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update

New York Senate passes medical malpractice package

ALBANY, N.Y.—Rising medical malpractice awards and the approval of a 52% rate increase for insurers that write medical malpractice coverage have spurred the New York state Senate to pass a package of bills that could change the way malpractice lawsuits are handled.

The bills passed by the Senate last week would allow judges to assess fines of up to $10,000 against people

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Pension plan terminations to boost insurers' surplus

By JERRY GEISEL

WASHINGTON—Stung by large underwriting losses, three major property/casualty insurers are terminating overfunded pension plans and will contribute the excess assets to their policyholder surplus.

Wausau Insurance Cos., Chubb Corp. and The Home Insurance Co. expect to reap more than $264.5 million after they terminate their defined benefit plans and purchase annuities to pay benefits to participants, according to financial information filed by the insurers with the federal Pension Benefit Guaranty Corp.

The insurers are also establishing new retirement plans to replace the terminated plans.

While hundreds of employers have terminated pension plans to recapture surplus assets during the last several years, the Wausau, Chubb and Home terminations are believed to be the first major pension terminations by property/casualty insurers.

However, more terminations of overfunded insurance company pension plans could follow as insurers look to tap all possible resources to boost their surplus, which has been depleted as underwriting losses continue to outpace investment income, analysts say.

During 1984, the property/casualty industry's consolidated policyholder surplus declined by $5.6 billion—or 8.5%—to $60 billion, according to preliminary estimates published last month by A.M. Best Co. (*BI*, Jan. 14). The industry's underwriting losses totaled $21 billion in 1984, while investment income amounted to only $17.3 billion, according to Best's estimates.

The terminations "could be part of a trend," noted David Anthony, a securities analyst with Smith Barney, Harris Upham & Co. Inc. in New York.

"These are tough times and insurers have to find new ways to add to their surplus," agreed another industry analyst, who asked not to

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Fewer insurers willing to front for captives

By JUDY GREENWALD

NEW YORK—Risk managers can expect a tougher time finding insurers willing to act as fronts for their captive insurance companies.

Insurers, brokers and consultants say the market of insurers willing to act as fronting insurers is shrinking. Some insurers have withdrawn from fronting completely, and those remaining are more cautious about accepting new business.

"We're just striking out trying to find fronting arrangements," says Charles A. McAlear, chairman of broker McAlear Associates Inc. in Grand Rapids, Mich. "We simply do not know of anybody willing to assume a fronting position."

. . . MARKET ALERT . . .

Those who do find insurers willing to front are also likely to pay higher fronting fees in line with the overall tightening insurance market, observers say.

Under a fronting program, an admitted insurer issues an insurance policy to a corporation and then reinsures all or a substantial part of the risk with the policyholder's captive insurance company, which is not an admitted insurer. Claims handling and loss-control services may or may not be provided by the insurer.

Risk managers want fronting programs either because they are required to show proof of insurance from an admitted insurer, such as under workers compensation laws, or they want to satisfy customers' concerns about insurance coverage. In addition, risk managers often want a licensed insurer in the United States to handle the company's claims and provide loss control services rather than assuming these responsibilities themselves or contracting elsewhere for the services.

Insurers responded to risk managers' demand for fronting programs, especially when their surpluses were flush and competition for clients was hot. They saw it as another way to make a profit.

But now the number of insurers willing to provide this service is shrinking. In the last six months, two major providers of fronting programs stopped writing them: Ideal Mutual Insurance Co., which is now being liquidated by the New York Insurance Department, and Los Angeles-based Transit Casualty Co., which decided to concentrate solely on underwriting its book of transit risks (*BI*, Jan. 14; Jan. 28).

Transit Casualty provided fronting for about 40 corporate clients with captive insurance companies, in addition to fronting for reinsurers on programs written by managing general agents. While Ideal Mutual provided fronting services to fewer corporations with captives than Transit Casualty, its clients programs were very large.

The departure of these two insurers alone is significant, but furthermore, other insurers are pulling back from writing fronting insurance programs. Their reasons:

- The overall tightening market conditions, with insurance prices going up and capacity shrinking, makes underwriting conventional insurance potentially more profitable than merely issuing policies for a fee. At the same time, insurers are reluctant to devote their dwindling surpluses to their relatively less-profitable fronting programs.
- The New York Insurance Department's move to liquidate Ideal Mutual is seen by some as a warning to other insurers that the New York department does not approve of insurers' fronting activities.

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Ohio groups promote work comp reform

By CAROL CAIN

COLUMBUS, Ohio—The Ohio Manufacturers' Assn. is stoking a grass-roots effort among employer groups to assemble a major workers compensation reform package.

The goal is to undo the effects of court decisions that have increased the benefits and rights of injured workers while increasing employers' costs and liability.

Self-insurers and local chapters of the Risk & Insurance Management Society also are organizing their troops for a major lobbying campaign in the state Legislature this session.

Sparking this latest call to arms are three Ohio Supreme Court opinions handed down Dec. 31 that give employees more freedom to seek compensation for on-the-job injuries.

Several lawsuits already have been filed against employers in the wake of those decisions, including one seeking $140 million from TRW Inc. in Cleveland (see related story, page 26).

Meanwhile, legislation that would raise workers compensation costs for employers is expected to be considered this session, despite the fact that employers were successful in quashing similar bills last year.

And, Ohio Gov. Richard F. Celeste, concerned about the tarnished business climate in his state, told business, labor and legislative leaders at a special meeting Feb. 20 that he will not sign any workers compensation bill unless all sides agree on its provisions.

Graphic: Amy Palmer

"We've gotten our experts together and they've agreed that the time for a major reform effort is now," said Joe Krabach, vp of industrial relations for the Ohio Manufacturers' Assn.

Legislative language should be ready within 60 days, he noted, adding that the OMA would like to see at least one public hearing on its proposal before the Legislature adjourns for its summer recess.

The OMA has contacted more than 100 state and local employer groups—including retailers, contractors, restaurateurs and local chambers of commerce—to join with them in drafting this "comprehensive proposal."

We want to make sure (each employer group) has input into the bill," Mr. Krabach said.

A steering committee is gathering comments from other employer groups as attorneys and public relations staff wait in the wings to forge ahead as the reform package takes shape, Mr. Krabach said.

Ohio employers complain that their state has one of the most liberal and expensive workers compensation systems in the country.

Like most other states, Ohio's workers compensation exclusive remedy provisions have been eroded in recent years through court rulings.

A prime example is the landmark *Blankenship vs. Cincinnati Milacron Chemicals Inc.* decision in March 1982.

In that case, the state high court ruled that eight Cincinnati Milacron employees could sue the machine tool and plastic manufacturing company for its "intentional acts" that led to their injury from exposure to toxic chemicals. (*BI*, Nov. 8, April 26, 1982).

But, the Dec. 31 Supreme Court rulings were the proverbial straw that broke the camel's back and sent the employers scrambling for reform, Mr. Krabach said.

"The court, in its customary trend, has legislated new and revolutionary ideas in an already radical law," said Columbus attorney Robin R. Obetz, executive secretary of the Ohio Self-Insurers Assn. "The Ohio workers compensation system is now nothing more than an entitlement for workers to lifetime benefits—medical, lost wages and damages

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update

N.Y. weighs malpractice bills

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who bring malpractice suits later determined to be "frivolous." They also would require all but the first $100,000 of "pain and suffering" awards to be paid in installments instead of a lump sum.

If the bills are passed by the House, they also would bring about several changes designed to speed up malpractice litigation.

The bills were introduced by Sen. Tarky Lombardi Jr., R-Syracuse, who has expressed concern that the rising cost of medical malpractice insurance will be passed along to the public and may cause a doctor shortage.

The New York Insurance Department recently granted the state's medical malpractice insurers retroactive rate increases totaling 52% for the two most recent policy years (*BI*, Feb.4).

Britain sues Arthur Andersen

LONDON—The British Department of Economic Development in Northern Ireland is suing accounting firm Arthur Andersen & Co. for $279 million in damages stemming from the failure of John Z. De Lorean's sportscar company in 1982.

The department filed a suit Feb. 15 against Arthur Andersen, De Lorean Motor Co.'s accounting firm, in U.S. District Court in Manhattan, a spokesman for the Northern Ireland department in London said.

The suit alleges that Arthur Andersen failed to detect any misconduct of the De Lorean company when Britain poured millions of pounds into the venture as part of its attempt to bolster the economy of Northern Ireland, where De Lorean was located.

Arthur Andersen denies the allegations, saying, "We unequivocally reject the allegations, which are without foundation, and we are confident that the suit will ultimately fail."

The Department of Economic Development is seeking three times its investment in the car company—or $240 million—the Northern Ireland spokesman said. And, the department is seeking $30 million in punitive damages.

Chicago-based Arthur Andersen and its Lloyd's of London broker, J.H. Minet & Co., would not comment on the accounting company's professional liability insurance coverage. Court papers in unrelated litigation show that Andersen had $101 million of errors and omissions liability insurance in 1975.

Ohio cancels Columbus policies

COLUMBUS, Ohio—As of midnight Feb. 24, all policies written by Columbus Insurance Co. have been canceled, the Ohio Insurance Department said.

The cancellations follow the department's decision Jan. 25 to liquidate the insurer, which mainly wrote medical malpractice insurance for nurses and nursing homes.

The department placed Columbus Insurance into rehabilitation on Jan. 8 because of its "rapidly deteriorating financial condition," but at that time said it hoped to find a buyer for the troubled insurer (*BI*, Jan. 21). However, when no buyer could be found the department decided to liquidate the insurer, said James M. Young, deputy liquidator for the Insurance Department.

Mr. Young says that because of the long-tail nature of the coverage Columbus wrote, it will be years before the department knows the extent of the insurer's liabilities and the value of its assets. All claims payments stopped when it was placed in rehabilitation.

He estimates Columbus, which was licensed in 12 states, wrote about $5.6 million in primary and excess insurance in 1984.

CBS case defense cost unclear

NEW YORK—Neither side will discuss who will foot the defense bills—or even how high they may be—for the 18-week trial in the libel case brought against CBS Inc. by retired Gen. William C. Westmoreland that ended in an out-of-court settlement Feb. 17.

"The only people that know the answer won't comment," said Douglas P. Jacobs, litigation counsel for CBS. Previously, CBS said it had a manuscript errors and omission policy with deductibles when the lawsuit was filed in 1982. Its primary E&O coverage now and in 1982 is brokered through Reed Stenhouse in New York and underwritten by CNA Insurance Cos., according to Ronald E. Guttman, a CBS associate general counsel. There also are several layers of excess coverage, he added (*BI*, Oct. 22, 1984).

According to last week's out-of-court settlement, each side agreed not to seek any money from the other. Gen. Westmoreland, in his original complaint, was seeking $120 million in punitive and compensatory damages.

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CNA, Home conditionally sign asbestos claims agreement

By STEPHEN TARNOFF

Two major insurers of asbestos producers are the latest to sign an agreement that would establish an industrywide facility to settle and pay asbestos claims.

CNA Insurance Cos. and The Home Insurance Co. recently conditionally signed the Wellington agreement, which would set up an out-of-court mechanism designed to help asbestos insurers and producers fairly and efficiently settle bodily injury claims related to asbestos litigation (*BI*, May 28, 1984; July 30, 1984).

The agreement, which supporters say could save billions of dollars by reducing defense costs, also would settle virtually all insurance coverage disputes over who will pay for asbestos-related bodily injury claims.

Coverage for property damage claims brought by school districts and others are not covered under the agreement (see story, page 3).

Members of the facility consider the support of CNA and Home an important breakthrough since these insurers were among those holding out but considered important to the success of the facility. The facility has already gained the support of enough of the large asbestos producers—present or prior manufacturers, sellers or other companies involved with asbestos—to go ahead with establishment of the facility.

"The latest sign-ups are very, very significant," said James J. Restivo, an attorney for Pittsburgh-Corning Corp. who helped negotiate the agreement on behalf of producers.

"It gives the Wellington process the impetus it needs to open up the facility."

Mr. Restivo, of the Pittsburgh law firm of Reed, Smith, Shaw & McClay, explained that the producers' "conditional" approval is preliminary, and that their final approval may hinge on whether the major insurers that provided their particular coverage sign the agreement.

Participation by CNA and Home prevents many coverage gaps, though there may be some remaining gaps at the higher excess levels of insurance for producers, Mr. Restivo added.

"It's a major step," said John F. Shea Jr., vp and claim counsel for Aetna Casualty & Surety Co. Mr. Shea represented the insurers in the Wellington negotiations.

"It's a very big step," said Yale Law School Dean Harry Wellington, who chaired the negotiations between insurers and insureds and for whom the agree-

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No bull!

Chemical blamed for death of Superman

By MICHAEL BRADFORD

BAY CITY, Texas—Chemical manufacturer Diamond Shamrock Corp. is appealing a jury verdict that would force it to pay almost $8 million for killing Superman.

Superman, in this case, is a Santa Gertrudis bull—not the superhero of comic book fame. And, unlike its namesake who was so powerful that only kryptonite could harm him, Superman the bull fell victim to Vapona, a chemical that could kill a fly.

Graphic: Amy Palmer

A Texas state court jury in Matagorda ruled in December that the Texas rancher who bred Superman was entitled to $1.5 million in compensatory damages and $7 million in punitive damages for the death of his bull. Diamond Shamrock, which manufactured Vapona, would pay all of the punitive damages and $975,000 of the compensatory damages, for a total of $7.975 million, the jury ruled. The remaining $525,000 in compensatory damages would be paid by the Medina Valley Artificial Insemination Lab near San Antonio, Texas.

However, Diamond Shamrock, whose primary liability insurer in 1984 was Aetna Casualty & Surety Co. of Hartford, Conn., has asked an appellate court in Corpus Christi, Texas, to review that decision. No date for the appeal has been set.

In 1981, Superman, No. 1024 in the herd owned by rancher Dan Wendt of Bay City, was sprayed with a fatal dose of Vapona, an insecticide manufactured at the time by Dallas-based Diamond Shamrock.

The spray is used primarily to kill flies that are attracted to the cattle, but is usually sprayed in the animals' pens' not on the animals themselves.

The insecticide is now produced by SDS Biotech in Paynesville, Ohio, jointly owned by Diamond Shamrock and the Japanese firm Showa Denko.

The fatal spraying occurred at the Medina Valley Artificial Insemination Lab near San Antonio. The animal's semen was being frozen and packaged for use in breeding cattle that would adapt to the Texas climate.

Mr. Wendt sued both Diamond Shamrock and the Medina Valley lab after Superman's death.

The court subsequently ruled that Diamond Shamrock should have put a stronger warning label on the insecticide and that the lab was negligent in its use of the spray.

But, Medina Valley's attorney Bob Summers, of

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Insurer's former president indicted

By DOUGLAS McLEOD

CLEVELAND—William E. Wilson, the former majority shareholder and president of Merchants & Manufacturers Insurance Co., is facing grand theft and forgery charges after his indictment by a Cuyahoga County grand jury last month.

The indictment charges that Mr. Wilson, who was removed as an officer of the company in 1983, fraudulently issued various types of bonds on behalf of Merchants between September and November 1984.

This is the second time Mr. Wilson has been indicted on charges stemming from improper sales of Merchants bonds. In December 1983, he pleaded guilty to grand theft charges involving fraudulent bond sales, and he was placed on probation.

Mr. Wilson said last week that he planned to enter a not guilty plea to the current charges.

"I've done nothing wrong," he said. "Nobody has been defrauded or hurt financially in any way."

Mr. Wilson owned 84% of Merchants & Manufacturers and was one of three investors behind the company, which was incorporated in Beachwood, Ohio, in 1981.

The company, which is licensed only in Ohio, had 1983 direct written premiums of $5.1 million, mainly in group accident and health and surety lines. Written premiums net of reinsurance amounted to $4.8 million in 1983.

At the time of his 1983 indictment, Mr. Wilson was removed as an officer of Merchants, his authority to transact business as an agent of the company was terminated and his shares in the company were put in a blind trust, according to Vp Joseph J. Dormann, another of the three original investors.

In pleading guilty to the 1983 indictment and accepting probation, Mr. Wilson was forced to sell his shares in the company and repay the holders of improperly issued bonds, Mr. Dormann said.

One such repayment went to a Canadian bank on a $700,000 claim filed under a financial security bond securing one of the bank's loans, Mr. Dormann added. Merchants was not licensed to write business outside the state, and Mr. Wilson failed to report the premiums on this bond to the company, Mr. Dormann said.

Later, in 1984, the Ohio Insurance Department revoked Mr. Wilson's agent's license.

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Captive manager directory deadline

The deadline for returning questionnaires for *Business Insurance's* annual directory of captive management companies is Friday. The directory will be published in the April 15 issue, which will be distributed at the 1985 Risk & Insurance Management Society conference in New Orleans, April 15-19.

If your company provides captive management services and you have not yet received a questionnaire, please request one immediately by calling 312-649-5279. There is no charge to be listed.

Iberia crash may not affect airlines' rates

By STACY SHAPIRO

LONDON—The crash last week of an Iberia Airlines jetliner, which killed 141 passengers, raises the number of commercial aviation fatalities already in 1985 to more than 300, compared with only two in 1984.

But a reinsurer on the Iberia risk says last week's disaster probably will not greatly affect airlines' hull and liability insurance rates.

The loss is small in comparison to major losses in the past that have had a significant impact on rates, he explained.

Liability claims from the Iberia crash probably will not exceed $22 million, he noted, while the aircraft is not worth more than $10 million, he said.

"If a jumbo jet goes down with 300 Americans on board, then you might see rates increase," the reinsurer said.

Currently, hull and liability insurance rates for commercial airlines are "drifting," he said, noting that some airlines that renew their insurance next month could even see their rates decline (*BI*, Feb. 11).

Last year, airlines faced hikes ranging up to 150%.

The Iberia Boeing 727 airliner crashed into a mountain Feb. 19 on approach to the airport in Bilbao in the Basque region of Spain. All 141 passengers, including three Americans and the Bolivian minister of labor, and all seven crew members were killed.

Alexander Howden Group P.L.C., Iberia's London aviation broker, would not comment if a claims reserve has been established to pay liability claims stemming from the crash. One reinsurer on the risk said he had not yet been contacted to pay into such a fund.

Iberia has up to $35 million in aviation liability insurance per occurrence, says one reinsurer on the risk. The airline's fleet is insured for up to $77 million per hull.

Iberia's hull and liability coverage is underwritten by the Spanish insurer AGARA, with about 90% of the risk ceded to London reinsurers through Howden. The leading underwriter in London is British Aviation Insurance Co.

Last week's disaster is the third major crash in Spain in the past 15 months, and the second loss suffered by Iberia during that period.

In December 1983, a DC-9 jetliner owned by the Spanish airline Aviaco, an Iberia subsidiary, was struck on a runway at the Madrid airport by an Iberia Boeing 727 jetliner. Altogether, 92 people were killed in the accident (*BI*, Dec. 12, 1983).

The two hulls had a combined value of $16 million. So far, Iberia's insurers have paid at least $19.2 million in liability claims stemming from the crash, underwriting sources say.

Iberia was hit with large rate increases when it placed its 1984-85 coverage in May 1984, four months after the Madrid disaster. According to one reinsurer's records, Iberia's hull insurance rates doubled at renewal time last year, while its liability insurance rates rose 70%.

In a separate aviation accident last week, about 50 people were injured when a Boeing 747 owned by Taiwan-based China Airlines plunged six miles in two minutes after all four engines failed. The plane made a safe emergency landing in San Francisco.

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Exxon contesting stress-related claim filed by employee

By MEG FLETCHER

NEWARK, N.J.—A low-volume phone has no connection to a worker's schizophrenia, Exxon Corp. argues in an appeal to the New Jersey Supreme Court.

Exxon is fighting a workers compensation claim filed by a current employee who charges that he developed a stress-related mental disorder because he had to work with a telephone on which it was extremely difficult to hear incoming calls.

Lee R. Willitts, a trade order clerk at Exxon's distribution center in Bayonne, N.J., is seeking compensation for a partial permanent disability plus temporary disability payments and reimbursement of his medical bills after he was diagnosed as having a mild form of schizophrenia, according to his attorney, Alan Roth of Bendit, Weinstock & Sharbaugh of West Orange, N.J.

Mr. Willitts, who handled between 35 to 100 calls daily, said the low volume on incoming telephone calls from 1979 to 1981 caused him to press the hand-held telephone receiver tightly against his left ear while tilting his head and neck to the left as he wrote customers' orders.

He claims this caused him to grind his teeth, which either caused or aggravated clenching of his teeth and muscle spasms in his jaw and neck. And, he says that disorder ultimately caused or aggravated the mental disorder, according to court records.

On Jan. 28, the Superior Court of New Jersey Appellate Division remanded the case back to Judge William C. Oakerson of the Division of Workers Compensation. The appeals court reversed the lower court's finding that the plaintiff hadn't sufficiently proved that his illness was work-related.

Judge Oakerson, who is expected to reconsider the case Feb. 25, must redetermine whether the schizophrenia is an occupational disease, whether it is causally related to Mr. Willitts' employment and to what extent it disables Mr. Willitts, said Appellate Court Judges Melvin P. Antell and James H. Coleman Jr. in their decision.

Meanwhile, Exxon filed a petition Feb. 19 for the state Supreme Court to review the appellate court's decision, said Exxon attorney Richard V. Jones of Stryker, Tams & Dill of Newark.

Exxon, which self-insures its workers compensation coverage, says it responded to the phone volume problem by having

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Big Apple automates

New York to computerize work comp claims

By MICHAEL BRADFORD

NEW YORK—The sound of shuffling papers in New York City's Workers' Compensation Claims Administration Department will soon be replaced by chattering keyboards as the city installs a new computer system to process and administer workers comp claims.

The Claims Administration Department, a division of the city's Law Department, hopes to dig out from under its current mountain of paper created by its self-insured workers compensation program by spending about $579,000 on the system, dubbed GENCOMP, which was to be delivered last week.

The division expects the GENCOMP system, a package of hardware and customized software manufactured by California Interactive Computing Corp. in North Hollywood, Calif., will save it $270,000 annually in administrative costs.

The city's new computer system is expected to start processing some claims "in about a month," said Ralph Vitolo, director of management information services for the city's Law Department. The entire system should be in place and operating within three months, he adds.

Until GENCOMP is up and running at maximum speed, the nation's largest city will continue to process the majority of its 218,000 active employees' workers compensation claims the old-fashioned way—by hand.

The claims department processes about 60,000 claims annually, of which 12,000 to 15,000 stem from new injuries, Mr. Vitolo says.

In the last 10 years, the only computerization the department has used for processing claims is a "computerized batch system," Mr. Vitolo explained. "Primarily it just produces a list of claimants and does some updating. But it's not on-line" with the city's computers.

When GENCOMP is operating, the old system's software will be scrapped and some reshuffling of duties in the department is expected, says Mr. Vitolo.

"Some positions can be eliminated and we can use those people in other places," he said. "Certain tasks will be changed. There are a lot of people in the division that can be used elsewhere. We hope we can free some of them up."

Illustration: Roger Schillestrom

A study completed by the accounting firm of Deloitte Haskins & Sells to help determine the cost-effectiveness of implementing an automated claims processing system indicated that $35,000 could be saved annually just from the elimination of four typing positions in the department.

Other annual savings that the new system woud create, according to the study, include:

- $125,000 in claims processing expenses.
- $35,000 from the reduction of in-depth studies on claimants, including tracking down unpaid bills, cross-referencing and sorting of claims. This will be done automatically by the new system.
- $15,000 by reducing the number of benefit overpayments.
- $50,000 from identifying claims in which a prior injury has affected a claimant's current disability.

New York's search for a system to modernize its workers compensation administration procedures began around four years ago, said Mr. Vitolo, when he began "looking into it casually."

His first idea was to update the department's existing computer system. But after checking with other municipalities, "We found there wasn't anything out there that

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Homeowners allege damage from asbestos

By STEPHEN TARNOFF

MARTINEZ, Calif.—A new group of plaintiffs is suing asbestos producers to recover for alleged asbestos-caused property damage.

In what is believed to be the first lawsuit triggered by the installation of asbestos in homes, attorneys for three homeowners filed a class-action suit Feb. 4 in state Superior Court on behalf of all California homeowners. The suit has yet to be certified by the court as a class action.

The suit, which names more than 40 asbestos producers as defendants, seeks more than $1 billion in compensatory damages for the cost of inspecting homes, estimating damages and containing, removing and replacing asbestos found in the homes.

The suit also seeks payment for alternate living accommodations for homeowners while their homes are being repaired. And, it seeks unspecified punitive damages.

The suit, *Evelyn Mullen vs. Armstrong World Industries Inc.*, is the first asbestos property damage suit filed on behalf of homeowners, according to plaintiffs' attorneys in the case.

Approximately 85 other suits, including state and nationwide class actions, have been filed on behalf of school districts and other local governments across the country (*BI*, Feb. 18).

Exposure to asbestos has been linked to various diseases, including asbestosis, lung cancer and mesothelioma, a cancer of the lining of the lung or stomach.

The class of plaintiffs in the California suit consists of all people who own homes in California that contain friable asbestos mined, manufactured, sold or distributed by the defendants. Friable refers to asbestos material that, when dry, may be crumbled, pulverized or reduced to powder by hand pressure, according to the suit.

The class is limited to owners of homes built in California between 1912 and 1978, although the great majority of homes affected were built between 1946 and 1973, the suit adds.

The suit says that more than 100,000 people are in the class. However, plaintiffs' attorney Mark Anderson says the actual number is more than 1 million. Mr. Anderson's firm, Mark F. Anderson, is in San Francisco.

The suit covers dwellings meant to house up to four families and includes mobile homes and small apartment and condominium buildings. Larger apartment and condominium buildings are not included in order to keep the class as similar as possible, Mr. Anderson says.

Of the approximately 50 defendants named in the suit, many are also defendants in asbestos personal injury claims.

However, Manville Corp., Unarco Industries Inc.—now called UNR Industries Inc.— and Amatex Corp., three companies often named as defendants in asbestos personal injury litigation, are not named as defendants in this suit because they have filed for reorganization, according to the suit. All litigation is stayed against companies while they are in reorganization.

The suit says that asbestos had been used in various ways in California homes. These uses include:

- In spray-on coverings applied to walls and ceilings for decorative, acoustical, fireproofing and insulation purposes.
- In forced-air heating systems. The inner linings of the intake side of the system and the outgoing hot air ducts were commonly wrapped in an "asbestos blanket" or asbestos paper tape, the suit says. Furnaces also often contain asbestos insulation.
- As wrap for hot water and steam pipes.
- Acoustical tile.

The suit says that homeowners' costs will include inspection, analysis, containment, removal and replacement of friable asbestos materials and products, and the suit estimates

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New York computerizes work comp claims

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was state-of-the-art that would run on our existing computers."

And most companies that provided claims administration were only service companies, he noted. "We knew at the outset that they were expensive and we were looking for a mainframe system."

Mr. Vitolo discovered the GENCOMP system in Los Angeles, where it is used by that city to administer its workers compensation claims.

After drawing up a general design of the computer system New York would need, Mr. Vitolo said the claims department sent requests for bids to about 25 computer-system vendors. Bids were narrowed to two companies that could provide an acceptable system. CIC was awarded the contract because "it was more attractive and cost less money," according to Mr. Vitolo.

He said conferences with workers using the system in Los Angeles uncovered no hidden pitfalls or drawbacks.

"It's a very manageable system. They're very happy with it," he explains. A similar system is being installed in Los Angeles County to administer claims for the county.

In New York, software will be customized to meet specific needs and goals in the city's work comp department, said Mr. Vitolo.

Aside from a fixed package of software that provides standard processing features, the system's customized features include programs that will print forms to comply with city and state regulations, print two different types of checks and keep track of medical fees.

GENCOMP will enable its user to perform several update transactions immediately through the system, rather than requiring cumbersome and time-consuming manual techniques. Some of the standard transactions include checking:

- To see if the city has enough in its reserves to pay claims.
- The possibility of duplicate payments.
- That users have proper authorization codes when they set payments that exceed certain limits.
- If payments still are being made on voided or closed cases.
- That proper dates are recorded for the last day a claimant worked prior to the injury and the date the employee returned to work in temporary disability cases.

In addition, the system is designed so that customized software programs can be added later. "We originally came up with 25 features that we wanted in a system, but pared them down to 10," said Mr. Vitolo. "We may get into more later, but we didn't want to make the system too cumbersome to learn."

CIC, the system's manufacturer, will provide training for the New York staff through a 21-day course.

Besides the initial $579,000 cost of the system, the city will also spend around $35,000 on 1985 service contracts to maintain the Microdata 9000 mainframe computer, 39 Viewpoint terminals made by Applied Digital Data Systems and 11 printers manufactured by Anadex Inc.

Another service contract will be signed later with CIC to maintain the system's software.

CIC also provides GENCOMP users with a software support system from its North Hollywood office. The support system allows the New York City office to interact with CIC's system through a communications modem. Using the modem, CIC can dial changes into the software programs, updating them or correcting "bugs" in the system without having to make costly service trips.

CIC says the GENCOMP system allows employers to pinpoint particular areas that are producing a high number of comp claims.

Ralph Flygare, vp of CIC, said the system can generate graphic charts that indicate how much is paid out on certain claims and how frequently those claims occur. When a high-dollar, high-frequency claim is found, "safety managers can pinpoint the problem," he explained.

GENCOMP also will produce all the reports that are required by city and state regulations, he noted.

Mr. Flygare said New York's system is large compared to most that CIC installs and is "almost identical" to the one being installed in Los Angeles County.

The system isn't limited to municipalities, Mr. Flygare pointed out. It also is used by large corporations that self-insure or self-administer their workers compensation claims, he said.

Corporate clients that are using Gencomp include Pacific Bell Telephone Co., Rockwell International Corp., Universal Studios and Lockheed Corp.

Third-party administrators also use the system to administer claims for clients, he added. ■

Ex-officer indicted

Continued from page 2

Since then, according to the indictment, Mr. Wilson has continued to write fraudulent bonds through an agency he owns, purportedly on Merchants' behalf.

One proposal bond, for $150,000, was issued on behalf of the city of Eastlake, Ohio, for contract maintenance of park facilities. Another bid guarantee and contract bond was issued to a Cleveland firm, Brookpark Replacement Windows, according to the indictment.

"He just continued to operate as if nothing had happened," Mr. Dormann said.

Mr. Dormann added that Merchants didn't find out about the bonds allegedly issued by Mr. Wilson until bondholders started calling the company with questions.

"When our casualty people checked the records, we couldn't locate the bonds," he said.

Mr. Wilson never remitted any of the premium due to Merchants on the bonds, Mr. Dormann said.

"He sure didn't report (the premiums) to us. He was playing insurance company," Mr. Dormann says.

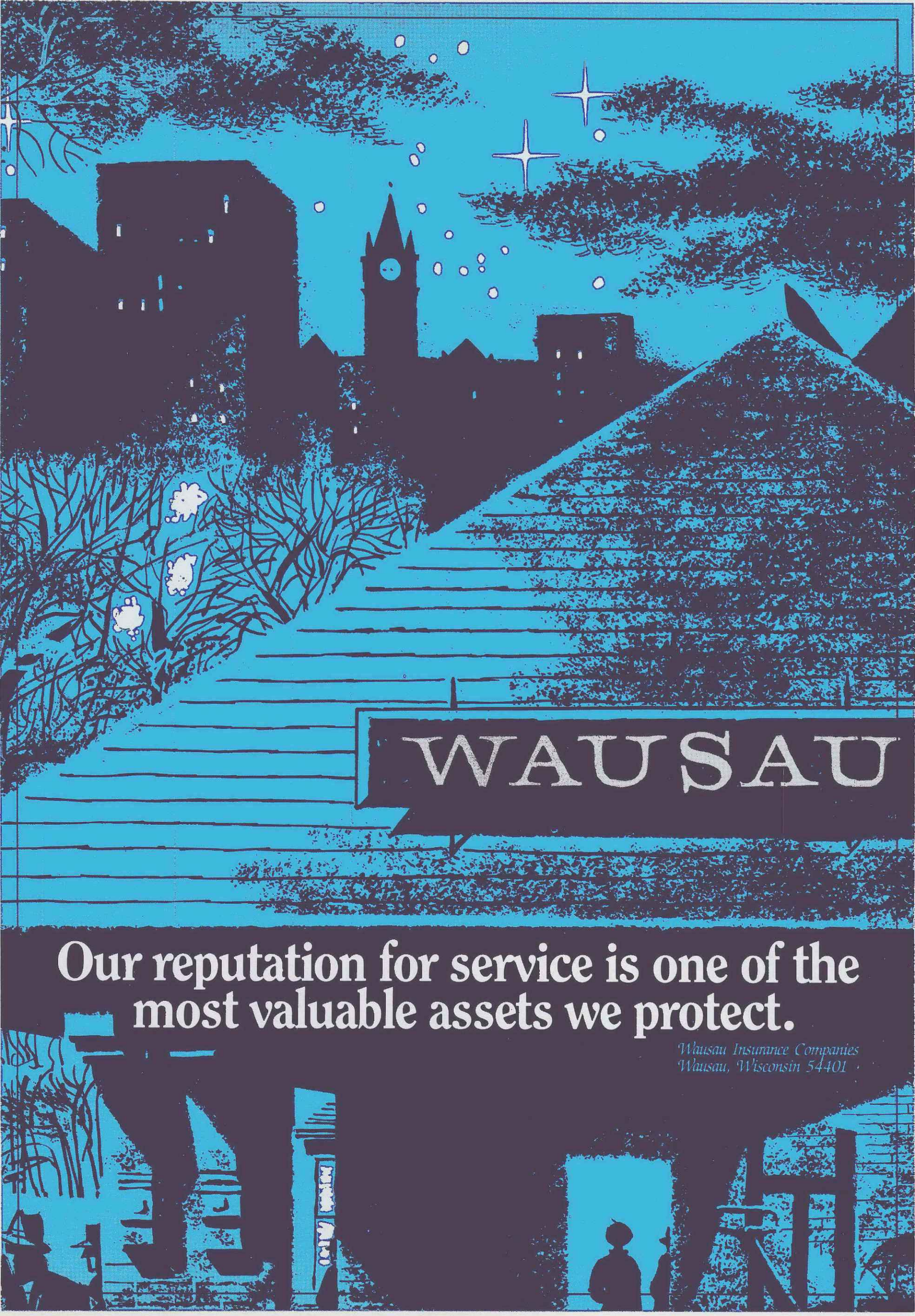
Merchants is still trying to determine the number and value of the bonds Mr. Wilson issued, according to Mr. Dormann.

Mr. Wilson says he had a noncancellable contract to act as an agent of Merchants, which Merchants improperly tried to cancel.

He added that some of the bonds he handled required payment of an annual premium and contained no expiration date, running until canceled by the obligee or the insurance company.

With these types of bonds, Mr. Wilson claims, he was entitled to act as the agent of Merchants as long as the bond was in force.

Mr. Wilson, who complains that Merchants has withheld commissions it owes him since October 1983, said that he wrote "very few" bonds on behalf of Merchants. ■



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Wausau Insurance Companies
Wausau, Wisconsin 54401

opinions

A case of machinations

THE INTERNAL Revenue Service argument in the Crawford Fitting Co. tax case reads like a parody of the IRS position on captive insurers.

But, in all seriousness, the IRS attacked an insurance policy purchased by Crawford Fitting as a captive/self-insurance plan. As a result, the IRS denied Crawford a business expense deduction for a portion of the insurance premium it paid to its primary general and product liability insurer, Constance Insurance Co.

To appreciate how ludicrous the IRS argument in this case was, one has to review the IRS position on captive insurance companies: Revenue Ruling 77-316.

Bascially, the IRS said that a wholly owned insurance company and its parent company are members of the same economic family. A loss suffered by the parent company and paid by its wholly owned insurance subsidiary is a loss to the economic family. Therefore, no risk has been shifted to another or distributed among others as required by the definition of insurance established by case law. Since the transaction does not constitute insurance, the premium paid by the parent company to its wholly owned insurance company can't be deducted as a legitimate business expense.

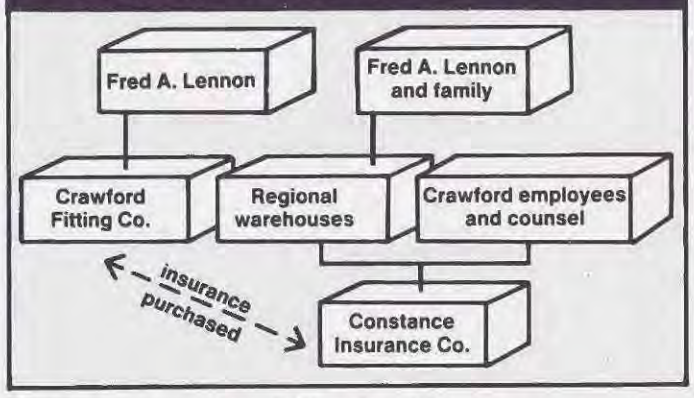
The IRS does concede that to the extent the premium paid to the captive is ceded to an unrelated reinsurer to cover the parent company's risk, the premium paid by the parent is deductible.

While many companies have taken tax deductions for premiums paid under the very circumstances the IRS says do not constitute an insurance transaction, it's clear that Crawford Fitting studied the IRS position very carefully so as not to run afoul of it.

As the accompanying chart shows, Crawford Fitting Co. did not own Constance Insurance Co. Yes, the sole owner of Crawford Fitting, Fred A. Lennon, is one of the several owners of the warehouses that hold partial ownership in Constance. And yes, members of Mr. Lennon's family are owners of those warehouses. And yes, three Crawford employees and an attorney for the company invest in Constance.

Call it careful tax planning. Call it shrewd. But, we don't think the IRS had a leg to stand on when it called

Ownership of Constance Insurance Co.



Constance a captive of Crawford Fitting, arguing that the owners of Constance were so related to the owner of Crawford that Constance is a captive of Crawford.

That was carrying the far-fetched economic family theory—which attorneys point out doesn't exist in tax law—far afield. What do we call this? "The marriage family theory?"

Making the IRS position even more unconvincing were the machinations it had to go through to determine the amount of taxes Crawford owed. Of the total $575,000 original premium paid to Constance, $475,000 was paid to an unrelated reinsurer, leaving only $100,000 for the IRS to dispute. And, since Crawford had paid only $157,028 of that $575,000 premium (others insured under the policy paid the bulk of the premium), the IRS had to prorate to Crawford that portion of the $100,000 of the retained premium it found related to insurance of Crawford's risk: $20,485. The taxes the IRS demanded, and was paid: $9,423.

Constance also did not resemble insurers in tax cases won by the IRS in which the parent company was the only insured and/or the insurer was undercapitalized.

We hope the ruling by U.S. District Court Judge David Dowd ordering the IRS to refund the disputed taxes—plus interest—to Crawford brought the IRS back to reality on this case. We'd hate to see the IRS waste any more of the taxpayers' money on an appeal of the well-deserved victory for Crawford Fitting.

letters

50% savings for self-insurance seems too high

To the editor: In the article "DEFRA Could Hike Self-Insurer's Cost 20%" (*BI*, Jan. 28), Kenneth Gipson of the Weyerhaeuser Co. is quoted as saying that self-insurance costs about half of what it would cost Weyerhaeuser if it purchased commercial insurance, even if it received a 25% discount from manual rates.

Based upon my understanding of Mr. Gipson's statement, Weyerhaeuser is fulfilling its workers compensation obligations to its employees for an annual cost of approximately $22.5 million vs. the $45 million it would cost if it purchased commercial insurance.

I do not deny that an employer can save significant amounts of money by self-insuring its workers compensation risks if the program combines the proper mixture of administrative cost savings, improved cash flow, effective and aggressive claims management, excess insurance and luck. But a 50% savings?

Over the years we have been able to arrange for our clients, who are much smaller than Weyerhaeuser, both incurred and paid-loss retrospectively rated programs, which are basically cost-plus in nature with a maximum cost feature; i.e., an insured plan. Under these programs, the employer's cost is the basic premium (usually between 10% and 20% including tax) plus the employer's claims adjusted by the insurer's loss adjustment factor. Since I would assume that Weyerhaeuser could arrange for an insured program that is at least as good as we have arranged for our smaller clients, I am compelled to ask what type of "commercial insurance" Mr. Gipson is referring to when he compares the savings he claims to have realized under the self-insured program.

Is the savings referred to a result of a more effective claims management program under the self-insured plan, resulting in fewer claims and lower claims settlements? If so, would not this savings also be possible under an insured plan?

I am sure Mr. Gipson deserves credit for the good work he has done at Weyerhaeuser, and perhaps his comments were taken out of context. But a 50% savings on $45 million in premiums seems a bit much. Perhaps Mr. Gipson can explain in more detail how he has achieved such significant savings.

Harry F. Custis, CLU, CPCU, ARM
President, Chief Executive Officer
Corporate Insurance Management
Washington

■ *Editor's note: In Washington state, where most of Weyerhaeuser's employees work, an employer has only two options for funding workers compensation risks: Buy insurance from the state industrial insurance fund or self-insure. Therefore, Weyerhaeuser cannot buy in Washington state the type of insurance program from a commercial insurer that Mr. Custis describes as so cost-effective.*

Mr. Gipson notes that his $45 million estimated insured premium was based partly on rates charged by the state fund. Those rates do not allow as much credit for good loss experience or loss-control programs as commercial insurers would grant. In addition, the rate charged Weyerhaesuer by the state would reflect the loss experience of other lumber companies in the state, and Weyerhaeuser's loss experience is generally better. Mr. Gipson also credits Weyerhaeuser's savings under its self-insured program to good claims control and retention of funds that otherwise would become insurance company profits.

ISO's predictions, 'salvation' flawed

To the editor: I'd feel better about Insurance Services Office President Daniel J. McNamara's prediction of a $62 billion capacity shortfall in the property/casualty insurance marketplace (*BI*, Feb.4) if he had made it last year.

And now we're to believe that claims-made policy forms are going to save insurers, with the attendant pricing problems and temptation for insurers to underprice this policy, too?

Robert J. Field
Administrator
County Road Assn.
Self-Insurance Fund
Lansing, Mich.

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California homeowners file asbestos property lawsuit

Continued from page 3

the cost of each inspection at $50 to $300.

It estimates the cost for asbestos abatement in each of the homes from $2,000 to $9,000, adding that the "great majority" of the individual claims are under $10,000.

The plaintiffs seek to recover damages based on several theories of liability: negligence, strict liability, breach of warranty, nuisance and civil conspiracy.

"Persons present in homes owned by plaintiffs have been exposed and will continue to be exposed to and have inhaled and will continue to inhale asbestos fibers," the suit says.

As a result, some have suffered physical harm, some have contracted asbestos-related diseases and there is "substantial probability" that others may contract such diseases.

The suit notes that the presence of friable asbestos in plaintiffs' homes has also resulted in property damages, such as contamination or causing the property to be unfit for use.

Like many of the other property damage suits that have been filed, the suit charges that the defendants knew early this century about the dangers of asbestos but that, as part of a common plan, they failed to take any action to warn others of the dangers or to remove the asbestos.

The suit says that members of the asbestos industry intentionally suppressed data on the relationship between asbestos exposure and disease beginning in 1935.

It also charges that the Asbestos Textile Institute, an industry association, and its members intentionally suppressed, discouraged and retarded research and publication about the relationship between asbestos and various diseases and actively concealed and misrepresented the relationship as early as the 1950s.

The suit charges that all members of the asbestos industry, including the defendants, were aware of or should have been aware of studies and data linking asbestos with various diseases and that they were aware of the suppression, concealment and misrepresentation of that information, but still continued to produce the product without warnings.

It says the defendants acted pursuant to a common plan, concert of action and concerted course of conduct to suppress and conceal the information.

Spokesmen for two of the defendants listed in the complaint, U.S. Gypsum Co. and Kaiser Cement Corp., declined to comment last week on the suit.

The suit names the following defendants, including subsidiaries, affiliates and predecessor companies:

Armstrong World Industries Inc. of Lancaster, Pa.; Asarco Inc. of Jersey City, N.J.; Asbestos Corp. Ltd. of Montreal; Asbestos Fibres Inc.; Asbestospray Corp.; Bairnco Corp. of New York; Bell Asbestos Mines Ltd. of Quebec; Bes-Tex Inc. of San Diego; Combustion Engineering Inc. of New York; Crown Cork & Seal Co. Inc. of Philadelphia; Cape Asbestos Co. Ltd. of Johannesburg, South Africa; Cassiar Resources Ltd. of Vancouver, British Columbia; Certainteed Corp. of Valley Forge, Pa.; Dana Corp. of Toledo, Ohio; Eagle—Picher Industries Inc. of Cincinnati; and The Flintkote Co. of San Francisco.

Also named are GAF Corp. of Wayne, N.J.; Georgia-Pacific Corp. of Atlanta; W.R. Grace & Co. of New York; Kaiser Cement Corp. of Oakland, Calif.; Louisiana-Pacific Corp. of Portland, Ore.; National Gypsum Co. of Dallas; North American Asbestos Corp.; Owens-Corning Fiberglas Corp. of Toledo; Owens—Illinois Inc. of Toledo; Pfizer Inc. of New York; PPG Industries Inc. of Pittsburgh; H.K. Porter Co. of Pittsburgh; Raymark Industries Inc. of Trumbull, Conn.; and Ryder Industries of Jacksonville, Fla..

Also, Sprayon Insulation & Acoustics Inc.; Sprayon Research Corp.; Sprayed Insulation Inc.; Sprayo-Flake Co.; Turner & Newall Ltd. of Manchester, England; Union Carbide Corp. of Danbury, Conn.; Uniroyal Inc. of Middlebury, Conn.; U.S. Gypsum Co. of Chicago; U.S. Minerals Products Co. of Stanhope, N.J.; Jim Walter Corp. of Tampa, Fla.; Wilkin Insulation Co. of Mount Prospect, Ill.; and Worben Co. Inc.

Various unnamed defendants are also being sued. ■

Commissioner appointed for first time in Colorado

around the states

DENVER—John Kezer, who had been serving as interim acting insurance commissioner in Colorado since May, became the state's first appointed insurance commissioner this month.

On Nov. 6, voters approved an initiative calling for the insurance commissioner to be appointed by the governor and confirmed by the Senate (*BI*, Nov. 12, 1984). Previously, Colorado had been the only state that selected its insurance commissioner through the civil service system.

The Colorado Senate approved Gov. Richard D. Lamm's appointment of Mr. Kezer on Feb. 5. The length of his term is at the governor's discretion.

Mr. Kezer was appointed as interim acting commissioner in May to replace Daniel J. Colaiannia, who had served in that capacity following the retirement of Commissioner J. Richard Barnes after 20 years (*BI*, May 28, Feb. 13, 1984).

Mr. Kezer came to the state Insurance Division from the Department of Employment and Training, where he was director.

Mr. Miller, 69, first retired in 1975 as president of Local Finance Corp. in Marion, Ind., and its two subsidiaries, Grand National Life Insurance Co. and the Guardian Agency Inc. He was appointed insurance commissioner in 1981.

Mr. Miller recently told Gov. Robert D. Orr that he wants to step down as soon as March 1 and no later than April 1. The governor is seeking a replacement.

Mr. Miller, who helped coordinate the rehabilitation efforts of six insurer subsidiaries of Baldwin-United Corp., said he will be available to assist in that case or other pending matters. ■

N.J. fines insurer

TRENTON, N.J.—Occidental Fire & Casualty Insurance Co. of North Carolina, which is based in Englewood, Colo., is facing fines of $11,000 in New Jersey for failing to pay claims in a timely fashion to New Jersey policyholders that include restaurants, bowling alleys and taverns.

New Jersey Insurance Department regulations require payment of claims within 30 days after an insurer has received proof of loss, said Acting Insurance Commissioner Jasper J. Jackson. In an investigation of Occidental, the Insurance Department identified 10 claims, generally for property damage resulting from fires, vandalism or water damage, that had not been paid within the 30-day deadline.

Florida deputy

TALLAHASSEE, Fla.—Gerald Wester has been promoted to deputy commissioner of the Florida Insurance Department.

Mr. Wester will oversee the divisions of Insurance Company Regulation, Insurance Rating, Rehabilitation and Liquidation, Insurance Fraud and Insurance Consumer Services, according to Commissioner Bill Gunter. Mr. Wester also will supervise 600 employees, and oversee the regulation of 1,423 insurers and more than 128,000 licensed insurance agents.

After joining the department in 1976, Mr. Wester was director of the divisions of Administration, Rehabilitation and Liquidation and Insurance Rating. And, since 1979, he has served as Senate legislative liaison for the department, a post in which he will continue.

Mr. Wester replaces Gary Guzza, who left the department in December to go into private business.

Regulator retires

INDIANAPOLIS, Ind.—Indiana Insurance Commissioner Don H. Miller is retiring—again.

Executives oppose tax on benefits, study says

By JERRY GEISEL

washington

WASHINGTON—A Treasury Department proposal to tax employee benefits is strongly opposed by corporate officials, according to a recent survey.

The survey, conducted in December by the Roper Organization for the Washington-based Health Insurance Assn. of America and the American Council of Life Insurance, found that 80% of 550 chief executive officers opposed a tax on employee benefits.

Some 90% of the surveyed chief executive officers also opposed eliminating the section of the Tax Code that allows employers to take tax deductions for their benefit expenses. Two-thirds said tax deductibility was an important factor in their companies' decision to establish benefit plans.

About 70% of the executives said their companies would cut benefits to some degree if the tax exemption for employees or the tax deduction for employers were dropped.

And, the public doesn't want the federal government to tax employee benefits either, according to the survey.

Some 77% of 500 people surveyed opposed taxing employee benefits.

Under a tax simplification plan proposed by the U.S. Treasury Department, employers' health care costs that exceed $70 a month for individual coverage and $175 a month for family coverage would be included as taxable income to employees (*BI*, Dec. 3, 1984).

The cost of other employer-provided benefits, like term life insurance, dependent child care, vanpooling and group legal plans, also would become taxable income to employees.

The Treasury plan also would wipe out 401(k) salary reduction plans and tax-free cafeteria benefit plans. However, the plan would not affect companies' ability to take tax deductions for their employee benefit expenses.

OPIC has record year

The Overseas Private Investment Corp. is coming off a record year.

Fiscal 1984 net income for OPIC, the federal corporation that provides political risk insurance to U.S. companies investing in less-developed countries, totaled a record $97.2 million, up from $82.7 million in 1983.

Insurance coverages issued also totaled a record $4.3 billion for 124 projects last year, up from $3.9 billion for 107 projects in 1983.

Between 1981 and 1984, OPIC issued a total of $12.8 billion in insurance coverage for 438 investment projects. That $12.8 billion compares with the $8.6 billion in coverage OPIC issued between 1971 and 1980.

In addition, OPIC's annual profits between 1981 and 1984 have averaged $85 million, nearly double the $44-million average for the 1971-1980 period.

The sale of political risk insurance began to boom after the Islamic revolution in Iran in 1979 and the subsequent expropriation of American investments and properties, many of which were uninsured (*BI*, Sept. 5, 1983).

Meanwhile, OPIC's authority to provide political risk insurance runs out on Sept. 30. However, OPIC officials expect Congress to reauthorize OPIC's insurance programs well before that deadline.

Pension plans up

The number of single-employer defined benefit pension plans increased during the early 1980s, according to the Pension Benefit Guaranty Corp.

Between 1980 and 1982, the number of single-employer pension plans covered by the PBGC's termination insurance program increased to 109,929 from 103,919, the PBGC found in a recent survey. The number of covered plan participants rose to about 29.5 million from about 27.9 million.

Under law, all private defined benefit pension plans are insured through the PBGC's mandatory insurance program. However, the PBGC does not extend coverage to federal, state and local government pension plans.

Of those 109,929 pension plans, 39 plans had more than 50,000 participants; 335 had between 10,000 and 49,999 participants; and 3,613 had between 1,000 and 9,999 participants. There were 18,328 plans with between 100 and 999 participants and 87,614 plans with between 1 and 99 participants.

While single-employer plans expanded, the number of multiemployer plans—plans jointly sponsored by different employers and their unions—declined slightly, according to the PBGC study.

In 1982, 2,465 multiemployer plans were operating, down a bit from the 2,471 plans in operation in 1980. However, the number of plan participants rose, to about 8.74 million from about 8.67 million.

The construction industry in 1982 had the highest number of multiemployer plans: 1,059 plans with about 2.4 million participants.

Other industries with a high number of multiemployer plans and participants include:

- Manufacturing: 296 plans and 1.5 million participants.
- Retail trade: 278 plans, 1.1 million participants.
- Services: 207 plans, 683,200 participants.
- Transportation: 161 plans, 1.5 million participants.

However, multiemployer pension plans are rare in some segments of industry.

For example, the PBGC found just 30 multiemployer pension plans in 1982 in the finance, insurance and real estate industry, where unionization is rare. Those 30 plans had just 4,500 participants.

Free copies of the study "PBGC Coverage in the Early 1980s" are available from the PBGC, Communications and Public Affairs Department, 2020 K St., N.W., Suite 7100, Washington, D.C. 20006.

Acting OPWBP head

Alan Lebowitz, a deputy administrator at the Labor Department's Office of Pension and Welfare Benefit Programs, has been named acting administrator of the OPWBP.

Mr. Lebowitz replaced Robert A.G. Monks, who resigned after a one-year stint as OPWBP administrator in January to take a job in private industry.

Mr. Lebowitz has been with OPWBP since January 1979. He also served as acting administrator from September 1983 to January 1984 when administrator Jeffrey Clayton resigned.

Before joining the Labor Department, Mr. Lebowitz worked in the employee benefit plans division at the Internal Revenue Service. He has a law degree from Suffolk University in Boston. ■

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Transamerica forms division for special risks, other covers

Los Angeles-based Transamerica Insurance Co. has formed a specialty division to underwrite excess and special risks, fidelity and surety coverages and assumed reinsurance.

The company last summer established separate divisions for personal and commercial lines as part of its plan to establish "profit centers" that isolate particular types of business.

A spokesman for the insurer said Transamerica would not be "diving into the specialty business, but would be aiming at building lasting relationships with agents."

Excess and special risk operations are new ventures for the firm, the spokesman said. Fidelity and surety business and assumed reinsurance are being transferred to the specialty division "because it seems to fit better there. We are isolating our key business into the three divisions."

Dennis E. Arnold is senior executive of the new division.

markets

A&A has new division

Alexander & Alexander Inc. has formed a credit enhancement services division to offer financial guarantee products, including industrial revenue bond guarantees, corporate debt guarantees and limited partnership investor bonds.

Thomas J. Peterson, senior vp and national sales director, will head the unit.

CIGNA unit HMO, PPO

CIGNA Healthplan Inc., a subsidiary of CIGNA Corp., has established a health maintenance organization in Wilmington, Del.

CIGNA Healthplan of Delaware, which will be offered to employees in the Wilmington area, is contracting with the Diamond State HMO Individual Practice Assn., an association of primary care and specialist physicians who will serve members of the new HMO.

Leonard A. Colavita, executive vp of CIGNA Healthplan, said the plan is CIGNA's first entry in the Northeast, "where we plan to open or acquire additional HMOs."

Connecticut General Life Insurance Co., another CIGNA Corp. unit, has established a preferred provider organization available to employers in the Miami area.

The South Florida PPO, which began operating last fall, includes seven hospitals and more than 1,100 physicians. The providers are located in Fort Lauderdale and Miami and are available to employers in Dade and Broward counties.

Participating hospitals and physicians have agreed to limit fees and take part in a utilization review that will assure patients are receiving appropriate care, according to CIGNA. Patients will be able to choose the participating physicians and hospitals they desire.

The South Florida PPO is available to more than 10,000 area residents, CIGNA says.

New consulting firm

A new risk and insurance management consulting firm, Risk Strategies Inc., is forming in Darien, Conn.

The firm, which will formally open March 1, will perform risk and insurance management audits for government and institutional clients and will provide analysis and counseling in the areas of risk financing, self-insurance and other administrative issues.

The consulting firm has been formed by Bernard M. Brown, a former vp of Risk Planning Group Inc. in Darien, and Michael D. Dangelo, former assistant general counsel and risk manager of Lenox Hill Hospital in New York.

Mr. Brown is president of Risk Strategies and Mr. Dangelo is executive vp of the new firm.

The firm's address is 1120 Post Road, Darien, Conn. 06820. A phone number will be announced shortly.

ISO, NCCI won't merge

Officials of Insurance Services Office Inc. and the National Council on Compensation Insurance have decided against a plan to consolidate the two organizations.

The decision is based on results of an evaluation by a special committee of six insurers that found the benefits of such a merger would not outweigh the disadvantages.

The committee studied the possible benefits of merging the property/casualty industry's largest statistics-gathering and rating organizations. The insurers did not identify potential savings a consolidation would generate.

Financial services

Financial Services Intermediaries Inc., a wholesale marketer of financial insurance coverages, has been formed in Atlanta.

The new firm will act as an intermediary for independent agents that offer financial insurance coverages for banks, savings and loan associations and other financial institutions.

Executive Vp Jamie R. Anthony Jr. said Financial Services will have access to markets that provide financial guarantee and credit enhancement coverages, general partnership liability, residual value guarantees for leasing operations, lease non-appropriation guarantees and depositors' coverages.

Financial Services is located at 230 Peachtree St. N.W., Atlanta, Ga. 30343; 404-521-0160.

HMO stock sold

HealthAmerica Corp. has completed a previously announced agreement to acquire a 40% interest in MetroHealth Inc., an Indianapolis health maintenance organization.

The rest of the HMO's stock will be distributed to employees and physicians associated with the plan as part of MetroHealth's conversion to a profit-making status.

MetroHealth operates six medical centers in the Indianapolis area. HealthAmerica operates HMOs in 29 markets in 18 states.

New offices

The new address of the **Dowa Fire & Marine Insurance Co. Ltd.** is C/O Royal Insurance, 150 William St., New York, N.Y. 10038; 212-553-3000.

Independent insurance broker **Chas. E. Rue & Son Inc.** has relocated its company headquarters to 3812 Quakerbridge Road, Trenton, N.J., 08619-0006; 609-586-7474.

Towers, Perrin, Forster & Crosby has relocated its New York Consulting Office, U.S. International Consulting Office and Corporate Group to 245 Park Ave., New York, N.Y. 01067; 212-309-3400.

Mergers/acquisitions

The W.S. Vogel Agency Inc. in East Orange, N.J. has acquired the health claims administration division of **First Consulting & Administration Inc.** in Kansas City, Mo. The division will be renamed **Central Benefit Systems Inc.**

The Wyatt Co. has acquired **Stone, Young & Co.**, an actuarial and pension consulting firm in Upper Montclair, N.J.

Consolidated Group Inc. of Framingham, Mass., a third-party administrator of health and employee benefit plans for small businesses, has acquired **Planned Employee Programs Inc.** of Bala-Cynwyd, Penn. ■

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Berkeley will cover 'domestic partners'

Existing health care benefits for employees of the city of Berkeley, Calif., will be expanded to cover "sole domestic partners."

The expanded coverage will apply regardless of whether the employee and his or her partner are married or are of the opposite sex.

Nancy Bellard, assistant to the city manager/risk manager, said dental coverage for the 1,300 employees will be expanded first, on March 1. Expanded medical coverage will follow "shortly thereafter," she said. "We hope to have enrollment done by the end of (June)."

Under the expanded plans, an unmarried employee and his or her partner must sign affidavits that they've lived together for at least six months as each other's "sole domestic partner" to get coverage.

If they qualify, the domestic partner will receive health care benefits identical to those of the spouse of a married employee.

Ms. Bellard said the City Council voted in December to expand the coverage, after a July recommendation by the city's Human Relations & Welfare Commission (*BI*, Sept. 24, 1984).

"There's been quite a bit of lobbying on behalf of the gay community," Ms. Bellard said, adding that the council's decision was "in response to (this) lobbying."

The city self-insures its medical and dental plans.

Hall ups health costs

Broker Frank B. Hall & Co. Inc. is among those companies that ask employees to pay a larger chunk of their health care bills.

benefit beat

The New York-based broker's current health care plan requires its 3,500 salaried employees to contribute more toward their premiums pay larger deductibles and accept higher out-of-pocket maximums.

The changes, which became effective last year, require employees to pay 15% of their health care premiums. Previously, employees' premium contributions were based on their salary and level of coverage.

Lisa Saxonmeyer personnel and benefits administrator, said the current requirement means a larger premium bill for all employees.

Employees are required to contribute $10.44 each bi-weekly pay period to the premium.

However, under the former plan only employees who made $15,000 or more and had dependents made a premium contribution, which was $6.92 each pay period.

Under the current plan, deductibles also were increased to $200 per person with a maximum deductible for family coverage of $600. Previously, the deductible was $100 per person with a $300 family limit.

And, the maximum amount employees are required to pay for health care in a given year has increased under the current plan. Depending on salary, the out-of-pocket maximum is $1,000 to $5,000 a year. Under the old plan out-of-pocket expenses could not exceed $750 for individual coverage and $1,500 for family coverage.

The current, comprehensive plan also applies the deductibles, co-payment levels and out-of-pocket maximums to hospitalization charges. Under the old plan, all hospitalization charges were paid on a first-dollar basis.

The current plan however, eliminates the $1 million cap on lifetime health care benefits. An unlimited lifetime maximum now exists.

In addition, Hall has added incentives for employees to use cost-containment measures. Employees who get second surgical opinions or have preadmission testing or outpatient surgery are reimbursed on a first-dollar basis rather than the normal 20% co-payment level.

Connecticut General Life Insurance Co. underwrites Hall's health care coverage.

AMF plan termination

AMF Inc. in White Plains, N.Y., expects to generate about $100,000 from the termination of its defined benefit pension plan. It is not immediately replacing the plan.

The industrial and leisure products company terminated the plan on Dec. 31, 1984. Candace Cox, senior financial analyst, said the plan had assets of $193 million at year-end and was overfunded by approximately $100,000.

Bryan Nazario benefits systems specialist, said the surplus resulted from "generous contributions by the company and favorable investments.' He said the money generated by the plan termination will be used for acquisitions and "general corporate purposes."

Instead of replacing the plan, those already covered by the plan will be credited with an extra year of service for the purpose of calculating their accrued benefits, Mr. Nazario said.

"We are essentially giving anyone covered by the plan an extra year of benefits in 1985," he said. "But there will be no pension plan in effect in 1985."

The company has not decided whether employees who are eligible to join the plan in 1985 and new employees will receive a similar "credit year" when a new plan is instituted in 1986.

"They will be considered in some fashion under the new plan," Mr. Nazario said.

And, the company has not decided what form the new pension plan will take.

"It could be anything," Mr. Nazario said. "We're talking about all the possibilities right now. It could be a defined benefit plan, a defined contribution plan or a combination of both. A lot has to to do with pending legislation in Congress."

Mr. Nazario said the terminated plan had about 5,000 active employees and an additional 3,000 retirees or employees separated from service with deferred benefits.

AMF is preparing to negotiate with insurance companies to purchase annuities to cover benefits accrued under the terminated pension plan, Mr. Nazario said.

Blues offer refund

Blue Cross/Blue Shield of Michigan will refund $171 million to 600 of its group members who significantly reduced their health care utilization in 1984.

According to a spokesman, about 70% of the the plan's groups will receive a refund. The groups may take the refund in cash or in reduced premiums when they renew their contracts.

The refund program, called the hospital utilization reduction program, was started July 1, 1983, when the insurer announced it would share any significant health care cost savings with group members who could demonstrate they contributed to the savings.

The spokesman said that neither specific amounts of the refunds nor the companies to receive them have been determined.

The spokesman said the number of physician services per plan member declined 1.5% in 1984, compared with increases of approximately 6% in 1983, 10% in 1982 and 13.8% in 1981.

In addition, hospital inpatient payments per member rose 3% in 1984, compared with an 11.5% average increase over the past six years.

According to the spokesman, cost-containment efforts, such as same-day surgery and mandatory second surgical opinions, contributed to the decline in costs.

"There's no way yet to statistically determine exactly what caused (the cost reductions), but those are two programs we started in 1983 that we think have contributed to the decline," he said.

•

Benefit beat keeps insurance and employee benefit managers informed on what other companies are doing and of current developments in the employee benefit field. We'd like to know if you've made any changes. Write Diane Kastiel, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611; 312-649-5393.

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COST-CONTAINMENT AUDIT

Ailing health care plan may need exploratory surgery

By Richard H. Wille

WHEN A health care plan is losing its lifeblood—money—major exploratory surgery in the form of a cost-containment audit may be necessary.

A benefits manager should be aware of the warning signs that indicate an audit of the claims administrator should be considered. Here are a few "red flags" that frequently indicate that a claim review would yield cost-control opportunities for a group insurance plan:

- A dramatic rise in total claims paid, for no apparent reason.
- Large claims are paid with no evidence of case management or ongoing review.
- Many credits, refunds or recoveries listed on claim payment summaries, indicating that claims had been paid without thorough investigation.
- Coordination of benefits savings are unreported or consistently fall below 6% of total paid claims.
- Continuing complaints from employees regarding poor service, which may take the form of lack of responsiveness or cooperation on the part of claims adjusters.

A cost-containment audit not only will identify current areas of excess spending but also will substantiate *why* abuses have occurred and provide alternative solutions.

As such, the audit provides management with an analysis of how benefit claims are being processed; where and why plan administrators made outright errors or failed to interpret plan provisions correctly; how the operation can streamline plan design and administrative procedures—both manual and automated; what the organization can do—now and later—to manage spending; and how much financial control a fiduciary should have under the Employee Retirement Income Security Act of 1974.

A thorough claims audit involves three basic steps:

- Review and analysis of administrative procedures, systems and plan data.
- Audit of specific claims.
- Analysis and a plan for corrective action.

In the first step, the administrator's policies, procedures, systems and management information, as well as a sampling of claims, are evaluated.

Some of the areas that should be examined in this step include information and reports provided by the administrator, the claims administrator's policies and procedures, the claims department's organization and staffing, reference materials and documentation.

In this step, the audit also should examine draft/check security, premium administration, controls on eligibility verification, and controls and policy on claims exceptions.

In Step 2, the actual claim audit, there are two basic steps. First, a structured random sample of claims is selected.

Then, the claims are reviewed individually, according to strict and consistent guidelines. The areas that should be examined in each claim are the accuracy and completeness of claim documents; eligibility verification; exceptions to plan provisions; coordination of benefits; payment calculations; turnaround time; cost-containment opportunities; and enforcement of plan provisions, such as limitations and exclusions and second surgical opinions.

In the third step, the auditor prepares a report for the employer, detailing individual claim results as well as the operational conclusions. Recommendations and corrective procedures are summarized in this extensive report.

Illustration: Roger Schillerstrom

This report—which outlines how management will control health care expenses during the next three to five years—represents an essential element of any self-insured or insured benefit program cost review.

Indeed, it serves as a statement of the organization's goals and future objectives in the crucial area of benefits and human resources.

Additionally, the report can include specific procedures on cost containment in such areas as second surgical opinions, weekend admissions and subrogation.

An audit of this type can be conducted either in-house or by an outside auditor. The average cost of a claims audit conducted by an outside auditor depends upon the sample size desired. It has been our experience that a typical audit costs from $10,000 to $25,000.

In comparing this to the cost of an internal audit, one must take into account personnel staff hours and their attendant costs.

On the surface, it may appear that an internal audit is far less expensive. However, before deciding, the company must analyze the degree of experience an internal audit group possesses in reviewing medical claims. It also must weigh the cost of the audit against how thorough the outcome will be.

In our experience, claim audit results vary from one administrator to another. Cost-containment audit results can be exemplified by the following short case studies. These represent actual companies and their experience as a result of performing a cost-containment audit.

• Case Number One

The employer's medical plan was insured under a minimum premium arrangement. Due to adverse claim experience and increasing premium requests, the employer terminated this contract and requested an audit.

The audit established that the claim-payment system was improperly programmed, resulting in errors for the past 2½ years covering certain kinds of diagnoses and services.

The outcome is still pending, but it is expected that a $115,000 retro-premium request will be written off or a settlement negotiated.

• Case Number Two

The employer requested an audit due to a large post-cancellation billing. Potential discrepancies of $85,400—25% of the claim dollars audited—were found.

Furthermore, as a result of the audit, the administrator agreed to void the $120,000 post-cancellation bill.

• Case Number Three

The employer had experienced a dramatic rise in health-care plan costs. A 4% error—$17,900—was found and paid back to the employer by the administrator. An additional $27,800 in claim payments were noted as discrepancies and are pending further investigation.

In addition, many cost-containment opportunities were noted and recommended to the employer, which has decided to perform an annual claim review as a necessary component of its cost-containment efforts.

In general, there are some areas in which audits frequently find problems, and corrective action in these areas can result in significant claim savings.

Some of the commonly found errors occur in the following general categories:

- Coordination of benefits not properly pursued.
- Pre-existing conditions not investigated and/or enforced.
- Eligibility verification not performed correctly.
- Clerical errors.
- System programming errors.
- Payments for exclusions and limitations.
- Failure to control major health care costs cases by suggesting alternative treatment.

By asking yourself and your claims administrator some of the questions outlined above, you can get a good idea of whether you need to audit your medical administrator.

Through careful planning, audit results can yield not only immediate gains in terms of error recovery, but also long-range savings through benefit plan changes and cost-containment strategies for the future. ■

Richard H. Wille is executive vp of Thomas L. Jacobs & Associates Inc., a Chicago-based benefits consulting firm.

Manage the risk of any business decision

By The Insurance Institute of America

The following question and answer is drawn from the curriculum for the Associate in Risk Management (A.R.M.) designation awarded by the Insurance Institute of America. It is representative of the type of question asked on any one of the three examinations for the Associate in Risk Management designation. This question and answer highlight the significance of risk management considerations in business decisions. Risk management professional must be prepared to describe the risk management implication of alternative choices. Note that this question does not call for risk management decisions, only for considerations or factors involved in making decisions.

Q The new owners of a private, for-profit boys' preparatory school are considering several changes in the school's operations. What risk control and risk financing considerations, if any, should these owners weigh in deciding:

- Whether to continue leasing or to purchase from the telephone company or other supplier the 500 telephones and related equipment in the school's buildings, including its dormitories.
- Whether to provide, and encourage employees to use, exercise equipment in a special gym room reserved for employees.
- Whether to replace with the school's employees the independent contractor who has been operating the on-campus cafeteria for the students, employees and their guests.

The sample questions and answers used in this column are taken from the Associate in Risk Management designation curriculum of the IIA. For more information on the content of the A.R.M. program, write Dr. G.L. Head, Vp, Insurance Institute of America, P.O. Box 314, Malvern, Pa. 19355.

A.R.M exercises

A

- The risk control considerations in any business decision all relate to how each of the alternatives being weighed would affect the frequency and/or severity of the accidental losses the organization can expect to suffer. With respect to the possible purchase of telephone equipment, these risk control factors probably would include the susceptibility to damage of purchased phones vs. that of the leased telephones; whether the purchased phones would be as safe—in terms of fire, electric shock or toxicity hazards—as the leased phones; the comparative reliability of the purchased phones to provide service without need for constant repair; and the allocation of responsibility among the school, the phone manufacturer and the installer for any injury, property damage or other losses that may occur during installation.

The risk financing considerations involved in any business decision focus on how the choice among the alternatives being evaluated would affect the organization's cost of paying to restore those losses that do occur. Logically, therefore, risk financing considerations should come after risk control factors. Among the risk financing considerations involved in the lease/purchase decision for the telephones are the responsibility for the repair of the phones; the value/replacement cost of the telephones and related equipment; and whether using purchased, as opposed to leased, telephones would significantly increase the school's costs of maintenance or paying for losses, whether insured or retained.

- Some of the risk control factors that should be weighed in deciding whether to establish an employee gym are whether giving employees this opportunity for exercise would improve their overall health, thus lowering employee benefit costs, or whether it would increase the frequency of gym-related injuries, thus raising workers compensation costs. The potential for gym injuries to employees, as well as to unauthorized members of the public who may occasionally gain access to the gym, should lead the school to consider the costs and benefits of loss control devices for protecting gym users from injury and for controlling access to the gym.

With respect to risk financing, providing an employee gym is likely to affect the school's overall operating costs, such as for maintenance of the gym and supervision of its use. Insurance costs or the costs of retaining losses, both for workers compensation and public liability claims, may increase or decrease depending on whether the gym improves employees' health or results in many compensable injuries. The significance of the gym's potential effects on overall risk financing costs needs to be assessed.

- Assigning its own employees to the cafeteria may increase or decrease the school's ability to control particular loss exposures, including the wholesomeness of food (and the resulting workers compensation and product liability hazards), potential injury-causing conditions in the cafeteria that may threaten both employees and the public, and the security of the property in the cafeteria or property elsewhere on the premises to which the public may gain access through the cafeteria.

Like providing an employee gym, operating the cafeteria with the school's own employees is likely to affect both its operating costs, for cafeteria maintenance and supervision, and its loss-financing costs, whether through insurance or retention of, for example, the school's product liability, premises liability or workers compensation claims.

Furthermore, if the school chooses to operate the cafeteria itself, it loses its ability to transfer to the independent contractor many of the loss exposures associated with operating the cafeteria. ■

'First calendar month' means an entire named month: Court

legal briefs

"First calendar month" in a group life insurance policy meant a named month, not the time from the day of one month to the corresponding day of another, a Washington appellate court ruled.

Michael Nordean went to work for the Boeing Co. on Aug. 17, 1979, and joined a group life insurance plan issued by Life Insurance Co. of North America. The policy also covered his wife. The policy specifically provided that coverage began "on the first full day of the month following the first full calendar month of continuous employment."

Mr. Nordean's wife was killed in an automobile accident on Sept. 29, 1979. His claim for death benefits was denied. Mr. Nordean sued but lost in the trial court.

At issue in the appeal was whether Mr. Nordean's "first full calendar month" of employment began Aug. 17 or on Sept. 1. If the latter, the policy was not in force until Oct. 1—two days after his wife's death.

The appellate court said that in "common parlance and as used in the context of this group policy, 'the first full calendar month,' containing as it does that definite article 'the,' means a named month in the Gregorian calendar."

Thus, the court concluded Mr. Nordean completed his first full calendar month of continuous employment on Oct. 1, 1979, and coverage was lacking. *Nordean vs. Life Insurance Co. of North America*, Court of Appeals of Washington, March 19, 1984 (*BI*/03/F.-$5)

Bathtub injuries compensable

Injuries sustained in fall in a hotel bathtub while an employee was out of town at the direction of her employer were compensable under a ruling of the Court of Appeals of New York.

Nelida Capizzi was employed by Southern District Reporters Inc. as a transcriber-typist. She was sent to Toronto to transcribe notes of the minutes of depositions. The hearings were suspended Dec. 30 because of the New Year's holiday.

The following morning, Ms. Capizzi slipped and fell as she stepped into the hotel bathtub to take a shower before returning to New York. She filed a claim for benefits. While the Workers' Compensation Board allowed benefits, the lower court reversed.

The state high court said that since Ms. Capizzi was required to work and stay away from home, was in a new environment, creating a greater risk of injury, and was engaged in a reasonable activity attendant to, although not directly related to, her employment, the accident was compensable. *Capizzi v. Southern District Reporters Inc.*, Court of Appeals of New York, Jan. 17, 1984 (*BI*/05/F.-$5) ■

These abstracts were prepared by Cases Unlimited Inc. A copy of an entire decision may be obtained by sending a check for $5 made out to Cases Unlimited to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. List the number for each opinion.

Book on hazardous substances is not meant for the lay reader

"Management of Hazardous Occupational Environments"
By Paul N. Cheremisinoff
TECHNOMIC Publishing Co. Inc., 851 New Holland Ave., Box 3535, Lancaster, Pa. 17604
202 pages softcover, $24.95

By Alison Kittrell

books & ideas

THIS TECHNICAL book is apt to leave the lay reader behind.

But, people concerned with safety or loss control in an environment that includes work with a wide variety of hazardous materials, may find it a valuable resource.

The first chapter, "Defining the Hazard," discusses how to determine what kind of hazardous materials may be in a specific work environment. The author says that "Most work environments have either actual or potential hazards that require recognition, identification, measurement, and monitoring."

The author then outlines steps for determining what those actual or potential hazards are. He says that any attempt to define the hazard must include a study of raw materials used, how the materials are handled and modified through their processing stages, evaluation of the finished product, and conditions that exist during the manufacturing operation.

The steps are discussed in great detail and from the viewpoint of a number of industries, and a variety of charts and tables are included.

In the second chapter, "Evaluating the Hazard," the author says, "*Toxicity* of a substance is not synonymous with *hazard* represented."

In other words, whether a toxic substance represents a significant hazard depends on other factors, including the length and time of a worker's exposure and the level at which a particular substance produces an adverse reaction.

The chapter includes details of various measurements of toxicity and the attendant hazard, and it ends with an extensive bibliography.

The remaining chapters cover specific areas of workplace hazards: air sampling and monitoring, noise, biological and infectious hazards, methods of scientific analysis of hazards, compressed gases and flammable liquids, respiratory protection, and the recordkeeping requirements of various government agencies.

The book is beyond the expertise—and the interest—of many readers. But, it is, as the jacket says, a "reference manual" for those who "require a working knowledge of industrial safety."

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IBM sets up child-care referral network

By MARGARET LeROUX

ARMONK, N.Y.—Employees of International Business Machines Corp. can tap a national network of day-care referral services to decide who will care for their children.

The network of more than 200 child-care referral services is the result of a contract between IBM and Work/Family Directions, a Boston day-care consulting firm. IBM workers throughout the United States and in Puerto Rico and the U.S. Virgin Islands have been able to use the service since July 1984.

Other employers can arrange with Work/Family Directions so that their employees have access to the network.

According to Work/Family Directions Director Gwen Morgan, the referral services provided to IBM employees are more comprehensive than many other child-care referral services, which just provide parents with lists of possible child-care providers. IBM employees get the names of child-care providers that meet their specific needs and that have current openings.

"IBM wanted to provide more than just an information retrieval service," Ms. Morgan said. "When an IBM parent calls, the child-care referral service gives them available child care, meaning referrals are homes or day-care centers that currently have vacancies." Also, she said, IBM employees can specify the type of child care they need.

Ms. Morgan estimated that about 5% of IBM's 220,000 U.S. employees —or 11,000—will use the child-care referral service during its first year. IBM employees can use the referral network for free, but the company does not pay any of the employees' actual child-care costs.

In areas where child-care referral services were inadequate or non-existent, IBM, through Work/Family Directions, helped local agencies or individuals set up referral services.

"In one community where there is a moderate number of IBM employees, not only were there no referral services, there was no licensed child care available," Ms. Morgan said.

The consulting firm located and hired "a woman at the local college who has a background in child development and a lot of energy. She recruited home day-care providers and is working with them to get them licensed. She's also starting a new day-care center and has developed an after-school program."

In another community where the quality of day care was poor by IBM standards, the spouse of an IBM employee was hired to work with a local United Way agency to elevate the level of care, Ms. Morgan said.

Where adequate referral services already existed, IBM arranged for its employees to have free access to those services.

"IBM wanted to buy child-care referral services for its employees from agencies that are serving other companies and the local community as well," Ms. Morgan said.

"If the agency can't help the employee with referrals at the time the call is made, every effort is made to help them find day-care arrangements as soon as possible," Ms. Morgan said.

After contacting the child-care referral service, IBM employees receive written confirmation of the names of potential child-care providers.

"About six weeks after the referral, we contact the employee again to see if the child-care arrangement is satisfactory," said William G. Stopper, director of employee services at IBM.

IBM and Work/Family Directions don't guarantee the quality of the care found through the referral service, but they work with parents to help them evaluate their child-care options.

A child-care handbook written by Work/Family Directions is given to IBM parents who use the referral service to help them decide what kind of care they need for their child, where they want the care located and how much they are willing to pay.

And, IBM has developed a computer software package for agencies that are part of the network.

"The package is designed to help agencies assemble their data base and keep track of providers," Mr. Stopper said. IBM is offering the software package for free to non-profit referral services that are members of the network.

Mr. Stopper also said that, in the six months the child-care benefit has been in use, the company has discovered some trends about the child-care needs of its employees.

"We've learned that infant care is in short supply; we've had a high number of requests for it," he said. "We've also learned that a majority of IBM employees prefer that their children be cared for near their homes rather than near work."

IBM won't release the cost of setting up the referral network, Mr. Stopper said.

IBM informed its employees of the child-care referral services benefit by mailing a brochure to employees. Notices also were posted on bulletin boards throughout the company. ■

Firm helps workers pay for day care

By MARGARET LeROUX

ORLANDO, Fla.—North Lake Foods, an Orlando-based hotel and restaurant owner, is paying a portion of its employees' child-care costs, in addition to providing them with free child-care referral services.

Since May 1984, the company has paid 25% of the child-care expenses of full-time employees and 15% of the cost for part-time employees at several of its locations. The company plans to provide the benefit to its entire workforce of more than 4,000 full- and part-time employees at its chain of Waffle House restaurants, Holiday Inns and Marriott hotels in Florida, Atlanta and Richmond, Va.

No target date has been set for extending the benefit company-wide, said Gaye Boyd, vp of organizational development for North Lake.

The benefit is being introduced on a regional basis. In May 1984, it was offered to employees in Orlando, Jacksonville and Fort Pierce, Fla. North Lake expanded the benefit offering to Atlanta employees last July and to employees in Tampa Bay, Fla., in February.

Currently, about 20% of the 1,200 employees to whom the benefit is being offered are taking advantage of it, Ms. Boyd said.

And, she said, the company estimates the cost of offering the day-care benefit to those employees will be "between $1,000 and $1.500 per month by the end of 1985."

The day-care benefit "really did grow out of concern for our employees," she said. "Our restaurants are open 24 hours, and the first shift of waitresses comes on at 5:30 a.m. It's a real problem for some of them to find someone to take care of their kids at that hour."

In meeting with employees interested in the benefit, most of whom were working mothers, "we stressed that we recognize the importance of their roles as parents," Ms. Boyd said. "To be a good employee, you have to be free of worries about your kids."

The company worked with Community Coordinated Child Care for Central Florida in Orlando to set up the referral service and administer the payment of North Lake's share of the care expenses. North Lake pays Community Coordinated Child Care an administrative fee of 10% of the child-care payments Community Coordinated administers for North Lake employees.

Community Coordinated Child Care for Central Florida also is a member of the nationwide network of child-care referral services set up recently by International Business Machines Corp. (see related story).

"If employees needed day care, the agency gave them three referrals," Ms. Boyd said.

The agency also helped employees evaluate day-care arrangements, coaching them on what to look for.

In Atlanta, North Lake works through the Save the Children agency, another member of the IBM network. That agency charges North Lake a one-time referral fee of $15 per employee and an administrative fee of 20% of the day-care payments it handles for North Lake employees.

The company receives monthly reports from the child-care referral agencies.

A child-care benefit like North Lake's for both full-time and part-time employees "is unheard of in the hotel and restaurant industries," Ms. Boyd said. "It's helping us recruit new employees and keep them once they're employed.

"Of all the benefits we provide, the day-care benefit is at the top of the list as far as most employees are concerned," she said. ■

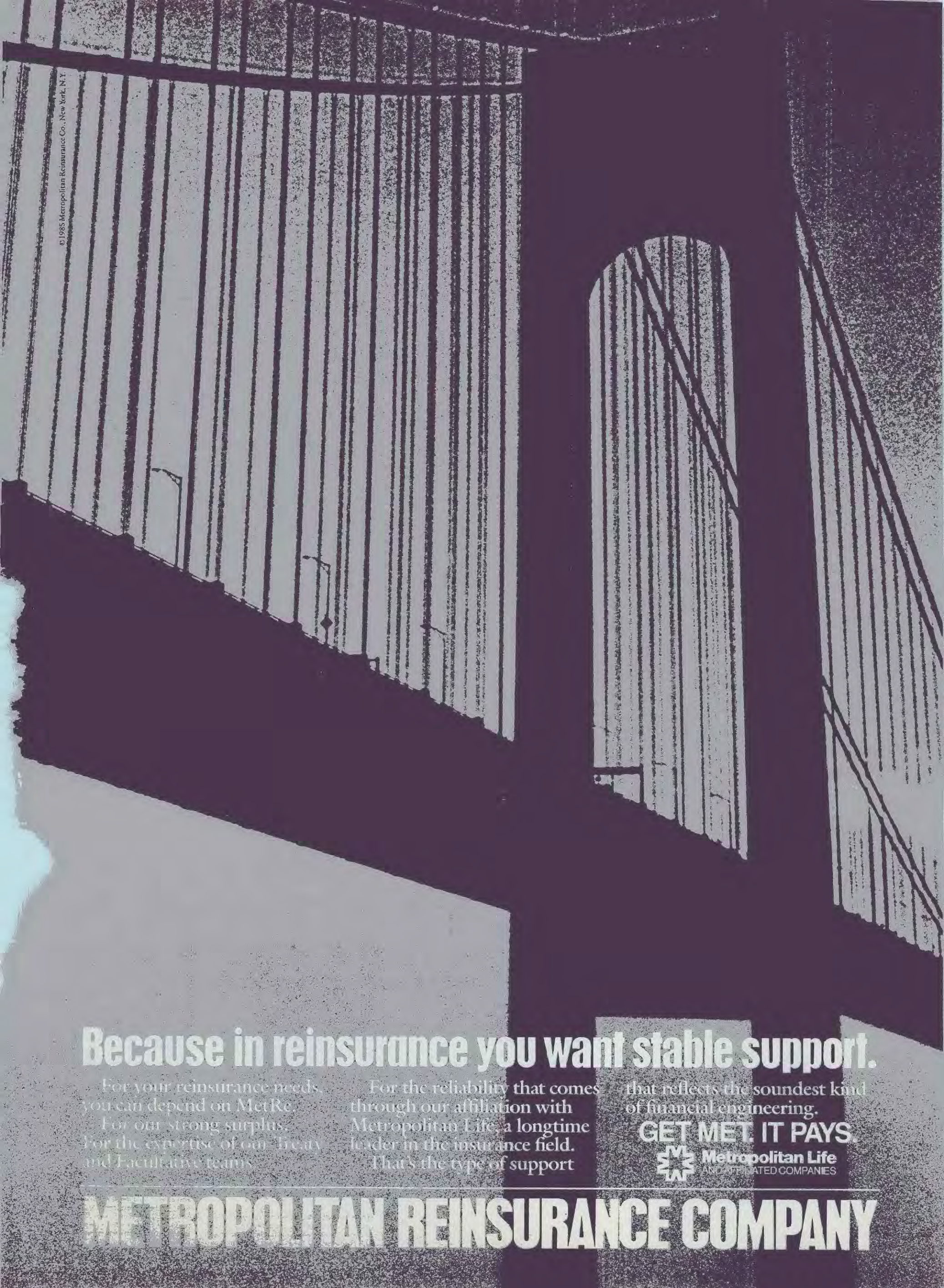
College of Insurance offers seminars

NEW YORK—The College of Insurance is offering "Quantitative Techniques for Risk Management" seminar three times in 1985.

The two-day seminar will be offered March 28-29 at the college, One Insurance Plaza, 101 Murray St., New York. It also will be presented June 6-7 in Chicago and Oct. 3-4 at the college.

The seminar covers establishing proper retention levels and the underwriting of various cash flow plans. It is designed for individuals without in-depth mathematics backgrounds who need to make quantitative decisions.

The fee for the seminar and study materials is $495 for participants from organizations that sponsor the college and $535 for others. For more information on this or other college programs, contact the Professional Development Programs Division, the College of Insurance, One Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111. ■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Argonaut names Webster to top executive position

James E. Webster, 52, is the new president and chief executive officer of Argonaut Insurance Co. in Menlo Park, Calif., replacing **Lawrence Baker**, who moved up to the corporate staff of Argonaut's parent company, Teledyne Inc. in Los Angeles.

Mr. Baker served almost 10 years as president of Argonaut, which specializes in workers compensation underwriting.

Mr. Webster was with Crum & Forster Inc.'s Industrial Indemnity Co. in San Francisco for 25 years, most recently as senior vp of operations.

Coincidently, one of the founders of Argonaut, Harold Hatch, also worked for Industrial Indemnity just prior to starting Argonaut in 1948.

Other insurer changes:

John J. Mackowski elected chairman and chief executive officer of The Atlantic Cos. in New York. Mr. Mackowski, who joined Atlantic in 1951, has been president of Atlantic since 1976, and a member of the board. Also at Atlantic, **Edward K. Trowbridge** elected president and chief operating officer, effective April 1. **Harold A. Eckmann,** chairman since 1976, will retire as of March 31.

comings & goings: industry

Three vps elected at Westchester Fire Insurance Co.in Basking Ridge, N.J., a subsidiary of U.S. Insurance Group, a Crum and Forster unit: **Effret M. Clayton**, Charlotte, N.C., region; **Donna M. Hentges**, Minneapolis region; and **Larry G. Simmons**, Orlando, Fla., region.

James P. White promoted to senior vp-corporate insurance, at St. Paul Fire & Marine Insurance Co. He had been vp-reinsurance.

Bruce W. Hayden appointed regional vp for Continental Insurance Corp. in New York. He will be responsible for Continental's direct operations in Europe and the Middle East and will be based at Continental's London office. Also at Continental, **Arie Groenendyk**, of Continental's London operations, appointed regional general manager for Southeast Asia for the Lombard Insurance Group, Hong Kong, in which Continental has a 60% interest. Mr. Groenendyk replaces **Michael Lamb**, who will assume a senior position in Continental's regional operations.

Paul A. Finkel named corporate senior vp-operational planning at Reliance Insurance Co. in Philadelphia. He had been a vp.

Agents/brokers

George W. Ferguson appointed senior vp of Reed Stenhouse Inc. of Massachusetts, Boston. Before joining Reed Stenhouse, he was senior vp of Frank B. Hall & Co. And, **Richard A. Glasgow** appointed senior vp of Reed Stenhouse Inc. of Minnesota, Minneapolis. Mr. Glasgow joined Reed Stenhouse in 1981.

Elliot S. Tremaine named chairman of the board at Bayly, Martin & Fay of Washington Inc., Seattle. Also, **Anthony H. Cowan** elected president and chief executive officer.

Leonard W. Anderson elected president and chief executive officer of The Rockwood Co., Chicago. Also at Rockwood, **Lawrence W. Zonsius** named chairman.

Reinsurance

Wesley G. Dobson promoted to vp and Los Angeles branch manager of RFC Intermediaries Inc. Mr. Dobson joined RFC in 1978.

Thomas G. Butler elected executive vp of Dar Allen Reinsurance Agency Inc. in Freeport, Ill. Mr. Butler will continue to be the underwriting officer of Dar Allen's property and treaty operations.

Other suppliers

Weldon O. Yeager, president of Yeager and Co. Inc./Self-Insurance Administrators, Southfield, Mich., becomes board chairman and chief executive officer. Also, **Darrell D. Jarvis**, executive vp, named president and chief operating officer. ■

datebook

MARCH 12-13. Multinationals—Unmanageable Risk conference in London, sponsored by City Financial; $487.50, plus 15% value-added tax. Registrar, City Financial, Seventh Floor, Africa House, 64-68 Kingsway, London WC2B 6BD; 01-831-7010.

MARCH 13. Workers Compensation Basics conference in Chicago, sponsored by Illinois State Chamber of Commerce; $80 for members; $120, non-members. Carol Jensen, CBM, 20 N. Wacker Dr. Suite 1960, Chicago, Ill. 60606; 312-372-7373.

MARCH 13-15. Captives in Transition: International Captive Insurance and Reinsurance forum in Bermuda, sponsored by Risk Planning Group Inc.; $700; $625 for subsequent registrants from same company. Director of Conferences, Risk Planning Group, Inc., 722 Post Road, Darien, Conn. 06820; 203-655-9791.

MARCH 13-15. Techniques of Risk Management course in Atlanta, sponsored by the Risk & Insurance Management Society; $445 for members; $545, non-members. Fran Jordan, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

MARCH 14. Insurance Day program in Montreal, Quebec, sponsored by the Quebec Risk & Insurance Management Assn.; $60. Suzan Ness, chairman, QRIMA Program Committee, Dominion Textile Inc., 1950 Sherbrooke St. West, Montreal, Quebec H3H 1E7; 514-989-6297.

MARCH 14-15. Ansul Fire School's basic training sessions in Beaumont, Texas, sponsored by Ansul Fire Protection, $450. Also on **March 18-19** in Beaumont. Contact Sara Lambrecht, Ansul Fire Protection, One Stanton St., Marinette, Wis. 54143.

MARCH 14-15. Current Developments in Bankruptcy and Reorganization conference in Chicago, sponsored by the Practising Law Institute; $360. Also **April 11-12** in San Francisco. Registrar, PLI, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

MARCH 14-15. How to Audit & Check Insurance Policy Costs & Coverages course in Chicago, sponsored by the American Management Assns.; $620 for members; $715 for non-members. Also **March 28-29** in Boston. Registrar, AMA, P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

MARCH 16-18. Occupational Hearing Conservation Certification course in Los Angeles, offered by the University of Southern California; $375. USC, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, Los Angeles, Calif. 90089-0021; 213-743-6523/6524.

MARCH 17-22. Assets Protection Course 1—Concepts and Methods in New Orleans, sponsored by The American Society for Industrial Security; $690 for ASIS members; $750 for non-members. Registrar, 1655 N. Fort Myer Drive, Suite 1200, Arlington, Va. 22209; 703-522-5800.

MARCH 18. The Graying of the Corporate Health Dollar: The Post-Retirement Benefit Dilemma conference in Denver, sponsored by the Washington Business Group on Health and the Western Gerontological Society; $150. Martha Holstein, Washington Business Group on Health, 922 Pennsylvania Ave. S.E., Washington, D.C. 20003; 202-547-6644.

MARCH 18-20. Fundamentals of Employee Benefits conference in Atlanta, sponsored by the American Management Assns.; $695 for members; $800 for non-members. Registrar, AMA, 135 W. 50th St., New York, N.Y. 10020; 212-903-8177.

MARCH 18-22. Fundamentals of Industrial Hygiene Monitoring course in Long Grove, Ill., sponsored by the National Loss Control Service Corp.; $500; 10% discount for two or more registrants from same company. Also **May 6-10, Sept. 9-13 and Nov. 11-15** in Long Grove. John Garis, NATLSCO, Long Grove, Ill. 60049; 312-540-2026.

MARCH 19. Directors and Officers Liability workshop in Atlanta, sponsored by The Society of Chartered Property and Casualty Underwriters; $80 for members; $95, non-members. Coleen Mulhern, Society of CPCU, Kahler Hall, Providence Road (CB#9), Malvern, Pa. 19355; 215-251-2735.

MARCH 19-21. The Fundamentals of Reinsurance seminar in Irving, Texas, sponsored by The Reinsurance Management Institute and The Graduate School of Management, University of Dallas; $495. Bruce D. Evans, University of Dallas, Reinsurance Management Institute, International Center, University of Dallas Station, Irving, Texas 75061; 214-721-5360.

MARCH 25-27. An Advanced Course on Employee Benefits, sponsored by the American Management Assns.; $695 for members; $800 for non-members. Registrar, AMA, 135 W. 50th St., New York, N.Y. 10020; 212-903-8177.

MARCH 26. Insurer/Reinsurer Insolvency workshop in Los Angeles, sponsored by The Society of Chartered Property and Casualty Underwriters; $80, members; $95, non-members Coleen Mulhern, Society of CPCU, Kahler Hall, Providence Road (CB#9), Malvern, Pa. 19355; 215-251-2735.

MARCH 26-28. Oregon Occupational Safety & Health conference in Portland, Ore. sponsored by the Accident Prevention Division, Workers Compensation Department with the support of the Portland Chapter of the American Society of Safety Engineers (ASSE); $25. Registrar, Oregon Occupational Safety & Health Conference, P.O. Box 27, Salem, Ore. 97308; 503-378-3275.

MARCH 27-29. 1985 Petroleum Insurance Conference in New Orleans, sponsored by The Professional Development Institute and Self-Insurance Resource Inc.; $445. Joanne Paulman, Conference Manager, PDI, North Texas State University, P.O. Box 13288, NT Station, Denton, Texas 76203-13288; 817-565-2483.

MARCH 28. Environmental Impairment Liability workshop in Topeka, Kan., sponsored by The Society of Chartered Property and Casualty Underwriters; $60 for members; $75 for non-members. Also **April 30** in Spokane, Wash. Coleen Mulhern, Society of CPCU, Kahler Hall, Providence Road (CB#9), Malvern, Pa. 19355; 215-251-2735.

MARCH 28-29. Quantitative Techniques for Risk Management seminar in New York, sponsored by The College of Insurance; $495 for sponsoring paricipants; $535 for all others. Also, **June 6-7** in Chicago and **Oct. 3-4** in New York. Registrar, Professional Development Programs Division, The College of Insurance, One Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

MARCH 28-29. Discovery in Medical Malpractice, Products Liability and Personal Injury Cases seminar in San Francisco, sponsored by the Practising Law Institute; $390. Registrar, PLI, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

MARCH 28-29. Asset/Liability Management: Profitability and Risk in a Time of Change conference in Orlando, Fla., sponsored by Peat Marwick and Darling & Associates; $675. Also, **April 22-23** in Washington, **May 16-17** in New York, **June 3-4** in San Francisco, **July 22-23** in Boston. Registrar, Executive Education Department, 810 Seventh Ave., 28th Floor, New York, N.Y. 10019; 1-800-762-3932.

MARCH 29. The Computer Exposure and Risk Management Alternatives workshop in Nashua, N.H., sponsored by The Society of Chartered Property and Casualty Underwriters; $80, members; $95, non-members. Coleen Mulhern, Society of CPCU, Kahler Hall, Providence Road (CB#9), Malvern, Pa. 19355; 215-251-2735.

MARCH 31-April 3. 1985 Corporate Benefits Management conference in Orlando, Fla., sponsored by the International Foundation of Employee Benefit Plans; $500 for members; $575 for non-members. Also, **June 2-5** in Williamsburg, Va., and **Aug. 18-21** in Lake Tahoe, Nev. Registrar, IFEBP, 18700 Bluemound Road, P.O. Box 69, Brookfield, Wis., 53005-0069; 414-786-6700.

APRIL 1-5. Loss Control Management seminar in Atlanta, sponsored by the International Loss Control Institute; $695. Also, **June 10-14** in Atlanta. Registrar, ILCI, P.O. Box 345, Loganville, Ga. 30249; 1-800-554-6001, 404-466-2208.

APRIL 1-5. Ionizing and Non-Ionizing Radiation course in Los Angeles, offered by the University of Southern California; $800. USC, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, Los Angeles, Calif. 90089-0021; 213-743-6523/6524.

APRIL 3-5. Successful Retirement Planning Programs workshop in Boston, sponsored by Retirement Advisors Inc.; $450. Also, **April 24-26** in San Francisco, **June 26-28** in Chicago, **Oct. 16-18** in Kansas City, Kan., **Nov. 6-8** in New York. Registrar, 919 Third Ave., New York, N.Y.; 212-421-2400.

APRIL 9. Toxic Substances in the Workplace Disclosure conference in Chicago, sponsored by the Illinois State Chamber of Commerce; $40 for members; $60 for non-members. Also **April 11** in Springfield. Carol Jenson, ISCC, 20 N. Wacker Dr., Chicago, Ill. 60606; 312-372-7373.

APRIL 14-19. Risk & Insurance Management Society 23rd annual conference in New Orleans, sponsored by RIMS; $545 for members; $645 for non-members; reduced fees for part of the conference. RIMS, Conference Department, 205 E. 42nd St., New York, N.Y. 10017.

APRIL 15-16. Practical Management Oversight Risk Tree (MORT) seminar in Sacramento, Calif., sponsored by the International Loss Control Institute; $280. Registrar, ILCI, P.O. Box 345, Loganville, Ga. 30249; 1-800-554-6001, 404-466-2208.

APRIL 15-19. Safety in Chemical Operations course in Chicago, sponsored by the Safety Training Institute of the National Safety Council; $595 for members; $740 for non-members. Registrar, Safety Training Institute, National Safety Council, 444 N. Michigan Ave., Chicago, Ill. 60611; 312-527-4800.

APRIL 16. Surety Claims '85—New Directions in Suretyship conference in Seattle, sponsored by CMA Consulting Group; $230. Also **April 18** in Dallas, **April 30** in Hartford, Conn. Arlene Brower, Conference Coordinator, CMA Consulting Group, 170 E. Hanover Ave., Morristown, N.J. 07960; 201-267-7171.

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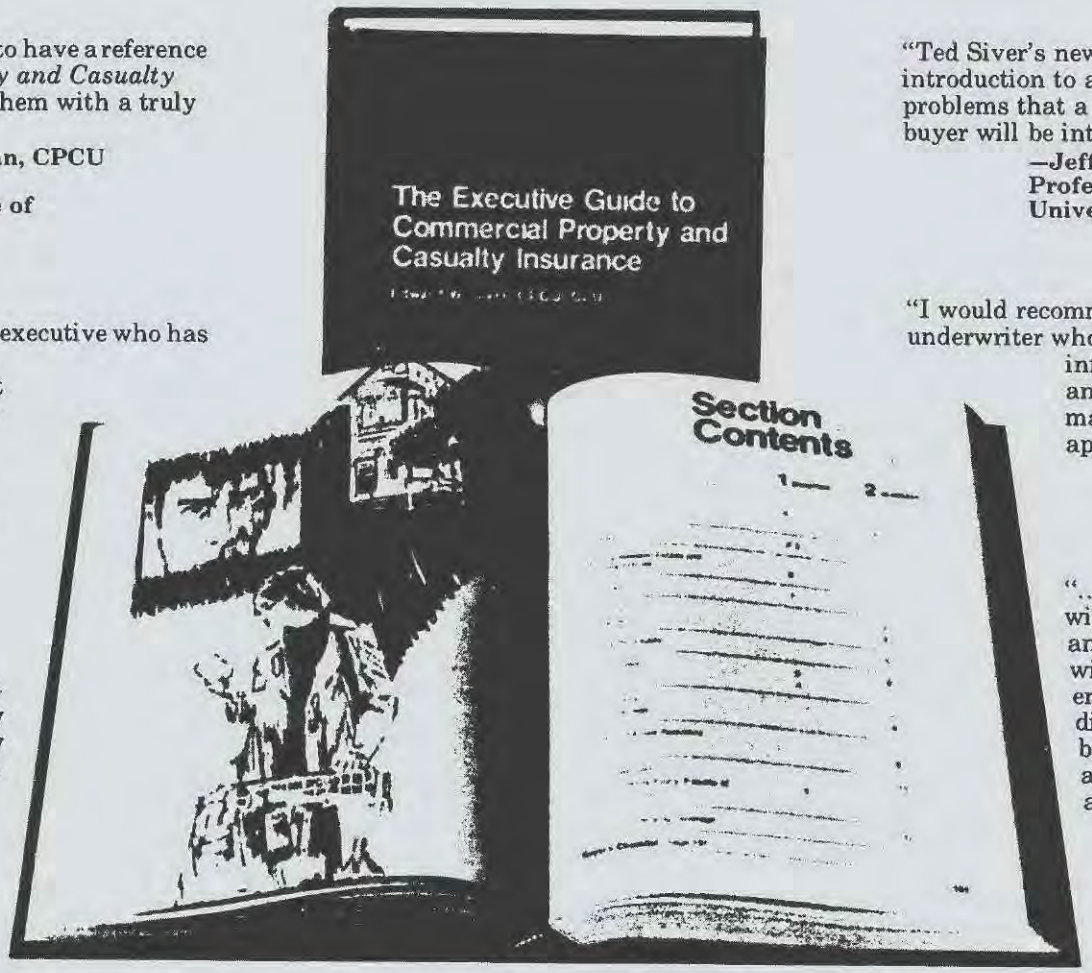

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Ted Siver, CPCU, CLU, the founding principal of E.W. Siver & Associates, has been very active in the insurance industry for over 25 years as a broker and consultant. He has contributed numerous articles to such publications as *Business Insurance, Agent & Broker,* and others.

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BI 2255

Ohio comp reform

Continued from page 1

for practically all disabilities with only limited proof of causation."

"The original tradeoffs that were part of the foundation of all state workers compensation laws over 70 years ago are gone. Ohio employers now have little defense against the system," he said.

One of the Dec. 31 opinions—*Jones et al. vs. VIP Development Co.*—is really an extension of *Blankenship vs. Cincinnati Milacron*, Mr. Obetz and others said.

In its 4-3 decision, the Supreme Court made three separate and distinct clarifications of the *Blankenship* decision.

First, it defined intentional tort as "an act committed with the intent to injure another, or committed with the belief that such injury is substantially certain to occur."

Second, it said the receipt of work comp benefits does not preclude employees or their representative from pursuing a common law action against their employer for an intentional tort.

Third, it ruled an employer that has been held liable for an intentional tort is not entitled to a setoff of the award in the amount of work comp benefits received by employees or their representative.

"This decision makes Ohio unique and puts us alone in the United States and will open up a floodgate of litigation," Mr. Obetz said.

A request by the defendants for a rehearing of the case was denied by the state Supreme Court Feb. 6.

Rehearing requests also were denied the same day for the other two workers compensation opinions handed down Dec. 31: *Village vs. General Motors Corp.* and *Caruso vs. Aluminum Co. of America.*

In *Village vs. General Motors Corp.* the court has redefined injury and occupational disease, Mr. Obetz said.

In that case, the court stressed workers who develop injuries as a result of cumulative trauma or occupational diseases are entitled to compensation if it can be proven that their ailments were caused or aggravated by their work.

The court in its 6-1 decision said: "We believe that the judicial distinction between gradual and abrupt causation is unjustified. It frustrates the purpose of the act, which is to compensate workers who are injured as a result of the requirements of their employment. . .Whether the injury was sudden or progressive is irrelevant as long as its cause is related to the injured workers's employment. . ."

Mr. Obetz believes this decision opens the door for every employee to file a workers compensation claim after retirement.

"The ruling is a great potential for problems," noted Andrew Doehrel, director of labor relations for the Ohio Chamber of Commerce in Columbus.

In the third case, *Caruso vs. Aluminum Co. of America*, the court threw out any statute of limitations for filing silicosis claims.

Since the December Supreme Court rulings, several lawsuits have been filed against employers and more are expected.

"A number of cases have been laying dormant since *Blankenship* that now we will see action on," Mr. Doehrel said.

"Reform is needed now. There must be a bipartisan legislative mandate to bring the compensation system back to a true wage-loss benefit by permitting setoffs for cumulative awards, limits on temporary and permanent total disability as well as the elimination of permanent partial disability in most cases," Mr. Obetz said.

"The Ohio Self-Insurers Assn. will devote all of its efforts to see that this mandate for change will take place. All employer associations will have to work together to realize this effort. Also, workers as well as their unions will have to understand that it is in their best interest to bring the system back into balance," he said.

Such a unified plan is foremost on the governor's mind, according to reports from the Feb. 20 powwow in his office.

"The governor has indicated that when he was in the Legislature (as a senator), all workers compensation bills were 'agreed' bills," said J. Robinson McCormick, chairman of the state's Workers' Compensation Advisory Council.

But, union leaders believe the Supreme Court decisions are untouchable, notes OMA's Mr. Krabach, adding, "Whether they (labor) are willing to bargain remains to be seen."

John Thomas, a spokesman for the Ohio AFL/CIO, said labor has not yet put together a work comp agenda for this session.

And Tom Bell, director of compensation and safety for the Ohio AFL/CIO, said labor doesn't believe the Supreme Court rulings will have any great impact.

But, Cleveland attorney J. Norman Stark, who recently filed a $140 million suit against TRW Inc. on behalf of a former employee, said the decisions are "very much needed, very just and make good common sense."

"When an employee is injured. . .because of negligence by the employer. . .(that) employee is entitled to more than a mere workers compensation token," he said.

As a result of the court decisions and legislative proposals, local Ohio RIMS chapters are meeting to formulate a lobbying effort.

Such a vocal stance is unusual for RIMS, said Robert Lane, vp and risk manager for Chemed Corp. in Cincinnati and president of the Cincinnati RIMS chapter.

"The actual court cases are quite frankly not as troublesome as S.B. 301 of last session," Mr. Lane said.

That bill, which died when the Legislature adjourned last year, included scores of new provisions and definitions in the state's work comp law (*BI*, Jan. 16, 1984).

For instance, it defined occupational disease as any disease, infirmity or condition, whether mental or physical or a new or an aggravated condition, arising out of employment. It also called for indexing permanent total benefits to the inflation rate, increasing benefits for loss of limbs and making the company physician and nurse liable for malpractice.

Employers expect a similar bill to be filed again this session.

Meanwhile, H.B. 73, which would particularly affect self-insurers of workers compensation risks and is identical to H.B. 104 that was introduced last session, was introduced Jan. 17 by Rep. Cliff Skeen, D-Akron. The bill has been referred to the House Commerce and Labor Committee, which Rep. Skeen chairs. No hearings have been set.

Proposals included in H.B. 73 include:

- Institution of an annual review of an employer's right to self-insure and the establishment of legislative guidelines and criteria for granting, renewing or revoking that privilege.
- Establishment of a Self-Insuring Employers' Surety Trust Fund, in lieu of surety by each employer, to cover defaults by self-insurers.
- An increase to 100% from 50% of the statewide average weekly wage the maximum compensation available for loss of specific body parts and an increase to $10,000 from $5,000 in the maximum award for facial disfigurement.
- The removal of the limit of 10 cents per $100 of workers compensation payroll on contributions to the Disabled Workers' Relief Fund, which is a supplemental fund.

In addition to this legislation, a report was issued last May by the Ohio Industrial Commission recommending a tightening of the security requirements for employers that want to self-insure their work comp program (*BI*, July 30, 1984). ■

Ohio employers hit with suits

TRW Inc. and The Budd Co. both have been sued by their employees in the wake of three recent Ohio Supreme Court decisions.

These rulings expand employees' rights to workers compensation and make it easier for injured workers also to sue their employers (see story, page 1).

The TRW case was brought by 52-year-old Joseph L. Finley Sr. and his wife, J. Bernice. Both seek $70 million plus legal fees.

In the suit, Mr. Finley charges the company and several unnamed corporate officials, company physicians, producers and suppliers with intentional negligence.

Mr. Finley worked since 1967 in TRW's Euclid, Ohio, plant and is a "pulmonary cripple," according to a doctor's report referred to in the lawsuit filed Jan. 30 in a Cuyahoga County Court of Common Pleas. Mr. Finley is suffering from acute lung disease, said his attorney J. Norman Stark of Cleveland.

The suit claims that Mr. Finley was exposed to lead, graphite dust and noxious fumes; that he was not given protective face masks or equipment; and that he was fired after he filed an occupational disease workers compensation claim.

Among the charges listed in the 14-count suit are statutory tort; intentional tort; intentional refusal to warn; battery; intentional infliction of severe emotional distress; fraud, misrepresentation and deceit; fraudulent concealment, medical malpractice and substandard care; failure to screen; failure to warn; strict liability in tort; negligence; retaliatory acts; and loss of consortium.

A spokesman at TRW's Cleveland headquarters said the company had no comment on suit.

Since the high court rulings, The Budd Co. of Troy, Mich., has been named in five employee suits seeking more than $50 million. Budd has five plants in Ohio.

In a statement, Jerry Purcell, president of Budd's plastics division said, "The solvents used in our plants are similar to those found in one's home or garage. While all chemicals must be handled carefully, we take extra measures with our facilities and employees to promote safety on the job. Because of the care we use in protecting the environment of our plant, we were very surprised that lawsuits have been filed against us."

The employees and former employees who filed the suits charge they are suffering from various physical ailments as a result of exposure to hazardous chemicals in the company's North Baltimore and Carey, Ohio, plants.

"The allegations of the lawsuits, which seek millions in compensatory and punitive damages, are being vigorously contested by the company," the Budd spokesman said. ■

Pension plans

Continued from page 1

be named.

"We're talking about survival," the analyst continued. "These are times when insurers do things out of the ordinary. They see this as an opportunity, and they certainly need the funds."

"It is obvious insurers need capital. They are doing something to infuse capital," said Norman L. Rosenthal, vp and analyst at Morgan Stanley & Co. in New York.

"If restructuring (pension plans) is an effective alternative, they will do it," he said.

Recapturing excess pension assets is just one route insurers are taking to boost surplus.

For example, Fireman's Fund Insurance Cos.—whose policyholder surplus slipped 27.6% to $677.1 million in the 12 months ending Sept. 30, 1984—recently sold its Novato, Calif., headquarters and several other properties to a European investment group for $145 million.

Selling the facilities and renting them back will improve the company's surplus and liquidity, Fireman's Fund Chairman and Chief Executive Officer William M. McCormick said at the time the sale was announced (*BI*, Jan. 28).

Other insurance companies, including CIGNA Corp. and USF&G Corp., have also recently sold their headquarters (*BI*, Nov. 26, 1984).

Of the three insurers that informed the PBGC they intend to terminate their pension plans, Wausau expects to recapture the most money.

Wausau says that while the exact amount of the reversion cannot be determined, it will be in excess of $100 million. PBGC documents list the reversion at $112 million.

Like most major property/casualty insurers, Wausau's underwriting losses have recently been outpacing investment income. Wausau reported a $208.7 million pretax underwriting loss from property/casualty operations during the first nine months of 1984, while pretax investment income totaled only $114.8 million during the same period.

At year-end 1983, Wausau's policyholder surplus stood at $521.7 million, a decline of 3.7% during 1983. More recent surplus figures were not available last week.

The large underwriting losses prompted Wausau to turn to its overfunded pension plan to increase its surplus, according to the company.

"As the year 1984 progressed, Wausau, like other insurers, had underwriting losses, and it was felt that these (excess pension) funds would better serve the company as part of its financial base," said John Schoneman, Wausau's chairman and chief executive officer.

In addition, as a mutual insurance company, Wausau cannot issue stock to generate new funds, a Wausau spokesman said. "Therefore, we had to look at our strengths and resources to maintain our capital base."

Last year, Wausau's rating by A.M. Best was downgraded to a B-plus rating from an A rating. An A rating means A.M. Best judges an insurer to be "excellent," while a B-plus rating means a company is considered "very good."

Wausau's 18-year-old pension plan, which covers all company employees, had been overfunded for several years because of favorable investment performance and conservative actuarial assumptions, company officials say.

At the beginning of 1984, the plan had 9,493 participants, including 7,819 active participants, 926 retirees and 748 persons separated from service with deferred vested benefits.

Wausau says it is buying annuities from New York-based Equitable Life Assurance Society of the United States to pay accrued benefits to participants in the terminated plan.

Wausau already has set up a new plan, identical to the terminated one, to cover active employees. Under Wausau's retirement plan, employees vest after 10 years of service, and benefits are based on employees' length of service and highest average five-year salary over the employee's last 10 years of service.

The Home Insurance Co., based in New York, told the PBGC that it expects to gain about $65 million after it terminates its defined benefit pension plan and buys annuities to pay accrued benefits to participants. Active employees will be covered under a new plan.

The Home—part of The Home Group Inc. and ultimately owned by City Investing Co.—is terminating its 36-year-old pension plan to "add the money to surplus to strenghten the company," according to a Home official.

But, a spokesman for The Home also noted, "The plan was so overfunded it wasn't doing anyone any good." He said the plan was overfunded because of favorable investment performance and conservative actuarial assumptions.

Like Wausau, Home's underwriting losses have been outpacing investment income and its policyholder surplus has been shrinking.

At the close of the first nine months of 1984, The Home Group Inc. reported that policyholder surplus totaled $571.8 million, which represented a 4.1% decline during the previous 12 months.

Pretax underwriting losses from property/casualty operations during the first three quarters of 1984 amounted to $337.2 million, while pretax investment income was only $240.7 million during the same period. Home has not yet released in full 1984 figures.

According to its notice of intent to terminate filed with the PBGC, the Home plan at the start of 1984 had 6,237 participants, including 4,695 employees, 1,002 retirees and 540 participants separated from service with deferred vested benefits.

But unlike Wausau, whose new pension plan is identical to the terminated plan, The Home is making plan improvements.

For example, under the old plan benefits were calculated by multiplying final average pay by 1.8% times years of service. Under the new plan, benefits will be calculated by multiplying final average pay by 2% times years of service.

In addition, the new plan provides increased early retirement benefits.

"Employees are pleased because benefits are being improved," said The Home spokesman.

Chubb Corp., based in Warren, N.J., says it expects to recapture $87.5 million in excess assets from the termination of two pension plans, which it will contribute to its insurance subsidiaries' surplus.

One plan, which covers most Chubb Corp. employees and retirees, has $75 million in excess assets, while the other plan, sponsored by the Chubb Life Insurance Co. of America, a Chubb Corp. subsidiary, has $12.5 million in excess assets.

"This is a business decision," said Chubb Vp Gail Devlin.

"Clearly, the plans are overfunded. The property/casualty business is in the early stages of recovery and we think we can make better use of the (excess) funds in our primary business."

However, Chubb noted that it does not have to rely on the pension plan reversion as its only source of new capital.

Chubb last year raised $100 million in new capital through the sale of stock. Those new shares sold at $43 when they were offered in August 1984; Chubb traded at $61.38 on Feb. 20.

The appreciation of Chubb stock shows investor confidence in the company, Ms. Devlin said.

Also, unlike Wausau and The Home, Chubb reports positive cash flow from its property/casualty underwriting operations and notes that its policyholder surplus grew during the past year.

For 1984, Chubb reported a aftertax underwriting loss of $115.3 million from property/casualty operations, compared with aftertax investment income of $117.5 million. The company's policyholder surplus increased about 31% to $525 million during 1984, largely because of the stock offering, Ms. Devlin says.

Like Wausau, Chubb will be replacing its terminated plans with identical new pension plans. Chubb offers 10-year vesting, and benefits are based on length of service and highest average salary over any five consecutive years of service.

The new plans will cover active employees, while Chubb will buy annuities from an insurer to pay accrued benefits to participants in the terminated plans.

The 41-year-old Chubb Corp. pension plan has 5,786 participants including 4,420 active employees, 1,024 retirees and 324 participants separated from service with deferred vested benefits.

The Chubb Life Insurance Co. of America pension plan, which was set up on Jan. 1, 1942, has 1,251 participants, including 837 employees, 356 retirees and 58 participants separated from service with deferred vested benefits.

While the terminations of the Wausau, Home and Chubb plans will provide the insurers with substantial amounts of money, the reversions pale in comparison to the excess assets recently recouped by other companies.

For example, Los Angeles-based Occidental Petroleum Corp. recaptured $375 million in excess assets when it terminated four defined benefit plans and set up a new defined contribution plan in 1983 (*BI* May 30, 1983; Jan. 16, 1984).

In early 1984, The Great Atlantic & Pacific Tea Co. of Montvale, N.J. recovered $275 million in surplus assets by terminating a defined benefit plan and establishing a new defined contribution plan (*BI*, Jan. 9, 1984).

According to the PBGC, employers have recovered more than $3.4 billion in surplus assets through the termination of overfunded pension plans since Jan. 1, 1981. ■

Chemical kills 'Superman'

Continued from page 2

the firm of Thornton, Summers, Eiechlin, Dunham & Brown in San Antonio, said the jury's decision that Diamond Shamrock did not adequately label its insecticide means Medina Valley will be able to recover its share of the compensatory damage award from Diamond Shamrock under the state's Deceptive Trade Practice Act.

Ken Haseley, a spokesman for Diamond Shamrock, would not comment on whether the lab could recover its share of the damages from Diamond Shamrock.

But, Mr. Haseley said Diamond Shamrock feels "the damages are beyond reason."

Although he wouldn't disclose specifics of the company's insurance, he did say the company has sufficient coverage to pay its share of the award. Aetna has been Diamond Shamrock's long-time primary liability insurer, and the manufacturer has had various excess insurers in the London and U.S. markets. In the past, *Business Insurance* learned previously, Diamond Shamrock's comprehensive general liability policies have included deductibles and retrospective rating formulas (*BI*, Oct. 29, 1984).

One source close to the litigation, who asked not to be identified, said that, at the time of the incident, the warning label on the Vapona met all requirements of the Environmental Protection Agency.

But, it didn't say, "If you spray animals, it will kill them," the source added.

"There have been only 10 or 15 complaints in the 10 years Vapona has been manufactured. And every one has been because of misapplication," he said.

He added that instructions on containers of Vapona caution users to use the chemical in a solution containing no more than 2 ounces of the insecticide. Superman was one of three bulls sprayed with a solution that contained 3 gallons of Vapona, he noted.

Superman was the only casualty in the spraying. The other bulls became ill but survived.

Diamond Shamrock is arguing that the Vapona warnings were adequate at the time of the spraying. Furthermore, it says it is not responsible for Superman's death because the workers for the insemination lab who sprayed the bull spoke "little or no English," according Mr. Haseley.

"They were told to go spray the pen area and instead sprayed the bull," he said.

Vapona was originally manufactured by Shell Oil Co. and is used in its household insecticide Shell No-Pest Strips. In 1979, Shell sold the chemical to Diamond Shamrock, and in 1983 SDS Biotech began manufacturing Vapona. ■

Exxon work comp ruling

Continued from page 3

trade order clerks log incoming calls with low volume, according to court papers. It said it reported the problem to the telephone company and had amplifiers installed on all clerks' telephones. The company also supplied clerks with ear cushions and head sets, according to Mr. Roth.

Medical bills for treating 46-year-old Mr. Willitts, who still has the same job title, totaled more than $10,000 at the time of the trial, said Mr. Roth.

"What is unusual about this is that it is a workers compensation case," said Mr. Roth. "This is almost like a Rube Goldberg-type of thing," he added, where one thing —the low volume of incoming telephone calls—set off an unusual chain reaction.

New Jersey is one of only seven states in which the workers compensation laws provide for benefits to workers who suffer a mental ailment caused by a mental trauma. In stress-related cases, it is more common to compensate a worker for a physical ailment caused by a mental trauma. ■

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Government, unions and educational systems 944

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Actuaries, attorneys, adjusters, appraisers and consultants 3,265
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TOTAL 45,007

* Source: Business/Occupational breakdown of qualified circulation, Nov. 5, 1984 issue, as submitted to BPA for Dec. 1984, BPA Publisher's Statement.

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Fronting programs

Continued from page 1

- The market for reinsurance has tightened as well, making it more difficult for insurers to find excess or reinsurance for fronting clients at reasonable prices.
- Insurers are concerned about the long-term financial viability of the clients' captives for which they front.

"It's increasingly more difficult for companies to find fronts," although not impossible, says Kevin F. Donoghue, a Boston-based risk management consultant.

"We're finding that the number of companies that are still in the fronting market is shrinking dramatically," agrees David D. Delaney, president of New York-based Delaney Management Co., an underwriting manager.

In addition to the loss of Ideal Mutual and Transit Casualty as fronting insurers, Occidental Fire & Casualty Co. of North Carolina, based in Engelwood, Colo., has cut back on its fronting activities, sources say.

Occidental declined to comment on its fronting activities.

One former Transit Casualty policyholder, The Michigan Licensed Beverage Assn., based in Bay City, has for about two weeks been without a fronting insurer for its Cayman Islands-based captive, National Liability & Business Assurance Ltd.

The captive writes third-party liability coverage, including dram shop liability, for tavern owner members, according to association Vp Robert Wileand. Since 1934, Michigan law has held tavern owners liable if someone they sold liquor to becomes involved in an accident.

Mr. Wileand says he has been assured by the captive's management company, Marsh & McLennan (Cayman Islands) Ltd., that a new fronting insurer will be found. "We're depending a lot on M&M to come through," he says.

Despite reports from captive owners and clients that fronting services are harder to find, few insurers admit they have changed their stances on fronting.

A spokesman for Northwestern National Insurance Co., a Milwaukee-based Armco Inc. unit that is active in fronting, denied a report it would cut back its activities.

"We plan to continue to do captive fronting," he said. "Business levels have been slower in the soft market, but we plan to see more business as the market hardens."

At Argonaut Insurance Co., based in Menlo Park, Calif., strict standards on what kinds of fronting programs can be written have been in place all along, says Vp Steve Bloomencrantz. Now, he says, "the rest of the marketplace is coming up to meet us" or else is disappearing.

At The Home Group Inc. in New York, Senior Vp Fred Mina said: "We never did really go out of our way to do heavy fronting in the past." The Home fronts for about 100 companies, but these are programs that "made sense," says Mr. Mina, who is in charge of special risks. "We have not gone from the sublime to the ridiculous."

The Home will provide additional fronting programs as business comes its way, he says, in a "mature" fashion, and on the condition the client provides "adequate security."

At Aetna Life & Casualty Co., fronting programs are "not something we go out of our way to do, or out of our way to stop," says a spokesman. Aetna handles about a dozen fronting programs out of its tens of thousands of accounts. It provides claims and loss-control services for those companies for which it acts as a fronting insurer and retains "quite a bit" of the risk, says the spokesman, "so to us, it's a true insurance program."

"We're in the insurance business. We prefer to write insurance," says an official of another insurer, which provides about a dozen fronting programs.

American International Group Inc., a major supplier of fronting programs, did not return calls.

One broker predicts that the "'Lego block' insurance companies" like Ideal, which put their names on policies but farmed out critical components like loss control and claims handling, "will dry up," while strong insurers that consider fronting "a side issue" will "stand the test of time."

The fees charged by those insurers still willing to provide fronting services are going up, everyone agrees, but insurers are reluctant to cite specific increases.

The costs of all insurance programs are going up, including the cost of fronting programs, says Rich Barbieri, second vp at the Travelers Corp., which has 12 to 15 fronting clients, all of whom are among the Fortune 500.

"The fees for fronting are up, and probably significantly," says John Baney, president of CIGNA's broker division. He would not cite specifics, nor would he provide a count of CIGNA's fronting program clients.

Luther T. Griffith, chief executive officer of Anistics Inc., a unit of New York-based broker Alexander & Alexander Services Inc., says fees vary by company and by size of risk, and can range from 2% to 10% of premium. And, the fee varies depending upon what services are provided.

Companies that were paying 6% of premium six months ago are now paying 6.5% to 7%, he estimates, while those on the "low end of the scale" may be asked to pay as much as 50% to 100% more.

But, fronting fees can go up only so much, he notes, before the client will reject the service. Unlike insurance that provides indemnity protection that can be critical to survival after a loss, a fronting program that essentially provides only services can be dropped. The client can merely self-insure without proof of insurance or buy directly from its captive.

Only for workers compensation or mandatory auto insurance will the client foregoing fronting services have to comply with state regulations governing qualifications to self-insure.

With the price of insurance rising and capacity shrinking, more fronting clients may learn insurers won't miss their business if they refuse to pay higher fronting fees.

Insurers find it very difficult to control the pricing and administration of pure fronting business, says CIGNA's Mr. Baney. When rates for conventional insurance are "close to adequate," he says, fronting business loses some of its appeal to insurers.

"We will look at fronting programs and certainly not shut off the tap," he says, but fronting programs will be considered "in the light of other opportunities" and will have to be "uniquely good to qualify."

"Why bother with the exotic arrangements if you can make a lot with the conventional?" asks one consultant.

Donald K. Heim, president of Nashville-based Advanced Risk Management Services, a Corroon & Black Corp. unit, noted that while insurers once regarded fronting as a way to use up some capacity while making a good income they have found the business created accounting problems.

"There's a lot more time and work involved in handling the accounts," he said. And, some insurers have found it difficult to determine exactly how much fronting costs them to include that in the fronting charges.

Meanwhile, with their surplus shrinking, insurers are becoming much more careful about how they allocate their surplus.

"They just can't afford to use their surplus for anything but their own business," says Mr. Delaney.

Insurers are unlikely to devote uncommitted surplus to fronting "because margins are zilch," says one broker.

The liquidation of one of the best-known fronting insurers, Ideal Mutual, has not been lost on other insurers. Since the New York department attributed part of Ideal's insolvency to inadequate security behind fronting programs, other insurers are more cautious about writing fronting programs.

"I think it was intended to send a message," says the official of one insurance company, who asked not to be identified, as did many others interviewed for this article.

"I think that's going to cause a lot of companies to back off from fronting arrangements," predicts a consultant. Fronting programs will still be offered, he adds, "but after much more thorough evaluation."

Fronting is "an area that many insurance departments are uncomfortable with," admits one risk manager whose company uses a captive insurer. Because the risk manager did not want to attract the attention of regulators, he, too, asked that his name not be used.

Some insurance regulators have said publicly and privately that they view fronting programs as an underhanded method of circumventing state insurance regulations.

And now, regulators are going to have more information regarding fronting programs starting with the 1984 convention statement filed by all licensed insurers.

The new statement requires insurers to provide an estimate of incurred-but-not-reported losses in connection with business reinsured by unauthorized reinsurers.

The information will be reported in Schedule F, Part 2, which requires insurers to list funds withheld on account of reinsurance in unauthorized companies. Captive insurers as a rule operate as unauthorized reinsurance companies because they don't want to spend the time or money to seek a U.S. insurance license.

Previously Schedule F, Part 2 required the insurer to list the names of all unauthorized reinsurers and for each the amount of unearned premiums, paid and unpaid losses recoverable and deposits by and funds withheld.

Now, instead of requesting only "paid and unpaid losses recoverable," the blank requires insurers also to report for each unauthorized reinsurer a total for IBNR losses and a total for paid and unpaid allocated loss adjustment expenses recoverable, noted Paul McNeil, an insurance accounting specialist with the National Assn. of Insurance Commissioners.

These figures will better reflect the true liabilities ceded to unauthorized reinsurers, regulators say.

Even if an insurer is interested in providing fronting services, it may not want to provide the excess insurance the clients wants or be able to find it in the reinsurance marketplace.

Aggregate excess reinsurance on captive programs, which caps a captive's losses, in particular has become "very much more expensive, and sometimes unavailable at any workable price," says Argonaut's Mr. Bloomencrantz.

He recalls recently being quoted a price of $1 million to purchase $1 million worth of excess insurance.

Brenda Pair of Atlanta-based Pair Underwriting Managers has been trying unsuccessfully to set up a captive program for truckers. While she has obtained a fronting insurer, which she declined to name, so far she has been unable to arrange reinsurance.

Reinsurers are quoting "extremely high prices" she says, adding that putting together this captive is "the most difficult thing I've tried to accomplish in the insurance industry."

Finally, while once it was the client who was most concerned about the financial security of its fronting insurer, insurers are now more concerned about the financial security of their fronting clients. Will the client's captive insurer pay the claims as promised?

"They're being much more conservative about the security," says William S. Mortimer of Risk Management Consultants Inc. in Newport Beach, Calif.

"They're much more aware of the long-term nature of the business being written" and need to be assured that the captive and company will be around for a number of years, says Richard T. Delaney, a vp and manager of the property/casualty division at Towers, Perrin, Forster & Crosby in Philadelphia.

Generally, insurers want captive insurers to supply them with letters of credit or funds on deposit to guarantee that claims will be paid.

Part of the reason for the insurers' concern about client security is due to the failure of Dana Corp. to bail out its subsidiary Cherokee Insurance Corp., which is now in rehabilitation in Tennessee—even though the circumstances surrounding Cherokee's rehabilitation are far different from the traditional fronting programs risk managers want.

Mr. Delaney says publicity about Cherokee's rehabilitation "is contributing a little to that fear" that fronting clients may not pay their claims in the future. ■

update

CBS case defense cost unclear

Continued from page 2

However, estimates for defense costs have ranged from $2 million to more than $10 million. Observers say those costs include not only attorneys' fees, but also time spent by CBS executives on the trial and other associated costs.

"There was no pressure put on CBS to settle by its insurers," Mr. Jacobs said.

A settlement had been discussed "all along," said Jim Moody, an attorney with Capital Legal Foundation in Washington, the public interest firm of five attorneys that represented Gen. Westmoreland.

High court lets TMI rulings stand

WASHINGTON—The U.S. Supreme Court last week let stand two lower court decisions on lawsuits seeking damages from the 1979 accident at the Three Mile Island nuclear plant.

The Supreme Court left intact a 3rd U.S. Circuit Court of Appeals ruling barring a $4 billion suit by General Public Utilities Corp., the plant's owner, against the Nuclear Regulatory Commission.

GPU had argued that the NRC should have warned it about a problem at another nuclear plant similar to the one that caused the TMI accident. However, the appeals court found that the NRC acted within its regulatory discretion in not passing on the information.

The Supreme Court also let stand another 3rd Circuit ruling dismissing a class-action lawsuit brought by GPU customers to recover utility rate increases granted to cover replacement power and cleanup costs incurred by GPU after the accident.

The appeals court said federal courts lacked jurisdiction in the matter. But, plaintiff's lawyers then filed motions to have the suit transferred to a state court in Pennsylvania.

The motions were stayed pending an appeal to the Supreme Court, and its action clears the way for the suit to proceed in state court, said Lee C. Swartz, a plaintiff's lawyer in Philadelphia.

Aside from a group of personal injury claims not covered by a recently announced settlement, the ratepayers' lawsuit is the only outstanding litigation related to the 1979 accident, a GPU spokesman said (*BI*, Feb. 18).

Separately, the Supreme Court let stand a New York Court of Appeals ruling that may allow New York City and others to collect damages from Consolidated Edison Co. for losses resulting from a 25-hour blackout in 1977.

The Court of Appeals ruled in a 1981 lawsuit brought by a supermarket that Con Ed was grossly negligent in the blackout. Last June, the court ruled that because of its earlier decision, New York City need not prove negligence to collect on a claim.

Con Ed appealed that decision, and the U.S. Supreme Court last week refused to hear the case.

Con Ed already has settled "a few" blackout-related claims for about $250,000, according to a company spokesman, who would not comment on Con Ed's insurance coverage. An additional 200 claims seeking about $200 million in damages are pending and will be litigated separately, he said.

None of those claimants will have to prove negligence, however, and the only subject of the litigation will be the amount of damages to be awarded, the spokesman said.

New York City originally had sought $56 million in actual damages, but the Court of Appeals last June disallowed certain claims—such as police overtime pay—reducing the claim to about $2.7 million, the Con Ed spokesman said.

Florida losses at $19 million

COLUMBIA, S.C.—Although the final figures won't be in until summer, the Federal Crop Insurance Corp. estimates it will pay about $19 million to Florida farmers whose crops were damaged by the January freeze (*BI*, Jan. 28).

The arctic blast that raked the state caused an estimated $8.6 million in FCIC-insured losses to Florida citrus growers, according to J. Porter Bull, director of FCIC in Columbia.

Tomato growers suffered an estimated $9.3 million in FCIC-insured losses, and FCIC-insured damages to pepper crops are estimated at $1 million, he said. The federal crop coverage is not offered to growers of other crops in the state, he added.

Mr. Bull added that $5 million to $6 million of the FCIC losses are for reinsurance its writes for insurers in the state who provide coverage for growers.

Crash may not hike rates

Continued from page 3

Experts were examining the badly damaged plane last week to discover what caused the Feb. 19 plunge. The plane suffered a bent wing and a torn tail section.

The 50 passengers on the flight from Taipei, which was scheduled to land in Los Angeles, suffered mostly minor injuries, although two flight attendants were hospitalized.

China Airlines' hull and liability insurance is underwritten by Taiwanese insurers and is at least partially reinsured in the London market, with British Aviation Insurance Co. as the lead underwriter, according to London sources. China Airlines' London broker, Stewart Wrightson Holdings P.L.C., would not comment on the coverage.

According to London sources, China Airlines currently has up to $85 million in hull coverage and $300 million in liability insurance per occurrence.

Besides the Iberia and China Airlines accidents, other major aviation accidents in 1985 include:

- The crash in early January of an Eastern Airlines Boeing 737 in a mountainous area in Bolivia, killing all 19 people aboard (*BI*, Jan. 7).
- The Jan. 21 crash of a Galaxy Airlines Lockheed Electra in Reno, Nev. Sixty-eight people were killed in the crash (*BI*, Jan. 28).
- The heavy landing of an Indian Airways Boeing 737 jetliner in Calcutta on Feb. 7. No one was killed in this accident. ■

CNA, Home back asbestos plan

Continued from page 2

ment is named. "They (CNA and Home) are both important carriers. It indicates there will be an asbestos claims facility."

However, Mr. Shea, Mr. Restivo and Dean Wellington all stopped short of declaring that the proposal has the support of enough major insurers to implement it. They added that they hoped other insurers and producers would join.

So far, 33 producers and 22 insurers have conditionally signed the agreement.

Among the insurers that still haven't signed the agreement are Travelers Corp., Commercial Union Insurance Co. and American International Group Inc.

Unsigned producers include Raymark Corp., GAF Corp. and H.K. Porter Co., although Mr. Restivo said that "we do have the critical mass of producers."

Efforts to implement the facility over the last six weeks have taken a back seat to signing up additional insurers, Mr. Restivo added.

Dean Wellington said that some insurers may be hesitant to sign the agreement because they believe they would reach a more favorable settlement with their insureds if they negotiated one-on-one, rather than if they participated in the facility.

Another obstacle for some insurers, Dean Wellington added, was the agreement's complexity.

Dean Wellington also noted that negotiators of the agreement "dramatically underestimated" the time needed to explain the agreement and convince company officials of the agreement's benefits.

Nonetheless, several subcommittees have made considerable progress in setting up the facility, including screening for a chief executive officer and selecting sites for claims processing offices, Mr. Restivo said.

Negotiators of the agreement are still hoping that the facility can begin operating in the spring. Dean Wellington acknowledged, however, that it could take longer than expected.

While CNA confirmed that it had conditionally signed the agreement, it declined further comment. The Home declined to comment on the matter. ■

Lloyd's chairman plans trip to China

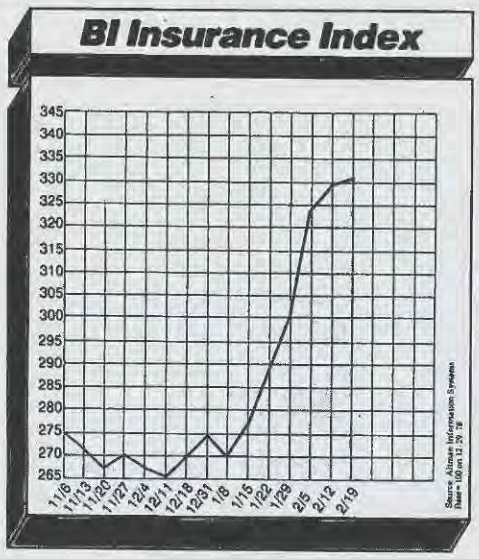
LONDON—Peter Miller, chairman of Lloyd's of London, is planning to visit the People's Republic of China at the request of the People's Insurance Co. of China, a Lloyd's spokesman confirmed.

The trip is scheduled for late April through early May, the spokesman said.

Mr. Miller will talk to Chinese officials as well as representatives of the insurance industry in China to discuss Lloyd's and its role in China.

Lloyd's already is active in the Chinese insurance markets as one of the main reinsurers of the PIIC, the major, state-owned insurance company in China, the Lloyd's spokesman noted.

"This trip will further cement our interests there," he said. ■



The *Business Insurance* index of insurance industry stocks continued to climb for the period ending Feb. 19, posting its fifth consecutive record high. The *Business Insurance* stock index closed at 331.7 points on Feb. 19, up 3.1 points from 328.6 points on Feb. 12. A total of 35 stocks posted gains, 14 stocks were down, and nine were unchanged. The largest gains were posted by Continental Corp., up 7.7%; Emett & Chandler Cos. Inc., up 7.1%; Durham Corp., up 6.7%; Baldwin & Lyons Inc., up 5.9%; and Tokio Marine & Fire Insurance Co., up 5.2%. The biggest losses were posted by Optimum Holding Corp., down 20%; Mission Insurance Group Inc., down 13.8%; Aneco Reinsurance Co. Ltd., down 7.7%; Business Men's Assurance Co. of America, down 4.3%; and Protective Corp., down 3.7%. The *BI* index rose 1% for the trading period, outperforming the New York Stock Exchange composite, which rose 0.5% for the same period. The Standard & Poor's 500 rose 0.4%, and the Dow Jones Industrials rose 0.3%.

British Issues

19 Feb Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence	pence
Comml Union	182	N/M	16.9	9.3	186—	182
Genl Accident	515	73.6	27.1	5.3	535—	515
Gdn Royal Exch	642	17.8	32.9	5.1	657—	642
Royal	555	185.0	32.6	5.9	568—	555
Sun Alliance	405	45.0	20.0	4.9	412—	400
Brokers						
CE Heath	618	10.6	24.3	3.9	632—	618
Hogg Robinson	251	14.3	9.7	3.8	261—	251
JH Minet	264	18.2	7.4	2.8	267—	264
Sedg Grp	363	16.9	11.5	3.1	377—	363
Stew Wrightson	568	16.2	21.4	3.8	590—	568
Willis Faber	615	22.0	15.0	2.4	638—	615

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

Specter of insolvency looms over the industry's recovery

By MYRON M. PICOULT

Special to Business Insurance

IT IS GENERALLY recognized that the domestic property/casualty industry encompasses all 50 states, the District of Columbia and Puerto Rico. However, there is one other state that has been overlooked: the state of insolvency.

Mr. Picoult

This is a topic that has not been given much publicity. In previous columns, we have referred to the capital shortage that was engulfing the property/casualty industry as well as the severe reserve deficiencies that most underwriters face. Many analysts and insurer executives seem to view this as a past issue that is no longer relevant as the industry returns to a healthy state.

We disagree. Although better times should lie ahead, there are some entities that seem to have passed the point of no return. We also suspect that there are a number of companies that could slip into the quagmire.

Furthermore, we believe that state regulators are much more concerned with solvency today than they have been in some time. However, it remains to be seen how effectively they can deal with what could prove to be a mushrooming problem.

All 50 states, the District of Columbia and Puerto Rico have established procedures under which solvent insurers absorb losses of claimants against insolvent insurers. New York state has a pre-assessment fund, and other jurisdictions have set up guaranty funds to which solvent companies pay assessments as needed. The assessments are based on premium volume and cannot exceed a stated percentage of the assessed insurers' capital base. The percentage varies by state, but it ranges between 1% and 2%.

Nothing hurts more than saving one of your competitors and then having that competitor return to the fray and beat your brains in. Hence, it is unlikely that managements would be willing to effect another rescue similar to the GEICO bailout of the 1970s.

Property/casualty stocks have been remarkably strong over the past few weeks, notwithstanding some disappointing fourth-quarter operating earnings and underwriting results. The rationale is that the worse the numbers, the stronger the recovery.

There is some truth to that, but investors should keep some perspective on the time frame involved. The prospect of more insolvencies in the industry places additional burdens on almost all underwriters. Of the major publicly traded issues, only General Re Corp. is not subject to assessments because, as a reinsurer, General Re does not participate in nor is it subject to guaranty funds.

Since 1969 through 1983, the latest available data, guaranty funds have paid out almost $454 million. Including distributions from the New York pool, the figure jumps to $630 million. On a cumulative basis, this equals about 0.6% of the industry premiums over the same period.

The aggregate dollar amount may not appear to be significant. However, given the state of business today, it is possible this figure could be approximated within two years.

The assessments related to such a level of insolvencies would place additional burdens on insurers with already strained cash flows and stretched balance sheets. Some fear the problem could be so great that healthy insurers could be dragged down by the sick ones.

It also should be noted that the recovery of assessed funds takes years, since recoupments are available only through premium tax offsets or policyholder surcharges.

One way to create the appearance of a stronger statutory financial condition is to encourage the use of across-the-board discounting. This would be a one-year cure—and a very big red flag to investors.

Myron M. Picoult is senior vp and senior insurance analyst with Oppenheimer & Co. in New York. He is the past president of the Assn. of Insurance & Financial Analysts and a member of the New York Society of Security Analysts. His column appears the fourth Monday of every month.

Carolina Casualty

Carolina Casualty Insurance Co., based in Jacksonville, Fla., has merged with W.R. Berkley Corp., an insurance holding company based in Greenwich, Conn. The merger was approved by Carolina Casualty shareholders Jan. 29 and was effective Jan. 30. Each Carolina Casualty shareholder will receive 0.25 shares of Berkley common stock for each share of Carolina Casualty common stock.

Carolina Casualty specializes in trucking coverages. As of Sept. 30, 1984, it had total assets of $37.3 million.

Berkley, through its subsidiaries, offers property and casualty insurance, reinsurance and excess/surplus and specialty insurance. As of Sept. 30, 1984, it had total assets of $302 million.

Mission president resigns

The president and chief executive officer of Mission Insurance Group, which reported a $98.3 million fourth-quarter loss, has resigned, the company says.

Louis F. Marioni has been replaced by Ray D. Johnson Jr., senior executive vp and chief operating officer. A Mission spokesman had no comment on the change.

Mission Insurance Group's $98.3 million loss for the fourth quarter of 1984 compares with a $37.2 million loss for the comparable period a year ago.

The company lost $198 million for 1984, compared with a $15 million loss in 1983. Mission also reported $979 million in assets at the end of 1984, down from $1.02 billion a year ago.

Mission has asked Salomon Bros. to locate additional capital for the insurer (*BI*, Feb. 18).

M&M revenues top $1 billion

For the first time in its history, Marsh & McLennan Cos. Inc.'s gross revenues topped the billion dollar mark. The 1984 gross revenues for M&M, the world's largest insurance brokerage, were $1.1 billion. This represents an increase of more than 1.1% over 1983.

M&M's fourth-quarter gross revenues for 1984 increased to $281 million, up 20.8% from 1983's fourth-quarter figure of $232.5.

The broker's fourth-quarter net income soared 123.5% to $26.6 million from $11.9 million in the fourth quarter of 1983.

Marsh & McLennan's net income for all of 1984, however, continued to reflect unauthorized investment activity losses during 1983 and the first quarter of 1984 (*BI*, May 28, 1984). The company's net income fell 37.4% to $58.7 million at year-end 1984 from $93.8 million at year-end 1983.

CIGNA reports 1984 results

CIGNA Corp. in Philadelphia reported operating income in 1984 of $38.5 million, down drastically from $400.5 million in 1983. CIGNA also reported 1984 net income of $102.7 million, also down drastically from the net income of $535 million reported in 1983.

CIGNA's fourth-quarter operating income for 1984 was $36.1 million, compared with $111.2 million in 1983. Fourth-quarter 1984 net income was $54.6 million, compared with $142.3 million in 1983.

Arthur J. Gallagher results

Arthur J. Gallagher & Co. in Rolling Meadows, Ill., has reported that net income rose 47.4% to $6.296 million in 1984 from $4.269 million in 1983. Gallagher's fourth-quarter net income gains were even higher, rising to $1.194 million in 1984, a 256.4% increase over the $335,000 reported in 1983.

Gross revenues for 1984 totaled $64.179 million, a 20.3% increase over 1983 revenues of $53.358 million. Gallagher's fourth-quarter revenues were $17.052 million, a 31.2% increase over its 1983 fourth-quarter figure of $13.001 million.

Stock split recommended

The board of directors of Provident Life & Accident Insurance Co. in Chattanooga, Tenn., has recommended a 3-for-1 stock split and a 33⅓% stock dividend, subject to shareholder approval. Also, the company declared a special dividend of 50 cents a share, payable April 10 to shareholders of record March 29. And, it declared a regular quarterly dividend of 72 cents a share, payable March 8 to shareholders of record Feb. 28. ■

BI Industry Stock Report

Feb. 19, 1985 **2/13/85 thru 2/19/85**

Brokers		Price	% Chg.	P/E	$ Div.	% Yld.	High	Low	Vol.(000)
Alexander & Alexander Svcs	NYSE	28.38	2.3	315.3	1.00	3.5	28.38	28.13	328.1
Baldwin & Lyons Inc	OTC	54.00	5.9	23.3	0.80	1.5	54.00*	51.00	4.5
Corroon & Black Corp	NYSE	39.63	-0.6	23.7	1.00	2.5	39.88	39.38	66.6
Crump E H Cos Inc	OTC	24.00	-1.0	21.4	0.44	1.8	24.13	23.88	76.5
Emett & Chandler Cos Inc	OTC	15.00	7.1	0.0	0.00	0.0	15.50*	15.00	15.9
Gallagher Arthur J & Co	OTC	37.25	0.7	23.4	0.28	0.8	37.25	37.00	34.3
Hall Frank B & Co Inc	NYSE	26.00	0.0	216.7	1.00	3.8	26.00	25.50	200.4
Marsh & Mclennan Cos Inc	NYSE	65.50	3.8	40.4	2.40	3.7	66.00*	64.25	447.4
Poe & Assoc Inc	OTC	8.25	3.1	0.0	0.00	0.0	8.25*	8.25	6.5
Reed Stenhouse Cos Ltd	OTC	21.88	1.7	31.2	0.60	2.7	21.88	21.63	287.4
AGENTS/BROKERS	AVERAGE			39.2		2.4			
Conglomerates & Holding Cos.									
American Express(Fireman's Fd)	NYSE	42.13	0.3	15.1	1.28	3.0	43.38*	42.13	2,979.6
Anderson Clayton(Ranger/PanAm)	NYSE	38.13	3.0	19.7	1.32	3.5	38.25*	37.00	37.2
Armco Inc	NYSE	11.25	1.1	0.0	0.00	0.0	11.50	11.25	314.8
CIGNA Corp	NYSE	48.38	5.2	439.8	2.60	5.4	48.38	47.13	1,674.4
City Investing Co. (Home Ins.)	NYSE	39.50	-0.9	9.5	0.00	0.0	39.63	39.50	341.9
CNA Finl Corp (CNA)	NYSE	37.63	2.4	15.6	0.00	0.0	38.25	37.50	139.8
General Re Corp	NYSE	73.63	4.8	46.0	1.56	2.1	73.63*	70.00	924.6
ITT (Hartford Group)	NYSE	33.00	-1.5	9.0	1.00	3.0	34.25	33.00	2,335.8
Optimum Hldg Corp	OTC	0.50	-20.0	0.0	0.00	0.0	0.63	0.50	1.5
Sears Roebuck & Co. (Allstate)	NYSE	35.13	0.7	8.8	1.76	5.0	35.38	34.88	3,044.3
Teledyne Inc (Argonaut)	NYSE	268.00	2.2	14.7	0.00	0.0	268.00	263.00	143.0
Transamerica Corp (Occidental & Fred S. James)	NYSE	30.38	4.7	13.1	1.64	5.4	30.38	29.50	871.8
CONGLOMERATES/HOLDING COS.	AVERAGE			18.8		1.7			
Insurers									
Aetna Life & Cas Co	NYSE	40.88	0.6	25.7	2.64	6.5	42.00	40.88	1,612.9
American General Corp	NYSE	30.50	2.1	10.2	1.00	3.3	30.63	30.25	925.1
Amern Heritage Life Invt Co	NYSE	31.13	-0.8	12.4	1.08	3.5	31.38	31.13	0.7
American Indty Finl Corp	OTC	18.50	4.2	0.0	1.12	6.1	18.50	17.75	0.9
American Intl Group Inc	NYSE	75.00	0.0	14.7	0.44	0.6	76.00	75.00	395.7
Aneco Reins Ltd	OTC	1.50	-7.7	0.0	0.00	0.0	1.63	1.50	7.0
Avemco Corp	NYSE	23.50	-0.5	11.4	0.60	2.6	23.88*	23.50	17.9
Bitco Corp	OTC	13.63	2.8	2.5	0.40	2.9	13.63	13.38	4.6
Business Mens Assurn Co Amer	OTC	50.50	-4.3	6.3	2.08	4.1	53.25*	50.50	189.5
Carolina Cas Ins Co	OTC	3.00	0.0	0.0	0.00	0.0	3.00	3.00	0.0
Chubb Corp	NYSE	61.88	4.4	17.6	2.20	3.6	61.88*	59.38	399.5
Combined Intl Corp	NYSE	43.75	4.8	8.8	2.08	4.8	43.88*	42.75	271.0
Continental Corp	NYSE	42.13	7.7	21.8	2.60	6.2	42.25*	40.13	606.4
Crown Life Ins Co	OTC	124.00	0.0	8.1	5.00	4.0	124.00	124.00	4.0
Durham Corp	OTC	39.75	6.7	7.7	1.28	3.2	40.75*	39.25	80.6
Farmers Group Inc	OTC	59.75	2.8	12.9	1.76	2.9	59.75*	58.75	107.2
Fremont Gen Corp	OTC	25.38	1.5	0.0	0.48	1.9	25.38*	24.50	1,046.7
Great West Life Assurn Co	OTC	375.00	0.0	10.1	14.00	3.7	375.00	375.00	0.0
Hanover Ins Co	OTC	36.25	4.3	17.3	0.56	1.5	36.25*	35.50	119.7
Hartford Steam Boiler Insptn	OTC	67.50	0.7	30.1	3.00	4.4	67.50	67.50	11.8
Kans City Life Ins	OTC	82.00	0.0	9.4	2.88	3.5	82.00	82.00	4.3
Kemper Corp	OTC	53.50	2.1	31.1	1.80	3.4	53.50*	52.75	163.5
Liberty Corp S C	NYSE	29.75	2.6	14.3	0.72	2.4	30.25	29.75	40.3
Lincoln Natl Corp Ind	NYSE	44.75	-0.6	10.4	1.84	4.1	45.38*	44.63	199.3
Mission Ins Group Inc	NYSE	7.00	-13.8	0.0	0.50	7.1	7.88	7.00*	425.7
Monumental Corp	OTC	31.25	1.6	23.0	1.30	4.2	31.25*	30.88	87.8
Northwestern Natl Life Ins	OTC	34.75	1.1	8.1	0.80	2.3	35.00*	34.38	224.5
Ohio Cas Corp	OTC	49.38	2.9	18.6	2.68	5.4	49.38	48.63	195.9
Old Rep Intl Corp	OTC	35.75	-0.3	7.2	0.88	2.5	35.75	35.38	80.2
Orion Cap Corp	NYSE	24.88	-1.5	276.4	0.76	3.1	25.13	24.88	64.1
Protective Corp	OTC	23.00	-3.7	10.9	0.62	2.7	23.25	23.00	76.3
Provident Life & Acc Ins Co	OTC	99.50	4.7	7.1	3.38	3.4	100.00*	98.50	35.3
St Paul Cos Inc	OTC	57.00	2.7	0.0	3.00	5.3	57.13	56.13	356.5
SAFECO Corp	OTC	36.75	5.0	12.1	1.50	4.1	36.75*	35.25	272.7
Sri Corp	OTC	19.50	2.6	33.1	0.68	3.5	19.63	19.13	300.1
Seibels Bruce Group Inc	OTC	25.25	2.0	0.0	0.80	3.2	25.75	24.75	90.5
Statesman Group Inc	OTC	6.75	-1.8	10.1	0.15	2.2	7.00	6.75	41.6
Tokio Marine & Fire Ins Co	OTC	140.75	5.2	24.4	1.05	0.7	141.00	133.00	5.7
Torchmark Corp	NYSE	43.75	1.7	10.4	1.00	2.3	44.75*	43.00	554.3
Travelers Corp	NYSE	43.25	2.4	10.5	2.04	4.7	43.75*	43.00	943.4
United Fire & Cas Co	OTC	22.50	0.0	0.0	0.80	3.6	22.50	22.50	0.0
United States Fid & Gty Co	NYSE	31.63	1.2	18.4	2.08	6.6	31.75	31.50	552.3
Uslife Corp	NYSE	38.00	1.7	10.6	1.04	2.7	38.25	37.25	223.3
Washington Natl Corp	NYSE	27.75	1.8	15.3	1.08	3.9	27.75	27.75	104.5
Zenith Natl Ins Corp	OTC	14.50	-1.7	26.4	0.68	4.7	14.75	14.50	59.7
INSURANCE COMPANIES	AVERAGE			14.9		3.5			

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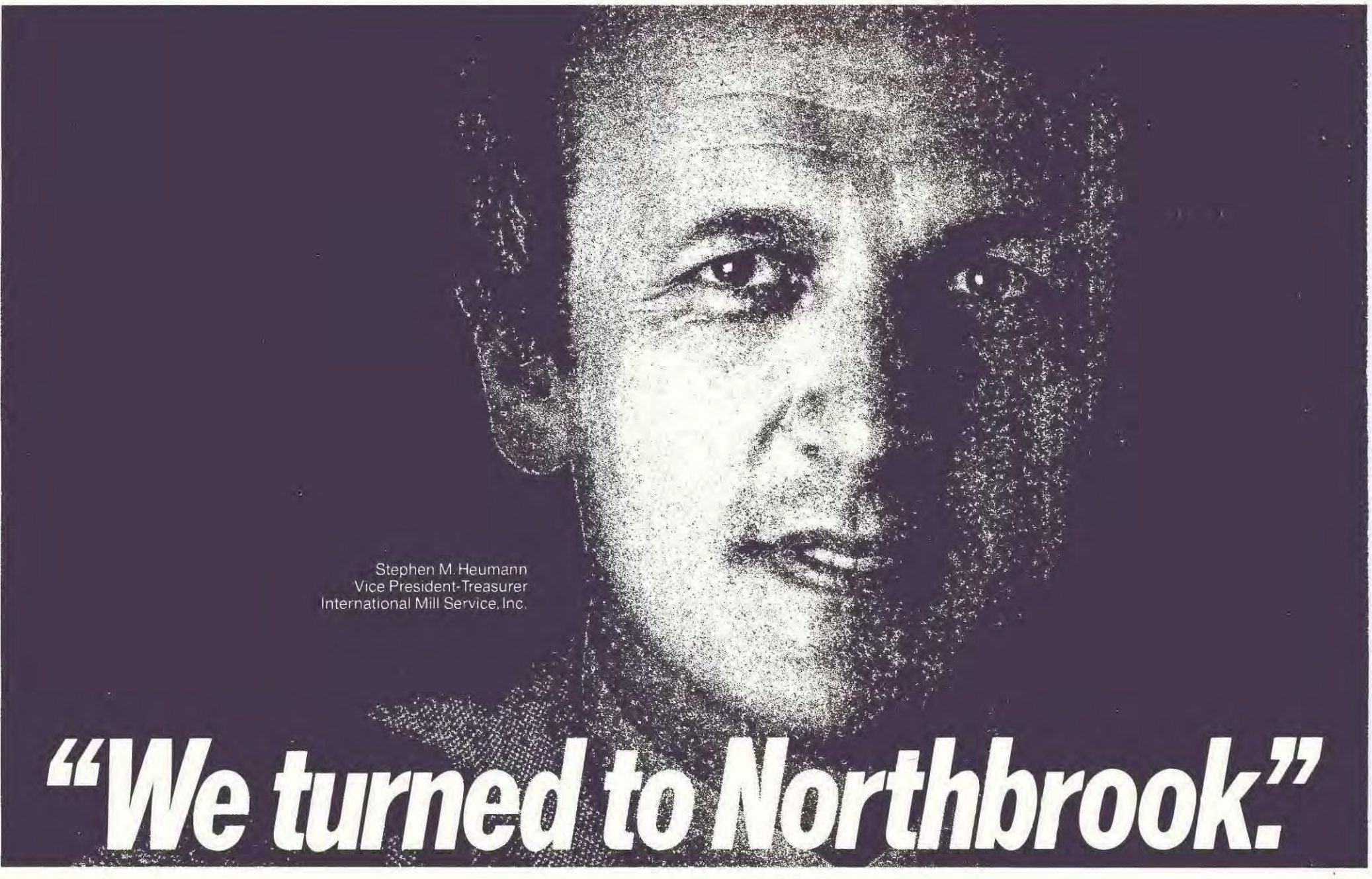

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