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Updates

Muhl leaving New York post to join consulting firm

NEW YORK—New York Insurance Superintendent Edward J. Muhl is leaving the department effective Dec. 30 to become executive vp and a member of the management board of Peterson Consulting L.L.C., an international consulting firm.

He will head the Chicago-based firm's insurance consulting practice, including compliance and regulatory issues, from offices in Philadelphia and New York.

Mr. Muhl, 51, was appointed by Gov. George H. Pataki in late 1994 and con-

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A&A deal pushes Aon over the top

A new brokerage powerhouse

	Aon	Alexander & Alexander	Aon & A&A combined
Gross revenues	$2.05 billion	$1.28 billion	$3.33 billion
Employees	17,509	11,940	29,449
Offices	437	260	697

The acquisition of Alexander & Alexander Services Inc. will strengthen Aon Group Inc. in many of the markets it serves. The combined broker will be:

- The world's largest retail broker, with $1.9 billion in retail brokerage revenues.
- The world's largest reinsurance broker, with an estimated $396 million in revenues.
- The world's fifth-largest benefit consultant, with an estimated $414 million in consulting revenues.
- A significant manager of captive insurers, with more than 300 captives under management.

Note: All Aon figures include revenues of Bain Hogg Group P.L.C. and are from 1995, except consulting, which is based on 1996 estimates.
Source: *BI* surveys.

GRAPHIC BY JERRY PARKS

By SALLY ROBERTS

CHICAGO—Christmas has come early for Patrick G. Ryan, chairman and chief executive officer of Aon Group Inc., whose company will become the world's largest retail brokerage after buying rival Alexander & Alexander Services Inc.

The $1.23 billion cash deal to acquire the world's fourth-largest broker, announced early last week, comes almost two months after Aon agreed to buy Bain Hogg Group P.L.C., the world's 11th-largest broker, for $253.3 million in cash (*BI*, Oct. 21).

While the Bain Hogg acquisition added to Aon's retail brokerage strength, the A&A acquisition will catapult Aon past Marsh & McLennan Cos. Inc. into the No. 1 spot among retail brokers from No. 2. That is good news for Mr. Ryan, who is not shy about his ambition to become the world's largest insurance broker.

But size is not the only attraction; any acquisition must satisfy Aon's strategic, cultural and financial criteria.

Analysts agree A&A is a strategic fit for Aon, and some say it came at a fairly low price—less than one times its $1.28 billion in 1995 gross revenues.

At the same time, analysts say the deal also marks an end to A&A long struggle to turn itself around after being plagued by financial losses, falling stock prices, past liabilities and a relentless soft property/casualty marketplace.

Mr. Ryan and Frank G. Zarb, chairman and CEO of A&A, say the combined broker will offer clients a much broader array of products and services from a financially strong company.

"A&A is a great franchise and a very good strategic fit for us," Mr. Ryan said. "Combined, we're kind of unique in the world. We have a vast distribution in 80-plus countries with revenues approaching $3.5 billion. We're one hell of a lot bigger."

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Court hears challenge to CIGNA reorganization

By DAVE LENCKUS

HARRISBURG, Pa.—A Pennsylvania appellate court hearing a challenge to the state's approval of CIGNA Corp.'s reorganization focused attorneys' arguments on how the insurance commissioner's approval of the transaction could not be an adjudication subject to appeal.

Three of the six sitting judges challenged attorneys for CIGNA and the Pennsylvania Insurance Department, who argued that the approval order was an adjudication for CIGNA but not for critics of the transaction.

The distinction is based on how soon the order could harm the litigants. Rejection of the reorganization would have immediately harmed CIGNA financially, the attorneys said. Its approval could not harm policyholders for decades, and even then harm is an unrealistic scenario, they said.

The Pennsylvania Commonwealth Court's acceptance of that argument is crucial for CIGNA and the department because adjudications are appealable.

The court is considering both the critics' legal standing to appeal Insurance Commissioner Linda S. Kaiser's approval order and their objections to how CIGNA engineered the reorganization and how the department evaluated it.

If the court allows the appeal and rules the critics are entitled to trial-like hearings on the reorganization, the transaction's fate could be precarious.

The court could reverse the reorganization and send the issue back to the Insurance Department for trial-like hearings.

The court also could rule that in any future reorganization policyholders would have to consent to their policies being assumed by the runoff facility. CIGNA did not seek policyholder approval before implementing its reorganization in February, retroactive to Jan. 1.

The court alternatively could void the transaction and essen-

See **CIGNA** *on page 30*

Digital verdict is lone loss for keyboard makers facing repetitive motion suits

By JOANNE WOJCIK

NEW YORK—The $5.3 million verdict this month against Digital Equipment Corp. in a keyboard injury lawsuit represents the exception to the rule, legal experts say.

In fact, the industry late last week scored another victory when International Business Machines Corp. won a similar case in a New York state court.

But plaintiffs' lawyers are optimistic that the verdict in the Digital case signals the tide will turn in their favor.

"The era of (computer keyboard maker) invincibility is over," declared Moshe Maimon, a partner with New York-based Levy, Phillips & Konigsberg who represented the plaintiff in the IBM case. His partner Steven Phillips won the case against Digital.

Mr. Maimon said he thinks the computer companies should be held liable because their products cause the injuries.

But the IBM case in New York Superior Court represents the 20th win for manufacturers, putting the tally at 20-1, pointed

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New study touts effectiveness of back belts.....Page 3

Benefit costs continue slide

Managed care cost savings fueling decline: Chamber

By JERRY GEISEL

With health care costs under control, employers' benefit expenses continue to dip, if only slightly.

For the second consecutive year, employers' average total benefit costs declined, according to a U.S. Chamber of Commerce survey of more than 800 employers.

In 1995, total benefit costs, which include medical and pension programs, fell to an average of $14,659 per employee, down from $14,678 in 1994.

While only a slight 0.1% drop, the 1995 decrease marks the second year in a row that benefit costs have declined. In 1994, benefit costs fell 0.8% to an average of $14,678 per employee from $14,807 in 1993. The 1994 decrease was the first in the nearly five decades the Chamber has been conducting the surveys (*BI*, Dec. 4, 1995).

As was the case in 1994, the reason behind the fall in benefit costs is the relative stability in the health care market.

As health maintenance organizations have battled one another for market share over the last two years, health care premiums paid by many employers have held steady or even fallen, a finding reflected in the Chamber survey.

Last year, employers' average medical plan costs for employees declined to an average of $2,486 per employee, a decline of 3.6% from $2,579 in 1994. Between 1993 and 1994, employers' medical plan costs for employees fell 9.5% to $2,579 from $2,851.

In all, employee medical plan costs fell in 12 of the 21 industrial sectors surveyed by the Chamber.

The continuing fall in health care costs has come as more employers have turned to lower-cost HMOs and junked their expensive traditional indemnity plans.

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Medical plan costs per employee

	1995	% change
Transportation equipment	$4,380	3.0%
Public utilities	3,466	-6.6
Primary metal industry	3,094	163.5
Machinery (excluding electrical)	2,867	-15.7
Petroleum industry	2,798	-0.4
Chemicals & allied products	2,793	18.4
Instruments and miscellaneous manufacturing industries	2,769	12.8
Pulp, paper, lumber & furniture	2,759	5.8
Printing & publishing	2,692	21.6
Electrical machinery, equipment & supplies	2,589	-35.6
Stone, clay & glass products	2,530	-1.2
Miscellaneous non-manufacturing industries	2,493	0.6
Insurance companies	2,479	5.8
Rubber, leather & plastic products	2,205	-2.0
Fabricated metal products	2,202	-22.6
Food, beverages & tobacco	2,112	-9.9
Health & hospitals	2,091	-15.6
Banks, finance companies & trust companies	1,859	13.6
Wholesale trade	1,700	-16.4
Retail trade	1,435	43.4
Textile products & apparel	1,408	-15.8

Source: U.S. Chamber of Commerce

GRAPHIC BY TONY BUCCINI

NEWSPAPER

Updates

Muhl leaves N.Y. post

Continued from previous page

firmed by the state Senate in early 1995. Although serving for less than two years, he said he accomplished his major goals, which included improving protections for U.S. policyholders with coverage from Lloyd's of London syndicates as well as streamlining New York's insurance regulation and making it more responsive to buyers.

Separately, Peterson subsidiary Insurance Data Resources Inc. of Fort Lauderdale, Fla., is proceeding with plans to offer its services as a licensed workers compensation rate service organization, said Michael Camilleri, IDR president. IDR plans to compete with the National Council on Compensation Insurance in Florida and eventually in other states, said Mr. Camilleri, a former NCCI general counsel.

A federal district court earlier this fall dismissed a lawsuit the NCCI had filed alleging it had intellectual property rights to the classification, experience rating and statistical plans that IDR also planned to use. The federal court in West Palm Beach, Fla., said the material is in the public domain and copyright protections do not apply.

The NCCI has appealed the decision, said Sally Narey, NCCI senior vp and general counsel in Boca Raton, Fla.

Fannie Mae loses suit

WASHINGTON—A federal jury last week found the Federal National Mortgage Assn. guilty of gender-based discrimination and retaliation as it awarded $6.9 million to a former manager.

Elizabeth A. Martini, 34, began working at Fannie Mae in 1988 and alleged she had good performance reviews until she began working with Forrest Kobayashi, then a fellow director. Ms. Martini said he repeatedly verbally harassed and embarrassed her in front of her colleagues, though he denies that.

Ms. Martini complained to a woman officer and later filed a formal complaint with Fannie Mae's office of diversity. Subsequently, Mr. Kobayashi was promoted to vp and her 60-person department was reorganized. She was the only person to lose a job in the reorganization, which she alleges was retaliatory.

"Sexual harassment is a big umbrella, and part of it is gender-based verbal harassment" without a physical element, said David E. Schreiber, a Bethesda, Md.-based attorney who represented Ms. Martini.

The verdict sends a message that "large companies have to do more than just pay lip service to (avoiding) harassment and diversity," he said. "Women and minorities are entitled to a level playing field."

Ms. Martini's attorney reluctantly acknowledged that U.S. District Court Judge Gladys Kessler is expected to consider reducing the award to slightly more than $2 million plus attorneys fees, because the jury—which consisted of seven women and one man—was not allowed under federal employment discrimination law to know about a $300,000 cap on the federal portion of the award. However, Ms. Martini also sued under the District of Columbia's human rights law, which has no cap.

Fannie Mae, which repeatedly has been honored as one of the leading U.S. employers of women, plans to appeal the verdict, said Anastasia D. Kelly, senior vp and general counsel.

Medical supply maker to settle

CLEVELAND—Medical equipment manufacturer Acromed Corp. is offering $100 million of its own funds and unspecified insurance proceeds to settle litigation over bone screws it made for use in spinal surgery.

St. Paul Fire & Marine Insurance Co. and unspecified syndicates at the Illinois Insurance Exchange insured Acromed, a spokeswoman said.

Lawyers representing the plaintiffs have agreed in principle to the settlement, pending the filing of a more detailed offer next month.

By making the offer, Acromed has broken ranks with several other medical equipment manufacturers who have fought the litigation since it began in 1994. The litigation centers on variable screw placement bone screws that have been used in spinal surgery.

About 8,000 patients who have been fitted with the screws allege the screws were unsuitable and in some cases broke off in their spines, said Arnold Levin, a partner at Levin Fishbein Sedran & Berman in Philadelphia who is co-lead counsel for the plaintiffs.

In a letter to physicians, Acromed executives denied the allegations but said it was in the best interests of the company to settle the suit.

"The time has come to resolve the artificially created controversy. . .and to move forward with Acromed's mission of providing surgeon-driven innovative solutions for spinal disorders," the letter said.

Sofamor Danek Group Inc., another of the manufacturers facing the litigation, condemned the Acromed settlement in a letter to physicians but will wait to see the final details of the settlement agreement before it makes any further decisions in the case, said its counsel Stephen Phillips at Pepper, Hamilton & Scheetz in Philadelphia.

Punitive damages ruled taxable

WASHINGTON—Federal income taxes must be paid on punitive awards, according to the Supreme Court.

The high court's 6-3 decision last week in *O'Gilvie vs. United States*, however, should have a relatively limited impact. Congress clarified its longstanding policy of subjecting punitive damage awards to taxation

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Errors & omissions

• In the Dec. 2 directory of risk management information systems, the total number of installations for the J&H STARS product from Johnson & Higgins was incorrect. The correct number is 1,000.

• A remark was incorrectly attributed to Donald C. Ingram, chairman of Aon Consulting, in the Dec. 9 issue. Mr. Ingram said that small to medium consulting companies lacking sufficient capital would have difficulty succeeding in outsourcing, though he did not specifically mention any of Aon's competitors.

IRS letter may signal new option

Saving time—in a 401(k)

By ROBERT KAZEL

WASHINGTON—Benefit managers are studying the advantages and potential pitfalls of an Internal Revenue Service private letter ruling permitting an employer to convert employees' unused vacation days into contributions to their 401(k) plan.

Although the ruling could prompt changes in other companies' savings plan policies in 1997, some employers say it's too early to tell if linking unused vacation days to 401(k) plans makes economic sense. And benefit consultants are recommending caution before employers risk any changes.

The IRS, in the private letter ruling issued last year but only recently made public, told an unidentified company that its workers, instead of forfeiting unused vacation time, could receive the monetary value of the days as 401(k) plan contributions. The IRS said these contributions would be exempt from payroll taxes.

The employer had asked for a ruling on its method, though it already had permitted infusions of vacation dollars into workers' stock purchase plan from 1979 to 1991.

The possibility has intrigued employers.

"Our phones are ringing off the hook," said Dennis Coleman, a principal at employee benefit consultant Kwasha Lipton L.L.C. in Fort Lee, N.J. "A lot of companies are

See **IRS** *on page 28*

Expert witness standards sought

High court asked to hear dispute over engineer witness

By MARK A. HOFMANN

WASHINGTON—Business groups hope the Supreme Court will agree to review a Kansas case that centers around the question of what standards an expert witness' testimony must meet before it is admissible in a product liability suit.

The Supreme Court answered this question in part three years ago in its decision in the *Daubert vs. Merrell Dow Pharmaceuticals Inc.* case (*BI*, July 5, 1993).

In that decision, which involved birth defects allegedly caused by the anti-nausea drug Bendectin,

Federal judges must act as gatekeepers in determining the validity of testimony, the high court says.

the court's majority ruling held that federal trial judges must act as gatekeepers to determine "whether the reasoning or methodology underlying (an expert witness') testimony is scientifically valid" and "whether that reasoning or methodology can properly be applied to the facts in the case."

In the case, several groups are asking the court to review, *Subaru of America Inc. and Fuji Heavy Industries Inc. vs. Steven D. Compton,* the question is whether the standards for scientific expert testimony set in the *Daubert*

See **Court** *on page 13*

Fluoride suits show U.K. faces bite of more litigation

By SARAH GODDARD

LONDON—Lawsuits against toothpaste manufacturers are among the latest signs that products liability-related litigation continues to increase in England, according to lawyers.

Liability-related lawsuits have surged in recent months, with defendants ranging from firefighting services to asbestos manufacturers (*BI*, Sept. 9). This trend is partly due to the legal aid system, which helps fund some suits that a board deems have a chance of winning, and the influence of large court awards in the United States, lawyers say.

"There has been a huge increase in these types of cases," said a London barrister, Christopher Clarke.

"People have cottoned onto the idea of quasi-class actions in England," he said, and legal aid has encouraged such actions.

The latest target is toothpaste manufacturers. Currently, six pharmaceutical companies are being sued by lawyer Julian Middleton of Nottingham law firm Freeth Cartwright Hunt Dickins.

Mr. Middleton claims his clients, more than 200 children ages 5 to 18, have suffered a condition called fluorosis from using the manufacturers' products.

Mild fluorosis, caused by ingesting fluoride, causes a mottling of the teeth's enamel.

The cases hinge on the fact that the manufacturers, according to Mr. Middleton, have failed to warn users of the potential dangers of the product. "The toothpaste manufacturers aren't warning people about safe levels of fluoride," he said, particularly in areas where fluoride is added to the water supplies. "It is the manufacturers' obligation to warn parents of the consequences."

According to Mr. Middleton, the manufacturers fail to provide information on the amount of toothpaste that should be used and how frequently it should be used. He conceded that generally used wording in England on toothpaste packaging is that chil-

See **Fluoride** *on page 9*

Chubb Corp. plans sale of life units

WARREN, N.J.—Chubb Corp. will sell its life insurance operations following a review of "strategic alternatives" by Goldman Sachs & Co.

"That review is now completed and has resulted in decision to pursue a sale of the company," a Chubb spokesman said. "That decision is based in large part on the fact that since October we have received a tremendous amount of interest from potential buyers."

The sale is expected quickly, perhaps in the first quarter of 1997.

Chubb's announcement in October that it had retained Goldman Sachs to examine a possible sale of its life operations prompted rating agency actions, with Standard & Poor's Corp. downgrading the claims-paying rating of the Chubb life companies to AA- from AAA.

The Standard & Poor's ratings are currently on CreditWatch with "developing" implications. A.M. Best Co.'s A+ ratings on Chubb Life Insurance Co. and Chubb Sovereign Life Insurance and its A rating on Chubb Colonial Life Insurance Co. remain under review.

—*By Rodd Zolkos*

Inside

• The Clinton administration should learn from the response last year and back off requiring a broad ergonomic standard, this week's editorial says. **PAGE 8**

• E. coli has led to legal action against McDonald's Corp's arm in the United Kingdom and the government. **PAGE 23**

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Liabilities rise for underfunded plans

Interest rates fuel funding shortfall: PBGC

By JERRY GEISEL

WASHINGTON—Lower interest rate assumptions are sharply boosting pension liabilities of the nation's 50 largest underfunded pension plans.

The 50 plans' unfunded guaranteed benefits—those the Pension Benefit Guaranty Corp. would have to pay participants if a plan terminated—shot up to $21 billion last year, up from $10.87 billion in 1994.

But much of that increase, according to the PBGC and pension actuaries, was caused not by cutbacks in employer contributions but by the lower interest rate the PBGC used to value the 1995 liabilities.

In 1995, the PBGC used a 5.3% interest rate to value liabilities, the lowest rate used in the federal agency's 22-year history. In 1994, the PBGC used a 7.15% interest rate to value liabilities. The PBGC rate is based on interest rate and mortality assumptions used by commercial insurers at the end of the year when pricing pension annuities.

Even small movements in interest rate assumptions can cause big changes in pension liabilities. As a

See **PBGC** *on next page*

GRAPHIC BY TONY BUCCINI

No letup in securities suits seen

By RODD ZOLKOS

The number of federal securities class-action filings has not declined significantly despite the passage of the Private Securities Litigation Reform Act of 1995, according to a recently released study.

At the same time, the study by White Plains, N.Y.-based National Economic Research Associates indicates a significant increase in the number of filings in state courts since the federal law aimed at reducing "abusive litigation" took effect.

Examining suits filed through October, the study showed 104 filings so far this year, a figure that suggests an annual total below the 162 federal court filings in 1995.

However, the study suggests the filing of some suits was accelerated last year to beat the new law taking effect. The study shows 21 suits filed in December 1995, well above the average of 14 monthly in the NERA's total sample period running back to January 1991, and 13 per month in the rest of 1995.

The slow pace of filings in January and February of this year supports the notion of a rush to file before Congress' Dec. 22 override of President Bill Clinton's veto of the new securities litigation. Only eight federal shareholder class actions were filed in January and five in February.

But in the period from April through October this year, the total number of shareholder class actions filed in federal court—81—was the same as the number filed during the same period in 1995.

Meanwhile, examining state court filings, the study found 78 suits filed through October this year, a pace that would result in 94 filings in 1996, well above the average of 48 cases filed annually in state courts over the prior five years.

"This latter finding may be seen as further evidence of the desire by plaintiffs attorneys to maintain a diversified portfolio of ongoing lawsuits to spread their risks across the optimal number and types of cases," the study report suggests.

The study noted that over the period from January 1995 through June of this year, of the 998 shareholder class actions dismissed, settled or resolved by jury verdict, 80% were settled, with available data suggesting as much as $6.5 billion may have been paid out overall. On average, plaintiffs attorneys received one-third of the settlement awards in each year.

Including an accounting firm as a co-defendant adds 70% to the expected settlement value of a shareholder class action during the period studied, suggesting that available assets, including insurance, are a key factor in determining settlement amounts.

The study found that in cases in which a company's directors and officers are named as defendants, an average of 70% of the settlement is paid from directors and officers liability insurance, 29.7% by the defendant company and 0.3% by the directors and officers personally.

Marsh & McLennan Cos. Inc. subsidiary NERA is an international firm of consulting economists.

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For a copy of "Recent Trends IV: What Explains Filings and Settlements in Shareholder Class Actions?" contact Eileen Poons at 914-448-4023.

'I'm going to Disneyland'

Spencer Foundation to host fundraiser in theme park

By MICHAEL BRADFORD

ANAHEIM, Calif.—When risk managers, underwriters, brokers, attorneys and other colleagues decide to spend a Friday night together at Disneyland, it is a "Cause for celebration."

The cause, in this case, is the Spencer Educational Foundation Inc., and the celebration will be held Feb. 7 when the group takes over the Southern California theme park from 8:30 p.m. to 1:30 a.m.

The foundation promotes the study of risk management through scholarships, awarding more than 175 since its formation in 1979. It is named for the late Robert S. Spencer, former president of the Risk & Insurance Management Society Inc.

Spencer supporters will have Disney to themselves for a night.

On that evening, only "Cause for celebration" ticketholders will be allowed into Disneyland.

When the party is over, organizers expect to donate between $50,000 and $100,000 to the foundation.

"It's just a good opportunity for the entire Southern California insurance and risk management industry to come together for one night and raise money for the Spencer Foundation," said Roger Plotkin, co-chairman of the industry committee organizing the event and corporate risk manager at Beckman Instruments Inc. in Fullerton, Calif.

"And also to take a break," he added. "It's a good opportunity for interaction and just to have fun together."

Disney lovers have a unique chance to have the facility practically to themselves. In a theme park that routinely hosts approximately 50,000 guests, there will be short lines and plenty of elbow room for the 7,000 to 10,000 expected at the industry event.

Some of the locals are looking forward to a leisurely night in the Magic Kingdom.

Southern Californians "are used to going with 50,000 other people and having it be a madhouse," said Dick Smith, also an organizer and principal of Smith Consulting Group in La Canada, Calif. Mr. Smith also is on the Spencer board.

He said commitments for about 5,000 tickets at $30 each already have been received, and even if twice that number are sold, there still will be plenty of room for everyone.

See **Disney** *on page 9*

9-month results bode well for year

Reinsurers profit from low losses

By JUDY GREENWALD

Favorable catastrophe experience is permitting U.S. reinsurers to enjoy a reasonably profitable year, though they still face an increasingly competitive market in 1997 and continued low premium growth.

Although Hurricane Fran and other catastrophes have hit primary insurers' results, high retentions by insurers have left U.S. reinsurers relatively insulated from those losses.

"Certainly we had hurricanes, but none of them was extremely serious from a reinsurance viewpoint," said Bard E. Bunaes, chairman and chief executive officer of Constitution Reinsurance Corp. in New York.

"I think, apart from anything else, the results really reflect the lack of any severe storms or natural disasters thus far in the year," agreed Michael R. Pinter, chairman and CEO of Kemper Reinsurance Co. in Long Grove, Ill.

"With the absence of major catastrophe-type losses for the reinsurance industry, it's going to prove to be a good year if we can continue to say that over the next month," said James F. Duffy, president and CEO of St. Paul Re in New York.

For the nine months ended Sept. 30, the 52 reinsurers surveyed by the Reinsurance Assn. of America posted a 103.1% combined ratio, compared with the 107.7% combined ratio reported by a comparable group in 1995.

The Top 20 reinsurers, based on net premiums written, also reported a 103.1% combined ratio, compared with the 108.7% combined ratio the same group reported for the comparable period in 1995.

Those ratios include results for the Berkshire Hathaway Group, which does not participate in the RAA's survey.

At least three companies "have established large bulk reserves in the past year and, as a result, the cumulative numbers tend to look better than they would have," said Paul Ingrey, chairman of F&G Re Inc., a Morristown, N.J.-based unit of USF&G Corp. "This does not mean there's a favorable trend," he said.

See **Results** *on page 16*

Give workers the belt for their safety: Study

By MEG FLETCHER

Workers wearing back belts can reduce the number of lower-back injuries by one-third, according to the largest independent study yet of the popular—though controversial—devices.

A recently released six-year study analyzed the experience of nearly 36,000 retail store workers at The Home Depot, a home hardware and building supplies chain. They logged more than 101 million work hours between 1989 and 1994 in the company's California stores.

The study tracked the frequency of workers' acute back injuries before and after the Atlanta-based company adopted a policy requiring nearly all employees to always wear cinched back belts while working.

"Before implementation of the company-wide back-support policy, the employees had a rate of acute low back injuries of 30.6 per million working hours. After implementation, this rate fell to 20.2 per million working hours, a significant reduction of 34%," report researchers from the University of California at Los Angeles School of Public Health.

"We found compelling evidence that back supports can play an important role in helping to reduce back injuries among workers who do a lot of lifting," said Jess Kraus, an epidemiologist and director of the UCLA-based Southern California Injury Prevention Research Center.

"Along with worker training and proper workplace ergonomic design, back supports can be part of an overall back-injury prevention program," according to Mr. Kraus.

The benefits of using back supports were seen in men and women workers, young and old workers, as well as among workers who are engaged in low and high levels of lifting as determined by both weight and frequency, researchers report.

The biggest benefit was seen among the groups of workers at highest risk of back injury: men 25 and younger or over age 55 who had worked for the company one to two years and had jobs that required the highest intensity of lifting.

Home Depot employees took part in a six-year study of the safety benefits of back belts in the workplace.

Use of back belts also "significantly" reduced Home Depot's workers compensation costs, although company policy prevents discussion of the details, said Steven Taylor, the corporation's risk control manager.

Three other Home Depot managers also participated in the

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PBGC

Continued from page 3

result, say actuaries, year-to-year changes in pension plan funding—for a large group of companies—should not be viewed with alarm or celebration.

Instead, the list serves more as an attention-grabbing device, which has prodded some publicity-shy companies to boost contributions to get off the list.

"Plan sponsors don't like being on the list. If prudent, they will contribute amounts necessary to get off the list," said Dick Joss, a resource actuary with Watson Wyatt Worldwide in Bethesda, Md.

"Some companies have put in more to prevent their plans from being on the list," concurred Dom Cardace, a principal with Kwasha Lipton L.L.C. in Fort Lee, N.J.

But the list has a downside as well by needlessly worrying employees that their pension benefits may not be safe, some say.

"Employees who work for companies who end up on the list may not understand the significance of changing interest rates and may be falsely alarmed to see their employer on the list," said Mr. Joss of Watson Wyatt.

The PBGC each year notes that being on the list does not imply a rating or a statement of the financial condition of the companies.

But in past years, some companies that were annual fixtures on the Top 50 list, like Pan American World Airways Inc., later collapsed. That left the PBGC holding the bag for huge pension shortfalls.

The 1991 Pan Am collapse, for example, will cost the PBGC $600 million by the time it finishes paying guaranteed benefits to the 37,000 people who were participants in the failed airline's underfunded pension plans.

One company, Ravenswood Aluminum Corp. in Ravenswood, W.Va., which for years had the dubious distinction of being No. 1 among companies with the worst-funded pension plans, is off the 1995 list.

'Employees...may be falsely alarmed to see their employer on the list,' says Dick Joss of Watson Wyatt Worldwide.

That is the result of Ravenswood, as part of an earlier agreement with the PBGC, significantly increasing funding to its pension program. Ravenswood led the 1994 Top 50 list with just $42 million in pension plan assets and guaranteed benefits of $136 million. That resulted in a funding ratio of 31%.

Other companies, while still on the Top 50 list, improved their funding ratios. In 1994, LTV Corp., a Dallas-based steel producer and aerospace company, for example, had a funding ratio of 58%, with $1.99 billion in plan assets and $3.37 billion in guaranteed benefits.

In 1995, though, LTV improved its funding ratio to 67%, with $2.53 billion in plan assets and $3.78 billion in guaranteed benefits. Under a 1993 agreement with the PBGC, LTV said it would significantly improve plan funding over a 10-year period.

But some of the nation's best-known companies landed on this year's Top 50 list, though their plans are relatively well-funded. For example, General Motors Corp., which got off the 1994 list after making $10 billion in contributions above the minimum required amounts, is back on the 1995 list, though only barely. GM is No. 50 of the 50 companies, with a funding ratio of 96%: $69.08 billion in plan assets and $71.76 billion in guaranteed benefits.

Other companies who joined the 1995 list and their pension obligations include:

- First Data Corp. of Hackensack, N.J., with $465 million in plan assets and $773 million in guaranteed benefits. Its funding ratio is 65%.
- Loews Corp. in New York, with plan assets of $737 million and $995 million in guaranteed benefits. Its funding ratio is 74%.
- K-mart Corp. of Troy, Mich., with plan assets of $1.78 billion and $1.99 billion in guaranteed benefits. Its funding ratio is 89%.

In determining funding ratio, the PBGC only examines a company's underfunded pension plans. Overfunded plans, if any, are excluded from the calculation. BI

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BI adds two to sales staff

NEW YORK—*Business Insurance* has added two new advertising salespeople to its staff in New York.

Elizabeth McGahren has joined *BI* as a district manager and Kerry B. Reynolds is a new sales associate, Advertising Director Martin J. Ross III said.

Ms. McGahren

As a district manager, Ms. McGahren, 29, will handle accounts in the Mid-Atlantic states and certain New York City accounts. She replaces Barrie Harmelin, who left to devote her time to raising her daughter.

Ms. McGahren previously was an underwriter with Investors Insurance Group of Red Bank, N.J., and Continental Excess & Select of New York.

She also served as an account manager for broker Bryson & Associates of New York.

Ms. McGahren holds a bachelor of science degree in business administration and marketing from Manhattan College in Riverdale, N.Y.

She can be reached at 212-210-0135.

In her newly created position of sales associate, Ms. Reynolds, 24, will assist Mr. Ross and the Eastern advertising manager in new marketing projects.

Ms. Reynolds joined *BI* in 1995 as promotion assistant in the communications department.

Ms. Reynolds

She holds a bachelor of science degree in management from Fairfield University in Fairfield, Conn.

After Jan. 1, she can be reached at 212-210-0141.

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Owens Corning to open new child-care facility

By DEBORAH SHALOWITZ COWANS

TOLEDO, Ohio—Employees of Owens Corning will have access to an employer-sponsored back-up child care facility beginning next year.

The new facility will accommodate 55 children from six weeks old through 12 years old. Owens Corning employees and subcontractors may leave each of their children in the back-up and emergency care facility a maximum of 20 days annually.

Workers will pay $20 per day, per child.

The center, which will open Jan. 1, is located in some previously unused space in an office building down the block from the manufacturer's world headquarters in Toledo.

Owens Corning, which has about 1,100 employees in Toledo and 18,000 workers around the world, decided to offer a back-up and emergency child care facility after employees in a survey last year expressed a need for that service, according to Amy Ahrens, integrated health services leader. The center will accept children who are mildly ill but not those with fevers or open sores, Ms. Ahrens said.

Owens Corning so far has spent about $200,000 building and furnishing the facility. The company estimates the center will cost $300,000 annually to operate, Ms. Ahrens said. Much of that cost will be covered by fees paid by those using the center, she said. Owens Corning will subsidize the remaining costs.

Benefit Beat

The company also plans to offer vacation and holiday child care programs to school-age children which will generate more revenue Ms. Ahrens continued.

Owens Corning offers several other work/family benefits, including: flexible work arrangements; reimbursement for adoption expenses up to $4,000; subsidies for long-term care insurance; and resource and referral services for child care, elder care and conveniences such as plumbers and electricians.

"We have a very intense, aggressive business agenda to reach by 1999," so "we are demanding a lot of our employees," Ms. Ahrens commented.

The company offers work/family benefits to support and retain employees, "to promote a friendlier environment" and "to entice people to come into the company," Ms. Ahrens continued.

Owens Corning is considering offering back-up and emergency child care in several other locations where 400 or more employees work, including Newark, Ohio, and Toronto, according to Ms. Ahrens.

The company is "looking at any model and every model" for back-up care in other locations, including consortium centers and family day care, she said.

More savings choices

Employers are offering more savings plan investment options, and employees for the first time are putting more money into equity options than into guaranteed investment contracts, according to a new survey.

However, participation rates in savings plans have declined slightly, the survey found.

Employers in 1996 offered an average of 7.7 savings plan investment options, up from an average of 6.3 options last year and 5.2 options the previous year, according to the survey of 743 employers by A. Foster Higgins & Co. Inc.

And, while "in past years large employers tended to offer the most options, this gap has now closed," the report noted.

The fastest-growing equity option is international funds, offered this year by 56% of savings plan sponsors, up from 43% in 1995 and 21% in 1994.

For the first time since the annual survey began in 1990, Foster Higgins found that participants are investing more money in equity options—which generally yield the best long-term gains—than in more conservative GICs.

In plans that offered some type of equity fund, some 40% of assets were invested in equities as of Dec. 31, 1995, up from 35% the previous year.

In comparison, in plans with GIC options, participants invested an average of 33% of assets during the same period, down from 42% the previous year.

"Employees are becoming better educated retirement fund managers and are diversifying into some riskier investments," said Brian Ternoey, a principal at Foster Higgins.

There was little change in the proportion of assets invested in company stock, balanced funds, money market funds and bonds in plans with those options.

Participation in savings plans declined slightly in 1996 from 1995.

According to the survey, 76% of employees participated in a savings plan this year, down from 78% last year.

This decline may be an indication "that the savings plan 'market' is mature, and that a certain segment of the employee population will always be difficult to persuade to participate," the report stated.

The average pretax contribution among employees who contribute to savings plans was 6.1% this year, only slightly higher than the average contribution of 6% last year.

The survey also found that more than half of all plan sponsors now offer interactive voice response technology to improve communication and plan administration for their savings plans.

Some 61% of plan sponsors offered interactive voice response this year, up from 50% last year and 35% in 1994. And, an additional 13% of the companies said they plan to introduce interactive voice response systems in the next two years.

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The "Survey on Employee Savings Plans 1996" is available for $100 for non-participants from Tara Lewis, A. Foster Higgins & Co. Inc., 125 Broad St., New York, N.Y. 10004; 212-574-9025.

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Hill promoted to risk manager at SAS

Mari-Jo Hill, 48, was promoted to risk manager at SAS Institute Inc., a computer software company in Cary, N.C.

Ms. Hill, formerly a senior risk analyst with SAS, is responsible in the newly created position for procuring property/casualty insurance for international and domestic exposures, designing and maintaining the risk management computer data-base, developing loss control programs and recommending employee benefit plan changes.

Ms. Hill

She reports to Trish Dowty, director, financial services.

Ms. Hill earned a liberal arts degree from Pennsylvania State University in University Park. She holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations. She is a deputy member of the Piedmont Chapter of the Risk & Insurance Management Society Inc. and a member of the Eastern North Carolina Chapter of the Society of CPCU.

Ms. Hill was the 1989 recipient of the Cristy Award, presented annually by RIMS to the risk manager with the highest cumulative average in the three exams required for the A.R.M. designation.

* * *

Kristopher Disbrow, 40, has been named risk manager, safety coordinator and purchasing officer for Fond du Lac County, Wis.

Before taking the job, Mr. Disbrow was an independent consultant in Waupun, Wis. In his new position, he reports to Allen Buechel, county executive of Fond du Lac County.

Mr. Disbrow earned a bachelor of business administration degree in finance and accounting from the University of Wisconsin-Oshkosh and is working on a master's degree in business administration at the same school.

He is a Certified Public Accountant and certified management accountant. As a member of the state committee of the Wisconsin Institute of Certified Public Accountants, Mr. Disbrow makes presentations to high school groups on nontraditional financial vocations.

He is a member of the Institute of Management Accountants and is on the speakers bureau of the University of Wisconsin-Oshkosh School of Business Administration.

* * *

Catherine B. Strauss has been named vp-human resources at Harleysville Insurance Cos. in Harleysville, Pa.

Ms. Strauss

Ms. Strauss, who joined the insurer after holding the same position with Penn Mutual Life Insurance Co. in Horsham, Pa., is responsible for benefits, compensation, employee relations, recruiting, policy, planning, training and development.

She reports to Mark R. Cummins, senior vp, CIO and treasurer.

Ms. Strauss holds a bachelor of arts degree in English and American literature from Brown University in Providence, R.I., and a Master of Social Service from Bryn Mawr Graduate School of Social Work and Social Research in Bryn Mawr, Pa.. She earned a juris doctor from Temple University Law School in Philadelphia.

She is a member of the American Bar Assn., Philadelphia Bar Assn. and the National Assn. of Independent Insurers' Human Resource Committee.

Comings & Goings: Buyers

* * *

Martin Torrez, 49, has been named vp-human resources at Beech Street Corp., an Irvine, Calif.-based network of preferred provider organizations.

Mr. Torrez takes the post after serving as interim head of human resources at Beech Street since June. He is responsible for the development and coordination of programs in the areas of employee relations, compensation, equal employment opportunities, management development, benefits administration and others.

Mr. Torrez

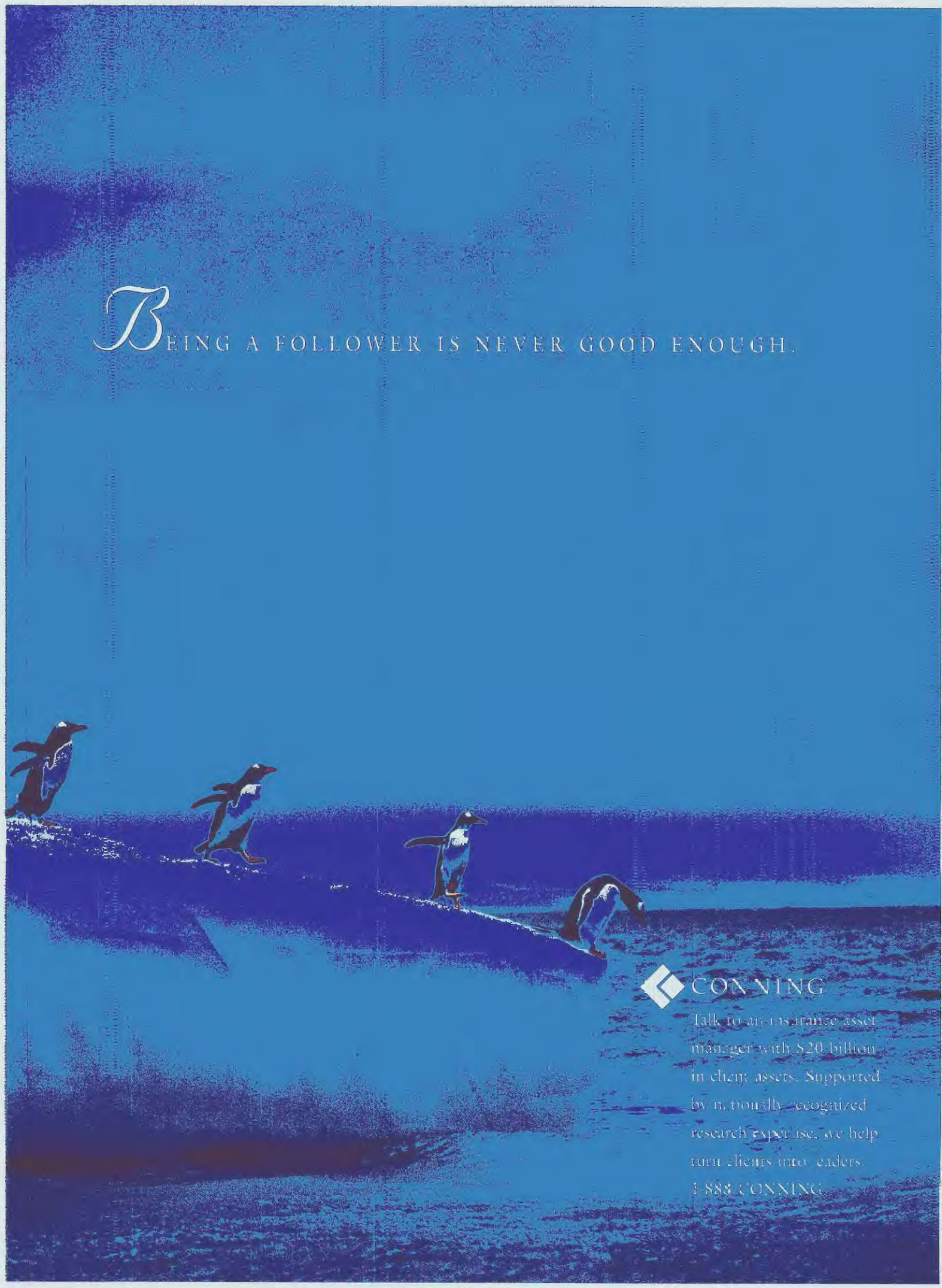
Mr. Torrez reports to Norm Werthwein, chief financial officer.

Prior to joining Beech Street, Mr. Torrez was vp-human resources at Novadyne Computer Systems in Reston, Va.

He earned a bachelor of arts degree in sociology from California State University at Fullerton.

•

We'd like to report on staff changes in your company's risk management, safety and employee benefit departments. Contact Michael Bradford, Associate Editor, Business Insurance, Suite 114, 8950 N. Central Expressway, Dallas, Texas 75231; 214-361-2295; fax: 214-696-1936. Please send a photograph, too.



Opinions

Ergonomic lesson not learned

THE CLINTON ADMINISTRATION appears eager to repeat one of the same mistakes of its first term and push for a sweeping ergonomic standard, despite opposition from employers.

Outgoing Labor Secretary Robert Reich last week outlined the administration's plan to renew its push for costly and potentially ineffective ergonomic standards to prevent repetitive motion injuries among U.S. workers.

Those misguided efforts were stymied a year ago when employer opposition and anti-regulatory sentiment combined to block the Occupational Safety and Health Administration from promulgating any new regulations, particularly the ergonomics standard.

That restraint expired Oct. 1, and the White House seems eager to rush right back into the fray. We wonder why the administration is making a push for this controversial proposal now, throwing down the gauntlet before Congress has even convened? This proposal not only will be seen as confrontational by Republican lawmakers—running contrary to the administration's call for conciliation—but also is a slap in the face of businesses that vehemently opposed the measure during its last go-around.

The renewed push for a federal ergonomics standards also is sure to raise the hackles of OSHA critics and increase support for sweeping OSHA reform, which fizzled in the last session of Congress. A recent survey by the National Assn. of Manufacturers shows that support for OSHA is tenuous at best (*BI*, Dec. 9).

We don't pretend that repetitive motion injuries are not a significant problem that needs solutions, but we don't think this should be the safety agency's top priority when more basic workplace safety problems continue to claim lives and injure workers.

In addition, we think a broad federal standard fails to address the fact that different industries and jobs pose different risks for injuries. A one-size-fits-all standard might help some industries reduce the risk of injury, but for others would only add to their costs without making a difference in repetitive motion claims.

More importantly, we think it is premature to be promulgating federal standards for ergonomics when there is so little agreement among government, physicians, employers and labor on the causes and prevention of such injuries. If we have trouble determining what causes carpal tunnel syndrome, how can the government propose standards for eliminating the effects?

Rather than issue new rules for employers, we would prefer to see the government serve as a facilitator for research and analysis of the problem. Toward this end, we are heartened to see that OSHA will hold a conference Jan. 8-9 in Chicago to discuss programs for preventing the injuries. The conference is intended to yield data on the best practices of companies that are working to reduce the risk of repetitive motion injuries.

We hope employers take steps to participate in those efforts and demonstrate that they are capable of leading the search for a solution to ergonomics ailments without a government mandate. Businesses clearly have a vested interest in finding a solution, as repetitive motion claims cripple workers, hamper productivity, dampen morale and cost workers compensation dollars.

We also hope the administration continues such efforts to bring government, businesses and labor together to work on a solution, rather than attempt to push its unwelcome proposal through Congress and onto employers.

Letters

Policy interpretation should be viewed in reality

To the editor: I have followed with interest the exchange of correspondence following the 1996 Risk & Insurance Management Society Inc. conference session on business interruption.

While Chris Campos makes a good point—that policy interpretation should be left to the adjuster—that has not been my experience (Letters, *BI*, June 24).

With 26 years in the insurance industry, my experience as a risk manager of Placer Dome Inc. is not consistent with that of Mr. Campos.

How many of my fellow risk managers have to battle for years to get underwriters and their accountants to the same continent, let alone the same hemisphere.

I liked the "Vatican and white smoke" analogy of John E. McCarthy, vp at Johnson & Higgins of Ohio Inc. (Letters, *BI*, Sept. 23).

In a recent case, the "other" accountant simply did not understand mining, having had one previous encounter, and we suffered as the claim took place several years ago. If the senior executives of mining companies ran those corporations on the same time line as some insurers, how long would each of us be in business?

I would be interested to know how many claims are in or about to go into litigation.

The undeniable fact is that we are in very confrontational times, and as a payer of the very substantial premiums, it is frustrating and hard to find insurers that operate under the same good faith considerations that we, as risk managers, are subject to—and rightly so.

There are good insurers out there and I strive to give them priority, but there are equally as many that do not negotiate in good faith, that try to buy releases, that do the industry a grave disservice in the process.

I endeavor to cull them from our insurance portfolio.

Mr. Campos' suggestion that forensic accountants, working for the policyholder, can raise policyholders' expectations, is amusing.

In reality, business interruption claims are a mere pittance compared with the multimillions of dollars large corporations transact daily.

In the perfect world, I would believe that we would have "misunderstandings," as Mr. Campos terms them. I would also believe in the tooth fairy, but regrettably, experience has led me otherwise.

Jonathan A.A. Russell
Manager-Risk and Insurance
Placer Dome Inc.
Vancouver, British Columbia

■ *Mr. Russell moderated the RIMS session reported on in the May 6 article "Avoiding Challenge to Claim."*

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Fluoride

Continued from page 2

dren should use a "pea-sized" amount, but pointed out there is no indication how large a pea is.

As a consequence of the resulting fluorosis, the children are suffering brown mottling on their teeth, which must be treated by dental veneers until they stop growing, as well as a variety of psychological damages, Mr. Middleton said. For example, "there are children who refuse to smile or who don't like going to school," he said.

At the moment, Mr. Middleton's clients are applying for legal aid to help fight the case, and he expects the proceedings to start early in the new year.

But the children's application for legal aid may be helped by a "goodwill" payment from toothpaste manufacturer Colgate-Palmolive (U.K.) Ltd. to a child suffering from fluorosis earlier this year.

In May, the organization paid £1 000 ($1,653) to the family of a child who had mottled teeth, though it acknowledged no fault in doing so.

Although Colgate toothpaste products include the warning that children should only use a pea-sized amount of toothpaste, they do not carry a warning about swallowing the product.

In a statement, Colgate said: "Many companies make fluoride toothpaste products which, when used in accordance with the manufacturers' instructions, do not pose a risk of fluorosis."

Mr. Middleton said there has been no decision on the amount of damages that will be sought from the toothpaste makers, but they will strive to get more for each plaintiff than the amount of the Colgate settlement.

A spokeswoman for pharmaceuticals giant SmithKline Beecham P.L.C. in Brentwood said the company would not take a position on the matter until litigation had begun.

'It is fair to say that there is an increase in this type of litigation,' which may in part be due to the English tendency to follow U.S. courts, Michael Harvey says.

The British Dental Assn. is continuing to recommend that both adults and children brush twice daily with fluoride toothpaste but recommends that to reduce the risk of fluorosis, children should not swallow the toothpaste.

Nevertheless, lawyers agree that this kind of action is on the rise. "It is fair to say that there is an increase in this type of litigation," which may in part be due to the English tendency to follow the U.S. courts, said London barrister Michael Harvey.

But, he added, the cases are still subject to the English legal system—a case will be judged on its own legal merits—and awards in these types of cases are made by judges rather than juries.

But conditional fee arrangements, introduced to the English legal system last year, have yet to make any great impact on the amount of litigation being brought (*BI*, Aug. 14, 1995). At the time the "no win, no fee" arrangements were brought in, debate raged whether the move would encourage "ambulance chasing."

"Conditional fee arrangements are attractive for the standard plaintiff in a personal injury claim," explained Mr. Clarke, such as "an accident at work or on the roads where there is a high prospect of obtaining damages," rather than cases less certain of a positive outcome for the plaintiff.

But Mr. Harvey disagreed. "Conditional fee arrangements may have encouraged speculative litigation," he asserted. If the client had to fund the action himself, or alternatively get approval to be funded by legal aid, there is less chance a speculative action would be undertaken, he said. BI

Disney

Continued from page 3

As of last week, two brokers and an insurer had each committed to spending $30,000 for 1,000 tickets. The three are AON Group Inc., CNA Insurance Cos. and Johnson & Higgins.

Marsh & McLennan Cos. Inc. has agreed to spend the same amount on tickets and donations.

Sponsorships are available to companies willing to commit at least $5,000 for tickets and donations.

As of last week, the sponsors are CIGNA Group, Reliance Insurance Co., American International Group Inc., Alexander & Alexander Services Inc., Liberty Mutual Insurance Cos., Sedgwick James Inc., Zurich-American Insurance Group, ITT Hartford Insurance Group, Chubb Corp., Travelers/Aetna Property Casualty Corp. and Becher & Carlson Cos.

Mr. Plotkin said preparation for the event began five months ago after Steve Wilder, vp-risk management at The Walt Disney Co., suggested that Southern California risk managers find a way to increase contributions to the Spencer Foundation. Mr. Wilder is a member of the Spencer board.

Ironically, someone else suggested to Mr. Wilder that a private party at Disneyland could be a good way to do it, Mr. Plotkin recalled.

RIMS chapters, brokers, insurers and others took up the charge to put the event together.

Mr. Wilder and the Disney staff are "doing a marvelous job," Mr. Plotkin said.

Disneyland rents the facility for guaranteed sales of at least 7,000 tickets.

Janis Pate, a financial analyst in the risk management department at Disney, also serves as a co-chairman on the organizing committee.

She can provide ticketing and other information and can be reached at 818-972-4653.

The $30 tickets can be purchased by check or credit card. An order form can be requested by fax at 818-566-7901.

Tickets also can be purchased by mail from The Walt Disney Co., Risk Management Dept., 500 S. Buena Vista St., Burbank, CA 91521-7238.

Checks should be made payable to the Los Angeles Risk & Insurance Management Society. BI

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Group health insurers under pressure

By JUDY GREENWALD

Employers with traditional indemnity plans will see rate hikes in the future as group health insurers struggle with the same competitive pressures as managed care plans.

"I would say on the indemnity side, the numbers tend to be parallel with what's happening on the HMO side," said Manfred Nowacki, vp with A.M. Best Co. in Oldwick, N.J.

"We've seen continued downward pressure on profit margins" as the underwriting cycle seems to have returned, said Mr. Nowacki.

"Traditionally, there was a three-year profit cycle and a three-year negative cycle," he said. "That had gone away for six years, and it looked like health insurance companies became perhaps somewhat complacent, since the traditional cycle—for a short time—seemed to have disappeared.

"But after six years of profits, all of a sudden health insurance companies are faced with declining profit margins," Mr. Nowacki said. "I think for 1996, you'll see modest profitability overall for indemnity companies relative to past years."

"A number of (health insurers) are really struggling to come up with underwriting profits" as enrollment continues to move rapidly to the managed care environment, which offers good price alternatives in an increasingly price-sensitive marketplace, said Mark Puccia, managing director at Standard & Poor's Corp. in New York.

In fact, he noted, most health insurers that also have HMO operations are trying to move their traditional indemnity business to their managed care options rather than risk seeing it move to managed care competitors.

"Many companies that have historically been in indemnity products are moving rapidly to convert those products to managed care, because that clearly is the wave of the future," with most companies now offering managed care exclusively, or a combination of indemnity and managed care, said John L. Ward, chief executive officer of the Cincinnati-based Ward Financial Group.

In fact, estimates are that within the next few years, 90% of the group health marketplace will be in managed care plans, said Mr. Ward. He estimates managed care now has 50% to 60% of the group health market.

"I would say indemnity continues to lose the better margin business and is taking on more and more of the elements of assigned risk as the better risks join lower-cost programs," said David Seifer, an analyst with Donaldson Lufkin Jenrette Securities Corp. in New York.

"But the margins in indemnity really seem to have stayed pretty flat and minimal, and we don't look for too much change there," he said.

"The health market is clearly going the way of HMOs, and what you're seeing happening is the small companies that still have traditional indemnity are either joint-venturing or selling off their health business to larger HMO networks because they really don't want to compete in that business," said Gloria Vogel, senior vp at Advest Inc. in New York.

Most of the growth in this business has come through acquisition, said Ms. Vogel, pointing to Aetna's deal to buy U.S. Healthcare Inc. (*BI*, April 8). Aetna reported third-quarter 1996 earnings from continuing operations of $149 million, up 34% from $111.1 million in 1995's third quarter.

Included in the third-quarter results are earnings for U.S. Healthcare from July 19, the date of its merger with Aetna.

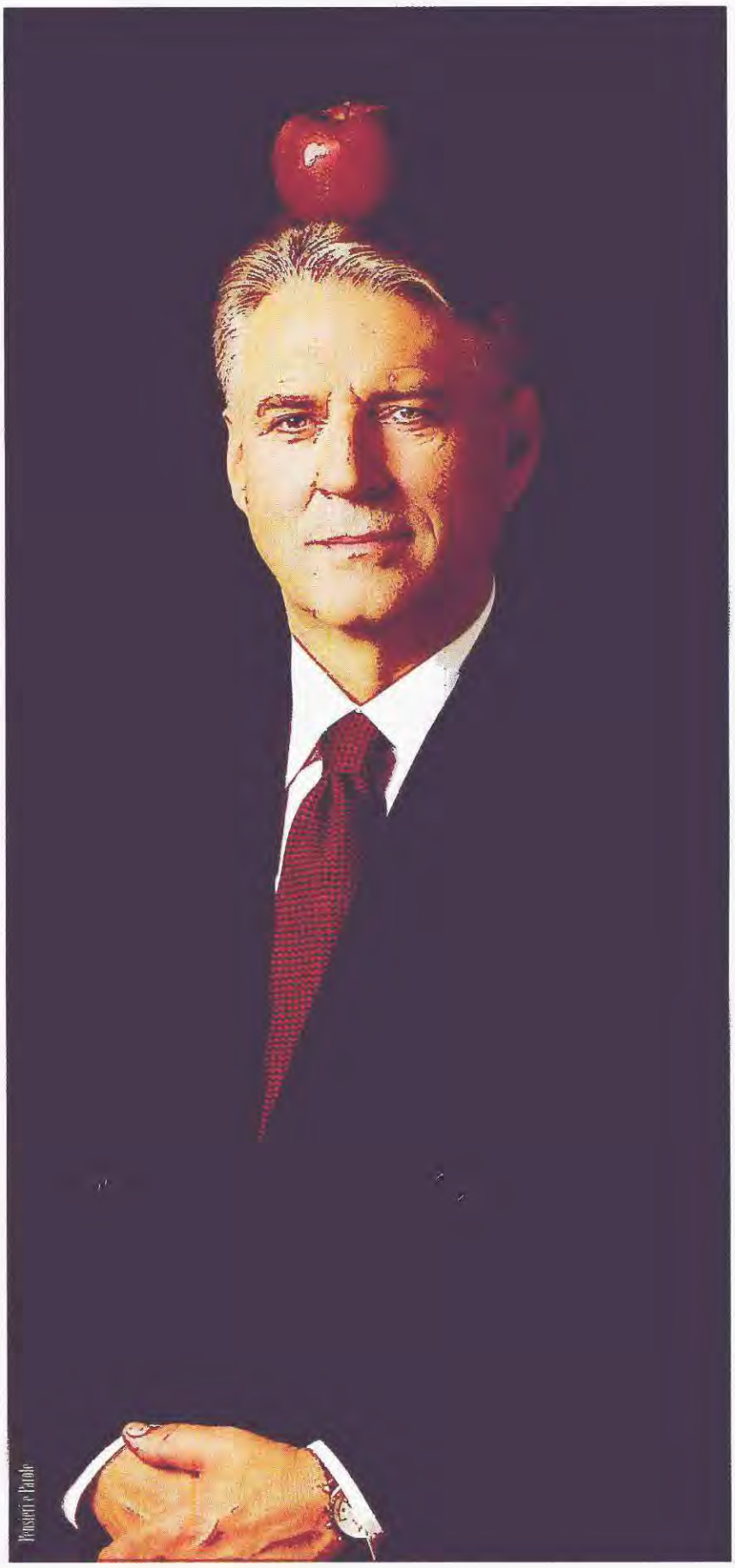
About 3.5 million of Aetna's total health care enrollment is in its indemnity plans, while more than triple that number, or 10.7 million, is one of its managed care operations, though some group members have both types of coverage.

Looking ahead, A.M. Best's Mr. Nowacki said, "If the industry comes through with what we've been hearing, that they're going to raise prices, then profits should rebound somewhat."

But, as with HMOs, the question is going to be how serious the insurance industry is about raising rates, he said.

A lot will depend on what the Clinton administration and Congress agree to do about health care reform, he said, including proposals to address the uninsured population.

"Our view is it's going to be a very difficult environment in 1997," though the profit decline will not be as bad as it was in 1996, which has been a "very tough" year for health insurance companies, Mr. Puccia said. BI



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74 YEARS OF LEADERSHIP IN THE MARKET OF REINSURANCE IN ITALY.

Company settles suit over defect disclosure

PORTLAND, Ore.—Louisiana-Pacific Corp. and its insurer are paying $65 million to settle a shareholder class-action lawsuit against the company and four of its current and former officers.

Northwestern Pacific Indemnity Co. agreed to pay $20 million of the settlement under a directors and officers liability policy with limits of $25 million, a Louisiana-Pacific spokesman said. The company is funding the remaining $45 million.

The suit, filed last year in federal court in Portland charged that the company and the officers failed to disclose defects related to Louisiana-Pacific's home siding and exposed the company to millions of dollars of liability by continuing to sell the product.

Louisiana-Pacific said the suit was spurred by a drop in the company's stock price after the media and analysts reported pending and threatened civil and criminal actions against the company.

Louisiana-Pacific has agreed to pay about $275 million to settle claims from homeowners who experienced problems with the company's "oriented strand board" siding, the spokesman confirmed.

—By Michael Bradford

Court

Continued from page 2

decision apply to the testimony of an engineering expert in a product liability case. Although the district judge who heard the case blasted the testimony as "preposterous," he also said the testimony must be considered because of the way the 10th U.S. Circuit Court of Appeals has applied the *Daubert* standards.

Providing reasonable guidelines to determine whether expert testimony is admissible is critical to promoting legal predictability, say business groups.

"If any so-called expert witness can testify without adequate controls or restraints, then the entire fault-based system will be undermined. It will be difficult if not impossible for manufacturers to predict if a certain behavior will be found negligent or not," said Quentin Riegel, deputy general counsel for the National Assn. of Manufacturers in Washington. NAM joined with Reston, Va.-based Product Liability Advisory Council Inc. in filing a brief last month urging the Supreme Court to review *Subaru vs. Compton*.

The case stems from an accident Feb. 19, 1988, when Steven D. Compton was a passenger in a 1982 Subaru GL station wagon traveling about 60 mph on a road near Scott City, Kan. The driver lost control of the car, which left the road and rolled over twice. None of the passengers in the car suffered serious injuries except Mr. Compton, who suffered a severe spinal injury that left him a quadriplegic after the car's roof collapsed on him.

Mr. Compton sued Subaru and its parent company, Fuji Heavy Industries Inc., alleging a design defect in the roof caused his injury. To bolster his contention, Mr. Compton relied on the testimony of Larry Bihlmeyer, an aerospace and mechanical engineer who had once worked for Ford Motor Co. Mr. Bihlmeyer said that in his opinion, the Subaru's roof should have been designed to sustain average forces of between 48,000 and 71,000 pounds and deform no more than 2½ inches in rollover accidents occurring at speeds of between 50 to 70 mph.

That was more than 10 times the requirement set by the Federal Motor Vehicle Safety Standard applicable to the Subaru station wagon. The standard held that the roof should deform no more than 5 inches when subjected to a force of 3,600 pounds. In fact, Subaru's own standard for the vehicle is a maximum 2-inch deformation at 4,625 pounds of force.

U.S. District Court Judge Monti L. Belot III of Wichita, Kan., called the testimony "the most ill-supported, weakest opinion I've ever heard." He called Mr. Bihlmeyer's design standard "more applicable to a Sherman tank than to any vehicle which an ordinary consumer would drive."

Nevertheless, Judge Belot said he had to allow Mr. Bihlmeyer to testify because of the 10th U.S. Circuit Court of Appeals' "extreme liberality with respect to admissibility of expert testimony in products liability cases."

The jury awarded Mr. Compton more than $6.5 million in damages, which Subaru appealed to the 10th Circuit. The appeals court April 30 upheld the jury's award and said the *Daubert* standards did not apply to the case.

"If (the Supreme Court) intended to craft a rule regarding all expert testimony, presumably it would not have emphasized only 'scientific knowledge,'" wrote Judge John C. Porfilo for the three-judge panel.

The 10th Circuit also has held that an expert witness' "experience and training," rather than the reasoning or methodology underlying the witness' testimony, are sufficient to make the expert's testimony admissible. This runs counter to the position taken by other federal appeals courts.

In another brief advocating Supreme Court review of the case, attorneys for the Chemical Manufacturers Assn. and the National Chamber Litigation Center Inc. argued that "Just because *Daubert* addressed only science does not mean that other kinds of expert testimony should be subject to less scrutiny. As a matter of logic, if scientists must confine their expert testimony to valid science, all experts should be limited to opinions that are appropriate within the context of their field of expertise."

The brief further argues that "as a field closely akin to science, engineering falls squarely within the criteria for assessing scientific validity that are outlined in *Daubert*."

If evidence is allowed in that is not reasonable, 'then it's going to make the process a coin-flipping exercise,' says Quentin Riegel.

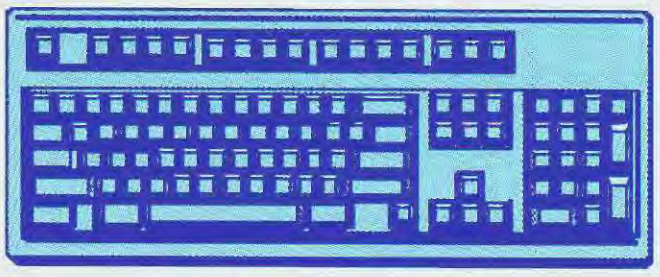
The brief also says the appeals court's decision allows "an expert to escape scrutiny just by saying he or she used no methodology or reasoning. Its ruling in this case would allow a witch doctor to testify about what caused a patient's disease solely on a lifetime of observing sick people; and it would let an otherwise qualified physician base testimony on witch-doctory and hide behind the assertion he or she used no definable methodology or training."

By failing to apply *Daubert* standards, "*Compton* had created a refuge for the expert whose opinion will fail if subjected to recognized analytical testing methods employed in the field. Faced with the alternative—the *Daubert* scrutiny vs. the *Compton* refuge—experts are encouraged to rely on their expertise and training rather than subjecting their opinion to the rigors of scientific methodology," holds the NAM/Product Liability Advisory Council brief.

Victor Schwartz, senior partner in the Washington law firm Crowell & Moring and longtime advocate of product liability reform, said trial judges have to function as gatekeepers in regard to any type of expert testimony.

"The concept of gatekeeper applies with just as much force to an engineer testifying about the feasibility of design as it does to a biochemist who's talking about risks that may stem from a drug. The purpose of the court in *Daubert* was to help assure that laymen evaluated expert testimony that had a true basis in science and to prevent them from considering evidence that had no objective basis in science where by definition they were not equipped to discern that the evidence had no value," said Mr. Schwartz.

"If evidence is allowed in that is not helpful and reasonable, then it's going to make the process a coin-flipping exercise," agreed NAM's Mr. Riegel. BI



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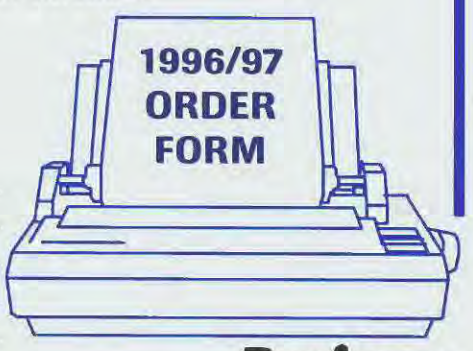

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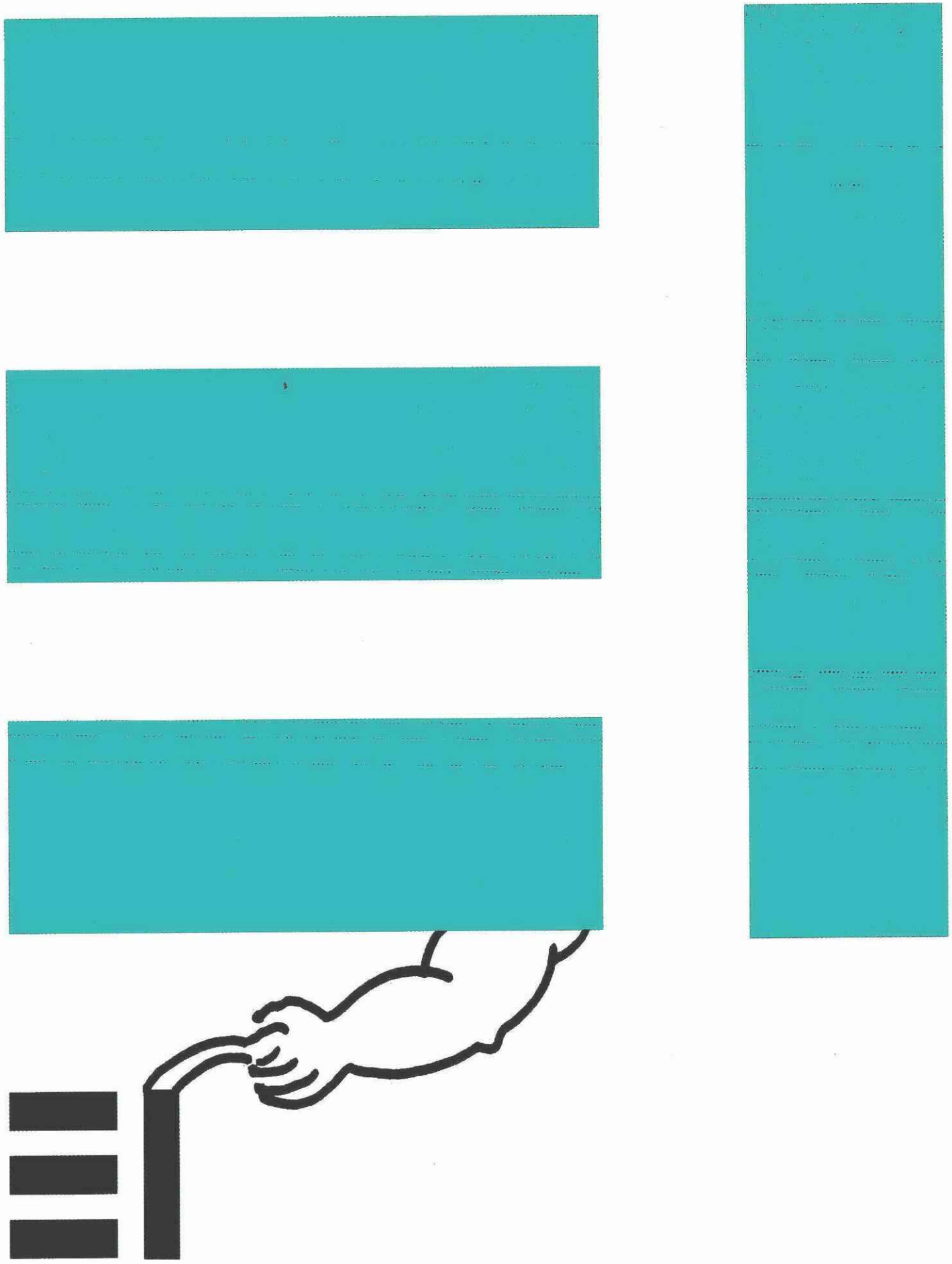

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Largest U.S. reinsurers' nine-month 1996 results

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

Reinsurers	Net reinsurance premiums written 1996	Net reinsurance premiums written 1995	Policyholders surplus (reinsurers only)	Net income 1996	Losses & loss adjustment expenses	Loss ratio	Underwriting expenses	Expense ratio	Combined ratio 1996	Combined ratio 1995
1. General Re	2,202,538	2,213,440	5,152,760	496,138	1,519,783	69.4	622,525	28.3	97.7	99.2
2. American Re	1,434,176	1,230,196	1,172,056	141,596	824,804	64.3	435,564	30.4	94.7	99.5
3. Employers Re	1,337,808	1,869,829	4,047,395	272,733	1,019,975	75.2	396,814	29.7	104.8	103.2
4. Transatlantic/Putnam	789,744	737,567	876,778	93,796	560,344	74.4	212,000	26.8	101.3	102.5
5. Everest Re	629,647	581,775	735,208	71,025	430,638	72.2	199,507	31.7	103.9	108.1
6. St. Paul Cos.	606,256	569,668	N/A	N/A	420,303	75.9	175,370	28.9	104.9	99.4
7. Berkshire Hathaway	656,400	704,800	N/A	N/A	402,400	95.6	66,300	15.7	111.3	114.4
8. Zurich Re Centre	553,431	418,508	670,413	7,850	364,605	71.1	178,390	32.2	103.3	107.6
9. Munich Re	528,639	521,899	944,034	88,057	376,408	72.1	164,026	31.0	103.1	102.7
10. Swiss Re America	514,687	721,107	1,029,868	142,237	389,276	68.7	181,746	35.3	104.0	209.8
11. Hartford Re Mgt. Co.	447,946	376,368	N/A	N/A	308,113	78.3	114,245	25.5	103.8	103.9
12. TIG Re Co.	420,986	388,072	513,841	74,834	289,222	72.1	125,628	29.8	101.9	103.4
13. Kemper Re	398,806	324,883	481,814	(266,240)	581,271	156.2	114,236	28.6	184.9	104.6
14. Constitution Re	398,125	401,383	347,435	30,836	286,610	72.8	119,582	30.0	102.8	102.7
15. NAC Re	374,360	348,543	649,243	45,678	222,316	63.9	139,118	37.2	101.1	103.4
16. F&G Re	372,605	369,820	N/A	N/A	220,266	64.7	89,712	24.1	88.8	92.6
17. SCOR U.S. Group	326,321	181,809	355,803	(40,345)	136,923	70.3	109,246	33.5	103.8	104.2
18. Underwriters Re	279,449	210,359	601,637	15,206	186,596	73.6	79,809	28.6	102.2	103.0
19. National Re	262,012	252,086	458,412	48,768	171,864	65.3	84,519	32.3	97.5	98.2
20. Signet Star Re	196,845	163,734	252,236	5,673	128,440	73.6	57,462	29.2	102.8	103.0
Totals for Top 20	**12,730,781**	**12,585,846**	**18,288,933**	**1,227,842**	**8,840,157**	**74.3**	**3,665,799**	**28.8**	**103.1**	**108.7**
Total for all companies	**14,575,792**	**14,059,340**	**23,349,238**	**1,572,969**	**10,104,189**	**73.1**	**4,379,468**	**30.0**	**103.1**	**107.7**

Source: Reinsurance Assn. of America and *Business Insurance*

Results

Continued from page 3

In 1995, Swiss Reinsurance America Corp. received a $700 million capital infusion from its parent, Swiss Re Group, to bolster its incurred-but-not-reported asbestos and environmental loss reserves (*BI*, Sept. 4; April 10); American Re Corp. added $347.4 million to its reserves (*BI*, Feb. 5, 1995); and during the second quarter of 1996 Kemper Re increased its asbestos and environmental reserves $300 million.

Elizabeth Farrell, senior analyst with A.M. Best Co. in Oldwick, N.J., also pointed to the asbestos and environmental charges. "This current underwriting year is really benefiting by the fact that they're not taking A&E charges any more," aside from Kemper, she said.

"The underwriting has been reasonably good, and loss trends have not gotten out of control at all, so the combined ratios have been fairly good," though premium growth has declined because of higher retentions by primary insurers and the competitive market, said Gary Ransom, senior vp at Conning & Co. in Hartford, Conn.

"I don't see an awful lot of change from what we've seen so far," said Jerome Karter, president and CEO of SCOR U.S. Group in New York. "The primary market continues to be highly competitive and overcapitalized,

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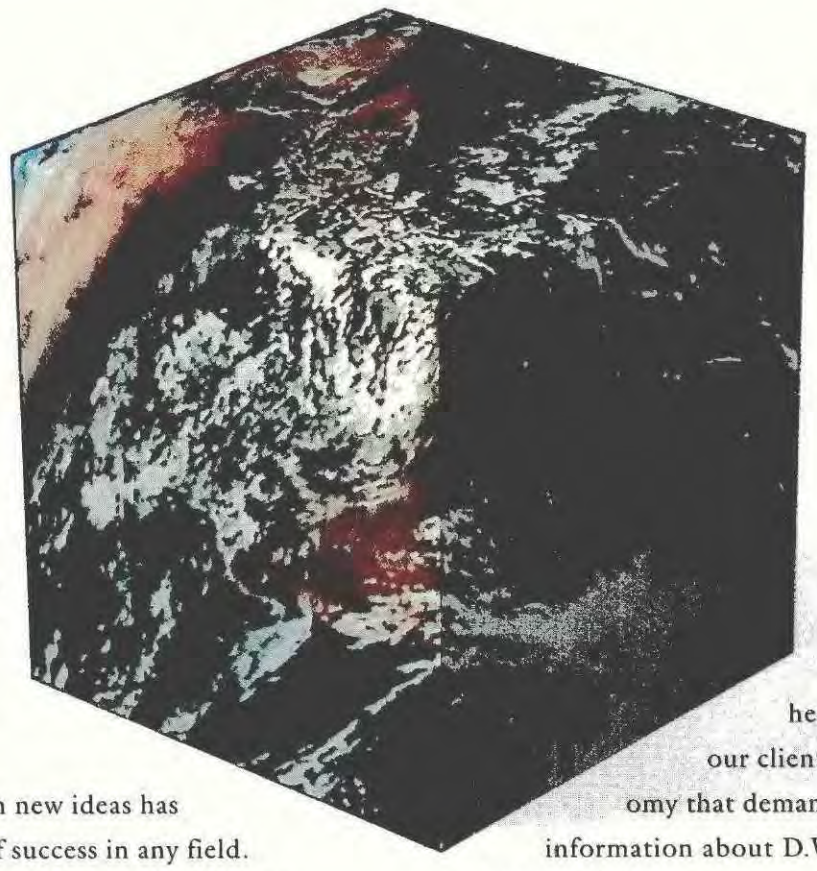

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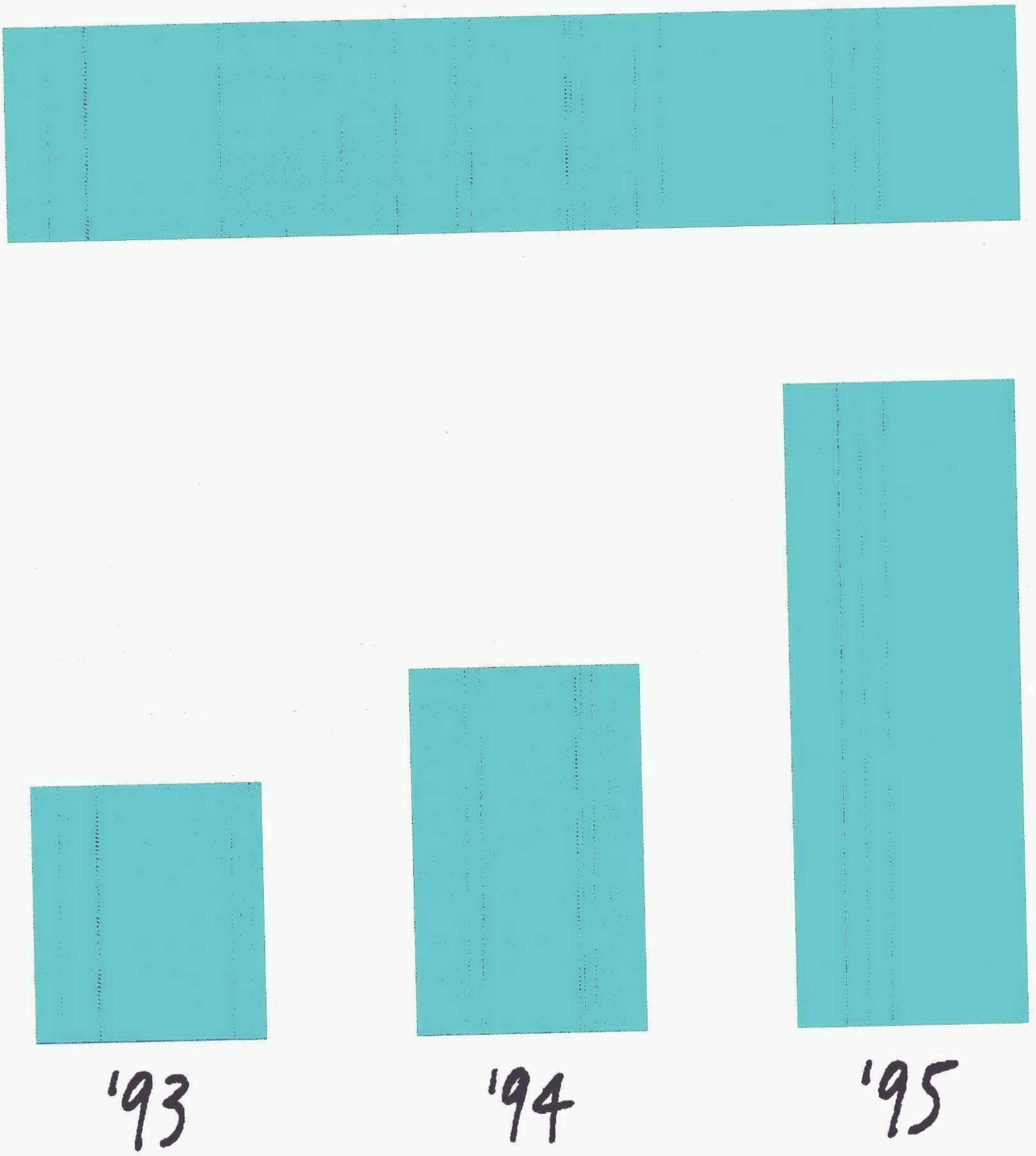
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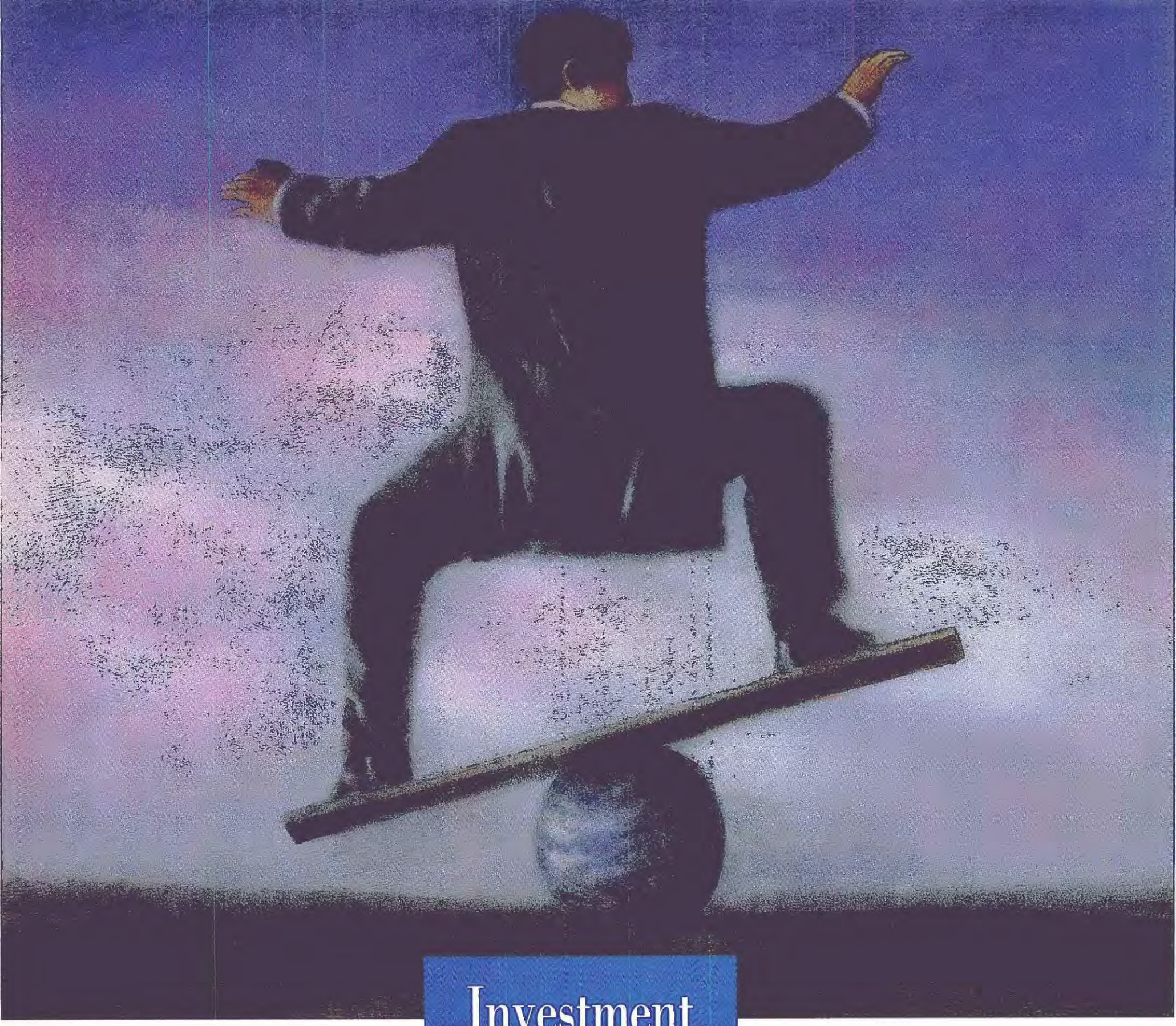

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Continued M&A activity likely with insurers, reinsurers

By REGIS COCCIA

Insurers and reinsurers have been stepping up merger and acquisition activity in each of the past several years, and the end is nowhere in sight.

In 1995, commercial property/casualty insurers and reinsurers inked deals totaling a record $27 billion. And, with 1996 on pace to equal or better that figure, M&A activity is showing no signs of slowing.

A common theme in the buying and selling is desire for growth.

"M&A in the insurance business is an acceptable way of growing," said Myron Picoult, a vp and senior insurance analyst at Wasserstein Perella Securities Inc. in New York. Companies see mergers and acquisitions as ways to control costs and gain "critical mass," he said.

"As we've been seeing for the past couple of years, weaker companies are being absorbed by the stronger ones," said Barbara Stewart, president of Stewart Economics in Atlanta. "It's a natural result of a very competitive market and the inability of many large property/casualty companies to grow," she said.

"This industry has been consolidating for a long time," and the dynamics of the industry are such that companies must seek growth through acquisition, said Gloria Vogel, senior vp at Advest Inc. in New York.

"A lot of people out there believe it's cheaper to buy than it is to grow" internally, said Neal Schneider, a partner in the insurance practice at Arthur Andersen L.L.P. in New York.

Many companies want to buy market share or at least tap growth opportunities, so they look at merging with another company or acquiring a book of business, he said.

Such a strategy was behind the largest industry deal this year: Aetna Life & Casualty Co.'s $8.9 billion acquisition of Blue Bell, Pa.-based U.S. Healthcare Inc. (*BI*, April 8).

Although most of the industry mergers and acquisitions this year involved relatively small price tags and lesser-known players, high-profile transactions like Aetna's—particularly among reinsurers—boosted the overall dollar volume.

"The big one right off the top was Aetna selling its property/casualty book (to Travelers Corp.) and buying U.S. Healthcare," Ms. Vogel said.

The purchase gives Hartford, Conn.-based Aetna a strong footing in managed care. The combination, which shareholders approved in July, created the nation's second-largest health maintenance organization, with plan enrollment of about 6.5 million.

Much of the capital for that acquisition came from the $4 billion sale of Aetna's property/casualty operations to Hartford-based Travelers Corp., which won regulatory approval April 1 (*BI*, Dec. 4, 1995). The resulting entity, Travelers/Aetna Property/Casualty Corp., is one of the largest U.S. commercial insurers.

At the time that deal was announced, observers noted Aetna's sale of its property/casualty business offered advantages to both companies. For example, while Travelers had a strong book of national accounts, Aetna's forte was smaller, middle-market accounts. The sale also let Aetna concentrate on its health care business.

"Aetna basically shed a chunk of business and went out and said, 'Here's a better opportunity.' They went out and bought one of the top HMOs in the country," Mr. Schneider said.

Other large deals included:

- Swiss Reinsurance Co.'s acquisition of Mercantile & General Reinsurance Co. P.L.C. for about $2.7 billion (*BI*, Sept. 2).
- Munich Reinsurance Co.'s purchase of American Re Corp. for $3.3 billion, which gives the German reinsurer a strong U.S. presence (*BI*, Aug. 19).
- SCOR U.S. Group's acquisition of the reinsurance operations of Allstate Corp. for an undisclosed amount (*BI*, July 29).
- General Re Corp. buying National Reinsurance Corp., for $940 million (*BI*, July 8).
- ACE Ltd.'s acquisition of Bermuda-based Tempest Reinsurance Co. Ltd. With an offer of more than $950 million, ACE outbid rival Bermuda reinsurer IPC Holdings Ltd. (*BI*, June 24).

Sometimes bigger is better

As competition continues to make it harder for insurers and reinsurers to increase their bottom lines, more companies believe there's nowhere to go but larger.

At a certain point, it makes sense for insurers to expand through acquisition to achieve operating efficiency, Advest's Ms. Vogel said.

"Competition is very intense," she said. "Companies are looking to focus and expand, and acquisitions allow them to do that."

"Critical mass is a key factor in keeping costs down," Mr. Schneider said, adding this will push mergers and acquisitions in the future.

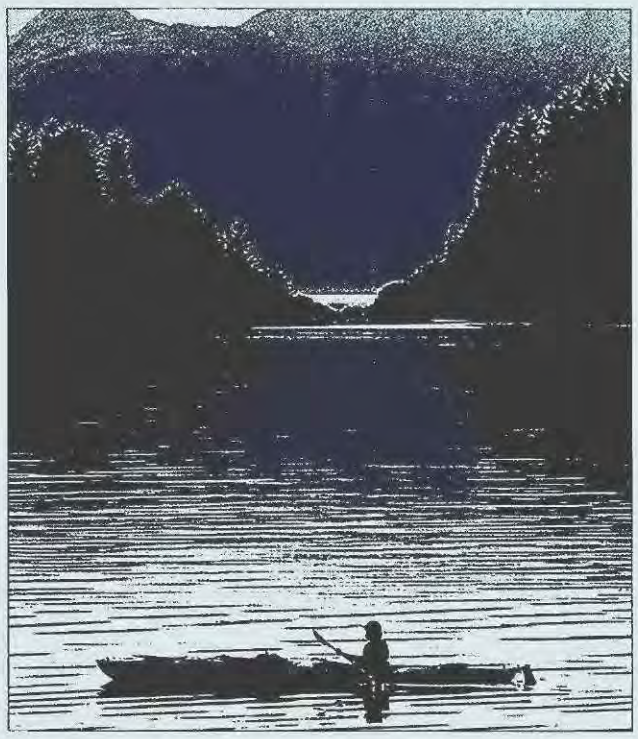
As a result, more "megadeals" will occur in the future, he predicted. While the largest property/casualty companies will get bigger, the middle tier of insurers will begin to disappear as they either are absorbed by larger companies or fall by the wayside, Mr. Schneider said.

"They realize they can't be a niche player because they're too big, and they can't be one of the big players because they're too small," he said. Thus, their only choice is to get bigger or cease to write business. Mr. Schneider predicts smaller insurers will grow and "step into the void by the exit of the medium-size company."

Acquiring customers

One reason insurers are striving to attain critical mass is attractiveness

See **Mergers** *on next page*



GET THE BROADER VIEW...

Mergers

Continued from previous page
to large commercial customers.

Commercial policyholders realize large insurers sometimes are best equipped to meet their needs, said Stewart Economics' Ms. Stewart.

"What we're looking at in the commercial area is a movement toward larger pots of capital in (insurance) organizations," she said.

"Buyers have become very sensitized to the financial strength of companies they're going to need to rely on" down the road, she said. "Depth and quality of capital are very important considerations."

The growth of alternatives to traditional insurance also is pushing M&A activity, Ms. Stewart said.

"We'll see continued growth in self-insurance," said Mr. Schneider. As a result, more companies will want to get into new product areas and may have to buy expertise.

"Companies will need to come up with capital markets products as means for dealing with insurance needs," he said.

Consolidation is expected to continue among property/casualty insurers.

"There are too many companies out there," said Wasserstein's Mr. Picoult. "Everybody's fighting for shelf space." BI

Quality, service over ethnicity

Head of first African-American-owned P/C insurer wants to be competitive

By SUSAN BARD HALL

Sable Insurance Co. intends to become the first African-American-owned property/casualty insurance company, but the distinction Chief Executive Officer Aaron Richardson really wants is that of a mainstream insurer known for a quality product, competitive pricing and exemplary service.

Mr. Richardson, formerly president and CEO of his own insurance brokerage, Aaron Richardson Insurance Services Corp. of San Francisco, is forming the San Francisco-based insurance company in partnership with Reliance National Insurance Co. of New York.

Initially, Sable will target public utilities, public entities, Fortune 1000 companies, select associations, minority-owned businesses and other organizations seeking to do business with a minority-owned insurance company.

Mr. Richardson, 53, holds the title of president and CEO of Sable and owns 51% of the equity and voting control. Reliance National holds the remaining 49%.

Sable intends to begin operations with more than $6 million in paid-in capital and surplus as soon as it receives a certificate of authority from the California Department of Insurance. Mr. Richardson is hopeful that regulatory approval is imminent.

Mr. Richardson

"We hope to be fully operational by Jan. 1, 1997," he said.

Already well-known in the insurance industry from a successful brokerage career, Mr. Richardson said he thrives on challenges.

Such a challenge is what motivated him to form the first-ever African-American-owned property/casualty insurance company.

Mr. Richardson refuses to take credit for the idea, though.

One of his clients, he recalled, had mentioned the difficulty public entities and some corporations were having fulfilling a requirement or commitment to utilize minority- and women-owned business enterprises, or MWBEs.

This client suggested that creating a minority-owned property/casualty insurance company would be a "win-win" situation for everyone involved.

Mr. Richardson agreed it was a potentially untapped market niche.

"Many public entities and corporations doing business in both the private and public sectors are required to utilize MWBEs or have made a voluntary commitment to do so," Mr. Richardson explained.

He cited a few examples:

- Federal agencies are mandated to maximize the participation of MWBEs on all contracts they fund.
- Contractors doing business with the government must account for MWBE participation in their spending on all government contracts.
- Fortune 1000 companies are increasing MWBE procurement as a matter of sound business philosophy.

A welcome alternative

Mr. Richardson said the creation of Sable Insurance Co. gives these entities a welcome alternative.

"The existence of a minority-owned property/casualty insurance company gives insureds a practical, straightforward means to substantially increase their levels of MWBE participation," he said. "In addition, the existence of such a company provides national brokerage firms with an opportunity to assist their clients in meeting MWBE participation goals without relinquishing income."

Among the companies Mr. Richardson said he will consider his competition are units of Chubb Corp., Travelers Corp. and ITT Hartford Group Inc.

"While I initially see the ethnicity of ownership as a market advantage, within five years what will really matter is whether we can compete in terms of service, price and product," he said.

Sable also aims to set itself apart through the services of its full-time marketing specialist.

Susan Spencer holds the title of executive vp of marketing. Ms. Spencer, 44, joins sable from ARISCO, where she served as vp and director of corporate communications for the broker.

"It was unusual for a company of ARISCO's size to devote that much attention to public relations and visibility," Ms. Spencer said. "But it is to Aaron's credit that he saw the value of carrying that high profile."

Reaching out to ultimate consumer

Mr. Richardson said that because Sable is not a direct writer, it is extremely important to increase its visibility and reach the ultimate consumer so they know such an insurer exists.

In turn, consumers can ask their risk managers and brokers to look to Sable for their property/casualty insurance needs, Mr. Richardson said.

Although Sable is starting small, with only three employees, the company intends to grow.

After Sable becomes established as a California-domiciled, licensed property/casualty insurer, the company intends to undertake "an aggressive growth plan," Mr. Richardson said.

"Within three years, we hope to be licensed in half of the states and the District of Columbia. Within another two years, we would like to be in all states," he said.

An international presence would follow, with South Africa, the

Continued on next page

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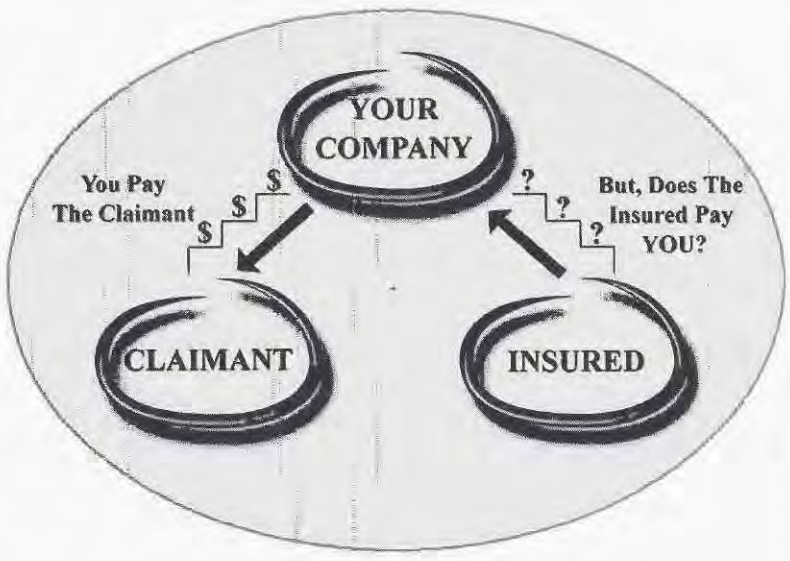

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Insurer Topics

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Caribbean and the Far East at the top of Sable's list.

During its first five years of operations, Sable intends to reach $20 million in assets, $44 million in gross written premiums, $12 million in surplus and more than 20% annualized return on original investment, Mr. Richardson said.

Sable will not have a financial strength rating from A.M. Best Co. until the insurer has five years of operating data.

Another of Sable's goals is to be included among the Fortune 500, a distinction only one African-American-owned company now holds.

"I've always said it's not only how large we grow, it's how we grow large," Mr. Richardson said.

Sable will sell its insurance products through independent agents and brokers. Risk management and loss control services will be provided by independent parties through contractual relationships with Sable.

The company will contract with Reliance National for underwriting and claims management services. Sable also will limit its claims exposure by securing reinsurance through Reliance National, Mr. Richardson said.

Dennis A. Busti, president and CEO of Reliance National, said he was impressed from the outset with Mr. Richardson's idea to create the first African-American-owned property/casualty insurer.

"I liked the idea of a minority-owned insurance company that could attract a lot of good property/casualty business that we would not otherwise see," Mr. Busti said.

Another reason Reliance invested in Mr. Richardson and Sable, he said, is that parent Reliance Group Holdings Inc. continuously seeks solid business investments.

"Although Reliance had never before invested in a new company that was minority-owned, we felt it had the markings of a good business investment for us," Mr. Busti said.

The first meeting between Messrs. Busti and Richardson occurred in 1993. Mr. Busti said Reliance would have finalized the deal earlier than November 1995, but Mr. Richardson wanted to take time to weigh all options to ensure he had found the best possible partner.

Of the several investment partners Mr. Richardson approached with his business plan, he said Reliance was the only one where his initial face-to-face meeting took place with the president and CEO. That in itself said a lot about Reliance and the way it conducts business, he said.

Mr. Richardson, who considers himself a hands-on manager, has been involved in virtually every aspect of Sable's start-up process, including selection of the company name. When a name search revealed that his first choice was already being used, Sable, which means African gazelle, was chosen.

"A sable is a handsome animal in Africa; one that is agile, swift and has staying power," Mr. Richardson said.

Mr. Richardson said he hopes that in addition to success, Sable serves as an inspiration to others to look for new challenges to conquer.

"I hope Sable will serve as a beacon to others."

While Mr. Richardson retains ownership of ARISCO, he is no longer involved in the brokerage's day-to-day operations.

Mr. Richardson in September relinquished the title of president and chief executive officer of San Francisco-based ARISCO to Ingrid Merriwether, who has managed its brokerage division since 1992.

In addition to Mr. Richardson, Mr. Busti and Ms. Spencer, other members of Sable's seven-member board of directors include: Albert J. Marino, executive vp, chief financial officer and treasurer of Reliance National and vice chairman and treasurer of Sable; Mark L. Owens, executive vp and director of marketing for Reliance National; Jeffrey A. Welikson, executive vp, general counsel and secretary of Reliance National; and Paul C. Hudson, president of Broadway Federal Bank in Los Angeles. BI

Asian markets appealing

Asian risks can pay off: Round table speakers

By MICHAEL PRINCE

Just because Christopher Columbus didn't reach Asia doesn't mean insurance companies shouldn't.

With its huge population and growing economies, Asia represents a tremendous investment opportunity for the insurance industry, said Selina Man, regional manager-Asia and Pacific division of A.M. Best Co. in Oldwick, N.J. And despite the problems and apprehensions of doing business in Asia, she said the benefits outweigh the costs.

The real question, she said while speaking in New York at last month's 1996 Roundtable on Insurance Conditions in Asia sponsored by the International Insurance Council, is not if insurance companies should do business in Asia, it's if they can afford not to do business in Asia.

"Just remember: It's not a new market," she said. "It's been here a long time and it's here to stay."

Ms. Man divides insurance companies into three categories: proactive, reactive and fence-sitters.

The proactive ones are insurers and reinsurers of a reasonable size with an established international culture. They are active in Asia to strengthen their market presence.

Reactive companies are more recent investors in Asia who have followed their competition. "They have to jump on that bandwagon," she said.

The last group are fence-sitters who are making tentative investments. "They tend to focus on the negatives of the investment," she said.

As for the countries, she divides them into four zones: hot, getting hot, warm and cool. According to her scale, a hot country has a high level of foreign investment, a high cost of doing business, frequent visits by top business executives and the presence of brokers.

The hot zones include Japan, China, Singapore, Hong Kong and Thailand. She emphasized that Japan, with its large insurance market, and China, with its huge population, are prime targets for investment.

Taiwan, India, Indonesia, Malaysia and South Korea comprise her "getting hot" zones, with India and its 1 billion people a standout market.

The "warm" zone contains the

See **Asia** *on next page*

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Insurer Topics

Asia

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Philippines, Vietnam and Mynamar, while the "cool" zones include Pakistan, North Korea, Cambodia and Laos. She said they essentially are closed to foreign investment.

She cautions that investors must tailor their plans to each country. "There is no one-size-fits-all investment strategy," she said. "When you decide to do business in Asia, your parent corporation will need to change. It's a two-way street. You cannot be successful in Asia without making fundamental changes in your own approach."

Ms. Man counseled that despite attempts to open these markets, government regulations in Asia will not disappear. In many Asian countries, she said, the people trust big government and see it as benevolent.

Other items she said companies should keep in mind:

- Long-term planning.
- Look at the middle and low end of the market, focusing not on big dollars per sale but on the number of people.
- Be ready to invest in relationships and people along with education and the environment.
- Savvy product development. "This is not North America. Get used to being innovative," she said, such as offering bicycle insurance.
- Market to women and children.

In a separate presentation during the round table, B. Kingsley Schubert, president of CIGNA International, said in the ongoing insurance trade negotiations between the United States and Japan, chances are slim Japan will agree to all the U.S. requests. The U.S. demands involve deregulating the life and non-life sectors so non-Japanese firms can enter those markets and differentiate their products from those offered by Japanese companies.

A big reason for the Japanese reluctance to allow foreign competition is a concern the Japanese firms won't survive, he said. "They realize they are in no place to compete in any deregulated market," he said.

China represents a tremendous opportunity for property/casualty companies, said Larry Simms, partner with law firm Gibson, Dunn & Crutcher in Washington. He noted that only a handful of the 83 companies that have applied for entry into the Chinese insurance market are property/casualty companies.

In another presentation on Asia, Gordon Cloney, president of the International Insurance Council, said the Indian government is committed to converting the country from a state-run to a private insurance industry. He anticipates the introduction of a privatization bill early next year with possible passage later in the year. BI

Adjust style to cultures: Speaker

By MICHAEL PRINCE

Peoria won't always play in Paris.

To succeed overseas, U.S. insurance companies and brokers may have to adjust their business styles, said Teresa Pahl, executive vp with Aon Risk Services Global in Chicago.

In working outside the United States, Ms. Pahl told a lunchtime gathering of the Assn. of Professional Insurance Women, it is important to keep in mind differences between U.S. and other cultures. These include the concept of individual space, the concept of time, and organizational structure and authority.

"You need to read up on these issues abroad and be very sensitive to them," she said.

Many foreign cultures have a different concept of personal space. In some, she said, it is inappropriate to make what in the United States is considered casual touching, such as a pat on the back, or stand too close to someone when speaking.

Ms. Pahl also said many other cultures treat time differently. In some places early morning meetings are frowned upon. In addition, diving into a business discussion before having a personal dialogue is considered rude in other countries, she said. Also, some cultures place more emphasis on promptness while others have a lax attitude toward deadlines.

She also said many other cultures still retain formal business etiquette. This means, she said, respecting closed doors and working through proper channels of authority.

'You need to read up on these issues abroad and be very sensitive to them,' says Teresa Pahl of Aon Risk Services Global.

According to Ms. Pahl, U.S. companies today are investing more in the world's emerging markets. In response, insurance companies and brokers need to follow their clients and become more globally oriented.

But having the customs down may not be all it takes.

Many foreign nations have erected barriers to entry by the U.S. insurance industry. To tear down these barriers, she said, the insurance industry needs to exert greater pressure on the U.S. government to step up its negotiating efforts. This pressure has not been exerted, she complained, because the industry has lacked a coherent voice and strategy.

"We refuse to come together and establish a single message," she said.

To work more effectively in a global environment, Ms. Pahl had a number of recommendations:

- Embrace technology. "It's clearly the only way to keep up with the speed that we need," she said.
- Recognize that strategic alliances are important overseas. This includes co-brokering on deals if the client demands it, or creating alliances with non-traditional partners, she said.
- Do a better job of managing the explosive growth of information.

"We need to start being triage specialists with regard to information,' Ms. Pahl said.

- Acquire the ability to analyze clients' global balance sheets to address their global needs.
- Learn another language.

"Invariably it's becoming important, if anything, to have a cultural awareness," she said.

- View oneself as an individual business unit, and make an assessment of one's skills necessary for success.
- Be flexible.

"You have to revise the plan constantly," she said. BI

GLOBAL FOCUS

—1997—

Global Focus will appear six times in 1997 as a regular section distributed exclusively to non-U.S. subscribers. Articles in this special demographic section will address the specific risk management and employee benefits concerns of executives in countries other than the United States.

PUBLISHING DATES ..... AD CLOSING DATES

February 17 ..... February 5
Distribution at Bermuda Insurance Symposium

March 24 ..... March 12
Distribution at
Association of Insurance & Risk Managers in Industry & Commerce

July 14 ..... July 2
Distribution at International Insurance Society

September 1 ..... August 20
Distribution at Monte Carlo Rendez-Vous

October 6 ..... September 24
Distribution at Federation of European Risk Management Associations

November 3 ..... October 22
Distribution at Association of Risk & Insurance Managers of Australasia

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and that affects reinsurers.

"I think that the consolidation of the (direct reinsurers) down to four companies, in general, is probably very positive for the broker market side of the business," he added. As more broker market companies emerge with a strong financial position, they represent a "more balanced alternative for buyers out there," said Mr. Karter.

Mr. Karter noted that SCOR's $40.3 million statutory accounting loss for the nine months stems from its September acquisition of the U.S. underwritten business of Allstate Re (*BI*, July 29). Otherwise, he said, the reinsurer would have been profitable.

"Most reinsurers had a pretty good year" and, "unless something really exciting happens in December, overall the reinsurance industry will have a pretty good year in 1996," said John F. Donahue, senior vp, reinsurance and international property and casualty operations, for ITT Hartford Group Inc. in Hartford, Conn.

However, reinsurers' premium growth remains low and is expected to continue to do so. All 52 reinsurers surveyed by the RAA reported $14.58 billion in net premiums written for the nine-month period, up 3.7% from $14.06 billion for the comparable period in 1995. This compares with the 14.2% increase reported for the first three quarters of 1995 (*BI*, Nov. 27, 1995).

And the Top 20 reinsurers reported just a 1.2% increase in volume to $12.73 billion from $12.59 billion a year ago. The same group reported a 16.2% increase in 1995 over 1994 levels.

"Let's face it, everybody knows we're in the midst of what even the most conservative of us would describe as a very competitive marketplace and I think generally when that happens obviously growth is going to be impacted," said Kemper Re's Mr. Pinter.

In addition, to make their budgets in this soft market some insurers are cutting back on reinsurance as a way to cut costs, said Mr. Pinter.

Insurers are either buying less reinsurance, or they are buying it on an excess-of-loss basis, which generates less reinsurance premium than pro-rata types of covers, agreed Craig Elkind, associate director of Standard & Poor's Corp., in New York.

"I think the industry's coming off three years of very strong premium growth and generally favorable underwriting results," said David Seifer, an analyst with Donaldson Lufkin Jenrette Securities Corp. in New York.

One factor influencing the premium growth experienced by reinsurers in 1993-1995, Mr. Seifer noted, was the transfer of risk exposures from multiline companies that were having underwriting or capital problems and canceled large amounts of business, to smaller regional players that use reinsurance as a backup.

Another factor was the continued rise in the use of alternative risk programs where reinsurance was used to limit upper-end exposures.

"This year, 1996, began to show some reductions in premium growth as those two factors become less meaningful. They lost some of their growth characteristics," said Mr. Seifer.

The reduction in premium growth is "the singular issue for reinsurers today," said Peter Wade, an analyst with Lehman Bros. in New York. "Investors are looking at premium growth as an indicator for long-term earnings growth, because ultimately, while a company may buy its stock back over the short term, if premium growth doesn't continue, earnings growth will. . .slow down and so most of the reinsurers' shares have been hurt by this environment."

Excluding American Re, said Mr. Wade, reinsurers' stocks have underperformed the S&P 500 by 16% this year.

"The trends are just about all negative," said F&G Re's Mr. Ingrey. "Companies have way too much capital. The capital is only earning a little more than what the long-term bond yields would provide, pricing is down and, if that continues, my feeling is that investors will become increasingly negative on reinsurance companies. They may well realize that, say, two to three years from now, that they could put their money to better use in other places.

"If you're earning 150 to 200 basis points better than you would in a medium-term bond, and you were an investor, where would you rather be?" he asked.

More immediately, observers agree the market will remain highly competitive. "This is probably the most competitive reinsurance market that we've had since the early 1980s," said St. Paul's Mr. Duffy. "It's certainly going to be the most difficult year for us over the 1990s.

"We've concentrated over the last three or four years on top-line growth. It's very easy to accomplish when rates in virtually all lines and classes are acceptable."

However, in 1997, in light of the current market conditions, St. Paul Re will be "refocusing our attention to the bottom line, and it's going to be a lot more difficult for us to achieve growth in the current marketplace,' said Mr. Duffy, who added he nevertheless expects St. Paul Re to continue to be profitable.

Having had a good year "always puts pressure on rates, rightly or wrongly, deservedly or not," and that will be true of the January renewals as well, said Hartford's Mr. Donahue, noting that probably the greatest pressure will continue to be in the property catastrophe area, where there will be either broader terms, lower rates or some combination of both.

"There comes a point where I think that underwriters are going to have to draw a line in the sand somewhere," said Mr. Donahue.

Other observers also pointed to evidence of broader terms and conditions. "If you look at the pricing statistics on a comparable basis over the last 18 months to two years, you'll see that it's relatively flat, meaning that we've been in this pricing trough now for quite a while," said SCOR's Mr. Karter.

"But at this point in time so far we haven't seen much further degradation from that. I think that may still show up because one of the things that is happening is that conditions (on reinsurance contracts) are being adjusted very competitively and, to the extent that pricing doesn't adjust for that, that will eventually show up in deteriorated results," said Mr. Karter.

S&P's Mr. Elkind also noted that in addition to soft pricing, terms and conditions are being broadened, with some policies going back to occurrence from claims-made forms, and certain existing exclusions in contracts either being softened or removed altogether. In light of this "combined ratios are not going to get a lot lower," he warned.

"Our expectations are for low single to low to mid-single digit premium growth for the reinsurers in 1997 and we think it's going to be a tough year," said Lehman Bros.' Mr. Wade. "The only way we think they're going to be able to get premium growth at those levels is by increasing their market share outside the U.S." BI

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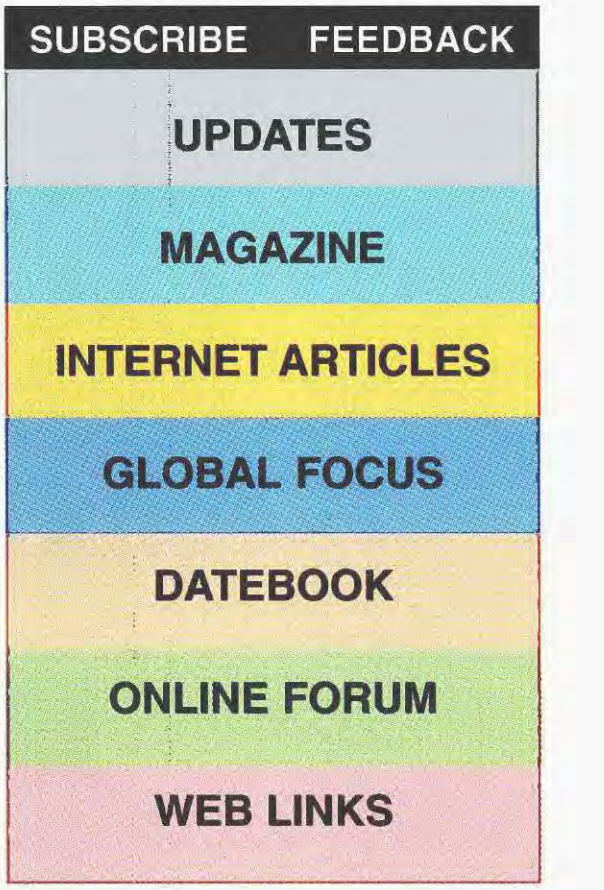

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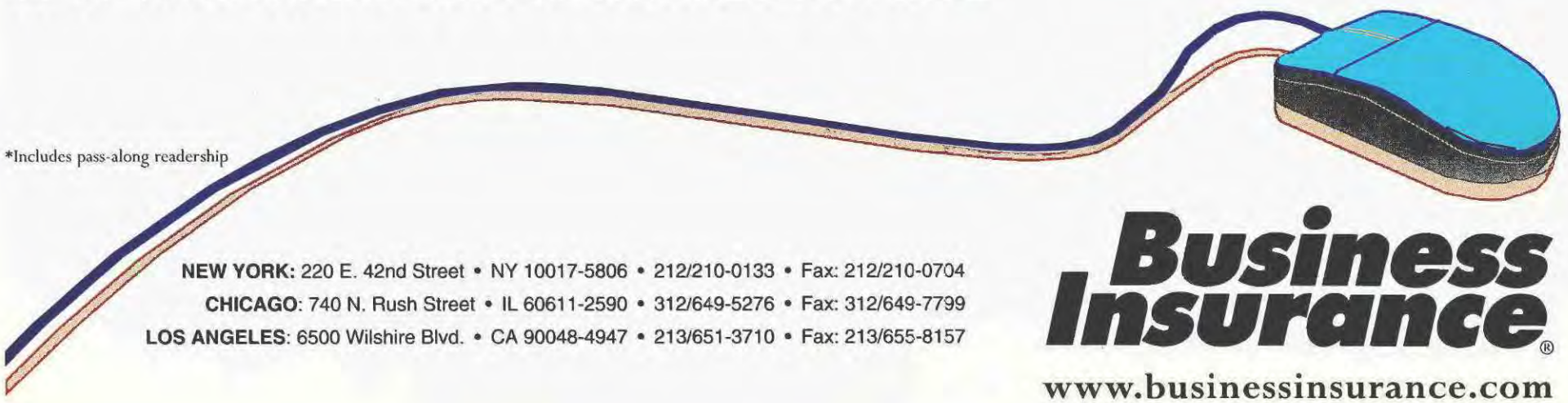

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A Every year the Casualty Actuarial Society (CAS) publishes two yearbooks listing all its members. The yearbooks can be ordered for $40 by contacting the CAS at 1100 N. Glebe Road, Suite 600, Arlington, Va. 22201. 703-276-3100; fax: 703-276-3108.

The first, and larger, yearbook comes out around February every year. It provides a complete address and telephone and fax numbers for every member. However, the listing is done alphabetically by member name and so is not convenient for finding actuaries either by type of employment, location or firm.

The second yearbook is much more helpful in this regard. Called the "Information Update," it comes out every year around July. It lists all members by type of employment, e.g. brokers and agents, bureaus and associations, consulting actuaries, government, insurance company and reinsurance. Within each type of employment category, members are listed alphabetically by firm name. The listing also provides location and phone number and indicates whether the member is a Fellow or Associate and the year the member attained that status. This last type of information quickly provides an indicator of the years of experience the consultant has had since becoming a Fellow or Associate.

As in the past, I also have updated a chart of the largest casualty actuarial consulting firms (see chart at right).

On your second question, James A. Hall III, vp of Pegasus Advisors Inc. of Avon, Conn., offered this response:

"From time to time, a project demands a large team or extensive systems infrastructure such as to mandate the use of a major actuarial firm. However, many smaller actuarial consulting firms my be bona fide candidates for the vast majority of casualty actuarial consulting assignments, thanks to recent developments not only in desktop computing but also in specialized actuarial software. In the final analysis, the professional stature of your principal consultant may be more important than the name of the firm behind that consultant.

"Observers of professional services firms have noted turnover and 'burnout' among partners in both big law firms and major accounting firms. An understanding of the realities of the professional services firms suggests that large actuarial firms are not immune to the stresses experienced by principals in law and auditing firms, and it seems appropriate for a user of actuarial consulting services to consider how the dynamics of the professional firm may impact the value of the professional to the user of services.

"The leaders who built the largest casualty actuary firms are, for the most part, no longer with those firms. Thus the 'magnet' that attracted many of their original clients is now either retired or with a different (usually smaller) firm." Although the credential "Fellow of the Casualty Actuarial Society" is the objective standard you should expect from your actuary, Mr. Hall says you may wish to consider some other, more judgmental issues:

- Will your selected actuary be substantially involved in your analysis, or does the firm pressure him or her to leverage staff billable time by assigning the bulk of the work to colleagues and subordinates?
- Do the administrative and business management duties of your selected "principal" actuary leave him or her enough time to provide a thoughtful consideration of your actuarial issues, or do you receive a more or less "mechanical" update of your last actuarial study performed by junior staff without significant value added?
- Does the selected firm have an internal structure that makes it difficult for your selected actuary to develop an innovative, customized solution for your actuarial problem, or does the structure permit the release of an actuarial report with better value than a "boiler plate" set of calculations?

Mr. Hall currently is in the reinsurance consulting business, so he has no vested interest in the competition among small and large casualty actuarial firms. However, he started a small casualty actuarial firm and one of the largest firms, so he has had extensive experience in both types.

I basically concur with Mr. Hall's views. Having served as a principal consultant of a major firm for 10 years, I know there are many pressures within a large firm that can cause a lead consultant to divert time from serving clients to dealing with marketing, internal management issues and to interacting with other partners and managers.

Other observations I would add to Mr. Hall's remarks:

First, the larger the consulting firm, the more likely it is that the consultant will give more weight to industry or outside patterns and statistics, and, correspondingly, less weight to indications based on the data of the client.

I believe this tendency is in part because larger firms are more likely to have extensive data banks of outside information. Clients that have small volumes of claims data or that are fairly typical in their exposures or claims environment may well be better served by consultants who rely heavily on outside data, because their own data has little credibility. By credibility I mean the reliability of the data in yielding an accurate indication because it is based on a significant number of claims. In contrast, clients with larger volumes of claims in their experience—or that differ from the average in the nature of their exposures, claims environment, or their procedures for claims management or loss control—might be better served by a consultant who will base the analysis primarily on the client's own data.

Second, it is not unusual for noticeable cost differences to exist among firms. Often there are good reasons to retain a consultant with a higher billing rate. On the other hand, sometimes such cost differences exist because of loadings for overhead. Finally, actuarial analysis is as much an art as it is a science. As such, the extent of experience of the artist/scientist often is vitally important to the reasonableness and accuracy of a set of actuarial projections. The client may be well served by knowing who is really doing the work and how experienced they are. BI

Largest casualty actuarial consulting firms

By number of Casualty Actuarial Society members

Firm	Number of CAS members (June 1, 1995)	Number of CAS members (June 1, 1996)	Offices (Ranked by number of Casualty Actuarial Society members as of June 1, 1996)
Tillinghast-Towers Perrin	91	98	Weatogue, Conn. (16); Atlanta (12); Philadelphia (11); Arlington, Va. (7); Boston (7); St. Louis (5); Toronto (4); Dallas (3); Hamilton, Bermuda (3); Irvine, Calif. (3); New York (3); Parsippany, N.J. (3); San Francisco (3); Chicago (2); Denver (2); Jacksonville, Fla. (2); Minneapolis (2); Montreal (2); San Antonio (2); Hong Kong (1); Cologne, Germany (1); London (1); Paris (1); Rockport, Maine (1); Stamford, Conn. (1).
Milliman & Robertson Inc.	61	60	Brookfield, Wis. (10); New York (10); Wakefield, Mass. (8); Pasadena, Calif. (6); West Paterson, N.J. (6); Radnor, Pa. (5); Denver (3); Minneapolis (3); Dallas (2); Irvine, Calif. (2); San Francisco (2); Atlanta (1); Manchester, N.H. (1); Seattle (1).
Ernst & Young L.L.P.	35	44	Philadelphia (12); New York (8); Atlanta (6); Chicago (6); Boston (3); Los Angeles (3); Montreal (2); Toronto (2); Hamilton, Bermuda (1); Seattle (1).
Coopers & Lybrand L.L.P.	39	38	Atlanta (7); Chicago (7); New York (6); Boston (4); Toronto (4); Dallas (2); Los Angeles (2); Philadelphia (2); Seattle (2); Parsippany, N.J. (1); San Francisco (1).
Mercer/Marsh & McLennan Cos. Inc. and Affiliates	35	34	New York (11); Columbus, Ohio (4); Philadelphia (4); Chicago/Deerfield, Ill. (3); Atlanta (2); Irvine, Calif. (2); Minneapolis (2); Ottawa (2); Washington, D.C. (2); Montreal (1); Virginia Beach, Va. (1).
KPMG Peat Marwick L.L.P.	15	25	Radnor, Pa. (7); New York (5); Chicago (4); Hartford, Conn. (3); Dallas (2); Woodland Hills, Calif. (2); Atlanta (1); Hamilton, Bermuda (1).
Deloitte & Touche L.L.P.	14	20	Hartford, Conn. (10); Washington, D.C. (4); Chicago (2); Los Angeles (2); New York (2).
Aon Corp.	15	13	Chicago (6); New York (4); London (1); San Francisco (1); Washington, D.C. (1).
Arthur Andersen L.L.P.	13	11	Philadelphia (4); New York (2); Hartford, Conn. (2); San Francisco (1); Milwaukee (1); Atlanta (1).
Watson Wyatt Worldwide	15	11	Chicago (2); Dallas (2); Wellesley Hills, Mass. (2); San Diego (1); San Francisco (1); Southfield, Mich. (1); Toronto (1); Washington, D.C. (1).

Source: Casualty Actuarial Society

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

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

This month's column on casualty actuary issues is written by Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore. Christopher Mandel, director of risk management for KFC Corp. in Louisville, Ky., answers questions on risk management issues. William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago, answers actuarial questions on benefits issues. And, Dennis J. Nirtaut, managing director of compensation and benefits for Andersen Worldwide S.C. in Chicago, answers questions on benefits management.

Mr. Sherman

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

Perspective

A lawyer's advice on avoiding litigation

By Wm. Scott Schulten

THERE IS AN OLD SAYING that a town too small to support one lawyer will easily support two.

The more litigious our society becomes, the more lawyers come forward to fill the demand. The more lawyers our society creates, the more litigious it becomes. By the year 2000, it is estimated there will be more than 1 million attorneys in the United States, which already has the highest number of attorneys per capita in the world. Add to this the overwhelming proliferation of federal employment legislation and the occasional product liability class action, and the resulting climate is one in which a business often is nothing more than potential prey for a world full of pin-striped predators.

Being involved in litigation is a little like being a fly on flypaper. If you do manage to escape, it's likely to cost you an arm and a leg. Litigation is obscenely expensive, completely unpredictable and consumes a tremendous amount of management time and attention. Being involved in litigation also means disclosures to your certified public accountant, your banker and, in certain cases, the rest of the world. In other words, business owners, management and their allied professionals must do whatever they can to avoid litigation. And, once the sheriff comes to the door and serves papers, the immediate and overriding goal should be to either terminate the litigation as quickly as possible or minimize its overall impact on the business.

There are a few rules that can help a company avoid litigation:

• Get it in writing.

As it is true that good fences make good neighbors, it also is true that good form agreements make for good business relations. Review and update your forms periodically so they match the current way you operate.

Also important is to have a filing system that successfully stores and retrieves information. As part of that effort, answer every letter and always have the last word. If something is resolved to the customer's satisfaction, send a letter saying you are glad the customer is satisfied. The top document or last computer entry in every file always should tell the current status.

Don't make your filing system a treasure trove for your adversaries; make it a tool that works for you.

• Be proactive in problem-solving.

Despite nearly 20 years of practicing law, it is my experience that most people are basically honest and simply want to be treated fairly. Little problems become big problems and big problems become big verdicts when companies procrastinate in reaching a fair resolution to any problem, whether it is with a customer, competitor or employee.

This does not mean you should write a check every time someone has a complaint. But your company should conduct a prompt and thorough investigation of any potential problem, a rational discussion of the issues at stake, which discussion should include counsel, if appropriate, and prompt communication with the potential opposing party once a decision has been made. Diligently follow through until either the potential opponent is satisfied, or you know you have gone as far as you can go and are willing to accept the consequences of non-resolution. As always, document your efforts and keep good records.

• Encourage ethical behavior at all levels of your business.

Ethics in the workplace, both with intracompany matters and as it relates to the outside world, is the only rational approach for the conscientious businessperson. Good ethics means good business. Bad ethics can expose your company to punitive damages, which are meted out in accordance with the "enlightened conscience" of the jury. Juries love to punish the arrogant and vindicate the innocent, no matter where the courtroom is.

Incidentally, it is relatively useless for business owners and management to preach ethics and fair dealing while practicing infighting and management by intimidation. Teach by example.

• Be familiar with alternative dispute resolution.

If your business has done everything right, has kept its documents in order, attempted to resolve disputes, acted ethically and still cannot reach resolution, that does not mean the courthouse is the only destination.

Virtually any alternative form of dispute resolution is better than traditional litigation, but the client has to make his or her preference clear. Dispute resolution centers are available in most metropolitan areas and include mediation, arbitration and assisted negotiation.

While these mechanisms may seem expensive, they are a bargain compared with traditional litigation and many times enable those involved in a business dispute to salvage their relationship despite the problem. The advantages also include quicker resolution and more flexible scheduling of meetings and other necessary proceedings. If you and your opponent voluntarily agree to alternative dispute resolution, that's all it takes.

• Pick your battles wisely.

Without a doubt, the most expensive five words in the English language are: "It's a matter of principle," eclipsing such perennial favorites as "Does that Porsche come in yellow?" When a client says a business dispute is more about principle than anything else, the lawyer begins daydreaming about that European vacation.

The overwhelming majority of litigation is not about principle but about money. Litigants should only be prepared to go forward in litigation if they, on balance, believe it is worth the trouble and expense.

Whenever you are considering being a plaintiff in litigation, or evaluating whether you should resolve a dispute to avoid being a defendant, you should always consider the full range of possible outcomes. Frequently, a client will be so enmeshed in its own position that it will not realize the jury won't appreciate the distinction between retrofitted left-threaded widgets and the more conventional variety.

Always ask, "What will I lose if I lose completely?" and "What will I win if I win completely?" Always factor in the cost of legal fees and expenses, which range, in the ordinary case involving two parties, each with qualified counsel, somewhere from $15,000 to $50,000 (if things don't get out of hand). Think in terms of net results. Remember the cost of management time and attention. Consider the impact on your business reputation in the community.

If, at the conclusion of all these considerations, and after careful discussion with counsel you trust, you still feel that litigation is unavoidable, see the next rule.

• Get a second opinion.

Litigation should be considered the non-medical equivalent of surgery. It should be undertaken only after all other alternatives have failed, it should always be approached with great skepticism and you should always try to get a qualified, disinterested party to give you a second opinion.

Lawyers, like all people in business, are always looking for new clients. As a result, they are usually willing to meet with a potential litigant for free to discuss the pros and cons of litigation. The intelligent client will use this opportunity to get a better feel for opinions, conclusions and predictions made by his or her own counsel, and can also comparison-shop in the process.

Remember: As a client, you are making an important economic decision, and one to which you should devote at least as much time and attention as you would to buying a new car—an expensive new car.

• Know your customer/competitor/employee.

Lawyers, especially litigators, are by nature wary of anything that looks too good to be true. There is usually a catch. The maxim at issue is: Always look a gift horse in the mouth. If your new client, customer or employee seems perfect, and is exactly what you were looking for, listen to that nagging voice in the back of your mind that says, "This is too good to be true."

These days, a wealth of information is available about virtually everyone. With a little work, and perhaps some cooperation from your intended customer/employee, etc., you can obtain significant amounts of information. Check credit references, check business references, check databases and find out about any previous litigation.

Finally, make sure the person you are dealing with is who they say they are. With employment, this is automatic, as federal law requires (in most instances) adequate proof of identification. With customers, vendors and other commercial relationships, make sure you have the correct corporate name and check with the appropriate state agencies to make sure the entity is properly established and still in good standing.

• Know your industry.

Trade associations are a useful way to stay abreast of emerging trends in risk management and risk avoidance. As you can imagine, lawyers, especially plaintiffs lawyers, stay very well informed on the latest theories of liability. No matter what your industry or profession, it also is wise for you to stay informed.

Staying informed about the issues that face your business, and your potential liabilities, is a good way to avoid unexpected problems.

• Whenever possible, separate risk from asset.

As part of the evaluation process for any competent litigator, a determination must be made as to whether a potential defendant has assets to satisfy a potential judgment. Nothing is a more effective shark repellent than the prospect of an uncollectible judgment. It is therefore important to try to separate those aspects of your business that might produce risk and liability from those that represent the accumulation of assets.

This can be done in a variety of ways, from the simple to the complex. Simple methods include setting up single asset corporations to hold real property, and leasing that property to the overall business entity. More complex approaches involve layers of separate corporations, with some providing administrative services, others leasing or owning vehicles and still others responsible for direct operations (manufacturing, sales, etc.) As long as all the formalities of corporate structure are adhered to and respected—and the corporations are, in fact, treated separately for commercial and tax purposes—then each will be responsible only for its own liabilities.

• Tailor an insurance program to fit your needs.

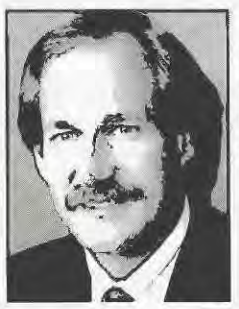
If the goal is risk management, one fundamental tool is a well-tailored program of insurance. For starters, know that "all risk" commercial liability insurance is a terribly misleading term; many risks are not covered. Separate policies of insurance are necessary to cover: products liability and completed operations; directors and officers liability; employment liability; environmental issues; embezzlement and employee theft; and professional liability.

While it is easy to obtain traditional forms of insurance to cover fixed assets, creative options exist for co-insurance, deductibles and policy limits, so that what you are buying is a safety net that only covers what you need, with no significant gaps in coverage.

If you are thinking this rule is inconsistent with the one before it, you are right. Insurance can, in certain cases, encourage litigation by assuring the litigant there will be money available to satisfy a judgment. The essential distinction, however, is that in the case of liabilities covered by insurance, it will be the insurance company paying for the lawyer, not you. Because no business can be made risk-free, any comprehensive approach to risk management must include appropriate insurance coverage.

Admittedly, not all litigation is undertaken in bad faith, and fully 90% of all cases filed are resolved prior to trial by the mutual agreement of all parties. Frequently, the threat of litigation is the only way to secure full compliance with a contract or to convince a reluctant debtor that the account must be paid. By and large, however, most businesses benefit by taking all reasonable steps to minimize risk and avoid the trouble, time and expense associated with court proceedings. The foregoing suggestions, consistently applied, should help achieve that goal.

The foregoing represents generalized information. Of course, your particular business situation is unique, and you should always consult with competent counsel to make sure your legal needs are being met. BI



Wm. Scott Schulten is a partner in the law firm of Schulten Ward & Turner in Atlanta, and serves as outside general counsel for litigation oversight.

Benefits

Continued from page 1

In both 1994 and 1995, 63% of surveyed employers offered at least one HMO, while the percentage of employers providing a traditional indemnity plan fell to 59% from 68%.

The suppression of medical plan cost increases shows "how viable managed care is," said Martin Lefkowitz, the survey's author and the Chamber's director of special projects in Washington.

It remains to be seen, though, how long employers will benefit from favorable HMO market conditions. Next year, many HMOs say they intend to raise rates—anywhere from 1% to 6%—and many market observers and HMOs themselves expect to be able to make at least a portion of those increases stick (*BI*, Dec. 9).

Other employee benefit program costs also declined, the survey found. Employers' costs for workers compensation, which the Chamber classifies as an employee benefit, averaged $331 per employee in 1995, down 15.8% from $393 in 1994. Among the reasons workers compensation costs have declined are competitive markets in some states, like California, and enactment of legislative reforms, which generally have tightened the definition of what constitutes a work-related injury.

But some benefit plan costs edged up last year. For example, retiree health care plan costs averaged $593 per employee in 1995, up 3.9% from $571 in 1994.

Other surveys also confirm that retiree health care costs continue to climb at a time when medical plan costs for employees have been staying flat or even going down.

For example, an A. Foster Higgins & Co. Inc. survey released earlier this year reported that retiree health care costs jumped 9.5% in 1995 (*BI*, Jan. 29). Health care costs for retired workers have proved more difficult to control because retirees have been slower—compared with active employees—to move into lower-cost managed care programs.

Other Chamber survey findings include:

- Benefit costs for salaried employees were significantly higher than costs for hourly workers. Benefit costs for salaried workers averaged $15,929 per employee in 1995, 9.3% greater than $14,574 on average for hourly employees.
- Manufacturers' benefit costs averaged $17,313 per employee, 21.7% greater than an average benefit cost of $14,227 per employee among non-manufacturers.
- Benefit costs varied significantly by area of the country as well as by size of company.

As a percentage of payroll, benefit costs were highest in the Northeast at 43.1% of payroll, and lowest in the East North Central states at 40.3%.

By size of company, benefit costs as a percentage of payroll were lowest among the smallest firms—those with fewer than 100 employees—at 32.8% of payroll and highest among larger employers—2,500 to 4,999 employees—at 43.1%.

- Benefit costs as a percentage of payroll were highest—51.4%—in the transportation equipment industry and lowest in the textile equipment and apparel industry at 29.2%.
- In 1995, all employers, not just those surveyed, spent a total of $1.43 trillion on benefits, up from $1.3 trillion in 1994, according to Chamber of Commerce estimates.

Unrelated to benefit costs, the Chamber survey found that 65% of employers have provisions in their medical plans that restrict or exclude coverage for new employees' pre-existing medical conditions.

Many of those provisions will have to be modified later next year when a new law takes effect that restricts the use of such exclusionary provisions.

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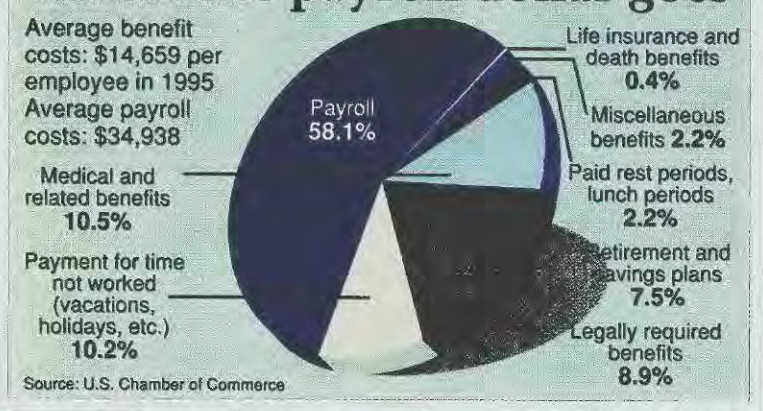
Copies of "Employee Benefits: 1996," are available from the U.S. Chamber of Commerce, Publications Fulfillments (RKVL), U.S. Chamber of Commerce, 1615 H St. N.W., Washington, D.C. 20062; 1-800-638-6582. In Maryland, the number is 1-800-352-1450. The cost is $35. Appropriate sales tax should be added for deliveries in California and the District of Columbia.

Where the payroll dollar goes



GRAPHIC BY ADAM DOI

Benefit costs per employee

	1995	% change	% of payroll
Transportation equipment	$24,771	0.8%	51.4%
Public utilities	23,251	2.9	46.8
Electrical machinery, equipment & supplies	19,790	7.9	46.4
Petroleum industry	19,004	- 1.7	37.5
Machinery (excluding electrical)	17,856	3.6	46.2
Instruments & miscellaneous manufacturing industries	17,570	11.0	40.9
Insurance companies	16,868	11.7	42.1
Rubber, leather & plastic products	15,603	- 2.8	38.4
Chemicals & allied products	15,249	-11.2	33.3
Printing and publishing	12,829	- 4.7	36.9
Fabricated metal industry	12,789	- 2.7	37.2
Primary metal industry	12,586	7.0	37.1
Miscellaneous non manufacturing industries	12,556	5.2	42.4
Food, beverages & tobacco	12,389	-3.3	35.5
Stone, clay & glass products	12,192	-3.1	36.7
Pulp, paper, lumber & furniture	11,955	-3.8	34.8
Banks, finance companies & trust companies	11,168	7.0	34.5
Health & hospitals	10,765	-10.9	35.0
Wholesale trade	9,671	2.1	34.7
Textile products & apparel	7,197	0	29.2
Retail trade	7,032	-20.0	35.6

Source: U.S. Chamber of Commerce

GRAPHIC BY ADAM DOI

Belts

Continued from page 3

study: David Bryant, risk management information systems; Ed Edmonds, payroll; and Laura Ferguson, labor management.

It cost $10 to $20 to outfit each worker in a commercially available lycra belt obtained from various manufacturers, Mr. Taylor said.

Most of the belts researchers studied during 1989-1994 included suspenders that crossed under a worker's shoulders in back, though "suspenders have not been a major feature of the back belts for the past three years at Home Depot," he said.

Home Depot moved away from requiring suspenders with belts because some workers let suspender straps hang loose. Managers feared such usage might create a new hazard because loose straps could get caught on something, Mr. Taylor explained.

Researcher David L. McArthur said, "We have no reasons to believe that the presence or absence of shoulder straps is one of those factors that would contribute significantly to any differences in outcome rates." However, some workers may have been more comfortable wearing belts with suspenders, the epidemiologist said.

Home Depot requires all workers to have their belts cinched at all times, instead of only when they were lifting an item, Mr. Taylor said. Only pregnant women were excluded.

"This is somewhat controversial," because some manufacturers warn that employers who always require employees to cinch belts might cause workers' abdominal muscles to atrophy, he said.

Strong abdominal muscles are important for back health, but the muscles can work under a cinched belt, he said.

Mr. Taylor supported his view by citing the fact that research data also showed workers wearing cinched belts had a reduction in the rate of abdominal injuries, like muscle pulls and hernias.

A back belt is not "a magic bullet," but it is "an effective part of an overall back-safety program," Mr. Taylor said.

Home Depot's program includes training on proper lifting techniques, encouraging employees to find a less strenuous way to do a job and using machines to perform heavy tasks.

In fact, increased use of machines like small electric forklifts may have reduced the risk of low back injury during the study period, though the exact impact is unknown, researchers noted.

In a work environment where a company strives for continuous improvement, it is difficult to completely isolate individual causes of back injuries, Mr. Taylor said.

The Home Depot study was funded or supported by UCLA groups of educators and researchers, the California Occupational Safety and Health Administration and 3-E Co., a San Diego-based consulting company. The study used no funds from manufacturers of back belts.

Scientists from the National Institute of Occupational Safety and Health consider the Home Depot study "a major study" and are evaluating its findings, a NIOSH spokesman said. They are expected to comment soon.

NIOSH's official position on back belts, adopted in September 1994 after an extensive review of scientific literature, states: "There is inadequate scientific evidence that back belts actually reduce the risk of back injury."

"The NIOSH report went further by neither recommending the use of back belts to prevent injuries among uninjured workers nor considering them to be personal protective equipment," UCLA researchers said in their article, which appeared in the November issue of the International Journal of Occupational and Environmental Health.

NIOSH, which is encouraging additional well-designed studies, is now conducting a two-year study of back belt usage among employees at Bentonville, Ark.-based Wal-Mart Stores Inc.

In addition, UCLA researchers caution that "people need to be careful about generalizing these findings to workers who are not engaged in material handling jobs," Mr. Kraus said. "There needs to be further research examining occupations such as construction, agriculture and mining to see if back supports prevent injuries to those workers."

Other authors of the study are Kathryn A. Brown, Corinne Peek-Asa and Lei Zhou, all of UCLA; and Lupe Samaniego and Chris Kraus of the 3-E Co. BI

Insider Trading

American International Group Inc.: Lloyd Bentsen, director, purchased 112 shares of common at $94.25 each on Sept. 3, and now directly holds 2,148 common.

Pei Yuan Chia, director, purchased 1,112 shares of common between $97.38 and $98.38 each from Sept. 19 to Sept. 24, and now directly holds 1,112 common.

Marshall Cohen, director, purchased 112 shares of common at $94.25 each on Sept. 3, and now directly holds 1,913 common.

Barber B. Conable, director, purchased 112 shares of common at $94.25 each on Sept. 3, and now directly holds 5,063 common.

Martin S. Feldstein, director, purchased 112 shares of common at $94.25 each on Sept. 3, and now directly and indirectly holds 12,231 common.

Evan G. Greenberg, officer and director, disposed of by gift 500 shares of common between an unreported price and $21.38 each on Sept. 25. Mr. Greenberg indirectly acquired by gift 100 shares of common at an unreported price on Sept. 16, and now directly and indirectly holds 39,955 common.

Maurice R. Greenberg, chairman, disposed of by gift 188 shares of common at an unreported price on Oct. 24. Mr. Greenberg indirectly purchased and acquired by gift 1,066 shares of common at an unreported price from Oct. 4 to Oct. 24 and now directly and indirectly holds 16,817,377 common.

Carla A. Hills, director, purchased 112 shares of common at $94.25 each on Sept. 3, and now directly and indirectly holds 2,974 common.

Frank J. Hoenemeyer, director, purchased 112 shares of common at $94.25 each on Sept. 3, and now directly and indirectly holds 13,077 common.

Frank Petralito, vp, exercised an option for 1,120 shares of common at $21.38 each on Oct. 4 and now directly holds 11,456 common.

John Joseph Roberts, officer and director, disposed of by gift 1,000 shares of common at an unreported price on Aug. 21, and now holds 6,022,225 common.

Dean P. Phypers, director, purchased 112 shares of common at $94.25 each on Sept. 3, and now directly holds 9,257 common.

Howard Ian Smith, vp, exercised an option for 2,812 shares of common at $21.38 each on Oct. 30 and now directly holds 8,553 common.

Edmund S. Tse, officer and director, exercised an option for 1,125 shares of common at $21.38 each on Oct. 3 and now directly holds 63,751 common.

AIG stock closed at $110.88 a share on Dec. 6.

Chubb Corp.: Gail E. Devlin, vp, exercised an option for 3,500 shares of common at $14.31 each on Oct. 30. To cover expenses of the transaction Ms. Devlin turned in 990 of them for $50.56 each on Oct. 30 and now directly and indirectly holds 24,223 common.

Dean R. O'Hare, chairman, exercised an option for 13,384 shares of common between $14.31 and $23.88 each on Oct. 29. To cover expenses of the transaction Mr. O'Hare turned in 4,921 of them for $50.75 each on Oct. 29, and now directly and indirectly holds 127,864 common.

Henry B. Schram, vp, exercised an option for 3,096 shares of common at $15.11 each from Oct. 3 to Oct. 30. To cover expensed of the transaction Mr. Schram turned in 896 of them for $48.81 each from Oct. 3 to Oct. 30, and sold 1,400 shares in the open market at $50.50 each from Oct. 3 to Oct. 30, and now directly an indirectly holds 19,098 common.

Chubb stock closed at $54 a share on Dec. 6.

Lincoln National Corp.: Jack Duval Hunter, vp, sold 1,454 shares of common at $48.25 each on Oct. 28. Mr. Hunter indirectly sold 1,472 shares of common at $48.25 each that same day and now directly and indirectly holds 55,613 common.

Frank Cedric McCurley, officer of subsidiary, exercised an option for 4,000 shares of common at $19.25 each from Oct. 29 to Oct. 31 and sold 4,500 shares between $48.00 and $48.25 each from Oct. 29 to Oct. 31. Mr. McCurley indirectly sold 3,391 shares of common at $48.25 each on Oct. 29, and now directly and indirectly holds 26,332 common.

Lincoln National stock closed at $51.75 a share on Dec. 6.

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Insider Trading, compiled by Invest/Net Trading Group Inc. of Fort Lauderdale, Fla., from reports filed with the Securities and Exchange Commission, tracks stock sales and purchases by insurance industry directors and officers. The column is distributed by Tribune Media Services Inc.

Farmers Group selects Feinstein as president, CEO

Martin D. Feinstein has been named president and chief executive officer of Farmers Group Inc. in Los Angeles effective Jan. 1. He will succeed **Leo E. Denlea Jr.**, who will retire in March and remain chairman until then.

Also at Farmers Group, **James A. MacKinnon** named executive vp-insurance operations, and **Keitha T. Schofield** named executive vp-support services.

In other insurer changes:

Fiona E. Luck joined ACE Ltd. as senior vp-financial lines, succeeding **Dominic Frederico**, who recently was appointed executive vp-underwriting at ACE. Ms. Luck previously was managing director at Marsh & McLennan Global Broking (Bermuda) Ltd.

Stephen M. Mulready named president and CEO of Connecticut Specialty Insurance Group, the Farmington, Conn.-based specialty property/casualty programs unit of Orion Capital Corp.

Comings & Goings: Industry

Mr. Mulready, who most recently was a senior vp-strategic underwriting and product development at Travelers/Aetna Property Casualty Corp., succeeds **Raymond W. Jacobsen**, who served as interim president.

David B. Kelso named chief financial officer of Chubb Corp. in Warren, N.J. Mr. Kelso, who most recently was executive vp at First Commerce Corp. in New Orleans, succeeds **Percy Chubb III**, who will remain vice chairman of the insurer until his retirement Feb. 1.

Ronald C. Mishler named vp and treasurer at USF&G Corp. in Baltimore. Mr. Mishler, who most recently was senior vp-finance for Heller International Corp., succeeds **Richard P. Campagna**, who became president of USF&G Specialty Insurance Services earlier this year.

S. Caesar Raboy named senior vp and deputy general manager of the United States for Sun Life Assurance Co. of Canada in its U.S. headquarters in Wellesley Hills, Mass.

John Hancock Mutual Life Insurance Co. of Boston elected **David F. D'Alessandro** to become president and chief operations officer effective Jan. 1, 1998. Mr. D'Alessandro will succeed William L. Boyan, who will step down as president at that time. Mr. D'Alessandro currently is senior executive vp.

Agents/brokers

At Sedgwick James Inc. in Memphis: **Ronald J. Kutella** named executive vp with co-responsibilities for national business and administrative resources; **David L. (Casey) Bowlin** named executive vp and director of Sedgwick's Southern area; **J. Christopher Bulger** named executive vp and director of Sedgwick's Western region; **P. Joseph McCarthy** named executive vp and director of the broker's Northern area; and **Philip D. O'Brien** joined Sedgwick's Boston office as a senior vp and division director with responsibilities for the broker's global division. He previously was a vp at Johnson & Higgins.

John V. Deitchman, senior vp and director, named global practice leader of New York-based Johnson & Higgins, succeeding **Norman Barham**, who recently was elected president of the firm.

Eric Newsum named senior vp for Alexander & Alexander of New York Inc. with responsibilities for large, complex public entity and real estate accounts. Previously, Mr. Newsum was the director of the treasury department for the New York City Housing Authority.

At Alexander & Alexander Services Inc., the parent company, **Eleanor Leger** named vp-strategic planning, at A&A of Texas Inc., **Charles J. de Vilder** named head of the risk management practice, and at A&A of Michigan, **Michael R. Stankard** named president.

Reinsurance

Richard Girvan named vp-corporate planning for American Re Corp. in Princeton, N.J.

John G. Gantz Jr. joined Swiss Reinsurance America Corp. in New York as executive vp with responsibilities for the reinsurer's new alternative risk transfer division. Previously, Mr. Gantz was a senior executive at American International Group Inc.

Bryan S. Reid III joined Odyssey Reinsurance Corp. as senior vp and director of facultative operations in New York. Most recently, Mr. Reid was senior vp and manager of the excess casualty department for Zurich American Insurance Group.

Anthony N. Iliya named president of General Re Financial Products Corp. and will become CEO of the General Re Corp. unit Jan. 1 when **Raphael W. Hodgson** retires. Mr. Iliya will be based in London.

Terry J. Alfuth named senior vp-actuarial/claims and information systems for LaSalle Re Ltd. in Hamilton, Bermuda.

Mark Bain named deputy general manager at St. Paul Re in London.

Siu K. Li named vp and actuary of Sydney Reinsurance Corp. in New York.

Taylor Collings named executive vp and national workers comp director for Sedgwick Re Inc., the Hartford, Conn.-based North American reinsurance brokerage arm of Sedgwick Group P.L.C.

HMOs/PPOs

Douglas C. Werner named senior vp-strategic planning and business development for Health Systems International Inc. in Woodland Hills, Calif. Previously, he was regional vp-Western region for Aetna Health Plans.

Katherine W. Gilchrist named vp-operations and **Ida Schnipper** named vp-medical quality for ConnectiCare Inc. in Farmington, Conn.

Alice Rosenblatt named senior vp-actuarial and planning services for WellPoint Health Networks Inc. in Woodland Hills, Calif. Previously, she was a principal in the health and welfare division of Coopers & Lybrand.

Also at WellPoint: **Richard J. Ranelli** named senior vp and chief information officer with overall responsibility for information system resources throughout the corporation.

Mr. Ranelli was previously executive vp and CIO of Summit Bank in Chatham, N.J.; **William Kidwell** named vp in WellPoint's Health Care Transaction Network division; and **Thomas "Tim" J. Helotes** named vp-finance with responsibilities for WellPoint's corporate legal entities.

Dr. Daniel J. Dragalin named president of the Atlantic region of NYLCare Health Plans Inc. with responsibilities for all NYLCare operations in New Jersey, Pennsylvania and Delaware. BI

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INTERNATIONAL

Global Briefs

Swiss Reinsurance Co. announced that it will acquire Rome, Italy-based reinsurer **Unione Italiana di Riassicurazione S.p.A.**, or Uniorias, for 500 million Swiss francs ($381.6 million). Uniorias is a unit of Istituto Nazionale delle Assicurazioni S.p.A., the largest Italian insurance company which was privatized in 1994. Uniorias has gross premium volume of 1.504 trillion Italian lire ($986.1 million), with 78% from non-life business and 22% from life business. The acquisition will be completed by the end of 1997, according to Swiss Re. . . .The **Standard P&I Club** said it is not planning a general increase in members' premiums for 1997-98. It cited its strong financial position, investment income and improved reinsurance terms as factors in the decision. . . .Britain's **Trades Union Congress** said it won £304 million ($479.7 million) in damages in 1995, up from £292 million ($447.3 million) in 1994, in lawsuits brought on behalf of members who were victims of workplace injury and illnesses. The steady rise in compensation achieved by unions since 1992 reflects the increasing success rate in legal action to secure compensation for injury victims from negligent employers, according to the coalition of labor unions. . . .**American Phoenix Life & Reassurance Co.** has opened a representative London office. APLAR, a subsidiary of Phoenix Home Life Mutual Insurance Co., sells individual life, group life, health and special risk reinsurance. . . .Ray Kite and Ron Whyte have been appointed joint managing directors of **Johnson & Higgins Ltd.**, the London-based wholesale and reinsurance brokerage unit of U.S. brokers Johnson & Higgins. Mr. Kite joined the London unit in 1995 and was managing director of its marine division, and Mr. Whyte, who joined the company in 1988, was managing director of its global property division. . .**Fraudulent insurance claims in the U.K.** have fallen for the fourth successive year to £560 million ($922 million) in 1996 from £585 million ($923 million) in 1995, according to the Assn. of British Insurers, which has led the drive to combat the problem. One of the key anti-fraud measures was the establishment of a computer register to record names and details of those found guilty of insurance fraud. . . .A recent **survey of the U.K. hotel industry** sponsored by broker Lowndes Lambert Group Holdings P.L.C. reveals a very low level of insurance knowledge. Only 6% of those surveyed, mainly senior sales people, were aware how their hotel was insured and by whom, while none of the respondents from hotels with sports facilities was able to say if it had liability insurance for those facilities.

Risk managers must target white-collar crime

By KATE TILLEY

GOLD COAST, Australia—Risk managers must use their risk assessment and evaluation techniques to help spot unethical behavior and reduce white-collar crime in the workplace, an expert says.

The level of insurance fraud in Australia, like other white-collar crime, is unknown, according to Robert Hailstone, director of the Corruption Prevention Division of the Queensland Government's Criminal Justice Commission.

The commission was started by the government as an independent investigative body.

Mr. Hailstone cited a 1996 estimate by the Melbourne, Australia-based Insurance Council of Australia, which represents Australia's non-life insurers, that insurance fraud costs $1.7 billion Australian ($1.37 billion) a year, roughly 15% of paid claims. He said he suspects this is a conservative estimate.

The total cost of white-collar fraud in Australia has been estimated at between $5 billion Australian and $30 billion Australian annually (between $4.02 billion and $24.1 billion), he said.

Mr. Hailstone spoke at the 20th Annual Conference of the Assn. of Risk & Insurance Managers of Australasia, held last month on Australia's Gold Coast.

He said organizations like ARIMA have "a fundamental duty to articulate, and seek to produce, a shared (concept) of how a just, decent, and competent professional should act."

Mr. Hailstone defines white-collar crime as activities declared unlawful, or a normally "wrongful activity committed by use of misrepresentation, guile, or deception to obtain something of value, prevent loss, or obtain personal or business advantage through dishonest means, breach of trust or confidentiality."

Mr. Hailstone told risk managers they must develop skills to identify potential white-collar criminals.

Insurance fraudsters usually are people who:

- Have attained a high level of education.
- Come from a non-criminal family background.
- Are well-informed about how insurance companies settle losses.
- Often target insurance companies with generous settlement practices.

Mr. Hailstone said research also indicates that the proportion of repeat offenders is particularly high.

While some are motivated by "payback" for some perceived company wrong, financial predicaments are a strong motive for others.

The need for recognition is a motive for loners.

Small-time defrauders know they are committing crimes but are not deterred because, among other reasons, they regard the danger of discovery as minimal and think any punishment would be light.

Mr. Hailstone said Masters of Business Administration students at Melbourne University were asked to answer two ethical questions. "Their attitudes on ethical judgments are of interest because they may provide an insight into the business ethics we may expect to be adopted in the future," he said.

Sixty-seven percent of the M.B.A. candidates responding to the questions said they would "become in-

See **Criminals** *on next page*

Contingency planning key for business interruption

By KATE TILLEY

GOLD COAST, Australia—Companies should not take so much comfort in business interruption insurance that they neglect critical contingency planning, which should also account for the public relations aspects of a crisis.

That was the key message from speakers at one session at the Assn. of Risk & Insurance Managers of Australasia conference last month.

Managers should be accountable even for insured losses, to help them understand the importance of loss control, the experts said. Risk managers should shift their focus to protecting manufacturing and earnings instead of just assets. And, sometimes outsourcing can create greater risks for a company, they said.

A study released last month by Oxford University academics, which examined 16 well-known disasters and assessed whether insurance played a role in the corporations' recoveries, showed insurance was not a key factor, said Wolfgang F. Friedel, senior vp-strategy/marketing for Arkwright Mutual Insurance Co. and president of Arkwright Insurance Co. in Waltham, Mass.

"The secret was effective management; insurance didn't matter," Mr. Friedel said at the ARIMA conference.

A good contingency plan was put into action by all the corporations that recovered.

His views were echoed by Australian risk management consultant J. Alvin Dyson, who said too few risk managers conduct detailed business interruption planning.

Mr. Dyson, principal consultant with Dyson Risk Management Pty. Ltd. in Mulgrave, Australia, told the conference that he thinks, on the basis of his 25 years in risk management in Australia and the Asia Pacific region, that "very little detailed business interruption/continuity planning ever seems to get done, even in major businesses."

He said that was "quite surprising considering Australia has some of the longest-serving risk managers in the business."

Mr. Dyson told risk managers to question whether business interruption insurance acted as a negative to detailed business interruption analysis and risk control.

"These days, many of us would say that the availability of insurance often stifles the risk management process," he said.

It is difficult to measure, according to Mr. Dyson, the extent to which line managers could become complacent about risk control when they know that, despite having a risk management program, the corporation still has insurance.

"Unless there is a system in place which penalizes line managers' personal bottom line when there is a loss, (insured or not) the risk management program will always be at risk of compromise," he said.

Mr. Dyson said risk management programs that are not clearly identified with business continuity and that appeared related mainly to insurance programs, would always be treated "at arm's length" by line managers.

"Most people would agree that successful line managers are natural risk takers, motivated rather more by annual bonuses and promotion prospects than the risk management process," Mr. Dyson said.

Mr. Dyson said insurers focus on asset values, rather than business interruption, because business interruption is so complex and asset values are easier to explain.

He said risk assessment begins with property surveys.

"From an insurer's perspective, the survey process is driven primarily by a need to establish the particular site PML and accumulate information about the site. Rarely, in my experience, has the underwriter had the time and inclination to painstakingly piece together the relationship between each site and the whole corporation, or the relationship of each site to a particular product group or line," he noted.

Mr. Dyson said that meant the insurer was not looking at "the big picture."

"Why? Because it's hellishly complicated and time consuming, requiring almost a committee approach to come up with a potential b.i. cost" to the bottom line of an entire corporation, he said.

See **Planning** *on next page*

E. Coli food poisoning leading to lawsuits

U.K. law firm announces legal action

By CAROLYN ALDRED

LONDON—As a food poisoning outbreak in Scotland claimed more victims this month, a London law firm announced it is pursuing legal action against McDonald's Restaurants Ltd., the U.K. arm of McDonald's Corp., and the government for several other incidences of E. coli food poisoning.

The parents of seven children were granted government-funded legal aid at the beginning of December to look into the possibility of legal action against the government, according to Lucy Kennedy, a lawyer with London-based Howe & Co.

Four children in Stoke that trace the contamination to meat from a local slaughterhouse and three elsewhere in England that trace it to McDonald's hamburgers suffered severe kidney failure following separate incidences of poisoning by the E. coli bacteria, which is a bovine-carried bacteria. All the children have recovered but stand a 30% chance of suffering kidney problems in the future, said Ms. Kennedy.

The families have been granted legal aid to research the possibility of action against the Ministry of Agriculture, Food and Fisheries and the Department of Health. They claim that the E. coli bacteria has been around for many years but that the Department of Health did not investigate the matter until the 1990s and still has not acted on recommendations made by a commission into the matter. These recommendations include putting health risk warnings on product labels and providing guidelines on handling and treating beef products to butchers, retailers and the public, said Ms. Kennedy.

The four Stoke on Trent families are also considering suing the slaughterhouse, A. J. Green & Sons of Stoke.

Three other victims from Liverpool and Gateshead likely will sue hamburger chain McDonald's Restaurants and its beef supplier McKey Foods Ltd., said Ms. Kennedy.

Families of these victims say the children ate undercooked hamburgers at McDonald's less than two weeks before being affected by the bacteria.

McDonald's Restaurants in London said that a full investigation by the company's own health and safety specialists and the local environmental health officer found no link between the Liverpool illnesses and McDonald's.

Ms. Kennedy and Howe & Co. already are taking legal action against McDonald's in Delaware and Illinois following the death of a young girl two years ago from E. coli poisoning. The girl's parents claim the girl ate undercooked hamburger in a McDonald's restaurant in Barcelona, Spain, less than two weeks before dying as a result of food poisoning.

According to a London spokesman, no link between an E. coli poisoning incident and McDonald's has ever been proved. In 1991, the company's insurer, Royal Insurance P.L.C., settled with five claimants in Preston, Lancashire, who had E. coli poisoning. However, the payments were made "out of goodwill with no admission of liability," the spokesman stressed.

Meanwhile, the lawyers are keeping watch on the latest outbreak in Scotland, which already has affected 400 people, leaving at least 10 dead. The source of the disease is alleged to be a Scottish butcher. Only recently, an E. coli incident in Japan affected some 500 schoolchildren.

Criminals

Continued from previous page

volved in insider trading if the chance of discovery was low."

Twenty-six percent said if they were managing a family-owned business with family members as directors, they would conceal business information from these director/shareholders to get them to vote a certain way on an issue.

Mr. Hailstone said many ethical problems have no clear-cut right or wrong answers, particularly when a professional obligation is in conflict with deeply held personal values.

He told risk managers to question themselves if they are "on the horns of an ethical dilemma."

"Does the action comply with the ethical codes of my profession? Will I be acting for the greater good, or committing an act of betrayal that is motivated by self-interest?

"Is the action consistent with my personal standards of right and wrong? What are the consequences for me and for others? Can I justify the action to my superiors if I am called on to do so? What would happen if my action was made public or subjected to media scrutiny?"

But he warned that "real life is rarely that cut and dried."

Mr. Hailstone said risk managers must consider ethics in using their risk assessment tools for workplace crime prevention strategies.

Although there is "a persuasive case that can be made for risk management improving our capacity to anticipate, prevent, and reduce corruption risks, it is still poorly understood and viewed with suspicion by some senior administrators" who may view risk management techniques as applicable purely to property/casualty risks, he said.

While there is "voluminous literature on the methodological aspects of risk assessment, far less attention is paid to risk evaluation which involves personal and social value judgments," Mr. Hailstone said.

He said accounting and security controls often do not inhibit white-collar crime perpetrated by senior staff, because high-level employees can override controls.

"Corporate fraud by middle and lower (level) employees can be prevented by reducing opportunities and motivations. Employing honest people helps, but keeping them honest on the job is even more important," he noted.

"For senior management, an important factor in effective control is personal ethics. However, personal ethics can be quickly compromised when economic and competitive conditions threaten career advancement or bottom-line profits, which in turn threaten pay raises, bonuses, perks and job survival."

More media coverage of white-collar criminals, combined with longer sentences, would be a deterrent, though the best approach to the problem is a prevention program, Mr. Hailstone said. He said the best long-term prevention method is to instill "a higher standard of ethics in up-and-coming executives." BI

Planning

Continued from previous page

Mr. Dyson said underwriters, regardless of how much they professed to be risk advisers, are not expert risk analysts.

He also said business does not accumulate assets just for the sake of it. "Business uses assets—property and people—to generate revenue to fulfill goals. The successful risk manager must therefore structure his thinking away from the typical insurance attitude of protection of assets per se, to the critical aspect of protection of manufacturing/earnings."

Mr. Dyson said risk management must give priority to protecting business continuity, not assets. The risk identification process, therefore, should start with products, not assets.

"Insurance is not enough, particularly when one considers uninsurable assets, notably market share and public image." Mr. Dyson said they are often not considered because it is difficult to quantify potential losses.

Business re-engineering has intensified the potential losses from uninsurable assets, Mr. Dyson said.

Because products are developed more quickly, the risk management implications are "horrendous; you can't afford to be out of the market for a prolonged period of time. While you are rebuilding, your product may become obsolete, your competition may make serious inroads into your customer loyalty, and you may be unable to keep new products in the pipeline," he warned.

Mr. Friedel agreed. He said rapid product development, combined with reduced inventories and overstressed employees, mean there are too many risks for corporations to rely on insurance alone.

A good contingency plan should be developed with senior management and anticipate a wide variety of potential large-loss situations.

H. Felix Kloman, editor of the Risk Management Reports and former principal of Tillinghast-Towers Perrin, now based in Lyme, Conn., told the conference a contingency plan is "not a piece of paper kept in the drawer until a crisis occurs; it's an ongoing responsibility for the corporate risk manager."

"It must address every possible risk exposure, and it must include the public relations element and communication with stakeholders."

Mr. Friedel, too, warned of the dangers of mismanaging public relations strategies in a crisis.

His advice to senior management is to accept responsibility for communicating with the public so they realize the organization takes its problems seriously. "Be prepared," he said. "You can't make it up in 30 seconds when a reporter sticks a mike in your face."

Mr. Friedel warned that outsourcing could create greater risks for corporations.

"A recent Factory Mutual study shows that contractors play a part in every type of peril, especially fire, sprinkler leakage and water damage. Over the past 10 years, three FM companies have paid $360 million for roughly 1,000 losses caused by or contributed to by contractors," he said.

He also warned risk managers not to underestimate the impact of employee morale in a corporation's changing risk profile. "People are concerned about job security. . .accidents are more likely in an unsettled environment," he said. BI

INTERNATIONAL

Health top concern in Australia: Study

By KATE TILLEY

GOLD COAST, Australia —Australian risk managers' primary concern is employees' workplace health and safety, but concern over compliance with legislative requirements is growing.

Employees' health and safety ranked first for the third consecutive year in a survey of Australian risk managers' concerns conducted by Sydney-based Alexander & Alexander Ltd., a unit of Alexander & Alexander Inc.

The results were released at the 1996 annual conference of the Assn. of Risk & Insurance Managers of Australasia held last month on Australia's Gold Coast.

Controlling the cost of risk ranked second, as it did in 1995. But this year that issue shared the second-place slot with legislative compliance.

Legislative compliance was one of the themes of the 1996 conference, and the survey results indicate respondents are becoming more involved in monitoring government-imposed standards and regulations, said Stuart Bassett, executive consultant at Alexander & Alexander Ltd.

The cost of workers' compensation ranked fourth among 20 areas of major concern.

Reputation and image continued to rank highly, being cited as the number five concern,as did the litigious environment and directors and officers' liabilities, which ranked together at number six.

Geoff Hogbin, Sydney-based economic consultant with Hogbin Ercole & Associates, told the conference that Australia's business community is burdened by a plethora of costly, but often ineffective rules.

The extension of Australia's federal Trade Practices Act to govern conduct

See Survey on page 27

Attendance near 500

GOLD COAST, Australia—The 20th Annual Conference of the Assn. of Risk & Insurance Managers of Australasia was held Nov. 17-20 at the Conrad-Jupiters hotel complex on Australia's Gold Coast.

Approximately 500 attendees heard experts discuss a range of issues including legislative compliance, crisis planning, relationships with brokers and white-collar crime.

The theme for next year's ARIMA conference, quoting Kermit the Frog, to be held Nov. 9-12 in Sidney is: "It's not easy being green."

Conference chairman Bruce Ferguson, who is an ARIMA director and risk manager for Sydney Water, said environmental laws around Australia are getting tougher.

"The headlines and the political push to impose more laws demonstrate clearly that Australia's corporations and public sector organizations face severe risks from environmental liabilities," Mr. Ferguson said.

Mr. Ferguson said the 1997 conference program would address environmental risks and how to manage them.

For information, contact ARIMA Conference Secretariat, c/o Intermedia, P.O. Box 1280, Milton, Queensland, Australia, 4064. 011-61-73-369-0477. Fax: 011-61-73-369-1512.

—By Kate Tilley

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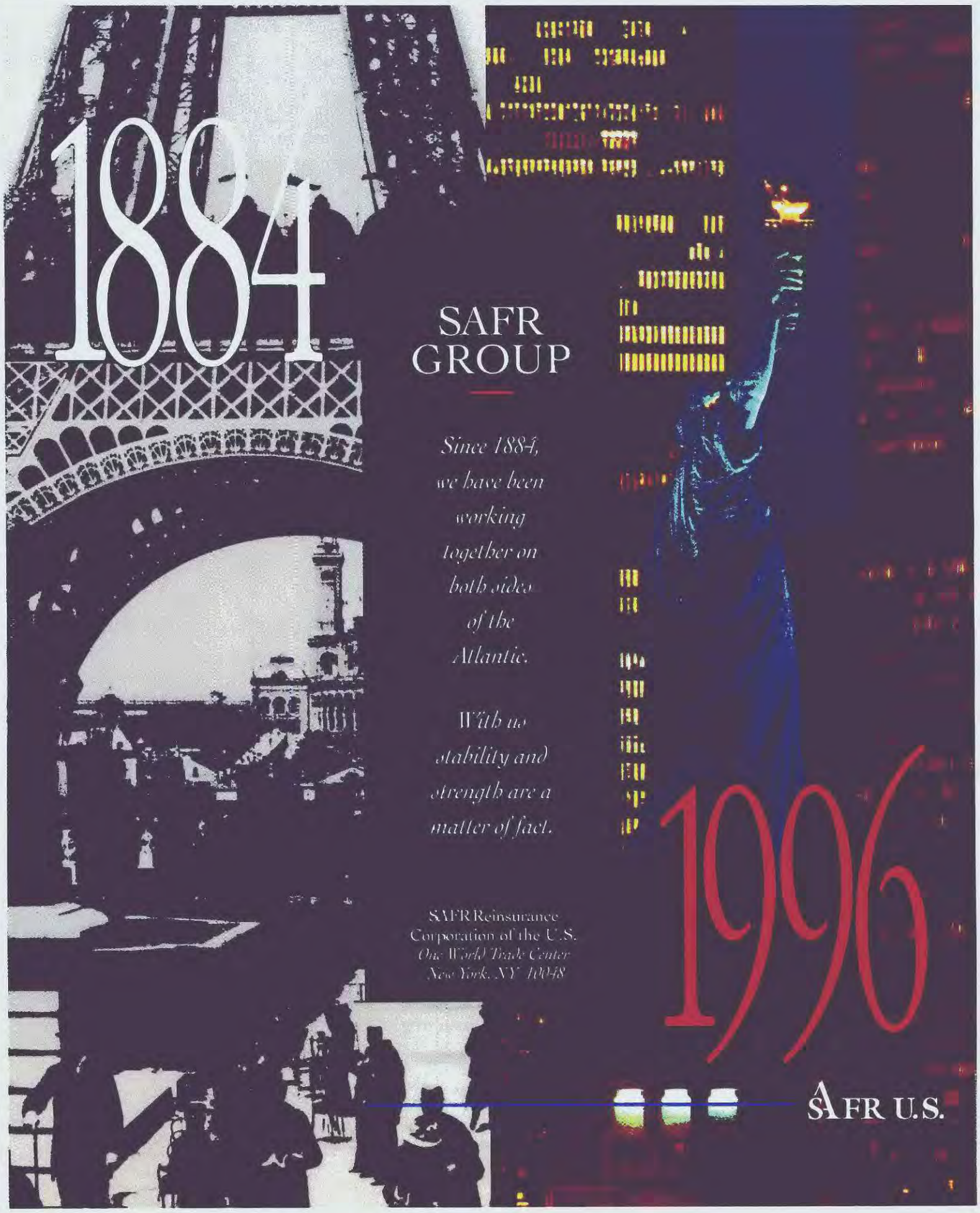

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GRE Insurance Group, a successful subsidiary of a large worldwide insurance and financial services company, is looking for an Attorney to assist our General Counsel and Corporate Secretary in handling various day-to-day corporate legal matters. Responsibilities include assisting with contract wording, company licensing, filings, state examinations and regulatory/legislative issues, as well as managing corporate litigation and outside counsel. The successful candidate should possess a J.D. degree from an accredited law school and a minimum of 5 years relevant legal experience. Must be licensed in New York and insurance company corporate legal experience is preferred.

We offer a comprehensive compensation and benefits package. If interested, please send your resume with cover letter including salary requirements to: Human Resources, GRE Insurance Group, 61 Broadway, 33rd Floor, NY, NY 10006 or fax directly to: (212) 742-0950. We will respond to those candidates selected for further consideration.

GRE Insurance Group

EOE

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This position will be responsible for all claims arising out of the Corporation's Workers' Compensation Program, including claims administered by Third Party Administrators. Qualified candidates must have a minimum of 8–10 years of professional experience in Workers' Compensation. A Bachelor's degree is required; AIC or CPCU certification is preferred. We desire a background within the insurance industry and self-insured administration, with extensive disability management experience. Strong oral, written and listening skills are essential for this position. Successful candidate must be a self-starter who uses originality and ingenuity in developing strategies. Minimal travel is required.

We offer the excellent benefits package you would expect from one of the "100 Best Companies To Work For In America," including medical/dental/life insurance, 401(k), and one of the best Employee Stock Ownership Plans in the country. Qualified applicants, please send resume, with salary history, to: Lowe's Companies, Inc., Mail Code HR5-1, Dept. BI12/16, P.O. Box 1111, North Wilkesboro, NC 28656; or FAX (910) 651-3370. We are an Equal Opportunity Employer.

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FNS offers both comprehensive benefits and outstanding growth opportunities. Please forward your resume and salary requirements to: ***Marsha Webb, Human Resources, First Notice Systems, Inc., 270 Mystic Avenue, Medford, MA 02155; Fax (617)396-6393; e-mail: mwebb@ccgroup.com***

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Agency Principal with 20 years active hands on experience in diversified commercial PC agency with sub specialty in real estate is seeking a career change into risk management or agency management. NY metro area preferred, however unusual opportunity out of the area might be considered. Salary requirement is commensurate with experience. Please send response to Box 7529, Garden City, New York 11530.

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Candidates who are interested in the position are requested to call 1-800-480-6795 and ask for the Human Resources Division to request a complete job description and an application form. Applications can also be requested by FAX at (719) 520-2584 or picked up at the District Administration Building (address below). Applications are to be returned to: Mr. David F. Schenkel, Executive Director - Human Resources, 1115 North El Paso Street, Colorado Springs, CO 80903, by 4:30 PM, 1/3/97.
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The Director, Risk Management for the Foothill-De Anza Community College District plans, directs and coordinates the risk management program. Serves as the Safety Officer. BA degree & 3-5 years related experience.

Application materials may be obtained from:

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A resume or vita may be not be substituted for a completed application Job #97044. Review Date: 1/31/97.

AA/EOE

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STERLING COMMERCE

Survey

Continued from page 25

by unincorporated entities; professionals; and government-business enterprises, which are government-owned agencies or businesses that are run as private-sector corporations and sometimes expected to make a profit, means these groups face more risks than in the past, said Alan Ducret, the Brisbane-based Queensland regional director of the Australian Competition & Consumer Commission.

Mr. Ducret, whose office must approve mergers and acquisitions and investigate alleged violations of the Trade Practices Act and other laws of corporate conduct, said potential risks for the three groups increased dramatically as soon as the state governments passed legislation last July which mirrored the provisions of the federal Trade Practices Act. Under Australia's constitution, the federal government could only regulate businesses incorporated under the federal Corporations Law. Other entities were subject only to state law until the state passed legislation mirroring the federal Trade Practices Act.

Unincorporated entities, professionals and government-business enterprises "need to be aware of the ramifications of breaches of the act, both financially and in terms of damage to public reputation," he said. And they must implement compliance programs to prevent breaches.

The key sector of the Trade Practices Act that now applies more widely is Part IV, the competitive conduct rules.

"The sort of things that are illegal include price fixing. If you're not used to working in a competitive environment, it's easy to put such an arrangement in place without realizing it's illegal," Mr. Ducret said.

But the fines can reach $10 million Australian ($8 million) for a company and $500,000 Australian ($398,400) for an individual, he warned.

Mr. Hogbin, whose company specializes in advising on regulations and regulatory reform, said Australia is already over-regulated and much of the law adds to business costs without providing commensurate benefits.

'Business must put its money where its mouth is and lobby to get the legislation it wants,' says Ellen Beerworth.

Workers' compensation is an example, he said. Mr Hogbin argued that incentives for employers to improve workplace safety are severely weakened when premiums are artificially held down, or not related to claims experience.

He said that occurs in systems where workers' compensation is heavily regulated, like Australia. In Australia, workers compensation rates are set as a percentage of payroll.

"Laws are often knee-jerk reactions to (one-time) events. In many ways, common law and market incentives do the job well. We need fewer, better-designed regulations," Mr. Hogbin said.

Instead of imposing heavy-handed, proscriptive regulations, governments should rely more on informing the business community about risks and allowing them to make their own decisions on how to cope with them, he said.

The cost of compliance is a major burden for the business sector, and that stymies economic growth, he argued.

Businesses need to be more proactive in resisting regulation. Industry associations, like ARIMA, have an important role, Mr Hogbin noted.

Attorney Ellen Beerworth, a partner with the Sydney office of Freehill Hollindgdale & Page, speaking at another conference session, said business has not been sufficiently pro-active in lobbying to shape legislation that applied to it. "Business has let itself down," she said.

"Business must put its money where its mouth is and lobby to get the legislation it wants," she said.

"We all want less risk, but we must analyze risks and determine systematically how to deal with them," Mr. Hogbin said. "The current ad hoc approach does not work."

Mr. Ducret argued that regulations like the Trade Practices Act are in place to protect businesses and consumers and said all organizations need compliance programs to ensure they do not break the law.

He said an appropriate risk management plan involves four elements—a plan to avoid breaches of the law occurring, a system for dealing with problems, a system for dealing with the ACCC and a plan to deal with the courts.

"For such plans to work, there has to be commitment by senior management, an education strategy and an effective compliance system flowing through these plans," he told risk managers.

Jim Gummer, 1996 ARIMA private sector risk manager of the year (*BI*, Dec. 18, 1995) and group insurance and risk manager for Finemore Holdings Ltd., based in Wagga Wagga, New South Wales, speaking at a session later in the conference, said regulators "are terribly impractical people."

For example, his company, a major road transporter, was required to get 18 separate permits for a tanker vehicle. He said each state had different requirements, plus the company needed separate workers compensation insurance for each state.

"Sometimes we cannot comply, and sometimes the most effective way to handle the risk is to pay the fine," he said. For transport companies, there has been very little reduction in regulations over the past five years, except a driver can now obtain a single, nationwide, heavy vehicle license. BI

AGF forms new department

By MARIA KIELMAS

PARIS—Paris-based Assurances Generales de France is planning to become one of Europe's leading commercial insurers through the creation of a new department to coordinate strategy, operations and technical support for French and international clients.

AGF's strategy now to be a leading corporate risk insurer will be to add middle-ranking corporate clients in France and internationally to the large clients it already has.

The new department, which will employ about 30 people, will be known chiefly by its French name, Direction Internationale du Developpement des Risques d'Entreprises, but also by its English translation, Commercial Line International Development Division.

AGF will focus on commercial property and casualty coverage. AGF insures 21 of France's 25 leading companies, said Yves Lallour, the new DIDRE director. Internationally, AGF is the leading insurer of large risks in Spain, Brazil and Ireland. AGF wrote gross commercial property/casualty premiums of 9.8 billion francs ($1.88 billion) in 1995.

The responsibilities of the new division will include:

- A definition of worldwide underwriting and servicing standards for their business.
- Transnational commercial support, which is specialized help for the branches from the head office.
- Helping develop commercial lines networks.
- Development of loss control services, including facility inspection.

AGF ranks second in premium volume to Union des Assurances de Paris, which has merged with AXA S.A.

The Professional Marketplace

HELP WANTED

CLAIMS MANAGER - ATTORNEY

Our Midwest Risk Retention Group is seeking a Claims Manager who is a licensed attorney to manage claims, settlements and hire and supervise outside trial attorneys defending general liability lawsuits. Desired applicant will have at least 10 yrs. exp. in managing general liability claims, settlements and hiring/supervising outside trial lawyers.

Must have systems understanding. Interested applicants should send their resume to: P.O. Box 1096, McLean, VA 22101-1096 or fax to (703) 827-7761.

BEST PRACTICES LIBRARIAN

One of the nation's largest and fastest growing financial services firms has an excellent opportunity for a business oriented individual to manage our electronic library of Best Practices documents.

This position will be responsible for managing the collection and usage of best practices material (qualification and sales proposals, general correspondence, sales and marketing support documents). The librarian must ensure that all documents maintained in the library adhere to established corporate standards of visual and copy content. Specific duties include editing and updating templated documents as well as developing new materials to be submitted to the library. This position will act as a resource to the Sales staff and Production Services in developing and finalizing a best practices document from concept to completion.

Qualified candidates will have knowledge of document management systems, proficiency in Mircosoft Office Suite, and strong writing and editing capability. An ability to manage multiple projects and perform in a high volume/fast turnaround environment is essential. A bachelors degree in English or Journalism is preferred and knowledge of insurance terminology is highly desirable.

Please send resume and cover letter to: Near North Insurance Brokerage, Attn: Tracey Garver, 875 North Michigan Avenue, Suite 1900, Chicago, IL 60611 or fax (312) 915-4497.

REQUEST FOR PROPOSALS

NEW YORK CITY HOUSING AUTHORITY

250 BROADWAY, NEW YORK, NEW YORK 10007

PUBLIC NOTICE
REQUEST FOR PROPOSALS (RFP)

PROPOSALS FOR BROKERS/CONSULTANTS TO PROVIDE GENERAL LIABILITY AND WORKERS' COMPENSATION INSURANCE SERVICES

The Authority invites insurance Brokers/Consultants to submit proposals to provide consulting services for the purpose of enhancing the Authority's casualty insurance program.

Proposals shall be in the format outlined in the Request For Proposal packets and shall contain full submission requirements. Packets may be obtained from the **New York City Housing Authority, Risk Finance Division, 250 Broadway, Room 632, New York, New York 10007.** Completed proposals must be received by 3:00 P.M. on **January 15, 1997.**

A proposers conference will be held on **December 23, 1996** at 10:30 A.M. at the Authority's central office, located at 250 Broadway, New York, New York 10007.

All inquires for additional information regarding the Request For Proposal may be directed, in writing, to **Dominique Milord, Risk Finance Division, New York City Housing Authority, 250 Broadway, Room 632, New York, New York 10007.**

THE AUTHORITY IS NOT SEEKING INSURANCE COVERAGE QUOTES AT THIS TIME

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Sub-total	**29,775**
Associations	301
Government, Unions and Educational Institutions	969
Commercial Consumers Sub-total	**31,045**
Insurance Agents and Brokers	8,664
Insurance Companies	7,831
Accountants, Actuaries, Attorneys & Consultants	3,148
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers	1,880
Others Allied to the Field	680
Total Qualified	**53,248**
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Single Copy Sales	40
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★ *Source Business/Occupational breakdown of qualified circulation, May 27,1996 Issue, as submitted to BPA for June 1996 BPA Publisher's Statement*

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IRS

Continued from page 2

interested in implementing this by the end of the year."

But technically, the decision expressed in the IRS letter applies only to the company it was addressing, and an IRS spokesman said employers that try to take similar action cannot cite the letter as precedent should their plans be audited. Still, private letters often are viewed as an indication of the IRS' general thinking on an issue.

There also always is a chance, however, that a private letter ruling will be rescinded, or made less clear, by later decisions.

Indeed, one well-known example of an IRS reversal of a private letter ruling came in 1985. That was when the IRS revoked a private letter ruling that had said employers could transfer surplus assets from overfunded defined benefit plans into their 401(k) plans without terminating the defined benefit plan.

The company that wrote the IRS last year gave vacation days to employees based on years of service, earned on a calendar-year basis, and the vacation had to be used in that calendar year or be forfeited. The IRS ruled that placing the vacation pay into a 401(k) plan was simply a nonelective employer contribution to a qualified plan because workers at the company could not convert the vacation days into cash or other taxable benefits.

In companies that offer cash for unused vacation days, employees likely would not be given the option to offer a deposit into a 401(k) plan, the letter implied.

The 401(k) plan option would be attractive to some employees because it would effectively allow more contributions to the plans.

The contribution would be considered a so-called non-elective employer contribution rather than an employee salary deferral. Non-elective contributions have a $30,000 per employee annual cap, while employees' 401(k) salary deferrals currently are capped at $9,500 a year.

The approach obviously would benefit employees who are more interested in building up funds in their 401(k) plans than in using vacation days, or those who simply are unable to take the days off and wind up giving them up.

Kwasha Lipton's Mr. Coleman said employers also would gain because employees would not hurry at the end of the year to use their stockpiled vacation days. Employers that allow workers to carry unused vacation over to the next year would get unwanted accrued vacation time off their books with the 401(k) option and would avoid paying FICA tax on vacation days, while employees would get additional tax-sheltered investments for their retirement.

Gary Blank, a retirement plan consultant in San Francisco, predicted the emerging new 401(k) plan option "would be very attractive to employers."

Benefit consultants also theorize that the letter's reasoning could be applied to unused sick days, compensatory days, birthdays and even jury days, with additional monies flowing into employees' 401(k) accounts.

Still, employers that have not paid cash for unused vacation days previously may view the 401(k)-vacation linkage as a losing proposition.

"It would make the employees very happy, but would the employers want to spend that much to make them happy?" asked Henry Saveth, a principal at New York-based A. Foster Higgins & Co. Inc.

Employers would always have the choice of contributing only a portion of employees' vacation pay into a 401(k) plan—say, 50 cents on the dollar. But Mr. Blank said he expects companies to pay 100%.

"I think employees will scream if they don't," he said.

Some employers would most likely consider a 100% transfer of unused vacation pay into 401(k) plans as too expensive, though, especially if employees didn't get cash for unused vacation before. "I think I'd have a hard time putting dollar-for-dollar in," said Fred Hamacher, vp-compensation and benefits at Minneapolis-based Dayton Hudson Corp.

Employees in Dayton's department store division now are able to get cash for part of their unused vacation days. Employees in the Target Stores division, however, forfeit any unused vacation each year.

If Dayton tried the new 401(k) plan approach, it would probably benefit upper-level staff the most, according to Mr. Hamacher. "I'm not sure a lot of lower-level people have a lot of vacation to buy back," he said.

Another benefits executive saw no benefit for his company in pursuing the plan.

"We'd like people to take their vacation or carry it over," said Richard Dreyfuss, director of compensation and international benefits of Hershey, Pa.-based Hershey Foods Corp. "We feel that vacation is fundamentally there to be taken."

The company stopped paying cash for unused vacation days about five years ago, he said, except for a small number of employees who are being grandfathered into the current policy.

It is unlikely that many employers will rush to follow the example of the IRS letter ruling in 1997 because most large companies are hesitant to base significant policy shifts on such letters, and also because employees are now extremely sensitive to any major change in vacation policy, said Chip Kerby, a principal in the Washington office of William M. Mercer Inc. BI

Workers comp, managed care linked

Products & Services

WAUSAU, Wis.—A workers compensation insurance product with a comprehensive focus on managed care is available in 11 states from Wausau Insurance Cos. of Wausau, Wis., through its alliance with an affiliate of The Prudential Insurance Co. of America.

"Wausau CareManaged WorkersComp" encourages injured employees to receive quality health care from providers experienced in occupational medicine. The insurer expects to control medical and indemnity costs through loss prevention, immediate reporting of claims, early intervention in treatment as well as ongoing case management.

Injured or ill employees ideally are evaluated and treated promptly by physicians and health professionals specializing in occupational medicine, Wausau said. Studies show employees who receive speedy, quality care heal faster and return to work earlier, giving employers better control over expenses, and the insurer's goal is that managed care services will reduce employers' workers comp costs.

Under the new arrangement, Wausau will underwrite the coverage and issue it as well as administer and pay all claims. Prudential Health Care Workers Compensation Management will provide network and managed care services.

The product is available in California, Florida, Georgia, Illinois, Missouri, New Jersey, North Carolina, Oklahoma, Pennsylvania, Tennessee and Texas. Wausau expects to offer it in six additional states next year.

For more information, contact Terry Bolz, Wausau vp-workers comp managed care, 715-842-6896.

Internet offering

CHICAGO—An Internet service that provides information on worldwide risk management issues is available from Near North Insurance Brokerage Inc.

The service, called WorldLink, is accessible by all Internet users and has information on more than 190 countries. Assembled by Near North's international accounts global risk management and insurance brokerage division, the service is intended for risk managers, underwriters and others interested in keeping current on international industry affairs.

It covers changing insurance laws; nation-specific compulsory insurance laws; non-admitted regulatory requirements and nationalized insurance charges; property, casualty, bonding and social security legislation; property information such as forms and coverages, tariff valuations and ratings and captive domicile data. It also keeps subscribers updated on political and economic conditions affecting insurance.

An annual subscription costs $475. A free 10-day trial subscription, during which information on up to three countries may be accessed, may be obtained at Internet address http://www.nnworldlink.com.

For more information, contact Elizabeth Demaret, Near North vp-international, 800-794-9440.

Marine liability guide

NEW YORK—A new guide to ocean marine liability insurance is available from Mutual Marine Office Inc. of New York Marine Group.

The booklet, "A Quick Guide to Marine Liability Insurance," is aimed at agents and brokers and covers various marine liability coverages, including charterer's and stevedore's legal liability, protection and indemnity, marine terminal operator's legal liability, ship repairer's legal liability and wharfinger's or landing owner's legal liability.

Free copies of the 14-page booklet are available by contacting Mutual Marine Office, 800-367-0224. BI

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Aon

Continued from page 1

The consolidation of Aon and A&A creates "an enormous amount of capital to bring the resources to bear on client issues," Mr. Zarb said. "Clients will see a greater depth of products, product design and service capabilities. That's much easier to do when you're the big guy on the block."

Powerhouse is more like it.

Not only will the combined broker be the world's largest retail broker, but Aon Re Worldwide Inc. and Alexander Reinsurance Intermediaries combined also will become the world's largest reinsurance intermediary with close to $400 million in revenues, unseating Guy Carpenter & Co.'s longtime hold on the top spot.

Aon Consulting and The Alexander Consulting Group Inc. combined will make the world's fifth-largest benefit consulting company with more than $400 million in estimated 1996 consulting revenues.

And combined, Aon and A&A will become a more significant force in the captive insurance market with more than 300 captives under management.

Overall, though, Aon will remain the world's second-largest broker with combined gross revenues of $3.3 billion. M&M reported $3.8 billion in 1995 revenues, with the help of Putnam Investments Inc., its investment management subsidiary, which added $750 million to gross revenues last year.

The mere size and clout of the larger Aon is prompting new speculation about the company's potential influence on the brokerage marketplace.

"This is a big industry event," said Jay Cohen, an analyst for Merrill Lynch Inc. in New York. The combination of Bain Hogg, Alexander Howden Group and Aon in the United Kingdom, for example, "could have implications" for other brokers that have been receiving a big percentage of revenues from the United Kingdom, he said, adding that the combined Aon company has become a "very significant competitor."

One London analyst said the Aon/A&A deal could put new competitive pressure on other London market brokers. At the least, they will "all be stepping up a gear" and assessing their positions in the various markets, "particularly those with a U.K. retail network. They can all come unstuck," the analyst said.

Another London analyst simply said: "It puts Sedgwick in a difficult position."

Sedgwick Group P.L.C. declined to comment on the Aon/A&A deal.

Other speculation last week pointed to M&M becoming a potential acquirer of broker Minet Group, in order to regain its leading position. Minet's parent, The St. Paul Cos. Inc., retained Goldman Sachs International in late August to assist it in assessing its options for the brokerage unit (*BI*, Sept. 2).

A&A had recently entered a bid for Minet but withdrew it when the Aon bid came in. M&M also has been in the bidding for Minet.

Neither M&M nor Minet would comment on the speculation.

The Aon/A&A deal also creates speculation on what impact Aon's new clout will carry in the insurance market.

"In general, it's fair to say, Aon is in a much better position to better dictate terms, prices, products and services to the marketplace because of its size and global presence," said Perry DeFontaine, a senior analyst with Moody's Investors Service Inc. in New York. "It also will have, in effect, a demand-pull," he said. "Customers will seek Aon out more readily."

"For many insurance companies and reinsurance companies, Aon is going to be a significant producer," said Mr. Cohen of Merrill Lynch. "The bigger the producer for companies, the more leverage they have on the companies."

At the same time, John Wicher, a managing director for Russell Miller Inc. in San Francisco, said the deal could have negative implications on the marketplace for risk managers.

The "consolidation of a major broker means less diversity in the marketplace," he said. "There are fewer options available for risk managers than there were 10 years ago."

Under terms of the $1.23 billion deal, A&A shareholders will receive $17.50 in cash per share of A&A common stock for a total cash consideration of approximately $790 million.

On Wednesday, the day the deal was announced, A&A's share price was $14.13. By Friday, shares were up 21% to $17.13.

Separately, Aon will pay American International Group Inc. $317.5 million in cash for the Series B preferred shares of A&A that it acquired with a $200 million capital infusion made in June 1994 to help shore up A&A's financial base.

Series A preferred shares—held by FMR Corp., parent of Fidelity Investments, and Prudential Insurance Co. of America, among others—will be convertible into an aggregate of about $120 million in cash.

The Aon offer will be financed by a combination of internal cash and external financing vehicles, a spokesman said.

The transaction is expected to close sometime in January.

Aon narrows the gap

With its 1996 acquisitions, Aon Group Inc. has closed the gap between it and the world's largest broker, Marsh & McLennan Cos. Inc.

($ in billions)	'95 gross revenues
Marsh & McLennan	$3.79
Aon	3.33*
Sedgwick	1.47
Willis Corroon	1.11
Johnson & Higgins	1.08

* Includes A&A and Bain Hogg 1995 revenues.

GRAPHIC BY JERRY PARKS

In the meantime, Aon is faced with integrating Bain Hogg's 4,000 employees in 87 offices and A&A's 12,000 employees in 260 offices around the world.

Mr. Ryan is no stranger to this task, however.

In 1993, the then-Rollings Burdick Hunter Group Inc. acquired and integrated Hudig-Langeveldt B.V. and Frank B. Hall Cos. Inc. to form Rollings Hudig Hall Group Inc.

RHH changed its name to Aon Group to more closely align the brokerage unit with its parent Aon Corp. earlier this year.

"I don't look for huge layoffs," Mr. Ryan said, referring to the integration of A&A. "Client professional service people are needed."

Any staff reductions will take place when there is duplication of corporate functions and back room offices. "We'll find savings from those areas," he said.

Aon will take a special charge in the first quarter of 1997, in the range of $100 million, Mr. Ryan said, to cover consolidation costs, including severance payments and office merger expenses.

Michael D. O'Halleran, president of Aon Group, is overseeing the integration process.

In the United States, there are 34 cities where the two brokers overlap.

For Mr. Ryan, the acquisition of A&A further strengthens Aon's global expansion goals.

A&A "has a terrific U.K. business, which will compliment ours extremely well," he noted. "Bain Hogg, Aon and A&A together will be the premiere retail brokerage in the U.K."

A&A's strength in Canada and Latin America will expand Aon's smaller presence in those countries, Mr. Ryan said.

For Mr. Zarb, the acquisition is bittersweet.

Brought into to A&A in June 1994, the former vice chairman and group chief executive of Travelers Inc. was given the daunting task of shoring up the company's depressed earnings and improving operations.

Over the past 2½-years, Mr. Zarb cut A&A's workforce, divested non-core businesses, dissolved longstanding contingencies and litigation and appointed a new management team.

While the broker's balance sheet was cleaned up, revenues and profits remained flat, at best.

"I've said for two years that consolidation is an important strategic step," Mr. Zarb said. "We've made a bunch of acquisitions over the last several years, but none was significant enough to move the needle.

"We had potential opportunities to acquire other major brokers" but nothing was achieved, he said. "Then we got an offer like this, which in the end was in the best interest of our shareholders."

"There's always a little disappointment," Mr. Zarb admits. "The people here did one hell of a job. They've created a miracle from where we were."

Mr. Zarb is staying on with A&A through the integration and, after that, he said he is not sure what he will do.

At least one executive will be among familiar faces again.

Ron Forrest, who unexpectedly departed from his post as chairman and CEO of A&A Inc. in November 1993, will once again be working with former colleagues. The former Bain Hogg CEO's role at Aon will be announced this week.

Risk managers reacted to the news with varying degrees of confidence.

"We are very happy with the service we're getting from A&A. They've done an outstanding job," said Walt Robinson, director of risk management for Pinkerton's Inc. The Encino, Calif.-based securities and investigation firm has been a client of A&A since August 1995.

"I'm concerned that we continue to get the same quality of service we're getting now," Mr. Robinson said.

On the other hand, Richard M. Inserra, risk manager for Union Carbide Chemicals & Plastics Corp. in Danbury, Conn., said: "I have no concerns. We do business with both brokers, so we'll end up with more clout with a bigger organization."

Meanwhile, two spots on the *Business Insurance* rankings of the world's largest brokers will be open due to Aon's recent acquisitions.

Based on 1995 revenues, those spots would be filled by Group Le Blanc de Nicolay of Levallois-Perret, France, which reported $112.6 million in gross revenues last year, and Poe & Brown Inc. of Daytona Beach, Fla., which reported $106.4 million in 1995 gross revenues.

Group Le Blanc last appeared in the Top 20 at No. 20 based on its 1994 gross revenues, and Poe & Brown last appeared in the rankings as No. 19 based on its 1993 gross revenues.

Moody's Investors Service placed Aon Corp.'s securities ratings under review for downgrade after the acquisition was announced. The ratings affect Aon's senior long-term debt rating of A2, its preferred stock rating of a3 and its commercial paper rating of Prime-1.

At the same time, Moody's placed A&A's securities ratings on review for an upgrade. The ratings under review are A&A's senior debt, subordinated debt, cumulative preferred stock, noncumulative preferred stock and short-term debt.

Lazard Freres & Co. L.L.C. was Aon's financial adviser on the deal, and CS First Boston was A&A's financial adviser. BI

PacifiCare looks to exit Florida, focus efforts on West

CYPRESS, Calif.—PacifiCare Health Systems Inc. is looking to leave Florida to focus its efforts in the western United States.

"We're looking at forming a partnership or even exiting the market," a PacifiCare spokeswoman said. "Nothing has been formalized yet. We're still there."

Cypress, Calif.-based PacifiCare expects to complete its $2.1 billion acquisition of Fountain Valley, Calif.-based FHP International Corp. in early January. "With the acquisition of FHP our focus is going to be on the western United States," the PacifiCare spokeswoman said. "Florida was kind of out there by itself, the only state on the East Coast that we had a presence in."

PacifiCare's 41,000-member PacifiCare of Florida HMO operation is the result of acquiring two smaller plans in 1994. "To be honest, we probably shouldn't have bought. It's very competitive in that market," the spokeswoman said.

Hartford acquisition

HARTFORD, Conn.—ITT Hartford Group Inc. will acquire the ongoing business of SecurityRe Cos., the reinsurance unit of Orion Capital Corp. Terms of the transaction were not disclosed.

John Donahue, chairman of Hartford Re Co., Hartford's reinsurance unit, said his company was particularly interested in SecurityRe's specialty casualty reinsurance, an area HartRe has targeted for growth. SecurityRe's business includes specialty and standard reinsurance sold on both a treaty and facultative basis with an annual premium volume of about $50 million.

HartRe, which wrote $522 million in net premiums in 1995, expects to renew most of SecurityRe's reinsurance contracts and plans to service the business from Hartford.

TPA for utilities

CHICAGO—Associated Electric & Gas Insurance Services Ltd. and Chicago-based Sedgwick Claims Management Services Inc. have formed AEGIS Claims Management Services, a third-party administrator created specifically for the utility and related energy industries.

AEGIS is a Bermuda-based mutual excess and surplus lines insurance company. Sedgwick Claims Management is a subsidiary of Sedgwick Group P.L.C.

Markets

ACMS will provide services including multiline claims administration, 24-hour claim reporting and medical cost containment programs. It also will provide litigation management services, an expert witness bank and catastrophic response teams.

The new venture stems from a survey of AEGIS policyholders who indicated that utility and energy industry risk managers are looking for TPA services, computer-based claims and risk management information systems, cost-containment programs and other claims management-related services. ACMS' services will be customized to meet the needs of individual clients.

For more information, contact Linda P. Sundram, ACMS president, at 888-850-2267.

Infrastructure unit

NEW YORK—Reliance National has formed a global infrastructure department in its Risk Management Services Division.

The new Reliance National unit will underwrite comprehensive insurance coverage for public and private entities involved in developing roads, ports, industrial facilities, power stations and petrochemical facilities and refineries.

Len Battifarano, who joins Reliance as senior vp, will manage the new unit.

For more information, call 212-858-9749.

USI teams with TPA

SAN FRANCISCO—USI Insurance Services Corp. and International Benefit Services Corp. have affiliated. Financial terms of the transaction were not disclosed.

Third-party administrator IBS is based in Fort Worth, Texas, with a sales office in Chicago. It designs, implements and administers group insurance plans and represents national and regional associations and corporations.

San Francisco-based broker USI offers general and specialty property/casualty insurance, insurance-related financial services such as employee benefits, third-party administration, life insurance and related consulting and insurance wholesale operations.

For more information, contact Jim Gallagher, president and CEO of IBS, at 817-737-1717.

EPL division formed

WILMINGTON, Del.—Rockwood Programs Inc., a subsidiary of E.W. Blanch Wholesale Insurance Services Inc., has formed an employment practices liability insurance sales center designed to facilitate presenting, quoting and binding EPL business across the country.

The program includes an automated sales support system capable of providing applications, fact sheets and sales aids via fax 24 hours a day, a two-page application process, 24-hour turnaround on quotes, reduced paperwork on compliance documents and a self-audit capability that helps employers identify and correct exposures while earning risk management credits.

The EPL policy is underwritten by Gulf Underwriters Insurance.

For more information, call 302-764-5430 or fax 302-764-5477. BI

CIGNA

Continued from page 1

tially block CIGNA from reorganizing again as the insurer did 10 months ago. That could occur if the court rules CIGNA is barred from again invoking a 1990 Pennsylvania law to split its insurance operations and move policyholders that had purchased coverage before 1990 to the runoff facility.

While the adjudication issue clearly was the court's chief concern during the hearing, the judges also questioned whether policyholders are better protected under CIGNA's new structure; how policyholder protection under the transaction is any different than it is when an insurer cedes much of its risk to a reinsurer that later goes broke; and how many policyholders should have a voice in the reorganization.

The Dec. 11 hearing had been delayed from April and then June because of failed attempts by the critics to force Ms. Kaiser to unveil a Tillinghast actuarial report on the runoff company's financial wherewithal and to bar CIGNA's lead attorney because of an alleged conflict of interest over the law firm's work for an insurer now suing CIGNA.

The dispute pits CIGNA and the Pennsylvania Insurance Department against 30 CIGNA policyholders and five rival insurers with business ties to CIGNA. The policyholders include Borden Inc., Pfizer Inc., PPG Industries Inc. and Viad Corp., formerly Dial Corp. The insurers include American International Group Inc. and The St. Paul Cos. Inc.

At the hearing, attorneys for CIGNA and the department said the reorganization into active and runoff operations saves and strengthens one of the nation's oldest and largest property/casualty insurers—204-year-old Insurance Co. of North America. Without that restructuring, A.M. Best Co. would downgrade CIGNA's A-claims-paying ability rating. That would relegate the company to writing coverage for only the unattractive risks that cannot find coverage with higher-rated insurers, which would lead to financial disaster, they say.

CIGNA's attorney, Robert Sullivan of Skadden, Arps, Slate, Meagher & Flom of New York, said CIGNA has fully funded the runoff facility's liabilities—largely long-tail environmental and asbestos liabilities—three times over. The active operation also has written $800 million of excess-of-loss reinsurance for the runoff operation.

The Insurance Department and CIGNA have said CIGNA created the runoff operation through a merger, which is not subject to policyholder approval. CIGNA first used a Pennsylvania law that allows companies to split into two or more portions, with only one portion retaining the original company's liabilities. CIGNA split INA and then merged the portion that retained most of the insurer's liabilities into the runoff operation's lead company. The portion of the split company that retained ongoing business and INA's name remained in the active operation.

Attorneys for critics of the reorganization told the court that the case centers on the basic policyholder right to approve a novation—the movement of policyholders from one insurer to another in a non-merger transaction. That right is guaranteed by state insurance laws nationwide.

The critics describe the reorganization process as a novation, not a merger, because all of INA did not merge into the lead runoff company. "It's like the difference between divorce and marriage," PPG attorney Robert L. Byer of Kirkpatrick & Lockhart L.L.P. told the court.

The critics also argued that the state's administrative agency law requires that adjudicatory hearings resemble courtroom trials. Ms. Kaiser held informational hearings during which she permitted only prepared testimony. She did not permit either side to cross-examine witnesses. And, she did not give CIGNA's critics access to much of the vital information—particularly the Tillinghast report—on which the critics said she relied subsequently to approve the transaction.

The department won court approval in August to remove the Tillinghast report, which the critics never have seen, from the record. But, the department no longer can rely on the report (*BI*, Sept. 2).

In addition, the critics argued in their briefs that Ms. Kaiser should have recused herself because she is a former senior counsel with CIGNA. She left CIGNA in 1992.

The court opened last week's hearing to the public after *Business Insurance* fought an Oct. 24 order by President Judge James Gardner Colins that closed the proceeding. Neither party in the case requested a closed hearing.

Moments into the hearing, Judge Dan Pellegrini raised the adjudication issue. Referring to the approval order, he said, "If it's not an adjudication, what is it? That's my problem."

Pennsylvania regulators and CIGNA have said CIGNA created the runoff operation through a merger.

As attorneys for both sides argued other issues during the hearing, the judge continually boiled all of their arguments down to the adjudication issue.

Insurance Department attorney Jerome J. Shestack, incoming president of the American Bar Assn., a few times tried to persuade the court to limit its review to whether Ms. Kaiser abused her authority by determining the runoff facility adequately protects policyholders.

Judge Bonnie B. Leadbetter asked how the court could do that without reviewing the Tillinghast report, on which, she asserted, Ms. Kaiser relied.

Mr. Shestack, of Wolf Block Shorr & Solis-Cohen in Philadelphia, said the report confirmed the opinion Ms. Kaiser reached independently by using information still in the record.

Referring to Mr. Shestack's use of the words "record" and "abuse," Judge Pellegrini asserted: "That's adjudication language. So, you lose." He added: "If it's an adjudication, all of the administrative agency law applies. If it's not, I don't know what the hell you're talking about. So, the question I'm asking you is, what is this animal?"

Mr. Shestack replied that not all of a commissioner's decisions are adjudications.

The judge then asked how CIGNA could have responded if Ms. Kaiser had rejected its reorganization plan. After Mr. Shestack replied CIGNA would have appealed, the judge responded, "Then it's an adjudication."

Mr. Shestack disagreed. He said the order was not an adjudication for the critics because their alleged harm is speculative and could not manifest for decades.

When CIGNA's attorney, Mr. Sullivan, advanced the same argument shortly afterward, Judge Leadbetter asked, "You're saying you could have a proceeding that's half an adjudication and half not an adjudication?"

Judge Joseph T. Doyle said he had "never heard of this."

Judge Pellegrini joined in: "I thought your position would be, 'Judge, this is none of your business. We shouldn't be here. This isn't an adjudication for anybody."

"That is my position," Mr. Sullivan said, which drew laughter from the court's audience.

"No, it isn't," Judge Pellegrini responded.

Mr. Sullivan then said the approval order was an adjudication only for CIGNA.

Judge Pellegrini also said Pennsylvania's corporate division law will "lure every corporation in the U.S." He said it allows companies to avoid bankruptcy by splitting up and shedding their liabilities.

Mr. Shestack disagreed. He said the portion of the company retaining the liabilities still must have enough capital to cover those liabilities.

Judge Doyle asked why CIGNA is splitting its insurance operations if it has enough money to cover policyholder liabilities.

"Because of the ratings issue," replied Mr. Shestack, referring to the A- rating A.M. Best Co. has assigned to the active operation. The reorganization was fueled greatly when Best downgraded CIGNA's intercompany pool to B++ in December 1994 because of its asbestos and environmental liabilities (*BI*, Dec. 26, 1994).

AIG attorney Floyd Abrams of Cahill Gordon & Reindel of New York said he did not oppose the division statute per se. But, it cannot be used against policyholders who purchased coverage before it was enacted, he said.

"I was very pleased with the court's apparent reaction to the issues before it," said CIGNA policyholder attorney John N. Ellison of Anderson Kill & Olick P.C. in Philadelphia. "They seemed troubled by some of the things that happened in front of the department, which were part of our objections from the beginning."

Mr. Byer, PPG's attorney, agreed. "Our administrative agency law has fairly strong due process provisions in it, none of which were complied with by the insurance commissioner in this case."

Policyholder and insurer attorney Lawrence T. Hoyle Jr. of Hoyle, Morris & Kerr of Philadelphia said the court's questions showed it understood the critics' case.

CIGNA is confident it will prevail, a spokesman said. He would not comment on the court's discussion. But, he said CIGNA's arguments in court showed that policyholders are better protected in the runoff company. Therefore, the critics cannot show immediate harm, which means they lack the legal standing to appeal Ms. Kaiser's approval order.

Messrs. Shestack and Sullivan did not return calls.

Before the hearing, Judge Colins recused himself. Because he had ruled on so many motions in the litigation already, he was concerned he had an unfair advantage over the other judges.

That action left six seated judges to hear the case. But, the court's two other judges also will have votes in the decision. Under court rules, a tie vote would uphold Ms. Kaiser's handling of CIGNA's reorganization. BI

Updates

Punitive damages ruled taxable

Continued from page 2

in the Small Business Job Protection Act passed in August and thus eliminated any prospective application of the decision. Congress' action this summer followed the lead of 1989 legislation that specified that punitive damages in connection with a case that does not involve physical injury or sickness were subject to tax.

The O'Gilvie case began when the survivors of a Kansas woman who died of toxic shock syndrome received a punitive damage award of $10 million. They paid federal income taxes on it and then sought a refund, which the IRS sent them. The IRS later decided the refund was in error and sued to recover the refund.

The O'Gilvies argued that they had received the punitive damages "on account of" personal injuries and thus should not have to pay any income tax on them. The government responded that punitive damages are not levied to compensate for physical injury but rather to punish reprehensible conduct and therefore were subject to taxation. Writing for the court majority, Justice Stephen Breyer endorsed the government's interpretation.

Shift of injury costs proposed

LONDON—Businesses operating in England and Wales could face hikes in their liability insurance premiums if proposals to shift the cost of medical care in personal injury cases become law.

The Law Commission, a unit of government that recommends legal reforms, suggests that medical care costs for personal injuries for which another party is potentially liable should be charged to that responsible party. Currently, the greatest share of those costs is borne by the government-funded National Health Service.

U.K. workers are compensated for some workplace injuries by employers, which are required to carry employers liability insurance. However, the NHS generally covers the cost for catastrophic injuries that require hospital stays.

The proposals could shift up to £100 million ($165.8 million) annually in NHS costs to the private sector, according to the commission.

"Ultimately, it will shift the cost of treatment to those who pay the premiums for liability insurance," said Elizabeth Carr, a partner with London law firm Lawrence Graham.

Employers liability insurance could be particularly hit with increased costs, said underwriter John Murphy of Bankside Syndicates Ltd. Liability premiums would be pushed up if losses increased because of higher medical costs, and some insurers might stop offering that coverage.

The Law Commission will accept comment on its recommendations until April 1.

California upholds lead suit

SAN FRANCISCO—Manufacturers of brass plumbing fixtures that leach lead into drinking water can be sued for violations of California's Proposition 65, the state Supreme Court has ruled.

The 5-2 decision in *People vs. Superior Court* stemmed from a 1992 lawsuit California Attorney General Dan Lungren filed against 16 plumbing makers seeking to halt sales of faucets and mandating warnings of possible exposure to a toxic substance (*BI*, Dec. 21, 1992). Fines under the act could total $2,500 per day for each violation.

The manufacturers had argued that Proposition 65, the 1986 Safe Drinking Water and Toxic Enforcement Act, which took effect in 1988, did not apply to their products but to original sources of drinking water, such as lakes, rivers and streams.

Both a San Francisco Superior Court judge and a 2-1 majority of the 1st District Court of Appeal agreed with the manufacturers. But the Supreme Court overturned those decisions, focusing on the broad language used in the initiative.

"The comprehensiveness of the definition of 'source of drinking water'. . .which covers all 'present' sources, as well as waters 'suitable' as drinking water sources, suggests that the drafters of the act, and the electorate that adopted it, had both immediate and remote sources in mind," Justice Stanley Mosk wrote for the majority.

The state settled its litigation with the plumbing manufacturers, which agreed to provide warnings and gradually reduce lead in their products.

But the court's decision will apply to other companies that use lead in manufacturing various plumbing components and to a small percentage of faucet makers not involved in the 1992 lawsuit.

Briefly noted

U.S. District Court Judge Stanley Brotman of Camden, N.J., will hold a final settlement hearing Jan. 10, 1997, in a case involving **Campbell Soup Co.**'s responsibility for covering medical benefits for about 12,000 retirees and their dependents. The proposed settlement could cost the Camden, N.J.-based soupmaker $114.5 million. . . .The head of the Massachusetts Legislature's joint Insurance Committee has asked the state attorney general to consider investigating the redomestication of **Electric Mutual Liability Insurance Co.** In a Dec. 3 letter to Attorney General L. Scott Harshbarger, state Sen. Dianne Wilkerson charged that the Massachusetts Insurance Division "is either unwilling or incapable of conducting a public hearing" on the redomestication and instead is pursuing a "private investigation" as part of an exam of a former EMLICO unit. . . . A federal jury on Friday found former Detroit Tigers pitching star **Denny McLain** and a partner guilty of raiding Peet Packing Co.'s defined benefit pension fund (*BI*, June 3; May 27). The conviction carries a penalty of up to 20 years in prison and a $500,000 fine. . . .A Florida circuit court judge last week cleared the way for Florida to add the charge of **racketeering** in its lawsuit against the tobacco industry. If the state prevails on the charge, it could win treble damages. . . .**Kentucky Gov. Paul Patton** last week signed a major workers compensation reform law that closes a deficit-ridden special fund and tightens eligibility for black lung benefits. The new law was approved in special session.

Keyboard

Continued from page 1

out Sherry Saunders, director of communications for the Center for Office Technology, an Arlington, Va.-based computer maker trade group. "The DEC case was essentially an aberration," she said.

"If you take any claim or suit and you try it in front of 21 different juries, you're always going to get aberrational results," agreed Michael A. Cerussi, a partner with Cerussi & Spring in White Plains, N.Y., and IBM's national trial counsel. "The jury system suffers all the shortcomings of the human condition."

"We were successful because we had intelligent jurors who realized there was no legitimate science or medicine to establish a causal relationship between typing and carpal tunnel syndrome," Mr. Cerussi said.

'If you take any claim or suit and you try it in front of 21 different juries, you're always going to get aberrational results. The jury system suffers all the shortcomings of the human condition,' says Michael Cerussi.

But Maynard, Mass.-based Digital's defense apparently was less convincing. A U.S. District Court jury in Brooklyn, N.Y., ordered the company Dec. 4 to pay $5.3 million to Patricia Geressy, a 50-year-old former secretary for the Port Authority of New York and New Jersey.

The jury also awarded $302,000 to Jill Jackson, a former legal secretary with Stroock, Stroock & Lavan in New York, and $274,000 to Jeanette Rotolo, a former billing clerk with the Long Island Jewish Medical Center.

However, the jury found no evidence of defective keyboard design. Instead, it faulted Digital for failing to warn keyboard users of the dangers of repetitive typing.

The jury apparently was persuaded by plaintiffs lawyers' arguments that Digital had trained its own workers in ergonomics to prevent RSI but provided less information to customers.

Conversely, in the IBM case, the jury found that 911 operator Flay A. Ames, 40, sustained carpal tunnel syndrome as a result of an earlier fall and other conditions unrelated to the keyboard she used.

Digital is preparing post-trial motions seeking to have the verdict set aside and will appeal if necessary, a company spokesman said.

"We disagree with the verdicts, which are inconsistent with relevant scientific knowledge, with the evidence, and with the law," the company said in a statement. "There is no scientific evidence that keyboards cause musculoskeletal disorders."

Despite the lack of scientific evidence linking keyboard use to injury, Labor Secretary Robert Reich announced last week that federal regulators will begin cracking down on employers whose workplace conditions contribute to repetitive strain injuries.

The government also is moving ahead with new ergonomics regulations now that the Occupational Safety and Health Administration has been freed from congressional constraints.

Provisions that Congress included in the 1995 and 1996 spending bills, which have expired, prevented the Labor Department from developing the new standards.

But pressure from the Clinton administration kept those provisions out of the 1997 fiscal-year budget, Mr. Reich explained.

Repetitive strain injuries account for one-fourth of the occupational illnesses and injuries reported to the Bureau of Labor Statistics each year.

One of every three workers compensation dollars is spent on RSI, costing employers more than $20 billion a year, according to the BLS.

The computer industry's success in defending against keyboard lawsuits coupled with the Labor Department's moves shows that "if there is a problem it is a workplace problem, not a problem with the keyboard," suggested IBM lawyer Mr. Cerussi.

In fact, other office accoutrements can just as easily be blamed for contributing to repetitive strain injuries, he pointed out.

"Indicted as much as the keyboard is the chair, the desktop, even the telephone," he said.

"This is not a product liability litigation, though the plaintiffs lawyers in their entrepreneurial spirit have sought to make it that," he said.

"To blame it all on the keyboard is absurd," agreed George Newcombe, a partner in the New York law firm of Simpson Thacher & Bartlett who defends computer manufacturers but was not involved in either case.

When workers suffering from RSI report their complaints to their doctors, they usually don't consider whether other activities contributed to their conditions, Mr. Newcombe said.

"They think: 'My hands hurt. I'm sitting in front of the keyboard. That must be what caused it.', " Mr. Newcombe said. "But that doesn't mean the keyboard caused it any more than their hairbrush or gardening tools did."

IBM's Mr. Cerussi also said that while employers are not yet joining suits against manufacturers seeking to recoup the costs of workers compensation benefits and lost productivity, "in a sense, the work comp system is feeding or underwriting these cases."

Physicians who file medical reports identifying work as the probable cause of a repetitive strain injury start the chain of events that leads to a product liability lawsuit, he explained.

"If these doctors were held to a higher standard, we wouldn't have so many of these cases," he said.

Mr. Newcombe agreed: "Many doctors today are quick to diagnose carpal tunnel syndrome," a form of RSI. "I've heard this described as the hysterectomy of the '90s since it seems that more women are victimized than men."

Some 2,000 keyboard lawsuits are pending against computer makers nationwide, according to the Center for Office Technology. Of those, Digital faces 80 and IBM faces 650.

IBM has won all six of the cases it has tried so far, while Digital has won one and lost one.

Among other manufacturers that have been targeted in keyboard lawsuits are Compaq Computer Corp., Apple Computer Inc., Unisys Corp., AT&T Corp., Northern Telecom Ltd., Sun Microsystems Inc. and Datapoint Corp.

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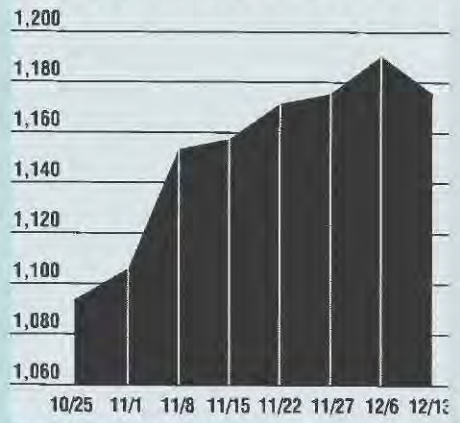
Rotolo et al. vs. Digital Equipment Corp., U.S. District Court for the Eastern District of New York; No. 94CV1427, Dec. 4, 1996.

Ames vs. IBM Corp., Superior Court for the State of New York in New York County; No. 109116-95, Dec. 11, 1996.

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc.

PCS catastrophe options

As of Dec. 13

	Call spread	Price bid/ask
Eastern September 1997		
	40/60	3/4
	60/80	2/—
	80/100	2.4/—
Western Annual 1997		
	40/60	2.2/4
	80/100	2/2.1
June Midwestern 1997		
	10/20	1.2/—
National Annual 1997		
	80/100	6.5/8.4
	120/140	5/6.5
California Annual 1997		
	40/60	2.2/4
	80/100	2/2.1

Total volume: 0 Total open interest: 10,061

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.
Source: Chicago Board of Trade

British Issues

Dec. 12	Price	P/E	Div.	Yield	1 week
Companies	pence		pence	%	high—low
Comml Union	644	12.4	35.3	5.5	668—644
Genl Accident	701	10.5	38.8	5.5	723—701
Gdn Royal Exch	265	9.8	11.3	4.3	273—265
Independent	601	11.2	14.1	2.3	611—600
Royal & Sun	431	10.3	21.6	5.0	444—431
Brokers					
Bradstock	61	10.0	7.1	11.6	61—54
Fenchurch	53	7.2	6.9	13.0	54—53
CE Heath	75	8.8	6.3	8.4	75—75
JIB Group	109	10.8	9.4	8.6	109—109
Lloyd Thmpson	173	10.1	12.5	7.2	173—173
Lowndes Lmbrt	107	7.0	10.5	9.8	107—107
Nelson Hurst	153	9.4	9.8	6.4	153—153
Sedgwick Grp	122	9.5	8.1	6.6	128—122
Steel Brl Jones	29	N/M	2.8*	9.7	29—29
Willis Corroon	129	11.69	8.3	6.4	134—129

Source: Phil Olsen, London *Estimated

BI Industry Stock Report DEC. 9, 1996, THROUGH DEC. 13, 1996

BROKERS		Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)
Acordia Inc.	NYS	29.125	-1.69	-2.10	33.75	27.75	8
Alexander & Alexander	NYS	17.125	25.69	-9.87	21.63	13.63	1118
E.W. Blanch Holdings Inc.	NYS	19	1.33	-18.72	25.50	17.75	104
Gallagher Arthur J. & Co.	NYS	30	0.42	-19.46	39.50	29.13	136
Hilb, Rogal & Hamilton	NYS	13.375	-0.93	0.00	14.13	11.38	51
Kaye Group Inc.	NDQ	5.25	7.69	-34.38	8.00	4.63	0
Marsh & McLennan	NYS	105.75	-2.98	19.15	114.88	84.25	740
Poe & Brown	NDQ	27.25	2.83	9.55	27.25	22.75	17
BROKERS	AVERAGE		4.0	-7.0			
INSURERS/REINSURERS							
ACE Ltd.	NYS	59.75	1.70	50.31	60.00	36.88	322
Acceptance Insurance Cos.	NYS	20.125	0.00	35.29	22.50	13.88	47
AEGON N.V.	NYS	54.5	-2.02	23.86	56.63	41.13	59
Aetna Life & Casualty	NYS	72.5	-4.13	4.69	78.75	55.38	3190
AFLAC Inc.	NYS	40.125	-3.02	38.36	44.00	27.25	589
Allied Group Inc.	NDQ	30.125	3.88	25.52	30.38	22.38	207
Allmerica Prop. & Casualty	NYS	28.875	1.32	6.94	30.50	24.25	35
Allstate Corp.	NYS	56.25	-1.96	36.78	60.75	37.38	3495
AMBAC Indemnity Corp.	NYS	67.375	-0.55	43.73	69.50	45.50	225
American Bankers Ins.	NDQ	49.875	2.05	27.88	52.38	32.50	326
American Financial Group	NYS	37.25	0.34	21.63	38.88	28.50	154
American General	NYS	39.625	-1.25	13.62	41.75	32.75	898
American Heritage Life Ins.	NYS	25.375	4.10	10.93	25.38	19.00	111
American Indemnity/Fin'l	NDQ	10.25	0.00	2.50	13.38	9.38	1
American International	NYS	106.5	-3.95	15.14	116.38	88.13	2941
Aon Corp.	NYS	60.75	4.74	21.80	62.25	47.50	1082
Argonaut Group	NDQ	28.75	-1.29	-11.54	35.00	27.25	70
AVEMCO Corp.	NYS	15.125	-3.20	-5.47	16.75	11.75	15
Baldwin & Lyons Inc.	NDQ	18.25	2.82	12.31	20.75	14.25	43
Berkley W.R. Corp.	NDQ	51.25	-3.30	-4.65	55.50	40.25	472
Berkshire Hathaway Inc.	NYS	33000	1.23	2.80	36000.00	29800.00	1
Capital RE Corporation	NYS	46	10.18	49.59	46.00	28.38	95
CapMac Holdings Ltd.	NYS	33.25	-3.27	NA	36.88	21.13	126
Capsure Holdings Corp.	NYS	12.375	23.75	62.30	18.88	8.00	798
Chartwell Re	NYS	25.625	-2.84	NA	28.38	10.00	124
Chubb Corp.	NYS	52.625	-2.55	8.79	54.63	40.88	1598
CIGNA Corp.	NYS	133.5	-2.73	29.30	143.38	100.75	769
CNA Financial Corp.	NYS	105.125	0.84	-7.38	117.50	95.75	39
EMC Insurance Group Inc.	NDQ	12	6.67	-12.73	14.50	10.13	10
Everest Reinsurance	NYS	27.25	4.31	16.58	29.50	20.13	382
Executive Risk Inc.	NYS	38.125	-1.61	31.47	42.38	26.13	112
EXEL Ltd.	NYS	37	0.00	21.56	40.25	29.63	354
Fremont General Corp.	NYS	29.5	-1.26	20.41	31.50	21.50	383
Frontier Insurance Group	NYS	38.125	2.69	19.14	41.13	28.25	163
Gainsco Inc.	NYS	8.875	-4.05	-21.98	12.38	8.88	236
GCR Holding Ltd.	NDQ	22.625	2.84	NA	27.25	19.75	203
General RE Corp.	NYS	159.125	-2.00	2.66	170.25	138.75	598
Gryphon Holdings	NDQ	13.375	-4.46	-30.52	20.25	12.00	147
Guaranty National Corp.	NYS	16.875	-0.74	9.76	18.00	13.38	77
Harleysville Group	NDQ	30.25	3.42	-6.56	33.00	24.50	97
Hartford Steam Boiler	NYS	45.375	0.83	-9.25	52.50	42.75	133
HCC Insurance Holdings	NYS	26	-5.02	40.54	32.75	12.38	131
IPC Holdings Ltd.	NDQ	22	0.00	NA	22.88	19.00	301
ITT Hartford Group	NYS	64.25	-1.15	32.82	69.50	44.50	1194
LaSalle Re Ltd.	NDQ	26	-4.59	NA	29.50	19.75	256
Lincoln National	NYS	49.875	-3.62	-7.21	57.00	40.75	739
Markel Corp.	NDQ	85	-1.16	12.58	94.50	70.50	38
MBIA Insurance Group	NYS	99.5	0.00	32.67	104.38	70.00	531
Meadowbrook Insur. Group	NYS	22	3.53	-34.33	34.13	15.25	71
Mid Ocean Ltd.	NYS	52.625	1.20	41.75	55.38	35.50	293
MMI Cos. Inc.	NYS	30.75	0.82	28.13	33.38	22.00	35
Mutual Risk Mgmt. Ltd.	NYS	30.625	-2.00	-10.75	34.88	26.88	162
NAC Re Corp.	NYS	34.75	-1.42	-3.47	40.63	28.50	188
Navigators Group	NDQ	18.75	-3.85	6.38	20.25	15.63	21
Nobel Insurance Ltd.	NDQ	11.5	-1.08	1.10	12.75	10.88	7
NYMagic Inc.	NYS	18.75	2.04	10.29	22.00	16.38	8
Ohio Casualty Corp.	NDQ	35.5	5.19	-8.39	40.00	30.00	692
Old Republic Int'l	NYS	25.875	-2.36	9.33	27.75	20.13	381
Orion Capital Corp.	NYS	59.625	-2.65	37.46	63.00	42.50	101
Partner Re Ltd.	NYS	34	0.00	23.64	34.50	23.75	297
Penn-America Group Inc.	NDQ	15.625	-0.79	9.65	16.75	11.50	9
Philadelphia Cons. Holding	NDQ	22.5	-1.10	38.46	24.25	16.25	61
PXRE Corp.	NDQ	23.75	0.00	-10.38	28.00	22.25	69
Reliance Group Holdings	NYS	8.875	2.90	2.90	9.25	6.50	472
Reliastar Financial Corp.	NYS	54.5	-1.13	22.82	57.00	40.00	139
RenaissanceRe Holdings Ltd.	NYS	32.75	2.34	7.82	36.00	26.75	42
Risk Capital Holdings	NDQ	17.125	0.37	-26.74	23.38	16.50	471
RLI Corp.	NYS	32.375	-0.38	29.50	32.63	22.38	194
St. Paul Companies	NYS	58.25	-0.21	4.72	60.50	50.13	711
SAFECO Corp.	NDQ	39.25	-2.94	13.77	42.25	30.88	1613
Seibels Bruce Group	NDQ	2.25	-2.70	50.00	4.25	1.06	67
Selective Ins. Group	NDQ	38.5	7.13	8.45	38.75	31.00	82
Sphere Drake Holdings	NYS	9.125	-2.67	-34.82	14.25	8.13	76
TIG Holdings	NYS	32	0.79	12.28	34.25	26.00	923
Titan Holdings, Inc.	NYS	15.375	-0.81	6.96	16.63	12.50	23
Tokio Marine & Fire	NDQ	50	-1.48	-24.24	69.25	50.00	12
Torchmark Corp.	NYS	50.5	0.00	11.60	52.13	40.25	1520
Transatlantic Holdings	NYS	76.5	-0.33	4.26	80.38	62.38	86
Transnational Re Corp.	NDQ	25.375	3.05	3.57	26.13	20.88	56
Travelers Aetna Property	NYS	34.75	0.36	NA	35.25	23.13	428
Travelers Corp.	NYS	42.25	-0.29	34.93	47.38	28.38	4105
Trenwick Group Inc.	NDQ	46.75	-4.10	-16.69	57.50	46.00	182
Unico American Corp.	NDQ	9.25	0.00	48.00	9.63	5.88	62
Unionamerica Holdings	NYS	17.875	-4.03	NA	20.75	14.75	35
United Fire & Casualty	NDQ	32	-0.78	14.29	40.00	23.88	1
Unitrin	NDQ	54.5	1.87	13.54	55.13	44.25	275
UNUM Corp.	NYS	70.375	0.36	27.95	71.75	53.00	1134
US Facilities Corp.	NYS	19.375	0.00	-9.36	22.38	14.88	58
USF&G Corp.	NYS	20	4.58	18.52	20.63	14.25	2718
USLIFE Corp.	NYS	31.625	2.02	5.86	33.25	26.88	422
Washington National	NYS	27.75	0.45	0.45	30.75	23.88	254
Zenith National Ins.	NYS	26.375	-3.65	23.39	28.88	20.00	42
Zurich Reinsurance Centr.	NYS	32.125	-0.39	5.76	32.75	28.38	57
INSURERS/REINSURERS	AVERAGE		0.1	11.2			
HEALTH MAINTENANCE ORGANIZATIONS							
FHP International	NDQ	36	0.00	26.32	37.75	21.75	712
Healthsource Inc.	NYS	13.75	-2.65	-61.81	40.88	9.75	2426
Humana Inc.	NYS	19.125	-3.77	-30.14	28.88	15.00	1677
Oxford Health Plans	NDQ	56	-6.86	51.61	62.25	27.69	3812
Pacificare Health Sys.	NDQ	83.3125	-0.67	-4.24	98.75	59.63	224
Safeguard Health Enter.	NDQ	18.25	4.29	56.99	22.50	11.25	31
Sierra Health Services	NYS	24.125	-2.03	-24.02	36.00	22.38	272
United Healthcare Corp.	NYS	44.75	-5.54	-31.55	69.00	30.00	3739
Wellpoint Health Networks	NYS	33.625	-2.89	4.67	39.13	23.38	1373
HMOs	AVERAGE		-2.2	-1.4			
ALL COMPANIES	AVERAGE		0.6	0.9			

Top advancing issues: Alexander & Alexander, Capsure Holdings Corp, Capital RE Corp. Leading decliners: Oxford Health Plans, United Healthcare Corp., HCC Insurance Holdings. Most active issue: Travelers Corp. The BI Index fell 1.3%; the Dow Jones 30 Industrials fell 1.2%; the S&P 500 decreased 1.5% and the NYSE Composite lost 1.6%. Average P/E: Brokers, 15.2; Insurers/reinsurers, 29.9; HMOs, 33.5.

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