounts available before Dec. 15. Marianne Casey, Society of Fire Protection Engineers, 60 Batterymarch St., Boston, Mass. 02110; 617-482-0686.

MARCH 19-21. Human Resources conference in Boston, sponsored by the American Management Assns.; \$525 for members; \$595 for non-members; group discounts available. American Management Assns., 135 W. 50th St., New York, N.Y. 10020; 518-891-1500.

MARCH 19-23. Industrial Ventilation course in Los Angeles, sponsored by the University of Southern California; \$850. University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, Los Angeles, Calif. 90089; 213-743-6523/6524.

MARCH 19-23. Fundamentals of Hygiene Monitoring course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; \$490; group discounts available. Also **May 14-18, Sept. 10-14, Nov. 12-16** in Long Grove, Ill. John Garis, Industrial Hygiene, National Loss Control Corp., Long Grove, Ill. 60049; 312-540-2026.

MARCH 26-30. Respiratory Protection course in Los Angeles, sponsored by the University of Southern California; \$750. University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, Los Angeles, Calif. 90089; 213-743-6523/6524.

MARCH 30. "Right to Know": Illinois Toxic Substances Disclosure Act of 1983 conference in Chicago, sponsored by the Illinois State Chamber of Commerce; \$80 for members; \$120 for non-members. Illinois State Chamber of Commerce, Center for Business Management, 20 N. Wacker Drive, Chicago, Ill. 60606; 312-372-7373.

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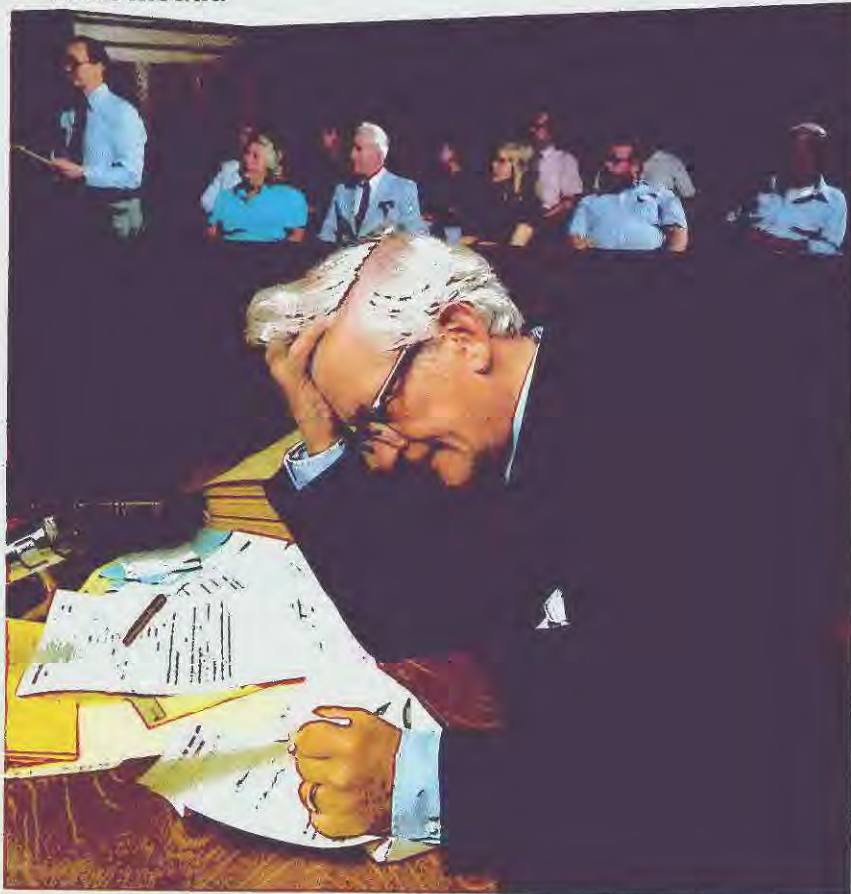
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We also offer Difference In Conditions policies and Manufacturers Output policies along with manuscript policies for the unique or unusual risk. Our Petrochemical Department has already had a major impact. And there's our new HPR facilities. Overall, it's a true "Whole Risk" approach.

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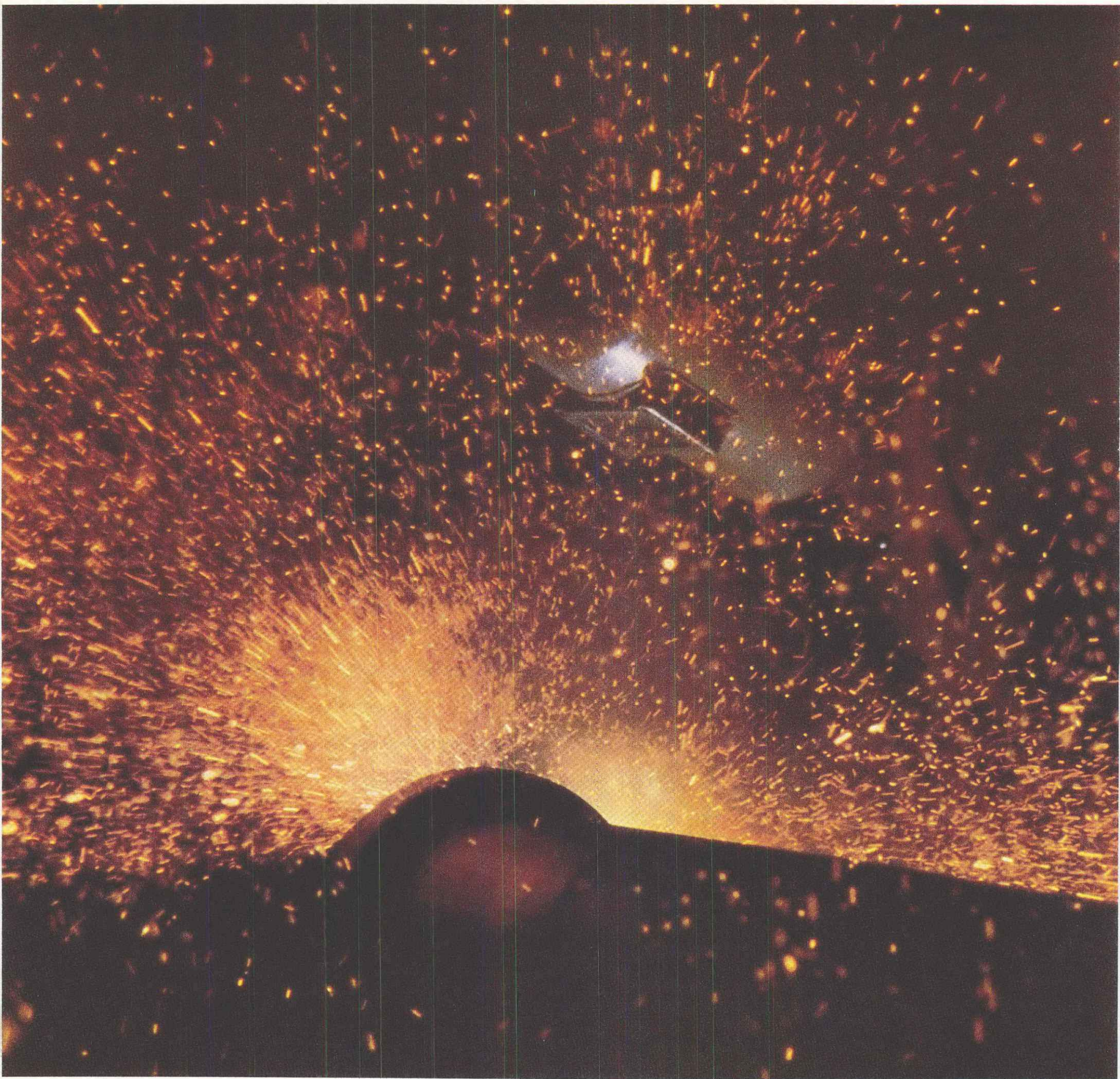
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perspective



INTERPRETING INSURANCE

The nature of the industry requires special counsel in litigation

By Stanley I. Lehrer

WHEN YOU HAVE disagreements involving heavy losses or substantial claims with insurance companies, should you use special counsel? What is so different about insurance law that would make you seek a stranger and not your regular counsel?

Part of the answer comes from the nature of insurance. It affects almost all individuals from birth (when we hope they and their parents have medical care coverage) through death (when life insurance should provide for their families and the payment of their taxes).

It affects every business enterprise since none of substance can function without liability, fire, workers compensation and a variety of other coverages that are either recommended or reviewed almost continuously. But even that is on the functional or operational level.

When it comes to the law, insurance becomes even more all-encompassing. Issuing of binders and policies with commitments made or not made involves the law of agency. How those policies provide what they do involves the law of suretyship.

When you recognize that insurance contracts historically constitute the most prolific source of litigation in all of this country's courts, you must realize that insurance deeply involves the law of evidence. Last, but certainly not least, insurance must involve a contract and contract law.

No matter how clearly you may think it is worded, you must always be aware that every insurance contract is subject to someone's construction and someone else's interpretation.

In doing research for this, I came upon a number of very recently reported cases where judges, in writing their opinions, spent not only paragraphs but, sometimes, pages making preliminary determinations that insurance involves a contract.

Those judges noted that such contracts afford indemnity or security and involve the spreading of risk and some investment risk taking, as well as many other conclusions that you thought had been finally decided back in the Dark Ages.

But in so many cases, such determinations must be made even before getting the facts. Even where the basics have been decided, it is the construction or interpretation of insurance contracts and the peculiar or unique language that is incorporated within them that provide so much grist for the litigation mill and where so many of the uninitiated can be chewed up.

The meanings of certain words and phrases in ordinary commercial agreements may be different from the meanings attributed to those same words and phrases in the insurance world.

Business consultants and corporate executives

don't understand much of the language risk managers ordinarily use because they deal with insurance only occasionally. Why, then, should most lawyers, whose knowledge of insurance policies may not extend further than those covering their own lives and property, be expected to have detailed comprehension of insurance language?

In practice, the language of insurance has become so incomprehensible that it is one of the major causes of recent statutes mandating plain language in insurance and certain other contracts. The wording of insurance contracts always has and always will be subject to judicial review.

Those who must research what legal action has gone on must often refer to one or two sets of legal encyclopedias. Couch on insurance contains more than 25 volumes; Appleman on insurance contains more than 75 volumes, and each of those more than 100 volumes is supplemented annually.

We must also consider that these volumes contain only summaries of and comments on the full case laws and do not cover the local or state statutes and codes. The sheer mass of insurance law is enormous.

There is no question in my mind that insurance law is different from other fields of law. It relates to them but often overwhelms them. It is constantly evolving in the way measures and countermeasures evolve in warfare. In insurance law, the combatants are the companies on one side and their policyholders on the other.

The trick in dealing with most substantial claims is to get above the level of the claims examiner, to at least deal with supervisors and, at best, to deal with executives. Sometimes the necessary level of authority is not found until the matter reaches the legal department or, with some companies, their law firm.

Let me give you an example.

We were asked to represent the president and treasurer of a company that had filed a voluntary Chapter 11 petition in bankruptcy. Non-payment of some taxes is chargeable personally against certain corporate officers and that obligation survives corporate bankruptcy. The officers intended to clear all tax delinquencies prior to filing, but they forgot to pay claims by various states and cities.

Once the Bankruptcy Court took jurisdiction, the officers lost their ability to use corporate funds with which to pay the tax claims. In the belief that their error or omission in not originally collecting for and paying the sales taxes was covered by the officers and directors errors and omissions policy, we advised the insurer of the potential claim.

The response we received was pure Catch-22. It said that if there had actually been an error or omission, then that was outside the scope of the employment of the officers. If it was outside the scope of their employment, then the insurer would not cover the claim since the policy only covered that which was within the scope of employment.

Finally, we came to the conclusion that we

could not convince the examiner that his interpretation made it impossible to ever have a valid claim and that the premium had been paid for what could never be covered.

The solution was to ask the bankruptcy judge to indicate that the policy was a possible source of funds for the bankrupt estate. That forced the moving of our client's file to the insurer's legal department where their counsel realized that there would be coverage of the claims as and when they would arise.

At that point, the officers were able to stop worrying about themselves and to concentrate on the reorganization. The good news must have helped because they arranged a corporate acquisition and merger through which the company's debts, including the tax claims, were settled by the acquiring company.

Insurance companies often act this way.

I don't mean to say that it always takes a court's participation to move a file from one department to another, but often it does take some special activity to place ourselves in contact with someone who has the authority to respond.

There are times when we need an ally and sometimes the role of ally is unwittingly played by outside legal counsel retained by an insurer with which we have disagreed. There it is helpful to know how outside counsels think and to understand their motivations.

As litigation has become more time-consuming and more expensive, alternative methods of dispute resolution have gained in popularity. In dealing with insurers, counsel must be aware not only of the availability of these alternative methods, but of the methods themselves and the costs involved in using them.

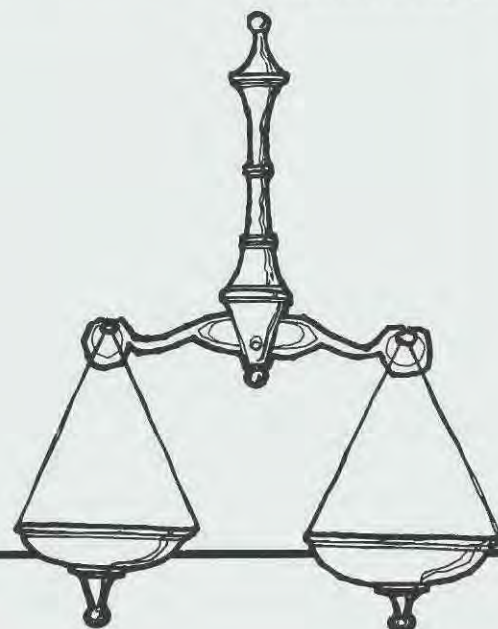
The first is the oldest and the simplest. It is the art of negotiation. It should precede litigation. Too often, and sometimes for the wrong reasons, counsel is too quick to institute litigation against an insurance company.

Sometimes they want to talk—sometimes they can talk—and sometimes they can pay at the end of a dialogue without the necessity of a lawsuit.

Another method is mediation. This involves the use of a third party to move the talks and the proposals along. Mediation need not be terribly formal but its main benefit is, at the same time, its

Continued on next page

Stanley I. Lehrer is a senior partner of Squadron, Ellenoff, Plesent & Lehrer, a law firm in New York. This article is taken from a speech Mr. Lehrer gave to the Insurance Consultants Society in Orlando, Fla., in October.



First, the fire station caught fire...

Then, the fireman drove the hook-and-ladder over the hydrant outside, flooding the dry cleaning store on the corner. The owner, naturally upset, ran screaming into the street and narrowly escaped being run over by the chief's car. The chief swerved, avoiding the irate dry cleaner, and drove through the front porch of the church across the street. The policeman directing traffic got a little too excited and charged an innocent bystander with arson. Meanwhile, the paramedic accidentally dropped the stretcher carrying the lady who lived in the house next to the fire station and who thought she was having a heart attack. It was indigestion, but she broke her arm in the fall. And, when the smoke finally cleared...

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Reagan signs bill clarifying 1981 Risk Retention Act

By JERRY GEISEL

WASHINGTON—Federal legislation that makes clear on what kind of risks employers can self-insure through product liability risk retention groups is now law.

President Reagan this month signed into law a measure, S. 1046, that says that the federal definition of product liability as contained in the 1981 Risk Retention Act is the only guide to the exposures the groups can cover.

The legislation, which was unanimously approved by the House and the Senate (BI, Nov. 28), was introduced after state regulators tried to restrict the risks that could be written by groups formed under the Risk Retention Act.

Under that 1981 act, businesses can band together to form captive insurers—or risk retention groups—to self-insure their product liability exposures with minimal interference from state regulators.

Federal employees

New federal employees are going to get a break on their contribu-

tions to their retirement program.

Congress, just prior to adjourning for the year, approved an amendment to legislation, H.R. 2077, that reduces contributions federal employees hired after Jan. 1 will have to pay to the Civil Service Retirement System.

Under the amendment, introduced by Sen. Ted Stevens, R-Alaska, new federal employees will have to contribute 1.3% of salary to their retirement plan, compared with the 7% of salary current employees contribute. Current employees also pay 1.3% of salary for Medicare coverage.

If Congress had not approved the legislation, new employees next year would have had to pay 13.7% of salary for mandatory retirement contributions. Amendments to the Social Security Act that Congress passed earlier this year specify that federal employees hired after Jan. 1, 1984 must be covered by the Social Security program (BI, April 4).

Current federal employees are exempt from Social Security.

As a result, the new federal employees could have gotten stuck paying 7% of salary for their own retirement program plus 6.7% of salary for Social Security, or a total of 13.7% for mandatory retirement plan contributions.

But the amendment passed by Congress last month means that new federal employees will pay a total of only 8% of salary in Social Security and federal retirement plan contributions.

The Stevens amendment will remain in effect for two years, or until Congress approves a new retirement plan for employees hired after Jan. 1, 1984—whichever comes first.

Once a new retirement plan is put in place, federal employees hired after Jan. 1, 1984, will be retroactively transferred to the plan. They will, however take with them any credits they've earned under the current plan.

Benefit tax bills

Congress must act quickly when it returns in January on tax legislation that contains important employee benefit provisions, say Rep. Dan Rostenkowski, D-Ill., chairman of the House Ways and Means Committee, and Rep. Barber Conable, R-N.Y., the committee's rank-

ing minority member.

A delay in considering the tax bill, H.R. 4170, "can only serve to further cast doubt on this institution's ability to resolve important national issues in a timely manner," the two influential committee members said in a joint statement.

H.R. 4170, which has passed the Ways and Means Committee, is important to employers because, among other things, it sets permanent rules on the taxation of employee benefits—like employer-provided parking—that aren't specifically covered by the tax code.

Benefit rules that would be established by H.R. 4170, also known as the Tax Reform Act of 1983, include:

- Cafeteria benefit plans would be allowed to offer only two taxable benefits—term life insurance exceeding \$50,000 and extra vacation days. All other taxable benefits, like group auto insurance, no longer would be provided in a cafeteria plan.

- The fair market value of free or reduced-cost parking would be included as part of an employee's taxable income unless the parking were available on a non-discriminatory basis.

- Discounts to employees that exceed 20% of the goods' or services' regular selling prices would be taxable to the employee.

Threat from banks

Curbing the banking industry's involvement in the insurance business should be handled by legislation and not by regulation, an insurance agents group says.

"The potential for credit tie-ins and other anti-competitive practices most concerns agents, but it is not clear that the unfair influence of credit can be obviated by regulation alone," said Richard Teubner, president of the Independent Insurance Agents of America.

In a letter to the Federal Deposit Insurance Corp., the IIAA said limits on banks' insurance activities should be pursued in the context of federal banking statutes.

The FDIC, which insures bank deposits of up to \$100,000, earlier asked for public comment on whether it should regulate the insurance brokerage and underwriting activities of banks (BI, Sept. 5).

Oregon comp system studied

SALEM, Oregon—A major analysis of the workers compensation insurance system for Oregon's construction business is being performed by the National Council on Compensation Insurance.

The NCCI study, the first of its kind, will determine whether there are inequities in the way Oregon employers are classified for the purpose of establishing workers compensation insurance premiums.

During the state's 1983 legislative session, some Oregon employers, primarily from the building trades, expressed concern about the equity of workers compensation premiums.

Employers specifically questioned the use of payroll to determine premiums and suggested a shift to "cents-per-hour" or "man-hours" as the basis for premiums.

Oregon is one of 49 states using the payroll basis. Washington is the only state that uses a cents-per-

hour system.

Testimony from the Oregon Insurance Division during the 1983 legislative session reported that a cents-per-hour basis of premium would increase premiums by as much as 60% for most employers, especially small businesses. Fewer than 1% of state employers would benefit from this change, the Insurance Division estimated.

In addition, the division noted, consumer prices would probably increase as employers passed on the cost of converting to a different premium basis.

The NCCI is conducting the survey in cooperation with the Oregon Insurance Division and the governor's office. The study's \$200,000 to \$400,000 cost will be paid by NCCI.

Results and recommendations should be completed sometime in early 1984.

The NCCI, headquartered in New York City, is a voluntary, non-profit statistical, research and ratemaking organization.

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Recreational Marine	☐	☒
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Architect's project insurance. A concept that's taking off.



More and more, owners of construction projects are requiring their architectural design team to obtain project professional liability insurance. This coverage applies to the individual project and is separate from the architect's general practice coverage.

An example of how Shand, Morahan is able to help put together a highly complex project policy program can be seen in the current reconstruction and expansion of a major international airport. In this case, a wholesale broker, Bryson & Associates, was called in by the project's insurance agent. Jim Bryson in turn called the professional liability specialists at Shand, Morahan. Together we set to work to address the owner's requirements and the requirements of the various design team firms: companies of different sizes, disciplines and insurance needs.

Working closely together, we satisfied the various requirements (which included substantial limits, duration of exposure, scope of coverage, deductible modification and other elements of coverage) and developed a project policy specifically tailored to the needs of this airport project. After reviewing the proposal, the project owner recommended the Shand, Morahan program.

The successful resolution of this complex insurance problem is a good example of how the liability professionals at Shand, Morahan can work with you whenever a project professional liability policy is required.

You can be sure we will respond with enthusiasm, intelligence and the experience and knowledge that has made Shand, Morahan the leading professional liability insurance source in America today.

For more information on Shand, Morahan's architect's project insurance, call Erv Kranberg at (312) 866-0890.

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A&A acquires Boston-based brokerage

Alexander & Alexander Services Inc. has acquired O'Brien, Russell & Co., a Boston-based insurance brokerage that handles more than \$50 million in annual premium.

The acquisition of the privately held firm, one of the largest brokers in New England with 118 employees, was reportedly made for 400,000 common shares of A&A stock, currently valued at \$7.9 million. A&A would not comment on the terms of the transaction.

In November, the Securities and Exchange Commission approved A&A's shelf registration for 2.75 million new shares to be issued to purchase smaller, regional insurance operations. O'Brien, Russell is the first purchase made with this stock and other acquisitions will follow, an A&A spokesman said.

The spokesman cited several rea-

sons for the purchase, including A&A's desire to expand its New England operations, which before the transaction comprised only a Boston office with 100 employees and its desire to expand insurance services for utilities and the technology industry, areas in which O'Brien, Russell is strong.

O'Brien, Russell will become part of A&A of Massachusetts Inc., a unit of A&A Inc. of New York. J. Deane Somerville, a general partner of O'Brien, Russell, has been named chairman and chief executive officer of A&A of Massachusetts. Donald M. Murray, managing vp of A&A's Boston office, has been named president and chief operat-

markets

ing officer.

Exchange brokers

The Illinois Insurance Exchange in Chicago has approved three new broker members, including one Lloyd's of London broker.

S.W. Taylor & Co. (Brokers), Ltd., controlled by London insurance broker Stanley W. Taylor, is the first non-U.S. producer to be approved by the Illinois exchange and will specialize in professional sports coverages. Taylor's entry is expected to bring more international business to the exchange.

In addition, two Chicago-based firms—Neal, Lloyd & Co. Inc. and

Triad Underwriting Management Agency Inc.—were approved as broker members. Both are owned by Johnson & Higgins.

Meanwhile, the New York Insurance Exchange added one new broker member, Amberco Brokers Corp. of New York, an intermediary handling mainly treaty reinsurance.

Amberco is a subsidiary of Amberco Ltd., a reinsurance brokerage headquartered in Hamilton, Bermuda, though a minority interest in the subsidiary will be acquired by Parkington Associates, Ltd., a New York-based excess/surplus broker and underwriting manager.

AIMU correspondent

The American Institute of Marine Underwriters has appointed

Albert R. Lee & Co. (Southern) Inc. as its correspondent covering eastern Louisiana. Correspondents act as loss surveyors and provide general port information.

Lee is located at 610 Poydras St., Room 417, New Orleans, La. 70130; 504-525-9188.

Licensing firm

A new firm, Kennedy Licensing Service Inc. has been formed to help agents, brokers and insurance companies obtain resident and non-resident licenses for property/casualty, life, accident and health insurance in all states.

The new company, headed by Marjorie C. Kennedy, was formed through the purchase of business from consultant Tillinghast, Nelson & Warren.

Kennedy Licensing is located at 108 E. 2nd St., P.O. Box 1898, Mount Pleasant, Texas 75455; 214-572-7949.

Peruvian affiliate

AFIA Worldwide Insurance has named Cia. de Seguros Condor as its correspondent, sole representative and affiliated insurance company in Peru.

Seguros Condor is located at Calle Jr. A. Miro Quesada 260-8 piso, Casilla Postal 10012, Lima, Peru; 28-3410.

Acquisitions

The California Insurance Group of Monterey, Calif., has agreed in principle to acquire the outstanding stock of Los Angeles-based Universal Security Insurance Co., a property/casualty subsidiary of S&H Insurance Co. of San Diego. S&H is a unit of Cincinnati-based Baldwin-United Corp. CIG will handle the transaction through its holding company, Monterey Financial Corp.

Kindler & Laucci Insurance Brokers, a California subsidiary of Memphis-based E.H. Crump Cos. Inc., has acquired the commercial lines insurance business of Los Angeles-based Van Camp Insurance Agency. Van Camp President William E. Brady and other members of his staff will join the Long Beach office of Kindler & Laucci.

Noble Lowndes & Partners Ltd., an international actuarial and employee benefits consulting firm headquartered in Great Britain, has acquired Daskais & Walls, Inc., a pension actuarial consulting firm based in Chicago.

Omaha Indemnity Co., an affiliate of Mutual of Omaha Cos., has acquired Commercial Union Custom Insurance Co., a standard-risk auto insurance subsidiary of Commercial Union Insurance Cos. of Boston, for an undisclosed amount.

New offices

Anthony Lumsdem & Co. Ltd., a Lloyd's of London broker, has opened a U.S. office specializing in coverage for banks and financial institutions, special lines and association programs. The new office is located at 95 Merrick Way, Coral Gables, Fla. 33143; 305-443-2334.

Western Reinsurance Brokers Inc./Western Re Mangers, a Los Angeles-based reinsurance firm, has opened an East Coast office at P.O. Box 3996, New Haven, Conn. 06525; 203-397-2364. The new office will be headed by Lon Varnadore, an executive vp.

Financial Insurance Service Inc. and Financial Insurance Service Consultants Inc. have moved to new corporate headquarters at 2603 West 22nd St., Suite 22, Oak Brook, Ill. 60521.

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The intense competition for your company's insurance business coupled with a lack of qualified professionals in the insurance industry has resulted in a deterioration of company services—causing a great deal of instability in the industry.

Risk managers are seriously hampered in their insurance negotiations and are more likely to suffer significant increases in misunderstandings and misinterpretations of the coverages that their policies actually provide. This is what causes a coverage dispute.

The legal cost of pursuing a claim of this nature can be astronomical. Regardless of how rightful the insured's position is, the effect on cash flow forces a company to exercise restraint and sometimes to even compromise situations with most serious consequences.

PIA's Legal Expense Insurance for Coverage Disputes has been created to make it possible for the insured to pursue a rightful claim without regard for reasonable legal costs.

The climate of economic stress has brought about aggressive competition within the insurance industry, resulting in the cost of premium becoming the prime consideration for many companies when buying coverage. As a consequence, more policies are being prepared and hastily written without attention to the basic essentials of underwriting. Ambiguous wordings are being used more frequently; intricate terminology is glossed over. Then, when a claim is presented to an insurance company, these obscurities raise the question of applicability—because the exact coverage intended is obscured to the purchaser, the broker and the insurance company.

When a policyholder feels his claim should be honored and the insurance company feels it has cause to deny it, the only recourse remaining may be litigation. As a result, there has been a substantial increase in coverage disputes and many insured corporations are now discovering the potential costs and hazards of such suits: the larger the claim, the more likely the chance of denial.

1. Coverage disputes should be litigated by those few attorneys who specialize in this area of law, since effective litigation requires a keen understanding of the procedures and intricacies. In preparing a coverage dispute case, the bulk of the funds expended by the plaintiff will undoubtedly be during the discovery period or the first six months in which the insured is preparing his case. This is not a one-time corporate expense. These costs must be understood and looked at as the loss of the use of corporate cash flow monies.
2. A coverage dispute trial could drag on for years since constant postponement is a key defense maneuver. The monies the insured is using for legal expenses now becomes tied up for years. This is far more expensive than it appears. The insured has lost his money for investment purposes. The insured may have to borrow money to meet the obligations of the unpaid claim. Now a large indebtedness has to be contended with. Compute these factors over four or five years and you begin to understand how unproductively spent money has a very high replacement cost that could approach the value of the claim.

3. If, under these conditions, the insured compromises his position, the legal fees already spent are lost and the cash flow problems have compounded the cost, and the insured now must meet the cost of the claim itself—with depleted corporate funds or expensive borrowed dollars. The total cost of a coverage dispute could greatly exceed the claim in question.
4. If the company is successful, in their claim and does recover, as part of its judgment, the legal fees expended in pursuing the claim, the company has, in the loss of the use of monies over the years, could have lost almost as much as it has been able to recover. This, then, is not effectively putting the insured in the position he should have been in. While the insured may have been successful in collecting his claim, plus his legal fees, he still may, in reality, be in a loss position.

In response to these conditions, PIA, innovators of specialized insurance for the specific needs of business and industry, offers you Coverage Dispute Legal Expense Coverage with two options in the event of a coverage dispute either with your insurance company, your broker, or your consultant:

OPTION 1

The corporation selects an attorney. The attorney and fee schedule are subject to approval by the underwriter. Under this option, the corporation pays a deductible based on the size of its insurance budget. It is also responsible for a 20% participation in the legal costs incurred, in excess of the deductible, with a maximum coverage of \$5 million on aggregate annual legal costs for an unlimited number of cases.

Example: CORPORATION SELECTS ATTORNEY

Legal fees total	\$1,000,000
*Deductible	100,000
20% corporate participation	180,000
(20% × \$900,000)	
Total cost assumed by insured	280,000
Total cost assumed by PIA	\$ 720,000
*Deductible based upon corporate insurance budget.	

OPTION 2

The insured may request the underwriters to select legal counsel. If the underwriters agree, they will reduce the deductible by 50% and waive the corporate participation in its entirety, absorb all legal expenses up to the ceiling of \$5 million annually on an unlimited number of cases. The policy is *non-cancellable by the underwriters* except for non-payment of the premium.

Example: CORPORATION USES PIA's ATTORNEY

Legal fees total	\$1,000,000
Deductible (50% of Option 1)	50,000
Total cost assumed by insured	50,000
Total cost assumed by PIA	\$ 950,000

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1912



1932



1922



1942

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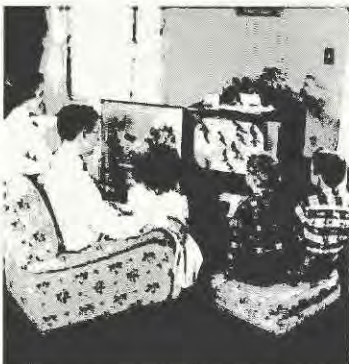
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1952



1972



1962



1983

Evaluation of umbrella liability forms

Best

Aetna Casualty & Surety Co.
Anderson and Anderson Insurance Brokers Inc.
Central Mutual Insurance Co.
Cincinnati Insurance Co.
Crum & Forster Cos. ("Defender" form)
Le Groupe Desjardins Assurances Generales
Hudson Insurance Co.
Industrial Indemnity Co.
Midland Insurance Co.
Public Service Mutual Insurance Co.

Above average

Allstate Insurance Co.
Crum & Forster Cos.
Elite Insurance Co.
Great American Insurance Cos.
Gulf Insurance Co.
Harleysville Mutual Insurance Co.
Hartford Insurance Group
National Indemnity Co.
Unigard Mutual Insurance Co.
United Pacific/Reliance Insurance Co.

Average with significant restrictions

American Mutual Liability Insurance Co.
Commercial Union Assurance Cos.
Comstock Insurance Co.
Continental Insurance Co.
Delta Lloyds Insurance Co.
Excelsior Insurance Co.
Fireman's Fund Insurance Cos.
First State Insurance Co.
Guaranty National Insurance Co.
Home Insurance Cos.
Liberty Mutual Insurance Co.
Maryland Casualty Co.
New England Reinsurance Co.
Northbrook Property & Casualty Insurance Co.
Potomac Insurance Co.
Ranger Insurance Co.
Republic Indemnity Co. of America
Royal Globe Insurance Co.
Selected Risks Insurance Co.

Below average

(significant and more numerous restrictions)

Admiral Insurance Co.
Allianz Underwriters Inc.
American Centennial Insurance Co.
ARMCO Insurance Group
Associated International Insurance Co.
Bituminous Casualty Corp.
California Union Insurance Co.
Canadian Indemnity Co.
Centennial Insurance Co.
Central National Insurance Co. of Omaha
Chicago Insurance Co.
Chubb-Pacific Indemnity Group

Source: The Umbrella Book

Employers Insurance of Wausau
Gibraltar Casualty Co.
Highlands Insurance Co.
Indiana Insurance Co.
Insurance Co. of North America
Insurance Co. of the West
Interstate Fire & Casualty Co.
Integrity Insurance Co.
Kemper Group
Lloyd's of London
Mutual Fire
Marine & Inland Insurance Co.
Nationwide Mutual Insurance Co.
Northbrook Excess & Surplus Insurance Co.
Northwestern National Insurance Co.
Ohio Casualty Insurance Co.
Old Republic Insurance Co.
Pine Top Insurance Co.
Republic-Vanguard Insurance Co.
Safety Mutual Casualty Corp.
St. Paul Fire & Marine Insurance Co.
Stonewall Insurance Co.
Transamerica Insurance Co.
The Travelers Indemnity Co.
United States Fidelity & Guaranty Co.

Overly restrictive

AIU Insurance Co.
American Home Assurance Co.
American States Insurance Co.
CNA Insurance
Gerling Global General Insurance Co.
Great Southwest Fire Insurance Co.
Hanover Insurance Co.
Harbor Insurance Co.
Iowa National Mutual Insurance Co.
JEVCO Insurance Co.
Lexington Insurance Co.
Markel Insurance Co. of Canada
Mission Insurance Co.
New Hampshire Insurance Cos.
North Star Reinsurance Corp.
Northumberland General Insurance Co.
Puritan Insurance Co.
RLI Insurance Co.
SAFECO Insurance Co. of America
Sentry Insurance Co.
Transit Casualty Co.
Western World Insurance Co.
Zurich American Insurance Co.

Umbrella coverages evaluated

Continued from page 3

tailored to meet policyholders' needs. All of the forms could be made satisfactory through appropriate endorsements, says Mr. Robertson. Some insurers are capable of doing this; others may not be, he warns.

When "The Umbrella Book" is consulted, users should remember that the summary rankings do not reflect value or pricing considerations. Therefore, a policy that is not highly rated may be preferable for some buyers if it costs less and the restrictions are not critical to the coverage of the organization's specific risks.

The important thing is for buyers to recognize that a restriction exists so its significance can be evaluated, notes Mr. Robertson. And, often an insurer that is asked to do so will eliminate the exclusion through an

endorsement at very little additional premium cost.

Twenty-five different restrictions are identified in "The Umbrella Book," nearly half of which are contained in the policies of some insurers in the Below Average and Overly Restrictive groups. None of the policies listed in the Best category contains more than four restrictions.

However, the number of restrictions in a policy may not be as critical as the nature of those restrictions, and this is taken into consideration in the rankings, says Mr. Robertson.

"Based on claims situations we have observed, there is no more important deficiency in an umbrella policy than failure to respond when an insured needs defense for a large claim or multiple claims arising from one or more oc-

currences," he explains.

Many insurance forms analyzed by Mr. Robertson do not unequivocally require the insurer to provide defense coverage for claims that exceed underlying insurance limits. This ambiguity can spell disaster for both the insurer and the policyholder.

Litigation in the wake of the Kansas City Hyatt Regency Hotel skywalk collapse has focused attention on another trouble spot in some umbrella policies. The "persons insured" wording may not automatically cover all underlying additional insureds.

This problem can be controlled by the broker if the additional insureds are explicitly named in an endorsement to the umbrella policy, says Mr. Robertson. He urges risk managers and brokers to ask

Continued on facing page

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the question: To what extent does the umbrella cover everybody that the company has promised to indemnify?

Experience has shown that the courts may respond to the language of the contracts and not to industrywide conventions or other unwritten intentions of the parties, Mr. Robertson notes.

Recent hotel fires and other catastrophes have given new impetus to fears that high liability limits may be exposed to losses. "Some companies are now reported to be buying as much as \$800 million in liability limits," says Mr. Robertson.

Such high limits typically are obtained through layering of umbrella policies, which can lead to litigation if the upper excess policies do not follow the underlying coverage.

But, the overriding impression conveyed by the editors of this year's "The Umbrella Book" is the general broadening of coverage and improvement in the clarity of umbrella liability forms. Besides gains generated by the competitive insurance market, Mr. Robertson believes some credit is due "The Umbrella Book" itself.

"When we first started this project, many insurers had the attitude that 'nobody cares,' or that the coverage is 'what we offer' rather than 'what the market needs,'" says Mr. Robertson. There has been a change in this attitude, he believes.

Today, the majority of companies want to meet the buyer's needs. Some of them have started submitting their forms to "The Umbrella Book" editors before they are printed so that changes can be made if they are judged to be restrictive in ways that may not have been intended.

Even if competition subsides and the markets harden, Mr. Robertson expects many of these gains for the buyer to be retained.

"I don't think we'll see anyone undoing the progress they've made in clarifying coverage terms," he says. "They might reintroduce some exclusions and restrictions, however."

Changes in umbrella forms lag behind changes in the market by two to 12 years, says Mr. Robertson. Some umbrella forms have not been updated since the 1973 revisions in the comprehensive general liability policy.

If and when the market hardens, employment discrimination coverage could be the first to go, Mr. Robertson predicts. Although such losses are infrequent, the severity can be staggering. And, it is difficult for employers to assess their exposures or protect against them because recent case law has established the concept of unintentional discrimination.

Slacker competition also might see insurers pulling back from coverage for punitive damages, says Mr. Robertson.

And, he wouldn't be surprised to see more restrictions pertaining to damage to property in the policyholder's care, custody and control. For example, the insurer might exclude coverage for a building contractor who upsets the structural integrity of a building that the contractor is remodeling.

Of course, the best-drafted policy in the world is worthless if the company behind it is headed toward insolvency. And, a missing link in "The Umbrella Book" is that it does not evaluate the financial condition of the insurers that underwrite the forms.

The editors acknowledge that solvency information would be

helpful to users of the reference volumes and have given some thought to how such information might be incorporated.

"The big question is: How big a limit should a policyholder accept from a given insurer," points out Mr. Robertson. This is increasingly critical because there is a trend among buyers to prefer larger limits and fewer policies to avoid coverage interpretation disputes.

"The problem with including financial information is that we don't feel certain of our criteria," explains Mr. Robertson. "It's really a different exercise that involves evaluating the adequacy and soundness of reinsurance. And, A.M. Best already rates insurance companies."

"The Umbrella Book" is published by Warren, McVeigh & Griffin Inc., 1420 Bristol St. North, Newport Beach, Calif. 92660; 714-752-1058. Copies cost \$165 each until Jan. 1 and \$225 thereafter.

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Broker's policy lacks restrictions

IRVINE, Calif.—An umbrella liability insurance policy available through Anderson & Anderson Insurance Brokers Inc. stands apart from the crowd.

The policy:

- Offers the broadest coverage

of any umbrella policy ever reviewed by editors of "The Umbrella Book," published by Warren, McVeigh & Griffin Inc. in Newport Beach, Calif.

- Contains none of the 25 coverage restrictions identified in that authoritative reference work.

- And, is the only one of 98 forms described in the current edition of the publication that is identified with a broker rather than an insurer (see story, page 3).

The 1-year-old policy is the brainchild of Robert M. Anderson, its principal author and president of the Irvine brokerage bearing his name and that of his father, who is retired.

"Over the years, I have felt extraordinarily uncomfortable about selling umbrellas with restrictions I knew could cause trouble later on," explains Mr. Anderson.

"We've had accidents that resulted in substantial uninsured losses for our clients," he says. "And we've seen so many lawsuits resulting from confusion about what the primary (policy) covers and what the umbrella covers, we wanted to create a state-of-the-art solution."

These kinds of concerns

prompted Mr. Anderson to suggest publication of a book comparing different umbrella forms to Warren, McVeigh & Griffin several years ago.

More recently, Mr. Anderson decided to draft the broadest possible form that would provide coverage for every known insurable risk. He figured that if even one insurer offered the coverage, then there must be reinsurance support for it.

"We wanted to get back to the original concept of the umbrella as it was 25 or 30 years ago at Lloyd's of London before insurers started adding exclusions when they were hit with an unexpected claim," he explains.

The copyright policy is available exclusively through Anderson & Anderson with limits up to \$40 million. It is underwritten by Granite State Insurance Co., an affiliate of American International Group Inc.

Although the coverage costs 20% to 50% more than the umbrella liability insurance sold through other markets, Mr. Anderson says that it has been purchased by one of every two buyers to whom it's been offered. This compares with the broker's usual success ratio on the risks its quotes of one in seven to one in 10.

"It takes more time to sell the product," he concedes. "But, buyers get pretty nervous when they realize what kinds of exposures they face in other forms."

So far, Anderson & Anderson has converted about \$200,000 of its \$700,000 in annual umbrella premiums into the form. The broker's objective is to convert all of its umbrella business to the new policy after Jan. 1.

Anderson & Anderson writes about \$22 million a year in premium volume through its single office in Irvine, and it hopes to attract new business once more buyers become aware of the non-restrictive umbrella policy.

"Umbrellas often will swing an entire account," adds Mr. Anderson.

Although Anderson & Anderson has never been sued by a client embroiled in a coverage dispute with an umbrella insurer, Mr. Anderson is keenly aware of the errors and omissions liability exposure for his brokerage. That's another reason why he wants his clients to use the broader policy.

So far, he reports, no claims have been filed against the new policy.

—By Rhonda L. Rundle

Asbestos defendant wins broad coverage

Continued from page 2

Because the AC&S decision addresses the unlimited duty to defend in pre-1968 policies, it is considered broader than the decision in Keene Corp. vs. INA, which was handed down in October 1981 by the District of Columbia Court of Appeals. That decision established the triple-trigger coverage theory but did not address insurers' unlimited duty to defend, pointed out James Hipolit, general counsel for AC&S.

Jerold Oshinsky, an attorney for Keene with the Washington law

firm of Anderson Baker Kill & Olick, said the issue of an unlimited duty to defend was not directly addressed in the Keene case. "This decision makes the rule even clearer," he said.

Defendants in the suit are Travelers Indemnity Co. and Travelers Insurance Co., which provided primary coverage for AC&S from 1958 to 1963, and Aetna Casualty & Surety Co., which provided primary coverage from 1963 to 1981.

Travelers, arguing the exposure theory of coverage, said that the insurers should respond to an asbestos claim only if they are on the risk during the time a claimant is exposed or inhales asbestos. This theory was handed down by the 6th U.S. Circuit Court of Appeals in Cincinnati in 1980 in Insurance Co. of North America vs. 48 Insulations Inc.

Aetna espoused the manifestation theory that coverage is triggered when an asbestos disease is manifested in a victim.

AC&S, an insulation contracting company, installed products containing asbestos when insulation products commonly included them, Mr. Hipolit said. The company is facing about 6,000 asbestos claims.

The case again raised the questions of when does "bodily injury, sickness or diseases" from asbestos occur to trigger coverage under comprehensive general liability policies.

In his decision, Judge Troutman said that "bodily injury" as defined in the Aetna and Travelers policies means "any part of the injurious process that asbestos-related diseases entail."

"With asbestos-related claims, inhalation exposure, exposure in residence and manifestation all trigger coverage under the policies," he added. "Each policy on the risk from the date of first exposure through the date of manifestation provides full coverage for AC&S' liability."

Judge Troutman, who relied on three prior asbestos insurance coverage decisions, said all the previous decisions were geared toward maximizing coverage for the insured, although they differed in their analyses and final rulings.

Those cases were Keene, 48 Insulations, and Eagle-Picher Industries Inc. vs. Liberty Mutual Insurance Co., which was decided by the

1st U.S. Circuit Court of Appeals in Boston in 1982 in favor of the manifestation theory.

"In a word, each sought to maximize coverage for the insureds," Judge Troutman said. "In order to remain faithful to this rule, we will follow Keene."

The court concluded that because of the ambiguity of the policies the rule of law is difficult to apply. Therefore, if the policyholder can propose a reasonable interpretation, it is what will determine coverage, Mr. Hipolit added.

"I would expect it is a rationale others will follow," he said.

With respect to defense costs, Judge Troutman said that each policy in effect during the entire "injurious process," must respond in full to AC&S' legal liability and defense costs and not prorate that liability or the costs to the insured.

If more than one policy applies to a case, the insured can decide which policy will apply.

"AC&S may also designate the policy under which any given claim is to be defended, which may be the same as or different from the policy whose limits will apply," he added.

The court added insurers that underwrote policies running from Jan. 1, 1958, through Jan. 1, 1968, have an unlimited duty to defend the policyholder if the complaint alleges or could reasonably allege bodily injury during those periods.

"That duty under these policies is not limited by or limited to the applicable limits of the insurer's liability under the policy."

Mr. Hipolit said AC&S was very pleased with the decision. "It is a good opinion for us," he said. "It will be a useful opinion for the company by providing the protection we were always entitled to."

He added that AC&S has been getting some coverage from Aetna under the manifestation theory, but declined to specify how much coverage AC&S is entitled to as a result of Judge Troutman's decision. He added that the bulk of the company's coverage is excess of the primary policies involved in the court decision.

The company believes the triple-trigger approach should also apply to its excess insurers but is not involved in litigation with them.

Mr. Cobb of Aetna said that the insurer would appeal the decision. ■

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Chicago brokerage, official file counterclaim against St. Paul

Continued from page 2

Foundos, the insurer's suit says, ignored the cancellation and continued to issue policies, purportedly for St. Paul.

These policies, the insurer claims, generated \$598,813 in premium that was never received by St. Paul, as well as \$132,758 in claims that were paid by the insurer.

The missing premium, paid claims, interest and legal fees total at least \$800,000 owed to the insurer, the lawsuit says.

In the response and counterclaim filed by Chicago-area attorney Richard Pezzopane, Mr. Foundos and Deerfield claim that St. Paul ignored the provisions of its own agency agreement by not giving the brokerage 90 days' notice of cancellation and by not suggesting a plan to rehabilitate the brokerage as an agent one year prior to cancellation.

Moreover, Mr. Foundos and Deerfield alleged that St. Paul expanded the agency agreement to include binding authority for national and international marine and inland marine cargo and hull insurance through a series of letters of authority dated as late as Feb. 11, 1981, subject to a 90-day cancellation notice.

St. Paul then attempted to rescind the binding authority only one month later in a letter dated March 13, 1981, according to the counterclaim.

Deerfield and Mr. Foundos allege that the cancellation of binding authority could only apply to letters of authority issued more than 90 days previously.

Mr. Foundos and Deerfield claim St. Paul was notified by the brokerage that the letter canceling binding authority was unacceptable and that Deerfield and St. Paul were contractually obligated to accept business from a third brokerage, Harbville Insurance Brokers Ltd. of London, for an unspecified time.

Deerfield continued to bind risks through February 1982, according to these agreements and obligations, the counterclaim says.

As a result of St. Paul's attempts to cancel the agreements, a letter it sent alerting the Illinois Insurance Department of the cancellation notice and notices placed in various

marine insurance publications publicizing the cancellation of Deerfield's agency status and binding authority, Mr. Foundos and Deerfield claim the insurer owes it \$15 million in compensatory damages, representing the loss of commissions, loss of past and future brokered and direct marine insurance business and loss of good will within the insurance industry.

The counterclaim also seeks \$20 million in punitive damages and a declaratory judgment reinstating Deerfield's agency agreement with St. Paul.

The Chicago law firm of Winston & Strawn, the attorneys for St. Paul and its Illinois operating company, St. Paul Insurance Co. of Illinois, could not be reached for comment.

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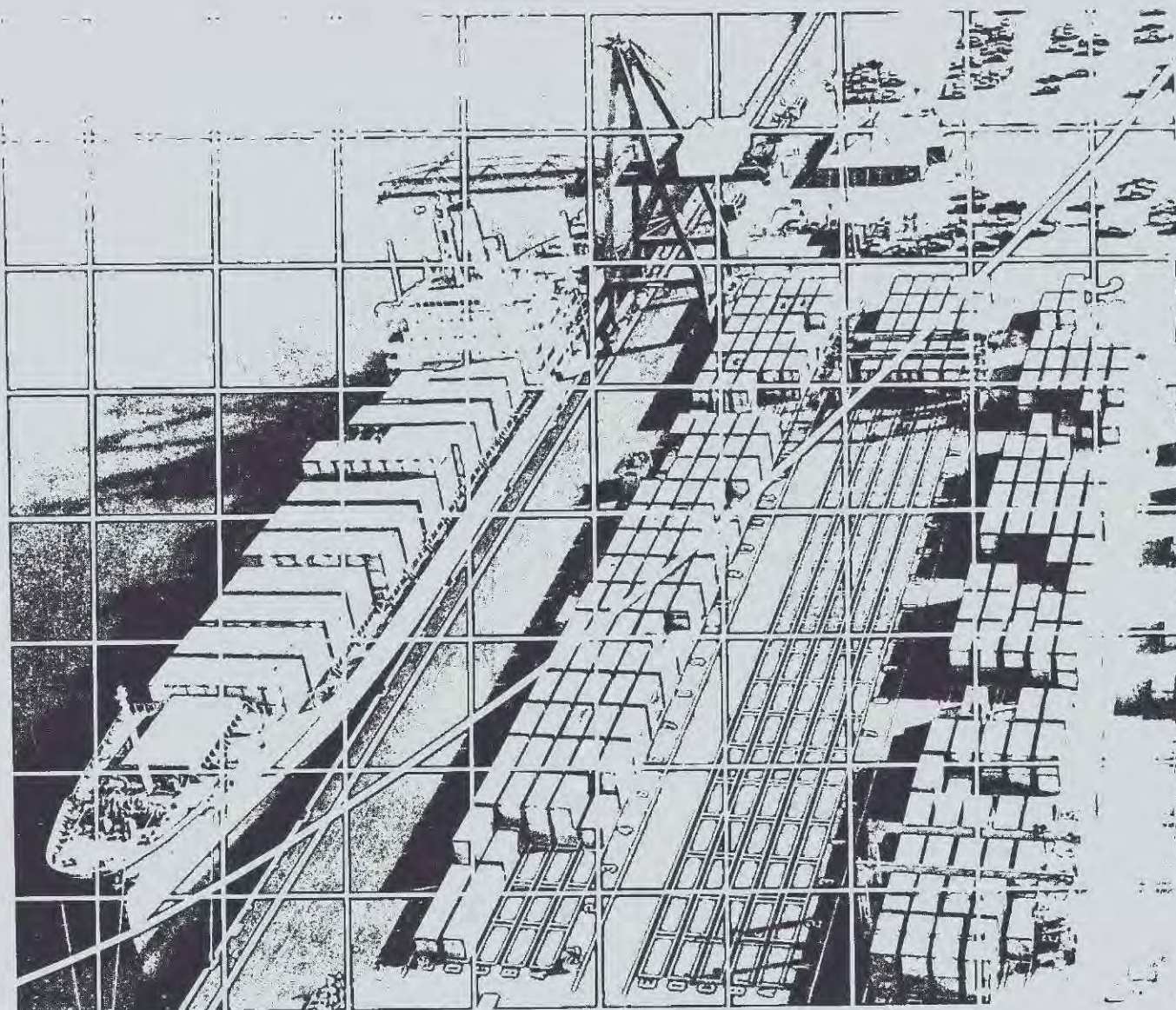
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Disasters cause \$40 million loss

NEW YORK—Insured property damage from three natural disasters occurring in November reached the \$40 million mark, according to C.E. Hermanson, vp of property claims services at the American Insurance Assn.

Wind, hail and tornadoes that struck portions of Texas and Oklahoma caused approximately \$25 million in insured damages. The storm was assigned Catastrophe No. 18 by the Insurance Services Office.

In addition, a windstorm that affected portions of Washington state caused estimated insured losses of \$10 million. That storm, which caused the heaviest damage in Seattle and Aberdeen, was assigned Catastrophe No. 19 by ISO.

Finally, about \$5 million in insured property damage was recorded, according to Mr. Hermanson, as the result of last month's earthquake that rocked Hilo, Hawaii, and the surrounding area, extensively damaging buildings and vehicles.

The earthquake was assigned Catastrophe No. 17 by the Insurance Services Office.

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Brokerage says it didn't place product recall coverage for J&J

Continued from page 3

In October, six of J&J's excess insurers—including North River—sued Johnson & Higgins to find out whether the broker and/or Johnson & Johnson knew about the difference in the policy wordings, and whether the broker and policyholder thought at the time of placement that the difference granted voluntary recall coverage to J&J.

The insurers say they should be indemnified by the broker if they are required to pay any of J&J's claim.

In the court papers it filed late last month, J&H rebutted the insurers' allegations that it should be held responsible for McNeilab's losses, denying it drafted or negotiated J&J's liability policies or acted as J&J's "agent."

Instead, J&H:

- Acknowledges that it acted as J&J's "broker," without defining its exact duties in that context.

- Asks the court to dismiss the insurers' claims against J&H Ltd., the broker's Bermuda-based unit that managed Middlesex.

- Broadly denies the insurers' claims that it knew—or should

have known—that there was a wording difference between the primary Middlesex policy and those of the excess insurers.

- Specifically denies the excess insurers' claim that it knew that the primary and excess policies had differing "sistership" exclusions.

- Denies it had any duty to tell the excess insurers about the language differences even if it had known about them.

J&H then adds that "...It was not asked to place, nor did it place, attempt to place, or negotiate products recall insurance coverage on behalf of J&J or any of its subsidiaries at any time relevant to this lawsuit."

Privately, a lawyer for one of the excess liability insurers expressed surprise about this wording in J&H's response. But he said he was unsure what effect it might have on the litigation.

"The point our answer is intended to make is that J&H did not undertake to provide products recall insurance," says William E. Willis, a partner with the New York law firm of Sullivan & Cromwell, which represents the broker. "That was not its mission... J&H

did not go out and buy traditional third-party products recall insurance."

At Johnson & Johnson, Assistant General Counsel Roger S. Fine said he had not yet seen the J&H response to the insurers' claims. After it was read to him, Mr. Fine agreed that it was possible to interpret the J&H statement in two ways.

First, he said, it was possible to conclude that J&H is stating its opinion that the liability policies issued to J&J do not contain coverage for voluntary products recall. "I don't believe that J&H is saying that," said Mr. Fine.

Mr. Willis supported Mr. Fine's view.

On the other hand, Mr. Fine said it was possible to conclude that J&H simply means it did not place any insurance for J&J explicitly labeled as covering "products recall."

Either way, Mr. Fine said he would regard the J&H statement as "of no legal significance" because of J&J's claim that only the language of the insurance policies themselves should be considered by U.S. District Judge Frederick V. Lacey, who is hearing the case. ■

Virgin Islands captives could fund benefits

Continued from page 3

Labor Department official told *Business Insurance* that he doubted if the department would recognize the Virgin Islands as a domestic state. That official's opinion was one reason why Sen. Williams' bill died.

In addition, some Virgin Islands officials questioned if the legislation would produce more jobs for residents, said Hugh Rosenbaum, a vp with Risk Planning Group Inc. of Darien, Conn., and editor of *Captive Insurance Company Reports*, a monthly newsletter.

Virgin Islands officials and their legal advisers recognized that if the captive insurance company legislation were to have any chance of passage, the issue of whether the Virgin Islands was a state under ERISA had to be resolved.

"We had to get the Labor Department's position clarified," said Neil Kimmelfield, a Washington attorney with Peabody, Lambert & Meyers, which has represented the Virgin Islands government on a variety of issues.

In October, Julio Brady, the lieutenant governor of the Virgin Islands, flew to Washington to discuss the issue with Labor Department officials.

After the meeting, the Labor Department recognized that its 1979 class exemption, which defined a state as one of the 50 states or the District of Columbia, clashed with the definition of a state in section 3(10) of ERISA.

That section defines a state to include "any state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, America Samoa, Guam, Wake Island and the Canal Zone."

The Labor Department said in its new advisory opinion letter, No. 83-59A, that it did not intend to modify ERISA's definition of a state when it issued its 1979 class exemption.

"As a result, it is the department's opinion that any insurance company licensed by an entity meeting the definition of the term 'state' in section 3(10) of ERISA will be deemed to meet the licensing requirement" imposed by the class exemption, the advisory opinion

letter said.

"Therefore, an insurance company licensed by the U.S. Virgin Islands would be covered by the relief granted in PTE (prohibited transaction exemption) 79-41, if all other conditions of the exemption are met," the letter added.

If the Virgin Islands Legislature passes the Williams bill, the territory could become a "magnet" for employers that want to insure their employee benefits through a captive, said Mr. Kimmelfield.

Sen. Williams' bill, which is now backed by the Virgin Islands government, requires, among other things:

- Minimum capitalization of

\$120,000 for property/casualty business captives, \$200,000 for life/health captives and \$320,000 for combined property/casualty and life/health captives.

- A registration fee of \$500 and an annual fee of \$2,000 for Class A licenses, \$1,500 for Class B licenses and \$1,000 for support companies.

- A captive insurance company to maintain a branch in the Virgin Islands staffed by at least three employees or authorize a firm in the Virgin Islands to conduct its insurance business within the territory.

- Examinations at least every five years to determine if the captive is meeting all solvency and reserving requirements. ■

Employers challenge new health benefit law

Continued from page 2

insurance premiums paid. Private, non-profit employers would lose their tax-exempt status, while local governments would lose 5% of state aid.

"In this court action, we're challenging the attempt by the state of Wisconsin through the Budget Act to seek to regulate these self-funded plans that are regulated by the Employee Retirement Income Security Act," said William J. Mulligan, a Milwaukee attorney with the firm of Mulcahy & Wherry, which is representing the plaintiffs.

The six employers, which filed the lawsuit Nov. 29 in U.S. District Court in Milwaukee, are Fort Howard Paper Co. of Green Bay; Zwicker Knitting Mills of Appleton; and Wisconsin Packing Co. Inc., Milwaukee Tallow Inc., Robert W. Baird & Co. Inc. and Advance Transportation Co., all of Milwaukee.

Also included as plaintiffs are the employee benefit plans of each of the six employers, plus the trustees, participants and beneficiaries of the plans.

Named as defendants are Thomas Fox, the Wisconsin insurance commissioner, and Michael

Ley, who is the state secretary of revenue.

No court date has been set.

The state has 20 days from Nov. 30 to answer the charges that it is overstepping its bounds with the benefit law, Mr. Mulligan said.

"In the lawsuit, the employers contend that the Employee Retirement Income Security Act preempts state regulation and that the state effort violates provisions in the United States and Wisconsin Constitutions," Mr. Mulligan pointed out.

The latest lawsuit is seeking basically the same injunction won by self-insurers in 1981 when they filed a class-action lawsuit seeking exemption from the 1980 "continuation and conversion law."

A federal court at that time ruled that self-insured plans were better regulated under ERISA than state law.

The new Budget Act isn't forcing self-insurers to comply, observers note.

However, self-insurers will lose state tax deductions or state aid if they do not alter their benefit plans to match the law.

"We are seeking a temporary injunction while the case is pending and then a permanent injunction," Mr. Mulligan said. ■

Public pools out of model law

Continued from page 3
public pools, Mr. Jones said.

The shortcomings in the model bill would lead to confusion, rather than guidance at the state legislative level, said Fred Simpich, general counsel to the National League of Cities.

The Public Risk and Insurance Management Assn. also is working on guidelines for public pooling operations and is expected to step up its study and assist the NAIC in developing the new model law, said Gregory Berg, vp of the Connecticut Interlocal Risk Management Agency and a PRIMA representative.

James W. Newman, vp of policy development and research for the American Insurance Assn. in New York and chair of the pooling study committee, suggested that the task force adopt the bill with the public pools included and amend it some time later.

"It will be easier to make amendments (later)," he said.

But Mr. Low was anxious to give state legislatures, which reconvene in January, a complete workable bill for possible introduction.

"It seems to me that we do have a problem with the bill, in that public groups do not nicely sit. My thought is that maybe it makes sense that we remove public employers from the bill, contingent on the development of another bill," Mr. Low said. He wants to have a new bill ready for the June NAIC meeting.

While public groups walked away happy, private pool managers from Florida were shaking their heads.

Two vocal opponents still disagree with several provisions in the model law. Gilbert Waters, president of the Waters Insurance Management Corp. of Sarasota, Fla., and Bill Griffin, executive vp of the Florida Group Risk Administrators Assn. in Tallahassee, cited

the model's sections on refunds and homogeneity.

The two contend that dividend distribution (refunds) should be left up to the groups.

The model bill requires that refunds be paid to all members of a group during the fund year, even those that have withdrawn their membership.

The model also endorses homogeneous groups, in which the members are engaged in "the same or similar type of business and who are members of the same bona fide trade or professional association."

"We have mixed programs in Florida, as do other states," Mr. Griffin said, citing their success.

In adopting the model, Mr. Low noted that the action is not an endorsement by the NAIC of group self-insurance.

"We're just laying out a regulatory process," he said.

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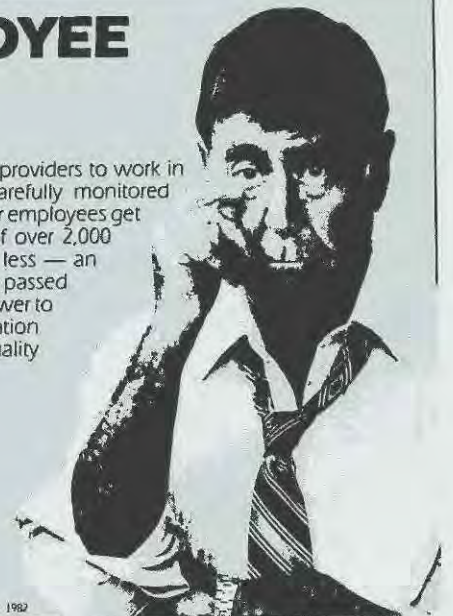
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WEEK OF JULY 27, 1981

Hotel cover may top \$300 million

WEEK OF AUGUST 10, 1981

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Disaster raises questions on architect's insurance needs

WEEK OF FEBRUARY 1, 1982

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WEEK OF MAY 3, 1982

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PLAN INGREDIENTS

Continued from page 1

The result: a communications campaign as eye-catching and entertaining as any Coca-Cola advertisement, yet with enough information in it to get the tax-savings message across to 8,000 employees in nearly 100 locations.

For starters, the name SODA was conceived and a marketing strategy built upon it. The campaign included posters, leaflets, employee meetings that featured an audiovisual program and question/answer session and a glossy brochure.

However, the secret ingredient that made this communications campaign a real winner was the way it was introduced to employees.

Employees first began to spot brightly colored posters around the company, heralding the SODA plan. The poster featured a soda can in familiar red and white Coca-Cola colors beneath the headline, "A new and very special SODA." The finer print on the can tells about the savings plan.

For instance, the can promises that the SODA it contains is tax-free, which is flattering to an employee's shape—financial shape, that is.

And, the can quotes some content statistics: Employees can save from 1% to 10% of pay.

The can also tells the producer of its contents: "A benefit of The Coca-Cola Co." And, for the final touch, it bears the familiar black lines of a universal product code. Above the code are the numbers 010184, which subtly indicates that the plan becomes effective Jan. 1, 1984.

The posters caught the employees' attention, but The Coca-Cola Co. had just begun to "sell" its new benefit. Employees received their

'The only problem we had with (the SODA can) was that some people liked the package so much they didn't want to open it for the information,' says Mike Walters, director of Coca-Cola's corporate employee benefits department.

first information in a real, sealed soda can. The can was the same as that shown in the poster. And, when the tab on the top was pulled, employees found a thrice-folded flyer giving more details on the SODA plan.

Not surprisingly, the company's employees loved the can idea.

"The only problem we had with it was that some people liked the package so much they didn't want to open it for the information," Mr. Walters said. "And we also had requests for two cans: one to open and one to keep as a souvenir. Both the posters and the cans have become souvenirs to some employees."

Perhaps best of all for the company, the soda can was not an expensive piece of communication. The total cost was less than \$1 per can, including the manufacture of the can itself, the labor of the temporary employees who stuffed the information into the cans and sealed them and the cardboard tube each can was packed in to prevent denting.

"The most expensive part of the whole process was the cardboard tubes," Mr. Walters said. "They cost 40 cents apiece."

However, the can idea did not always look so cost-effective.

"We thought we'd have to come up with an alternative to the cans when I'd checked my suppliers and found it too expensive," Mr. Whit-

man of Kwasha Lipton said. "And, we came up with a pretty good alternative in paperboard."

"But Mike said, 'No, let's not abandon the can. Everybody likes it.' They were able to prevail on one of their manufacturers to print this special version of a can at a very attractive price."

And, the production of the can went through at lightning speed.

"In a three-week period we went from seeking out suppliers to a completed product," Mr. Walters said. "That is due in large part to some people in our packaging department who had the contacts with suppliers."

The arrival of the cans was followed by employee meetings at which employees viewed an audiovisual presentation, had their questions answered by trained meeting leaders and received a detailed brochure on the new plan.

Each element in the SODA communication campaign approached the idea differently and offered a different level of information to the employee.

However, "If you look at all the elements working together, each has its own responsibility to the campaign as a whole," Mr. Whitman said.

"The poster really just grabs attention; the actual factual content is limited. The poster is high in emo-

Continued on facing page

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Circulation Breakdown*

Commercial Consumers

Administrative Management: owners, presidents, vps, etc. 5,861

Financial Management: chief financial officers, vps of finance, secretaries, treasurers, etc. 10,426

Insurance Management: vps, directors, managers of insurance, risk, benefits, compensation, safety, security, etc. 5,865

Government, Associations, Unions, Educational Institutions 1,024

Commercial Consumers Sub-total 23,176

Insurance Agents & Brokers 9,639
Insurance Cos. 5,384
Financial Institutions 385
Actuaries, Attorneys, Adjusters, Appraisers & Consultants 2,779
Others allied to the field 1,020

TOTAL 42,383

*Source: Business/Occupational breakdown of qualified circulation, May 2, 1983 issue, as submitted to BPA for June 1983, BPA Publisher's Statement.

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Continued from facing page
tion, maybe 90%, and high in enthusiasm but low, 10%, in content.

"The audiovisual only runs 10 to 12 minutes at most," he said, "and the idea is to entertain and to sell (a few key aspects of the program).

"When somebody finally gets the brochure, that's probably 90% factual content and only 10% emotion," Mr. Whitman said. "Someplace along the line, people are going to make a psychological decision to participate in this plan. That's what I call the threshold of trust. This can't hurt me and I'm going to buy into it."

Unsuccessful benefit communications campaigns, Mr. Whitman said, try to load all the information on the plan into each element. "You have seen the AVs that are 30 minutes long. They give people information on how to change their investment when employees haven't even decided to join the plan yet," he said. "I am fond of dividing the information into various steps and somewhere along the line you have given enough information."

Evidently, The Coca-Cola Co.'s campaign brought employees to that "threshold of trust." Although enrollment figures are not complete yet, Mr. Walters said most employees joining the program seem to be electing to defer the full 10% of salary allowed. He also ex-

'This has been the most full-fledged campaign we have ever undertaken,' Mr. Walters says.

pects a high percentage of the employees will participate.

The SODA communication campaign represents something of a milestone in the eyes of both The Coca-Cola Co. and Kwasha Lipton.

"This has been the most full-fledged campaign we have ever undertaken and, I think, a particularly clever one," Mr. Walters said.

"This was a very different technique (for The Coca-Cola Co.)," Mr. Whitman said. "In the past, they relied on print information in a much more formal way. This project introduced the personality of the company, a very progressive step for them."

"This project was different in a lot of respects," said Mr. Whitman. "One difference was that the chairman passed judgment on each aspect of the campaign. We've put together 50 such campaigns and this is the only case where the chairman reviewed each piece."

"At most companies, decisions are made, made, made and then in the end they bring the project to top management and have to do an about-face."

"At (The Coca-Cola Co.), they brought it to top management first."

"Also, The Coca-Cola Co. did a lot of pretesting," he said. "We roughed out a concept on paper. (Mr. Walters) was very enthusiastic and he took the roughs to some people at (The Coca-Cola Co.) whom he felt knew what would be effective among their employees. Once everyone was in agreement, everything went very efficiently."

"That's one of the major reasons that the project went so smoothly and quickly," he added.

Preliminary talks between The Coca-Cola Co. and Kwasha Lipton to plan the communications program began in June; by October, employees received materials and viewed the audiovisual program at employee meetings.

While the communications effort was bubbly, the enthusiasm also was tempered so that employees would not impulsively choose the maximum salary reduction. The

company "tried not to editorialize," in its communications, Mr. Walters said. "We didn't say that the employee's only logical decision would be to do this or do that. We tried to convey advantages and disadvantages. We certainly wanted people to make their own decisions."

"A very effective piece of communication would get the attention of employees, educate them to the full meaning of tax-deferred savings and give them the necessary information to make rational decisions," Mr. Walters said. "The SODA campaign certainly fulfilled those parameters."

However, the campaign did more than thoroughly explain tax-deferred savings. It also was used to improve employees' image of the company.

"We wanted employees to get a feel for the marketing strength of their company," said Mr. Whitman. "I think that's important for the employee to believe the company is progressive. It's important for the company's image."

"When companies get involved in this type of a campaign," he said, "they are investing a reputation. And the positive reputation they want to form is that the company is progressive, interesting, has a sense of humor and is concerned for its employees."

"Years from now, employees may not remember what they got in the (SODA) can," Mr. Whitman said, "but they will remember the can."

The Coca-Cola Co. will not disclose how much the entire communications project cost, but says that for the success it achieved in communicating both clear information about the new 401(k) plan and a positive company image, the money was well-spent.

"Given the communications value of the whole thing, we felt it was an excellent expenditure," Mr. Walters said.

"Communication of a benefit of this nature—complex and, in effect, not an employer-paid benefit since the only real (additional) cost is administrative—is no place to economize," Mr. Walters advised. "The communications (for a 401(k) program) shouldn't be a notice posted on a bulletin board, but a full-scale communications campaign."

In general, Mr. Walters is very satisfied with the execution of the SODA project. But, with benefit of hindsight, there are a few things he said he'd do differently could he start the project over again.

"I would advise another company to communicate to the employees' homes," he said. "If we had it to do over again, we might have done that."

He reasoned that since many employees are part of two-income families, it's desirable to send the information to the home so both spouses can collaborate on savings decisions. The reason mailings were not sent this year is that mailing costs were too expensive for the budget.

"Also, we would make attendance at employee meetings mandatory," he said.

"And, we would have worked a little harder to get the communications materials ready to hand out at the employee meetings instead of distributing them afterward," he said, explaining that not all deadlines were met.

Now, the firm is committed to benefit communications and it plans to continue communications on its 401(k) program next year.

The campaign represents "an emerging interest in developing our communications program to the fullest extent possible," Mr. Walters said. "Not only in employee benefits, but in all matters involving employees, I would say we clearly recognize the need to communicate effectively and we want to be sure to continue to communicate as effectively as possible."

Two new captives formed in Vermont

Continued from page 1

ages, like errors and omissions and environmental impairment liability. For now, though, "We are probably looking at 100% reinsurance business," Mr. Barrett said.

Most Vermont captives have concentrated on property risks, avoiding the long-tail problems of liability business, but the fact that Elm is doing the reverse doesn't bother Mr. Barrett.

"We have a fairly good handle on what it is we're doing," he noted, adding that it is unlikely that the captive will write much property business.

Elm's formation will have the effect of "eliminating a couple layers of our existing reinsurance" at Electric Mutual, including Lloyd's of London as well as other London and domestic reinsurers, Mr. Barrett explained.

Also eliminated will be the need for annual renegotiation of those reinsurance contracts and Electric Mutual's exposure to pricing volatility in reinsurance markets, he added. Electric Mutual has been faced with higher rates from reinsurers offering superior security, Mr. Barrett explained.

"Our feeling was that we would encounter more of that," he said. "What we are trying to do is stabilize the working layers of our reinsurance program."

Licensed along with Elm last month was Weyerhaeuser's new captive, ver Bes', which starts with about \$1.5 million in capital and surplus. This includes the state-mandated \$250,000 in capital, consisting of a combination of ver Bes' stock owned by Weyerhaeuser and cash. The remaining \$1.25 million in surplus takes the form of Weyerhaeuser equities.

The Vermont captive will be used primarily to write Weyerhaeuser's domestic property programs, some of which will be transferred from de Bes', the company's Bermuda captive.

"There was no tax penalty for coming on shore," noted Jack Christenson, Weyerhaeuser's corporate risk manager.

He added that ver Bes' will use no fronting company for the property risks and that risks placed in the captive will be reinsured.

Weyerhaeuser is a stockholding member of Hopewell International Insurance Ltd., a property reinsurance pool, and United Insurance Co., a casualty pool based in the Cayman Islands.

Hopewell and United are both managed by American Risk Management, which will also manage ver Bes' out of its newly opened Burlington, Vt., office. The manager will provide a full range of services, including placement of reinsurance treaties, accounting, claims administration and investment of funds at Weyerhaeuser's instruction, says Lee Pankratz, managing vp of the new office.

In addition to handling Weyerhaeuser's domestic property risks, the new captive may reinsure risks written by Lancer Insurance Co. and its New York Insurance Exchange subsidiary, Transit Casualty Syndicate. Weyerhaeuser is a shareholder in Lancer and is currently shifting those holdings from another Weyerhaeuser subsidiary into ver Bes', according to Dave Delaney, president of Delaney Management Co. Inc., which manages Lancer.

Weyerhaeuser's reinsurance participation in Lancer is currently handled by de Bes' in Bermuda.

The new captive may also accept reinsurance from Delta America Insurance Co., a subsidiary of Delta Holdings Inc. Weyerhaeuser is one of the 26 U.S. and European corporate shareholders of Delta Holdings, organized to expand the third-party underwriting business of companies with captive insurers.

While new players arrive in the Vermont captive arena, the oldest player is making some changes in its game plan. American Risk Management has taken over the servicing of BFGoodrich's First Charter, though like M&M before it the new manager will handle only the accounting needs of the captive. Other management functions will continue to be handled by Goodrich itself, Mr. Traver says.

First Charter took over most of the business previously written in Goodrich's Bermuda captive, Risktech Insurance Co. Ltd.

M&M, which set up a Burlington office to handle First Charter, now has no Vermont captive clients, al-

though the office will be maintained in hopes of picking up new clients in the coming year, according to James Burns, a vp with M&M Insurance Management Services Inc.

In explaining the switch, Mr. Traver notes that American Risk Management is able to provide services at lower cost because it handles a larger volume of captive business.

Perhaps a more significant reason for the change, though, is that by signing on with American Risk Management, First Charter becomes eligible to reinsure its risks in the United pool in the Cayman Islands and accept retrocessional business from the pool.

Reinsurance premiums paid into the pool would be tax-deductible, though tax considerations should not be the only factor dictating the structure of captive insurance arrangements, Mr. Traver said.

Use of United could also prove handy, however, if Goodrich expands its use of First Charter. Next year, the company may add as many as half a dozen new coverages, including liability lines, Mr. Traver said.

The backing of a reinsurance pool could cushion exposure to the kinds of "shock losses" that might come with assuming liability risks, he noted.

"You could put a lot of casualty coverages in there that maybe you wouldn't want to put in the captive (without reinsurance)."

Goodrich is not a shareholding member of the United pool, and, therefore, would not be able to participate in the shareholders' retrocessional programs that funnel third-party business back into shareholders' captives.

Non-shareholders, however, would be able to accept retrocessional third-party business by participating in the United Surplus Relief Pool, a casualty reinsurance pool available to non-shareholders, according to MacVicker Snow, a senior vp with American Risk Management.

This would provide tax advantages for companies wishing to expand the use of domestic captives beyond the writing of the parent company's business, he noted. ■



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Employers forced to pay disputed pregnancy claims

Continued from page 1

wives incurred pregnancy-related expenses between April 29, 1979 and Sept. 1 of this year.

The letter will inform employees that the city generally will pay 80% of the usual and customary charges for pregnancy-related medical services.

Twenty days after the certified letters are mailed, the city must take out ads for three consecutive days in the Santa Ana Register, the Daily Pilot and the Los Angeles Times' Orange County section listing all persons to whom certified letters were sent, but from whom no notice of receipt has been received.

Assistant Attorney General William Bradford Reynolds, head of the Justice Department's Civil Rights Division, said pre-suit settlement discussions are under way with other public agencies that denied pregnancy benefits to male employees' wives after the pregnancy law went into effect.

"More consent decrees will be obtained," said Justice Department attorney David Rose.

The EEOC, the federal agency that handles sex discrimination cases, says employers won't fare well in court if they won't pay claims that were filed after the effective date of the pregnancy law.

"The legislative history is so clear. Congress made the effective date 180 days (April 29, 1979) after the bill was enacted into law," said Ruth Weyand, the EEOC's equal pay counsel.

In addition, the EEOC had published regulations before the law's effective date in which the agency said the act mandated equitable pregnancy benefits for female employees and male employees' wives (BI, March 19, 1979).

As a result, employers had ad-

Rath to sell plant to pay PBGC debt

WASHINGTON—Rath Packing Co. of Waterloo, Iowa, is trying to sell a meatpacking plant to help pay off its \$13 million pension debt to the Pension Benefit Guaranty Corp.

As part of an agreement approved by a federal bankruptcy court in Cedar Rapids, Iowa, Rath will turn over to the PBGC the net proceeds of the sale of Rath's Columbus Junction, Iowa, property. Rath is asking \$8 million for the real estate.

In addition, Rath will make monthly payments of \$50,000 to cover interest on its debt to the agency.

Rath's debt to the PBGC was incurred last year when the agency took over three underfunded Rath pension plans. Rath, which since has filed for reorganization under Chapter 11 of the Federal Bankruptcy Act, previously had to reschedule its debt payments to the PBGC because of financial problems. ■

vance notice of the EEOC's interpretation of the act, said John Hickey, a partner with Kwasha Lipton, an employee benefits consulting firm in Fort Lee, N.J.

Some employers have decided not to fight the retroactive issue.

The city of Glendale, also in California, has so far identified 55 pregnancy claims that it denied after the effective date of the pregnancy act and is prepared to pay those claims. On July 1, the city also overhauled its benefit plan to treat pregnancy claims equitably.

"We think the Supreme Court made an incorrect decision, but we recognize that this is the law," said Jack Hoffman, Glendale's director of personnel.

In St. Louis, Emerson Electric Co., which initially said that the Supreme Court decision should not be applied retroactively, late last month abandoned its fight in federal court over the retroactive issue.

However, other employers that fought legal battles on the pregnancy benefit issue haven't decided if they will pay benefits retroactively.

Lockheed Missiles & Space Co. of Sunnyvale, Calif., which overhauled its self-funded plan in December 1980 so that the pregnancies of male employees' wives are treated equitably, is expected to discuss the retroactivity issue before a federal judge this week, said Lockheed attorney B. Scott Silverman of Morrison & Foerster in San Francisco.

Joslyn Manufacturing & Supply Co. of Chicago, which was sued by the Equal Employment Opportunity Commission because it provided inequitable pregnancy benefits to male employees' wives, is waiting to hear from the EEOC before it tackles the issue of retroactive claims, said Lewis Jacobson, the company's personnel manager.

In January, Joslyn overhauled its group health insurance plans and now treats the pregnancies of male employees' wives equitably.

The company previously paid 100% of the first \$400 of hospital expenses of spouses of female employees and 80% of all expenses over \$400, but placed a \$400 cap on the hospitalization expenses for pregnancies of male employees' spouses.

It also is not clear yet if Newport News Shipbuilding & Dry Dock Co.—the giant Newport News, Va., shipbuilder whose refusal to provide equitable pregnancy benefits for male employees' wives led to the Supreme Court decision—will pay claims retroactively.

The company—which in its largest group health insurance plan covering hourly employees had placed a \$500 cap on the pregnancy hospitalization expenses of male employees' wives while paying all reasonable and customary expenses for other disabilities and illnesses—did not respond to questions about the retroactivity issue. ■



Photo: Wide World

\$20 million loss at processing plant

Heavy winds fueled a Dec. 5 fire at a petrochemical processing plant in Highlands, Texas, that destroyed about \$20 million in manufacturing facilities, equipment and supplies. However, Hi-Port Industries Inc., a manufacturer of antifreeze, motor oil and other petrochemical products, will incur less than an \$8 million property loss.

"Probably 40 different oil companies bring the products, the containers and the cartons, and (Hi-Port) just blends and packages and warehouses their products," says William Minton, Hi-Port secretary-treasurer. "Those oil companies own the products and carry the property insurance on what they lost in the fire."

Hi-Port has a \$25,000 deductible on an \$8 million property insurance policy written by Holland-

America Insurance Co. Mr. Minton believes the company's property loss will "probably not be in excess of \$8 million. I think we are fully covered." The Cary Coole Insurance Agency of Houston, Texas, brokered the policy.

However, Hi-Port has no business interruption insurance.

The fire left only warehouses and the company's corporate headquarters standing, but Hi-Port had its Chemola division, which manufactures industrial cleaners and synthetic lubricants, back in operation within two days of the fire.

Fumes from melted plastic caused several hundred residents in the area to be evacuated for a time, but no fatalities or serious injuries resulted from the fire.

In some cases, actors find they don't have to play hurt

By STACY SHAPIRO

LONDON—Sometimes, filming a movie can be risky.

In the past few months, at least seven actors, including Burt Reynolds, and two cameramen have either been injured, suffered a narrow escape or won an award for past accidents on film sets in Britain and the United States.

For the most part, any claims filed against film producers by injured actors are covered by workers compensation or employers liability coverage.

One movie, a Burt Reynolds film called "The Stick," seems to be plagued with mishaps.

When shooting began about six weeks ago, Mr. Reynolds, who both directs and stars in the film, narrowly escaped losing an eye when a cap gun went off too close to his face.

However, Mr. Reynolds was on the set the next day and no claim was filed for any injury, said Bill Bandenbosh, director of insurance for MCA Inc., the film's producer.

But two cameramen working on the same film were not so fortunate. Several weeks after Mr. Reynolds' close call, the cameramen were shooting at a Florida location when a crane carrying a Panavision camera fell on top of them. One of the cameramen was critically injured, while the other escaped with just minor injuries.

Both cameramen are covered under MCA's workers compensation insurance, which is written by Aetna Casualty & Surety Co., said John McCormick, executive vp at Bayly, Martin & Fay International

Inc., the broker on the film.

The shooting was suspended for the rest of the day after the accident "as a result of the trauma and the damage to the crane and camera," said Mr. Bandenbosh. Any loss of production claim, however, would be covered under a blanket non-appearance and loss of production insurance policy placed with Pacific Indemnity Insurance Co. and Lloyd's of London, said Mr. McCormick.

In England, five British actors were involved in a carriage accident that occurred on the first day of shooting on a film for British television called "The Shooting Party," produced by Geoff Reeves Films & Productions.

The actors, including star Paul Scofield, were riding in a horse-drawn carriage when the boards under the feet of the coachman collapsed, causing him to lose control. The horses bolted, the carriage toppled over and three of the actors jumped to safety. Mr. Scofield, though, broke his leg in two places and Edward Fox, another actor, dislocated his elbow.

In an effort to continue the six-week production schedule for the \$4.5 million film, the producers hired James Mason to replace Mr. Scofield at a larger salary, confirmed Executive Producer Jeremy Saunders, though he would not say how much more Mr. Mason was costing the producers.

Any loss in production time or salary difference will be paid by the producer's indemnity policy, which Mr. Saunders says is placed through broker Ruben Sedgwick Insurance with overseas insurers,

though he would not identify the underwriters. Spokesmen for Ruben Sedgwick would not comment.

Compensation for Mr. Scofield's and Mr. Fox's injuries, along with any claims for the other actors, will be covered on the producers' employers liability insurance, which all British employers must buy. Mr. Saunders would not identify these insurers either, but says negotiations are now under way to determine the settlements to be paid to the actors.

Finally, an actress reached a \$112,000 settlement last month with Thames Television in a case filed in High Court in London arising seven years ago from a stunt that backfired on the comedy program, "What's on Next?"

Actress Adrienne Katsaros claimed that she suffered partial deafness and permanent ringing in the ears after a blank gun was fired close to her head. She testified that her career was ruined because she could no longer stand the sound of clapping.

Thames' employers liability insurers paid the claim, but a Thames spokesman would not identify the insurers. ■

Chancellor selected

NEW YORK—A. Leslie Leonard, president of The College of Insurance, has been elevated to the position of chancellor.

In his new post, Dr. Leonard will concentrate on fund-raising activities in connection with the college's new building, as well as gather industry support for the college. ■

insurance services guide

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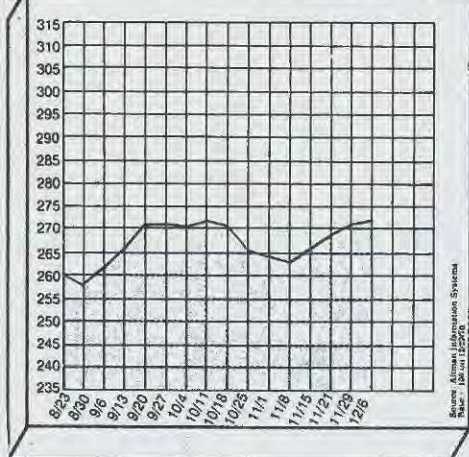
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BI Insurance Index



Insurance industry stocks posted their fourth consecutive gain at the close of the trading period ending Dec. 6 as the *Business Insurance* stock index inched up 0.2 points to 271.4 from 271.2 for the period ending Nov. 29. Twenty-three stocks were up, 21 issues were down and 20 stocks closed unchanged. The largest gains were reported by American National Insurance Co., 13.9%; Chubb Corp., 6.2%; Farmers Group Inc., 5.8%; St. Paul Cos. Inc., 4.6%; and Tokio Marine & Fire Insurance Co., 4.3%. The largest losses were reported by Integrated Resources Inc., 15.9%; Washington National Corp., 5.6%; Mission Insurance Group Inc., 4.7%; Alexander & Alexander Services Inc., 4.3%; and Corroon & Black Corp., 3.3%. The *BI* index posted a 0.09% gain for the period, while the Dow Jones 30 industrials and the NYSE composite both reported a 1.4% drop.

Brokers' results indicate market turn may be closer

By LEONARD M. WILSON
Special to Business Insurance

THIRD-QUARTER results from the publicly held insurance brokers are now out, and the appropriate description remains "more of the same." There were, however, a few rays of hope in the latest set of numbers.

For the four surveyed brokers as a group, third-quarter domestic insurance brokerage commissions, by our estimates, were about flat on a year-over-year basis. The variations in individual performance ranged from up a few percentage points to down a few percentage points.

We try to distill from the reporting format an estimate of U.S. insurance brokerage commissions because that sector of activity provides the most useful clues to trends in premium rates. Tracking the course of commercial rates tends to be a word-of-mouth proposition. In our view, the public brokers' domestic commissions, estimated quarterly on a year-over-year basis, provide a reliable statistical sample of how much premium rates are changing.

Again, based on our estimates, it appears that the typical book of business was deflated about 10% by declining premium rates in the third quarter. Competition is still pretty awful, even though some industry observers speak of a bottoming.

If there is a bottoming, it is only because things can't get much worse—not because rate cutting, at this writing, has diminished. Premium rate deflation in the first and second quarters was about as severe as in the latest quarter.

Investment income, not unexpectedly, was materially lower. The average slippage amounted to about 30%, strictly the consequence of falling short-term interest rates.

Leonard M. Wilson, a vp of L.F. Rothschild, Unterberg, Towbin in New York, specializes in insurance brokerage stocks. He is a member of the New York Society of Security Analysts.



Mr. Wilson

Frank B. Hall & Co. Inc. posted the smallest decline in investment income, while Alexander & Alexander Services Inc. recorded the largest drop.

The third quarter may be the last bad quarter for investment income. Unless short-term rates take another tumble, comparisons for investment income should get easier in upcoming periods.

International brokerage generally fared appreciably better than domestic brokerage. Gains were greater, although increases were watered down when translated into an appreciating dollar. Marsh & McLennan Cos. Inc., in particular, benefited from its now sizable international exposure.

Employee benefits as a source of growth have outstripped property/casualty business for most of this competitive cycle. Precise numbers are more difficult to derive, but revenue advances of 10% to 15% were the rule. This progress reflects what we believe is the inherent growth rate of the employee benefits sector as well as brokers' rising penetration of a fragmented market place.

New business continues to move ahead briskly despite the obvious difficulty in maintaining dollars of new business in the face of another round of rate reductions. New programs, new products and hard effort are likely the ingredients of new business productivity.

It appears as if the public brokers are still gaining market share, though precision on this subject is impossible to secure.

Expense control was the ray of hope we spoke of earlier. With the exception of Marsh & McLennan, whose expense comparisons suffered from some non-recurring distortions, the brokers as a group held costs flat in the third quarter on a year-over-year basis. Expenses have not been so tightly restrained in recent memory. Discipline in virtually all categories did the trick.

Nonetheless, earnings comparisons varied considerably. On a pure operating basis, Corroon & Black Corp. posted the strongest rise at 23% on a pretax basis. Modest revenue growth coupled with flat expenses provided surprising operating leverage.

Alexander & Alexander's operating comparisons were strongly improved over 1982's third quarter, the quarter in which the problems at subsidiary Alexander Howden Group

P.L.C. had surfaced.

Marsh & McLennan's bottom line was again steady in the face of the difficult environment. No one can fail to be impressed at Marsh & McLennan's solid performance over this cycle.

Balance sheets, not often the focus of attention in insurance brokerage, were much improved. Marsh & McLennan, completing a series of planned divestitures in the underwriting realm, was able to pay down a sizable amount of borrowing. Funded debt is now around 10% of total capitalization, a dramatic improvement in liquidity compared with the period following M&M's acquisition of C.T. Bowring & Co. Ltd. At that point, the company was on the receiving end of brickbats for marring with debt a previously exemplary balance sheet.

Alexander & Alexander also is moving in the direction of balance sheet strengthening, in part with the proceeds from the divestiture of Southeastern Aviation Underwriters, a Howden subsidiary, and an accounting rearrangement of a premium-financing subsidiary.

Third-quarter results, on balance, give no immediate hope of a change in the grinding tenacity of rate competition. But it is clear that the public brokers have finally gotten hold of their expenses and are not going to ease up until after rates are indisputably moving in the right direction. Productivity is now a way of life.

Just as expenses continued to increase long after brokerage revenues had slowed, expenses are now likely to trail the acceleration in revenues when it occurs. This is the positive operating leverage that could yield large earnings gains for the brokerage.

Thus, one element in the equation is in place. All eyes are sighted on the horizon for the other ingredient.

British Issues

6 Dec	Price	P/E	Div.	Yield	High—Low
Companies	pence	pence	%	pence	pence
Comm Union	184	30.7	16.86	9.2	184—179
Eagle Star	702	21.3	27.86	4.0	702—682
Genl Accident	448	13.2	26.43	5.9	448—432
Gdn Royal Exch	515	13.6	30.71	6.0	515—503
Phoenix	385	16.7	26.00	6.8	385—382
Royal	530	13.6	39.28	7.4	530—500
Sun Alliance	1438	16.5	78.57	5.5	1438—1350

1 Week

Brokers

CE Heath	317	7.9	22.86	7.2	317—310
Hogg Robinson	133	10.2	9.43	7.1	134—129
JH Minet	136	10.5	7.57	5.6	136—133
Sedg Grp	227	11.4	11.43	5.0	227—223
Stenhouse Hldg	134	12.2	8.28	6.2	135—134
Stew Wrightson	265	8.8	22.57	8.5	270—265
Willis Faber	643	13.4	30.00	4.7	643—633

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

BI Industry Stock Report

DEC. 6, 1983 11/30/83 THRU 12/6/83

Insurance Cos.		Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol. (000)
Aetna Life & Cas Co	NYSE	36.88	-1.0	5.9	2.64	7.2	37.38	36.50	790.2
American Bankers Ins Group	OTC	13.75	1.9	11.1	0.50	3.6	14.00	13.50	85.7
American Gen Ins Co	NYSE	25.38	-1.9	8.7	0.80	3.2	25.88	25.13	2,303.9
American Indty Fintl Corp	OTC	18.13	2.1	9.7	1.12	6.2	18.13	17.75	4.7
American Intl Group Inc	OTC	66.75	3.9	11.2	0.44	0.7	66.75	64.75	478.0
American Natl Ins Co	OTC	23.50	13.9	8.5	0.96	4.1	23.50*	22.00	136.5
American Sfs Life Ins Co	OTC	49.50	1.0	13.5	0.88	1.8	49.50	48.50	1.3
Aneco Reins Ltd	OTC	3.50	0.0	25.0	0.00	0.0	3.50	3.50	4.8
Avenco Corp	AMEX	20.50	0.6	12.7	0.58	2.8	20.63	20.13	5.6
Banks Iowa Inc	OTC	47.50	0.0	15.3	1.52	3.2	47.50	47.50	1.9
Bitco Corp	OTC	17.50	1.4	0.0	1.33	7.6	17.75	17.25	11.1
Carolina Cas Ins Co	OTC	6.75	0.0	0.0	0.20	3.0	6.75	6.75	5.0
Chubb Corp	OTC	68.75	6.2	9.0	3.12	4.5	68.75*	65.25	204.4
Combined Intl Corp	NYSE	39.25	-0.9	11.6	2.00	5.1	39.25	38.13	138.0
Continental Corp	NYSE	27.88	-1.3	37.7	2.60	9.3	28.25	27.75	289.1
Crawford & Co	OTC	14.50	0.0	10.7	0.60	4.1	14.50	14.50	10.2
Crown Life Ins Co	OTC	119.63	0.0	7.8	3.20	2.7	119.63	119.63	0.0
Employers Cas Co	OTC	32.25	-0.8	7.2	1.20	3.7	32.25	32.25	1.8
Equifax Inc	NYSE	29.38	-2.1	12.2	1.60	5.4	30.63	29.38	29.3
Excelsior Ins Co	OTC	21.50	0.0	18.1	0.00	0.0	21.50	21.50	0.5
Farmers Group Inc	OTC	43.25	5.8	10.7	1.36	3.1	43.25	41.38	343.6
Foremost Corp Amer	OTC	28.00	-3.4	8.5	0.88	3.1	29.00	27.75	151.2
Foremost Gen Corp	OTC	16.00	3.2	0.0	0.48	3.0	16.00	15.75	403.0
Great West Life Assurn Co	OTC	300.00	0.0	10.8	11.00	3.7	300.00	300.00	0.0
Hanover Ins Co	OTC	55.25	0.0	7.1	0.88	1.6	55.25	55.00	7.1
Hartford Steam Boiler Insptn	OTC	55.50	-2.6	16.8	3.00	5.4	55.50	55.00	8.4
Jefferson Natl Life Ins Co	OTC	42.50	0.0	14.3	0.76	1.8	44.00	42.50	2.5
Kemper Corp	OTC	40.00	1.6	8.6	1.80	4.5	40.00	39.50	124.2
Lincoln Natl Corp Ind	NYSE	66.63	0.6	9.6	3.36	5.0	66.63	65.38	93.5
Mission Ins Group Inc	NYSE	25.25	-4.7	10.2	1.00	4.0	26.63	25.25*	217.0
Nationwide Corp Ohio	OTC	41.75	0.0	15.3	0.70	1.7	0.00	DID NOT TRADE	
Northwestern Natl Life Ins	OTC	36.00	0.3	9.5	1.50	4.2	36.00	35.75	23.4
Ohio Cas Corp	OTC	47.75	2.7	3.9	2.52	5.3	47.75	46.75	97.5
Old Rep Intl Corp	OTC	32.63	2.4	7.3	0.90	2.8	32.63	31.88	36.1
Orion Cap Corp	NYSE	27.50	-0.9	13.2	0.76	2.8	27.50	27.38	16.7
Preferred Risk Life Ins Co	OTC	20.00	0.0	7.6	0.67	3.3	20.00	20.00	4.8
Provident Life & Acc Ins Co	OTC	65.00	-0.8	8.0	2.60	4.0	65.00	65.00	7.5
St Paul Cos Inc	OTC	59.25	4.6	8.0	2.80	4.7	59.25	57.13	278.7
SAFECO Corp	OTC	57.00	1.6	11.2	2.60	4.6	57.00	56.13	177.8
Sri Corp	OTC	17.25	0.0	7.5	0.68	3.9	17.25	17.25	209.3
Seibels Bruce Group Inc	OTC	22.50	-1.1	12.7	0.80	3.6	22.75	22.50	106.5
Statesman Group Inc	OTC	9.88	0.0	8.6	0.15	1.5	9.88	9.75	81.5
Tokio Marine & Fire Ins Co	OTC	108.75	4.3	22.0	0.96	0.9	108.75	105.25	35.5

DEC. 6, 1983 11/30/83 THRU 12/6/83	Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol. (000)
Travelers Corp	NYSE	32.13	-2.7	8.1	1.80	5.6	32.75	32.13 220.7
United Fire & Cas Co	OTC	32.00	0.0	11.4	0.88	2.8	32.00	32.00 0.4
United States Fid & Gty Co	NYSE	58.63	-0.6	10.3	3.84	6.6	58.63	58.13 83.7
United Svcs Life Ins Co	OTC	24.00	3.8	7.0	1.00	4.2	24.00	23.38 16.4
Uslife Corp	NYSE	29.13	-2.1	8.3	0.96	3.3	29.75	29.13 291.7
Washington Natl Corp	NYSE	23.00	-5.6	11.0	1.08	4.7	25.00	23.00 116.4
Zenith Natl Ins Corp	OTC	15.75	0.0	11.1	0.60	3.8	15.75	15.75 22.0
INSURANCE COMPANIES	AVERAGE		10.3		3.7			
Agents/Brokers								
Alexander & Alexander Svcs	NYSE	19.50	-4.3	0.0	1.00	5.1	19.88	19.50 308.1
Baldwin & Lyons Inc	OTC	37.50	0.0	15.6	0.80	2.1	37.50	37.50 0.5
Corroon & Black Corp	NYSE	25.88	-3.3	16.3	1.80	7.0	26.75	25.88 16.7
Crump & H Co Inc	OTC	10.00	0.0	13.7	0.40	4.0	10.00	10.00 19.7
Emmett & Chandler Cos Inc	OTC	11.25	0.0	30.4	0.00	0.0	11.25	11.25 1.0
Hall Frank B & Co Inc	NYSE	26.00	3.5	23.6	0.00	0.0	26.50	25.00 457.4
Integrated Res Inc	AMEX	28.50	-15.9	9.2	0.00	0.0	32.50	28.00* 556.5
Marsh & McLennan Cos Inc	NYSE	46.50	-3.1	13.6	2.20	4.7	48.13	46.50 241.0
Poe & Assoc Inc	OTC	5.75	0.0	0.0	0.00	0.0	5.75	5.75 0.0
Reed Stenhouse Cos Ltd	OTC	12.75	1.0	21.2	0.60	4.7	13.00	12.50 67.7
AGENTS/BROKERS	AVERAGE		17.6		3.0			
Conglomerates/Holding Cos.								
American Express(Fireman's Fd)	NYSE	33.50	-2.2	9.7	1.28	3.8	34.50	33.00 3,161.6
Anderson Clayton(Ranger/PanAm)	NYSE	28.00	1.8	13.0	1.32	4.7	28.00	27.25 34.9
Araco Inc	NYSE	20.00	3.9	0.0	0.40	2.0	20.00	19.63* 810.1
Baldwin Ind Corp	NYSE	2.63	-8.7	0.0	0.00	0.0	3.00	2.63 577.5
CIGNA Corp	NYSE	45.50	1.4	7.8	2.48	5.5	46.13	45.00 1,298.7
City Investing Co. (Home Ins.)	NYSE	38.00	3.1	11.2	1.80	4.7	38.00	36.50 648.3
CNA Fint Corp (CNA)	NYSE	21.25	-2.3	6.9	0.00	0.0	21.50	21.13 40.1
Control Data (Comm. Credit)	NYSE	45.13	0.8	11.0	0.60	1.3	45.13	44.25 614.9
General Re Corp	NYSE	66.25	1.5	14.0	1.28	1.9	66.50	64.88 319.2
Gulf Wtd Corp	NYSE	31.75	-3.1	9.8	1.32	4.2	32.75	31.50 930.1
ITT (Hartford Group)	NYSE	44.25	2.3	9.9	2.76	6.2	44.38	43.75 1,446.7
Optimum Hldg Corp	OTC	5.00	0.0	38.5	0.00	0.0	5.00	4.75* 29.6
Sears Roebuck & Co. (Allstate)	NYSE	40.38	-3.6	11.7	1.52	3.8	41.13	40.38 1,173.7
Teledyne Inc (Argonaut)	NYSE	155.75	-4.4	14.5	0.00	0.0	163.13	155.75 401.1
Transamerica Corp	NYSE	31.38	2.9	10.3	1.56	5.0	31.38	30.63 308.6
(Occidental & Fred S. James)	NYSE							
CONGLOMERATES/HOLDING COS.	AVERAGE		16.0		2.7			

*Record high/low since Jan. 1, 1983

System design: Altman Information Systems

Financial briefs Fireman's Fund

Fireman's Fund Insurance Cos. says it will eliminate approximately 1,500 employees in its property/casualty operations over the next 13 months through a combination of firings, attrition and productivity improvements.

The companies said 300 positions were being terminated immediately, about 75 at headquarters in Novato, Calif., north of San Francisco, and the remainder at 63 field offices around the country.

Those terminated will receive a minimum of eight weeks' severance pay and eight weeks of benefits.

James J. Meenaghan, president and chief operating officer of Fireman's Fund, a unit of American Express Corp., said the reductions were part of a planned \$36 million in cost reductions during 1984, following an expected savings of \$19 million for all of 1983. The moves include a hiring freeze and consolidation of operations and supervisory positions.

"The forces which govern insurance today require a low-cost operation," Mr. Meenaghan says. "We are determined to achieve that."

Fireman's Fund employed about 13,000 workers prior to the start of the cuts.

Old Republic

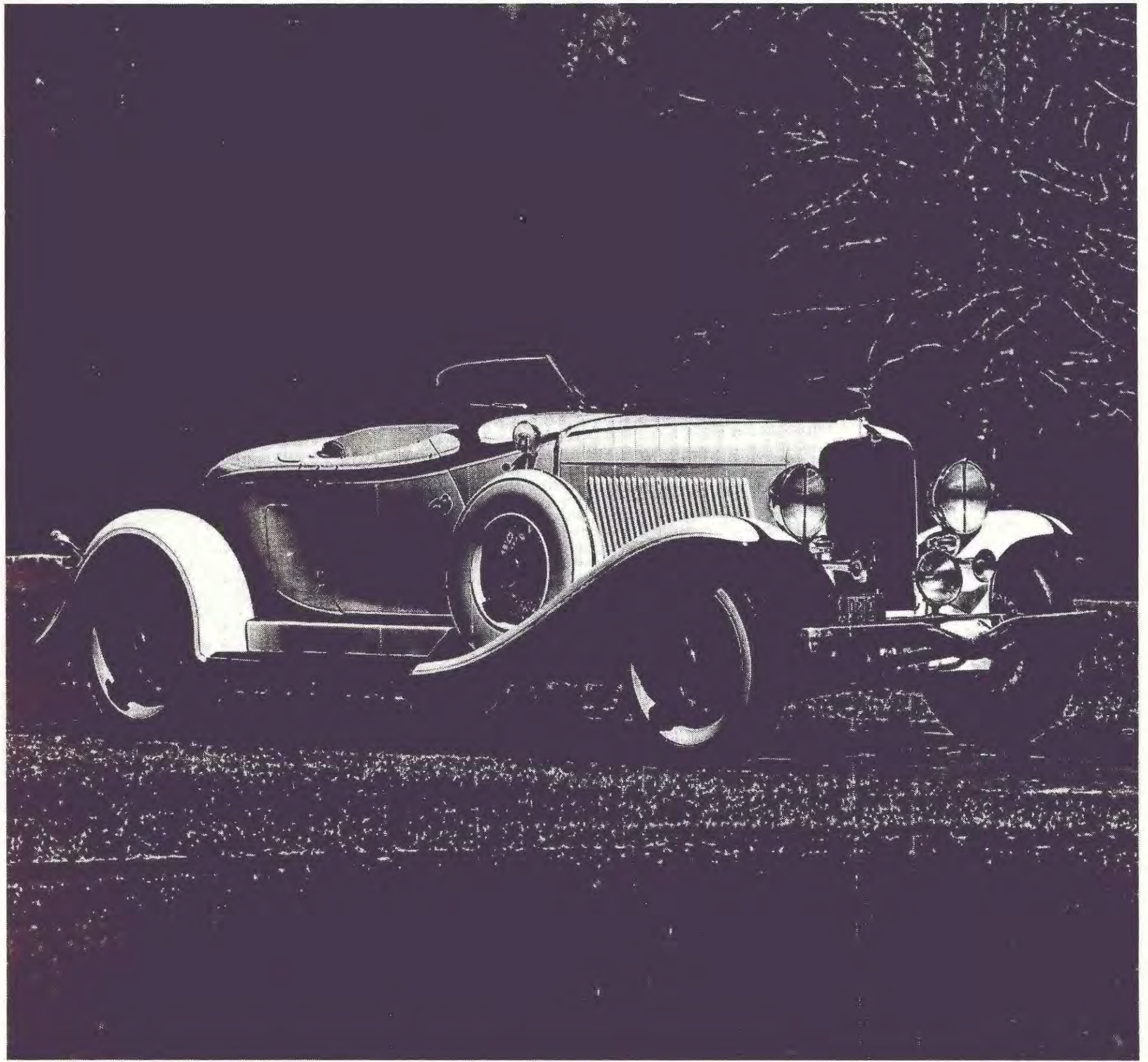
Old Republic International Corp. has declared a regular cash dividend of 22.5 cents per share, payable Dec. 20 to shareholders of record Dec. 12.

Reinsurer results

Seventy-seven reinsurers participating in an informal survey sponsored by the Reinsurance Assn. of America reported a nine-month combined ratio of 113.3%, up from the six-month combined of 111.6% reported by a similar but not identical survey earlier this year.

The participating reinsurers reported net written premiums of \$4.36 billion for the nine-month period, up 11.4% from the corresponding period of 1982.

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