

business insurance

California regulators say chances dim for MIC bailout

LOS ANGELES—California insurance regulators hope to know by today if their plan to bail out Mission Insurance Co. will succeed, but they said late last week prospects were not encouraging. If the bailout fails, state guaranty funds will be forced to respond to claims.

"Things are not progressing; it doesn't look good," said a spokesman for the California Insurance Department.

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Reporting weekly for corporate risk, employee benefit and financial executives/\$1.50 a copy; \$60 a year

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Merger to push Emmett and Jardine into broker top 10

By LINDA J. COLLINS

SAN FRANCISCO—The combination of Emmett & Chandler Cos. Inc. and Jardine Insurance Brokers Inc. will create one of the nation's 10 largest insurance brokerages and further expand the scope of Jardine Matheson Holdings Ltd.'s global brokerage operations.

Company officials and industry analysts note that the merger should benefit both companies, which are almost the same size.

Emmett & Chandler will gain access to Jardine's overseas offices following the merger, while Jardine will benefit from Emmett & Chandler's expertise with large accounts and its branch offices in the Midwest and Southwest.

In addition, Jardine will pick up Emmett & Chandler's stable of subsidiaries, including two claims administrators and a captive manager.

Hong Kong-based Jardine Matheson announced Jan. 24 that it would acquire Emmett & Chandler, the 13th-largest U.S. broker with 1984 revenues of \$34.5 million, for more than \$62 million or \$19 per share. Emmett & Chandler stock had been selling for about \$18 a share prior to the announcement.

Following regulatory and shareholder approval, Los Angeles-based Emmett & Chandler will be combined with Jardine Insurance Brokers Inc., Jardine Matheson's U.S. brokerage unit, to create Jardine/Emmett & Chandler Inc.

San Francisco-based Jardine Insurance Brokers is the nation's 12th-largest broker with 1984 revenues of \$38.6 million.

The new company will probably be based in San Francisco, where Jardine Insurance Brokers is currently headquartered.

While it is clear that Jardine/Emmett & Chandler will leap into the ranks of the nation's 10 largest brokerages after the merger is completed, its exact ranking won't be known until other brokers announce their 1985 financial results.

Robert L. Emmett, chairman of Emmett & Chandler, said that both Emmett & Chandler and Jardine estimate their 1985 gross revenues at \$47 million, or \$94 million for the combined entities.

Based on combined 1984 revenues of \$73.1 million, Jardine/Emmett & Chandler would rank as the nation's ninth-largest broker, ahead of The Crump Cos. Inc., which reported 1984 revenues of \$69.6 million, and behind Bayly, Martin & Fay International Inc., which reported 1984 revenues of \$77.9.

Neither Crump nor BMF has reported their 1985 revenues. However, James M. Power, Crump's president and chief operating officer, estimates that Crump's 1985 revenues will be approximately \$100 million, which would top Jardine/Emmett & Chandler.

Officials at privately held BMF, which does not release quarterly results, would not return phone calls.

With the addition of Emmett & Chandler, Jardine Matheson says revenues from its global brokerage operations will total about \$170 million.

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Insurers may see few claims from space shuttle disaster

By STACY SHAPIRO

Insured losses from last week's space shuttle disaster, which killed seven astronauts, may be relatively small since no insured satellites were aboard, and the U.S. government will indemnify shuttle contractors for at least a portion of their liability losses.

But satellite insurance experts say the Jan. 28 explosion aboard the Challenger will have a major impact on the market, which is still staggering from an avalanche of losses over the past two years.

Late last week, the only known claim insurers faced was from a special \$1 million personal accident insurance policy written by Lloyd's of London underwriters for Christa McAuliffe, the Concord, N.H., high school teacher who was the first private U.S. citizen to fly into space. Underwriters promptly paid that claim.

In addition, Hughes Aircraft Co., which employed astronaut Gregory B. Jarvis, may insure its workers compensation exposures with a commercial underwriter. The remainder of the workers compensation benefits to be paid to the astronauts' survivors will be funded through federal government programs (see story, page 30).

Any liability claims filed against shuttle contractors by the astronauts' survivors will be at least partially indemnified by the federal government.

The National Aeronautics and Space Administration and the contractors have signed agreements through which NASA will indemnify the companies for judgments or settlements.

"There are agreements worked out with major contractors for the indemnification of claims," said Bob Berman, a NASA attorney in Washington.



Photo: AP/Wide World

No insured satellites were aboard the shuttle when it exploded Jan. 28.

"We indemnify them if they had to pay claims or we approved the settlement. Then, we reimburse the company for the loss," he said.

But the amount that NASA will reimburse varies with each individual contract, Mr. Berman said, noting that NASA was reviewing the agreements last week. He would not comment further on the matter.

While shuttle contractors and NASA have signed waivers that say they will not sue each other in the case of a shuttle accident, those agreements do not extend to the astronauts, Mr. Berman noted.

Survivors of Ms. McAuliffe and Mr. Jarvis can sue both the government and the contractors, but the five

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Two groups seek alternatives to ease EIL coverage crunch

By ROBERT A. FINLAYSON

Responding to the virtually non-existent market for environmental impairment liability insurance, separate efforts are being made by a waste management trade group and an environmental consultant to develop coverage alternatives.

Members of the National Solid Wastes Management Assn. are trying to obtain financial backing to capitalize a captive insurer, while Aralie Inc., a Pequannock, N.J., environmental consulting firm, is seeking money for a feasibility study to develop an EIL insurance pool.

Unlike NSWMA's captive insurer, which would offer coverage to waste management companies, the proposed EIL insurance pool envisioned by Aralie would serve manufacturing companies. Waste management companies would be excluded from the pool.

Currently, there are only two major commercial markets for EIL coverage: American International Group Inc., which offers limits of \$10 million per oc-

currence/\$10 million annual aggregate, and the Pollution Liability Insurance Assn., which is now offering limits of \$2 million per occurrence/\$4 million annual aggregate.

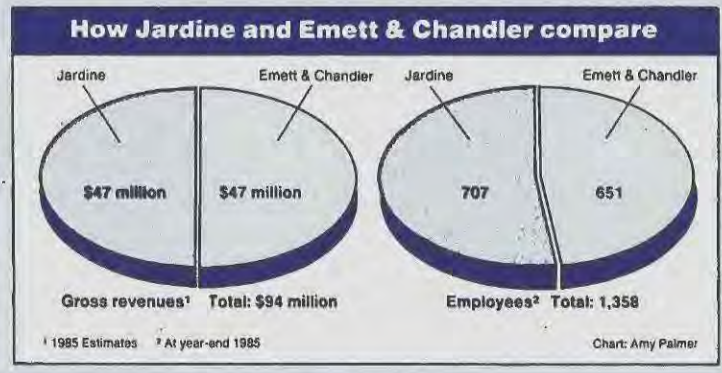
The NSWMA, a Washington-based association of companies that treat and dispose of household and industrial wastes, recently completed a feasibility study for its proposed EIL captive and is now looking for financial backing to capitalize the insurer.

"Since insurance companies are reluctant to provide our industry with the coverage required, we are taking steps to provide it for ourselves," explains Eugene J. Wingerter, executive director of the NSWMA.

Mr. Wingerter says the NSWMA is "now waiting for the (waste management) industry to review our program and make the commitment to join."

The NSWMA says it must get at least 30 membership commitments with aggregate annual premiums totaling at least \$17 million before the captive can begin opera-

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Experts differ on how much reform the court system needs
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update

MIC bailout 'doesn't look good'

Continued from previous page
ment. The stumbling block continues to be the negotiations with MIC's reinsurance policyholders, which are being asked to make certain financial concessions, according to department officials.

If these reinsurance policyholders continue to withhold their support, the department will move to liquidate MIC, department officials say. MIC was taken over by the department in October after it was declared insolvent by \$169.5 million (BI, Nov. 11, Dec. 2, 1985).

CIGNA takes \$1.2 billion charge

PHILADELPHIA—CIGNA Corp. late last week announced it is strengthening its property/casualty reserves, which will result in a \$1.2 billion charge to its fourth-quarter 1985 earnings.

Including the charge, CIGNA expects to report a consolidated loss of \$853 million in 1985, said Robert D. Kilpatrick, chairman and chief executive officer. "Today's action will not affect our basic business plans for 1986 and beyond," he said.

CIGNA stock fell \$4.50 on Jan. 30 to \$65.38 in heavy trading.

Supreme Court rules on cleanup

WASHINGTON—A company filing for bankruptcy cannot abandon a hazardous-waste site that threatens public health and safety, the U.S. Supreme Court said in a 5-4 ruling expected to aid government efforts to force companies to clean up toxic waste dumps.

In upholding an appellate decision that overturned a bankruptcy court's ruling, the Supreme Court said: "Neither the Court nor Congress has granted a trustee in bankruptcy powers that would lend support to a right to abandon property in contravention of state or local laws designed to protect public health or safety."

The case, *Midlantic National Bank vs. New Jersey Department of Environmental Protection*, involved Quanta Resources Corp., a defunct waste-oil processor operating in Edgewood, N.J., and Long Island City, N.Y., that accepted oil contaminated with polychlorinated biphenyls, or PCBs, in violation of its operating permit.

Quanta filed for liquidation under Chapter 7 of the Federal Bankruptcy Act in 1981 after the New Jersey EPA ordered it to clean up the PCBs at the Edgewood facility. A subsequent investigation showed the Long Island City facility had also accepted large quantities of PCB-contaminated waste oil.

In 1983, a federal bankruptcy court in New Jersey permitted the bankruptcy trustee to abandon both facilities, over the objection of the New Jersey EPA.

Chief Justice Warren Burger and Justices William Rehnquist, Sandra Day O'Connor and Byron White dissented from the Supreme Court's ruling, saying Congress never intended to put waste cleanup ahead of the claims of other creditors.

Courts to rule on comp increase

SANTA FE, N.M.—The outcome of two New Mexico state court cases is expected to determine whether an average 37.1% increase in workers compensation insurance rates will stand. But for the moment, insurers in New Mexico are preparing to use the new workers compensation rates for new or renewal policies effective Jan. 9.

The National Council on Compensation Insurance filed the new rates on Oct. 17, to be effective Jan. 1. The NCCI contends the bulk of the increase is due to loss experience.

But, the state Board of Insurance found the filing excessive and on Dec. 23 entered an order denying the new rates.

The NCCI appealed the decision to the state Supreme Court, which ruled on Jan. 8 that the case belonged in district court.

The NCCI then filed an appeal and a request for emergency relief with the district court in Santa Fe. The case was assigned to Judge Tony Scarborough, but because he was out of town, the NCCI asked that the case be reassigned for a ruling on the emergency relief.

The case was reassigned to Judge Bruce Kaufman, who denied emergency relief but instructed the superintendent of insurance to advise policyholders that the case was pending.

In a move termed unusual and illegal by an assistant attorney general, the NCCI asked again that the case be reassigned, and on Jan. 9, Judge Art Encinias made a preliminary ruling that allows the rate filing to take effect. However, he ordered any money collected from the increased rates to be held in an interest-bearing account until the trial, expected within 30 days. Some \$58 million is expected to be collected from the increased rates.

Meanwhile, the attorney general's office, which represents the Insurance Board, on Jan. 24 asked the state Supreme Court to vacate Judge Encinias' ruling and remand the case back to Judge Scarborough. A hearing on this motion is set for Feb. 19.

Employers in New Mexico have seen workers compensation rates increase each Jan. 1 for the past few years. Average rate increases were 5.1% in 1985; 4.6% in 1984; 13.7% in 1983; and 9.2% in 1982.

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Academic problems

Tight market dries up nightlife at university

By MICHAEL BRADFORD

EVANSTON, Ill.—Students at Northwestern University are swallowing new rules governing drinking, in part because of problems the school has had in renewing its liquor liability coverage.

Unlike many schools, Northwestern requires its fraternities and sororities to purchase liquor liability coverage—either on their own or through Northwestern. Most colleges let groups decide for themselves whether to carry the coverage.

"Northwestern is one of the few schools that has taken the initiative to be sure all sororities and fraternities are covered by liability insurance," said William Park, NU's risk manager.

The fraternities and sororities can either buy their own comprehensive general liability insurance that includes liquor liability coverage, or pay for coverage under a policy purchased by the university.

Currently, 24 of the school's 38 fraternities and sororities have coverage under the university's policy, Mr. Park said, explaining that each group's share of the cost of the coverage was determined by the primary insurer, which he declined to name.

Until Dec. 31, the university had \$10 million in pri-

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Scarce cover tests athletic game plans

By MEG FLETCHER

CHICAGO—Illinois schools are facing some hard decisions about whether to continue operating programs, especially student athletics, because of the scarcity of commercial liability insurance.

"There is a strong possibility that a lot of high schools in Illinois will be without athletic coverage after July 1," said Thomas Maedke, an account executive with Arthur J. Gallagher & Co. in Rolling Meadows, Ill.

Insurance coverages for about half of the school districts in the state expire about then, he said.

"Most of the reinsurance carriers aren't interested in athletic coverage in the U.S.," Mr. Maedke said. They are wary of the possibility that an injured athlete may become seriously handicapped and sue his or her school district, he said.

New Trier High School in Winnetka, a northern Chicago suburb, last week faced the possibility of shutting down all interscholastic and intramural sports programs Feb. 1, unless insurance could be found to replace expiring primary and excess coverage, said Robert Larsen, district business manager.

Late last week Continental Insurance Co., the school's previous primary insurer, agreed not to ex-

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Washington acts to cut state comp fund deficit

By CAROL CAIN

OLYMPIA, Wash.—The Department of Labor and Industries is getting tough in its attempts to cut a \$225 million deficit in the state's monopolistic workers compensation fund and to make the system run more efficiently.

For instance, the department has levied fines of up to \$2 million on 11 employers that waited until after an on-the-job accident before buying workers compensation coverage from the Industrial Insurance Division, the official name of the monopolistic state fund (see story, page 25).

More such penalties are expected soon, says Dick Davis, the department's director.

Besides cracking down on employers, the department also has recommended to the Legislature several changes in the state's workers compensation law, said Mr. Davis.

It will take a combination of good management, rate relief, cost cutting and benefit changes to reform Washington's workers compensation system, Mr. Davis says.

The department's proposals include:

- Standardizing criteria for determining the eligibility of heart attack and back injury claimants. This would reduce the state fund's costs by an estimated \$44 million annually.

- Reducing benefits in new pension cases—cases in which an injured worker subsequently retires—by the amount of Social Security retirement benefits he or she receives. This change would reduce the state fund's costs by an initial \$70 million, with an additional annual savings of \$13 million.

- Awarding pension benefits to survivors of injured workers who die from causes unrelated to workplace injuries only if the injured worker elected to receive survivors' benefits. This provision is esti-

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BI to introduce systems listings

Business Insurance will begin publication of two new directories in 1986: one for providers of employee benefit information systems software, and the other for providers of risk management information systems software.

The directories will be part of special spotlight reports highlighting trends in information systems and will be published in the May 26 and July 21 issues, respectively.

Business Insurance publishes the directories as an editorial service; there is no charge for companies to be included. If your company provides information systems software for use in employee benefits or risk management programs, all you have to do to be included is request and return a questionnaire provided by *Business Insurance*.

To request a questionnaire, write to Marilou Jones, Directory Editor, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611; or call 312-649-5279.

We must receive your request for a form by March 31 if you provide employee benefit information systems software, and by May 19 if you provide software for use by risk managers.

Court rules on pharmacy liability

By STEPHEN TARNOFF

SACRAMENTO, Calif.—California pharmacies cannot be held strictly liable for alleged injuries resulting from prescription drugs, the state Supreme Court says.

At the same time, the court also limited the scope of the controversial market share theory of liability for DES cases espoused by the high court in *Sindell vs. Abbott Laboratories*.

The 1980 *Sindell* decision said that if a plaintiff cannot identify the manufacturer of the DES that caused her injuries, liability may be apportioned among the defendants according to their share of the market, unless defendants can prove they could not have made the product causing the injuries (BI, March 30, 1980).

But, the court also ruled in *Sindell* that a "substantial share" of the DES market had to be included in an action for the market share theory to apply.

In its most recent decision, *Murphy vs. E.R. Squibb & Sons*, the high court ruled that one manufacturer that controlled 10% of the DES market did not constitute the "substantial share" required under the *Sindell* decision.

The *Murphy* decision is very beneficial for pharmacists, attorneys point out, because it removes a major source of potential liability in California that would undoubtedly have led to significantly increased insurance costs.

The decision also further clarifies the *Sindell* deci-

sion, they add, though they note it still leaves important unanswered questions about the ruling, such as what percentage of defendant participation is substantial enough for the market share theory to apply.

The *Murphy* decision stemmed from a personal injury suit brought by Christine A. Murphy, who developed cancer at the age of 23, allegedly because her mother took the anti-miscarriage drug diethylstilbestrol, or DES, during her pregnancy in 1951 and 1952.

Named as defendants were Exclusive Prescription Pharmacy Corp., from which Ms. Murphy's mother purchased the DES, and Squibb, the alleged manufacturer of the DES.

Ms. Murphy contended that the drug was defectively designed and that both the pharmacy and Squibb were strictly liable for her injuries.

In addition, she contended that even if she could not prove that Squibb manufactured the DES her mother took, Squibb controlled 10% of the DES market and therefore should be held liable under the market share theory of liability.

The trial court ruled that Squibb's alleged 10% share of the market was not a "substantial" share within the meaning of the *Sindell* decision.

The court further ruled that Ms. Murphy could not recover from Exclusive because a pharmacy may not be held strictly liable for dispensing prescription drugs.

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RIMS conference features expanded benefits program

By JOANNE WOJCIK O'HARE

The expanded benefits management program at this year's Risk & Insurance Management Society Conference is designed to make a benefits administrator one of his or her company's greatest employee benefits, organizers say.

"We're broadening our horizons" by providing an opportunity for RIMS members to gain insight into the health care and other employee benefits issues, said Kathy Dupree, risk manager at Metro Vision in Atlanta.

Ms. Dupree, a member of the 1986 RIMS Conference Committee, organized benefit sessions focusing on wellness and cost containment at the 24th annual RIMS conference, April 13-18 in Toronto.

"Because of the immense impact of (employee) benefits on their companies" and the fact that many risk management budgets include benefits costs, both risk managers and employee benefits administrators will profit from the 25 benefits sessions offered during the week-long conference, said Ms. Dupree.

The program has been expanded to include sessions on cost containment, wellness, state-of-the-art benefit communications, post-retirement benefits and numerous other employee benefits topics, according to Ms. Dupree.

A special session that probes the question, "Is Cost Containment Worn Out?" will be moderated by Walter B. Maher, Chrysler Corp.'s director of employee benefits and health services.

"Chrysler has been a real innovator... a leader in cost containment," noted Ms. Dupree.

During the session, a panel of experts will discuss whether the many health care cost-containment vehicles are working or simply "trading dollars and adding another layer of expense and administration," according to Peter O'Brien, senior vp at Alexander & Alexander Inc. of



New York, who will coordinate the discussion.

Other panelists are: Dr. C.S. Lewis Jr., president of the American College of Physicians; Samuel H. Havens, president of Prudential Health Care Plan Inc.; Dr. William Y. Rial of the Blue Cross/Blue Shield Assn. and past president of the American Medical Assn.

After the debate, attendees will be invited to question panelists. "We hope this will be a lively, controversial program," said Ms. Dupree. "But this is not a negative seminar," she added. Those who attend "will be able to see the other side" after having participated in other cost-containment seminars.

Another highlight of this year's expanded employee benefits schedule is two sessions on wellness programs.

One is an introduction to wellness, while Ms. Dupree described the other as a "roundtable discussion that will be made available to experienced risk managers and employee benefits managers so they can get together with others like themselves and swap stories."

This session will operate on two levels: the discussion itself, and an opportunity for inexperienced benefits and risk managers to "eavesdrop." The program is designed to "go hand in hand with the introductory session, which will take them through the different steps of wellness," Ms. Dupree explained.

In addition to sessions focusing on specific benefit topics like wellness, many seminars are designed to help benefits managers improve the administration of their benefit programs.

An intensive daylong program devoted specifically to employee benefits administration will give attendees a chance to share problems with colleagues.

A session on communicating benefits through use of computers as

discuss whether the many health care cost-containment vehicles are working or simply "trading dollars and adding another layer of expense and administration," according to Peter O'Brien, senior vp at Alexander & Alexander Inc. of

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Civil justice reform

Panel debates how much change is needed

By JERRY GEISEL

WASHINGTON—It's time to reform the civil justice system, a panel of six experts agrees.

But in a roundtable discussion at last week's National Assn. of Casualty & Surety Agents annual legislative conference in Washington, the panelists were sharply divided on how extensive those reforms ought to be.

The discussion, which brought together a consumer advocate, a plaintiffs' and a defense attorney, a physician and lobbyists representing an insurance company and chemical companies, echoed the debate on the legal system that is now taking place in Congress and in state legislatures around the country.



Les Cheek of Crum & Forster says more than procedural changes are needed to repair the civil justice system.

Consumer advocate Joseph Goffman, an attorney with Congress Watch, a Ralph Nader-supported lobbying and research group in Washington, says the civil justice system needs procedural, not substantive, modifications.

"The crisis (in the civil justice system) is one of efficiency. The system is too expensive for those who would use the system," Mr. Goffman said.

Mr. Goffman singled out the discovery process as ripe for change, charging that defendants are abusing discovery to wear down plaintiffs.

"Defendants often find it to their advantage to stretch out... the discovery process... to wear down

plaintiffs, eroding their resolve" in hope of settling a case for less money than a company might have to pay in a judgment, Mr. Goffman charged.

But Mr. Goffman strongly argued against a fundamental overhaul of the civil justice system, describing it as "uniquely capable of handing out punishments and awards."

Les Cheek III, vp-federal affairs in the Washington office of insurer Crum & Forster, also called for procedural changes, especially in the area of introduction of scientific and statistical evidence in toxic tort cases.

Courts are being flooded with so-called statistical evidence, but there are no standards for its use, he argued in support of codification of admissibility of evidence statutes.

Group data on disease incidence is irrelevant to individual disease causation issues, Mr. Cheek said. "But most judges don't know that, and they should know it if justice is to be done."

However, Mr. Cheek said more than procedural changes are needed to repair the civil justice system to give it more certainty and predictability.

For example, Mr. Cheek suggested the repeal of the theory of joint and several liability under which courts have ruled that one defendant can be held liable for damages caused by other parties.

Those found liable in civil actions should be liable for

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ABA report discounts 'malpractice crisis'

By STEPHEN TARNOFF

CHICAGO—There is no medical malpractice "crisis," and major changes in the tort law system are unwarranted, according to a recent report by a special committee of the American Bar Assn.

The ABA special committee said the tort law system in its present form is the appropriate vehicle for resolving disputes over medical professional liability, but added that some changes in the law could improve the way medical malpractice and other tort cases are handled.

"However, the medical profession's perception that the medical malpractice insurance issue has reached a 'crisis' stage that merits major changes in tort law and procedure appears to be unjustified," the report says.

"Now, as 10 years ago, the tort law system is being unjustifiably depicted as the primary cause of problems in medical professional liability insurance," the report adds.

"... We do not accept the contention that the tort law system as it relates to medical malpractice insurance is the primary cause of malpractice insurance rate increases. Nor do we believe that implementing major tort law changes will resolve the medical profession's perceived problems," the report says.

The report, which will be submitted to the ABA House of Delegates next week, was prepared by the American Bar Assn.'s Special Committee on Medical

Professional Liability.

The nine-member committee appointed last September by ABA President William W. Falsgraf includes plaintiff and defense attorneys, academicians and a state court judge.

It was established to study current medical malpractice legislative proposals and to develop ABA policy proposals to be considered by the House of Delegates. If the 450-member House approves the report, it will become official ABA policy.

Specifically, the committee was charged with studying the initiatives issued last year in the Action Plan of the American Medical Assn. Special Task Force on Professional Liability and Insurance.

In many cases, the committee recommendations disagree with those of the AMA.

For example, unlike the AMA study, the ABA study recommends that medical malpractice actions should not be exempt from punitive damages applied in tort litigation; that no justification exists for imposing special restrictions on contingent fees in medical malpractice cases; and that the "collateral source" rule should be retained.

Contingent fees are the percentage of a plaintiff's award or settlement his or her attorney obtains as payment. They often run between 25% and 40%.

The collateral source rule prohibits evidence that a plaintiff has received monetary benefits, such as pri-

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Arizona may let public entities self-insure

By CAROL CAIN

PHOENIX—School districts and municipalities in Arizona would be allowed to self-insure their property and casualty risks under legislation being proposed by the State Insurance Department.

A second piece of legislation being drafted would restrict commercial property/casualty insurers' ability to cancel a policy midterm, except in certain defined circumstances.

Government entities, as well as private employers in Arizona, have experienced substantial increases in insurance prices while seeing a reduction in available coverages, says S. David Childers, Arizona insurance director.

The situation is similar across the nation, Mr. Childers noted, adding that in Arizona the problem is particularly acute for the day-care industry, municipalities, school districts, liquor retailers and nurse midwives.

In response to the availability shortfall, Mr. Childers last month proposed a multifaceted plan, which includes several legislative options currently being drafted in bill form.

In a memo to insurers, Arizona Insurance Director S. David Childers warned 'that midterm cancellations, without a corresponding increase in hazard and without policy language setting forth the conditions upon which the policy may be canceled midterm, are injurious to the public interest.'

One bill will allow two or more public entities, such as school districts or municipalities, to enter into intergovernmental agreements for the joint purchase of insurance, or to pool their risks for property and liability losses through a self-insured plan.

Similar legislation that would have permitted school districts to self-insure their property/casualty risks failed to win approval in last year's legislative session, said Gay Ann Williams, executive assistant to Mr. Childers. She added that public entities already are permitted to self-insure their workers compensation risks.

The second proposal, if it becomes law,

would require insurers to provide the policyholder with grounds for cancellation or non-renewal, as well as give a 60-day notice.

Under this proposal, insurance could be canceled if the policyholder failed to pay the premium; if there is a substantial change in the risk; if there is a substantial breach of contract by the policyholder; if there is a conviction of the named policyholder of a crime arising out of acts that increase the risk; or if there is a lack of availability of reinsurance.

Mr. Childers addressed this issue last year in a memorandum that warned insurers that if they cancel large blocks of commercial pol-

icies before expiration, they "will be held accountable for their actions" (BI, July 1, 1985).

In that memo, Mr. Childers told insurers doing business in Arizona "that midterm cancellations, without a corresponding increase in hazard and without policy language setting forth the conditions upon which the policy may be canceled midterm, are injurious to the public interest and in violation of the trust owed by the insurer to its policyholder."

A third proposal calls for legislation to establish a joint underwriting association. The JUA would provide liability coverages that are determined by the insurance director to be either unaffordable or unavailable.

Under this proposal, all insurers that write liability coverage in Arizona would participate in the expenses and losses of the JUA. Rates would be set by a panel of actuaries.

It is expected that as the market softens, lines of coverage would be removed from the JUA, again at the discretion of the insurance director, Ms. Williams said.

In addition to preparing the legislation, Mr.

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EIL coverage

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Participation in the captive, to be called WILL for Waste Insurance Liability Ltd., is open to any U.S. or Canadian for-profit entity with substantial waste operations that meets the financial responsibility and underwriting standards established by the captive.

The feasibility study was financed by a group of 12 NSWMA members headed by John A. Lindquist, a vp-risk management and loss control with Browning-Ferris Industries Inc., an international waste management firm headquartered in Houston, Texas.

The captive, which will be domiciled in Vermont, will offer EIL coverage on a claims-made basis with limits of \$10 million per occurrence and a \$10 million annual aggregate, with a \$1 million per-occurrence deductible. Defense costs will be inclusive of policy limits,

according to the NSWMA.

Another coverage option offers limits of \$3 million per occurrence and \$6 million annual aggregate, with a \$1 million deductible.

Members of the association would also have the option of financing \$750,000 of the deductible through a loan arrangement with the captive. The loan would be repaid over a four-year period following a loss.

Policies written by the captive would require a minimum premium of \$100,000 for \$10 million in coverage and \$50,000 for \$6 million in coverage. The minimum premium will be adjusted upward based on actual losses.

After payment of the minimum premium, policyholders will be required to pay 20% of the amount reserved for future claims over a four-year period.

For example, if \$1 million is reserved for losses in one policy year the policyholder would be required to put up 20% of that amount over a

four-year period, or \$50,000 a year. If the actual damages are less than the reserve amount, the captive would receive a refund so that the premium paid equals only 20% of the actual damages, according to an NSWMA spokesman.

Members also are required to pay a capital contribution to the captive at the beginning of the first year of coverage equal to one-half of the member's estimated premium.

Members will be required to make a commitment to purchase insurance on a four-year basis and will be required to give three years' notice to withdraw from the captive.

As a condition of providing coverage, members will be required to have an environmental assessment of their facilities based on standards established by the captive. The requirement would be waived for companies that have had an environmental assessment within two years of policy issuance, if the assessment meets the standards set by

the captive.

The captive will be managed by a board of directors appointed by the members. The 12 firms that financed the development of the insurer would have permanent positions on the board.

The captive was developed on the basis of no reinsurance support, but the NSWMA says it is anticipated that reinsurance will be purchased if it becomes available.

Meanwhile, Aralie, which is working with Rhulen Agency Inc. of Monticello, N.Y., a specialty lines insurance brokerage, has been unable to come up with enough sponsors to finance a feasibility study needed to get the proposed EIL pool off the ground.

Despite this, Aralie founders Charles P. Priesing and Allan H. Bader are optimistic about their chances for success.

"We're an unknown firm," explains Mr. Priesing. "We have a credibility problem, but we're addressing that with an educational

campaign."

"It's kind of like the chicken and egg concept," says Walter A. Rhulen, president of Rhulen Agency. "Everybody's sitting back waiting to see if it's going to fly before they agree to participate."

Mr. Priesing, president of Aralie, says the EIL pool is tentatively scheduled to begin operations in April.

However, Aralie, which began the search for prospective pool participants in June 1985, has not yet reached its goal of 50 companies. Mr. Priesing declined to say how many companies have agreed to back the pool by financing the feasibility study.

Companies interested in participating in the pool will be asked to contribute between \$1,000 and \$5,000, based on their annual sales, to fund the feasibility study.

Mr. Priesing says he hopes to offer limits of \$3 million per occurrence/\$6 million annual aggregate of EIL coverage for both sudden and non-sudden incidents. Current plans call for the Hypercept (Highly Protected Environmental Risk Concept) pool to retain \$1 million on each risk and reinsure the balance.

The Rhulen Agency is working on reinsurance arrangements for the pool. Mr. Rhulen acknowledges that it will be difficult to get reinsurers to back any type of EIL coverage, but he says that it is not "impossible."

Experts in environmental risk management, Messrs. Priesing and Bader borrowed the highly protected risk concept from the property insurance area, where underwriters offer discounted coverage to properties that employ advanced engineering to protect against losses.

Companies participating in the pool will have to qualify by undergoing an environmental risk assessment. That assessment will be repeated annually to guard against losses, Mr. Priesing explains. ■

Transit agencies considering pool

ROCK ISLAND, Ill.—Four Illinois transit districts are exploring the feasibility of forming a pool to purchase excess insurance.

The districts serving Rock Island, Champaign-Urbana, Springfield and Peoria were forced to self-insure their liability exposures late last year because they were unable to find affordable coverage.

The Rock Island district's \$10 million in liability coverage written by Transit Casualty Co. was canceled Dec. 20. A Missouri court in December ordered Transit's liquidation (BI, Dec. 9, 1985).

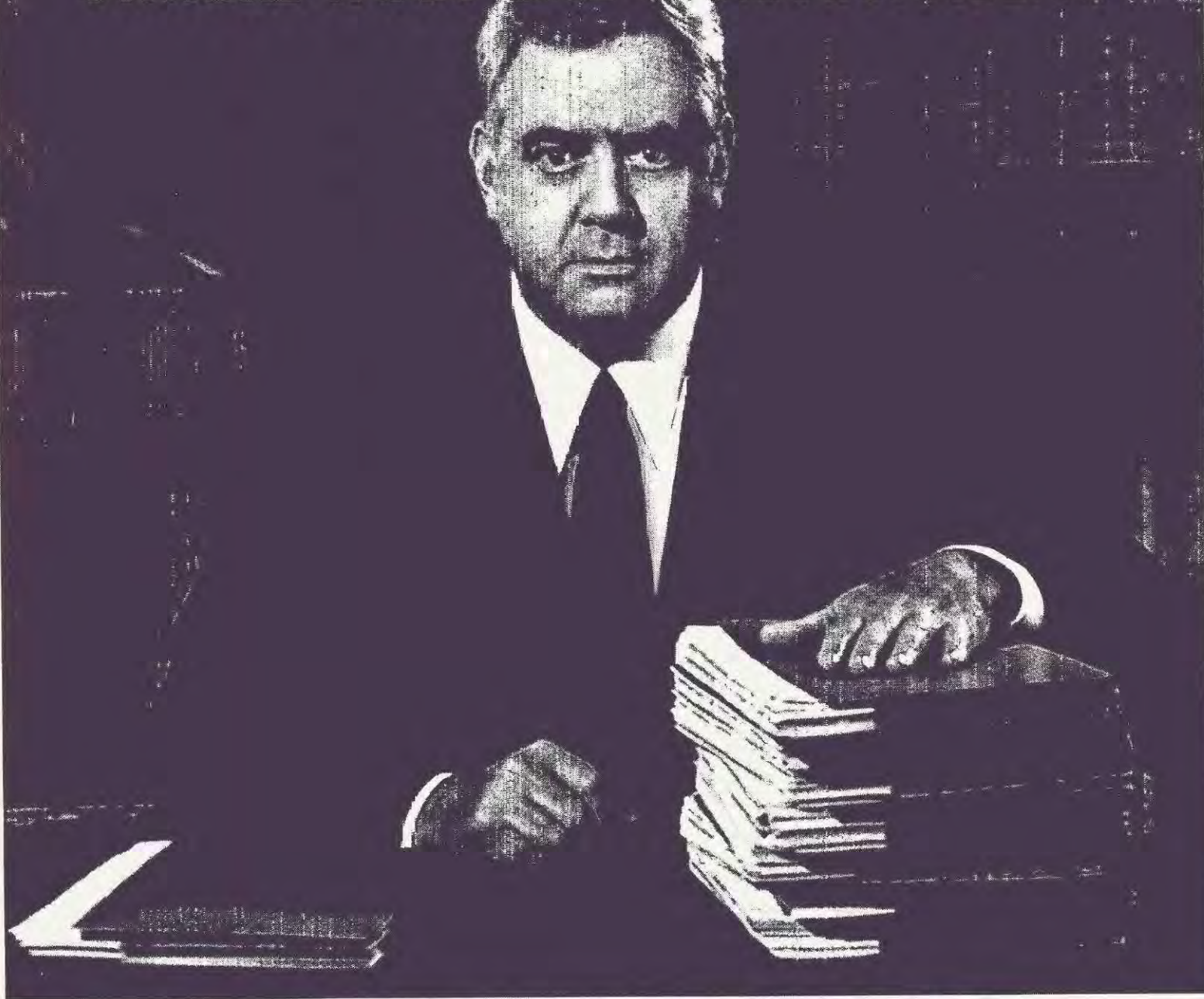
One bid for the same amount of coverage would have increased the district's premium 700% to \$400,000, an amount approximately equal to claims incurred by the district over the past 10 years, said John Murphy, general manager of the Rock Island County Metropolitan Mass Transit District. Annual claim costs in the past decade have ranged from \$23,000 to \$47,000. The four transit districts say a pool would work because they have similar operations with good safety records. "It's like jumping in bed with yourself," said Mr. Murphy.

However, Champaign-Urbana's district operates 50 buses compared with five for each of the other districts, said Bill Volk, managing director of the Champaign-Urbana Mass Transit District.

The districts are being assisted in the feasibility study by consultant Joe Allovio of J.M. Corp. in St. Charles, Ill.

Until the pool is formed, "going without insurance is not as bad as it seems at face value," Mr. Volk said. All districts have unlimited taxing power, so the districts could fund any large judgment by issuing bonds, he explained. ■

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opinions

D&O crisis costly to business

WHAT WOULD HAPPEN to U.S. businesses if there were no directors and officers liability insurance?

We are beginning to find out.

Insurers are pulling out of the market or charging dramatically higher premiums for very restricted coverage because they say they have lost a bundle on lawsuits that never should have been filed, tried, settled or gone to judgment.

And U.S. businesses are being hurt by the current scarcity of D&O insurance and the high price tag on the coverage still available.

Corporations that can't find or can't afford D&O insurance are losing their outside directors, who are resigning out of fear that their personal assets are at risk if they are sued for actions they take, or fail to take, as corporate directors (*BI*, Jan. 20).

Although these directors are promised reimbursement by the corporation for both defense costs, if they are sued, and for damage awards, if they are found negligent, they say this isn't enough. They fear that without an insurance backup, the corporation may not keep its promise, or it may be precluded from keeping it by a new management or even a bankruptcy court.

Good outside directors are important to any board. They challenge management's plans and bring a fresh perspective to business decisions. They also keep a check on the unfortunate tendency of some managements to act in their own self-interest and not in the interest of shareholders.

Many of the outside directors resigning today are among the best.

However, we also suspect that some of the directors

resigning because they have no insurance may not have belonged on any board in the first place. It could be that, lacking insurance, they suddenly realize they may not be equipped to serve on the board. They may have been more interested in the directors' fees and social standing offered by a directorship than in the hard work and diligence such a position demands. They may lack confidence in their abilities and judgment, leading them to conclude they might be found personally liable for failing to exercise the degree of care demanded of a director.

Any corporation that loses this kind of director should count its blessings.

But while this current difficult D&O insurance market may be performing a useful function in weeding out some ill-suited directors, more widely available and more reasonably priced D&O insurance is needed. Higher directors fees or other compensation, which are suggested alternatives to D&O insurance, probably will not attract all the talented and capable people needed to serve the corporate or public good.

To save D&O insurance, corporations and insurers must begin to work together to construct realistic limitations on the use of derivative suits and other devices. They have been misused to exhaust available D&O insurance by attempting to impose liability on directors and officers who acted in good faith on behalf of the corporation.

If they don't, we'll find out all too painfully what will happen to U.S. businesses lacking D&O insurance.

Businesses and the public will suffer the severe consequences of losing most truly capable outside directors on corporate boards.

letters

NAIC officials aren't realistic about state regulation

To the editor: The new president and vp of the National Assn. of Insurance Commissioners (*BI*, Jan. 6) seem unaware that circumstances have lobbied against them, and the tide has turned against state regulation.

NAIC Vp Edward Muhl, from Maryland, should have known better and should have warned his colleagues of the new perception of state regulation in Congress and Washington.

Many congressmen and their staff members were victims or near-victims of state regulatory ineptitude in Maryland's attempt to regulate savings and loan associations.

Since savings and loan regulation and insurance regulation are both basically financial security oversight, it is clear that if a state can't regulate relatively predictable savings and loan business, state regulation of the increasingly complex insurance scene is clearly outdated.

The state regulation crisis in Ohio S&Ls simply reinforces the lessons of Maryland.

All of this is hardly an encouraging environment for anyone in state regulation to hope for gains, and certainly a few cheery visits from state insurance commissioners are not going to wipe away this firsthand observation of state regulation scandals.

NAIC President Josephine Driscoll and Mr. Muhl's brave prognosis for state regulation of insurance either did not recognize this crisis for state regulation, or they were not candid enough to mention such an important challenge.

Most states don't take insurance regulation seriously.

For example, if the governor does not provide the state insurance commissioner with adequate funds for the quality and quantity of manpower and independent regulation, why should Congress take

Punitive awards serve lawyers, not society

To the editor: Punitive damage awards were intended as a means to punish a business for its negligent practices that allowed an unfortunate circumstance to occur wherein one or more persons were made to suffer due to no fault of their own.

The question of what to do with the award money was never properly addressed. It has come to mean a method whereby attorneys get wealthy by dipping their hands in the pot to take a healthy slice.

As a professional safety and hygiene practitioner, I have been approached on more than one occasion to become an expert witness for young attorneys just

starting out because, "That's where the real money is."

I think it's deplorable that this practice is condoned in the United States. In Canada and England, a solicitor is paid by the hour only, which, in my opinion, is the fair way.

The injured party should receive his or her proper settlement and enough of a share of the punitive award to pay the attorney.

The rest of the punitive award money should go to a fund to help those unfortunate enough to be injured with no coverage of any kind.

Frederick Drum Hunt Jr.
Bethesda, Md.

R.J. Holland
West Redding, Conn.

Rehab data don't consider extent of injury

To the editor: The article "Vocational Rehab Costs Soaring: Study" (*BI*, Jan. 13) finds an inverse relationship between time and cost spent on rehabilitation and the success achieved. There seems to be no allowance for the seriousness of the injury.

Perhaps those who were quickly and cheaply rehabilitated simply were less se-

verely injured.

People who are badly injured obviously will need more and longer attention with a lesser degree of success in the outcome.

Ralph E. Brandli
Treaty Underwriting Manager
Prudential Reinsurance Co.
Newark, N.J.

Company corrects its listing in *BI* directory

To the editor: We would like to point out to you an error in our listing in the captioned directory published in your Dec. 23, 1985, edition.

Under the heading of staff, you omitted the reference to the one CEBS and showed only four CPCUs, although our response to the questionnaire indicated five.

We are sure the omission of these professional designations, particularly the one directly related to the employee benefit field, from our listing was an oversight.

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New York Transit Authority names risk management chief

Peter F. Lopez, 44, has been named head of the newly created risk management department of the New York City Transit Authority.

As director of risk management, Mr. Lopez will be responsible for establishing and implementing both risk control and risk financing strategies for the NYTA, which has nearly 50,000 employees and annual operating expenditures of almost \$2.5 billion. He will report to Albert C. Cosenza,



Mr. Lopez

comings & goings: buyers

vp and general counsel. Prior to assuming his new position, Mr. Lopez had been director of risk management at the St. Regis Corporation in New York. In addition, Mr. Lopez was senior vp of Drum Financial Services, the financial services subsidiary of the St. Regis Corp. Mr. Lopez received a bachelor of science degree in economics and a master of business administration degree from Fordham University in New York. He is a deputy member of the Risk & Insurance Management Society and a former treasurer of the Captive In-

urance Cos. Assn.

Kenny R. Bush, 31, has assumed risk management responsibilities at Ivey's Inc., a nationwide mechanical and plumbing contractor, in Kosciusko, Miss.



Mr. Bush

Mr. Bush continues as general counsel for Ivey's, and will now also oversee property/casualty insurance programs, employee benefits and travel contracts for all Ivey-related companies. He replaces **Randy Dew**, who continues as Ivey's vp-finance, and will report to J. Marlin Ivey, chairman and chief executive officer of the company. Before joining Ivey's in 1982, Mr. Bush was vp for administration and development at Magnolia Bible College in Kosciusko, Miss. Prior to that, he was associate legal counsel at Pepperdine University in Malibu, Calif. He received a bachelor of science degree in business administration from Freed-Hardeman College in Henderson, Tenn., and a doctor of law degree from the University of Mississippi in Oxford. Mr. Bush, who was recently named one of the top young business leaders in Mississippi, is a member of the American Bar Assn.

Richard L. Broderick, 30, has been named corporate insurance manager at VF Corp. in Wyomissing, Pa. In this position, he will be responsible for all phases of the company's risk management program, property/casualty insurance and loss control. Mr. Broderick replaces and will report to **Roger Eichlan**, who has been named director of property leasing for the diversified apparel manufacturer. Previously, Mr. Broderick served as assistant vp/regional manager at Self-Insurer's Service, a division of Rollins Burdick Hunter Co. in Atlanta. He received a bachelor of arts degree in business administration from Belmont Abbey College in Belmont, N.C., and a master of business administration from Southwestern University in Georgetown, Texas. He is currently working toward the Associate in Risk Management designation.

John Pflieger, 38, has been promoted to director of compensation and benefits at Blue Cross of Greater Philadelphia. In his new position, Mr. Pflieger will be in charge of administration of employee benefits, salary and incentives, as well as manual and computer-based human resources information systems. He reports to Robert W. Cantlin, vp-human resources. Mr. Pflieger joined Blue Cross in April 1985 as manager of compensation. Previously, he was manager of compensation and benefits at Okidata Corp. in Mount Laurel, N.J., and prior to that was manager of salary administration and benefits at Dow Jones & Co. Inc. in Princeton, N.J. Mr. Pflieger received a bachelor of science degree in commerce from Rider College in Trenton, N.J.

We'd like to report on staff changes in your company's risk management, safety or employee benefits department. Just drop a note to Paul Winston, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611, or call 312-649-5442. Please send a photograph, too.

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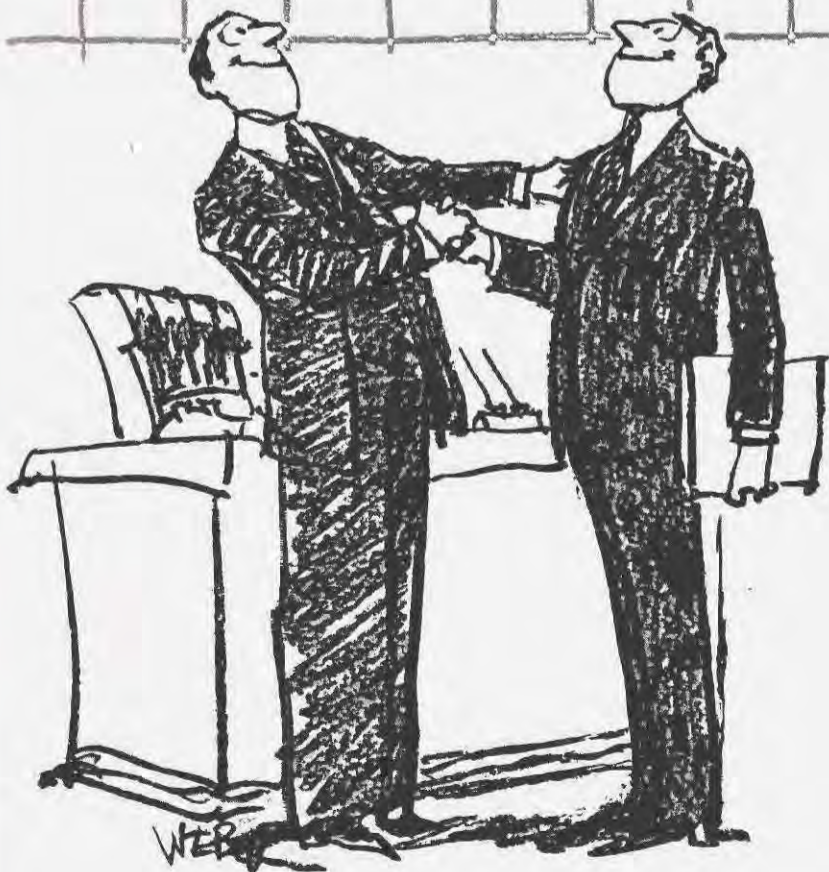
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Allianz to buy 11th-largest British insurer

By STACY SHAPIRO

london line

LONDON—West German insurance giant Allianz Versicherungs A.G. is finally acquiring a British insurance company.

Allianz last month announced it will purchase Cornhill Insurance Group, the 11th-largest British insurer, from industrial conglomerate BTR P.L.C. for 305 million pounds (\$427 million).

The purchase concludes Allianz's three-year search for a British partner. Allianz launched an unfriendly bid for Eagle Star Holdings P.L.C. in October 1983, but Eagle Star resisted the offer and was finally purchased for \$1.2 billion by B.A.T. Industries, the huge British tobacco company (BI, Oct. 31, 1983; Nov. 7, 1983).

Cornhill, a personal lines insurer, was established by Lloyd's of London broker Willis Faber P.L.C. in 1905 and purchased by industrial group Thomas Tilling in 1944, a spokesman said. BTR purchased Thomas Tilling in June 1983.

In 1984, Cornhill reported a premium volume of 224 million pounds (\$313.6 million), pretax profits of 14.1 million pounds (\$19.7 million) and 2,450 employees, a Cornhill spokesman said.

Allianz has no plans to merge Cornhill with its British subsidiary, Allianz International Insurance Co. Ltd., which writes commercial business, said an Allianz spokesman in Munich, West Germany.

Boon for Bowring

C.T. Bowring & Co. Ltd. is benefiting from last year's purchase of Gulf Oil Corp. by Standard Oil Co. of California.

Bowring, which had been Gulf's London broker, took over the Chevron business as well on Jan. 1. Previously, Bowring and Sedgwick Group P.L.C. had jointly been Chevron's London broker.

Bowring acquired the joint Chevron/Gulf account through Browning's U.S. parent, Marsh & McLennan Inc., confirmed Brian Hibbert, chairman of Bowring Non-Marine Insurance Brokers Ltd.

Marsh & McLennan and Bowring now broker all of Chevron and Gulf's "peripheral" business that isn't placed with Bermuda-based Oil Insurance Co. Ltd., said Mr. Hibbert. OIL is a petroleum industry mutual insurer.

Also, Bowring hired three Gulf insurance department officials in the past year to strengthen Bowring's marine and energy insurance division, noted Mr. Hibbert. The three men are:

- Martin Bowers, once Gulf's senior manager-insurance in Pittsburgh, who is now a director of C.T. Bowring & Co. Insurance Ltd.
- John Carter, formerly manager of Gulf's insurance department in London, who is now director of Bowring Marine & Energy Insurance Brokers Ltd.
- Paul Holliday, former deputy manager of Gulf's insurance department in London, now assistant director of Bowring Marine & Energy.

"Their insight is really useful to us because they know how to put an oil corporation's insurance program together and they give us the client's perspective," said Mr. Hibbert.

Lloyd's suspension

Lloyd's of London has suspended broker David George Thomas McAdams for one year and ordered him to pay 3,000 pounds (\$4,170) in legal costs because he concealed facts from a Lloyd's underwriter.

However Mr. McAdams maintains he is innocent of the charges. "I committed nothing wrong."

Mr. McAdams said. "I gave the underwriter every piece of information available."

The Council of Lloyd's last month found Mr. McAdams guilty of charges of breach of duty of utmost faith and behavior, which was dishonorable, disgraceful and detrimental to the interests of Lloyd's. However, he was found not guilty of fraud allegations.

Although he was suspended for a year, his suspension ends Friday because the penalty runs retroactively to the beginning of a voluntary suspension Mr. McAdams accepted in February 1985.

The charges against Mr. McAdams stem from a disputed marine insurance claim on the vessel Litsion Pride, whose coverage was brokered by Lloyd's broker C.

Rowbotham & Sons (Marine) Ltd. Mr. McAdams was managing director of the brokerage.

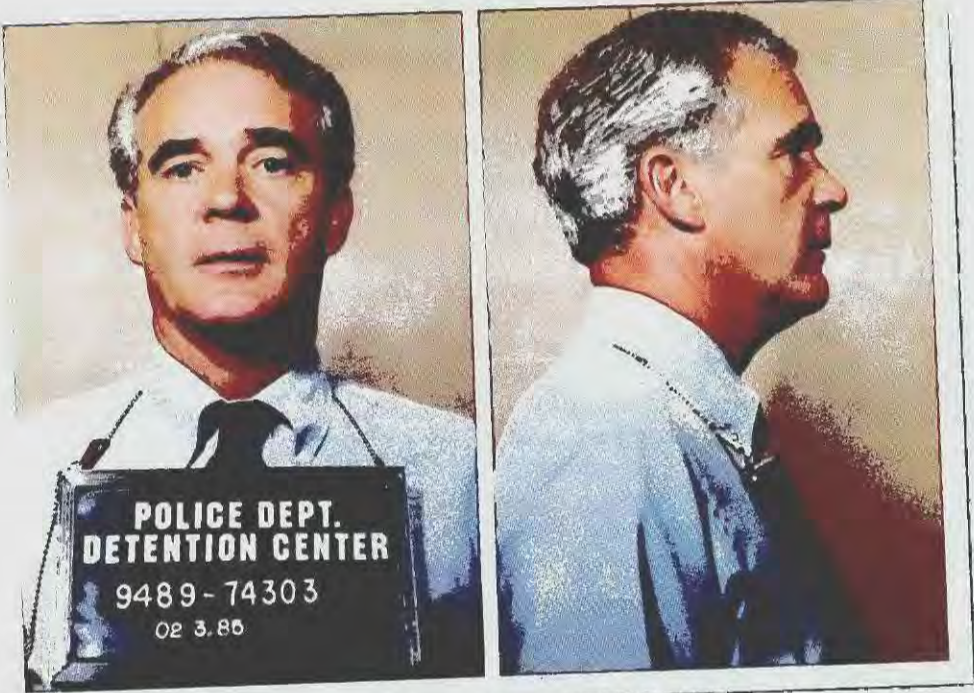
Rowbotham placed war risk insurance on behalf of Black King Shipping Corp., which owned the Litsion Pride, and other fleet owners with Lloyd's Syndicates 868 and 505, underwritten by A.J. Archer.

According to Lloyd's, the policies covered the vessels around the world except for areas like the Persian Gulf, which underwriters stipulate as excluded zones.

If vessels steamed into these areas, the policyholder and the underwriter were to renegotiate rates. The policy provided that "information of such voyage or deviation shall be given to insurers as soon as practicable and the absence of prior advice shall not affect the cover hereon," Lloyd's said.

On Aug. 9, 1982, the Litsion Pride was hit by a rocket in the northern Persian Gulf off the coast of Iran in an excluded area. A broker from Rowbotham's reported the loss to

Continued on next page



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London line

Continued from previous page

Mr. Archer, who said the claim would not be covered because he had not been advised that the ship was traveling in an excluded zone and separate rates had not been approved by the underwriters.

The case went to High Court in London, where a judge ruled the failure to notify underwriters before the ship entered the excluded zone negated the coverage. The judge added the owners had never intended to notify underwriters.

The judge held the underwriters were entitled to repudiate the coverage on the basis of this fraud.

The judge "also found that Mr. McAdams had made fraudulent misrepresentations to Mr. Archer to induce him to settle the claim and knowingly concealed from him facts material to it," the Council of Lloyd's said. "He held that the underwriters were entitled to repudiate liability on these grounds also."

However, Lloyd's disciplinary committee did not find that Mr. McAdams acted fraudulently.

But, Lloyd's said, "business at Lloyd's depends upon strict and scrupulous compliance with the duty of good faith, and a deliberate breach of that duty, whatever the motive, is a serious offense."

Mr. McAdams also was found guilty of making false statements when he testified in the Litsion Pride case.

"The disciplinary committee found Mr. McAdam's evidence, to the effect that he had disclosed relevant information to Mr. Archer, was to his knowledge untrue," said Lloyd's. "The committee found that the defendant's behavior was dishonorable, disgraceful and detrimental to the interest of the society."

Mr. McAdams, though, denies that he withheld any information from underwriters. "I gave underwriters every information that was available...the underwriter

was given the full facts," he told *Business Insurance*.

"Lloyd's has made an example of me for a minor offense," he added.

Mr. McAdams said he resigned from Rowbotham's in 1984 on an unrelated matter. He would not say where he is now working.

Tax reform

The Assn. of British Insurers is worried that the tax reform proposal passed by the U.S. House last year could cost them \$40 million.

The tax bill would increase to 4% from 1% the federal excise tax on casualty reinsurance premiums paid to foreign underwriters. The tax is payable by the underwriter (*BI*, Dec. 23, 1985).

However, under an agreement between the United States and Britain, known as the "double-taxation treaty," British insurers are not required to pay the tax to the U.S. government. In return, U.S. insurers are not required to pay a

similar British tax.

British insurers are concerned the new tax bill will override the double taxation treaty, boosting the insurers' tax liability dramatically, noted Keith Loney, the ABI's manager of taxation and accountancy.

An ABI delegation flew to Washington last month to urge the British ambassador against the bill.

Fraud legislation

The British government may introduce legislation at the end of the year to crack down on persons accused of fraud, Home Secretary Douglas Hurd says.

The government is studying recommendations by a committee chaired by Lord Roskill on how to improve fraud investigations and trials. Mr. Hurd said the report will be debated in Parliament and a bill may be introduced in the next session, which begins late this year.

The committee's report calls the current system to deal with fraud-

lent activities "archaic, cumbersome and unreliable. At every stage—during investigation, preparation, committal, pre-trial review and trial—the present arrangements offer an open invitation to blatant delay and abuse..."

Fraud artists currently steal more than 3 billion pounds (\$4.17 billion) annually in Britain, noted Gerald Kaufman, chief Labor Party spokesman on home affairs.

The proposals could affect allegations of fraud at Lloyd's.

Lloyd's Chief Executive Ian Davison said last month that it is a matter of "considerable regret at Lloyd's that the solicitor general has not brought any charges" against people who "have stolen millions of pounds from Lloyd's members."

The committee's recommendations include that there be a new, unified body to investigate fraud. Currently, several agencies examine fraud cases.

Continental capital

Continental Corp. has injected 7 million pounds of cash into its wholly owned subsidiary, Unionamerica Insurance Co. Ltd., increasing Unionamerica's issued share capital to 20 million pounds (\$27.8 million).

The additional cash contribution from Continental had been anticipated since last September's announcement that Continental would merge the operations of Unionamerica and Continental Reinsurance Co. (U.K.) Ltd.

Together, Unionamerica—a non-marine excess underwriter of U.S. insurance and reinsurance—and Continental Rewrite gross premiums of more than 100 million pounds, Continental says.

In addition, Continental recently purchased controlling interest in a Paris-based underwriting agency for an unspecified sum.

Continental said that it purchased a 75% interest in Groupe Barthelemy, a French underwriting agency that acts on behalf of several insurers, including Continental, in France. Groupe Barthelemy has an annual premium volume exceeding \$23 million.

The remaining 25% are owned by Jean-Loup Couturier, who has been elected chairman of the agency. Bruce Hayden, Continental's regional vp-European operations, and Peter Illias, Continental's vp-international operations, also will serve on Groupe Barthelemy's board of directors.

Product liability

The enactment of the European Community's controversial product liability directive may increase product recalls, warns a product safety expert.

The directive "means that producers are much more likely to recall a defective product to reduce the possibility of serious legal consequences," said Howard Abbott, managing director of Product Safety Ltd., a consultant and subsidiary of Lloyd's of London broker Stewart Wrightson P.L.C.

The directive, issued in July, gives EC nations three years to include strict liability provisions in their national laws.

Under strict liability, it is not necessary to prove that a manufacturer was negligent to recover damages for injuries caused by a defective product. Instead, the consumer needs to prove only the product was defective, and that he or she was injured by it (*BI* Jan.20; Oct. 31, 1985; Aug. 5, 1985).

Mr. Abbott believes companies must establish recall plans before the directive goes into effect.

"Sooner or later every company will make a bad product. The management skill lies in knowing that you have made a bad one, and then getting it back by matching the response to the threat."

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washington

Employer's health costs shrink compared with GNP

By JERRY GEISEL

WASHINGTON—Employer health care costs as a percentage of the gross national product are declining, according to the Employee Benefit Research Institute.

In a reversal of an historic trend, employer contributions in 1984 for health care—which includes premiums paid to health insurers and medical claims payments by self-funded employers—equaled 2.57% of GNP, down from 2.63% in 1983, EBRI says.

Health care expenses include insurance premiums and self-funding claims payments for medical and hospital care, dental and vision care and short-term disability bills.

While employers' health care costs in 1984 rose 9.3% to \$97 billion from \$89.9 billion the previous year, the nation's economic growth exceeded that of health spending.

While health care spending as a percent of GNP may be slightly declining, employer health care costs in 1984 were almost five times greater than a decade earlier, according to EBRI data.

Employers' \$97 billion health care bill in 1984 compares with \$21.1 billion in health care costs in 1974, when employer health care expenses were only 1.43% of GNP.

More information on health care costs is available in the February issue of EBRI's "Employee Benefit Notes." Individual copies of the report are available for \$10 each from EBRI-ERF Publications, P.O. Box 753, Waldorf, Md. 20601.

Bolivian risks

The United States and Bolivia have signed an agreement allowing the Overseas Private Investment Corp. to provide political risk insurance to U.S. companies that invest in Bolivia.

"The successful completion of this pact marks a significant step forward in strengthening the ties between our two nations," said OPIC President Craig Nalen.

"The U.S. business community has a long-standing interest in South America, and Bolivia offers a variety of promising opportunities," Mr. Nalen added.

The Bolivian accord is the third agreement in the last 18 months to extend OPIC coverages to employers investing in a South American country. The first pact was signed with Ecuador in November 1984, and the second was signed with Colombia in April 1985.

In another OPIC development, Travis P. Dungan Jr. has been named OPIC vp and treasurer.

Before joining OPIC, Mr. Dungan was deputy assistant secretary for finance at the Commerce Department. He also was a senior management consultant in the Miami office of Peat Marwick & Mitchell Co.

Profit-sharing plan

The Labor Department has obtained a federal court order requiring four trustees of a Louisville, Ky., profit-sharing plan to repay \$5,434 to the plan.

The Department had charged that James W. Snider Jr., Allen Willis, Jim Bealmear and Sherman Crenshaw, all trustees of Snider Bolt & Screw Inc.'s profit-sharing plan, caused or permitted the plan to make a \$75,000 loan to Mr. Snider at an "unreasonable rate of interest."

The court order says that the \$5,434 to be repaid by the trustees

represents the difference between what the plan received on the loan at 9% interest and what it would have received if the trustees had charged the market rate of interest between Sept. 29, 1980, to Feb. 2, 1985, the Labor Department said.

The order was issued by the U.S. District Court in Louisville.

Meanwhile, in another pension issue, the Labor Department's pension office in Washington has been renamed the Pension and Welfare Benefit Administration.

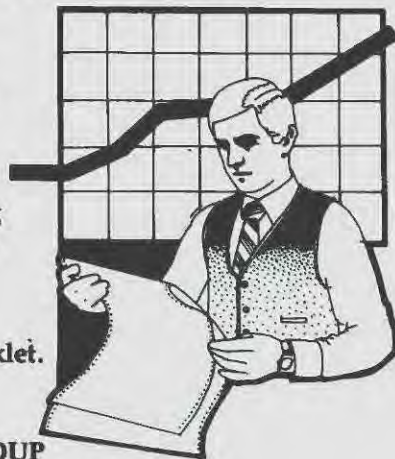
The office previously was known as the Office of Pension and Welfare Benefit Programs.

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PRODUCT LIABILITY

U.S. firms must prepare now for upcoming changes in Europe

By Jerome Karter

TO THE SURPRISE of many U.S. risk managers, the European Economic Community Directive on Strict Liability for Defective Products was adopted last July, nearly a decade after it was proposed in October 1976.

The directive, intended to harmonize existing consumer laws and regulations within member states, will impose no-fault liability as a supplemental cause of action for damage to consumers resulting from defective products (*BI*, Jan. 20; Oct. 21, 1985).

While the directive grants member states three years from the date of notification to legislate its 22 articles into national law, risk managers of U.S. multinationals can use this hiatus wisely to help their subsidiaries in EC member nations plan and implement necessary product liability risk management procedures.

For example, strict liability will not apply to products put into circulation before the enforcement of national implementing legislation, but product recall procedures will assume immediate importance as a means of identifying the date on which a product became available for public consumption (see story, page 14).

Under the terms of the new strict liability directive, a producer will be liable for damage caused by a defective product, whether or not the producer is negligent.

Prior to the directive, most member states required that the injured person prove negligence on the part of the manufacturer of the defective product.

Historically, however, the cost of proving negligence against a manufacturer deterred many injured persons from instituting product liability actions.

But, once the implementing legislation takes effect, by mid-1988, an injured person will be required to prove only the damage, the defect and the causal relationship between the damage and the defect.

As a further consumer protection, the product liability directive requires that the producer's liability remain unaffected by the acts or omissions of other parties that have contributed to the cause of the damage.

However, when contributory negligence can be proved, the producer's liability may be reduced or disallowed.



Jerome Karter is vp and manager of the New York International Department of Johnson & Higgins. His column on international issues appears the first Monday of every month.

international issues

The European Community's move toward strict liability is meant to supplement, not substitute for, existing common law remedies such as claims in contract or tort.

Thus, existing member state legislation, such as the German Pharmaceutical Act, will remain in effect for the consumer's protection.

The directive requires consumer compensation for damages—namely death, personal injury and damage to or destruction of any personal property, other than the defective product itself, that is not used for business purposes and that has a value greater than 500 European Currency Units (\$435).

This threshold was established to avoid excessive consumer litigation. EC member nations can avoid this provision by legislating recovery for non-material damages such as financial loss.

Although the directive embraces the principle of unlimited liability, member states may legislate a cap of not less than 70 million ECU (\$61 million) on liability resulting from death or personal injury caused by identical items with the same defect.

The effect of this limitation by any member state will be reviewed within 10 years from the date of notification of the

directive to assess its impact on consumer protection in general, as well as Common Market functioning.

The directive defines a product

as all industrially produced movables, or things that can be moved, including those that are used in the construction of, or installed in, immovables. The definition includes electricity but excludes primary agricultural products and game that have not undergone industrial processing that might cause a defect.

But, member states can enact their own product definitions that would include primary agricultural products and game under the directive.

Under the directive, a product is defective when it does not provide the safety that a reasonable man is entitled to expect, taking all circumstances into account, including the presentation of the product, the use to which it reasonably could be expected to be put and the time it was put into circulation.

A product's safety will be assessed by excluding any misuse of the product not reasonable under the circumstances.

Of primary importance is the directive's broad definition of a producer, which includes the manufacturer of a finished product, the producer of any raw material or the manufacturer of a component part, and any party that, by putting its name, trademark or other distinguishing feature on the product, presents itself as the producer of

an item.

The directive applies to products manufactured either within or outside EC member states. The producer definition extends to any party that imports into the EC a product for sale, hire, leasing or any form of distribution in the course of business.

Liability is joint and several in cases where one or more parties are liable for the same damage to the consumer.

The directive further protects the consumer's rights by allowing an injured person to treat each supplier of a product as its producer in cases

where the producer of a faulty product cannot be identified.

The supplier's liability will be disallowed, however, if it informs the injured person within a reasonable period of time of the producer's identity or of the party that supplied the product.

In the case of an imported product, the same liability will apply if the product does not indicate the identity of the importer, even if the name of the producer is indicated.

As a protection for both the consumer and the producer, member states are required to legislate a 10-year statute of limitation on a producer's liability, beginning with the date on which the producer put the product in question into circulation.

This provision will not, however, prejudice legal proceedings already instituted against a manufacturer at the expiration date.

Defenses available to the producer under the product liability directive include:

- The producer did not put the product into circulation.
- The defect that caused the damage did not exist at the time the product was put into circulation.
- The product was not manufactured by the producer for sale or any other form of distribution for economic purpose, nor manufactured or distributed by the producer in the course of its business.
- The defect is due to compliance of the product with mandatory regulations issued by public authorities.
- In the case of the manufacturer of a component, the defect is attributable to the design of the product into which the component has been fitted.
- The producer can prove that the state of scientific and technical knowledge at the time the product was put into circulation was not such as to enable the existence of the defect to be discovered.

This is called the development risks defense.

The development risks defense has become one of the most hotly debated

provisions of the directive. Critics of the directive maintain that this provision unduly restricts the protection of the consumer by allowing a producer to escape liability via a state-of-the-art defense.

Critics also ask how harmony can be achieved among the product liability laws of EC member states when an option exists to exclude or include development risk liability.

Fueling the debate is the expectation that liability insurance costs will be greater in those member states that

extend liability for development risks. Higher insurance premiums are expected to translate into higher production costs, higher selling

prices and possibly lower profits.

Advocates of the directive, however, maintain that an option to include defense risk liability is necessary, especially for a member state like France, whose existing civil code renders the seller liable in the case of a latent defect in a product.

Under the French law, if the seller knew of the latent defect, it must reimburse the price paid by the buyer and pay for damage suffered by the buyer, who does not have to prove fault.

But, if the seller were unaware of the latent defect, it only must reimburse all or part of the price paid by the buyer, who then must file a claim for damages by proving fault on the part of the manufacturer.

Thus, France only needs to pass implementing legislation to remove entirely the consumer's burden of proof.

Compounding the development risks issue is the Brussels Convention on Jurisdiction and Enforcement in Civil and Commercial Matters.

The convention, of which EC member states are signatories, determines civil court jurisdictions within the member countries.

It is expected that a sophisticated claimant will use the convention to "forum shop" for a member state with more favorable legislation.

Thus, producers or importers in the EC countries that decide to permit the development risks defense may find themselves prosecuted in another member country whose laws do not include this defense.

Both producers and importers that operate within EC member states should buy liability coverage against lawsuits brought within the entire European Community.

A further implication of the directive is the question of whether claims will increase as consumers and workers become aware of the right to bring suit. To date, the reaction to the directive has reflected the extent of consumer activism

It is expected that a sophisticated claimant will use the convention to 'forum' shop for a member state with more favorable legislation.

Continued on next page

ASK A BENEFIT ACTUARY

What to look for in a pension actuary

Q

I am an employer who sponsors a defined benefit pension plan, and I am interested in hiring an actuary to do the plan's annual cost and liability calculations and to give advise on other employee benefits issues. What should I look for in hiring an employee benefits actuary?

employee benefits actuary?

A

The employer's first step in assessing a prospective actuary is to understand the specific services the actuary will render. An actuary can be assessed only relative to specific services, which may include:

- Performing recurring pension cost and liability calculations.
- Advising on non-recurring pension issues, such as pension expense policy to comply initially with Financial Accounting Standard Number 87.
- Advising on employee benefit issues worldwide.
- Advising on recurring group insurance matters, such as an annual valuation of retiree medical benefit liabilities or an annual review of the group life, health and disability insurance premiums charged by the employer's group insurer.
- Advising on non-recurring group insurance matters, such as designing a flexible benefits program.
- Preparing employee benefits communications, such as summary plan descriptions, announcements of benefit changes or employee benefit statements.

It is a rare actuary who actually can perform all of these services for his or her clients. Generally speaking, an employee benefits actuary will be expert in either pension or group insurance matters, but usually not in both. He or she generally will rely on another actuary for assistance in the other areas.

Furthermore, the actuary typically will use a communications consultant for any benefits-related communications and an international employee benefits

consultant for non-U.S. employee benefits issues. The employer should be sure to meet these other consultants and assess them as well as the actuary.

Once the employer has matched the individuals with the services each will render, the employer should assess whether the actuary is competent to render specific services. Competence can be assessed in part by the actuary's:

- Professional credentials. Is the actuary a fellow or associate of the Society of Actuaries, a fellow or member of the Conference of Actuaries, an enrolled actuary?
- Work experience. For example, if the actuary is going to advise on group insurance, how much time does he or she actually spend on group insurance matters?
- Continuing education. In the past 12 months, how has the actuary kept up with the many changes in the employee benefits field or increased his or her expertise in employee benefits. Some responses to look for are regular reading of one of the employee benefit services or memorandums prepared by the research group in the actuary's firm, and attendance at meetings or seminars sponsored by the actuary's firm or a professional actuarial organization.

Another area to assess is whether the actuary's services are priced fairly. Most actuaries charge an hourly billing rate; to assess the price for non-recurring services, the employer should ask what this rate is.

For recurring services, an actuary can estimate his or her fee. Ask for this estimate, but be sure to specify precisely what services you want.

The actuary's fee for an annual pension valuation will vary significantly according to the kinds of information the employer needs in the actuarial report. For example, a valuation that includes a detailed analysis of the plan's experience during the past year or pension expense allocations to numerous operating units will be more expensive than one that excludes these items.

The employee should meet face to face with any actuary who may be hired to assess the actuary's direct communications skill: Is the actuary clear and understandable in oral communications? The employer also should review some of the actuary's written communications for the same characteristics.

Ask for the names of some of the actuary's clients, as well as the names of the individuals at these clients who can give a reference regarding the proposed services.

The employer should call these references and check on the actuary's competence in specific services, the reasonableness of his or her fees and his or her communications skills.

In addition, the employer should question the clients regarding the actuary's responsiveness to requests for services and whether the actuary delivers the work on a timely basis.

Finally, the employer should try to assess the extent of the actuary's involvement with the work performed for client references. Does the actuary only manage the client relationship, or does he or she have meaningful responsibilities for actually doing, supervising or reviewing the client's work? The quality of the services usually are better if the actuary does more than manage the client relationship.

As you can see, the process of hiring an actuary is not a simple one. It requires that the employer invest time and energy in assessing one or more actuaries.

However, the initial time commitment by the employer should be rewarded by quality advice on employee benefit issues.

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

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



Mr. Miner

This month's column, on actuarial issues, is written by William J. Miner, an actuary with The Wyatt Co. in Chicago. Ralph F. Perry Jr., vp and director of risk management at Amfac Inc. in San Francisco, answers risk management questions. And, Joseph Duva, director of employee benefits and compensation at SCM Corp. in New York, answers benefit management questions.

Mr. Miner's column appears every other month on the first Monday of the month. Mr. Duva's and Mr. Perry's columns appear alternately on the second Monday of each month. Mr. Miner's next column will appear in April.

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

U.S. firms must prepare for new European tort laws

Continued from previous page within member states.

In a highly consumer-conscious country like West Germany, consumer advocates are pressing for inclusion of development risk liability.

In addition, the West German employers' confederation has called the directive "immature" and poorly timed when "efforts are being made in the United States to correct abuses of producers' liability."

Spain, on the other hand, only joined the European Community last month and passed its first consumer protection law in July 1984.

Although this law protects a consumer's economic and social rights, liability is limited to 500 million pesetas (\$3.195 million). Still, claims have increased since the inception of this law.

While the growth of consumerism in Ireland has continued unabated, there has been an unpopular reaction to the directive in Irish industry, which feels itself vulnerable to greatly increased claims.

Likewise, while French consumers have taken the directive in stride, industry in that country is concerned that

U.S. risk managers will be faced with coordinating coverage for an unprecedented mix of product liability exposures. Not only will each exposure have to be identified and insured, but risk managers will have to address the possibility of claimants shifting venue to a more favorable jurisdiction.

future product development will be curtailed by rising insurance liability costs.

The following developments are expected by July 1988:

- Early compliance with the directive is expected in France, Belgium and Luxembourg. Each of these Napoleonic countries currently endorses strict liability, which is unlimited under the Napoleonic Code, and none will permit the development risks defense.

- Early compliance with the directive also is expected in the United Kingdom. The British government favors the development risks defense.

- The West German liability law has been akin to strict liability since the late 1970s, when the burden of proof for negligence was shifted from the claimant to the manufacturer. "Prima facie" proof usually is interpreted to the advantage of

the claimant. Nevertheless, compliance with the directive is expected by mid-1988.

- Compliance with the directive also is expected by mid-1988 in Denmark, Italy and Ireland. These three countries favor the development risks defense.

- Consumers in the Netherlands are lobbying against the 500 ECU deductible for personal property losses. Still, the Netherlands is expected to comply with the directive by mid-1988.

- Spain expects to need time to resolve capacity problems relating to the minimum no-fault cap of 70 million ECU on liability for damage caused by identical products with the same defect. Although compliance with the directive is expected in Spain by mid-1988, passage of the development risks defense is not likely.

At this early date, U.S. risk managers are divided on the subject of the directive's impact. Increased litigation not only is anticipated, but also is expected to result in increased insurance costs.

On the other hand, the absence of both a contingency fee system and juries in civil cases in European nations is expected to protect member states from the astronomical claim costs experienced in the United States.

More importantly, U.S. risk managers will be faced with coordinating coverage for an unprecedented mix of product liability exposures. Not only will each exposure have to be identified and insured against, but U.S. risk managers will have to address the possibility of claimants shifting venue to a more favorable jurisdiction.

It will be too late in 1988 to implement product liability risk management procedures. U.S. risk managers with subsidiaries in the Common Market should plan instead to address this subject immediately.

These same U.S. risk managers then can sleep soundly while waiting to assess national implementing legislation as it is passed prior to July 1988.

markets

Ex-Goodrich risk manager establishes consulting firm

Pine States Management Inc. is a new consulting firm specializing in insurance management services, including captive insurance companies.

The Charlotte, N.C.-based company was founded by Spencer J. Traver, who most recently was a senior vp of American Risk Management Inc. in Cleveland and acting chief operating officer for North American Specialty Insurance Co., a member of the Swiss Reinsurance Group.

Prior to joining American Risk Management in late 1983, Mr. Traver had been assistant treasurer in charge of risk management at BF Goodrich Co. in Akron, Ohio, for 10 years.

Currently, Mr. Traver also is affiliated with London International Underwriters Inc., a wholesale brokering operation in Charlotte. He is a senior vp of the company.

Mr. Traver, who said he has raised capital from local investors, also is seeking to acquire one or more insurance companies, which will underwrite primarily in special market areas.

"I've always wanted to be on my own," Mr. Traver said of his decision to establish Pine States Management.

Pine States Management Inc.'s office is located at 6230 Fairview Road, Suite 101, Charlotte, N.C. 28210; 704-364-5652.

Agencies to merge

Associated Agencies Inc. and Robert M. Schraye Co., both independent agencies in Chicago, will merge to create a firm that expects to earn gross revenues of more than \$8 million this year.

If the new company's revenues do top \$8 million, as its officers predict, it would rank among the 40 largest agents and brokers in the United States, based on last year's annual *Business Insurance* survey of the top U.S. brokerages.

The new company is retaining the Associated name in the merger, which was expected to be completed this month.

Last year, Associated ranked 87th among U.S. brokers in the *BI* survey, with \$3.6 million in gross revenues. Schraye was 93rd, with revenues of \$3.4 million.

Both agencies broker commercial property/casualty coverages and life and health insurance for individuals and groups.

In addition, the staff of Associated brings specialties in medical malpractice and jewelers' insurance to the new venture. Schraye has acted as an administrator of self-funded group medical insurance plans.

The new company will have 130 employees.

Robert M. Schraye, who formed the firm that bears his name in 1971 and was a former partner of Associated, will serve as president of the new firm.

Max Robert Schraye is chairman of the board of the new company. He joined Associated in 1924.

Irving E. Shainberg is executive vp of the new company. He has been vp of marketing and operations at Associated for the past 15 years.

Until new corporate headquarters are completed at Washington and Des Plaines Streets in Chicago, employees will continue to work out of their current offices.

Acquisitions

GEM Agencies in Houston has acquired Allied Underwriters-

Been-Olsen Agencies, also of Houston.

New offices

Stewart Smith Mid America Inc. has moved to a new location at 1 S. Wacker Drive, 28th Floor, Chicago, Ill. 60606; 312-236-6114.

The Laub Group Inc., an independent insurance agency in Milwaukee, has moved its administrative operations to a new office at 839 N. Jefferson St., Milwaukee, Wis. 53202; 414-271-4292. The firm's executive offices will continue to be located at 324 E. Wisconsin Ave. in Milwaukee.

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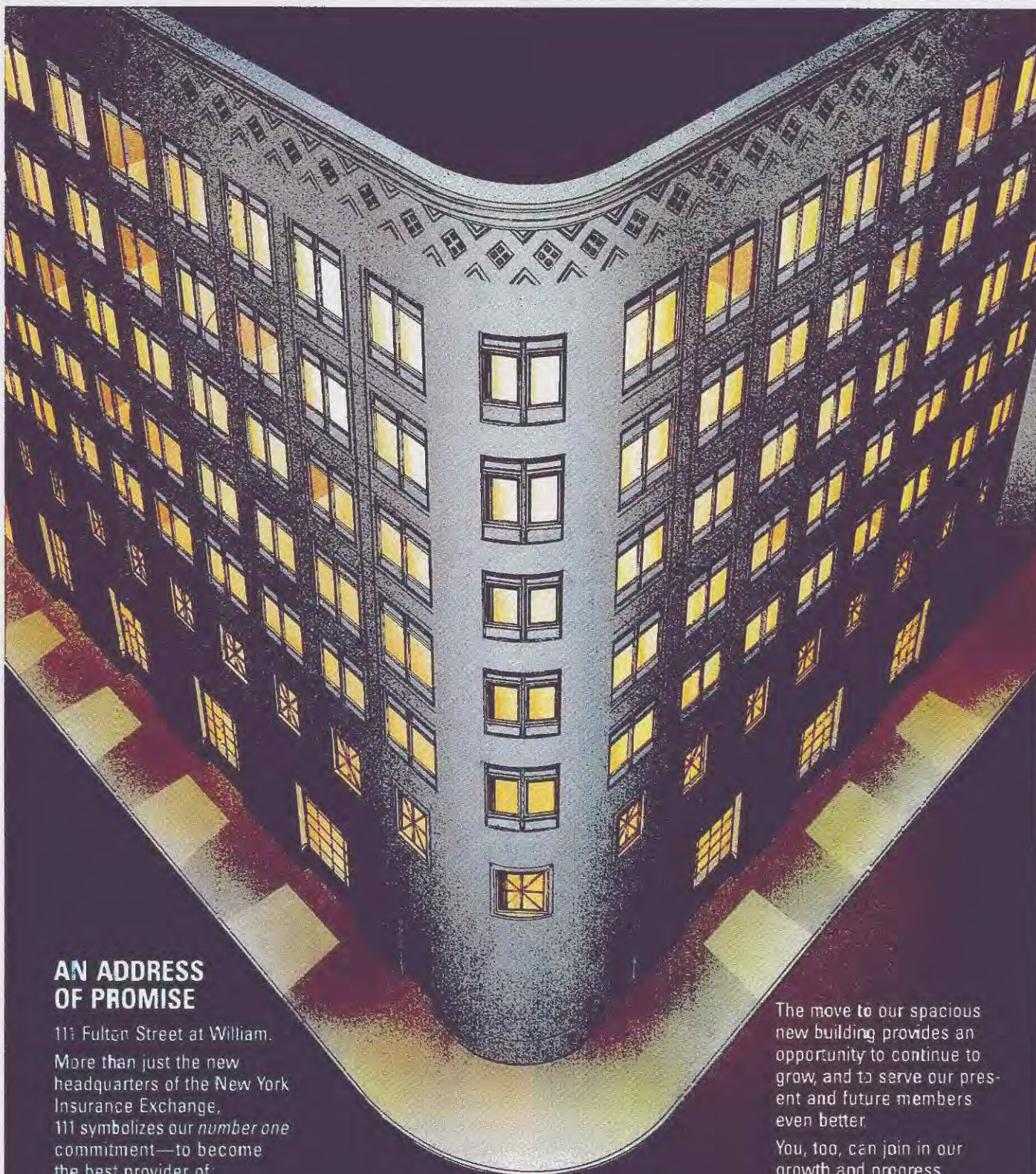
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Aviation underwriters considering changes in way claims are settled

By STACY SHAPIRO

LONDON—In the wake of the worst year ever for aviation losses, aviation insurers are reviewing how air crash claims are settled.

Underwriters are working at the moment on new wordings and intentions to resolve how claims will be paid and settled among underwriters when an air crash occurs, says Raymond Dowlen, chairman of the Aviation Insurance Offices Assn. in London.

Airlines would be able to have their losses paid as quickly as possible and any quarrel among underwriters would be settled later, Mr. Dowlen said.

He confirmed that the controversy about claims payments arose when an Air India Boeing 727 mysteriously exploded on June 23, 1985, off the Irish coast, killing 303 passengers and 22 crew members (BI, July 1, 1985).

Hull underwriters and war risk underwriters wrangled for weeks

over who should pay the \$95 million hull loss, the most expensive ever, he confirmed. In the end, the underwriters agreed that half the claim would be paid by war risk underwriters and half would be paid by hull underwriters. But, in the interim, brokers C.T. Bowring & Co. Ltd. had to finance the loss to pay Air India.

New wordings on aviation hull, liability and war risk policies may resolve this delay in claims payments, Mr. Dowlen said.

Underwriters also are reviewing their rating structures before the next big push of airline hull and liability insurance renewals April 1, Mr. Dowlen said.

One leading Lloyd's of London aviation broker has said that hull rates may rise 40% to 50% over last year and liability rates may rise 70% to 80%.

Mr. Dowlen added, "London is doing something sensible: They are increasing rates, particularly on liabilities and particularly on American airlines."

Mr. Dowlen was speaking at the annual general meeting of the Institute of London Underwriters Jan. 21.

He said aviation claims totaled more than \$1 billion last year. The total aviation loss figure includes \$410 million for the loss of 19 Western-built jets, including five wide-bodied aircraft, plus \$90 million for partial hull losses, he said.

Another \$500 million is tacked on for estimated liability losses, said Mr. Dowlen.

In 1984, hull losses totaled only

\$60 million. The previous record for aviation hull losses, \$302 million, was set in 1983 (BI, Dec. 9, 1985).

Mr. Dowlen said there was no single reason why there were so many losses in the skies last year.

"On average, we lose 20 jets per year. Geographically, the accidents last year occurred around the world and there was no type of airline which fared worse than others."

However, some people feel that airline deregulation, particularly in the United States, has caused a slack in safety standards, he said.

"There may not be enough people to inspect the airlines" because of deregulation, he said. "But it's only one opinion."

Aviation underwriters, as well as specialist marine underwriters, also were hit by an estimated \$385 million in satellite losses last year, topping \$282 million in satellite losses in 1984, says the Institute of London Underwriters.

Altogether, since the 1970s, satellite underwriters have paid \$900 million in losses and taken in only \$400 million in premiums, Mr. Dowlen added.

As a result, most aviation underwriters have stopped writing satellite coverage, said David Lowen, ILU chairman and senior underwriter/general manager of Orion Insurance Co. P.L.C. Orion stopped satellite underwriting in 1984 (BI, July 2, 1984).

Each year, the ILU reports on the marine and aviation casualties of the year before.

Continued on next page



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(Exclusively through Agents and Brokers)

ISU working to improve its recognition

By LINDA J. COLLINS

Insurance agency franchisers are gearing up to help their member agencies locate markets and increase sales in the tightening commercial insurance market.

The franchisers, which vary dramatically in size and range of services, offer a variety of programs, though many have discarded some of the services they formerly provided.

Following are profiles of the major franchise organizations:

ISU International Inc.

San Francisco-based ISU, by far the largest of the agency franchisers with 522 franchisees in 41 states and Canada, is currently introducing a new strategy to help its members cope in the hardening market and improve ISU's recognition.

ISU began implementing its new marketing and franchise identity program last month, and this effort will continue throughout most of 1986, says Thomas J. Ryan, ISU's chairman and chief executive officer.

ISU's new approach involves:

- A national image program, which consists of a series of meetings between ISU agents and major insurers in each region. The meetings are intended to develop stronger bonds between agents and insurers. Agents will be able to identify the types of risks the insurers want to write, while insurers learn more about ISU member agents and the business they place.

"We plan to find out what business insurance companies need to write and then pattern our sales accordingly," Mr. Ryan said, explaining the goals of the meetings. "Franchisees invite local representatives of their principal carriers" to the gatherings, he noted.

"The diversity within insurance companies is so great that negotiating with the head office is not really practical. Local insurance company managers have a certain amount of autonomy concerning who they do business with in their area... and know what they want to write on their books in that state," Mr. Ryan explained.

ISU's new image program also includes national television ads to increase the public's recognition of ISU and its agencies; sales support materials, like brochures and pamphlets that franchisees can distribute; and advertising campaigns in trade publications to spread ISU's message to insurers.

- New training and marketing programs. For instance, a sales techniques program includes written materials that help agents and customer service representatives present and close sales. The material details a model telemarketing/target marketing program.

In addition, ISU will hold regional seminars to explain this information and further train agency personnel.

'A franchise agent in Michigan who is an authority in one area of insurance can share his expertise with other franchisees and will accept individual pieces of business on a commission-split arrangement between the two,' explains ISU's Thomas Ryan.

- Regional councils to coordinate the program, including the training and advertising efforts, on a local level.

ISU Franchisees say they are excited about the new program.

"The system should help insurers allocate their surplus," said William W. Fibiger, executive vp of ISU/Security Group Inc. in Albany, N.Y. "Insurers will open up for people who provide business that meets their criteria and will make more capital available to them in other lines."

"Local underwriters still don't know who ISU franchisees are," added David M. Fenderson, president of ISU/Fenderson Insurance in Bangor, Maine. The new program "will have the most immediate impact and help for franchisees."

"It's the companies we have to do the hardest sell to right now. Then our image to the public will be promoted on a region-to-region basis," he explained.

The new franchise image program will have "a tremendous impact on the esteem of the ISU agent" and "could be a key part of making the ISU franchise valuable," noted Knight H. Berman, president of ISU/I. Berman Company Inc. in Montgomery, Ala.

Apart from the image program, ISU also has created a facility in San Francisco called ISU Insurance Services, which presents to excess/surplus markets "the most difficult-to-place business" brokered by ISU franchisees, Mr. Ryan said. "We are being selective in the risks we take to market, like asbestos removal, etc.," he explained.

Edward Tanke, president of ISU/Klein Insurance Group Inc. in La Crosse, Wis., said he placed a trucking account that generates \$400,000 in premium through the intermediary, as well as a sizable municipality account. "We have also gotten quotes on asbestos removal" through the network, he added.

ISU's new activities are a marked change from its old focus. ISU was formerly known for designing and marketing specialized package insurance programs to certain industries, but insurers discontinued most of those programs last year as the market hardened.

Franchisees, though, still have access to about 72 package programs developed by individual ISU agents. Commissions from this business are split between the agent that sells the coverage and the agent that developed the package, Mr. Ryan said.

ISU members also can tap the expertise of ISU staff members and other franchisees to help them place their business.

For instance, ISU publishes a quarterly list

detailing different franchise members' areas of expertise. And, through a toll-free "Answerline," staff members will answer specific market questions or refer the caller to an ISU agent who is knowledgeable in a particular line of insurance.

Through this networking concept, "a franchise agent in Michigan who is an authority in one area of insurance can share his expertise with other franchisees and will accept individual pieces of business on a commission-split arrangement between the two," Mr. Ryan explained.

"Virtually all of ISU's target market package programs are defunct, but the agent-to-agent brokerage is very viable... The price of membership is worth the relationships you are forming with top people in the industry," said Mr. Berman.

Although markets today may be too localized for a national answer line to be very effective in directing an agent to a specific market for an account, "we still use the national line on a daily basis for market information," he said.

"I communicate with other franchisees, particularly those within this region... One of us has a particular area of expertise, others will remember and call the agent when they have problems in that area," said Mr. Fibiger of ISU/Security Group Inc.

"We use the Answerline on a daily basis. I released the phone number to my marketing people and agents, too. Somebody is on the Answerline every day to get market information," said Mr. Fenderson of ISU/Fenderson.

For an additional fee, ISU also offers its franchisees a personalized four-page newsletter that they can mail to their clients.

The first page of the ISU Insurance and Business Newsletter can be filled with copy written by either the franchisee or ISU. Pages 2 and 3 contain insurance-related topics. The fourth page contains financial information under the Merrill Lynch, Pierce, Fenner & Smith logo. Merrill Lynch is one of the investors in ISU.

ISU brings together small groups of franchisees from different regions of the nation twice a year to discuss market conditions and to exchange office management ideas. By separating franchisees within the same region, agents avoid divulging secrets to competitors at the meetings.

In addition, ISU holds an annual conference. Several different sessions are run simultaneously for two days, and agents can attend the topics that interest them most.

Some of the sessions focus on industrywide topics, like the implications of the Insurance

Services Office's claims-made commercial general liability form, while others deal with the operations of various insurance companies.

Some other services initially offered by ISU have been discontinued, Mr. Ryan explained. For example, ISU had established a captive insurance company to reinsure some risks marketed by ISU members, but it was not often tapped by franchisees and the \$1 million in workers compensation business the facility wrote is now being run off.

ISU also formerly offered risk management consulting services to member agents, but "from a practical standpoint not enough need" was exhibited by members for the service to be maintained, he added.

ISU's 522 franchisees generated more than \$500 million in commissions in 1985, or an average of about \$960,000 per member agency.

The franchiser, which employs 32 staff members, operates regional offices in Georgia and Connecticut. It also has employees based in Florida and Tennessee.

The initial franchise fee is \$3,000, plus \$300 per month in service fees, but Mr. Ryan said those fees will soon be changed to reflect new services currently being introduced.

ISU was founded in February 1980 with \$15 million in financial backing by Merrill Lynch and by Edward Scarff, a San Francisco-based venture capital group. In 1982, it merged with Insurors Group, an information exchange network of large agencies founded in 1976 by agency marketing consultant George Nordhaus of Insurance Marketing Services Inc. in Santa Monica, Calif.

Marketforce International Inc.

Kansas City, Mo.-based Marketforce, with 308 franchisees in 27 states, offers a unique feature to some of its franchisees.

Not only does it provide a market with which franchisees can place Main Street commercial business, but it gives them an opportunity to share in the underwriting profits generated by that business.

Marketforce agencies in 14 states can participate in a program through which their business is reinsured by Marketforce International Insurance Co.

Marketforce members participating in the program receive one-third of the underwriting profit and investment income generated by the reinsurer without investing their own money in the operations. This is in addition to normal profit-sharing payments and commissions they receive from the fronting insurer, Centennial Insurance Co., a unit of Metropolitan Mutual Insurance Cos.

Metropolitan Property & Liability Co. contributed Marketforce International Insurance's \$5 million in capital and surplus.

Marketforce International Insurance assumes 75% of the business written by Centennial for Marketforce agents, explains Marketforce President Leon R. Levin. That business is then "heavily reinsured" by A-rated domestic reinsurers, he said.

"The facility has been operational for 1½
Continued on next page

Franchisers change focus

Continued from previous page

"When we're having trouble, we can call ISU's Answerline to either locate and contact another franchise agent who is an expert in that area and talk to him about how to write the account... or we can locate markets that are writing the business," he explained.

America One Inc., a franchiser based in Lansing, Mich., did not need to modify its services to meet hard market demands, because America One was founded to provide markets for franchisees, in addition to other services, says Robert C. Lecy, president of America One.

America One franchisee L. David LaForest, president of LaForest Insurance Agency in Flushing, Mich., says the service is invaluable.

"The America One franchise offered instant markets to me. It is by far the most important aspect of our organization. With some of my companies, I alone can't possibly give them enough volume to satisfy their requirements. However, other franchise members can. So insurers won't terminate their relationship with me because of our combined premium volume," Mr. LaForest explained.

"There's safety in numbers, and our volume alone has insulated us somewhat with our companies. Some companies probably wouldn't be doing business with us otherwise," said William J. Barker, president of Barker/Weber Insurance Agency Inc. in Jackson, Miss., another America One franchisee.

"It's been the perfectly right thing for us to do at the perfectly right time. It's really increased our profitability and our success," Mr. Barker added.

PrideMark West in Costa Mesa, Calif., the only surviving regional facility of PrideMark Corp., is now acting as a managing general agent for its franchisees, serving as an "underwriting facility for large or hard-to-place risks" said Wayne R. Weld, president of the franchiser.

"We now have direct contracts with 11 or 12 markets, and we can place business through other carriers as well," Mr. Weld said.

Eighteen months ago, Pridemark had seven regional offices, including the one in California, and planned to open offices in three additional regions.

While franchisers are now devoting much of their resources to finding markets for their franchisees, the hardening market has damaged some of their own marketing programs.

Many of the franchisees have been forced to discard special target-marketed coverage packages, because insurers will no longer write the coverage.

"With the diversity of insurance risks, it's extraordinarily difficult to put together a package program that is equally useful in all parts of the country," explained ISU's Mr. Ryan. "And, in tight markets, underwriters are apt to pull these package programs."

Many insurers that formerly wrote package programs for franchisees did not have a network of agents large enough to coordinate such programs, he noted. "The specialty mar-

kets who were willing to write national programs are the ones who have suffered the greatest in the hard market."

For example, one program offered to ISU franchisees, a package for motel owners that provided primary and excess property and liability coverages, was written by Transit Casualty Co., which a Missouri court ordered liquidated in December (BI, Dec. 9, 1985).

Another ISU package, a special events liability policy for municipalities, was written by Midland Insurance Co., which has since discontinued underwriting many lines of business, including coverage for municipalities (BI, April 22, 1985).

Mr. Ryan stressed, however, that both insurers had A-plus ratings from A.M. Best Co. Inc. when the programs were introduced to franchisees.

ISU franchisee Mr. Fenderson said the trouble was that ISU started offering those target market programs during the soft market, when agents had other markets competing for those risks.

"That was probably a mistake," Mr. Fenderson said. "Franchisees need these programs now more than they needed them then. They didn't get the market penetration they would have gotten in the hard market, and when the hard market came they didn't have the volume needed for insurers to keep them in place."

PrideMark, which had about 25 special package programs available to its franchisees 18 months ago, now offers no such packages. But, according to Mr. Weld, "We're working hard on a couple right now."

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Taking off Franchisers emphasize marketing services

By LINDA J. COLLINS

Insurance agency franchisers are weathering the storm precipitated by the current hard market by modifying their services to meet franchisees' changing needs.

Many services franchisers offered when the market was soft—like automation support, job placement assistance and advertising programs—are not as important to franchisees now.

To survive and compete, agents say they need help finding markets to write their clients' business, and franchisers are adapting by satisfying that need.

"Despite the other services we offer, most agencies now join our franchise because they are desperate for market access. We can provide them with expertise and more access to markets than their competitors have," said Leon R. Levin, president of Marketforce International Inc., a franchiser based in Kansas City, Mo.

ISU International Inc., a San Francisco-based franchiser, is now conducting regional meetings with franchisees and their insurers to identify what types of business the insurers want to write.

"This hard market has certainly crystalized our thinking and organization to implement the new program," said Thomas J. Ryan, ISU's chairman and chief executive officer.

In addition to ISU and Marketforce, the other franchisers that are currently in operation include:

- Eagle 2000 Corp., based in Lake Wylie, S.C.
- America One Inc., based in Lansing, Mich.
- PrideMark Corp., based in Costa Mesa, Calif. However, the geographic area in which PrideMark operates has been dramatically reduced (see story, page 24B).

Another franchiser, Systems VII Insurance Services Inc., still maintains an office in Santa Fe Springs, Calif., but its franchisees say the company offers few, if any, services.

Systems VII franchisee Paul Diaz, principal of Paul Diaz Insurance Agency in Huntington Park, Calif., said Systems VII "is not functioning as a franchise at this time. They lost their markets."

Another Systems VII franchisee, Dwayne Elam, president of DKE Insurance Services in Long Beach, Calif., said the franchiser is "not really" providing market assistance, nor does it provide seminars or advertising programs for franchisees.

Officials at Systems VII would not return phone calls.

Franchisers burst upon the agency scene in the late 1970s and early '80s, offering to provide agents with a wide range of services in return for a franchise fee (A/BT, Aug. 6, 1984).

At that time, most franchisers' services concentrated on teaching their franchisees aggressive marketing techniques.

Many franchisers promoted themselves by suggesting that buying their name would provide instant recognition similar to Century 21 real estate franchises or McDonald's fast food restaurants. The franchisers said they would provide lavish advertising campaigns to achieve this visibility.

Insurers, attracted by the potential volume of business a franchise network could offer, furnished some franchisers with a variety of specialized target marketing programs.

In addition, franchisers offered agents who paid their franchise fee such services as:

- Agency management and marketing training.
- Risk management, engineering and loss-control services.

- Automation hardware, software and/or support.
- Group purchasing discounts.
- Premium financing.
- Appraisal services.
- Investment opportunities.

However, some franchisers failed to live up to their promises or met with financial difficulties and were forced to close.

Franchisers like Intermark Inc., InsurAmerica and Coverage Plus Systems folded before they signed up any agencies. Others, like Marketcover, Insurance Consortium of America and Insurance World, were able to attract some franchisees, but failed nonetheless.

In addition, most of the franchisers that did survive grew at a much slower pace than originally anticipated, and none have become household names.

As the property/casualty insurance market hardened in late 1984 and early 1985, many of the services that franchisers had provided during the soft market began to lose their importance to franchisees, who were scrambling just to place their clients' business.

So, franchisers began concentrating on finding markets for the franchisees, even though that emphasis was foreign to some of them, one observer notes.

"When franchisees were introduced into the American agency system, the franchisers did not realize the necessity of being a product provider, because in the soft market... products were universally available," explained Don Eve, agency consultant and president of Eve Insurance Agency in Flint, Mich.

ISU's Mr. Ryan said that his company's current efforts to develop stronger relationships with insurers, and to identify the risks that those insurers want to write, "is evolutionary and is a reflection of the tight market."

"We (initially) did not address markets as a problem, because when we started it wasn't a problem," noted W.R. Murphy, chairman and president of Eagle 2000 Corp.

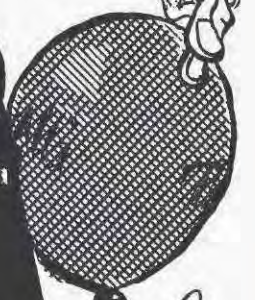
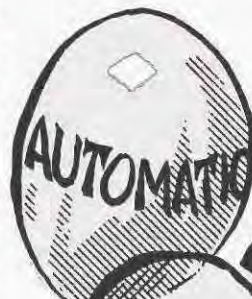
Franchisees agree that the market assistance provided by the franchisers is very important.

Because of the minimum volume requirements insurers are now imposing on agents, and the lack of market clout many agencies have compared with regional or national brokerages, "smaller agencies in smaller towns with few markets may go out of business if they don't have a franchise to turn to," said W. Murray Preston, a partner at Nicholson, Clark & Co. in Decatur, Ill., and a Marketforce franchisee.

Marketforce has "definitely helped us, first to place difficult accounts, and second, to find markets for accounts we did not have markets for previously," said R.E. "Buffy" Mayerstein, president of MBAH Insurance in Lafayette, Ind.

"ISU is probably the shining light here right now. The tight market is tough," said David M. Fenderson, president of ISU/Fenderson Insurance in Bangor, Maine.

Continued on next page



SCHILLER STRAIN

Continued from previous page

The ILU represents 108 London-based insurance companies that write marine and aviation insurance and reinsurance and account for 25% of the world's marine underwriting capacity.

Although the ILU does not specify how much underwriters lost in marine casualties, Mr. Lowen estimated that if marine underwriters took in about 3 billion pounds in premiums, they paid about 2.99 billion pounds in claims.

The ILU 1985 annual report does say, however, that for the first time since 1973, fewer than 190 ships were lost in 1985; 189 ships were lost. In 1984, 214 ships were lost.

The report also lists some individual casualties. For example, last year's most spectacular marine casualty was the loss of the \$22.4 million tanker Petragen One, which caught fire and exploded as she was unloading naphtha at the San Roque refinery and petrochemical complex in Algeciras Bay, Spain. More than 30 lives were lost.

Also, the \$9 million oil/ore carrier Hope Star sank off the Canary Islands in January, and the \$8 million Patmos collided with a tanker in the Strait of Messine in March.

Other marine hull losses included the \$9.4 million tanker Fuji, the \$12 million LPG carrier Jatoba and the \$3.6 billion Arctic Career, which disappeared without a trace in the South Atlantic with 27 officers and crew members on board.

In addition, 21 vessels weighing more than 100,000 tons were attacked or struck by missiles in the Persian Gulf area, with no estimated cost, the report said.

The offshore account for marine underwriters created significant losses, which in turn created difficulty in renewing the Master Drilling Rig Contract in London last June, the ILU report says.

Mr. Lowen believes, however, that the "rig slip," for limits up to \$825 million, was fully placed.

Offshore losses last year included the biggest offshore loss in the North Sea in January 1985, when the top of Mobil's single-point mooring buoy in the Beryl oil field broke from the supporting column some 70 feet below sea level. The unit, declared a constructive total loss, was insured for 32.2 million pounds (\$44.8 million) plus debris removal cost of 5.2 million pounds (\$7.2 million).

Also, in October, Hurricane Juan caused the total loss of the self-elevating drilling platform Penrod 61 in the Gulf of Mexico. Valued at \$36 million, removal costs were estimated at \$8 million. The hurricane also slightly damaged another platform (BF, Nov. 4, 1985).

Other large offshore claims included an \$18 million claim on the self-elevating platform Zapata Enterprise, which had a fire following a well blowout in Indonesian waters; three blowouts in Indonesia costing total claims of more than \$25.7 million; and a \$25 million cost of control claim for a well blowout in Mississippi, the report says.

The most significant loss to affect the marine cargo account was a warehouse fire at Port Elizabeth, N.J., in February, the report says, with a total value of about \$100 million.

"In the marine insurance market, it is encouraging to note a gradual and sustained improvement in hull underwriting rates and terms in 1985," says the report. "However, the level of rating in the hull all-risks account, where results have been cushioned by a low incidence of large losses, is still inadequate to accumulate reserves for such contingencies."

But, adds Mr. Lowen, "I do not accept that it is a seller's market yet. We are entering into a year of stability and balance."

In other areas of business, the ILU confirmed that two companies have left the institute this year: the Insurance Corp. of Ireland, now

'We are entering into a year of stability and balance,' predicts ILU Chairman Mr. Lowen.

controlled by the Irish government, and the National Employers' Mutual General Insurance Assn. Ltd.

Also, on April 29, the ILU will officially open its own "market" in the former Alexander Howden Group P.L.C. building on Billiter Street just a block from Lloyd's new building. Underwriters from the member companies will be based there.

There is concern the ILU market will rival Lloyd's, but Mr. Lowen says, "We have no intention of taking away business from Lloyd's, although perhaps we will take business from overseas markets."

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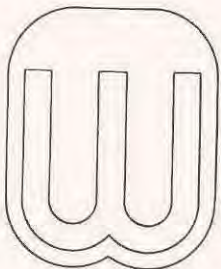
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California ruling

Continued from page 2

An appellate court subsequently affirmed the rulings, and the state Supreme Court agreed to hear the case.

The first issue addressed by the high court was whether pharmacists selling prescription drugs like DES could be sued under a strict liability theory.

Strict liability provides that manufacturers, suppliers and retailers can be held liable for placing a defective product on the market that harms an individual even if they were not negligent.

However, California's strict liability doctrine does not apply to professionals providing a service, like doctors, though such professionals can be sued for negligence or intentional misconduct.

Ms. Murphy argued that a pharmacist's duties are essentially that of a retailer and therefore they should be potentially liable under a strict liability theory.

She contended that, in the course of their work, pharmacists perform the task of a retailer and that, in essence, a pharmacist is the functional equivalent of "an experienced clerk at a hardware store."

Exclusive, however, argued that a pharmacist is a professional who provides an important health service. With few exceptions, only a physician or licensed pharmacist may compound or dispense prescription drugs, the company argued, and pharmacists must have certain educational requirements, practical experience and pass written examinations given by the state.

In its decision, the Supreme Court noted it was necessary to determine if the pharmacist's dominant role in supplying a prescription drug was to perform a service

'The plaintiffs' position remains healthy and strong,' says attorney Joseph A. Shaub.

or to sell a product.

Pharmacists are engaged in a "hybrid enterprise" combining professional services and the sale of prescription drugs, the court conceded, but it added it is "pure hyperbole" to suggest that the pharmacist's role is similar to a clerk in a retail store.

The court noted as a "key factor" the fact that a pharmacist who fills a prescription differs from an ordinary retailer because he cannot offer a prescription for sale except by a doctor's order.

The court also looked to a state law that addressed the practice of pharmacy, ultimately ruling that pharmacists who dispense drugs are performing a service and could not be held strictly liable.

In that law, the Legislature provided that the practice of pharmacy is not only a profession but also a health service that applies a scientific body of knowledge to improve and promote patient health by appropriate drug use and drug-related therapy.

"The Legislature must have intended, therefore, that even though a pharmacist is paid for the medication he dispenses, his conduct in filling a prescription is to be deemed a service and... is immune from strict liability," the court said.

On the issue of Squibb's liability under the Sindell decision, Ms. Murphy argued that Squibb's alleged 10% market share was a substantial percentage under Sindell because it was the second-largest seller of DES in the country.

The court disagreed, however. "We reject this contention because it is contrary to the theoretical justification underlying the market share doctrine," the court said.

It emphasized that the court held in Sindell that naming manufacturers of a "substantial share" would justify shifting the burden of proof to defendants to exonerate themselves.

"Since Squibb had only a 10% share of the DES market, there is only a 10% chance that it produced the drug causing plaintiff's injuries, and a 90% chance that another manufacturer was the producer," the court said.

"In this circumstance, it must be concluded that she failed to meet the threshold requirement for the application of the market share doctrine."

Both aspects of the decision brought strong dissents. Chief Justice Rose Bird called the decision that pharmacists cannot be held strictly liable "unfortunate opinion" and a retreat from the strict liability doctrine.

"As a result of this unfortunate opinion, doubts are cast on this court's past statements recognizing the applicability of the entire doctrine of strict liability to defective prescription drugs," the chief justice said.

"In the process, the very foundations of the doctrine are called into question. I cannot join in a retreat from one of this court's most firmly established, highly acclaimed and beneficial adaptations of tort law to modern mass production and marketing methods."

In a separate dissent, retired Justice Otto M. Kaus, who heard the case by special designation, said that Squibb's 10% share of the market was a "substantial percentage" under the Sindell ruling.

He said that under the market share concept, each manufacturer can only be held liable for that proportion of the plaintiff's damages that equals its market share of the

DES that was manufactured and sold.

"Because the manufacturer's liability is limited in this fashion, I do not see how a particular manufacturer is harmed by the plaintiff's failure to join more manufacturers in the lawsuit; any particular defendant bears the same liability no matter how many or how few other manufacturers are joined.

"Thus, I do not think a plaintiff should be deprived of the limited recovery which Sindell allows against a particular manufacturer simply because, for one reason or another, she has not been able to amass the manufacturers of a 'substantial share' of the DES drug," he added.

Despite the dissents, attorneys participating in the case said they did not believe that the decision drastically affects California tort law, though they noted that pharmacies substantially benefit from the decision.

Philip Brimble, Exclusive's attorney, said the decision is significant for California pharmacies because, had the ruling been reversed, they would have faced substantially more liability in drug cases, which likely would have increased their liability insurance costs.

However, pharmacies may still be held strictly liable for the sale of non-prescription drugs, such as aspirin, according to Mr. Brimble, with the Los Angeles firm of Baker & Camusi.

"We see it as a major victory for pharmacists," said Tom Ross, an attorney for the American Pharmaceutical Assn. and the California Pharmacists Assn., which filed an amicus curiae brief on behalf of Exclusive.

Mr. Ross, with the Sacramento firm of Downey, Brand, Seymour & Rohwer, agreed that a ruling against Exclusive would have increased the number of suits filed against pharmacies as well as their insurance costs.

Squibb attorney Ralph Campillo says the court's interpretation of the Sindell decision is significant because it clarifies that the plaintiff must name defendants with a substantial share and that this issue must be addressed before other issues in a DES case are decided.

However, he noted the court decision did not define what is meant by a "substantial share" of the market.

It only ruled that 10% is not considered "substantial," he explained.

Mr. Campillo, with the Santa Monica firm of Haight, Dickson, Brown & Bonesteel, says he interprets the decision to mean that manufacturers controlling at least 50% of the market must be included in order for the market share theory to be applied.

Exclusive's attorney Mr. Brimble added that the decision may cause plaintiffs in DES cases to name as many manufacturers as possible to overcome the "substantial" share hurdle.

Joseph A. Shaub, an attorney for Ms. Murphy, said the decision was "not a big setback, if at all" for plaintiffs in DES cases, noting that it essentially did not change the California law.

"The plaintiffs' position remains healthy and strong," said Mr. Shaub of the Los Angeles firm of Simke, Chodos, Silberfeld & Anteau.

"We're continuing to bring these cases," Mr. Shaub concluded.

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Continued from previous page years. Since it did not have the soft market losses of other insurers, it is willing to write business at reasonable rate levels. This is a tremendously attractive situation."

Among the lines written through the program are general liability, workers compensation, automobile physical damage and liability, property and umbrella liability.

"It is a target market facility, with an identified spectrum of target-market classes" of commercial businesses, Mr. Levin said.

Up to \$1 million in primary limits and \$1 million in umbrella coverage can be obtained through the program, he said.

"This is not a market for hard-to-place risks like professional liability or long-haul truck," Mr. Levin said, explaining that the insurer is only interested in writing business with good loss ratios.

William E. Beckman, president of The Beckman Co. Inc. in Muskogee, Okla., notes that while Centennial offers competitive rates to Marketforce agents, "they won't take everything that's sent to them."

The program is available in just 14 states because Centennial only writes in those states, he explained. However, Marketforce hopes to form a similar program for agents in other states.

In addition to the underwriting facility, Marketforce franchisees can receive marketing assistance through Marketforce's Kansas City headquarters and through 11 consulting agencies, which are large Marketforce franchises throughout the country that provide support to regional Marketforce members.

The consulting agencies occasionally place smaller franchisees' business for them, Mr. Levin said. Commissions are then split between the two agencies.

W. Murray Preston, a partner in Nicholson, Clark & Co., one of Marketforce's consulting agencies, said that the function of a consulting agency "is to help agents in the placement of good business for which they've lost markets, and to help them put together an account."

"Agents in smaller communities sometimes have difficulties convincing large clients that they can adequately handle their needs. We can help them do so," he said.

Marketforce attempts to assist franchisees with specific marketing problems rather than provide them with specialized products, Mr. Levin noted.

"We try to be generalists rather than specialists in programs agents may or may not need," he explained.

Franchisees submit risks to the Kansas City office or their consulting agency, where marketers discuss the risks to determine the best insurers to approach with the account.

Marketforce also provides risk analysis services for larger accounts. Agents and their clients fill out a highly detailed risk survey form, which Mr. Levin says is roughly 60 pages long.

"Then we undertake engineering and inspection, make our recommendations and go to market with the account," he said.

In addition, the franchiser has developed relationships with a variety of surplus lines facilities with expertise in different lines.

"Normally an agent's biggest problem is time. They can waste a lot of time going to the wrong markets. We know which ones to go to," Mr. Levin said. However, the franchiser does ask franchisees to submit these placements to Mar-

ketforce 45 days before policy inception.

Marketforce franchisees have high praise for the franchiser's overall marketing assistance.

R.E. "Buffy" Mayerstein, president of MBAH Insurance in Lafayette, Ind., said Marketforce "gives us access to different markets we did not have access to before—both difficult-to-place and mainstream markets. They have allowed us to find a back door to some of these markets."

"Marketforce is also very good at providing market information. We can query them about a particular risk. They are a good market sounding board," he said.

"If an agency had no markets open, Marketforce would be a god-send to them," said Mr. Beckman. While he admitted that Marketforce is struggling to place business in the hard market, like all agents and brokers, "they've gotten us out

Continued on next page

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Agency franchises

Continued from previous page of some jams," he stressed.

"We're using their marketing facility to place business. For example, they were able to help us find high excess layers on a large surplus liability policy. And, by working with them, we have been able to be creative and find good markets," said Thomas A. Denhart, a partner in Denhart Insurance Agency in Cincinnati.

Marketforce holds an annual three-day convention, featuring seminars, focus groups and information exchanges among members, Mr. Levin said. The franchiser publishes newsletters every other month for its members, and franchisees can buy personalized client newsletters for an additional fee.

Marketforce also conducts some group advertising programs directed at industry publications. It does not direct its advertising to the general public, though it will provide advertising materials to franchisees for a reduced cost, Mr. Levin said.

Marketforce's 308 franchises generate a combined premium volume of about \$700 million, Mr. Levin says.

Marketforce discourages membership of agencies that write less than \$1 million in annual premium volume or do not write a substantial amount of commercial lines business. "We can't perform satisfactorily for them, particularly in this market," he explained.

Marketforce was founded in 1982 with a loan by Metropolitan Property & Liability. Currently all stock is held by principals of Marketforce, but Metropolitan has the option of converting some of the loan into stock at a later date, Mr. Levin said.

Marketforce franchisees pay a \$7,500 sign-up fee and \$375 to \$600 per month in service fees, depending on use of services.

America One Inc.

America One, with 22 franchises concentrated in southern Michigan, was established to furnish markets for its franchisees, says President Robert C. Lecy.



Mr. Lecy

The franchiser was founded in 1981 by the principals of Metz, Lecy, Barnes & Thias Insurance Agency Inc. in Lansing, Mich., after the agency

began forming branch offices to be operated by other agents.

So many agents were interested in opening branches so they could obtain contracts with insurers, that the agency's principals decided to form a franchise operation devoted primarily to providing markets for franchisees, Mr. Lecy said.

By concentrating its efforts on a specific geographic area, America One was able to avoid some of the expenses incurred by other franchisers, which conducted major promotional efforts and operated on a nationwide scale, he added.

Many America One franchises are start-up operations established by individuals who were formerly insurance company employees, agents for direct writers or agency employees.

"We give them everything they need to become independent agents. We provide them with markets, train their inside help, teach them our bookkeeping and accounting system, help with their advertising and act as a liaison between the insurers and the agencies when problems occur," Mr. Lecy said.

"We also help them market difficult accounts, set up training programs for them and help them ob-

tain errors and omissions coverage. We guarantee payment of their accounts with insurers," he added.

William J. Barker, president of Barker/Weber Insurance Agency Inc. in Jackson, Mich., says America One provides valuable market assistance.

"They've actually gone out with us to help us market large commercial accounts. Combined, two of these calls resulted in over \$400,000 in premiums to our agency," said Mr. Barker, whose agency focused primarily on life insurance sales before becoming an America One franchise.

America One tries to arrange contracts for all member agencies with the 12 insurers that currently have contracts with the franchiser and the original agent, said Mr. Lecy, though some of the insurers are not writing new agency contracts now because of the tightening markets.

However, if franchisees cannot

obtain their own contract with one of the insurers, their business can be submitted to the insurer through the franchiser, he said.

America One also places business with five excess/surplus brokers on a regular basis for hard-to-place or unusual accounts.

"With America One I had markets right away. They had insight into those markets as well," said Bob McElwain, president of McElwain Insurance Agency in Mount Morris, Mich., who started his franchise from scratch after working as a producer for another agency.

"Now (America One) helps me maintain markets that I couldn't maintain myself due to lack of volume," Mr. McElwain added.

America One holds monthly day-long meetings with franchisees in its home office. The meetings feature different speakers and also are used for agent networking, franchisees say.

"Our monthly meetings provide

an opportunity for information exchange. Other agents in the franchise are a useful source of market information," said Michael D. Kirgis, owner of Mike Kirgis Insurance Agency in Ionia, Mich.

America One also offers a computer hardware and software package, utilizing IBM Personal Computers, to its franchisees at a group discount of about 40% off the retail price. The system has rating, accounting, record keeping and word processing capabilities.

"The automation system has been extremely helpful for rating purposes, noted L. David LaForest, president of LaForest Insurance Agency in Flushing, Mich.

America One has only three full-time staff members—a company liaison, a bookkeeper/accountant and a vp of operations, who sets up meetings and conducts training programs for franchisees. However, the three principals of the founding agency also work for the

franchiser on a part-time basis.

Unlike other franchisers that received major financial backing from insurers or other sources, America One was initially capitalized with only \$22,000 by the principals of the agency, Mr. Lecy said.

The current sign-up fee for America One franchisees is \$6,000, plus a royalty fee of 10% of the gross commissions on business written through insurers that contract with the franchiser and an advertising fee equal to 2% of gross commissions.

The advertising revenues are split, with half used to reimburse franchisees for local agency advertising efforts and half used to advertise America One.

Mr. Lecy said that as long as franchisees use the America One logo on the advertisements, they can be reimbursed for local advertising of any sort, including sponsorship of little-league baseball

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Continued from previous page
teams. The group advertising budget is used mostly for billboard and print advertising, although some ads have aired on TV and radio.

PrideMark Corp.

PrideMark, which 18 months ago boasted nearly 150 franchises and seven regional offices in the West and Midwest, has shrunk in size.

Only one of the regional facilities, PrideMark West in Costa Mesa, Calif., is now operating, said PrideMark president Wayne R. Weld, who notes that "we have changed our focus."

"Our initial thrust was to work with small to midsized agencies and provide them with a number of services. We found we could not do this financially with smaller agencies. Now we are focusing on larger agencies," Mr. Weld explained.

PrideMark West now has 55 franchises that average \$7 million to \$8 million in annual premium

"Our goal is to take our program across the country using the underwriting cluster concept, with underwriting facilities in half a dozen places around the country working with larger agencies," explains PrideMark's Wayne R. Weld.

volume. Their combined premium is about \$150 million.

In addition, the franchiser now is a managing general agent with direct contracts with "11 or 12 markets and access to other carriers," Mr. Weld said.

"Our focus is on large commercial accounts," he said, explaining the franchiser has contracts with underwriters at Lloyd's of London.

"Our goal is to take our program across the country using the underwriting cluster concept, with underwriting facilities in half a dozen places around the country working

with larger agencies.

"By pooling agencies together, it becomes economical for us to take a bunch of applications and visit (insurer) home offices to present the accounts to the underwriters," Mr. Weld explained. "It's easier to deal with company people on a face-to-face basis, and it's easier for the underwriters as well."

"Most of our franchisees' business is not placed with us. They use us for 5% to 10% of their business on the average," Mr. Weld said.

PrideMark has an annual franchise fee of \$5,000 and receives an

override commission on business placed through its underwriting facility. It will not accept agencies that write less than \$3 million in annual premium volume, and that business must be predominantly commercial lines, Mr. Weld said.

Besides offering underwriting and market placement services, PrideMark conducts classes in management, internal operations and sales and marketing techniques that are included in the annual membership fee. Representatives from the franchiser visit franchisees regularly, Mr. Weld said.

PrideMark also holds regional roundtable meetings approximately every two months.

The franchiser will help franchisees evaluate their automation needs and locate suitable equipment. It also helps franchisees locate, interview and screen new personnel, "particularly personal lines and commercial lines customer service representatives," Mr.

Weld explained.

PrideMark was founded in 1982 as a privately held company. It has received financial support from four property/casualty insurers.

PrideMark would not furnish names of franchisees to be interviewed.

Eagle 2000 Corp.

Eagle 2000, which has 30 franchises in Indiana, Ohio, Florida, North Carolina, South Carolina and Michigan, can't be easily compared with the other franchisers.

Eagle 2000 does not provide franchisees with market assistance, because markets were plentiful when the company was founded in 1981,

said W. R. Murphy, chairman and president of the Wylie, S.C.-based franchiser.

However, Eagle 2000 plans to provide marketing services to members soon.

Eagle 2000's primary thrust is to provide sales training to member agents and their staffs. It also provides franchisees with in-house procedures and office layouts to increase agency efficiency.

Mr. Murphy explains that the franchiser uses a hands-on approach, with an Eagle 2000 representative visiting each agency franchise once or twice a month.

"I was impressed with their office system, the lateral files, color coding, etc. They have probably forced us into good work habits," said Oscar C. Mitson, president of Eagle 2000/Mitson Insurance in Fort Wayne, Ind.

While Mr. Mitson has operated an agency for 27 years and did not need the training programs for himself, he said the programs have helped his producers and office staff.

"We have benefited mostly from the in-house streamlining of our personal lines operations. Their modular office set-up has been the greatest value," said Edward L. Conkle, manager of Eagle 2000/Purmort Brothers Insurance Agency in Van Wert, Ohio.

"Their physical set-up with files and work stations is much more beneficial and streamlined than the way we were doing things previously. We are now arranging our commercial lines department in a similar fashion," Mr. Conkle added.

H. David Fiantdt, vp of Eagle 2000/Blaising & Fiantdt Insurance Inc. in Fort Wayne, said the systems have modified his agency's set-up "not only physically, but also our procedures for who does what. Their sales meetings have also been good. Our customer service representatives have benefited from attending them."

Eagle 2000 also provides advertising assistance to its franchisees in the Fort Wayne area. "We are concentrating on the Fort Wayne area to make the region stand on its own feet," Mr. Murphy explained. It will then expand its efforts into other areas.

The franchiser spent \$100,000 in advertising in Fort Wayne last year, with a heavy focus on television ads.

"We have gained substantial recognition as a result of the advertising campaign," Mr. Mitson said. He added that in today's marketplace a market assistance program would be an extremely helpful addition to Eagle 2000's services.

"We're in dire need of good, stable, markets," Mr. Mitson said.

Eagle 2000 has 18 employees—eight in South Carolina, five in the Fort Wayne region and five who work from their homes in various other areas to service outlying franchises.



Mr. Murphy



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'Total' risk management essential today

By BRADFORD L. BARICK

TODAY'S HIGHLY specialized, computer-oriented society has introduced problems unknown to businesses a decade ago.

Technical and complex situations beyond an organization's realm of expertise can cripple productivity and erode profitability. Consider the multitude of environmental and hazardous waste issues and the professional malpractice cases pending or product liability injury cases.

You are no doubt familiar with the various explanations for the severely depressed underwriting results and have developed opinions about the reasons for tighter underwriting practices and premium increases.

During the soft market, attention shifted from preventing or controlling loss to financial matters, and consequently, the cost of insured and uninsured loss has increased dramatically. In essence, accounting gymnastics and insufficient investment income have caused the financial trauma.

Now the opposite, inverse relationship has developed: Rates are rising and the capacity is shrinking for all lines of business.

Merely taking orders no longer will suffice. Loss-control services are salient not only to "capture the right market," but also to limit liability.

The hardening market is placing greater emphasis on loss-control programs that affect the direct and non-recoverable financial losses and minimize insured risk exposures. The result is preservation of human, property and financial assets.

Insurance brokers also have seen and experienced the dynamics of the marketplace. We are providing underwriters a detailed report with practically every market study related to loss control.

In fact, for coverages in a hard market such as product liability for pharmaceuticals, a comprehensive report is developed to price

out the business in an attempt to develop a viable market for the risk.

In cases in which insurance coverage is required to stay in business and there is no known viable insurance market, an alternative is to develop a marketing report that will attract reliable underwriters. However, the success of this approach is directly proportionate to the quality of each risk.

The hardening market puts greater emphasis on loss control and risk management. Today more than ever a total risk management application is essential. "Total" implies careful and studied attention to each of the three basic alternatives for managing the risk:

- Eliminating or reducing the risk.
- Assuming all or part of the risk.
- Transferring the risk.

For now, the alternatives remain the same, but the current insurance market dictates our changing methods for applying them. Efforts to ensure corporate profits must be directed at preventing loss. Insurance is a limited backup. However, there may be only partial coverage and large non-recoverable costs even with traditional or full coverage.

Clearly, loss-control service is an essential part of our business and supposedly a valued resource for policyholders. To be successful in the loss-control profession, an insurance company, agency or brokerage must fulfill not only the requirements of its own organization, but also be more responsive to the needs and requirements of the policyholder by providing more creative, innovative and functional services.

A service provider must remember that supporting the sales effort is the main objective. Risk assessment surveys are a viable method to accomplish this, but such surveys must be more precise and cost-effective.

Historically, typical underwriting-type surveys have been systematically and intentionally biased by conservatively assuming the worst plausible case when faced with uncertainties. Such assumptions compound

error when they are used to derive other assumptions of risk for a given exposure.

As a result, the risk may be significantly exaggerated. This exercise compounds both insurance and compliance costs.

Another common assumption is that a typical underwriting fact-gathering service, which results in a few recommendations, is disguised as loss control for the insured.

Although fact gathering is part of the underwriting business, it has not been successful in preventing loss. It has been only partially effective in predicting loss, but very effective in frustrating the policyholder, primarily because a poorly communicated service is misunderstood.

The policyholder has to know and be reassured that the underwriting effort is objective and productive, yet providing service as an agent or broker is synonymous with serving two masters—the policyholder and the insurer—both of whom have given needs and requirements.

It is equally imperative that the insurer and broker or agent work as a team, understanding each other's function as well as capabilities in serving a policyholder. When loss-control service successfully supports the sales effort, the results are new accounts and retention of existing business with respectable loss histories.

Loss-control service that successfully supports sales will result in or contribute to:

- Identification of potential areas for loss.
- Recommendations that are pragmatic, cost-effective and feasible to control and reduce risk exposures.
- Market stability.
- Fair and equitable quotations for insured programs.
- Account placement with insurers capable of providing service to the policyholder.
- Maximum utilization of loss-control services for the policyholder.

How loss-control service is provided is of criti-

cal importance. Basic operational factors remain unchanged; however, we must improve upon skills in applying these factors, including:

- Establishing the proper relationship with the prospect or policyholder. The purpose of service should be clearly established as underwriting or consultation.

Service provided on behalf of the policyholder is to assist in fulfilling the policyholder's duties to provide a safe workplace, premises free from unreasonable hazards to third persons, and facilities that are reasonably safe from normally encountered physical damage perils.

Emphasize and strengthen this position in discussions with the policyholder. You can formally accomplish the position by incorporating a position statement in the proposal and contract for services, and by providing an exculpatory, or hold-harmless, clause with each formal report.

- Conducting on-site underwriting surveys. In essence, the underwriting survey is an assessment of inherent risks. The activity involves obtaining information and presenting it to underwriters in a profile that conveys client exposures and current controls. Ideally, the report should be a factual and well-balanced portrait of the account.

Because competition creates continued changes in both pricing and underwriting requirements, effective risk management periodically must review the policyholder's changing

Continued on next page



Bradford L. Barick is vp-National Services Division at Fred S. James & Co. in Chicago.

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agent/broker topics perspective

Continued from previous page exposures and needs.

Current market conditions require a report on virtually every risk. Historically, and perhaps more now than ever, insurance underwriters have been conservative in coverage and pricing. They often must rely on secondhand knowledge of the account and an uneven understanding of the operation and exposures, yet they assume large financial risks.

In the current hard market, the underwriter is very uncomfortable, and, if the risk is written at all, it is apt to include a "contingency factor" for any unknown feature. Less favorable price quotations result from ignorance or from a low level of trust or credibility in the available information.

Reduce the unknowns and increase credibility by providing a detailed underwriting report compiled by individuals with strong technical backgrounds who know the respective enterprise.

When an account is marketed to several insurers, one unbiased report by a highly respectable agency or brokerage loss-control representative will save time and money for the insurers and the client.

Recently, in an account marketed to several insurers, four respondents wanted to send their own loss-control representative to conduct an underwriting survey. The survey required about five hours, plus one hour of travel.

The availability of an objective, valid and reliable report saved the client at least 15 hours of additional individual meetings, and the insurers also saved time and expense.

Although the savings for this single account may seem insignificant, the less tangible benefits—better client relationship, more consistent underwriting and the reduced cost of doing business—also should be considered.

The report should be based on a survey defined according to the specific and relevant coverages and should address all functions and operations that may expose the client to a probable loss within the defined scope. The report should be comprehensive and detailed enough for a valid comparison with existing insurance coverage and risk management programs.

Through this exercise, we can better assure the client that coverage is congruent with operations and risk exposures.

The report that includes objective, valid and reliable data and information is invaluable for successful marketing presentations. Thorough and descriptive material can and will enhance the receptiveness of the insurance underwriter.

● Providing "unbundled" loss-control services. The increased cost of losses and coverage has focused greater emphasis on loss-prevention programs. Policyholders view insurers, agencies and brokers as consulting resources for assistance in developing and implementing activities, functions and programs that reduce both direct and indirect financial losses associated with the risk.

In providing unbundled services, we are serving as professional consultants and not as the "eyes and ears" of the underwriter. In the consulting role, we must follow legal protocols for selling professional services, as in developing proposals, contracts and hold-harmless agreements.

Although the policyholder may pay a respectable fee for professional assistance, it is only a fraction of the dollars at risk. The buyer, however, often feels threatened and thinks his fate is in the hands of the loss-control professional.

In selling our intangible product, our proposals, contracts and actions must exhibit three major considerations:

ultimate goal is to instill confidence in the policyholder in the areas where uncertainty is felt, such as in the service organization's capabilities, the soundness of the expenditure for the service, and defining the specific nature and treatment of the problem. He must be convinced the service offered will resolve the problems.

Instill this confidence through meetings, tours of operations and written proposals and contracts.

However, the commitment to go ahead only launches the effort to gain his confidence. Efforts must continue to reassure the insured that the money for the service is well spent.

— Understand problems. A key issue is the ability to identify specifically and address directly a substantive need or problem. Defining the scope of the issue and the service parameters leads to an objective service proposal and contract.

Continued on next page



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business insurance

'Total' risk management

Continued from previous page

— Provide professional loss-control service. If we are selling "unbundled services," the staff must demonstrate knowledge and skill in the areas of avowed competence and recognize its limits in those areas.

• Assign loss-control personnel. Loss-control service is a vital component in responding to the increased demand brought about by industry dynamics, legislation and risk control. A professional staff is the single most important and costly asset in providing that service.

For the insurance industry, identifying, analyzing and evaluating, then controlling risk are functions synonymous with our objective: acquiring new business and retaining current business.

An experienced staff with good credentials is more apt to provide professional service. Increasingly, loss control professionals must address issues relative to ergonomics, environmental risks, emergency preparedness, benefits cost containment, industrial hygiene, occupational health, stress management, statistical data analysis systems, robotics and other technical areas.

In many situations the management, communication and specialized expertise need to be enhanced. The leadership should be progressively innovative and creative, proactive rather than reactive, one that will

develop and establish positive new trends.

New and modified products and services are needed. For example, the insurance industry loss control/engineering should consider: effective utilization of computers as information sources; new techniques in probabilistic risk assessment for application in high risk industries in order to measure the probability of theoretically possible catastrophes; utilization of mathematical models to predict stages of fire growth and toxic effects of combustion products; and other scientific breakthroughs contributing to state-of-the-art service.

The insurance companies, agencies and brokers should maintain optimal service continuity and work together to improve communications as well as education and training programs.

To successfully "capture the right market," underwrite, retain and manage risks, we must predict and quantify those risks. This interdisciplinary activity requires a solid technological and management base.

The very dynamics of our business demand innovation, flexibility and new methods, which at times may be unconventional.

Loss-control service is vital in developing accurate, complete and balanced information to facilitate sound underwriting and provide the needed assistance for the policyholder to ensure continued insurability. ■

a/bt info

• Agents, brokers and others interested in loss control can take steps to **reduce damages that can occur after a fire has been extinguished** through information provided in an 80-page manual, published by the Property Loss Research Bureau, called "The Adjuster's Guide to Property Loss Mitigation Procedures and Techniques." The booklet costs \$7.50 and can be ordered from the Property Loss Research Bureau, 1501 Woodfield Road, Suite 400W, Schaumburg, Ill. 60195-4978; 312-490-8560.

• The Independent Insurance Agents of America Inc. has published an updated and revised version of its "**Automobile Insurance Manual**" used by high school seniors who participate in the asso-

ciation-sponsored Project InVEST (Insurance Vocational Education Student Training) course. The manual demonstrates a variety of insurance concepts and insurance agency functions using automobile insurance as a basis. Revisions were based on suggestions received by insurance agents and educators who have participated in the program since it was started in 1970. It costs \$12.50 and can be ordered from Gene O'Dell, IIAA Project InVEST Administrator, 100 Church St., New York, N.Y. 10007; 212-285-4670.

• Step-by-step procedures for choosing **courses, programs, study methods and materials**, as well as registering for national examinations, are outlined in "1985-1986 Key Information" from the Insurance Institute of America. A "Self-Inventory for Prospective CPCU/IIA Students" is also included for students seeking educational counseling. Free copies are available from Field Services Department, The Institutes, 720 Providence Road, Malvern, Pa. 19355-0770; 215-644-2100.

• The 1985 edition of the Alliance of American Insurers' **Policy Kit for Students of Insurance** is designed to help those new to the insurance industry as well as those interested in continuing their insurance training. The kit contains sample policies, forms and endorsements for casualty, fire, marine and life insurance. Copies are available for \$8.75 each, including shipping, from the Alliance, 1501 Woodfield Road, Suite 400W, Schaumburg, Ill. 60195-4980; 312-490-8628.

• **Agency advertising and marketing** are the focus of a new book from the Independent Insurance Agents of America Inc. "Independent Agent's Advertising and Marketing That Works!" discusses how agents can identify their image and create marketing plans. It also identifies which forms of advertising are the most effective. The softbound book is \$9.95 from the IIAA's Communications Department, 100 Church St., New York, N.Y. 10007; 212-285-4282.

• A 72-page book compiling a collection of previously unpublished **research papers covering a range of insurance topics** is now available through the Society of Chartered Property Casualty Underwriters. The research papers were originally submitted by five CPCU chapters for the society's National Research Excellence competition. Topics include: "Construction Risk Management and Insurance"; "A Study of the Effectiveness of Residential Alarms"; "Sex as a Rating Factor in Automobile Insurance"; "Health Care Cost Containment: A Perspective for the Future"; and "Maritime Occupational Injury Insurance." The book, "In Pursuit of Excellence: A CPCU Research Anthology," costs \$22 per copy and can be ordered from The Society of CPCU, Publications Division, Kahler Hall, 720 Providence Road, Malvern, Pa. 19355; 215-251-2742.

• Members of the Independent Insurance Agents of America can obtain a **marketing kit** containing brochures; articles on the use of excess/surplus markets; information on the Insurance Services Office's new claims-made commercial general liability policy form; and IIAA advertising materials. The marketing kit is called "SOS, Survival plus Opportunity means Sales." To order, send \$5 to the IIAA Communications Division, 100 Church St., New York, N.Y. 10007; 212-285-4268. ■

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State levies comp fines

By CAROL CAIN

MOUNT VERNON, Wash.—Big Foot's Salvage, a recycling and second-hand goods shop, had been in business only 10 days last July when a pickup truck exploded, severely burning a salvage yard worker.

The cost of medical treatment, rehabilitation, lost wages and other expenses associated with the injury are estimated at \$2 million, according to the Washington Department of Labor and Industries, which administers the state's monopolistic workers compensation fund.

Now, the department is fining big Foot \$2.01 million to reimburse the fund for payment of the claim, charging that Big Foot did not register for workers compensation insurance prior to the accident.

Nine other employers were fined last month for similar violations, and an 11th employer was fined last November. Those fines range from \$66 to \$325,000.

"Employers can no longer count on Labor and Industries to forgive and forget when they sign up after the fact for insurance coverage they were supposed to have all along," said Dick Davis, director.

However, Mel Decker, one of Big Foot's owners, said he contacted the department when he started his business and was told by the department that he had 90 days to file the number of workers and the number of hours they would work to figure Big Foot's premium.

Mr. Davis says he has no proof of this conversation.

"I've worked hard... I wasn't trying to shaft anyone," said Mr. Decker, who is appealing the fine. He said the department is just using the fines "to scare the little guys."

Mr. Decker and his brother Chuck, Big Foot's other owner, say they believe they complied with the law and now are "being forced into an expensive legal battle with the state, which will stretch our families and finances to the limit."

Mel Decker also noted that the department gave employers without coverage a 90-day grace period from July 1 to Sept. 30, 1985, to sign up with the state fund without fear of penalty.

State officials would not comment on the grace period.

That grace period was noted by the attorney for another employer fined by the department for allegedly purchasing insurance after an accident.

The department in November fined Aries Aire, a Moses Lake company that leases airplanes, \$325,000 following the July 29 death of two pilots in a crash while fighting a forest fire.

John A. Bishop, a Bremerton attorney representing Aries Aire, said the pilots were independent contractors—not employees—and thus, Aries Aire was not obligated to buy workers compensation insurance for them.

"Aries Aire signed a contract with the state to provide planes and pilots, and the pilots signed a contract with Aries Aire," Mr. Bishop said.

The company has filed an appeal with the Board of Industrial Insurance Appeals, but no hearing has been set.

The \$325,000 in penalties assessed against Aries Aire equals the anticipated cost of the two claims, including burial expenses, immediate cash payments to each victim's wife and monthly payments to the pilots' surviving dependents.

Since the Department of Labor and Industries began its recent crackdown, several employers have registered for insurance, Mr. Davis said.

"What's driving this is what's equitable for all concerned... No employer should be operating without insurance," he said.

Mr. Davis said the department has no way of knowing how many Washington employers are operating without workers compensation insurance, though he noted that about 1,500 claims have been filed with the state fund in the past two years by employees who worked for employers without insurance.

"Other workers and employers shouldn't have to pick up the tab when workers employed by unregistered employers are killed, or even when they just file routine claims. Fair is fair and fraud is fraud," he said.

"This law hasn't been used before, but from now on the law is going to be enforced," Mr. Davis said. "Let the message go out: We're using every means at our disposal to show that it doesn't pay anymore to cheat other employers by cheating the system."

Washington comp fund

Continued from page 2

mated to reduce costs by \$21 million annually.

- Denying benefits to workers who file for benefits after voluntarily retiring if they do not attempt to return to work. This is estimated to reduce costs by \$1 million annually.

- Mandating that workers who receive provisional lost time payments for claims that are ultimately rejected must repay any benefits received. The estimated cost savings is \$200,000 annually.

In addition, the department proposes that the Legislature establish a guaranty fund to cover claims against bankrupt self-insurers.

This fund, which would be financed by retrospective assessments against the state's 357 self-insurers, would relieve the state fund of liability for claims if a self-insurer's liabilities exceeded its security deposit, said Daniel Hodel, assistant director of Labor and Industries. California currently has such a fund (BI, Jan. 13).

The department also is proposing that it be given the authority to audit billings from medical providers for cost-effectiveness. This proposal would enable the department to recommend to injured workers those medical providers who are cost-efficient, and also would allow the department to enter into preferred provider organization agreements or volume contracts. Such a move could save \$15 million this year, Mr. Hodel said.

Some of the department's recommendations are expected to become part of reform measures now being drafted in the Legislature by the Joint Select Committee on Industrial Insurance. Either one extensive bill or several smaller bills are expected to be introduced, said Christine Cordes, staff counsel to the committee.

However, the Washington Legislature, which already is in session, is slated to meet only 60 days in 1986 for a budget session. Workers compensation reform may not receive much attention, observers say.

While the department is attempting to push a reform

package through the Legislature, a coalition of employer associations has failed in its attempt to petition the Legislature to allow commercial insurers to sell workers compensation insurance in Washington.

The Committee for Workers' Compensation Reform needed 151,133 signatures by Jan. 4 to place its proposal—Initiative 91—before the Legislature, but it gathered only 56,000.

"It was a classic case of the business community tending to business rather than politics," said Enid Laves, legal assistant in the government affairs department of the Associated Grocers, one of the groups belonging to the coalition.

Don Eldridge, the coalition's director, agrees with Ms. Laves's assessment, but he also notes that several other factors worked against the petition drive.

For instance, the drive geared up late in the fall, after several community events that were good opportunities for gathering signatures were held, he said.

Six "tough winter" weeks and the Christmas holiday also hindered the effort, he noted. "Most retailers in November and December have other things to think about," Mr. Eldridge said. But, the coalition's effort was not a total failure, he said.

"If nothing else, it got the attention of the Department of Labor and Industries and the Legislature," Mr. Eldridge explained, adding that employers probably will support many of the reforms proposed by the Department of Labor and Industries.

The Committee For Workers' Compensation Reform will continue to work for changes in the Legislature, Mr. Eldridge said. Some of its members also want to begin another petition drive, but that possibility is still being debated, he added.

"We may spend next year making changes in the Legislature," Mr. Eldridge said, referring to the November elections. The coalition could improve the chances of reform by "knocking" seven or eight members out of the House and another two or three out of the Senate, he said.

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Wellness gains popularity

A large number of New England employers are hoping to make their employees healthier through wellness programs, a survey shows.

More than 62% of the 191 organizations responding to a November survey conducted by William M. Mercer-Meidinger Inc. say they are promoting wellness.

Employers are encouraging wellness for many reasons, the survey found, including the desire that employees adopt healthy lifestyles, 88%; to manage health care benefit costs more effectively, 78%; and to improve employee relations, 66%.

The survey included a cross-section of 702 banking, manufacturing, high technology, non-profit, service and government entities throughout New England.

The most common wellness activities reported were:

- Communication campaigns on employee health awareness, 79%.
- Sponsorship of health education classes at the worksite, 69%.
- Establishment of referral ser-

vices for employee counseling, such as substance abuse, 60%.

- Facilities to monitor specific health conditions, such as high blood pressure and glaucoma, 63%.

The most popular physical fitness encouragements include:

- Offering aerobics classes at the workplace, 48%.
- Subsidizing employee membership in fitness facilities, 25%.
- Establishing worksite fitness facilities, 23%.

Employers measure the impact of these practices by monitoring changes in health claims and measuring absenteeism rates.

The survey found New England employers also are adopting cost containment strategies, such as encouraging outpatient surgical procedures when appropriate.

Copies of the survey are available from Sari E. Feldman, William M. Mercer-Meidinger Inc., 200 Clarendon St., Boston, Mass. 02116; 617-421-5399.

Emett/Jardine

Continued from page 1 million, which will likely push it into the No. 9 position in *Business Insurance's* ranking of the largest brokers in the world.

Last year, *BI* ranked Jardine's global brokerage operations as the world's 14th-largest based on 1984 revenues of \$98.9 million.

The ninth-largest world broker in 1984 was Rollins Burdick Hunter Co. which had \$133.4 million in revenues, while No. 8 Willis Faber P.L.C. had revenues of \$177.8 million.

Emett & Chandler President Richard A. Archer, who will become chairman of the merged companies, said last week that Emett & Chandler and Jardine had not yet

made any decisions affecting the focus of the new company.

However, both Mr. Archer and Jardine Chairman Harold R. Talbot Jr., who will be president and chief executive officer of the merged companies, noted that the combination should help both Jardine and Emett & Chandler.

"In my view, assessing the two brokerages, our operations are clearly a fit," Mr. Archer said.

He explained that Emett & Chandler has a "high concentration of large corporate commercial accounts for its size," while Jardine, which places more "Main Street America businesses, wants greater penetration in larger corporate accounts."

"We definitely feel that Jardine's international operations are going to be a very big plus" for Emett & Chandler, he added. "They have operations in the Far East, the United Kingdom and other spots in the world. We view this as a positive aspect of the proposition."

"We bring to them some international facilities and a presence in London that will be good for them," added Jardine's Mr. Talbot. "They bring a lot to us and we bring a lot to them," he said.

Thomas G. Rosencrants, director of research and general partner with analyst Conning & Co. in Hartford, Conn., said, "This will sharply expand Jardine's network of worldwide insurance brokerages."

The size of their merged company will benefit both brokerages in the tightening commercial insurance market, pointed out John E. Keefe, a securities analyst with Drexel Burnham Lambert Inc. in New York.

"With the state of the insurance market right now, it's better to be big than small. There are arithmetic advantages to size. Their move is very constructive right now," Mr. Keefe said.

"The acquisition will give the new broker a much greater volume of business with which to spread the more expensive risk management services necessary in this marketplace," added Leonard M. Wilson, special limited partner with L.F. Rothschild, Unterberg & Towbin in New York.

Jardine currently has 14 U.S. offices, almost all located on the East and West coasts and Hawaii. Jardine will gain a presence in the other areas by acquiring Emett &

Chandler offices in Phoenix, Ariz., Chicago and Kansas City, Mo. Emett & Chandler also has three California brokerage offices and one office in New York.

In cities where the two brokerages both have offices, some restructuring will occur. "Once we assess our people strengths in both organizations and the practicality of consolidation, we will take advantage of economies where possible," Mr. Archer said.

Emett & Chandler had 651 employees at year-end, while Jardine reported 707 employees.

Mr. Archer added that Jardine/Emett & Chandler will retain all of Emett & Chandler's subsidiary operations. Those operations include:

- R.L. Kautz & Co., a self-insurance claims administrator with eight offices nationwide.

- Laverack & Haines, another claims administrator with three offices in New York state.

- Risk Management Inc., a captive management facility in Los Angeles.

- Pinehurst Management Co. Ltd., another captive manager with offices in Hamilton, Bermuda, and the Cayman Islands.

- Emett & Chandler Insurance Services, a specialty product mass merchandising operation based in Pasadena, Calif.

- Galaher Settlements & Insurance Services Co. Inc., a structured settlement specialist with six offices around the country.

- Pinex Insurance Services, a Los Angeles-based reinsurance intermediary that serves captive insurance companies.

Jardine's Mr. Talbot noted that Pinehurst "will be a real plus for us."

Mr. Talbot added that the two brokerages have one other common trait: "We don't want to be in the underwriting business."

He noted that Emett & Chandler sold its underwriting operations in the early '80s, while Jardine's U.S. operations are not connected with Jardine Matheson's underwriting affiliates.

The acquisition was apparently prompted by Mr. Emett's desire to sell the company. Mr. Emett owns approximately 30% of Emett & Chandler stock.

"One of our major shareholders, Mr. Emett, and some of our other shareholders are disposed to sell...and our shareholders are in-

terested in the affiliation with Jardine," Mr. Archer explained.

"We are a publicly held company, so essentially if enough of our shareholders are willing to sell and someone wants to acquire us, we are subject to a sale."

"I'd rather leave things on a high point," Mr. Emett, 58, said. "The company's in damn good shape—running like a watch—and is going to make someone a lot of money in this market," he said.

He added that he "didn't want to ride things into the earth" like other chief executives have done before selling.

However, Conning's Mr. Rosencrants expressed surprise at Emett & Chandler's timing.

"The price paid, which represents approximately 24 times what Emett & Chandler will have made in 1985, is not that big a price considering that the earnings outlook for 1986-1988 is so good for insurance brokers. I'm surprised that any broker would sell out with earnings prospects that are so good," Mr. Rosencrants commented.

Emett & Chandler reported net income of \$3.43 million for the first nine months of 1985, up 4,140% from \$81,000 on 1984, largely on the basis of a \$1.4 million federal income tax credit.

But Rothschild's Mr. Wilson said the merger was not surprising.

"I suspect that Emett & Chandler felt that in the long run they would have to merge with someone in order to compete effectively in the market because of their size," Mr. Wilson said.

Herbert E. Goodfriend, securities analyst for Prudential/Bache Securities Inc. in New York, explained that Emett & Chandler has been a takeover candidate for some time, and that Jardine has been actively trying to increase its presence in the U.S. brokerage business.

"It is important to Emett & Chandler to gain the capital and the extension of strengths in international and national operations. It's hard to determine how important the acquisition is to Jardine, but it's quite important to Emett & Chandler," Mr. Goodfriend said.

Emett & Chandler intends to hold a stockholders' meeting to ratify the merger in late April or early May, Mr. Archer said, noting that the agreement will be consummated shortly thereafter.

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Expansion part of growth plan

HONG KONG—The expansion of Jardine Insurance Brokers Inc. is apparently a major component in the growth plan of parent company Jardine Matheson Holdings Ltd. of Hong Kong.

Jardine Matheson officials said last year—long before it announced the acquisition of Emett & Chandler Cos. Inc.—that it anticipated new growth in its insurance brokerage operations.

"The biggest area of growth for the company will be in insurance broking and retail operations," said Desmond Wigan, director of international coordination at Jardine Matheson.

"We are interested in businesses which are not highly capital intensive because we do not have much cash," he told *Business Insurance* last year.

"We have been in insurance broking for a long time."

Jardine Insurance Brokers Inc., the U.S. brokerage unit, is only one small part of Jardine Matheson, which was formed 150 years ago as a trading company in Guangzhou, China. It has been based in Hong Kong since 1841.

The company has four different divisions, including:

- Financial services. Besides its insurance brokerage operations—which include the U.S. company and Lloyd's of London broker Jardine Insurance Brokers Ltd.—Jardine Matheson's financial services holdings include a bank, Jardine Fleming Holdings Ltd., and an insurance underwriting joint venture with Continental Corp. called Lombard Insurance Group Inc., based in Panama.

- Engineering and construction.

- Marketing and distribution. Jardine Matheson sells and distributes wines and spirits in the Far East and operates 125 retail stores.

- Transportation services. Jardine Matheson's holdings include air cargo services, a Hong Kong security company and freight companies. However, Mr. Wigan said that the company is in the process of eliminating its once mighty shipping fleet.

Jardine Matheson reported total revenues in 1984 of \$8.9 billion Hong Kong (\$1.14 billion U.S.).

In the first half of 1985, Jardine Matheson reported revenues of \$4.5 billion Hong Kong (\$576.5 million U.S.) and net income of \$66 million Hong Kong (\$8.5 million U.S.).

ABA report

Continued from page 3
 vate health or disability insurance, from third parties.

"There has been no justification shown for eliminating (punitive) damages when the gross misconduct occurs in the delivery of health care services and, therefore, this committee opposes treating medical malpractice defendants differently than any other wrongdoer accused of acts of gross misconduct," the report says.

With respect to contingent fees, the study says that sliding scales restricting plaintiffs' attorney fees in medical malpractice cases should not be imposed by statute.

The report says a sliding scale could reduce total awards for victims by depriving them of representation of a lawyer sufficiently skilled at obtaining the highest appropriate award. It also could inhibit plaintiffs' access to the court system by limiting availability of counsel, the report says.

Instead of a sliding scale, the committee says judges should use their powers to review fee agreements and modify those that do not meet standards of reasonableness.

The committee also maintains there is no reason to eliminate the collateral source rule from application in medical malpractice cases, but third parties who have furnished monetary benefits to plaintiffs should be permitted to seek repayment by way of subrogation.

"This committee believes that the collateral source rule's essential fairness and its role in deterring incidents of medical malpractice merit its retention on public policy grounds," the report says.

Other recommendations include:

- That regulation of medical malpractice should be left to the states and that federal involvement is inappropriate.
- There should be rigorous enforcement of professional disciplinary code provisions proscribing lawyers from filing frivolous suits.
- There should be more effective procedures and increased funding to strengthen medical licensing and disciplinary boards at the state level; efforts should be increased for establishing effective risk management programs in delivery of health care services.
- Collection and study of data on the cost and causes of professional liability claims should be undertaken to evaluate and develop effective loss prevention programs.
- No disclosure of financial worth by a defendant in a tort action should be required unless there is a showing by evidence that would provide a legal basis for recovery of punitive damages.
- Trial courts should scrutinize carefully the qualifications of persons presented as experts to assure that only those persons are permitted to testify who, by knowledge, skill, experience, training or education, qualify as experts.

The study also says that available data do not support contentions that changes in tort law would significantly reduce medical malpractice premium rates.

It said the tort system fulfills important legal and social goals in dealing with malpractice liability claims, and emphasizes that the current tort law system is an integral element of the American justice system.

"...We have found no evidence that the public interest demands vast restructuring of the tort law system," the study says.

"Nor do we believe that, to ease the concerns of one segment of society, the rights of all citizens to seek full recovery through the courts for their injuries caused by members of that group should be limited."

"Simply put, this committee believes that the medical profession, in seeking changes in the tort law system, has shown a willingness to

'No single group should receive such special treatment under the law,' the report says.

trade away the rights of individuals in the hope of easing a perceived burden on its behalf," the report says.

"No single group in society should receive such special treatment under the law, and it is a responsibility of the legal profession to work to balance all interests while preserving the traditional foundation on which the American justice system is based."

An AMA spokeswoman said it would not be appropriate to comment because the preliminary report had not been adopted by the ABA House of Delegates. ■



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Court reform panel

Continued from page 3
 only the damage or harm they cause, he said.
 Without a return to comparative negligence in which each party's liability is based on its degree of fault, "No underwriter can price a liability insurance policy with any confidence that the premium will accurately reflect the policyholder's risk," Mr. Cheek said.
 Jacob Stein, a plaintiff's attorney with Stein, Mitchell & Mezines in Washington, called for more uniformity in wrongful death statutes.
 It would be reasonable for insurers, Mr. Stein said, to press for a uniform wrongful death statute to ensure greater predictability.
 Victor Schwartz, an attorney with Crowell & Moring in Washington, said it is time to codify the common law, describing it as a vestige of the past.
 "In virtually every other area of the law, one can turn to a statute and see what the rules are," said Mr. Schwartz, who also is counsel for The Product Liability Alliance, a Washington-based lobbying group that is seeking enactment of federal product liability legislation.
 "I'm not so much for changing the rules, as explaining the rules... so that everyone knows what the rules are... and that the rules cannot be changed retroactively," Mr. Schwartz said.
 James Todd, senior deputy executive vp with the American Medical Assn. in Chicago, said punitive damage awards don't belong in the medical malpractice field because no doctor intentionally sets out to injure a patient.
 Dr. Todd also said the courts could do more to streamline administrative procedures to lower defense costs. For example, some pretrial proceedings could be conducted through telephone conferences rather than in court, he said.
 In addition, Dr. Todd suggested more controls be placed on contingency fees so the amount collected by a plaintiff's attorney would be tied to

the amount of work performed.
 The panelists sharply disagreed on whether there is a crisis in the civil justice system.
 Dr. Todd, for example, said courts are making "Disneyland like" judgments, allowing any concept of liability.
 Donald Evans, deputy general counsel with the Chemical Manufacturers Assn. in Washington, said the civil justice system is breaking down over excessive litigation and outlandish awards.
 "There is an assumption that the insurance industry, fueled by corporate premiums, is an unending supply of funds to compensate the sick and injured, no matter how tenuous the claim might be," Mr. Evans said.
 But plaintiffs' attorney Mr. Stein said if there is a crisis in the civil justice system, "It will work itself out one way or another."
 He said the civil justice system moves on a pendulum. While manufacturers today say the system isn't fair to them, the crisis of the late 1940s was that plaintiffs were receiving very little for claims, Mr. Stein said.
 Some of the panelists raised the specter of corporate bankruptcies and the curtailment of medical services if employers can't buy affordable liability insurance.
 "Some companies would go bare... and you might see some bankruptcies as (uninsured) companies got hit with a big shot," said Mr. Evans of the CMA.
 And, Dr. Todd suggested, if doctors can't buy malpractice insurance they may refuse to treat patients. "You would see medical care and medical science come to a standstill," he said.
 Mr. Stein, the plaintiffs' attorney, said more captive insurance companies will sprout up, especially in the professional liability area, if commercial insurance availability continues to shrink.
 But Dr. Todd said captives are not a substitute for changes in the civil justice system, noting that as many as 25% of physician-owned captives

may be in some degree of financial difficulty.
 Mr. Stein, though, countered that captives get in financial trouble because they are not strict enough in their underwriting standards, not because of flaws in the legal system.
 In any case, captives are not a viable alternative risk-financing option for many smaller and medium-size companies that cannot afford the often hefty initial contributions for capital, said Mr. Evans of the CMA.
 Some panelists were optimistic that if business does a more effective job of lobbying, Congress will pass a federal product liability reform bill.
 "There is a greater likelihood of success if businesses make product liability their No. 1 legislative priority," said Mr. Schwartz, noting that employers could learn from the lobbying techniques of the Assn. of Trial Lawyers of America, also known as ATLA.
 "ATLA has never lost an issue before Congress. They concentrate on one issue at a time," Mr. Schwartz observed.
 By contrast, business groups spread themselves thin as they simultaneously lobby on a number of issues, Mr. Schwartz said.
 While Mr. Schwartz, citing the interest of Senate Commerce Committee Chairman John Danforth, R-Mo., said he is optimistic that Congress one day will pass a federal product liability bill, he ruled out congressional enactment of a comprehensive bill that would cover all tort-related issues.
 Federal action in the tort arena only will occur where there are serious problems involving interstate commerce. "Product liability is an example of that," Mr. Schwartz said.
 Dr. Todd, while welcoming reform of the civil justice system, said it is a matter best left to the states, adding that adoption of a uniform federal law in the malpractice area could be disastrous.
 The session was arranged and moderated by Myra L. Tobin, a managing director in the New York office of Marsh & McLennan Inc. ■

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Lawyers not all to blame for court's woes: Judge

By JERRY GEISEL

WASHINGTON—The nation's civil justice system is being swamped with lawsuits, but trial lawyers alone shouldn't be blamed for the rising tide of litigation, a federal judge says.
 Between 1960 and 1983, the number of civil cases filed in U.S. district courts increased about 300%, according to U.S. District Judge Charles Richey in Washington.
 But it is the litigious nature of American society—and not the plaintiffs' bar—that is swelling the case load, he says.
 "Lawyers act only at the behest of the litigants and are not likely to take litigants who don't have honest, meritorious claims," Judge Richey said last week at the National Assn. of Casualty & Surety Agents legislative conference.
 Judge Richey said some of the increase in litigation also can be attributed to a weakening of the Democratic and Republican parties.
 He noted that as party discipline has weakened, legislators have become more responsive to special-interest groups. And, he said, when legislators bow to the pressures of special-interest groups, they often leave gaping holes in legislation—holes that the courts increasingly have had to fill.
 "Courts are being asked to implement social and economic policy through their decision-making process which really is the province of the legislative bodies of this country and the executives through the regulatory system," Judge Richey said.
 Judge Richey, who was appointed U.S. District Court judge for the District of Columbia in 1971, noted that a major problem facing the nation's courts is increasingly complex cases.
 In New York, for example, courts in 1984 had to decide such complex and wide-ranging issues as whether fish had the right to breathe in the Hudson River, whether Grand Central Station should stand and whether a man could be found guilty of raping his wife.
 "These issues were all in addition to the vast range of consumer products, tenure issues, affirmative action and employee discrimination and dismissal law, and others, which were causing increases in the use of our state courts," Judge Richey said.
 The judge said another complex issue—compensation for victims whose injuries don't manifest themselves until long after exposure—are putting enormous demands on the resources of the courts.
 "These cases are testing the very capacity of the courts, not only because they are scientifically complex... but also because circumstances of injury apply to large groups of claimants, and, at the same time, generally involve a relatively small number of products," he said.
 Citing statistics collected by the Institute for Civil Justice, Judge Richey said more than 30,000 suits involving just one product—asbestos—have been filed and tens of thousands of additional suits may yet be filed during the next 10 years.
 Estimates of future compensation and litigation expenses for asbestos range from \$4 billion to \$87 billion, according to the institute, Judge Richey said.
 Despite more litigation and increasingly complex cases, Judge Richey said the system is not yet in need of sweeping change.
 But he said, "I am ready to say that warning signals are out and that if the bench and the bar and the public don't use our legal system properly and fairly, that we may well come to the point where those who use our system improperly will bring about drastic surgery."

Insurers, government add to crisis: Florio

By JERRY GEISEL

WASHINGTON—Don't make the tort system the scapegoat for the liability insurance crisis, a congressman says.
 Poor pricing practices and weak and ineffective enforcement of federal statutes also share the blame for the huge increases in the cost of liability insurance, Rep. James Florio, D-N.J., told the National Assn. of Casualty and Surety Agents legislative conference in Washington Jan. 26-28.
 A major cause of the crisis was the growth of cash-flow underwriting during the early 1980s, when insurers underpriced their products in order to get maximum cash flow to invest at high interest rates, Rep. Florio said.
 He added that, although insurers may emphasize the tort system as the source of their losses, "I have heard so many comments by insurance industry representatives acknowledging the existence of the cash-flow management problem that I don't think that there is a serious dispute that cash-flow underwriting was a major contributing cause of the present difficulties."
 State regulators also say the tort system isn't the only source of the industry's financial woes.
 "Various commissioners have been quoted as saying that much of the industry's problem is 'self-inflicted,' that some of the cancellations are the result of 'hysteria' and 'overreacting,'" Rep. Florio said.
 Rep. Florio also said that weak enforcement of federal statutes and guidelines has added to the insurance industry's problems, by feeding an increase in litigation.
 For example, he said, "Failure to enforce our environmental laws does not stop public concern regarding the effects of toxic substances. It accelerates public concern," triggering more litigation.
 And, what Rep. Florio calls "an enforcement breakdown" may be sowing the seeds of long-term health and legal problems.
 "The new (Reagan) administration thought it was doing (employ-

ers) a favor by not enforcing the (federal environmental) laws," Rep. Florio said.
 "Instead... it has created a time bomb not only of sickness and injury, but of legal liability," the congressman charged.
 Insurers should take a vigorous role in demanding enforcement of environmental laws, he said.
 The congressman also said administration relaxation of enforcement of federal antitrust statutes may be partly to blame for problems in the directors and officers liability insurance market.
 A permissive antitrust environment is stimulating a wave of hostile corporate takeover attempts, Rep. Florio contends.
 "Corporations that were previously considered excellent insurance risks because of modest debts and stable earnings are now high on the list of takeover targets. With the breakdown in antitrust enforcement have come uncertainty for insurance companies and an insurance availability crisis," Rep. Florio said.
 The New Jersey Democrat agreed that the tort system can be improved, but he cautioned that reform must be balanced.
 "As with a properly structured automobile no-fault approach, our goal should be a system in which genuine victims benefit as well as insurance companies," he said.
 And, Rep. Florio said, he has seen no data proving that the insurance crisis is attributable to "run-away judges and juries."
 Rep. Florio, though, sidestepped the issue of whether the federal government should take a more active role in the regulation of the commercial property/casualty insurance industry.
 He pointed out that there have been many suggestions for federal involvement, include a reinsurance agency, solvency guarantees and standards for state rate regulation.
 Rep. Florio said the House Commerce, Transportation and Tourism Subcommittee, which he chairs, would hold hearings this month on problems in the insurance market. ■

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Shuttle losses

Continued from page 1

other astronauts, who were either NASA employees or military officers, cannot sue the government, their employer, under the Federal Employees Compensation Act.

Mr. Berman said there is a possibility that NASA may try to recover on a \$500 million liability policy that covered a company that owned a government-leased satellite aboard the shuttle.

The \$150 million Tracking & Data Relay Satellite System, owned by Space Communications Co., was not insured for launch risks, since it was leased for 10 years to the U.S. government.

However, Spacecom did have \$500 million in liability coverage for the TDRS-B probe, the minimum amount that NASA requires of all owners of satellites to be launched aboard the shuttle, said Brian Stockwell, president of Corroon & Black Inspace Inc., Spacecom's broker.

The liability coverage was placed in 1985 through the shuttle liability insurance facility administered by International Technology Underwriters Inc. in Washington. The coverage is led in London by the Ariel Syndicate, and is brokered in London by Crawley Warren & Co.

NASA is also a named insured on Spacecom's policy.

Mr. Berman said NASA is "checking to see whether that will bring the insurance industry in to support any claims against us."

But Gail Granato, assistant vp at Inspace, said she believes the Spacecom coverage would only cover NASA if a third-party claim specifically alleges injury due to the TDRS-B probe.

While it's not yet known whether major contractors on the shuttle program—including Rockwell International Corp., Lockheed Corp., Morton Thiokol Inc. and Martin Marietta Corp.—will be liable for any damages, sources say they are all likely to have large aviation product liability limits to cover awards and settlements that are not reimbursed by the federal government.

Pittsburgh-based Rockwell, which builds the shuttle itself and supplies support systems, is believed to have \$1 billion of liability coverage led by the Ariel Syndicate at Lloyd's, London sources say. However, Ariel underwriter Eddie Simms would not confirm the coverage and Rockwell officials did not return phone calls.

Burbank, Calif.-based Lockheed, which services the shuttle between flights, has \$1 billion of product liability insurance, a spokesman said, but he would not give coverage details.

Officials at Chicago-based Morton Thiokol, which constructs the shuttle's solid-fuel rockets, and Bethesda, Md.-based Martin

Marietta, which manufactures the shuttle's external fuel tank, would not comment on their insurance coverage.

None of the companies would comment on potential liabilities from the disaster.

Lloyd's underwriters last week paid out the \$1 million in coverage for Ms. McAuliffe. The coverage was donated to her just days before the accident by Corroon & Black Inspace Inc.

The coverage, which costs \$1,000, was also available to the other astronauts aboard the Challenger, but apparently none of them bought the policy.

The coverage, which names Ms. McAuliffe's husband as beneficiary, was placed by Lloyd's broker Crawley Warren & Co. Ltd., several sources said.

Mr. Berman, the NASA attorney, said he was going to give Ms. McAuliffe the binder to the personal accident policy "as a souvenir" when she returned from her trip into space.

"It's just unbelievable," he said. "I just didn't want this to happen."

While insured losses resulting from the tragedy may be relatively modest, the disaster is shaking the confidence of satellite insurance underwriters at a time when brokers and some underwriters hoped the market would recover from massive losses, industry observers say.

Since the 1970s, satellite underwriters have paid \$900 million in claims against only \$400 million in premiums, noted Raymond Dowlen, chairman of the Aviation Insurance Offices Association in London (see story, page 22). About \$667 million of the claims have been filed in the last two years, he said.

The rates for satellite launch coverage have risen as high as 30% of a probe's insured value, while capacity was becoming so tight that RCA American Communications Inc. self-insured its \$75 million K-2 satellite that was successfully launched aboard a shuttle flight in November (BI, Nov. 18, 1985).

Recently, there have been signs that the satellite insurance industry was beginning to recover.

RCA, for example, found about \$80 million of insurance coverage for its K-1 satellite, which was successfully launched aboard a shuttle on Jan. 12. The policy, which covered only total losses, carried a rate of about 21% of insured value, or about \$17 million, sources say.

In addition, brokers for owners of satellites to be launched aboard the shuttle and the European Space Agency's Ariane rocket have been trying to put together new policies that would cover satellites while they were carried aboard the shuttle or the rocket and then purchase separate coverage for the actual deployment of the probes (BI, Dec. 9; Dec. 2, 1985).

Survivors to receive comp benefits

By JERRY GEISEL

The survivors of at least six of the seven astronauts killed in last week's explosion of the space shuttle Challenger will receive workers compensation benefits under federal, military and state programs.

Survivors of astronauts Ronald McNair, Judith A. Resnik and Francis R. Scobee, who were National Aeronautics and Space Administration employees, will receive death benefits through the Federal Employees' Compensation Act, a 70-year-old program that provides workers compensation benefits to federal employees and survivors.

Under that program, a surviving spouse with children would receive an annual benefit equal to 75% of the deceased's salary. Currently, the maximum annual benefit available under the program is \$50,995.

Survivors of the military crew members, Navy Cmdr. Michael J. Smith and Air Force Lt. Col. Ellison S. Onizuka, would receive benefits through the Dependency and Indemnity Compensation Program.

Benefits payable under this program for survivors of military personnel who die while on active duty are based on rank.

For example, the monthly survivors' benefit for lieutenant colonels and Navy commanders who die while on duty is \$775, while the monthly survivors' benefit for the family of an Air Force captain is \$665.

In addition, benefits available through the Veterans Administration will pay up to \$376 a month for a dependent child's college educational expenses.

Survivors of Gregory Jarvis, a civilian employee of Hughes Aircraft Co. in El Segundo, Calif., who was aboard the space shuttle, are entitled to benefits payable under a California workers compensation

statute.

Under that statute, survivors' benefits are paid as a lump sum by employers or their insurers. Those lump-sum benefits now range between \$70,000 and \$95,000, based on the number of dependents.

It isn't known if Hughes self-insures its workers compensation risks or buys commercial coverage.

Hughes corporate insurance department referred questions to the company's communications department, which did not return phone calls.

However, the California Office of Self-Insurance Plans in Sacramento, with which employers that self-fund workers compensation risks register, had no record of Hughes as a self-insurer.

There is some doubt about workers compensation survivors' benefits payable to the family of Christa McAuliffe, the Concord, N.H., school teacher aboard Challenger.

Larry White, assistant superintendent of the Concord School District, said he wasn't sure about the school district's responsibility for workers compensation benefits since Ms. McAuliffe was on a leave of absence at the time of her death.

The school district's workers compensation coverage is written by the New Hampshire Municipal Workers Compensation Fund, a 7-year-old pool that provides workers compensation coverage to about 250 towns, cities and school districts in the state.

The Bow, N.H.-based fund self-insures the first \$250,000 of risk per-occurrence and buys excess insurance over that retention.

Under New Hampshire's workers compensation statute, survivors' benefits are two-thirds of the deceased worker's salary, up to a current weekly maximum of \$462.

A NASA attorney said Ms. McAuliffe was not covered under the Federal Employees Compensation Act.

But any recovery in the satellite insurance market is now on hold while NASA investigates the cause of the explosion aboard the Challenger.

"Emotionally, the shuttle loss could have an effect on the confidence underwriters have in the shuttle," said one Lloyd's broker.

"The marketplace is such that whatever (satellite) market has already survived may be deterred from writing any more," said Mr. Simms of the Ariel Syndicate.

"It is too early to make any comment on the disaster, but two things of concern come to mind," said Mohammed Dahbi, head of the aviation and aerospace division of broker Faugere et Jutheau in Paris.

"One, all the launches will be delayed so the insurance market will lose part of its premium income. . . . Two, some underwriters will withdraw from the market for psychological reasons. People who are now ambivalent to writing space insurance may react to that."

"The shuttle will be delayed, which will delay the insurance business," added Bill Lloyd, vp of Johnson & Higgins in New York. "I don't think Ariane has the capacity to take more launches. So there will be less premium flow. Whatever the outcome, it can't be positive."

Some satellite coverage programs will probably be reworked by the next shuttle launch, which some experts say could be delayed up to two years because of the investigation of last week's disaster and any subsequent modifications that will be made to the shuttle.

For example, the liability insurance facility for owners of satellites launched aboard the shuttle, which is managed by International Technology Underwriters, will probably

be affected by the disaster, even if no claims are filed on the \$500 million policy covering the TDRS-B probe aboard the space shuttle Challenger.

The facility could supply a maximum of \$700 million in liability coverage if more than one probe was aboard a shuttle. The premium per owner had been approximately \$200,000.

Up until last week, brokers Corroon & Black Inspace in Washington and Crawley Warren in London were still trying to place coverage for the facility, which was supposed to be renewed Dec. 1.

Because of previous satellite losses and the state of the U.S. liability insurance market, the brokers had only found about \$600 million dollars of the coverage, said John Howes, deputy chairman of Crawley Warren. Last week, the brokers were trying to find the last \$100 million of capacity in order to renew the program, he noted.

Premium per owner was expected to rise to between \$200,000 and \$300,000, sources say.

"The likelihood of having a shuttle launch in the near future following this disaster is very remote, so we will probably go back to the drawing board and rethink the whole facility," said Mr. Howes.

Intec officials would not return phone calls.

Also, owners of at least three commercial satellites to be launched aboard the shuttle and the Ariane were looking for launch insurance coverage at the time of last week's disaster.

Two of the satellites—the Westar VI-S owned by Western Union Corp. and the Palapa B-3 owned by the Indonesian government—had been scheduled to be launched on a June shuttle flight. The two probes

were to replace two satellites valued at a total of \$180 million.

The earlier Westar and Palapa probes were lost when they were deployed by the space shuttle in January 1983. The satellites were later salvaged by another shuttle mission in November 1984, and underwriters—who had taken title upon salvage—are still trying to resell them.

Brokers Marsh & McLennan Inc. and Bowring Space Projects had begun negotiations with underwriters for the launch insurance of the new Westar and Palapa probes.

"Quotes were released on those satellites, but now those terms will have to be reviewed," said one Lloyd's of London underwriter. "We will have to go back to the drawing board."

The other satellite for which coverage negotiations were under way was GTE Spacenet 3R, which is to be launched on the Ariane rocket in mid-1986 to replace the \$85 million GTE Spacenet-3 satellite. The probe was destroyed on an Ariane flight last September.

"We will start placing the Spacenet 3R but we will wait to see how the market reacts to the disaster," said Mr. Dahbi, GTE's French broker.

In addition, there will be renewed pressure to raise rates for aviation product liability insurance for the manufacturers of the shuttle.

"I do not know quite what will happen," said Mr. Simms. "No doubt there will be amendments for space liabilities. There may not be an extra premium but there may be a maintaining of rates and an increase on the space element of products liability, or something like that."

Arizona public entities

Continued from page 3

Childers also is working with agent associations in the state to establish voluntary market assistance programs.

The first objective of the MAP task force is to bring immediate relief for day-care centers that are unable to obtain insurance, Ms. Williams said.

Mr. Childers also has instituted a department policy that requires complete actuarial justification for all property/casualty rate increases or decreases of 8% or more.

The department also will establish a toll-free "hot line" for insurance buyers that are having difficulty in the marketplace. Ms. Williams said department personnel will try to put buyers in touch with available markets.

Proposals similar to Mr. Childers' are expected to be included in a report from a 20-member commission appointed by the insurance director late last year to review the property/casualty market. That report is scheduled to be issued in February and is expected to include several recommendations.

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Insurers running out of time to put their house in order

By MYRON M. PICOULT
Special to Business Insurance

IT IS CLEAR THAT insurance regulators and politicians are very aware of the turmoil in the property/casualty insurance marketplace.

There has been a daily outcry from small businesses and public entities that have been subject to wholesale midterm cancellation on liability coverages, massive non-renewals by some underwriters or reduced coverage coupled with dramatic premium increases. The result has been an increasingly negative public perception of the property/casualty insurance business, particularly for those underwriters with significant commercial exposures.



Mr. Picoult

Furthermore, regulators and other interested parties are raising questions about the competency of insurance company managements.

Insurance company managers argue that the problems of availability and affordability relate to many factors, including:

- Capacity constraints.
- Shrinkage in the supply of reinsurance.
- Reinterpretation of insurance contracts by courts.
- A lag in the development of losses related to exposures never contemplated in original contracts.
- Punitive damage awards.
- Increases in "mega-awards."

Distortions of the tort system have played a major role in exacerbating the industry's problems and changes are clearly in order. Reform of the tort system should concentrate on attempts to restore a realistic relationship between the injuries suffered by an individual, the negligence involved and the final award.

However, conspicuously absent from the underwriters' remarks are comments about the rampant rate-cutting in which the industry was engaged for several years, poor risk

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selection and inappropriate recognition of "true loss" costs on existing and evolving cases.

The inability of commercial insurance buyers to obtain coverage at any price is spawning regulation curtailing midterm cancellations and rate adjustments, as well as non-renewals of coverage. Market assistance programs, or "voluntary" insurer pools, to provide unavailable coverages also are surfacing. The continuation of a tight market could create more government-sponsored pools, perhaps closer regulation of commercial rates and more regulation of reinsurers or at least reinsurance contracts purchased by primary underwriters.

Statute revisions that would curtail the operating flexibility currently enjoyed by commercial insurers obviously would be negative for the property/casualty industry. However, tempering the regulators' zeal to mute public discontent are concerns about capacity shortfalls and the need to maintain sufficient incentives to keep insurance companies in the business.

In past columns, we have noted the marvelous propensity of the industry to shoot itself in the foot. Well, it is doing it again.

We are hearing that some commercial underwriters are refusing to accept renewals on commercial coverages where the premium is less than \$1,000. This business is apparently finding its way to the direct writers. Once obtained by these entities, it is difficult to foresee that insurers represented by independent agents and brokers will recapture this business.

Such attitudes, together with the advent of new commercial insurance pools—like A.C.E. Insurance Co. Ltd. and Tortuga Casualty Co.—restricts the market available to the "traditional underwriters." It is to be noted that as the dynamics of the marketplace change, the "traditional underwriters" will no doubt seek to convince all who will listen that they have evolved into "specialty underwriters." This reincarnation would be more believable if the sign that reads "... all things to all people" is removed from above the main entrance to their corporate headquarters.

If the turmoil in the industry continues to result in economic and societal disruptions, it is quite possible that the system of state regulation of insurance will fail or at least be shared with some degree of federal oversight. Lawrence H. DeNardis, acting assistant sec-

retary of health and human services, recently indicated that the Reagan administration was considering legislation to limit medical malpractice awards and tighten measures against unfit doctors. A final decision on whether to introduce such legislation is dependent upon what kind of progress states make to pare rising malpractice insurance rates for doctors.

Frank B. Hall

Frank B. Hall & Co. Inc. says it expects that its fourth-quarter 1985 results will be affected by further writeoffs for discontinued operations.

The writeoffs, the size of which have not been released, will be connected with Jartran Inc., the truck-leasing subsidiary that Hall hopes to sell, and Global Surplus Insurance Services Inc., Hall's discontinued managing general agency affiliate.

Last month, Protective National Insurance Co. of Omaha, Neb., placed itself under supervision of the Nebraska Insurance Department because of an inability to recover from reinsurers on a book of business written by Global (BI, Jan. 27).

Hall posted a \$95 million net aftertax loss in the third quarter, largely due to costs related to the disposal of Jartran and the establishment of additional reserves for Hall's discontinued underwriting operations.

In addition, Hall announced it will hold a special stockholders' meeting Feb. 21 to vote on proposals to:

- Increase authorized shares of common stock to 50 million from 20 million.
- Increase authorized shares of preferred stock to 10 million from 500,000.
- Ratify transactions between Hall and Reliance Insurance Co. whereby Reliance can invest up to \$75 million in additional funds in Hall.

According to John A. Addeo, Hall's senior vp, "We are contemplating another transaction with Reliance to strengthen our capital base." Reliance currently owns a little less than 20% of the brokerage, he said.

"Fully diluted, with the exercise of warrants, they would own about 30%," Mr. Addeo added.

Hall intends to strengthen its capital base because "we expect additional writeoffs will be made in the fourth quarter with respect to our discontinued operations," Mr. Addeo said.

Hall's announced last month that it has entered into a \$75 million revolving credit agreement and a \$50 million term loan agreement with a group of five banks.

Arthur J. Gallagher results

Broker Arthur J. Gallagher & Co. in Rolling Meadows, Ill., reported that its revenues grew 27% in 1985 to \$81.6 million from \$64.2 million in 1984.

Net income for the 12 months ending Dec. 31, 1985, was \$9.9 million, a 57% increase over net income of \$6.3 million for 1984. Earnings per share rose to \$2.20 from \$1.59 in 1984.

Gallagher's fourth-quarter revenues grew 28% to \$21.9 million from \$17.1 million in the fourth quarter of 1984. Net income in the fourth quarter rose 55% to \$1.9 million from \$1.2 million, while earnings per share rose to 41 cents from 27 cents.

AIG stock offering

American International Group Inc. has filed with the Securities and Exchange Commission a registration statement for a public offering of 2.5 million shares of its common stock.

Proceeds from the stock offering will be added to AIG's general funds to be used for general corporate purposes, including possible investments in or extensions of credit to subsidiaries.

AIG stock was trading on the New York Stock Exchange last week at about \$120 a share.

The stock offering will be underwritten by Salomon Brothers Inc.; Goldman, Sachs & Co.; Lazard Freres & Co.; and Morgan Stanley & Co.



The Business Insurance stock index skyrocketed during the most-recent trading period, setting a record high. The BI index of insurance industry stocks closed at 446.5 points on Jan. 29, up 18.5 points from the 428.0 points on Jan. 22 and up 16.8 points from the previous high of 429.7 points, set Jan. 15. A total of 47 stocks posted gains, eight stocks were down and four stocks were unchanged for the latest trading period. The biggest gains were posted by SA-FECO Corp., up 13.4%; W.R. Berkley Corp., up 11.9%; Fireman's Fund Corp., also up 11.9%; Nobel Insurance Ltd., up 11.0%; and Corroon & Black Corp., also up 11.0%. The biggest losses were posted by Frank B. Hall & Co. Inc., down 16.2%; Torchmark Corp., down 7.2%; American Heritage Life Investment Co., down 2.8%; Statesman Group Inc., down 2.3%; and Kansas City Life Insurance Co., down 1.7%. The Business Insurance stock index rose an average of 4.3% for the trading period, outperforming the other major market indicators: The New York Stock Exchange index rose 3.0%, the Standard & Poor's 500 rose 3.3% and the Dow Jones 30 Industrials rose 3.8% for the same period.

British Issues

28 Jan Companies	Price pence	P/E	Div. pence	Yield %	1 Week High-Low pence
Comm Union	238	N/M	16.9	7.1	238-233
Genl Accident	720	32.7	31.4	4.4	720-710
Gdn Royal Exch	753	65.5	38.6	5.1	753-743
Royal	785	49.1	35.0	4.5	785-775
Sun Alliance	577	96.2	23.6	4.1	577-557

Brokers	Price	P/E	Div.	Yield	1 Week High-Low
CE Heath	685	8.9	37.5	5.4	685-665
Hogg Robinson	300	12.2	13.4	4.5	300-285
JH Minet	268	12.2	11.4	4.3	268-256
Sedg Grp	377	16.4	17.1	4.5	377-360
Stew Wrightson	773	14.9	32.8	4.3	773-740
Willis Faber	470	24.1	23.6	2.5	470-438

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

BI Industry Stock Report

January 29, 1986 1/23/86 thru 1/29/86

Brokers	Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol.(000)
Alexander & Alexander Svcs	NYSE 34.63	5.3	0.0	1.00	2.9	34.63*	32.50	591.6
Baldwin & Lyons Inc	OTC 75.00	1.4	16.6	0.80	1.1	78.00*	74.00	10.4
Corroon & Black Corp	NYSE 62.13	10.9	84.0	1.00	1.6	62.13*	56.00	90.7
Crumph E H Cos Inc	OTC 25.00	9.9	26.9	0.25	1.0	25.00*	22.25	193.5
Ematt & Chandler Cos Inc	OTC 17.75	0.0	30.6	0.00	0.0	18.25	17.50	34.1
Gallagher Arthur J & Co	OTC 53.75	5.4	24.4	0.28	0.5	53.75*	50.50	18.0
Hall Frank B & Co Inc	NYSE 22.00	-16.2	0.0	0.00	0.0	26.00	21.25*	1,791.1
Marsh & McLennan Cos Inc	NYSE 91.25	5.5	21.8	2.70	3.0	91.25*	86.75	305.2
Poe & Assoc Inc	OTC 14.25	1.8	0.0	0.80	5.8	14.25*	14.00	1.4
AGENTS/BROKERS	AVERAGE		151.0		1.7			

Chubb Corp	Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol.(000)
Chubb Corp	NYSE 63.25	5.4	22.9	1.56	2.5	63.25*	59.00	339.0
Combined Intl Corp	NYSE 53.00	2.4	9.6	2.16	4.1	53.00*	51.63	262.8
Continental Corp	NYSE 47.63	7.6	23.6	2.60	5.5	47.63	44.63	944.9
Crown Life Ins Co	OTC 254.00	0.0	15.3	0.00	0.0	254.00	254.00	1.0
Durham Corp	OTC 45.50	3.4	8.4	1.28	2.8	46.00*	44.75	38.4
Farmers Group Inc	OTC 72.00	6.7	12.1	1.76	2.4	72.00*	67.50	806.1
Fireman Fd Corp	NYSE 36.50	11.9	0.0	0.30	0.8	36.50*	34.00	863.5
Fremont Gen Corp	OTC 29.00	6.4	0.0	0.68	1.7	29.00*	27.00	331.4
Great West Life Assurn Co	OTC 490.00	2.1	12.6	1.60	0.3	490.00	480.00	0.0
Home Group Inc	AMEX 26.00	7.8	0.3	0.00	0.0	26.00*	24.00	650.8
Hartford Steam Boiler Insptn	OTC 59.25	8.7	61.7	0.56	0.9	59.25*	55.25	34.3
Hartford Steam Boiler Insptn	OTC 68.50	7.9	12.6	2.00	2.9	68.50*	63.50	24.0
Kans City Life Ins	OTC 29.25	-1.7	11.5	0.87	3.0	30.00	29.25	7.9
Keefe Corp	OTC 80.63	9.0	23.2	1.80	2.2	80.63*	74.63	470.1
Liberty Corp S C	NYSE 34.00	0.4	14.7	0.72	2.1	34.25	34.00	28.0
Lincoln Natl Corp Ind	NYSE 58.00	5.0	13.7	2.00	3.4	58.00*	54.88	430.2
Mission Ins Group Inc	OTC 2.75	0.0	0.0	0.00	0.0	2.75	2.75	630.5
Monumental Corp	OTC 35.13	0.4	11.9	1.40	4.0	35.38	35.00	63.4
Nac Re Corp	NYSE 35.75	7.5	28.4	0.00	0.0	35.75*	32.75*	115.8
Nobel Ins Ltd	OTC 16.38	11.0	21.5	0.25	1.5	16.38*	14.50	154.8
Northwestern Natl Life Ins	OTC 27.63	2.8	7.2	0.80	2.9	27.63	26.75	352.6
Ohio Cas Corp	OTC 74.50	7.2	21.8	2.80	3.8	74.50*	70.25	441.8
Old Rep Intl Corp	NYSE 38.38	2.7	10.4	0.74	1.9	38.38	37.25	59.6
Orion Cap Corp	OTC 31.63	7.7	0.0*	0.76	2.4	31.63	29.63	167.4
Protective Corp	OTC 22.00	1.1	8.2	0.66	3.0	22.00	21.50	12.5
Provident Life & Acc Ins Co	OTC 26.25	-1.4	7.1	0.76	2.9	26.63	26.25	265.8
St Paul Cos Inc	OTC 87.00	9.8	0.0	3.00	3.4	87.00*	79.13	503.7
SAFECO Corp	OTC 51.88	13.4	15.8	1.60	3.1	51.88*	46.00	499.4
Sri Corp	OTC 17.00	2.3	566.7	0.80	4.7	17.25	16.50	84.5
Seibels Bruce Group Inc	OTC 19.50	-1.3	4.0	0.80	4.1	19.75	19.25	360.2
Statesman Group Inc	OTC 5.25	-2.3	0.0	0.05	1.0	5.38	5.00	59.3
Tokio Marine & Fire Ins Co	OTC 216.00	2.4	40.7	1.05	0.5	217.75	209.75	12.8
Torchmark Corp	NYSE 22.63	-7.2	8.9	0.60	2.7	24.13	22.63	1,751.5
Travelers Corp	NYSE 49.75	8.2	12.1	2.16	4.3	49.88*	46.13	7,250.8
United Fire & Cas Co	OTC 32.75	-0.8	15.3	1.20	3.7	33.00	32.75	1.4
United States Fld & Gty Co	NYSE 42.50	9.0	0.0	2.20	5.2	42.50*	39.25	1,219.1
UsLife Corp	NYSE 36.75	-1.3	8.3	1.12	3.0	36.75*	36.00	500.0
Washington Natl Corp	NYSE 26.63	6.0	9.2	1.08	4.1	26.75	25.25	88.5
Zenith Natl Ins Corp	OTC 28.50	7.5	0.0	0.68	2.4	29.25*	26.75	570.0
INSURANCE COMPANIES	AVERAGE		11.4		1.9			

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