

Business Insurance

Reporting Weekly on Corporate Risk, Employee Benefit and Managed Health Care News / \$4

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Barbados revamps captive tax to comply with Canadian rules

BRIDGETOWN, Barbados—Captive insurers will now be liable for local taxes in Barbados—sort of.

In a move to counter the impact of tax law changes in Canada, the Barbados government has amended its insurance act to make captives liable for local tax.

But the Barbados tax rate to be applied to exempt insurers' profits will be 0% for the first 15 years after the insurer is licensed. For the following 15 years, the tax rate will be 2% of the first \$125,000 of profits, or

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Court limits punitive award

8th Circuit rules excessive punitive damages are unconstitutional

By MARK A. HOFMANN

ST. LOUIS—The drive to curb excessive punitive damage awards likely will gain momentum after a federal appellate panel's recent ruling that a punitive damage award 250,000 times actual damages is unconstitutional.

The Dec. 19 decision marks the first time a federal appeals court has ruled that a punitive damage award can be so large in comparison to actual damages that it violates the Constitution's guarantee of substantive due process.

Some consumer groups, though, view the 8th U.S. Circuit Court of Appeals' decision as an assault on common law.

In the case, *Thaddeus C. Pulla vs. Amoco Oil Co.*, Mr. Pulla, who was a supervisor in Amoco's Des Moines, Iowa, credit card operation, sued Amoco for invasion of privacy. A U.S. District Court jury had awarded him only \$2 in actual damages for past and future pain and suffering and \$500,000 in punitive damages.

Amoco appealed, and the three-judge appellate court panel told the lower court to reconsider the punitive award.

"While the Constitution does not impose any precise formula or ratio between the amount of punitive and actual damages, the amount of punitive

damages must bear 'some proportion' and a 'reasonable relationship' to the harm that actually occurred," wrote retired U.S. Supreme Court Justice Byron White, who was asked to serve on the appeals court panel.

"In this case, given the limited offensiveness of Amoco's actions and the unlikelihood of any serious potential harm from its conduct, we hold that the 250,000:1 ratio between punitive and actual damages is excessive, unreasonable and violative of due process," he wrote in the 8th Circuit decision.

Mr. Pulla's attorney has requested that the 8th Circuit review the case "en banc." No decision has been made on the request.

The case began when Mr. Pulla—then 48—was demoted, though he continued to receive the same pay, and was replaced by a 45-year-old woman. Mr. Pulla sued under the Age Discrimination in Employment Act in 1991.

He later amended his complaint, alleging that Amoco had violated state tort law by invading his privacy.

This new charge stemmed from the action of a co-worker who had to

cover for Mr. Pulla when he took two months of sick leave in 1991. The co-worker, angered at the extra burden, checked Mr. Pulla's personal credit cards for the days he called in sick and found that he'd used the cards at restaurants and bars on those days off.

She reported this to her supervisor, who told her never to do such a thing again.

'Punitive damages must bear . . . a "reasonable relationship" to the harm that actually occurred.'

Justice Byron R. White



The supervisor then had another employee print out the record and gave it to a human resources representative, who in turn filed the information in Mr. Pulla's personnel file. Mr. Pulla was later required to provide a doctor's note whenever he took sick leave.

A U.S. District Court jury awarded Mr. Pulla \$1 in actual damages for past pain and suffering and \$1 for actual

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Banks await court ruling

Supreme Court to clarify freedom to sell insurance

By RODD ZOLKOS

A U.S. Supreme Court ruling that could be delivered as early as next month will go a long way toward clarifying banks' position in the insurance market.

Ultimately, however, the court's ruling in *Barnett Bank of Marion County N.A. vs. Tom Gallagher, Florida Insurance Commissioner* may only affect the speed at which banks begin offering insurance products.

Since 1986, the Comptroller of the Currency has held that the National Bank Act permits federally chartered banks to sell insurance nationwide from branches in towns with fewer than 5,000 people. The comptroller also has allowed national banks to sell annuities, arguing they are not insurance. Both positions have been challenged in court and ultimately upheld by the U.S. Supreme Court.

In the case now before the court, Florida argues that the federal law does not pre-empt a prohibition against banks in insurance, a view held by many insurance agents and some other states with such bans.

Whatever the high court ruling in *Barnett*, though, banks this year inevitably will continue their drive to sell insurance products. And while much of their initial interest seems to be in personal lines products, for

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AT&T extends health plan, pension credit in layoffs

By ROBERT KAZEL

BERKELEY HEIGHTS, N.J.—AT&T Corp. will provide up to a year of health care coverage as part of a severance package for about 30,000 managerial employees to be laid off.

In addition, it will offer managers nearing pension eligibility a special, expanded grace period to earn credit toward retirement benefits.

In most respects, though, the plan differs little from a buyout offer made by Berkeley Heights, N.J.-based AT&T in November.

AT&T last week unveiled its plans to cut about 40,000 management and unionized workers, three-quarters of them through layoffs. The reduction also includes 4,500 jobs eliminated by sell-offs of AT&T businesses and 6,500 employees who accepted "buyout" offers from the company last fall. Most of those who accepted the buyout will leave by Jan. 13, though some will stay as late as December if needed by the company.

Most laid-off workers are expected to leave the company by March 31, though others will be let go throughout the rest of this year and 1997, according to George Fromme, AT&T's director of

benefit planning.

Those who accepted the buyout offer will receive eight extra weeks of salary upon leaving, whereas those laid off this year will not. That is virtually the only difference in severance packages between the two groups. All managers who are leaving will receive the following basic severance benefits:



- Up to 30 weeks of severance pay, based on number of years of employment.

- Up to five weeks of supplemental severance pay, based on age and years of service.

- A bonus of up to \$10,000 for education, relocation, retraining or starting a business.

Severance and benefit packages for about 16,000 unionized workers slated for dismissal have not yet been announced.

See AT&T on page 23

IIE acts to allay concerns after syndicates withdraw

By MEG FLETCHER

CHICAGO—Illinois Insurance Exchange officials are trying to reassure brokers that lost confidence in the surplus lines market during a dispute that culminated in a plan for the largest syndicate to withdraw after assuming an affiliate's liabilities.

Under the plan, which Indiana regulators partially approved Dec. 29, Classic Syndicate Inc. will reinsure all the liabilities of Geneva Assurance Syndicate Inc. and then withdraw from the IIE to merge with its parent, Classic Fire & Marine Insurance Co. of Crown Point, Ind.

"The whole situation has had an impact on the market and the exchange has to regain the confidence of the brokerage community," said IIE President James M. Skelton, who is preparing presentations on the restructuring for brokers and buyers.

"There is no question that the exchange is surviving," he said.

At least one broker, a Dallas wholesaler, has stopped using the IIE because of the Classic Syndicate problems, and others are watching events very closely.

"There is a lot of speculation but not a lot of details," said Hank Mueller, assistant vp with Travis-Pedersen & Associates Inc., a Chicago wholesaler that has used the IIE as a source of coverage. "I'm looking forward to learning more about the terms of

the agreement."

Policies remain in force until they expire, at which time Classic Fire & Marine will consider renewing them.

However, Classic Fire may not be eligible to renew all policies because it's approved in fewer states than was Classic Syndicate.

Classic Syndicate was able to provide surplus lines coverage in about 42 states, Mr. Skelton said. Classic Fire & Marine can now write surplus lines business in about two dozen states, though it plans to seek approval in others.

Behind the disputes with Classic Syndicate Inc. and affiliate Geneva Assurance

Syndicate Inc. were large claims stemming from the disastrous 1994 earthquake in Northridge, Calif., Mr. Skelton said.

Classic wrote \$64 million of gross premiums in 1994, or 21.7% of the IIE total. The liability insurer, which also wrote some property coverages, was the only IIE syndicate with an A- rating from A.M. Best Co.

Geneva, which also wrote property coverage, was No. 2, with \$55.5 million, or 18.8% of the IIE's total.

After months of negotiations, the IIE and regulators from Indiana, Illinois and Florida

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Updates

Barbados revises captive tax

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\$2,500; at the same time, the government will waive its annual license fee of \$2,500, resulting in no increase in any captive's costs.

The new law also makes this 30-year tax arrangement a right of all exempt insurance licensees. Under previous law, a 15-year tax exemption—while never denied to a licensee—was at the discretion of the Ministry of Finance, according to Christopher Towner, president of Towner Management Group and vp with the Barbados Exempt Insurance Management Assn.

The amendments are aimed at countering Canadian tax reforms that went into effect last year and required—among other things—that a Canadian-owned captive be a "resident" of Barbados to escape certain Canadian taxes. To qualify as a "resident," the captive had to be subject to local tax (*BI*, April 24).

Denis Brown, a partner with Ernst & Young in Toronto, said the new Barbados law should pass muster with Canadian authorities even though it does not raise costs at all for Barbados captives.

Mr. Brown also noted that the amendments do little to benefit Canadian banks and financial institutions whose Barbados credit life and warranty units were hard-hit by the Canadian reforms. Instead, the changes mainly benefit large Canadian multinationals that might have faced additional tax on related non-Canadian business written by their captives.

U.S.-owned captives will also see no increase in payments to the Barbados government and will benefit from the 15-year extension of the government's tax guarantee, observers note.

Meanwhile, the Barbados government also adopted several other amendments to the insurance act, including one allowing Barbados regulators to disclose information about insurers to U.S. regulators.

Georgia Blues going for-profit

ATLANTA—Blue Cross & Blue Shield of Georgia Inc. will convert to a for-profit company under a plan approved by Georgia Insurance Commissioner John W. Oxendine.

According to the plan, each of the 160,000 BC/BS of Georgia policyholders in the state will receive five free shares of the company's stock. The insurer will be allowed to maintain all of its assets. The new for-profit entity will operate under the Blue Cross & Blue Shield name.

The Georgia Blues plan has annual revenue of more than \$1 billion. Private investors put \$50 million into the conversion plan, which company officials had said was needed so it could be more competitive with national insurance companies.

The Georgia General Assembly had paved the way for the action last year by passing legislation legalizing such a conversion, with the insurance commissioner directed to oversee the process. The insurer must receive approval of its registration plan from the Securities and Exchange Commission before the conversion can be completed.

Secondhand smoke ruling

MIAMI—The first class-action lawsuit related to secondhand smoke is proceeding after a Florida appeals court last week affirmed certification of a suit by 60,000 current and former flight attendants.

Originally filed in 1991 (*BI*, Nov. 11, 1991), the suit—*Broin vs. Philip Morris Cos. et al.*—was certified by a circuit court judge late last year. The tobacco companies appealed, but lost before a three-judge appellate panel. Plaintiffs claim they were exposed to secondhand smoke in the years when smoking was allowed on U.S. flights. They are expected to seek more than \$1 billion in damages.

Philip Morris said it will seek a rehearing.

Cameron-Webb told to pay up

NEW YORK—Peter Cameron-Webb, an infamous former Lloyd's of London underwriter, was found in contempt of court by a New York state judge late last month and ordered to surrender documents to allow Lloyd's to collect \$600,000 that he allegedly holds in Switzerland.

Lloyd's will now try to "find his assets and grab them," said John M. Toriello, a partner at Haight, Gardner, Poor & Havens in New York who represents Lloyd's.

In addition to the Swiss funds, Mr. Cameron-Webb has assets in the United States that Lloyd's will attempt to collect as partial payment of the \$8.5 million that he owes Lloyd's, Mr. Toriello said.

Mr. Cameron-Webb claimed that the \$600,000 was under the control of two Swiss attorneys. He previously has said that he was unwilling to hand over the money unless Lloyd's agreed to settle its entire complaint against him, according to court papers.

But Judge James Brucia in the Supreme Court of Nassau County, N.Y., ruled that by not helping Lloyd's recover the funds, he was in civil and criminal contempt of a 1993 order by the court.

Mr. Cameron-Webb achieved notoriety at Lloyd's in late 1982, when his managing agency, PCW Underwriting Agencies—from which he had resigned earlier in the year—was engulfed in a scandal involving reinsurance transactions that benefited individuals linked to the agency. By 1985, PCW was being dismantled amid allegations of fraud and its syndicates placed in runoff.

Mr. Cameron-Webb, 72 and suffering from diabetes, claimed to be too ill to attend the contempt hearing. He lives in Los Angeles where he receives \$895 a month in Social Security, court documents say.

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Errors & omissions

In the Dec. 19, 1995, Directory of Managed Care Providers, HealthAssurance-Central Pennsylvania was incorrectly listed as a health maintenance organization on page 90. It should have been listed as a point-of-service plan.

CIGNA plan scrutinized

Regulators in several states await Pennsylvania action

By DAVE LENCKUS

CIGNA Corp. will face some regulatory challenges to its reorganization plan even if Pennsylvania regulators approve it.

Insurance regulators from several states are raising concerns over the plan, though only officials in Missouri and Illinois have explicitly said that the plan violates their respective state's regulations.

The Missouri department would seek a court order to block the plan if Pennsylvania Insurance Commissioner Linda S. Kaiser approves it, a spokesman said.

Illinois regulators are still assessing their legal options, but they would hold CIGNA officials liable for any shortfall in the proposed runoff operation for CIGNA's long-tail liabilities if CI-

GNA does not first jump through some legal hoops, a department attorney said.

However, more importantly for CIGNA, Illinois—unlike Missouri—is one of seven states besides Pennsylvania that must approve various components of the plan before CIGNA can implement it. Various CIGNA subsidiaries are domiciled in those seven states, which would have to approve, for example, new reinsurance arrangements for those companies under the plan.

The plan to date has received a favorable review only from regulators in Connecticut, another state that must sign off on a portion of the plan.

Other states that must sign off are California, Indiana, New Jersey, Ohio and Texas. Among those

domiciles, only regulators in Texas have acknowledged they are concerned about the plan. Regulators in the other four states will not comment on the plan until after Ms. Kaiser's ruling.

J. Robert Hunter objects to plan.....Page 15

A CIGNA spokesman said that regulators who have raised objections to the plan are misinterpreting how the reorganization would be accomplished under an unusual Pennsylvania statute.

The spokesman said the insurer hopes other state regulators will recognize and honor Pennsylvania See CIGNA on page 21

Insurer's court plea rejected

Judge disallows transfer of suit

By JUDY GREENWALD

AUSTIN, Texas—A federal district court judge in Austin, Texas, has refused to permit Regina, Saskatchewan-based Crown Life Insurance Co. to transfer a case involving an estimated \$50 million jury award to federal court from state court.

The insurer had argued that its partial ownership by a Saskatchewan government agency as of October means it should be regarded as a foreign state, making it subject to federal court jurisdiction (*BI*, Nov. 6, 1995).

In the case, a Texas state court jury found the insurer used deceptive life insurance sales practices.

A multi-district litigation panel will decide whether other cases brought against Crown life will appear in state or federal court.

However, Judge Bam Spark of the U.S. District Court in Austin, Texas, said in his Dec. 21 ruling that the federal court does not have jurisdiction because the state court jury verdict was handed down in September, and Crown Life did not become a foreign state until more than a month afterward.

USF&G's syndicate operating at Lloyd's

International reinsurance is specialty

LONDON—A new Lloyd's of London corporate syndicate set up by USF&G Corp. is now trading.

Lloyd's syndicate 1211 has stamp capacity for this year of £17.8 million (\$28 million) and plans to specialize in international reinsurance business. Syndicate 1211's sole member is F&G U.K. Underwriters Ltd., a wholly owned subsidiary of Baltimore-based USF&G.

John Dendy, a longtime underwriter at Lloyd's who most recently was the underwriter for Sturge non-marine syndicate 546, is the underwriter for the new venture, which began doing business Jan. 2.

Syndicate 1211 is managed by F&G U.K. Agency Ltd., a new managing agency set up by USF&G subsidiary F&G Holdings Ltd. and Lloyd's managing agent Ashley Palmer Holdings Ltd.

John Berger, executive vp of USF&G's reinsurance subsidiary, F&G Re, said the move was "an extension of USF&G's international reinsurance strategy." The officers of F&G Re will become officers of the various new companies.

Directors of F&G U.K. Agency Ltd. are: Martin Ashley, Clifford Palmer and David Reed, all of Ashley Palmer; and Mr. Berger and Tim Olson of F&G Re.

—By Sarah Goodard

Directory deadlines near

Deadlines are approaching for two *Business Insurance* directories.

The Feb. 5 issue will contain the annual directory of claims professionals. To be listed, your company must generate at least \$500,000 of its gross revenues from handling claims for self-insured clients, and that figure must be reported. The extended deadline for returning completed questionnaires is Jan. 17.

The Feb. 19 issue will contain the annual directory of utilization review providers and case managers. To be listed, your company must provide

utilization review services or case management services directly to employers.

The deadline for utilization review firms/case managers to return the completed questionnaire to *Business Insurance* is Jan. 19.

The directories are published as an editorial service; there is no charge to be included. However, a questionnaire provided by *BI* must be completed.

If you have not received a questionnaire for either of these directories, please request one from Assistant Directory Editor Rich Trout at 312-649-5483.

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Securities law a mixed bag

Experts predict reform will reduce some lawsuits, boost others

By RODD ZOLKOS

The Securities Litigation Reform Act that became law over President Clinton's veto last month may well prove a mixed blessing for business, resulting in fewer but more costly class-action securities suits.

Meanwhile, uncertainty over the new law's ultimate impact, coupled with an already competitive directors and officers liability insurance market, should prevent any significant

changes in D&O rates for the immediate future.

Among the ways the act aims to protect companies and their officers from frivolous lawsuits are:

- Providing certain protections from lawsuits over company statements.
- Establishing a procedure for choosing "lead plaintiffs" in suits.
- Limiting attorneys' fees.
- Delaying discovery proceedings until after motions to dismiss a suit are considered.

• Establishing proportional liability for defendants who didn't knowingly violate securities laws.

From a business perspective, most welcome the reforms. The reduced liability for company statements and a provision that discovery be suspended while motions to dismiss are considered are seen by many as particularly beneficial.

"Securities litigation had gotten really out of hand with suits being

See Securities on next page

Court limits city's flood loss liability

By MICHAEL BRADFORD

CHICAGO—Companies that lost millions of dollars of business because of the 1992 Chicago flood may be left high and dry after a recent ruling that the city is shielded from liability for some economic damage claims.

The Illinois Appellate Court ruled late last month that the city of Chicago is protected under the state's sovereign immunity law from compensating businesses for economic damages if

later collapsed, allowing 250 million gallons of water to rush through the underground system, flooding the sub-floors of many adjacent buildings.

Lawsuits filed by businesses and insurers claim the city failed to adequately supervise the construction work by Great Lakes Dredge & Dock.

Last month's ruling does not disallow property claims or economic damage claims against the city if the plaintiff has related property damage.

In its ruling, the appellate court sent

Chicago law firm Holstein, Mack & Klein.

Meanwhile, businesses that were forced to close and lost revenue because of the flood have suffered a setback.

Most of the businesses that suffered business interruption losses did not sustain property damage in the flood. Therefore, they have been unable to collect from insurers because business interruption coverage typically does not pay if the policyholder does not have direct property damage.

In addition, some businesses had no such coverage in any case.

"Most small businesses don't purchase business interruption coverage," said Mr. Robinson. "The great majority of claimants may not have had any."

And even if businesses did have coverage to pay business interruption and other losses from the flood, most have had to swallow expenses like deductibles or self-insured retentions, he pointed out.

Members of the class-action total around 480 and are seeking around \$48 million, Mr. Robinson said.

Plaintiffs in several suits originally sought more than \$400 million from the city and Great Lakes Dredge & Dock Co. but some of the claims have been settled.

The city of Chicago agreed last August to pay \$36 million to several businesses and insurers to settle claims related to the flood (BI, Aug. 14, 1995).

Plaintiffs in that case, including American Home Assurance Co., The St. Paul Cos. Inc. and Travelers Corp., which are subrogating on behalf of policyholders, are seeking additional compensation from Great Lakes Dredge & Dock. **BI**



An April 1992 underground flood caused millions of dollars in losses to businesses in Chicago's Loop business district.

they suffered no related property damage in the flood.

The floodwaters that swept through tunnels beneath Chicago's Loop business district caused an estimated \$300 million in insured damage. A tunnel that was punctured during construction work in 1991 by Great Lakes Dredge & Dock Co. of Oak Brook, Ill.,

the case back to the lower court to resolve the issue of whether city officials had a plan to prevent the flooding and failed to properly execute the plan.

A decision hasn't been made whether to appeal last month's ruling regarding economic damage to the Illinois Supreme Court, according to Aron Robinson, a plaintiffs attorney at

Doctors cut costs on own: Study

By ROBERT KAZEL

Independent physician groups contracting with HMOs may be doing a better job of managing care than doctors employed by HMOs, a new study suggests.

Physician groups that are paid a capitated fee by HMOs and administer their own managed care techniques generated fewer hospital days and outpatient visits than doctors who are governed by HMO supervisors, the study found.

The study, recently reported in the New England Journal of Medicine, found that hospitalization rates were about 40% lower for six large California medical groups, which have their own governing boards and review committees, than doctor groups that are directly employed by an HMO.

James C. Robinson and Dr. Lawrence P. Casalino of the University of California School of Public Health in Berkeley, found hospital days per 1,000 HMO enrollees in the six medical groups studied ranged from 120 to 149 for non-Medicare patients between 1990 and 1994. In contrast, the mean number of hospital days for HMOs was 232 in California and 297 for the United States in 1993.

Outpatient visits also were lower for the six self-managed doctor groups, though much less dramatically. For HMO patients in 1994, the groups' average number of non-Medicare office visits ranged from 3.1 to 3.9 per patient annually. For California, the average

number of visits per year for HMOs was 3.8 per patient; for the United States as a whole, HMOs had 3.6 visits on average.

Although the study does not evaluate the quality of care provided by physician groups, the numbers appear to show that doctor-run medical groups manage care more effectively to reduce costs and boost efficiency, said Mr. Robinson, a specialist in health economics.

"They don't rely on the HMOs for utilization review," Mr. Robinson said in an interview. "They manage themselves rather than being managed externally. In the East, managed care is something that is done to physicians. In the West, managed care is something done by physicians."

The study was accompanied in the New England Journal of Medicine by an essay written by two physicians sharply criticizing capitation. They cited the California study's finding of lower inpatient and outpatient treatment levels as proof that doctors in such settings steer away from sick patients because they are less profitable.

But Mr. Robinson said the findings instead highlight doctors' response to calls for waste reduction in health care.

Requests for reprints of the study should be sent to James C. Robinson, School of Public Health, 418 Warren Hall, University of California, Berkeley, Calif. 94720.

New directions on COBRA cost

IRS issues guidelines on calculating premiums

WASHINGTON—The Internal Revenue Service is offering new guidance on the premiums that employers can charge employees' spouses and dependents who opt for COBRA coverage in certain situations.

The IRS guidance deals with situations in which spouses and dependents opt for COBRA coverage but the employee does not, and whether under such a scenario the spouses or dependents pay 102% of the individual rate or 102% of the family rate to receive COBRA coverage.

Such a situation could occur, for example, when an employee with a family loses his job. The entire family would be eligible for COBRA coverage. Later, though, the employee divorces the spouse and receives health care coverage through his new employer. The issue—which is addressed by the IRS in a question-and-answer format—is how much COBRA premium should then be paid by the spouse and other dependents.

Under the example provided by the IRS, the employer's health insurance costs are \$150 per month for individual coverage and \$400 per month for family coverage.

An event occurs in which the employee and his spouse are eligible for COBRA coverage. Only the spouse, though, opts for COBRA coverage.

In that situation, the IRS says, the employer can only charge the spouse a COBRA premium equal to 102% of the individual rate of \$150 a month.

As an individual, the spouse is a "sole qualified beneficiary" and "is not similarly situated to the family category of beneficiaries, which includes only groups of two or more individuals," the IRS said.

In the other situation addressed by the IRS, the employee and spouse have one dependent child. If COBRA continuation coverage is elected only for the child, the employer again only could charge a COBRA premium equal to 102% of the individual rate.

However, if both the spouse and the dependent child both opted for COBRA coverage, the employer could charge a COBRA premium equal to 102% of the family rate. That is because, according to the IRS, "these two qualified beneficiaries are members of the same family and they are similarly situated to the category of two or more beneficiaries from the same family."

While the answers offered by the IRS appear obvious, the IRS issued the guidance on COBRA premiums because it apparently felt there was some uncertainty among employers in this area, explained Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York.

The IRS guidance—formally known as Revenue Ruling 96-8—will be published later this month in the Internal Revenue Bulletin 1996-4.

—By Jerry Geisel

Taking but not taxing pensions over state lines

Bill would end multiple taxes on benefits

By JERRY GEISEL

WASHINGTON—States no longer would be allowed to tax pension benefits of non-resident retirees under legislation approved last month by the House and Senate and sent to President Clinton for his signature.

The measure, H.R. 394, eliminates what pension lobbyists say had become a growing problem: a state attempting to tax pension benefits of retirees who formerly lived in the state but moved to another state at retirement.

About a dozen states have laws that permit them to tax non-residents' pension benefits, with California being the most aggressive, benefit lobbyists said.

Lobbyists describe the legislation as a victory for the retirement benefit plan system.

"It protects retirement benefits from excessive taxation. States

wanted to tax retirees who had few resources to fight back," said Mark Ugoretz, president of the ERISA Industry Committee, a Washington-based benefits lobbying organization representing large employers.

State efforts to tax pension benefits of former residents put retirees in a difficult position. In a typical situation, a state will assert that its tax should be applied on a retiree's full monthly pension benefit, or, in the case of many defined contribution plans, the lump-sum benefit.

Retirees—in the case of those who may have lived in several different states while working for an employer—then have to prove that they lived in the state attempting to tax their pension benefits for only a portion of the time in which they earned the benefit.

That means digging up de-

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Securities

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filed it seemed off word processors if a company's stock value happened to go down," said William J. Kelly, senior vp at J.P. Morgan & Co. Inc. in New York.

"I think it will be a positive thing to try to reduce some of the frivolous suits that seem to be filed to produce settlements rather than to address grievances," said Mr. Kelly, who also is president of the New York-based Risk & Insurance Management Society Inc.

"It's a step in the right direction. It is going to be of value," said Brian L. Smith, senior vp at the Willis Corroon Financial Services division of Willis Corroon Group P.L.C. in New York. "And I think longer term, the value might be better realized than in the short term."

Skip Orza, vp and directors and officers liability product manager at Warren, N.J.-based Chubb Corp., agreed the reforms are "a move in a positive direction." He added, though, it's hard to say how it's going to affect insurance.

"We don't know what the direct results are going to be," Mr. Orza said. "We believe that some provisions are going to increase costs and thus expenses to us, some provisions are going to decrease costs and some are going to do both."

And Kristian P. Moor, president of National Union Fire Insurance Co. of Pittsburgh, Pa., a unit of New York-based American International Group Inc., stressed that "the law is intended to be litigation reform, not liability reform. It does not reduce the personal liability of directors and officers."

The act should bring some relief to some industries, particularly high tech and bio tech, Mr. Moor said. However, he noted that it only applies to shareholder class actions stemming from federal securities laws, and does not apply to cover shareholder derivative suits or cases

arising from initial public offerings.

Dan A. Bailey, a D&O specialist with the Arter & Hadden law firm in Columbus, Ohio, predicted the securities law will result in fewer cases being filed and more being dismissed once they are filed, though "the numbers are not going to be dramatic."

"The counterbalance to that is, for those cases that do survive the procedures in the statute, the settlement numbers are going to be increased," Mr. Bailey said.

There are several reasons why costs associated with lawsuits that do go forward could be higher.

A requirement in the new law that members of the class bringing suit be notified of what any proposed settlement represents as a percentage of total recoverable damages for all plaintiffs could prompt more class members to reject settlements, Mr. Bailey said. "I believe plaintiffs lawyers, to avoid that risk, are going to insist upon larger settlements," he said.

What's more, a requirement that attorneys' fees be limited to a "reasonable percentage" of the class recovery could give plaintiffs lawyers another incentive for demanding larger settlements, Mr. Bailey said.

Another measure some believe could actually drive up securities suit costs is the act's "most adequate plaintiff" provision, which designates a procedure by which class members may come forward to be designated "lead plaintiff"—the class member then responsible for selecting legal counsel for the class. The requirements would increase the likelihood that the largest shareholders would be designated the lead plaintiff.

Congress' intent in the measure, most believe, was to weed out "professional plaintiffs," ideally replacing them with institutional investors as lead plaintiffs.

But institutional investors could be "more formidable adversaries" than many of those who've led securities class actions in the past, said Kevin M. LaCroix, president of PRMS Ad-

visory Services in Beachwood, Ohio. PRMS is the underwriting manager for General Reinsurance Corp.'s Genesis Insurance Co. unit.

Given their greater financial stake and fiduciary responsibilities to their beneficiaries, the institutional investors could be more likely to take suits all the way to judgment or demand larger settlements, said Mr. LaCroix.

Chubb's Mr. Orza sees the lead plaintiff provision as a plus overall, but agreed that, "if they seek to play this out all the way to the end, that's going to increase costs."

Mr. Bailey isn't convinced that will occur, however.

"If in fact institutional investors step up and become the lead plaintiffs, I think that's a valid observation," he said. "I have difficulty seeing them do that, though. They really have little motivation."

Some also see added costs in the volume of litigation that will no doubt be devoted to clarifying details of the new act's language.

"There's going to be a fair amount of litigation just until these issues get sorted out a little bit by the courts," Mr. LaCroix said. "My guess is there are still going to be factual situations that are going to provoke lawsuits and they're still going to have to sort out some of these issues."

As an example, he cited the act's provision creating a safe harbor from liability for certain forward-looking company statements, provided those projections are accompanied by "meaningful cautionary statements identifying important factors" that could cause actual results to differ from those projected in the statement.

"I think Congress felt they had a very clear idea of what 'meaningful' means," Mr. LaCroix said. "But until the courts can come up with some sort of reliable measure for what that language means, I think there are going to be some conflicts."

Most see the forward-looking statement safe harbor as one of the most significant provisions of the

new securities litigation law. But, it appears company directors and officers will have to be careful if they're to preserve the protection from litigation the act offers.

"There is a message here that you must take certain steps with respect to your public communications in order to get the benefit of this defense," Mr. LaCroix said. "And hopefully companies are going to."

"Within the safe harbor it is absolutely critical that directors and executive managers identify the procedures they have to follow in order to capture the safe harbor benefit," Mr. Smith said. "It looks like it will be so easy to blow it. One off-the-cuff statement can come back to haunt them."

And boilerplate language in company statements won't be enough to satisfy the law's requirements, he said.

"They have to actually give fairly specific examples and reasons of where the forward-looking statements may not work," Mr. Smith said. For example, he said, a discussion of revenue growth with a caution that revenue goals might not be met must be accompanied by "pretty specific examples" of what events could prevent the company from reaching its revenue goals.

Mr. Bailey isn't convinced, however, that the safe harbor provision is that significant for minimizing liability.

The provision "will be helpful in defending these cases, but I don't think that it's going to be the panacea that a lot of people are predicting," he said. "My suspicion is the plaintiff lawyers will find a lot of ways to plead around that safe harbor."

National Union's Mr. Moor also emphasized the safe harbor's limits, saying that the biggest D&O cases National Union has faced wouldn't have benefited from it.

"Our most severe cases have not involved forward looking statements, but rather misleading current or past financial statements, such as overstated inventory, early recognition of revenue, late recognition of expenses and, more generally, financial restatement," he said.

Costs could also be driven up by plaintiffs lawyers seeking to circumvent the new federal law by filing cases in state courts, Mr. Moor believes.

"To the extent that cases are brought more frequently in state court... litigation and claims could become more expensive, since pleading requirements and discovery vary widely by jurisdiction," he said.

Another provision aimed at reducing directors' and officers' exposure—a provision that unknowing violators of securities laws are only responsible for the proportion of damages related to the harm they've caused—will also result in considerable additional litigation, Mr. Bailey predicted, at least in the short run.

"It's going to be awfully interesting to see how that plays out in the allocation context," he said. He noted that recent federal appeals court rulings on liability allocation have suggested that the corporation is its own entity with its own liability.

"You put those two together, and there's fair argument that the Ds and Os only have to pay a small part of the liability and the corporation has to pay a larger part of the settlement," he said. "I'm confident you will see carriers argue that."

But, in providing new reasons for allocation disputes, the securities litigation act should also provide added incentive for D&O insurers and their policyholders to resolve allocation issues during the underwriting stage rather than when claims are filed, Mr. Bailey said.

"If you don't address allocation in

the underwriting context you've got some issues you have to resolve in the claims context, which is not the preferred way to do it," he said.

Given the uncertainty over the act's ultimate impact, most D&O underwriters seem to be taking a "wait and see" approach toward how it will affect premiums, Mr. Smith said. "I think the market pressures are going to keep the premiums down right now more effectively than this piece of legislation," he said.

And J.P. Morgan's Mr. Kelly said he isn't sure how much room there is for downward movement in D&O rates, even if the new law is perceived as significantly reducing securities litigation losses.

"You have to look at the D&O market as it presently exists," he said. "And it's probably softer than it's been for quite some time, so how much more room there is for elasticity I guess we'll see."

At underwriting manager PRMS, the uncertainty surrounding the act only reinforces the company's approach of encouraging companies to take steps to reduce exposure to securities suits, Mr. LaCroix said.

"Our view here is it's too early to tell, but one thing we're sure of is that we will continue to give premium discounts to companies that have implemented securities litigation loss prevention measures," he said.

At Chubb, D&O rates won't be adjusted until the company gets a clear picture of the act's effect on losses over time, Mr. Orza said.

"We're going to start monitoring the effects of the law on our book going forward from a loss standpoint," he said.

"There's going to be a tremendous amount of pressure out there from some people who view this positively and believe that our losses must be down, so we should reduce rates accordingly," said Mr. Orza. "I don't know that that's in the cards at this point." **[B]**

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Hofmann receives promotion

WASHINGTON—Mark A. Hofmann has been promoted to Washington Editor in the Washington, D.C., office of *Business Insurance*.

Mr. Hofmann, 43, joined the staff of *BI* in Chicago in September 1987 as associate editor. He moved to the magazine's Washington bureau in August 1991.

From 1984 to 1987, Mr. Hofmann was an associate editor at Professional Agent, a monthly magazine published

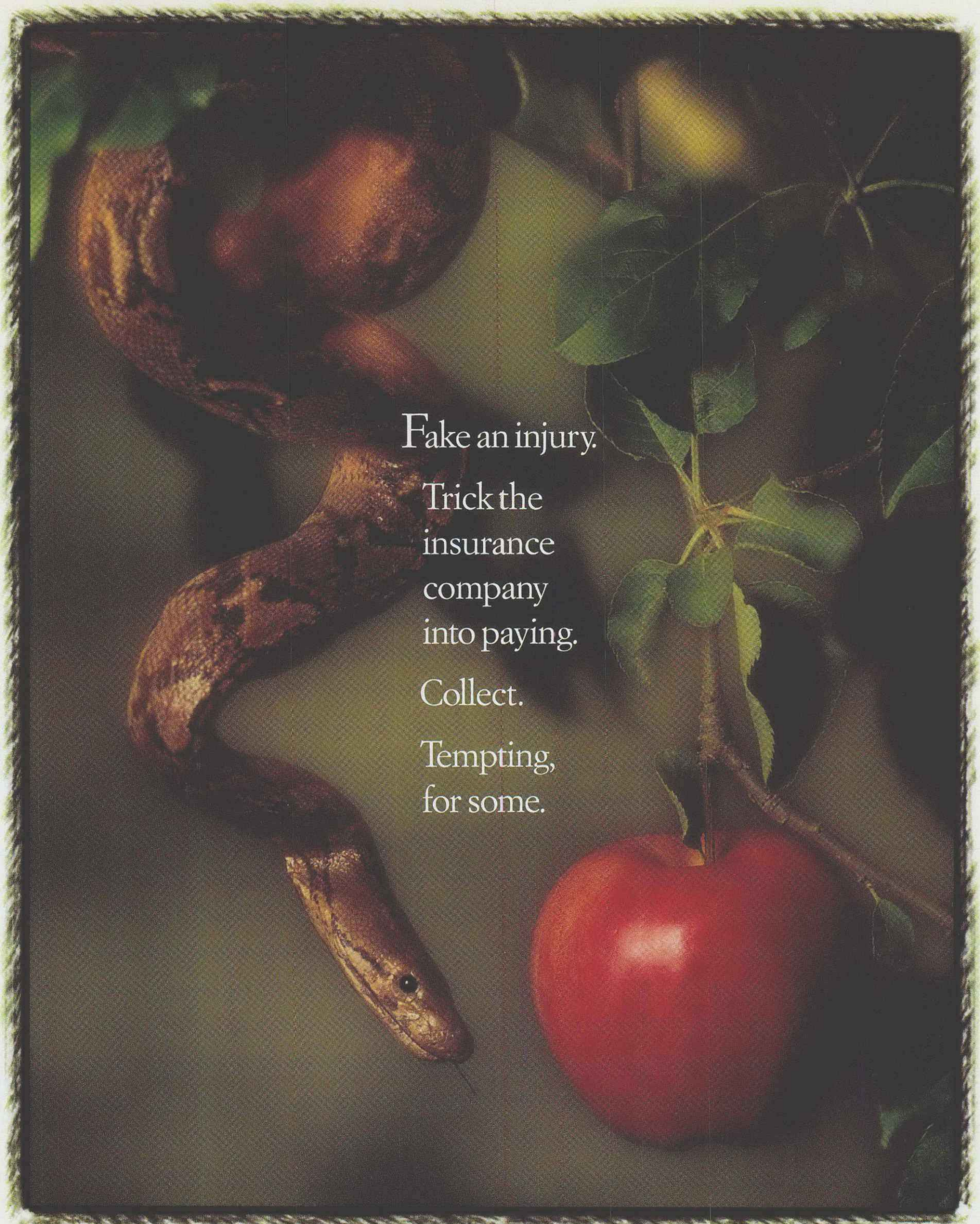


Mr. Hofmann

by the National Assn. of Professional Insurance Agents in Alexandria, Va. Prior to that, he was an editorial

writer for the Winston-Salem Journal in Winston-Salem, N.C. for 10 years. Mr. Hofmann received a bachelor of arts degree in history from Wake Forest University in Winston-Salem, N.C., in 1974.

He can be reached at 202-662-7244.



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Surety bond conspiracy investigated

SALT LAKE CITY—Three men are facing criminal charges in an alleged scheme to sell more than \$10 million in bogus surety bonds to private contractors doing work for the federal government.

A federal grand jury has indicted Glen Roger Thompson of Englewood, Colo., Peter J. Buffo of Salt Lake City and Dennis Walsh of Los Angeles, charging that they conspired to sell phony sureties secured by fraudulent real estate holdings.

A fourth defendant, Steven Jones of Los Angeles, pleaded guilty to a conspiracy charge in the alleged scheme earlier this

Federal indictment alleges sureties backed by bogus assets

year, according to Joel E. Leising, an attorney with the fraud section of the U.S. Department of Justice in Washington.

According to the indictment, Messrs. Thompson, Buffo and Walsh conspired between 1991 and 1993 to sell individual and corporate sureties through Denver-based Wilshire Surety Syndicate Inc. and a successor company, Fedsure U.S. Inc., both controlled by Mr. Thompson.

Wilshire and Fedsure both claimed in unaudited financial statements to have \$279 million in

assets, though both firms used bogus assets to inflate their net worth and facilitate the sale of corporate sureties, prosecutors charge.

The indictment did not specify how much in actual assets the firms allegedly had.

The three men also conspired to forge deeds and other documents showing Mr. Thompson to be the owner of large tracts of property in Glenview, Ill., and Los Angeles, the indictment charges.

Mr. Jones and Mr. Walsh, both real estate appraisers, then alleg-

edly prepared fraudulent appraisals inflating the value of the properties. The Los Angeles property, for example, was assessed for tax purposes at \$700,000 but was appraised by Mr. Walsh at \$98.5 million, prosecutors charge.

Mr. Thompson then used the phony real estate holdings as collateral to back individual surety bonds for contractors doing work for the U.S. Army, Navy, Air Force, the General Services Administration and the Department of Veterans Affairs, the indictment says.

From September 1991 to March 1992, the defendants deposited more than \$300,000 in surety fees and premiums into a Wilshire bank account in Denver, prosecutors allege.

Messrs. Thompson, Buffo and Walsh have pleaded not guilty to conspiracy and fraud charges, and have been released on bond.

If convicted, the three men face statutory jail sentences ranging from five to 20 years on the various charges.

None of the defendants or their lawyers could be reached for comment.

—By Douglas McLeod

Multi-year, high-limit cover offered

NEW YORK—Swiss Reinsurance Co. and Alexander Capital Consultants are marketing a new multi-year property and liability product that will provide at least \$300 million in excess limits to large industrial policyholders.

The product, dubbed "Beta," aims to cut costs and increase the efficiency of high level property/casualty placements for oil and gas, chemical, pharmaceutical, railroad and utility companies, say its developers.

In a typical Beta program, Swiss Re will write a three-year combined property and liability package with total per event limits of \$300 million and an aggregate limit of \$600 million over the three-year period.

The \$300 million limit can be split among property and liability coverages in different ways, depending on a policyholder's needs and the risk profile of the company and its industry, said Edward K. Guzik, managing director of ACC, a unit of Alexander & Alexander Services Inc.

The attachment point of the coverage and other policy terms will also vary by company and industry, with the program using forms that are standard for each industry, he said.

The Beta program policyholders will have the option of extending their Beta coverage for an additional three years at predetermined prices.

The product, which can be purchased either directly or through a broker, aims both at reducing premium costs by combining multiple coverages and at eliminating transactional costs of yearly renewals for multiple policies.

Products & Services

One-stop brokerage

DALLAS—A Dallas insurance brokerage and its affiliates are consolidating the roles of retailer, wholesaler and reinsurance broker, thereby reducing policyholder fees or commissions.

"We're going to capitalize on an antiquated system," said Richard K. Kerr, CEO of Lowndes Lambert of Texas Inc. and its immediate parent, Lowndes Lambert U.S. Holdings Inc. "The insurance distribution system hasn't changed since the American Revolution."

The Dallas-based companies are recently formed units of the world's 15th-largest brokerage.

"Wholesaler, retailer and reinsurance broker are all antiquated phrases," said Mr. Kerr, who noted that their services can all be provided by one company.

Removing those intermediaries from the insurance-buying process creates a triangle of insurance buyer, underwriter and "facilitator," he explained.

Lowndes Lambert's U.S. brokerage operations will charge accounts according to the amount of work that has to be done, according to Mr. Kerr.

"As long as we can make a reasonable profit, the buyer doesn't mind that. We may not make as high of a profit margin, but we will be in the hunt," he said.

The Texas broker also is putting insurance buyers in closer contact with underwriters.

"Our intention is to put the buyer

face-to-face with the underwriter," Mr. Kerr explained. "All the cards (including underwriters' reinsurance arrangements) will be on the table."

Mr. Kerr said Lowndes Lambert US will expand its holdings through new offices and affiliations in areas where it finds opportunities. It plans to soon open a New York office.

Kaiser joins network

OAKLAND, Calif.—A new HMO program for large, multi-state employers is available from Oakland, Calif.-based Kaiser Permanente.

The National Advantage program is being targeted to more than 2,100 companies that may be interested in a program with centralized purchasing, enrollment, billing and renewals.

Previously, separate contract terms generally needed to be negotiated with multiple providers to cover all of a company's workers, generating numerous contacts, bills and plans.

To meet the scope of the plan, Kaiser last year expanded its geographic coverage from 45 metropolitan areas to 130 metropolitan areas by joining with The HMO Group, a New Brunswick, N.J.-based HMO network of group practices in 30 states nationwide.

Account management centers have been set up in Washington, D.C., Chicago and Oakland to sell and administer the multistate product.

For further information, contact Susan Baldwin, vp of national accounts, at 510-271-5679.

Transplant coverage

CHICAGO—Celtic Life Insurance Co. is offering a transplant insurance program that can be added on to existing health plans.

The program consists of a standard plan with a lifetime maximum of \$2 million and coverage that covers transplants of the heart, lungs, heart and lung, liver, bone marrow and kidneys. An enhanced plan is capped at \$5 million and includes kidney/pancreas transplants and certain breast cancer procedures. The enhanced plan also covers home health care.

The standard plan costs \$1.60 a month for individuals and \$4 a month for families, while the deluxe plan costs \$2.30 a month for individuals and \$5.75 a month for families. There are no deductibles or copayments.

The insurer requires an employer to have at least 100 employees enrolled to offer the transplant program.

Celtic has contracted with the Centers of Excellence, a nationwide network of hospitals and clinics with expertise in organ and tissue donation, to serve as preferred providers. Reimbursement for out-of-network procedures is limited to a maximum of \$100,000, depending on the procedure.

For more information, contact Tom McGrath, sales director-special health products, 312-332-5401, ext. 329.

Work comp premiums

AUBURN, Maine—A new accounting and payroll system that provides automatic transfers of workers compensation premiums is being offered by Auburn, Maine-based Advantage Payroll.

The program, the Workers' Compensation Premium Payment Plan, is designed to minimize the risk of year-end underpayment of workers comp premiums under retrospectively rated policies.

The program allows employers to track losses and deduct additional premium payments from payroll as needed throughout the year, rather than all at one time. The funds are transferred to the insurer.

This can help alleviate cash shortages created by uneven workers comp payouts during different times of the year.

For additional information on the program, only available to Advantage payroll clients, contact Dave McAllister at 800-876-0178.

Online enrollment

LEXINGTON, Mass.—A comprehensive collection of health care plan reference materials and enrollment information is now available over the Internet from Lexington, Mass.-based MedAccess Corp.

Using customized interactive programs developed by MedAccess, an employer's workers can visit the Internet site and compare health care plan options, calculate their own out-of-pocket costs and enroll using the computer.

Information available includes descriptions of plan management, primary care and specialty physicians, and "audio testimonials" from plan CEOs or participants.

An interactive bulletin board is also available for employees to trade ideas on health insurance.

The online service is paid for by the employer, and pricing depends on the size of the company and the number of health plans it has.

All data is encrypted to ensure confidentiality and passwords and personal identification numbers are used to access information.

For further information, contact MedAccess Corp., 617-863-8588.

Financial planning text

CHICAGO—A new handbook on financial planning for businesses and individuals, as well as employee benefits and estate planning, is available from Dearborn Financial Publishing of Chicago.

Solutions Handbook, at more than 500 pages, discusses new strategies on subjects such as 401(k) plans, pensions, annuities, individual retirement accounts and living trusts.

The book, at \$29.95, uses planning checklists and problem-solving charts that help readers anticipate their own questions and find practical solutions. It costs \$29.95.

For information, contact the publisher at 800-621-9621, ext. 3650.

Contract reference

DALLAS—A new reference book on indemnity and insurance contract provisions is available from the Dallas-based International Risk Management Institute Inc.

Among other features, it includes: an analysis of court interpretations of hold harmless and indemnity clauses for every state; an explanation of contractual liability insurance; and model language for contract insurance requirements.

The reference book is intended for risk managers, agents and brokers, insurers, and attorneys. It costs \$198.

For more information, call IRMI at 800-827-4242. 

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In 1996, *BI*'s RIMSTV will be produced in Toronto and shown on exclusive channels in major official conference hotels and on monitors around the exhibit hall.

Three original programs, shown 24 hours daily, Monday, Tuesday and Wednesday, will include news stories, coverage of major conference sessions, interviews with association leaders, industry leaders, conference speakers, attendees and exhibitors, and more.

Executives attending the conference will tune in to *Business Insurance's* RIMSTV for the same timely, accurate news reporting that nearly 159,000* readers rely on each week in print. Book your time now on the conference's official daily television program.

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Opinions

Congress can stop gridlock

GIVEN THE ABYSMAL record of Congress during the first half of the 104th session, we hope that the past is not prologue.

We've watched with dismay the growing tendency of each political party to pretend as if the other party does not exist when putting together legislation.

In 1994, for example, most of the then-Democratic-controlled committees paid little heed to what Republican members had to say when those panels assembled and then voted on health care reform packages.

Not surprisingly, the failure of Democratic leaders to develop a bipartisan consensus on health care reform was a key factor behind the collapse of those reform bills on the House and Senate floors.

At least on the issue of health care reform, though, Democrats and Republicans talked to one another. What has happened in the current congressional session is something else.

Take the current impasse over the budget reconciliation bill. That's the sprawling bill that contains just about everything under the sun, including proposed tax changes, an overhaul of the Medicare program and pension simplification, just to name a few.

In the not so distant past, when the House and Senate passed budget reconciliation bills, conference committees were established in which Democratic and Republican negotiators met to hammer out differences in the bills and to fashion a final bill that the Executive Branch could approve.

How things have changed. Republican leaders didn't even bother with the formality of holding a conference committee to agree on the most recent budget reconciliation bill. They shut out the Democrats and put together their own bill.

And what was accomplished? President Clinton vetoed the bill and Republicans are no closer to accomplishing the objectives they sought in the bill—such as overhauling Medicare—than they were before.

Other Republican tactics in Congress also have backfired. Take pension simplification legislation. Here is a proposal on which Republicans and Democrats both agree—and employers desperately want. So, why not pass simplification as a free-standing bill? In-



stead, the GOP leaders rolled the provisions into the highly controversial budget reconciliation bill, which, as we know, has stalled.

On the risk management side, the legislative record isn't very good, either.

While the Senate and House passed product liability reform bills months ago, the Republican leadership only recently set the wheels in motion to get differences in the two bills ironed out. Why did the leadership let so much valuable time elapse on a bill that's so important to the business community?

Besides these measures, there are a slew of other measures we would like to see passed, including incremental health care reforms, coordination of veterans benefit provisions and OSHA reform, to name a few.

We can only hope that congressional leaders come to their senses, realize that shutting out the other party isn't working and can begin the new year with a new resolve to do things the old-fashioned but logical way: talk and work with each other.

Letters

Article on retro pitfalls draws mixed reviews

To the editor: I read with great interest and lots of personally generated applause, the Dec. 4, 1995 Perspective, "Think Ahead to Avoid Retro Policy Pitfalls."

Experience proves your authors, Bradfute Davenport Jr. and Clark Lewis, to be absolutely on the right track!

There is some minutiae that helps in controlling claims costs in a retro plan that they did not mention: Making sure the location numbers are correct for multi-location companies; making sure that correct claim numbers are used; making sure that correct policy numbers are used; and making sure that claims adjusters begin servicing claims as quickly as they receive them. Note also that an account large enough for a retro plan should have 'dedicated' adjusters.

Not so microscopic is an active, creative, attractive safety program. This is a prime aspect of loss control. Careful adherence to

OSHA requirements by workers at all levels fosters safety.

Messrs. Davenport and Lewis did not mention a great claims control mechanism available from most workers comp insurers that do retrospective business: In addition to insurance that is pretty broad in its concepts and coverages, a separate side agreement may be entered into with the insurer, called a "Special Claims Handling Agreement." The fact of an agreement of this sort is not unusual among large policyholders; the terms of the agreement may well be.

All corporate claim handling ought to be centralized. Depending on claims frequency, one individual should be familiar with and carefully administer each claim, with the tiny ones getting the same careful scrutiny as the large ones. Suspected phony claims are treated very vigorously and payment for something that is not justified by the facts should be hard won.

Under the "Special Claims Handling Agreement" the policyholder should enjoy the final say so in whether a claim will be paid and often how much, unless a judge disagrees. The "Special Claims Handling Agreement" also should allow the policyholder the choice or approval of legal counsel; claims adjusters; and many other aspects of claims administration.

The methods that Messrs. Davenport and Lewis espouse in their article work. They require work and they require a basic in-

struction from a company's upper management: "If an employee or customer is in any way hurt on the job or by what we do, see to it that they are made as nearly whole as possible—if an employee or customer is trying something less than respectable, see to it that they are taken care of properly, too!"

Marvin Sahl
Palm Springs, Calif.

To the editor: The recent Perspective article, "Think Ahead to Avoid Retro Policy Pitfalls," was a disappointment, especially since it was authored by two attorneys representing a respected law firm in the city I now call home.

References to cases in 1965 and 1983 show just how uninformed the authors are about the realities of claims management in today's insurance environment. The notion that insurance companies benefit financially from paying more claim dollars is absurd, and certainly damaging to their ability to attract quality new business or even to retain existing accounts.

The truth, 13 years since 1983 and 31 years since 1965, is that most retro accounts are administered by sophisticated brokers or agents who require quality claims management from all parties in the insurance contract, thereby protecting the financial

See Letters on page 10

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Bad Numbers



Nigel Lighthouse doing
Mr. Tambourine Man.



Mabel Lockhart's rendition of *Light my Fire*.



Frankie Fanelli's version of
That's Amore.

Good Numbers

State Fund's New Commission Structure

Here's news that should be music to your ears. State Fund is paying higher commissions. In fact, we've expanded our commission base to all premium levels on qualified accounts. So now you can take advantage of the additional markets State Fund provides. And offer your clients more options like additional discounts on our new managed care product, the State Fund-Kaiser Permanente Alliance. For more information and to find out about certification, just call State Fund at 1-800-834-2393.

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Letters

Continued from page 8
interest of their clients.

Insurers seeking to attract large policyholders would be undermining that objective if they did not practice the "best" in claims management

and other services that contribute to preventing or minimizing losses.

Edward J. Smith
Assistant Vp
Amerisure Insurance Group
Richmond, Va.

Unanswered CIGNA questions

To the editor: Regarding George Bernstein's Dec. 18 Speaking Out column, "Defending CIGNA Restructuring," it is telling that not one of the independent experts that Mr. Bernstein cites—the Pennsylvania Insurance Department, A.M. Best Co., Milliman & Robertson, Houlihan Lokey Howard & Zukin, William M. Mercer Inc., J.P. Morgan & Co. and even Mr. Bernstein himself—will have to pay a dime in the event of

ultimate failure, while the parties on the hook, including the affected policyholders, are precluded from evaluating the plan.

If this is such a good plan, why is there so much reluctance to release the information that would convince everyone of its merits?

In my opinion, valid questions still remain. "Trust us" isn't good enough.

Edward C. Shoop
Woodland Hills, Calif.

American International Group Inc.: Houghton Freeman, director, disposed of by gift 1,880 shares of common stock at an unreported price on Nov. 13, 1995. He indirectly sold 34,000 common shares at \$86 each from Oct. 31 to Nov. 13, 1995, and now directly and indirectly holds 1,299,202 common shares.

AIG stock closed at \$92.50 a share on Dec. 29.

Argonaut Group Inc.: Randall J. Mellin, vp, exercised an option for 1,000 shares at \$8.58 each on Oct. 25, 1995, and now directly holds 1,657 common shares.

Argonaut stock closed at \$32.50 a share on Dec. 29.

Chubb Corp.: Henry G. Gulick,

Insider Trading

vp, exercised an option for 600 shares of common stock at \$36.38 each on Nov. 1, 1995. He sold them at \$90.13 each on that same day and now directly and indirectly holds 5,561 common shares.

Henry B. Schram, vp, sold 600 common shares at \$91.88 each on Nov. 3, 1995 and now directly and indirectly holds 8,687 common shares.

Chubb stock closed at \$96.75 a share on Dec. 29.

Fremont General Corp.: James Albert McIntyre, chairman, indirectly sold 157,500 shares of common stock at \$29.13 each from Oct. 26 to Nov. 2, 1995. Mr. McIntyre now indirectly holds 2,034,500 common shares.

Fremont General stock closed at \$36.75 a share on Dec. 29.

General Re Corp.: John Charles Etling, director, sold 4,301 shares of common stock at \$151.13 each on Nov. 6, 1995. Mr. Etling now directly and indirectly holds 26,022 common shares.

Christopher Garand, vp, exercised an option for 771 common shares at \$93.75 each on Nov. 10, 1995. To cover transaction costs, he turned in 486 of the shares for \$149 each on Nov. 10, 1995. Mr. Garand now directly and indirectly holds 5,413 common shares.

Tom N. Kellogg, officer of subsidiary, exercised an option for 1,777 common shares at \$87.69 each on Nov. 6, 1995. To cover transaction costs, he turned in 1,285 of the shares for \$151.06 each and sold 242 shares in the open market at \$151.25 each on that same day. Mr. Kellogg now directly and indirectly holds 29,607 common shares.

Thomas J. McCarthy, officer of subsidiary, exercised an option for 1,475 common shares at \$91.44 each on Nov. 14, 1995. To cover transaction costs, he turned in 1,112 of the shares for \$146 each on that same day. Mr. McCarthy now directly and indirectly holds 11,107 common shares.

General Re stock closed at \$155 a share on Dec. 29.

Hartford Steam Boiler Inspection & Insurance Co.: Donald M. Carlton, officer and director, sold 17,442 shares of common stock at \$46.25 each on Nov. 1, 1995. Mr. Carlton now directly and indirectly holds 8,137 common shares.

Hartford Steam Boiler stock closed at \$50 a share on Dec. 29.

Humana Inc.: K. Frank Austen, director, exercised an option for 1,300 shares of common stock at \$10.54 each from Nov. 20 to Nov. 29, 1995, and now directly holds 2,000 common shares.

Ronald S. Lankford, vp, exercised an option for 54,999 common shares between \$5.80 and \$11.01 each on Nov. 21, 1995, and sold them at \$23.25 each on that same day. Mr. Lankford now directly and indirectly holds 72,658 common shares.

James E. Murray, vp, sold 2,550 shares of common stock at \$20 each on Oct. 5, 1995. He now directly and indirectly holds 4,721 common shares.

Humana stock closed at \$23.38 a share on Dec. 29.

Marsh & McLennan Cos. Inc.: Gregory F. Vangundy, officer, sold 319 shares of common stock at \$84.63 each on Nov. 20, 1995. Mr. Vangundy now directly and indirectly holds 28,821 common shares.

M&M stock closed at \$88.75 a share on Dec. 29.

NAC Re Corp.: Robert A. Belfer, director, indirectly bought 60,000 shares of common stock at \$32.38 each on Nov. 21, 1995, and now directly and indirectly holds 1,011,332 common shares.

NAC Re stock closed at \$36 on Dec. 29.

RLI Corp.: Edward F. Sutkowski, director, indirectly bought 100 shares of common stock at \$24.38 each on Nov. 20, 1995, and now directly and indirectly holds 65,243 common shares.

RLI stock closed at \$25 a share on Dec. 29.

SAFECO Corp.: William Gary Reed, director, indirectly sold 12,500 shares of common stock at \$71.13 each from Nov. 16 to Nov. 30, 1995. Mr. Reed now directly and indirectly holds 333,398 common shares.

Paul M. Henry Trust, trustee, sold 10,000 common shares at \$69 each on Nov. 16, 1995, and now directly holds 210,000 common shares.

SAFECO stock closed at \$34.50 a share on Dec. 29.

UNUM Corp.: Thomas G. Brown, vp, bought 1,000 shares of common stock at \$53.88 each on Nov. 2, 1995. Mr. Brown now directly holds 6,300 common shares.

Gwain H. Gillespie, director, exercised an option for 86,000 common shares between \$12.28 and \$23.75 each on Nov. 9, 1995. He sold the shares at \$52.75 each on that same and now directly and indirectly holds 27,411 common shares.

UNUM stock closed at \$55 a share on Dec. 29.

USF&G Corp.: Norman P. Blake, chairman, indirectly bought 1,500 shares of common stock at \$16.25 each on Nov. 7, 1995. Mr. Blake now directly and indirectly holds 56,865 common shares.

USF&G stock closed at \$16.88 a share on Dec. 29.

U.S. Healthcare Inc.: James H. Dickerson, officer, sold 1,500 shares of common stock at \$40.25 each on Oct. 26, 1995, and now directly holds 21,000 common shares.

Timothy E. Nolan, officer, sold 4,500 common shares between \$40.25 and \$40.63 each on Oct. 26, 1995. Mr. Nolan now directly and indirectly holds 80,436 common shares.

David F. Simon, officer, exercised an option for 4,759 common share at \$13.85 from Oct. 26 to Oct. 27, 1995, and sold 2,750 shares at \$40.75 each during that same period. Mr. Simon now directly holds 20,876 common shares.

David B. Soll, director, indirectly sold 65,000 common shares at \$41.13 each on Nov. 17, 1995, and now directly and indirectly holds 217,147 common shares.

U.S. Healthcare stock closed at \$46.50 a share on Dec. 29.

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

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Talk vs. action on child care benefits

Though senior executives believe child care benefits increase productivity and decrease absenteeism, few companies actually offer them, new research shows.

Seventy-two percent of the 300 senior executives surveyed said child care services would "greatly" reduce absenteeism; 34% said they would reduce stress on employees; and 20% said they would increase productivity. Yet only 6% of their companies offer the benefits.

"The responses of the CEOs and senior officers surveyed show that they know their companies could benefit economically by helping their workers overcome the child-care obstacles," said Ellen Cannon, president of a Chicago consulting firm that bears her name and who did a survey as part of research for a book. "However, perhaps because of the costs of initiating these programs, com-

panies have been slow to act."

Corporate daycare centers, for example, pay for themselves by reducing absenteeism—from 20 days to three on a national average—by increasing worker retention and by creating positive employee attitude towards the company, Ms. Cannon said. "This has moved from being a women's issue or family issue of the past and has now become a good business issue," she said.

"No more frustrated employees, absenteeism will decrease and you will have more secure employees," said one executive in the poll. "They can concentrate on what they are doing because they don't have to worry about who's looking after their children."

For a copy of the survey, call

Benefit Beat

Cannon Consulting Group Ltd. at 312-654-0051.

—By Bethany Pendleton

Ford expands options

DEARBORN, Mich.—Participants in Ford Motor Co.'s defined contribution plan now can choose from among 60 investment options.

Fifty supplemental investment options provide diversification choice for plan participants, said Lee Mezza, Ford's new director of its National Employee Service Center in the automaker's Dearborn headquarters. Mr. Mezza was an instrumental member of the internal project team that designed the new savings plan and

takes over from John Ferguson, who has assumed a new job elsewhere in Ford.

The non-core options include 25 mutual funds managed by Fidelity Institutional Retirement Services, Scudder, Stevens & Clark, T. Rowe Price and the Vanguard Group.

Mr. Mezza said Ford considered offering a self-directed brokerage option but decided to limit its more adventurous participants to a set number of funds that allowed plenty of opportunity for "intelligent diversification."

Six new core investment options have been added and four options have been carried over.

—Crain News Service

Healthy savings seen

MIAMI—In its first year of operation, the HealthWorks Health

Center at John Alden Financial Corp. in Miami has more than paid for itself by saving the company 8,285 hours that employees would have spent in trips to doctors' offices or hospitals.

"Adding in the physician fees that would have been assessed to employees, the potential savings to John Alden was about \$420,000—well above the health center's operating budget," according to Kerry D. Clemmons, senior vp.

Since its opening on Sept. 14, 1994, the onsite center has provided emergency care, served as a source of confidential crisis counseling and provided a range of on-the-job care to employees.

In the past year, hundreds of the 1,500 employees at John Alden's corporate headquarters have gone to the center for free checkups.

The life insurer set up the center, which is open five days a week from 8 a.m. to 4 p.m., in response to employee needs, said Mr. Clemmons.

—By Joanne Wojcik

JANUARY 1996

JAN. 16. Johnson & Higgins 1996 Insurance Market Review & Forecast Seminar in Chicago, sponsored by Johnson & Higgins; no charge. Sara Sirotzky, Johnson & Higgins, 500 W. Madison St., Suite 2100, Chicago, Ill. 60661; 312-648-3206.

JAN. 16-17. Disaster Planning and Preparedness seminar in San Juan, Puerto Rico, sponsored by Factory Mutual Engineering and Research; \$495. **Also Jan. 23-24** in San Antonio, Texas; **Jan. 25-26** in Las Vegas; **Jan. 29-30** in San Jose, Calif.; **Mar. 12-13** in Nashville, Tenn.; and **Mar. 14-15** in Columbus, Ohio. FME&R's Insured Education, 1151 Boston-Providence Turnpike, P.O. Box 9102, Norwood, Mass. 02062; 617-255-4606.

JAN. 17. Allegheny Chapter, CPCU Society All Industry Day in Pittsburgh, sponsored by Chartered Property & Casualty Underwriters; \$45. Rebecca Duckworth, 4 Station Square, Suite 620, Pittsburgh, Pa. 15219; 412-392-4030.

JAN. 17-19. Second Annual Conference on Outsourcing Employee Benefits and HR Functions in Orlando, Fla., sponsored by Kwasha Lipton L.L.C., Prudential Service Bureau, International Quality & Productivity Center; \$895 for employee benefit or human resource executives, \$1,195 for others. International Quality & Productivity Center, 1500 Clove Road, P.O. Box 401, Little Falls, N.J. 07424-0401; 800-882-8684.

JAN. 18-19. The 13th Annual Insurance, Excess and Reinsurance Coverage Disputes program in New York, sponsored by the Practising Law Institute; \$795. PLI members receive a 10% discount. PLI, 810 Seventh Ave., New York, N.Y. 10019; 800-260-4PLI.

JAN. 18-19. Third Party Liability: Current Trends and Issues seminar in San Diego, sponsored by the Defense Research Institute; \$445 for DRI members, \$495 for non-members. DRI, Third Party Liability Seminar, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

JAN. 18-20. Behavioral Healthcare Outcomes Management Skills in Costa Mesa, Calif., sponsored by CentralLink; \$695. CentralLink Media Division, 1110 MarWest St., Suite E, Tiburon, Calif. 94920; 415-435-9879.

JAN. 22-24. The Fifth Annual P&I Defined Contribution Conference in New York, sponsored by International Business Forum; \$1,095. IBF, 7 Penn Plaza, Suite 901, New York, N.Y. 10001; 212-279-2525.

JAN. 23-24. The New Wave of Long-Tail Torts conference in New York, sponsored by American Conference Institute; \$995. American Conference Institute, 175 Fifth Ave., Suite 2182, New York, N.Y. 10010; 416-927-7936.

JAN. 24-26. Behavioral Healthcare Delivery System Integration conference in Washington, sponsored by the National Community Mental Health-

care Council and the Managed Care Technical Assistance Group; \$1,195. CentralLink-I, 4370 Alpine Road, Suite 108, Portola Valley, Calif. 94028; 415-851-8411.

JAN. 28-FEB. 3. Security, Audit and Risk Management Conference in New Orleans, sponsored by American Bankers Association; \$805 for ABA members, \$1,005 for non-members. ABA, 1120 Connecticut Ave., N.W., Washington, D.C. 20036; 800-338-0626.

JAN. 29-30. Directors' and Officers' Liability: Critical Legal and Insurance Issues conference in New York, sponsored by American Conference Institute; \$1,095. American Conference Institute, 175 Fifth Ave., Suite 2182, New York, N.Y. 10010; 416-927-7936.

JAN. 29-30. D&O Liability: Critical Legal and Insurance Issues conference in New York, sponsored by American Conference Institute; \$695 for government employees and academics, \$1,095 for others. ACI, 175 5th Ave., Suite 2182, New York, N.Y. 10010; 416-926-8200.

JAN. 30-31. Private Placement Investing 1996 conference in New York, sponsored by International Business Forum; \$1,095. IBF, 7 Penn Plaza, Suite 901, New York, N.Y. 10001; 212-279-2525.

JAN. 31-FEB. 2. The Public/Private Behavioral Healthcare Summit Regional Winter Symposia in St. Petersburg, Fla., sponsored by CentralLink; \$695. CentralLink Media Division, 1110 MarWest St., Suite E, Tiburon, Calif. 94920; 415-435-9879.

JAN. 31-FEB. 2. Advanced Pension Conference in Orlando, Fla., sponsored by Corbel; \$595. Craig Hoffman, General Counsel, Corbel, P.O. Box 47720, Jacksonville, Fla.; 800-326-7235.

FEBRUARY

FEB. 4-7. Professional Insurance Mass-Marketing Assn. 22nd Annual Meeting in Palm Beach, Fla., sponsored by PIMA; \$675 for members, \$825 for non-members. PIMA, 4733 Bethesda Ave., Suite 330, Bethesda, Md. 20814-5228, 301-951-1260.

FEB. 5. The Environmental Insurance Information Exchange forum in San Francisco, sponsored by ECS Underwriting Inc.; no charge. **Also Feb. 6** in Newport Beach, Calif. and **Feb. 7** in Los Angeles. ECS Marketing, 520 Eagleview Blvd., P.O. Box 636, Exton, Pa. 19341-0636, 800-ECS-1414.

FEB. 5-7. Collection Procedures Institute in Bal Harbour, Fla., sponsored by the International Foundation of Employee Benefit Plans; \$685 for members, \$775 for non-members. International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700, ext. 257.

FEB. 7-9. The Third Annual Executive

Datebook

Conference Integrating Health, Managed Care & Disability Programs in Coronado, Calif., sponsored by UNUM, Associated Claims Management Inc., International Business Communications, Infoline, Integrated Health Management Associates; \$1,195. IBC USA Conferences Inc. 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-6400.

FEB. 12-14. The Essentials of Medical Case Management conference in Aspen, Colo., sponsored by Reed Group Ltd.; \$895. Stacey Grace, Reed Group Ltd., The Citadel, Suite 650, 3200 Cherry Creek South, Denver, Colo. 80209; 800-347-7443.

FEB. 13-14. WCRI Annual Issues & Research conference in Cambridge, Mass., sponsored by Workers Compensation Research Institute; \$375 for WCRI members, \$475 for non-members. WCRI, 101 Main St., Cambridge, Mass. 02142; 617-494-1240.

FEB. 21-23. Insurance Seminar: Extra Contractual Claims—Bad Faith—Punitive Damages—First Party and Third Party Claims in Tampa, Fla., sponsored by the Defense Research Inc.; \$445 for DRI members, \$495 for non-members. DRI, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

FEB. 26-MARCH 1. Fundamentals of Industrial Hygiene course in New Orleans, sponsored by American Industrial Hygiene Association; \$955 for members, \$1,095 for non-members. **Also July 15-19** in Williamsburg, Va. and **Sept. 30-Oct. 4** in San Antonio. AIHA Continuing Education Department, 2700 Prosperity Ave., Suite 250, Fairfax, Va. 22031; 703-849-8888.

FEB. 28-MARCH 3. Seventh Annual Work Injury Management '96 National Conference & Exhibit in Dallas, sponsored by Work Injury Management News & Digest and Managed Health Resource Inc.; \$445. Managed Health Resource Inc., 3417 Timberline, Eugene, Ore. 97405-1274; 503-484-5853.

MARCH

MARCH 5-6. Environmental Necessities-Permitting & Compliance course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; \$300. NATLSCO, K-4, 1 Kemper Drive, Long Grove, Ill. 60049-0075; 708-320-4091.

MARCH 6. The Future of Lloyd's and the London Insurance Market: How Recent Developments Affect Your Clients program in New York, sponsored by the Practising Law Institute; \$995. PLI, 810 Seventh Ave., New York, N.Y. 10019; 800-260-4PLI.

MARCH 6-7. ERISA Compliance Seminar in Las Vegas, sponsored by Pellerino Consulting Services Inc.; \$735. Randee Talmadge, Pellerino Consulting Services Inc., 115 Union St., Marine City, Mich. 48039; 800-882-2496.

MARCH 7. OSHA Compliance in the 90's course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; \$195. NATLSCO, K-4, 1 Kemper Drive, Long Grove, Ill. 60049-0075; 708-320-4091.

MARCH 7. Violence in the Workplace course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; \$250. NATLSCO, K-4, 1 Kemper Drive, Long Grove, Ill. 60049-0075; 708-320-4091.

MARCH 7-8. Advanced ERISA Litigation conference in New York, sponsored by American Conference Institute; \$895. American Conference Institute, 175 Fifth Ave., Suite 2182, New York, N.Y. 10010; 416-927-7936.

MARCH 7-8. London/New York/Bermuda Reinsurance Symposium in New York, sponsored by American Conference Institute; \$1,095. American Conference Institute, 175 Fifth Ave., Suite 2182, New York, N.Y. 10010; 416-927-7936.

MARCH 7-8. Innovative Techniques to Resolve Complex Tort Litigation in San Francisco, sponsored by American Conference Institute; \$995. American Conference Institute, 175 Fifth Ave., Suite 2182, New York, N.Y. 10010; 416-927-7936.

MARCH 10-12. Eighth Annual Na-

tional Risk Retention Assn. Conference in Washington, sponsored by NRRA; \$495 for members, \$595 for non-members, discount for 2 or more from the same company. NRRA, Box 1740, 3421 M Street NW, Washington, D.C. 20007; 800-999-4505.

MARCH 25-26. Litigating Bad Faith Claims and Punitive Damages conference in New York, sponsored by American Conference Institute; \$995. American Conference Institute, 175 Fifth Ave., Suite 2182, New York, N.Y. 10010; 416-927-7936.

MARCH 25-28. Quantitative Industrial Hygiene course in Cleveland, sponsored by American Industrial Hygiene Association; \$855 for members, \$995 for non-members. **Also July 29-Aug. 1** in Cleveland. AIHA Continuing Education Department, 2700 Prosperity Ave., Suite 250, Fairfax, Va. 22031; 703-849-8888.

The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the cost, if any, to attend the meeting and information on registration for interested readers. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LINDA S. KAISER,	:	
INSURANCE COMMISSIONER OF	:	
THE COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
	:	NO. 3483 C.D. 1986
Plaintiff	:	
	:	
vs.	:	
	:	
THE MUTUAL FIRE, MARINE AND	:	
INLAND INSURANCE COMPANY,	:	
	:	
Defendant	:	

NOTICE TO CEDENTS AND OTHER CREDITORS OF MUTUAL FIRE, MARINE AND INLAND INSURANCE COMPANY (IN REHABILITATION)

On December 15, 1995, the Commonwealth Court issued an Order setting a bar date of March 31, 1996 and a record date of December 31, 1995 for all Class 1 ad 6 cedent claims. These claims are limited to claims of insurers who ceded business to Mutual Fire, as a reinsurer. The record date of December 31, 1995 limits cedent claims to those actually paid by December 31, 1995.

ANY CEDENT WHO FAILS TO FILE A FULLY COMPLETED PROOF OF CLAIM ON OR BEFORE MARCH 31, 1996 SHALL BE FOREVER BARRED FROM PARTICIPATING IN OR RECEIVING ANY DISTRIBUTION FROM THE ESTATE. Copies of the Proof of Claim are being sent to all eligible cedents and are available upon request. A full description of the rights and obligations of cedents is contained in the Plan of Rehabilitation, which will be provided upon written request. All such requests must include a 9" x 12" self-addressed envelope with \$2.36 postage pre-paid.

Please submit all requests in writing to: P.O. Box 58129, Philadelphia, PA 19102-8129.

Punitive

Continued from page 1

tual damages in future pain and suffering before awarding him the \$500,000 in punitive damages.

Justice White noted that four factors determine whether a punitive damage award is reasonable for purposes of due process: the harm inflicted on the plaintiff; the reprehensibility of the defendant's conduct; the likely potential harm to others arising from the conduct in question; and the defendant's wealth. He wrote that the factors must be taken in "totality," meaning that the presence or absence of any one cannot justify or deny the constitutionality of a punitive damages award.

Justice White said the court "justified the \$500,000 punitive damages award by reasoning that (were) Amoco or others similarly situated to be undeterred from intruding on the privacy of employees' credit cards to check up on their use of sick leave or for any other purpose, the aggregate invasion of privacy into sensitive matters would be enormous indeed." In so doing, the District Court focused on the hypothetical result of future such actions, and did not pinpoint any evidence connected to the actual search of Pulla's

credit card records," he wrote.

The lower court also failed to "scrutinize correctly the punitive damages award by reference to the level of the offensiveness of Amoco's conduct." There was no evidence that pulling Mr. Pulla's credit card files reflected a company policy or practice, wrote Justice White. Absent that evidence, "we must view this event as a one-time occurrence justifying a limited award of damages," he wrote.

Finally, the District Court failed to take into consideration the "limited actual harm" suffered by the plaintiff, he wrote.

Theodore J. Broutrous, a partner in the Washington law firm Gibson, Dunn & Crutcher, hailed the decision as "the first time that a federal court of appeals has struck down a punitive damage award as unconstitutionally excessive."

He noted that the Supreme Court suggested years ago that "grossly excessive" punitive damages might violate the Constitution, but until last month no appeals court had actually held that an award was so large, excessive and arbitrary that it actually violated the Constitution.

"I think it will add momentum (to the drive to re-examine punitive damages), particularly in the

federal and state courts. Having a federal court strike down an award in an opinion written by Justice White addressing some of the most difficult issues that the courts have confronted, will provide a basis for other courts to examine punitive damages awards more closely and strike them down when they are excessive," said Mr. Broutrous.

"I think this case is a milestone because it provides a blueprint to trial and appellate courts for evaluating punitive damage awards. It provides a very straightforward process they should use in evaluating these cases," said Lori S. Nugent, a partner in the Chicago firm Blatt, Hammesfahr & Eaton.

"One of the things trial level courts have struggled with for years is how should they evaluate these awards. There haven't been meaningful guidelines," Ms. Nugent said.

While the 8th Circuit decision doesn't draw a bright line, it does provide discussion of each of the factors, she said.

"It shows when a trial court is required to make a record of its rationale justifying a punitive award, any logical leaps or biases of the court become apparent. When a record of the rationale exists, it may be successfully challenged on appeal because the bi-

ases and logical leaps are out in the open," she said.

"I think that what it shows is that the 8th Circuit and former Justice White were following closely what the Supreme Court had previously held—that excessive punitive damages would violate the due process clause," said Sherman Joyce, president of the American Tort Reform Assn. in Washington.

"They determined that the type of egregious conduct that was present in the earlier cases (reviewed by the Supreme Court) was not present here."

Consumer groups took a diametrically opposite view.

"We obviously are troubled that an appellate court would totally eliminate the ability of a jury in this case to enforce community values by awarding punitive damages. But that being said, it does seem that the facts of the case are somewhat particular and peculiar and, so far, there's no Supreme Court cases or authority that says an appellate court can completely strike the award," said Joe Belluck, a staff attorney with Public Citizen in Washington.

"This seems to be a pretty extreme use of the appellate court's authority. I guess what's most troubling to us is that we feel we are basically witnessing the death

of the common law in the United States.

"It's happening in state legislatures and in Congress; it's happening in courts that are trying to pre-empt injury claims with federal regulation such as motor vehicle safety standards; and now we see it happening at the appellate courts," Mr. Belluck said.

Another attorney for a consumer activist group was not so pessimistic.

"This is how the civil justice system works, this is how it operates. Awards are given by juries that are subject to judicial review. Here you have a case where the appellate court simply thought it did not pass constitutional muster," said Rich Vuernick, legal policy director for Citizen Action in Washington.

"It's of concern that a court would step in where juries have heard all the facts and have made a decision based on the facts before them and strike the awards down on constitutional grounds. It's not earth shattering and not insignificant, it's somewhere in the middle," according to Mr. Vuernick.

Thaddeus C. Pulla vs. Amoco Oil Co., 8th U.S. Circuit Court of Appeals; Nos. 94-4001, 95-1047, Dec. 19, 1995.

USA Risk in Bermuda

HAMILTON, Bermuda—Captive management firm USA Risk Group's first international venture, USA International Risk Group Ltd., is now licensed as a manager of Bermuda captives.

The move lets USA Risk Group offer captive clients both U.S. and offshore domiciles, depending on their needs. USA Risk Group's domestic affiliates include Vermont Insurance Management Inc., Risk Retention Management Inc., USA Employee Benefits Group Inc., USA Risk Services Inc., Hawaii Captive Insurance Management Inc. and Regulatory Assistance Corp.

USA International Risk Group will be managed in Bermuda by Stephen W. Pearce. Other officers include: H. Lincoln Miller Jr., president; Michael T. Rogers, chief operating officer; and Jon Harkavy, general counsel.

For more information about USA International Risk Group, contact Michael T. Rogers, who also is president of Vermont Insurance Management, at 800-872-7475; or Stephen W. Pearce at P.O. Box HM 397, Hamilton, HM BX,

Bermuda; 809-295-4591.

Signet specialty unit

FLORHAM PARK, N.J.—Signet Star Reinsurance Co. is forming an alternative markets division specializing in providing custom-designed reinsurance products and services to mechanisms such as captive insurance companies, risk retention groups, public entity insurance trusts, and joint powers authorities.

Based in Florham Park, N.J., the alternative markets division will function as an independently operated unit of Signet Star Re beginning in January. Charles E. Erickson will be president.

For more information, call 201-301-8000.

Amwest buys Condor

WOODLAND HILLS, Calif.—Amwest Insurance Group Inc. will buy Condor Services Inc. in a stock-for-stock deal that is worth

Markets

about \$17 million and has been approved by both boards.

Condor shareholders are to get 0.5 shares of Amwest common stock for each Condor share. The rate is subject to adjustment if the average daily closing price of Amwest common stock for the 30 consecutive trading days prior to closing is less than \$12.50 or more than \$17.50.

The deal, which is subject to the approval of California regulators as well as both companies' shareholders, is scheduled for completion during the first quarter of 1996.

After the merger, Amwest's board and executive officers will continue to serve in the same capacities in the new company. Condor Chairman Guy Main will join Amwest as an executive vp and will be Condor's president.

Amwest is a Woodland Hills, Calif.-based insurance holding company, specializing in surety bonds, including contract performance, court, contractors' license and sales tax bonds.

Condor Services is an insurance

holding company based in El Segundo, Calif. Through operating subsidiaries Condor Insurance Co. and Raven Claims Services Inc., it provides property and casualty coverages and services primarily to specialized segments of the trucking industry in California and Arizona and private passenger automotive coverages in Arizona.

Blanch Capital Risk

MINNEAPOLIS—A new E.W. Blanch Holdings Inc. unit, E.W. Blanch Capital Risk Solutions, has been established to help insurance and reinsurance buyers manage balance sheet risks through the use of insurance, reinsurance and the capital markets.

The unit will identify and integrate risk transfer, risk financing and capital strategies that best fit clients' needs. It will work with capital markets and reinsurers to develop capital market capacity and solutions for insurance and reinsurance needs that the market is not currently meeting.

Stephen A. Korducki, senior vp of E.W. Blanch's Paragon Reinsurance Risk Management Services division, has been named president of the new division, while Frank S. Wilkinson Jr., executive vp of E.W. Blanch Holdings and chairman and CEO of Paragon, was named chairman and CEO of the new subsidiary.

Minneapolis-based E.W. Blanch Holdings is a reinsurance brokerage with branch offices in Atlanta, Boston, Chicago, Dallas, Los Angeles, New York, Philadelphia, San Antonio and San Francisco.

For more information, call 612-835-3310.

Transatlantic Re office

NEW YORK—Transatlantic Reinsurance Co. has opened a branch office in Paris to serve continental Europe. It will be managed by Bertrand Levy and is located at 92 Avenue de Wagram, Paris 75017 France. The phone number is 331-42-27-62-00 and the fax number is 331-42-27-61-62.

Other Transatlantic Holding Inc. offices, operated through the

Transatlantic Re and Putnam Reinsurance Co. units, serving non-U.S. clients are in Miami, serving Latin America and the Caribbean, and London, Hong Kong, Tokyo and Toronto.

Wholesaler adds lines

FARMINGTON HILLS, Mich.—Wholesale broker Burns & Wilcox Ltd. has acquired Cravens, Dargan & Co. and Cravens Dargan Energy & Marine Co. of Houston.

Oscar Perez has been named branch manager of the new Cravens, Dargan & Co./Burns & Wilcox Ltd. operation in a new Burns & Wilcox office to be located at Brookhollow Central II, 2900 North Loop West, Suite 500, Houston, Texas 77092.

The new office will join Burns & Wilcox's Arlington, Texas, branch and Floyd West & Co./Burns & Wilcox Ltd. of Dallas in providing specialty lines coverage throughout Texas.

For more information or applications, call the new office at 713-525-6100.

HCIA/Mercer software

BALTIMORE—HCIA Inc. has agreed to pay \$17.5 million in cash for a William M. Mercer Inc. unit that helps employers analyze health care costs. About 80 employers with 3 million people in their plans use the unit, Comprehensive Healthcare Analysis & Management Program, or CHAMP.

The acquisition is subject to federal regulatory approval and is expected to close by year end.

As part of the transaction, the Baltimore-based health care information company HCIA and the benefit consulting firm will form a strategic alliance to speed development of the CHAMP episode-of-illness software, expand its focus to include clinical quality and outcomes and expand CHAMP's focus to include a managed care model.

HCIA expects that it will retain CHAMP employees, who will remain at the unit's facilities in Deerfield, Ill. **BI**

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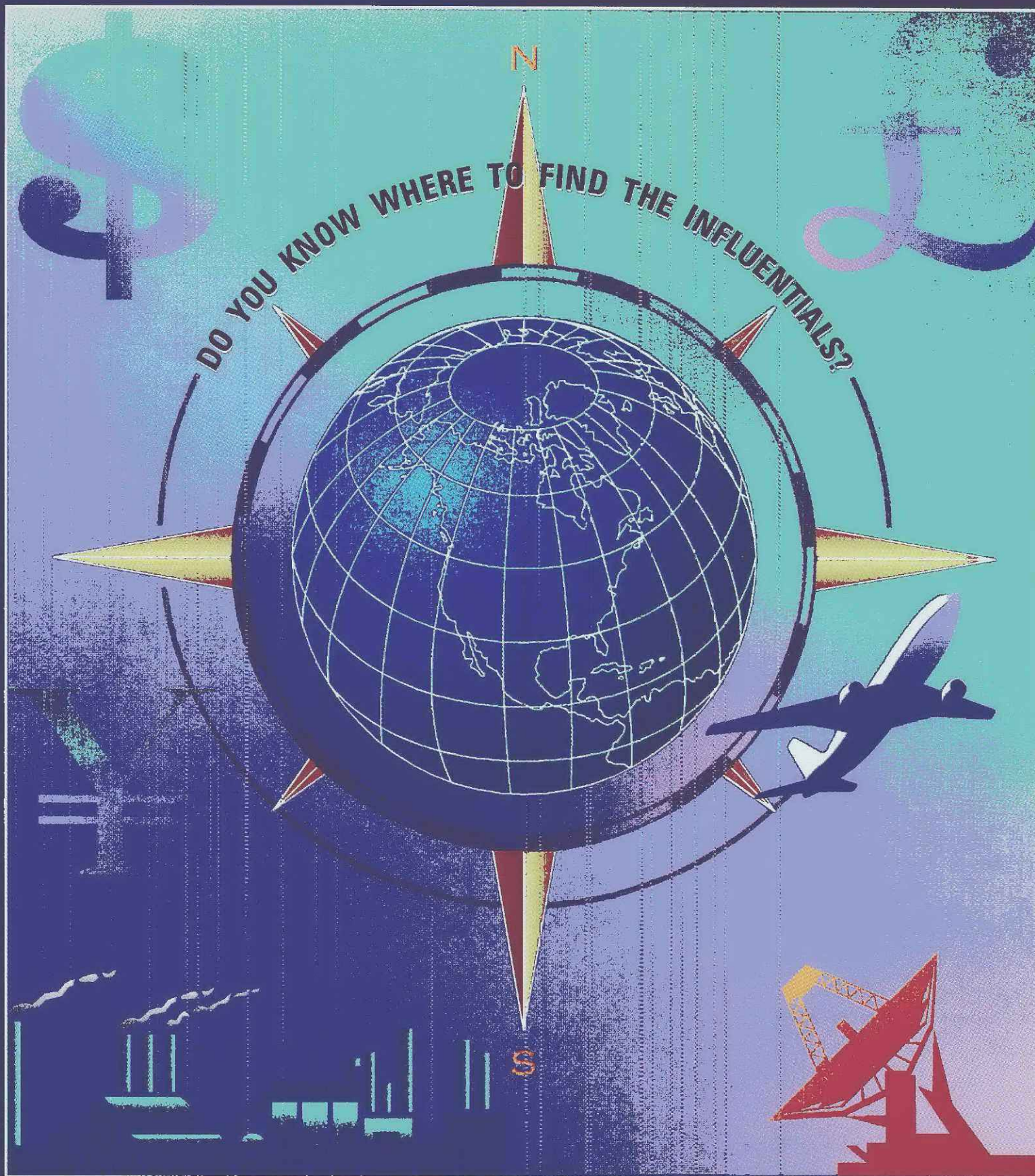
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CIGNA's restructuring plan signals trouble

By J. Robert Hunter

CIGNA Corp.'s proposed restructuring of its property and casualty business into two companies, one a continuing "good company" and the other a runoff "bad company," in my opinion is one of the most flawed and frightening pieces of gimmickry to be foisted on policyholders and the public in recent years. This deal threatens to undermine the insurance promise—that is, the pledge inherent in an insurance contract that the insurer will be there to pay its claims if and when they come due—and to leave policyholders high and dry.

The very real danger is that the Pennsylvania insurance commissioner will turn a blind eye to this and the other flaws and give it the regulatory seal of approval. In so doing, the commissioner will further public policy harmful to consumers and taxpayers and establish a precedent encouraging any insurer with significant asbestos and environmental liabilities to pursue a transaction to shed themselves of these uncertain liabilities.

As an actuary, I feel obligated to discuss the actuarial ramifications of the deal CIGNA proposes, but given the paucity of information that the company and the Pennsylvania Insurance Department have made available, this is difficult to do.

Neither I nor anyone else not working for CIGNA or the Insurance Department has been able to review the Tillinghast report done for the Insurance Department, the Milliman & Robertson report done for CIGNA or the William M. Mercer report done for Houlihan Lokey Howard & Zukin, an investment banking firm advising CIGNA. I have reviewed the testimony of CIGNA, Milliman & Robertson and the other technicians employed by CIGNA, however, and it is clear to me that the actuarial calculations are highly imprecise, representing at best a very sophisticated guess.

Consider the caveats in the M&R testimony. I have never seen such a heavily caveated document. Including so many caveats is an actuary's way of saying, "I'm not sure. Could be almost anything."

Among the caveats are:

- M&R did not construct its own model.
- M&R did not develop independent estimates.
- M&R says the report is "not intended to be relied upon" by anyone but INA Financial, though it was "made available" to the state regulators.
- M&R states that it "reviewed" the CIGNA reserving procedures for reasonableness, but made no reserve estimate on its own.
- M&R states that its reserve work is not "for purposes of certification."
- M&R never reviewed the non-asbestos and environmental reserves.
- M&R admits to the "high degree of uncertainty" in the asbestos and environmental estimates, which it characterizes as greater than for other P/C lines.

I could cite more examples, but you get the idea. The actuarial calculations are very suspect and there is a very real chance that the costs will exceed the projections, perhaps by a significant amount.

This should come as no surprise. If this were not the case, there would be no controversy because the company would have the costs quantified and covered and the rating agencies and the rest of us could relax. Indeed, if CIGNA is right and the runoff company is adequately capitalized, why not test that in the normal way—reinsure

Undermining public trust, undoing role of insurance are among proposal's flaws

Speaking Out

it? CIGNA's unwillingness to either stand behind this runoff company with a parental guarantee or find a private-sector solution, such as reinsurance, belies the certainty it claims for its projections.

There would be no need for this proposed split if the estimates were seen as reliable by the financial markets and the rating agencies. But both recognize the great uncertainty in these estimates, uncertainty proved by the track record of CIGNA in understating these reserves consistently over the years. Presumably the company used "state of the art" reserving techniques all along, and yet CIGNA has repeatedly failed to adequately reserve. This record alone should sound loud regulatory warning bells.

The central issue of the CIGNA restructuring is not actuarial, however. That there is a risk of the runoff company failing cannot be denied. The real public policy issue here is, is this division injurious to the policyholders? The answer is yes. It would be terrible public policy to allow this proposal to go forward.

In this respect it is critical to point out that the import of this issue is not limited to Pennsylvania; the issue of how to handle looming asbestos, environmental and other latent injuries is vital to all Americans. The precedent set in Pennsylvania can affect the insurance market and regulation across the country.

If CIGNA is allowed to cap its contractual obligations, which is the whole point of this transaction, other insurance companies with uncertain asbestos and environmental liabilities will want at least equal treatment. They would owe it to their stockholders to follow suit or bargain in their states of domicile for something even more favorable. A competitive campaign to seek the lowest possible cap on liabilities through imaginative "state of the art" evolutionary developments is not out of the realm of possibility.

Consider the impact on regulation. Companies domiciled in states that required them to honor their obligations might seek to move to more "friendly" jurisdictions. To Pennsylvania perhaps?

Crystal ball gazing aside, the question at hand is simple and fundamental: If the CIGNA transaction is approved, does the contract of insurance mean anything anymore?

Instituting a policy limit, or cap, years after the policy was issued undermines the public's trust. The consumer buys insurance to shift the risk. This deal undoes that deal. The contract of insurance does not say, "We promise to pay you up to the limit of this policy (unless we cut a deal with our regulator to cap it down the road if we get more claims than we expected)." Would Pennsylvania, once a leader in consumer protection and still highly regarded, approve such policy language prospectively? Of course not. But that is exactly what it will do retrospectively by allowing the CIGNA deal to proceed.

CIGNA policyholders are first in the line of those to be harmed by this transaction. But the line is long. It includes other insurance companies that reinsure CIGNA and who

would have to pick up excess claims via state guaranty funds. It includes taxpayers who back up these guaranty funds when they are triggered through premium tax offsets. The line includes consumers who could see insurance prices rise to cover guaranty association claims.

And it includes the third party claimants who have been injured by companies CIGNA insures and who would suddenly find their claims placed in the runoff company. Who is representing their interests in this deal? What happens to these claimants when the runoff company fails? Are they tossed into the guaranty funds to face the inevitable delays and limits on their claims, while the "active" CIGNA merrily watches and rejoices in its retained A.M. Best Co. rating? What becomes of them if the guaranty funds run out of money?

These public policy issues are neither theoretical nor speculative. They are real, they involve real people, and they are of the utmost importance. As structured, the CIGNA transaction puts the interests of shareholders over policyholders and over third-party claimants of policyholders. This is the most fundamental of its flaws.

Fortunately there is still time to correct this situation before any real harm is done. The Insurance Department has set Jan. 12 as the deadline for public comment, after which it will make a decision.

Here are four steps that should be taken (the first steps are up to Pennsylvania):

1. Halt this process until the steps below are taken.
 2. Bring the CIGNA transaction and the matter of "good company/bad company" splits generally before the National Assn. of Insurance Commissioners for immediate consideration. The resolution of the CIGNA case will affect regulation of insurance nationwide. This decision must be coordinated among the states to head off the potential of a regulatory competition that could undermine consumers' contractual rights for years to come.
 3. Pennsylvania and the NAIC should work toward assuring that corporate entities fully back their obligations, at least through regulation that assures that assets are not diverted between corporate entities to the detriment of policyholders and claimants.
 4. If divisions are allowed, the resulting companies should either be backed by the full assets of the corporation or by reinsurance secured in the private market prior to the division. This private market test will determine the reliability of any projection, actuarial or otherwise, since the real test is who will bet their assets on it, not who can put on the slickest public presentation.
- The proposed CIGNA restructuring should not be allowed to go forward at this time. If the transaction is completed, it will represent the failure of a major insurance company to live up to its obligations to its policyholders and the failure of a leading state regulatory department to protect the very constituents whose interests it was established to watch over. Policyholder and public trust will be shattered. **BI**



J. Robert Hunter is director of insurance for the Washington-based Consumer Federation of America. Mr. Hunter formerly served as insurance commissioner for the state of Texas and as federal insurance administrator.

Worker injured by horseplay awarded comp benefits

An employee injured at work as an innocent bystander, who was not a participant in horseplay that led to her injury, was entitled to workers compensation benefits, according to the Court of Appeals of Oregon.

Jennifer Kammerer was required to walk past a guard shack and through a parking lot reserved for certain employees to reach her car. While walking through the designated parking lot with several co-workers, Ms. Kammerer was injured when one co-worker flicked a plastic tag

Legal Briefs

at her, striking her right eye. She sustained trauma to her right eye. Ms. Kammerer submitted a claim for workers compensation, which the employer denied. After a hearing, a referee also denied benefits. The Workers' Compensation Board affirmed the denial.

On appeal, the court said that Oregon courts had not directly addressed whether a non-participant in horseplay may seek

workers compensation. An innocent bystander engaged in normal work activities cannot be understood to have "stepped aside" from employment and may recover when assaulted on the job, the court said.

Thus, the court concluded that similar reasoning applied to an innocent victim of horseplay. An employers' acquiescence in the horseplay should have no bearing on whether a bystander is entitled to compensation, the court said. The court concluded that Ms. Kammerer was

entitled to benefits.

Kammerer vs. United Parcel Service, Court of Appeals of Oregon, Aug. 23, 1995 (BI/01/F-\$10). **BI**

These abstracts were prepared by Mayo H. Stiegler. Copies of these decisions are available by sending a \$10 check payable to Mayo H. Stiegler, to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. List the number for each opinion.

ASK A CASUALTY ACTUARY

GASB 10 requires pools to account for TPA fees

Q

Does Governmental Accounting Standard 10 call for the setting up of a reserve by public entities for any future third-party administrator fees or in-house claims staff costs? If so, why, and how should the reserve be estimated?

A

The answer to your first question is yes for pools and no for all other public entities.

What does GASB 10 call for in the case of pools? It calls for the setting up of an accrual for future third-party claims administrator

fees (or in-house claims staff costs) if those fees or costs are related to the handling and settlement of claims incurred prior to the statement date. Whenever we refer to TPA fees in this article, we are also talking about in-house claims staff costs.

Let's take an example. If the statement date is June 30, 1995, then a pool should set up an accrual for all future TPA fees which will be incurred in adjusting claims where the incident date was on or prior to June 30, 1995.

Since TPA fees are typically charged on a fiscal year basis, regardless of when claims were incurred, coming up with an estimate for this accrual presents some challenges. We will describe two common methods later.

Why does GASB 10 require such an accrual by pools? To understand this, let's consider why insurance companies are required to set it up.

There are two types of loss adjustment expenses: allocated and unallocated. Allocated loss adjustment expenses consist of all expenses that are routinely assigned to an individual claim file. Examples include attorneys fees and investigation costs.

Unallocated loss adjustment expenses consist of all expenses that typically are not assigned to individual claim files, for instance, the salaries of in-house claims adjusters, claims department overhead and/or TPA fees.

Let's suppose the insurer's statement date is Dec. 31, 1995. Let's also suppose that the insurer will cease operating as of that date.

If that was the case, the insurer would of course need to have loss reserves to cover all losses arising from policies which expired on Dec. 31, 1995. It would also need to have ALAE reserves, as well as ULAE reserves for the same reason.

In other words, the accrual is required because the insurer must fulfill its obligations. If it is going to stop operating, it must pay for some other entity to adjust its claims.

This same way of thinking has been applied by GASB 10 to pools. If the pool were to stop providing coverage on June 30, 1995, it would still need to continue paying a TPA to settle existing and unreported claims for years to come.

Of course, two or three years down the road, TPA fees should be much less than they would have been if the pool had continued to provide coverage. Nevertheless, they will continue because many claims will probably still be open.

I suspect that one reason GASB 10 calls for the accrual of an ULAE reserve for pools, but not for the other public entities, is fairness. Why should a new pool member pay for ULAE costs due to claims arising from years prior to its joining? Correspondingly, if an entity leaves a pool, it should pay its share of future ULAE costs due to exposure periods when it was a member.

Estimating an appropriate accrual for ULAE or future TPA fees can be tricky.

By their very nature, ULAE payments are not allocated to specific claims—so there is no natural way to split such expenses between those due to claims arising from incidents which occurred prior to

Example of yearly components of the reserve for unallocated loss adjustment expenses

Fiscal year	Estimated total TPA fees	TPA fees due to handling claims incurred prior to July 1, 1995	TPA fees due to handling claims incurred after June 30, 1995
1995	\$100,500		
1996	106,000	\$61,556	\$44,444
1997	112,000	13,850	98,150
1998	119,000	6,500	112,500
1999	127,000	4,500	122,500
2000	135,000	2,000	133,000
Estimated total ULAE reserve:		\$88,406	

GRAPHIC BY JERRY PARKS

any given date and those arising from incidents due to claims arising from incidents which occurred subsequent to a statement date.

There are two commonly used methods for estimating ULAE reserves. The first one is quite simple and is widely used by insurance companies. It is often called the "Calendar Year Paid Ratio Method."

Under this method, the ratio of total ULAE payments to total loss payments for the most recent two or three years is examined.

For example, the ratio of ULAE payments to loss

TPA fees are typically charged on a fiscal year basis, so coming up with an estimate for this accrual presents some challenges.

payments (for all years combined) may have been 7.8% for 1992-1993, 8.2% for 1993-1994 and 8.0% for 1994-1995. We then might select 8.0% as a representative ratio. To estimate the ULAE reserve, we would then apply 100% of the representative ratio to the accrual for incurred but not reported losses and 50% of the representative ratio (or 4%) to case reserves for losses. The total of these two pieces would be the ULAE reserve to be carried.

While this method is rather arbitrary, it is also widely used. It is based on the idea that more unallocated expenses will be needed to settle claims which have not been reported yet than to settle known cases.

The second method is more complicated, but perhaps more accurate. I say "perhaps" because the only way to really tell is for claims people to keep accurate records of how much time they spend on each claim—and this is rarely done.

This second method is based on average ULAE costs per open claim. This method is also based on forecasts of how many claims incurred prior to the statement date will still be open during each of several future years.

For example, a pool might have an average of 300 claims open. Let's say that was the case during fiscal 1995 and that the pool paid \$100,500 in TPA fees during that year. Then the average TPA cost per open claim would be \$335 (= \$100,500/300).

We would take that average and inflate it by, say 5% per year for each future year and multiply it by estimates of the average number of claims that would still be open during each future year—that were due to incidents occurring prior to June 30, 1995. So we would apply an average of \$351.75 (= \$335 x 1.05) to the average number of open claims (due to incidents occurring prior to June 30, 1995) during fiscal 1996. If that average were 175 (given 300 claims open on June 30, 1995 and 50 on June 30, 1996), we would then come up with an estimate of \$61,556.25 (= \$351.75 x 175) for TPA fees during fiscal 1996—due to claims

from fiscal 1995 and prior years.

If we estimated that 25 claims would still be open on June 30, 1997, then the average number of open claims during fiscal 1997 would be 37.5 (the average of 25 and 50). We would multiply that average by \$369.34 (= \$351.75 x 1.05) to get \$13,850.25 as the portion of the ULAE reserve we expect to be paid during fiscal 1997. And so on and so forth. The total ULAE reserve would then be calculated by adding together all of these yearly pieces.

The hard part about applying this second method is forecasting how many claims will still be open at each future June 30. This can be reasonably estimated by keeping a past record of how many claims are still open as of each past June 30 that are due to incidents occurring in different fiscal years.

Another way to go about it is to ask the claims adjuster to predict how many existing claims will still be open one, two, three or more years from now. The only problem with this approach is that it does not include any provision for incurred-but-not-reported claims.

To recap all this, let's look at a table which breaks out future ULAE fees into those due to claims incurred prior to July 1, 1995 and those due to claims incurred after June 30, 1995.

In the table, that total of \$88,406 represents the ULAE reserve that should be carried by the pool as of June 30, 1995.

As stated before, GASB 10 does not call for the reflection of an unallocated loss adjustment expense reserve for public entities other than pools. However, a strict adherence to representing things on an accrual basis would call for also establishing such a reserve for non-pools.

The fact that GASB 10 does not call for such a reserve is a concession to the "pay as you go" approach to treating liabilities.

BI

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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.



Mr. Sherman

INTERNATIONAL

Maxwell pension fraud trial now entering last stage

Judge tells jury to view actions in context of company culture

By EDWIN UNSWORTH

LONDON—The judge hearing the Maxwell pension fraud trial says that the alleged actions of the three defendants accused of using pension fund assets to shore up other companies must be seen against a corporate "culture" of massive inter-company lending.

Summing up the evidence for the jury after a two-week break in the 116-day-long trial, Lord Justice Phillips last week also said that the defendants, all of who were trustees of fund manager

an Israeli company, Scitex Corp. Ltd., that were owned by the pension funds (BI, Dec. 4, 1995).

The second charge alleges that Kevin Maxwell conspired with Ian Maxwell and Mr. Trachtenberg to defraud the pension funds of £22 million (\$34.1 million) worth of shares in another Israeli company, Teva Pharmaceutical Industries Ltd. A fourth defendant, Henry Bunn, a former Maxwell finance director, was discharged from the trial after suffering a heart attack.

Each charge carries a maximum

one denies there were financial difficulties facing Maxwell Group at the time of the share transactions in late 1992, the loans made to it have to be seen against the "culture" of massive inter-company lending. Kevin Maxwell had testified during the trial that his father viewed the pension fund assets as just another part of company assets that could be lent to other affiliates. The jury will have to decide if this lending of the shares was dishonest, said Lord Justice Phillips.

He also told jurors that they would have to determine from the evidence whether there was a conspiracy by any of the accused to defraud the pension funds. The "foundation stone" to the entire conspiracy accusation, he added, lay with Kevin Maxwell.

The jury had to decide first if he had conspired with his father over use of the Scitex shares, and then if he had involved the others in a conspiracy regarding the Teva shares, said Lord Justice Phillips. If the jury does not find Kevin Maxwell guilty on the Scitex-related charge, then it will have to find the defendants innocent on the Teva-related charge, too, the judge said.

He also pointed out to the jury that all of the defendants were of previous good character, and that Kevin Maxwell, despite admitting having lied at one stage to a banker for his father's companies, had acquitted himself well during 21 days in the witness box.

The jury is expected to give its verdict in about a week. **BI**

Lord Justice Phillips told jurors they must determine from the evidence whether there was a conspiracy by any of the accused to defraud the pension funds.

Bishopsgate Investment Management Ltd., each had a duty to keep the assets of the funds safe.

On trial in London's Central Criminal Court, or "Old Bailey," are Kevin Maxwell, who faces two fraud charges; and his brother Ian Maxwell and Larry Trachtenberg, a former adviser to their father, who each face one charge of fraud.

Kevin Maxwell is accused of conspiring with his now-deceased father, Robert Maxwell, who drowned in late 1992, to dishonestly put at risk £100 million (\$155 million) worth of shares in

sentence of 10 years in prison.

Lord Justice Phillips, who is expected to finish summing up the case for the jury this week, emphasized to the 12 jurors that to find the defendants guilty as charged they must be convinced of the prosecutor's claims that they had acted dishonestly and against the best interests of the pension funds in using proceeds from the sales of the Scitex and Teva shares to prop up Robert Maxwell Group P.L.C., which held the private interests of the Maxwell family.

He pointed out that while no

Insured cat losses lighter in '95

By DON LEWIS KIRK

MUNICH, Germany—While worldwide natural catastrophes caused unprecedented damage in 1995, insurers' losses were less than in previous years, a leading reinsurer says.

The regions most badly hit by natural catastrophes in 1995 were not heavily insured, which gave insurers some "breathing space," according to Munich Reinsurance Co.

The Munich, Germany-based reinsurer released some initial figures in advance of its annual survey on global natural catastrophes, which will be published in March. The final report will be available to the public.

Munich Re bases its survey on reports of catastrophe losses in the news media, such as wire services,

and other publications, which it compiles for analysis each year.

A worldwide review of total costs of natural catastrophes in 1995 shows record losses in excess of \$180 billion—nearly three times the amount in 1994, the previous worst year with losses of \$65 billion, Munich Re says.

January 1995's Kobe quake was the most costly natural catastrophe in history with a total economic loss of approximately \$100 billion. Of that amount, though, insured losses totaled only about \$3 billion. The quake reduced parts of the large Japanese industrial city and port to rubble. More than 6,000 people died and 300,000 were left homeless (BI, Oct. 9, 1995).

Other notable events include January floods on Europe's Rhine, Mosel and Maas rivers, which ex-

See Disaster on next page

U.K. union group predicts increases in compensation

By SARAH GODDARD

LONDON—Victims of workplace accidents could see compensation levels increase this year if the government takes steps to improve benefits, says the London-based Trades Union Congress.

However, such an increase could result in higher premiums for employers liability insurance bought by U.K. companies. U.K. employers must carry employers liability insurance to cover compensation for workplace injuries. The minimum amount that must be carried is £2 million (\$3.1 million), though most employers are insured up to £10 million (\$15.5 million). In 1994, more than £400 million (\$626 million) in damages was awarded to people injured at U.K. workplaces.

The TUC report, released late last month, predicts the U.K. government this year will relax various constraints on compensation that have been imposed in recent years. Some of the changes are already being made as the government tries to be more "victim-friendly" before the next general election, says the report. The next general election must be held in April 1997 at the latest.

The TUC claims the changes are needed because the government in recent years has "mugged" workers who are due compensation for workplace injuries.

In 1992, regulations were altered so that claimants who had won damages from employers exceeding £2,500 (\$3,786) but had received social security benefits in the meantime, had to repay the benefits from their compensation. This measure reduced some awards by more than 90%, according to the report.

Also, the TUC alleges that "unscrupulous insurers" have persuaded injury victims to settle early for amounts under the £2,500 threshold "and for far less than they deserve."

In 1993, the government required that personal injury claims for less than £1,000 (\$1,479) be moved to small claims court. Unlike other courts, plaintiffs who win in small claims court cannot recover the cost of their litigation from defendants.

Most recently, in 1994 the government dismantled the Criminal Injuries Compensation Scheme, a centrally managed fund that compensated victims of violent crime, including those who had been attacked in the course of their work duties. The fund has been replaced with a tariff system that does not take into account the victims' loss of earnings and was introduced without Parliamentary consultation.

A judicial review sought by the TUC and 10 trade unions resulted in the House of Lords—the highest court in England and Wales—ruling last April that the Home Secretary had acted unlawfully in replacing the Criminal Injuries Compensation Scheme without Parliamentary approval.

The Home Secretary has now introduced a bill—the Criminal Injuries Compensation Bill—that would reform the compensation plan and make a number of concessions to claimants, including the reintroduction of compensation for loss of earnings.

Also, the Access to Justice Report, published by an independent commission in June 1995, recommended that personal injury cases should not be heard in small claims court. This recommendation was accepted by the Lord Chancellor and will enable plaintiffs to seek legal costs as well as damages.

Although the TUC says that these measures alone are insufficient, the government's actions "hold out the prospect of further good news for victims in 1996."

The TUC wants substantially higher levels of compensation—though it has not committed itself to any figures—and a fund for victims whose employers are either uninsured—which is illegal—or are insolvent. "An industrywide insurance compensation fund would be the fairest and most effective way to protect workers who would otherwise go uncompensated," assesses the report.

Free copies of "Turning the Tide for Victims: The Prospects for Workplace Injury Victims in 1996" are available, call 011-44-171-636-4030.

Vaccine claims to test liability law

By CAROLYN ALDRED

NORFOLK, England—Medical product liability litigation may increase in the United Kingdom if a new strategy for seeking compensation for alleged victims of pharmaceutical products proves successful.

U.K. lawyers plan to use European Union-based product liability legislation to seek compensation for alleged victims of pharmaceutical products. Although lawyers have researched numerous complaints, no lawsuits have been filed yet.

Historically, U.K. compensation law has required proof of negligence.

But, the Consumer Protection Act 1987, which became effective in 1988, enacted E.U. product liability legislation and introduced no-fault product liability law.

Using the 8-year-old Consumer Protection Act, a U.K. law firm plans to seek compensation for dozens, perhaps hundreds, of children who claim they were injured by the U.K. government's childhood immunization program, in particular the measles, mumps and rubella vaccine.

Under the Consumer Protection Act, anyone injured by a defect in a product is entitled to compensation from the manufacturer. It is not nec-

essary to show that the manufacturer was negligent.

No vaccine case has yet proved medical negligence in the United Kingdom, lawyers say. However, Dawbarns, a King's Lynn, Norfolk-based law firm, said that using the product liability law may prove a more successful strategy.

Successful litigation could set precedents for medical product liability suits in the United Kingdom.

"Very few cases have yet been decided by English courts on the Consumer Protection Act, so no court guidelines have yet been laid down," the law firm said in a fact sheet on

the legislation.

Dawbarns said it believes the law can be applied to pharmaceutical products. The act imposes new and higher standards on manufacturers to explain risks and give clear instructions for use, according to the law firm.

"Even though many pharmaceutical products have side effects, they would not necessarily be regarded as being unsafe," particularly if the side effects are less severe than the untreated condition, Dawbarns said. But, "if a product causes a long-lasting injury, which was not warned about, that must raise the distinct

possibility that it was unsafe."

Parents who claim their children have suffered complications or even died as a result of inoculation argue they were insufficiently warned about possible side effects.

"Parents are informed of the minor reactions such as fevers and rashes but not of any serious problems," said Jackie Fletcher, who lives near Warrington, Cheshire. She believes her 4-year-old son suffers from epilepsy, an impaired immune system, poor communication skills and learning difficulties as a result of the MMR vaccine.

Ms. Fletcher set up Justice Awareness and Basis Support, a support group for parents, in December 1992.

Since then, she has been contacted

See Vaccine on next page

INTERNATIONAL

Factory covered Vaccine

for big fire loss

Gerling leads property coverage

DON LEWIS KIRK

COLOGNE, Germany—Kloekner-Humboldt-Deutz A.G. is insured for an estimated 200 million DM (\$139.2 million) in damage caused by a fire that destroyed two warehouses at its main manufacturing plant on Christmas Eve.

Property and business interruption coverage for the Cologne-based engineering group, which specializes in the development, manufacturing and distribution of machinery and industrial facilities, is underwritten by a consortium of insurers led by Gerling-Konzern Allgemeine Versicherungs A.G.

The fire damage could also create losses for several other companies that rely on KHD for machinery and motors in their own products. The damage is expected to hinder the delivery of some 40 million DM (\$27.8 million) worth of equipment and slow KHD's introduction of a new water-cooled engine to the European market.

The fire, which broke out at 8:08 p.m., seriously damaged two warehouses and offices for 30 employees at the manufacturing facility, which is directly owned by KHD subsidiary Deutz Service International GmbH. Other production facilities at the location were not

damaged. Heat from the fire forced the evacuation of streets around the manufacturing plant, but no injuries to workers or the public were reported.

Total insured losses will likely double initial estimates due to business interruption losses, according to a Gerling spokesman. Gerling representatives have examined the scene, and the spokesman said he expects property damage of about 120 million DM (\$69.6 million) and business interruption losses of 80 million DM (\$55.7 million). Gerling covers one-third of the company's insured property risk. The company does not have a self-insured retention.

The remainder of KHD's property insurance program is split among Allianz Versicherungs A.G., Colonia Versicherungs A.G., Haftpflicht der Deutschen Industrie VVag and Nordstern Allgemeine Versicherungs A.G.

The program is reinsured by Munich Reinsurance Co., Swiss Reinsurance Co. and Gerling's in-house reinsurer Gerling Konzern Globale Rueckversicherungs A.G. Reinsurance is expected to come into play in the loss.

German investigators are still probing the cause of the blaze but have ruled out arson. **BI**

Continued from previous page
by 500 families who believe their children have been injured through inoculation. She said those numbers discredit the government's claim that risk of serious damage from vaccines is "very rare."

Dawbarns and Nottingham-based law firm Freeth Cartwright were given a contract by the Legal Aid Board in September 1994 to coordinate and investigate the MMR complaints. The Legal Aid Board is a government-funded organization that subsidizes some legal actions.

MMR vaccinations are given to British children between the ages of 1 and 2 years under a government-sponsored program. The vast majority of children receiving the vaccine.

Until September 1992, three types of MMR vaccines, manufactured by Merieux U.K. Ltd., SmithKline Beecham P.L.C. and Wellcome P.L.C., were available in the United Kingdom. The government withdrew two of the vaccines after reports of "mild transient caused by the mumps vaccine in some children," the government's chief medical officer said in a statement.

Dawbarns questions why it took the government so long to act against the vaccines when one of the vaccines had been withdrawn in Canada as early as May 1990. In Japan, all MMR vaccines have been withdrawn, the law firm noted.

Since September 1992, MMR II—distributed by Wellcome, which since has merged with Glaxo—has been used to vaccinate children in

the United Kingdom. Although there are allegations that this vaccine is also causing problems, a lawyer for London-based Glaxo Wellcome P.L.C. said she was unaware of any suits filed against the company as a result of the allegations.

However, Dawbarns is pursuing 70 cases with "several hundred in the pipeline," said Dawbarns researcher Kirsten Lamb. So far no lawsuits have been filed.

Strong evidence is needed to obtain legal aid, she said. For example, "there must be a clear reaction to the vaccine within a specified number of

days for each vaccine."

Many of the alleged MMR victims had seizures within days of being inoculated and lost powers of speech and mobility within weeks, she said.

The British government established a state-funded unit responsible for compensating victims of immunizations in 1979. To receive a one-time payment of £30,000 (\$46,500) from the Vaccine Damage Pay Unit, victims must prove that they are 80% disabled directly as a result of a vaccine. Since the fund began, 879 payments have been made from 3,711 claims. **BI**

Disaster

Continued from previous page
ceeded the highest flood mark of the century set only a year earlier, and an exceptional series of tropical windstorms in the Caribbean, United States and East Asia.

Munich Re recorded a new all-time high of 600 natural catastrophes worldwide, which claimed 18,000 lives, up from 580 catastrophes and 10,151 lives in 1994.

But because insurance density in the hardest hit regions was relatively low, insured losses accounted for less than those reported in the two previous record years, 1992 and 1994.

In 1995, insured cat losses worldwide amounted to \$14 billion compared with \$26 billion in 1992 and \$17 billion in 1994, Munich Re found.

Since 1986, the insurance industry has had to cope with heavy claims burdens from natural catastrophes.

As a result, Munich Re concludes that fewer insured losses in 1995 are a welcome—but perhaps short—breather for the insurance industry.

"Indications are stronger that the gradually changing world climate is having an effect on the occurrence of natural catastrophes, especially in the case of floods and windstorms."

For the Australian market, Munich Re predicts an easing period with an end to the "extremely long-lasting El Nino phase," which warned the tropical Pacific and caused extreme drought.

A change in weather patterns is also expected for the Pacific coast of the United States and the Caribbean, where tropical winds caused exceptionally heavy precipitation and hurricane activity.

Copies of the survey will be available in March by contacting Rainer Kupperts at Munich Reinsurance Co., Koeniginstrasse 107, D-80791 Munich, Germany; 49-89-38910.

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★ Source Business/Occupational breakdown of qualified circulation, May 29, 1995 Issue, as submitted to BPA for June 1995 BPA Publisher's Statement

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ARKWRIGHT

Banks

Continued from page 1

the largest banks—or those with histories of commercial banking activity—dealing in commercial lines products is a very real possibility.

"The activity is beginning in areas that are closest to traditional bank products," such as annuities, said Philip Corwin, director of retail banking for the American Bankers Assn. in Washington. "But I think you'll see an increase in the property and casualty areas, too."

There's "absolutely" potential for banks to move into distributing commercial lines of insurance, said Mr. Corwin, who added that they will "want to proceed cautiously... in an area where you get into the possibility of the handling of claims raising contentious issues."

Forrest Ward, national director of financial service industries for Ernst & Young L.L.P. in New York, said banks' initial interest in personal lines is understandable because "that's where their branch distribution system is already in place to serve the consumer."

It's "conceivable," however, that some larger banks would find commercial lines opportunities, he said.

"You've got to keep in mind that some of the corporate products are a lot more complex and the banks don't have the expertise," Mr. Ward said.

But that could merely prompt banks to instead form strategic alliances with brokers or insurers in order to serve their business customers.

In fact, some insurers are looking to form such relationships with banks as they look for more cost-effective ways to distribute their products.

"Bank distribution for insurance companies has been growing and will continue to grow," according to Larry Mayewski, a senior vp at A.M. Best Co. in Oldwick, N.J.

"Most insurance companies we talk to are looking to come into a relationship with banks," Mr. Mayewski said.

"There are many states right now that allow a significant amount of bank distribution" of

insurance products, Mr. Mayewski said.

According to the Washington-based Assn. of Banks-in-Insurance, though, 22 states still have "anti-affiliation" statutes that prohibit the insurance licensing of anyone associated with a financial institution.

Ten of those 22 states, though, do permit banks to market annuities.

The *Barnett* case revolves around whether Florida can bar national banks from selling insurance products from offices in towns of fewer than 5,000 people, as the National Bank Act provides.

Even a victory for banks in Barnett 'is not going to mean that every bank in every big city will have an insurance agent sitting in it,' says Philip Corwin.

The high court is scheduled to hear oral arguments on the case Jan. 16, and Mr. Corwin said he wouldn't be surprised if a ruling is handed down by the end of February.

Mr. Corwin noted that it took the justices five weeks to reach a ruling early in 1995 on the *NationsBank of North Carolina vs. Variable Annuity Life Insurance Co.* case—which permitted national banks to sell annuities—a case which he deemed more complex than *Barnett*.

The *Barnett* ruling's likely impact on bank sales of insurance products is that it will either "throttle it back a little bit or it's going to open it up to greater evolution or revolution in terms of financial services," said Mr. Mayewski of Best.

If Jacksonville, Fla.-based Barnett Banks Inc. is successful in its appeal, "it's obviously going to broaden the distribution channels for banks," said Mr. Mayewski.

If, on the other hand, the appeals court verdict is upheld, "the growth might be a little bit less than it would be already if the state laws were pre-empted," he said.

"We believe we will prevail in that case," said the ABA's Mr. Corwin, adding that he believes

the Supreme Court could even go as far as overriding the McCarran-Ferguson Act by limiting states' authority to regulate banks' insurance sales activities.

But even a victory for the banking interests "is not going to mean that every bank in every big city will have an insurance agent sitting in it and it doesn't mean as a practical matter states won't be regulating these things," Mr. Corwin said.

Banks will still be selling the products of licensed insurance companies, noted Mr. Corwin, which would mean continued state regulatory involvement even if the court shielded banks from

states' regulatory authority under the McCarran-Ferguson Act.

"It will not mean wide-open, pedal-to-the-floor bank insurance sales," Mr. Corwin said, and "it's not going to gut state regulation of insurance sales."

Even if the Supreme Court upholds the 11th Circuit ruling, siding with Florida regulators over Barnett Banks, activity at the state level is likely to continue to increase banks' involvement in the insurance market.

"It offers another option to consumers and I think states are adjusting to that reality and they're acting in their own interest to insure that they will continue to be able to regulate insurance," Mr. Corwin said.

Ohio officials recently granted the state's first licenses to bank-affiliated businesses to sell a broad package of insurance products. Two agencies—Northwest Territory Life Insurance Agency and Northwest Territory Property & Casualty Agency—were licensed to sell annuities as well as life, auto and property insurance underwritten by Minnesota Mutual Insurance Group.

The agencies are owned by First National Bank of Southeastern Ohio, which in turn is a unit of Columbus-based bank holding

company Peoples Bancorp Inc.

A ruling by the 7th U.S. Circuit Court of Appeals in Chicago in October, coupled with the recent merger of NBD Bancorp Inc. and First Chicago Corp., may spur bank insurance sales in Illinois.

The 7th Circuit sided with NBD Bancorp's challenge of Indiana's refusal to allow a national bank in Indianapolis to sell insurance through a branch in a town of fewer than 5,000 residents. Indiana officials have not decided whether to appeal the ruling.

With the favorable ruling coupled with its merger with First Chicago, NBD now has the potential to add the Illinois insurance market to the Indiana and Michigan markets in which it already sells insurance products.

As part of consideration of a state regulatory reform study, New York officials may examine the banks-in-insurance issue this year, and legislation expanding banks' powers to sell insurance products is expected to be introduced this year in Connecticut.

Massachusetts officials received a lengthy report in late November from the state's Financial Services Advisory Committee advocating allowing banks to sell insurance products.

The first legislation aimed at reaching that goal is expected to come before the state's Legislature soon, said Alan R. Morse Jr., Massachusetts' superintendent of financial services and a member of the advisory committee.

"No doubt there will be quite a lot of conversation," said Mr. Morse, adding that whether the issue is addressed piecemeal or as a single bill will be up to the governor and the legislators.

The Massachusetts advisory committee determined that fairness is a key reason for allowing banks to deal in insurance products, said Mr. Morse, "both from a

market and a regulatory process point of view."

On the market side, already some banks are dealing with commercial lines customers on their own.

According to the Assn. of Banks-in-Insurance, while just over half of commercial banks' estimated \$2.1 billion in 1994 insurance income came from annuities and nearly another third from credit insurance, they also took in nearly \$19.5 million in commission and fee income from commercial property/casualty sales and another \$7.8 million from sales of various employee benefits coverages.

An executive with one bank whose insurance activities are largely in the commercial lines said it is a natural result of his bank's expertise dealing with commercial customers.

"As we look at a line of business such as insurance, we naturally think of the business lines activity," said the bank executive, who asked not to be identified. "It reflects our heritage."

The bank executive said it is a "logical conclusion" that as risk management techniques become more financial, a bank might find ways to couple its financial activities with commercial customers with its insurance activities.

But either the law or simple good business practices will prompt banks to steer well clear of linking the extension of credit to a customer's use of the bank's insurance activities, the executive noted.

"But we view the acquisition of risk protection as a financial service that is appropriate to sit on the shelf alongside our other financial services," the executive said.

"Our bringing it to the table alongside these other financial services is appropriate." **[B]**

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Study eyes HMO medical spending

PALM BEACH GARDENS, Fla.—Some HMOs are not spending as much as they should on patient medical care, which could jeopardize participants' health, an insurance rating agency warns.

"Too many managers in the HMO industry have their hands in the cookie jar," contends Martin D. Weiss, president of Weiss Ratings Inc., a Palm Beach Gardens, Fla.-based life and health insurance rating agency.

"They pay out too much in salaries, bonuses and other administrative expenses—but not enough to take care of their members' health. Companies have to strike a balance between providing quality care and being profitable," Mr. Weiss suggested.

A spokesman for the Washington-based Group Health Assn. of America, the leading HMO trade group, bristled at Mr. Weiss' assertion.

The Weiss ratings, which focus on the financial solvency of HMOs, do not provide any indicators of the quality of care, he pointed out. Weiss draws its information from annual NAIC filings and surveys of HMOs. The report covers 1994, the most re-

cent year for which data is available.

"Martin Weiss says that HMOs do not do enough to take care of their members' health. That is totally incorrect and unacceptable," the GHAA spokesman said. "Study after study has shown that the quality of medical care in HMOs is as high or higher in many cases than in fee-for-service medicine."

According to its most recent tally of medical loss ratios, Weiss singled out CaliforniaCare Health Plan as an example of a large network/independent practice association HMO that spends less than 75 cents on medical care for every dollar of premium it collects from its 2 million members—far below the national IPA model average of 83 cents for each premium dollar collected.

At the other end of the spectrum, Oakland, Calif.-based Kaiser Foundation Health Plan Inc., the largest group-model HMO in the country with 5.8 million enrollees, spends more than 98 cents of every premium dollar on medical expenses, Weiss Ratings found.

The national average of medical spending for group and staff model HMOs is 89.2% of premiums col-

lected, according to Weiss. However, there is wide disparity in the amounts these types of HMOs spend on medical care because of the varied accounting methods these plans use, a Weiss spokeswoman explained.

Not all group-model HMOs allocated more premium dollars toward medical expenses than their network and IPA-model counterparts, Weiss found.

For example, Kaiser Foundation Health Plan of Georgia, a group-model HMO with 175,055 members, spent just 72.42% of its premiums on medical expenses, while CIGNA Healthcare of Florida Inc., a mixed IPA-staff model HMO with 72,333 enrollees, spent 93.33% of its premiums on medical care, according to Weiss Ratings.

Weiss Ratings rates nearly 300 HMOs for their financial safety, charging consumers \$15 per company for a one-page "Personal Safety brief" on their HMO. For more information, contact Weiss Ratings at 4176 Burns Road, Palm Beach Gardens, Fla. 33410; 1-800-289-9222.

—By Joanne Wojcik

Sargent named new CEO of Guardian Life

Joseph D. Sargent, president of The Guardian Life Insurance Co. of America, succeeded retiring Arthur V. Ferrara as chief executive officer of the New York-based life insurance and financial services company Jan. 1. Mr. Sargent will remain president of the company, and Mr. Ferrara will continue on the company's board of directors.

In other insurer changes:

Bruce M. Jones named president of Sphere Drake Underwriting Management (Bermuda) Ltd. and head of the group's alternative risk transfer business, succeeding **Jonathan J. Crawley**, who is retiring and moving to France.

Raymond J. Lester named vp and associate general counsel at Trustmark Insurance Co. in Lake Forest, Ill.

Harvey Swartz named vp-proper-

Comings & Goings: Industry

ty/casualty division of Century Surety Co. in Columbus, Ohio.

Timothy O. Wiechers named executive vp and chief operating officer at Ohio Hospital Insurance Co. in Columbus, Ohio.

Arthur C. Pletz named senior vp-underwriting operations for Ranger Insurance Co. in Houston. Mr. Pletz rejoined Ranger after spending one year as vp of Signal Aviation Underwriters.

Norm Amick named executive vp at Century Surety Cos. in Columbus, Ohio.

Donald T. DeCarlo named senior vp and general counsel for Travelers Insurance Co. in Hartford, Conn.

Richard L. Thomas named divi-

sional president of American Home Assurance Co.'s new public entities unit in New York.

Agents/Brokers

Martin Loth, former president and CEO of Jardine Insurance Brokers' Orange County, Calif., operations, now part of Alexander & Alexander Services Inc., joined Arthur J. Gallagher & Co. in Irvine, Calif., as executive vp in the property/casualty department. Also, **Dee L. Hughes**, a former Jardine executive, joined Gallagher as a vp in the property/casualty department.

M. Michael Zuckerman joined

Johnson & Higgins of Pennsylvania in Philadelphia as a vp in the health care unit, which provides risk management and insurance services to the health care industry.

Margaret J. Liptay joined Alexander & Alexander Inc. as managing director of its risk management practice for greater New York. Ms. Liptay was formerly managing director at Marsh & McLennan Inc. Also at A&A, **David I. Sullivan** joined Alexander Reinsurance Intermediaries Inc. as senior vp in Stamford, Conn. Mr. Sullivan was previously senior vp-treaty marketing for Aon Re Worldwide.

Gordon C. Lahey and **Scott T. Self** named senior vps and **Mitchell Young** named vp at Willis Faber North America Inc. in New York.

Gary A. Bevers, **David R. Koberstein**, **James D. Wagner**, **James H.**

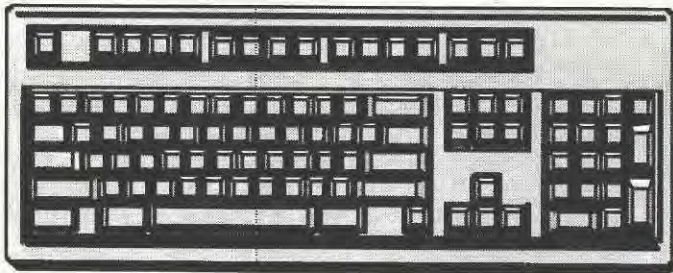
Weber and **Kurt A. Willick** named vps in the Milwaukee office of Rollins Hudig Hall of Wisconsin Inc.

Leslie Hart named a vp in the Costa Mesa, Calif., branch of Johnson & Higgins.

Other suppliers

Ron Amy named chairman and CEO of Alexander Clay & Partners in the United Kingdom, effective Feb. 19. Mr. Amy, formerly with Grand Metropolitan P.L.C., succeeds **Brian Kennedy**, who left the actuarial and benefit consulting unit of The Alexander Consulting Group Inc. to head up Watson Wyatt Worldwide in Canada.

James A. Hall III, named vp at Pegasus Advisors Inc., an Avon, Conn.-based reinsurance consulting firm. Mr. Hall was formerly president and senior actuary for Aon Re Services Inc. **BI**



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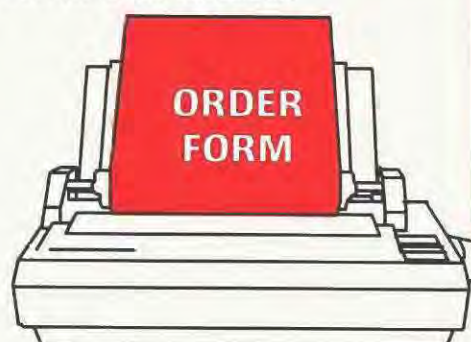
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Business Insurance

States

Continued from page 3

decades-old records, which may no longer have existed, noted Janice Gregory, a vp at the ERISA Industry Committee. That, of course, could create administrative burdens for employers as well as a hassle for retirees.

Legislators viewed attempts by states to tax pension benefits of former residents as taxation without representation.

"The source tax is truly taxation without representation. By levying a source tax, states are able to target the retirement income of non-residents even though the non-residents receive no benefits or services in return for the assessed taxes," said Rep. Linda Smith, R-Wash.

"Retirees should not be forced to pay taxes to states in which they no longer reside and no longer vote," concurred Rep. Jennifer Dunn, R-Wash.

The measure applies to all qualified defined benefit and defined contribution plans. Non-resident states also could not tax benefits provided under certain types of non-qualified deferred compensation plans, including those that provide equal periodic payments over a retiree's expected lifetime or over a 10-year period.

In addition, non-resident states could not tax benefits provided through so-called excess non-qualified plans. An excess plan is one designed to provide benefits in excess of certain Tax Code limits that apply to qualified plans.

The legislation would apply to pension benefits received after Dec. 31, 1995.

President Clinton is expected to sign the bill. **BI**

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CIGNA

Continued from page 1

laws because of the state's leading role in evaluating and ruling on the plan.

The insurer also is beginning to step up its contact with regulators in all states in an effort to counteract the strong push that critics of the plan have made with regulators nationwide. However, CIGNA has been in contact with state regulators since it announced its plan, the spokesman said.

A court challenge by several CIGNA competitors over the Pennsylvania department's handling of public hearings on the reorganization plan could delay implementation of the plan even before Ms. Kaiser rules on it. A Pennsylvania Commonwealth judge last Thursday promised to issue a ruling this week on motions by those rivals for courtroom-type hearings on the plan or a stay of Ms. Kaiser's ruling if she approves the plan.

Ms. Kaiser has set a Jan. 12 deadline for public comment, after which she will decide the plan's fate.

A CIGNA spokesman could not say exactly when CIGNA would need to obtain regulatory approval so it could implement the plan retroactive to Jan. 1, which would give CIGNA more polished financial statements for all of 1996.

However, he noted that CIGNA must make its first regulatory filings by late February.

Under the plan, CIGNA's Insurance Co. of North America unit would be split in two under an unusual Pennsylvania law that allows corporations to divide. One portion of the split INA, which would be named CCI Indemnity Co., would retain INA's long-tail asbestos and environmental liabilities. The other portion would retain ongoing business and INA's name. CCI would be merged immediately into CIGNA's Century Indemnity Co. Century would be the lead unit in a separately capitalized runoff operation.

CIGNA estimates the runoff unit would have \$7.3 billion of capital, including investment income, to pay long-tail claims. In addition, the active operation would write \$500 million of excess-of-loss reinsurance protection for the runoff unit.

Missouri and Illinois regulators are most troubled by the part of the reorganization plan that they say involves transferring policies to an unlicensed insurer—CCI—in the process of moving CIGNA's long-tail liabilities to the runoff operation.

That interpretation has dogged CIGNA since it announced its plan in October. CIGNA policyholders first raised it to support their argument that the plan amounts to a novation, which would require CIGNA to obtain policyholder approval.

The argument also underpins the position taken by the National Conference of Insurance Guaranty Funds that state guaranty funds would not respond if the runoff operation were to fail (BI, Dec. 11, 1995).

CIGNA counters that, under Pennsylvania's corporate division law, the surviving INA in CIGNA's reorganized active operation no longer would be the "issuing" insurer for policies that cover long-tail liabilities. CCI, as the legal successor to INA under that law, would retain those obligations because CIGNA would allocate them to CCI during the division process, CIGNA explained.



As a result, the movement of INA's long-tail liabilities to Century, a licensed insurer, is accomplished through CCI's merger with Century, CIGNA said. After that merger, Century would legally become the "issuing" insurer for the INA policyholders with long-tail liabilities, according to CIGNA.

But CIGNA's own documents state that INA's licenses would transfer to the new INA, not CCI, noted John Palombi, an Illinois department attorney in charge of evaluating CIGNA's plan. "They both can't be licensed" after the division of INA because CIGNA has not sought and obtained separate licenses for the companies, he said.

That would mean Illinois policyholders would be transferred to an unlicensed and unauthorized insurer, he contended.

CIGNA can do that, but it first would have to give Illinois policyholders 30 days' notice, he said.

In addition, CIGNA would have to deposit with Illinois regulators the amount of statutory reserves that would cover the long-tail liabilities of CIGNA's Illinois policyholders, according to Mr. Palombi. How that reserve level would be determined is unclear, he said.

If CIGNA does not follow those steps, Illinois regulators—even if they sign off on the portion of the plan that requires their approval—would hold CIGNA officials liable if the runoff operation could not fully indemnify Illinois policyholders, Mr. Palombi said.

He also said CIGNA cannot transfer INA's Illinois license to the new INA during the proposed reorganization. "We're taking the position now that the license would be pulled back," leaving both the new INA and CCI unlicensed in Illinois, he said.

Obtaining an Illinois license for CCI before the reorganization could not resolve the license transfer problem because CCI is not created until after INA is divided, he added.

Illinois regulators also are concerned that other insurers might try a similar reorganization plan, though they are not certain how many states have a corporation division law like Pennsylvania's, Mr. Palombi said.

Illinois regulators' concerns track with those that Missouri regulators raised last month. As structured, the plan could lead to criminal complaints against CIGNA officers, directors and shareholders, a Missouri regulator informed the company (BI, Dec. 18, 1995).

A group of CIGNA officials failed to sway the regulators during a Dec. 20 meeting in Missouri. Missouri regulators still maintain that CIGNA could salvage its plan only by directly transferring Missouri policyholders' coverages from INA to Century without moving them through the unlicensed CCI, a spokesman said. Before that, however, CIGNA would have to obtain policyholder and regulatory approval, he said.

Since CIGNA would not acknowledge that Missouri has jurisdiction in this matter, Missouri regulators will seek a court injunction against the plan if Pennsylvania's Ms. Kaiser approves it, the Missouri spokesman said.

In Texas, which is among the states that must sign off on a portion of the plan, Commissioner Elton Bomer not only is reviewing the concerns that Missouri and Illinois regulators have raised, he also has ordered an independent review of the actuarial study of CIGNA's reserves that Tillinghast conducted for Pennsylvania's regulators.

Arthur Andersen L.L.P. will conduct that peer review, which will not independently examine the adequacy of CIGNA's reserves for long-tail liabilities, even though Pennsylvania regulators hired other firms to perform similar reviews of Tillinghast's work.

A sampling of regulators in other states that do not have a formal role in the plan approval process found that they also have concerns.

The New York Insurance Department has raised the strongest objections. Citing the concept of

establishing a runoff operation for certain liabilities and its concerns over how to set adequate reserves for such an operation, a spokesman said the department would not approve CIGNA's plan if the department had a role in the plan approval process.

But while it has informed Pennsylvania's Ms. Kaiser about its position, it "will stand beside her ruling," the New York spokesman said.

The Florida department is seeking additional information from Pennsylvania regulators. Among other things, the department wants to review the Tillinghast report and the actuarial study that Milliman & Robertson Inc. performed at CIGNA's request, a spokesman said.

Regulators in Washington and Oregon also have some concerns about the plan but are not undertaking any independent reviews at least until Ms. Kaiser rules, spokesmen said.

In Louisiana, Commissioner Jim Brown said he is monitoring the situation closely, largely because of the state's past problems with insolvent insurers and their impact on the state guaranty fund.

In addition, the "GE case has raised some concerns among a cross-section of regulators, including myself," he said.

Mr. Brown was referring to the recent collapse of a General Electric Co. liability insurer soon after it reorganized—citing CIGNA's reorganization plan—to separate loss-plagued GE policies from more profitable ongoing business.

Electric Mutual Liability Insurance Co. filed for voluntary liqui-

dation in Bermuda after recognizing a roughly \$750 million shortfall in reserves for GE-related asbestos and environmental claims. It is at least \$500 million insolvent, making it one of the largest P/C insurer failures on record (BI, Dec. 11, 1995).

A CIGNA official, though, said that its plan differs from the EM-LICO plan in many ways, including that it is subject to far more regulatory scrutiny (BI, Jan. 1).

One problem that CIGNA faces is that its critics have far more effectively reached out to regulators nationwide than CIGNA has, Mr. Brown said.

CIGNA instead has focused on winning regulatory approval in Pennsylvania, he said.

"I'm not saying that's right or wrong," Mr. Brown said. "But all we have to go on is what we've read or hear off the streets."

Mr. Brown said he has encouraged CIGNA to bring its case to the state regulators, advice that CIGNA is heeding. CIGNA officials are scheduled to meet Mr. Brown this week. And, company officials met informally with Oregon regulators over the holidays, an Oregon department spokesman said.

"We want to give them every opportunity to convince us that what they're doing won't negatively impact policyholders in this state," Mr. Brown said. "But, the opposition has raised a lot of questions that have yet to be answered."

Outside of Pennsylvania, only regulators in Connecticut—which is among the seven states that must sign off on the plan—say they support the plan.

Connecticut regulators recommend that Commissioner George Reider Jr. approve the plan if Ms. Kaiser approves it, said Frances J. O'Connor, director of the examination division.

Ms. O'Connor said Connecticut regulators are "fairly comfortable" with both the financial aspect of the plan and with Tillinghast's study.

They also are pleased with the opinions CIGNA obtained from various consultants about Tillinghast's methodology and the fairness of the plan to policyholders, she said.

Additionally, CIGNA has demonstrated its willingness to work with regulators to beef up the plan, Ms. O'Connor said. For example, the \$500 million reinsurance feature and \$500 million of capital support were not originally part of the plan, she noted. CIGNA added those elements at the Pennsylvania department's request, she said.

For the Record

Derivatives suits planned by agency

WASHINGTON—The Labor Department is expected to take several cases to court this year that involve collateralized mortgage-backed securities, according to a source at the Department of Labor.

The source would not say whether the department would sue benefit plan sponsors or money management firms.

More than 10 cases are being seriously considered for trial, the source said.

However, any action inevitably will be delayed because of the federal government shutdown that resulted from the balanced budget stalemate.

Benefit plans generally are not considered major investors in financial derivatives, though their holdings may be more widespread than initially thought (BI, Dec. 26, 1994).

Sources said the Labor Department is trying to make an example of its derivatives cases, to show institutional investors that they need to be extremely careful when they are investing in derivatives.

Sources agreed the suits would not raise new legal issues but would elevate prudence standards.

New adviser is latest in shakeup at Lloyd's

LONDON—Top-level staff movements at Lloyd's of London

continue with last week's announcement that Chairman David Rowland has appointed a new senior adviser.

Christopher Moore will be looking at Lloyd's capital raising and funding requirements.

He previously had been a director of international investment bank Robert Fleming Holdings Ltd.

Mr. Moore is chairman of an international venture fund and a board member of an industrial group, as well as the Stop Loss Mutual Assn.

Mr. Moore was elected an underwriting member of Lloyd's in 1977.

However, Mr. Moore suspended his underwriting for this year at the time he assumed his post as adviser.

Classic

Continued from page 1

last month forged a plan—including the reinsurance, withdrawal and merger—to resolve financial complications involving those syndicates (*BI*, Jan. 1).

Indiana Insurance Commissioner Donna Bennett approved the merger Dec. 29, effective immediately, Chief Deputy Commissioner Marjorie Maginn said.

Other favorable regulatory reviews are expected, said Bruce Ricci, executive vp of Concord General Corp. of Concord, Calif., Classic Fire's parent. He declined to provide details.

The parties involved say the reorganization will consist of Classic and Geneva putting most of their assets into new trust accounts to pay claims. Classic is required by the IIE to put in assets worth at least 110% of its liabilities; Geneva only needs to put in assets equaling 100% of its liabilities but is required to have another \$4.7 million in reinsurance.

IIE premium volume will be off 15%, "which is not that bad—all things considered," says James M. Skelton.

Among the funds that will be placed in the trust accounts are those now held in IIE-required custodial accounts on behalf of policyholders.

Claims payments will be handled by Concord General operations, though the IIE will monitor their handling on an ongoing basis, and the Indiana Insurance Department will have regulatory authority over claims, said Mr. Skelton. Geneva will remain on the exchange as an inactive syndicate.

The exchange said the agreement "resolves a major concern about the announced runoff of Geneva's liabilities," which Mr. Skelton now estimates at \$59.9 million.

Geneva Assurance voluntarily ceased underwriting new or renewal policies last May and began a financial analysis in response to the IIE's concern about its capital adequacy (*BI*, May 22, 1995).

Classic Syndicate had been temporarily suspended last year after it failed to file a certified audit. A court then ordered Classic to limit its underwriting until it complied with IIE conditions. In addition, the Syndicate withdrew from writing coverage in California as of Sept. 1, 1995.

Policyholders would be adequately protected under the agree-

ment, said Mr. Skelton.

If Classic's assets exceed the required 110% of liabilities, the parent could withdraw excess funds.

However, if loss experience deteriorates in the future, Classic Fire & Marine could be called on to replenish the trust up to the aggregate amount of the trust before any withdrawals, Mr. Ricci said.

Both syndicates' obligations are expected to be met without triggering the IIE's \$35 million guaranty fund.

"The Illinois Insurance Department doesn't expect that Classic Syndicate's withdrawal will trigger the exchange's guaranty fund," said Jack Messmore, deputy director of the Illinois department's financial/corporate regulatory division.

A 1979 law gives IIE officials primary regulatory authority, while state regulators play only a secondary role. However, exchange officials have kept Illinois regulators informed about developments, and regulators "have no objections to what is taking place there," he said.

Still, if either syndicate were to be insolvent, claims could be made against the IIE guaranty fund, which consists of \$35 million already collected from premium surcharges, as well as individual syndicate custodial accounts.

Individual syndicates are committed to pay \$500,000 per insolvency, up to a \$1 million maximum, for subsequent insolvencies.

Exchange rules limit guaranty fund payouts to \$15 million per aggregate insolvency, \$300,000 per claimant per insolvency and also limit the return of unearned premium to \$10,000 per claimant.

Elimination of new underwriting by Classic and Geneva will hurt the exchange.

In simple terms of premium volume, Mr. Skelton estimates the 1995 total will be off 15% from 1994 levels, "which is not that bad—all things considered."

Some of the slack will be taken up by other syndicates like the RCA Syndicate #1 Ltd., which was reactivated Jan. 1, 1995, he said.

But the impact goes beyond capacity. Would-be investors have put their plans on hold during the disputes and some brokers are questioning the adequacy of policyholder protections.

Some wholesale brokers have stopped using the IIE in recent months, including the Crump Insurance Services Inc. unit of Sedgwick Group and Delaware Valley Underwriting Agency Inc. of Hattboro, Pa.

Dallas-based Crump had been using Classic Syndicate and had also placed business with lower-rated syndicates with letters of authorization from clients, said Orville D. Jones, Crump's chairman and chief executive officer. How-

ever, the broker stopped using the lower-rated syndicates and also dropped Classic when the syndicate ran into trouble with the IIE last year, he said.

Delaware Valley stopped using IIE syndicates in the fall, simply because it had other markets and no longer needed the exchange, said Chuck Conway, the agency's president.

Other brokerages are very interested in the IIE agreement.

"I'm going to watch this very, very closely," said Dick Smith, executive director of the Excess Line Assn. of New York, which acts as a stamping office.

No IIE syndicate currently writes in New York, though applications are pending from Classic Syndicate, Britamco Underwriters Inc. and Transco Syndicate #1 Ltd., which wrote \$24.8 million in 1994 gross premium on \$22.1 million in policyholder surplus.

"Because security is such an important part of the surplus lines marketplace, caution is always part of the process. I would expect that the situation at the exchange would cause brokers to continue to be very cautious about whatever security any insurer has," said Mr. Smith.

"It is never a positive thing when a market—for whatever reason—withdraws," said Edgar Clark, executive director of The Surplus Lines Assn. of California.

The IIE's Mr. Skelton said there is a need to reassure brokers about the market's viability. He will emphasize that the IIE still has "some very strong syndicates that are big players in the market." These include Britamco, which wrote more than \$40 million in gross premium in 1994 on \$41.6 million in surplus. The IIE considers Britamco its largest syndicate because it has the highest policyholder surplus. Its 1994 rating from Best was B++.

Concord General's Mr. Ricci sees Classic's withdrawal as having a mixed impact on the IIE.

"On one hand, Classic and Geneva were the two largest syndicates in terms of 1994 premium volume, so that would reduce exchange writings. On the other hand, it (the withdrawal agreement) provides new business opportunities for other exchange syndicates," he said.

"Our (Classic Syndicate's) withdrawal from the exchange is something we always contemplated," Mr. Ricci said, as the insurance company seeks to focus on its core business. The withdrawal also prompted other restructuring, so that four companies are merged into two and United Southern Assurance Co. of Florida becomes a unit of Classic Fire & Marine, he said.

Douglas McLeod contributed to this report.

Updates

Failed insurer officials charged

NEW ORLEANS—Several officials of the now-defunct ANA Insurance Co. are facing criminal charges stemming from the New Orleans-based insurer's 1993 collapse.

Federal prosecutors last week announced the indictment of Sam Presley II and his wife, Barbara McDaniel, who were ANA's owners; Morris Mahana, ANA's Louisiana manager; Robert Barich, a Los Angeles-based managing general agent for the insurer; and Noel J. Bunol III, ANA's former owner.

The indictment charges that Mr. Presley and Ms. McDaniel bought ANA from Mr. Bunol in 1990 for \$150,000, its net worth at the time, but that Mr. Bunol filed a false financial statement with Louisiana regulators claiming that ANA had the minimum required capital and surplus of \$350,000.

From 1990 to 1992, ANA wrote \$25 million in auto premiums in California but reported writing only \$2.5 million to avoid Louisiana loss reserve regulations, the indictment alleges. Mr. Presley and Mr. Mahana also included phony assets in ANA's financial statements, including Mississippi property actually owned by Mr. Presley's son.

Mr. Presley and Ms. McDaniel diverted about \$7 million of the insurer's money to their own benefit in the form of loans, salaries and expense payments, prosecutors allege.

The indictment charges Mr. Presley and Ms. McDaniel with conspiracy, fraud, racketeering and money laundering. Mr. Mahana and Mr. Barich are charged with conspiracy and Mr. Bunol with concealing his knowledge of a felony.

If convicted, they face sentences ranging from five to 20 years on each of the various charges. All of the defendants have pleaded not guilty. Neither they nor their lawyers could be reached.

OSHA to pare regulations

WASHINGTON—The Occupational Safety and Health Administration is considering a number of initiatives to fulfill the White House's desire to reduce regulations.

In a recent memo, Joseph A. Dear, the assistant secretary of labor who heads OSHA, says the agency wants to eliminate duplication in regulation for construction and shipyards.

Mr. Dear suggests one way to do this would be to publish a single volume regarding health and safety standards applicable to all industries, accompanied by industry-specific regulatory documents.

The agency also plans to consolidate some standards relating to carcinogens and eliminate outdated regulations.

Personal injury awards rise

HORSHAM, Pa.—The national median jury award for overall personal injury claims rose 17% last year to a four-year high of \$62,000, new research shows.

Product liability awards went exactly the opposite direction, though. The median jury award in these cases fell to \$260,000 in 1995, a 31.5% decrease from the previous year and a 48% decrease since 1993.

Plaintiffs won 53% of personal injury trials, consistent with data from three of the last four years, reported Jury Verdict Research of Horsham, Pa.

Among awards for other types of personal injury claims, the study indicates:

- The median jury award in wrongful termination and constructive discharge cases rose 40% to \$183,984.
- The median medical malpractice award last year rose 40% over 1994, returning to the record setting half-million dollar level of 1993. In addition, juries awarded million dollar awards in 35% of the cases, which is up from 27% in 1994.

Despite the high-dollar awards, 70% of all claims filed against physicians never result in any payment to the plaintiff, according to the Physician Insurers Assn. of America. In addition, 80% of the cases that go to trial are won by the defendant.

Long odds, however, haven't stopped patients from filing suit. Lawsuit filings against physicians are up by 11.4% since 1993, according to the American Medical Assn.

Copies of "1996 Current Award Trends in Personal Injury" are available form LRP Publications for \$39.95 plus \$4.50 for shipping and handling. Call 800-341-7874 ext. 307.

Briefly noted

John D. Vollaro named president and chief operating officer of W.R. Berkley Corp. Mr. Vollaro, formerly president of reinsurer unit Signet Star Holdings Inc., replaces W.R. Berkley as president of the parent company. Separately, the company has increased its ownership of Signet Star to 100% from 60% through completion of the previously announced purchase of stock from General Re Corp. Gen Re and Berkley were joint venture partners in Signet, which was formed in 1993 (*BI*, Feb. 22, 1993). . . . Creditors of the **KWELM companies**, which collapsed in 1990 with liabilities estimated at more than \$10 billion, have received a second payment from the scheme of arrangement set up and administered by Coopers & Lybrand. To date, \$703 million has been set aside to pay KWELM creditors. . . . Zurich Insurance Group and Insurance Partners L.P. have completed their acquisition of **Kemper Corp.** for just over \$2 billion (*BI*, April 17, 1995). Zurich now owns 97% of Kemper Financial Services and 80% of the two Kemper life subsidiaries, Kemper Investors Life Insurance Co. and Federal Kemper Life Assurance Co. The two Kemper life companies will be consolidated with Zurich Life of America into Zurich Kemper Life Insurance Group.

HMO enrollment increasing nationwide

By **JERRY GEISEL**

ST. PAUL, Minn.—Enrollment in health maintenance organizations—the least expensive health care delivery system—is increasing at a double-digit rate.

From Jan. 1, 1994, to Jan. 1, 1995, enrollment in the nation's 562 HMOs rose 12.8%, climbing to 50.9 million from 45.1 million, according to InterStudy, a St. Paul, Minn.-based managed care research organization.

HMO enrollment grew in all parts of the country, with the highest increase—27.8%—in the eastern south central states: Alabama, Kentucky, Mississippi and Tennessee, an area where managed care has been slow to develop until recently.

Enrollment also increased by more than 20% in the western south central states—Arkansas, Louisiana, Oklahoma and Texas—as well as in the southern Atlantic states, which include Delaware, the District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia and West Virginia.

Nationally, 17.6% of the population at the beginning of 1995 was enrolled in so-called pure HMOs, those that, for example, do not offer beneficiaries the opportunity to receive services outside the HMO's panel of providers.

Of that enrollment, the Pacific states—Alaska, California, Hawaii, Oregon and Washington—had the highest percentage of their popula-

tion enrolled in pure HMOs: 32.1%. The Northeast, which includes Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, had the second highest percentage of population in HMOs: 24.1%.

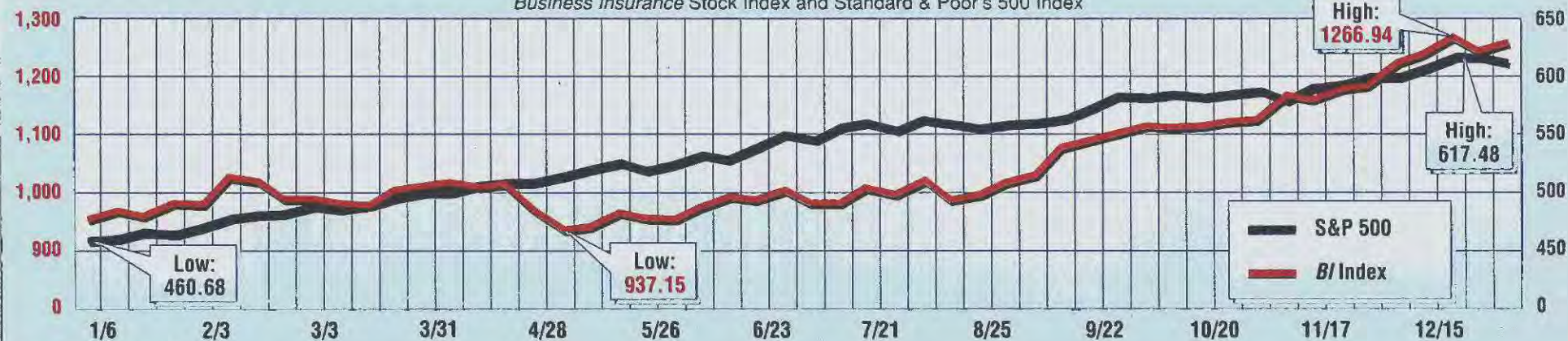
While HMO enrollment is rapidly growing in the eastern central states, just 8.3% of those states' population is enrolled in HMOs.

Copies of HMO enrollment statistics are published in the InterStudy Competitive Edge, Part II, Industry Report, 5.2.

The publication is available through InterStudy, P.O. Box 4366, St. Paul, Minn. 55104. The cost is \$150 and prepayment is requested.

1995 in review

Business Insurance Stock Index and Standard & Poor's 500 Index



GRAPHIC BY KIM ROME

The Business Insurance Index started the year at 955.19, reached a low of 937.15 on April 28 and a high of 1266.94 on Dec. 15. It closed the year at 1258.87, up 31.8% overall. By comparison, the Standard & Poor's 500 index started the year at a low of 460.68 and climbed through the year to a high of 617.48 on Dec. 15. It closed the year at 611.95, up 32.8%.

AT&T

Continued from page 1

In addition to the salary and cash benefits, AT&T also will pay COBRA health insurance premiums for workers and their dependents. The company will pay premiums for one year in the case of employees with at least five years of service, or six months for those with one to five years of service.

Afterwards, workers and dependents would be responsible for premiums for the remaining COBRA period, which would typically total 18 months.

AT&T also will permit laid off workers who are two years away from fulfilling pension requirements to apply for a pension after waiting out a two-year transition period.

AT&T managers are eligible for a pension benefit under the company's defined benefit plan based on various combinations of age and years of service. For example, a 55-year-old worker with 20 years of service is eligible, as is a 65-year-old worker with 10 years of service.

Under the terms of the layoff, employees within two years of combined age and service requirements when they are laid off can apply for a "transition to retirement" period of up to

two years. During this period, many company benefits can be maintained.

At the end of the interim period, pension payments will start, though they will be based on length of service at the time of the layoff.

During the transition period, the company will begin contributing toward retiree health care coverage. It also will pay for standard dental insurance, life and accident insurance equal to annual salary at the time of the layoff and an automatic survivor annuity. Employees in transition also may elect to pay for dependent life and accident coverages and long-term care insurance.

Employees eligible for the transition period also can obtain such services as child/elder care resource and referral, adoption resource and referral and adult disability services.

AT&T already had an existing retirement "bridge" for employees laid off within one year of their pension eligibility. The new program is an expansion of that, and is likely to open up pension benefits to another 5% of workers who face layoffs, said AT&T's Mr. Fromme.

The severance benefits are generous in some ways, said Don Gasparro, a managing director of The Apex Management Group, a Princeton, N.J.-based health care actuarial consulting group, especially the grant of up to \$10,000 for

expenses such as education. "It's an interesting benefit," he said. "It kind of gives a lot of flexibility to different age groups. The older group can evaluate the opportunity of going into business on their own, and the younger group can look at college courses. So it's a nice incentive."

The cash benefits, however, do not appear especially impressive compared to those given out by some other large companies in recent layoffs, he said.

"It's not as rich, especially for those who have been there a long time," he said. "I've seen companies that gave out one or two years' pay to long-term employees."

And even though the two-year retirement transition does offer more veteran workers a way to preserve their pensions, the package itself does not offer many benefit enhancements compared with AT&T's standard retirement benefits, one benefit consultant said.

Nonetheless, Stephen Parahus, a consultant for Fort Lee, N.J.-based Kwasha Lipton L.L.C., said AT&T's severance package seems fairly generous and that the paid COBRA health benefit will be especially valuable. Many employees could not use AT&T's cash benefit to start a new business, for example, if they had to worry about maintaining COBRA payments in the first year after a layoff.

PCS catastrophe options

As of Jan. 5	Call spread	Price bid/ask	Call spread	Price bid/ask
Eastern September 1996			California Annual	
40/60	4/4.6		40/60	2/4.5
50/70	4/-		80/100	1.6/2.6
80/100	2.5/4			
Northeast Sept. 1996			West Annual	
40/60	1.4/2		40/60	2.5/4.6

Total volume: 66 Total open interest: 960
For information on PCS cat options, call 312-435-3674.
Source: Chicago Board of Trade

British Issues

Jan. 4	Price	P/E	Div.	Yield	1 week
Companies	pence		pence	%	high-low
Comml Union	610	12.2	35.0	5.7	628-610
Gent Accident	646	9.2	38.8	6.0	659-642
Gdn Royal Exch	267	8.9	11.3	4.2	276-267
Independent	376	8.4	13.8	3.7	376-374
Royal	385	7.9	18.8	4.9	392-382
Sun Alliance	369	8.0	21.3	5.8	380-369
Brokers					
Bradstock	75	12.5	7.1	9.5	75-71
Fenchurch	142	9.5	10.6	7.5	142-140
CE Heath	164	10.3	12.5	7.6	165-149
JIB Group	106	11.1	9.4	8.9	106-102
Lloyd Thompson	184	11.3	11.3	6.1	184-167
Lowndes Lmbrt	148	8.0	11.0	7.4	148-132
Nelson Hurst	157	10.5	9.5	6.0	157-146
Sedgwick Grp	129	11.3	8.1	6.3	129-121
Steel Brt Jones	34	4.3	5.6	16.4	34-34
Willis Corroon	149	13.5	8.3	5.6	150-141

Source: Philip Olsen, London * Actual, Others estimated

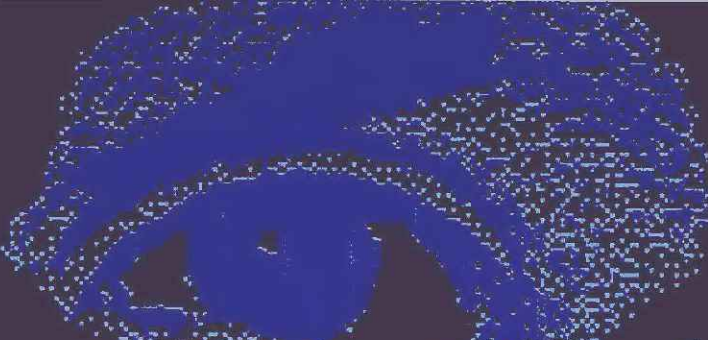
BI Industry Stock Report JAN. 2, 1996, THROUGH JAN. 5, 1996

BROKERS

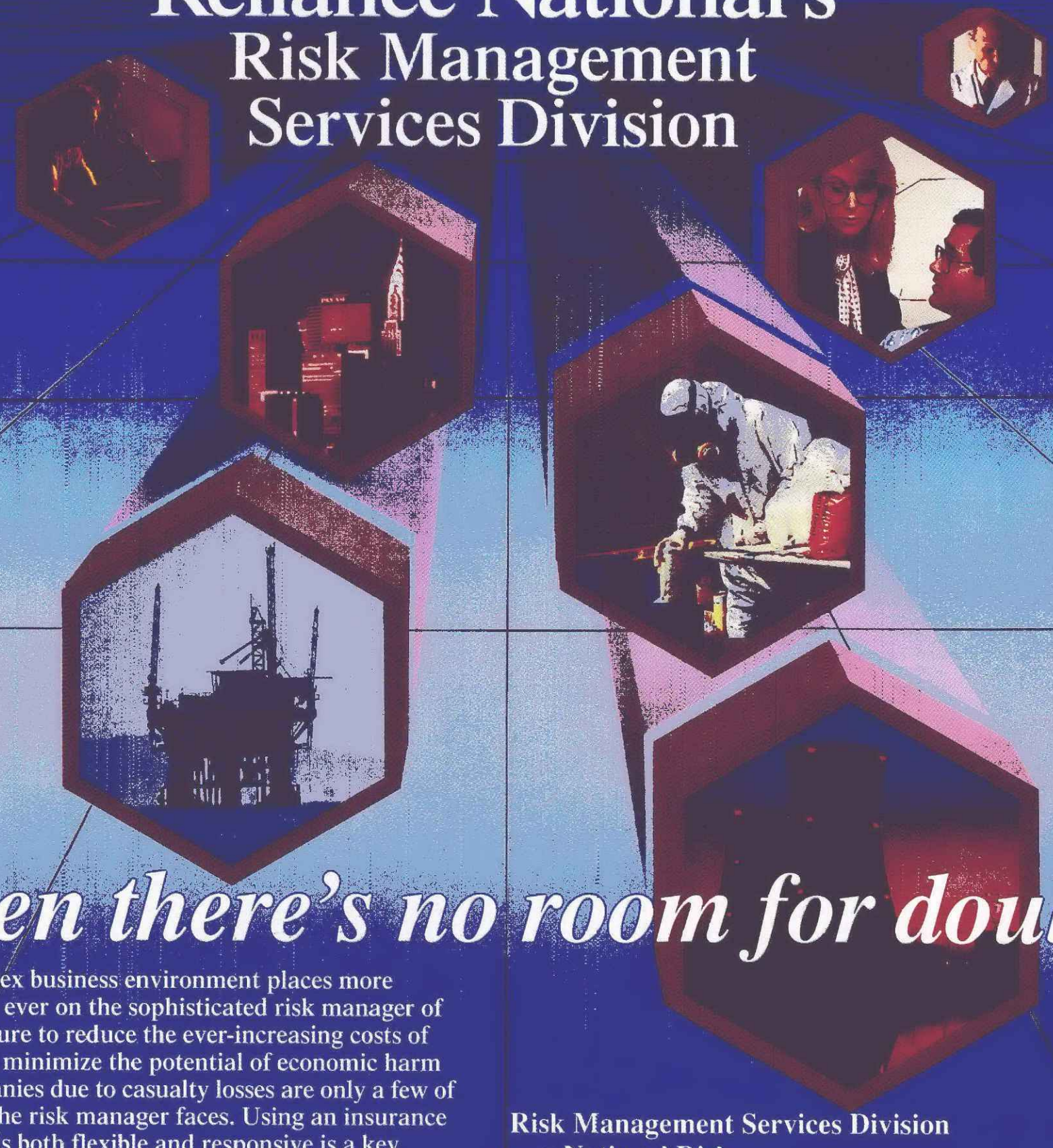
BROKERS																											
		Price	Weekly % change	Year to date % change	Annual										Price	Weekly % change	Year to date % change	Annual									
					High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value						High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value		
Accordia Inc.	NYS	29.75	0.00	0.00	34.50	23.50	14	0.72	2.42	16	14.00	2.13	National Re Corp.	NYS	36.875	-2.96	-2.96	38.13	25.75	71	0.2	0.54	19	17.05	2.16		
Alexander & Alexander	NYS	19	0.00	0.00	26.44	18.13	289	0.1	0.53	-15	19.17	0.99	Navigators Group	NDQ	18	2.13	2.13	19.75	12.75	10	0.00	0.00	17	10.21	1.76		
E.W. Blanch Holdings Inc.	NYS	22.375	-4.28	-4.28	23.38	16.50	40	0.4	1.79	17	4.93	4.54	Nobel Insurance Ltd.	NDQ	11.625	2.20	2.20	12.25	8.13	47	0.2	1.72	5	6.84	1.70		
Gallagher Arthur J. & Co.	NYS	36.875	-1.01	-1.01	38.00	30.13	61	1	2.71	15	6.48	5.69	Ohio Casualty Corp.	NDQ	38	-1.94	-1.94	39.25	28.25	214	1.52	4.00	20	23.64	1.61		
Hill, Rogal & Hamilton	NYS	13.75	2.80	2.80	14.38	10.50	21	0.6	4.36	17	1.21	11.36	Old Republic Int'l	NYS	34.375	-3.17	-3.17	35.50	21.00	279	0.52	1.51	11	25.79	1.33		
Kaye Group Inc.	NDQ	8	0.00	0.00	10.75	6.75	0	0.1	1.25	9	NA	NA	Orion Capital Corp.	NYS	43.25	-0.29	-0.29	45.25	34.25	59	0.92	2.13	9	26.00	1.66		
Marsh & McLennan	NYS	88.375	-0.42	-0.42	90.13	76.13	644	3.2	3.62	17	19.95	4.43	Partner Re Ltd.	NDQ	27.25	-0.91	-0.91	28.38	18.75	674	0.00	0.00	0	20.37	1.34		
Poe & Brown	NDQ	25	0.50	0.50	25.25	20.25	23	0.48	1.92	15	5.15	4.85	Penn-America Group Inc.	NDQ	14.875	4.39	4.39	15.50	6.50	97	0.12	0.81	13	6.40	2.32		
BROKERS													AVERAGE														

INSURERS/REINSURERS

ACE Ltd.	NYS	39	-1.89	-1.89	40.00	21.88	466	0.00	0.00	0	22.45	1.74	Provident Life	NYS	28.375	0.00	-2.16	29.75	20.50	0	0.72	2.54	13	22.34	1.27
Acceptance Insurance Cos.	NYS	15.375	3.36	3.36	17.50	13.13	87	0.3	1.95	31	10.76	1.43	Prudential Reinsurance	NYS	22.5	-3.74	-3.74	23.50	18.50	935	0.12	0.53	13	NA	NA
AEGON N.V.	NYS	45.125	2.56	2.56	46.75	25.63	31	1.08	2.39	17	17.28	2.61	Reliance Group Holdings	NYS	8.375	-2.90	-2.90	9.25	4.88	613	0.32	3.82	12	3.42	2.45
Aetna Life & Casualty	NYS	70.25	1.44	1.44	76.75	48.75	3129	2.76	3.93	34	48.85	1.44	Reliastar Financial Corp.	NYS	42.625	-3.94	-3.94	44.50	29.00	532	1	2.35	10	24.53	1.74
AFLAC Inc.	NYS	45.25	4.02	4.02	46.00	31.88	711	0.52	1.15	13	17.58	2.57	RenaissanceRe Holdings Ltd.	NDQ	31.125	2.47	2.47	33.13	20.72	40	0.00	0.00	0	NA	NA
Allied Group Inc.	NDQ	36.75	2.08	2.08	36.75	23.31	88	0.68	1.85	8	21.81	1.69	Risk Capital Holdings	NDQ	22.5	-3.74	-3.74	23.38	19.88	481	0.00	0.00	0	NA	NA
Allmerica Prop. & Casualty	NYS	26.375	-2.31	-2.31	27.13	17.00	122	0.16	0.61	11	19.87	1.33	RLI Corp.	NYS	25	0.00	0.00	25.38	16.38	48	0.52	2.08	34	20.51	1.22
Allstate Corp.	NYS	41.5	0.91	0.91	42.38	23.75	5628	0.78	1.88	11	18.75	2.21	St. Paul Companies	NYS	58.125	4.49	4.49	59.38	43.50	916	1.6	2.75	11	32.46	1.79
American Financial Group	NYS	31.75	3.67	3.67	32.88	22.88	550	1	3.15	30	24.94	1.27	SAFECO Corp.	NDQ	35.375	2.54	2.54	38.25	25.13	1587	1.06	3.00	12	44.95	0.79
American General	NYS	34.25	-1.79	-1.79	39.13	27.75	1509	1.24	3.62	12	17.03	2.01	SCOR U.S. Corp.	NYS	15.25	0.00	0.00	15.75	7.50	0	0.2	1.31	17	13.60	1.12
American Heritage Life Ins.	NYS	22.875	0.00	0.00	23.88	16.25	39	0.72	3.15	12	12.51	1.83	Selbels Bruce Group	NDQ	1.6875	12.50	12.50	3.06	0.44	55	0.44	26.07	-1	0.04	42.19
American Indemnity/Fin'l	NDQ	10	0.00	0.00	10.25	9.00	2	0.3	3.00	13	15.92	0.63	Selective Ins. Group	NDQ	35.5	0.00	0.00	38.38	24.50	262	1.12	3.15	10	23.23	1.53
American International	NYS	94	1.62	1.62	95.50	64.13	3726	0.34	0.36	18	34.66	2.71	Sphere Drake Holdings	NYS	13.875	-0.89	-0.89	19.13	12.88	27	0.00	0.00	0	13.86	1.00
American Re Corp.	NYS	42	2.75	2.75	45.00	29.13	565	0.32	0.76	14	16.77	2.50	TIG Holdings	NYS	28.375	-0.44	-0.44	29.50	18.63	472	0.2	0.70	17	16.62	1.71
Aon Corp.	NYS	51	2.26	2.26	51.00	31.88	864	1.36	2.67	15	18.30	2.79	Titan Holdings, Inc.	NYS	14	-2.61	-2.61	15.75	9.38	26	0.3	2.14	10	9.04	1.55
Argonaut Group	NDQ	31.75	-2.31	-2.31	34.50	27.75	44	1.32	4.16	14	29.91	1.08	Tokio Marine & Fire	NDQ	69	4.55	4.55	69.25	49.88	7	0.4	0.58	24	57.72	1.20
AVEMCO Corp.	NYS	15.625	-2.34	-2.34	18.25	14.63	26	0.48	3.07	17	6.28	2.49	Torchmark Corp.	NYS	45.5	0.55	0.55	46.00	34.75	617	1.16	2.55	12	17.37	2.62
Baldwin & Lyons Inc.	NDQ	16.75	3.08	3.08	17.63	14.25	76	0.32	1.91	9	13.90	1.21	Transatlantic Holdings	NYS	74.375	1.36	1.36	74.38	52.25	105	0.48	0.65	13	33.30	2.23
Berkley W.R. Corp.	NDQ	51.75	-3.72	-3.72	55.50	34.50	462	0.48	0.93	20	34.46	1.50	Transnational Re Corp.	NDQ	24.625	0.51	0.51	27.25	18.75	54	0.00	0.00	7	18.84	1.31
Berkshire Hathaway Inc.	NYS	300.00	-6.54	-6.54	334.00	203.00	1	0.00	0.00	63	10089.11	2.97	Travelers Corp.	NYS	60.625	-3.58	-3.58	63.88	33.00	2632	0.8	1.32	13	24.77	2.45
Capital RE Corporation	NYS	30.875	0.41	0.41	31.63	22.00	44	0.24	0.78	11	22.30	1.38	Trenwick Group Inc.	NDQ	56.125	-0.22	-0.22	57.50	40.75	28	1.12	2.00	13	29.23	1.92
Capsure Holdings Corp.	NYS	16	-9.22	-9.22	18.13	12.38	53	0.00	0.00	15	14.61	1.10	United Fire & Casualty	NDQ	41.75	-0.60	-0.60	43.75	26.75	4	0.9	2.16	10	28.96	1.44
Chubb Corp.	NYS	101.125	4.52	4.52	102.00	57.00	2084	1.96	1.94	14	48.92	2.07	Unitrin	NDQ	47.25	-1.56	-1.56	50.50	43.25	198	2	4.23	13	37.51	1.26
CIGNA Corp.	NYS	106.625	3.27	3.27	115.00	62.25	1723	3.04	2.85	69	80.46	1.33	UNUM Corp.	NYS	57	3.64	3.64	57.50	38.25	701	1.06	1.86	15	26.45	2.16
CNA Financial Corp.	NYS	114.75	1.10	1.10	123.25	64.75	114	0.00	0.00	11	71.13	1.61	US Facilities Corp.	NDQ	20.625	-3.51	-3.51	23.38	9.88	189	0.2	0.97	9	11.66	1.77
EMC Insurance Group Inc.	NDQ	13.75	0.00	0.00	15.25	9.50	7	0.56	4.07	9	11.13	1.24	USF&G Corp.	NYS	16.75	-0.74	-0.74	19.50	13.38	1231	0.2	1.19	9	10.86	1.54
EXEL Ltd.	NYS	59.625	-2.05	-2.05	65.50	38.63	304	0.00	0.00	0	31.47	1.89	USLIFE Corp.	NYS	30.75	2.93	2.93	32.25	22.63	465	0.93	3.02	11	38.45	0.80
Fremont General Corp.	NYS	35.375	-3.74	-3.74	37.25	18.88	210	0.8	2.26	10	19.04	1.96	Washington National	NYS	28.375	2.71	2.71	30.50	17.75	344	1.08	3.81	11	25.13	1.13
Frontier Insurance Group	NYS	31	-3.13	-3.13	33.75	20.25	31	0.48	1.55	13	14.65	2.12	Zenith National Ins.	NYS	25.15	0.58	0.58	24.63	19.38	34	1	4.65	29	16.35	1.31
Gainsco Inc.	ASE	11	-3.30	-3.30	12.38	7.75	56	0.05	0.45	15	3.98	2.78	Zurich Reinsurance Centr.	NYS	30.25	-0.41	-0.41	30.88	27.88	14	0.00	0.00	35	21.64	1.40
General RE Corp.	NYS	154.625	-0.24	-0.24	158.25	122.50	767	1.96	1.27	16	59.35	2.61	INSURERS/REINSURERS	AVERAGE		-0.1	-0.1					2.3	15.7		
Guaranty National Corp.	NYS	15.375	0.00	0.00	19.00	13.75	34	0.5	3.25	16	11.60	1.33	HEALTH MAINTENANCE ORGANIZATIONS												
Harleysville Group	NDQ	32.75	1.16	1.16	33.00	23.50	42	0.76	2.32	11	20.72	1.58	PHP International	NDQ	28.875	-1.32	1.32	30.00	19.50	1056	0.00	0.00	152	28.15	1.03
Hartford Steam Boiler	NYS	49.75	-0.50	-0.50	51.50	39.25	206	2.28	4.58	17	14.68	3.39	Humana Inc.	NYS	26.75	-2.28	-2.28	28.38	17.00	3411	0.00	0.00	23	6.56	4.08
HCC Insurance Holdings	NYS	36.75	-0.68	-0.68	38.50	20.00	68	0.00	0.00	19	15.86	2.32	Pacificare Health Sys.	NDQ	86.5	-0.57	-0.57	93.25	44.50	216	0.00	0.00	24	15.02	5.76
ITT (Hartford Group)	NYS	51.5	-2.83	-2.83	53.13	47.50	2470	1.98	3.84	5	45.46	1.13	Safeguard Health Enter.	NDQ	12	3.23	3.23	13.25	8.25	2	0.00	0.00	30	6.15	1.95
Lincoln National	NYS	52.5	-2.33	-2.33	55.38	34.63	748	1.84	3.50	11	28.90	1.82	Sierra Health Services	NYS	31.375	-1.18	-1.18	33.63	22.13	133	0.00	0.00	17	9.22	3.40
Market Corp.	NDQ	78	0.66	0.66	76.00	40.75	63	0.00	0.00	15	25.71	2.96	United Healthcare Corp.	NYS	62.875	-3.82	-3.82	65.63	34.13	4048	0.03	0.05	31	16.17	3.89
Meadowbrook Insur. Group	NYS	30.75	-8.21	-8.21	33.88	24.00	220	0.08	0.28	28	NA	NA	U.S. Healthcare	NDQ	44.125	-5.11	-5.11	47.50	26.50	5022	1.1	2.49	18	5.66	7.80
Mid Ocean Ltd.	NDQ	36.625	-1.35	-1.35	38.75	24.50	197	0.00	0.00	0	22.18	1.65	Wellpoint Health Networks	NYS	32.25	0.39	0.39	37.00	27.00	371	0.00	0.00	15	14.26	2.26
Mutual Risk Mgmt. Ltd.	NYS	44.5	-2.73	-2.73	45.75	24.88	129	0.4	0.90	21	9.72	4.58	HMOs	AVERAGE		-1.0	-1.0					0.3	34		
NAC Re Corp.	NYS	35.75	-0.69	-0.69	39.00	28.25	97	0.2	0.56	12	18.23	1.96	ALL COMPANIES	AVERAGE		-0.5	-0.5					2.4	20		



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