

business insurance

update:

Government will appeal ruling on self-insurance

SAN FRANCISCO—The federal government intends to appeal an unprecedented judge's ruling that gives self-insurers of workers compensation the right to deduct as a business expense unpaid loss reserves from their annual income.

The federal government Nov. 29 filed a notice of appeal with the U.S. District Court

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Multiemployer ruling not a total victory

By JERRY GEISEL

PHILADELPHIA—Employers can challenge the constitutionality of the Multiemployer Pension Plan Amendments Act, but they can't delay paying some of the costly withdrawal liabilities they are fighting.

The first appellate ruling on the federal law that gives multiemployer plans the power to demand enormous payments from employers that leave the plans is a victory for employers, but an expensive one, attorneys say.

The U.S. 3rd Circuit Court of Appeals in Philadelphia said an employer does not have to exhaust all other remedies, like arbitration, before challenging the constitutionality of the act.

Requiring arbitration before an employer can challenge the law would be a "useless act," because only courts, not arbitrators, have the authority to resolve constitutional issues, the appeals court said.

But the appellate court also said that multiemployer plans can force employers to make costly withdrawal liability payments while the challenge is before a court.

"In so instructing, we acknowledge the intent of Congress in (the) MPPAA to require interim payments to the fund pending the completion of the dispute resolution process," the appellate court said.

The appellate decision means that Republic Industries Inc. of Kansas City, Mo., soon may have to begin making monthly withdrawal liability payments of about \$10,500 to the Central Pennsylvania Teamsters Pension Fund, while a U.S. District Court reconsiders Republic's argument that the Multiemployer Amendments Act is unconstitutional.

"Our decision does not relieve Republic of its obligation to make

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Illinois calls for help to break chain of fraud

By LEN STRAZEWSKI

DALLAS—Insurance commissioners are finding out how a loosely linked group of insurance and reinsurance brokers have been bleeding insurers into insolvency for more than 10 years.

The Illinois Insurance Department, which is in the throes of liquidating Kenilworth Insurance Co., went to the National Assn. of Insurance Commissioners winter meeting last week armed with nine charts and 153 pages of documentation. Insurance Department Special Deputy William Allen spent 2½ hours detailing how the group of brokers sapped the life out of one insurer after another.

Amazed commissioners for another 90 minutes discussed model regulations to prevent future frauds (see story, page 43).

The individuals, illegal practices and high-risk books of substandard property, professional liability, long-haul trucking and surety risks that drove Kenilworth into bankruptcy continue to drain unwary insurers, said Mr. Allen.

"Kenilworth is just the tip of the iceberg," Mr. Allen said. "The recent publicity related to Alexander Howden and Minet Holdings is just the beginning, because they are all interrelated and once one falls, the others will come after it. Unless all segments of the industry pool their respective resources and identify where it occurs... it will continue on."

The Illinois Insurance Department has tracked wide-

spread fraud back to 1971 and a nominal ringleader, Jack V. Goepfert, who now is in federal prison.

While trying to locate Kenilworth's assets, Mr. Allen discovered links among Kenilworth's intermediaries and reinsurers and at least five other insurers that were similarly duped by many of the same intermediaries using the same tactics.

NAIC meeting

Besides taking a close look at insurers that are tumbling due to fraud, the National Assn. of Insurance Commissioners also acted on some controversial model laws, including bills covering the Risk Retention Act and competitive rating. For Associate Editor Eileen Norris' report on those actions, see page 3.

The other five insurers and the dates their financial troubles erupted are: Main Insurance Co. of Illinois, 1973; Argonaut Insurance Co. of New York, 1976; the Sasse Syndicate of Lloyd's of London (U.S. underwriting agent Den-Har Associates), 1976; Atlantic & Gulf States Insurance Co. of Pennsylvania, 1979; and Commodore General Insurance Co.

of Hong Kong, 1981. Only Argonaut avoided insolvency.

Mr. Goepfert was involved with them all. In fact, he was working as a reinsurance consultant for Kenilworth while he was cooperating in an investigation of the Sasse fraud by the Federal Bureau of Investigation and the U.S. attorney's office for the Southern District of New York.

Like Kenilworth, the other five insurers were promised by Mr. Goepfert a large book of surplus lines insurance business. But they all were ill-prepared both technically and financially for the business they were to insure or reinsure. Exorbitant commissions and fees paid to layers of producers, reinsurance intermediaries and occasionally phantom reinsurers reduced the

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Alaskan air carriers depart London market

By DANIEL BRIGHAM

ANCHORAGE, Alaska—A captive insurance company may be the next step for some Alaskan commercial air carriers who are looking for more stable underwriting conditions than they have encountered in the London market.

Pilots from Ketchikan to Barrow say the cost of passenger liability insurance is taking 20 cents of every dollar in ticket sales. For some carriers, insurance rates have tripled or even quintupled in the last three to five years to as much as \$3,000 per seat.

In response, the Alaska Air Carriers Assn. will begin a group liability and hull insurance program Jan. 1 in hopes of attracting U.S. insurers to underwrite their risks at lower rates. The association already has a group workers compensation program.

By 1984, the association would like to have a captive for liability, hull and workers compensation risks that would continue to use the U.S. market for reinsurance.

"Together with our workers compensation group

insurance plan, the liability and hull program will demonstrate to domestic underwriters that we represent a viable market," says Lance Wells, executive director of the association, which represents 75 of the state's 200 commercial air carriers.

Although loss experience in Alaska in the 1970s was higher than in other states, the association says the air carriers' loss record over the last couple of years is much better, but rates keep going up.

"Our biggest problem is the reputation that Alaska aviation has—all those stories told by grizzled bush pilots; the romance works against us."

It takes information to defeat a stereotype, but the carriers' association doesn't have the data, says Mr. Wells.

He says the London underwriters have a credible body of experience but "they won't let us have it."

"We cannot subject ourselves to the whims of the London market," Mr. Wells says. "London is the villain in Alaskan aviation right now."

The association's plan is to tempt U.S. insurers

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Photo: Daniel Brigham

Alaskan air carriers are looking for ways to cut insurance costs.

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for the Northern District of California where it lost its case against Kaiser's argument that it was entitled to tax deductions for its self-funded workers compensation loss reserves (BI, Oct. 11).

It is expected to take 90 to 120 days before the government files its brief with the 9th U.S. Circuit Court of Appeals.

Spies to receive pensions

WASHINGTON—Spies may have to operate under cloak and dagger and have to deny that they work for the federal government, but they still are entitled to retirement benefits.

Twenty-two people who were engaged in foreign intelligence work for the Navy Department between 1968 and 1976 were denied retirement benefits by the Office of Personnel Management, which said they had been hired as "independent contractors" to maintain secret identities. But the federal Merit Systems Protection Board ruled last week that the operatives were "appointed" by federal officials and entitled to Civil Service benefits.

Insurers try high court again

WASHINGTON—The U.S. Supreme Court is being asked for the fourth time to decide how insurance coverage for defendants in asbestos litigation should be determined.

This time the petitioner is a group of London excess insurers who are parties in the Eagle-Picher Industries Inc. vs. Liberty Mutual Insurance Co. case in which the 1st Circuit Court of Appeals said coverage for defendants is triggered when asbestos disease is manifested in the victim. The petitioners want coverage triggered upon a victim's exposure to asbestos.

The insurers believe that conflicts among judicial circuits and recent bankruptcies of companies facing asbestos litigation will help persuade the court to review this case.

The insurers, known as the Froude defendants, include Turegum Insurance Co. Ltd., Excess Insurance Co., and Philip Alan Froude, a Lloyd's of London underwriter.

Asbestos suits can proceed

LOS ANGELES—A Los Angeles Superior Court judge last week ordered that approximately 3,000 lawsuits brought by victims of asbestos-related diseases be allowed to proceed.

The cases had been halted as the court considered whether litigation against all asbestos defendants should be permanently stayed in the wake of the reorganization petition filed by Denver-based Manville Corp., a major asbestos defendant.

A stay remains in effect, however, for litigation against Manville and two other defendants who have filed for bankruptcy, UNR Industries Inc. of Chicago and Amatec Corp. of Radnor, Pa.

Cayman Re settles with SEC

NEW YORK—Cayman Islands Reinsurance Corp. and two of its top officers settled out of court Nov. 30 with the Securities and Exchange Commission, which charged they had misrepresented to stockholders how proceeds of an underwriting issue would be used.

The Cayman Islands-based reinsurer consented to a permanent injunction against future violations of securities laws concerning the sale or purchase of stock and to set up investment guidelines.

Cayman Islands Re President Paul V. Miller consented to entry of the permanent injunction and Chairman William A. Thompson consented to an order that directs him personally and as an officer of the company to abide by federal securities laws. The company and its two officers, however, did not admit or deny the allegations. An SEC complaint against three other defendants named in the original Feb. 25 complaint will proceed to trial later this month.

Lloyd's to pay more Itel losses

SAN FRANCISCO—A tentative agreement to settle shareholder suits against Itel Corp. will send more losses related to the financially troubled company to Lloyd's of London underwriters.

Lloyd's underwriters of directors and officers liability insurance for the former computer leasing giant will pay \$12 million next April as part of a tentative \$40 million agreement.

Underwriters of computer leasing risks at Lloyd's already are paying \$300 million to settle those claims filed by Itel.

Also contributing to the settlement with shareholders will be Itel's former auditors, Peat, Marwick & Mitchell (\$12 million to \$13 million) and two Wall Street brokers who underwrote Itel stock offerings (about \$9 million). Itel will pay another \$5.4 million.

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Posgate syndicates bought reinsurance through POSA

By STACY SHAPIRO

LONDON—Lloyd's of London syndicates formerly managed by Ian R. Posgate, former underwriting chief of Alexander Howden Group P.L.C., apparently purchased reinsurance through a now-defunct Panamanian intermediary currently under investigation in the United States.

Adas Reinsurance of Romania, one of the fronting companies for reinsurance intermediary Promotora De Occidente de Panama S.A. (POSA), has named the "I.R. Posgate Syndicates" as one of POSA's ceding companies, according to papers filed by Adas in a court in Bucharest, Romania. The papers seek to void the binding authority agreement given to POSA by Adas in January 1976, along with any reinsurance contracts based on that agreement.

It is not directly clear according to the court papers if the "Posgate Syndicates" include syndicates managed by Mr. Posgate for Howden or syndicates managed by Posgate & Denby Agencies Ltd., a separate Lloyd's underwriter agency in which Mr. Posgate has an interest.

In turn, Lloyd's Syndicates 126 through 129—syndicates formerly managed by Mr. Posgate for Alexander Howden (Underwriting) Ltd.—are suing Adas and another POSA fronting company, Seguros La Republica S.A. of Mexico, in a London court for failing to pay losses totaling almost \$1 million.

Questions about POSA's ability to pay claims have been posed by the U.S. attorney's office in New York City and the New York Insurance Department, both of which are investigating the intermediary (BI, Aug. 30).

POSA, which stopped doing business in 1980, served as a managing general agent for five foreign reinsurance companies, including Adas and Seguros La Republica, which were fronting for pools of Eastern European, South American and African reinsurers.

Although the Lloyd's syndicates formerly managed by Mr. Posgate are the only ones mentioned in the Romanian court papers filed by Adas, they may not be the only Lloyd's syndicates that are still waiting for POSA reinsurers to pay claims.

It is possible that a few Lloyd's underwriters used POSA when it first began operations in the early 1970s,

said a leading Lloyd's underwriter. Underwriters who offered reinsurance from Adas and Seguros La Republica by POSA through Lloyd's brokers, but the broker later canceled any agreements that were made after learning more about POSA, the underwriter said.

Several other London companies have been faced with the same problem that Mr. Posgate's former syndicates now face, says Stephen Mitchell of the law firm of Elborne, Mitchell, who is representing the syndicates in their lawsuit against POSA's fronting reinsurers.

"I have been instructed by other people with the same problem," he said, although he would not name the others. "Mr. Posgate probably did not know when the reinsurance intermediary was."

Mr. Posgate used a Lloyd's broker—Golding, Colli Ltd.—to place the reinsurance contracts, Mr. Mitchell said. When Mr. Posgate saw the contract, the reinsurer was listed as Adas, "which is a very respectable company," said Mr. Mitchell. There was no mention of POSA on the contracts.

The revelation that Mr. Posgate purchased reinsurance through POSA was first reported in *Business Insurance*.

Does your salary stack up?

Are you a risk manager employed by an industrial company or financial institution? Do you wonder how your salary stacks up against other risk managers' salaries?

You can find out in March when *Business Insurance* publishes the results of a salary survey conducted by New York-based recruiters Logic Associates Inc. Already, 2,400 questionnaires have been mailed to top risk managers in industry and finance.

If you received a survey, be sure to complete it and return it to Logic Associates by Dec. 22. If you did not receive a salary survey and you are a risk manager employed by an industrial company or financial institution, contact Logic Associates and request a survey. Write to Richard Meyers or Bill Perry, Logic Associates Inc., Room 1708, 170 Broadway, New York, N.Y. 10038.

Lloyd's names ask syndicates for more detailed information

By STACY SHAPIRO

LONDON—Some Lloyd's of London members are demanding more information about their syndicates.

In the aftermath of the recent scandals that have rocked the marketplace (see story, page 6), a group of Lloyd's names, called the Assn. of Members of Lloyd's, says it wants to know about any interests their syndicates' officers, staff and shareholders have in other insurance-related businesses. And it wants to know if their syndicates have done business with these companies.

But the members are asking for other information, specifically, more details about the financial results of their syndicates.

For example, they want to know the amount of gross premiums and the amount of claims filed before reinsurance is taken into account. And, they want more information about the reinsurance agreements syndi-

cates make to be able to tell if there are any excess reinsurance arrangements.

In addition, they want "pure" financial information for each underwriting year.

Currently, syndicates estimate the amount of non-reported losses at the end of an underwriting year as a claim and carry that amount over to the next year as a reinsurance premium. That procedure, called "reinsurance to close," can roll claims over from year to year, and members say it is hard to determine the year in which losses are incurred.

They suggest that non-reported losses be treated as a separate account each year, so the true amount of the claims can be determined.

The association has made its recommendations to the Lloyd's working party currently studying revisions of the market's auditing procedures, which is headed by Ian Hay Davidson, a senior partner at Arthur Andersen.

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Trial to determine defense cost payment

OAKLAND, Calif.—Kaiser Cement Corp. and its primary and excess insurers are scheduled to go to trial today to determine who will pay several million dollars in defense and adjustment costs stem-

ming from claims valued at more than \$60 million against Kaiser.

Primary insurer Truck Insurance Exchange of Los Angeles, the plaintiff in the case, contends that it should not have to pay defense and adjustment costs after its policy limits are exhausted.

Kaiser has a \$500,000 per-occurrence primary policy with Truck Insurance Exchange and \$100 million in umbrella and excess insurance with seven defendants.

The excess insurers have contributed to claims payments but, for various reasons, have refused to pay defense and adjustment costs. Truck has assumed defense costs for Kaiser for the approximately 150 claims, almost all of which have been settled.

The claims against Kaiser stem from its sale in 1980 of limestone

rock that inadvertently contained kiln brick. The substance was subsequently used in the production of concrete that was used in approximately 130 construction projects. "Pop-outs," or surface blemishes on the projects, resulted.

Named as defendants are Kaiser; Transcontinental Insurance Co. of New York, a subsidiary of CNA Financial Corp.; Northbrook Excess & Surplus Insurance Co. of Northbrook, Ill.; Lexington Insurance Co. of Wilmington, Del., a subsidiary of American International Group Inc.; American Excess Insurance Co. of Wilmington, Del.; Allianz Underwriters Inc. of Los Angeles; Pine Top Insurance Co. of Phoenix, Ariz.; and Fireman's Fund Insurance Cos. of San Francisco.

The bench trial will be held in Alameda County Superior Court. ■

errors & omissions

• Wang Laboratories Inc. is based in Lowell, Mass., not Chelmsford, Mass., as was stated in the Nov. 8 issue. The article also incorrectly identified Wang's corporate risk manager, Barry Rudkin.

Fire on land, turbulence at sea

Some Hawaiian water damage not insured

By RHONDA L. RUNDLE
and BETSY SHARKEY

HONOLULU—Hawaiian businesses and homeowners whose property was destroyed by Hurricane Iwa may not have insurance coverage for windswept sea and water damage.

Gusts of up to 110 mph shattered windows and tore off roofs, but the worst property damage was caused by powerful waves that rolled through resort hotels, condominiums and other waterfront properties on the Hawaiian islands of Oahu, Kauai and Niihau.

Only those policyholders with all-risk property insurance, a difference-in-conditions policy or National Flood Insurance Program policies are covered for the extensive damage caused by the 12-foot waves.

Preliminary damage estimates range from \$150 million to \$300 million, including up to \$120 million in commercial property losses. Seventy-five businesses on Kauai and 30 on Oahu were destroyed or sustained major damage, according to an

American Red Cross survey. The island of Niihau is privately owned.

Closed roads on the hard-hit island of Kauai, combined with the loss of most telephone communications there, hampered loss assessment by property owners and insurance company adjusters. Most initial reports of damage were based on aerial observation.

Several hotels on Oahu's famed Waikiki Beach sustained damage, although none was forced to close. Windows were blown out and roofs were lifted off buildings on the south shore of the island, where many condominiums and at least one resort hotel are located.

Insured commercial and personal property losses from the Nov. 23 hurricane were estimated at \$94 million by the American Insurance Assn. The American Red Cross reported that only 30% of the single-family homes were insured, but it had no commercial coverage figures.

Preliminary and very rough estimates of commercial and personal property losses were re-

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Photo: Wide World

Honolulu officials clear trees that were toppled by Hurricane Iwa.

Bank's disaster plan pays off after blaze

By BILL DENSMORE

MINNEAPOLIS—Northwestern Bancorp. employees went back to work last Monday in temporary office space after a Thanksgiving Day fire gutted at least half of the upper 14 stories of the 1930s-era Northwestern National Bank building.

"They had a disaster plan that allowed them to be better than the phoenix bird to rise out of the ashes," said Robert P. Provost, president of the Minnesota Insurance Information Center.

A blanket replacement value property insurance policy with an extra-expense endorsement with St. Paul Fire & Marine Insurance Co. also will cover the bank's losses, which could reach \$60 million. The policy, with undisclosed scheduled values, was purchased by the bank's holding company, Northwestern Bancorp.

Other parties, however, may be involved in the final payment of losses from the fire, depending upon the determination of the cause of the fire.

The 18-story Northwestern National Bank building, in the heart of the Minneapolis shopping district, is across the street from the city's famed Nicollet Mall system of enclosed walkways. The delayed openings of mall stores the day after the fire, traditionally the first day of the Christmas shopping season, may create some business interruption claims from store owners.

The fire, believed to be the largest office building fire in U.S. history, was limited by a fire wall to parts of the upper 14 floors of the bank building.

A detailed disaster plan, just completed a few months ago, helped the bank open all of its branches

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Photo: Wide World

Firefighters battle the Northwestern Bancorp. blaze.



Photo: Wide World

Several railroad cars fell from this barge into San Francisco Bay.

Bourbon and water don't mix

By BETSY SHARKEY

SAN FRANCISCO—Bourbon and water on the rocks?

That's a mixture that may cost Atchison, Topeka & Santa Fe Railway Co. more than \$500,000 under its self-insured retention if divers can't locate a 20,000-gallon tank car filled with Kessler American Blended Whiskey that is resting somewhere on the rocky bottom of San Francisco Bay.

A storm crossing the path of Hurricane Iwa hit the bay eight days ago, where a Sante Fe barge was being towed. It dumped the tank car and three boxcars off the barge. The boxcars floated, but the bourbon-filled tank car sank.

"A very, very rough guess at this point is that this is maybe a half-million-dollar exposure if we don't get the tank car back," said Jack Cornelius, director of risk management for the Chicago-based railroad.

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NAIC takes action on controversial issues

Pooling bill could cause chaos: Schwartz

By EILEEN NORRIS

DALLAS—Multistate manufacturers that want to pool their product liability risks should group now in states that broadly define product liability to escape possible restrictions under new state laws.

A National Assn. of Insurance Commissioners task force last week, as expected, passed a model product liability risk retention act that will allow states to impose their own definitions of product liability on risk retention groups (BI, Nov. 29).

The commissioners acted over the objections of Victor Schwartz, a Washington attorney who helped draft the federal Risk Retention Act of 1981. He predicted chaos for manufacturers that could be left uninsured in one state if the state in which their risk retention group is chartered has a different definition of product liability.

During a three-hour meeting at the NAIC winter conference, Mr. Schwartz pleaded with the task force considering the proposed model act "not to leave manufacturers out in the rain by adopting a model bill that clashes

with the federal act."

The NAIC task force agreed to some minor amendments in its proposal, but the group declined to part with the provision that recognizes individual state definitions of product liability for determining coverage provided by risk retention groups.

"My recommendation to manufacturers that want to form risk retention groups would be to form now before the NAIC's model law gets adopted by any state legislature," Mr. Schwartz said.

"It's important to remember that nothing has legally been changed here today," he said. "The NAIC model bill must still be adopted by a state."

"It's possible that risk retention groups will now seek to be domiciled in jurisdictions that have broad product liability laws, such as Vermont, or Bermuda and the Cayman Islands," he added.

Mr. Schwartz predicted that if the NAIC model law is adopted by a state, litigation will ensue at both the state and federal levels, and the federal act ultimately will prevail.

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Mr. Schwartz

Panel compromises on open rating act

By EILEEN NORRIS

DALLAS—With the help of one last-minute compromise amendment, a model competitive rating act for workers compensation was sent on its way for approval by the National Assn. of Insurance Commissioners.

All but three of 10 insurer and trade groups at a task force session on the bill testified in support of it at the NAIC annual winter meeting last week. The Alliance of American Insurers and the American Insurance Assn. opposed the bill and the National Council on Compensation Insurance remained neutral.

As a concession to the opposition, task force Chairman J. Michael Low of Arizona pushed an amendment that mandates insurers use a uniform experience rating plan.

An earlier version of the draft would have allowed insurers to develop their own experience rating plan, use another insurer's or use a rating organization's version.

An experience rating plan allows workers compensation insurers to reward or punish policyholders for good or bad loss experience by applying credits or debits to rates.

Allowing each insurer to set up its own experience rating plan could defeat the intent

of competitive rating. Consumers would not be able to compare the manual rates filed by insurers if they all used different experience rating plans to determine the ultimate premium.

Also, it would be hard for agents, insurers and buyers to determine true workers compensation costs if reliable data bases cannot be built.

Under the model bill, which individual states could adopt, workers compensation insurers would be prohibited from agreeing on rates as currently is allowed under the administered pricing system used in all but eight states.

However, they would be allowed to cooperate to develop and maintain a uniform classification and statistical plan.

Testifying in favor of the model competitive rating bill were representatives from three major workers compensation insurers: Aetna Life & Casualty Co., The Travelers Corp. and The Argonaut Insurance Co.

The National Assn. of Independent Insurers, the National Assn. of Professional Insurance Agents, the Independent Insurance Agents of America and the Risk & Insurance

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Multiemployer ruling pleases employers

Continued from page 1

these statutorily mandated payments pending the outcome of the district court proceedings," the appeals court said.

Harry Dower, an attorney with Dower & Dunn, an Allentown, Pa., law firm that represents the Central Pennsylvania Teamsters Fund, said the plan wants Republic to begin paying monthly withdrawal liability installments as soon as possible.

So far, Republic has not made any payments to the plan, which has about 700 employer members, 48,000 participants and unfunded vested benefits of about \$200 million, an amount that is steadily decreasing, Mr. Dower said.

Instead of making withdrawal liability payments, Republic posted a \$200,000 bond while its appeal was

pending.

"This may be a case where employers may have won a battle, but lost the war," said Frank Cummings, a multiemployer pension law expert with Nossaman, Krueger & Knox in Washington, D.C.

Getting an appellate court to agree that constitutional issues can be brought before a court before other remedies are tapped isn't much of a victory if an employer is bled dry making monthly withdrawal liability payments while its case is being heard in court, Mr. Cummings said.

"You can pursue a constitutional challenge, but you are going to have to pay for it," added Baruch Fellner, associate general counsel for the Pension Benefit Guaranty Corp., the federal agency that guar-

antees workers' and retirees' pension benefits.

Republic's attorney, however, is pleased with the appellate court decision.

"We consider it a great victory because it means we don't have to go through arbitration before challenging the constitutionality of the act in courts," said Lester Bridgeman, Republic's Washington counsel.

This ruling only applies in the 3rd Circuit, which includes Pennsylvania, Delaware, New Jersey and the U.S. Virgin Islands. Other federal appellate courts may rule differently, which could lead to a Supreme Court ruling.

The total withdrawal liability claim Republic is fighting in this case is \$848,494, levied against its now-defunct subsidiary Johnson

Motor Lines Inc. of Charlotte, N.C., by the Central Pennsylvania Teamsters Pension Fund, a 27-year-old multiemployer plan in Wyomissing, Pa.

Johnson also faces withdrawal liability claims from three other multiemployer pension plans from which it withdrew after it went out of business during the summer of 1980. It also is challenging those claims in federal court.

One of those claims includes a \$16.9 million withdrawal liability bill from the Central States, Southeast & Southwest Areas Teamsters pension fund. That claim alone is worth more than double Republic's net worth (BI, July 20, 1981).

A federal judge in Chicago has issued a series of temporary injunctions barring the Central States plan from collecting withdrawal li-

ability payments from Republic while the case is being heard.

All the claims arise from Multiemployer Amendments which requires employers leave multiemployer plans to pay a share of the plan's unfunded vested benefits. Because employer contributions haven't always matched benefits promised to workers, liabilities are enormous. This results in huge withdrawal liability claims.

Republic filed suit in January in U.S. District Court in Reading, Pa., challenging the constitutionality of the Multiemployer Amendments Act after the Central Pennsylvania Teamsters Pension Fund sent Republic a \$848,494 withdrawal liability claim, payable in 110 monthly installments of about \$10,500.

Republic argued before U.S. District Court Judge E. Mac Troutman that the Multiemployer Amendments Act is unconstitutional. Among its arguments is that the act allows arbitrators, not juries, to settle disputes.

Judge Troutman rejected that argument, noting that on several occasions Congress has required judicial non-judicial remedies to disputes. For example, disputes between employers and the Occupational Safety and Health Administration are ironed out by a special independent commission.

Judge Troutman also said the multiemployer law allows employers to appeal an arbitrator's decision to the courts (BI, April 5).

In dismissing Republic's complaint, Judge Troutman had said that the former trucking company wasn't entitled to challenge the constitutionality of the Multiemployer Amendments Act until it had first exhausted all administrative remedies available under the act.

Those remedies include having arbitrators decide whether Republic's withdrawal liability bill from the Pennsylvania multiemployer plan was correctly calculated.

Employers get withholding delay

WASHINGTON—Employers can get more time, if they need it, before they have to begin withholding taxes from retirees' pension benefits, the Internal Revenue Service says.

As mandated by the Tax Equity and Fiscal Responsibility Act of 1982, employers must ask retirees if they want taxes withheld from their pension benefits beginning next year (BI, Aug. 23).

But the IRS now says employers who face certain "undue hardships" can delay withholding until April 1 without prior IRS approval if they face problems, including if:

- An employer has difficulty in obtaining funds to develop new forms, to mail notices, to process responses, to develop computer programs or to train personnel to implement withholding.

- An employer has difficulty hiring trained professionals whose skills are needed to implement a withholding program.

- Its pension plan was altered due to a collective bargaining agreement concluded between Oct. 1, 1982, and April 1, 1983.

- An employer receives a substantial number of inquiries from retirees who do not understand the rules and can't respond to retirees' questions by Jan. 1.

- The employer can't implement withholding because of an event beyond his control, such as a flood, fire, earthquake or strike.

An employer can seek a further delay in withholding to July 1, 1983, but must apply for formal approval from the IRS.

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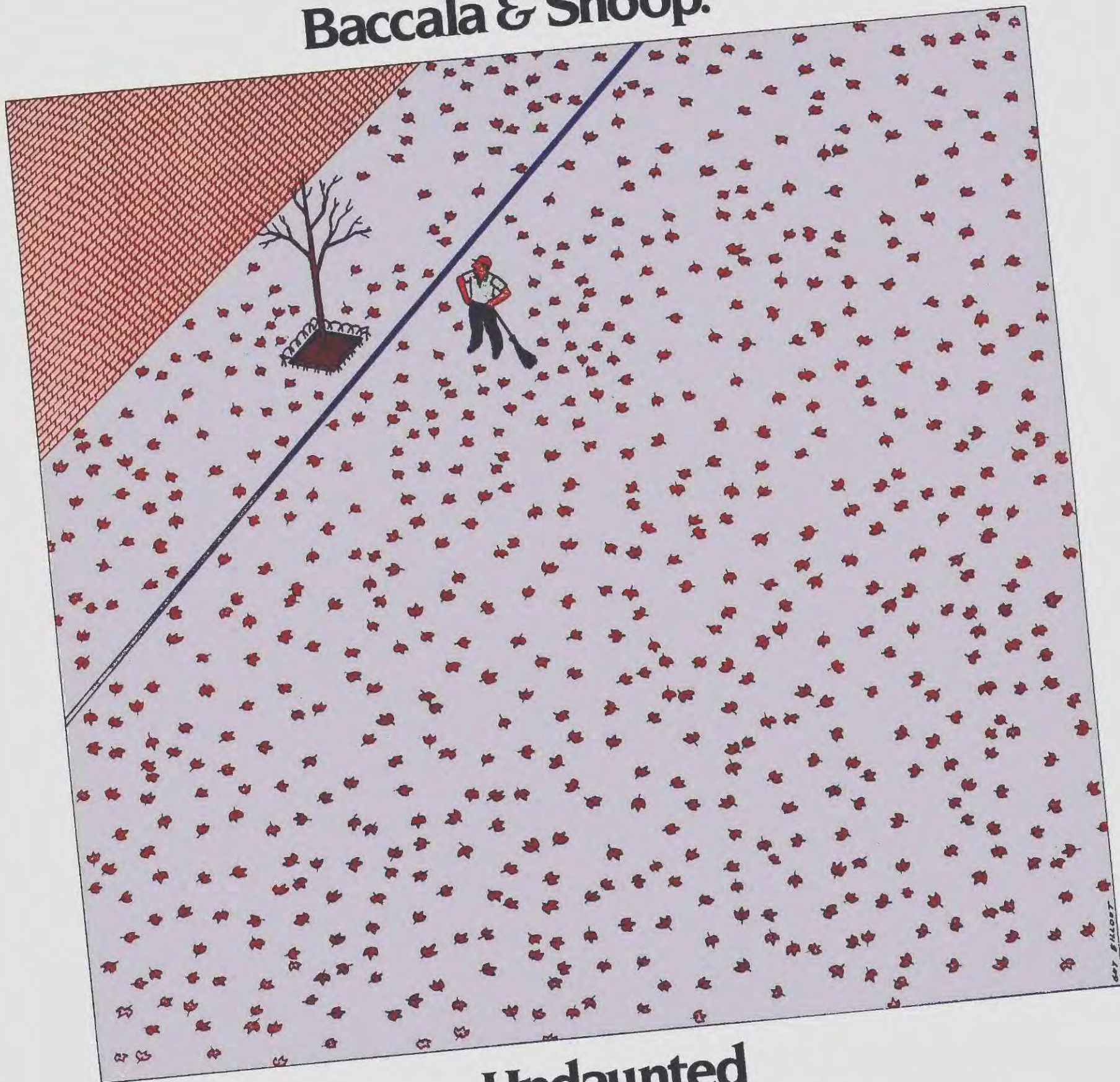
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Lloyd's regulatory abilities questioned

By STACY SHAPIRO

LONDON—Lloyd's of London's much-ballyhooed self-regulation is coming under attack.

Some members of Parliament want the British Department of Trade to rescind the Lloyd's Act of 1982, the self-regulation legislation approved earlier this year, before the law takes effect next month. The politicians say that Lloyd's should be regulated by the department and suggest that an inspector be placed in the market to detect unethical activity.

The governor of the Bank of England has also suggested to Sir Peter Green, Lloyd's chairman, that an independent chief executive—who is not a working member of Lloyd's—be appointed.

"We are taking all suggestions

london line

into consideration," Sir Peter told *Business Insurance*.

Sir Peter says he has met with the governor of the Bank of England and the government's trade secretary to discuss the troubles at Lloyd's. The committee is also in close contact with investigators from the Department of Trade and the City of London Police Fraud Squad, who are looking into the recent scandals at Lloyd's.

Despite the discussions, it's clear that Lloyd's does not wish to give up the self-regulatory powers that it has fought so hard to get.

"Our systems of self-regulation are under attack," Sir Peter said.

"Let us discuss them amongst ourselves, identify our weaknesses and see how we can improve our powers to control our destiny through our own efforts."

"Of course," he continued, "no amount of regulation, whether statutory or self-imposed, will stop wrongdoing by those determined to break the code by which the vast majority of us conduct our affairs."

The questions of whether Lloyd's can keep its own house in order comes at one of the worst moments in the market's history.

So far, the resignations of the chairmen of two of the largest Lloyd's brokers, Alexander Howden Group P.L.C. and Minet Hold-

ings P.L.C., have triggered allegations that they secretly owned shares in offshore reinsurance companies that did business with the brokers' underwriting syndicates.

Four other Howden directors are also alleged to have had personal interests in offshore companies to which the brokerage claims they filtered money.

Now, Lloyd's' so-called "baby syndicates" are coming under scrutiny, too. Lloyd's smallest syndicates usually receive good business—with few losses—while the bigger syndicates seem to receive the higher-loss, low-premium risks. Sources say that the baby syndicates may be controlled by Lloyd's names who are also directors of Lloyd's companies and would benefit by their profits.

"There is nothing surreptitious about baby syndicates," said Peter. "Whether baby syndicate continues is up to the Council (Lloyd's) to decide."

Despite Sir Peter's disclaimer, the unrest in the Lloyd's market continues. For example, sources that it may have been a marketing practice at one time for directors to own offshore companies for their own profit. They point out that Peter at one time owned 3% of Imperial Insurance Co. (Cayman Islands) Ltd., a Lloyd's spokesman confirmed. He sold his shares before he became chairman in 1980.

Imperial is 25% owned by Hogg Robinson Group P.L.C., of which Sir Peter is a director. Hogg Robinson's board, however, was aware of his interest in Imperial, unlike the allegations of secret ownership in the Howden and Minet affairs, said John Hogg, deputy chairman of Hogg Robinson.

What has happened at Howden and Minet "could hardly have occurred at a worse time," Sir Peter said last week. "Until Jan. 5, 1982, when the new Lloyd's Council assumes its powers, we are virtually in a state of limbo between the old Lloyd's and the new," he said.

Until Jan. 5, the market is operating under the Lloyd's Act of 1871, he explains, which does not give Lloyd's officials as many disciplinary or regulatory powers as the new act will.

The informal codes of conduct and practice with which Lloyd's has operated for the past 111 years had served the market "supremely well" in the past, Sir Peter said, but it became clear during the past decade that those codes were being abused.

"Discipline was becoming a particular headache," he said.

"In consequence, a situation which is potentially damaging to the worldwide reputation of Lloyd's and of London insurance generally is having to be dealt with (until Jan. 5) by a system which was recognized as being totally deficient but cannot yet be discarded."

If the new Lloyd's Act is given a chance to work—and the Department of Trade has said it will not assume regulation of the market immediately—Lloyd's will prove it can indeed regulate itself, Sir Peter said.

Already, 27 task forces have been established to overhaul Lloyd's rules and regulations. Lloyd's has also revamped its regulations for next year's audit of Lloyd's syndicates and member companies.

Lloyd's audit committee has announced that managing underwriting agents, directors, partners and employees will be required next year to disclose "any direct or indirect interests they may have in the reinsurers, retrocessionaires or intermediaries involved with their syndicates' reinsurances."

Despite all its problems, Sir Peter emphasizes that Lloyd's remains one of the most secure insurance markets in the world, adding that not one policyholder has been affected by any of the recent scandals.

Lloyd's is also facing a problem on another front, Sir Peter said. Lloyd's now estimates that its new headquarters building, currently under construction, will cost about 157 million pounds (\$252.7 million), compared with the original estimate of about 75 million pounds (\$120.8 million).

However, Sir Peter did release a bit of good news for the market. Lloyd's expects membership to increase next year by 8% to about 21,500 members, he said.

MCAUTO ENTRY

COMPUTER SERVICES NEWS

Automated group claims reporting boosts productivity, attracts clients.

Gallagher Bassett: MCAUTO system provides a competitive edge.

The Gallagher Bassett Insurance Services, Division of Arthur J. Gallagher & Co., a national administrator of self-insurance plans, found that the MCAUTO group claims reporting system (GCRS) does more than decrease paperwork; it's responsible for attracting as many as four new clients in a single month.

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Robert Strom, Vice-President of field operations, Gallagher Bassett Insurance Services.

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MCAUTO also offers a group claims process system (GCPS) that puts large insurance companies in direct contact with their own or MCAUTO computers. GCPS instantly verifies claimant eligibility and pro-

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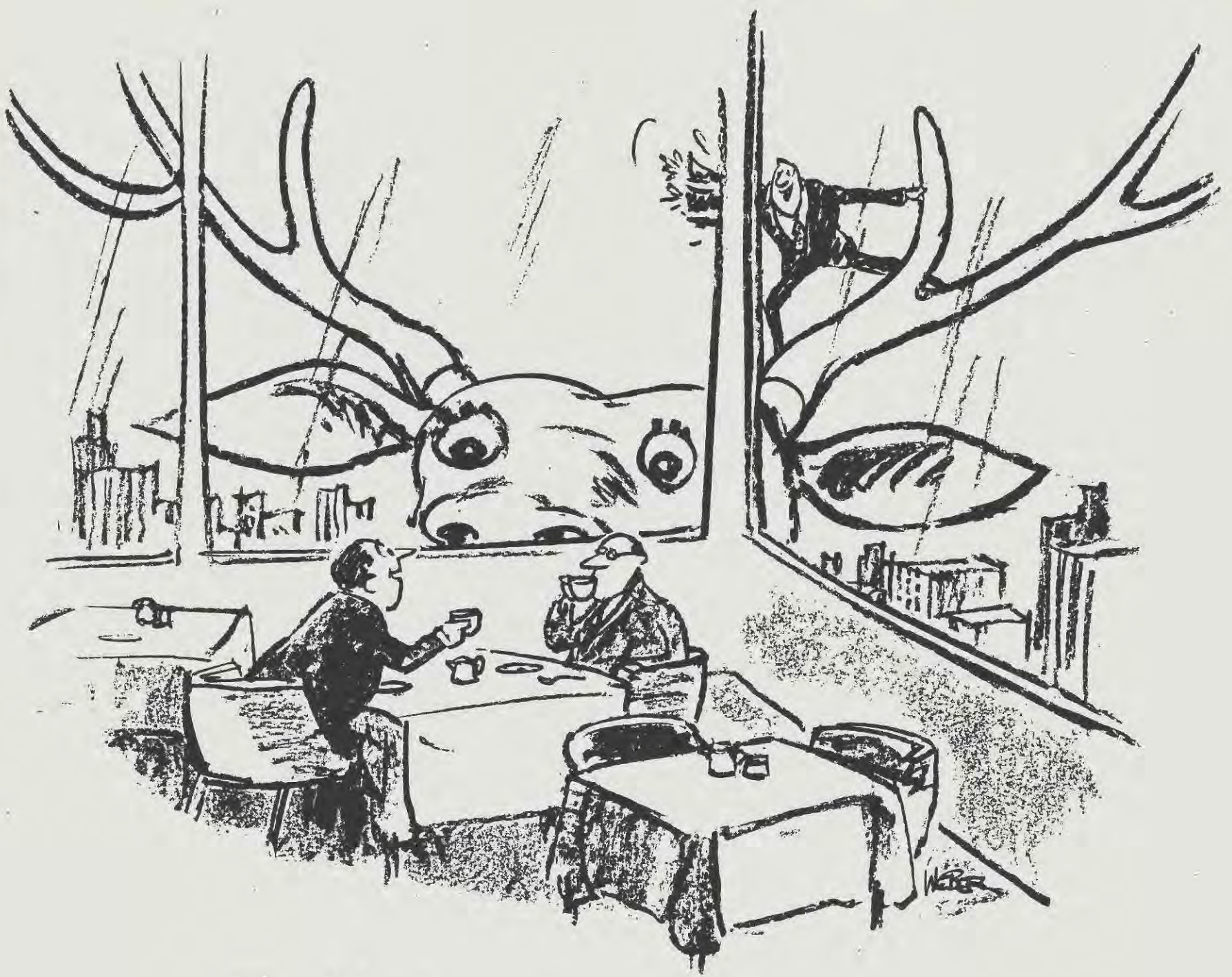
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editorial opinions

Be prepared for the worst

HURRICANES, WAVES and fires that batter and burn valuable property also test the strength of risk managers and their risk management programs.

Any missing step in the risk management process of risk identification, risk assessment, loss prevention and control and risk financing can render a risk management program as useless as the rubble created when disaster strikes.

These truths are dramatically portrayed in our reports this week on large property losses. You will find risk management programs that held up against the losses created by these disasters. You also will find some that did not.

Northwestern Bancorp.'s risk management program stood the test of what may be the worst office building fire in U.S. history. While the damage to the Northwestern National Bank building in Minneapolis may reach \$60 million, it could have been a lot worse.

A fire wall contained the damage to the upper 14 floors of the 18-story building. A recently adopted disaster plan put the bank's employees back to work the Monday after the fire in temporary office space, containing business interruption losses. Locating the com-

puter center in another building a few blocks away saved that vital facility from blistering flames. A blanket replacement cost insurance policy with an extra-expense endorsement will cover the bank's losses.

Unfortunately, some businesses in Hawaii may not have adequately assessed their risks to determine the insurance protection they needed. Those businesses without either an all-risk property insurance policy or a difference-in-conditions insurance policy may not be covered for losses caused by wave damage accompanying Hurricane Iwa. The limits offered under the National Flood Insurance Program would be too low for most businesses.

Those without adequate coverage failed to properly assess the risk of hurricane-induced losses that are caused by not just wind but also by wave action.

Anyone who sails will tell you, "Never underestimate the force or unpredictability of the sea."

Those who live by the sea day in and day out can be lulled into complacency by its quieter moments when warm waves lap the sandy beaches. It's up to risk management professionals to be standing watch, ever-ready to handle the worst.

letters

Searching for bankers bonds

To the editor: You are to be congratulated on John W. Twitchett's Perspective article entitled "Is it ever a good time for bankers bond bids?" (BI, Oct. 18).

As a leading underwriter of this line of coverage, his advice should not go unheeded. The bankers blanket bond as a class of business is a difficult line of coverage to effectively market, as is its companion line of coverage, safe deposit liability.

To overlook the difficulties encountered with these coverages over the last decade could be a mistake. During this period, markets have developed and disappeared almost overnight in reaction to filed claims. Few have had the required staying power to weather the storm and ride out the proverbial cycle.

Continuity between insured and underwriter over the long haul benefits both unless, of course, mutual confidence has eroded to the point of no return. Aesop's dog would have done well to heed the advice offered by this Perspective article before reacting to the illusion of the "bigger bone" to his obvious long-term detriment.

John Robert James

Vp
Risk and Insurance
Management Department
ChemicalBank
New York

Funniest quote

To the editor: The funniest thing I have seen in your paper in months is the quote you attribute in the Nov. 8 issue to President Charles A. O'Malley of Fred S. James & Co. Inc.: "We'll be operating autonomously."

T.D. Holladay Jr.

Tucker, Johnston & Smelzer Inc.
Pittsburgh

High-tech health

To the editor: Your article "High-tech companies creating new and complicated exposures" (BI, Nov. 8) said, "Workers compensation, usually a risk manager's toughest job, is not a dramatic problem for the high-tech companies."

It is true that high-tech processing

techniques have eliminated safety problems associated with high-risk equipment, but these same processing techniques have introduced new problems of occupational disease. Worker health and safety is probably the most dramatic and complex issue facing risk managers in some high-tech environments.

The semiconductor industry, once known as the "clean industry," now must address the risks to both worker health and environmental pollution created by chemicals like arsenic, diborane and gallium arsenate.

As specialists in occupational medicine and environmental health, we have helped high-tech firms conduct health-hazard reviews and establish programs to reduce the risk of exposure to toxic substances.

These preventive programs are inexpensive, reduce the risk of costly disasters and create good will with employees. Unfortunately, however, many high-tech companies are not implementing occupational health programs until an employee submits a large workers compensation claim and/or sues the company.

Lisa H. Smith

Carnow, Conibear & Associates Ltd.
Chicago

The real broker

The story, "Network is betting on smooth sailing," in the Oct. 25 issue erroneously identified CBS Inc.'s insurance broker as Scott Milne of Albert G. Ruben & Co. Inc.

I am the exclusive marketing agent of Fireman's Fund and we are most pleased that CBS and its real broker, Reed Stenhouse Inc. of New York, have favored us with the account.

C. Scott Milne

President
Albert G. Ruben & Co. Inc.
Beverly Hills, Calif.

■ CBS did not mention Reed Stenhouse during interviews with Business Insurance.

A Mexican first

To the editor: In your Nov. 22 issue, you quote Ricardo Rojas, risk manager at Union Carbide Corp., as claiming to have been the first to have introduced the concept of risk management to Mexico in 1975.

We respectfully disagree with Mr. Rojas. First Risk Management Co. and

First Risk Management (P.R.) Inc. have been providing professional risk management consulting services to both American firms operating abroad as well as overseas clients for almost 20 years. We have been providing those services to Latin American clients since 1964.

In 1965, we were engaged to set up—and did indeed set up—a complete risk management program for Volkswagen Interamericana S.A. in Mexico City, a firm then having operations in Mexico, Puerto Rico, Colombia and the Bahamas.

In September 1969, we even did a captive feasibility study for that firm (though the captive was never actually established).

We provide our services to a broad range of clients, ranging from mom-and-pop operations to very large multinational operations. Since Mr. Rojas, not knowing of our work 10 years earlier, felt that he brought risk management to Mexico, we felt that it was time to beat our own drum.

Leonard J. Silver

President
First Risk Management Co.
Feasterville, Pa.

How the EEC votes

To the editor: In your report on the 12th Annual Insurance and Risk Management Conference in West Berlin (BI, Nov. 22) you refer to the EEC's Draft Freedom of Services Directive saying: "The directive has been ratified by all EEC members except France and West Germany."

That's not true. The legislative procedures within the EEC do not proceed on the basis of ratification by each member. Ultimately, the directive will be agreed to unanimously and will then be brought into force. The EEC member states at present have reservations on a number of articles. While British insurers would welcome accelerated negotiations, either by a German political initiative or otherwise, there has to be agreement where all member states are obliged to comply.

T.W. Marriott

Legislative manager
Norwich Union Insurance Group
Norwich, England

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Basically, instead of telling you what you *are* insured for, it simply tells you what you *aren't* insured for. What that means is that, with a few exceptions, you can assume total coverage against any fortuitous property loss.

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And if you think you can get the same thing with one of those thrown-together "all-risk" packages, think some more.

For one thing, our new policy includes boiler and machinery. Unavailable in many package arrangements.

And something they'll never be able to offer. The ability to capitalize on the wealth of loss prevention talent that Arkwright-Boston has built its reputation on since day one.

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To learn more, contact your nearest Arkwright-Boston Insurance office: Atlanta, Boston, Chicago, Cleveland, Greenwich, Montreal, San Francisco and Toronto.

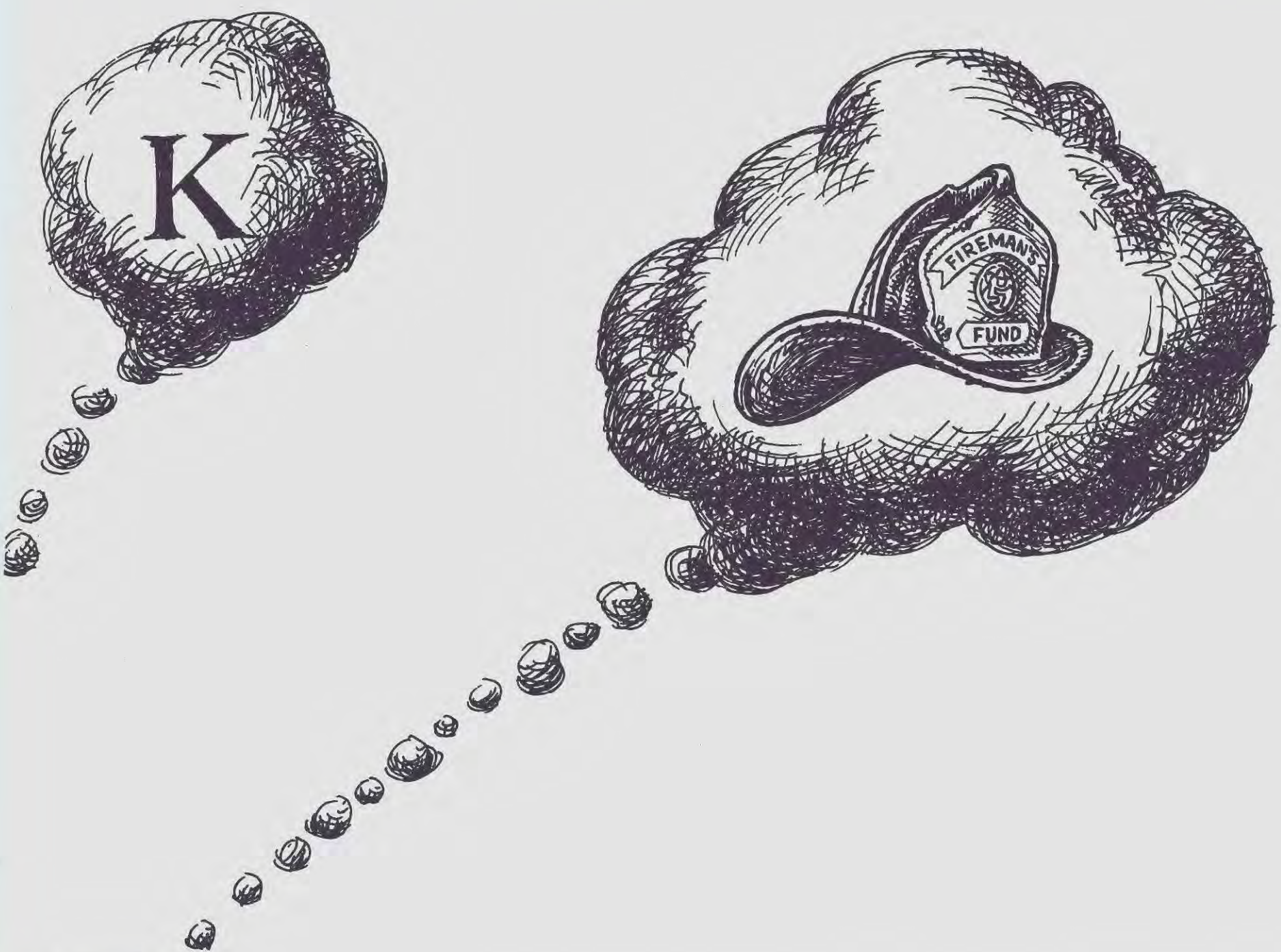




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There are two basic ways to think of an insurance company in today's risk management market.

The first way is as a source of insurance coverages combined with risk management services.

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The bigger your company is, the more

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We also offer the innovative risk management services demanded in today's market. These include financial analysis of coverage alternatives, cash flow programs, claims management, loss control, industrial hygiene and a computerized loss information management system that may well

be the most advanced of its kind.

We can provide these services both as a part of our overall coverages and directly to the self-insured.

And our national branch network brings these capabilities closer to where you need them. With fast and responsive local authority. While maintaining the benefits of a single, overall perspective.

So when you're considering your company's overall risk picture, keep us in mind. We're doing things to make risk management more manageable in the long run.



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Jardine forms company to manage U.S. holdings

markets

Hong Kong-based Jardine Matheson & Co. Ltd. has formed Jardine Matheson (North America) Ltd. as its regional headquarters in the United States.

The new company will have responsibility for the operation of Jardine's U.S. operations, including Jardine Insurance Brokers Inc., the nation's 12th-largest brokerage. Jardine acquired the brokerage, formerly called Bache Insurance Services Inc., earlier this year.

Jardine Matheson also owns Jardine Glanville Ltd., a major Lloyd's broker.

The new company will be headed by Robert C. Sutton, president and chief executive officer. Mr. Sutton, a director of the parent company, had been president of Theo. H. Davis & Co. Ltd. of Honolulu, a holding company for Jardine's Hawaiian interests.

Jardine Matheson (North America) Ltd.'s offices are at 1 Embarcadero Center, San Francisco, Calif. 94111; 415-391-4410.

Illinois exchange

The Illinois Insurance Exchange has approved Independence Intermediaries Inc. of Lake Success, N.Y., and Fred S. James & Co. of Illinois as broker members. There are now 31 broker members of the Illinois exchange.

New consultant

The Shively Group Inc. has been established in Florida to provide fee-for-service consulting advice

for employee benefits and executive compensation plans.

The new company was formed by James E. Shively, formerly a senior consultant with The Wyatt Co.

The Shively Group Inc. will maintain offices at 140 N. Orlando Ave., Winter Park, Fla. 32789.

A&A reorganization

Alexander & Alexander Inc. recently announced that it will reorganize its two geographical operating groups into three new groups.

The new Eastern, Southwestern and Northwestern group will replace the former North-Central and Southern-Western groups.

Michael K. White, currently regional director of A&A's Midwest region, has been named executive vp and group director of the North-western unit. He joins Richard M. Page and Bob J. Cline, executive vps and group directors of the Eastern and Southwestern groups, respectively.

Bank insurance

Bank Insurance Administrators, an independent agency, has been formed to fill the insurance needs of banks.

The new agency will offer a broad range of bank-related coverages, along with consulting services on changes in the industry that affect bank risks.

BIA is located at 735 North W. St., Milwaukee, Wis. 53203. Its president is Raymond L. Eilert.

Acquisitions

Alexander & Alexander Services Inc. has completed its acquisition of Clifton & Co., a major dependent broker headquarters in San Francisco.

Republic Hogg Robinson Pennsylvania Inc. has merged with The Wirkman Co., a general insurance agency based in Philadelphia.

Towers, Perrin, Forster Crosby will merge on Jan. 1 with Cresap, McCormick and Page, another management consulting firm, which will become a division of TPF&C.

Sherwood Insurance Service, a San Francisco-based excess/surplus lines brokerage, has acquired the book of business of Loveless & Co. of California, a subsidiary of Loveless & Co. of Atlanta.

New offices

Bahamas Underwriters Services Ltd. and New Providence Assurance Co. Ltd. have closed their Nassau offices. Correspondence should be sent to Charter Oil (Bahamas) Ltd., International Building, P.O. Box F 2521, Freeport, Grand Bahama, Bahamas.

"You must learn to sense what's beneath the surface."

John Harris, speaking about Structured Settlements™



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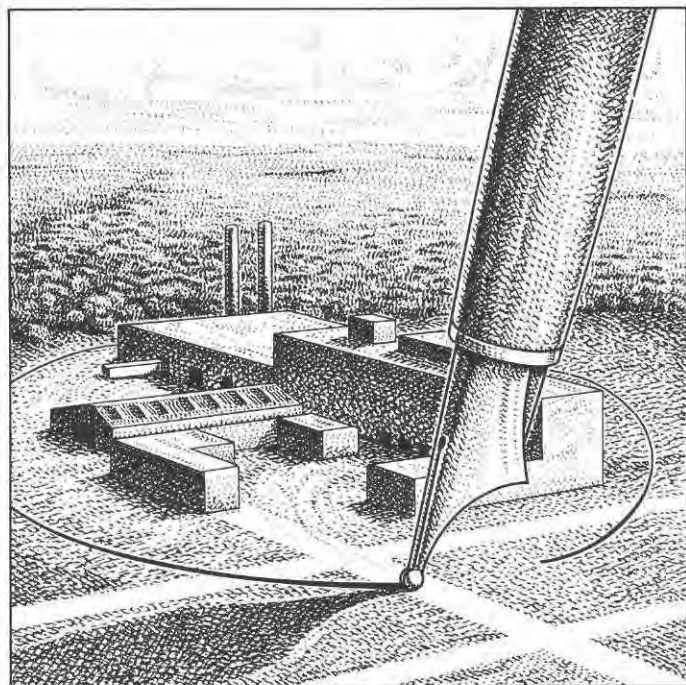
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DEC. 13-17. Engineering Foam Fire Protection Systems Design I seminar in Lionville, Pa., sponsored by the National Foam System Inc.; \$275. Paul Gillespie, National Foam System Inc., 150 Gordon Drive, Lionville, Pa. 19353; 215-363-1400.

DEC. 17. A Thoughtful Approach to Self-Funding Health & Accident Benefits seminar in Chicago, sponsored by Employee Benefit Plans Inc.; \$150. Derrick Hyatt, seminar coordinator, 9501 W. Devon Ave., Rosemont, Ill. 60018; 312-692-5387.

DEC. 28-29. Economics of Insurance seminar in New York, sponsored by the Assn. of Property/Casualty Insurance Economists; \$25. Vincent Argentino, Box 274, Madison, N.J. 07940; 212-486-6447.

JAN. 6-7. Taking the Initiative annual pensions conference in New York, sponsored by Institutional Investor; \$750. Jane Korn, Seminar manager, Institutional Investor, 488 Madison Ave., New York, N.Y. 10022; 212-832-8888.

JAN. 8. Chartered Property/Casualty Underwriters Exam Review Day in Chicago, sponsored by the Chicago and Suburban chapters of the Society of Chartered Property/Casualty Underwriters; \$25. Louise Field, ICO Inc., 6330 N. Cicero Ave., Chicago, Ill. 60646; 312-685-3300.

JAN. 9-11. HMOs: Competing Through Cost-Effective Quality Care conference in Washington, D.C., sponsored by the Group Health Foundation and the American Assn. of Foundations for Medical Care; \$245 for members; \$265 for non-members; additional \$50 charge for registration after Dec. 17. GHAA/AAFM National HMO Policy Conference, Box 50111, Washington, D.C. 20004; 202-983-0404.

JAN. 10-12. Advanced Risk Management seminar in Tucson, Ariz., sponsored by the Public Risk and Insurance Management Assn.; \$325. PRIMA, 1120 G St. N.W., Suite 707, Washington, D.C. 20005; 202-737-7556.

JAN. 10-14. Basic Safety Management seminar in Houston, sponsored by the International Safety Academy; \$535. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77224; 713-932-9400.

JAN. 13-14. Hazardous Waste Litigation program in Tampa, Fla., sponsored by the Practising Law Institute; \$325; 10% discount for PLI members. Also Feb. 17-18 in New York. PLI, Dept. BRC, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

JAN. 24-28. Fundamentals of Fire Protection Equipment course in Hartford, Conn., sponsored by Industrial Risk Insurers; \$500; free of charge to IRI insureds. Also Mar. 21-25; Mar. 28-Apr. 1; Apr. 25-29; May 2-6; May 9-13; May 16-20; May 23-27. Ken Richardson, IRI, 85 Woodland St., Hartford, Conn. 06102; 203-525-2601.

JAN. 24-28. Total Loss Control Management seminar in Houston, sponsored by the International Safety Academy; \$570. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77224; 713-932-9400.

JAN. 26-30. Risk Management seminar in Key Biscayne, Fla., sponsored by the National Pharmaceutical Alliance; \$175 for members; \$200 for non-members; \$25 late fee charged for registration at conference site. NPA, 1200 New Hampshire Ave. N.W., Suite 300, Washington, D.C. 20036; 202-861-7845.

FEB. 7-8. Back Injury Symposium in Sunnyvale, Calif., sponsored by Back Dynamics Institute; \$95 to \$325, depending on number of sessions attended. BDI, Box 8104, Foster City, Calif. 94404; 415-574-1087.

FEB. 7-11. Basic Safety Management seminar in Houston, sponsored by the International Safety Academy; \$535. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77224; 713-932-9400.

FEB. 8-11. National Insurance and Protection Conference of Financial Institutions in Orlando, Fla., sponsored by the American Bankers Assn.; members, \$415; non-members, \$515; \$40 additional to register after December. Shelly Davis, Insurance and Protection Division, ABA, 1120 Connecticut Ave. N.W., Washington, D.C. 20036; 202-467-4047.

FEB. 17-19. National Assn. of Rehabilitation Professionals in the Private Sector annual conference in Lake Buena Vista, Fla., sponsored by the association; members, \$150; non-members, \$175; \$25 fee for registration after Jan. 16. John Gruber, Rehabilitation Management Services Inc., Suite 101, Two Parkway Center, Pittsburgh, Pa. 15220; 412-921-7783.

FEB. 21-24. Inspector Training seminar in Houston, sponsored by the International Safety Academy; \$490. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77224; 713-932-9400.

FEB. 21-25. Professional Consulting in Safety and Loss Control course in Atlanta, sponsored by the International Loss Control Institute; \$625. ILCI, Box 345, Loganville, Ga. 30249; 404-466-2208.

FEB. 22-23. Risk Management Concepts for the Safety Professional and Insurance Buyer course in Los Angeles, sponsored by the University of Southern California; \$225. USC, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, Los Angeles, Calif. 90089; 213-743-6523.

FEB. 27-MAR. 2. Bank Security annual conference in New Orleans, sponsored by Bank Administration Institute; \$425 for members; \$550 for non-members; \$250 for law enforcement personnel. Keith Marshall, Bank Administration Institute, 60 Gould Center, Rolling Meadows, Ill. 60008; 312-228-6200.

FEB. 28-MAR. 1. Fire Training Schools in Beaumont, Texas, sponsored by Ansul Fire Protection; \$450. Also Mar. 3-4; 7-8; 14-15; 17-18. Enrollment Coordinator, Ansul Training Services, Marinette, Wis. 54143; 715-735-7411.

MAR. 14-18. OSHA Guide to Voluntary Compliance course in Los Angeles, sponsored by the University of Southern California; \$500. USC, Institute of Safety and Systems Mgmt., Office of Extension and In-Service Program, Los Angeles, Calif. 90089; 213-743-6523.

MAR. 14-18. Basic Risk Management seminar in Tucson, Ariz., sponsored by the Public Risk and Insurance Management Assn.; \$360. PRIMA, 1120 G St. N.W., Suite 707, Washington, D.C. 20005; 202-737-7556.

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Profit Sharing Council of America

Conference focuses on recent legislation

CHICAGO—There has been an increasing amount of legislation introduced in the past several years affecting corporate profit-sharing plans, according to Walter Holan, president of the Profit Sharing Council of America.

Mr. Holan directed his remarks to the 200 people who attended the council's recent 35th annual conference. Participants at the conference, held Oct. 21-23 at the Chicago Westin Hotel, represented companies and profit-sharing plans of all sizes from all over the country.

About 50 consultants also attended.

The emphasis of the conference was on recent profit-sharing-related legislation, which was the thread that pieced together many of the conference sessions.

For example, Rep. John Erlenborn, R-Ill., and Jeffrey Clayton, the Labor Department's administrator of pension and welfare benefits, were luncheon speakers. And, one entire morning of the conference was devoted to panels where 401(k) regulations and the Tax Equity and Fiscal Responsibility Act of 1982 were discussed.

Other sessions touched on what Mr. Holan calls meat-and-potatoes categories of successful profit sharing: administration, communication, investment management and

motivation.

Round-table discussions helped managers "pick up tidbits," but one participant noted, "The conference raises more questions than were asked."

Decreasing membership in the 35-year-old non-profit organization was another topic that surfaced more than once during the conference.

The council is doing satisfactorily financially, according to Mr. Holan, "but there's been a large loss in membership." The council now has 1,274 members, compared with 1,403 last year, said Merl Douglas, director of communications.

"It reflects the state of the economy," Mr. Douglas said. "We talked

to people who were delinquent in dues, (and) they said: 'When times are better, we'll come back in.'"

Dues, which range between \$100 and \$4,000, depending on the size of the corporation, pay for one of the council's primary activities: lobbying in Washington.

"The legal and legislative committee worked above and beyond this year. It was a tremendous amount of work and I don't see much ease-up," Mr. Holan said.

"The cost of legislative activity is not going to slow down," Mr. Douglas added.

Besides its lobbying efforts, the council provides its members with communications material and technical services.

Officers of the council who were elected at the conference include:

• Chairman—Frank Mason, president of Mason Corp. of Birmingham, Ala.

• First vice chairman—William Meyer, assistant secretary of Carter Hawley Hale Stores of Los Angeles.

• Second vice chairman—Theodore Bower, associate tax counsel at Sears, Roebuck & Co. in Chicago.

• Treasurer—Nicholas Rassas, vp at First National Bank of Chicago.

Information about the organization is available by writing the Profit Sharing Council of America, 20 N. Wacker Drive, Suite 722, Chicago, Ill. 60606.

Employers describe their plans

By CAROL CAIN

CHICAGO—Sharing and learning were two key objectives of this year's annual conference of the Profit Sharing Council of America.

To meet those goals, representatives of four companies shared details of their profit-sharing and benefit programs so that others could learn by their examples:

• **The Southland Corp.** Dallas-based Southland is an operator and franchisor of convenience food stores, including more than 7,000 7-11 stores throughout the country.

More than 22,000 people participate in the company's savings and profit-sharing plan, which allows employees to defer 6% of their salary under a 401(k) plan.

Employee contributions are matched on a weighted system that is based on years of service. Overall, the company contributes 10% of its pretax profits to the plan, which was established in 1949.

The weighted contribution system divides employees into four groups.

Those with one to three years of service receive one share of profits—equal to 64 cents in 1981—for every dollar put in; employees with four to eight years receive two shares; those with nine or more years receive three shares; and those with 14 or more years who are also 50 or older receive four shares.

For example, an employee in the last group, who had many years of service, would have received \$2.56 for every dollar contributed to the plan last year.

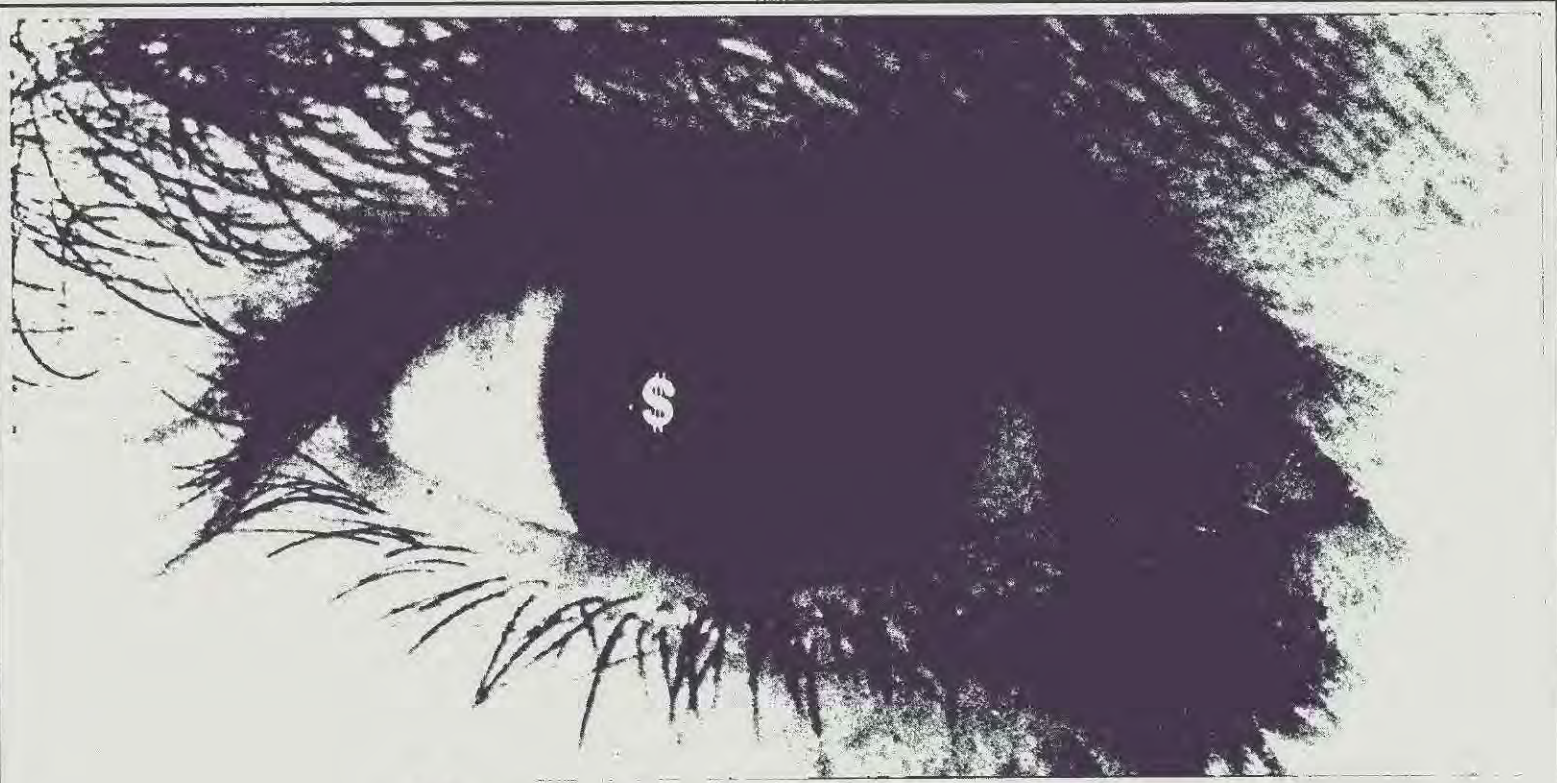
In 1981, employees contributed \$15.5 million to the plan and the company contributed \$16.7 million.

To illustrate how strong the Southland plan is, George Jensen, the plan's administrator, said that after 30 years in the plan, an employee can expect to receive a pension of 130% of final salary—not counting Social Security benefits.

Continued on next page



Mr. Jensen



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VISIONCARE

Firms describe their profit-sharing plans

Continued from previous page

This plan is the only retirement vehicle offered by Southland, said Mr. Jensen, who added that the weighted system allows the company to reward its longtime employees.

A large part of the money that plan earns are made from a lease-back transaction in which Southland buys property, erects a 7-11 store (and sometimes an adjacent gasoline station), sells it to the profit-sharing plan, which in turn leases it back to Southland.

The profit-sharing plan buys the property outright. "We don't deal with mortgages," Mr. Jensen said.

Southland uses several methods to communicate the advantages and intricacies of the profit-sharing plan to its employees, including a monthly newsletter from the chair-

man of the board and videotape presentations at 500 sites. The presentations are shown to employees with one year of service who are eligible for the profit-sharing plan.

The communication objective at Southland is for regular, relevant and upbeat packages.

Besides being mandated by ERISA, information about benefits can improve employer-employee relationships, Mr. Jensen said.

"Employees want and need to know about these things," he said.

Last year, Southland's plan was explained in an audiovisual presentation that compared it with Cadillac automobiles.

The investment plan "is one of the best...carefully thought-out design...improved for 1981," notes the presentation.

Classic Cadillacs are shown, each

depicted by year on the license plate. The years coincide with the years that changes have occurred in Southland's plan.

● **Wallace Computer Services Inc.** The medium-sized company based in Hinsdale, Ill., sells consumable business supplies and services. A year ago it was known as Wallace Business Forms.

The philosophy behind Wallace's profit-sharing plan is to help employees contribute toward their own retirements, said G.L. Governile, vp and secretary/treasurer.

Wallace doesn't offer a pension so the profit-sharing plan serves as the company's only retirement savings vehicle.

To belong to the plan, an employee must contribute 3% of wages, although workers can vol-

untarily contribute 7% of their pay.

With the new emphasis on Individual Retirement Accounts, Wallace expected the voluntary contributions to the plan to decrease, but they didn't, Mr. Governile said.

Wallace uses several communication methods to inform and receive feedback from employees, including annual meetings, statements, reports, quarterly letters and newsletter articles. Employees served as plan trustees before the Employee Retirement Income Security Act was enacted in 1974, he added.

Employees' comments at the annual meetings have spurred some plan changes, he noted.

For example, the company has twice raised its level of contributions after management met with employees, Mr. Governile said.

At one point, the company con-

sidered increasing the mandatory 3% employee contribution to provide for benefits, "but people said they couldn't afford it and might quit the plan, so we started the voluntary contribution plan," he said.

Wallace is looking at treating its employees mandatory 3% investment as a contribution to a 401(k) salary reduction plan, but is waiting for final Internal Revenue Service regulations before making decision, Mr. Governile said.

● **Dillon Cos. Inc.** Sixty percent of the retail supermarket chain 25,000 employees in Dillon's retail supermarket business are members of 35 different unions. Most of the employees do not participate in the profit-sharing program, but for those who do, there are several options.

Employees must have one year of employment with the Hutchinson, Kan.-based company and be older than 21 to participate. They may make voluntary contributions to either a fund that invests in company-owned stock or an equity fund.

This summer, Dillon began offering to employees a salary reduction plan. "We recognize we're still under proposed regulations, but our company wanted to forge ahead," said Harold Ryan, the company's director of employee benefits.

The new option is strictly voluntary and the company is not matching any of the deferred contributions. Under the plan, employees can defer 2% to 5% of their salaries.

Seven years ago, Dillon also offered its workers an Employee Stock Ownership Plan. To join, an employee must have been with the company for three years and be at least 25 years old.

"We were worried if there were too many options," said Mr. Ryan, "but not one retiree came back and said he made a bad mistake."

To explain all the plans to employees, Dillon copied the generic label idea. "All of our communications were printed in black and white...a real simple approach. We've had the vinyl binder and embossed lettering, but we weren't keeping up-to-date (with information). Now, we just print 'em and give (employees) a new one. We even put on an expiration date."

● **Belk Stores Services Inc.** Belk, based in Charlotte, N.C., has operated profit-sharing plans for 40 years. The department store chain still is a private company with stock owned by second- and third-generation family members.

The organization consists of about 300 different corporations, which means about 300 different profit-sharing pools, said Ray Killian, a Belk vp.

At Belk, management recently has started thinking more about its overall employee benefit program. "It's not just profit sharing, not just pensions—they're just dimensions," Mr. Killian said.

Profit sharing is getting more complex now that it can be combined with 401(k) plans and thrift plans, he said.

The benefit program exists at Belk because "we genuinely want to give benefits to our employees," Mr. Killian said. The benefits are used to attract a high-quality employee, to retain good employees and to put the company in a competitive mode.

Belk has recognized that benefits were structured around the "nuclear family," which now accounts for only 15% of today's employees.

Inflation, high interest rates and the overall global economy all add to the complexity and difficulty of corporate decision making, he said.

"Benefits are in a period of transition and uncertainty. (They've been) unglued since ERISA," Mr. Killian said.

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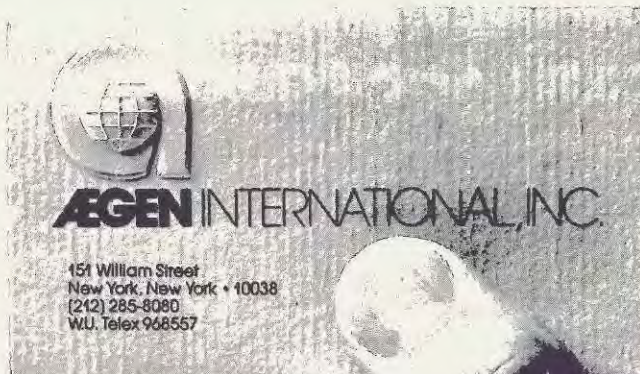
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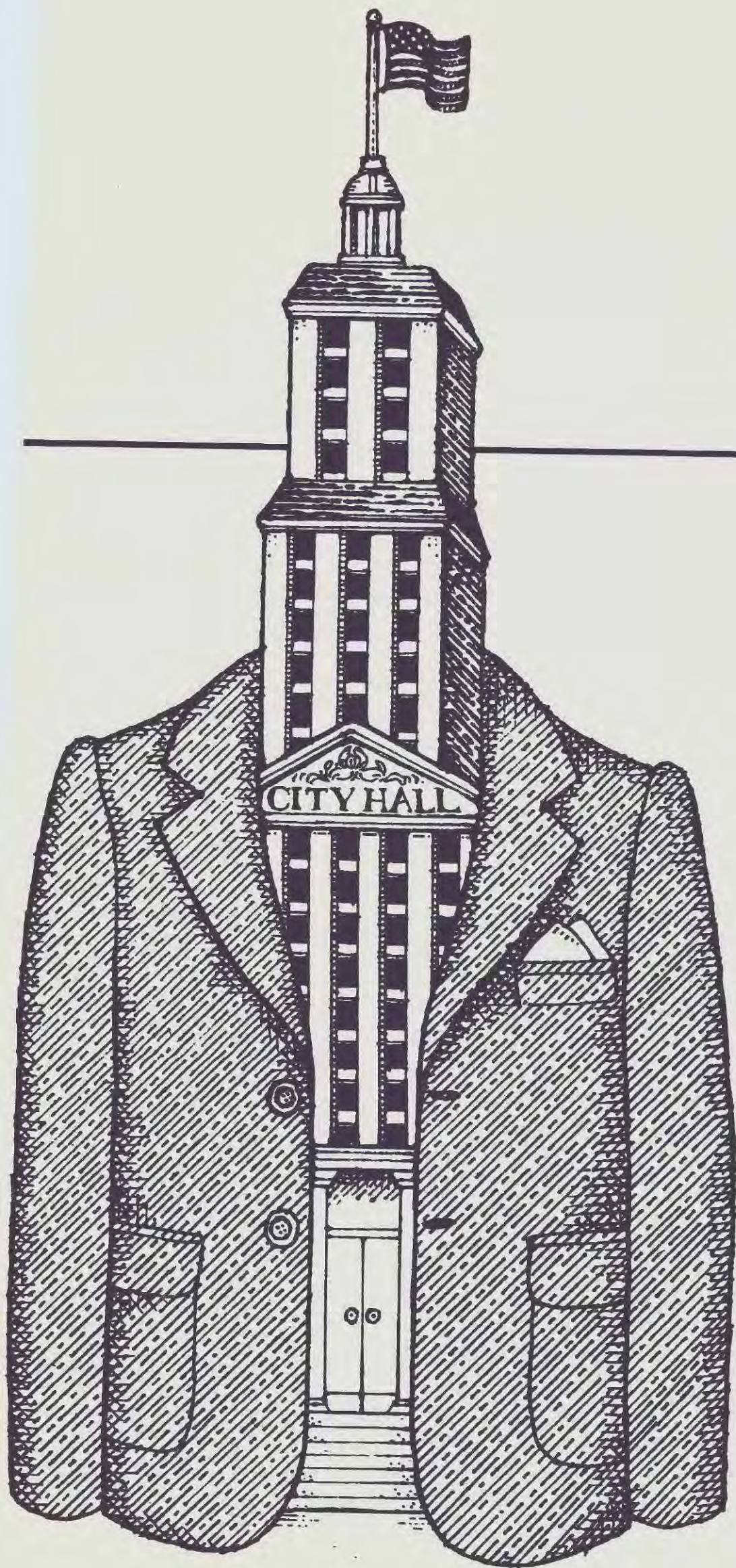
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Money may no longer motivate some employees: Researchers

By CAROL CAIN

CHICAGO—Money has long been considered a primary motivator in the workplace. However, researchers are saying that since the workplace and employee attitudes are changing, so are the motivators. "Money does motivate people but still don't have enough," said Bert Metzger, president, Profit Sharing Research Foundation, Evanston, Ill. But there are other motivating forces as well, he says. "(Motivators) vary from person to person. Some are interested in money and security, others in challenge and commitment," said Donald Nightingale, a professor at the Queen's University School of Business in Kingston, Ontario.

Both Mr. Metzger and Mr. Nightingale presented the findings of their research into motivation at the recent 35th annual conference of the Profit Sharing Council of America.



Mr. Metzger

They told conference participants that profit sharing can motivate employees, even though many of them are not necessarily motivated by money. Business should be interested in motivational research because of a

general principle that "the motivational pattern of employees results from interplay of personal motivators and the environment in which the employee works," Mr. Nightingale said.

"The best management can do is create a sharing climate, a motivational environment," Mr. Metzger said.

A first step in creating this environment is to understand the workforce, both men said.

There are basically two groups of workers: traditional and non-traditional, said Mr. Nightingale, citing research done by Daniel Yankelovich of Yankelovich, Skelly & White Inc., the New York-based

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ERISA changes possible: Official

CHICAGO—"Deregulate when prudent and enforce when possible," says Jeffrey Clayton, administrator of the federal Office of Pension and Welfare Benefit Programs.

New regulations affecting the Employee Retirement Income Security Act should be issued if they reduce paperwork or other burdens or if they clarify existing regulations, Mr. Clayton said last month at the 35th annual conference of the Profit Sharing Council of America.

"We've made a conscious effort to go out and talk to people. We think it's important to make ERISA work better...with the real world," he said.

No one can predict for certain what kind of ERISA regulations will be approved by Congress next year, though Mr. Clayton said he is almost sure there will be some ERISA bills introduced.

One likely proposal would change the distribution of summary plan descriptions.

Companies now must distribute SPDs to each plan participant. The proposal would allow employers to post a notice advising employees that they may obtain a new SPD upon request, he said.

Mr. Clayton also explained to the group the government's policy on auditing employers' pension plans. He said that his office audits pension plans when irregularities appear on the plans' financial statements that must be filed annually with the government.

"We don't do random audits," he noted.

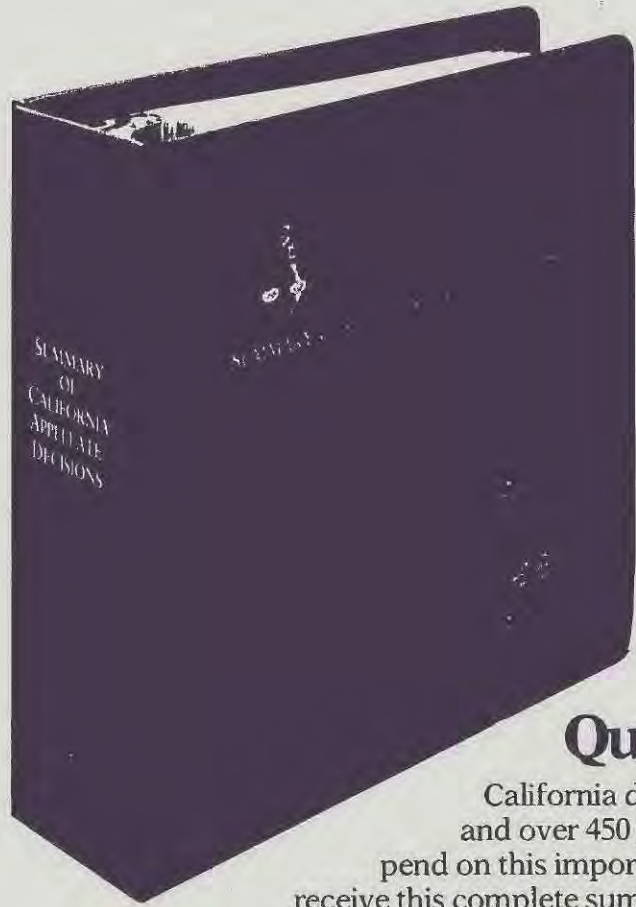
Companies are audited because either something showed up on the form or because another party calls the Labor Department, suggesting that a plan be audited, he said.

Mr. Clayton also advised employers to make sure they include all pertinent documents when seeking an exemption from an ERISA rule.

"If you're not familiar with the exemptions, you ought to call us," he said. "Be sure you send all documents or copies in the transaction."

"If you get a letter that says the exemption is being denied, don't panic," Mr. Clayton said. If the application is not complete, the standard procedure is to tentatively deny it.

"Call, when that happens."



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Profit-sharing plans can motivate workers

Continued from previous page

About 56% of the American workforce falls in the traditional category, he said, where money and status still are important motivators. These workers are usually older, blue-collar employees whose work is a habit, although some conservative white-collar workers and some younger workers are included in this group.

The non-traditionalists are almost all younger than 35. They include not only poorly educated and impoverished people, but also also bright young people who have turned to leisure activities for motivation because they couldn't find a challenge in the workplace.

The definition of success is changing along with workplace motivators. "(Success) is no longer is

measured in job status," Mr. Nightingale said. Many employees measure success as a product of self-realization and fulfillment, he said.

"There is a lessening fear of economic security and a growing psychology of entitlement," Mr. Nightingale said, listing other changes.

That's why, on the whole, employee benefits offer no motivation to a person that works harder than another, he said. "They're generally seen as rights of office, not rewards for harder work."

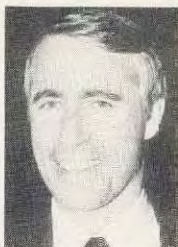
Knowing the demographics of the workforce can help managers develop a motivational environment, keeping in mind that "there is no single program to meet the diverse needs of the people," Mr. Metzger said.

Increased employee participation and changes in supervisory styles

can be employee motivators. Research suggests that more employee participation, involvement and communication are among criteria to be considered in designing an effective workplace in the 1980s, Mr. Nightingale said.

"Communication is the lifeblood of employee motivation. No one can turn himself on unless they do so in terms of perceived benefits," which requires communication, Mr. Metzger said.

Although money may not be a motivating factor to some people in today's workforce, "people's for-



Mr. Nightingale

tunes go up and down during a lifetime," Mr. Metzger said, noting that money may be important later.

That's where a profit-sharing plan can be a motivator, he said. "Profit sharing is more than just money sharing. It's the creation of a corporate partnership."

Profit sharing can be used to fit the changing needs of the American worker, Mr. Metzger said. Through communication, profit sharing can be equated with dignity, recognition, involvement, concern, caring and self-fulfillment.

Profit sharing must "be recognized in terms meaningful to the employees," he said, again citing the need for communication.

Mr. Metzger told a story about how an early profit-sharing plan was communicated in one company in France.

The story involves Edmond Jean LeClaire, often recognized as the father of profit sharing. Motivated by comments from a friend, LeClaire shunned the management philosophy of the times and designed a profit-sharing system with the objective to increase the efficiency of his house-painting operations sufficiently to justify making profit-sharing payments to his employees.

"Would it not be wiser to earn 25 francs and give half to employees than earn 25 francs and keep the all?" Mr. LeClaire reasoned. To answer his question and the skeptic notions of others, Mr. LeClaire decided to start a profit-sharing program and judge the results.

The program was announced in 1942. One year later, he assembled the 44 eligible workers around a table and in the center dropped 12,266 francs (then about \$2,000) which was labor's share of profits. The company would have not made the extra money had it not been for the profit-sharing program.

The workers left the table knowing they were no longer mere journeymen that acted like machines—they all had become partners, said Mr. Metzger.

"Does your profit-sharing plan come through to employees (like that)?" asked Mr. Metzger.

Profit sharing will not motivate employees if it is rigid in structure, Mr. Metzger said. Nor will it motivate workers if it is not based on trust, not perceived by the employees as their fair share of the company and, most importantly, not properly communicated, he said.

The complete story of Edmond Jean LeClaire is included in the book "Profit Sharing: a Natural for Today's Changing Work Force/Economy." The book is available for \$6 from the Profit Sharing Research Foundation, 1718 Sherman Ave., Evanston, Ill. 60201.

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Consultants stress good communication

CHICAGO—Don't expect to successfully communicate your profit-sharing plan to employees during hard times if a communication pattern has not previously been set.

That was the message delivered by benefit consultants during a session of the Profit Sharing Council of America's recent 35th annual conference.

"Communication in good times could be looked at like preventive medicine," said John Greco, vp and manager of the communications division at consultant Boone & Co. of Winston-Salem, N.C.

Thomas Kibbe, a consultant with Hewitt Associates of Lincolnshire, Ill., agreed. "I can't stress too strongly the continuity of communication," he said. "In a crisis mode...you've got to be consistent; the time to (start) it is in good times."



Mr. Greco

Communication in good times helps create channels that are established, credible and open, Mr. Greco said.

Successful steps in communicating any employee benefit is corporate soul-searching and listening to the employees, he said.

Employers that don't feel the need to listen to workers, or those who don't work hard enough to listen, find themselves with natural barriers to communications, he said.

Attitude surveys, group meetings and suggestion boxes are all good methods of listening, he pointed out.

But, don't hold group employee meetings during bad economic times if they haven't been used before, warned Mr. Kibbe. They'll present a drastic change, with an underlying message, he said.

The same underlying message will also be contained in other methods of communication that are tried for the first time. "It's not just what you say in print, or how you package it, it's what you don't say," Mr. Kibbe said, explaining this hidden level of communication.

Listening helps employers determine how much employees know or want to know, and how much they need to know.

Employees don't see things the way an employer does, Mr. Greco said. "Employers fail to recognize that employee perceptions vary."

Employers, however, are not the

only ones with communication problems. "Employees don't feel the need to understand the messages," Mr. Greco said, underscoring again the need for listening.

"Listening will help explain what they (employees) need to know; it will show areas of poor understanding...varied perceptions...different views," Mr. Greco said.

"What is bad news and what isn't" often is perceived differently by employer and employee, Mr. Kibbe said. Communication may be

the cause of this difference.

For example, employees may become confused if good news comes from the personnel manager and bad news comes from the chairman of the board.

Although bad news has to carry with it the awareness that it is coming from top management, said Mr. Kibbe, that emphasis should be consistent in all company communication.

Communicating a message shouldn't be a one-shot, one-time

thing. "You're going to have to use multiple media," Mr. Kibbe said, noting that many communications vehicles already exist at most companies.

Front-line managers are "crucial communicators," according to Mr. Kibbe. Newsletters and letters from management are two other sources that can easily be tapped for communications.

In using those vehicles, though, employers have to continue listening, Mr. Greco said. "Employees want benefit trends and sales infor-

mation; not bowling scores and promotions," he said.

"Employees are more aware of what is happening out there" than employers think, Mr. Kibbe said, stressing that managers be honest and up-front when communicating.

"If you have to start communicating today, in these times, and you haven't been, you're not in the best position," Mr. Kibbe said. He advised setting up a two-way communication program, one that is consistent, honest and simple. ■

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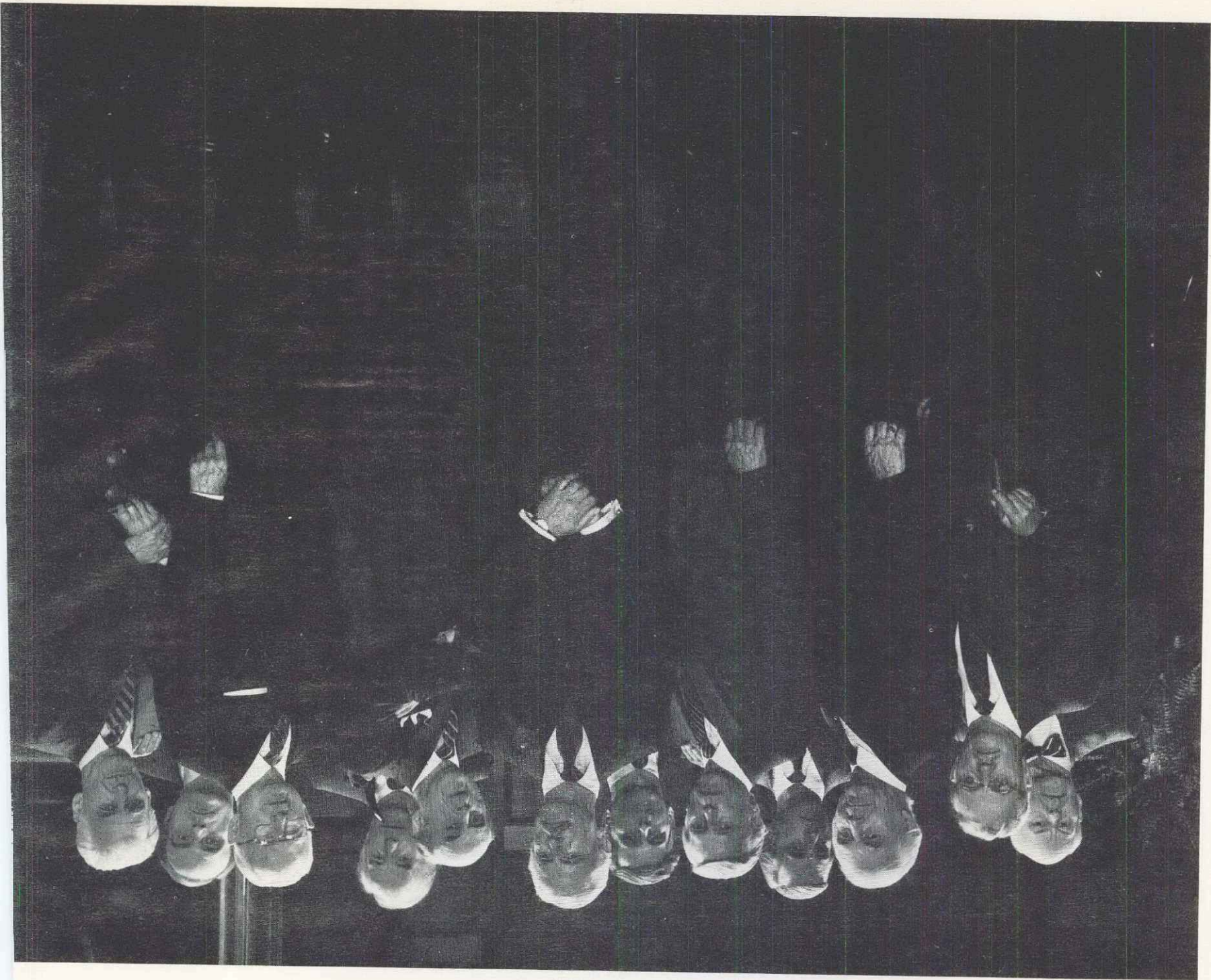
ST. PAUL, Minn.—Hospitalization costs in Minnesota rose less rapidly during 1981-82 than during 1980-81, Blue Cross & Blue Shield of Minnesota reports.

The cost of acute inpatient hospital care rose 19.3% between July 1, 1981, and June 30, 1982, compared with a 21% hike between July 1, 1980, and June 30, 1981, BC/BS reported.

A drop in hospital usage was cited by the health insurer as the primary reason for the slower inflation rate.

However, the average charge for one day in a Minnesota hospital rose 21.6% to \$358.30 during the 1981-1982 period, BC/BS pointed out. ■

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PERSPECTIVE

OCCUPATIONAL DISEASES

By Lawrence P. Postol

A BILL ENTITLED the Occupational Health Hazards Compensation Act, H.R. 5735, has been introduced by Rep. George Miller, D-Calif., in the House of Representatives.

Providing fair, adequate and equitable compensation to occupational disease victims was the bill's stated purpose, yet the statute covers only diseases due to asbestos and uranium ore. Pressure for this legislation, no doubt, comes in large part from the asbestos industry. It would like to see the government share in the liability. Since the primary goal of the legislation is to solve the asbestos problem, this article deals only with the bill's effect on asbestos workers.

Added pressure to pass such a workers compensation-type solution to the asbestos litigation has resulted from the Manville Corp. bankruptcy petition. Reducing litigation and speeding up the benefits process for some workers also could result from the passage of these legislative solutions. Yet most of the proposed legislation on occupational diseases, including Rep. Miller's bill, have an unannounced, but presumably, intended effect.

This effect transfers the bulk of liability for asbestos-related disease from the asbestos manufacturers, like Manville, to the users of asbestos, the shipbuilding and insulation industries. Furthermore, cigarette manufacturers, the government and, apparently, insurance companies are excluded from having to participate in the compensation system at all.

But H.R. 5735 has technical flaws, in addition to its inequitable transfer and exclusion of responsibility, that must be remedied before it can be seriously considered as a workers compensation-type solution.

One must begin by questioning the scope of H.R. 5735. The original draft covered disease caused by cotton dust. Why does it cover only asbestos- and uranium-related disease victims and not workers exposed to other toxic substances? That Congress is only prepared to tackle what it apparently considers to be politically viable areas and is content to leave alone other occupational diseases seems to be the answer.

Why are all asbestos and uranium workers included under this proposed workers compensation system? The premise behind H.R. 5735 is that many workers do not now receive adequate benefits under their state workers compensation laws. However, H.R. 5735 covers the shipbuilding industry, which employed many of the asbestos workers. That industry is already covered by a special and adequate workers compensation statute, the Longshoremen's and Harbor Workers' Compensation Act. Indeed, H.R. 5735 is modeled after the Longshore Act and incorporates most of its provisions.

A strong argument made is that the shipbuilding industry should be excluded from the coverage of H.R. 5735. The truth of the matter seems to be, however, that

Proposal shows it's not easy deciding who should pay for health hazards



H.R. 5735 does much more than merely provide a workers compensation solution to the asbestos problem. Transferring liability from asbestos manufacturers to asbestos users, under the guise of providing assured benefits to workers, will be its main effect.

Examining what now happens to a shipyard worker with asbestosis and then comparing the results with the provisions of H.R. 5735, one can see the drastic effect of the legislation.

A shipyard worker and spouse will typically receive workers compensation benefits from the employer of \$200 per week for 10 years or approximately \$100,000. The worker will then file a third-party action against the asbestos manufacturer and could reasonably recover \$500,000. The employer will have a lien on the recovery for \$100,000 and will thus break even overall. The worker's attorney will normally recover \$200,000 on a typical contingent fee contract and the worker will thus recover an additional \$100,000 from the lawsuit or \$300,000 in total. The employee will receive only \$100,000 from the employer and the asbestos manufacturer will escape liability under H.R. 5735. Thus, the shipyard will be out \$100,000, the worker will receive \$200,000 less, and the asbestos manufacturer will save \$500,000.

It is amazing that H.R. 5735 has this dramatic effect and yet this "transferring liability" result is not announced as one of the purposes of the bill. Indeed, one would be terribly hard-pressed to justify this transfer of liability from allegedly negligent asbestos manufacturers to allegedly innocent users of asbestos. Certainly, no justification was given for the transfer in any material accompanying the introduction of H.R. 5735.

Even if Rep. Miller's bill provided for an equitable distribution of liability, it still has many technical flaws. The main feature of the bill's compensation scheme is to award 66.6% of a worker's average weekly wage to the disabled worker or the worker's spouse. The bill does not define spouse nor does it define average weekly wage. What happens if a worker is divorced during the time he or she was exposed to asbestos? In addition, are employee benefits included in the average weekly wage figure?

Permanent partial disability compensation is provided for in the event of a loss of wage-earning capacity, but no guidance is given on how to calculate a worker's wage-earning capacity.

Moreover, if a worker is retired due to age or other non-occupational injuries, that person is still awarded compensation under H.R. 5735. Such a windfall is

contrary to the wage-replacement concept behind workers compensation legislation. Why require an innocent employer to pay compensation to an employee when occupational disease was not the reason for the worker's retirement or inability to work? Moreover, shouldn't any compensation be cut off when the worker reaches retirement age?

Medical benefits are provided for under H.R. 5735, but there is no limitation on the "reasonableness" of medical charges. And, there is no control over the worker's choice of physician or the medical care the worker receives. There is a 6% limit on cost-of-living increases, but no credit is given for Social Security disability benefits or Medicare payments.

Indeed, the Social Security benefits are reduced by the amount of benefits provided for under the bill. Such an approach seems particularly unjust since the employer and worker each paid for 50% of the Social Security premiums.

Therefore, it seems the worker should receive the benefits and the employer should receive a credit for the benefits the worker receives under the Social Security program.

The act provides that compensation shall be paid to victims of asbestosis in Section 5(a)(2). The bill, however, does not

Continued on next page

PERSPECTIVE

Continued from previous page

define the disease of asbestosis. And, it does not provide criteria for diagnosing the disease. Does the term asbestosis include pleural changes? How do divided members of the medical community decide how to diagnose the disease?

Similarly, lung cancers are presumed to be occupationally caused, irrespective of the worker's smoking history or length of asbestos exposure. Most physicians would require 20 years of asbestos exposure, or at least a 20-year interval since the first exposure to the substance, before declaring a lung cancer related to asbestos exposure. Indeed, many physicians would require a diagnosis of asbestosis before linking the cancer to asbestos exposure. The presumption that all lung cancers are occupationally caused is simply not justified.

H.R. 5735 has a catchall, Section 5(a)(4), for compensating all diseases that were "significantly and substantially contributed to or aggravated" by asbestos exposure. The requirement of a significant and substantial contribution is a good provision and indeed should apply to all claims for compensation. Compensation should be awarded for asbestosis, for example, only if it substantially and significantly contributed to a worker's disability or death. The bill should be clear, nevertheless, as in a case of cancer, as to how much increased risk from asbestos exposure is required before the contribution is considered to be substantial and significant.

Section 6(a) and (b) of the bill contains requirements of notice of the injury within one year and the filing of a claim within two years. However, these time periods should be tied to the diagnosis of a covered disease and should not be based on the date of disability, which is almost always impossible to determine.

Claims for compensation are to be heard by administrative law judges and appeals are to be made to the benefits review board, under Section 7 of the bill. The 30-day time period for issuance of a decision is unrealistic since currently, under the Longshore Act, judges often take up to one year to issue a decision and the benefits review board usually takes two years or longer to decide an appeal.

Payment of compensation pending an appeal is not required by H.R. 5735, unlike the Longshore Act. The bill does allow for "representation fees" to non-attorneys and

such payments would seem to be inadvisable and could lead to chaos when non-attorneys attempt to deal with an essentially legal system.

H.R. 5735 contains an anti-discrimination provision but its scope is poorly defined. Employer discrimination is prohibited against an employee because of prior asbestos exposure or "because such employee is disabled by such exposure" in Section 15 of the bill. Does this mean that a worker cannot be terminated, with disability compensation, when the worker is physically unable to perform the job? Must an employer place a worker in a job that has asbestos exposure when the employee's past exposure history or medical condition make such future exposure medically inadvisable? This section must be clarified in its scope to allow for reasonable and necessary terminations.

If a worker has been awarded compensation for occupational disease under a state or other federal workers compensation act, then the employee cannot recover benefits under this bill, according to Section 5(a)(3). It's unclear if this provision applies if the benefits were voluntarily paid by the employer without a court order.

Moreover, what if the worker is receiving permanent total disability compensation under a state or federal statute, but it's based on another occupational injury, like a knee injury? Can the employee, in addition, recover for occupational disease under this bill? The bill does not explicitly exclude such a double recovery. Almost all workers compensation statutes have second-injury fund provisions to encourage the hiring of the handicapped. H.R. 5735 has no such provision.

There's an interesting solution to the last-employer rule problem in H.R. 5735. Most federal and state statutes provide that where more than one employer exposed the employee to the injurious substance, asbestos, the last employer to so expose the worker shall be entirely liable for the compensation payments to the worker. In recent years, where employers

are in different states, problems have arisen as to proof of such subsequent exposure and the question of liability where overlapping jurisdictions are involved. This problem is solved in Section 12 by placing the liability for such workers in an Asbestos Compensation Excess Liability Fund if the worker's last employer did not expose the worker to substantial amounts of asbestos over at least a two-year period.

Millions of workers were exposed to asbestos in the nation's shipyards during World War II and presumably have had no significant exposure thereafter. Thus, any of these workers who develop asbestos-related diseases will be placed in the Excess Liability Fund. That fund is to be financed 80% by asbestos manufacturers and 20% by asbestos users.

No justification is given for requiring users to participate in the fund. There can be little doubt that the imprecise definition as to whom must contribute to the fund and how much they must contribute will lead to substantial litigation. Interestingly, a 10% surcharge on the fund will be used for financing the administration of the compensation program under the bill and a 1% surcharge will be used to provide funds for research.

The exclusive provision is the main feature of H.R. 5735. The bill wipes out all future third-party lawsuits against the asbestos manufacturers. Moreover, for suits already on file, any recovery is reduced by the payments made under this bill. In addition, the employer's lien for workers compensation payments is eliminated, even for lawsuits that are on file. Instead of employers getting a credit for the asbestos manufacturer's payments, therefore, the system turns 180 degrees and the asbestos manufacturers are given a credit for the employers/users payments.

This will cost the asbestos user/employers millions of dollars and its constitutionality, given its retroactive nature, must be questioned. Asbestos manufacturers are relieved of liability, asbestos workers' recoveries are reduced and the liability of asbestos users is increased because the exclusivity provision follows the overall bill pattern.

There are a number of provisions that should be in the bill but are not. The bill does not address the issue of how this new liability will affect past insurance coverages the asbestos manufacturers and users had with insurers. Are the insurance companies to be allowed to totally escape responsibility for their past insurance policies? If not, what rule of liability is to be used in determining which companies are liable?

Moreover, why aren't the cigarette manufacturers and the government included in the bill so they can accept their share of the liability? Cigarettes are a contributing cause to all lung cancers in smokers and probably increase the risk of asbestosis. The shipyards built Navy ships with asbestos at the Navy's direction, based on its specifications. If the argument is made that the cigarette industry and the Navy were unaware of the risks of asbestos, the same can be said of asbestos users who are included in the coverage of the bill. On the other hand, if this system is based on fault, then arguably only the asbestos manufacturers should be included in this scheme.

H.R. 5735 has many technical flaws when it's considered as a solution to the asbestos litigation. The bill does not deal with many of the problems that can be expected in the administration of such a system. The bill provides benefits to certain individuals who should not receive them and excessive benefits for others.

Its unannounced effect in transferring liability from asbestos manufacturers to asbestos users is the primary problem with this proposed legislation. It allows cigarette manufacturers, the government and, apparently, insurers to escape their share of the responsibility for the plight of asbestos workers.

Lawrence P. Postol is an attorney at Seyfarth, Shaw, Fairweather & Geraldson in Washington, D.C.



Who should pay for asbestos injuries?

Glossary built with words from related fields

By Dorothy Parr Snowden

"Glossary of Suretyship and Related Disciplines"

Edited by Thomas C. Schleifer, Warren M. Grill, Robert S. Sleece and Kenneth M. Mack
Construction Management Associates Inc., 170 E. Hanover Ave., Box 2287R, Morristown, N.J. 07960
121 pages; paper, \$6.50

The top administrators of Construction Management Associates have constructed a needed bridge to understanding surety terms commonly used in insurance and reinsurance, banking, construction, law and other fields distinguished by contractual relationships in which one party secures another against

blue sky bonds: required of security dealers indemnifying purchasers against loss from false representation

va-por bar-ri-er: layer applied to a wall or floor to prevent or to retard gaseous water from passing into and condensing in wall or floor

books & ideas

debt, default or miscarriage of a third party.

Opening—literally—with "abandon," ending with the prosaic "zoning permit" and defining more than 1,200 words and phrases between, the entries in this information-packed glossary are

mercifully concise and clear. As usual in such volumes, capitalization is inconsistent but here is confined to the styles the editor-executives found most frequently used in the professional publications.

Among the more unique inclusions are brief explanations of relevant GSA

standard forms, pertinent legislation such as the Sherman Antitrust and the Miller acts and categories of bonds listed in the "Surety Association Manual."

A spot-check revealed no blind entries that often mar references of this type, but it did unearth some interesting referrals. Where else can one learn so quickly that an "unbalanced bid" can reflect "front-end loading?" Or that "scutcheon" leads quickly to "escutcheon," if you have a desire to deal with an ornamental flange?

The format is appealing, the size is convenient and this multidisciplinary volume is altogether a product of "uberrimae fidei," utmost good faith.

Dorothy Parr Snowden is proofreader for *Business Insurance* and an independent book critic.

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THE POWER BROKERSTM

Schnitzer to become president of M&M Inc.

Bruce W. Schnitzer, 38, will become president and chief operating officer of Marsh & McLennan Inc., the insurance brokerage subsidiary of Marsh & McLennan Cos. Inc., on Jan. 1.

Mr. Schnitzer had been vp and chief financial officer of the parent company since joining M&M in 1977.

He will replace **Robert Clements**, 50, who will become vice chairman of Marsh & McLennan Inc. Mr. Clements has been president of the unit since 1980.

Insurers

John J. Creedon designated to become chief executive officer of Metropolitan Life Insurance Co. in February 1983. Mr. Creedon, who is now president of Metropolitan

comings & goings: industry

Life, will replace **Richard R. Shinn**, the present chairman and chief executive officer, who will retire. Mr. Creedon was previously executive vp at Metropolitan.

Also, **Robert G. Schwartz** to become chairman at Metropolitan. He has been vice chairman since 1980. Mr. Schwartz was previously executive vp.

Other insurer changes:

Bruce W. Slaughter joined The Home Insurance Co. as senior vp with responsibility for the 12-state Midwestern region. He will be based in Chicago. Mr. Slaughter had been Chicago branch manager for Cubb Group.

Robert B. Jefferson appointed

vp and treasurer of the American Life Insurance Co. in Wilmington, Del. He is responsible for all external and internal financial reporting for ALICO and its subsidiaries. Mr. Jefferson had been with Coopers & Lybrand. ALICO is a wholly owned subsidiary of American International Group Inc.

James A. Mainardi appointed regional vp for the Pacific Southwest region of Wausau Insurance Cos. He will be based at the regional headquarters in Los Angeles. Mr. Mainardi, who had been assistant vp of property insurance operations for the company, succeeds **John Bernick**, who retired recently.

Reinsurers

John C. Etling and **Ronald E. Ferguson** appointed executive vps of General Reinsurance Corp. in Greenwich, Conn. Mr. Etling and Mr. Ferguson had been senior vps of General Reinsurance Corp. directors and designated assistant chief operating officers. Both also had been appointed vp and group executive of the parent holding company, General Re Corp.

Malcolm R. Robinson elected vp of Scor Reinsurance Co. in Dallas. Mr. Robinson is also general counsel and corporate secretary. **Anthony B. Provenzale** also was elected a vp for the treaty division.

Bermuda market

J. Douglas Higley named chair-

man of Mentor Insurance Ltd. Hamilton, Bermuda, and president of Mentor Holding Corp. in New Orleans. **William L. Colson** named chairman of Mentor Holding Corp. Mr. Colson is a director and senior vp of Ocean Drilling Exploration Co. in New Orleans. **Herman S. Kelley** named vice chairman of Mentor Holding. Mr. Kelley is also president of Mentor Insurance Ltd. Mentor Insurance Ltd. is a subsidiary of Mentor Holding Corp., part of Ocean Drilling Exploration.

Other suppliers

Luther T. Griffith named executive vp and chief operating officer of Anistics Inc., the risk management consulting subsidiary of Alexander & Alexander Service Inc. in New York. He had been managing vp of Anistics' New York office.

James F. Geld joins Benefit Systems Inc. in Los Angeles as director of consulting services. He will be responsible for client service and marketing efforts. Mr. Geld previously had been with William M. Mercer Inc.

Hoyt C. Ambrosius joined Pilkington & Associates Inc. in Houston. He is responsible for the environmental information management system program and the environmental risk assessment activities of Pilkington. Mr. Ambrosius had been corporate area environmental coordinator at Texaco Inc.

Michael J. Cancelliere and **Thomas K. Disette IV** named vps of Insurance Management Services Inc. in Cleveland. Mr. Cancelliere is an account executive at IMS specializing in risk-control programs and risk-funding alternatives. Mr. Disette, also an account executive, is a specialist in property/casualty coverage.

Ted White named vp of claims at U.S. Administrators in Los Angeles. He will be responsible for overall supervision of the claim processing unit. Mr. White has been chief operating officer of the American Postal Workers' Union Hospital Plan.

David Eager and **David Kieffer** were named senior vps at Meidinger Inc. in Louisville, Ky. Mr. Eager is national director of Meidinger's asset planning services and Mr. Kieffer is national director of the human resource management group. They had been corporate vps.

Also, eight people were named corporate vps at Meidinger. They are **Dale Detlefs**, director of Meidinger's Social Security services; **Vernon Hodge**, director of the insurance consulting group and asset management consultant; **Robert Aglira**, manager of the Philadelphia office; **Thomas L. Lonergan**, actuarial consultant in the Kansas City, Mo., office; **Charles J. Mazza**, manager of the Milwaukee office; **Charles M. Metzgar**, account manager in the Richmond, Va., office; **William F. O'Donnell**, manager of the Indianapolis office; **Ronald S. Weiser**, head of the human resource management practice of Meidinger's Southern division in Atlanta. Eight others were named vps. They are: **Bryan Crist**, senior actuary in the Cincinnati office; **Bill Glasco**, actuary, and **Tom Graves**, divisional counsel, both in the Kansas City, Mo., office; **Richard H. Knapp**, senior consultant in the Washington, D.C., office; **Raymond Kottak**, national director for administrative services; **Greg Kuhn**, senior consultant in the Houston office; **Jay Lewis**, senior consultant in the Pittsburgh office; and **Steve Semaria**, actuary in the Louisville, Ky., consulting office.

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Community services director gets results

CHARLESTON, W.Va.—You have to show results if you say you're dedicated to community service, says Milford Zeigler, community services director at McDonough Caperton Shepherd Group.

The Charleston community can see the results of Mr. Zeigler's programs: a renovated park, a home for battered women, low-income housing and field trips for disadvantaged children.

Mr. Zeigler's park renovation project in nearby London, W. Va., is a good example of how he serves the community.

Renovating the 42-acre park, which included constructing a building for community meetings, storage and concession facilities, would have cost \$1 million using paid labor and full-price materials.

"We did it for \$14,000," Mr. Zeigler says with pride.

Mr. Zeigler stretches his \$35,000 yearly budget at McDonough Caperton by using inmate labor from a nearby medium-security prison and by negotiating special rates for materials with local businesses.

The project wasn't easy, especially when it called for community involvement in planning. Since the park was designed for the community, "the community had to have input in the project," Mr. Zeigler explains.

"When you first go in, everybody

is withdrawn," he says. "They're used to unfilled promises. Delivery is important; the name of the game is production."

Once community members begin to see results, they want to get involved, Mr. Zeigler says. Soon, the park project, like others he has started, was turned over to community members. They directed the project and it became their own.

The MCSG-sponsored construction projects, such as renovating a home to house battered women and new low-income housing, depend on prison inmates selected by the West Virginia State Department of Corrections.

The inmates on Mr. Zeigler's construction crew decide what to do on each project and how to do it. In return, they receive experience and a hot meal provided by the local community they are helping.

Some workers on a current project to renovate the home for battered women had building experience but most say they are learning as they go.

"It gives us a chance to learn a trade," one worker says.

"A lot of inmates want to get involved," another inmate notes. "We need more projects like this. It's rehabilitation rather than incarceration."

For rehabilitation to take hold, "the change has to come within

yourself," he adds.

The inmates are usually scared and nervous when they first come to work on the project crew, Mr. Zeigler says. But they relax when they know they're trusted. "I never know their records unless they tell me," he says.

Mr. Zeigler receives cooperation for his projects from more than state agencies. He has won support from the federal Department of Housing and Urban Development on the newest project, building prefabricated houses for low-income families.

That project is called "90-10," Mr. Zeigler says. Administration costs usually eat up 90% of the funds for a social program, with 10% producing the result, he explains.

But this project should work the other way around and most of the funding will be funneled directly into the project.

The inmate-release construction programs are only part of the MCSG community service projects administered by Mr. Zeigler.

With the help of West Virginia State Police, who provide transportation, Mr. Zeigler takes disadvantaged children to West Virginia University football games in Morgantown, more than 100 miles from Charleston.

That program has several positive attributes, Mr. Zeigler



Photo: Sharron Cygan

MCSG helps prison inmates learn trades on community project

notes.

The kids enjoy the trips away from home and the games, but they also get to know the police in a non-threatening situation.

All too often, the kids only see the police when there's trouble, he explains. Interacting during the field trips may change the police officers' as well as the children's attitudes.

Mr. Zeigler first met the president of McDonough Caperton about seven years ago while arranging one of these field trips. He contacted President Gaston Caperton for a donation to help pay for a

field trip. When he responded, Mr. Zeigler sent him a note of appreciation, expressing the results of a donation.

Mr. Caperton was impressed and offered Mr. Zeigler a job—first as janitor with as much time off necessary for community projects—to replace Mr. Zeigler's full-time job in a furniture store.

Mr. Zeigler continued his community work and a few years later became the full-time community services director at MCSG.

Back then, Mr. Zeigler had to search out community projects. Today, projects come to him.

Agency builds profits on four-fold philosophy

Continued from previous page

ary operates as an individual profit center under the branch president.

"The decentralized operation makes it difficult to have centralized goals," Mr. Mooney says. "You can't have the best of everything. We constantly have a battle of keeping (subsidiary principals and staffs) on goals."

One of the agency's weaknesses is the downside of one of its strengths, he says.

On the one hand, the agency's entrepreneurial energy leads to innovative ideas. On the other hand, that energy needs direction to keep the group on its course, Mr. Mooney contends.

"You have to do that in a way that doesn't stifle initiative and planning. My job is to develop the corporate path without destroying individuality," he says.

Mr. Mooney joined McDonough Caperton in 1980 to coordinate the functions of the property/casualty subsidiaries. A retired brigadier general and former head of West Virginia's state troopers, Mr. Mooney says his contribution to the corporation is years of experience in administration.

One of the long-term goals of McDonough Caperton's property/casualty group under Mr. Mooney is to coordinate the insurance contracts for the agency's subsidiaries. Each branch currently holds its own insurance contracts.

"There are drawbacks to that," Mr. Mooney says. "We know in the future we have to deal with eliminating redundancy."

Reaching that goal isn't easy, Mr. Mooney notes. "Part of the deal is to convince the presidents that there are opportunities in it for them," he says. "We're not going to dictate courses of action. We may heavily encourage them, but we don't suddenly issue manifestos."

Leading subsidiary principals and their staffs toward operating under the system without dictating change extends the transition period, Mr. Mooney says, but it has a better chance of being accepted.

After two years, "We're still in the first-grade-reader stage" of implementing formal procedures

below the account executive level, Mr. Mooney notes. "It'll take time."

Despite McDonough Caperton's commitment to uniformity through the corporate system, individuals can establish some of their own courses of action. Corporate presidents, for example, have freedom to direct their own sales and support staffs. "We've tended to let each president run his own shop," Mr. Mooney explains.

Subsidiary employees generally interact with management of the holding company through the subsidiary president, one president notes, and, "The holding company tries to operate through the company presidents," he says.

Selecting producers is also left to subsidiary management. While Mr. Caperton likes to interview sales candidates, the hiring decision is done by the subsidiary president.

Freedom granted to subsidiary presidents is also evident in the individual structures of the branches. One subsidiary president abandoned the MCSG general pattern of account executive organization to take advantage of employee strengths.

At McDonough Caperton Pittsburgh, production is handled separately from marketing and servicing, explains President Craig T. Wisotzki. It is a technique similar to that used at Alexander & Alexander Inc., which Mr. Wisotzki left in 1979 to establish the branch for McDonough Caperton, and differs from general procedure at other McDonough Caperton offices.

"My basic belief about producers is that they do well uncovering business and identifying prospects," Mr. Wisotzki explains. "They're lousy, however, at translating that to the marketplace because they're emotionally involved," he continues. "They get upset when an insurance company doesn't see it the way they do."

For placing risks with insurers, "we get people who are strong in marketing and servicing who can talk more in terms of facts," Mr. Wisotzki says.

Even under this system, producers aren't totally removed from marketing, Mr. Wisotzki says. The



Photo: Donna Leigh Yanish

Harley Mooney is senior vp of MCSG property/casualty group.

people working on an account hold strategy meetings with the producer involved, he explains.

Decisions on when to tap excess and surplus markets for coverage are made by Mr. Wisotzki and the director of marketing, he explains.

"Frequently it's a clear-cut choice," he observes, "if not, we put our heads together. We like to keep our business in standard markets."

Producers at the other McDonough Caperton subsidiaries stay with an account throughout its lifetime, explains Dennis J. Vogelsberger, president of McDonough Caperton Charleston/Smith-Hetzel, the original agency founded in 1936. The producer decides when to place business in excess/surplus markets, though, "We try to go to admitted insurers," Mr. Vogelsberger says.

In Charleston, as well as all other McDonough Caperton subsidiaries, producers may service their account as well, Mr. Vogelsberger explains, by choosing to be the account executive. The producer may also choose another account executive for the policyholder.

Account executives at McDonough Caperton, unlike in many other agencies, receive the same percentage producers earn, he notes. "We think it's as important to retain business as it is to produce it," Mr. Vogelsberger says.

Producers who also serve as account executives on a piece of busi-

ness receive both percentages on the account, he adds.

Support staff below account executives are salaried.

"Most producers operate almost their own business," says Mr. Vogelsberger. They establish their goals to determine their income.

McDonough Caperton, from the holding company on through the subsidiaries, operates on the management-by-objective technique for establishing goals, Mr. Caperton notes.

Once a year, all employees, from the president on down, draw up written personal development plans. The document details what the employee specifically expects to accomplish in the next year, Mr. Caperton explains.

A producer's plan, for example, would include personal expectations for education, number and types of calls to make and types of community activities. The subsidiary president reviews the producer's yearly plan.

Producers also develop monthly plans that management reviews to make sure producers are on target, Mr. Vogelsberger adds. "They operate like entrepreneurs, but the expectations are clear," he says. "Beyond that, we have to make sure the support service is there," to back up the producers efforts.

Once individuals develop their personal plans, each subsidiary

management incorporates them into an office plan, Mr. Caperton explains. From there the holding company develops a corporate plan, he adds.

"We focus on synthesis," remarks W. Marston Becker, executive vp for the holding company. "No plan is more than the sum of its parts."

Middle management has real input to the decision makers at the top of McDonough Caperton, a method put to good use in the ongoing automation of the company.

Early last year, the agency bought an International Business Machine Inc.'s System 38, used mostly for the employee benefits operations. The company already had an ARCom system by Agency Record Control Inc. for accounting.

However, the IBM system is client-oriented, Mr. Becker explains, and virtually all money spent on automation goes into that system. The agency, which has five full-time programmers, custom-designed the IBM programs and bought a packaged program for the internal system.

Building the IBM system is an ongoing process in which middle management takes part, adds John Thomas, manager of the data processing unit.

As the agency buys new pieces of equipment and brings new departments into the system, everyone gets involved in establishing priorities, he says.

A formal committee of middle managers communicates that group's priorities, Mr. Thomas says. The committee members make suggestions directly to upper management's automation committee, which then establishes priorities for building the system.

Middle management, for example, placed automating claims high on a list of priorities, Mr. Thomas notes. Upper management then decided to move ahead in that area.

Allowing middle management to be involved in automation decisions exemplifies top management's belief in a responsibility to employees, one middle manager says. And that effort, along with work in the other areas, shows results.

MCSG builds branch offices with acquisitions

would never start a branch off from scratch again!"

That is a familiar lament of many agents and brokers who have ended by opening new offices in other cities rather than acquiring local agencies.

McDonough Caperton Shepherd Corp., however, has opened several offices from scratch and says it could do it again.

The Charleston, W.Va.,-based company built four of its seven property/casualty brokerage subsidiaries from the ground up, notes President Gaston Caperton.

"I think we can do equally well starting from scratch" as from acquiring new branch offices, he concludes. In fact, the best way to grow probably a mixture of acquisitions and start-up operations, he adds.

There are advantages and disadvantages to both start-up operations and acquisitions, Mr. Caperton explains.

The advantages of start-up offices reflect some of the disadvantages of buying a local agency, Mr. Caperton says.

An acquired agency may be managed in a manner that doesn't conform to the new parent's style and the transition may be difficult.

But the new office's structure and management can be molded to fit the parent's own structure. Principals and staff aren't set in any mode of operation, Mr. Caperton notes.

Fledgling branch offices, how-

A/BT

"We kept the agency's old name for the first full year," Mr. Ludwig says. "We never used McDonough Caperton. The changeover was a gradual process, to get (the former owner's clients) used to dealing with us."

"It worked out very well," he adds. The agency only lost one or two accounts.

In each acquisition, the decision on when to change names is an individual judgment, notes another MCSG subsidiary president.

One agency, purchased a year after the Parkersburg acquisition, still uses the old name along with the new—McDonough Caperton

Wheeling/Lee Paul Insurance, in Wheeling, W.Va.

"The name change is slow because of the agency's long-term association with Wheeling (almost 90 years). Lee Paul is somewhat of a prestigious name in the area," explains President Karl W. Neumann. "We tested people's reaction to determine if it would be an advantage or disadvantage to change the name to McDonough Caperton, and decided it would be a disadvantage."

Agents and brokers starting an office from scratch don't have the luxury of an old familiar name to help establish identity.

While McDonough Caperton's name wasn't totally unknown in Pittsburgh because other branches had clients there, the name wasn't as familiar as those of the major

competition—most of the largest national brokers.

At least one national broker used the area's inexperience with McDonough Caperton to win a piece of business from the agency, said Craig T. Wisotzki, president of McDonough Caperton Pittsburgh, which opened in late 1979.

In 1980, both MCP and the Pittsburgh office Marsh & McLennan Inc. were trying to win a local account, Mr. Wisotzki recalls.

"Marsh & McLennan asked (the prospective client), 'Do you want to do business with one man with one girl and a typewriter?' M&M got the business that year. I underestimated the concern about the size of the operation," Mr. Wisotzki says.

His office, however, took the account away the following year, he adds.

Starting from ground zero is tough, Mr. Wisotzki says. "I had to start over calling on prospects instead of getting referrals."

Mr. Wisotzki and another of the offices's two producers had non-compete agreements with their former national broker employers, he notes.

Despite the drawbacks, the start-up office had its advantages. Mr. Wisotzki, with help from corporate headquarters, could fashion virtually every detail of McDonough Caperton Pittsburgh to his specifications, he says.

Among those details were hiring staff—including an office manager he had worked with during part of her 22 years at A&A—designing the office space to fit his plan, and choosing the types of accounts that would fit with MCSG.

LINKED TO THE UNUSUAL



Mr. Wisotzki

ever, cost money immediately for rent, supplies and salaries without providing an immediate return on the investment.

In an acquisition, there are short-term cash flow advantages. Office space, staff and clients are ready and waiting.

For example, about \$500,000 in premium volume flowed through the S. Byrl Ross Insurance agency in Parkersburg, W.Va., when MCSG bought it in 1976, says Robert L. Ludwig, president of the agency that became McDonough Caperton Parkersburg.

Today, the agency generates about \$2.7 million in premium volume.

Mr. Ludwig was the only MCSG employee who relocated to the agency immediately after the purchase, he recalls. The former owner stayed on for the first few months and then retired as planned.

Establishing the McDonough Caperton style among the employees wasn't a problem in Parkersburg, Mr. Ludwig says. The office had only two other employees at the time.

That was typical of MCSG acquisitions. The company tends to look for potential acquisitions with older ownership that is about ready to retire, Mr. Ludwig says.

Retaining the former owner's clients is another project new owners of an acquired agency have to address, Mr. Ludwig notes. Retaining the agency's old name helps maintain continuity.



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Employee benefits boost agency's revenues

CHARLESTON, W. Va.—If McDonough Caperton Shepherd Group rockets into the top 20 national brokers next year, employee benefits will be the fuel.

Employee benefits sales and service provided the steam for more than half of the agency's approximately \$1.6 million revenue growth in 1982 and about 36% of its 1982 \$10 million total revenues.

The brokerage and services company has strong roots in the employee benefits business, extending from the founding of its Charleston subsidiary company in the late 1930s to its present strategically placed affiliates.

Also located in Charleston is the McDonough Caperton Shepherd Association Group, founded in 1944, which sells primarily group life and health insurance programs

A/BT

with endorsements from most of the major trade associations in the state and from some regional and national groups.

The business has grown steadily and the company continues to expand. In mid-1980, MCSG made another commitment to employee benefits when it opened McDonough Caperton Employee Benefits/Ohio with 13 employees in Cleveland, complementing the property/casualty brokerage subsidiary that opened in that city a year earlier.

The list of clients of the Cleveland property/casualty subsidiary provided a springboard for the

benefits operation, one executive notes, explaining that about 20% of the benefits group's business came from property/casualty clients. The two groups, however, are separate profit centers.

MCEB/Ohio has since established its own areas of emphasis. Although it doesn't specialize in any particular industry, the benefits group administers benefits for several clients that self-insure their employee benefit plans, notes Daniel G. Schmidt, vp of marketing.

Hospitals are one group that has been attracted to MCEB/Ohio for self-funded claims administration.

"They're ideal candidates for self-insurance," Mr. Schmidt says. "We help them develop programs that encourage (their employees) to use the facility."

Experience with hospital clients

also earned the benefits group an invitation to be claims administrator for a new preferred provider organization in town, Mr. Schmidt notes. In a PPO, enrollees receive a lower rate for their medical care if they use specific providers.

About 150 of the approximately 3,100 area physicians and five or six of the more than 20 hospitals will initially participate in the PPO, notes Michael C. Hanley, president of MCEB/Ohio.

The employee benefit plans of health care facilities have also provided one of the niches for McDonough Caperton Employee Benefits/West Virginia, adds President Andrew J. Paterno. The subsidiary lists most of the local hospitals on its client roster.

"The programs are customized to the particular facilities," he says.

"Some are self-insurance programs while other hospitals use insurance companies. In either case, we sign a program for (each facility) specific interest."

Whether providing a program for hospitals or for other industries, both McDonough Caperton branches personally meet with all clients' employees to explain a benefit program.

"In a hospital, for example, put on an employee seminar for three shifts, explaining what benefits are," Mr. Paterno explains. The seminars "don't have to be employers' time, they're usually held as the shifts break, although some are held during work hours. It's up to the hospital."

Along with hospital clients, MCEB/West Virginia, located in the Appalachian Mountains, serves many coal mining clients. Coal mine operators, for example, may use a black lung funding program, Mr. Paterno notes. The agency has established a trust through its own Bermuda-based captive, McDonough Caperton International Ltd., to pay federal black lung benefits.

All the employee benefit programs are processed by the agency's computer system, Mr. Paterno notes (see story, p. 32B). "The computers are a big part of our programs. We couldn't do any self-insurance (administration) without them and still make money at it."

Programs for employee benefits are all developed by MCSG's in-house computer programmers, Mr. Paterno says. "We can specialize for the client and make modifications to the client's specifications."

When managing a workers compensation program for an oil company with several oil rigs, for example, MCEB can provide loss data by rig, supervisor and whatever else the client wants to identify the trouble spots, Mr. Paterno explains.

McDonough Caperton's data processing center, however, devotes most of its time to the employee benefits group, except for the separately administered association plans. Computerization there is yet to come, MCSG says. Unlike the other employee benefits programs, mass-marketing doesn't require automation to be successful, executives say.

In 1982, McDonough Caperton Shepherd Association Group contributed 7% of the agency's \$10 million total revenues and 18% of MCSG's total profit.

The group is successful because it shares some of the advantages realized by such national commercial mass-marketing groups as Marketpac International and Markedyne (of which MGSAG is a member), while avoiding some of the disadvantages, according to President Robert A. McMillan.

Mass-marketing groups solicit the endorsement of trade associations for a competitive edge with the associations' members.

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Letters

To the editor: We would like to correct one statement that was at the close of the article "Minority brokers need fair chance to succeed: Moses" (A/BT, Nov. 1). It stated that we were willing to put \$1 million into a personal lines casualty company. We should have said, "We are willing to place \$1 million of our current business into that company."

Milton E. Moses
President
Community Insurance Center Inc.
Chicago

PIA: Insurers who purchase agencies pose no threat

HOLLYWOOD, FLA.—Insurers purchasing agencies shouldn't seriously affect the insurance industry or its traditional agency distribution system, an agents' association executive says.

Although some agents are alarmed that insurers are buying their colleagues, most insurance companies say they are only buying an endangered agency until a non-insurer owner can be found, said Edward H. Akin, recently elected president of the National Assn. of Professional Insurance Agents.

The PIA's contracts committee monitors that activity and its reports indicate no danger from this warehousing," he said.

"I would be concerned if it becomes a major trend," he continued. "But I don't see it accelerating the way a lot of people do."

Big agencies earn more, study notes

HOLLYWOOD, Fla.—The larger, more automated and specialized agencies are the most profitable for their principals, according to a three-year study of agencies.

The cost study of independent insurance agencies, which was commissioned by the National Assn. of Professional Insurance Agents, was conducted by researchers Temple, Barker & Sloane Inc. of Lexington, Mass. They interviewed and observed nearly 150 agencies in a four-state area, according to Robert A. Epstein, chairman of PIA's technical/research committee, who revealed the study results at the association's annual convention here last month.

Principals in large agencies with nine or more employees earned an annual average of \$66,000 in salary and non-monetary compensation, nearly three times the average salary earned by principals of agencies with fewer than four employees, Mr. Epstein noted.

The ratio of principals to total employees—principal leverage—partly explains the positive correlation between a principal's salary and agency size, the researchers concluded.

That ratio "reflects an agent's ability to delegate clerical work to lower-paid employees and spend more time on higher-value activities," they said.

Automation also affected agency profitability. Profit margins in automated agencies were 18%, six times the margin of agencies with batch systems (that transmit by computer only once a day), and nine times the margin for agencies with manual systems.

"The main impact of automation was the reduction in labor cost as a percent of total revenue, even when computer costs, such as interest and depreciation, were figured into the costs," the researchers noted.

A third factor researchers established as affecting profitability was specialization. Agencies that concentrated on either commercial lines or personal lines had higher profits.

"The profitability of personal lines increases with concentration in personal lines, while profitability of commercial lines dropped.

"Conversely, as an agency concentrated in commercial lines, commercial profitability increased while personal lines profitability

Mr. Akin is the president of Akin-Akin Inc. in Howell, Mich.

The outright sale of an agency to an insurer, however, isn't the only way an agent's independence can be diminished, he said.

Some agents, for example, are borrowing money from insurers to acquire computers. The loans may have volume commitments or other strings attached.

"There have been a lot of deals done on the street," Mr. Akin said.

A/BT

"We're concerned about those loans."

Agents who have had to turn to their insurers for help usually have had good reasons and few resources. Few agencies have managed to retain earnings during this particularly stressful economic recession and market competition.

And, there is not a wide variety of sources of loans, Mr. Akin noted. Many local banks that do make loans to agents, for example, don't recognize what agents say is their most valuable asset—expirations.

The PIA, however, is trying to help. Agents may acquire capital for computers and other projects from a loan program under Professional Resource Organization Inc. (PRO), PIA's answer to the agency

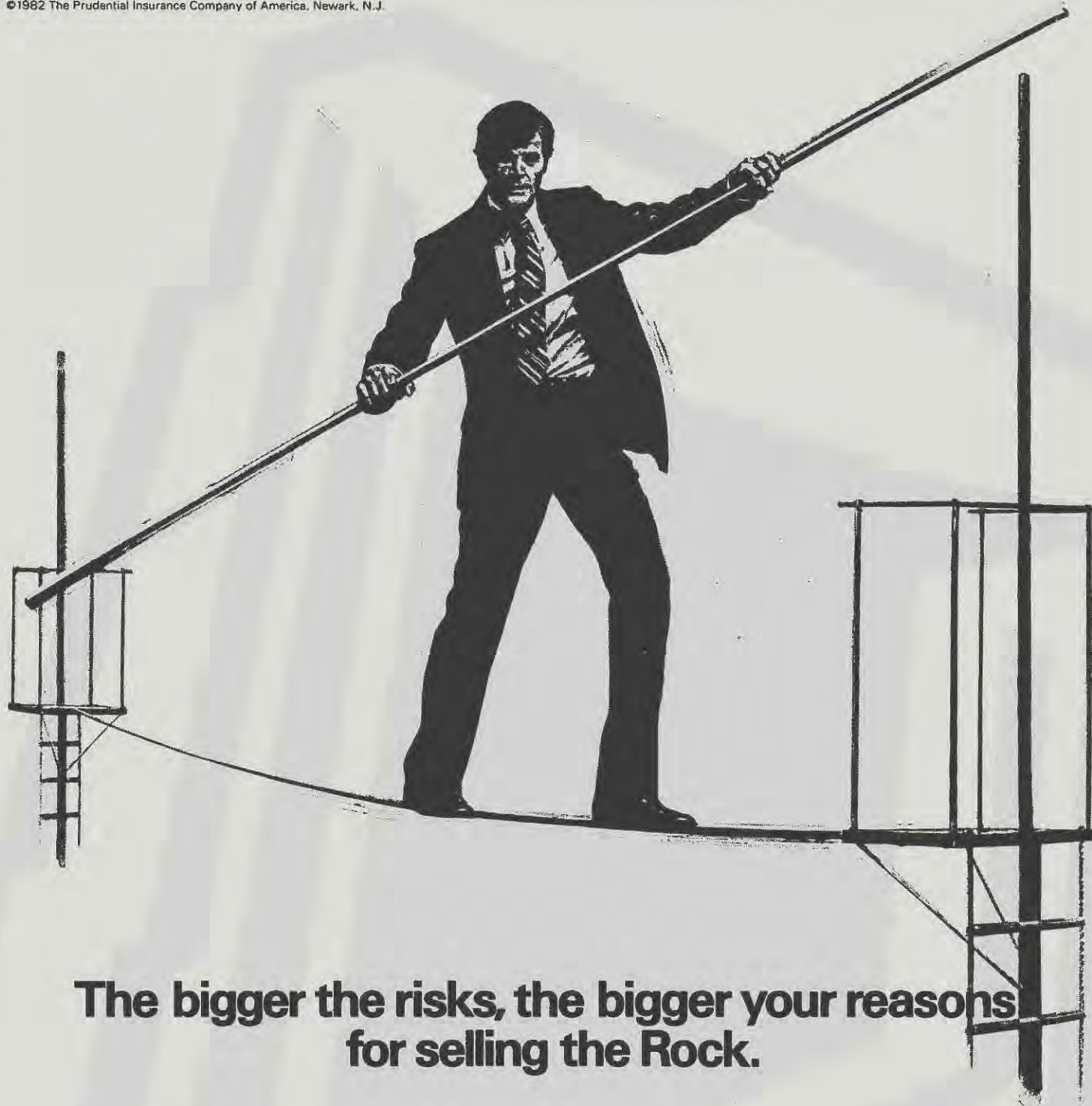
franchising, Mr. Akin added.

PRO, which was introduced last June (A/BT, Aug. 2), offers other programs, including cash flow assistance, consulting services and mass-marketing packages.

Agency membership for the first four months hit 350 subscribers.

"The number of PRO subscribers as of Nov. 1 has not only exceeded our initial projections but also has topped our quota for all of 1982," an association official noted.

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Photo: Donna L. Yanish
PIA panelists (left to right) : John Cox, Gordon Eastburn, Lyndon Olson Jr. and Richard J. Haayen.

One-stop shopping may not succeed, executives predict

A/BT

HOLLYWOOD, Fla.—One-stop shopping for financial services may not be as inevitable as some industry observers have predicted, a panel of experts told agents at the National Assn. of Professional Insurance Agents convention here.

Early attempts at marketing one-location sales of personal and commercial insurance, securities and financial planning just haven't been extremely successful.

"One-stop financial services never really got off the ground," explained Richard J. Haayen, president and chief operating officer of

Allstate Insurance Group.

Allstate, whose parent company Sears, Roebuck & Co. has diversified into several financial services is considered one of the pioneers comprehensive financial services retailing. However, Allstate has tried the concept before and has not been successful, Mr. Haayen said.

Sears, however, continues to experiment with the various pieces of its financial puzzle, Mr. Haayen noted, positioning representative of stockbroker Dean Witter & Co. Inc., real estate company Coldwell Banker & Co. and insurer Allstate in seven Sears stores around the country.

Right now, it's only an experiment, he stressed. "We don't see a people in the industry selling a things."

When the dust settles from the various mergers and reorganizing the financial conglomerates will still have a parent organization with separate entities selling each of the financial services separately Mr. Haayen predicted.

"One-stop shopping isn't inevitable," agreed panelist John R. Cox executive vp of CIGNA Corp., adding that CIGNA is currently divesting its 24% interest in Paine Webber Inc.

Though the divestiture goes against the current trend, Mr. Cox does foresee companies bringing several financial services under one parent, but not one sales force.

Inefficient insurers will disappear or be overshadowed by the bigger, more able companies, he predicted, until the insurance industry shrinks to fewer than 20 national insurers and some smaller specialty insurers who have developed a particular market niche.

The combination of services is likely raise several questions of jurisdiction. Panelists also discussed the question of regulation for one-stop financial service marketing.

Will it be monitored by state or federal regulators, or will the two groups fight for control?

Currently, regulation of insurance and financial services is a patchwork quilt, noted Lyndon Olson Jr., Texas insurance commissioner and president of the National Assn. of Insurance Commissioners.

States hold tightly to their control of insurance regulation and the federal government maintains its control over securities. However, mergers involving members of the insurance industry with other financial interests will cause changes in regulators' attitudes, he said.

"We will no longer have the luxury of the knee-jerk reaction. We won't be able to say that if the federal government wants to be in the insurance marketplace, we're against it," Mr. Olson said.

"There's nothing wrong with dual regulation," he added.

"I don't want a federally based czar dealing with all of these ramifications," Mr. Olson said.

The current trend of larger agencies buying smaller ones, however, is more of a concern than other mergers, contends Commissioner Olson. There's a problem with too much concentration of power in one place, he told the agents.

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Buying a computer requires wise shopping, agent panel explains

HOLLYWOOD, Fla.—If you are shopping for a computer, don't buy before watching the equipment in action, the principal of an automated agency advises.

"One of the most important things to me (about automating an agency) is to see the system in operation," said Roger S. Reid Jr., president of Roger S. Reid Agency Inc. Syracuse, N.Y.

Then get reaction from people presently using the system, he added. Don't just talk to the managers of the agency; question the staff who regularly use the computers.

Mr. Reid was one of five panelists discussing automation before agents at the National Assn. of Professional Insurance Agents convention here last month.

Although all of the panelists sang the praises of computerized agencies, they disagreed on several aspects of automation.

A computerized agency's need for traditional paper files was one point of departure. One agent converted all files to microfilm and computer-stored information.

Panelist Nick Verreos told the group that his agency, San Francisco-based Nick Verreos & Co., specifically purchased the equipment to eliminate paper files.

Other agents disagreed.

"You can't eliminate a manual backup system," said Sandra L. Webb, principal of Webb, Childs, McDonald Insurance Agency in Peabody, Mass.

The agency, which has been automated since 1975, has had to use paper documents when the computer malfunctioned, she noted.

"You also need to keep backup records off-premises," Ms. Webb said. Webb, Childs, McDonald duplicates the computer disk with stored information and locks the backup in a nearby bank vault.

Webb's computer system was custom-designed for the agency, Ms. Webb noted. When the agency began exploring computers about eight years ago, vendors hadn't developed programs for insurance agencies. So the agency bought computer hardware and worked out its own system.

"It took 300 person-hours to get the software done. Then we decided it didn't meet our needs and halted the project," she said.

Almost a year later, with help from a computer consultant, the agency developed a "one-of-a-kind system," Ms. Webb said.

While designing the program was frustrating, it proved to be the best option available at the time, she added.

Designing your own software isn't in an agency's best interest, Mr. Verreos countered. His agency agreed to develop a program with a computer vendor, he said. Three years later, the agency finally completed a workable program.

"If anyone asks you to pilot software, think about it three or four times and then politely say no," Mr. Verreos advised the agents. Unless, he added, you get the package free and you're paid for your time spent experimenting with the software.

Although the computer was troublesome for the agency while principals and staff developed the program, Mr. Verreos said, it now saves the agency money.

Since the computer was first introduced to the agency, "we have doubled our volume and haven't added any new employees."

Computers also have saved money at the Noblit Insurance Agency, El

A/BT

noted agency principal William V. Noblit. The agency's system has reduced the number of necessary employees in both the accounting department and support staff, he said.

Automation has become a way of life in the agency, Mr. Noblit said.

"We have a (terminal) on every desk," and staff members share the few typewriters that still remain, he said.



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Prepare agency strategy carefully: Panel

HOLLYWOOD, Fla.—Watch where you're going and plan each step carefully.

That cautious cliché is more important than ever to insurance agents hit by the double blows of eroding market share and shrinking premiums, according to agency sales and management experts from Professional Resource Organization Inc. in Alexandria, Va.

Officials of PRO, the National Assn. of Professional Insurance Agents' answer to agency franchise groups, advised PIA members on "Prospering in a New Marketplace" during the convention here last month. They emphasized the need for step-by-step organizational planning.

Moreover, the panelists agreed, all agency functions including marketing, product development,

A/BT

staff and cash-flow management, demand the same attention.

There's no room for hit-or-miss marketing operations as the buying public changes, explained Ken Williams, president of Professional Resource Administrators Inc., a mass-marketing organization affiliated with PRO and a subsidiary of Marketing Management Inc., in Pelham, Ala.

Agents can't, for example, continue to aim personal lines marketing efforts toward the stereotypes of the traditional household, he said. Most agents and insurers haven't even begun thinking about the problem.

Most insurance marketers continue to direct ad campaigns toward the traditional family unit—male head of household, female who doesn't work outside the home and two children, Mr. Williams said.

But that picture now depicts only one of every eight households in the country. In fact, more than 50% of today's households contain only one or two members, he said.

Commercial buyers no longer fit stereotypes, either, Mr. Williams added.

Special multiperil coverages and business owners policies are designed as one-size-fits-all, but the traditional retail risk doesn't exist anymore. There are a few downtown stores, owned by second-generation merchants who also own the buildings where the stores are

located.

A typical retail establishment today is located in the suburbs, in a leased building, operated by a third-generation merchant who holds a master's degree in business administration.

That merchant, according to Mr. Williams, is less likely to be contacted by an independent agent, less likely to make an appointment with that agent and less likely still to buy insurance from that agent unless the agent is endorsed by the merchant's association or franchise.

Agents can tap the new mainstream market, however, with a modern marketing strategy, Mr. Williams contends.

That strategy includes targeting the markets, identifying and profiling the prospect and then identifying the agency's products.

"First, decide who is the customer," Mr. Williams notes, "then turn to identifying the product."

Although some agents may have a well-planned marketing strategy they may need help with implementing parts of that plan, said Charles R. Lee, vp for consultant RIMCO in Dallas. Consultants can fill in some of the gaps with answers to agents' specific marketing or other research questions.

Agents are beginning to tap consultants as resources, catching up a trend long established in other industries, he said.

While marketing plans help agents build the revenue side of the balance sheet, careful control can hold the line on the other side—expenses, James Phelan, vp and director of PRO, told the agents.

An agent's greatest expense is his staff, he stressed, and that is the most important expense to control.

"Look at what your people are doing," Mr. Phelan advised. Many agencies have job descriptions for their employees. Ask staff members to list their job duties, and match those reports with their job



Mr. Williams

description.

You may benefit from adjusting work functions according to the results, Mr. Phelan said.

Don't rush head-on into computers and expensive automation, he added. "Almost no one who buys computers knows beforehand what they want it for."

Although some computers may appear relatively cheap, only 42% of the cost of the computer is the machine itself, Mr. Phelan said. The remaining 58% is attributable to staff and principals' time, paper and other costs not directly related to the machine.

Also research all the other expenses linked with running the agency, he added. Break them into categories that can be examined for improved cost control.

Paying agency expenses can also become less painful if agents manage cash flow more carefully, said Frances P. Flood, PRO's executive vp.

Many agents, for example, don't need to be fettered by bank requirements that checks must clear before the money deposited in a checking account can be removed.

Negotiate with your bank, Mr. Flood advises. About 90% of the commercial banks have same-day transfer. With that system, an agent can deposit funds in the morning and write checks against them in the afternoon—eliminating the up-to-two-weeks delay before the funds can be used.

Agents also can use the same-day transfer to deposit money into interest-bearing accounts faster than under the traditional system, Mr. Flood added.

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Franchisor gains national network with merger

By DANIEL BRIGHAM

SAN FRANCISCO—With one merger, ISU Cos. Inc. has moved from a regional agency franchisor to a national marketing organization with new marketing help for members.

ISU and InsurorsGroup Inc., a San Monica-based agency service company, merged last month to become what their management says will be the third-largest distributor of property/casualty insurance in the nation.

ISU/InsurorsGroup, as the combination is called, also becomes the largest agency franchisor, with a network of more than 400 agencies in 17 states, Canada, Puerto Rico and Bermuda.

Combining the resources of the two groups and their affiliated companies should be the key to future growth, according to Thomas Ryan, founder, chairman and chief executive officer of ISU, who retains his title with the merger. "We have an avowed goal of 100 franchisees, which we should achieve within a few years," Mr. Ryan says.

ISU, founded two years ago with \$10 million in capital from Merrill Lynch & Co. and \$5 million from other investors, was the first of several agency services firms to offer independent agencies a national entity and support/service network that would help the independents protect an eroding marketplace.

However, ISU never reached its predicted national sweep, topping out at about 120 agencies in California, Arizona, Nevada, Oregon and Washington.



Mr. Williams

The merger with InsurorsGroup, founded by Insurance Marketing Service Co. President George Nordhaus, a well-known agency service entrepreneur, gives ISU what it hadn't generated on its own. All InsurorsGroup members, except those few who may be in competition with current ISU franchisees, will receive ISU franchises.

ISU's Frank Wuerfel continues as president and chief operations officer of the combined operations. Thomas Williams, formerly president of InsurorsGroup, is executive vice president of the new company.

ISU's original purpose "was to provide the staff to help agents manage their growth," explained Mr. Ryan. "We all assumed when we started that the independent agents wanted lots of service."

Agents' concerns turned out to be much more direct, Mr. Ryan said. Declining premiums in a competi-

A/BT

agents' revenues.

"We learned that they want communication and products," he noted.

ISU adjusted accordingly. Staff was reduced and redirected. Internal operations were streamlined. Fees were reduced from \$10,000 plus 4% of gross revenues to their present level of \$1,000 plus \$250 per month.

Now, Mr. Ryan indicated, ISU/InsurorsGroup will give the agents products to sell. ISU had previously developed two programs. One provides coverage protecting small- to medium-sized businesses against legal defense

and court judgments, which is underwritten by Lloyd's of London. A group program was developed for hotels.

Given the clout of \$3 billion in premium volume, ISU/InsurorsGroup can swing a bigger club with insurers in developing programs on behalf of its franchisees and "bring products into the industry that no one has ever been able to do before," Mr. Ryan said.

In exchange, "we can give an insurance company ease of access to a powerful market distribution system," Mr. Ryan says.

ISU/InsurorsGroup will continue programs developed by InsurorsGroup that are geared to help the agents sell more effectively, he added.

As part of the merger, ISU pur-

chased for an undisclosed sum the rights to sell all InsurorsGroup programs. The most notable is the "Club 25" program, in which 25 non-competing agencies of like composition meet for frank discussions of their operations.

Furthermore, all ISU franchisees will receive memberships to Insurance Marketing Services, a cost of \$500 per agency.

IMS, which Mr. Nordhaus characterizes as "the million-dollar round table of the property/casualty insurance industry," now has about 3,000 members. Among other sales management services, IMS franchises several topical personal and commercial risk management newsletters agents can use for new business prospecting.

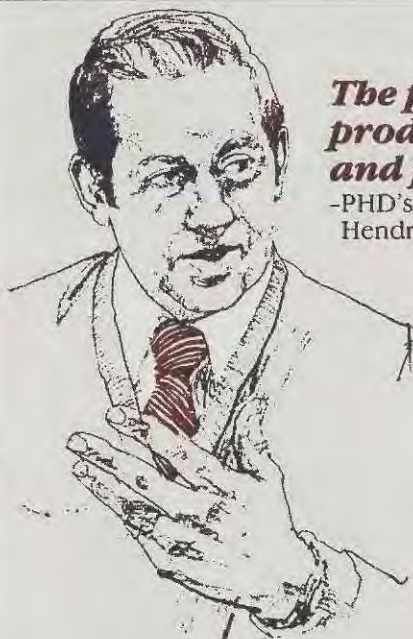
Mr. Nordhaus will serve as a director of ISU/InsurorsGroup. ■



Mr. Ryan

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"Five years ago, we realized that long-term success in the agency business would require doing two things," says Leland J. Hendrie of Parker/Hendrie/Doubleday and Associates of Costa Mesa, CA. "Cutting expenses, and delivering less expensive products to our customers."

After evaluating a number of options, the agency joined COMPAR, an INA organization of member agencies who represent INA exclusively for property-casualty lines. "We had worked with INA, and knew them to be innovative and professional."

"The advantages proved to be dramatic," he continues. "We've grown ten-fold while keeping a lean administration staff, since we no longer have to track data from other carriers or waste time processing bids."

Just as important, according to Mr. Hendrie, is his agency's emphasis on planning. "We have a contractual agreement which solidifies our working relationship with INA. We also participate in COMPAR's comprehensive program for growth by acquisition which includes attractive financing terms. With it, we always have solid one-, five- and ten-year plans laid out to guide our growth."

COMPAR now has over 100 members of varying sizes. "At first, the program attracted smaller agencies," he notes, "but others quickly recognized how much more productive they could be. Now we have agencies writing over \$20 million a year, and growth like ours is not uncommon."

"Above all," he concludes, "we find ourselves in a secure, successful environment made up of people who are looking forward to the future, not people who are looking back and asking themselves, 'Where did we go wrong?'"

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New chief hopes to sharpen Continental's focus

Continued from page 32

es. "We're going to try to focus on casualty products or products for specialty markets that we feel we are better-suited to offer than conventional life insurers," Mr. Mascotte.

He says Continental will look at where it is already well-established and try to decide "what additional products can we bring into that environment to trade on the relationships that we've already built and, frankly, to maximize the future prospects."

He knows the great problem with it is it sounds kind of ho-hum, because what it boils down to is "we're going to do what you do and do it better," Mr. Mascotte comments.

But, it's a little more than that. "I certainly looking aggressively at linkages. But, it is not calling a press conference to announce we've purchased a company in the deposit business, or the check transfer business or the securities business."

And, he hopes to develop more links by using the national brokerages more.

"We think we can sell a lot of property and casualty coverages through the national brokerage houses," says Mr. Mascotte.

"You're going to see us try to vary significantly increase the amount of business we do with brokers."

Only 10% of Continental's premiums now come from brokers compared with the business generated by agents, says stock analyst Herbert E. Goodfriend, a vp of Bache & Valsey Stuart Shields Inc.

But he says those mostly large accounts represent about 50% of the underwriting losses. Thus, any growth among brokers will have to be the product of sharper underwriting.

Because Continental isn't really a specialist at anything, Mr. Mascotte is in the unique position of taking over a company that doesn't have a reputation for being particularly good or bad at anything. To the extent he chooses to focus Continental in any direction, he is vulnerable to criticism.

Among securities analysts, Continental Corp. is regarded as a solid, unimaginative insurer. Giving it an identity is viewed as a tough task.

"I would call it the awesome task of Jake Mascotte," says Joseph M. Dowling, a vp and analyst at Drexel Burnham Lambert's Westport, Conn., office.

"He's got an almost impossible job."

Mr. Mascotte agrees: "One of the most difficult jobs I think I have is to articulate the fact that the Continental resists any easy labels. We are, in fact, a big general insurance company."

"In the future, however, we will look much more like a specialist company on the life side and a generalist company on the property/casualty side—because I think that's the way the markets are going to go."

"We're trying to straddle both in a changing world, that's definitely true."

Because of the wide variety of products Continental does offer, it is particularly vulnerable to the ebb and flow of the underwriting cycle.

In the last year, like others in the industry, Continental has suffered. Net income for 1981 was \$217.5 million on revenues of \$3.5 billion, down 19.2% from a year earlier. The property/casualty business of the company and its subsidiaries contributed 13% of the

parent's pretax income for 1981, down from 59% in 1980 because underwriting losses climbed faster than investment income.

For the nine months ended Sept. 30, Continental posted a 28.8% decline in net income, way below the average 10.5% decline but still better than at least four other large, broad-based property/casualty competitors.

For the first nine months of 1982, it ranked 19th out of 25 insurers companies based on operating results, according to a *Business Insurance* survey.

For those nine months, underwriting losses were up 35% to \$245.3 million, less than half the 73% average reported by the other 25 insurers in the *BI* survey. Premium volume grew 4% compared with the average of 2%. Investment income

growth of 10.8% was behind the average of 12.9%.

At 43, Mr. Mascotte is said to be the youngest chief executive among the nation's top 30 diversified financial corporations. Jake, as many of his subordinates call him, comes to the job by an unusual route.

Rather than working his way up the ladder at Continental, a company with a reputation for traditional, inbred management, he was recruited 18 months ago by Mr. Ricker from Midwest-based Mutual Benefit Life Insurance Co.

At the time, stock analysts thought that was a strange source for a major East Coast property/casualty insurance company to find talent.

Mr. Mascotte was an executive

vp of Mutual Benefit in charge of Western operations based in Kansas City, Mo. He is still a director of two Kansas City institutions—privately held Hallmark Cards Inc. and the airline-travel-lodging giant, Trans World Corp.

Earlier, he was a senior vp of Lincoln National Corp., based in his old hometown of Fort Wayne, Ind.

As Mr. Mascotte tells it, there are two reasons why he was targeted by Mr. Ricker to head Continental: his knowledge of life insurance and his general knowledge of marketing.

He says he entered the insurance business "almost by accident" after obtaining a law degree at the University of Virginia and finding he didn't like being a practicing attorney.

His father also was a lawyer who ended up selling insurance.

"I always grew up with a twin perception of insurance and the law," he says.

This background has helped him with one controversial issue he and other insurers are dealing with now: asbestos liability.

In a Nov. 12 address to The Executives' Club of Chicago, he called for a federal compensation fund for asbestos-injury victims to be funded by manufacturers, suppliers, installers, insurers and possibly the federal government.

Without such a fund, some 260 insurers and others with asbestos liability exposure will eventually have to pay \$40 billion to \$80 billion in costs to resolve as many as 32,000 lawsuits in the next 20 years, he says.

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Service aimed at cutting employers' disability costs

International Rehabilitation Associates, one of the largest U.S. markets for rehabilitation counseling and specialty claims management services, will add its new ClaimScan service to its programs this week.

ClaimScan will be offered to employers as a means of reducing the cost of workers' short-term disability and assessing possible long-term disability expenses.

Under the ClaimScan program, an employee who is off the job for a given period—30 days, for example—is visited by an IRA nurse who assesses the employee's medical condition and chances for recovery. The employer is then provided with reports on the employee's progress, including steps that might be taken to speed recovery.

Monthly summary reports are also issued showing the number of workers on sick leave and their medical status to help employers judge which may become long-term disability cases.

ClaimScan and IRA's other services—including its traditional rehabilitation and vocational counseling and employee assistance programs—will be consolidated under the umbrella name Intracorp.

IRA is a subsidiary of CIGNA Corp. and has more than 100 offices nationwide.

For more information contact IRA at 985 Old Eagle School Road, Wayne, Pa. 19087; 215-680-9440.

Health plans

Prudential Insurance Co., which has lost tens of millions of dollars in the small-employer health insurance market in the last few years, is introducing a new series of policies to stem losses and regain market share.

The 1982 series of Prudential's Employee Benefits Program, which covers companies with two to nine employees, and the Group Security Program, which is available for employers with 10 to 49 employees, offers employers rate reductions of 30% to 35% compared with existing small-employer programs.

Prudential has been able to reduce rates by cutting benefits. For

products & service

example, the \$100 deductible been eliminated; employers choose from \$300, \$500 and \$1,000 deductibles.

"The \$100 deductible no longer made sense in light of inflation," explained Richard Drake, a vp associate actuary in Prudential Newark, N.J., office.

Other benefit reductions include:

- Capping nursing care benefits at \$20,000 a year. Previously, there was no dollar limitation on nursing benefits.

- The maximum annual out-of-pocket expense for individual coverage now is \$1,000, up from \$500. The maximum annual payment for family expenses is \$2,500, compared with \$1,000 under the small-employer program.

- Pre-existing medical conditions no longer will be covered.

In addition, Prudential will have the right to review and raise rates when an employer's monthly premium is due. As a practical matter, Prudential hopes rate hikes can be limited to twice a year. Previous Prudential guaranteed rates for full year.

Prudential's new plans follow years of massive underwriting losses in the small-employer health care market. To make up for those huge losses, Prudential raised rates 50% to 60% during the last year (ENR Aug. 16).

By offering lower rates and redesigning plans to better control costs, Prudential hopes to regain the business it lost to other insurers.

The new policies are "an indication of our intention to compete in the market," said Mr. Drake. "We want to give our field force a competitive product and stem the decline in in-force policies."

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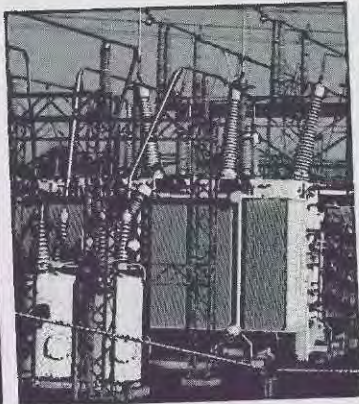
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Health benefits tax would cost employees billions

By JERRY GEISEL

WASHINGTON—The federal government would gain billions of dollars in new revenues if employer-paid health insurance premiums were taxed as income to the employee, a new study says.

If the \$77 billion employers are expected to spend on group health insurance premiums in 1983 were counted as income to the employee, the federal government would collect an additional \$20.4 billion in income taxes.

In addition, treating health insurance premiums as wages would bring \$6.5 billion more in Social Security payroll taxes. States also would collect \$3.8 billion more in income tax, according to the National Center for Health Services Research.

washington

PBGC task force

Eighteen federal officials have been appointed to an interagency task force that is drafting legislation to plug loopholes in the Pension Benefit Guaranty Corp.'s termination insurance program.

The task force, chaired by Jeffrey Clayton, administrator of the Labor Department's Office of Pension and Welfare Benefit Programs, includes three members from the PBGC, eight from the Labor Department, six from the Treasury Department and one from the Commerce Department.

Besides Mr. Clayton, Labor Department officials on the task force

include Daniel Benjamin, deputy assistant secretary in the Office of Policy; Diane Burkley, special assistant to the solicitor; William Flanagan, an attorney in the solicitor's office; Gary Hendricks, a senior economist in the Office of Policy; Alan Lebowitz, assistant administrator in the Office of Fiduciary Standards; Warren Montgomery, legislative officer in the Office of Legislation and Intergovernmental Relations; and Stuart Sirkin, an assistant to Mr. Clayton.

The PBGC members are Edwin Jones, PBGC executive director; Henry Rose, general counsel; and Gerald Ccle, assistant executive director for policy and planning.

Treasury members are David Brazell, an economist in the Office of Economic Policy; Gordon Eastburn, acting deputy assistant secretary in the Office of Financial Institutional Policy; Patrick Garabedian, a financial analyst in the Office of Financial Institutional Policy; Mary Hevener and Mary Oppenheimer, attorney-advisors in the Office of Tax Legislative Counsel; and Steve Shancke, deputy counselor to Secretary of Treasury.

The Commerce Department member is Jeffrey Mayer, deputy director in the Office of Economic Policy.

To bring in more revenues, Erlenborn says federal employment probably will be brought into Social Security program.

Mr. Erlenborn said hearing Social Security reform legislation will begin in February with H.R. floor action expected in March.

Unions win round

The Internal Revenue Service must give a union representative health care workers a list of hospitals that employ union members and intend to withdraw from Social Security program, a federal court says.

The U.S. District Court for District of Columbia ruled 1 month that the 250,000-member Service Employees International Union should give the IRS a list of hospitals that employ SEIU members so the IRS can tell the union which of those hospitals have filed notices of intent to withdraw from Social Security.

The SEIU earlier this year filed suit under the Freedom of Information Act to learn the names of the 271 non-profit hospitals that have filed notices of intent to withdraw since Dec. 31, 1981.

Since the SEIU filed its lawsuit, the number of hospitals that have filed Social Security withdrawal notices with the IRS has increased to about 400.

The IRS resisted turning over the names of the hospitals to the SEIU, contending that the information was exempt from disclosure.

However, the federal court said IRS' refusal is "unsupported by the record and cannot be deemed rational."

FICA tax hike

Congress' leading pension expert doesn't think legislators should accelerate payroll taxes to pay for Social Security's \$150 billion to \$200 billion deficit.

"I cannot agree with those who advocate further increases in the Social Security tax to make up the difference," says Rep. John Erlenborn, R-Ill. "Workers are already paying a record high of 6.7% of their salaries (matched by employer contributions), and the rate is scheduled to increase to 7.05% in 1985."

Instead of speeding up payroll tax increases, future benefit increases must be slowed, he says. One way this could be done is by altering the automatic indexing of benefit hikes to increases in the Consumer Price Index. A one-year freeze in cost-of-living benefit hikes alone would save Social Security \$20 billion, he said.

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Schwartz urges companies form risk groups soon

Continued from page 3

Speaking on behalf of the National Assn. of Wholesaler-Distributors and the National Machine Builders, Mr. Schwartz said groups are very concerned differing definitions in the law and the model bill. A federal act adopted a broad definition of product liability that is recognized by any state, but NAIC model "misconstrues liability as defined by the laws of the state," Mr. Schwartz said.

The federal law is not intended to preempt state law by imposing a broad definition of product liability in any state, he stressed. The federal act says that the definition will not be construed to affect either the tort law or the law governing the interpretation of insurance contracts of any state.

He asked the task force to change language in its model bill to parallel the product liability definition in the federal act or to omit the NAIC definition completely.

The task force chose to do neither. Chairman Lyndon Olson of the task force said adopting a federal definition would establish a standard that was not the intent of Congress. Mr. Olson, who is the outgoing president of the NAIC, said the task force never agreed with the federal Risk Retention Act. Yet, "We've done everything I know of to not to fly in the face of the spirit of the federal act," he said. "I don't find any problem with the NAIC model," said David Brummond of the law firm of Miller & Daar in Los Angeles. Mr. Brummond had been NAIC's general counsel and acting staff director before leaving last year to join a law firm.

The federal Risk Retention Act makes it clear that the intent of Congress was to continue to allow individual states to define product liability, Mr. Brummond said. "The NAIC model does just that and I don't feel the task force went beyond the federal act," he said.

The NAIC model bill as adopted was amended from an earlier version to clarify that captive insurance companies can seek regulation in risk retention groups.

More significantly, requirements were changed for an insurance company chartered in Bermuda or the Cayman Islands to operate as a risk retention group.

A previous version of the bill required offshore captives to file with state insurance commissioners a copy of the certificate they have filed with the insurance department of at least one state showing that the captive satisfies the capitalization requirements of that state.

Added to that provision was an additional requirement that captives give other states "evidence that such certification has been accepted by the commissioner of that state as meeting the requirements of that state."

The New York Insurance Department requested that additional requirement, saying the original bill would have allowed captives to

self-certify their own financial condition.

Another amendment clarified the requirements placed on agents and brokers. Before placing business with a risk retention group, each agent or broker will have to secure "from the appropriate insurance regulatory authority a certified copy of the certificate of authority verifying that the insurer is authorized to write the product liability policy."

The original requirement had the same intent, but the phrasing could have placed the agent or broker in the position of examiner, said Donald Gabay of the New York Insurance Department.

The NAIC executive committee was expected to approve the final proposal later in the week.

Panel compromises on open rating bill

Continued from page 3

Management Society also supported the model bill.

National Council on Compensation Insurance President Kevin Ryan warned the task force that any attempt to move away from an administered pricing system to competitive rating could jeopardize the quality of the data base kept by the NCCI and other rating organizations.

Mr. Ryan said the NCCI would be able to operate under competitive rating, "but with less reliance on the data, there is likely to be less reliable data." If the commissioners went "all the way to protect the data base, they would be back to the system of administered pricing," he noted.

The Alliance of American Insurers suggested the task force receive the model bill but refrain from adopting it as a model.

"It is one of 10 experiments and different proposals out there and it shouldn't be looked to as the model if we don't know what the experience will be under it," said Ken Nails, a vp with the Alliance.

The American Insurance Assn. said the bill is superior to the 1980 competitive rating bill the NAIC

adopted that didn't specifically address workers compensation and the competitive rating laws already enacted in some states.

But, AIA President T. Lawrence Jones said the association could not recommend adoption or rejection of the alternative model bill.

He said the AIA still opposes the enactment of competitive rating for workers compensation insurance.

Tim Campbell, assistant vp for Aetna Life & Casualty, said the question isn't if there should be competitive rating, but rather if state competitive rating laws should be uniform.

To date, Oregon, Minnesota, Michigan, Kentucky, Arkansas, Illinois, Rhode Island and Georgia have changed their laws to force workers compensation insurers to compete against one another rather than file rates together through rating organizations.

The task force model bill was expected to be accepted by a parent committee and then approved by the NAIC executive committee at the closing of the NAIC meeting Friday.

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Pensions expand

WASHINGTON—Today's workers will be better off in retirement than their predecessors, according to a recent study conducted by the American Council of Life Insurance.

By the turn of the century, the proportion of workers who receive pension benefits will increase dramatically. While only about one-half of current retirees now get some kind of pension coverage, about seven of 10 workers aged 40 to 44 will get pension benefits by the time they retire, the ACLI study says.

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Feds to help states monitor METs

DALLAS—A proposed agreement between the U.S. Department of Labor and the National Assn. of Insurance Commissioners would furnish federal help to states trying to shut down self-funded multiple employer trusts that violate state insurance laws.

Under the proposal, approved by NAIC's State and Federal Health Insurance Legislative Policy Task Force at the group's winter meeting last week, the Labor Department would share its legal power to shut down the now largely unregulated trusts with the states.

Many states have found they are virtually powerless to regulate self-funded METs, many of which claim they are exempt from state insurance laws because they consider themselves benefit plans governed by the Employee Retirement Income Security Act of 1974. However, the Labor Department says it has found "very few METs" to be bona fide employee benefit plans covered by ERISA.

The proposed agreement with the Labor Department, which would be entered into on a state-by-state basis, gives state regulators full legal authority to investigate METs operating in their state.

If the MET says it is exempt from

state regulation because it is an ERISA-approved plan, insurance department investigators would be able to call a Labor Department hotline and exchange information with department personnel to determine if the plan has been certified as a bona fide ERISA plan.

The only limitation contained in the proposal is that the Labor Department cannot provide the states with federal subpoena authority, said Jeffrey N. Clayton, administrator of pension and welfare benefit programs in the Labor Department.

"Because certain MET administrators will continue to raise juris-

ditional questions after being served with state subpoenas, agreement also provides an official contact with the Labor Department so that official opinion on coverage can be addressed on an expedited basis," he added.

The courts retain ultimate power to decide whether a MET is exempt from state laws, Mr. Clayton said, but he added that the Labor Department will share information and provide expert testimony should a case go to court.

All state insurance commissioners have been asked to review the proposal and submit any comments to task force Chairman Bill Gur of Florida by Dec. 31.

Names want more details

Continued from page 2
sen & Co.

Lloyd's appears to be taking some of the advice. Next year, directors, officers and shareholders of companies doing business at Lloyd's will have to disclose any interests they hold in other insurance or reinsurance operations.

But some of the association's initiatives have been spurned by the chairman of Lloyd's, Sir Peter Green.

For example, the association for the past two years has been publishing tables comparing the financial performance of individual Lloyd's syndicates, something that Lloyd's itself has never done.

Sir Peter has criticized the tables, saying they are not complete, an accusation that few can deny.

The tables are gathered from information supplied from the 700 members of the association instead of from official market figures. The recently issued tables for the 1979 Lloyd's underwriting year, the latest year for which final results are available, account for only about 90% of Lloyd's premium volume and list only about half of the approximately 400 syndicates.

The best source for complete syndicate information is from the underwriting members' agents, Sir Peter said. However, agents do not give the complete picture, the association responds, saying they offer information only about the syndicates they represent, not about the

whole marketplace.

The tables for 1979 parallel official Lloyd's global results released in August (BI, Aug. 30), showing that rising underwriting losses have eaten up the profit that syndicate members earn.

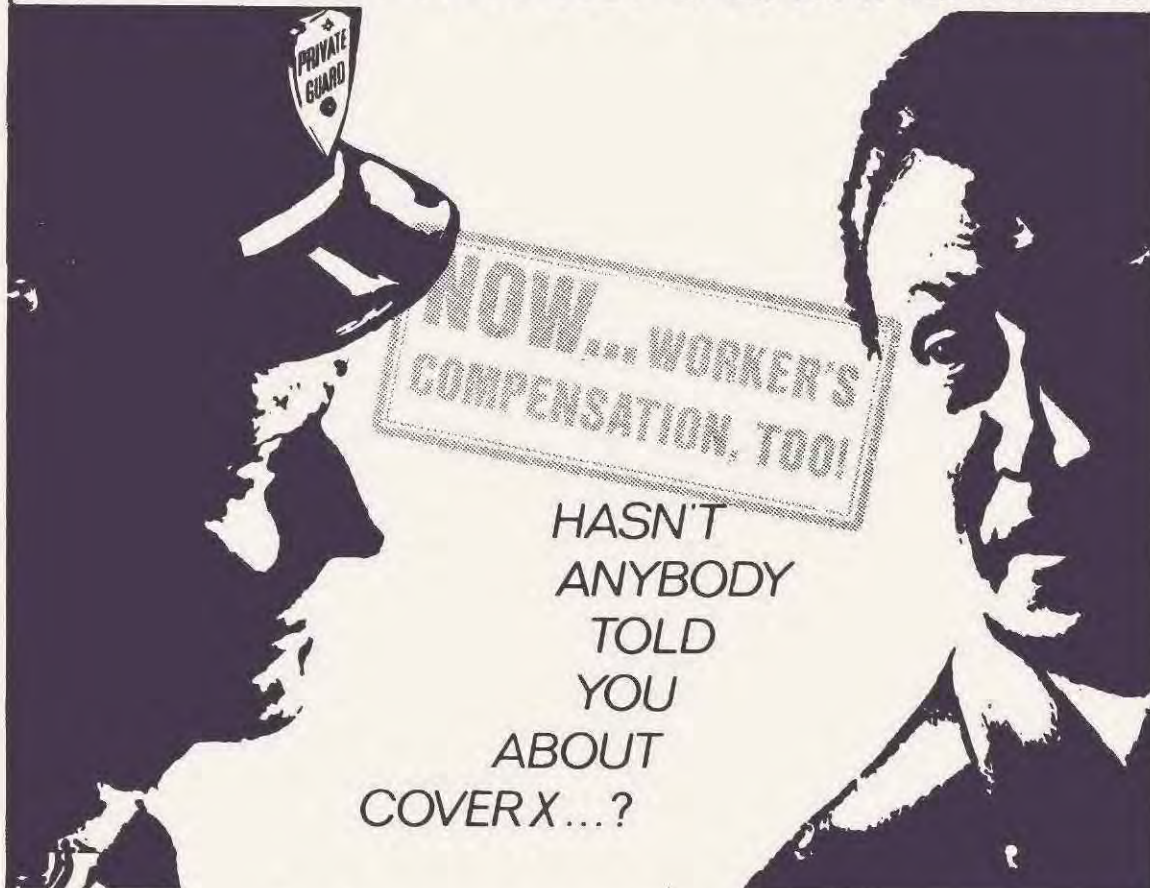
Syndicates returned an average of 227 pounds of profit to members for every 10,000 pounds invested the tables show, compared with 8 pounds in 1978.

Aviation syndicates showed particularly heavy losses, having to absorb members for 166 pounds for every 10,000 pounds invested to cover losses. Last year, aviation syndicates paid members a return of 10 pounds on every 10,000 pounds invested.

"Although 1979 was not such a profitable year as previous years, it still showed a reasonable profit to the average name," explanation accompanying the tables say. "The figures should be read with world market conditions in mind, and when one considers that the large insurance companies were writing business at a loss in 1979, the performance of Lloyd's market is very creditable."

The tables can be purchased by Lloyd's members for 25 pounds (about \$40.75) and by non-members for 60 pounds (about \$97.80) by writing Oliver Carruthers, Assn. of Members of Lloyd's, Chatset Ltd., Wheatsheaf House, Carmelite Street, London EC4Y 0AX England; 01-353-8391.

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Alaskan airlines hoping for lower rates

Continued from page 1

the large premium base the would generate, and then de- the liability and hull loss ex- nce data it will take to win favorable rates.

ly, Martin & Fay in Anchor- will be the broker for the new p program to be underwritten e Covenant Mutual Insurance f Hartford, Conn.

ie 2-year-old carriers' associa- workers compensation group rance program, underwritten rum & Forster, generates an al premium of about \$1 mil- and Mr. Wells expects that fig- to double in a year as member- grows.

he passenger liability group uld generate about \$5 million in al premiums, and the hull p should generate another sev- million dollars, he estimates.

he London market now pro- es at least 90% of the air carrier rance in Alaska, says Ken Tay- Alexander & Alexander Inc.'s ation specialist in Anchorage, ich places the coverage for 1,500 2,000 aircraft and about 3,000 ts.

loyd's of London, mainly ough the Charlesworth, Hill and lker syndicates, provides much the coverage for the Alaskan air riers with other London insur- s, including Aviation & General rance Co. Ltd. and Phoenix rance P.L.C., providing some.

"Rates have been steadily in- easing because the underwriters e taking a bath," he says. "I ow the years 1977, 1978 and 1979 oduced deficits in my book of isiness."

One London broker estimates ondon's annual losses in Alaska at \$5 million.

Mr. Taylor agrees, however, that ss experience has been better in e last couple of years. And, he links the rate increases from Lon- on have peaked and will begin to ome down because of competition. Besides raising rates, the London market also has placed some re- strictions on Alaskan air carrier olicies. Three years ago, London mposed no limits on per-passenger overage, points out Mr. Taylor. Now the market is reluctant to vrite more than \$100,000 per seat, with a \$1 million aggregate.

The London market also does not ike to provide seasonal coverage, a disappointment to most Alaska air carriers, which operate seasonally.

"Underwriters who have to ab- sorb serious losses generally want annual premiums," Mr. Taylor said.

And the losses have been high in the past, according to statistics from the Federal Aviation Administra- tion. Alaskan air carriers recorded 50.2 non-fatal and 2.57 fatal acci- dents per 100,000 hours of flying time during 1975-79. That's more than 15 times as many non-fatal and almost 2½ times as many fatal accidents as recorded by pilots in the lower 48 states, who during 1975-79 recorded only 3.3 non-fatal and 1.11 fatal accidents per 100,000 air hours.

The size of injury awards also has been a problem. Bonnie Nixon of broker Rollins Burdick Hunter Co. in Anchorage says awards are high because, under a new judicial pro- cedure, personal injury trials are heard in the community where the accident occurs.

"Many of these villages have populations of just 40 or 50 people," she points out. "It can be very hard to find an impartial jury."

"We're always being sued for at least \$1 million," says Mr. Taylor.

Alaskan air carriers, however, say their experience is improving and that 1982 will show a substan- tial decrease in accidents.

"The rate this year has been ex-

cellent," agrees Gene Norris, acci- dent prevention coordinator for the Alaska region of the Federal Avia- tion Administration.

Rollins Burdick Hunter's Ms. Nixon is already feeling the effects of improved loss experience.

She was able to secure competi- tively priced coverage for Air North, a Fairbanks-based subsidiary of Yukon Air Service Inc., with the United States Aviation Insurance Group. Its managing underwriter is U.S. Aviation Underwriters Inc., a subsidiary of General Re Corp.

USAIG announced earlier this year that it is willing to provide, on a regular basis, liability, hull and airport liability coverage for com- mercial air carriers permanently based and operated in the state.

"USAIG is more aggressive than I'd expected, although they aren't

jumping in with both feet, either," says Ms. Nixon.

She says its rates "are definitely competitive with London. They seem to do some very productive things, and are giving us an alter- native to the London market. The results have been excellent from our point of view."

Air North, with 18 aircraft and 63 employees, is the second-largest air carrier serving the Alaska interior. Between 75% and 80% of its flights are scheduled; more than half its business comes from mail delivery contracts.

"We're very disturbed about the insurance situation," said George Short, Air North's controller. "That's why we joined the Alaska Air Carriers Assn."

Four years ago, when Mr. Short

joined Air North, "Our rate was \$850 a seat. That was considered a good rate although, coming from the lower 48, it seemed high to me."

"All of a sudden," he continues, "within two years, we were getting rates three times that high, and hearing the insurance people say, 'That's the best we can do.'"

"I know several companies that switched to cargo only, and several that went broke" because of the high premiums, Mr. Short said.

Others have endured the rising insurance costs by learning to adapt to them.

The most common adjustment has been to reduce passenger liabil- ity exposure by cutting back on the number of passengers transported, says Barry Michou, executive director of the Alaska Transporta- tion Commission. Some carriers

have eliminated underutilized air- craft and others remove two seats from a six-seat airplane.

Some carriers, according to Mr. Michou, pull out all the plane seats for a four-to-six week period and transport seafood rather than people.

"They get action from the beach site to larger airport facilities," he says. "It's not a definite pattern yet," cautions Mr. Michou, "but as long as they can knock their number of seats down, they can keep their insurance costs down, too."

Reduced passenger liability costs may be only part of the incentive. "It's also a lot easier to move cargo than people," says Mr. Wells of the air carriers' association. "And, there are millions of dollars out there in the state's cargo market." ■

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Posgate syndicates bought reinsurance through POSA

Continued from page 2

ance from POSA follows allegations about other reinsurance transactions he made as chairman of Alexander Howden (Underwriting) Ltd. and as underwriter for several Lloyd's syndicates.

Howden's parent company, Alexander & Alexander Services Inc., has accused Mr. Posgate and four other former Howden directors of filtering millions of dollars into reinsurance companies they secretly controlled.

Mr. Posgate has been dismissed from his posts at Howden and has also been suspended as a Lloyd's member.

Mr. Posgate, in turn, has denied the charges and sued Howden and A&A to get his old job back (BI, Nov. 15).

The Department of Trade, the City of London Police Fraud Squad and the Committee of Lloyd's are investigating Mr. Posgate's reinsurance transactions.

Any reinsurance claims filed by the syndicates formerly managed by Mr. Posgate based on reinsurance contracts issued by POSA will most likely not be paid, says an Adas spokesman in London.

In the papers filed in the Romanian court, Adas says POSA and CJV Associates, a New York reinsurance intermediary also connected with POSA, acted in behalf of ceding companies, including the Posgate syndicates, instead of in behalf of Adas, thus violating the underwriting contracts.

"The defendant companies used the reinsurance operations in a manner detrimental to Adas, actually acting upon the instructions of the ceding companies in establishing the premiums and other elements of the reinsurance conditions," Adas claims.

Moreover, Adas says that it did not know that it was reinsuring

other participants in the pool.

Adas also says that POSA's New York office, which managed the intermediary's contracts with Adas, did not supply it with promised information that was crucial to the contracts.

Adas says in the court papers that it had thought that it had only retroceded about \$2 million in gross premiums, but said that it learned from POSA in May 1981 that it had really retroceded about \$23 million in net premiums.

POSA's attorneys canceled the contract with Adas in August 1981, the papers say.

The Adas spokesman in London says that the reinsurer also plans to fight the lawsuit against Adas and Seguros La Republica filed on behalf of the syndicates formerly controlled by Mr. Posgate.

The syndicates want the two companies to pay for losses under a reinsurance contract issued by POSA that ran from November 1978 to October 1979. The contract stated that each company would reinsure 5% of any loss exceeding 500,000 pounds, up to a 1.5 million pound limit.

Each company owes the Lloyd's syndicates about \$198,000 from the contract, the syndicates say in the suit.

The Lloyd's syndicates also want Adas and Seguros La Republica to honor more than \$452,000 in losses that they owe through reinsurance contracts issued at approximately the same time by another reinsurance intermediary, Re/International Ltd., which also held binding authority from the two companies. Re/International closed its London contact office earlier this year.

Mr. Mitchell, the attorney for the syndicates, says he is confident, however, that they will recover the losses.

Disaster plan works for bank

Continued from page 3

Friday and put most of its headquarters workers back at new desks in temporary offices on Monday.

The bank's disaster document, described as 4-inches thick, included details on such things as salvage companies, communications, security, moving vans and how to quickly obtain temporary office equipment. It was developed by the bank's security department, says Hugh O. Strawn, a vp of the Minnesota Insurance Information Center, a non-profit industry trade group based in Minneapolis.

In addition, the bank's computer center, located a few blocks away, was spared any damage.

Of the property damaged, "We expect to be fully insured at replacement value," says Jack W. Green, vp, general counsel and secretary of the bank holding company.

St. Paul Fire & Marine expects a pretax loss of approximately \$5 million resulting from its property coverage on the 18-story bank and office building. Reinsurance agreements limit St. Paul's retained loss to \$5 million under the policy covering the declared value of the insured property.

The bank's risk management officials declined comment on the disaster plan or their insurance program.

City officials, meanwhile, are trying to determine if they could be liable to St. Paul Fire & Marine and/or to the bank for losses to the bank building if fire officials confirm the fire started in an old department store building slated for urban renewal that was located next door to the bank building. The city is self-insured.

The first firefighters to arrive at the scene after the 4:45 p.m. alarm say the blaze appeared to have started in the vacant structure, which until August housed a Donaldson's department store, a unit of Allied Stores Corp.

The structure is owned by the Minneapolis redevelopment authority and was undergoing demolition by the Minnesota Lumber & Wrecking Co. of St. Paul under a contract with the developer of the property, MCC Development Co. MCC is affiliated with Oxford Development Group Ltd., a privately held developer and real estate management corporation based in Edmonton, Alberta.

"There are a lot of interesting questions that will be posed in the next few weeks and that would certainly be one of them," said Mr. Green of Northwestern Bancorp.

City Attorney Robert J. Alfton said demolition companies must show evidence of at least \$5 million in liability insurance to obtain a demolition permit in Minneapolis and the insurance is required to

name the city as an additional insured. Oxford Development's subsidiary also was required to obtain "adequate insurance" under a contract it signed with the city calling for Oxford to arrange for demolition of the old department store.

Minnesota Lumber & Wrecking's contract is with PCL Construction Ltd., said Clifford T. Trudeau, president of the St. Paul-based wrecking company. PCL is a Canadian general contractor overseeing construction of the City Center project sponsored by Oxford.

"I've got a meeting with our insurers right now," said Mr. Trudeau, who declined to discuss any details.

Firefighters concentrated their efforts on saving surrounding commercial buildings in the heart of the Minneapolis' downtown shopping district. Among buildings threatened were the newly constructed Donaldson's department store building, the Marquette Hotel and the 55-story IDS Building which dominates the city's skyline. Oxford also is the managing general partner for a group of limited partners that own the IDS Building.

Insurance on Oxford's Minneapolis properties is brokered by Marsh & McLennan Inc., a company official says.

Fear that heating ducts would draw in smoke led authorities to bar shoppers from portions of a multi-story enclosed mall adjacent to the IDS Building, but the area was reopened Nov. 26 in time for a partial resumption of traditional day-after-Thanksgiving holiday shopping.

Bank and city officials say they are still uncertain whether any stores will file business interruption claims resulting from the fire but expect such losses to be dwarfed by the damage to the bank building.

Aside from the bank, the largest tenant in the gutted building was the 135-lawyer firm of Faegre & Benson. The firm moved its entire operations into four floors of the IDS Building the weekend following the fire and was answering telephones and conducting business Monday morning.

George D. McClintock, chairman of the managing partners at the firm, credited the swift move in part to the availability of surplus office space in downtown Minneapolis.

Fire Department Capt. Eugene H. Klesmit, who is investigating the blaze, says the law firm carries contents insurance with a limit of \$2 million and that the firm's insurers, which are undisclosed, have already reserved the total limit of the policy.

St. Paul's adjustment of the loss is being handled by General Adjustment Bureau Inc. of New York, a subsidiary of UAL Inc.

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Commercial Consumers

Administrative Management: owners, presidents, vps, etc. 6,497

Financial Management: chief financial officers, vps of finance, secretaries, treasurers, etc. 9,634

Insurance Management: vps, directors, managers of insurance, risk, benefits, compensation, safety, security, etc. 5,948

Government, Associations, Unions, Educational Institutions 1,004

Commercial Consumers Sub-total 23,083

Insurance Agents & Brokers 9,629

Insurance Cos. 4,944

Financial Institutions 314

Adjusters, Appraisers & Consultants 2,408

Others allied to the field 854

TOTAL 41,232

*Source: Business/Occupational breakdown of qualified circulation, May 3, 1982 issue, as submitted to BPA for June 1982, BPA Publisher's Statement.

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Some Hawaiians not covered for wave damage

Continued from page 3

and by Hawaii's largest insurance markets:

\$21 million by First Insurance of Hawaii Ltd., a unit of Continental Corp.

\$12 million to \$13 million by Pacific Insurance Co. Ltd., a unit of Ford Insurance Group, which is owned by International Telephone & Telegraph Corp.

\$5 million to \$6 million by The Hawaiian Insurance & Guaranty Ltd., better known in the islands as Hawaiian Insurance Cos.

\$30 million to \$35 million by Cravens, Dargan & Co., an affiliate of INA Corp., and the largest specialty underwriter of difference conditions and all-risk policies in the islands.

The standard property insurance policy written in the islands specifically excludes losses caused by wind, waves, surface water, tidal waves, tidal waves and spray, whether driven by wind or not, said John Platt, underwriting supervisor of Cravens, Dargan's special risk department in Honolulu.

All-risk and DIC policyholders who purchased adequate limits will be covered for their losses, but the highest limits available through the National Flood Insurance program are \$250,000, according to a Honolulu commercial insurance broker.

A number of Cravens, Dargan policyholders on Waikiki suffered wave-action damage. One unidentified hotel that is insured against the peril sustained \$1.5 million to \$2 million in such damage.

"DIC has been a hard sell here," notes Mehrtens Chillingworth, senior vp of Marsh & McLennan Inc. in Honolulu. "When people think of hurricanes, they usually think of wind, not of rolling seas." Wind damage is covered in standard property insurance policies, but damage from rolling seas is not.

Brokers note that after a loss like this, clients tend to forget that a specialty coverage was discussed and rejected, said Mr. Chillingworth.

"If you own a condominium that is 100 to 200 yards from the sea, it's hard to conceive that wind will blow waves that far," he observed. He predicted that lenders in the future will take a hard look

at requiring DIC coverage on structures in areas susceptible to inundation.

Insured losses, however, could be enough to speed an increase in insurance rates in Hawaii. People have been saying that the soft market will turn in late 1983, noted Mr. Chillingworth. "It may turn the corner a lot sooner in Hawaii."

The largest known physical damage loss from hurricane Iwa is the Sheraton-Kauai Hotel, located in the devastated Poipu area on the southern coast of Kauai. At least 170 of the hotel's approximately 400 rooms and a large restaurant were destroyed.

Ohbayashi-Gumi Ltd., a Japanese corporation with an office in Honolulu, owns the hotel, which is managed by Boston-based Sheraton Corp., also an affiliate of ITT.

A four-story structure of 230 rooms completed just last spring suffered mainly broken glass and roof damage and may be reopened by Jan. 1, said Kaz Okazaki, project manager for the hotel owner. But the 170 oceanside rooms in the old wing are gone.

"We estimate the loss at \$5 million to \$10 million," said Fred S. Ida, vp-secretary of Pacific Insurance Co., which is the lead property insurer on the hotel. Mr. Ida confirmed that the Japanese owner, and not Sheraton, is the hotel policyholder.

"Pacific has 70% participation in the risk and we have 30%," said Yoshi Matsumaga, manager of the Honolulu branch office of Tokio Marine & Fire Insurance Co. Ltd.

He said policy limits for the hotel—the only one owned by Ohbayashi-Gumi in Kauai—were about \$25 million. But the hotel may not have coverage because there might be an exclusion for wave damage, he added.

Asked if the damage was caused by wind or wave action, Mr. Okazaki of Ohbayashi-Gumi said: "I would be really reluctant to say... the cause of the damage will be a most vigorous struggle point between us and our insurance company."

Mr. Okazaki said the hotel owner carries business interruption insurance, but that the cause of physical damage would determine the extent of coverage under that policy. He said he did not believe Ohbayashi-Gumi had insurance for wave damage.

One hotel with all-risk coverage is the 487-room Hyatt Kuilima Resort on the north shore of Oahu, owned by Prudential Insurance Co. of America. The hotel was closed for five days after the hurricane because the loss of electricity put the water pumps and plumbing out of commission.

The resort lost a roof off its horse barn and suffered other minor damage. All physical damage and business interruption losses are covered by St. Paul Fire & Marine Insurance Co. above a \$100,000 retention, reported Raymond Patella, Prudential's director of risk management.

All-risk coverage also is believed to have been acquired by the Hilton Hawaiian Village on Waikiki Beach, which is a joint venture between Prudential and Hilton Hotels, said a Prudential spokesperson. The hotel lost its dock, a bar on the beach and an adjacent shop, but continued to operate throughout the storm.

Hilton, not Prudential, provides insurance on the hotel, said Mr. Patella, but as co-owner Prudential would require all-risk coverage on the waterfront property. Substantial losses were sustained by Amfac Inc., one of Hawaii's largest businesses with agricultural operations, resort hotels, property management and retail stores in the islands.

Ralph Perry, director of risk management and assistant vp of Amfac, based in Burlingame, Calif., spent last week assessing the damage on Kauai and expected to make his report to top management in Honolulu late last week. Amfac's Poipu Beach Hotel and Waiohai Resort were extensively damaged and will be closed at least until Jan. 1, said an Amfac spokesperson in Honolulu. Both hotels are believed to be insured against wave damage through insurance underwritten by Cravens, Dargan & Co.

Two other Amfac hotels on Kauai are open and minor damage to landscape and outdoor facilities are being repaired. Damage to Amfac retail operations include losing part of the roof on its Liberty House of Hawaii department store, located in the

Kikui Grove Shopping Center in Lihue, the capital city of Kauai.

Several other tenants in that shopping complex experienced damage to their store roofs or equipment located on the roof, including a Sears, Roebuck & Co. department store, Longs Drug Store and Star Market.

"Our major problem is lack of electricity," said Ron Plomgren, senior vp of Longs Drug Stores Inc. in Walnut Creek, Calif. "It may be up to two weeks before we have power there, so we're looking for a portable generator."

Physical damage to the drug-store was minor. Just one coconut-size hole was poked in the roof and a sheet metal canopy at the entrance to the store was destroyed, said Mr. Plomgren. But the lack of lighting has forced the business, normally open until 8:30 or 9 p.m., to close at dusk.

"We flew in mechanical cash registers from Honolulu since the electrical ones don't work," continued Mr. Plomgren. And employees are using hand-held, battery-operated calculators with paper tape to give customers a receipt.

The drug store chain's 14 other stores in Hawaii also have been plagued by rolling blackouts. "We're open for three hours, then closed for one," said Mr. Plomgren.

Longs Drug Stores does not have insurance to pay for its extra-expense or business interruption losses, said a company spokesperson. Physical damage losses will be paid above a \$10,000 deductible by Harbor Insurance Co.

Amfac also owns two of the four sugar cane plantations on Kauai, but could not estimate damage to the crops.

Reliable estimates of damage to Kauai's sugar crop probably cannot be made until the cane is harvested next year and reductions in yields are calculated, said Alan Kugle, executive vp of C. Brewer & Co. Ltd., which owns one of the island's sugar cane plantations.

"The figures I've heard—around \$12 million—sound high to me," he said. "Sugar is a very resilient grass. After the last hurricane in 1959, most of the cane was able to be harvested and the loss was fairly minimal."

C. Brewer sustained about

\$300,000 in physical damage to small buildings on its plantation. C. Brewer, an affiliate of IU International Corp., owns a controlling interest in Hawaiian Insurance Cos., which provides the grower's property insurance above a \$50,000 self-insured retention. The grower also buys insurance for crop losses in the field from Lloyd's of London.

"It's going to be about two weeks before we are able to complete a survey of our fields and try and evaluate what is going to happen in terms of loss," said a spokesman for Alexander & Baldwin Inc., which owns the McBride Sugar Co. Ltd. on Kauai.

He estimated that the plantation might have a 4.5% to 5% loss in cane tonnage. That could translate into about a \$1 million loss based on normal production of about 57,000 tons a year worth about \$360 per ton.

McBride also suffered some roof and interior water damage to its carpentry and machine shops. But the company's biggest worry concerns the bulk sugar storage terminal where its raw sugar is hauled after milling. The facility, which is owned by Amfac, was damaged in the storm.

"They're not sure how soon they can be back in operation and we can only go about three days before we're full up to the rafters," said the spokesperson. "If they can't move it out, we may run three days and quit (harvesting)."

McBride's 80-year-old hydroelectric station survived the storm and supplied the entire north side of the island with electricity within 24 hours after the storm hit, said the spokesperson. But, two commercial buildings in Lihue and Port Allen owned by the parent corporation were completely demolished.

Other unconfirmed reports of significant commercial damage on Kauai involve the Hanalei Bay Resort in Princeville and Poipu Kai Resort, owned by Administration Inc., in Poipu.

Damage to roads, bridges and other public property is estimated at \$30 million on Kauai and \$4 million on Oahu, according to Federal Emergency Management Agency estimates. Schofield Barracks, a U.S. Army installation in central Oahu, reported damage estimated at \$10.8 million.

Railroad learns bourbon, water don't mix

Continued from page 3

"But I'm assuming we're going to get the bourbon back."

Because Santa Fe was the carrier at the time of the incident, Mr. Cornelius said he expected liability for any damages would fall to the railroad.

The 20,000 gallons of Kessler, a medium-priced brand of bourbon, has an approximate retail value of between \$500,000 and \$600,000 dollars, according to a spokesman for Joseph E. Seagram & Sons Inc. (U.S.), the company that markets the whiskey. Wholesale value is typically 50% of the retail cost.

Depending on the contractual arrangement with Seagram's, if the tank car is not recovered, Santa Fe might have to reimburse the estimated \$600,000 retail value rather than the lower wholesale value of the bourbon, said Mr. Cornelius.

The replacement cost for a tank car is approximately \$60,000, he added.

However, Don Davignon, Seagram's director of risk management, said in most cases his company is reimbursed just for its current incurred cost. In this situation, the incurred costs would exclude bottling expenses since the bourbon

was still in bulk form.

Although loss estimates on the incident are preliminary, the ultimate cost to Santa Fe will be far below the company's more than \$5 million self-insured retention level. The railroad's excess insurance is placed through the London market.

Santa Fe expects to continue recovery efforts until the tank car is located, according to Ross Sullivan, a spokesman for the railroad company. He predicted the cost of recovering the tank car would be significantly less than the \$500,000 to \$600,000 potential exposure.

Early efforts by divers to find the missing whiskey were hampered by rough weather, which continued to send squalls into the bay area. And Santa Fe officials now believe the tank car was buoyant enough to allow it to move under the water.

After days of fruitless searching for the tank car, Santa Fe officials called in a different commercial diving company with expertise in the use of sonar equipment. The sonar equipment sends sound waves through the water and then records a pattern when the sound wave hits a solid object.

The sonar analysis should enable divers to identify a more specific location for the car, Mr. Sullivan said. And a review of the tug's charts at the time of the accident also has led to a more optimistic prognosis for the recovery of the tank car, he added.

"At first we thought the car was in about 80 feet of water," he said. "But after further discussions with the captain (of the tug) and going over the charts again, we now feel it may be in about 32 feet of water," which should ease recovery efforts.

Currently, there is no evidence that the tank car is leaking, Mr. Sullivan said, adding that "there are no environmentally damaging effects of the accident as far as we know."

Additionally, if the tank car is watertight when it is recovered, Seagram's officials say the whiskey could be salvaged and eventually find its way to consumers.

Although Seagram's has insurance that would respond to business interruption losses, the "amount involved (in this case) is not significant in terms of our total volume and will not pose an interruption problem for us," Mr. Davignon said. "In relation to a total

of 3 million to 5 million cases a year, one tank load (of Kessler) translates into only about a couple thousand cases."

Kessler American Blended Whiskey is produced by Calvert Distillers Co., a division of New York-based Seagrams. The 20,000 gallon shipment was in route via the Santa Fe railway system from a Seagram's distillery in Lawrenceburg, Ind., to its San Francisco bottling plant.

Santa Fe transports such shipments across the bay on flat-bottom barges which run from Point Richmond, located on the northeast side of the bay, to South San Francisco on the bay's southwest side.

"A huge swell hit the barge and snapped the cables (which tied the barge to a Santa Fe tug boat)," said Santa Fe's Mr. Sullivan. "In the rolling motion, four cars were pitched into the drink and it upset another five cars, but they stayed on the barge."

There were no employees on the barge at the time of the incident. Employees manning the tug were not injured.

The bourbon-filled tank car sank to the bottom of the bay approximately one mile north of Treasure

Island. The three boxcars, also tossed overboard when the barge snapped loose, were filled with newsprint and quickly floated to the top of the water.

Crews working from the time of the incident, about 5:15 p.m. Nov. 28, until midnight, were able to tow the barge and the three boxcars back to Point Richmond.

"We don't know what the damage is to the newsprint yet," Mr. Sullivan said. Damages on the boxcars of newsprint will be assessed after the paper is delivered and inspected, he explained.

The five other box and tank cars, which turned over on the barge during the storm, were not damaged.

Santa Fe routinely uses these huge barges to transport tank and boxcars across the bay. The barges can transport up to 14 cars and are lashed fore-and-aft to large Santa Fe-owned oceangoing tugs.

Although the tugs are equipped with radar to monitor weather conditions, the rough seas in the bay were completely unexpected, according to Mr. Sullivan, who added, "I've been here 35 years and this is the first time we've seen anything like this."

Illinois asks for help to break fraud chain

Continued from page 1

original premiums to nothing.

At one point, Kenilworth was actually losing more than \$2 for every \$100 in premium it wrote, just on commissions and reinsurance premiums without even considering losses, said Mr. Allen.

Kenilworth's problems began to surface in 1981 when Kenilworth President Chester Mitchell attempted to turn around the faltering company, which then was underwriting only substandard automobile insurance. He decided to take the company into surplus commercial insurance, banking on the new infusion of premium to keep the company in business, Mr. Allen said.

Mr. Goepfert promised Mr. Mitchell a \$30 million book of business of surety, substandard property, professional liability and long-haul trucking risks.

"What was astounding to all of us who have been involved in the investigation of this matter—not only in Illinois, but in New York, California, Florida, Texas and many other states—is the speed with which he (Mr. Goepfert) and his loosely formed group of associates were able to accomplish their objective," Mr. Allen said.

"Within six months, Kenilworth was generating on an annualized basis an estimated \$60 million to \$70 million in premium. And that may be a conservative estimate after the results from Australia, Lebanon and other countries are counted," he added. Kenilworth apparently was writing reinsurance for concerns in these countries.

In April of this year, however, Kenilworth's annual statement to the Illinois Insurance Department showed the company had a statutory surplus of \$3.6 million, based on reinsurance recoverable. The major reinsurer was a Cayman Islands reinsurer, Universal Casualty & Surety Co., which is not admitted in Illinois.

The annual statement also listed unidentified international business of more than \$2 million. Later requests to Kenilworth for documentation generated only an earlier telex from Kenilworth's managing general agent in the United Kingdom—B.F.G. Toomey & Associates (see related story, below). The telex listed about 15 risks allegedly writ-

ten in London. At the bottom of the telex was a special message from the agency: "If you need more (risks), please let me know."

No losses for this business are recorded anywhere.

The Illinois Insurance Department issued a conservation order on April 15 and seized the company. From documents taken with other physical assets of Kenilworth, investigators learned that about \$60,000 had been taken from Kenilworth to pay for improvements to a luxury apartment in Lake Point Tower in Chicago.

Using a warrant to seize whatever assets might be available in that apartment, Mr. Allen and investigators entered the apartment and discovered an ad-lib office of a Kenilworth managing general agency, Robco Worldwide Facilities, run by Robert H. Patterson.

With Mr. Patterson was Joyce Splendoria, known to investigators as Jack Goepfert's bookkeeper. She was seated at a dining room table with a set of records. Also in the apartment was an unidentified "young lady" typing invoices to Kenilworth producers.

Strewn on the floor—and on shelves and furniture—were hundreds of Kenilworth policy files, said Mr. Allen.

"So, all of a sudden, we were faced with 50 cartons of documents related to Kenilworth which had been generated in a three-to-four-month period," Mr. Allen said.

From those and other documents, including sworn testimony from the Sasse trial, the Illinois department traced the activities that led to the demise of Kenilworth.

Mr. Allen had encountered many of the people and companies involved in Kenilworth when he liquidated Main Insurance Co. in 1973 in Illinois, including Mr. Goepfert.

Main Insurance had insured mostly substandard automobile risks, just like Kenilworth. But, then its executives attempted to expand business by reinsuring Stonewall Insurance Co. Kingaby, Simmons & Maudit, an intermediary in England, was among the companies producing the reinsurance business. Douglas and Mike Kingaby later served as intermediaries for Kenilworth.

Another intermediary for Main was Northeast Facilities, a Goepfert-owned firm. It was staffed by Allen Assael and Ms. Splendoria. Mr. Assael later pleaded guilty along with Mr. Goepfert in the Sasse case.

Pritchard & Baird, an infamous intermediary that later went bankrupt, was another intermediary placing business with Main.

Brokers placing business with other insurers that later reinsured those risks with Main included Mr. Goepfert's Resource Facilities and Worldover Facilities. The latter employed Eugene Brew and Raymond Karlinsky, who is the alleged owner of a defunct Panamanian intermediary called Promotora De Occidente de Panama S.A. (POSA) (see story, page 2).

Other Main producers were Universal Excess, headed by Noel Bernard, and Inram, owned by Mr. Karlinsky. Inram brokered coverage for clients that included Occidental Petroleum, Shop Rite food stores and Arlan Realty, all of which were known to generate large losses, said Mr. Allen.

When Main was declared insolvent, portions of primarily reinsurance business produced by Mr. Goepfert and a dozen others was placed with Argonaut Insurance Co. of New York by the same producers, Mr. Allen said.

A new producer for Argonaut was Brokerage Resources in New York. According to Mr. Goepfert's testimony in the Sasse case, Brokerage Resources was started with a \$500,000 loan from Mr. Goepfert, Mr. Allen said.

The company, now called B.R.I. Coverage Corp., broke off all relations with Mr. Goepfert more than five years ago. It is now the 21th-ranked insurance brokerage in the nation by gross revenues.

At Argonaut, instead of using it as a reinsurer, the reinsurance intermediaries used it as a direct insurer and then lined up reinsurance behind Argonaut. They started using as reinsurers Amherst Insurance Co., Halvanon Insurance Co. of Israel and Resource Insurance Co., owned by Mr. Goepfert.

"It should be noted that Mr. Assael testified (in the Sasse trial) that between \$25,000 and \$50,000 was paid to a vice president of the

Argonaut at this time to obtain the pen-

Argonaut (for Resource Facilities, the Goepfert-owned intermediary)," Mr. Allen said. Most of the coverage that Argonaut put up after Main closed was property insurance on substandard risks in Brooklyn. Argonaut underwrote through Resource Facilities risks at less than the rates charged by New York FAIR Plan, a joint underwriting facility designed to provide property insurance to difficult risks at reasonable premiums.

In 1976, a financially shaken Argonaut pulled out of this business and has since established itself as an insurer that has been given a B rating by A.M. Best Co. Inc.

Without Argonaut, the Goepfert-produced business went to Den-Har in Miami, which said it was taking the business on half of the Sasse Syndicate at Lloyd's.

Dennis Harrison of Den-Har had been introduced to the Goepfert group by Smith, president of another intermediary called Intraglobal. Most of the business had been producing for Sasse was substandard automobile coverage coming from a neapolis broker Nordstrom Larpentuer, a Nordstrom Group.

The substandard property risks come from Argonaut were to be underwritten by Puerto Rican insurer, Commonwealth Puerto Rico, and reinsured with Sasse. A participating on the reinsurance was to the Brazilian reinsurer, Instituto de Resgates do Brasil, represented by Mr. Smith. The Puerto Rican insurer later backed out, leaving Sasse as the direct underwriter.

New to the list of producers in the Goepfert group was Richard Mamarella, an underwriter at Den-Har.

A new reinsurance intermediary was C. Associates, owned by Michael Patt and Jack Karlinsky, said Mr. Allen. CJV also produced reinsurance business for the now-defunct Panamanian intermediary, POSA.

Also acting as reinsurance intermediaries for Sasse through Den-Har were Re-International, operated by Warwick Feldman, and Chelsea Reinsurance, operated by Mr. Goepfert and Mr. Harrison.

Continued on facing page

London intermediaries claim Kenilworth deals were voided

By STACY SHAPIRO

LONDON—Two reinsurance intermediaries, which allegedly produced millions of dollars of reinsurance premiums that were never paid to the now-insolvent Kenilworth Insurance Co., claim they canceled all the transactions.

B.F.G. Toomey & Associates, Kenilworth's London underwriter, and Alexander Howden Insurance Brokers Ltd., described by the Illinois Insurance Department as one of Kenilworth's "largest producers," told *Business Insurance* that they attempted to place reinsurance with Kenilworth but canceled when the company's security proved unacceptable to clients.

Toomey & Associates is a Bermuda-domiciled company based in London and headed by Barry Toomey. The reinsurance intermediary for Beacon Insurance Co. received full underwriting authority from Kenilworth in 1981, according to an Illinois Insurance Department report (see related story).

It used this authority to accept reinsurance on behalf of Kenilworth from a variety of British intermediaries for many U.S. insurers with major corporate policy-

holders, the report said.

Through Toomey & Associates and D.G. Walker & Associates, another underwriter to whom Mr. Toomey allegedly delegated authority, Kenilworth wrote more than \$40 million in reinsurance premium never received by the company, the report said.

Mr. Toomey, in London, admitted that he tried to use Kenilworth as a reinsurance market for risks his prime reinsurer, Beacon, refused to accept, including some varieties of malpractice insurance and product liability coverage.

"I was approached by a London broker—Alec Guy—who said there was a B-plus-rated company that was trying to get into the surplus lines business from substandard auto coverage. This was not unusual. That's how the Beacon started," he said.

After a meeting in Chicago that included, among 14 others, Jack V. Goepfert, Mr. Toomey received his managing general agency agreement. But, he says, he found it nearly useless. Other underwriters would not accept the security of Kenilworth.

"I wrote about \$10 million in pre-

mium, but at the end of the day I wrote nothing because all the agreements were canceled before they became effective," he said.

At Alexander Howden, Colin Bird, managing director of Howden's brokerage operations and chief executive officer of its North American division, also admitted the brokerage had placed a small amount of facultative reinsurance with Kenilworth but quickly canceled it when Kenilworth would not provide a written guarantee of the coverage. Thirteen risks, including some "household names," according to Mr. Bird, would have paid only \$225,000 in premium to Kenilworth, not millions as alleged by the Illinois regulators.

The reinsurance, which had already generated claims, was replaced within six weeks by other reinsurers who assumed the claims, Mr. Bird said.

"When the Kenilworth went bankrupt, we called Mr. Allen (in Illinois) and said that we had had a number of risks with the Kenilworth and that while we admitted we owed some premium, they owed us three times that in claims," Mr. Bird said.

Vote on longshore legislation delayed

WASHINGTON—The House Education and Labor Committee will vote this week on legislation, S. 1182, to overhaul the federal Longshoremen's and Harbor Workers' Compensation Act.

Last week's scheduled vote was

delayed after committee member Rep. Phillip Burton, D-Calif., said he needed more time to study the bill.

Despite the delay, backers of the bill are optimistic that Congress will approve the legislation before

the session expires this month.

The measure, which limits future benefit increases and clarifies the scope of injuries that would be compensated under the longshore act, already has cleared the Senate.

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rued from facing page
ew reinsurer was Lloyd's Italico, not a
's syndicate but a structure operated by
eldman.
his point, authorities began to catch up
he Goepfert group. Losses began to pile
Sasse and reinsurers declined to pay
shares. Lloyd's investigated in London
he U.S. Attorney for the Southern Dis-
of New York prosecuted Messrs. Goep-
Assael, Mamarella and Harrison.
ey all pleaded guilty and have been sen-
ed.
though Den-Har was supposed to be act-
ndependently of these other interme-
es, Mr. Mamarella testified at the Sasse
that Mr. Goepfert and Mr. Assael fre-
tly overrode Mr. Mamarella's under-
ing decisions at Den-Har, according to
Allen.

It was estimated that the Sasse Syndicate
at least \$15 million during the course of
whole scheme," Mr. Allen said. "They, of
se, went out of business."

In the course of the Sasse trial, it also was
covered that some \$2.6 million in premi-
due to Sasse was diverted from Den-Har
to the personal bank accounts of Messrs.
Goepfert and Assael. This was "the standard
scheme whereby the premium is collected
in the insured at inception or even on a
monthly basis by the finance company (a
company also operated by Mr. Goepfert) and
then forwarded to the insurance company if
it doesn't occur," Mr. Allen noted.

After Lloyd's denied Den-Har's under-
writing authority in the wake of the Sasse
cases, Den-Har's book of business and its
firm of brokers and intermediaries moved to
Atlantic & Gulf States Insurance Co. and
then onto Commodore General in Hong
Kong.

Coming into the picture at this point was
William Hayne, who was president of Atlan-
tic & Gulf and president of two interme-
diaries.

After Atlantic was declared insolvent, Mr.
Hayne produced reinsurance business for
Commodore through his company, IMS In-
termediaries. He also produced reinsurance
business for Kenilworth through his Essex
Insurance Brokers in San Diego.

Several new reinsurers were brought
into the Atlantic scheme. They included
Home Insurance Co., controlled by Mr.
Goepfert; The Dover Insurance Co., which is
now under investigation in Bermuda; and the
Stetzel-Thomson non-marine Syndicate of
London, now owned by Poe & Associates of
Tampa, Fla.

Stetzel-Thomson also was the only rein-

surer inherited by Kenilworth when the
Goepfert group started pitching business to
that insurer in 1981. It has been paying docu-
mented losses to the liquidators of Kenil-
worth.

The direct and reinsurance business Kenil-
worth eventually received from its deal with
Mr. Goepfert was confused, convoluted and
diverse, Mr. Allen said. In liquidating Kenil-
worth, he has found that on several occasions
Kenilworth actually was reinsuring itself
and also reinsuring a life insurance company,
Contract Life Insurance Co. in Arizona. Kenil-
worth, which was supposedly being offered

only surplus lines business, also reinsured the
now defunct multiple employer benefit trust,
The American Benefit Trust in Tustin, Calif.
(*BI*, Oct. 4).

In the United Kingdom, Kenilworth's un-
derwriter, B.F.G. Toomey & Associates, un-
derwrote several facultative reinsurance
agreements, most of which were produced by
Alexander Howden Insurance Brokers Ltd.
(see related story), said Mr. Allen.

The Committee of Lloyd's receives a
copy of the Illinois Insurance Department re-
port on reinsurance fraud this week by spe-

Regulators urge new reinsurance rules

DALLAS—State insurance departments
must expand their scrutiny of reinsurance
transactions and increase their collection of
data on reinsurance intermediaries, two in-
surance regulators recommend.

The licensing of reinsurance interme-
diaries, however, may not be necessary to
limit reinsurance fraud, New York Superin-
tendent of Insurance Albert B. Lewis told the
National Assn. of Insurance Commissioners' winter meeting last week.

Although the licensing of intermediaries is
now required in New York state, Mr. Lewis
said such a regulation is not a necessity.
Rather, state regulators should use their ex-
isting powers to examine intermediaries
whenever there is a reasonable suspicion of
wrongdoing.

Intermediaries, managing general agents
and other non-licensed insurance and rein-
surance marketers and underwriters should
be forced to file data with the NAIC, Mr.
Lewis said.

They should also commit themselves, in
writing, to the auditing authority of the in-
surance departments of the states in which
they do business.

The NAIC should receive and make avail-
able to individual states intermediaries' fi-
nancial statements, procedures and a detailed
questionnaire about the firms' business.

"What we are asking for is for the inter-
mediaries to show a modicum of responsibil-
ity," Mr. Lewis said.

The New York regulator also asked the
NAIC to consider and develop minimum ac-
counting standards for reinsurance transac-
tions that would eliminate mingling of pre-
mium and operating funds. "One-pot" book-
keeping should not be acceptable, he ex-
plained.

"I think we should be firm with our abso-
lute right to demand escrow or premium

trust accounts," Mr. Lewis added, "and not
from some bank in Curacao, but from a bank
that does not have a party to the transac-
tions."

Trust accounts should not be allowed in
France, Switzerland, the Cayman Islands and
other nations that protect the secrecy of
shareholders.

Mr. Lewis also said that state regulators
should bar insurers and reinsurers based in
some nations, like the Cayman Islands, that
do not cooperate with investigators in the
United States.

Mr. Lewis, however, stops short of de-
manding separation from all foreign insurer
domiciles, though he says that the U.S. in-
surance industry is frequently being robbed by
foreign countries that refuse to investigate
and prosecute cases of wrongdoing.

Although the U.S. and foreign insurance
industries are interdependent, "if a country is
going to be a pirate's cover with all sorts of
shams, chicanery and thieving going on
without prosecution, we should go elsewhere.

"We must get London authorities to prose-
cute criminals in London if that's where the
fraudulent acts take place or if that's where
the perpetrators are," he continued.

James Schacht, the acting director of the Il-
linois Insurance Department, also offered
suggestions to the NAIC, calling for state regu-
lators to require all insurance companies to
be audited annually by independent certified
accountants so that regulators can be free to
concentrate on companies likely to have fi-
nancial trouble.

State regulators, he said, should become
law-enforcement agencies that can conduct
appropriate investigations, share information
with other law-enforcement agencies and de-
velop working relationships with insurance
regulators in other nations.

The NAIC, he agreed, should establish a

cial messenger, according to Donald Greene,
senior partner of LeBoeuf, Lamb, Leiby &
MacRae, Lloyd's attorneys in the United
States.

Mr. Greene announced at the meeting that
he was pledging the support of the Commit-
tee of Lloyd's and Lloyd's Chairman Sir
Peter Green in any investigation of reinsur-
ance fraud and would follow up to the report
presented at the meeting.

"And the report will also be delivered to
the Department of Trade senior officials at
the request of the chairman and Committee
of Lloyd's," he added.

centralized data base on people and com-
panies involved in questionable or illegal in-
surance activities.

A model reinsurance law, according to Mr.
Schacht, should be designed with regulations
monitoring:

- Financial well-being of assuming com-
panies.
- Accounting for reinsurance transactions
and reserve credits.
- Circumstances for prior approval of re-
insurance transactions.
- Fronting arrangements.
- Provisions of reinsurance contracts.
- Parties that submit to reinsurance trans-
actions.

In addition, regulations specifically focus-
ing on problems affecting reinsurance inter-
mediaries should be included, Mr. Schacht
said.

Although the suggestions were submitted
to the NAIC for committee research, some of
model regulations are already being de-
signed, *Business Insurance* has learned.

"We're working on a fronting regulation
that will really bust their chops," Mr. Lewis
said, though he declined to reveal details.

British Issues

30 Nov	Price	P/E	Div.	Yield	1 Week
Companies	pence		pence	%	pence pence
Comm Union	125	20.8	16.86	13.5	127-124
Eagle Star	323	11.5	21.43	6.6	327-320
Genl Accident	336	11.2	23.21	6.9	342-328
Gdn Royal Exch	346	9.2	25.00	7.2	356-340
Phoenix	292	11.2	24.00	8.2	300-290
Royal	430	10.5	10.70	8.4	433-430
Sun Alliance	880	14.7	12.10	7.0	880-870

Brokers

	Price	P/E	Div.	Yield	1 Week
	pence		pence	%	pence pence
CE Heath	283	8.1	18.71	6.6	288-275
Hogg Robinson	93	7.2	8.57	9.2	94-95
JH Minet	97	8.1	5.43	5.6	98-92
Sedg Grp	181	10.3	8.57	4.7	185-175
Stanhouse Hldg	92	8.1	7.28	7.9	92-85
Staw Wrightson	210	7.5	18.57	8.8	210-205
Willis Faber	477	11.9	21.43	4.5	477-475

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

BI Industry Stock Report

NOV. 30, 1982 11/23/82 THRU 11/30/82

Insurance Cos.		Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol. (000)
Aetna Life & Cas Co	NYSE	39.75	-0.6	6.5	2.52	6.3	40.00	39.50	831.6
American Bankers Ins Group	OTC	10.63	3.7	8.3	0.50	4.7	10.63	10.13	131.5
American Gen. Ins Co	NYSE	54.75	-2.9	7.5	2.20	4.0	56.13	53.75	235.7
American Indty Finl Corp	OTC	19.63	0.0	15.0	1.12	5.7	19.63	19.50	9.3
American Intl Group Inc	OTC	82.00	1.5	12.1	0.24	0.3	82.00	80.00	238.5
American Natl Ins Co	OTC	14.75	-0.8	6.5	0.84	5.7	14.75	14.75	25.5
American Sts Life Ins Co	OTC	22.00	7.3	6.6	0.80	3.6	22.00*	20.50	0.9
Aneco Reins Ltd	OTC	2.88	-4.2	0.0	0.00	0.0	3.00	2.88	19.4
Avenco Corp	AMEX	13.00	1.0	7.5	0.58	4.5	13.25	13.00	4.1
Banks Iowa Inc	OTC	43.00	0.0	10.5	1.48	3.4	43.00	42.50	4.1
Bitco Corp	OTC	31.50	0.0	5.2	1.92	6.1	31.50	31.50	0.9
Carolina Cas Ins Co	OTC	7.25	0.0	7.2	0.32	4.4	7.25	7.25	2.8
Chubb Corp	OTC	55.25	6.0	8.9	2.92	5.3	55.25*	52.38	178.3
Combined Intl Corp	NYSE	27.75	1.4	8.4	2.00	7.2	27.75	26.38	230.1
Continental Corp	NYSE	28.25	4.1	8.9	2.60	9.2	28.25	26.50	322.8
Crawford & Co	OTC	18.75	-2.6	13.7	0.56	3.0	18.75	18.75	3.7
Crown Life Ins Co	OTC	85.00	6.9	5.5	3.10	3.6	85.00	79.50	0.1
Cum & Forster	NYSE	52.50	1.4	10.8	1.76	3.4	52.50	51.63	557.9
Employers Cas Co	OTC	31.75	-0.8	14.4	1.20	3.8	32.00	31.75	7.6
Equifax Inc	NYSE	25.75	0.5	13.6	1.32	5.1	26.00	25.50	29.4
Excelsior Ins Co	OTC	11.25	0.0	0.0	0.70	6.2	11.25	11.25	0.0
Farmers Group Inc	OTC	37.63	2.0	10.5	1.24	3.3	37.88	37.25	287.9
Foremost Corp Amer	OTC	39.25	1.9	11.9	1.12	2.9	39.25*	38.50	9.2
Great West Life Assurn Co	OTC	190.00	0.0	15.5	10.00	5.3	190.00	190.00	0.0
Hanover Ins Co	OTC	34.00	-2.9	5.0	0.88	2.6	35.25	34.00	17.7
Hartford Steam Boiler Inspn	OTC	41.00	-3.0	8.7	2.80	6.8	41.50	41.00	7.2
Jefferson Natl Life Ins Co	OTC	41.00	2.5	11.5	0.76	1.9	41.00	39.50	24.3
Kemper Corp	OTC	40.50	2.5	7.7	1.80	4.4	40.63	39.50	102.4
Lincoln Natl Corp Ind	NYSE	47.88	3.5	8.6	3.00	6.3	47.88*	45.75	60.6
Mission Ins Group Inc	NYSE	30.25	11.0	7.2	0.80	2.6	30.25*	27.75	42.5
Nationwide Corp Ohio	OTC	40.25	1.3	11.9	0.70	1.7	40.25*	39.75	6.8
Northwestern Natl Life Ins	OTC	27.50	11.7	15.0	1.50	5.5	27.50	24.38	64.5
Ohio Cas Corp	OTC	47.25	-2.8	8.9	2.36	5.0	48.63	47.25	58.5
Old Re Intl Corp	OTC	24.38	1.6	5.6	0.92	3.8	24.38	24.00	277.4
Preferred Risk Life Ins Co	OTC	24.50	0.5	7.2	0.92	3.8	24.50	24.50	8.4
Provident Life & Acc Ins Co	OTC	49.50	6.5	7.6	2.44	4.9	49.50	46.50	23.1
St Paul Cos Inc	OTC	60.13	-0.4	7.5	2.60	4.3	60.13	59.50	330.2
Safeco Corp	OTC	52.75	-0.7	9.1	2.40	4.5	52.75	52.25	184.1
Sri Corp	OTC	37.00	5.7	7.7	1.12	3.0	38.25*	35.25	47.2
Seibels Bruce Group Inc	OTC	27.75	1.4	20.4	1.00	3.6	27.75	27.13	60.8
Statesman Group Inc	OTC	7.38	7.3	6.6	0.15	2.0	7.38*	7.00	30.1
Tokio Marine & Fire Ins Co	OTC	101.75	8.0	16.3	0.92	0.9	101.75	93.50	14.9
Travelers Corp	NYSE	27.38	6.3	7.5	1.64	6.0	27.38*	26.00	258.5
United Fire & Cas Co	OTC	32.00	0.8	8.6	0.88	2.8	32.00	31.75	4.4

*Record high/low since Jan. 1, 1982

NOV. 30, 1982 11/23/82 THRU 11/30/82

		Price	% Chg.	P/E	\$ Div.	% Yld	High	Low	Vol. (000)
United States Fid & Gty Co	NYSE	42.00	6.0	10.3	3.60	8.6	42.00	38.00	365.2
United Svcs Life Ins Co	OTC	18.88	-2.6	6.1	1.00	5.3	19.00	18.88	16.7
USlife Corp	NYSE	24.25	3.7	5.3	0.88	3.6	24.25	22.88	146.8
Washington Natl Corp	NYSE	20.13	3.9	9.9	1.08	5.4	20.13	19.63	70.7
Zenith Natl Ins Corp	OTC	19.25	10.0	8.7	0.76	3.9	19.25*	17.50	38.7
INSURANCE COMPANIES	AVERAGE			9.2		4.2			
Agents/Brokers									
Alexander & Alexander Svcs	NYSE	24.88	2.1	11.2	1.94	7.8	24.88	23.25	714.8
Baldwin & Lyons Inc	OTC	38.00	0.0	6.3	0.80	2.1	38.00	38.00	31.6
Corroon & Black Corp	NYSE	28.50	-1.3	14.0	1.80	6.3	28.75	28.50	20.3
Crump E H Cos Inc	OTC	10.13	0.0	17.2	0.40	4.0	10.13	10.13	14.5
Emett & Chandler Cos Inc	OTC	9.88	-2.5	32.2	0.00	0.0	9.88	9.88	3.6
Hall Frank B & Co Inc	NYSE	29.50	-4.8	12.7	1.70	5.8	31.00	29.50	172.6
Integrated Res Inc	AMEX	35.38	11.0	10.7	0.00	0.0	35.38*	31.50	99.6
James Fred S & Co Inc	NYSE	33.38	0.4	16.9	1.60	4.8	33.50*	33.25	179.3
Marsh & McLennan Cos Inc	NYSE	43.75	4.8	13.6	2.20	5.0	43.75*	41.25	120.6
Penncorp Fincl Inc	NYSE	12.88	4.0	8.0	0.16	1.2	12.88	12.50	467.1
Poe & Assoc Inc	OTC	11.50	0.0	11.3	0.80	7.0	11.50	11.50	0.0
Reed Stenhouse & Co Ltd	OTC	13.50	5.9	19.6	0.60	4.4	13.50	12.63	3.3
Rollins Burdick Hunter Co	OTC	24.25	0.0	20.0	0.00	0.0	24.25	24.25	20.4
AGENTS/BROKERS	AVERAGE			11.9		3.8			
Conglomerates/Holding Cos.									
American Express(Fireman's Fd)	NYSE	68.63	6.0	11.7	2.40	3.5	68.63	65.00	1,306.5
Anderson Clayton(Ranger/PanAm)	NYSE	24.50	2.1	6.7	1.32	5.4	24.88	24.38	37.6
Arco Inc	NYSE	16.25	-1.5	30.7	1.20	7.4	16.50	16.00	720.8
City Investing Co. (Home Ins.)	NYSE	30.00	4.3	9.3	1.70	5.7	30.00*	28.25	335.0
CNA Finl Corp (CNA)	NYSE	18.00	5.1	7.0	0.00	0.0	18.00*	16.50	135.0
Control Data (Comm. Credit)	NYSE	39.13	6.8	9.6	0.55	1.4	39.13	36.75	607.2
General Re Corp	NYSE	58.30	-3.3	12.8	1.08	1.8	59.75	57.50	117.9
Gulf Wld Corp	NYSE	25.63	-0.5	9.0	1.32	5.2	26.00	25.25	109.9
Cigna Corp	NYSE	46.50	0.0	6.8	2.30	4.9	46.50	43.25	752.1
ITT (Hartford Group)	NYSE	32.75	7.8	7.4	2.76	8.4	32.75	30.88	787.7
Optimum Htdg Corp	OTC	8.00	6.7	7.7	0.00	0.0	8.00	7.75	7.1
Sears Roebuck & Co. (Allstate)	NYSE	31.50	6.8	14.3	1.36	4.3	31.50*	29.38	2,033.2
Baldwin Wtd Corp	NYSE	48.25	3.8	9.4	0.88	1.8	48.25	44.00	492.0
Teledyne Inc (Argonaut)	NYSE	137.25	8.9	8.3	0.00	0.0	137.25	124.50	459.2
Transamerica Corp (Occidental)	NYSE	21.63	0.6	7.5	1.50	6.9	21.88	21.38	313.3
CONGLOMERATES/HOLDING COS.	AVERAGE			9.1		3.0			

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Quality inspector tests a system at Diagnostic/Retrieval Systems, Inc., in Oakland, New Jersey.

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