

Famous filly Ruffian is insured for race fatality



Ruffian is held by handlers after her breakdown at Belmont Park. She is wearing a plastic air cast on her right foreleg.

By LINDA MOSKOWITZ

NEW YORK—Ruffian, the famous filly who was humanely put to death after breaking a leg during a highly publicized match race with Kentucky Derby winner Foolish Pleasure, was insured through the Clay Ward Agency of Paris, Ky., representing Lloyd's of London.

The amount of coverage on the horse was not disclosed by the agency. Various sources connected with the business end of horse racing, however, speculated that the total amount of insurance on Ruffian was below that of her male competitor Foolish Pleasure.

Foolish Pleasure is insured for \$1 million. Fasig-Tipton, New York horse auctioneers, has part of the coverage, which is reinsured by Lloyd's. Stallions are traditionally worth more because

of their greater breeding value.

Insurance coverage on Ruffian reportedly was not purchased until three weeks ago.

Frank LaBoyne, a representative of Fasig-Tipton's insurance division, conjectured that Ruffian may have been insured for \$500,000. The figure, he said, is based only upon his knowledge of the racing business and the comparative worth of fillies and stallions.

However, another horse insurance broker, Charles Kimmel, has been quoted as saying he would have been happy to insure Ruffian for \$1.5 million.

Foolish Pleasure's insurance is expected to increase to \$3 million or \$4 million, when the horse is syndicated for breeding. The record coverage is now held by Secretariat, the former Triple Crown winner, at \$6.08 million (*Business Insurance*, Jan. 21, 1974).

AT&T tags Met, Pru, Equitable for lion's share of dental plan

By MARIE KRAKOWIECKI

NEW YORK—American Telephone & Telegraph Corp. picked eight insurers to underwrite a nationwide dental plan negotiated for more than a million AT&T employees and their dependents at 23 locations. The cumulative annual cost to AT&T will be in excess of \$100 million, *Business Insurance* learned.

Following a round of vigorous competitive bidding for the lucrative contracts, these companies were selected by AT&T:

- Metropolitan Life Insurance Co., which will write the dental plan for nine Bell System locations having a total of 354,000 lives.
- Equitable Life Assurance Society for four locations, with 242,000 lives.
- Prudential Life Insurance Co., for six locations, with 215,000 lives.
- The Travelers, for one location. New York Telephone, with 85,000 lives.
- Provident Life & Accident Insurance Co., one location, 54,000 lives.
- Mutual of Omaha, one location, 29,000 lives.
- Blue Cross of Wisconsin, one location, 11,000 lives.

• Connecticut General Life Insurance Co., one location, 10,000 lives.

Therese Pick, AT&T's administrator of employee benefits, confirmed a rule-of-thumb approximation of the premium cost. In each case, AT&T will pay about \$100 per person per year on a composite rate basis.

Metropolitan walked off with the lion's share of the business, for about a \$34.5 million annual premium, followed by Equitable and Prudential, which respectively will receive in the area of \$24.3 million and \$21.5 million, using the \$100 rule-of-thumb. The others follow suit in the order listed above.

Each of the Bell companies that worked on negotiations for the dental plan was free to use local consultants. The broker most widely used however, was the New York office of Johnson & Higgins, Ms. Pick confirmed.

She said Marsh & McLennan's San Francisco and Indiana offices participated, too, as did J&H's Chicago and Philadelphia offices.

Although eight carriers are involved on the dental plan, its design will be uniform in all 23 locations. When it goes into effect

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business insurance

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FIA picks up \$50 million net premium in OIA merger

By SUSAN ALT and MARGARET LeROUX

NEW YORK—In an attempt to streamline operations and brighten what has been a darkening premium picture, Factory Insurance Assn. (FIA) and Oil Insurance Assn. (OIA) will merge Dec. 1 to form a new property pool to be known as Industrial Risk Insurers (IRI).

The merger will enhance OIA's capacity, according to industry sources. That capacity was severely hurt in the late 1960s by the formation of OIL Ltd. and other petroleum and petrochemical company captives.

The association lost a number of big accounts to OIL Ltd. and self-insurance, including Union Carbide and Cities Service Co.

OIA's five-year experience ended in December 1973 showing a total premium volume of \$335 million, an average of almost \$70 million per year. By 1973, however, OIA's premium volume had dropped to \$50.4 million, industry experts told *Business Insurance*.

FIA generated a written premium volume of \$163 million in 1974, according to Frederick J. Goodfellow, general manager of FIA. Brokers, however, said FIA generated a gross premium volume of \$300 million in 1974 and has experienced a premium decline of at least 20% since 1972.

Mr. Goodfellow denied FIA experienced a decline, though he refused to disclose premium volume figures for that period. He said FIA expects to generate premiums of "at least \$180 million in 1975."

For FIA, the merger will be an expansion into the oil and petrochemical industry, risks not generally in the highly-protected-risk (HPR) category. FIA has been known as a very strict property underwriter, wanting only HPR risks and taking few, if any, property packages including HPR and non-HPR risks.

"It's a case of them needing each other," one industry source commented.

The merger will eliminate overlap between the two associations, a spokesman for OIA said. There are 46 fire insurance companies in the OIA, and FIA's membership includes 40 insurance companies. Most of the IRI companies are longtime members of both pools.

An OIA spokesman predicted little change in services supplied by either association, "at least for the first few years."

Both the FIA and OIA offer clients extensive engineering and inspection services. However, OIA's engineering staff is said to be "the best trained in the industry," and some risk managers expressed fear that the quality of OIA inspection and engineering

services would suffer as a result of the merger. Most petrochemical firms have large in-house engineering staffs and use OIA engineers as advisory and support experts on particular problems.

"I hope OIA won't go the route of the grain association merger with FIA, when the grain association started out being a separate wing of the company but in a few years was out of business," one risk manager observed.

Spokesmen for both OIA and FIA said that Industrial Risk Insurers will operate as a separate division of the FIA and the engineering and inspection staff of the OIA will remain the same.

Mr. Goodfellow, general manager of FIA, will also act as general manager of Industrial Risk Insurers and R. Blinn McClelland of OIA will be assistant general manager in charge of the pool's oil division.

Beginning Dec. 1, all standing OIA policies will be 100% reinsured by the new pool.

The merger will not affect available limits of fire and allied perils insurance coverage to be written, said an official of the new pool. He speculated, however, that in the next three to five years additional capacity may become available. He also noted that the entire combined organi-

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Deposit box robbery victims awarded \$1.2 million

Ca. bank held liable for ad claims

By JOANNE GAMLIN

SANTA ANA, CA.—After a week of deliberation, a jury in Orange County Superior Court found United California Bank to be liable on three out of four causes of action brought in the trial springing from the \$3.3 million burglary of the vault of its Laguna Niguel branch in March, 1972.

The jury found United California Bank (UCB) to be liable for negligence, breach of express warranty and bad faith. However, it did not name the bank in a fourth cause of action, civil fraud.

More significantly, the jury did not return a verdict for punitive damages.

Legal experts told *Business Insurance* that this case is highly significant for all corporations because of its potential for setting legal precedents regarding liability for express warranties contained in advertising claims.

"We are looking at the case to see if it contains new law," said the bank's chief defense attorney Claire D. Johnson.

The jury returned a verdict on July 26 covering compensatory damages and mental distress in the amount of \$1,209,000. Plaintiff attorney Arthur N. Hews had asked for compensatory and punitive damages totaling over \$11 million.

During the six week trial it had been pointed out that all but \$800,000 of the \$3.3 million lost in the burglary has been recovered.

The fact that no punitive damages were brought by the jury prompted one bank official to tell this magazine that "we won." And it is true that Mr. Hews warned the jury during his final arguments that unless they brought in a verdict for punitive damages, UCB, which lost only \$50,000 in the burglary, could be said to have

profited from the crime.

At presstime, the bank had not decided whether to appeal the verdict, a spokesman for chief defense attorney Johnson said.

The bank is known to be partially insured for the \$1.2 million loss. But the question of where the claim lays within the bank's insurance program has not yet been resolved, said George Kohl, assistant vp in charge of the bank's insurance, who was also a defense witness.

An industry source outside the company but close to the situation said that the question is whether the loss would come under the bankers blanket bond, which is underwritten by Pacific Indemnity Co., or under the general umbrella liability policy which is covered in the primary levels by Pacific Indemnity and in the excess area by the Continental Group.

One question to be unraveled, Continued on page 8

Settle suit out-of-court for lost commissions

By ELISABETH M. WECHSLER

NEW YORK—Marsh & McLennan Inc. and Consolidated Mutual Insurance Co. agreed to pay Polar International Brokerage Corp. \$11,000 each to settle out-of-court a lawsuit claiming that Polar was denied payment of earned commissions.

The suit, filed in New York State Supreme Court in March 1973 charged that when a Polar client, Ohrbach's, switched to Marsh & McLennan as broker of record, commissions owed Polar on a three-year policy were not paid.

The coverage underwritten for both brokers by Consolidated Mutual, involved workers' compensation and comprehensive general liability (CGL) policies, generating commissions of \$160,000 and

\$140,000 a year, respectively, according to Stanley Kleckner, president of Polar.

Originally, Polar asked for \$67,000 in lost commissions from Marsh & McLennan and Consolidated Mutual, Mr. Kleckner said. The out-of-court settlement totaled \$22,000 with each defendant contributing \$11,000. All three principals are based here.

Marsh & McLennan declined to comment either on the settlement or on Mr. Kleckner's charges that small- and medium-size brokerage firms do not get fair treatment when competing with large national brokers.

"The intent of our suit was to demonstrate once and for all that the small- or medium-sized independent insurance brokerage firm has a right to expect that its business and professional rights will be respected, no matter how big the insurance underwriters and brokerage organizations become," Mr. Kleckner said.

According to him, Consolidated Mutual "cancelled, then rewrote" the policies brokered by Polar to the "same" specifications when the policies had more than two years before expiration. The commissions were being paid in monthly installments, he added.

"The original broker is entitled to the commissions for three years" or the full term, Mr. Kleckner said. Ohrbach's paid 12 premium installments to Polar before it moved its account to Marsh & McLennan, he explained. Polar, in turn, paid Consolidated Mutual

the "net premium" from which the commission already was deducted.

Benjamin Gelerman, senior vp and general counsel for Consolidated Mutual, disagreed. "(We) did not feel any further payment of premiums was appropriate," he said. Local custom determines how the commission payments are to be split when brokers' accounts change, he explained. It also depends on the "extent of the broker's contribution, the length of the policy term and the type of policy," he added.

"If we'd thought from the beginning Polar was correct, we would have paid it," Mr. Gelerman emphasized.

"A case that is settled on a basis of equal contribution with Marsh & McLennan is not necessarily a case that would have ended adversely (for us) if it had gone to a jury," Mr. Gelerman said. "I view it as a compromise—not that they would win or lose the case if it had continued." After all, lawsuits are expensive, he added.

"We deal with brokers exclusively," he said, "and we don't like to see lawsuits between brokers."

Tolley plans to acquire

Preliminary papers are signed for Tolley International Corp.'s acquisition of Jackson-Hardin, Inc. of Atlanta and New Orleans. Tolley, based in Indianapolis, supplies services to employee benefit plans and liability insurance for fiduciaries. Jackson-Hardin developed the "Shreveport Plan" of prepaid legal services under a grant from the American Bar Assn. and seeks data processing services and actuarial assistance through Tolley.

USAIG has Eastern's primary liability cover

By MARIE KRAKOWIECKI

NEW YORK—The primary liability coverage for the nation's worst air disaster to date was written by the United States Aviation Insurance Group for Eastern Airlines. Marsh & McLennan was the broker on the account.

Associated Aviation Underwriters, which had the major share of coverage in Eastern's 1972 crash of a Tri-Star jumbo jet in Miami, is not significantly involved in coverage in the latest tragedy, an AAU spokesman said last month.

The USAIG-covered crash occurred here outside Kennedy International Airport June 24 as the pilot of a Boeing 727 attempted to

land during a severe storm. Of 124 passengers on board, 113 have died.

Before the crash, the air traffic controller was advised by the pilot of another incoming plane to close runway 22 because of sharp wind turbulence in the area. The runway was kept open.

Port Authority of New York and New Jersey, the agency which controls operations for Kennedy Airport, was named along with Eastern Airlines in a \$2 million lawsuit by survivors of one of the crash victims.

Joseph DeMarinis, risk manager for the Port Authority, declined comment on this specific case. However, Mr. DeMarinis said the major responsibility for closing airports' runways is with the Federal Aviation Administration rather than with the Port Authority's air controllers.

The Port Authority continues to self-insure its liability and compensation for the first \$500,000, as it did in 1973. This self-insured portion is administered by the Port Authority insurance division, and the agency carries \$100 million in coverage above this with a number of major insurers.

Mr. DeMarinis believes the Port Authority does not bear liability for this case. "We get sued on all of these. But if you listen to the recordings, I think you'll see it was a clear case of pilot error," the risk manager said.

While Eastern and its insurers would not comment, it appears the airline made, or was forced to make, a major change in its liability carrier after the Tri-Star crash in Miami late in 1972.

Florida sources said AAU would be expected to pay about \$35 million in claims as a result of the 1972 crash, and Lloyd's of London has predicted a figure as high as \$60 million in total claims.

ABA probes liability issue

CHICAGO—An American Bar Assn. (ABA) task force on professional liability coverage for lawyers is considering the creation of an ABA insurance trust to underwrite policies for members of affiliated state bar associations.

Another solution, according to James D. Fellers, ABA president, is investigating the feasibility of the ABA forming a long term insurance agreement with a single carrier to provide professional liability to members of affiliated state bar associations.

Mr. Fellers said lawyers' malpractice suits are creating the possibility of the same crisis as there is in the delivery of medical services.

"It's not a crisis yet," said a spokesman for the ABA, "but the situation with doctors has shaken the lawyers up a bit."

AT&T...

Continued from page 1

on Jan. 1, 1976, it will provide full payment for diagnostic and preventive service without a deductible.

A \$50 lifetime deductible will apply for restorative services such as oral surgery, periodontics, endodontics, and prosthodontics. Payment will follow a predetermined schedule.

While information on which carriers underwrite the dental plan for which locations was not uniformly available, it appears Metropolitan Life will handle contracts for Southern New England Bell; New England Bell; Southern Bell; Illinois Bell; Chesapeake & Potomac Bell; Michigan Bell; AT&T Longlines; Ohio Bell; and the Northern California and Nevada divisions of Pacific Telephone and Telegraph.

Travelers will work with New York Telephone, whose workforce accounts for approximately 8% of the AT&T total. Prudential won the business for New Jersey Bell; Bell Labs (Murray Hill, N.J.); the general departments and corporate headquarters of AT&T; Southwestern Bell; Pacific Telephone and Telegraph (South); and (lumped together as one account) Pennsylvania Bell and the Diamond State (Del.) Bell.

The nationwide unions that represent AT&T and Bell System employees (about 750,000 employees belong to the unions) won the right to a dental plan in labor talks that were ended in the latter part of 1974.

The union demands for a dental plan set off a round of competitive bidding by insurance companies that was already in full swing early this year (B.I., Feb. 24). AT&T's final selection of carriers apparently was engineered sometime in May, but the communications giant did not publicize its move until this month. This was largely because, as one AT&T source explained, it did not want to "exacerbate" what is apparently a fierce competition by the insurers for the dental business.

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More California workers turning to courts to help resolve comp claims

SAN FRANCISCO—Uncertainty, anxiety and a lack of understanding of workers' compensation laws in California combine to impel injured workers in the state to litigate their claims, according to an opinion research study conducted by the California Workers' Compensation Institute (CWCI).

Litigation of workers' compensation claims is a growing problem in the state. In 1974, every 16th claim for workers' compensation benefits was litigated in California, a hefty 20% jump over the figure for 1973, CWCI statistics reveal. Moreover, preliminary figures for 1975 indicate that a higher percentage of injured workers are turning to the courts for help in resolving workers' compensation disputes.

To alter an injured workers' emotional attitude concerning the compensation procedure, the CWCI has devised a three-pronged "litigation prevention" program David L. McIntyre, said.

It consists of enhancing the quantity and quality of communications during the period of benefit delivery; providing specialized training for claims technicians; and, furnishing more information about workers' compensation to key audiences.

Key finds of the opinion study, made in Los Angeles and Orange Counties in 1973, point to widespread ignorance of the workers' compensation procedure:

- 74% of those interviewed said they had no pre-injury knowledge of workers' compensation.

- Three out of every four employees said they received little or no information about workers' compensation from their employers.

- Twenty percent of employees surveyed said they had no contact with the insurer. And of those who said they did have contact, more than half reported that the com-

pany representative was "not at all helpful," . . . primarily, says the study, "because of perceived unwillingness to answer questions and explain procedures."

- Union members, half of the total sample, said they received little assistance or information from their union. Eighty percent of those who did contact their union were told to see an attorney.

- The typical litigant is most apt to see an attorney about two weeks after the injury, in most instances, says the study, "after contact with the employer, physician and insurer and after receiving the first payment of benefits."

Significantly, litigants who displayed negative feelings about their employers attributed this to their belief that the employer

"doesn't care about me or doesn't believe I was injured or injured badly."

Conversely, litigants who revealed positive feelings about their employers did so because they said their employers showed personal concern for their welfare.

Similarly, injured workers who expressed negative emotions about their insurers did so because they perceived the claims representatives as "rude," "more concerned about the company," or reluctant to explain the compensation procedure.

Commented the study: "These

harsh and unflattering findings disclose some of the inherent weaknesses of understaffed, or improperly staffed, claims departments."

Back injuries were found to account for one third of litigated claims. However, whatever their injury, most litigants described their injuries as "serious" or "very serious."

The study also profiled the Californian most apt to become a litigant. He or she was found to be an individual with only high school or less education, employed in a blue collar occupation, and earning less than \$7,500 annually. ■

Florida sets up pool for malpractice

TALLAHASSEE, FL.—All casualty companies were officially notified that beginning July 1 they will participate in a joint underwriting association to provide malpractice coverage to state hospitals and nursing homes.

Limits of the coverage are \$500,000 per claim with an annual aggregate of \$10,000 for each hospital bed up to a maximum of \$250,000, said state treasurer-insurance commissioner Philip F. Ashler.

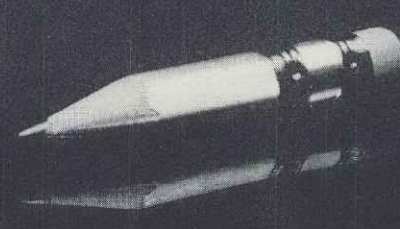
All physicians and other classes will be offered coverage limits of \$250,000 per claim and \$750,000 annual aggregate, he added.

Hospitals licensed by state statute which had coverage terminated since April 1 will have "retroactive coverage available immediately," Mr. Ashler said.

On July 1, detailed directions will be given to medical personnel, hospitals and others as to how they can apply for coverage under the new pool. ■

Hall acquires Richman

Frank B. Hall & Co. Inc., a major national insurance brokerage firm, announced the acquisition of David Richman Assoc. Inc., Chicago. Founded in 1947, the Richman agency specializes in coverage for associations.



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More firms offer death benefits to key employees

By ELISABETH M. WECHSLER

ENGLEWOOD CLIFFS, N. J. — The use of ordinary life insurance policies to provide death benefits to key employees has "proliferated" in the last year or so, according to an actuarial consulting firm.

Death benefits usually are offered by the "very largest companies to a small number of their top echelon" employees, said Arnold M. Malasky, consulting actuary with Kwasha Lipton Inc., based here.

While no special reason was offered for the increased popularity of the benefit, Mr. Malasky pointed out pre-tax dollars buy more for the executives in higher income brackets.

"Over a salary of \$100,000-a-year there is some limit as to

what an employee wants in salary because of taxes," he said.

While the Employee Retirement Income Security Act (ERISA) is not a direct impetus for increased interest in death benefits, it disallows advance funding beyond a maximum pension benefit. This factor may cause corporations to look for alternative ways of funding retirement-related benefits, Mr. Malasky explained.

Some employers like the death benefit alternative because they can fund for extra benefits up to an employee's retirement, leaving little or no payment necessary by the corporation after retirement.

Different types of death benefits are favored for different reasons, Mr. Malasky said, although the lump sum approach is more

common — possibly because it was developed first.

The lump sum approach provides a single payment on the employee's death and is often viewed as a means of helping the beneficiary pay estate taxes.

With the installment approach, the deceased employee's family receives a monthly payment.

Both the lump sum and installment income programs can be structured for the employer and employee to share the cost, according to information Kwasha Lipton supplies to its clients. In addition, many proposals are presented with the idea of the employer recovering all the cost.

If the employer and employee's family share the proceeds, it is frequently referred to as a split-dollar program, the actuarial firm states. If the objective is to

make the employer the sole beneficiary and then pay the proceeds in installments to the employee's family, it is often called a "key man" program.

It is generally accepted, says Kwasha Lipton, that benefit payments for the installment approach are deductible as a business expense. The employer can handle the program completely internally, charging the payments as an operating expense on a pay-as-you-go basis. Another way would be for the employer to advance accrue by building up a bookkeeping reserve. Or the employer could take out a life insurance policy on each covered employee, the firm stated.

In all cases, however, Kwasha Lipton recommends that the total benefit be defined and offset

by any post-death income provided by the company under other benefit programs.

Mr. Malasky cited an example of a major corporation which is considering a two-tiered death benefit. At a cost of \$250,000 a year, the corporation would provide the 25 top executives with supplementary retirement income, increased death benefits and supplementary (or replacement) post retirement group life insurance.

For \$400,000 a year, the next level of 250 executives would be given installment approach death benefits for their beneficiaries, with funding before and after retirement.

In terms of corporate, employee and beneficiary's taxes, less total income tax will be paid with the installment approach if payments are made directly from the corporation to the beneficiary, says Kwasha Lipton.

With the lump sum approach, the tax burden is less for all parties if the lump sum is in the form of life insurance proceeds. Employees, however, are taxed each year on the insurance value of the death benefit, with some exception Kwasha Lipton says.

Mr. Malasky suggested having the carrier for the regular group life insurance program issue a rider or a separate group term contract, giving the carrier the right to combine it with the regular coverage for experience purposes. Assuming that the regular group program has substantial total volume, the carrier should be willing to take on the concentrated risk of the special group, he said.

The lowest cost program is one handled completely internally since it involves no outside administrative cost or commissions. This approach is not fully available under a lump sum program since at some point insurance must be used to pass the benefit on to the beneficiaries as life insurance proceeds, Kwasha Lipton pointed out.

The next lowest cost is group term life insurance since it involves lower insurance company administrative expense and little or no commission. A typical approach for providing post retirement life insurance used to be a one-year term policy. But the cost tended to increase rapidly as the group aged, Mr. Malasky said.

Ordinary life insurance is the most expensive because it involves higher commissions and insurance company expenses and possibly a lower after-tax rate of return on assets, according to Kwasha Lipton.

The only way to effectively make ordinary life insurance premiums lower than term premiums is to convert the ordinary life into a term policy after four of the seven premiums are paid, by constantly borrowing almost the full cash value and paying interest on the amount borrowed. The interest is then tax deductible and if the owner's tax bracket is high enough to offset the higher commission and expense cost of the ordinary life policy according to Kwasha Lipton.

Another possibility is to establish a trust under Section 501 (c) (9) of the Internal Revenue Code, suggests Kwasha Lipton. The tax treatment, when used for a very limited group of higher paid employees and/or used to provide direct death benefits to an employee's family has yet to be clarified in IRS regulations. It is not exempt from the Labor Department reporting requirements of ERISA, the firm noted.

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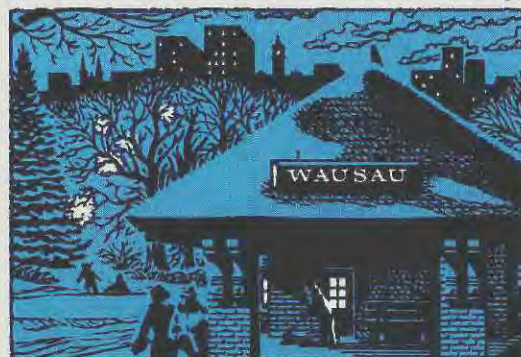
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EMPLOYERS INSURANCE OF WAUSAU Wausau, Wisconsin

Denny's prepares a super liability platter, rings up good loss ratio

By JOANNE GAMLIN

LA MIRADA, CA. — Norma C. Baker, insurance administrator for Denny's Inc., an international restaurant chain that projects sales of \$300 million for its current fiscal year, is in the market for customer liability insurance. But she is a realistic woman and she doesn't think she'll ever find it.

Ms. Baker is in charge of the entire corporate insurance program for Denny's Inc., where Employers of Wausau and Pacific Mutual dominate the property/casualty and group health programs, respectively.

Employers of Wausau, through the offices of R. B. Jones, Los Angeles, underwrites the \$1 million master property/liability policy covering the more than 1,000 units of Denny's and of Winchell's, a doughnut and soft drink retail group. The policy encompasses Denny's and Winchell's units in Mexico and Canada.

A \$40 million excess layer for liability only is supplied by a group of carriers consisting of Employers of Wausau, Home Insurance, Mission Insurance Co. and Chubb/Pacific Indemnity Group.

"The master policy is unique in that premiums are based on sales," observed Ms. Baker in an interview with *Business Insurance*.

She pointed out that Employers was awarded the account in 1966 precisely because they were able to design a master policy which tied the premiums to total corporate sales. So far, that aspect of the policy has yet to be translated into lower premiums, Ms. Baker noted.

Revenues for Denny's Inc. have been on a steady climb since 1966, pointed out the red-haired woman who was named to launch the company insurance department five years ago because, in movie-land style, she had served well as a secretary to the vp of finance.

"The liability portion of the policy encompasses the areas of premises, contractual, false arrest and personal exposures," she continued, noting that, except for one incident publicized in *People* magazine, Denny's liability losses have been good in terms of restaurant industry experience. In fact, Ms. Baker was swift to characterize the liability loss ratio as "more than satisfactory."

The incident that rocketed the restaurant chain into a spotlight it didn't seek involves a Portland, Ore., chap named Doug Stroud. He refused to pay the 25 cents he was charged for a serving of toast with butter. Mr. Stroud, who is quoted as saying he declined to pay because both items were cold, was put under citizen's arrest by the cook then employed in the Portland unit where the fracas occurred.

The charge was later dropped. However, Mr. Stroud sued Denny's for malicious prosecution, and he was awarded \$1,600 in general damages and \$9,000 in punitive damages.

"Denny's appealed the case up to the Supreme Court and lost," related Ms. Baker, adding that the master policy had covered the loss with no trouble.

In the wake of the publicity surrounding the lawsuit, Denny's employers have been warned never to allow such an incident to occur again.

"We are a people-minded organization," emphasized Ms. Baker. "It is not our policy to arrest customers who owe us such small sums as 25 cents."

Still, she believes that the incident underlines a sudden rise in liability claims this year. People who read about the incident figure they may be able to reap similar benefits by enacting similar scenarios in Denny's restaurants, she thinks.

"Moreover, since the first of the year, we've had more claims from people alleging that they found things like ground glass in their food," she continued, revealing some of the headaches confronting an insurance manager for a me-

dium-priced restaurant chain.

However, it is because of such problems that Denny's maintains an energetic loss control program, she said.

"Employers of Wausau safety engineers have given up a lot of time to educating Denny's employees," she asserted. "And every safety recommendation is promptly followed up."

To maintain the chain's good property loss ratio, Ms. Baker said that Denny's kitchens are equipped with automatic fire extinguishers and inner locks on French friers which shut off the fuel supply as soon as the grease grows too hot.

Not surprisingly, it is Denny's loss ratio in workers' compensation that has been the problem.

Two years ago, the chain launched a campaign to reduce accidents such as slips and falls, the most frequent kind of hazard to restaurant workers. At that time, between 1971 and 1972, Denny's loss ratio stood at an alarming 89.5%.

"The core problem was that of all national restaurant chains," observed the insurance administrator, "the dispersion of risk."

Then the loss control program swung into action. Surveys were drawn to pinpoint trouble areas, district managers met with representatives of Employers and R. B. Jones and safety committees were formed in each Denny's and Winchell's outlet with orders to conduct sweeping weekly inspections. Because food chain employees are avid job hoppers, accident prevention and over-all safety became daily matters of discussion at Denny's.

The result: Everyone got in-

volved and the chain's workers' compensation loss ratio declined in the 1973 to 1974 period to 84.3%, according to Ms. Baker.

Yet even better news came in the first three months of 1975. During that period, the ratio plunged again, this time to the lowest numbers the chain has ever been able to claim: 64.9%, a figure that Ms. Baker is describes as a "fantastic improvement."

Nevertheless, she pointed out that her goal for 1975 is to chop the workers' compensation losses by a staggering 50%.

The replacement of slick, shiny floors with carpeting or non-slip floor covering was a big factor in helping to lower the loss ratio, she feels.

Even with the dramatic nose-dive of the workers' compensation loss ratio, she said that Denny's pays out about \$2 million a year in compensation premiums or more than it pays for the master

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The cost of accidents has jumped tremendously in the last few years. Hospital care, doctor's fees, rehabilitation services are all expensive and getting more so. That's why loss control can make a major contribution to the success of your self-insurance program. Every accident that doesn't happen—that's prevented—means more dollars saved. Which is the very reason you're self-insured.

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Our Loss Experience Report: Best early warning system in the industry.

property/casualty policy. As a result, self insurance for workers' compensation is under scrutiny.

Supplementing these major insurance programs are a number of specialized policies that protect the restaurant chain. One is these is a directors and officers liability policy purchased a few years ago from Unigard Insurance and American Home Assurance Co. The policy expires this November and Ms. Baker noted that Denny's will be seeking a new D&O carrier.

In the employee benefits area, Denny's relies on Pacific Mutual's five-year-old health maintenance type coverage (see *Business Insurance*, April 21). It works on the novel principal that first dollar coverage should be attached to doctors' visits and outpatient treatment rather than to hospitalization. Consequently, the policy comes with no deductible for outpatient treatment for accidents, sickness or for physician services.

Non-management employees, said Ms. Baker, are covered with a contributory group health program also from Pacific Mutual. It is a traditional plan which includes major medical.

The first dollar coverage for outpatient treatment has evoked an enthusiastic response from the 2,400 management employees it covers, pointed out the insurance administrator, a proponent of the cost savings benefits in the coverage scheme.

The plan has attracted a particular good response from families with small offspring, she reported, because of the argument that early, preventative care for such groups can actually work to halt the emergence of disease later on.

Although Ms. Baker acknowledges that the number of claims has risen first-dollar coverage, she maintains that total dollar claims have either declined slight

ly or remained stable.

Life insurance for all employees this spring was taken over by Pacific Mutual from Manufacturers Life Insurance, Canada. An unusual feature of the Pacific Mutual policy is a provision for family life which was written in at the request of Denny's management employees.

Long-term disability for the management group is provided by Standard Insurance. The same coverage is nearly impossible to secure for unit workers with their traditional high turnover.

Like many corporate insurance executives, Ms. Baker is sharply critical of the 1973 Health Maintenance Act which demands that employers with 25 or more employees sign up with a qualifies HMO if even one employee resides in the HMO's service area.

She declared: "As far as I'm concerned, there are few, if any, qualified HMO's in Southern California."

FIA, OIA merger . . .

Continued from page 1

zation could eventually be headquartered in Hartford, where FIA is presently based. OIA presently is based in Chicago.

For FIA and OIA policyholders, the merger may mean greater flexibility, with the inclusion of non-HPR risks for blanket coverage of business interruption.

In order to be competitive and recoup some of its losses to OIL, "OIA has been cooperative in writing coverage that OIL Ltd. won't write, such as depreciation coverage for the difference between full replacement cost and actual cash value; also business interruption coverage," a broker with large property clients said.

The merger was unanimously approved by the member companies of both associations, an FIA spokesman said. But it was years

in the discussion stage before any action was taken.

Business Insurance learned that Commercial Union Insurance Co., a key FIA member with 5.1% participation and former member of OIA, previously opposed the merger on the grounds that the petrochemical business was unprofitable and would continue to be. However, Commercial Union was said to have withdrawn its objections early this year and allowed the merger to proceed. Commercial Union withdrew from OIA in the late 1960s.

Insurance industry officials foresee that the merger of FIA and OIA could help to assure FIA of remaining competitive with the Factory Mutual System, especially in international markets where FM has been very active in recent years. FIA saw its premium base eroded in the early 1970s when Kemper Insurance Co. pulled out of FIA to start its own HPR underwriting operation. Brokers also noted that FIA has had a difficult time competing with the many excess-of-loss plans being used by major corporations for property risks, because of the capacity required to take on risks over \$5 to \$10 million at low rates.

FIA disclosed at a meeting in early 1974 that its net bottom line return for 10 years was \$5 million, after two very good years in 1971 and 1972. But without the two good years, the 10 year figure would have showed red ink, because three of the 10 years had produced a deficit of over \$45 million, FIA told agents and brokers at that 1974 meeting.

FIA general manager F.J. Goodfellow confirmed the \$45 million deficit but noted that the reported \$5 million net bottom line return was incorrect. "It doesn't even represent one-twentieth of the true amount," he said. He refused to disclose that figure.

"Policyholders will adopt a wait-and-see attitude, and then they will probably go out to the open market to test the effect of the merger," said a brokerage official close to the property insurance markets. "They'll be very concerned about the merger of the engineering staffs."

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Deposit box ruling . . .

Continued from page 1

said sources, is whether the bankers blanket bond covers losses from mental distress. The specific question is whether the bodily injury clause on the CGL policy covers this kind of damages.

In perhaps his most significant argument, that on breach of warranty, Mr. Hews told the jury that UCB should be held liable because it advertised the safety deposit boxes at its Laguna Niguel branch as "burglar proof" and as islands of "absolute security." Such flat, promotional as-

sertions he argued, amount to promises or expressed warranties. (*Business Insurance*, June 16.)

Mr. Hews pointed out that under the present law—the month-old California Supreme Court decision in *Hauter vs. Zogarts et al*—it is not necessary to prove that any of the plaintiffs read the brochures containing these assertions.

Because of words like "absolute security" found in the brochures advertising the safety deposit boxes, he asserted, plaintiffs

had a right to believe they would be immediately reimbursed in case of loss. Indeed, he noted that several plaintiffs had cancelled their private (personal) insurance protecting their valuables once they had rented a safety deposit box at the Laguna Niguel Bank.

Ridiculing defense witnesses from UCB's advertising department who had shrugged off the words "burglar-proof" and "absolute security" as mere puffing, Mr. Hews charged that UCB—and, in fact, the entire Southern California banking community—exploited the confusion they knew existed in the public over the existence of insurance for the contents of safety deposit boxes.

One plaintiff testified that he asked an employee of the Laguna Niguel bank whether there was contents insurance for safe deposit box users and was given a reply in the affirmative.

"Why didn't the bank tell its officers that there was no contents insurance?" demanded the attorney during the fraud phase of his summation. He dismissed the paragraph found on the back of the safety deposit vault receipts, called a disclaimer by the defense, as not conspicuous and as being ambiguous.

How should UCB have advertised its safety deposit boxes at the Laguna Niguel branch? "Best

available security," he said.

Informed that UCB had been found liable for a breach of expressed warranty, a spokesman for a large, California-based bank said that the primary impact of the case will be to compel insurers to scrutinize safety deposit box advertising before they issue coverage.

Chief defense attorney Claire D. Johnson took the position during his final statement that the words "burglar proof" and "absolute security" should be given no more credence than the claims about cavities or sex appeal that Crest toothpaste and High Karate make for their products.

"It is UCB's position that advertising, which floods our lives everyday, is not the type of material which is literally construed," he argued.

"Did the few plaintiffs who testified they read the brochures really believe that 'absolute security' meant absolute, absolute?" he demanded.

Under the law UCB had the duty of providing only ordinary, not superior care, underscored the defense attorney, during the negligence phase of his argument, to which he devoted the most time.

Refuting the contention of Mr. Hews, that by relying on a McCulloch loop type of silent vault alarm system for its Laguna Niguel branch UCB was opting for inadequate security, Mr. Johnson reiterated the fact that the law instructed the bank to supply merely "ordinary care."

"If you find UCB to be liable for negligence in this case, you must find bankers across California to be unreasonable, imprudent bankers," he declared, referring to the fact that a number of his witnesses had testified that UCB was one of many banks in Southern California to rely on the "party-line" type of vault security.

It was pointed out in testimony, however, that banks in the rest of the country were using the more costly direct line security system in 1972, a level of protection which was said to be more difficult for burglars to overcome than the McCulloch loop. The loop, in fact, was said to have been defeated many times before 1965, the year the construction of the Laguna Niguel branch began.

Beyond this, Mr. Hews charged that UCB was liable for negligence because he said three bank executives acknowledged on the witness stand that they "failed in their job of providing the best security" for the vault at the Laguna Niguel bank.

The three officials, he said, were Lawrence Sloane, senior vp, Fred Percy, vp, and Bradleigh O. Smart, security chief.

He summed up Mr. Johnson's defense as saying "it is okay to have an inferior security system if other banks have it."

For UCB, the security question always boiled down to a matter of "dollars and cents," Mr. Hews asserted, noting many times that the cost of a loop is about three times less than that of the direct line system and a lot, lot less than a direct line with perimeter protection.

"I think a direct line alone would have stopped the burglary," he told the jury. ■

Form new association

California-based ABC Insurance Center will now function under the name of Kindler & Laucchi, also of San Francisco and Los Angeles, it was announced. The change is termed "a new affiliation" rather than a merger, since the two insurance brokerage firms will "retain their identity and clientele."

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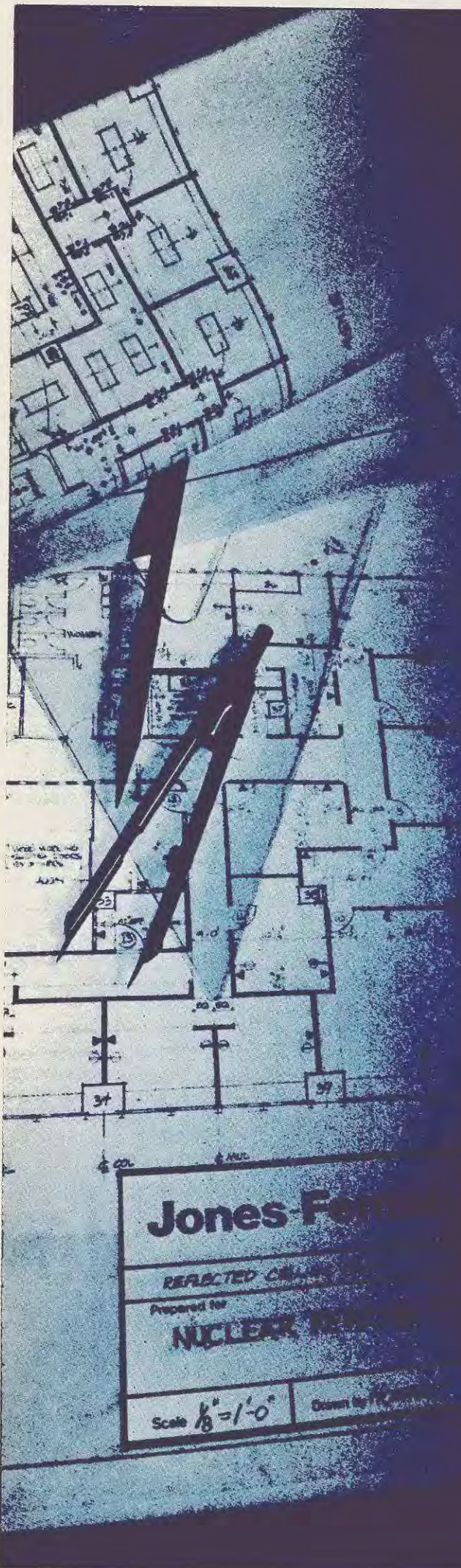
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Fiduciaries must move to arrest bad acts by co-fiduciaries: Labor Dept.

By RICHARD L. GORDON

WASHINGTON — Employee benefit plan fiduciaries should be prepared to take their co-fiduciaries to court, if need be, to stop any action "which would clearly be contrary to the prudence requirement" of the pension reform law, the Labor Department said last month.

In its latest interpretive bulletin (Number 75-5), the department attempted to answer what it sees as common questions about the fiduciary provisions of the new law.

One of those questions concerns what a fiduciary must do to escape liability for an imprudent act by a majority of his co-fiduciaries on a plan.

The department said, "It is incumbent on the minority trustees to take all reasonable and legal steps to prevent the action."

Such steps would include, the department said, "preparations to obtain an injunction from a federal district court, notification to the Labor Department, or publicity about the vote if the apparently imprudent action has already been taken."

"If having taken all reasonable and legal steps to prevent the action, the minority trustees have not succeeded, they will not incur liability for the action of the majority," the department said.

"Mere resignation," however, without taking steps to prevent an imprudent action, will not suffice to avoid liability for the minority trustees once they have knowledge that the imprudent action is under consideration.

The Labor Department admonished all plan trustees to "take care to document adequately all

meetings where actions are taken with respect to management and control of plan assets.

"Written minutes of all actions taken should be kept describing how each trustee voted on each matter," the department said.

Trustees who object to actions on the grounds that the actions appear imprudent "should insist that their objections and the responses to such objections be included in the record of the meeting," the department urged.

On related fiduciary matters, the department said that attorneys, accountants, actuaries and consultants performing their usual professional functions will ordinarily not be considered fiduciaries.

Such persons can cross the line and become fiduciaries, however, if they:

- Exercise discretionary authority or discretionary control respecting management of the plan.
- exercise authority or control respecting management or disposition of the plan's assets.
- render investment advice for a fee, direct or indirect, with respect to the assets of the plan, or have any authority or responsibility to do so.
- have any discretionary authority or discretionary responsibility in the administration of the plan.

The legal instruments establishing a benefit plan can list the plan committee as the "named fiduciary" for the plan, the department said, but clear identification of one or more persons, by name and title, appears to be the "better practice," the department said.

A corporate employee benefit plan can designate the corporation as the "named fiduciary," for the plan, according to the department.

"While such designation satis-

fies the requirement of enabling employees and other interested persons to ascertain the person or persons responsible for operating the plan, a plan instrument which designates a corporation as 'named fiduciary' should provide for designation by the corporation of specified individuals or other persons to carry out specified fiduciary responsibilities under the plan," the department said.

The department also said the pension law does not require a "funding policy" for welfare plans in which the benefits are paid out of the general assets of the employer.

Concerning bonds, the department said bonds were not needed for a person who renders investment advice but who has no discretionary authority over plan assets. Such persons are not considered to be "handling" plan funds," the department said.

If such an adviser performs additional duties which involve handling of funds, a bond will be necessary.

Bonds for plan officials can be purchased for them by the plan, the department said, because the bonding requirement is for the protection of the plan and does not benefit any plan official or relieve any plan official of any obligation to the plan.

American Re purchase

American Reserve Corp., based in Chicago, purchased the assets of Triumph American Inc. for \$7.8 million which include Resolute Insurance Co., a property/casualty firm, and Resolute Life Insurance Co., a life, accident and health company. Both subsidiaries are based in Hartford. Some of Triumph American's liabilities also were assumed by American Re.

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Work comp replacement value is 73%

CHICAGO—State workers' compensation benefits replaced 73% of a typical worker's earnings in 1974, an American Mutual Insurance Alliance (AMIA) study found.

In 1972, the average replacement value was 64% and in 1960, 54% of spendable earnings.

Spendable earnings are defined as gross wages minus federal and state taxes withheld.

The National Commission on State Workmen's Compensation Laws recommended in 1972 that benefits be raised to 80% of spendable earnings as an alternative to the present yardstick, which generally calls for wage-replacement benefits equal to 66% of gross wages.

The Commission suggested that after-tax earnings would be a more relevant measure of what the worker lost when disabled.

The AMIA called the progress made in two years "a clear demonstration that states are putting their workers' compensation systems in order without federal standards legislation," according to Andre Maisonnier, vp.

"It would be highly disruptive if Congress imposed a new and different blueprint on the states by enacting the proposed federal standards bill," he added, referring to the National Workers' Compensation Act of 1975, which is under consideration in the Senate.

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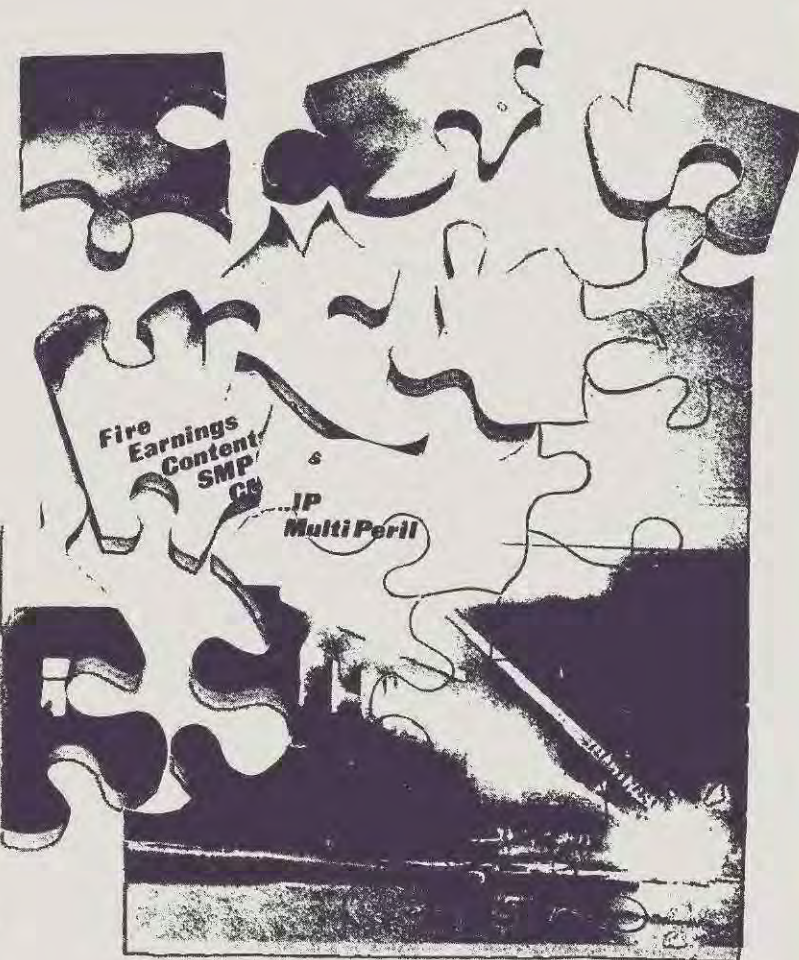
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Filling another gap in aviation safety

THE CIRCUMSTANCES surrounding the crash of an Eastern Airlines Boeing 727 on approach to New York's John F. Kennedy Airport late last month became more shocking as facts began to emerge from the Federal Aviation Administration's investigation of the crash which took the lives of 112 persons.

Especially revealing was the tape recording of a conversation between the pilot of a Flying Tiger Line DC-8 cargo plane as he was landing his jet eight minutes before the fated Eastern final approach.

"I just highly recommend that you change the runways and, ah, land northwest. You have such a tremendous wind shear down near the ground on the final." The air controller bringing the Flying Tiger plane in replied, in effect, that the proper runway was being used in view of the direction of the winds and said, "Okay, We're indicating wind right down the runway at 15 knots when you landed."

The Flying Tiger pilot snapped back: "I don't care what you're indicating. I'm just telling you that there's such a wind shear on the final that you should change it to the northwest."

This disconcerting bit of evidence raises a lot of questions for the guardians of the nation's air traffic, and we hope that they will be addressed forthrightly as a result of this tragic

edy. Are weather conditions on runway approaches being monitored well enough? Obviously not. Are the observations of pilots, such as the one commanding the Flying Tiger jet, given the proper credence and acted upon? Obviously not.

Beyond these questions there are others that must be addressed as the remainder of the Eastern Flight #66 story unfolds.

The airlines will undoubtedly be the target of a multitude of liability suits. Before the ripped fuselage was completely removed from the JFK runway approach well-reputed plaintiffs attorneys in air crash cases were scrambling.

We suspect that most of the litigation will be directed at the airlines. Airlines, of course, have huge layers of liability insurance which makes them likely targets. But, if the facts confirm that the crash was caused by the weather, it would appear negligence should be shared. The Federal Aviation Administration tower chief is said to have responsibility for closing specific runways or the entire field, for example.

In any event no matter where the negligence we trust the case will lead to the closing of yet another gap in aviation safety.

letters

This column is a readers' forum. Letters are welcome. Address letters to the Editor of Business Insurance, 708 Third Ave., New York, N.Y. 10017.

Insurance in China

To the Editor: I am interested in learning the names and locations of any insurance or reinsurance companies in Mainland China. I am also interested in learning whether any of these companies do business with Lloyd's of London.

Please let me know whether you have any information concerning insurance in Mainland China, or whether you know of any source from which I can obtain such information.

M. F. Shlofrock

President, Osterloh and Durham, Chicago, Ill.

Editor's note: We don't have firsthand information about insurers operating in Mainland China, or about their affiliation with Lloyd's. Our readers, however, may be able to help.

Add to controversy

To the Editor: May I add to the controversy surrounding self insurance of Workmens' Compensation as compared with using reputable, major insurers?

The present loss ratio of the major stock and mutual insurers hovers between 70% and 80%. We can use 75% as an average for comparison.

The self insured plans offered by several service organizations call for a 20% management and service fee. Excess catastrophe insurance is in the area of 10% to 20%. Using a 30% total cost, the self insured has 70% with which to pay claims, and must beat the average to break even! Even a 7% cash flow saving will not overcome other expenses of an internal nature—records, state filings, self insured bonds, license fees, taxes, etc.

Then one must consider the long haul, now that courts are interpreting the statute of limitations to be discovery, instead of occurrence of the cause of action. Will your self insured fund be able to pick up a newly discovered claim five years from now? What if an employee is injured in a lifetime benefit state, and you are paying on a claim fifteen years from now?

You are presented with a claim or suit from a mobile employee who has moved 1500 miles from your operational HQ. Do you know, or have you considered the cost of having to employ an attorney to represent you in a strange city on a one time basis? It can be terrible I assure you.

These plans sound nice when presented, but keep in mind, the service, engineering and claims

Continued on page 20

The insurance industry: Looking ahead

THE LAST TEN years have been extremely traumatic ones for the property/casualty insurance industry. It has been called upon to insure larger and larger risks and, understandably, it has had to pay larger and larger losses. Meantime, the industry has retained its competitive edge. In recent years pricing has become as important as product. And a love affair with the stock market that lasted 20 years or so led some underwriters to the illusion that they're better financial managers than risk bearers, for some have been willing to pay \$110 in losses for every \$100 in premium taken in (hoping, that is, that the \$100 in premium will reap \$120 when invested). The results, of course, have been disastrous.

But, this too shall pass. If indeed it has not already.

On Sept. 22 *Business Insurance* will take a major look at the industry as it steps into the last twenty-five years of this century. It will not be a look backwards, for enough has been written about that already; rather, it will be a look forward to the challenges facing the industry as it approaches the nation's bicentennial year. Our reporters and editors will be digging into a number of relevant subjects. Among them:

- A major look at the property insurance business and where it's headed in a day and age when risks of \$100 million or more at a single location will become more or less routine.
- A major article on the casualty insurance business, a subject that is making headlines daily (malpractice etc.), and where it's likely to head in the next twenty-five years.
- A financial story about publicly-held property and casualty insurance companies. For this we'll be talking with Wall Street securities analysts to see what companies they are

looking at for investment and why. Some of their answers, we suspect, will be very telling for the industry as a whole.

- Another financial story, this one examining the effects of the bear market on property and casualty company portfolios and how like situations might be avoided.

- Insurance regulation is another important subject and we'll be looking into the question of whether or not there are any viable alternatives to regulation as we know it today.

- We'll also be looking in to the subject of insurance industry efficiency. Is the industry as wasteful as many charge? Here we'll also be identifying some insurance considered the most efficiently managed and how they do it.

- In a historical sense, the U.S. insurance markets are only just emerging as compared with London and other world insurance markets. How can the markets better interact for the benefit of the consumer will be a question here.

- Reinsurance plays an enormous role in the health of the insurance industry, of course, and we'll be digging into that subject to determine the state of the reinsurance markets today and what the industry might expect in the future.

Another major part of this issue will be the publication of a transcript from a roundtable discussion among several chief executives in the industry, executives whose expertise and knowledge cover the subjects above. In our research for the articles noted above we'll be coming up with some questions for these executives. Their answers might provide some fresh ideas or solutions for an industry that has been through a tumultuous time.

In any event, we think that our Sept. 22 issue will be the most serious inquiry into the subject done by any magazine.

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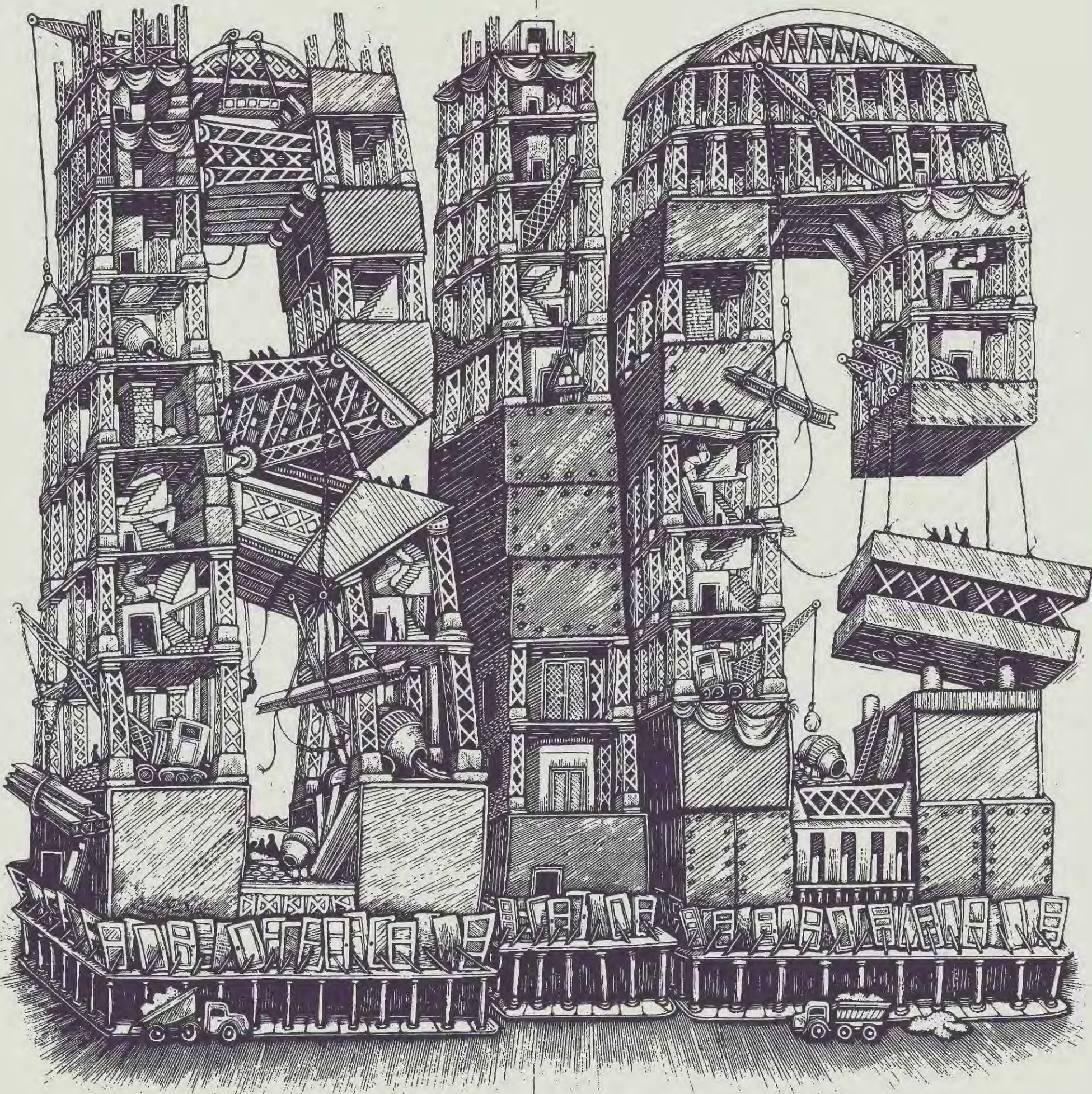
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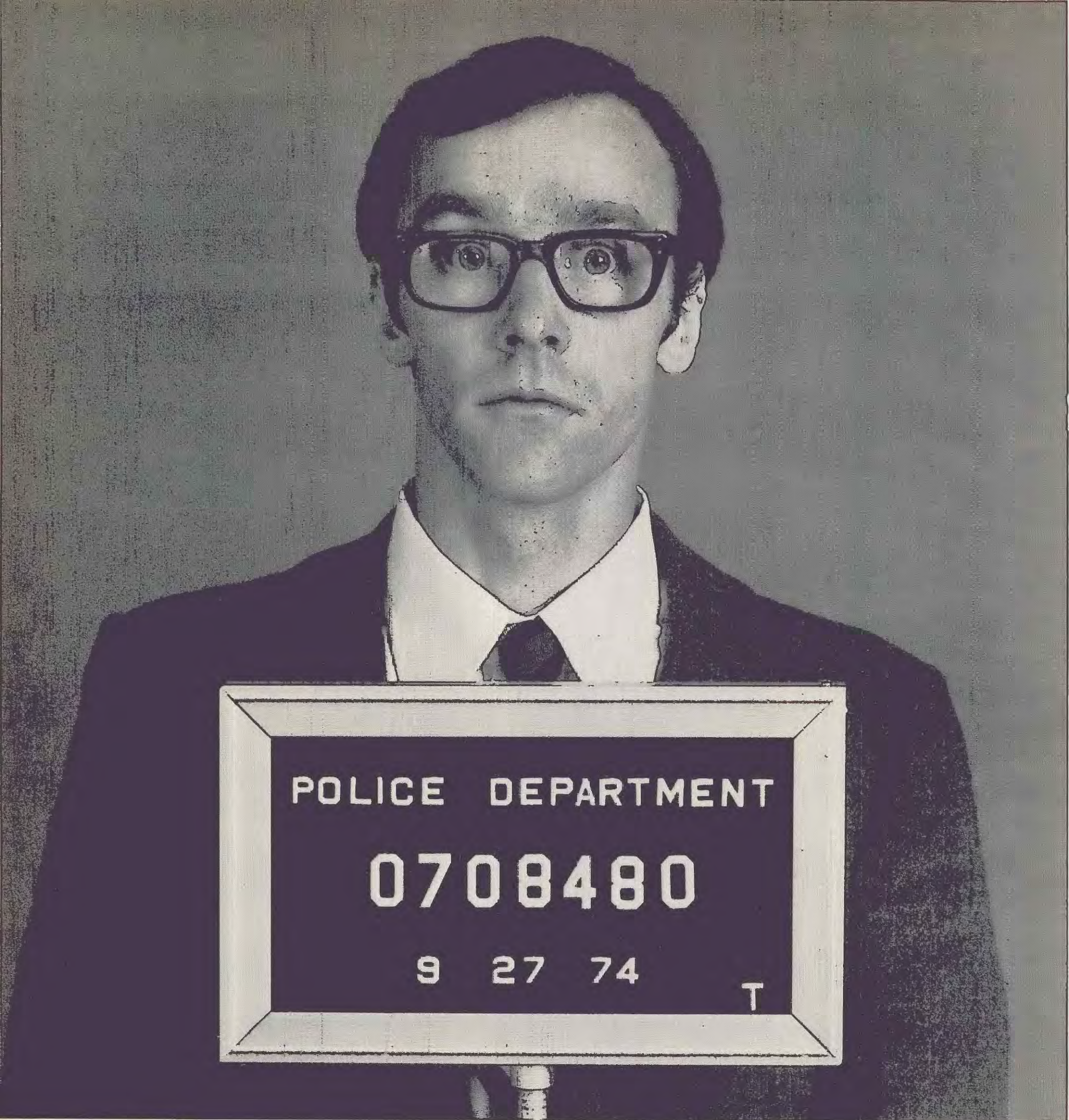
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business insurance

PERSPECTIVE

Economic spasms require new manager skills, Mead instructs

By DANIEL L. GULLING
Manager, Corporate Special Projects
Mead Corp., Dayton, Oh.

RAPID INFLATION, rapid growth, "stagflation", recession, and rapid changes between these states are the circumstances under which American businessmen have had to manage over the past few years. And, although few economists agree on specifics, many do agree that we are in for more surprises and continued rapid change in the economy over the next few years as well. But most middle and upper level managers have experienced several recession, stagnation, and strong growth cycles since World War II, and most have learned something about managing their businesses through these periods—so what's the big difference now?

Well, first, very few of us have had to manage through such rapid and drastic changes. And more importantly, we have had very little experience operating our businesses through sustained periods of rapid inflation, particularly when this inflation is combined with economic downturn.

Early in 1974 at the Mead Corp., top management realized the strains which the economic environment was placing on its traditional management skills, and decided to do something about it. Over the next several months, Mead developed two major documents. The first dealt with the implications of inflation on the company's long term growth and its strategic and financial planning; the second dealt with how to adjust operating methods for Mead's businesses during a period of rapid inflation. These documents, particularly the latter, were distributed widely throughout upper and middle level operating management.

Late in the summer of 1974, when the inflation problem became much worse, and when recession began to complicate the picture still further, Mead decided documentation alone wasn't enough: the problem was so great that management decided to hold a series of 3-day inflation management seminars to coach operating managers on the skills they would need over the next few years. The seminars consisted of a series of financially-oriented lectures by Dr. John Pfahl (a former Ohio State University professor and now executive vp of Management Horizons, Inc.), and a series of internally developed small-group workshops addressing specific operating problems. By May of 1975, Mead had put 300 or so of its top and middle level executives through the course. The remainder of this article addresses the substance of what the seminars covered, first in a more general sense, then more specifically.

First, we need to realize that all prices and costs do not move in lock-step, and that our real problem as business managers is not general inflation, but specific changes in our own prices and costs, and the implications of these changes on how we run our business. Differing relative inflation rates can drastically change tradeoffs between the use of capital, labor, and various types of raw materials. It can also have implications for product mix.

Secondly, because circumstances are changing so fast, we need to be very conscious about making decisions based on what we expect to happen, rather than relying by habit on an historical perspective. We need to constantly reexamine our routine decisions!

Third, we must recognize that we cannot forecast very accurately today, so our decisions must be much more flexible than in the past, and we must be prepared to act under unexpected circumstances.



Fourth, not only do we need to be prepared to act under unforeseen circumstances, but we must be prepared to act quickly. In practical terms, this means that our financial reporting must be more up to date, and more importantly, analyzed and understood more quickly.

Fifth, cash flow in a stagflation economy can be as important, or even more important than profits.

Sixth, we should understand that there are really no fixed expense or capital items—everything must be open to question in times of rapid change.

Last, and perhaps most important, the period of rapid change we are experiencing means that there are tremendous opportunities for change in competitive circumstances. Inflation in 1974 probably increased the reported profits of most companies, just as inflation combined with recession in 1975 will reduce them for most companies. But those companies who act correctly and fast enough—those who can manage change better—will have an opportunity to make significant gains for the long term relative to their competitors.

Cost of Capital: Inflation increases interest rates and it increases the nominal

return which a shareholder must get to justify the company retaining earnings for growth. If our old cost of capital were (say) 10%, based on a 3% inflation assumption; then our cost of capital under a long term inflation assumption of (say) 6% might be as high as 13% now—depending on the debt/equity ratio, and the company's credit rating. The point is that we use cost of capital in dealing with nominal cash flows, and so we need to adjust it to reflect inflation.

Real Growth: Most businesses measure themselves using profits related to investment Mead Corporation uses RONA (Return On Net Assets). If inflation is to persist at relatively high levels, it has an important impact on the real growth which can be achieved through internally generated funds at any given RONA. For instance if we assume a 12% RONA, and 6% cash cost of capital (dividends and interest paid) the picture is illustrated in the following table under 3% and 6% inflation assumptions. (The implicit assumption here is, of course, that the general inflation rate is the same as the inflation rate for the company's assets.)

TABLE 1

3% Inflation		6% Inflation	
12%	New Debt at 50% D/E Ratio	12%	
6%	RONA	6%	
6%	less: Cash Cost of Capital	6%	
3%	Nominal Addition to Equity	3%	
9%	Nominal Growth	9%	
3%	Less: Inflation	6%	
6%	Real Growth	3%	

Accounting and Replacement Costs: Accounting numbers are distorted during periods of high inflation. Accounting has traditionally taken a historical cost approach to valuation; this is no doubt necessary for public reporting purposes, but it can lead to bad decisions if used for management purposes. For an ongoing business, management decisions need to be based on replacement, not historical costs. The most obvious recognition of this is the increasing use of LIFO inventory policy to compute earnings. Even here, NIFO (Next In, First Out) would be more appropriate.

Furthermore, while LIFO may come close to using replacement costs for the income statement, it does undervalue inventories

Continued on following page

Loss potentials abroad obscured by overseas opportunities

Foreign political risks revisited

By FRANCIS X. BOYLAN
Vice President
Alexander & Alexander Inc.

THE POLITICAL, ECONOMIC, monetary and military instabilities which exist in many sections of the world are well known to all corporations engaged actively in international operations. The potentially adverse economic consequences of these instabilities, however, may not be as universally recognized. We have found, at times, that the aggressive pursuit of legitimate economic gain from international investments or trade may tend to obscure an awareness of the magnitude of the loss potentials associated with these instabilities.

In this paper, Alexander & Alexander Inc. will identify significant types of loss potentials associated with arbitrary or discriminatory acts of foreign governments normally labeled political contingency risks. In addition, we shall describe the basic elements of the emerging insurance programs of Lloyd's Underwriters which are designed to cover a substantial portion of these loss potentials.

As an aid to understanding insurance programs for political contingency risks, we suggest that they be viewed as being somewhat comparable, at least conceptually, to the traditional "difference in conditions" coverages. In effect, political contingency insurance is a convenient label used to identify a number of individual political risk insurance coverages which

are designed to fill the gaps created by the restrictions contained in the firmly established insurance arrangements for confiscation and export credit risks.

For the purposes of this paper, we shall assume that the reader has a prior knowledge of the insurance programs both for confiscation risks and for export credit risks. Accordingly, our comments on these subjects are designed merely to establish points of reference for a more definitive discussion of the insurance program for political contingency risks. Alexander & Alexander has prepared detailed memoranda describing both the confiscation insurance program and the export credit insurance program. Copies of these memoranda will be made available upon request.

The confiscation insurance program of the federal government agency, Overseas Private Investment Corporation (OPIC), is generally acknowledged to be responsive to many of the concerns of the American investor vis-a-vis confiscation, expropriation or nationalization of overseas assets. As an instrument to help attain certain foreign policy objectives of the United States, however, the OPIC program necessarily contains a number of significant eligibility requirements.

It is necessary, for example, to apply for this type of insurance before an irrevocable commitment is made to invest in a particular foreign country. Even a timely application will not be accepted unless the insurers are satisfied as to the economic viability of the investment and are as-

sured that the investment will be welcomed by the host country. The private sector confiscation insurance programs of Lloyd's Underwriters and of the American International Group have been responsive to the needs of those investors which cannot satisfy all of the eligibility requirements of OPIC.

The export credit insurance program of Foreign Credit Insurance Assn. (FCIA) and the financial guarantee programs of Export-Import Bank of the United States (EXIMBANK) have been the principal source of protection to U.S. exporters against loss arising out of the failure of foreign buyers to pay for products or services of U.S. origin sold on credit. Like the OPIC program, the FCIA and EXIMBANK programs have a series of eligibility requirements geared to national interest considerations.

Most of these eligibility requirements relate to such things as (a) the origin of the products or services, (b) the terms of payment and (c) the country of the buyer. There are also a number of coverage restrictions, the most notable of which relate to the loss potentials associated with the cancellation of orders by foreign buyers. A solid working knowledge of all aspects of the FCIA and EXIMBANK programs is a condition precedent to understanding the need for the political contingency insurance offered by Lloyd's Underwriters.

In order to place political contingency

Continued on following page

business insurance

PERSPECTIVE

Mead . . .

Continued from preceding page

on the balance sheet. Inventory management also has to base its decision on current costs, not historical—thus inventory managers need to be concerned with FIFO values in measuring inventory. At Mead, the internal management accounting system deals with this by having our business units both carry and charge out inventories at current cost—the difference in inventory valuation being carried at the corporate level as a "LIFO reserve", which lets the corporation report to the public on a consistent LIFO basis.

Fixed asset intensive businesses have an additional problem, in that normally accounting systems don't take account of replacement costing when measuring depreciation. Consequently, the nominal return (RONA) necessary to generate replacement funds must increase with time and age of assets. This is illustrated in Table 2, which compares a hypothetical completely working capital intensive business, and a hypothetical completely fixed capital intensive business. The assumption is that each is merely replacing its assets, with no real growth.

Working Capital Control: Inflation naturally tends to drain a company's cash into working capital—particularly into receivables, where the problem is twofold. First, even staying at the same days outstanding, more investment is required. But more importantly, the current inflation-recession environment can greatly increase credit risks. Both inflation and recession are severely squeezing the cash flows of many companies; and more and more accounts will have payment problems as a result. This is further aggravated for smaller customers, who may have trouble getting credit at today's quality-conscious banks. Moreover, if a customer's nominal cash flow and cash (or cash equivalent) balances aren't increasing with inflation, his effective liquidity, and therefore his ability to pay, is less-

ened. So credit management becomes much more important and more difficult.

New Facilities: Past inflation has made old facilities more valuable and increased cost of capital also argues for prolonging the lives of old facilities. On the other hand, future inflation in capital equipment costs argues for replacing facilities earlier rather than later.

In a broader context, the problem for American industry, and the reason many thoughtful people fear renewed materials shortages in the future, is that it is difficult to justify making new investments unless the profitability on the inflated cost of new investments meets (higher) cost of capital hurdle rates. But this also means that the nominal returns on older (depreciated) facilities need to become very much higher (see table 2). American business needs to educate the public and their representatives in the Congress that this is not "price gouging" but a necessary condition for economic growth under today's inflated costs for capital equipment.

Profitability Analysis: Because cost/price/efficiency relationships are changing so fast for both our own businesses and those of our customers, there is a greater need for mechanisms for ongoing analysis of profitability by customer and by product. Selling a customer involves more than just transfer of product at a price—it means satisfying all of his product and service needs (credit, technical services, sales and marketing efforts, quality, etc.)—at a price. As our costs change for providing the product/service package, and more importantly, as the customer's willingness to pay the necessary price for that product/service package change—we need to constantly reevaluate the product/service package itself, and who we can expect to continue to sell it to.

In some cases, this may mean reducing the package—i.e., lowering quality or service—because the customer is no longer willing to pay the necessary price. In other cases, it may mean that the seller's cost structures require that it reposition itself in the market—i.e., sell to different customers. During the shortage conditions

on 1973 and 1974, many businesses had much more opportunity for the latter; during 1975, the emphasis will probably be on the former. Nevertheless, companies need to have ongoing mechanisms for analyzing the rapidly changing economics of selling products and servicing customers—so that the right decisions are made, and made fast enough.

Sales, Production and Inventories: Rapid changes in business conditions put a premium on making quick and correct decisions on production levels relative to sales levels. In the downside, there are cost tradeoffs in most industries which will dictate whether to curtail operations or to build inventory. But beyond the cost tradeoffs, is the need to maintain a strong cash position as a hedge against a prolonged slump and a slower-than-expected upturn. As we begin to come out of the recession, various lead time and cost considerations again dictate when to increase production commensurate with, or in anticipation of sales upswings. The point is that the correct decisions don't get made automatically (witness the automobile industry situation early this year)—and we need to maintain a proper mix between costs and profits on the one hand and flexibility and cash flow on the other.

The business community can and should try to influence the government to adopt economic policies which are rational, and which take into account the leads and lags inherent in good economic management. We can lobby for better fiscal and monetary planning; for tax incentives for capital formation, for depreciation rules which better reflect replacement costs—and for a host of other suggestions which have been put forth as long term solutions to our recurring inflation/recession cycles. We can,

furthermore, encourage and support stronger and more consistent economic leadership on the part of the administration and the leadership in the Congress.

Moreover, business can and should take its case to the public—which needs to be educated on the role profits and capital formation have in decreasing inflation and fostering economic growth.

But really, as individual managers, our strongest contribution towards economic progress for the country and for our own businesses, is simply to concentrate on managing our own businesses more effectively. The real solution to inflation and economic stagnation is increased productivity in our own businesses . . . not just labor productivity, but increased productivity in the use of all our resources. We need to be more productive with our capital, with our raw materials and energy supplies; and most importantly, we need to be more productive as managers to face the challenge of the next few years. Those managements that are more productive and more successful in managing change, will make gains regardless of the economic environment. And in the long term, these gains will be at the expense of those managements which are unsuccessful in being more productive and which do not manage change well.

Mr. Gulling graduated *maxima cum laude* from the University of Notre Dame with a B.S. in Engineering, and holds a master's degree in industrial administration from Carnegie-Mellon University, graduating with distinction. He has worked for United States Steel Corp., and served on the staff of the Assistant Secretary of Defense for Systems Analysis.

TABLE 2

Business A: Fixed Asset intensive (reinvests depreciation; 10 yr. life, straight line)
Business B: Working capital intensive (reinvests working capital each year)

	After 10% Per Year Inflation					
	Year 1		Year 2		Year 6	
	A	B	A	B	A	B
Working Capital						
Fixed Assets	\$ 0	\$10,000	\$ 0	\$11,000	\$ 0	\$16,105
Net Assets	10,000	0	10,100	0	10,509	0
Constant Real \$	10,000	10,000	10,100	11,000	10,509	16,105
Earnings	1,500	1,500	1,650	1,650	2,416	2,416
Required RONA	15%	15%	16.3%	15%	23%	15%

Foreign . . .

Continued from preceding page

insurance in its proper perspective, it is best initially to identify special situations where this form of insurance is needed; secondly, to describe the key restrictions of coverage; and then to discuss each of the major categories of risks insured thereunder in terms of specific perils.

As noted previously, this form of insurance is needed, for the most part, only where the other forms of political risks insurance are not available. Typical situations where this form of insurance could prove useful are:

- repudiation of orders;
- transfer risks for sales to countries not included within FCIA's country limitation schedule; and,
- on-demand bond indemnities.

Although the coverage must be tailored to meet specific needs, there are two restrictions of coverage which are universally applicable:

- loss due to insolvency or other financial difficulty; and,
- for land based risks, loss due directly or indirectly to war. (For some forms of coverage and war exclusion is limited to hostilities between any of the five great powers or between the country of the importer and the country of the insured.)

Repudiation of orders

Where the contract requires special fabrication of equipment over an extended period of time, an insured should recog-

nize the loss potentials associated with arbitrary cancellation of orders. Although payments received in advance or pursuant to progress billings may be sufficient to cover the insured's own expenses, including anticipated profit, the penalties imposed for the cancellation of subcontracts may produce a net loss which is insurable as a contingency risk. There is need for this form of insurance even in those countries where FCIA insurance normally applies. FCIA's contract form insurance covers loss caused by defined political risks or insolvencies which may occur during the fabrication period prior to shipment, but specifically excludes "cancellation of the contract by the buyer".

The term "repudiation of orders" as used herein is intended merely to illustrate by a title only one of several types of risks which should be considered within this general category. Similar risks may be identified as (a) contract ratification indemnity, and (b) export-import embargo indemnity. Contract ratification indemnity is designed to cover the potential losses which may occur in the event the insured elects to proceed with the implementation of a contract with a public buyer in a foreign country prior to its formal ratification, only to find that authorization for ratification is not obtainable.

The export-import embargo indemnity follows the FCIA pattern of covering the loss potentials associated with such things as: (a) cancellation of previously issued and valid authority either to export or to import the products and (b) the imposition of new regulations which prevent either the export or the import of the products.

Transfer risks

One of the principal coverages afforded under an FCIA policy relates to the indemnity provided in the event a buyer is unable to convert his local currency into United States dollars. There is no doubt that this feature of the FCIA policy has produced the largest volume of claims. Where FCIA insurance is not available, however, it may be possible to secure transfer risks coverage from Lloyd's Underwriters within the framework of its political contingency insurance program.

On-Demand bond

In a traditional performance bond arrangement there are three parties, generally identified as: (a) the principal, (b) the surety and (c) the obligee. A performance guarantee issued by a bank for the benefit of a contractor functions in essentially the same way as the performance bond. In both cases, if the principal (contractor) fails to perform, the surety (the bank) must fund the performance by others for the benefit of the obligee.

All such arrangements assume a zero loss ratio for the surety or bank. This is accomplished by an agreement of indemnification executed by the principal for the benefit of the surety. The most fundamental underwriting factor, therefore, is the financial ability of the principal to respond to his indemnity obligations. Clearly, financially strong corporations would cause no concern to a surety or bank.

The key distinction between an "on-demand" bond and a normal performance bond is centered upon the fact that the entire amount of the "on-demand" bond may be collected by the obligee virtually

without cause. This is why these bonds are frequently labeled "confiscatory."

We understand that this concept was originated by the Soviet Union, but has now spread elsewhere, particularly among OPEC countries. Many corporations seem to be unaware of the implications of these bonds largely because the consequences inherent therein often are not stated explicitly, i.e., an awareness probably will not emerge until someone poses a question regarding the circumstances under which the bond may be called.

The Lloyd's coverage in this area relates only to the arbitrary act of the obligee, i.e., where it can be demonstrated that the principal actually failed to perform, the surety, rather than Lloyd's, would assume the obligation. The major exclusions are loss due to war, insolvency or financial default.

A claim is established by adjudication in London. The adjudicator, appointed by the London Court of Arbitration, will make the decision as to whether the bond had been called unfairly.

The on-demand bond indemnity applies to bid bonds, advance payment bonds, performance bonds and in certain circumstances to retention bonds.

Currently a vice president of Alexander & Alexander, Mr. Boylan coordinated the original organization of Foreign Credit Insurance Assn. in 1961 and served as its president from 1967 to 1971. Mr. Boylan was named president of Foreign Credit Brokerage Inc. in 1972 when it was acquired by Alexander and Alexander. Prior to joining FCIA, he managed the affairs of Nuclear Energy Liability Insurance Assn.

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letters

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firms get theirs off the top and the self-insured must pay claims with the remainder of the kitty.

The average retrospective plan is a bummer also, and I must say I have not seen a single client come out on one, in fact I get new clients off it immediately. Again, the insurer takes 25% as basic premium, adds from 20 to 35% to claims, then on top of all, the tax factor which is often 5% is used. Sooner or later the law of averages catches up with the unsuspecting client, and they lose their five year saving in one bad year. Then we must watch for the reserves which are stacked up a few days prior to the annual adjustment, and not taken down until the settlement is panned off on the unsuspecting policyholder.

Always I tell insurance man-

agers, "Insurance is designed to spread the risk, and you go contrary to the entire concept when you try to self insure your risk."

Play it safe and go for the best guaranteed cost plan, plus a dividend which is based on experience, but with no surcharge. Let the retro man sell his plan to those who can afford to gamble, or need it, but as of the moment I do not know anyone who really needs it.

Justin S. Lencke

Marianna, Fl.

Other side of story

To the Editor: Your editorial in the June 16, 1975 issue of *Business Insurance* on 'Banks entitled to a better explanation' was highly critical of the insurance industry in the accusation that not a single insurer could provide any statistics on number, size or total amount of losses on the bad loan hazard. Another comment was 'bad loans by bank officers are not seen as a "problem area"'. None of the banks *Business Insurance* surveyed had had a single paid claim under a bond in the last two years involving a loan loss being covered as defalcation, dishonesty or fraud'. My question is who did you ask—the clerks in the mail room?

As branch manager of one insurance company in Northern New Jersey we happen to know that the situation is critical and getting worse. Many of us admire Chubb for taking a stand and attempting to remove the cancer. My branch experience on bank loan losses paid and incurred as alleged defalcation, dishonesty or fraud cases in the years 1973-1974 amount to \$1,952,593 on earned premiums of \$1,336,838. The bulk of the incurred figure has already been paid.

Most of these cases were the result of alleged bad judgment on the part of the bank loan officer on loans that exceeded the loan officer's authority or were deemed questionable when the loans went bad. It is interesting to observe that in each case the bank's attorneys claimed dishonesty but did not prosecute the ex-loan officer and no one went to jail. The insurance company paid or was pressed to pay in each case.

Your editorial conveys the impression that there is no problem and we owe the bankers a better explanation. This is a huge problem and bankers are very much aware of it.

As *Business Insurance* points out big banks absorb their bad loan losses but medium size banks cover their loan officers judgment and bad debts. This hazard should not continue to be covered by banker's blanket bonds and that's what the hassle is all about. In the interest of fair play we thought you would want to hear the other side of the story.

Roger S. Arnold

Resident Manager, INA, East Orange, N.J.

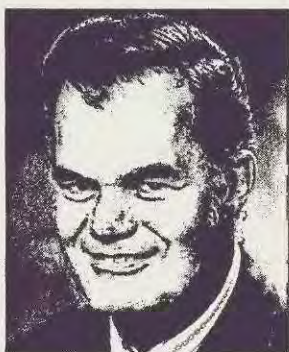
Should have read . . .

To the Editor: In my article, "How Does an Insured Respond to Extortionist?" in your June 16, 1975 issue, there is a typographical error appearing on page 75 (third column) where the article reads "If any of our clients were ever put into the position that the Oregon utilities have been put into and that resulted, from his refusal to meet the extortionist's demands, in the destruction of the property insured, for any insurer to deny liability on the grounds that the client intentionally increased the hazard and nullified the insurance would be manifestly legal." It should have read, "... would be manifestly unjust".

Leonard J. Silver, CPCU

President, First Insurance Management Co., Wyncote, Pa.

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Quotes were scarce on casualty plan

Temple U. went to market prepared to retain more risk after INA pullout

By MARGARET LeROUX

PHILADELPHIA, PA.—Temple University became a victim of more than a malpractice crisis when Insurance Co. of North America, underwriter for its entire property, casualty and workers' compensation insurance program terminated the entire manuscript policy late last winter on the basis of the university's malpractice exposure.

Temple's medical school and the 550-bed University Hospital include a staff of 200 faculty and 525 physicians. University doctors have major affiliations with eight general hospitals in Philadelphia and eastern Pennsylvania and

there are minor affiliations with 18 hospitals in the general Delaware Valley.

"Our malpractice experience hadn't been that poor," George Reese Jr., Temple's insurance manager, said in an interview. "Since 1965 we've averaged about eight lawsuits a year."

Until last year, he added, the largest malpractice settlement involving Temple was \$30,000.

"The publicity surrounding the malpractice issue seems to be reversing that trend," Mr. Reese continued. "We've had 15 malpractice suits so far this year."

The two largest malpractice settlements involving Temple in the past year have been for \$125,000 and \$100,000.

to quote on the basis of a \$100,000 deductible for liability," Mr. Reese continued.

Temple's new \$10 million liability policy with Northbrook Insurance Co. includes a \$250,000 self-insured retention. An additional \$10 million umbrella liability policy is underwritten by two other insurers with equal shares of the liability.

Northbrook's policy was chosen despite a lower quote by the American International Group (AIG).

"The point which influenced the decision was Northbrook's lower aggregate limit," Mr. Reese said. Northbrook's aggregate limit was \$750,000, compared to AIG's limit of \$1.4 million.

Another facet of Temple's new liability policy is its claims-made basis; the old policy was written on an occurrence basis.

Temple contracted with ESIS for administrative handling of third party liability claims.

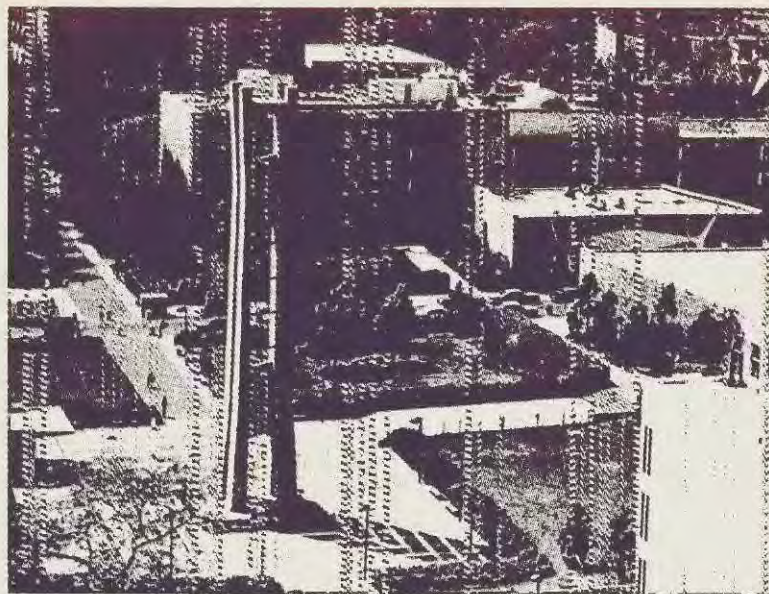
This, in effect, continued the relationship with the same people who handled Temple's claims for INA, Mr. Reese noted, though now it's through ESIS rather than directly with the underwriter.

Two members of the AIG group are underwriting Temple's new

As a result of INA's termination of the university's insurance contract, Mr. Reese has just completed marketing Temple's entire property and casualty program which now includes self-insurance in place of deductibles and in some cases higher levels of participation.

"We've talked to markets worldwide," he said, "and it became obvious the only way to find a market was to assume a large retention."

"We found few markets willing



One of Temple University's five campuses.

property coverage and workers' compensation fund. Commerce and Industry Insurance Co. has the \$10 million property coverage and the Insurance Company of the State of Pennsylvania insures the university's workers compensation, which has a 38%-43% modification in premium because of favorable experience, Mr. Reese noted.

Total appraised value of Temple property, on a replacement cost basis is \$246,820,525, of which \$156,169,564 is in buildings and fixed equipment and the balance of \$108,650,961 is contents.

There are a total 240 buildings on Temple's five campuses; however 23 major buildings including the library which has the greatest concentration of values, are General State Authority buildings owned and insured by the state. The university insures the contents, however.

Temple's property insurance, underwritten on an all-risk basis includes a \$100,000 retention and a sublimit maximum per campus.

A new computer science building is under construction, scheduled for completion in March 1976. Currently most of Temple's \$5 million worth of electronic data processing equipment is located in the basement of the business school.

"The present facilities are less than ideal," Mr. Reese acknowledges. However, plans for the new computer center include a Halon system for fire protection and more sophisticated security control program.

The EDP equipment is leased, principally from CDC and IBM

under agreements in which they retain responsibility for loss of their equipment.

Temple buildings are often used for public events. "If it's a school-sponsored event, we assume the liability for it," Mr. Reese explained, "but outside groups must provide up to \$1 million in liability coverage."

The university has a special fine arts floater policy with a \$100 deductible for exhibits such as manuscript collections at the library. INA underwrites the policy.

INA's international division also underwrites coverage for Temple's Tyler Art School campus in Rome.

"We spend a couple thousand dollars a year in premiums for the Rome campus coverages," the university insurance manager noted. The coverages include on- and off-premise robbery, burglary, consequential loss, property coverage similar to homeowners/tenants and health insurance for students and faculty.

Another of Temple's coverages, trustees and officers liability, is a controversial subject among risk and insurance managers for colleges and universities.

The need for such coverage is greatly debated, as the institutions act both in the public and private sector.

"We got the coverage in 1969 or 1970 because the chairman of our board at the time was an attorney and he insisted upon it," Mr. Reese explained. The policy, a Stuart Smith form, is insured with CNA and Lloyd's.

As for fiduciary liability, "We've been informed by the Stewart, Smith people that our trustees and officers form is broad enough to cover us," he added.

Temple's new fidelity bond coverage is with Aetna Casualty Surety and includes \$18,000 retention and \$1 million limit.

The crime coverage is not a problem area, Mr. Reese said, but theft, included in the all-risk property coverage, is.

Business machines and typewriters are the most popular items for pilferage, although a new bolt-down procedure for typewriters has substantially cut down that loss.

Temple's insurance manager is in the process of making revisions in the university's boiler and machinery coverage with the Hartford Insurance Group.

Included in the revisions are increasing the self-insured retention to \$20,000.

Though Temple's insurance management staff numbers only three persons, including Mr. Reese, he utilizes resource people in various other university departments. "It gives us a lot more impact," he said.

Continued on page 23

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Temple's book-drying try reaps only semi-success

PHILADELPHIA—A highly acclaimed, space age process for drying water-damaged books has proven to be less than successful in recovering volumes damaged in a 1972 Temple University fire. However, through the Temple experience, the process has matured into a viable method for drying books and other manuscripts.

The method, a thermal-vacuum drying operation done at General Electric Co.'s space division, was developed to salvage more than 350,000 volumes of Temple's law library which were waterlogged during a July 1972 fire (*Business Insurance*, Oct. 23, 1972).

Temple insurance manager George Reese complains that, although the thermal-vacuum chambers are "super driers," the process did not return the books to shelf condition. Only 5,000 to 6,000 of the 60,000 volumes which went through the chamber were restored, he said.

GE project manager Richard G. Shoulberg acknowledges some of the books were still moldy when they left the chambers. However, he contends, "Our job was well done. We contracted to dry the books; that was the extent of our efforts."

Since Temple was the first, and essentially the largest, job for the thermal-vacuum process, the method was developed through that contract, Shoulberg said. "We learned a lot through that experience," he added.

Since the Temple job, modifications have been added to the process. GE has done eight similar jobs since the Temple books, only now the chambers not only dry the books, but sterilize them as well. Mr. Shoulberg said, "We won't do a job now unless we sterilize or get a waiver not to."

Meanwhile, the university, which dedicated its new law library in April, is left with some problems. Mr. Reese said the new facility is adequate for everyday

purposes, but lacks the depth needed for scholarly research. He outlines the problems encountered in the recovery and restoration process and steps the university is taking to minimize future losses.

In addition to the failure of the thermal-vacuum chamber to return the books to shelf condition, Mr. Reese cites an early decision to freeze all books as faulty. "It was decided we would put as much of the material as possible into the freezer, a lot of it could have been screened out if there had been more time," he said. ■

Urge reform of ERISA to aid pensions

SAN MATEO, CA.—A consultant recommended amending the 1974 Employee Retirement Income Security ACT (ERISA) to give small employers a financial incentive to form a pension plan.

"For the very small employer in a 22% tax bracket there is very little tax incentive to go to all the effort and expense of establishing a pension plan and then living with it," said Daniel F. McGinn, president of Dan McGinn & Assoc., an actuarial consulting firm based in Los Angeles.

He recommended an "additional tax deduction for contributions to a pension plan with liberal eligibility and vesting provisions or by giving direct tax credits for contributions to such a plan."

Mr. McGinn suggested provisions whereby the "small employer could obtain the same tax advantage available to employers who are subject to a 48% tax."

He also warned against "sleepers" in ERISA such as limitations on the total annual pension benefits which may be provided an employee.

Aside from placing a limit on pension benefits of corporate executives, he said the same limitations "may have a significant impact on unions in cases where there is overlapping pension coverage for some or all of their members. It is not unusual, he said, for a union member to be covered by a Taft Hartley, international union and local union plan.

The problems of benefit limitation under ERISA also extends to thrift, profit sharing and money purchase plans as well as to regular pension plans, Mr. McGinn said.

The limits imposed on contributions could be the lesser of 25% of a worker's compensation or \$25,000, Mr. McGinn said.

But when the maximum coverage for an employee is provided under a regular pension plan, the maximum contribution under a thrift or money purchase plan is reduced to the lesser of 10% or \$10,000, he noted. ■

SF brokers form firm

Four San Franciscans formed a new insurance brokerage firm called Robert L. Knox & Co. on July 1. Associated with Robert Knox, president of the firm, are Don Wolden, Robert H.F. Smith, and Toby Magner Jr. The new brokerage firm is associated with Hyams & Mayers Inc., founded in 1916, and Eppinger-Hart, brokers since 1941.

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Temple . . .

Continued from page 22

"I firmly believe in the grapevine as an important source of information," the insurance manager continued, explaining that if he hears of a sidewalk obstruction, for example, that might result in a liability claim, he calls upon the university architect service for a remedy.

"They're involved in construction and are out and around the campus all the time and can handle the problem," he added.

Similarly, he keeps close contact with the 125-member campus security force.

Acknowledging his marketing venture was "quite an experience," Mr. Reese adds that "out of adversity, our program is getting better."

He compared today's malpractice crisis with the insurance problems resulting from student unrest in the 1960s.

At that time our manuscript policy had a \$250 deductible for property insurance and the premium schedule was wholly unreal," he related.

Inside of two years after he came to Temple in 1968 the deductible increased to \$100,000.

"Just as five years ago the problem was property coverage, today it's malpractice," Mr. Reese commented, "hopefully as with property capacity problems, we'll learn from the experience." ■

Study commissioned by AT&T

Show pension benefits for salaried employees at 50 major companies

By RICHARD L. GORDON

WASHINGTON—The pension benefits offered to salaried employees at 50 major U.S. corporations have been compared in a study commissioned by American Telephone & Telegraph Co. (AT&T).

AT&T hired the New York consulting firm of Towers, Perrin, Forster & Crosby for the project. *Business Insurance* obtained the results from data AT&T supplied the Federal Communications Commission (FCC) as part of that agency's current inquiry into the Bell pension system.

The study used as examples employees with differing wage levels who retired after 30 years of service. The plans were rated in terms of the proportion of final salary the pension, together with Social Security, will replace.

Where the existing plan or bargaining agreement provided for future benefit improvements, the ultimate benefit formula was used in the study. In AT&T's case, the study assumed pension levels that will not become fully effective until Jan. 1, 1977.

EMPLOYEE A FINAL PAY: \$7,570 AGE 65

Company	Amount	Total Pension* % of Final Year's Pay
AT&T	\$ 5,351	70.7%

Manufacturing companies

Caterpillar	7,253	95.9
Cont Can	5,967	78.9
Du Pont	5,243	69.3
Kodak	5,429	71.8
Esmark	4,174	55.2
Gen Elec	5,183	68.5
Gen Foods	5,781	76.4
Gen Motors	6,898	91.2
Goodyear	5,903	78.0
Honeywell	5,903	78.0
IBM	6,083	80.4
Harvester	5,723	75.6
ITT	4,748	62.8
Litton	3,938	52.1
Lockheed	5,723	75.6
RCA	5,105	67.5
Tenneco	3,941	52.1
Un. Carbide	5,385	71.2
U.S. Steel	7,816	103.3
Xerox**	2,843	37.6

Oil companies

Exxon	4,733	62.6
Gulf	4,283	56.6
Mobil	4,392	58.1
Shell	3,996	52.8
St Oil (Ca)	5,475	72.4

Public utilities

Amer Elec Pwr	5,193	68.6
Com Edison	4,482	59.3
Con Ed	5,764	76.2
Consumers Pwr	5,484	72.5
Detroit Ed	5,220	69.0
GT&E	4,824	64.3
Pac Gas	5,484	72.5
Phil Elec	5,209	68.9
Pub Ser Elec	4,878	64.5
Tx East Trans	4,520	59.8

Airlines

American	10,239	135.3
TWA	4,824	63.7
United	5,129	67.8

Railroads

Penn Central	4,028	53.2
South Pac	5,567	73.6
Union Pac	4,898	64.7

Insurance

Equitable	4,438	58.7
Met	4,626	61.2
Pru	4,408	58.3

Retail trade

A&P	4,943	65.3
Safeway	4,081	54.0
Sears	2,843	37.6

Banks

Bank America	4,888	64.6
Chase	4,392	58.1
First Natl City	5,382	71.1

*Includes Social Security benefit of \$2,843, except for railroads where the supplemental benefit is \$3,843.

**Company has a deferred profit-sharing plan which provides benefits at retirement.

EMPLOYEE B FINAL PAY: \$11,858 AGE: 65

Company	Amount	Total Pension* % of Final Year's Pay
AT&T	\$ 7,213	60.8%

Manufacturing companies

Caterpillar	8,831	74.5
Cont Can	7,274	61.4
DuPont	7,008	59.1
Kodak	7,231	61.0
Esmark	5,120	43.2
Gen Elec	6,377	53.8
Gen Foods	7,880	66.5
Gen Motors	8,491	71.6
Goodyear	7,185	60.6
Honeywell	6,377	53.8
IBM	6,557	55.3
Harvester	7,177	60.6
ITT	6,687	56.4
Litton	5,265	44.4
Lockheed	6,197	52.3
RCA	6,382	53.8

Tenneco	5,508	46.5
Un. Carbide	7,396	62.4
U.S. Steel	9,085	76.6
Xerox**	3,317	28.0

Oil companies

Exxon	6,746	56.9
Gulf	5,515	46.6
Mobil	6,273	52.9
Shell	5,658	47.7
Stan Oil (Ca)	7,728	65.2

Public utilities

Am Elec Pwr	7,255	61.2
Com Edison	6,526	55.1
Consolidated Edison	7,970	67.2
Consumers Pw	7,419	62.6
Detroit Ed	7,008	59.1
GT&E	6,393	53.9
Pac Gas	7,419	62.6
Phil Ele	7,121	60.1
Pub Ser Elec	6,776	57.2
Tx East Trans	6,427	54.2

Airlines

American	11,447	96.5
TWA	7,215	60.9
United	7,261	61.3

Railroads

Penn Central	5,631	47.4
South Pac	7,502	63.2
Union Pac	6,522	55.0

Insurance

Equitable	6,454	54.5
Met	5,936	50.1
Pru	6,132	51.7

Retail trade

A&P	5,504	46.4
Safeway	5,241	44.2
Sears	3,317	28.0

Banks

Bank America	7,042	59.4
Chase	6,273	52.9
First Natl City	7,811	65.9

*Includes Social Security benefit of \$3,317, except for railroads where the supplemental benefit is \$4,239.

**Company has a deferred profit-sharing plan which provides benefits at retirement.

EMPLOYEE C FINAL PAY: \$27,000 AGE: 65

Company	Amount	Total Pension* % of Final Year's Pay
AT&T	\$12,785	47.4%

Manufacturing companies

Caterpillar	15,137	56.1
Cont Can	14,296	53.0
DuPont	12,579	46.6
Kodak	13,425	49.7
Esmark	9,849	36.5
Gen Elec	10,936	40.5
Gen Foods	14,115	52.3
Gen Motors	15,349	56.9
Goodyear	11,969	44.3
Honeywell	12,579	46.6
IBM	11,467	42.5
Harvester	14,000	51.8
ITT	12,993	48.1
Litton	8,215	30.4
Lockheed	13,067	48.4
RCA	11,461	42.5
Tenneco	9,550	35.4

Un. Carbide	13,342	49.4
U.S. Steel	15,535	57.6
Xerox**	3,317	12.3

Oil companies

Exxon	13,472	49.9
Gulf	10,560	39.1
Mobil	12,579	46.6
Shell	11,123	41.2
St Oil (Ca)	13,722	50.8

Public utilities

Am Elec Pw	13,351	49.5
Com Edison	12,523	46.4
Consolidated Edison	14,251	52.8
Consumers Pw	13,023	48.3
Detroit Ed	12,053	44.7
GT&E	10,597	39.3
Pac Gas	13,792	51.1
Phil Electric	11,810	43.8
Public Service Elec	12,241	45.4
Tx East Trans	12,271	45.5

Airlines

American	17,383	64.4
TWA	14,572	54.0
United	13,461	49.9

Railroads

Penn Central	11,937	44.2
South Pac	14,859	55.0
Union Pac	12,828	47.5

Insurance

Equitable	13,460	49.9
Met	12,293	45.5
Pru	10,584	39.2

Retail trade

A&P	10,759	39.9
Safeway	10,392	38.5
Sears	4,985	18.5

Banks

Bank America	14,399	53.3
Chase	12,579	46.6
First Natl City	16,219	60.1

*Includes Social Security benefit of \$3,317, except for railroads where the supplemental benefit is \$4,239.

**Company has a deferred profit-sharing plan which provides benefits at retirement.

EMPLOYEE D FINAL PAY: \$50,000 AGE: 65

Company	Amount	Total Pension* % of Final Year's Pay
AT&T	\$20,724	41.4%

Manufacturing companies

Caterpillar	23,959	47.9
Cont Can	25,329	50.6
Du Pont	21,401	42.8
Kodak	22,549	45.1
Esmark	16,465	32.9
Gen Elec	18,319	36.6
Gen Foods	22,839	45.6
Gen Motors	26,223	55.1
Goodyear	18,626	37.2
Honeywell	21,401	42.8
IBM	18,887	37.7
Harvester	25,500	51.0
ITT	21,815	43.6
Litton	12,606	25.2
Lockheed	21,887	43.7
RCA	18,567	37.1
Tenneco	15,443	30.9
Un. Carbide	21,715	43.4
U.S. Steel	26,010	52.0
Xerox**	3,317	6.6

Oil companies

Exxon	22,882	45.7
Gulf	17,617	35.2
Mobil	21,401	42.8
Shell	18,768	37.5
St Oil (Ca)	22,180	44.3

Public utilities

Am Elec Pw	21,878	43.7
Com Edison	21,289	42.5
Consolidated Edison	22,485	44.9
Consumers Pw	20,865	41.7
Detroit Ed	19,110	38.2
GT&E	16,478	32.9
Pac Gas	23,594	47.2
Phil Electric	18,672	37.3
Public Ser Elec	19,886	39.7
Tx East Trans	20,834	41.6

Airlines

American	29,855	59.7
TWA	24,864	49.7
United	21,897	43.8

Railroads

Penn Central	20,759	41.5
South Pac	25,151	50.3
Union Pac	21,650	43.3

Insurance

Equitable	23,312	46.6
Met	18,654	37.3
Pru	17,241	34.4

Retail trade

A&P	18,110	36.2
Safeway	17,744	35.5
Sears	12,844	25.7

Banks

Bank America	24,691	49.3
Chase	21,401	42.8
First Natl City	27,981	55.9

*Includes Social Security benefit of \$3,317, except for railroads where the supplemental benefit is \$4,239.

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people

Pierce new manager at Burmah Oil

Alan Pierce was promoted to risk manager for the Burmah Oil & Gas Co., Houston. Allon Greene, Burmah's former risk manager joined Armistead, Miller & Wallace brokerage firm effective June 30. Mr. Pierce was formerly assistant insurance manager for the firm. Mr. Greene is presently in the Nashville headquarters of AMW, but will open a Newport Beach office for the firm in the future.

General Electric Co., Fairfield, Cn. named Paul L. Moyer manager of corporate employee benefits to succeed E. Sidney Willis, who retired after holding the position for 20 years. Mr. Moyer has worked at GE for 22 years and most recently served on the corporate staff as manager of employee relations-measurement and review. He reports to the manager of benefits and compensation and is responsible for an eight-member staff. Mr. Moyer's duties include the design and development of GE's benefit program.

A new position, corporate safety engineer, has been created and filled at Instrument Systems Corp., New York. Gordon Reid, 43, reports to the director of insurance and employee benefits. His responsibilities include implemen-

tation of corporate safety and property conservation programs. Mr. Reid previously was a senior loss control advisor at Kemper Insurance Cos., Chicago.

Union Camp Corp., Wayne, N.J., established a pension administration department and named Charles J. Donovan to the position of pension administrator. Mr. Donovan's responsibilities include developing and implementing procedures "to assure compliance with all applicable federal and state laws" for Union Camps retirement programs. He reports to the treasurer. Previously, Mr. Donovan was manager of cash and investments and has worked at Union Camp since 1972.

UMC Industries Inc., New York, promoted John D. Gleeson to the position of manager of financial services to replace James A. Meer, who left the company as reported (*Business Insurance* June 30). Mr. Gleeson, 33, reports to the controller and is responsible for pensions, insurance, cash flow and other treasury-related functions. Previously, Mr. Gleeson was manager of the accounting department at UMC, a position he held since July, 1972.

Chiropractor cover

A new medical malpractice policy for chiropractors is available from the Los Angeles brokerage firm of Charles, Ryan & Rivers, under auspices of the California Council of Chiropractic. Optional coverages offered with the malpractice portion include office property, valuable papers, accounts receivable and extra expenses. The policy package is available in Northern California from Insurance Associates, Berkeley.

New federal work comp measure filed as slap at slow state benefit hikes

WASHINGTON—Sens. Harrison A. Williams Jr. (D-N.J.) and Jacob K. Javits (R-N.Y.) attacked what they called the slow rate of improvement in state workers' compensation benefits and last month filed new legislation to establish federal minimum standards for workers' compensation.

Simultaneously, the American Mutual Insurance Alliance said it would oppose such a standards bill and said "the states are putting their workers' compensation programs in order without federal standards legislation."

The Alliance said the Williams-Javits bill (S. 2018) would be an "unnecessary and detrimental intrusion into a field already being competently handled by the individual states."

Sens. Williams and Javits filed a workers' compensation standards bill last year, but it was never reported out of the Senate Labor and Public Welfare Committee.

That bill would have required the Secretary of Labor to publish a set of minimum standards and then evaluate all state plans with respect to those standards.

If the states did not meet those standards, the Secretary was authorized to suspend operation of the state plan and impose the provisions of the Longshoremen's and Harbor Workers' Compensation Act in its place.

This year's legislation, Sen. Williams said, no longer keys its compensation provisions to the operation of state plans.

The bill provides, in section five, a series of entitlements to which all workers have a right, as a basic element of any workers' compensation system, he said. These entitlements include the various elements recommended by the National Advisory Commission on Workmen's Compensation.

Rather than superimpose the Longshoremen's Act on to state plans, the Senator said, workers who are denied these fundamental benefits may sue to enforce their rights in either the appropriate state courts or in federal district

court. All state remedies must have been exhausted before an individual could go to court.

A worker may appeal the decision of a state agency to a federal, rather than state court, if the amount in controversy is more than \$10,000, under this proposal.

The 1975 bill would also authorize the Secretary of Labor to sue in federal court in cases where the section five rights were denied. Sen. Williams said he believed the Labor Department would file such suits only in cases of systematic denials of benefits.

The section five entitlements include the right to an initial selection of a physician from among all physicians licensed by the state and approved by the workers' compensation agency; no time or dollar maximum limitation on the total amount of compensation payable; a provision for attorney's fees; a special section on rehabilitative services; death benefit provisions; provision for periodic adjustment of benefits; and special provisions to cover second injury and latent disability cases.

The bill would establish a nine-member National Workers' Compensation Advisory Commission to work with the Secretary of Labor on a variety of subjects. There would be three members each from business, labor, and the pub-

lic. One of the business representatives would be from the insurance industry.

Part of the commission's role would be in connection with occupational diseases. The bill calls upon the Secretary of Health, Education, and Welfare, in cooperation with the National Institute of Occupational Safety and Health, to make a new study of such illnesses.

The Secretary may promulgate new standards for occupational diseases based on this study, with the approval of the commission.

Once published, the new standards would become part of the bill's mandatory list of entitlements for all workers under the federal minimum standards for workers' compensation.

The new bill has changed another important provision of earlier standards legislation—that which required state laws to provide for reconsideration of cases previously denied or in which benefits did not come up to the standards of the federal law.

The new bill provides that within 90 days of the enactment of the federal standards law, state agencies are to forward to the Advisory Commission all previously denied cases and cases in which the award was not in accordance with the new federal minimum.

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State okays malpractice insurance pool

COLUMBIA—The South Carolina Insurance Commission authorized the formation of a malpractice insurance pool to cover physicians and surgeons to meet what it described as an "emergency" situation there.

Acting under provisions of a joint resolution of the state general assembly, the commission requires participation in the pool "by all insurance companies writing bodily injury liability insurance, other than automobile bodily injury liability insurance."

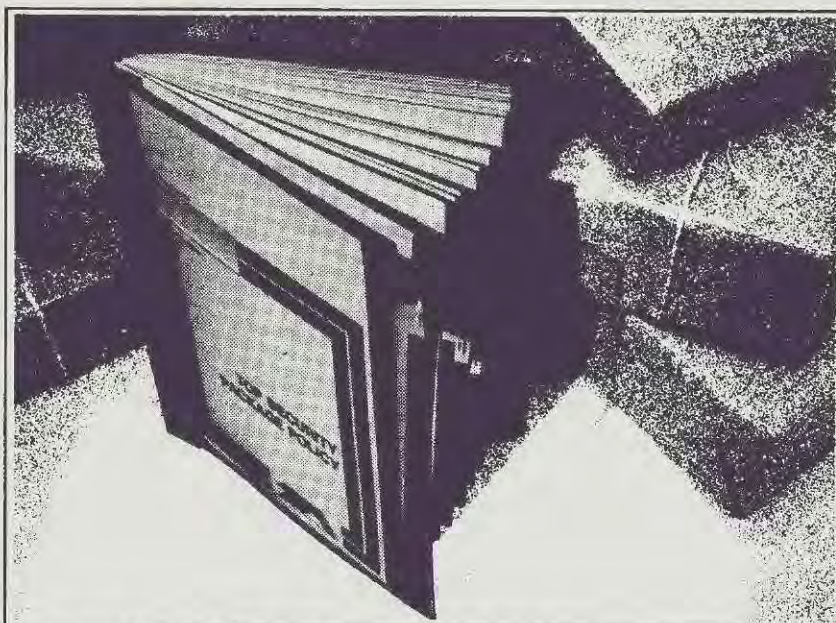
The assembly's joint resolution authorized this emergency action if it was determined that malpractice insurance was not available through "normal channels" or that it was not available on "a reasonable basis because of lack of competition for such insurance."

St. Paul Insurance Co. is the only underwriter of medical malpractice coverage in the state. Its representatives have stated that the company would stop selling coverage in the state if proposed higher rates and the claims-made form basis for the coverage were not approved, as filed.

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Z-A's Reason Why

The Top Security policy unpackages the package policy by basing the price of coverage in many states on the individual characteristics of each risk rather than applying an across the board package policy credit, increasing coverage flexibility, and providing extended protection.



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that Top Security protection can be made available at an appropriate price to a greater number of risks because of this pricing flexibility?

Unpackaged – because, in many states, only a single mandatory coverage is required. That's flexibility.

Unpackaged – because many coverages are built-in, eliminating the need for those bundles of endorsements. That's what Z-A calls extended protection. For example, replacement cost for buildings and/or personal property is granted as an

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For many reasons, the Top Security policy is a "special delivery" package, when compared to the standard "bulk-rate" package. Write for Z-A's brochure: "Introducing the Top Security Policy: the Unpackaged Package" to learn more.



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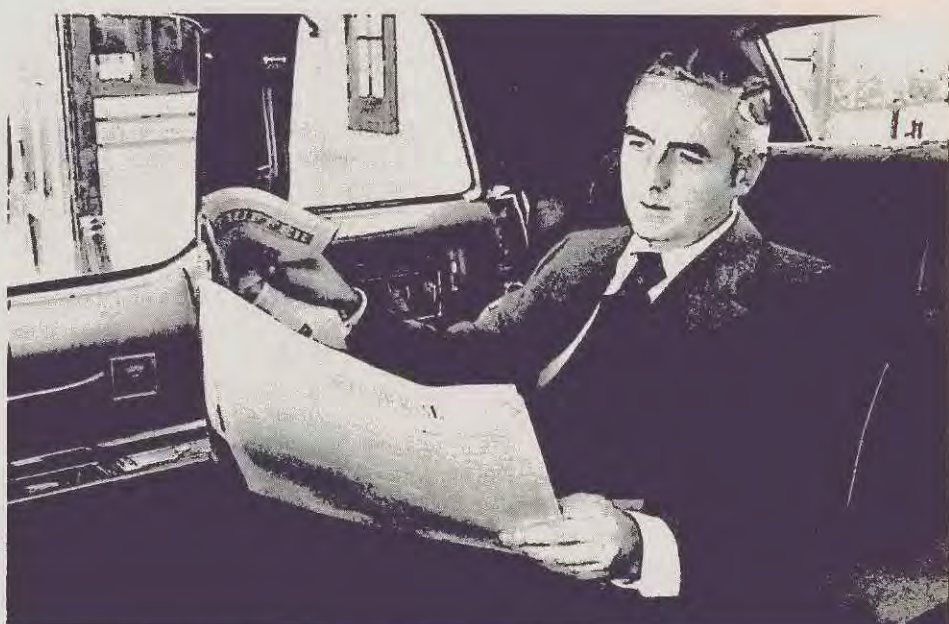
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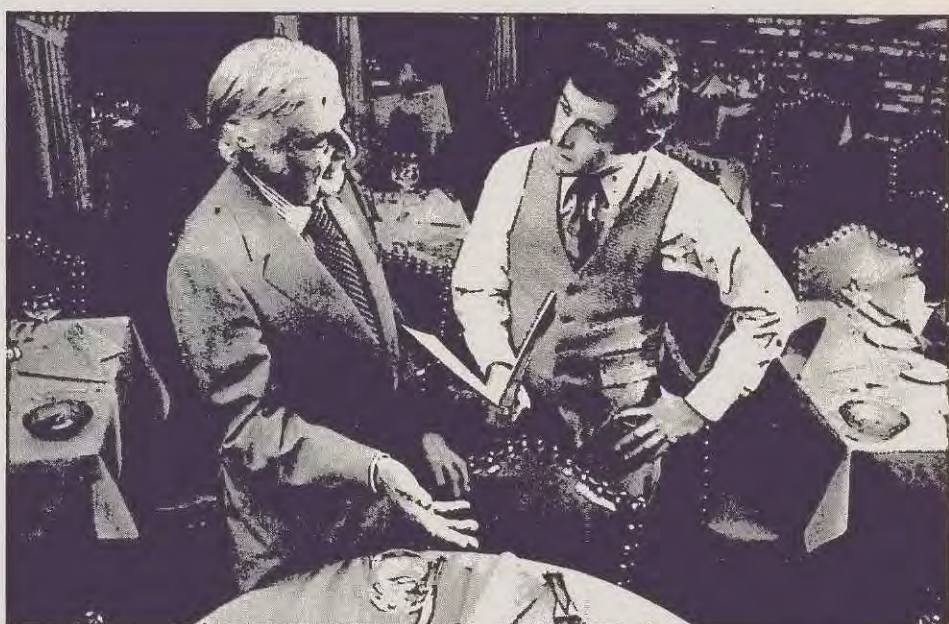
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