WEEK OF FEBRUARY 1, 1982

business insurance®

Reporting weekly for corporate risk, employee benefit and financial executives/$1 a copy; $40 a year

update:

NYIE expects to gain new authority this week

NEW YORK—New York lawmakers are expected this week to approve legislation that would allow the New York Insurance Exchange to directly underwrite risks located outside the state as a surplus lines market.The New York Assembly was to vote Monday on the measure; a Senate vote

Continued on next page

Court orders equal spouses' benefits

By JERRY GEISEL

RICHMOND, Va.—A federal appeals court ruling mandating equitable pregnancy benefits for spouses could boost thousands of employers' health insurance costs.

In a case with national significance, the U.S. Fourth Circuit Court of Appeals said Newport News Shipbuilding violated the 1978 Pregnancy Discrimination Act by refusing to provide equitable pregnancy benefits to wives of male employees in its group health insurance plan.

The appellate court decision is a victory for the Equal Employment Opportunity Commission. It had appealed a lower court decision that said the Pregnancy Discrimination Act only requires employers to offer equal pregnancy benefits to employees—and not to employees' spouses, too (*BI*, Feb. 23, 1981).

The EEOC says if an employer's health insurance plan covers the medical expenses of female employees' spouses, it must equally cover maternity expenses of male employees' spouses.

The appellate court decision upholding that guideline—and the first appellate level ruling on the Pregnancy Discrimination Act—is a costly blow to employers, like Newport News Shipbuilding, that said EEOC had no legal authority to require equitable pregnancy coverage for male employees' wives.

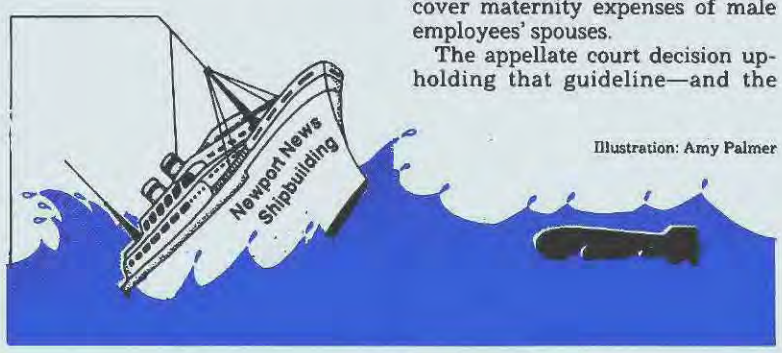


Illustration: Amy Palmer

Newport News Shipbuilding, which has asked the appellate court to reconsider its decision, says equalizing pregnancy benefits for male employees' wives will hike the company's health insurance costs about $700,000 a year, said Bob Ponton, manager of equal employment opportunity for Newport News which has 23,000 employees.

Nationwide, the cost of equalizing spouses' pregnancy benefits could run into the tens of millions of dollars for the thousands of employers who do not provide equal pregnancy benefits in their dependent health insurance plans.

"We are talking about massive amounts of money," said Steve Bokat, senior labor counsel for the National Chamber Litigation Center in Washington, D.C.

Employers' dependent health insurance premiums could rise 3% to 14% if they were forced to provide equitable pregnancy benefits for spouses of male employees, according to insurance company actuaries. Firms with predominantly male workforces would face the greatest increases.

However, employers who re-

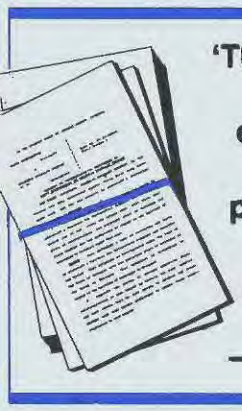
Continued on page 31

Hyatt class action allows settlements, but will they go on?

By BILL DENSMORE

KANSAS CITY, Mo.—Using a legal maneuver that sidesteps the question of whether there is enough insurance to pay compensatory damage claims in the Kansas City Hyatt Regency Hotel skywalk disaster, a federal judge is allowing settlements to continue after he has certified a class action suit.

But no one is sure the settlements will continue in the face of the sweeping ruling last week that precludes claimants who settle from seeking punitive damages later.



'Those claimants who want to exact damages for allegedly punishable acts must forego the settlement process.' —Judge Wright

"That's kind of up in the air right now," said Michael E. Waldeck, a Kansas City attorney with Niewald, Risjord & Waldeck, representing Hyatt Corp.'s insurers in the settlement talks. "It's in sort of a sensitive stage," he said of the settlement process.

The lawyers who had sought the class action cited a rule of federal courts that requires a judge to determine that limited funds are available for settlements before establishing the class.

However, Judge Wright, on his own, used a different section of the rules to establish a class action for both compensatory and punitive damages. He determined that a class action was necessary to protect defendants from multiple lawsuits and inconsistent rulings in different trials, while certifying a class for the punitive damages issue on the basis of limited funds.

"Though no defendant has expressly moved this court to certify a Rule 23(b)(1)(A) class action in order to protect it from successive punitive damage awards or from inconsistent adjudication on the liability issues, the

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Raiding reserves

Sacramento taps $1 million from contingency fund

By RHONDA L. RUNDLE

SACRAMENTO, Calif.—Alarm is spreading among risk managers of self-funded California cities and counties who fear that elected officials may raid loss reserves to make budgetary ends meet.

Sacramento became the second city to raid reserves in recent months when its council adopted a resolution Jan. 12 to tap $1 million from the risk management contingency fund. The city transferred $500,000 from both the workers compensation and unemployment insurance funds into the operating budget, reported Frank Mugartegui, director of general services.

"These were not reserves for open claims," stressed Mr. Mugartegui. Sacramento has reserves of more than $6 million to pay workers compensation, unemployment insurance, general and automobile liability claims, he said. The move reduces the contingency backup fund to $3.3 million.

Last July, the San Jose City Council voted over the strong objections of its risk manager to funnel $3.8 million in self-funded loss reserves into the 1982 fiscal budget. This leaves the city with only about $4 million to pay open claims valued at more than $5 million (*BI*, Aug. 3, 1981).

The Sacramento City Council resolution underscored the vulnerability of loss reserves only one week before the annual meeting of the Public Agency Risk Managers Assn. Jan. 20-21 in the same city. This was the first two-day conference held by the nine-year-old group whose members are risk managers of California cities, counties, school districts and special tax districts.

PARMA attendees debated in formal meetings and corridor conversations the need for state or local laws to prevent raids on loss reserves.

A self-funded municipality should act like a mini-insurer, setting reserves in relation to total losses, observed Edward J. L. Stevens, San Jose risk manager. When a loss fund is a line item in the city books rather than a segregated trust fund, it can be attached at the whim of the city council, he said.

"If politicians want to provide more firefighters,

Continued on page 32

Transit district looks to pensions and loss budgets

By EILEEN NORRIS

CHICAGO—The deficit-ridden transportation authority here plans to reroute money budgeted for its pension plan obligations to cover operating expenses after already slashing its allocation for self-funded losses.

The Chicago Transit Authority is negotiating with its unions to use $40 million budgeted in 1982 for their pension plan to plug the $34 million hole in the transit district's $511 million budget.

And there's talk that the 1983 contribution will be cut in half—giving the financially beset transportation system about $65 million over two years for operating expenses.

Earlier, $7 million was sidetracked from the estimated $19 million needed in 1982 to pay self-insured injury claims and property damage

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They've got a nose for risk management Page 3

update:

NYIE surplus lines status

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was expected Tuesday. The legislation then will be sent to Gov. Hugh Carey. Both he and the New York Department of Insurance support the measure (*BI*, Jan. 4).

Teamsters trade for benefits?

WASHINGTON—Teamsters members will be asked to forego about a third of a scheduled pay raise to maintain their employee benefits as fully employer-paid under a new contract.

The current Teamsters contract calls for a cost-of-living adjustment the day after the contract expires March 31. Based on current inflation figures, the hike would be 71 cents to 73 cents an hour.

The new contract would divert about 25 cents of that April 1 raise toward health, welfare and pension benefits, increasing to $4.25 an hour the contribution to benefits. Individual bargaining units would decide how to spend the extra $10 a week per employee.

The proposed three-year contract, which also calls for annual instead of semiannual cost-of-living adjustments, would increase wages and benefits a maximum of 21%, assuming an 8% annual inflation rate.

Union leaders and Trucking Management Inc. worked out the tentative three-year master freight agreement Jan. 15 that would set the pattern for contracts for 300,000 Teamsters.

Utility pays under deductible

ROCHESTER, N.Y.—Rochester Gas & Electric Corp. expects its shutdown Ginna nuclear plant to be operating before it exhausts the 26-week deductible on its replacement power insurance policy.

The plant was shut down Jan. 26 by a ruptured pipe in the primary cooling system.

RG&E is purchasing replacement power from other utilities at an estimated $280,000 a day. Its insurance for replacement power costs, purchased from Nuclear Electric Insurance Ltd., a Bermuda-based mutual insurance company, doesn't start paying until the utility has bought replacement power for 26 weeks. Then the policy provides up to $2.3 million a week for the first 52 weeks and up to $1.15 million a week in the second year.

Technicians were hoping to enter the steam generator Jan. 30 to find the ruptured tube and estimate repair time.

DC-10 design changes ordered

WASHINGTON—Two design changes to the slat-locking mechanism on the DC-10 jumbo jet have been ordered by the Federal Aviation Administration two weeks after the airline's manufacturer said it was "recommending" the same changes as a precautionary measure (*BI*, Jan. 4).

An "airworthiness directive" requiring airlines to perform changes on McDonnell Douglas Corp. aircraft by Jan. 31, 1983, was issued by the FAA on Jan. 21. Cost should be less than $10,000 per craft.

The directive requires airlines to add some springs to the slat follow-up cable on the DC-10 so that the high-lift devices on the leading edge of the wing won't retract accidentally due to damage caused by a disintegrating engine.

It also requires installation of valves in the wing-mounted hydraulic lines of the wide-body aircraft so that if the lines are accidently severed there will be enough hydraulic pressure to hold the slats in the extended position. Without the slats extended, the DC-10 cannot be flown safely at normal takeoff speeds.

The retraction of the left-hand outboard slats following an engine failure caused the crash of a DC-10 a few seconds after takeoff from Chicago's O'Hare International Airport on May 25, 1979. The discovery of slat problems in the safely aborted takeoff from Miami in September of an Air Florida DC-10 prompted renewed investigation of the slat design by manufacturer and the FAA.

Outstanding dental claims paid

SALT LAKE CITY—Dental Service Plans Insurance Co. has taken over and begun paying dental and vision claims of a Utah dental plan that was placed in receivership Dec. 11 (*BI*, Jan. 4).

An underwriting and administrative subsidiary of the national Delta Dental Plan system, DSPIC already has issued about $425,000 for claims processed Jan. 14-20. It will cover all outstanding dental and vision claims under an insurance department rehabilitation plan approved Jan. 13, by State Court Judge David B. Dee. DSPIC has assumed the assets and liabilites of the plan.

The receiver for Delta Dental Plan is still paying medical and pharmaceutical claims.

The court also approved a second agreement for United Businessmen's Insurance Trust to offer medical and pharmaceutical coverage to groups previously covered by the Utah plan.

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Vol. 16 , No. 5 —*Business Insurance* (ISSN 0007-6864) is published weekly at 740 Rush St., Chicago, Ill. 60611. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to *Business Insurance*, circulation department, 740 Rush St., Chicago, Ill., 60611; 312-649-5221.

Photo: Wide World
A World Airways DC-10 sits in Boston Harbor after skidding off an icy runway.

Hull loss could set a record

By BILL DENSMORE

BOSTON—If the World Airways wide-body DC-10 that crashed at Logan International Airport here Jan. 23 is declared a total loss and insurers pay the agreed value of $48.5 million, it will be the biggest single aircraft hull loss in history, insurance sources say.

The Oakland, Calif.,-based airline has at least $350 million in insurance coverage available to pay passenger liability claims and hull loss in the crash of its Newark-to-Boston flight, airline and insurance industry sources report. The plane crashed as it attempted to land on an icy runway.

All but two of 196 passengers and 12 crewmembers survived the accident with minor injuries when the jumbo jet skidded off the end of Logan's 10,081-foot runway and plunged into Boston Harbor.

Last week, airline officials said it appeared a father and son who were aboard the plane are missing.

Engineers from McDonnell Douglas Corp., which manufactured the year-old DC-10-30CF, will examine the noseless aircraft to see whether it is repairable before it is decided to write off the plane as a total loss, said Robert N. Kelly, a senior vp and director of claims for Associated Aviation Underwriters of New York, World's lead underwriter.

However, it could be the Massachusetts Port Authority—which operates the airport—and not World Airways that will shoulder a large portion of the loss, industry sources speculate.

The National Transportation Safety Board is investigating reports that several aircraft that landed before the World plane warned of "poor to nil" braking action

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Old Republic pays $400,000, will rectify retro plan violations

By KATHRYN J. McINTYRE and STEPHEN TARNOFF

Old Republic Insurance Co. is paying a $400,000 fine and will immediately begin to rectify violations concerning its retrospectively rated insurance policies and premium payment plans for workers compensation as the result of a regular state audit of its business.

The Pennsylvania Insurance Department found the country's largest commercial black lung insurer has underwritten retrospective rating plans for workers compensation risks, including those of coal companies, that were not approved and violate certain state rate and form regulations governing insurance.

The Kentucky Insurance Department, acting on the findings of the regular triennial Pennsylvania examination in which it participated, leveled an administrative penalty, with Old Republic's agreement, of $400,000.

Pennsylvania has not fined the company based on the findings of the audit covering the period Jan. 1, 1977 through Dec. 31, 1979.

Old Republic countered in a response to the examination report that its retrospective rating plans were in compliance with an approved retro plan when they were written "and required continuation" because of a backlog of black lung claims in the Labor Department and revisions of the federal black lung laws.

"However," it added, "the company will shortly make filings, independently or through rating bureaus, of merit, retrospective and excess coverage rating plans with the insurance departments of Kentucky and other states as may be necessary in the circumstances. These filings also will take into account the current necessity to modify the deposit premium provisions with respect to occupational disease liability insurance," referring to black lung insurance. "Alternatively the contracts will be amended or will be placed with another insurer," it said.

The report and Old Republic's response do not say how many policyholders may be affected and in what way as a result of these new filings. Aldo Charles Zucaro, president of the parent company Old Republic International in Chicago, referred questions from *Business Insurance* to the public documents.

The examiner's report, however, says, "Rather than making recommendations regarding violations and corrective action at each step of the process, the source of the problem is addressed in recomendation No. 2."

That recommendation was "That the company comply with bureau and manual rules in the collection of deposit premiums and discontinue all retrospective policy forms and rate programs unless approved by the appropriate bureau and regulatory authority."

Workers compensation premiums in 1979 comprised 77% of the company's combined direct and assumed premiums—$286.5 million direct and $100.4 million assumed. Of the assumed premiums, 7% is assumed by Old Republic from various workers compensation pools. The remaining 93% is assumed from an affiliated insurer—Motorists Beneficial Insurance Co.

The insurer's 1980 premium volume in Kentucky of

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Crash suit names American Airlines

By BILL DENSMORE

For the second time in less than three years, American Airlines Inc. is facing a lawsuit arising from allegations about its role in the crash of a U.S. jetliner, but it appears the airline may escape any severe liability.

The family of William W. Zondler, a Richardson, Texas, businessman, filed suit Jan. 25 in Dallas County Circuit Court naming both American and Air Florida Inc., operators of a Boeing 737 that crashed Jan. 13 into the Potomac River.

Mr. Zondler, 43, was president of a Dallas electronics company, Gencom Inc.

American acknowledges that it de-iced and performed service on the ill-fated plane, but declines comment on the suit. American handles all ground services for Air Florida at Washington's National Airport.

A source familiar with American's insurance coverage said the giant carrier is named as an additional insured on Air Florida's liability policy for its ground services work, and the contract with Air Florida includes a hold harmless clause.

The Air Florida plane, bound for Tampa, Fla., struck a traffic-jammed Potomac River road bridge seconds after takeoff during a snowstorm and sank in the ice-bound river.

Speculation has centered on whether the craft lost lift because of ice or sticky snow on control surfaces. Investigators know the craft accelerated too slowly down the runway but they haven't determined why.

The Dallas suit, filed by Carolyn Zondler, wife of the deceased passenger, claims American workers

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State tort reforms meet trouble

By JERRY GEISEL

The legal wall of protection manufacturers have built in some states to guard themselves against product liability suits may be crumbling.

In at least two states, courts in the last year have struck down as unconstitutional provisions in tort reform laws that bar product liability suits in cases where injuries were caused by old products.

In North Carolina, the state's court of appeals in November threw out a 1979 business-backed law that prohibits product liability suits six years after a product is sold for first use.

That six-year statute of repose violates the North Carolina constitution that "guarantees to those who suffer injury to their persons, property or reputation, the right to seek redress in the courts," the appellate court ruled.

In Florida, the state supreme court ruled last April that a 1978 law requiring product liability suits to be filed within 12 years after the date a product was delivered to the first user violated accident victims' constitutional guarantee of access to the courts.

And statutes of repose enacted recently in more than a dozen other states that set strict time limits on when a product liability lawsuit can be filed also may face legal challenges by plaintiffs' attorneys.

Not only the challengers win, however. In Illinois, manufacturers won a victory last August when an appellate court let stand a 1978 law that bars suits filed on the basis of strict liability in cases where a product is more than 10 years old. Under strict liability, a plaintiff only has to prove that a product was defective, not that the manufacturer was negligent.

State statutes of repose that bar recovery even in cases where the manufacturers' negligence caused the accident will be most vulnerable to attack, experts say.

The battle over statutes of repose began during the product liability "crisis" of the mid-1970s when insurers did not want to write coverage for product liability risks. Insurers said one way manufacturers could get some relief from escalating product liability premiums was to press for legislation in their states that would place a time limit—or statute of repose—on when personal injury suits could be filed.

Without such a limit, manufacturers and their insurers were vulnerable to suits involving products that were as much as 40 years old. This exposure to old product liability suits makes it difficult for insurers to measure risk—a factor in high product liability insurance premiums, insurers argued.

But these statutes of repose were bitterly resisted by consumer groups and the plaintiffs' bar. "Those proposals really are saying no matter how bad, how negligently designed a product may be, a manufacturer will get a free ride," said Thomas Morphis, a Hickey, N.C., trial attorney.

The first round in the battle to determine what should be a manufacturer's responsibility for its products went to business groups and insurers.

Moving at times at a dizzying speed, legislatures in 20 states enacted statutes of repose, usually as part of a broader tort reform package, between 1977 and 1981. Most of these statutes require product liability suits to be filed within 10 years of the time a product is manu-

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No truth to either of these stories

By JERRY GEISEL

WASHINGTON—No, it isn't true.

No one ever won a huge product liability award after he was injured while using a lawn mower as a hedge clipper—and Sen. Bob Kasten, R-Wis., did not say anyone did.

Rumors have been circulating that Sen. Kasten cited the lawn mower product liability "horror" case as an example of why federal tort reform legislation, which he supports, is needed.

According to those rumors, Sen. Kasten cited the case before a December meeting of business groups who are lobbying for a federal product liability bill to pre-empt state tort laws and did not mention that it is only legend.

In fact, an article in the Dec. 14, Milwaukee Sentinel newspaper also has Sen. Kasten citing, as fact, the lawn mower incident.

Well, like the lawn mower story, the story about Sen. Kasten isn't true either.

Sen Kasten did cite the case at the December meeting, but he cited it as an example of the importance of being sure of the facts before using "horror stories," according to Richard Bradee, the Sentinel's Washington correspondent who covered the business group meeting where Sen. Kasten spoke.

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Lloyd's tries to salvage Wood's film to cut loss

By RHONDA L. RUNDLE

LOS ANGELES—Lloyd's of London underwriters will invest up to $2.7 million to bankroll completion of "Brainstorm," the sci-fi film in limbo since the drowning of star Natalie Wood in November.

Producer Metro-Goldwyn-Mayer Film Co. and Lloyd's and U.S. underwriters will decide the film's fate after it is finished.

"It is extremely unlikely, but possible, that the film may never be distributed," conceded Simon Harrap, director of Stewart Wrightson North America, the Lloyd's broker that placed the first $5 million of coverage with the Excess Insurance Co.

Underwriters share the confidence of director Douglas Trumbull that the film will be commercially viable when it is finished, said Mr. Harrap. Proceeds from the film could be used to reduce the amount of MGM's claim under its producers indemnity policy.

Mr. Harrup said underwriters had proposed this "sensible compromise" to MGM, which agreed to the basic plan several weeks ago in New York. The film company had sought to scrap the film and recover its full production costs, estimated at $10 million.

"There is no question of a rightful claim," he stressed. "The question is the amount."

Completion of the film will permit the coverage to respond through reimbursement of MGM's impairment in the market due to Ms. Wood's loss. Underwriters expect this amount to be less than the $10 million abandonment claim.

MGM is insured for $15 million on the film, including $10 million in excess coverage provided by Pacific Indemnity Co. and placed through American National General Agencies Inc. in Los Angeles. It is believed that ANGA participated in the agreement negotiations but the company did not return telephone calls.

Film production is set to resume Feb. 8, at MGM studios in Culver City, Calif., confirmed an MGM spokesperson. Although he said it was unclear whether director Trumbull would shoot around Ms. Wood's scenes or use a double to play her part, Mr. Trumbull was quoted in the Wall Street Journal as saying he will use outtakes of the actress combined with script changes that accommodate her absence. "No doubles, tricks or special effects will be used," he said.

Owens-Illinois cites reasoning in Keene case to win coverage

By STEPHEN TARNOFF

WASHINGTON—Trying to capitalize on the broadened insurer liability for asbestos claims created by a recent District of Columbia federal appeals court decision, a former asbestos manufacturer is suing its insurer here for failure to cover claims brought by victims of asbestos-related diseases.

Owens-Illinois Inc. of Toledo, Ohio, which sold its asbestos-manufacturing operations in 1958, filed suit against Aetna Casualty & Surety Co. in U.S. District Court for the District of Columbia on Jan. 11.

The suit comes three months after the District of Columbia Court of Appeals ruled in Keene Corp. vs. INA that all insurers of an asbestos company from the time claimants were exposed to asbestos through the time the injury appears are liable to pay claims.

The ruling in the District of Columbia circuit created the broadest insurer liability for asbestos claims filed against policyholders.

In its complaint, Owens-Illinois seeks an unspecified amount of damages and a declaratory judgment that Aetna breached insurance agreements it entered into with Owens-Illinois from the mid-1940s through 1977.

During that time, Aetna allegedly agreed to defend lawsuits brought against Owens-Illinois, to pay the claims and defense costs and also pay settlements that exceeded the company's undisclosed deductible, according to the suit.

"Defendant has breached its insurance policies identified herein by failing and refusing to defend plaintiff against and indemnify plaintiff for the asbestos-related

Continued on page 30

A&A buys Howden, wants more

By JOHN W. MILLIGAN

NEW YORK—Alexander & Alexander Services Inc., its acquisition of London-based Alexander Howden Group Ltd. nearly complete, is scanning the globe for more acquisitions to develop global retail brokerage clout.

Howden's substantial reinsurance business, especially in the London market, fits nicely into A&A's plans to expand its reinsurance brokerage business, but falls short of providing an international network of retail brokerage offices.

Howden's retail brokerage operations are limited to the United Kingdom, Australia and South Africa, with partial ownerships in Spain and Italy.

A&A will continue to look for "equity positions" in other countries, says President John Bogardus. Likely targets are other European locations, the Far East and "to some extent Africa," he said.

The broker will soon announce two such moves, Mr. Bogardus said, declining to identify the countries or brokers involved.

A&A, which turned to Howden after tax problems killed its plans to merge with Sedgwick Group Ltd. (*BI*, Aug. 3, 1981), tucked the majority of Alexander Howden's stock in its pocket Jan. 22, although not as much as A&A had hoped.

The acquisition was approved by a majority of Howden stockholders, with the U.S. broker holding tender offers for at least 77% of Howden's stock.

The broker initially said its offer had to result in at

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A nose for risk management

By STEVE SHERWOOD

NEW ORLEANS—Dope-sniffing dogs could be a best friend to safety and risk managers in the oil industry.

The animals, trained to ferret out narcotics ranging from marijuana to Quaaludes, are being enlisted by such companies as Kerr-McGee Corp., Exxon Corp. and Parker Drilling Co. to help make dangerous jobs safer.

"Just about every company in the petrochemical business is using them," says Warren Breaux, vp of K-9 Search and Investigations IIIIIof New Orleans. His firm is one of a half-dozen that uses drug-detecting dogs to conduct surprise searches of drilling rigs, offshore production platforms and other work areas.

Industry experts estimate that 10% to 12% of all oil field workers use drugs while working.

Begun offshore by large oil companies in 1973, drug-search programs and the demand for services by firms like K-9 spread inland during the last three years and are beginning to be used in other industries, too. More employers are realizing they must take steps to protect their people and property from the added dangers of drug users, experts say.

To date, however, most surprise searches are commissioned by drilling contractors, says Charles Pendleton, vp of Safety International of Midland, Texas, and vice chairman of the International Assn. of Drilling Contractors' narcotics committee. His company has helped 150 drilling contractors set up drug-control programs.

Work on a drilling rig or production platform is extremely dangerous, Mr. Pendleton said. "Whenever you distort a worker's perception of time, space, distance, vision or sound, in my opinion, you have an accident looking for a place to happen."

On land, ddddddddddrig workers operate heavy, high-voltage or high-pressure equipment, climb derrick towers and move heavy pipe around, safety directors say. Offshore, two common methods of boarding a production platform include being hoisted aboard in a personnel net or swinging aboard by

Illustration: Milt Priggie

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Employers boost health insurance limits

WASHINGTON—Employers have sharply increased the limits of coverage in the group health insurance plans they provide to employees, according to a new study.

About 84% of workers now have maximum insurance benefits of $1 million or more to cover catastrophic hospital and medical bills, said the Health Insurance Assn. of America, an industry trade group. In 1976, 47% had such limits.

The survey reviewed 4,120 new or revised group health insurance policies written in the first three months of 1981, covering 492,219 employees. The sample is broad enough to provide an accurate picture of new group cases for the entire year, according to HIAA.

Of 233,531 surveyed employees with comprehensive plans:

- Ninety-three percent had maximum benefits of $100,000 or more.
- Nearly all provided benefits for treatment of nervous and mental disorders.
- About 70% limited out-of-pocket expenses to $1,000 or less.

Among employers with 25 to 499 employees, the survey found:

- Among disability coverages, 26-week plans providing income for short-term disability grew more popular, covering 72.1% of employees in 1981, up from 55.9% in 1976.
- The percentage of employees covered by dental insurance plans more than doubled in the last five years. Last year, 35% of employees were covered by employer-sponsored plans, up from 17% in 1976.
- Maternity coverage became almost universal. Last year, 97% of employees had some form of maternity coverage for either themselves or their spouses, compared with 65% in 1976.

In 1981, 39% of employees worked for companies that paid 100% of the group health insurance premium. Another 56% of employees shared premium costs, most sharing on a 50/50 basis with their employers. About 5% of employees paid the entire premium.

Last year, more than 90% of employees had basic hospital benefits greater than the $145 national average semiprivate rate. In 1976, just 52% of employees had daily hospital room and board benefits equal to or greater than that year's national average semiprivate room rate of $80.

Single copies of "New Group Health Insurance" are available free from the Health Insurance Assn. of America, 1850 K St. N.W., Washington, D.C. 20006.

benefit beat

Medicare premiums

Employers who pay older workers' Medicare insurance premiums will be hit with a 10.9% rate hike.

Effective July 1, premiums for the Medicare supplementary insurance program, known as Part B, will increase to $12.20 a month from $11. Part B covers doctors' bills, outpatient services and other out-of-hospital services.

Many employers now pay the Part B premium for workers who stay on the job after 65.

Another Medicare rate change also will boost employers' benefit costs. The deductible on Part A of Medicare, which covers hospital services, jumped to $260 from $204 on Jan. 1.

Many employers coordinate their group health insurance programs so that their plans pick up hospital costs not covered by Medicare for their older workers. As a result, as Medicare is cut back, employer plans must cover additional costs.

Vision care

The International Brotherhood of Electrical Workers Local 25 of Melville, N.Y., has upgraded its year-old vision care program to allow members more frequent examinations.

The improvements also allow dependents and retirees first-time vision care coverage.

Under the new program, effective Jan. 1, active members and their dependents receive a comprehensive vision examination including case history, disease testing, muscle balance testing and glaucoma testing.

Active members and dependents are eligible to receive lenses and frames once every 12 months purchased with a $16 wholesale frame allowance, equal to a $35 retail frame cost.

The plan provides retirees, their dependents and surviving spouses with examinations, lenses and frames once every 24 months.

The vision care benefit is administered by Vision Service Plan, an independent, non-profit prepaid vision health care service company. More than 2,000 members and retirees are covered by the plan.

All plan members pay a $10 per claim deductible. Benefits are completely paid when patients select vision specialists from a panel of providers listed by Vision Service Plan, but only reasonable and customary payments based upon a schedule of fees are paid to nonparticipating specialists.

IRA program

The Kemper Group is allowing its 12,000 employees to make payroll-deduction contributions to Individual Retirement Accounts offered by Kemper Financial Services Inc., a subsidiary.

Employees can make retirement savings deposits to one of 11 mutual funds and are allowed to switch funds once every quarter.

Minimum contributions of $25 are deducted twice a month from employee paychecks. The program began Jan 1.

Directors' benefits

A growing number of U.S. companies, hoping to retain their valuable outside board members, have begun offering their directors retirement benefits.

Twenty-nine of the nation's 500 largest companies—including 15 of the top 200—have retirement arrangements for their outside directors, according to a study by Towers, Perrin, Forster & Crosby, a New York-based management consulting firm.

In a similar study conducted by TPF&C in 1979, only four of the top 200 companies reported such retirement plans.

Most of the companies surveyed said they pay their outside directors benefits equal to the director's annual fee or retainer at the time of their retirement. Some pay a percentage of the annual fee, while others pay a flat annual amount, ranging from $5,000 to $25,000. ■

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1866

Suit names American Airlines

Continued from page 2

inadequately de-iced the Air Florida twin-jet. However, American's insurers are said to have already conducted an examination of the airline's role in the de-icing procedure and feel the carrier will be exonerated.

Lawyers for Mrs. Zondler and her husband's estate also filed a similar suit in U.S. District Court in Dallas, naming only Air Florida as a defendant. American Airlines is based in Grand Prairie, Texas. Under federal rules, suits usually may not be brought in federal court against a defendant who resides in the same state as the plaintiff.

In federal court, the family is seeking $5 million in compensatory damages and $2 million in punitive damages against Air Florida, claiming the airline was "negligent in servicing, operation and piloting of the Boeing 737." The family is represented by Dallas attorney Windle Turley.

The state case was assigned to Judge James F. McCarthy. American must respond in three weeks.

Two other suits have been filed in the Air Florida crash, one in federal court in Washington, D.C., and the other in state court in Miami, Fla. Insurance industry sources say death and injury claims from the crash could eventually total $25 million to $40 million.

Any potential claim against American probably would center on whether the Air Florida plane had any visible evidence of ice or snow on its wings when it left the airport gate and began its more than 40-minute wait for takeoff.

Another critical question is whether the glycol-and-water de-icing fluid sprayed on the aircraft twice before departure was strong enough to do its job.

A National Transportation Safety Board official familiar with the crash investigation said American employees have said they used a solution of 25% glycol on the left wing and 35% glycol on the right wing—both within the 25% glycol requirement for de-icing under conditions the day of the crash.

American authorities are said to have interviewed their employees, who say the wings on the 737 were clean when it left the gate.

One investigative source said early news reports that the NTSB had impounded the remaining de-icing fluid from the batch sprayed on the plane were false. The source said the fluid was expended de-icing other planes.

American's lead insurance underwriter, U.S. Aviation Insurance Group of New York, is still handling settlements and litigation arising from the May 25, 1979, crash of an American DC-10 near O'Hare International Airport in Chicago, which killed 273 people.

In that crash, the nation's worst air disaster, American's insurers ultimately agreed to fund 80% of all settlements. In court suits, the airline agreed not to contest liability for compensatory damages and won appeals which ruled out the hearing of any punitive damage claims.

The Federal Aviation Administration fined American and the NTSB cited the airline's allegedly improper maintenance procedures as one factor in the Chicago crash. The NTSB also cited the design of the pylon of the DC-10 as being "vulnerable" to maintenance-induced damage. ■

RM Board reports more cuts in prices

By KATHRYN J. McINTYRE

Insurance buyers on the *Business Insurance* Risk Management Board are hauling in more price reductions.

Of 54 insurance buyers who recently renewed a variety of property/casualty insurance policies, 70% reported getting lower rates, 17% kept the same rates and only 13% reported higher rates, a few of whom attributed them to larger exposures.

These results aren't grounded in a scientific sampling. The respondents are risk managers who have agreed to answer periodic surveys on issues in risk management news. The recent addition of questions on insurance pricing is designed to provide a window to insurance prices charged a variety of commercial and institutional entities.

The picture this month is one of continued lower rates for directors and officers liability insurance, property insurance and combination casualty policies. There is only a hint of stabilization of rates for umbrella insurance.

The buyers also appear to be more loyal to their brokers than their insurers. Only 11% said they switched brokers to renew the coverage but 33% switched insurers.

A sampling of the pricing reports follows:

Five board members renewing directors and officers liability insurance policies all enjoyed lower rates, with four reporting broader coverage with the same insurers. One risk manager switched insurers and all used the same brokers.

Only one of the five risk managers specified the rate reduction for the D&O policy: 10%, for the manufacturer with $140 million in sales that stayed with the same coverage and same broker and insurer.

Among nine board members renewing property insurance policies, seven reported lower rates ranging from a 5% reduction for a manufacturer with $3 billion in sales that stayed with the same broker and insurer to a 30% drop for a service company with $700 million in sales that changed both insurer and broker. Both risk managers report getting broader coverage and buying higher limits, too.

Similarly, a manufacturer with $2.5 billion in sales reported a 10% rate reduction for the same $5 million of coverage, renewed by the same broker with the same insurer.

Two other risk managers reported paying the same rate for their renewed property insurance, both for service companies, one with $125 million in sales, the other $1 billion. Both stayed with the same markets.

For liability policies, two buyers reported higher rates, one reported the same rates and one saw rates drop 20%.

But, for policies combining various casualty lines such as auto, workers compensation and general liability, five insurance buyers all reported rates 10% to 50% lower.

Among six risk managers who renewed umbrella policies, only two reported lower rates. A manufacturer with $1.2 billion in sales trimmed the company's rates 20% with a different insurer while raising its limits to $100 million.

A bank holding company with $1.2 billion in interest income trimmed its umbrella rates "15%-20%" while staying with the same insurer and broker and raising its limit to $50 million.

Three board members renewed their umbrella coverage at the same rates, all but one of which stayed with the same insurers and brokers. ■

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editorial opinions

Astounding generosity

We're astounded by U. S. District Judge Scott O. Wright's generosity.

He gives plaintiffs' attorneys who presented a poorly argued case for a class action suit in the Kansas City Hyatt Regency Hotel skywalk disaster the ruling they wanted.

He tells the defendants he did it in their best interests.

At the same time, he announced that settlements may continue.

We think the generosity masks his own desire to preside over what will certainly be a challenging, intriguing and headline-grabbing case.

After all, it took a lot of work on his part to come to the conclusion that a class action is needed.

His 18-page order and memorandum creatively uses two different federal rules to justify the class action. And he masterfully uses the language to argue that the class action is in everyone's best interest.

It is, he says, "the proper tool for the accomplishment of principled, efficient and expeditious adjudication of skywalk claims which threaten to expose defendants to repeated trials of the compensatory and punitive damages issues, which threaten to leave many claimants without a practical chance for redress of punishable acts, and which threaten to congest the state and federal courts of this city for many years."

Sounds good, but the defendants aren't asking to be protected from multiple trials. There is enough money in Hyatt and Hallmark to cover large punitive damage awards if they are justified and awarded and settlements are taking place every day, reducing the number of trials that will have to be held.

Elsewhere, the judge says, "It is this court's firm belief that the preservation of the collective best interests of all parties concerned with this litigation and the avoidance of wasteful repetitive litigation are best accomplished by trying the issues of liability for compensatory damages, liability for punitive damages and amount of punitive damages only once."

Maybe so, but it seems this decision could have been delayed to allow time for more settlements. He could have at least sent the plaintiffs' attorneys back to the books to do the work he did so well to justify the class action.

But the the real zinger comes in this justification of the class action: "One or more of the defendants risk being faced with incompatible standards of conduct if varying or inconsistent adjudications with respect to the individual members of the class were obtained on the issues of liability for compensatory or punitive damages."

He obviously doesn't believe in spread of risk.

Seriously, we're disappointed in the ruling.

In the interest of judicial efficiency, isn't it best to encourage continued settlements and keep cases out of the courts completely? While there is some hope settlements will continue, we share the concern of lawyers who predict that the settlements will stop as plaintiffs hold out to see if they can get a piece of punitive damages against someone in the class action.

Why declare a class action in the best interests of the defendants when the defendants didn't ask for it? We've never believed the saying, "You'll thank me for this later."

Just how much in punitive damages does he think will be awarded when he declares, "No defendant has unlimited assets and most do not have sufficient assets to warrant a sizeable punitive damage award."

We can't help but wonder if the infighting among the defendants' insurers didn't influence the judge to rule in favor of the class action. What if the insurers had presented a united front of primary concern to settle claims as quickly and fairly as possible instead of appearing to be most concerned with litigating out of whose pocket the money is coming?

Or, what if they had devoted as much time and commitment to settlements as they have to their infighting? It's possible so many claims would be settled there would be few plaintiffs to organize into a class.

Alas, these are rhetorical questions now that Judge Wright has magnanimously awarded the class action.

letters

Another idea on work comp

To the editor: With due respect for Barry Martin's scholarly compilation and comparison of statistics in his Perspective article "Comparing comp systems" (*BI*, Jan. 18), we submit that he is riding his horse backward. It could be reasonably suspected that the states also feel a responsibility to guarantee their residents (including employers) a balanced breakfast. Yet, there is no clamoring to get the states into the cereal business.

Correction will be welcomed, but we don't believe that any of the states listed have competitive rating systems. This means that all competitors, public or private, start from the same premium and competition is limited to dividend arrangements, service and cash-flow programs. This reality renders *all* expense ratios mere internal overhead, significant only to the extent that they inhibit the payment of dividends. In Michigan, at least, the state fund has not paid dividends even equal to commercial carriers. This could well be because of commission expense, in part, which is apparently higher here than elsewhere. If, however, Mr. Martin believes that informed mediation between diametrically opposed parties including ongoing maintenance of the resulting agreement is not worth 5.3% of the principal amount, he has a much larger group than insurance agents and brokers to argue with.

We would welcome the opportunity to discuss the differences in adjustment activities of commercial and state compensation carriers, the reasons that superior loss-control service may not result in lower loss costs, the effect on overall insurance costs if compensation premiums were removed from private hands and the myriad of other cost and service issues raised here. This letter, however, is not a study or even an article, just a gripe.

We find it hard to believe that an informed private businessman thinks that anything of any magnitude is better handled bureaucratically than entrepreneurially.

John A. Williamson, CPCU
The Nickel Agency
Birmingham, Mich.

Still sees savings

To the editor: I must take exception to Norman Tapper's letter to the editor (*BI*, Dec. 28, 1981) on HMO costs. The oversimplified example indicates that I, the employer, will lose $5,000, presumably because I paid $75,000 for $70,000 in claims.

If the employees in question had not joined the HMO, I would have paid $100,000 in premium, experienced fee-for-service claims that in all probability would have exceeded $70,000 and paid an increase in the IBNR. In addition, the subsequent year renewal would have included fee-for-service trend factors that are several points higher than that used under the HMO rating concept—compounded.

With respect to the 100 that did join the HMO, imagine the severe fee-for-service charges that were not incurred because of the HMO emphasis on preventive medicine, early detection and health education.

C.R. Mykrantz
Manager
Group insurance administration
American Motors Corp.
Southfield, Mich.

Additional losses

To the editor: John Milligan's article on employers' potential liability for recreational injuries, "Employer can strike out over recreational injuries" (*BI*, Jan. 11), is particularly timely in view of the number of companies considering physical fitness and sports programs.

He neglected to mention that even when workers compensation benefits are not applicable or are denied, the employer still has the burden of the time lost from work and the cost of the medical services paid by health insurance benefits.

Greater emphasis should have been given, therefore, to programs designed to prevent or minimize such injuries like the one attributed to Corning in the final paragraphs of Mr. Milligan's article.

Leon J. Warshaw, M.D.
Executive director
N. Y. Business Group on Health
New York, N.Y.

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ADVERTISING: New York: 212-210-0133; Chicago: 312-649-5276; Los Angeles: 213-651-3710
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CIRCULATION: Chicago: 312-649-5221

Published by Crain Communications Inc., Chicago
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Published weekly at 740 Rush St., Chicago, Ill. 60611. Offices: 220 East 42nd St., New York, N.Y. 10017; Suite 515, National Press Building, Washington, D.C. 20045; 6404 Wilshire Blvd., Los Angeles, Calif. 90048; 5327 N. Central Expwy., Suite 200, Dallas, Texas 75205; 25 Bedford Square, London WC1B 3HG, England. $1 a copy. $40 a year in U.S. Canada and all other foreign add $14 for surface mail. Europe and Middle East only add $35 for air delivery. First-class mail to U. S. and Canada only, add $50. WILLIAM STRONG, *vp-circulation*. BARBARA RANDICK, *circulation manager*. ROGER DiGREGORIO, *fulfillment director*. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Dept., Business Insurance, 740 Rush St., Chicago, Ill. 60611 or phone 312-649-5221. Telex 25-4248; Cable CRAINCOM. Microfilm copies are available from University Microfilms, 300 Zeeb Rd., Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Rd., Wooster, Ohio 44691.

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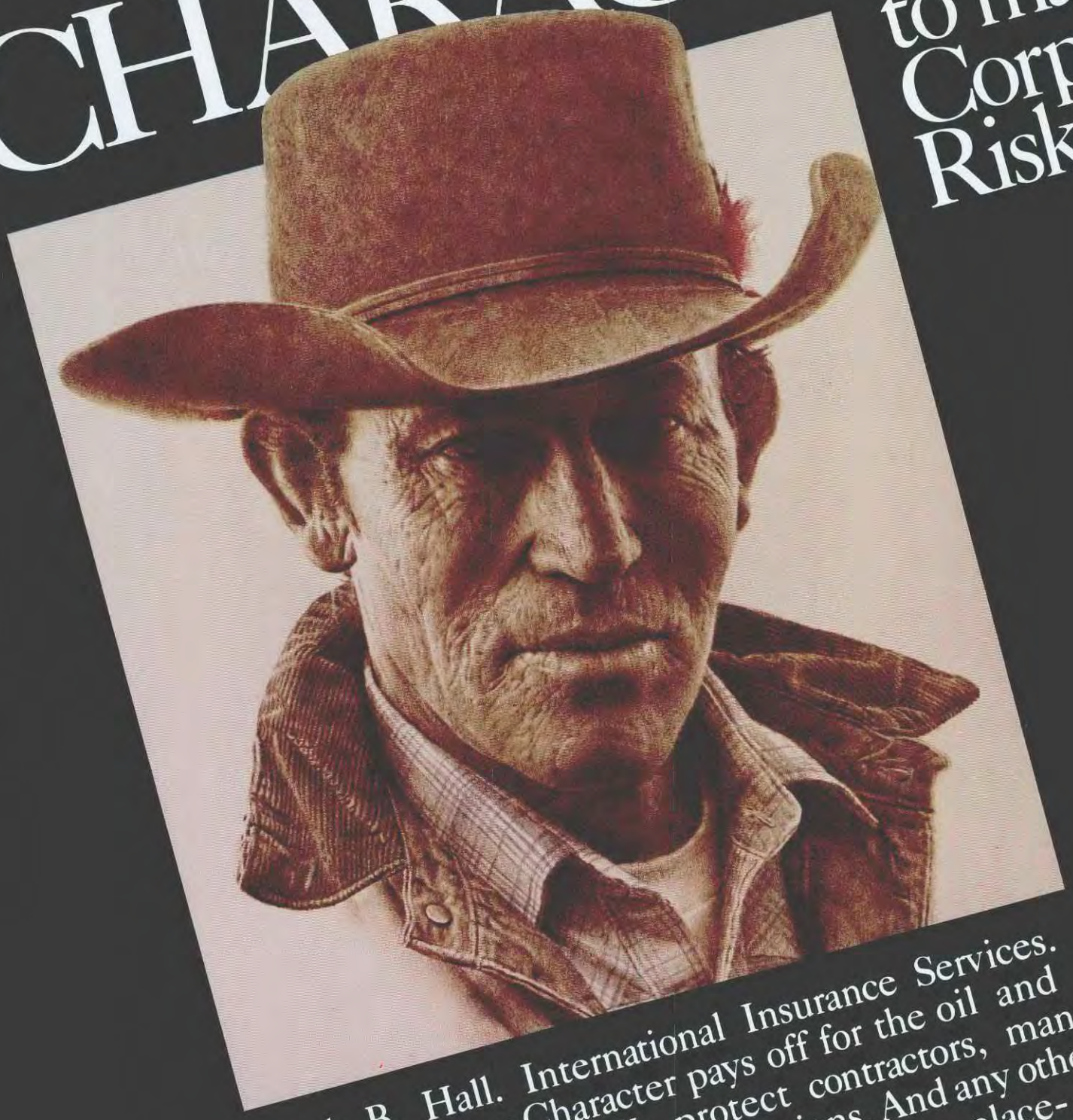

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info

• The Labor Department has published "Update No. 13," the latest volume of advisory opinion letters the department has issued in response to inquiries on the **effects of actions and transactions under the Employee Retirement Income Security Act of 1974.** To purchase send $6.10 to U.S. Department of Labor, Division of Public Disclosure, Pension and Welfare Benefit Programs, Room N-4677, 200 Constitution Ave. N.W., Washington, D.C. 20216. Checks should be made payable to LMSA, U.S. Department of Labor.

• A free brochure describing an **insured medical reimbursement plan** is available from Corroon & Black Benefits Inc., the plan's administrator. The material includes a description of the plan benefits and costs. Also included is a favorable tax opinion from a "Big 8" accounting firm. For a free copy write Executive Insurance Trust, Corroon & Black Benefits Inc., Box 1280, Nashville, Tenn. 37202.

• The Education & Research Fund of the Employee Benefit Research Institute has published a new book, **"Retirement Income and the Economy—Policy Directions for the 80s."** Based on a policy forum held in May 1981, the book examines if Social Security's problems are primarily political, whether the private pension system can satisfy workers' needs and the alternatives for satisfying the nation's retirement income requirements. The book also contains an appendix that provides summaries of the final reports of 14 major government, business, labor and academic study groups. A hardbound copy costs $18; a paperback edition is available for $10. To order contact EBRI-ERF Publications, 1920 N Street N.W., Suite 520, Washington, D.C. 20036; 202-659-0670.

• Workers' Compensation Services Inc. has prepared a free brochure containing questions and answers regarding the **administration and investigation of workers compensation claims.** The company also offers a **workers compensation claims organizing system** for $3. Write Workers' Compensation Services Inc., 125 Ryan Industrial Court, Suite 110, San Ramon, Calif. 94583.

• The risks, responsibilities and requirements of small computer systems within financial institutions are addressed in the Bank Administration Institute's new publication, **"Security, Audit and Control of Small Computer Systems."** Written in nontechnical style, the 250-page publication begins with a basic discussion of the small computer system and its function within a bank. The handbook analyzes the types of systems available, their proper physical location and user/technician relationships. Other topics include organizational responsibilities, security issues, management control, authorization, documentation, application and minimizing exposures. The publication costs $25 for member banks and $50 for non-members. For further information contact Jim Perkins, Bank Administration Institute, 60 Gould Center, Rolling Meadows, Ill., 60008; 312-228-6200.

• **"Salary Reduction Plans Under IRS Section 401(k)"** is a new booklet offered by Kwasha Lipton, a benefit consulting firm. To obtain a free copy write Kwasha Lipton, Department M, Box 1400, Fort Lee, N.J. 07024.

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Independent Insurers nix federal tort reform

By JERRY GEISEL

washington

WASHINGTON—Breaking ranks from other major industry groups, a leading insurance trade association says it will oppose federal product liability reform legislation.

The National Assn. of Independent Insurers, a trade group with more than 500 insurer members, says a federal product liability law that preempts state tort law "is an unwarranted invasion of state sovereignty and . . .violates the separation of powers doctrine."

NAII also questions how a federal product liability law would reduce the current uncertainties in tort law that some insurers say make risk difficult to assess.

"On a practical level, there are sure to be court challenges that will embroil the (federal) law in litigation for many years, resulting in confusion and uncertainty," NAII said.

The industry trade group says it supports tort reform legislation at the state level. "We believe that it is the role of the individual state to weigh the merits of the various tort reform proposals," NAII said.

Two other industry groups, the Alliance of American Insurers and the American Insurance Assn., earlier announced support for product liability tort reform at the federal level.

Sen. Bob Kasten, R-Wis., is expected to hold hearings this month or in early March on his draft federal product liability bill.

That legislation would, among other things, make it much more difficult for consumers to sue manufacturers for injuries involving old products (*BI*, Oct. 19, 1981).

Longshore reform

The Senate Labor and Human Resources Committee will begin voting Feb. 5 on legislation, S. 1182, proposed by Sen. Don Nickles, R-Okla., to overhaul the costly and controversial federal Longshoremen's and Harbor Workers' Compensation Act.

The legislation, which was earlier approved by the Senate Labor subcommittee by a 5-4 vote, would limit future benefit increases under the program to 3% a year. Currently, benefits are boosted every October to match the increase in the national average weekly wage.

The measure also would limit jurisdiction of the act to the "water's edge." Such a provision would overturn recent court decisions that have extended longshore coverage to workers who strip cargoes in dockside warehouses.

Posting injuries

Employers with more than 10 employees are required to post from Feb. 1 to March 1 the number of job-related injuries and illnesses that occurred during 1981, the Occupational Safety and Health Administration says.

To fulfill the OSHA requirement, employers should post at their place of business the last page or right-hand portion of OSHA Form 200, "Log and Summary of Occupational Injuries and Illnesses."

Employers also must notify employees who move from one worksite to another, such as construction workers, of the number of work accidents and injuries by giving them a summary of Form 200.

Court to decide

The Supreme Court has agreed to decide whether the Age Discrimination in Employment Act can be applied to public employees.

The U.S. District Court for the District of Wyoming ruled in May 1981 that Congress' extension of the law to state and local government workers violated state sovereignty.

The Wyoming court decision involves an Equal Employment Opportunity Commission challenge of a state law requiring state game wardens to retire at age 55. ADEA generally bars mandatory retirement before age 70.

DC-10 accident

A federal safety board has blamed the death of a World Airways flight attendant last September on the failure of an electrical system in a DC-10 galley elevator.

The National Transportation Safety Board said the elevator's electrical interlock switches, which should have prevented the elevator from moving with its door open, malfunctioned, causing the elevator to rise and trap the attendant.

The accident occurred on a World Airways flight from Baltimore to London. The flight attendant, 24-year-old Karen Williams, was dead on arrival in London.

Ms. Williams was alone on the plane's lower level attempting to force a food cart from the elevator when another attendant on the upper level pressed the elevator button. That caused the lift to rise, crushing Ms. Williams between the cart and the top of the elevator door, according to investigators.

Investigators say there have been more than a dozen reported incidents involving problems with DC-10 galley elevators since 1973.

Social Security

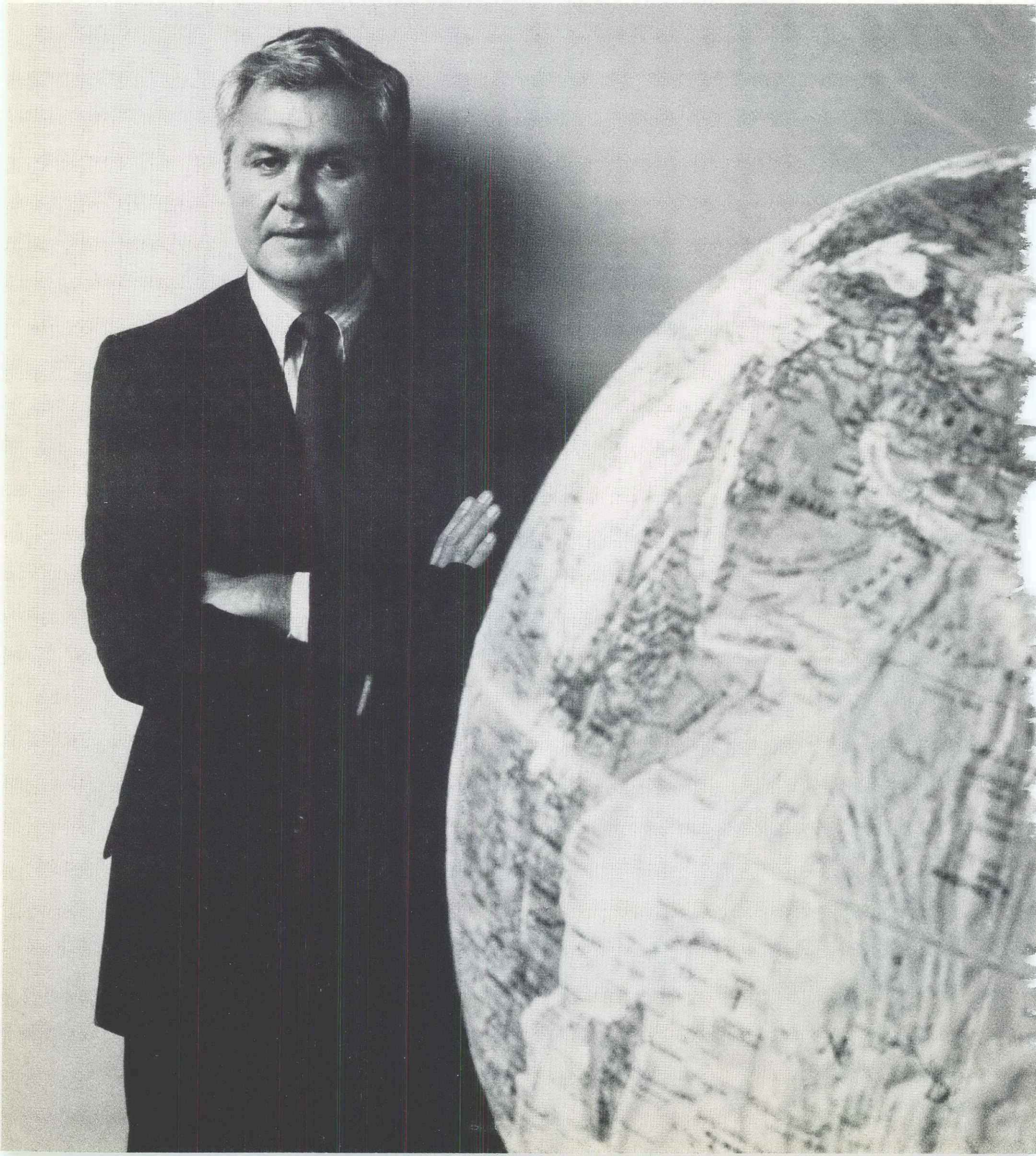
Children who murder their parents will no longer receive Social Security survivor's benefits.

"I'm not going to stand by and let a juvenile delinquent get money out of the Social Security fund because he killed his parent," said Richard Schweiker, secretary of the Department of Health and Human Services.

The 1,300 Social Security district offices have been ordered to search files for current beneficiaries who committed murder and then collected survivor payments, including monthly student benefits.

The government action came following reports in California that a 20-year-old man who killed his mother and sister five years ago collected $21,500 at parole and another who killed his father received about $8,000 in Social Security benefits. ■

"I'd like to comment on AFIA is an old-fashioned company.



the commonly held opinion that We are. And we're proud of it."

Paul F. Butler
President & Chief Executive Officer

"Have you noticed the disfavor the idea of being an old-fashioned company has fallen into in recent years? With the exception of Smith Barney, I can't think of a single company that is looked upon favorably because they espouse old-fashioned values. Instead, there are two perceptions of old-fashioned and both are negative.

"First exists the perception that there is no advantage in doing business with a company that is characterized as old-fashioned. And second is the perception that a company can't be aggressive, progressive, innovative–pick any attribute of the modern company–if it's old-fashioned.

"I'd like to lay both of those misperceptions to rest right now.

"In many ways, AFIA does business in old-fashioned ways. And all of those ways are of benefit to you.

"For example, what's wrong with doing business with a company that does its homework so thoroughly it knows more about local insurance laws, regulations, customs, idiosyncracies and actual ways of doing business in more countries all over the world than any other company insuring American businesses abroad.

"Or doing business with a company so reliable in the handling of claims that other underwriters come to us with their claims problems all over the world.

"Or having your company's assets–its people, its property, its products–protected through AFIA, a company so dependable more than 100,000 clients abroad are already protected through us.

"Thoroughness, reliability, dependability. Old-fashioned? You bet.

"Now, about that other misperception. Don't, for even a minute, think AFIA is old-thinking because we're old-fashioned.

"Quite the contrary. There's young thinking at today's AFIA. Today, the more complicated the risk, the more eager we are to tackle it. We're willing, and eager to talk to you and quote insurance coverages you probably wouldn't have even considered AFIA for a few short years ago. Today–and in the future–AFIA is actively and aggressively pursuing construction and energy-related risks, major casualty programs, political risks and marine cargo accounts, as well as global programs, to name but a few.

"At AFIA, we take great pride in the way we do business. Because we think the combination of both young thinking and old-fashioned values makes AFIA the one international underwriter with whom you should be doing business."

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Atlanta, Boston, Chicago, Cleveland, Dallas, Houston, Los Angeles, Miami, Minneapolis, San Francisco, Seattle, Washington, D.C. and 230 other cities around the world.

Almost all states allow punitive damages

The spectre of punitive damages hangs heavily over American businesses in every state, except Louisiana, Nebraska and Washington, a survey released by ABC Underwriters shows.

Every other state and the District of Columbia permit punitive damages in suits involving personal injury, wrongful death or both, although the standards under which they are allowed can vary. And even Louisiana, Nebraska and Washington, which generally prohibit punitive damages, allow them under certain circumstances.

Punitive damages are awarded to punish defendants and deter similar conduct in the future. They are awarded in addition to compensatory damages that reimburse plaintiff for actual losses to property or due to personal injury.

The survey also points out that some states prohibit insurance coverage for punitive damage awards or permit it only under certain circumstances so the risk becomes of more concern to businesses.

Besides Louisiana and Nebraska which exclude punitive damages almost entirely, 27 states also exclude them in wrongful death cases.

The states that do permit them in wrongful death cases include Alabama, Arizona, Arkansas, Florida, Iowa, Kentucky, Massachusetts, Mississippi, Missouri, Montana, Nevada, New Mexico, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, West Virginia and Wyoming.

Standards of conduct used by states to determine if a defendant should pay punitive damages vary.

In Minnesota, for example, punitive damages are allowed in personal injury cases where gross negligence or willful and wanton misconduct by the defendant is demonstrated, according to the survey.

Other places, such as New Jersey or the District of Columbia, use a stricter standard requiring proof of malice, fraud or oppressive conduct. Proof of gross negligence is insufficient to trigger punitive damages.

Thirty-two states permit insurance coverage for punitive damages while five states—Colorado, Kansas, New York, Washington and Wyoming—exclusively prohibit coverage.

The states that allow coverage either fully or in some circumstances only are Alabama, Arizona, Arkansas, California, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, and Wisconsin.

In many of these states, however, insurance coverage is permitted only to a limited extent, such as in cases where the insured is found vicariously liable for his employees' actions or if punitive damages are explicitly covered in the policy language of the insurance contract.

In addition, 13 states and the District of Columbia have no case law or statute on the question of insurance coverage. The states are Alaska, Delaware, Hawaii, Iowa, Massachusetts, Mississippi, Montana, Nebraska, Nevada, Oklahoma, South Dakota, Utah and West Virginia.

According to an article accompanying the survey, however, where there is no case law on the subject and the insurance policy does not address punitive damages, insurers normally will pay them.

Courts have held in some cases that punitive damages are not insurable because it would violate the purpose of punitive damages by punishing the insurer rather than the wrongdoer.

The article also notes that insurers often have to defend against allegations of punitive damages even where it is questionable they are covered under the policy. It says also that reinsurance generally covers punitive damages an insurer pays out if the damages arise out of the insured's conduct.

The survey was included in the fall issue of the ABC Newsletter of Products Liability, which is prepared by the New York City law firm Mendes & Mount. The survey results were accompanied by an article called "An Overview of Punitive Damages" by Frank J. Chiarchiaro and Richard C. Milazzo of Mendes & Mount.

State statutes and case law were reviewed in compilation of the survey. Information also was obtained from attorneys in the states.

ABC Underwriters provides insurance to the Aircraft Builders Counsel's Insurance Scheme. Participants in the program are airframe and aviation component manufacturers. ■

Federal pension costs escalate

WASHINGTON—By 1988, the cost of providing pensions to retired federal workers will have doubled since 1979 unless changes are made, Congress's top pension expert says.

The federal government's contribution—which comes from tax dollars—to the Civil Service Retirement System will jump to $29.9 billion in 1988 from $12.9 billion in 1979. The Civil Service Retirement System is the largest federal government retirement plan.

"The cost of maintaining these plans is going to be rising at a rapid rate," Rep. John Erlenborn, R-Ill., said last week at a press conference here. "The federal plans are going to become exceedingly more expensive unless changes are made."

Although Mr. Erlenborn did not recommend specific changes, some critics say costs could be cut if the plans were overhauled so that the benefits are comparable to those provided by private pension plans.

For example, a civil service employee with 30 years of service can retire at age 55 with a full pension. Private pension plans usually don't pay full benefits until a participant reaches 65.

In addition, benefits to federal retirees are automatically indexed annually to match increases in the Consumer Price Index.

A pension task force set up by former President Carter recommended that the federal retirement age gradually be raised to 65. It also recommended that benefit increases not exceed the average hike in federal wages (*BI*, Feb. 2, 1981). However, Congress has not acted on those recommendations.

Benefits promised but not funded probably top the $1-trillion mark now, Rep. Erlenborn said. The federal retirement system covers about 9 million people, including 3.3 million retirees. ■

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PROSPORT scores points cutting team comp costs

products & services

By JOHN W. MILLIGAN

PHILADELPHIA—Professional sports teams are saving money on their workers compensation costs through an INA Corp. captive insurance program that solves an unusual dilemma.

Called PROSPORT, the new program involves a fronting arrangement through a captive insurance company owned by the member teams. The program provides coverage for both workers compensation and comprehensive general liability exposures.

Some 16 professional teams have joined the program, including hockey, basketball, soccer, football and baseball clubs.

The obvious value of the PROSPORT program for these teams is greatly reduced costs for workers compensation coverage. But it also solves a unique and costly dilemma the teams face.

Like any other employer, professional teams are required by virtually all states to purchase workers compensation insurance. Yet due to the nature of their business, few teams ever file workers compensation claims.

The maximum recoverable benefit under workers compensation usually falls far short of most professional athletes' salaries. This places teams in the position of forking out big dollars for a very limited benefit.

Also, in an age of guaranteed salary contracts, the athlete may not even qualify for workers compensation.

Most teams, therefore, have purchased personal injury coverage to protect against loss of a player due to death or injury. Such a policy covers both traditional workers compensation exposures, like a work-related injury and catastrophe losses, such as accidental death of a player or an entire team.

The teams just swallow the cost of workers compensation coverage.

"The result in these instances is insurance cost duplication," says David A. Cairns, president and chief executive officer of Market-Dyne International, the INA affiliate that sells the program.

G. Gordon Symons, president of Rushmore Insurance Co. Ltd., the teams' association captive, adds: "It seems rather ironic that the most expensive coverage to the teams—workers compensation—provides the least amount of benefit."

What PROSPORT does is acknowledge that irony and provide workers compensation coverage at a vastly reduced cost.

Through PROSPORT, INA provides the necessary underwriting and insurance-related services. As the fronting insurer, INA issues policies to participating teams for workers compensation and comprehensive general liability.

Both coverages are fully reinsured by Rushmore, Mr. Symons explains. After retaining the first $200,000 of risk, Rushmore reinsures $800,000 in the Bermuda captive market.

An additional $29 million in reinsurance is then split between the London market and American National Reinsurance Group, the largest accident and health reinsurance pool in the United States.

Rushmore also has a stop-loss agreement with its reinsurers, limiting its exposure to 30% of loss.

The individual teams also retain the first $25,000 or $50,000 of each occurrence under the workers compensation policy, depending on which level they choose.

Rushmore will provide the teams with a stop-loss agreement as well, so claims do not exceed the guaranteed annual premium.

Mr. Symons would not give premium rates for the PROSPORT program, but INA estimates that member teams save 30% to 50% on workers compensation costs.

INA charges the legal rate set by the state in which the team is located, but the captive members save money by sharing in the captive's investment income.

On the general liability policy, Rushmore provides $1 million in coverage with a high deductible. Most teams then purchase umbrella coverage above that level from other sources, Mr. Symon notes.

Rushmore's liability policy also includes participatory bodily injury liability coverage that protects against incidents such as when one player injures another in a fight.

The exposure has been excluded by most underwriters, Mr. Symons said, and teams generally have resorted to buying the coverage from the excess/surplus market.

While INA does not insure the team's personal injury exposures, Rushmore will provide this cover to a maximum of $6.5 million per player and $36 million per team. Rushmore then reinsures the coverage in the London market and with American National Reinsurance Group.

Mr. Symon notes that teams generally insure their players' contracts for half of their full value.

Each coverage—workers compensation, general liability and personal injury—is available separately, he adds.

Rushmore is managed by Am-Can International Ltd., a Bermuda-based captive management company. Claims service for the program is provided by ESIS Inc., a subsidiary of INA Corp.

PROSPORT is working with the National Basketball Assn.

In this situation, INA would again front as the primary insurer for an NBA-owned captive—PLANET—set up a few years ago to write workers compensation risks. After retaining some exposure, PLANET would reinsure its coverage through Rushmore and its reinsurers.

The NBA's original plan for PLANET did not work out because the captive could not find the necessary reinsurance.

Mr. Cairns hopes to make a proposal to the league's board of governors soon.

Physicians' program touts new coverage

By RHONDA L. RUNDLE

SEATTLE—The Washington State Physicians Insurance Exchange, a doctor-owned reciprocal that opened for business Jan. 1, is touting a new brand of professional liability insurance policy.

Report-occurrence coverage, selected by two-thirds of the 1,100 doctors and surgeons who have joined the fledgling insurance program, is described by company President Ted E. Linham as a cross between claims-made and occurrence coverage.

"The form offers the advantages of a claims-made policy with its low front-end cost without the disadvantage of a long-tail exposure to protect when coverage is discontinued," explains Mr. Linham.

A claims-made policy provides coverage only for claims reported between the inception and expiration dates of the current policy. There is no cutoff date after which a claim will not be honored with occurrence coverage. This is desirable since it may be years after an incident before a liability claim is discovered.

Report-occurrence coverage, pioneered by the new reciprocal, begins as claims-made and converts to occurrence after three years. Occurrence coverage is in effect at all times except for the most recent two years of any continuous policy term.

If a doctor discontinues coverage, he or she is protected against all eventual claims except those discovered during the two years before the end of the last policy period. Tail insurance may be purchased to transfer risk for claims that might develop during these two years.

"But if a doctor does leave the program, the long tail doesn't hit as hard with the report-occurrence form as it does with a claims-made policy," points out Mr. Linham. "The doctor needs only two years of tail insurance."

The new company expects to achieve 25% market penetration writing $4 million in premium its first year. The premium cost to policyholders is comparable to the cost of the plan formerly sponsored by the Washington State Medical Assn. and underwritten by Aetna Casualty & Surety Co.

Aetna's announcement of a 30% rate increase for the 1981 policy year spurred action by the state's medical society to set up a doctor-owned insurance company. It had has been under consideration for several years (*BI*, Oct. 27, 1980).

Coverage limits of $1 million per occurrence/$2 million annual aggregate, $2 million per occurrence/$4 million annual aggregate and $5 million per occurrence/$7 million annual aggregate are available through the reciprocal. Sample premiums for the lowest-limits category include: $2,591 for Class I non-surgical general practitioners; $13,051 for Class V general surgeons; and $20,780 for Class VII neurosurgeons, orthopedic surgeons and other surgical specialists.

"Aetna changed its classifications this year so we don't have a parallel classification system," noted Mr. Linham. "In some areas their costs are more attractive than ours, in others we are better. It varies by specialty but is pretty close to being the same."

The reciprocal was capitalized with a $2.4 million loan from People's National Bank of Washington. Physicians participating in the reciprocal program are signing limited guarantees for the loan averaging $4,000 each. After the loan is repaid in five years, company profits will be returned to policyholders as dividends.

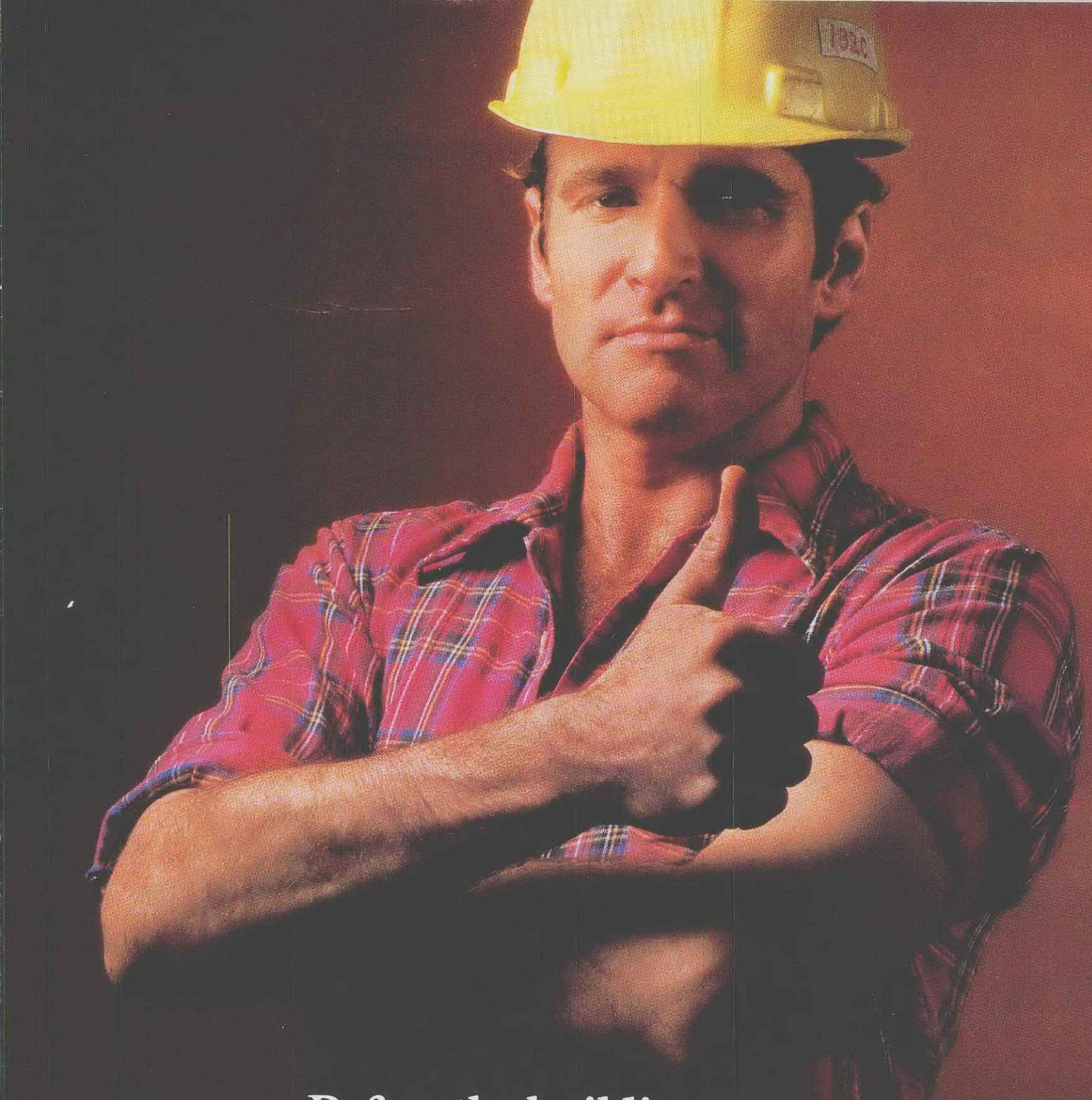
Besides saving administrative expenses as a direct writer, the new reciprocal will practice vigorous risk management in cooperation with the Washington State Medical Society.

"We expect to rigorously resist frivolous claims," pointed out Mr. Linham.

A nine-person board of directors headed by W. Maurice Lawson, M.D., will set company policy. A subscribers' advisory committee, made up of 21 doctors divided into underwriting, financial and claims committees, will advise the board.

Mr. Linham, whose professional background includes seven years with the Medical Protective Co. in Fort Wayne, Ind., is joined in the management ranks by Tom Fine, former account executive for Aetna's medical malpractice insurance program in the state.

General Reinsurance Corp. is providing reinsurance for the doctor-owned company.



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Reinsurer loses appeal, seeks to liquidate

By STEPHEN TARNOFF

ST. LOUIS, Mo.—A Gibraltar reinsurer, ordered by a U.S. appeals court to pay $541,000 to an American insurer for breaching an insurance contract, has filed a petition for voluntary liquidation.

Castle Reinsurance Co. Ltd. petitioned the Gibraltar Supreme Court to liquidate in December, five days after the U.S. Court of Appeals for the Eighth Circuit in St. Louis upheld a breach of contract award to Old Reliable Fire Insurance Co. of Webster Groves, Mo.

The liquidation move has left Old Reliable and other creditors scrambling to claim Castle's remaining assets.

In 1976, Castle agreed to accept a 10% line on a reinsurance treaty for Old Reliable placed through the London intermediary J.H. Minet & Co. Ltd. Testimony showed that Castle received underwriting information, documents and exhibits for treaty placement from Minet.

Castle received premiums under the contract but refused to pay its share after it began to lose money on the treaty, according to the circuit court opinion.

Castle contended that much of the information it received from Minet was misleading and that Minet had failed to disclose important information.

Because Castle failed to pay on the claims, Old Reliable sued Castle for breach of contract in U.S. District Court in St. Louis. Castle, in turn, sued Old Reliable and Minet arguing they induced Castle to enter into the treaty through false misrepresentations and omissions.

In January 1981, the district court ruled in favor of Old Reliable and ordered Castle to pay $541,322. Castle then took the case to the court of appeals which affirmed the district court on Dec. 4.

Five days later, Castle filed its petition for liquidation.

According to Louis Triay, a barrister at law for Old Reliable in Gibraltar, the insurer is attempting to get first crack at Castle's assets.

Shortly after the district court judgment in its favor, Old Reliable obtained a ruling from the Gibraltar court that granted it the money it was owed. Because of Castle's appeal, however, a stay was granted.

Old Reliable then won an injunction freezing Castle's bank accounts in Gibraltar.

Mr. Triay also is working with other attorneys in the United Kingdom where some of Castle's assets are located. It also has had Castle's assets frozen there.

Mr. Triay said it appears that Castle had substantial losses involving investments not connected with insurance. He said Castle previously had indicated it was solvent but after the Missouri judgment filed for liquidation.

Two provisional liquidators have been appointed by the Gibraltar court and have taken possession of Castle's records and assets. A hearing on the liquidation petition is scheduled for Feb. 23.

Shortly before the case went to the federal appeals court, ownership of Castle changed. Old Reliable and others are looking into this development, Mr. Triay said.

Frank Gundlach, a St. Louis attorney for Old Reliable, added that whether the company receives any of the judgment granted by the district court will depend on Castle's assets.

The former law firm for Castle in the Gibraltar case was headed by the country's chief minister. It is now representing one of Castle's creditors, an Israeli insurance company.

Castle's current lawyer, meanwhile, is the leader of the country's opposition party.

Attorneys on both sides say the appeals court decision is an indication of a breakdown in the relationship between brokers and reinsurers.

Daniel Solin, of the New York law firm of Solin and Breindel which represented Castle in federal court here, said the case "really altered" standards that have existed for more than 100 years between brokers and reinsurers.

Mr. Solin said that previously brokers and reinsurers were expected to act toward each other in "utmost good faith," almost in a fiduciary capacity. With the decision, it seems the broker can do almost anything short of fraud or dishonesty to sell a treaty, Mr. Solin said.

The case says that the broker has no affirmative duty to disclose facts because it is up to the reinsurer to ferret out the details, he added.

Mr. Gundlach, who is with the St. Louis firm of Armstrong, Teascale, Kramer & Vaughn, said the main impact concerns the duties of brokers and reinsuers.

"Whose duty it is to ask questions?" he said. "Here the court says it is the duty of the underwriter and not up to the broker to make statements on anything he can think of."

He also pointed out that more frequently brokers and reinsurers are going to court rather than settling differences. ■

perspective

Lease losses

Whether you are lessor or lessee, note insurance clauses carefully

By Howard C. Alper

First of two parts

IT WAS A SPECTACULAR fire: the smoke had barely cleared, the rubble was still intact and the landlord was on the phone to his "former" tenant asking when reconstruction plans would be begun.

The tenant responded that his agent told him that reconstruction couldn't be made until the financing for the uncollectible part of the loss, the depreciation, could be established. The tenant said that he wasn't willing to sign on for a mortgage for the uninsured depreciation and expected the landlord to do so.

The landlord became adamant and said, "Why should I pay anything? The lease requires you to carry an amount of insurance equal to the full insurable value. If you did so, there wouldn't be any new financing needed—the insurance company would pay the entire rebuilding costs!"

To which the tenant replied, "I did cover the full insurable value, but my insurance agent said full insurable value means 100% of the normal insurable value, and normal insurable value is actual cash value, which means replacement costs less depreciation."

Now you've got the picture; the final decision will be made by a judge.

Many leases indicate that insurance should be carried in an amount equal to the "full insurable value." What is insurable value? There is no definition in an insurance policy until the valuation basis of replacement cost or actual cash value has been stated.

Business owners often tell us that the real value of well-written contracts is to keep them out of court, rather than being a document for use in court.

Consultants have noted over the years that most leases do not contain insurance provisions advantageous to the business owner. Advance planning in writing insurance clauses in leases can save you much time, cost and headaches in the event of an insurance claim. And the landlord and the tenant are not necessarily adversaries. In 90% of the cases, the landlords will accept clauses proposed by the tenant, if properly explained, as the clauses are good for both parties.

Most leases are printed, standard-form leases. We tend to accept them as perfect and complete. In the area of insurance clauses, that's just not true. There are mistakes in those printed lease clauses. They are often incomplete. You can't rely on them to do the proper job.

Obviously, your position is completely different if you are the lessor or the lessee. The lessee's preference is to have as few insurance provisions as possible in the lease. He would like not to be required to carry liability, property, rental or other insurance. He would like rent to discontinue if the premises are untenantable.

On the other hand, the lessor would usually like to pass off as much of the insurance responsibilities as possible to the tenant. This reduces reduces his costs and appears to eliminate his problems. However, if the insurance isn't prepared properly, it will increase his problems. An equitable blending of these two postions will make life easier for all concerned.

We have devised a checklist form for analyzing provisions of a lease, as they relate to insurance (see chart). The column "Desired as lessee" indicates the preferred position if you are the lessee. The column "Desired as lessor" indicates the preferred position if you are the lessor. Insurance consultants then post the requirements of the lease as respects those particular insurance subjects to the "Lease requires" column. The "Provided by insurance" column indicates how the insurance policies are complying with the terms of the lease. The "Changes" columns then indicates any changes to be made in the lease or insurance policies to obtain the desired results.

The reference numbers on the left side of the form correspond with the key numbers presented below:

1. There are different types of liability insurance. OL&T (owners, landlords and tenants) is quite different from comprehensive general liability, the preferred type, as it is broader.

Even terminology can be a problem. Lawyers say "personal injury." Personal injury means bodily injury to lawyers, but it means mental injury (libel, slander, malicious prosecution) to insurance people. "Public liability" generally includes both bodily injury and property damage.

2. Would it beneficial for the tenant to carry liability insurance to benefit the lessor? This depends upon the nature of the property. While one can never have too much liability insurance, these requirements often impose an additional cost to the tenant, and to some extent, make your property less attractive.

If the building is single-occupancy, and is intended to be a net/net lease arrangement, then by all means the tenant should carry liability insurance for lessor. An appropriate clause would be: "Tenant shall, during the entire term hereof, keep in full force and effect a comprehensive general liability policy with respect to the leased premises, and the business operated by the tenant, and any subtenants of the tenant in the leased premises, in which bodily injury limits shall be not less than $1 million aggregate per person and per accident, and in which the property damage limits shall not be less than $100,000."

It would also be advisable to include an indemnity provision in the lease. Such a clause is self-explanatory:

"Lessee covenants and agrees that it will protect and save and keep lessor forever harmless and indemnified against and from any penalty or damage or charges imposed for any violation of any laws or ordinances, or as a result of accidents or other occurrences, whether occasioned by neglect of lessor or those holding under lessee."

If your building has many tenants, then the lessee's liability insurance is of minimal benfit. You will still need to carry your own liability insurance. The introduction of lessee's liability insurance for the benefit of lessor only increases costs and arouses confusion in the event of a claim, often without benefit to either party, merely benefitting the insurance companies in that the claim is divided among several companies. If additional coverage is desired, it would be more logical and less costly to provide increased limits of liability on the lessor's policy.

3. Obviously, it is important to name the lessor on the liability coverage. If this is not done, then the lessor will receive no benefit from the lessee's coverage.

4. The area of property insurance in leases is the one in which most confusion exists. Certainly, if the lessor is carrying his own coverage, there is no need at all to deal with this subject in the lease.

However, on a net/net lease, where the tenant is required to provide property insurance for the benefit of the lessor, great care must be exercised. Details must

Continued on next page

Howard C. Alper, ARM, CPCU, is president of AuditRate Inc., a Chicago insurance cost reduction consulting firm.

Analysis of lease insurance provisions

	Desired as lessee	Desired as lessor	Lease requires	Provided by insurance	Policy changes
Liability					
1. Form	Not required	Comprehensive general liability			
2. Limits		$1 million to $100 million			
3. Name		Lessor			
Property					
4. Perils	Not required	All risk			
5. Amount		Full cost to replace			
6. Coinsurance		None			
7. Valuation		Replacement			
8. Improvements & betterments		Lessor owns			
9. Restoration		By lessor			
10. Replacement site		Any site			
11. Amount of insurance increase		10% to 12% per year			
12. Named insured		Lessor			
13. Loss adjusted with and payable to		Lessor			
14. Mortgage		At lessor's direction			
15. Subrogation	Mutual release	Mutual release			

perspective

High achievers should be compensated for their on-the-job performance

By Kenneth P. Shapiro

management

IS COMPENSATION, which is usually an organization's single controllable expense, out of control? Have we stopped paying for performance and are we merely reimbursing for inflation? Can the situation be remedied?

The price paid for an employee's services—compensation—is based upon:

- The value of the job (job measurement).
- The number of potential workers available to fill the job (competitive pricing).
- The individual's performance within the job (pay-for-performance). The American pay ideal has been that high performers receive larger salary increases and rapid progression. Low performers receive minimal and less-frequent salary increases and little progression.

Today, however, because of high inflation rates, there is too small a spread between salary increases for marginal workers and those for outstanding performers.

However, managers can remedy the situation. Using the following four general rules, excellence can be better rewarded and innovation and productivity encouraged:

- "Slippage" is the savings of salary dollars through personnel transactions, like the replacement of retiring employees with younger, lower-paid workers. The typical mature work organization recovers 1.5% to 2% of its annual exempt payroll from slippage. The conscious reinvestment of these recovered salary dollars could be used to reward excellence.

For example, if the 1.5% of payroll recovered were devoted to specific differential increases for the top one-fourth of an organization's performance, this alone would create an average 6% differential between their salary treatment and that of the remainder of the organization's exempt employees.

- Various employee groups could be given market-justified salary differentials. This is most frequently done for geographical differentials. However, functional or industry segment differentials could be given to computer science professionals and engineers, currently in short supply. A gradually instituted program of well-conceived, documented differentials could, for a period of years, make up to 1% of exempt salary dollars available for redistribution to high performers.
- A sound, well-managed performance appraisal system will facilitate the proper distribution of salary dollars. Identification of poor performers, followed by appropriate salary treatment, will free dollars for allocation to more valued employees. Fallacious documentation of performance appraisal can create unwarranted promotions at salaries in excess of employee's performance.
- Finally, we must return to the salary increase philosophy that encourages significant discrimination in award levels. We need a pay-for-performance philosophy that will widen the gap between the smallest and the largest salary increases.

This requires hard decisions for managers, such as not giving salary increases to low performers.

Yes, compensation can be managed, controlled and made to work for an organization. And the rewards—retention of high performers, higher average individual performance and improved employee morale—are well worth the effort. ■

Kenneth P. Shapiro is a vp at Hay Huggins & Co. in Philadelphia. His column on management appears monthly in Business Insurance.

Pay attention to insurance clauses in leases

Continued from previous page

be spelled out for subjects like insured perils, amount of insurance, valuation basis, ownership of improvements and betterments and repair or restoration requirements.

Normally the perils required in a lease are not very broad. The terms "fire, extended coverage and vandalism" are common, but if it's your building, you really shouldn't be satisfied with that. You need all-risk insurance. This provides a much broader scope of insurance, as damage from more causes of loss would be insured—causes such as collapse and water damage.

5. Obviously, the amount of insurance required should always relate to the reconstruction cost of the building. If replacement cost coverage is required, then the amount of insurance would be the full cost of replacing the building. If the depreciated or actual cash value bases is used, then the amount required would be the reconstruction cost less the physical (not book) depreciation.

6. As lessor, you don't want a coinsurance clause in the policy if you can avoid it. It can only hurt you. It requires the policyholder to carry a certain amount of insurance in relation to value, and if they don't, there's a penalty. You'd like to avoid the possibility of a penalty, so if you can avoid coinsurance, that's advantageous.

To protect yourself, you may include the phrase "in an adequate amount to avoid coinsurance." This puts the burden of choosing the amount of insurance on the tenant. And perhaps if he doesn't choose properly, then he has to bear the consequences.

However, you can't always avoid a coinsurance clause or negotiate the tenant into being responsible.

7. It's not enough to state that the tenant should carry an amount of insurance equal to the replacement value. You also have to state that the policy should value the property on a replacement cost basis. If not, all that's happened is that you've carried more insurance than you need on a depreciated basis, which won't pay you more dollars in the event of a loss.

Let's say the policy is written in the amount of the replacement cost, which we'll assume is $1 million. After physical depreciation, the insurance company figures that the actual cash value is $700,000. The building is destroyed. Even though there is $1 million insurance on the building, all that can be collected is $700,000 because the policy only obligates the insurance company to pay the depreciated value.

So not only do you have to carry the right amount, you have to include the proper valuation clause in the policy. And, of course, the valuation clause should be the replacement cost, not actual cash value.

8. If the tenant makes some improvements to the building, they usually are considered at the expiration date of the lease. It is best to broaden the policy terms so that the improvements and betterments, when made, become a part of the building. In that case, when there's a claim, the building owner will collect for the value of the improvements as part of the building. Ownership should also be indicated in the lease.

9. Restoration of the building is a key point. A building owner should prefer to reconstruct his own building. He shouldn't want somebody else to do that. It's also not a good idea for somebody else to provide insurance. It's to the owner's advantage to place the insurance and bill the tenant. He will have greater control of awards and adjustment.

Another problem is that if the tenant places the insurance, it's very difficult to get the tenant and his insurance broker to comply with all the technical provisions the landlord wishes to have included.

10. Many replacement cost clauses require that reconstruction be made on the same site. The building may be in a blighted neighborhood, and as long as the building is destroyed, the lessor may want to replace it elsewhere. Under the terms of many policies, he must rebuild on the same premises or else he can't collect the full replacement cost. The company will usually remove the "same site" requirements if requested.

11. Inflation makes today's amount of insurance unacceptable for tomorrow. Therefore, it would be appropriate to build in an increase-of-insurance factor to reflect the estimated inflation rate.

12. Obviously, it's important to name the building titleholder in the building policy, or else technically no coverage is provided.

13. It is important to identify in the policy that any loss will be adjusted with and payable to the lessor. It does the lessor no good if the insurance proceeds are payable to the tenant, and the tenant doesn't reconstruct the building in the manner required by the lessor.

14. The lease should provide that mortgage interest be included in the policy. An appropriate clause reflecting points 4 through 14 would be:

"Tenant shall, during the entire term hereof, keep in full force and effect, fire, extended coverage and all-risk insurance on the demised premises and all property belonging to lessor, in an amount equal to 90% of the full replacement and reconstruction cost of the property. This amount shall be agreed to be (amount) at inception of this lease. Such policy shall be on a replacement cost basis, with permission to replace at any site. The amount of insurance shall be increased by (amount) on every anniversary date of this lease. Whenever requested by lessor, tenant shall procure an appraisal from an appraiser approved by lessor, and the new appraisal amount shall then become the new basis for insurable value. The policy will be issued in the name of lessor, and any loss is to be adjusted with and payable solely to the lessor. A mortgage interest shall be added at the direction of lessor."

15. One significant clause a lessee would like to see in the lease is a release of subrogation. In the event of fire or other insured damage, certainly the lessee would prefer to avoid the lessor's insurance company from charging him with the cost of repairing damage caused by his insurance company, as long as his rights in collecting under his policy are not affected.

So a release of subrogation, if approved by the insurance company, would be in the interest of the lessee, and of no consequence to the lessor. Such a release can be turned to a mutual release of subrogation, benefitting both parties, without objection by either insurer if so allowed in the contract.

(Next week: A look at other lease coverages.)

Rein to manage insurance at Ampco-Pittsburgh Corp.

comings & goings: buyers

Douglas R. Rein has been named corporate manager of insurance for Ampco-Pittsburgh Corp. in Pittsburgh, a major manufacturer of railroad freight cars and other metal products. Mr. Rein, 41, formerly held a similar post at Florida Steel Corp. in Tampa, Fla. A graduate of Southern Illinois University, Mr. Rein will be responsible for Ampco-Pittsburgh's risk management operations and employee benefits insurance. He will report to Ernest G. Siddons, vp of finance. Mr. Rein replaces **Paul C. Brisson,** who has joined H.J. Heinz Co. in Pittsburgh.

* * *

Neuman M. Wood has been named manager of corporate insurance and safety for Cluett, Peabody & Co. Inc., a New York-based apparel company. Mr. Wood, 40, will administer and supervise the company's insurance programs, including the development of new risk-funding methods. Mr. Wood has a bachelor's degree in psychology from George Washington University in Washington, D.C., and a law degree from the University of Baltimore. He joined Cluett in 1979 as manager of corporate safety and was corporate director of safety for Monumental Properties Trust in Baltimore from 1976 to 1979. Mr. Wood will report to J. Kirk Barefoot, director of risk management for the apparel company.

* * *

Hospital Corp. of America has named **Robert A. Reeves** president of its health services group, a new division. Mr. Reeves, 37, had been vp of insurance for the company. In the new position, he will head a division that includes all of the company's non-hospital operations, including insurance operations, laboratory facilities and an ambulance service. Before joining HCA in 1977, Mr. Reeves served in various risk management positions with Ashland Oil Inc. He has a bachelor's degree in economics from Ohio University. Mr. Reeves is a director of the Captive Insurance Cos. Assn., a director of Ideal Mutual Insurance Co. and the director of the Nashville Chapter of the Risk & Insurance Management Society. He will report to Sam A. Brooks, HCA's chief financial officer.

* * *

Norman L. Beesley has joined Miles Laboratories Inc. in Elkhart, Ind., as manager of employee benefits. He will be responsible for implementation and administration of domestic and international employee benefit programs. Mr. Beesley, 43, was formerly employed in the life insurance division of Aetna Life & Casualty Co. in South Bend, Ind. He has a bachelor's degree from Wabash College in Crawfordsville, Ind. He will report to F.C. Ahlborn, manager of insurance and employee benefits. Mr. Beesley replaces **D.V. Houser,** who has been promoted within the company.

* * *

Charles M. Mulle has been appointed vp of risk management in the Financial Control Division of Marine Midland Bank, N.A., in New York. The position was created to consolidate risk management functions formerly assumed by insurance managers. Mr. Mulle, 33, joined Marine Midland after nearly eight years as director of insurance and risk management for Merrill Lynch and Co. He also served as an insurance analyst with Chase Manhattan Bank and an underwriter with the Royal Insurance Co. Mr. Mulle received bachelor's and master's of business administration degrees from Long Island University. He is a member of the Risk and Insurance Management Society and the American Management Assn. He will report to Edward H. Brode, executive vp and chief financial officer.

•

We'd like to report on staff changes in your risk management or employee benefits department. Just drop a note to Sallie Drury, Editorial Assistant, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611, or call 312-649-5398.

We would also like to receive photographs to accompany these announcements.

business insurance

INSURANCE SERVICES GUIDE:

readers looking for services.

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datebook

FEB. 15. One-Day Benefits Briefing program on Taft-Hartley trust funds in Phoenix, Ariz., sponsored by the International Foundation of Employee Benefit Plans; members, $130; non-members, $155. Also **Feb. 16** in Los Angeles. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-6700.

FEB. 15-19. Basic Governmental Risk Management seminar in Tucson, Ariz., sponsored by the College of Business and Public Administration of the University of Arizona and the Public Risk & Insurance Management Assn.; $360. Executive Programs, College of Business and Public Administration, University of Arizona, Tucson, Ariz. 85721; 602-626-1252.

FEB. 16-17. Occupational Noise seminar in San Francisco, sponsored by the University of Southern California; $195. Office of Extension and In-Service Programs, Institute of Safety and Systems Management, University of Southern California, Los Angeles, Calif. 90007; 213-743-6523.

FEB. 17-19. Product Safety Management course in Washington, sponsored by Technology Management Inc.; $590. Richard White, George Washington University, Continuing Engineering Education, Washington, D.C. 20052; 202-676-6106.

FEB. 17-19. Techniques of Finance and Accounting course in San Francisco, sponsored by the Risk & Insurance Management Society; RIMS members, $345; for additional participants from the same company, $195 and $445 for non-members. Rebecca Zimm, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

FEB. 18-19. Arson, A Nationwide Problem seminar in Arlington, Va., sponsored by the Fire Prevention & Safety Committee of the American Society for Industrial Security; members, $240; non-members, $325. ASIS, 2000 K. St. N.W., Suite 651, Washington, D.C. 20006; 202-331-7887.

FEB. 22-24. Designing Secure Application Systems course in New York, sponsored by the Computer Security Institute; $670, prepaid. Computer Security Institute, Educational Resource Center, Box 528, Matawan, N.J. 07747; 201-566-6622.

FEB. 22-24. Techniques of Loss Control course in Miami, sponsored by the Risk & Insurance Management Society; RIMS members, $345; for additional participants from the same company, $195; $445 for non-members. Rebecca Zimm, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

FEB. 23-25. Product Safety and Liability Prevention workshop in Madison, Wis., sponsored by the University of Wisconsin; $375. Professor Richard A. Moll, Engineering Department, University of Wisconsin-Extension, 432 N. Lake St., Madison, Wis. 53706; 608-263-4712.

FEB. 25-26. Communication Security course in New York, sponsored by the Computer Security Institute; $470, prepaid. Computer Security Institute, Educational Resource Center, Box 528, Matawan, N.J. 07747; 201-566-6622.

FEB. 25-26. Loss Prevention: Explosion Hazards in Industry seminar in Saddle Brook, N.J., sponsored by the New Jersey Institute of Technology, Division of Continuing Education; $475. Also **April 26-27** in Woodbridge, N.J. Division of Continuing Education, 323 High St., Newark, N.J. 07102; 201-645-5235.

MARCH 3-4. National Formaldehyde and Building-Related Illness conference in Indianapolis, sponsored by the Indiana Chapter of the Air Pollution Control Assn.; $75; for one day, $40; after Feb. 23, $90; for one day, $45. Dr. Thad Godish, Conference Chairman, Department of Natural Resources, Ball State University, Muncie, Ind. 47306; 317-285-7161.

MARCH 5-6. Occupational Health Nursing Principles and Certification Review seminar in Tarrytown, N.Y., sponsored by Fireman's Fund Risk Management Services; $195. Also **March 19-20** in Itasca, Ill. Annette B. Haag, Director of Occupational Health Consulting, Fireman's Fund Risk Management Services Inc., Box 3890, San Rafael, Calif. 94911; 415-492-7758.

MARCH 8-9. Joint Defenses in Investigations and Litigation program in New York, sponsored by the Practising Law Institute; $275. Also **April 26-27** in San Francisco. Practising Law Institute, Department VTC, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

MARCH 8-10. Fundamentals of Insurance course in Denver, sponsored by the Risk & Insurance Management Society; RIMS members, $345; $195 for additional participants from the same company; for non-members, $445. Rebecca Zimm, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

MARCH 10-12. Insurance Claims and Litigation seminar in New Orleans, sponsored by the Defense Research Institute Inc.; $235. Anthony J. Karpowitz, Defense Research Institute, 110 W. Wells St., Milwaukee, Wis. 53233; 414-272-5995.

MARCH 12-14. The New Medical Malpractice Equation conference in Rancho Mirage, Calif., sponsored by the Annenberg Center for Health Sciences; $375; after Feb. 1, $425. Annenberg Center for Health Sciences, Office of Education, Eisenhower Medical Center, 39000 Bob Hope Drive, Rancho Mirage, Calif. 92270; 714-340-3911.

MARCH 15-16. Fourth Annual Hazardous Waste Management conference in Washington, D.C., sponsored by The Energy Bureau; $650. Carol A. Hertzoff, Planning Manager, The Energy Bureau Inc., 41 E. 42nd St., New York, N.Y. 10017; 212-687-3177.

MARCH 15-17. Corporate Benefits Management conference in Hollywood, Fla., sponsored by the International Foundation of Employee Benefit Plans; members, $470; non-members, $545. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-6700.

MARCH 16. Fundamentals: Risk Financing and Captives seminar in Bermuda, held in conjunction with the Sixth International Captive Insurance Company conference; $200. Eileen B. Callahan, Risk Planning Group Inc., 722 Post Road, Darien, Conn. 06820; 203-655-9791.

MARCH 16-17. Fire Safety in Buildings conference in Orlando, Fla., sponsored by the Society of Fire Protection Engineers and the Engineering News Record; $477; two or more participants from the same company, $420. Also **April 21-22** in New York. D. Peter Lund, Executive Director, Society of Fire Protection Engineers, 60 Batterymarch St., Boston, Mass. 02110; 617-482-0686.

MARCH 16-18. Reasoning Reinsurance seminar in Dallas, sponsored by the Risk Management Institute, University of Dallas; $445. Professor Bruce Evans or Julie Allan, Risk Management Institute, International Center, University of Dallas Station, Irving, Texas 75061; 214-579-5360/5330/5299. ■

Liddy joins Continental Corp. as senior vp of life and health

comings & goings: industry

Richard A. Liddy has joined The Continental Corp. as senior vp responsible for U.S. life and health insurance operations. Mr. Liddy has also been named chairman of Loyalty Life Insurance Co. Continental's principal life subsidiary in the United States.

His duties also include supervision of National-Ben Franklin Life Insurance Corp. and Continental's accident and health insurance department.

Other insurer changes:

Marion Perkins named president and chief executive officer of Comstock Insurance Co. He succeeds **David McIntyre** who was named chairman of the board. Mr. Perkins joined Comstock in 1980. He previously was with Skandia America Reinsurance.


Mr. Heim

Oliver M. Heim Jr. promoted to underwriting vp at American Centennial Insurance Co. in Moristown, N.J., a Benico Insurance Group company. Mr. Heim had been assistant vp at American Centennial.

Murray Smith named vp for package underwriting at The St. Paul Fire & Marine Insurance Co. Mr. Smith was vp for corporate development for The St. Paul Cos. Inc., the parent company of St. Paul Fire & Marine. Mr. Smith succeeds **Robert Sheppard** who retired.

John C. Morrison elected senior executive vp of the Insurance Co. of North America. Mr. Morrison is responsible for review and establishment of underwriting policy, retentions and ceded reinsurance.

Jay E. Minton elected president and chief executive officer of Commercial Life and Accident Insurance Co. in Addison, Texas.

Metropolitan Property & Liability Insurance Co. in Warwick, N.J., has named **Edmund O. Wall, Thaddeus S. Woods, Charles H. Primm, Roger A. Dordick** and **Philip L. Babin** vps.

Paul Ables named president and chief operating officer of Facific Insurance Co. Ltd. and Sentinel Insurance Co. Ltd. Both companies are subsidiaries of The Hartford Insurance Group. Mr. Ables has been with The Hartford since he joined Pacific Insurance in 1966.

George C. Jacob and **A. Graeme Anschutz** named resident vps of AFIA. Mr. Jacob, who joined AFIA in 1962, supervises operations in the Philippines and Guam. Mr. Anschutz, who joined the company in 1955, manages operations for AFIA in Australia.

Reinsurers

Frank Conly named vp in the bond department at North American Reinsurance Corp in New York. He also serves as deputy director of the bond department. Mr. Conly joined North American Re in 1979.


Mr. Conly

Jerome R. Hanson appointed president of Midwestern Re, a subsidiary of E.W. Blanch Co in Minneapolis. Mr. Hanson joined E.W. Blanch in 1973 and most recently was manager of the facultative division of Midwestern Re.

Agents/brokers

Joseph J. Stahl II named executive vp of Alexander & Alexander Inc. in New York. Mr. Stahl is responsible for the Human Resource Management Group, which includes employee benefits, communications, management consulting, administration and related services. Mr. Stahl has been national director of the Human Resource Management Group since 1978.

Robert H. Hoff appointed vp of Reed Stenhouse Inc. Mr. Hoff is responsible for airline and aerospace insurance requirements for Reed Stenhouse clients. Mr. Hoff is based in the Seattle office. **Robert I. Brown** appointed vp for claims management of Reed Risk Management Inc. in San Francisco, a division of Reed Stenhouse. Mr. Brown was vp and California administrator of Diversified Risk Management Services before joining Reed.

Ronald P. Thompson appointed vp of sales for Rollins Burdick Hunter of Missouri Inc. in St. Louis. Mr. Thompson was previously with Corroon & Black in St. Louis.

James V. Martin named vp of Frank B. Hall & Co. of Ohio Inc. in Cleveland. Mr. Martin is responsible for new business development and servicing established accounts. Before joining Hall, Mr. Martin was assistant vp at Marsh & McLennan in Cleveland.

Edward J. Logue and **R. John Pratt** elected senior vps of Clifton & Co., a San Francisco-based broker. Mr. Logue is director of the Pacific Northwest region and manager of the Portland office. Mr. Pratt is a director of Clifton & Co. and manager of the Los Angeles office.

Norman A. Peterson named president, treasurer and chief executive officer of Corroon & Black of Wisconsin Inc. in Milwaukee. Mr. Peterson had been executive vp and chief operations officer at C&B of Wisconsin. He succeeds **Howard W. Weiss** who was named chairman of the board.

Other suppliers

R. Howard Hopkins named vp for the Southeast region at GAB Business Services Inc., a subsidiary of UAL Inc. Mr. Hopkins was previously vp of marketing for GAB, which provides claims investigation, inspection, adjustment and related services.

Howard Sontag joined the Specialty Consulting Group of Buck Consultants Inc., New York. Mr. Sontag had been a tax manager and tax attorney at Amax Inc.

William J. Collins elected vp in charge of Ebasco Risk Management Consultants Inc.'s Eastern region operations. **Bernard J. O'Connor** also elected vp, responsible for management and development of risk management services for utilities in the boiler and machinery insurance field. Both will be based in New York.

Charles J. Mazza joined Meidinger Inc., an employee benefits consulting firm, as vp and manager of the Milwaukee office. Mr. Mazza was previously with Joseph Schlitz Brewing Co., where he was director of compensation and benefits.

Excess surplus

Peter Milazzo appointed manager of casualty excess and surplus operations for Weghorn International Inc., an affiliate of the John C. Weghorn Agency Inc., New York. Mr. Milazzo was previously a senior underwriter at American Home Assurance.

Shand, Morahan & Co. Inc. elected **Robert N. Liston** senior vp of underwriting. **Victor L. Sauer** was also elected senior vp of claims with responsibility for all Shand, Morahan claims operations. Shand, Morahan, an underwriting manager, is based in Evanston, Ill. ■

AIIC offering 'non-owned captive' plan

LOS ANGELES—Associated International Insurance (Bermuda) Ltd., the Bermuda-based reinsurance company subsidiary of Associated International Insurance Co., is being offered as a "non-owned captive" for interested associations and groups.

This captive, says AIIC President J. Michael Polizzi, is for buyers who would like to use an offshore captive insurer but want to avoid the expense of setting up one.

AIIL will underwrite risks, help set loss reserves and arrange reinsurance.

Services such as loss control and claims administration will be purchased from independent companies, although AIIL can service claims if the client is located in California, Mr. Polizzi says.

Associated International also can front—issue policies—for the captive.

AIIL, which has not retained any clients yet, is looking primarily for property/casualty risks.

Up to now, AIIL has reinsured 100% of Associated International's insurance business not placed with unrelated reinsurers, Mr. Polizzi notes.

Associated International is a wholly-owned subsidiary of Stewart Wrightson Insurance Group in London.

markets

Small risk program

Marsh & McLennan Inc. is marketing small commercial risks directly to single insurers under exclusive agency agreements in some areas, *Business Insurance* has learned.

The new program, operating now in Chicago and San Francisco, is designed to simplify account service and improve the profitability of risks paying less than $10,000 in annual premium.

In Chicago, M&M is placing small risks with the Hartford Group; in San Francisco it is using Fireman's Fund Insurance Cos.

The small commercial risk program was proposed two years ago as a follow-up to M&M's exclusive personal lines sales agreement with the Chubb Group (*BI*, July 28, 1980).

New HMO opens

INA Healthplan Inc., a subsidiary of INA Corp., has opened a $2.3 million health maintenance organization in Garland, Texas.

This is INA Healthplan's third HMO in the Greater Dallas area and represents a $14 million investment.

The Garland center will accommodate about 20 physcians and can serve up to 25,000 patients. Services, which are provided for a fixed monthly fee, include physician visits, laboratory tests and X-rays, surgery and hospitalization.

INA Healthplan also owns and manages HMOs in Arizona, California, Florida and Washington, serving some 493,000 subscribers.

Reinsurer formed

PRORECO Reinsurance Corp. has been formed in the Cayman Islands by three U.S. insurers to reinsure medical malpractice risks.

Member companies are Physicians Insurance Co. of Ohio, Physicians Insurance Co. of Michigan and Kentucky Medical Insurance Co.

All are speciality companies writing medical malpractice insurance in their home states. The companies' stockholders are physicians and other members of the medical profession.

The new reinsurer has initial capitalization of $301,500.

Benefit services

The Security Pacific National Bank has established a new subsidiary, Security Pacific Employee Benefit Services Inc., to design and administer services for pension, profit-sharing and thrift plans.

The Pasadena-based firm will concentrate on setting up plans to meet retirement or savings objectives, administrating either a Security Pacific plan or an existing plan and processing payments for retirees.

Manager named

Dallas-based Equity Reinsurance Managers has been appointed by Zale Indemnity Co. as its manager of property/casualty facultative reinsurance in the United States and Canada.

Equity Re is a market for both individual facultative reinsurance accounts and specially designed facultative automatic binding agreements.

Zale Indemnity is a wholly owned subsidiary of Zale Corp., a worldwide retail jeweler.

Syndicate forms

Pine Top Syndicate Inc., a subsidiary of Pine Top Insurance Co., has been formed to participate in the New York Insurance Exchange.

The new company will be managed by INA Trading Corp.

Name changes

Rollins Burdick Hunter Co. has changed the name of its Seattle, Wash., office to Rollins Burdick Hunter of Washington, Inc.

The office was formerly known as Dougan, Eader, Reynolds & Wheller Inc. It merged with RBH in January of 1981.

J.H. Blades & Co. (International) Ltd., a reinsurance intermediary acquired recently by INA Corp. from Crum & Forster Insurance Co. (Bermuda) Ltd., has been renamed Montgomery & Collins International Ltd.

Montgomery & Collins Inc. is INA's excess/surplus lines brokerage subsidiary in the United States.

Crum & Forster Managers (Bermuda) Ltd., a captive management company also acquired by INA, will have its operations assumed by INA International Insurance Managers Ltd., the company's captive management subsidiary in Bermuda.

Acquisitions

Alexander & Alexander has acquired the insurance brokerage firms of **Charles H. McDonough Sons Inc.** in Hartford, Conn., and **R.B. Augustine Insurance Agency Inc.** in Richmond, Va.

Underwriting teams

The Hartford Insurance Group has set up underwriting teams in Albuquerque, N.M., and Tucson, Ariz., to serve independent agents and business clients there.

These are the sixth and seventh such units Hartford has established since 1981.

New offices

Underwriting Salvage Co. has opened a new office at 10210 N. Freeway, Houston, Texas 77088; 713-447-7678.

St. Paul Risk Services Inc. has opened an office at Hamm Building, 408 St. Peter St., St. Paul, Minn. 55102; 612-221-7990.

Kwasha Lipton has moved to new offices at The Kwasha Lipton Building, 2100 N. Central Road, Box 1400, Ft. Lee, N.J. 07024; 201-592-1300.

Geo. F. Brown & Sons Inc. has moved to new offices at 1660 S. Highway 100, Parkdale Plaza, Suite 130, St. Louis Park, Minn. 55416, 612-546-4612; One Center Plaza, Boston, Mass. 02108, 617-367-8260; and 21 S. Fifth St., Philadelphia, Pa. 19106, 215-592-0560.

Compass Insurance Group has moved to 805 Fairmont Ave., Glendale, Calif. 91203; 213-507-1980.

Constitution Reinsurance Corp. will open a branch office at 505 S. Virgil Ave., Los Angeles, California. ■

They have a nose for risk management

Continued from page 3

rope. In many cases the platform decks are 70 feet above the water.

"When everything is at an optimum, it is still dangerous work, but when you inject drugs or alcohol into it, the dangers are compounded," an industry official says. "The only way to limit the risk to people and property is to control drug use through searches and dismiss employees who violate drug policies."

Mr. Pendleton works with companies to determine what they can do in the work area, within the framework of the law, to prevent injuries and losses due to drug use, he says. That includes searching people and their belongings on company property.

IADC and Safety International advocate drug education as the first step in controlling use, he says. Supervisors are the first line of defense in detecting a drug problem and should be trained to recognize symptoms.

Although the biggest workplace nuisance is marjiuana, since it is most available, the misuse of legitimate prescription medicine also poses a serious problem.

"A worker may with good intent pass out pills to buddies to cure a backache or cough without knowing if those buddies are on other drugs and what the combination might do," Mr. Pendleton says.

A drug-search program should come second to education and be motivated strictly by safety concern.

"This is not a police-type search," Mr. Pendleton says. "It is done with courtesy and employee relations in mind. There is no frisk. The agents don't put their hands on people. They ask them to empty their pockets and open their bags or lockers."

Most companies make searches a part of company policy, and employees agree to them as a condition of employment.

The contraband policy at Harkins & Co., a drilling contractor based in Alice, Texas, is similar to those being used throughout the industry.

It prohibits possession of illegal drugs, alcohol, firearms and weapons on company premises. Employees sign agreements when hired, acknowledging the company's right to search them without warning for the contraband. Those found in possession can be immediately discharged. Failure to allow a search is also grounds for discharge.

Some employees may contend the search violates their rights under the Fourth Amendment, Mr. Pendleton says. "But those amendments apply only to government agencies performing unreasonable searches. As long as a private firm carries out the search on company property, it is legal."

This has been upheld in several federal court decisions, but on the whole, the programs are remarkably free of litigation, he says. "To my knowledge only three civil suits have been filed since search programs were begun in 1973. Two were dismissed and one was won on appeal."

Federal regulatory agencies also mandate that business and industry provide safe working conditions, and drugs in the workplace are not safe, Mr. Pendleton says.

But before sending in the dogs, an employer should be sure that the search firm has adequate liability and workers compensation insurance, he says. Between $500,000 and $1 million should be sufficient since the exposure is not great, he said.

Mr. Breaux of K-9 says his firm has more than $1 million in liability insurance. Bill Roberson, safety director of Harkins & Co., says his company requires its search firm to have $500,000 in liability insurance.

A drug-search program can accomplish several things, according to Mr. Pendleton. "It reduces accidents, it increases morale among employees not using drugs, it minimizes the use or possession of contraband and it reduces losses due to theft."

Employers who utilize searches agree there are benefits, but don't know specifically how much good the programs are doing.

"Results are not immediately apparent, and there is no way to quantify them," says Mr. Roberson, who heads up Harkins & Co.'s 3-year-old search program and is also chairman of the IADC narcotics committee. "The only thing noticeable was that once we started the (search) policy, our people could suddenly walk again. Slips and falls were almost unheard of. I can't definitely say this is due to the (contraband) policy, but we think it is working."

Searches have relieved peer presure on employees who do not use narcotics, he says. "Not a week goes by that I don't receive an anonymous phone call telling me I will find something if I go to a certain rig at a certain time. Good employees take offense at other workers being allowed to use drugs."

During searches of the company's 14 land rigs, employees are gathered together for sniffing by the narcotics dogs. The dog is also led around the area to sniff employee cars and buildings.

If the dog "alerts," meaning he has found drugs, the employee is asked to allow the security people to search his person or possessions.

"If he refuses, we don't force it, but he is terminated," Mr. Roberson says. "If we find paraphenalia, we confiscate it and give the man a document warning. If we find a useable amount of marijuana or any other drug, he is terminated on the spot."

In an industry starved for people, this might seem a bit extreme, but, he says, "The cost of turnover is high, but we will risk the turnover to keep our people safe."

A spokesman for Tulsa-based Kerr-McGee Corp. says its drug-control program, begun in 1950 for its offshore oil and gas production operation, has reduced the number of unexplained accidents and improved employee morale.

"We have conducted 12 to 14 searches this year and regret to say that each time, we have found drugs," he says. Of 444 people screened, there were 49 violators. Of these only four were Kerr-McGee employees. Kerr-McGee, like other employers, says the biggest drug problem is with outside contractors or service personnel, not their own workers.

Parker Drilling Co. began its search program two years ago. The company, which operates about 90 domestic and 50 foreign drilling rigs, has posted bulletins at all rig and plant sites to inform employees and contractors' employees they are subject to search at any time.

To date, 12 employees have been terminated for possession of drugs or paraphernalia, says Mit Parker, manager of safety and training for the Tulsa-based company. He is on the IADC safety committee and the executive committee of the National Safety Council's petroleum section.

"Employees sign releases before they are searched," he says. "If they don't sign, we take that to mean they have something to hide."

But education, not surprise searches, is the main focus of Parker's drug-control program, he says. Supervisors have been trained to spot drug users. After drug-awareness sessions for supervisors in Louisiana, Parker pulled a search and found no drugs, so the program appears to be working.

All the employers emphasize their primary motivation for starting drug-search programs is safety.

"We're trying to clean up the labor pool we all draw from," Mr. Roberson says.

"People are valuable; there is a tremendous shortage", he explained. "The idea is not to fire people, but to keep the good ones and keep them alive in what at best is a dangerous job." ■

Photo: K-9

Dog sniffs pile of life preservers at oil rig operation in search of drugs possibly hidden by employees.

Decision in 1980 lawsuit supports narcotics searches

NEW ORLEANS—Those citing case law to support surprise narcotics searches of employees for safety reasons quickly point to the decision in a 1980 lawsuit brought against Ocean Drilling & Exploration Co. by an employee fired for possession of marijuana.

Edmond Wells Jr. vs. ODECO was tried before U.S. Magistrate James Carriere in the U.S. District Court of Eastern Louisiana last January. The case, decided in favor of New Orleans-based ODECO, is called a landmark by those who conduct contraband searches for oil and drilling companies.

On Dec. 14, 1977, Mr. Wells was fired from his job on a Gulf Coast ODECO production platform after a search team, including a drug-sniffing dog, found a bag of what was believed to be marijuana in the pocket of his work jumpsuit.

Mr. Wells said during the trial that he did not know the substance was in his pocket, that it was not his and that he had not seen it before.

He sued ODECO and the search firm it had hired for alleged violation of his constitutional right to protection against unreasonable search, guaranteed under the Fourth Amendment. He also sought financial compensation for invasion of privacy and defamation.

On the day of the search, while sleeping in quarters he shared with eight other workers, Mr. Wells was awakened by ODECO's search team of two men and a dog, the magistrate's verdict says. A company representative asked to search his belongings and Mr. Wells signed a consent form allowing this. He later testified he signed the form because refusal would have meant termination.

The team found nothing in his bunk or locker and asked him to leave so another worker could be searched, the verdict says. When he put his jumpsuit on to go outside, a searcher patted the pockets and found the bag of marijuana.

ODECO fired Mr. Wells on the spot, after he signed a termination report. Mr. Wells said he signed the report because he was told if he didn't, he would be turned over to local authorities in addition to being fired.

During the trial, Mr. Wells testified he was aware of company policy banning drugs aboard ODECO facilities as a safety precaution. That policy provides for unannounced searches.

He also testified the searchers did not act unreasonably when they requested his consent and that he was not later refused employment because of the ODECO firing.

Magistrate Carriere found in favor of ODECO, saying that:

- A search conducted by a private individual for purely private reasons does not fall within the protective sphere of the Fourth Amendment.
- ODECO's search was not a law-enforcement activity, but was directed toward the safety of the company's people and property and, therefore, did not fall under state laws prohibiting unreasonable searches by law enforcement agencies.
- Since Mr. Wells was clearly forewarned that searches were a condition of employment his right to privacy was not wrongfully violated by the search.

agent/broker topics

A REGULAR EDITORIAL SECTION EXCLUSIVELY FOR AGENTS AND BROKERS

Can your agency live without you?

To be

Illustration: Jim Bakasetas

• • •**OR NOT TO BE.** That is the question plaguing many independent agents and brokers suffering the blows of today's rising costs and falling profit margins.

If you are thinking of retirement, should you perpetuate your firm by bringing a young producer up the ranks? Does your company have the resources to buy you out?

Or when retirement nears or business pressure increases, do you buy other small agencies or brokers and stay alive with the lifeblood they offer in terms of talent and geographic spread?

Or do you court a larger broker and hope it will buy your business? While the national and international brokers have slowed their acquisition pace, they are still hunting for prime possibilities.

Perpetuating your own

If you decide to keep your agency or brokerage independent, remember the task won't be easy. The choice to be—and to stay—in the industry takes planning and time to cultivate the seeds of perpetuation.

If you want your firm to keep running after you retire, the self-perpetuating process should have begun years before you and the other principals approach retirement age. But if you haven't planned for retirement yet, don't give up hope.

Trade associations, franchises, consultants and insurers are anxious to help plan or offer financial guarantees and smaller brokers in the same situation may be ready to sell you some new blood.

But perpetuation should begin at the beginning. Some industry experts say principals should consider what will happen when they decide to quit the minute the agency or brokerage begins. How the principals set up the operation and the tax consequences of that structure can help or hinder a perpetuation program (see story, page 26G).

Even when the agency's or brokerage's structure provides a fertile field, planting and cultivating a perpetuation program takes time.

Young producers who are potential agency or brokerage principals can't learn the ropes of running the operation overnight. In agencies in which the principals also are key producers, young staff must develop not only sales expertise but also management skills.

The young producers in the agency or brokerage must also be able to generate the capital to buy the retiring partners' interest.

That, too, takes time.

To insure a smooth transition, agencies should begin a perpetuation plan one year in advance for every 10% ownership the principals want to turn over, suggests Larry Marsh, partner in the insurance consulting firm of Marsh, Berry & Co. in the Cleveland suburb of Willoughby, Ohio.

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Planning perpetuation a must for any principal

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And two young producers should be prepared for perpetuating an agency for each principal who will retire, he adds.

If two principals, for example, own 100% of an agency, they should have four potential principals in place for 10 years before they retire. With that preparation, the agency has a better chance for a comfortable transition, Mr. Marsh says.

This rule of thumb allows time for the agency, through the young producers, to generate the cash needed to buy out the retiring partners, he explains.

Two potential buyers are better than one because that increases the chances of a successful transfer of ownership when the principals retire.

"There's a better chance one or the other will stay," Mr. Marsh notes.

If the agency is growing, it may also be wise to prepare for a greater number of principals as well, he adds.

While a perpetuation plan should be developed well in advance, all hope is not lost for the manager who is on the verge of retirement or who suddenly faces an unforeseen early retirement.

The retiring principal can agree to a low down payment for the agency with a 10- to 15-year payout at a moderate interest rate, suggests John H. Jaques, vp in the Los Angeles office of Russell Miller Inc. But the owner is taking a risk by banking on the ability of the young principals taking over business to run it successfully.

That's the real price paid by the owner of a privately held business without a retirement plan.

Still another bail-out alternative is available. Many insurance companies are coming to the rescue with loan programs for young producers who want to buy out an agency principal.

The Travelers Corp. in Hartford, Conn., arranges loans to finance new producers seeking to buy out retiring principals, according to M. Norman Kemp, vp for corporate marketing. Interest rates on The Travelers' loans, as with most other insurers' programs, are somewhat better than the market rate from conventional lenders.

What's the catch? Volume commitments are then negotiated between the insurer and the agency, covering the life of the loan.

One major insurer doesn't require formal volume commitments as criteria for making a perpetuation loan, however.

Boston-based Commercial Union Assurance Cos. "puts its resources in agencies where (the insurer) will become or is one of the dominant insurance companies in the agencies," says George Frazier, senior vp for agency relations.

Under Commercial Union's loan program, agents also can receive loans for purposes other than agency perpetuation, Mr. Frazier notes.

Commercial Union also issues loans to agencies to assist in acquiring other agencies, bringing new producers into the operation and "enhancing professionalism of the agency." The latter is a catchall for helping fund anything from automation to creating a risk management services department.

Interest rates on loans in any of the categories are "geared to what investment income would be" on other securities, Mr. Frazier says, "though it's never been more than 12%."

Commercial Union also has a special progam for the sons and daughters of agency or brokerage principals.

In that program, the principals' offspring become employees of the insurance company for a designated period while they learn the insurers' side of industry.

Each trainee follows a program, tailor-made by the student, his or her parent (the agency principal) and the insurer. The programs are based on one of four modules covering personal lines, commercial lines, claims or risk management.

The training takes from one to 1½ years, Mr. Frazier explains. After that, the student goes back to the agency or brokerage.

"We're not interested in babysitting," Mr. Frazier says.

Students must first spend six months with the agency before going through Commercial Union's program, he adds.

And students don't train in their own regions, Mr. Frazier notes, where they might otherwise be working with accounts of competitors to their own agencies or brokerages.

About 20 students have enrolled in Commercial Union's program since it began in the summer of 1980.

Help is the key word in Commercial Union, The Travelers and other insurers' programs. Industry observers carefully distinguish between these loan programs and another trend: insurers owning agencies.

Buying and being bought

Not every agency has a son or daughter waiting in the wings to learn the insurance business. And, many agencies don't have young producers with the drive and resources to buy the business from a retiring principal—even with an insurer's help.

The agency has one more choice. It can choose to continue to exist by taking advantage of the weaknesses of others. It can buy other agencies and find new management potential, accounts and economies of scale within its acquisitions.

Sellers abound—agents or brokers who by plan (or misplanning) have decided not to be. There are plenty, but there are also plenty of buyers.

"Buyers face tremendous competition for agencies," contends James S. Fox, chairman of Fox, Puckett, Cohen & Associates in Louisville, Ky., whose firm purchased 11 agencies over several years and then sold out recently to Robinson-Conner Inc., based in Erie, Pa.

National brokers, insurers and financial service firms have all purchased agencies and brokerages in the past few years, and it's no longer easy to pick and choose whom you would like to acquire.

Today's average agents are 50- to 55 years old and "they're tired," Mr. Fox contends. "They're having problems dealing with the environment."

That environment of falling revenues coupled with rising costs is squeezing agents and brokers. However, it's not locking them out of the market yet, believes John Riedman, president of Riedman Corp. in Rochester, N.Y. Mr. Riedman and his brother, Frank, the other principal in the brokerage, has made than 40 acquisitions, most in the last 15 years.

"I think there will be a large proliferation of agencies that want to sell because of the soft market," Mr. Riedman says. Agents are weathering the soft market now, but they can't continue, he believes.

Principals retire, become sick or die without an agency perpetuation plan in place and they sell out. Lack of a plan to perpetuate is a major cause for agencies to be put on the selling block, Mr. Riedman says. That was especially true among the small agencies purchased by the Riedman Corp.

The large national brokerages like Marsh & McLennan and Alexander & Alexander Services Inc. have capitalized on this themselves, maintaining a constant flow of leadership talent through acqusition. A&A traditionally is the most hungry of the large brokers and up until recently averaged about one acquisition a month.

Even some large independents, which are especially attractive to national houses, sometimes must sell out because they didn't plan for perpetuation. They have to choose to survive by being part of someone else's growth plan.

The more principals and the higher the sums of money involved, the harder it is for the younger generation to buy out the retiring principals, as one seemingly prepared broker discovered.

Nahm, Turner, Vaughan & Landrum Inc. in Louisville, Ky., saw the sums of money the younger producers needed to buy the shareholders out and decided not to be, according to Baylor Landrum, president/treasurer.

One of the 50-largest brokerages, NTVL is now negotiating a sale to Alexander & Alexander and expects completion before summer.

While NTVL did have a perpetuation plan, it was informal and short-sighted, Mr. Landrum says.

The plan included bonus payments to key people that would help enable them to buy the stock from retiring principals and terminating employees, almost all of whom have stock in the brokerage through an Employee Stock Ownership Plan (see story, page 26E).

NTVL's plan only looked at the after-tax dollars the brokerage needed to buy out employees and principals who will retire in the next three to five years, Mr. Landrum notes, adding that he is the only shareholder who will approach retirement age within that period.

"The other board members were more concerned about long-range," Mr. Landrum says. When they extended the telescope 11 years to view the retirement of the remaining 27 shareholders, the board decided against saddling the firm with the financial pressure needed to buy them out.

"The board made the decision to talk seriously to Alexander & Alexander about selling out," Mr. Landrum says. That decision, however, wasn't a novel idea.

Over the last 10 years, NTVL has been consistently talking with A&A about merging, "sometimes casually, sometimes seriously," Mr. Landrum notes.

Perpetuation wasn't the only carrot on the stick in front of NTVL. Alexander & Alexander also offers financial and personnel strength, Mr. Landrum says.

The Louisville brokerage isn't alone in selling out as a defensive for financial and personnel strength.

Agencies and brokerages are requiring increasing amounts of capital. They're finding they have to automate to keep up with the competition by attaining the efficency computers bring.

But, computers cost money—and lots of it. Agencies and brokerages that can't generate the necessary funds sell to someone who can.

Agencies are also marching steadily toward specialization and say they need to become larger so they can afford specialists to get a bigger book of business, principals say.

Small agencies are selling out on behalf of younger employees to gain that necessary size, establish the administrative advantages of a larger scale and win more clout with insurers who tend to favor producers with bigger premium volumes.

Deciding to buy?

An acquisition plan to take advantage of this industry dynamic takes as much or more care than a simple internal perpetuation program.

Principals, besides assuring that the agency's perpetuation plan is developing on schedule, must set a series of goals for acquisition, including a timetable, a geographic plan and new business target, consultants say.

Where or what you purchase should be part of this plan.

An agency or brokerage may have large commercial accounts with risk exposures in another city, notes David Hales, president of brokerage consultancy Hales & Associates Inc. in Chicago. Or, the firm may find itself doing a lot of business in a nearby location.

That agency or brokerage may be ripe for a branch office or an acquisition in those cities, and the acquisition may serve both growth and perpetuation needs. By acquiring an agency already in a potential expansion area, rather than opening a branch office, you can avoid competing with an established operation.

Bursting the seams of Erie, Pa., Robinson-Conner looked for acquisitions outside its area, notes Vp Daniel P. Kuzio. However, the firm had trouble finding qualified people to move to the smaller communities—a problem they didn't face with acquisitions in metropolitan areas, Mr. Kuzio notes.

After some unsatisfying acquisitions in nearby smaller communities, the brokerage went out hunting for larger game.

As the Robinson-Conner discovered, not every acquisition or merger is a marriage made in heaven. Principals must review

Look at all the factors before considering merger

Experienced agents and consultants say you should consider several factors before approving an acquisition:

- Study the agency's mix of business. Is there a good split in percentage of personal vs. commercial lines? An agency is more vulnerable to losing accounts in personal lines.
- What is the loss ratio of the agency to be acquired? Profitable loss ratios suggest the agency has a good staff.

The purchasing agency should also pay especially close attention to the acquired agency's loss ratios with insurance companies the acquirer already deals with.

Suppose, for example, the surviving agency has a very good loss ratio with an insurer and is, therefore, receiving a hefty commission from the insurer. If the acquired agency has a bad loss ratio with that insurance company, the surviving agency may find its commissions hurt.

- How many professional liability claims have been filed against the agency in the last four or five years? Why? And did they lose?
- Does the agency have target accounts that make up more than 5% of the agency's revenue? A lost target account can be devastating.
- How long has the operation been there? Does it have a reputation as an established firm?
- How old are the accounts?
- What's the potential for business in the goegraphical area?
- What's the collection policy of the acquired agency? Initiating a strict collection policy may not sit well with policyholders who are accustomed to waiting for the last minute to pay premiums. The surviving agency may lose those accounts.

Ignoring any of these potential risks can lead to an unsuccessful acquisition, experts say.

. . . or not to be

Illustration: Jim Bakasetas

every facet of the operations of both their own agencies and brokerages and the potential of new operations to make sure they can be combined.

Compatability is key to any successful merger or acquisition, brokers and consultants say. Without that compatability, especially between the principals and staffs involved, the acquisition or merger won't be successful.

People, especially experienced managers and sales staff, traditionally are the most important asset in an agency or brokerage. Frequently, the principals lead in value.

How you join firms can affect how well principals react. An acquisition differs from a merger in that in the former, the buyer gives the seller cash and folds the acquired agency into the buyer's operation.

With a merger, the two agencies exchange stock and although one agency no longer exists, the principals of that agency frequently hold a power position in the remaining agency.

In an acquisition, when you are the buyer, you are the boss. But you must also consider that the previous owner, if he continues with the firm, may present a a management clash.

When the principals of an agency or brokerage are selling out, as opposed to merging, they must realize they'll no longer be the boss. The amount of supervisory work required of them depends on the sale agreement, but old and new owners must come to grips with their new status before the acquisition.

Gaining the acceptance of the new staff is almost as important as winning over the principals. "Communication with the staff is very important," Mr. Landrum of NTVL stresses. "It's absolutely vital that our staff be comfortable with the merger," he says.

NTVL's principals "spent countless hours one on one explaining general objectives of the merger" and how each staff member will fit in, Mr. Landrum notes.

And, those hours paid off. "Almost without exception, everyone will stay aboard" after the NTVL-A&A merger.

A merger or acquisition in the works should be discussed with the staff very early on, particularly in a small firm where it's very hard to keep a secret, Mr. Hales says.

"The very best thing the seller can do is tell (the staff) what he intends to do," he adds. The agency buyer, who is interested in the people, should talk with the staff, too, Mr. Hales suggests. "Stress that it's a positive thing," bearing in mind that most people resist change.

People are an agency's greatest asset, Mr. Hales stresses. "To ignore them is insane."

While all the employees in an agency are important, some are crucial. By studying the accounts, the buyer can discover where the policyholders place their allegiance, Mr. Jaques notes.

Is the allegiance to the agency, the insurance company or to the producer? If key policyholders show their allegiance to the producer, the agency's buyer had better make sure he or she gets those employees locked in to stay with the business, Mr. Jaques says.

Key people staying and continuing to produce is just one of the risks buyers take in acquiring an agency or brokerage. A buyer must do his or her homework to establish other potential risks, Mr. Fox notes.

Dig deep to expose those potential risks. How sound is the operation? What on the surface may look look like a fortress of strength, may be crumbling from within. Or, conversely, a strong framework may support a weak-appearing exterior.

No business decision is risk-free. The size of potential risk can be tempered by planning and judgment, the experts say. But to be or not to be is still the question.

—Donna Leigh Yannish

John and Frank Riedman of the Riedman Corp. have been building their firm through acquisitions, starting with small agencies in their area and expanding to bigger firms in neighboring cities.

Agency valuation benchmarks change with times

How do you decide what your agency or brokerage is worth?

The old rule of thumb that an agency is worth 1½ times commissions is a meaningless gauge when evaluating today's agencies, most experts agree.

And you don't need advanced mathematical equations to disprove the rule, either. Common sense exposes the fallacy in the 1½ times commission rule of thumb, points out John H. Jaques, vp in the Los Angeles office of Russell Miller Inc.

Simplicity isn't the problem with the old rule, Mr. Jaques explains. The problem lies in the basis for the calculation—commissions.

Two agencies, for example, that both report commissions of $350,000 would command the same value under the traditional rule. However, if agency A earns $35,000 after taxes each year, and agency B's after-tax earnings hit $65,000 a year, agency A is clearly worth more than agency B.

While the old commission-based rule doesn't mean anything, don't panic. You don't have to run to your accountant and computers to establish a basic range for the value of your agency.

There are more accurate simple calculations that can be used to value an agency, Mr. Jaques says.

Sustainable earnings (after-tax earnings minus expenses like excess compensation to principals, rent on a building you may own, and employee benefits not already included) are far more relevant to an agency's value than commissions, Mr. Jaques contends.

Using an agency's sustainable earnings figure, a potential buyer or seller can use two methods to determine the operation's price tag: public company multiple and captialization of earnings, Mr. Jaques says.

The public company multiple method uses another simple rule of thumb to compare the value of a private agency's earnings with the market value of the public brokers earnings.

John H. Jaques of Russell Miller Inc.

Most agencies are worth from four to six times their own sustainable earnings. Today's market values the average public brokerage at more than six times its sustainable earnings, but a private firm is usually considered a more risky investment and so is usually valued at closer to four times earnings.

If the agency is well-established, with many good, strong accounts, hard-working, effective staff members, a strong perpetuation plan and all the other elements of a sound business, its value may be on the high end of the range. An agency with questionable health belongs at the lower end of the scale.

This measure, however, is subjective and relies on the accuracy of the evaluator. If, for example, two evaluators subtract different amounts for certain business costs to reach sustainable earnings, their evaluations of the agency will be different.

The amount of potential risk in an agency is also ellusive. What one evaluator may view as a tower of strength, another may see as a toddering wreck.

When buyers and sellers are negotiating a price based on their own valuations of an agency, sustainable earnings and risk factors can cause heated debate. Yet, when those numbers are established, the rule of thumb can work.

The capitalization method is another simple way buyers and sellers can evaluate an agency using sustainable earnings. While it isn't as easy as the previous method, it isn't hard to use, Mr. Jaques explains.

This method measures value on the rate of return on investment a buyer would have to receive in order to put a certain amount of money into buying the agency.

If the buyers think the agency will yield more than other safe investments, they should put their money into the purchase. Sellers can reverse the process to see what the market will bear.

First, establish what you can earn from a virtually risk-free investment—say Treasury notes or AAA corporate bonds—with what you think the agency should draw on the market. Today those rates are about 13%.

Buyers must get a higher rate of return from an agency than from the risk-free investments in order to entice their money into the agency, Mr. Jaques says. The more risky the buyers think the agency is, the greater rate of return they will want to receive on their investment.

By dividing sustainable earnings for the agency by the required rate of return, buyers establish what they're willing to pay for the business. To them, that's what the agency's worth.

Note again, however, that sustainable earnings and risk are subjective calculations.

Placing a value on an agency isn't easy. While it doesn't take accountants and computers, it does take good business judgement to establish inputs for the valuation. Once you have those inputs—sustainable earnings and risk—it's easy from there.

Avoiding taxes on agency sale demands strategy

Will you sell your agency and in turn hand the profits to the Internal Revenue Service?

Maybe. Tax considerations may dictate how much money you get from the sale of your agency.

Depending on how you structure the deal, you may be able to avoid hefty tax payments. But like all aspects of buying and selling, it takes planning.

Although you will probably need the aid of a tax specialist, the Independent Insurance Agents of America offers a tape cassette that contains discussion of strategies for maximizing retirement income and minimizing the tax consequences of selling an agency.

"Agency Perpetuation: Some Tax Strategies" is based on interviews with Gerald I. Lenrow and Charles R. Meyer, who are insurance tax

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specialists at Coopers & Lybrand, a New York accounting firm.

The tape, which discusses the Economic Recovery Tax Act of 1981, is a revision of an earlier IIAA cassette on the subject.

A sale, the usual form of ownership transfer, can occur at three points in time, Mssrs. Meyer and Lenrow explain:

- When the seller intends to remain active in the agency, but wants to relinquish ownership.
- When the owner retires.
- When the owner dies and the estate is selling the agency.

If the principal intends to remain active in the agency, "there is some room for flexibility," the IIAA program authors note.

The principal can sell the agency, or his share of the agency, in either a taxable or a non-taxable way.

A merger with another agency, especially a larger agency that ultimately will be able to carry on the business, can be done on a tax-free basis, the authors say. But a tax-free sale or merger only postpones the tax consequences of the transfer to some point in the future.

Think about it, if you expect to stay on. The merging principal will eventually leave the agency, either by retirement, gift, sale or death. This sale or other form of transfer will be taxable at that time.

"As part of a larger agency, you will not have the control you have in your own smaller agency," the experts note.

"So it's best to plan for all possible problems before the merger occurs. Think in terms of the ultimate sale, and consider many of the same things you would consider in a taxable sale."

Whether the agency is a sole proprietorship, a partnership or a corporation also has a major effect on the tax implications of a sale.

In a sole proprietorship, the principal can't sell the business as a total package. No matter how the contract appears, the principal is really selling pieces: the agency's name, good will, the expirations or perhaps some tangible assets.

"Economically, (the principal) may profit more if (he or she) negotiates the price for each of those individual items," the accountants suggest.

The buyer of those individual assets gets a tax deduction for some, like the expirations (where they are separately bargained for), but not for others.

The name, for example, isn't depreciable, and can't be deducted from your taxes.

A sole proprietor selling an agency must also watch how each asset's value affects his own tax status. The IRS calls payment received from the sale of some items "capital gains" and money from other assets "ordinary income."

Selling individual assets in a partnership is like selling assets in a sole proprietorship, tax laws say. Gains from the sale, however, are split between the partners.

If you are selling to retire, leaving behind a working partner, both may receive tax benefits, the tax experts say, if the transaction is handled properly.

"The retired partner can receive the whole retirement income as ordinary income—and it will be deductible to the ongoing agency partnership.

"If handled properly, the income will not affect the partner's Social Security during retirement."

A principal selling his interest in an incorporated agency should establish value for all the individual assets, even if the sale involves stock. That way, the IRS is in a weaker position to ever challenge the price allocation of the assets, the tax experts say.

Once values have been allocated to assets, the buyers and sellers must consider ways to pay the seller. A lump sum in cash, while easy, may not be the best way to pay for an agency under tax laws.

The income from the sale, after capital gains deductions, will be tacked onto ordinary income. That can cause a real tax burden to the seller, who probably has an already substantial income in the year of the sale.

An alternative financing, installment payments or pension plans, are taxed only on the amount received, a potential retirement benefit.

An extensive obligation to a pension plan, for example, reduces the value of the agency as it is a form of compensation for the retiring principal. But contributions to the pension plan are tax deductible to the acquiring agency.

If an agent or broker isn't planning to sell for business or retirement reasons, he or she should probably prepare for giant estate taxes or a forced sale caused by an accidental death.

As protection against a sudden accidental death, an agent can transfer the agency to family ownership while still alive.

You can transfer ownership through a sale or gift, each having different tax considerations. A combination sale and gift is best and can significantly save estate taxes, the Coopers & Lybrand accountants advise.

If, for example, a relative owes the principal $5,000 a year in payments on an installment sale, the principal can make a cash gift of $5,000 to the relative who in turn pays the principal $5,000. It's all perfectly legal, the experts affirm.

Transferring an agency to family members can also be linked with estate planning. Agents should consider the plans simultaneously, the experts suggest.

Principals spend much of their lives building their agencies. Most would like themselves and someone other than the IRS to benefit from that hard work.

With planning and expert assistance, agents can help divide up the proceeds from transfer of ownership and limit the IRS' share, the experts conclude. ■

Mergers can differ according to size

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Are big mergers and acquisitions the same as small deals—only bigger?

Do John Reagan Jr., chairman of Marsh & McLennan Cos. Inc., and John A. Bogardus, president of Alexander & Alexander Services Inc., go through the same thought processes that smaller agencies or brokerages face when buying or merging with another agency or brokerage?

Yes and no, the experts answer. After agreeing to negotiate, executives must ponder price and payment methods that meet the special big-broker requirements.

The most important issue in any merger or acquisition is whether the principals agree and work together. That remains the same in all deals, no matter what the size, says Russell R. Miller, president of Russell Miller Inc. in San Francisco.

Mr. Miller's consulting company has been instrumental in many large mergers and acquisitions, including Corroon & Black Corp.'s purchase of Synercon of Nashvillle in the mid-1970s, Bache's acquisition of Albert M. Bender & Co. Inc. of Los Angeles in 1978 and, more recently, Jardine Matheson & Co.'s purchase of Bache Insurance Services from Prudential Insurance Co. of America.

But after the key executives agree comes the bottom-line discussion, when price and payment take over the conversation.

While negotiating the price, public brokers diligently guard their earnings-per-share ratios, Mr. Miller says.

"Every deal begins by (the buyers) saying they won't dilute their earnings per share."

A smart negotiator can propose a deal that, by the compensation method, satisfies the seller and saves the stock of the buyer.

That's a major difference between small and large deals.

The first proposal to suggest may be cash on the barrel head. If the buyer pays in cash, the ratio isn't affected, Mr. Miller notes.

It's not likely, however, that a large publicly held brokerage can handle a cash-only deal. Big buyers usually pay for their purchases with tradable securities or tradable stock, Mr. Miller adds.

But even under stock-payment plans, a buyer can preserve its ratio by juggling many deals. Even if the buyer pays for its purchase with stock and dilutes its earnings per share, the ratio change may be very temporary.

A brokerage may negotiate four or five deals relatively quickly, with some dilutive and others antidilutive, Mr. Miller says. If, when the dust settles, the buyer's earnings per share are not affected, "who's going to know?" he asks. ■

Acquisition tax troubles can be beaten

SAN FRANCISCO—Taxed to death?

Tax problems can be so major as to prevent a merger or acquisition, particularly if the deal involves international companies, consultants say.

Tax problems, for example, broke up the marriage plans between Alexander & Alexander Services Inc. and London's Sedgwick Group Ltd. (*BI*, Aug. 6).

The simplest way to beat tax problems imposed by varying state and federal regulations may be to dissolve one of the companies and instantly reincorporate in a structure that more easily complies with regulation and has a different tax status, says Russell R. Miller of Russell Miller Inc.

"You collapse the corporation and rebuild it in an instant," Mr. Miller explains. The rebuilding "can have major tax advantages if done properly." ■

ESOPs can be a boon or a bungle for agents

By DONNA LEIGH YANISH

A/BT

An Employee Stock Ownership Plan may be the answer to an agency's or brokerage's perpetuation problem, or it may be a noose around the operation's neck.

Born out of the Employee Retirement Income Security Act of 1974, ESOPs are based on the notion that employees should participate in the ownership of the business to which they devote their time and effort.

The plan allows a company, like an agency or brokerage, to contribute cash to the ESOP trust, which is deductible from its pretax earnings, and reinvest these funds in agency securities. The securities are then held in trust for the employees who can redeem them when they retire or resign.

Sounds like a traditional profit-sharing plan, right?

Wrong. The investment in agency securities is the key difference between ESOPs and other retirement programs.

In a traditional profit-sharing plan, employer contributions are invested, by mandate, in investments away from the firm "so that the money is forever lost for all purposes except as a tax deduction," says the Independent Insurance Agents of America book "A Guide to Perpetuation: Buying, Selling and Merging Insurance Agencies."

"By contrast, with an ESOP, the mandated investment is in the agency, providing, along with the tax deduction, additional cash flow, paid-in capital, funds for expansion, acquisition or any other purpose deemed to be in the interest of the agency's growth," it says.

Acclaimed as a perpetuation tool, ESOPs won support from agencies and brokerages but enjoyed mixed success. Some agencies and brokerages have flourished with their ESOP in place, while others have sold out their operations, collapsing the ESOP in their wake.

Louisville, Ky.,-based Nahm, Turner, Vaughan and Landrum's ESOP, which will disappear if the brokerage merges with Alexander & Alexander Services Inc., was partially responsible for NTVL's sellout, according to Baylor Landrum, NTVL's president and treasurer (see story, page 26E).

The board of directors decided not to strap the brokerage with the major financial obligation required over the next 11 years to buy back NTVL shares from retiring and terminating employees, both principals and ESOP members, he says.

NTVL's dilemma reveals one of the major drawbacks to ESOPs as a primary perpetuation tool, notes David Hales, president of Hales & Associates, a Chicago-based consulting firm.

Money to buy back ESOP members' shares has to come from somewhere. The firm had better be prepared to come up with the money.

The workings of an ESOP clarify the problem. First, a pure ESOP contains only agency shares with no other investments, Mr. Hales says. Secondly, while all eligible employees participate in the plan, the agency or brokerage principals —who are most likely the highest-paid employees—hold the largest number of shares in the plan.

Remember that the principals hold shares in the business outside the ESOP. When principals and other plan members retire or quit, the ESOP has to redeem their holdings, either in cash or shares. If the company wants to remain closely held, it must provide for those shares to be converted to cash.

A pure ESOP, however, doesn't have any cash. It has no means of buying the shares.

Without a means to purchase those shares, the stock ownership plan fuels rather than squelches the perpetuation problem, he notes.

Employee Stock Ownership Plans can perpetuate an agency if done properly, however. Robert F. Driver Co. Inc. in San Diego, Calif., enjoys continuing success with its ESOP, which has been in place since 1978, according to President Irwin Sklar.

The program, which is actually a hybrid Employee Stock Ownership Plan, contains both agency stock and outside investments, he says.

Mr. Landrum

Robert F. Driver Co. transfers 1% of its gross earnings to the ESOP, which the plan holds along with shares of the brokerage's stock.

The funds are then available to buy back shares from retiring and terminating employees and principals, Mr. Sklar says. "We're putting away retirement equity."

Staff members, who are able to join the ESOP after one year's service, sign an agreement stating they'll tender back their shares when they leave the firm, he notes. That insures the brokerage against becoming publicly held.

Highly paid employees, although the largest ESOP shareholders, don't completely dominate the plan, he notes. The plan holds participation to a $40,000 maximum so lower-paid workers aren't overwhelmed by the number of shares large producers collect, he explains.

Since its birth, the ESOP has grown to one of the majority stockholders, holding about 22.25% of the outstanding shares, Mr. Sklar notes. And, a change in the original plan gives members voting privileges, too. Statistics show that participation in programs like these helps build employee loyalty.

By altering the formula for a Employee Stock Ownership Plan, Robert F. Driver Co. can take advantage of the program's benefits while avoiding the pitfalls.

The San Diego brokerage receives the tax deduction enjoyed by profit-sharing agreements including ESOPs. But, unlike traditional agreements, the brokerage also enjoys the use of some of the funds.

The remaining funds in the ESOP help create a market to which brokerage principals can sell their shares. That, unlike NTVL's stock option plan, solves the perpetuation problem. ■

Perpetuation of an agency takes planning

A/BT

If you want your agency or brokerage to remain independent after you retire, you'd better start planning now, experts say.

Small and large agents and brokers can turn to some of their respective trade associations and franchisers for help and introduction to agency perpetuation plans through seminars, educational books and tapes.

Assurex International, an organization whose large independent agents and brokers members have an average annual income of $2.7 million, offers its members extensive help in perpetuation.

The plan features a loan program for member agencies and brokerages that want to buy out one or more of the principals in the firm.

The money will comes from Assurex Development Corp., a subsidiary established for the perpetuation program. Funds for the loans, which hit "an eight-figure number," come from eight insurance companies in the form of loans and equity in Assurex Development Corp., according to Robert P. Ashlock, Assurex executive vp.

Several member agencies and brokerages have already received loans from the program that opened its doors last fall, Mr. Ashlock notes.

ISU Cos., an agency franchise organization, also offers a perpetuation plan, but it has not been used.

After three years with the group, members can receive a capital value guarantee for their agencies by which ISU will guarantee an agency at its commission, minus 45 days' working capital.

Member agents are then in a better position to borrow money from a bank or other lending institution because they can use the guarantee as collateral on the loan, an ISU spokesman says.

However, even the longest-standing ISU members can't run out and use the guarantee program yet. The organization has only been around for two years, so members have another year to wait before they can call on ISU for financial help in perpetuating their agencies.

Other groups also offer perpetuation help in the form of educational seminars, books and tapes. But be careful. A one-day seminar or book can't make you an expert on perpetuation plans. They just start you on your way.

The Professional Insurance Agents sponsors one-day meetings on agency perpetuation that use lawyers and accountants to introduce members to perpetuation and planning, and the Independent Insuance Agents of America uses tapes to get its perpetuation message across (see story, page 26D).

At IIAA, however, plans for a much larger project, including help in perpetuation, is in the works.

As part of Future I, a newly created IIAA joint agent-insurer project, the group has initiated a task force on agency perpetuation and manpower development.

The task force, which held its first meeting late last month, will assess the major problems and opportunities facing agents in the purchase, merger and perpetuation of agencies, according to Leon Schor, IIAA's director of program development, education division.

The IIAA task force will also catalog current programs on perpetuation that are available to agents.

Insurance Consortium of America, another agency franchise organization, offers its members a basic booklet to guide independent agents toward perpetuation through manpower development, acquisitions and mergers.

Unlike other programs, however, ICA defines manpower development as methods for bringing in independent contractors rather than ways to train key producers to management positions. ICA's booklet doesn't deal with internal development. ■

Firm answers agents' risk management queries

By STEVE SHERWOOD

DALLAS—An agent is stumped by a technical question on construction liability insurance coverage and needs the answer in half an hour.

He dials RIMCO Risk Management Inc.'s Agency Services' hotline from his client's office and poses the question.

A consultant takes the call, gets advice from another staff specialist and gives the agent an answer within 20 minutes.

Why is a risk management firm answering an agent's questions? RIMCO officials say the hotline is part of its recent push into agency risk management services.

Athough traditionally a buyer-oriented risk management service firm, RIMCO opened its doors to agents and brokers last April.

A/BT

"We saw that agents, competing with major brokers, can't afford to put risk management expertise into place," says Keith Kakacek, RIMCO president.

"Agency services are a natural outgrowth for us. We have all the resources in place and decided to wrap them into a cost-effective package of expertise that agents can buy in slices."

Mr. Kakacek says the agency services in no way hinder RIMCO's normal risk management activities.

Martin Richards, the company's director of agency services, agrees.

"In its history RIMCO has worked for buyers only, serving as a buffer between the seller and buyer to optimize coverage But recently, because of the market competition, agencies and brokerages are trying to find some edge over competition."

RIMCO believes it can offer that edge in the form of services that include access to its 30 consultants and risk management library, loss-settlement supervision, claims adjustment, insurance policy reviews, independent auditing and agency licensing.

The hotline is an agent's usual entry into the other services, Mr. Richards says.

"The types of question asked range from what exposures exist for a 45-mile gas pipeline to how can I convince the owner of a shopping mall he needs liability insurance even though he is a named insured on his tenants' policies."

Agents pay a $500 deposit for the hotline and draw on it each time they call, he says. Average service costs about $55 an hour.

RIMCO has done work on a second-opinion basis for Alexander & Alexander, Corroon & Black and other major insurance brokerages, but most services are aimed at small to medium-sized firms, Mr. Richards says.

"For all services, the maximum an agency could spend would be close to the cost of having the person on retainer all the time," he says.

"But if you have a crash project that needs doing in two weeks, we may send 10 people down there to work 16 hours a day until it is done. We arrange our schedule as needed."

There are some cases RIMCO will not take. "An agent called and said he had a hospital as a client and its policy had expired two weeks before," Mr. Richards explains.

"He wanted us to find a new market for them fast. We found out the reason the policy expired was that he'd dropped the ball by not keeping his file updated. We wouldn't touch that one."

About 30 firms are now regular customers.

"They have to use the risk mangement process in agencies and that's what we're selling," Mr. Richards says.

Perhaps RIMCO's most unique service is agency licensing.

Marjorie Kennedy, director of the licensing service, estimates only 10% of the nation's insurance agents are properly licensed to do business in all the states in which they operate.

Agents need non-resident licenses not only to sell insurance but to receive commissions from the sales. Getting the licenses can be a struggle and takes time, she says.

"If a guy wants to be licensed in all 50 states and in all lines, it is a monumental task," Ms. Kennedy notes. "We have calls from people attempting to do it themselves who give up after six months and ask for help."

For an agent to do the job himself might take years and cost a fortune just to find out what is required in each state, she says.

"We have all the forms and everything else that is needed right here. We're the only independent licensing firm in the country that I know of."

About 60 firms now use the service—which costs $150 for a corporate license and $80 for an individual agent license—and demand is expected to grow as more agencies become aware of non-resident licensing requirements.

"Up to now states have not had the staff to enforce licensing laws, Ms. Kennedy said. "Now more states are hiring examiners and laws will be enforced."

One client in California was literally stopped at the airport and asked for his license, she says. ■

Make the most of new tax law for your agency

Do you know how high your tax bill will be in 1982? Do you know how to make the best of the new tax law?

"The Economic Recovery Act of 1981," an agency management guide by Dr. Emmett J. Vaughan, Partington professor of insurance at the University of Iowa and an insurance agency specialist, is now available as a supplement to the IIAA Agency Management Service.

The guide details the effects of the new tax law on independent insurance agents and discusses changes in the corporate tax rate reduction, increases in accumulated earning tax credit, the Accelerated Cost Recovery System, investment tax credits, Subchapter S corporations and incentive stock options.

It is available from the Independent Insurance Agents of America, 100 Church St. New York, N.Y. 10017 as part of the Agency Mangement Service. ■

Will settlements continue in Hyatt case?

Continued from page 1
court believes that Rule 23(b)(1)(A) certification is necessary as a ready and fair means of achieving unitary adjudication," he wrote in his ruling issued Jan. 25.

Noting that "there is no evidence of a limited fund with respect to the payment of compensatory damages," the judge ruled "the settlement of claims for compensatory damages may continue."

Plaintiffs may pull back from settlements, however, because the judge also ruled that "those claimants who want to exact damages for allegedly punishable acts must forego the settlement process and await the trial on the punitive damage issues."

Judge Wright certified the punitive damages class action suit under the rule originally cited by the attorneys seeking the class action, Rule 23(b)(1)(B), commenting, "there is a question as to whether sufficient funds are available to pay awards of punitive damages."

While acknowledging that "each settlement diminishes the funds available to pay for punitive damages," Judge Wright stressed he is allowing the settlements to continue because his "overriding concern" is "that legitimate claimants receive recompense for the actual damages they have suffered."

A single jury trial in the class action to determine liability for compensatory and punitive damages moves the litigation spotlight from the complex lawsuits that so far have centered on sorting out how and when insurers for various defendants are liable to pay claims.

If Hyatt or other defendants—including hotel owner Crown Center Redevelopment Corp.—are found liable, the actual amount of compensatory damages paid to collapse victims will be determined on an individual basis.

If a jury finds any punitive liability, the punitive damages would be awarded in a lump sum to be apportioned among all the victims.

Lawyers involved in the Hyatt disaster litigation are divided over the effect of the class action on the settlement process.

"It's bound to have an adverse effect on the settlement process," said Ronald A. Jacks, a Chicago lawyer with Isham, Lincoln & Beal that represents Northbrook Excess & Surplus Insurance Co.

"I don't see where plaintiffs' attorneys will be willing to settle cases until the punitive damages issue is resolved."

Northbrook wrote a $25 million excess umbrella policy for Hyatt, the hotel operator. It has been funding settlements of claims in the disaster that killed 113 people and injured 212 others. As of Jan. 22, $18.6 million had been pledged by insurers to settle about 117 claims, lawyers said.

John M. Townsend, a New York lawyer with Hughes Hubbard & Reed, hired by Hallmark and its subsidiary Crown Center, countered that there is no reason for the settlements to stop. "I think it's an intelligent, well-reasoned solution to a difficult procedural problem," he said of the class action.

The lawyer handling claims settlements on behalf of insurers for Hallmark Cards Inc. and its Crown Center Redevelopment subsidiary, however, wouldn't comment when asked whether the class decision would stop settlement talks. "(I) can't tell you yet. (I) don't know," said Lawrence M. Berkowitz of the Kansas City law firm Stinson, Mag & Fizell.

Supporters of the class action say the ruling last week by Judge Wright opens the door for people with minor injuries or emotional problems resulting from the July 1981 collapse to have their claims settled without having to go the costly route of getting their own attorney.

"I think it's a very well-reasoned and well-written order," said Thomas E. Deacy Jr., Hyatt's local counsel with Deacy & Deacy. "We want to see these people fairly compensated."

Opponents—led by a Kansas City lawyer who represents quadraplegic collapse victim Sally Ann Firestone—see more than delayed settlement problems. They say the decision means the high-dollar claims of seriously injured clients are going to be lost or diluted amid the handling of a consolidated trial.

"This will slow things down considerably," said Lantz Welch, whose client, the 34-year-old Ms. Firestone, was paralyzed by a broken neck in the collapse and is now undergoing therapy outside of Denver. "It will throw us into the appellate court system. It is the worst thing that could happen."

In his ruling Jan. 25, Judge Wright:

- Found the estimated 150 lawsuits filed by victims of the skywalk collapse fit the definitions laid out by the U.S. Supreme Court for treatment as a class action—numerosity, commonality, typicality and adequacy.

Without a class action, he said, Hyatt, Crown Center/Hallmark and other defendants could be exposed to repeated trials, many victims might have no practical chance for redress and the state and federal courts in Kansas City would likely be congested for years.

"While this court wholeheartedly encourages the continued settlement of legitimate claims, and is mindful that the vast majority of claims may be settled, it cannot, in good conscience, allow a minority of claimants to take any or all defendants to trial time and time again until a compensatory or punitive damage judgment is obtained," Judge Wright wrote.

- Ordered pre-trial depositions, questions and document production to be completed by July 1 and a single trial on liability for the collapse to begin Aug. 15.

Attorneys familiar with such litigation described those dates—coming about a year after the disaster—to be "ambitious."

" . . . (T)he court intends to try this lawsuit only once and to bind all parties to the determinations made at that single trial," Judge Wright wrote.

- Removed injured collapse victim Molly Riley's name as so-called "lead plaintiff" on the class action. Judge Wright said Ms. Riley, because she lives in a Kansas suburb of Kansas City, is technically unable to bring suit in federal court against all the defendants in the disaster. Neither could any Missouri residents, he concluded.

In an unusual step, Judge Wright then replaced Ms. Riley's name with those of four other plaintiffs —residents of states other than Missouri or Kansas. At the same time, however, he directed that Ms. Riley's attorneys would continue to serve as lead counsel for the class action. He said attorneys for the four new "lead plaintiffs" could serve as assistants.

- Said he would be willing to consider, at a later date, whether the class of plaintiffs should be split in two. This, Judge Wright pointed out, might become necessary if a case pending in a Missouri state appeals court rules that state law does not allow punitive damages in death cases. Most lawyers in the Hyatt case agree Missouri law already allows punitive damages to be sought by injured victims.

Molly Riley's local attorney, William P. Whitaker, says he is "very excited" about Judge Wright's class certification ruling. "I really didn't quite expect it to come out this good," he adds.

Mr. Whitaker said much of the legal work of the class will be directed by a Washington, D.C., attorney, Irving Younger, of the firm of Williams and Connolly. ■

State tort reform meets trouble

Continued from page 3
factured.

But trial lawyers are scoring points in the second round of the battle over statutes of repose.

The first victory was scored in Florida in a case involving DES, short for diethylstilbestrol, a synthetic estrogen taken by millions of pregnant women in the 1950s to avoid miscarriage.

Daughters of some women who took the drug have developed cancer and other abnormalities of the vagina and cervix. Hundreds of product liability suits have been filed against the major DES manufacturers.

One of those suits was filed by Nina Diamond, now 25, against DES manufacturer E.R. Squibb and Sons Inc. of Princeton, N.J.

Ms. Diamond contracted vaginal cancer in 1976, 20 years after her mother took DES during her pregnancy. She charged in a April 1977 lawsuit that Squibb knew or should have known that DES was not safe.

Squibb successfully argued in circuit court that Ms. Diamond's suit should be dismissed because Florida's statute of repose barred product liability suits in cases where the product that caused the injury is more than 12 years old.

Ms. Diamond and her attorneys appealed the circuit court's dismissal of the case to the state Supreme Court. They argued that the 12-year statute of repose denied them access to courts—a violation of the Florida constitution.

In a 4-1 decision, the Florida Supreme Court agreed with Ms. Diamond. "When an injury has occurred but a cause of action cannot be pursued because results of the injury could not be discovered, a statute of limitations barring the action does. . .bar access to the courts and is constitutionally impermissive," said Justice J. McDonald.

The state supreme court ordered the case back to a district court where it will be tried.

The North Carolina case involves a June 1977 accident in which textile worker Charles Bolick was injured after his fingers were caught in textile machinery manufactured and distributed by American Barmag Corp., the U.S. subsidiary of a German corporation.

Mr. Bolick filed suit against the manufacturer in Catawba superior court on Oct. 10, 1979. He charged that his injuries were caused by negligently designed textile machiney.

The Catawba County superior court dismissed Mr. Bolick's suit. It accepted American Barmag's argument that the case did not belong before the court because it did not conform with North Carolina's 1979 statute of repose. That statute requires product liability suits to be filed within six years of the purchase of the product.

Mr. Bolick's Oct. 1979 suit was filed about eight years after American Barmag sold the textile machinery to Mr. Bolick's employer.

But the appellate court reversed the lower court ruling. It said the six-year statute of repose violated a plaintiff's constitutional right to seek damages in court for injuries suffered in an accident.

While a state legislature has the right to set a time limit on when a plaintiff can file suit, that limit must run from the time a plaintiff was injured—not from the date a product was sold or manufactured, the appellate court said.

American Barmag is appealing the ruling to the North Carolina Supreme Court. ■

No truth to either of these stories

Continued from page 3
Sen. Kasten never said the case existed, Mr. Bradee said, but an editing error in the Sentinel newsroom made it appear that Sen. Kasten actually believed the lawn mower story.

The lawn mower case gained notoriety in 1977 after the story was used in national advertising by Crum & Forster to illustrate its point that courts no longer were taking consumer negligence into account when awarding damages.

Crum & Forster, a Morristown, N.J.-based insurer, later admitted that it couldn't prove that the case ever happened after *Business Insurance* asked it to document the case (*BI*, Oct. 31, 1977).

Home Insurance Co. fined

NEW YORK—Home Insurance Co. has been fined $45,000 by the state Insurance Department following a market conduct investigation of the insurer's rating and underwriting practices.

The probe uncovered that the company:

- Used manuals improperly in the settlement of claims for total losses.
- Failed to pay or to deny claims within 30 days after receipt of proof of claim.
- Failed to pay interest on overdue claims.

By stipulation, Home Insurance has acknowledged the violations.

It has paid the fine and stated that the violations were inadvertent, have been corrected and that all possible measures have been taken to prevent recurrences of the violations.

Market conduct investigations review underwriting, rating and claims-handling practices of insurance companies.

The investigations are conducted to insure that companies comply with rate filings and to ascertain that policyholders and claimants are treated in a fair, equitable and non-discriminatory manner.

Home Insurance Co. is licensed to write various lines of property/casualty and health insurance in New York. ■

Old Republic retros draw $400,000 fine

Continued from page 2

$85.9 million or 7% of the state market makes it the largest property/casualty insurer in the state. Of that premium, $79.6 million was for workers compensation, representing 29% of the state market, according to a press release from Kentucky.

In announcing the fine in Kentucky, the insurance department said in the press release:

"The Kentucky Department of Insurance staff receives and reviews annual financial statements filed each year by insurers doing business in Kentucky. Even though high loss ratios were expected in the workers compensation area, due to federal black lung legislation in recent years, the premiums and losses reported by Old Republic in its 1979 annual statement caused concern among department employees."

In participating in the examination of Old Republic's business, Kentucky found "that Old Republic had entered into arrangements with certain policyholders that did not jeopardize the financial solvency of the company, but these arrangements violated Kentucky law. Policy and payment plan modifications had not been filed with the Department of Insurance and were not approved as required by statute. Certain plans that had been filed and approved by the Department were not adhered to by Old Republic."

Kentucky violations

As a result, Kentucky Insurance Commissioner Daniel D. Briscoe and Old Republic "entered into an agreed order in December 1981, fining Old Republic $400,000 (for). . .failing to make filings with the department, using unapproved policies and payment plans, engaging in unfair competition, providing rebates and special advantages and giving illegal inducements to purchase insurance," according to the press release.

The agreed order says, "Old Republic shall immediately begin actions to rectify said violations."

The Kentucky insurance department press release concludes: "The examination report demonstrated the financial solvency of the company."

The retrospective rating plans that drew comment in the examination report and the Kentucky fine appear, from an analysis of the description in the report, to be what are commonly referred to as fronting arrangements for the self-insurance or use of a captive insurer to fund workers compensation risks, including black lung.

Examiners' findings

Under most fronting arrangements for self-insurers, the insurer issues policies to satisfy insurance mandates and services the account, but the policyholder is ultimately responsible to pay losses—with the payment schedule negotiable.

Under most fronting arrangements for captives, the insurer passes the premium onto the policyholder's captive insurer, usually an unauthorized alien reinsurer based offshore. In order to take credit for this reinsurance, the insurer requires the captive to give it cash or a letter of credit for the appropriate amount.

The retrospective rating plans Old Republic issued, which required the policyholder to participate in the risk, have provided Old Republic policyholders with insurance they are mandated to have while protecting Old Republic from the huge risk of loss that has deterred many other insurers from underwriting the business.

The Pennsylvania examiners commented that:

- Old Republic's retrospective program postponed recognition of premium tax liability; prevented an accurate determination of the insurer's liability as reported on Schedule P of its annual report, and periodically has generated deficiencies of the letters of credit from unauthorized reinsurers.
- The value of the promissory notes taken for premium were not established by the National Assn. of Insurance Commissioners Valuation Committee or properly collateralized.
- The structure of the entire insurance program relating to the coal companies was "questionable."

Old Republic objects to certain statements in the report in its four-page response, including the sentence calling the structure of the insurance programs for the coal companies "questionable."

Old Republic replies

"In our opinion, this sentence is confusing in its failure to point out any instance in which the program is 'questionable' and may be subject to unwarranted adverse construction," the letter says.

"Clearly the report has raised no question about the validity of the company's reinsurance described in the preceding sentence, since the examiners made no adjustments in the company's reserved credit obtained from the reinsurance.

"If the question involves the company's failure to make independent filings of its retrospective rating plan, that point is more specifically dealt with (elsewhere in) the report.

"The sentence in question. . .adds nothing to the company's or the public's understanding of the criticism."

Explaining the origin of the retrospective plans, Old Republic said, "The company is of the opinion that its retrospective plans in Kentucky (the principal area of their use by the company) were in compliance with the National Council of Compensation Insurance's Retrospective Rating Plan D when they were entered into in the 1974-1976 period."

"Those contracts required continuation thereafter because of: (a) the extraordinarily large unprocessed backlog of black lung claims at the United States Department of Labor; (b) because of revisions and continuing attempts to revise the federal black lung laws."

With these, and other objections, Old Republic "acknowledged" the examination report, which described the insurer's business and retrospective rating programs as follows:

All of Old Republic's policies were written on standard policy forms as approved for the risk location. Rates for the traumatic portion of the coverage were obtained from the appropriate rating bureaus and occupational disease rates were obtained from current manuals.

Most of the retrospective plans written by Old Republic that drew comment in the examiners' report —and the fine in Kentucky where they were most often used—required policyholders to guarantee they would pay losses and expenses, with the right of the indemnity agreement assigned to the reinsurer.

While accepting the risk of loss under the policies, the policyholders were allowed to benefit from the cash flow involved.

"All plans are designed to permit the insureds to hold funds which is, for the most part, accomplished through reinsurance contracts with unauthorized alien reinsurers," the examination report says.

Old Republic formally objected to that analysis in its response to the report, stating "This sentence would be more accurate if it read: 'Most plans are designed to enable insureds to fund required reserves with cash or securities which are admissible assets. Letters of credit are also utilized to properly secure the portion of the direct risk reinsured with unauthorized alien reinsurers.'"

Old Republic separates its retrospective plans into three categories: captive, cash flow and escrow accounts, according to the report.

It retains a ceding commission as compensation for performing the direct insured's function of underwriting, actuarial, claim settlement, loss control, legal, reinsurance and administrative services to comply with local and federal regulations, and for providing additional risk management services.

In the captive plans, Old Republic ceded or reinsured up to 100% of written premium to offshore insurance companies owned by the respective policyholders.

Because these captives were unauthorized reinsurers, funds were withheld in the form of letters of credit to satisfy state regulations governing the recognition of reinsurance. The security was maintained at a level in excess of 85% of the original standard audited premium.

Cash flow and escrow plans differed from the captive plans only in the method of collecting and retaining premiums, according to the report. Under these, the company charged a basic fee and applied a conversion factor to loss payments. In both cases, the insuring agreements were augmented by indemnity agreements and sometimes escrow agreements.

The insuring agreements provided for retrospective adjustments beginning six months following termination of the annual policy, and annually thereafter until the losses run out or are in some way commuted.

"Neither the insuring agreements nor the retrospective rating plans have been filed with or approved by the appropriate bureaus or by the appropriate regulatory officials and are, therefore, in violation of both regulations and statutes," the Pennsylvania report says.

Nearly all the policies are annual and provide for a monthly payment plan with most premium payments budgeted to one-twelfth of the estimated annual premium.

Deposit premium

In some cases, the deposit premium collected was less than 1% of the estimated annual premium, which is a violation of the Pennsylvania Coal Mine manual that requires it to be at least 10%. Other states require similar premium deposits, the Pennsylvania report notes.

In addition, the examiners commented on the retrospective rating adjustments.

"Since the plans result in the improper return of large amounts of premium in the immediately ensuing period, which historically have been restored in subsequent retrospective adjustments, there has been and continues to be deferred recognition of premium income, resulting in deferred payment of premium taxes and in deferred recognition of statutory liabilities arising out of earned premium accounting," the state report says.

Old Republic did adhere to the statutory requirement of establishing 65% of earned premium as a statutory liability, but at issue is the timing, a Pennsylvania state examiner explained.

Commenting elsewhere, the examiners explain that the monthly premiums "include only a token amount of deposit premium. Accordingly, no substantial amount of premium is considered to be unearned."

The report notes, however, that subsequent retrospective adjustments have sometimes resulted in the collection of premiums in excess of the standard audited amounts and resulted in increased tax revenue.

In elaborating on the reinsurance agreements with unauthorized alien reinsurers involved in the plans written to cover coal mining operations, the report says, "In some cases the cession is to a captive company owned by the coal operators. In the case of nine large coal producing companies, the cessions are to a single reinsurer."

This single reinsurer is not identified.

'Unique method'

Under the program, each employer is regarded as a single risk for the purpose of reinsurance although several policies may have been issued to the employer since the mining sites are in various locations in various states. Old Republic and the reinsurer have made a separate contract in regard to each employer.

Therefore, each risk must be considered individually, the report says. By this procedure, the insured holds the assets which represent reserves and receives any investment income such assets develop.

The contracts require that the reinsurer is liable for the excess of $25,000 of ultimate net loss to Old Republic due to injury or disease to any persons. The liablity of the reinsurer is to be unlimited except as that established by limits for employer's liablity in the Old Republic policy.

What the report calls the unique part of the contracts is the method by which the greater part of the reserves are transferred to the insured.

Under the reinsurance agreements, as claims are reported or loss reserves actuarially developed, Old Republic is required to pay additional reinsurance premiums equal to losses recoverable under the individual contract.

This is done by requiring a letter or letters of credit or certificate of deposit be delivered by the insured to the reinsurer. Cash payments could also be made.

The reinsurer in turn deposited the letters of credit, CDs or cash with Old Republic to cover reserves for both unearned premium and loss and loss adjustment expense reserves for which Old Republic would take reinsurance credit.

The accumulation of such cash payments, CDs or letters of credit was applied accumulatively to all liability of the reinsurer under this contract.

Flow of funds

The report explains that letters of credit were being used as a form of payment. When cash was paid, securities acceptable as admitted assets were purchased and held in escrow accounts to be used solely for the account of the respective insured. Certificates of deposit also were held in escrow accounts. Promissory notes also were accepted as "cash equivalents."

The report further explains that the reinsurance plans are written in conjunction with and referred to in the company's retrospective plans.

"It is intended that the ebb and flow of retrospective premiums is matched by an ebb and flow of reinsurance cessions," it says.

Old Republic "has developed experience factors as to what percentage of premium will be ceded under these plans. Each cession reflects a retention to cover the first $25,000 of loss."

In addition, there is an indemnity agreement under which the policyholder agrees to reimburse Old Republic and/or the reinsurer for all losses and expenses paid.

However, the loss experience under the retrospective plans results in returns to the policyholder in the early years following policy expiration. Later, as losses accumulate, there is "a subsequent reversal in the form of retrospective debits which have, for certain years, caused the ultimate cost to the insured to exceed the original audited standard premium."

The state examiners conclude "it is apparent that in past years inadequate premium was retained." During that period, Old Republic relied upon the indemnity agreements to secure collection of retrospective debits and payments of the first $25,000 or less for an individual claim.

"However, it is important to note that much of the increase of loss reserves and the corresponding increase of retrospective premiums in 1979 and 1980 was on account of claims that did not exist during the terms of the various policies, but were the result of retroactive federal legislation in regard to Black Lung benefits," the report adds.

The state examiners also commented that the promissory notes accepted for premiums under the plans were not valued by the National Assn. of Insurance Commissioners Securities Valuation Committee, nor were they secured as required.

Promissory notes

The examiners recommended "that any promissory notes accepted for premium be limited to the amount of unearned premium of the individual policy for which they are accepted and, in such cases, be valued by the NAIC Securities Valuation Committee or collateralized in accordance with the Pennsylvania statute and regulations," the report says.

Old Republic commented in its response, "With respect to the promissory notes which are referred to, it is our understanding that they were non-admitted because the company had not supplied valuations from the NAIC Security Valuation Office. We should like to have the record reflect that the company has subsequently supplied to the examiners the required valuations from that office at the full face value of the notes."

Old Republic further adds it "already has obtained valuations from the NAIC Securities Valuation Committee of certain promissory notes and other securities which the examiners did not admit. It will continue to obtain such valuations whenever appropriate.

"In this regard, the company renews its earlier undertaking to require payment of premiums in cash and then to purchase admissible debt obligations of an insured, if they are available, rather than to accept debt obligations of an insured as direct payment of premiums."

Mr. Zucaro of Old Republic International, when asked to clarify portions of the report and the company's response, would only comment that "the report is a public document." The company's answer is filed with that document, he said, and the Kentucky Insurance Department's press release speaks for itself. ■

Comp law changes forced bigger reserves

Changes in the federal black lung compensation law caused a large increase in claims reserves for business underwritten by Old Republic during the years 1977 through 1980, a Pennsylvania Insurance Department examination found.

For that four-year period, gross premiums earned and ceded to workers compensation pools totaled $249.2 million and losses incurred amounted to $425.5 million, which develops a loss ratio of 171%, according to the report.

"Business ceded by the company to the pools developed a considerable loss because of the fixed nature of those premiums," the report notes.

Most of the losses incurred fell in 1979 and 1980. The annual loss ratios were 78.8% in 1977, 54.6% in 1978, 303.5% in 1979 and 283% in 1980.

A large number of claims unknown to either the responsible coal operators or to Old Republic were approved during 1980. The adverse effect on the workers compensation pools was duplicated on the company's retrospective workers compensation business, the report noted.

The net effect was an increase of $93.3 million in incurred but not reported liabilities during 1980, the report notes.

"Simultaneous with the development of these unknown liabilities, the company has obtained additional security or cash for premiums and/or losses under the various indemnity agreements to the same amount as the liability increased," the examiners say.

Also during the loss development period, the Department of Labor relieved the company of net liabilities for federal black lung claims which were transferred to a large coal operator that was approved for self-insuring during 1980.

"Overall, the effecting items show an adverse effect by loss development of $4.6 million. Inasmuch as the loss adjustment expenses were more than adequate, the examiners elected to balance the liabilities and made no changes because of loss development," the report continues.

"The lag in development of the tail liabilities discussed above has created an inadequate security of premiums and/or loss liabilities in the past," the examiners say.

"Wherever workers compensation retrospective rating programs are approved and implemented, security should be maintained at an adequate level in accordance with statutory provisions," the examiners conclude.

The examiners used the company's computer printout of tabulated loss developments through Dec. 31, 1980, in conjunction with worksheets regarding non-computer adjustments, to determine that the loss reserves were adequate.

Old Republic notes in its response to the examination report, "The company will require security for reserves required under workers compensation restrospective rating plans to be maintained at an adequate level. Although the company was not aware of any past inadequacies, it believes that any such inadequacies found by the examiners could have been only temporary and caused by the extraordinary accumulation of federal black lung claims at the United States Department of Labor and the rapid reconsideration in 1979 and 1980 of more than 100,000 such claims pursuant to the retroactive liberalization of eligibility standards adopted by the Black Lung Benefits Reform Act of 1977.

"All retrospectively rated insureds were clearly financially responsible and in fact paid any penalty premium or refunded earlier provisional retrospective refunds when they became due as a result of the large increase in preliminary awards of claims made by the Departments of Labor and Health, Education and Welfare in 1979 and 1980." ■

Loss on hull could be the largest

Continued from page 2

on the runway. MassPort, a quasi-public agency, has said the runway was adequately sanded and safe.

The crash occurred on a Saturday evening as freezing snow and ice fell along a large portion of the Eastern Seaboard. Aircraft that night also reported problems stopping at airports in the New York area.

An NTSB official said the World pilot told investigators he was aware of no malfunctions in his craft during the abortive landing, although the pilot did say he had difficulty braking.

World's insurance is brokered by the San Francisco office of Alexander & Alexander and Sedgwick Forbes in London. The lead underwriter is New York-based Associated Aviation Underwriters. Thirty-five percent of the risk is placed in the London markets, 30% in the United States, 20% with French insurers and 15% with Skandia.

MassPort officials declined to discuss details of the agency's insurance.

The largest previous single hull loss claim ever paid was $45 million in the Aug. 19, 1980, crash of a Saudi Arabian L-1011 which caught fire just after takeoff, killing 301 people. Prior to that, the largest loss was $40 million for each of two B-747s destroyed in the 1977 Tenerife Island collision of a Pan Am and KLM craft on the ground. ■

Sick pay now subject to taxes

The Internal Revenue Service is reminding employers and third-party administrators that the first six months of sick pay to an employee on or after Jan. 1 are subject to Social Security taxes.

The new sick pay tax, as mandated by Public Law 97-123, also applies to payments under a state temporary disability law.

Employers distributing sick pay must withhold and deposit the employee and employer portions of the FICA tax.

Third parties acting under a contract to make payments for an employer also must withhold and deposit both the employee and employer portions of the tax, according to the new law.

No penalities or interest will be charged for failure to make timely payments of the sick pay tax from Jan. 1 through June 30 if the failure is "due to reasonable cause and not willfull neglect," the IRS explained. ■

Owens-Illinois sues for asbestos coverage

Continued from page 3
liability claim against the plaintiff," the suit claims.

"As a direct and proximate result of defendant's breaches of contract, plaintiff has been deprived of the benefits of the insurance policies sold by the defendant to plaintiff...for which plaintiff paid premiums.

"Plaintiff has therefore incurred substantial actual damages as a result of such breaches of contract and such damages are continuing to increase."

More than 6,000 asbestos suits have been filed against Owens-Illinois in more than 40 states.

The complaint also says Aetna has refused to pay claims arguing that the manifestation theory of liability applies to them. Under that theory, insurers providing coverage when the asbestos-related disease appears in the victim are liable to pay claims.

The suit also argues against Aetna's alleged assertion that each bodily injury claim brought by a third-party against Owens-Illinois is a separate occurrence, thus invoking the deductible for each claim.

From 1943 through 1959, Owens-Illinois had comprehensive general liability policies and from 1960 through 1977 excess liability policies with Aetna, the suit says.

A spokesman for Aetna would not comment on the lawsuit saying that as of Jan. 26 the company had not received a copy of the complaint.

Owens-Illinois representatives would not discuss the case.

Some of the language of the complaint, however, appears to reflect that used by the court of appeals in the Keene decision Oct. 1 1981.

> 'Bodily or personal injury resulting from alleged exposure to asbestos means any part of the injurious process,' the suit says.

"Plaintiff relied upon the terms of the insurance policies and reasonably expected that these policies would protect plaintiff from losses arising from asbestos-related personal injury claims," the suit says at one point, a reasoning that appears in the Keene decision.

"Bodily or personal injury resulting from alleged exposure to asbestos means any part of the injurious process that begins with initial exposure to asbestos, continues through exposure in residence, and culminates in manifestation of an asbestos-related disease or injury," the Owens-Illinois suit continues.

In Keene, the court said all insurers of an asbestos manufacturer were liable at any time whether they provided coverage during exposure, latency or manifestation.

The Supreme Court has been petitioned by the insurers to review the Keene decision but the high court has not yet decided whether it will hear the case.

In December, the Supreme Court refused the the request of insurers for a review of two other appellate court decisions on insurance coverage for asbestos claims.

Owens-Illinois is probably one of the few manufacturers fighting for insurance coverage for asbestos-related claims that will be able to directly seek application of the Keene decision in the District of Columbia. Most other asbestos manufacturers already are embroiled in suits against their insurers elsewhere, said an attorney familiar with asbestos litigation.

But, "those that haven't will do everything they can to file in Washington, D.C.," he said.

Meanwhile, asbestos manufacturers with suits elsewhere also probably will cite the Keene case, he added.

To avoid application of the Keene case, Aetna, which is based in Hartford, Conn., may seek to have the case moved to another jurisdiction arguing that Washington D.C. is an inconvenient forum, he speculated. ■

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Government, Associations, Unions, Educational Institutions	1,001
Commercial Consumers Sub-total	**23,000**
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Insurance Cos.	4,735
Financial Institutions	303
Actuaries, Attorneys, Adjusters, Appraisers & Consultants	2,208
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*Source Business Occupational breakdown of qualified circulation Nov 2 1981 issue as submitted to BPA for December 1981 BPA Publisher's Statement

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Court orders equal benefits for pregnancy

Continued from page 1

quire their employees to pay some or all of the cost of dependent health care coverage would be shielded from much of this cost.

Although the appellate court decision only applies in Maryland, North Carolina, South Carolina, Virginia and West Virginia where the 4th Circuit Court has jurisdiction, it could be cited as a precedent in other states where the EEOC is suing employers for failing to provide equitable pregnancy benefits.

For example, EEOC is suing Emerson Electric Co. because the St. Louis, Mo.,-based electronics giant's group health insurance plan provides greater benefits to husbands of female employees than to wives of male employees (*BI*, Sept. 7, 1981).

And with the appellate court victory under its belt, the EEOC will continue to sue companies that won't heed its guidelines on pregnancy benefits for spouses, according to Michael Connolly, EEOC general counsel.

The EEOC maintains that the Civil Rights Act of 1964 makes it clear that there must be equality of benefits for spouses in group health insurance plans. The Pregnancy Discrimination Act amends the Civil Rights Act.

"If an employer makes available to female employees insurance that covers the cost of all the medical conditions of their spouses, but provides male employees with insurance coverage for only some of the medical conditions (i.e., all but pregnancy-related) of their spouses, male employees are receiving a less favorable fringe package," the EEOC says.

The Newport News Shipbuilding case, which benefit managers around the country were watching closely, involved a 1980 suit filed by the firm challenging the pregnancy benefit guideline issued by the EEOC.

In its largest group insurance plan covering hourly employees, Newport News Shipbuilding pays all reasonable and customary expenses for spouses of female employees, but it places a $500 cap on their pregnancy hospitalization benefits for spouses of male employees.

In the February 1981 ruling, federal Judge Calvitt Clarke Jr. agreed with Newport News Shipbuilding's argument that the Pregnancy Discrimination Act only applied to employees and not to spouses.

"The clear legislative intent behind the Pregnancy Discrimination Act was to ensure that *working women are protected against all forms of employment discrimination based on sex*," Judge Clarke wrote.

But the appellate court disagreed with this decision. It argues that the Pregnancy Discrimination Act also applies to spouses' pregnancy benefits because those benefits are employment related.

"When an employer considers extension of medical benefits to spouses of employees, it does so with an 'employment-related purpose' just as it does when it considers the extension of such benefits to employees," the appellate court said. "Benefits would never be extended to spouses if the extension did not serve an employment-related purpose."

The appellate court decision "will go a long away to ensuring that employees, both male and female, are compensated equally without regard to distinctions based on pregnancy,"said Mr. Connolly. ■

A&A wants more after buying Howden

Continued from page 3

least a 90% tender acceptance before declaring an unconditional merger, but Mr. Bogardus says a railroad strike in the United Kingdom had slowed mail response.

A&A now owns at least 84% of Howden through the acceptance of its tender offer and outside purchases of Howden stock.

The value of the acquisition is set at $265 million, down from an initial estimate of $295 million due to a decline in A&A's stock price.

In the deal, A&A, which began trading its common stock on the New York Stock Exchange Jan. 25, is offering 6.77 shares of its common stock and $133 million of its 11% subordinated convertible debentures due in 2007 for each 100 shares of Howden.

The debentures are convertible at any time before maturity at a rate of 25.64 shares of A&A common stock for each $1,000 face amount of debentures.

A&A is leaving the offer open to acquire the remaining Howden shares. A&A stockholders overwhelmingly approved the purchase.

A&A is particularly interested in Howden's reinsurance operations. Mr. Bogardus expects the acquisition will lead to "enormous growth" in this area based on Howden's expertise and established relationships with foreign markets.

The combination of Thomas A. Green & Co., A&A's reinsurance subsidiary established in January of 1980, and the Howden operation will make A&A one of the "two or three" top reinsurance brokers in the world, Mr. Bogardus says.

Both reinsurance facilities will continue to operate separately.

Although A&A's merger with Sedgwick would have given it an immediately larger international retail broking base than the Howden acquisition, Mr. Bogardus contends A&A now has a solid base upon which to build for the future.

A&A, Mr. Bogardus says, is now looking for the "global buyer" who wants a "worldwide contract" for all its insurance needs.

While A&A is positioning itself to better serve its large, U.S. multinational accounts, Mr. Bogardus says A&A also is very anxious to pursue "indigenous business" abroad.

Howden's retail operation is expected to benefit from A&A's expertise in risk management services, now in greater demand from overseas buyers.

"We will orientate them more toward retail business," Mr. Bogardus says.

A&A also will help Howden's Lloyd's operation develop greater expertise in aviation, marine and energy risks, he notes.

By acquiring Howden, A&A inherits Alexander Howden Group U.S. Inc., the company's United States subsidiary that includes insurance companies, wholesale brokerage and insurance-related operations.

The broker plans to leave this group as it is, Mr. Bogardus says, since its activities are "quite different and complimentary" with A&A's. The acquisition also gives A&A a formidable presence in Lloyd's of London as an underwriter. That presence, however, could be short-lived if Parliament approves the Lloyd's self-regulation bill forcing brokers to divest their underwriting operations. ■

Sacramento taps $1 million from reserves

Continued from page 1
police or hospitals, they may do it out of the risk management loss funds in this post-Proposition 13 era," he warned. "All of us are going to have this problem to contend with.

"We need concerted effort by public entities to establish regulation at the state or local level to prevent such action," urged Mr. Stevens. He expressed a preference for local ordinances over a state law.

Mr. Stevens also proposed a joint conference with RIMS to study legislative solutions. "I would like to solicit your help to protect the $4 million I have left," he told PARMA attendees at the conclusion of formal remarks.

A local ordinance or resolution will not work because the governing body that enacts it also can undo it, countered Sacramento's Mr. Mugartegui in a lively discussion following Mr. Stevens' talk. "We are standing in quicksand to think local legislation is possible," he declared.


Mr. Stevens

"There's only one sure way of protecting reserves and that is by joining hands with PARMA, the insurance industry and other groups to get regulation at the state level. I'm afraid that if we don't do this ourselves in a way we can live with, the state will do it for us," he added.

But other meeting participants and public agency risk managers contacted by *Business Insurance* expressed opposition to a legislative solution.

"As public agency risk managers, it is our job to make our views known and to offer technical advice to the board. We offer alternatives, show elected officials where our problems are and let them make their decisions," said James L. Gale, risk manager of Kings County.

Mr. Gale likened this responsibility to that of risk managers in private industry who make their best recommendation to the boss and then accept the corporation's decision. "If I'm ignored often enough, that suggests my bosses don't trust me and I should move on to another job," he added.

"I am dead against legislation that would prevent a county board of supervisors from carrying out its job as it sees it," said Donald Blum, risk manager of the County of San Mateo.

"No public agency should go into self-insurance unless it carefully explains the program to elected officials," he added. And Mr. Blum stressed the importance of keeping those officials fully advised and up to date on the status of a self-funded insurance plan.

"If I were worried about the board of supervisors tapping my reserve funds, I wouldn't want to continue to work here," he added. "I think it is a weak risk manager who looks to legislation for the answer."

Mr. Blum also cautioned public agencies to avoid over-reserving that could lead to an invitation to budget-strapped cities and counties to intervene. He said San Mateo uses a ratio of about 2 to 2½ times case reserves to fund its ultimate loss liability including incurred but not reported losses.

"I probably would be non-supportive of state legislation to protect loss reserves," said Bob Walters, director of risk administration for the County of San Diego. "I don't like to see the state telling local jurisdictions what to do." He also objected to restrictions that might ignore significant differences between small and large public agencies.

Administrative regulations already apply to county reserve practices for grant monies received from the federal government, he noted. These are poorly defined and poorly written, he added.

"Raiding of loss reserves is not a serious threat yet because the cities we've done actuarial studies for are overfunded," said Gregory L. Trout, general manager for the County Supervisors Assn. Excess Insurance Authority. "But this could be a problem in the future since public agencies are extremely limited in the amount of revenues they can generate."

For example, Proposition 13 limits the ability of a city or county to raise taxes to pay a multimillion dollar judgment against it. That means the funds would have to be taken from other public services.

Mr. Trout, who is responsible for monitoring legislative developments for PARMA, believes that members should think long and hard before proposing legislation to prevent alternative uses of loss reserves.

"I don't think our chances for success would be good because many people believe the last thing we need is more legislation," he said.

"Our own members are divided and I think we would need the support of other groups such as the League of California Cities."

PARMA is not legislatively strong and has never introduced legislation, Mr. Trout added. ■

Support sought for pooling standards

SACRAMENTO, Calif.—A small group of risk managers from some of California's leading public agency pools are seeking peer support for a new association to set advisory accreditation standards for pooling arrangements.

"Our objective is to develop meaningful standards for actuarially sound funding of joint powers authorities. We also intend to set criteria for risk management activities," reports Jeffrey W. Pettegrew, risk manager for the Contra Costa County Municipal Risk Management Insurance Authority and chairman of the accreditation committee of the proposed California Assn. of Joint Powers Authorities.


Mr. Pettegrew

"We don't know if that standard will resemble a Best's rating or a certificate of compliance," said Mr. Pettegrew. "We plan to use outside consultants to serve in an advisory committee to develop the criteria."

Risk managers for joint powers authorities talked about the need for accreditation standards at the Public Risk and Insurance Management Assn. meeting held last June in Denver, said Mr. Pettegrew. "But such criteria might not satisfy our needs in California."

A handful of California JPA managers decided to move ahead with statewide standards instead of waiting for PRIMA—with its diverse nationwide interests—to act.

"Given the large number of JPAs in California—many of which lack a full-time risk manager—there is a need for accreditation standards to give public officials a way to evaluate a JPA's performance," explained Mr. Pettegrew.

Frank James, president of the fledgling California JPA, is preparing a letter to be sent to all 80 California JPA managers, representing more than 500 governmental agencies in the state.

Mr. Pettegrew said the seven-person CAJPA board of directors is especially sensitive to the need for the standards that would allow a breaking-in period for new JPAs.

"We may need graduated standards so that new JPAs can achieve full accreditation over some period of time," he said.

Membership in the new group will be limited to employees or elected officials of JPAs. No brokers or consultants who participate in development or management of JPAs would be permitted to belong to the organization.

Besides development of advisory accreditation standards, other objectives proposed by CAJPA include:

- Creation of a forum for member agencies to exchange information on mutual problems.
- Monitoring of legislation affecting JPAs.
- Creation of a resource agency to assist members in administering programs.
- Sponsorship of training programs to benefit and enhance administration of JPAs.

Membership in CAJPA will be $25 through June 1982 and $50 per year thereafter.

Transit district looking to pension funds

Continued from page 1
losses. The CTA is budgeting $12 million now for claims that cost $18 million in 1981.

The financially strapped transit system, not unlike other businesses, says it is faced with skipping its contribution to its already "healthy" retirement fund or going into even deeper debt to meet the daily cost of doing business.

Both the CTA board and union representatives insist the pension fund is so well funded that a moratorium on this year's and a portion of 1983's regular contribution will not affect employee's retirement benefits in years to come.

"We wouldn't be considering a moratorium (for pension contributions) if we thought it would hurt workers down the road," said Richard Stanton, a Chicago attorney for the union local representing rapid transit workers.

Indeed, even the Civic Federation, a watchdog group that analyzes public services in the state, agrees that the CTA's pension contributions far outstrip the benefits being paid out.

"It appears to us that they can defer the payments for two years without hurting the fund," says Michael Thom, a research associate with the Civic Federation.

The CTA already is in default to the tune of $25 million to $30 million in monthly contributions to the pension plan, missing payments since March 1981, Mr. Thom says.

The CTA board and unions apparently want to legitimize what's been going on all along, he said.

But, sources privately concede it's impossible to calculate what effect the moratorium may have on retirees' benefits in future years.

The IRS, the only agency that has detailed financial information on the assets and liabilities of the CTA's public pension fund, refuses to disclose what it says is the CTA's tax-related, private information.

The CTA must have IRS approval before rerouting the pension fund money into the general operating fund. It hasn't asked yet.

The CTA, however, enjoys an unusual position as the only public pension fund in Illinois that doesn't answer to the Illinois Insurance Department, which requires public employers with pension funds to file an annual report.

When the CTA was established in the mid-1940s, the pension plan was pegged as an item to be collectively bargained through the unions, escaping state regulation.

The CTA's unions appear willing to approve the funding moratorium. They stand to see a 7% increase in their take-home pay if the moratorium is placed on employee contributions since the union contract specifies that the CTA contribute 13% of the employees' pay to the worker's 7% contribution.

The CTA declined to discuss its pension plan funding with *Business Insurance*, but a plan booklet given employees shows the CTA's total pension contributions for 1980 were $63.3 million. Accounting for all the present commitments of the fund, the actuarial present value of accumulated plan benefits for 1980 was a little over $374 million.

New information about its plan —and all public pension plans— would be made available under an old proposal being revitalized to require public pension plans to report and disclose financial information to a federal agency.

Under a bill sponsored by U.S. Rep. John Erlenborn R-Ill, the CTA and all other public pension plans at least would have to report or disclose their pension fund operations to the federal government.

But it's doubtful the legislation would have prevented the agency from skipping contributions to its pension fund, an aide for Rep. Erlenborn said.

The Public Employee Retirement Income Security Act, modeled closely after ERISA, which governs only private pension plans, is slated to be heard by a subcommittee sometime this week. No firm date has been announced, the aide said.

Rep. Erlenborn introduced almost identical legislation in February 1980, but the bill never moved out of committee (*BI*, Feb. 25, 1980).

"Many state and local plans are not setting aside sufficient funds to pay for estimated future benefits," Rep. Erlenborn has said. "Without such scrutiny, many public plans have both unwittingly and unintentionally engaged in questionable management practices," he added.

Many states regulate the public pension funds through the insurance department, but not all public plans are monitored.

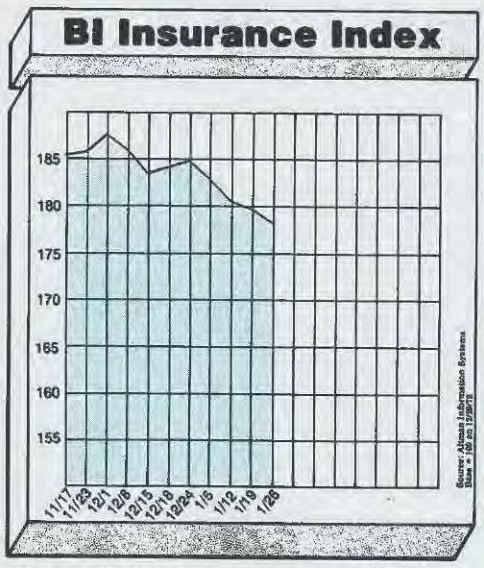
Rep. Erlenborn's latest bill also again calls for a single benefit pension agency, to be known as the Employee Benefit Administration, to regulate both private and public pension plans. ■

BC/BS of Illinois seeks 29% rate hike

CHICAGO—Blue Cross & Blue Shield of Illinois is asking for a 29% rate increase for small group policyholders.

Employers with less than 22 workers would be affected. The Illinois Insurance Department has scheduled a hearing for Feb. 9.

Monthly premiums for small-group policyholders would go to $243.88 from $184.38 for family coverage and to $96.90 from $73.07 for a single person. ■



Insurance industry stocks continued their downward spiral as the *Business Insurance* stock index fell for the fourth week in a row, down 1.7 points to 178 from 179.7. Only 14 stocks managed gains while 41 stocks declined and 14 remained unchanged. Leading the increases were: Continental Corp., 4.6%; Crown Life Insurance Co., 4.3%; Aetna Life & Casualty Co., 3.8%; and The Travelers Corp., 3.7%. The largest declines were posted by: Optimum Holding Corp., 7.3%; Crawford & Co., 6.9%; U.S. Fidelity & Guaranty Corp., 5%; and Integrated Resources Inc., 4.3%. The 0.9% drop in the *BI* Index was slightly better than the 1% decline in the New York Stock Exchange composite.

British Issues

26 Jan Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence	pence
Commi Union	136	9.4	16.07	11.8	136—128	
Eagle Star	340	11.5	21.43	6.3	340—330	
Genl Accident	318	7.2	21.07	6.6	318—310	
Gdn Royal Exch	296	8.0	23.21	7.8	296—290	
Phoenix	242	9.2	22.43	9.3	242—232	
Royal	357	9.9	35.00	9.8	357—337	
Sun Alliance	882	9.7	53.57	6.1	882—854	
Brokers						
CE Heath	291	9.7	15.71	5.4	292—280	
Hogg Robinson	114	9.6	8.57	7.5	114—108	
Alex Howden	139	10.7	10.71	7.7	142—131	
JH Minet	147	10.1	6.80	4.6	147—141	
Sedg Grp	160	11.6	7.50	4.7	160—151	
Stenhouse Hldg	105	9.3	7.28	6.9	105—101	
Stew Wrightson	233	11.7	17.14	7.4	233—225	
Willis Faber	393	13.6	17.85	4.5	393—380	

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

International market spread buoys Reed Stenhouse Cos.

By LEN STRAZEWSKI

BI ticker

The top U.S. insurance brokers are right. An international spread of business is both financially and strategically wise, says the chief executive of Canada's largest commercial insurance brokerage.

But it will take a while before the U.S. brokers' international reach can match the worldwide grasp of Reed Stenhouse Cos. Inc., brags President and Chief Executive Officer William M. Wilson.

"Remember we piloted the international brokerage movement," he explains. "We made the first big transatlantic merger in 1973 when Stenhouse joined Reed Shaw Osler.

"And believe me, going international isn't as easy as it looks, though it does have its advantages."

Expanding internationally presents a series of problems that include foreign exchange, tax law, management and language issues, as U.S. companies Marsh & McLennan Cos. Inc. and Alexander & Alexander Services Inc. recently discovered.

M&M's merger negotiations with U.K. broker C.T. Bowring dragged on for more than two years and A&A's proposed merger with the Sedgwick Group collapsed under the weight of tax and management issues.

The advantages, however, clearly outweigh the problems though development may take five to 10 years, according to Mr. Wilson.

The biggest advantage, Mr. Wilson notes, is resiliency in the face of changing market conditions and business prospects. That's why U.S. brokers are so avidly prospecting for overseas mergers and acquisitions.

"You can see the timing. For the first time, there is a downturn in the growth of the U.S. brokers because of their dependency on business from the U.S. market," he says. "Also, for the first time, new business prospects are beginning to flow in from foreign countries that are expanding into the United States."

The U.S. brokers saw the changes coming and began to plan ways to expand overseas, Mr. Wilson explains.

"It's not that hard to figure out. Any time you are dependent on one market, even a market as big as the United States, you eventually will run into trouble. If we were purely British or purely Canadian last year, we would have taken a pretty cold bath."

Instead, Reed Stenhouse, with major offices in the United Kingdom, Canada, France, Australia, New Zealand and Bermuda, finished 1981 with growth in both revenues and earnings, a record most of the large U.S. brokers would be proud to match.

Reed's 1981 revenues (Canadian dollars) grew 19% from $226.4 million ($192.4 million U.S.) to $269.7 million ($229.2 million U.S.). Net earnings grew 8% last year from $17.6 million ($15 million U.S.) in 1980 to $19 million ($16.2 million U.S.)

Most U.S. brokers are hoping for 10% revenue growth and slight, if any, net earnings gains, according to analysts who watch the brokerage business.

"Clearly it was our international spread that kept us growing," Mr. Wilson says. "Australia and New Zealand went soft in 1975, long before the U.S. market turned highly competitive. Now it is firming up and we had a good last quarter there.

"Canadian rates went soft in 1978, also before the United States, and we are seeing some signs of firming here, too, especially in commercial auto insurance rates. France already has improved and we are doing well there."

The only area in which Reed Stenhouse showed a loss, according to its recently released annual report for 1981, was the United States, the brokerage's most desirable expansion target.

In 1981, Reed's U.S division Reed Stenhouse Inc. showed an operating loss of $785,000 ($667,000 U.S.) compared with the $279,000 ($237,000 U.S.) operating loss of 1980, according to the annual report.

The losses, however, are not difficult to explain, according to Mr. Wilson. They are part the difficulties inherent in successful international growth—beating the competition.

The Reed Stenhouse New York office, keystone of the U.S. division and gateway for Reed's British, Japanese and Euorpean clients expanding into the United States, is virtually dwarfed by the corporate headquarters of the giant U.S. brokers there.

Without major internal development or a strong acquisition, Reed Stenhouse is in for a long uphill battle in the most competitive insurance center in the United States.

Reed is also trying to develop the risk management expertise demanded by large U.S. corporations, a difficult task because U.S. buyers "remain on the cutting edge of risk management technique," according to Mr. Wilson, and expertise cannot be imported from other centers.

"We are still expanding in the United States," notes Mr. Wilson. "We purchased an agency in Anchorage, Alaska, and opened an office in Minneapolis from scratch, but our biggest expenditures continue to be in research and development. We are deliberately spending money on risk management analysis both to compete in the United States and develop techniques that will benefit our Canadian and Australian operations.

"Australia especially seems interested in the cash-flow and self-insurance techniques being used in the United States and we see a bright future for the risk management services we can develop in the United States," he says.

Diversified financial services, however, are not part of the Reed Stenhouse picture.

"We set a policy some years ago that we would continue to diversify within the insurance framework and its natural extensions—and we have. We provide actuarial services, pension management and, in the United Kingdom, we also provide some investment services.

"But it's my opinion that the corporate executive doesn't want all his financial services in one center. He wants a spread of service firms," Mr. Wilson says.

International insurance buyers, however, expect international spread from their brokers and Mr. Wilson has his eye on three new foreign targets—West Germany, Holland and South America. U.S. brokers Marsh & McLennan, Alexander & Alexander and Frank B. Hall already are there, lining up new international clients.

Although its too late to have the first hands in those markets, Reed Stenhouse is still reaching. ■

Stenhouse Holdings

Stenhouse Holdings Ltd., which owns 53.7% of Reed Stenhouse Cos. Inc., reported 1981 pre-tax profits of 8.7 million pounds ($16.4 million U.S.), up from 7.7 million pounds ($14.5 million U.S.) in 1980. Earnings per share improved 10.8%, from 10.17 pence per share to 11.27 pence.

A diversified insurance service firm in the United Kingdom, Stenhouse manages 12 Lloyd's syndicates, including four Lloyd's underwriting syndicates purchased from the troubled Christopher Moran & Co. Ltd. for 3.1 million pounds ($5.8 million U.S.).

These companies merged with the group's original Lloyd's underwriting agency to form Stenhouse Syndicates Ltd., owned 60% by Stenhouse Holdings and 40% by Reed Stenhouse Cos.

The new unit, however, could be temporary. If Parliament passes the Lloyd's self-regulation bill, it would require a separation of brokerage and underwriting interests.

"Your board is following closely the progress of the Lloyd's bill through Parliament and, in particular, the clause in the bill known as the 'divestment clause,' which, if enacted as presently worded, would mean that our Lloyd's underwriting agency companies would be required to be separated from the group within five years of the bill receiving royal assent," Chairman Herbert H. Houghton told shareholders.

"There is considerable opposition to this clause. In view of our group shareholding and management structure, we consider it quite inappropriate that its terms should apply to us," he said. ■

BI Industry Stock Report

Insurance Cos.		JAN. 26, 1982 Price	% Chg.	P/E	$ Div.	% Yld.	1/20/82 THRU 1/26/82 High	Low	Vol. (000)
Aetna Life & Cas Co	NYSE	43.88	3.8	7.4	2.32	5.3	43.88	42.63	907.6
American Bankers Ins Group	OTC	7.88	-1.6	8.4	0.48	6.1	7.88	7.88	53.4
American Gen Ins Co	NYSE	38.50	-2.8	5.6	2.00	5.2	39.50	38.50	12.1
American Indty Finl Corp	OTC	16.63	0.8	7.0	1.12	6.7	16.63	16.50	8.9
American Intl Group Inc	OTC	62.00	-2.4	10.7	0.40	0.6	63.00	61.75	181.2
American Natl Ins Co	OTC	13.75	-1.8	5.9	0.76	5.5	14.00	13.75	52.2
American Sts Life Ins Co	OTC	16.00	1.6	5.1	0.80	5.0	16.00	16.00	2.3
Aneco Reins Ltd	OTC	2.50	-4.8	0.0	0.00	0.0	2.75	2.50	5.1
Appalachian Natl Corp	OTC	2.56	0.0	0.1	0.00	0.0	2.56	2.56	0.5
Avemco Corp	AMEX	10.13	-3.6	6.9	0.54	5.3	10.50	10.13	5.7
Banks Iowa Inc	OTC	40.50	1.2	5.9	1.44	3.6	40.50	39.00	4.3
Bitco Corp	OTC	38.50	0.7	4.5	2.16	5.6	38.50	38.50	7.9
Carolina Cas Ins Co	OTC	7.13	0.0	7.1	0.32	4.5	7.13	7.13	2.1
Central Natl Finl Corp	OTC	35.00	0.4	11.4	0.65	1.9	35.00	35.00	0.9
Chubb Corp	OTC	43.88	-4.1	5.4	2.92	6.7	45.75	43.75	132.7
Combined Intl Corp	NYSE	21.00	-0.6	5.5	1.80	8.6	21.50	21.00	72.9
Connecticut Gen Ins Corp	NYSE	49.13	0.3	6.3	1.76	3.6	49.63	48.88	96.2
Continental Corp	NYSE	25.75	4.6	8.1	2.60	10.1	26.25	24.75	350.7
Crawford & Co	OTC	13.50	-6.9	10.5	0.56	4.1	14.25	13.50*	11.9
Crown Life Ins Co	OTC	84.00	4.3	9.1	2.80	3.3	84.00	80.50	0.4
Crum & Forster	NYSE	29.63	-0.8	4.8	1.64	5.5	29.75	29.50	358.8
Employers Cas Co	OTC	33.25	-0.7	5.3	1.20	3.6	33.50	33.25	6.3
Equifax Inc	NYSE	25.88	-3.7	5.8	2.40	9.3	28.00*	25.88	39.6
Excelsior Ins Co	OTC	16.75	-1.5	11.5	0.70	4.2	17.00	16.75	0.5
Farmers Group Inc	OTC	30.00	-2.0	8.8	1.12	3.7	30.75	30.00	174.7
First Colony Life Ins Co	OTC	62.50	0.0	17.8	1.00	1.6	63.00	62.50	45.3
Foremost Corp Amer	OTC	29.25	-0.8	8.3	0.80	2.7	29.25	29.25	20.9
Great West Life Assurn Co	OTC	241.00	-0.8	9.0	10.00	4.1	243.00	241.00	0.0
Hanover Ins Co	OTC	32.75	1.6	4.0	0.72	2.2	33.50	32.75	53.6
Hartford Steam Boiler Insptn	OTC	40.50	0.0	7.1	2.80	6.9	40.50	40.50	2.9
Jefferson Natl Life Ins Co	OTC	29.00	-3.3	16.7	0.64	2.2	29.75	29.00	3.7
Kemper Corp	OTC	30.25	-1.2	4.7	1.80	6.0	30.75	30.25	18.7
Lincoln Natl Corp Ind	NYSE	39.75	-2.2	6.1	3.00	7.5	40.75	39.75	63.1
Mgic Invt Corp	NYSE	50.13	1.3	12.5	1.28	2.6	50.38*	50.00	802.9
Mission Ins Group Inc	NYSE	34.63	-1.1	6.1	1.00	2.9	35.50	34.50	23.9
Nationwide Corp Ohio	OTC	26.75	-3.6	8.8	0.70	2.6	27.75	26.75	2.1
Northwestern Natl Life Ins	OTC	24.50	-3.9	5.3	1.36	5.6	25.38	24.50	60.4
Ohio Cas Corp	OTC	39.25	-1.6	6.0	2.04	5.2	39.75	39.13	64.8
Old Rep Intl Corp	OTC	19.00	0.0	4.6	0.92	4.8	19.13	18.88	49.5
Preferred Risk Life Ins Co	OTC	19.25	0.0	5.2	0.80	4.2	19.25	19.25	0.1
Provident Life & Acc Ins Co	OTC	51.00	-2.9	6.7	2.20	4.3	52.50	50.50	16.4
Ryan Ins Group Inc	OTC	17.00	3.0	7.4	0.12	0.7	17.00	17.00	4.5
St Paul Cos Inc	OTC	49.25	0.3	8.0	2.32	4.7	49.38	49.13	305.6
Safeco Corp	OTC	37.50	-0.3	6.5	2.20	5.9	37.75	37.38	117.8
Sri Corp	OTC	22.00	-1.1	4.4	1.00	4.5	22.25	22.00	23.7
Seibels Bruce Group Inc	OTC	23.25	3.3	13.1	0.80	3.4	23.25	22.50	23.2
Statesman Group Inc	OTC	6.00	-4.0	5.2	0.15	2.5	6.25	6.00	23.7
Tokio Marine & Fire Ins Co	OTC	107.00	-0.7	8.5	1.00	0.9	108.00	107.00	0.6
Travelers Corp	NYSE	45.63	3.7	5.4	2.88	6.3	45.63	44.25	736.4
United Fire & Cas Co	OTC	27.75	0.0	7.9	0.88	3.2	27.75	27.75	0.1
United States Fid & Gty Co	NYSE	38.25	-5.0	6.2	3.20	8.4	40.00	38.25	144.0
United Svcs Life Ins Co	OTC	14.13	0.0	5.5	1.00	7.1	14.13	14.00	6.8
Uslife Corp	NYSE	22.38	-2.7	5.3	0.84	3.8	23.00	22.38	171.0
Washington Natl Corp	NYSE	17.13	-3.5	5.2	1.08	6.3	18.00	17.13	39.5
Zenith Natl Ins Corp	OTC	16.50	0.0	8.6	0.76	4.6	16.50	16.25	23.4
INSURANCE COMPANIES	AVERAGE			6.1		4.3			
Agents/Brokers									
Alexander & Alexander Svcs	OTC	26.00	6.1	8.7	1.94	7.5	26.75	25.50	877.7
Baldwin & Lyons Inc	OTC	32.00	0.0	5.5	0.80	2.5	32.00	32.00	0.8
Corroon & Black Corp	NYSE	20.00	-1.2	11.8	1.76	8.8	20.13	19.63	58.9
Crump E H Cos Inc	OTC	11.13	0.0	13.1	0.40	3.6	11.13	11.13	13.5
Hall Frank B & Co Inc	NYSE	26.38	-3.2	10.0	1.66	6.3	27.13	26.38	117.3
Integrated Res Inc	AMEX	16.50	-4.3	6.7	0.00	0.0	17.50	16.50	24.4
James Fred S & Co Inc	NYSE	22.75	0.0	10.6	1.60	7.0	23.00	22.75	27.6
Marsh & Mclennan Cos Inc	NYSE	30.75	-2.0	9.9	2.00	6.5	31.00	29.88	177.5
Penncorp Fincl Inc	NYSE	5.13	-2.4	7.4	0.16	3.1	5.13	5.00	68.5
Pinehurst Corp	OTC	8.75	1.4	0.0	0.00	0.0	8.75	8.63	10.5
Poe & Assoc Inc	OTC	9.25	-2.6	10.4	0.80	8.6	9.50	9.25*	0.1
Reed Stenhouse Cos Ltd	OTC	11.00	1.1	8.8	0.60	5.5	11.25	10.50	80.8
Rollins Burdick Hunter Co	OTC	20.50	-2.4	11.7	1.32	6.4	21.00	20.50	16.8
AGENTS/BROKERS	AVERAGE			9.2		5.4			
Conglomerates/Holding Cos.									
American Express(Fireman's Fd)	NYSE	39.63	-4.5	7.1	2.20	5.6	42.00	39.63	608.5
Anderson Clayton(Ranger/PanAm)	NYSE	28.25	0.9	5.9	1.32	4.7	29.00*	28.00	53.9
Armco Inc	NYSE	22.88	3.4	4.6	1.80	7.9	23.25	22.38	225.6
City Investing Co. (Home Ins.)	NYSE	23.38	5.6	6.7	1.60	6.8	23.88	22.75	460.2
CNA Finl Corp (CNA)	NYSE	14.00	2.8	5.8	0.00	0.0	14.00	13.50	92.5
Control Data (Comml. Credit)	NYSE	32.63	2.8	7.3	0.55	1.7	32.63	31.38	546.5
General Re Corp	NYSE	79.13	0.0	10.1	1.76	2.2	79.13	78.50	64.9
Gulf Utd Corp	NYSE	18.13	-4.0	6.3	1.32	7.3	19.00	18.00	31.7
INA Corp (Ins. Co. of NA)	NYSE	44.00	1.1	6.1	2.40	5.5	44.00	43.13	203.7
ITT (Hartford Group)	NYSE	28.38	2.7	7.5	2.68	9.4	28.75	28.38	508.8
Optimum Hldg Corp	OTC	9.50	-7.3	12.2	0.00	0.0	10.13	9.50	7.5
Sears Roebuck & Co. (Allstate)	NYSE	16.13	-4.4	8.1	1.36	8.4	16.75	16.13	981.7
Baldwin Utd Corp	NYSE	67.13	-0.6	11.5	1.60	2.4	69.50	67.13	65.0
Teledyne Inc (Argonaut)	NYSE	130.25	-0.7	6.5	0.00	0.0	131.00	128.75	390.5
Transamerica Corp (Occidental)	NYSE	20.38	0.6	5.9	1.40	6.9	20.38	19.75	238.7
CONGLOMERATES/HOLDING COS.	AVERAGE			7.2		3.5			

*Record high/low since Jan. 1, 1981.

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