

business insurance

update:

Minnesota court upholds Thompson's conviction

ST. PAUL, Minn.—The Minnesota Supreme Court has upheld the conviction of Onan A. Thompson on charges of falsifying the claims data of a school district dental plan to gain renewal business.

Mr. Thompson, then president of Delta Dental of Minnesota, was convicted by a St. Louis County circuit court jury on April 28,

Continued on next page

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California considers new cash-flow rules

By RHONDA L. RUNDLE

LOS ANGELES—More California businesses will get a crack at cash-flow plans to insure their workers compensation risks if the Department of Insurance adopts new rules proposed last week by the state rating bureau.

But other companies already benefiting from cash-flow features of the most competitive plans may encounter stiff new terms that would increase their costs at renewal time if their insurers abide by the tentative rule changes.

Specifically, buyers of cash-flow plans would have to pay the insurer the discount rate set by the Federal Reserve Bank of San Francisco on the unpaid premium and purchase irrevocable documentary letters of credit to guarantee future premium payments.

The provisions of individual agreements differ, but cash-flow plans generally defer full premium payment on a policy until losses are paid or according to a predetermined schedule. The unpaid balance is collected by the insurer in the form of a promissory note at the start of the policy period.

Many workers compensation insurers in California have hung back, refusing to offer cash-flow plans because of questions about their legality and financial soundness. Many companies and the state Insurance Department have

Continued on page 25

Truck firm challenges multiemployer plan law

By JERRY GEISEL

CHICAGO—A North Carolina trucking company is challenging a new landmark federal law that gives multiemployer pension plans the power to collect hefty payments from employers who leave the plans.

Republic Industries of Kansas City, Mo., and its trucking subsidiary are fighting in federal court a multiemployer plan that wants more than double Republic's net worth.

The Central States, Southeast and Southwest Areas Teamsters' pension fund is claiming a Republic subsidiary owes it \$16.5 million to cover unfunded pension liabilities.

Republic's subsidiary, Johnson Motor Lines Inc. of Charlotte, N.C., was a member of the plan until the company closed last summer. Johnson also had been a member of several smaller multiemployer pension plans that will seek withdrawal liability payments, too.

Republic and Johnson are suing the Teamsters plan to block it from collecting the payments due it under the Multiemployer Pension Plan Amendments Act of 1980. The companies claim the law is unconstitutional and have hired Philip B. Kurland of Chicago, one of the nation's top constitutional law experts, to argue the case.

If the court issues an injunction blocking Central States from collecting withdrawal liability payments from Johnson and Republic, it could trigger a wave of litigation as employers look for an escape from the

new act.

That law poses massive new pension liabilities, which lawyers and consultants have warned could lead to the kind of enormous claim now pending against Republic and Johnson (BI, Dec. 1, 1980).

"Lawsuits will be filed as employers are faced with demands for withdrawal liabilities," said Peter Turza, a former Senate aide specializing in pension law and an attorney with Gibson, Dunn and Crutcher in Washington. "Big bucks are on the line."

If those suits are successful, the ability of the nation's 2,000 multiemployer pension plans to collect withdrawal liability payments could be hampered, threatening the financial stability of the still shaky pension plans.

It was only last year that Congress closed a loophole that pension experts thought would lead to a collapse of multiemployer pension plans.

Under the original Employee Retirement Income Security Act, an employer who withdrew from a multiemployer plan could escape paying for the plan's unfunded vested liabilities if the entire plan did not fold within five years of the employer's withdrawal.

In the Multiemployer Amendments Act, Congress said an employer who left the plan would be required to pay a share of the plan's unfunded vested pension liabilities to be determined by plan trustees.

Because employers' contributions often failed to match the benefits promised, many of the plans are

Continued on page 23

Insurers structure more liability awards

By MARGARET LeROUX

Insurers are rapidly stepping up their use of periodic payments to replace lump-sum cash payments in liability cases.

The number and value of periodic payments have exploded over the last 2½ years as insurers realized the cost-cutting advantages of the system that spreads a claim payment out over time.

Also fueling the boom are competition among underwriters of annuities, which are often used to fund period payments, a favorable tax ruling in 1979 and less opposition from plaintiffs' attorneys.

Statistics from five major insurance companies suggest the number of claims closed with periodic payments is doubling this year compared with last year (see chart).

The value of annuities used to fund a periodic payment also is expected to double this year to \$500 million from \$250 million in 1980, according to one annuity underwriter. Just \$30 million in annuities for periodic payments was written in 1979.

"Structured forms of settlements are the fastest growing new concept in the insurance industry," says Rom Mason, project coordinator for Aetna Life & Casualty, by far the leading user of periodic payments. He predicts structured claim settlements will become "a routine method of settling claims in

the future."

But even Aetna, which will consider any claim more than \$10,000 for a periodic payment structure, admits the number of claims closed with periodic payments is still a very small percentage of total claims.

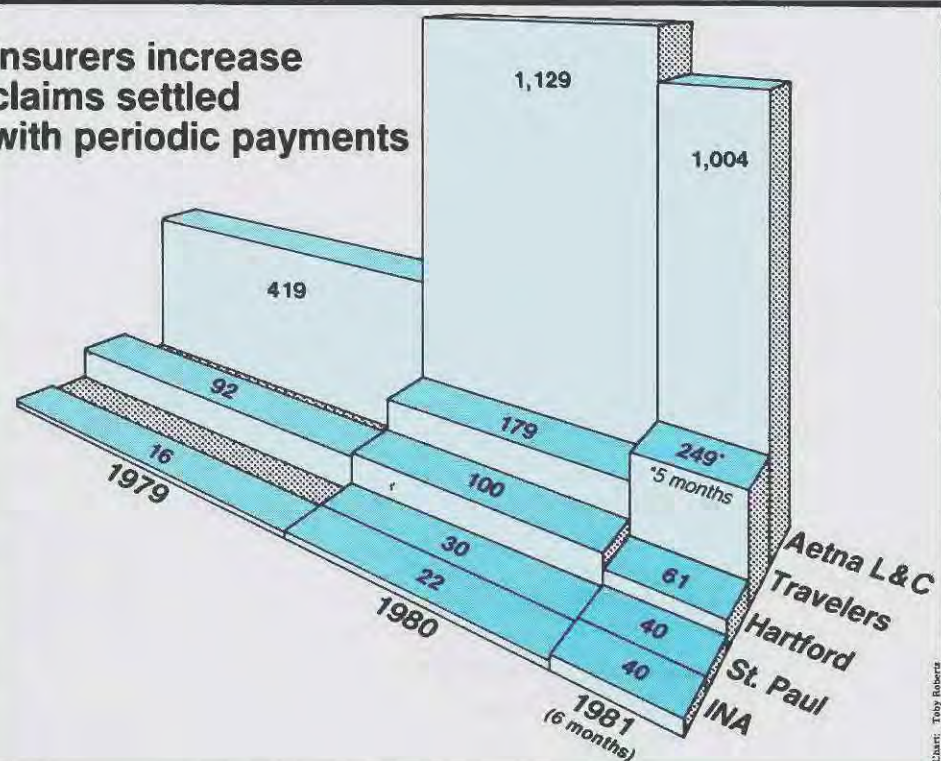
A periodic payment—also known as a structured settlement or protected settlement—does what it says. It stretches the payment of a claim to a plaintiff over a number of years instead of providing the claimant with one lump sum. Periodic payments are most often used when the plaintiff requires continuing income.

Proponents of this payment system say it benefits claimants because their income is guaranteed over time, relieving them of the burden of how to make a large amount of cash last. Insurers, and their policyholders, can cut the cost of a settlement by 10% to 30% by purchasing an annuity to fund the settlement or by setting up a trust fund that earns interest over the term of the settlement.

Competition is hot among annuity underwriters for the business, but in many cases, liability insurers are using subsidiary life insurance companies to underwrite the annuities. Some brokers and other insurers say the practice is too incestuous to guarantee a good deal for the claimant, the liability insurance policyholder or the reinsurers of the

Continued on page 21

Insurers increase claims settled with periodic payments



INSIDE:

Aneco: A twisting tale of attempted takeovers
Page 3

Rocket insurance: How high should it go?
Page 3

update:

Thompson's conviction upheld

Continued from previous page
1980, on a forgery charge (BI, May 26, 1980). Mr. Thompson falsified the data of the school district's loss experience, lowering to \$12,000 what should have been a \$29,000 profit for Delta Dental.

He has been sentenced to pay a \$3,000 fine and serve two years' probation. The sentence has been stayed pending appeals.

Mr. Thompson, who had been allegedly operating an illegal pre-paid group vision benefits program from his home, also had been the subject of a joint investigation by the Minnesota Insurance Department and the state attorney general's office.

The investigation, initiated as a result of a *Business Insurance* probe, was discontinued, said Robert Clayton, special assistant in the attorney general's office. The program's management has been turned over to a Des Moines, Iowa, firm, bringing it into compliance with state insurance law, Mr. Clayton said.

Decisions due on Lloyd's bill

LONDON—The fate of the Lloyd's of London self-regulation bill may be sealed this week.

The House of Commons committee considering the bill will hear the results of two votes taken by Lloyd's members on suggested changes in the bill. The first issue provides for separation of member and managing agents. The second would divest brokers from their underwriting agencies.

It is expected that Lloyd's members will approve divestment of brokers and underwriters but say no to separation of member and managing agencies. If the parliamentary committee presses the issue, the bill could be withdrawn.

Man sentenced in bond scheme

PHILADELPHIA—A 31-year-old Morristown, N.J., man has been sentenced to eight years in prison for his part in a \$350,000 bogus construction performance bond scheme.

Alex Feinman, sentenced in federal court in Philadelphia, was one of six men indicted last July for falsely describing the security of Casualty & Indemnity Co. of Belize and issuing fraudulent bonds worth \$25 million. He and the others allegedly received \$350,000 from at least four construction firms.

He was found guilty of conspiracy, wire fraud, mail fraud and the transportation of bogus securities and falsely obtained money in interstate commerce.

Four other men, John V. Goepfert of Wall Township, N.J., Lawrence Rush of Port Washington, N.Y., Mark Snyder of Cherry Hill, N.J., and Thomas Eli Scott of Banner Elk, N.C., were convicted on March 12 along with Feinman. They are still awaiting sentencing. The sixth man, Seymour Pollack of New York, has been too ill to stand trial.

Panel OKs Risk Retention Act

WASHINGTON—The House Energy and Commerce Committee last week unanimously approved the Risk Retention Act.

Committee approval came after Rep. James Florio, D-N.J., added an amendment to make it clear that risk retention groups would be subject to the anti-fraud provisions of federal securities laws.

As approved, the legislation would require risk retention groups set up in Bermuda and the Cayman Islands to meet the insurance capitalization requirement of at least one state before they could operate in the United States. The legislation, H.R. 2120, is expected to come up for a vote in the full House next week.

\$7.8 million in premiums owed

CHICAGO—A \$7.8 million group life and health insurance premium is among \$31.5 million in bills owed by the Chicago Transit Authority, according to financial records.

The Chicago Tribune reported that The Travelers is the largest of four creditors to which the CTA owes more than \$1 million each.

The CTA confirmed the amount owed The Travelers represents unpaid premiums for its employee health insurance plan.

Burroughs told to pay \$750,000

DETROIT—Burroughs Corp. has been ordered to pay \$750,000 in damages to two corporations as a result of lawsuits filed concerning two of the company's computer systems.

Burroughs was told to pay \$500,000 to Hall Affiliates of Mobile, Ala., and \$250,000 to a New York vitamin distributor. Both suits stemmed from troubles attributed to Burroughs computer systems. The suits claimed Burroughs misrepresented the capabilities of the systems.

Burroughs would not discuss its insurance, but underwriters have said they don't insure such losses (BI, Nov. 24, 1980).

index

Around the states	4	Washington	10
Benefit beat	4		
BI ticker	27		
Books & ideas	18		
Classifieds	24		
Comings&goings: buyers	12		
Datebook	19		
Editorial opinions	6		
Insurance services guide	25		
Legal briefs	18		
Letters	6		
Markets	13		
Perspectives	17		

Owners in other sports consider strike policies

By JOHN MAES

CHICAGO—Owners in other major sports are wondering how strike insurance might fit into their game plans.

Although coverage has not been purchased, insurance against players' strikes has been formally discussed by football and hockey owners who will be negotiating new contracts with players in the coming months.

Reed Stenhouse Inc., brokers of the baseball owners' insurance, reports interest by other major sports but wouldn't elaborate. "That other major sports have shown an interest in strike insurance is about all I can say," said Stenhouse President Peter Leitch.

Despite the mounting losses at Lloyd's of London under the baseball owners' \$50 million strike policy that is paying \$100,000 for every lost game, the window for more strike coverage hasn't been slammed shut.



Photo: Dallas Cowboys

Owners of football teams have discussed buying strike insurance.

"We will look at each and every proposition that's put to us," said a Lloyd's spokesman, pointing out that its syndicates have continued to insure DC-10 jetliners despite a rash of crashes during 1979 and

1980.

Reed Stenhouse also will consider future proposals, but Mr. Leitch said sports franchise owners may try and protect themselves by

Continued on page 22

Lawson joins BI's staff in New York

James C. Lawson, 33, has joined the New York bureau of *Business Insurance* as an associate editor, Editor Kathryn J. McIntyre announced.

Mr. Lawson's 10 years of reporting experience most recently in-

cludes nearly two years as a reporter for the financial section of the Courier-Post in Cherry Hill, N.J. He also has worked for the Chicago Daily News and the Akron Beacon Journal and has free-lanced



Lawson

articles to numerous magazines. Mr. Lawson is a 1971 graduate of Central State University with a bachelor's degree in English.

He can be reached at the New York offices of *Business Insurance*, located at 220 E. 42nd St.; 212-210-0143.

Ex-regulator settles legal malpractice suit

By RHONDA L. RUNDLE

LOS ANGELES—Former California Insurance Commissioner Richards D. Barger and an associate are settling a 4-year-old legal malpractice lawsuit out of court, but someone wants to see it publicized.

The suit came to the attention of *Business Insurance* when it received two separate sets of court documents through the mail. One mailing was anonymous. The other arrived in a legal-sized envelope bearing Mr. Barger's return address.

But the papers were not sent by Mr. Barger and the stationery did not come from his office. "Somebody is apparently going to tremendous trouble to broadcast this to the press," Mr. Barger said. Others also have received the mysterious mailings, he said.

The court documents show that a Los Angeles Superior Court jury ruled March 16 that Mr. Barger and another attorney, Weston Johnson, were negligent and breached a fiduciary duty to a former client. The verdict also held that Mr. Barger committed fraud.

Continued on page 8



Barger

Former A&A vp files lawsuit to get \$250,000 finder's fee

By JOHN W. MILLIGAN

NEW YORK—Alexander & Alexander Inc. is being sued for \$5.25 million by a former employee who claims the country's second-largest insurance broker owes him a substantial finder's fee for bagging a major corporate account.

Marvin Walden, who was vp of special risks for Alexander of Hawaii Inc., is suing A&A for \$250,000 in compensatory damages and \$5 million in punitive damages.

Mr. Walden left A&A in December 1980. Previously, he was a risk manager at Warner Communications for 16 years.

Mr. Walden claims that during his tenure with A&A he secured Dillingham Inc. as a new client in a deal that should have netted him a \$250,000 finder's fee. Dillingham Corp. is a Honolulu-based company involved in maritime, construction, energy and property activities.

A&A refused comment on the dispute. A spokesman did verify, however, that Dillingham is an A&A client and that Mr. Walden is a former employee.

The suit, filed May 28 in U.S. District Court in Los Angeles, alleges that in 1978, A&A "promised" Mr. Walden a finder's fee if he could lure the account to A&A.

The complaint states that he brought Dillingham into the A&A fold. It claims the account earned A&A more than \$1 million in commissions and fees the first year and every year thereafter.

In February 1981, the suit charges, A&A breached its oral contract with Mr. Walden by refusing to pay the finder's fee.

The complaint also alleges the broker acted fraudulently, claiming that at no time did A&A intend to pay Mr. Walden a finder's fee.

Mr. Walden claims that a "trade custom" exists in the brokerage

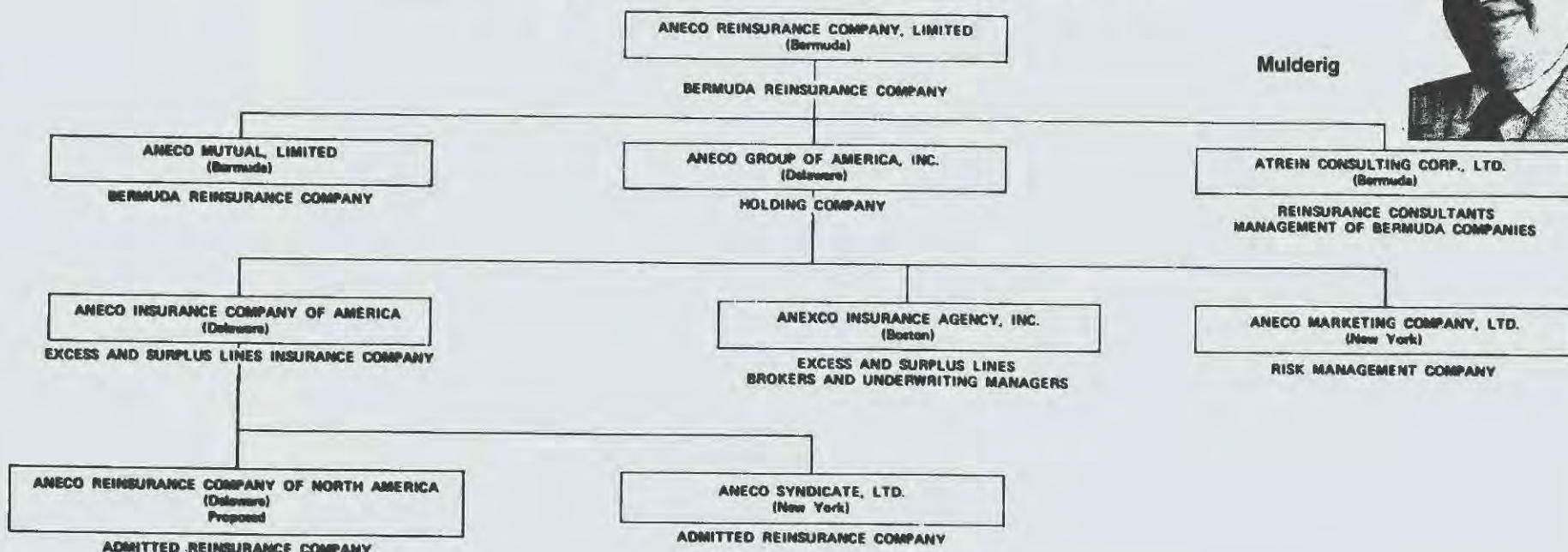
business of paying employees a "finder's fee of approximately 25% of the first year's full renewals" when they obtain a client that generates commissions and fees in the range of \$1 million a year.

This practice has "built up over a period of years," said A. David Kagon, Mr. Walden's Los Angeles attorney. While not an expressed contract, Mr. Kagon said it is an "understanding" based on "history, practice and custom." As such, it is "legally binding."

Washington office

Business Insurance has a new Washington office. It's located in Suite 515, National Press Building, Washington, D.C. 20045. The phone number remains 202-638-5300.

Here's how Aneco is organized



Mulderig



Aneco: Twisting tale of takeover attempts

By LISA BERGSON

BI ticker

Muir is Aneco and Cayman Re's underwriter and the target of several lawsuits and an investigation by the Securities and Exchange Commission.

Even though Cayman Re has written but one reinsurance treaty, it thinks it can do a better job of running Aneco. "Under present management, Aneco has incurred significant operating losses and general operating costs have been too high for a company of its size," Cayman Re reports in its filing to the SEC.

"Cayman Re has concluded that it can manage Aneco much more efficiently and productively . . . and that coordination of the operations of Aneco and Cayman Re will en-

hance the earnings and growth potential of both companies," the filing said.

Four months after completing a \$6 million public offering of its own capital shares on Dec. 29, 1980, Cayman Re began buying up Aneco stock. The potential embodied in Aneco's assets, which totaled \$23.5 million in the first quarter of 1981, and in some of its more viable business divisions signals a clear opportunity to the novice firm.

Notably, the timing of Cayman Re's bulk purchases of Aneco stock, starting with 5,000 shares on April 9, came on the heels of Aneco's successful move to block Federated Re from buying any more of Aneco's stock.

Federated, which reinsures 6% of Aneco's

total business, had acquired 325,000 shares or close to 16% of Aneco. Aneco managed to prevail on the Bermuda Monetary Authority to take action. On Feb. 20, that body set a 10% cap on individual holdings in Aneco, barring Federated Re from further pursuit.

Federated Re, a subsidiary of the publicly traded Houston-based business trust Federated Development Corp., had just suffered the worst results in its nine-year history, with net income plunging to \$117,000 last year from \$4.8 million in 1979. A capital gain of \$6.5 million on security sales went a long way to bolster 1979 results, however.

Underwriting losses, which increased to \$3 million in 1980 from \$2.6 million in 1979, were the fault of a "bad market," according to Sheldon Oster, Federated Re's president.

For that matter, Aneco's volume of business

Continued on page 27

Rockets to soar despite questions

By STEVE SHERWOOD

MATAGORDA ISLAND, Texas—Two companies planning to launch America's first commercial rocket from this small island in the Gulf of Mexico believe that \$25 million of liability insurance is enough to cover the venture.

Owners of the companies' original launching site on Matagorda Peninsula disagree, and an official of the National Aeronautics and Space Administration, which requires commercial users of its space vehicles to purchase \$500 million in liability coverage, say \$25 million is "not much."

The rocket's owner, Space Services Inc. of Houston, and its maker, GCM Inc. of Sunnyvale, Ga., purchased liability insurance from Lloyd's of London underwriters arranged through U.S. broker Clifton & Co. of San Francisco, a spokesman says.

SSI President David Hannah Jr. said the one-year policy essentially is a modified aircraft liability policy.

"Just how much insurance is enough is difficult to say," said Mr. Hannah, a Houston real estate man who, with other investors, has spent around \$1.2 million on the rocket project. "We think we're well-covered."

In any case, the two companies are counting more on the rocket's simplistic design and self-destruct

system than on insurance to protect them from potential liability.

SSI hopes to get a piece of NASA's commercial satellite business by offering oil and communications companies a cheaper, more quickly available alternative. Using off-the-shelf technology and the "simplest possible" rockets, SSI plans to undercut NASA's price for placing a satellite into orbit by 40%.

NASA currently charges about \$8 million to send a satellite into near-Earth orbit (100 miles high) and about \$28 million to send one into geo-orbit (22,500 miles high), which is suitable for communications satellites, Mr. Hanna said. NASA launches are booked for the next five years.

SSI plans to charge around \$5 million for near-Earth orbit launches and \$15 million for geo-orbit launches. The company's rockets would not include the amount of backup equipment NASA uses, so there would be a greater element of risk involved.

This low-cost, high-risk approach led 60 co-owners of the Matagorda Peninsula launch site to file an injunction to stop testing or launching of rockets on the peninsula. Since then, the launch site has been moved to Matagorda Island and the injunction was dropped.

The landowners "were not sure SSI and GCH could secure enough insurance to cover potential tort

Continued on page 26

GRRRREAT



(Except to a few edgy cows and a buffalo)

By STEPHEN TARNOFF

BATTLE CREEK, Mich.—When Kellogg Co. sponsored an international hot-air balloon championship recently, the last thing the cereal manufacturer wanted to hear was a snap, crackle or pop.

A loss-control group was formed to head off troubles, but the cries of a stampeding herd of cows and one nervous buffalo were heard.

Despite some unusual risks and minor damage to local farms, the 10-day affair in Battle Creek was an uplifting experience and a challenge in risk management, said Kellogg's risk manager, Stan King.

Under the aegis of the International Ballooning Federation and through the efforts of such groups as the Battle Creek World Hot Air Balloon Championship Inc. and the Battle Creek Chamber of Com-

Continued on page 24

Strike delays funding of baseball benefits

When the baseball strike forced the postponement of the July 14 All-Star Game in Cleveland, it deprived the fans of more than just their annual midsummer classic.

It also postponed a contribution by the major league teams to the players' health and pension benefit plans, one of two such annual contributions made by the teams.

The Major League Players Assn., the baseball players' union, maintains health and pension benefit plans that are funded by the teams and managed by Meidinger Inc. of Cleveland.

The teams make contributions to the plans with proceeds from the All-Star Game in July and the World Series in October. The All-Star Game has not yet been rescheduled.

If the classic is not played this

benefit beat

summer, Meidinger spokeswoman Angelia Rowland said the integrity of the players' health and pension plans will not be seriously affected.

The contribution generated by the All-Star Game goes into the health plan only, she said, and is smaller than the contribution from the World Series.

Ms. Rowland assumed that the contribution from the All-Star Game will be a bargaining issue if the game is canceled, but she said it would not be a top-priority issue.

"To be honest, I'm not sure that anyone has thought about it (the benefit contribution)," she said.

The players association could not be reached for comment late last

week to verify whether the contribution issue will be addressed.

Continental ESOP

The California commissioner of corporations has ruled that Continental Airlines' public stockholders will decide the fate of the airline's proposed employee stock ownership plan.

Commissioner Geraldine Green said last week that if Continental wishes to issue 15.4 million shares of new stock in California to form an ESOP, thus giving employees 51% control of the company, the company must first allow its 30,000 public shareholders to vote on the

matter.

Texas Air Corp., the parent company of Texas International Airlines, has waged a stormy takeover fight with Continental since the first of the year. Continental hopes the ESOP will blunt Texas Air's takeover threat.

The 15.4 million new shares will approximately double the amount of Continental's issued shares to date, she said, and thereby dilute the stock of its 30,000 small shareholders who own about 1% of the company. Doubling a company's stock with one issue is "unprecedented," Miss Green said, and should be approved by the shareholders.

Miss Green said she also dislikes the ESOP's termination provision, which allows the company to terminate the plan without notice to

at least one-half of the company's 11,000 employees, and within 60- to 90-days notice to others.

The requirement for a shareholder vote is conditional on Texas Air's agreement to neutralize its 48.5% share of Continental stock. If it does, Texas Air will vote its stock in proportion to results of the private shareholders' vote.

Continental is "disappointed" with the commissioner's ruling, a company spokesman said, since it would like to have a vote before the Civil Aeronautics Board rules on Texas Air's petition for control of Continental.

Made any benefit changes? Write John W. Milligan, Associate Editor, Business Insurance, 220 East 42nd St., New York, N.Y. 10017; 212-210-0141.

around the states

R.I. court to rehear comp case

PROVIDENCE, R.I.—The state Supreme Court will rehear arguments in a case involving a workers compensation benefit to a woman for mental stress suffered on the job unrelated to any physical injury.

In an earlier decision, the court split 2-2 on whether the woman should be granted the benefits. The tie vote affirmed the decision of an appellate commission, which granted compensation.

Rhode Island workers previously were unable to collect workers compensation benefits for job-related mental problems unless they stem from physical injuries.

In the current case, a 49-year-old office manager quit her job in 1975 because of mental stress resulting from alleged harassment from her company, according to her attorney, Raul Lovett.

She is presently receiving workers compensation benefits and is seeking past compensation and continued benefits, he said. Crum & Forster, the insurer, is arguing that the action is non-compensable.

Fines imposed

NEW YORK—The state Insurance Department has fined Agricultural Insurance Co. and Carillon Managers International Inc., one of its managing general agents, \$25,000 each.

The fines were imposed after a market conduct investigation of Agricultural's rating and underwriting practices.

Violations by the New York-based managing general agent included using policy forms not filed with the insurance superintendent, writing some policies as inland marine insurance although they were actually multiple peril risks, charging premium rates that deviated from those filed with the department and using rating sheets that contained insufficient support for rates used to compute premiums.

Agricultural Insurance and Carillon Managers have acknowledged the violations and paid the fines, but stated the violations were inadvertent and corrected.

Agricultural Insurance Co. is licensed to write various lines of fire, casualty and health insurance in New York.

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the engineering and environmental expertise, as well as the insurance perspective, that are needed to help you meet the EPA's new requirements.

Radian Corporation, with its staff of hydrogeologists, chem-

ists, engineers, industrial hygienists, and others, has been providing multidisciplinary technical services in the engineering and environmental fields for over 12 years. Their many projects for industry and government in the areas of hazardous waste management and risk assessment include the following:

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Hydrogeologist and civil engineer investigating abandoned hazardous waste disposal site. The new EPA requirements make this kind of investigation more important than ever.

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editorial opinions



It just doesn't fit

THE FINANCIAL Accounting Standards Board should listen to benefit consultants, actuaries and pension plan sponsors who object to the prospect of putting unfunded pension plan liabilities on the corporate balance sheet.

They don't belong there.

Frankly, we're a bit confused that an institution dedicated to establishing accounting standards that present true and accurate pictures of a corporation's financial health would even consider such a move. The future costs of pension plans, while determined by actuaries, are not certain and, therefore, don't fit on the balance sheet.

Granted, shareholders and potential investors should be concerned about a company's ability to pay its pension obligations. But what those obligations are, how they were determined and the amount of money available to cover them is best disclosed in a footnote to the balance sheet—the first place a savvy reader of financial statements looks anyway.

We are especially concerned, as are many pension experts, that cramming pension liabil-

ities onto the balance sheet will deter companies from increasing pension benefits if it would hurt the appearance of their financial statements.

Our tax laws encourage companies to maintain pension plans. This accounting standard will discourage them.

A new standard on accounting for pension plans is at least two years away and forcing pension liabilities onto the balance sheet is only one of several methods being considered, the FASB says to those worried about the alternatives in the discussion memorandum.

We'd like to see this one dismissed now.

Some thoughts

FOR YOUR BAG of life's paradoxes:

- The federal government, maker and enforcer of fire safety regulations for businesses on its own soil, is lax about fire safety in its embassy in London.

- Insurance companies, the loudest complainers about our litigious society, file their share of hefty lawsuits when they think they've found a deep pocket.

letters

Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible. We reserve the right to edit letters for clarity or space. Please send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611.

Judge's order misinterpreted?

To the editor: A July 6th editorial in *Business Insurance* misrepresented the content of Circuit Court Judge James Murray's ruling on workers compensation insurance rates in Illinois.

As Judge Murray firmly pointed out in open court on June 29 when finally issuing his written opinion, the court did not determine whether insurers needed the 23.8% rate increase, and most importantly, the court did not order a premium refund.

Judge Murray reversed the state insurance director's order approving the rate increase based on technical deficiencies in that order.

A great deal of false information was circulated immediately following Judge Murray's first verbal

issue in the court's ruling on June 23. In fact, Judge Murray, later in court, chided the plaintiffs' lawyers for contributing to the misinterpretations.

I was surprised and disappointed that a weekly publication with the integrity and stature of *Business Insurance* would not double-check its information before writing an editorial based on inaccuracies.

James E. Arnold
Vp of public and association affairs
Alliance of American Insurers
Chicago

■ *Illinois Insurance Director Philip O'Connor maintain's the effect of Judge Murray's ruling would be a refund of premiums collected under the 23.8% rate increase.*

Handgun debate continues

To the editor: Your June 8 editorial, "Handguns are bad risks," is to be applauded. Whether it is product or owner liability, literally billions of dollars are being wasted by easy access to handguns. But the victims are starting to fight back.

In November 1979 eight handguns were stolen from the offices of the National Rifle Assn. of America. Three days later, one of the weapons was used to murder a researcher from the National Institute of Health. The NRA is now looking at a \$2.5 million lawsuit.

Office and residential burglaries are now the No. 1 source of criminally used firearms. A handgun in the home is worse than dumb; it is dangerous. And as the NRA is finding out, it's also unhealthy for your pocketbook.

Samuel S. Fields
Coordinator of legal affairs
National Coalition
to Ban Handguns
Washington

To the editor: Your June 8 editorial contributed little to the debate over guns, crime and violence in our society and offers no concrete solutions to the problems that now exist. This shortcoming is because you have skirted the real issue, crime, and have instead chosen to cloud the discussion by laying blame for our ills on the instrument rather than on those who misuse it.

There are an estimated 200 million firearms in this country. Handguns account for almost 60 million of that figure. Yet less than 0.2% of these guns are ever used in a crime in any year. And, those guns that are criminally misused are usually illegally obtained and are possessed by persons who are already forbidden by federal and state law from owning any firearm.

Business Insurance would do a greater service to its readers and to the profession of risk and safety management if it advocated not "gun control," but firearms safety education and training programs. It might also do well to call for reasonable control by our criminal justice systems over those who continue to violate gun laws with apparent impunity.

Jack Adkins
National Rifle Assn. of America
Washington

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Risk managers' voices heard

To the editor: Your editorial "On the move" (*BI*, July 6) states that, given the entrance of the National Assn. of Insurance Brokers and the National Assn. of Insurance Commissioners into Washington to lobby on behalf of their respective memberships, "risk managers better be poised to be heard, too."

The statement suggests that the Risk & Insurance Management Society has not pursued the interests of its members in the U.S. capital. On the contrary, while RIMS does not have a Washington office, it has managed quite successfully to represent the interests of risk managers to federal lawmakers.

RIMS has made its position known to Congress and other branches of the government on issues such as risk retention, product liability, McCarran-Ferguson, tax reform and employee benefits. The society is frequently called by representatives of federal agencies and congressional aides to supply

insurance expertise and the buyers perspective on pending and proposed legislation and regulatory matters. Our members know that the society's efforts have had very specific results across a broad spectrum of issues.

Currently, RIMS and the Captive Insurance Companies Assn are lobbying to effect change in the Internal Revenue Service Code to allow deductibility for self-insured loss reserves.

RIMS would like to send a very clear message to the insurance community. The society plans to continue to advocate aggressively for its members on all levels of government. Our record, we feel speaks for itself and proves that our influence is far-reaching, in Washington and elsewhere.

Donald T. Brown
Vp of governmental affairs
Risk & Insurance
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Former official settles legal malpractice suit

Continued from page 2

The plaintiff, The Insurors of California Inc., was awarded \$388,668 in actual damages plus interest and \$150,000 in punitive damages.

A subsequent insurance company settlement, reached after the defendants were granted a motion for a new trial, has "substantially reduced the jury award," said Mr. Barger. The Travelers Insurance Cos., which provided the attorneys' professional liability insurance, will pay the settlement, he said.

Mr. Barger and another attorney also are defending another unrelated lawsuit, filed by a man claiming to be a former employee of the doctors' insurance company that Mr. Barger represents.

"I have done nothing wrong in either case and have nothing to be ashamed of," Mr. Barger said. He believes that because he was state insurance commissioner from 1968 to 1972 and well-known in the insurance industry, he is a target defendant in legal malpractice cases.

The plaintiffs in the two actions against Mr. Barger and other defendants could not be reached for comment. Their attorneys also were either unavailable or refused to talk to *Business Insurance*.

The lawsuit anonymously publicized to the press was brought by Lawrence Nagler, chief executive of The Insurors of California Inc. He had retained the law firm of DeMarco, Barger, Beral & Pierno in July 1975 to perform certain legal duties necessary to structure and license a medical malpractice insurance company in California.

He charged that an application filed with the Department of Corporations to issue additional shares of capital stock was deficient and an application to obtain an organizational permit from the Insurance Department was denied.

Due to the defendants' negligence, the company ran out of capital and was unable to consummate formation of the proposed medical malpractice insurance company, the suit said.

The defendants countered that Mr. Nagler was at fault for failure to furnish necessary, and in some cases, unfavorable information.

Mr. Nagler also charged that his attorneys sustained a conflict of interest by taking on another client in direct competition with his proposed medical malpractice insurance company subsidiary.

Mr. Barger and another attorney of the same firm, Robert W. Hogeboom, successfully obtained an organizational permit for Physicians & Surgeons Insurance Exchange within eight days of filing for the same permit on behalf of The Insurors of California, the suit notes.

At that time Mr. Barger was a member of the board of governors of the Physicians & Surgeons Insurance Exchange, the suit said.

This undisclosed dual representation and the undisclosed interest of Mr. Barger in Physicians & Surgeons was a conflict of interest, the plaintiff said. Furthermore, non-disclosure was made with the intent to defraud and deceive the plaintiffs, he charged.

The jury upheld charges of negligence and breach of fiduciary duty against Mr. Barger and Mr. Johnson, who are now associates in the firm of Barger & Wolen. A third defendant attorney was found not liable.

The jury said the negligence of the plaintiff contributed 20% to its injury and the conduct of defendants Barger and Johnson contributed the remaining 80%. The charge of fraud for concealing his conflict of interest was upheld against Mr. Barger.

The second suit involves Mr. Barger, attorney Robert W. Hogeboom and directors of the Physicians & Surgeons Underwriters Corp. and Physicians & Surgeons Insurance Exchange of California. The suit, charging fraud and deceit, was filed in Los Angeles Superior Court in July 1978.

Plaintiff Stanley Rose charges that the defendants plotted to deprive him of earnings under an employment contract and capital stock in Physicians & Surgeons Underwriters Corp.

The status of the suit could not be determined. Mr. Rose has disappeared, according to Mr. Barger and an executive at the insurance company. Mr. Rose's attorney refused to discuss the case.

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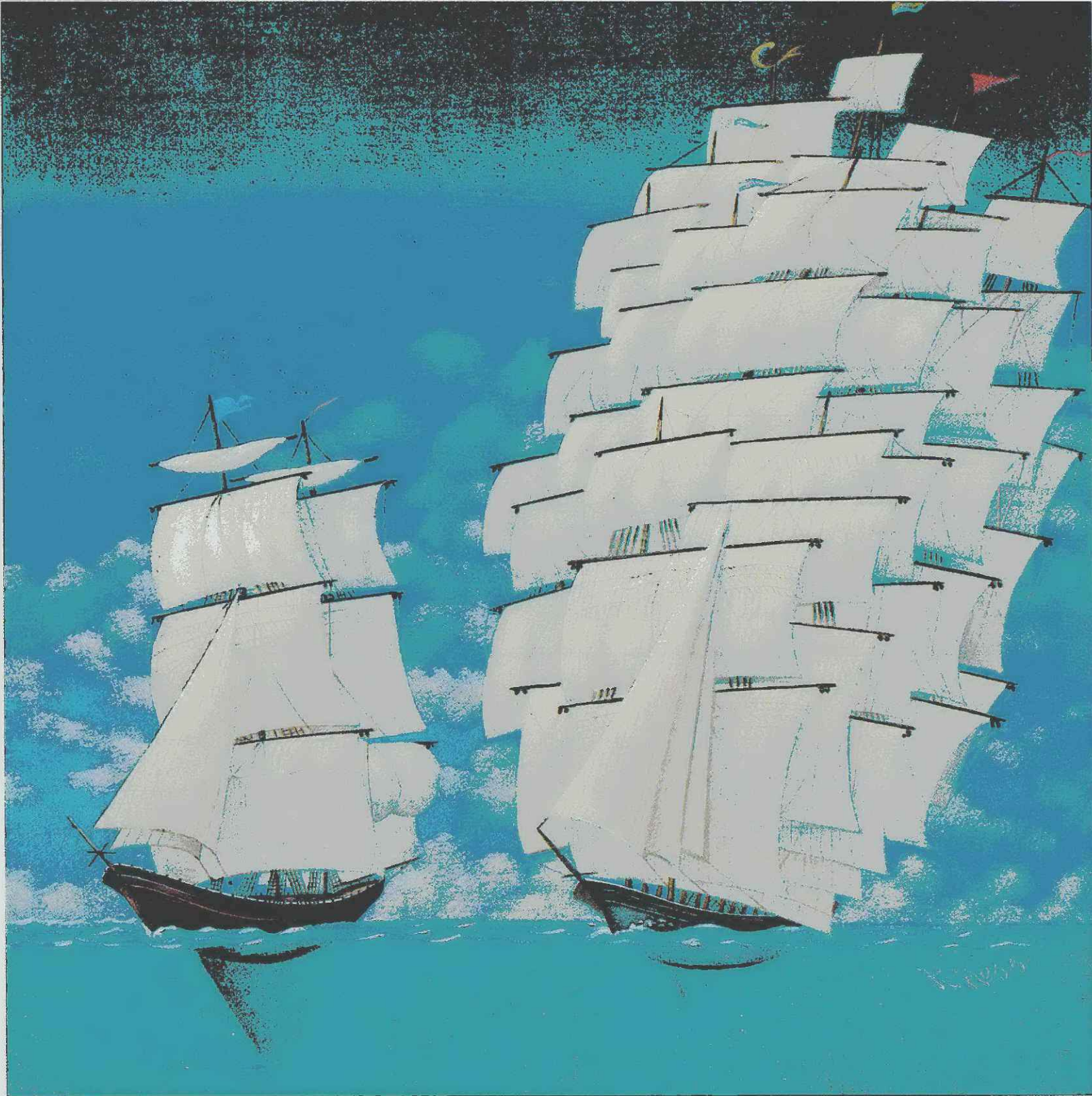
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House gives approval to HMO rule changes

By JERRY GEISEL

WASHINGTON—Some employers would have to offer their employees a choice of health maintenance organizations under legislation approved by the House.

As part of the complex budget reconciliation bill, the House tacked on legislation approved earlier by the Energy and Commerce Committee that sets up a multiple-choice provision for employers sponsoring HMOs.

Under the measure, employers would have to offer their employees a choice of enrolling in one of two HMOs, if one of the HMOs is controlled by an insurer or a Blue Cross/Blue Shield plan that also controls a "substantial" part of the

washington

health insurance market in the employer's area.

The future of the multiple-choice provision is unclear. HMO legislation passed by the Senate Labor and Human Resources Committee does not contain the provision. The Senate has not taken action on HMO legislation.

House-Senate conferees most likely will have to work out the multiple-choice issue as well as other HMO differences.

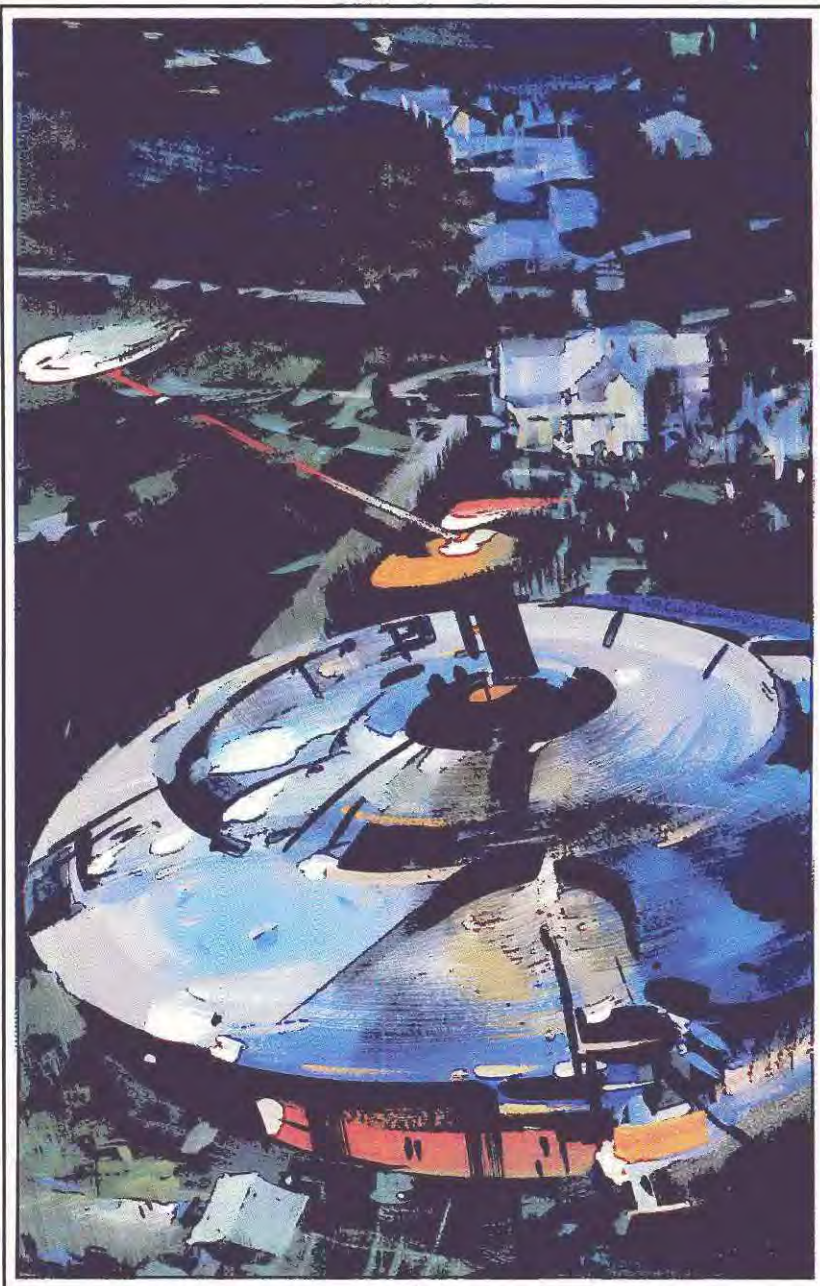
If the provision becomes law, it would amend the 1973 HMO Act that requires an employer to offer employees an opportunity to enroll in an HMO if an HMO asks to serve employees and if the employer has more than 25 employees.

Employee benefit managers have complained that if they are required to offer several HMOs, their administrative costs could increase.

Experts also are concerned that the second HMO employers may be forced to offer could be financially weak, increasing the risk that employees could get stuck with unpaid medical bills if the HMO goes broke (BI, June 1).

The House-approved legislation would also authorize \$40 million for HMO loans during the next three fiscal years.

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OPIC authority

The Senate Foreign Relations Committee has approved legislation, S. 993, to extend and broaden the underwriting authority of the Overseas Private Investment Corp. to Sept. 30, 1985.

OPIC is the federal agency that provides political risk insurance to employers investing in less-developed countries.

The measure would allow OPIC to provide a full range of political risk insurance policies to employers investing in countries with a per capita income of up to \$2,200 in 1975 dollars (more than \$3,000 today).

Under OPIC's current legislative authority, which expires Sept. 30, it is restricted to operation in countries with a per capita income of \$1,000 or less.

Removal of the \$1,000 cap will increase OPIC's insurance business by more than 30%, said Gerald T. West, OPIC vp for development.

The measure also will broaden OPIC insurance coverage to include damage caused by civil strife.

The House Foreign Affairs Committee was expected to approve companion legislation, H.R. 3136, late last week.

Full Senate and House approval of the OPIC legislation is expected later this summer.

Chief actuary

Richard Hoffman, a former insurance industry executive, is the new chief actuary at the Office of Personnel Management.

In his new position, Mr. Hoffman will provide professional advice, reports, analyses and data on the administration of retirement, life insurance and health benefit programs for federal employees.

He also will represent the OPM in dealing with the dozens of insurance companies that underwrite benefit programs for federal employees.

Mr. Hoffman, who worked for Equitable Life Insurance Society for more than 30 years, replaces Ed Husted, who has joined Hay Associates in Washington.



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Michael Miller to direct benefits at Borden Inc.

Michael Miller has been promoted to director of employee benefits at Borden Inc. in Columbus, Ohio. Mr. Miller, 36, has been manager of employee benefits at Borden for the past two years. His has 18 years of experience and was director of benefits and variable compensation for G.D. Searle in Skokie, Ill. Mr. Miller has a bachelor's degree in mathematics from Brooklyn College in Brooklyn, N.Y. He will report to Allan Miller, vp of employee relations. He replaces Dennis Kairis, who is now an independent consultant based in Columbus, specializing in benefits, compensation and property/casualty insurance.

Joseph R. DiPasquale and

comings & goings: buyers



DiPasquale Ryan

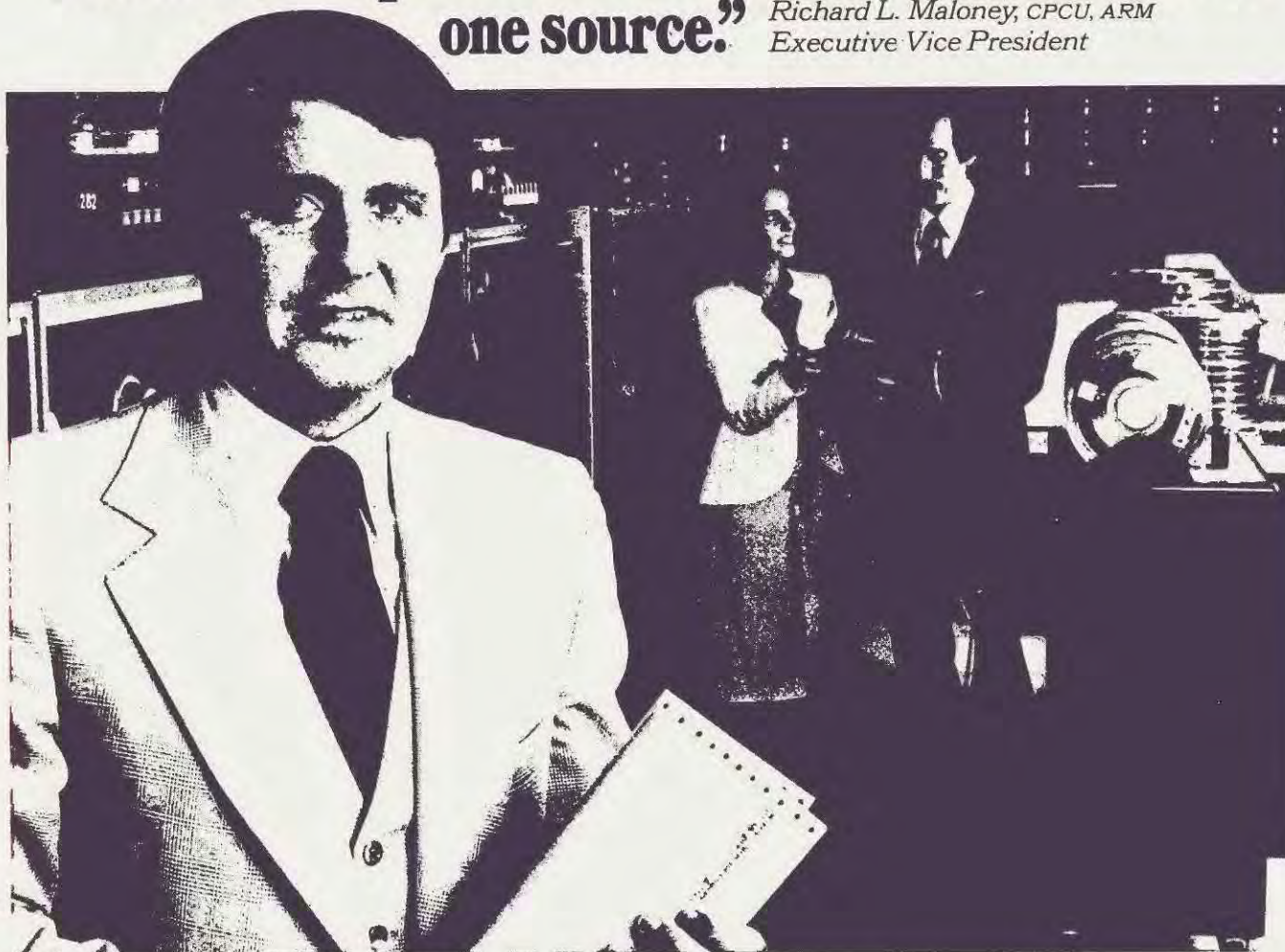
Mark J. Ryan have been promoted to the newly created positions of manager of insurance at Hooker Chemical's Industrial Chemicals Group in Niagara Falls, N.Y. Mr. DiPasquale, a native of Niagara Falls, joined Hooker in 1969 as a research technician and has been associated with the insurance and risk department since 1973, most recently serving as risk and loss-control administrator. He has a bachelor's degree from the State University of New York at Buffalo and is enrolled in Niagara University's graduate business administration program. Mr. Ryan, a native of Buffalo, joined the company in 1979 as an insurance analyst in the risk management department after several years as a claims adjuster for an insurer. He holds a bachelor's degree from Niagara University and is enrolled in Canisius College's graduate business administration program.

Portland (Ore.) General Electric Co. has appointed Erwin Johansen, CPCU, senior risk analyst. Mr. Johansen, 38, will have responsibility for the day-to-day operations of the insurance department in this newly created position. He will report to F. Randall Wilson, manager of risk and insurance. Mr. Johansen has nine years of experience in underwriting, brokerage and surplus lines. He was formerly assistant vp with Montgomery & Collins Inc. in Portland. He has a bachelor's degree from Lambuth College in Jackson, Tenn., and a master's degree from the University of Washington in Seattle.

Columbia Pictures Industries Inc. has named Ariel Lugo insurance administrator (West Coast) and Carol D. Meyer risk and insurance administrator. Both positions are newly created and report to Sheila P. Roberts, director of risk management and insurance. Mr. Lugo, formerly assistant risk manager with Saxon Industries Inc., will be located at Columbia's West Coast facility and will be responsible for assisting in the administration of its insurance program as it relates to motion picture, television and commercial productions. He is a graduate of the State University College at Buffalo, N.Y., where he received his bachelor's degree. Ms. Meyer will be located at Columbia's headquarters in New York and will be responsible for assisting in the administration of all aspects of Columbia's risk management and insurance program. She has a bachelor's degree from Colby-Sawyer College in New London, N.H. Ms. Meyer was formerly employed by Johnson & Higgins.

•
We'd like to report on changes in your risk management or employee benefits department. Just drop a note to Stephen Tarnoff, Associate Editor Business Insurance, 740 N. Rush, Chicago, Ill. 60611 or call 312-649-5482. We'd also like to receive pictures.

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Capacity increased by captive

Nuclear Mutual Ltd., the Bermuda-based nuclear industry property insurance captive, has increased the total capacity available to member companies by \$75 million to a maximum of \$450 million.

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Mission Risk Management Services is a new autonomous division of the Mission Insurance Co., offering captive-reinsured programs, cash-flow plans, self-insured, self-administered retentions and specially designed excess coverages as well as other services.

Offices are at 2601 Wilshire Blvd., Los Angeles, Calif. 90057; 213-381-6811.

Consultants

Becher & Carlson Risk Management Services has been formed by William E. Becher Jr. and David L. Carlson, both formerly with Pinehurst Corp. The new company will supply loss-analysis services, risk-funding alternatives and the structuring and management of self-insured, captive and cash-flow programs.

The company's offices are at 32107 Lindero Canyon Road, Suite 105, Westlake Village, Calif. 91361.

Holding company

The Swett & Crawford Group has formed a holding company, the Foremark Corp., which encompasses the Harbor Insurance Co.; Swett & Crawford, a brokerage firm; Swett & Crawford Management Co.; Pacific & London Guarantee; and Reinsurance Facilities Corp., a reinsurance and management firm.

The restructuring is intended to improve operation efficiency and clarify lines of authority, says Foremark President Mac W. Henderson.

The Foremark companies will continue to be identified by their individual names.

Acquisitions

Powell & Co., an insurance agency based in Decatur, Ga., has acquired **Pace Insurance Agency** of Albany, Ga.

Armco Financial Services Corp. has acquired a 60% interest in **Togomo Corp.**, an insurance holding company in San Juan, Puerto Rico. Armco and Togomo's three principals also have agreed to form a property/casualty insurer, to be called **Armco Caribbean Insurance Co.**, to write policies in Puerto Rico.

The Laub Group Inc., an independent regional insurance agency based in Milwaukee, has acquired **Cheesemakers Insurance Services** and **Tillison Insurance Services**, both located in Madison, Wis.

New offices

John H. Crowther Inc., which specializes in excess, surplus and specialty lines insurance, has opened offices in Portland, Ore., at 1001 S.W. Fifth St., and in Salt Lake City at 50 S. Main St.

Recovery Services International Inc., a subsidiary of INA Corp., has opened a Miami office to provide subrogation services to the Southeast. The office is in the Palm Springs Center, 1840 W. 49th St., Hialeah, Fla. ■



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perspective

REGULATION

Photos: Mary Cairns

The Superfund: Questions and answers

By Neil J. Cohen

Q. WHAT IS the purpose and scope of the Superfund legislation?

A. The official title of the Superfund Act is the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. It is intended to provide funds for cleanup of hazardous waste disposal sites and other "releases" of hazardous substances from vessels and facilities such as factories, trains, trucks and storage tanks.

Releases are broadly defined as any "spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment."

The legislation is also intended to enable the federal government to recover money for releases that have damaged natural resources.

Any person in charge of a vessel or facility who releases specified quantities of hazardous substances must notify the government. The president is empowered under Section 106 of the act to order the responsible parties to clean up or contain the releases. Parties responsible for a leaching landfill include the owner and operator of the disposal site, the transporter who selected the site and the generator, if he hired the operator or was negligent.

If the responsible parties fail to respond, the government can expend money from a \$1.6 billion fund to do the job. Some 87.5% of this money comes from a tax on crude oil and chemical feedstocks. The balance comes primarily from general tax revenues.

There is strong incentive for private parties to obey. If they refuse and are later found liable, the government can sue for reimbursement plus punitive damages of up to triple the cost of cleanup.

The act also establishes a trust fund, financed by a tax on owners or operators of hazardous waste disposal facilities, to

pay the costs of monitoring, care and maintenance of hazardous waste disposal sites after they have shut down.

Q. What types of releases are subject to the cleanup and liability provisions?

A. The government wanted the act to cover all releases or threatened releases of substances that cause harm to personal health or to the environment, whether on land, air or water. Industry wanted the act confined to leaching from abandoned hazardous waste disposal sites that present an imminent and substantial threat to public health or the environment, and only when the state or city doesn't take action. At a minimum, industry wanted the names and amounts of the hazardous substances covered by the reporting requirements of the act specifically designated.

The final bill generally contains the broad concept of "releases" into the environment from any source. Industry succeeded in limiting the definition of "hazardous substances" in Section 101(14) to the 258 such substances listed in regulations under Section 311 of the Clean Water Act and those designated in the Superfund Act and other environmental laws.

The act also includes a provision requiring the government to define threshold quantities of substances subject to the act's reporting requirements. The administrator of the Environmental Protection Agency has the authority to establish one single quantity as the reportable amount.

Although the government can respond to lawful releases pursuant to a federal permit, there is no liability for such releases. Releases solely within the workplace and releases from products in consumer use are not covered, nor are emissions from vehicles and certain nuclear releases.

Undesignated hazardous chemicals are covered under Section 104 which gives the government authority, under certain circumstances, to clean up such releases. However, liability for cleanup costs under Section 107 is restricted to designated hazardous substances.

Q. When will the Superfund be funded?

A. The Superfund has three sources of revenue. One-half of the

fund is created under Section 311 of the Clean Water Act, other funds are appropriated from the chemical feedstock tax system and general tax revenues are used. At present, there is a legal technicality holding up the transfer of Section 311 funds. The absence of funds does not prevent the president from ordering disposers, transporters and generators to clean up releases pursuant to his authority.

Q. Are there any limits on the government's discretion to expand Superfund money?

A. As already noted, the government can respond to emergencies under Section 104(a) to clean up not only designated "hazardous substances" but also broadly defined "pollutants" and "contaminants" deemed dangerous.

However, under Section 104(c) the government may not spend more than six months or \$1 million on the initial emergency response, unless the state in which the release occurs has contracted with the president to provide at least 10% of the costs, to take future remedial actions to assure the availability of a disposal facility and to meet other specified conditions.

However, if urgent action to protect the public welfare or the environment is required, the federal government may exceed the \$1 million limitation if no one else is providing such protection.

The government is also required under Section 105 to revise the National Contingency Plan under Section 311 of the Clean Water Act to include, among other things, an analysis of cost-effective remedial action.

Q. What limitations are there on the government's power to obtain damages for the destruction of natural resources?

A. The government cannot sue for damages unless the material released was a designated hazardous substance and at least some of the damage (and the release that caused the damage) occurred after passage of the act. In addition, if the damages were fully described in an environmental impact analysis and the release was nevertheless approved, no damages can be obtained.

Section 107 imposes limitations on the total amount of money that can be recovered—\$5 million for vessels and \$50

million for facilities—unless there was willful misconduct or the defendant knowingly failed to comply with the notification provisions under Section 103(c).

Q. Let's assume the problem is a leaching abandoned hazardous waste disposal site. How did Congress decide who should be liable for cleanup costs? Are these people liable without fault?

A. The answer isn't altogether clear. The Carter administration's bill, Section 4(a)(iii) of S. 1480, called for "strict" liability for anyone who "arranged for transport of hazardous substances." Let's assume that a generator hires a transporter who in turn hires a disposer. Under this language, the generator is strictly liable for the cost of remedying the leaking disposal site, even though he had no control over the disposer's action.

The Chemical Manufacturers Assn., among others, objected to this language on the ground that only those who have the ability to control an event should be held liable for it. The CMA's solution was to make generators liable only when they have actual or legal control of the land from which the substances escaped.

The act strongly favors the Carter administration's position. The concept of strict liability was retained by providing in Section 101(32) that the standard of liability under Section 107 is the same as that under Section 311 of the Clean Water Act. Several court decisions have held that Section 311 creates strict liability. However, generators are not liable unless they had a "contractual relationship, existing directly or indirectly" with the employee, agent or independent contractor who disposed of the waste.

The owner and operator of a disposal facility at the time of disposal is liable, unless the release was caused by an act of God, a war or an unrelated third party. If the owner/operator sells the property to a non-discharger, is the new owner liable under this law? This is another unresolved issue. The new owner can argue that under Section 107(a)(1) he must be an owner and an operator to be liable.

Thus, a generator is liable if he hired the disposer. But even if he did not, he is still liable unless he is able to prove that

Continued on next page

Neil J. Cohen is the editor of *Chemical and Radiation Waste Litigation Reporter*. This article is adapted from a story on legislation to create a "Superfund." It is reprinted with permission.



Benefit management

Book teaches administrators needed skills

By Joseph L. Fromm

"Employee Benefit Management"
 Edited by H. Wayne Snider
 The Risk & Insurance Management
 Society Inc., New York, N.Y. 10017
 224 pages, \$25.95

PROFESSOR H. WAYNE SNIDER bases his book, aimed at educating benefit administrators and corporate management, on theses such as these:

- Employee benefit management demands a high level of skills and knowledge.
- Most employee benefit administrators have entered the occupation by accident.
- Few individuals who have risen to positions of overall authority in business have any background or knowledge in benefits or benefit administration.

The 12 specialists collaborating with Mr. Snider elaborate on the difficulties of benefit management and the need for skill and knowledge on the part of benefit administrators.

One author develops a historical perspective by pointing out that the

Joseph L. Fromm is manager of employee benefits and assistant treasurer of American Motors Corp. in Southfield, Mich.

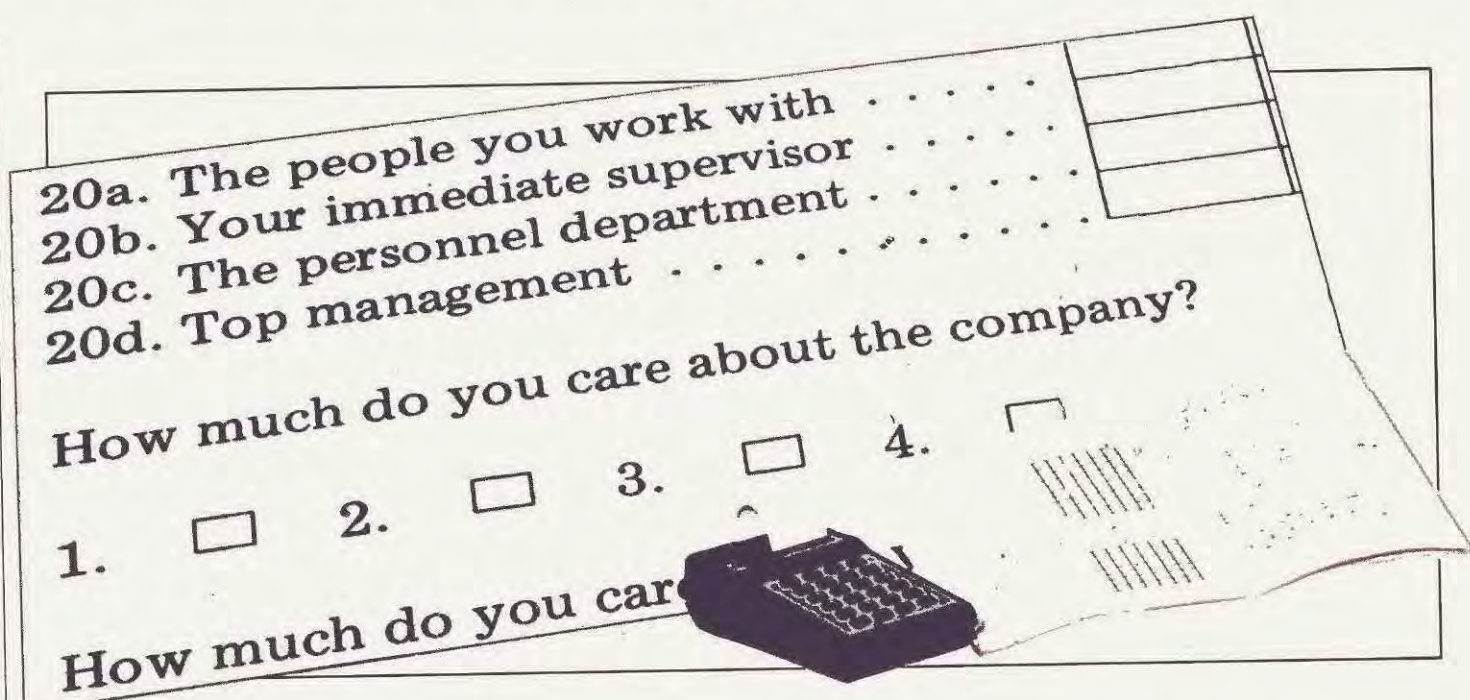


Illustration: William M. Mercer, Inc.

Employee benefit managers need a variety of information and tools to provide the best plans for the money.

development of employee benefits in the United States was disorganized. Each benefit plan has its own form, based on separate sets of principles. Plans proliferate and begin to affect each other.

Mr. Snider says the employee benefit package provided by employers is a consequence of various objectives of different parties, sometimes with basic conflicts in the objectives. The employee benefit manager must put together a package that supports common objectives, accommodates dissimilar objectives and compromises differences of conflicting objectives.

The problems of dissimilar and

conflicting objectives are discussed. Management is reminded it must recognize that benefit objectives change as a company changes from a young, growing enterprise to a maturing organization. Objectives will change as the need for various types of employees change. Effective benefit managers must have a continuing awareness of the areas in which benefit revisions are needed and desired.

Needs vary not only among individual employees, but the same employee may have different needs during various stages in his or her career. An employee benefit program must include maximum flexibility.

Employee benefits become complex because of government regulations, according to the experts. Differences among federal, state and local regulations compound the problem for benefit managers.

Also discussed are taxation, claims handling, union negotiations, health-care cost-containment, self-funding mechanisms and the effects of acquisitions

and mergers. The importance of communication with employees and the role of the international specialist in corporate benefit policy making is emphasized.

What are the solutions? The authors say there is a great need for research in employee benefits to improve quality and efficiency of benefit administration. Organizational structures, wage theory, labor economics, employee attitudes and plan efficiency should be studied. Attention must also be paid to scientifically determining employee characteristics instead of relying on personal observations or personal value systems.

The book is well-written and easy to read. Benefit managers, who should be well-aware of the problems and complexities of their job, will find new insight into their profession. Also, benefit managers undoubtedly will agree with Mr. Snider's contention that the education of senior management is crucial to the development of benefits and benefit administration.

Cleaning up toxic wastes

Continued from previous page
 he was not negligent. Examples of negligence suggested in Section 107(b)(3) are failure to disclose the toxic contents of the waste to the transporter or failure to take appropriate action after learning of a problem at the disposal site. Whether a generator who fails to closely inspect the design, construction, operation or post-closure characteristics of the site is negligent promises to be one of the hotly-litigated issues.

Q. If more than one party is liable, who is responsible for the cleanup cost and how is the responsibility divided?

A. The answer to this key issue is also unclear. Sen. Jennings Randolph, D-W.Va., said during debate on the bill, "It is intended that issues of liability not resolved by this act, if any, shall be governed by traditional and evolving principles of common law. An example is joint and several liability. Any reference to these terms has been deleted, and the liability of joint tort-feasors will be determined under common or previous statutory law."

Under common law, a court will frequently impose joint and several liability if the harm is "indivisible." For example, if a judge is unable to apportion costs based on the volume or

toxicity of the waste contributed, he may hold all parties jointly and severally liable and let them fight among themselves for contribution.

Industry will probably argue that state common law precedents on joint and several liability are inapplicable because much stricter proof of causation is required under common law than is necessary under the Superfund.

Section 101(32) states that "'liable' or 'liability' under this title shall be construed to be the standard of liability which obtains under Section 311 of the Federal Water Pollution Control Act." However, I know of no reported cases on whether liability under Section 311, which applies only to owners and operators, is joint and several.

The ambiguity surrounding this issue is unfortunate. Suppose the president orders a generator that contributed 50% of the waste at a particular site to remove 100% of the material. Should the company comply? If it does not, it is potentially liable for punitive damages under Section 107(c)(3). If it does, it probably has a cause of action under Section 107(a)(4)(B) against other responsible parties for reimbursement of 50% of the costs, but it will bear the burden of proving how much the other responsible parties contributed.

legal briefs

Group life policy unaffected by divorce

A claim from the former wife of a decedent as the named beneficiary under a group life policy was not a claim arising from the marital relationship of the parties, according to an Oregon appellate court.

Karma Weatherford was the named beneficiary of a group life policy maintained by her husband Grant's employer. They were divorced on July 10, 1978. The property settlement did not expressly mention the insurance policy.

When he died, Grant's policy continued to name Karma as beneficiary. She claimed a right to the proceeds of the policy as did the representative of Grant's estate. The trial court awarded Karma the proceeds.

On appeal, the estate argued that the property settlement constituted a fully integrated contract between Grant and

Karma Weatherford and precluded a recovery by her as the named beneficiary. The court pointed out that the property settlement provided only that each party release and discharge the other from all claims and property demands.

It said that Karma's interest in the insurance policy was not a property interest but a mere expectancy and was not specifically dealt with by the terms of the property settlement agreement. The court agreed that Karma Weatherford was entitled to the insurance proceeds. *Prudential Insurance Co. vs. Weatherford*, Court of Appeals of Oregon, Dec. 15, 1980 (B1/02/Ju.-\$5).

A copy of the decision may be obtained by sending \$5 to Cases Unlimited, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. List the case number.

Expect health plan rule changes: Lobbyist

By **STEPHEN TARNOFF**

ST. CHARLES, Ill.—Employers can expect the federal government to mandate changes in group health plans, warns a pro-business Washington lobbyist.

Some kind of pro-competition health-care bill probably will be passed by Congress, although not until at least 1982, said Michael J. Romig, director of human resources and employee benefits at the U.S. Chamber of Commerce.

Mr. Romig, speaking at an International Foundation of Employee Benefit Plans conference, called that legislation "probably the hottest and most important" health-care issue affecting business in the current Congress.

He said two bills designed to "instill competition" and overcome shortcomings in the health insurance system are pending. The bills would change how health insurance is purchased by employers on behalf of employees and change the ground rules for health-care selection, he said.

In part, the bills force competition by threatening to withhold certain tax advantages if employers don't offer more than one kind of health insurance plan.

Mr. Romig said he fears that more complicated tax laws could result because government regulators and health-care providers are writing the bills without input from businesses.

Some health-care legislation will not be deferred to next year, he said. It's likely that cutbacks in funds for health maintenance organizations, professional standards review organizations and health systems agencies will be approved in 1981, he said, and that will hurt business.

For example, Mr. Romig said that employers may have to take such cost-containment actions as providing subsidies or hiring physicians to review health claims as a result of less funding for PSROs.

In addition to health-care legislation, Congress almost certainly will pass legislation affecting the beleaguered Social Security program by November so it will not become a 1982 election issue, Mr. Romig predicted.

He said Social Security will survive, but some benefits will be phased out to solve both short- and long-term problems.

Congress and the administration have sought to eliminate student benefits and tighten eligibility requirements. Early retirement ben-

efits probably will be cut and the retirement age could be increased, Mr. Romig said.

He said the program's short-term problem is that collections are not equalling benefits, a recurring problem since the mid-1970s.

Long-term problems should hit in 2010 or 2015 when there will be a great number of retirees and not enough workers paying taxes to support them, he said.

Mr. Romig also said that Congress will likely pass legislation this session boosting retirement

savings incentives.

The proposals would:

- Double the maximum tax deduction for payments to a Keogh plan, used by the self-employed, to \$15,000.

- Increase by \$500 the tax deduction for payments to individual retirement accounts.

- Allow employees covered by a qualified pension plan to receive tax deductions for retirement savings.

New legislation probably will not significantly affect other employee

benefits or the Employee Retirement Income Security Act, Mr. Romig said.

He said the influx of new members on congressional committees that handle benefit legislation and their lack of expertise will hinder the enactment of major benefit legislation.

The lack of interest of some legislators in key positions and the lack of a clear philosophical edge (liberal or conservative) on the important committees also will delay legislation, Mr. Romig added.

He said bills that would amend ERISA to force quicker vesting, mandate pension plans and provide additional spouse protection are long shots at best.

Overall, Mr. Romig said that recent budget-cutting fervor points to a "new direction" in Washington.

"Clearly, we have a revolution going on there," he said, adding that there will be intense pressure on corporations to do more for individuals to make up for the budget cuts.

datebook

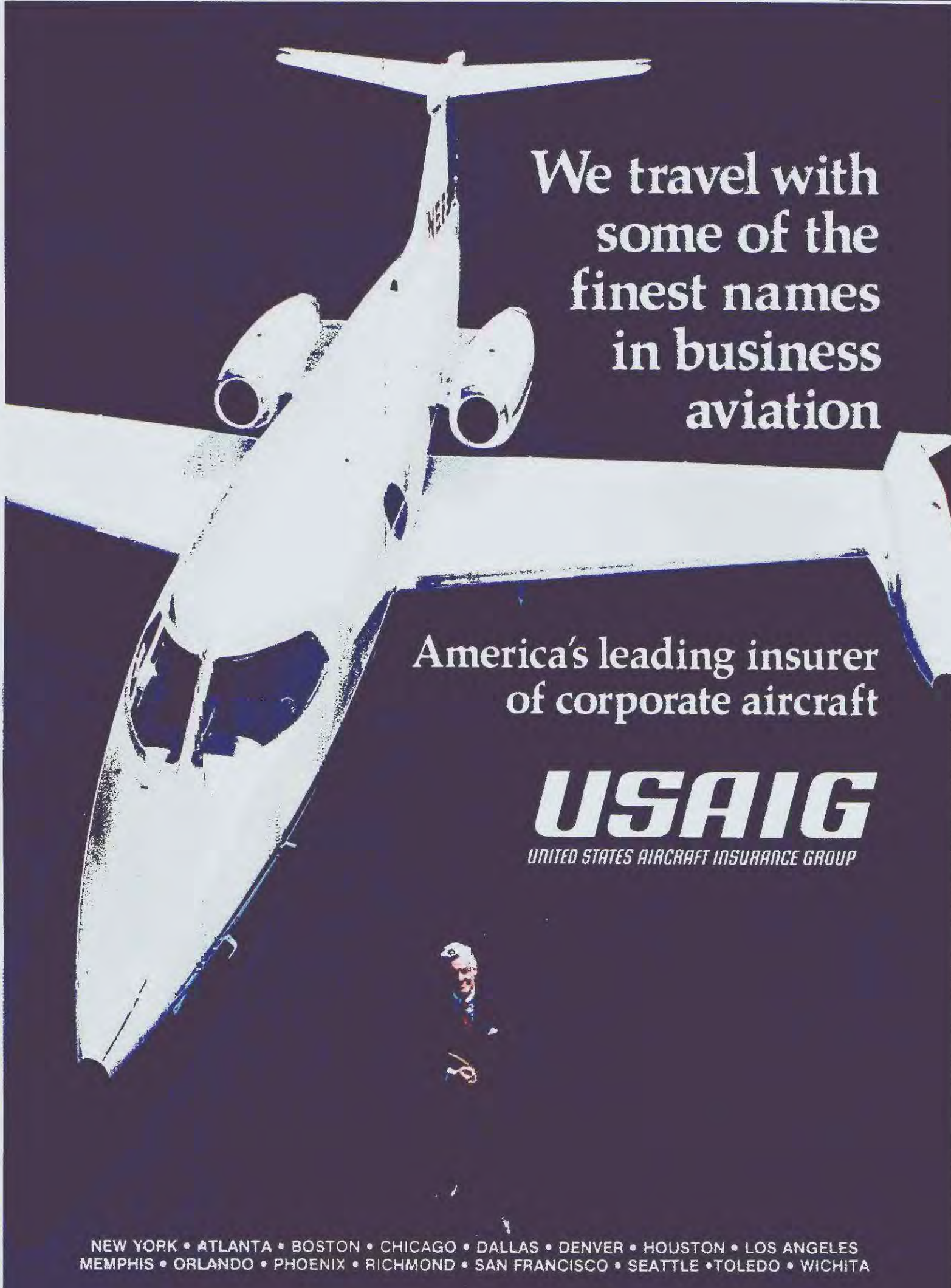
AUG. 6. One-Day Benefits Briefing in Milwaukee, sponsored by the International Foundation of Employee Benefit Plans. Members, \$120; non-members, \$145. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-3700.

AUG. 10-12. Establishing a Computer Security Program seminar in Boston, sponsored by the Computer Security Institute, Educational Resource Center; \$695. Gerald I. Isaacson, Computer Security Institute, Box 528, Matawan, N.J. 07747; 201-566-6622.

AUG. 27-28. Physical Security in EDP program in Washington, D.C., sponsored by the Computer Security Institute, Educational Resource Center; \$495; second participant from same company, \$475; each additional from same company, \$460. Gerald I. Isaacson, Computer Security Institute, Box 528, Matawan, N.J. 07747; 201-566-6622.

SEPT. 9-10. Casualty Loss Reserve seminar in St. Louis, sponsored by the American Academy of Actuaries and the Casualty Actuarial Society; 100. AAA/CAS Casualty Loss Reserve Seminar, 835 K St. N.W., Suite 515, Washington, D.C. 20006; 202-223-8196.

SEPT. 20-23. Canadian Risk Management conference in Toronto, sponsored by the Ontario Risk Insurance Management Society; \$225 before Aug. 31, \$250 after. Jean C. Murphy, c/o Canadian Oxygen Ltd., 355 Horner Ave., Toronto, Ontario M8W 1Z7; 416-251-5241.



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Firms help arrange periodic payments

Help in arranging a periodic payment settlement and insurers to underwrite annuities abounds.

A new subculture of the insurance industry is developing around the growing use of periodic payments to settle liability claims.

Companies springing up around

the country will research settlement costs, negotiate the settlements and market the annuities, which bring a commission of 2% to 5% of the price of the annuity.

Brokers such as Marsh & McLennan and Frank B. Hall have added specialists to their staffs to

assist clients in negotiating and financing periodic payments.

Life insurance companies also are competing furiously to underwrite the annuities used.

Structured Settlement Co., a division of Los Angeles brokers Walker Sullivan, is the best known specialist on periodic payment agreements, a term it is forcing on the industry through an its application for a trademark for the term "structured settlement" (see box).

Partners Frank Barker and Allan White are former underwriters with Manufacturers Life Insurance Co. in Toronto, a leading underwriter of annuities in periodic payment agreements.

With a staff of 26 and offices in Los Angeles and St. Petersburg, Fla., Structured Settlements emphasizes its role in negotiating a settlement.

"We see very little actual negotiating being done by brokers," Mr. Barker said. "There is very little service being rendered, but a lot of computer printouts with annuity quotes being sent out."

Mr. Barker also said that "the influence of an unbiased third party who acts as a buffer makes for a better settlement."

Mangelsdorf & Mangelsdorf in

Dallas is also becoming better known. The two brothers who head the firm are former life insurance underwriters specializing in estate planning.

"We developed a system of marketing that includes extensive use of computers," Bill Mangelsdorf said. "We're similar to Structured Settlements in our approach, but we do not call our package a structured settlement."

Ringler Associates Inc. has been marketing annuities for liability claim settlements since 1975 and has offices in New York, Chicago, Newport Beach, Calif., and Orlando, Fla.

Principal David Ringler's background as a claims specialist and casualty vp for an excess/specialty lines company gives the company claims expertise.

"We see ourselves primarily as a liaison between the casualty company and plaintiff's attorney," said Curt Wiggins of Ringler's Orlando office. "We recommend the way a settlement should be tailored to meet the amount the defendant is willing to spend."

Benefit Designs Inc. in St. Louis has negotiated and arranged financing of personal injury lawsuits for 2½ years. "We have specialists in accounting, law and investment banking," said President Patrick Hirdert.

Litigation Support Co. in San Raphael, Calif., says its medical research before a settlement conference can reduce the cost of a settlement. The information can require as much as 50 to 70 hours of research, but can reduce the cost of the annuity by as much as 5% to 15%, said Dan Bellin, principal of the company.

IBAR, with offices in Los Angeles, Honolulu, and Tallahassee, Fla., also emphasizes its research services. Raymond and Robert Schultz, both former University of Southern California faculty members, head the firm that includes a staff of 17, five of whom work solely on periodic payments.

It provides lifetime income projections and analyzes the cost of

injuries and loss of wages, but also markets annuities and trusts to finance periodic payments.

Life insurers are competing fiercely to underwrite annuities.

INA Life quit underwriting annuities this year when it exceeded its 1981 goal of \$60 million in premiums by April and by the end of June had \$90 million in annuity premiums for 465 settlements.

"It was best to suspend writing of annuities for the remainder of the year to consolidate our administration and to reduce the impact on our surplus and statutory earnings for 1981," said President Robert Rink.

Competitors accuse INA Life of undercutting rates and "hogging the market for the first three months this year." Mr. Rink concedes INA Life's aggressive marketing forced its early withdrawal.

"The market for annuities has grown so rapidly within two years, we've gone beyond the new product stage to where price is the most important element," he said.

INA Life has not dropped out of the annuity market permanently, Mr. Rink emphasized.

The other two leading underwriters of annuities for periodic payment agreements are Manufacturer's Life Insurance Co. in Toronto and First Colony Life Insurance Co. in Lynchburg, Va.

Manufacturer's Life leads the market for annuities with \$493 million in written premiums in 1980, almost \$10 million more than the company's total life insurance premium volume.

First Colony has "one-third of the third-party market for annuities," said Mike Bodker, vp/actuary. The company took in \$67 million in annuity premiums written for structured settlements in 1980, a giant leap over the previous year's total of \$16 million.

Other markets for annuities include: Employers Reinsurance, The Chubb Group, Farmers Insurance, The American International Group of Cos., John Hancock Mutual Life Insurance Co. and Metropolitan Life Insurance Co.

Is the name the same?

LOS ANGELES—Structured Settlements Co. would like the insurance industry to stop using the name of its company to describe periodic payments.

"It's flattering," said Frank Barker who, with Allan White and Gerald Sullivan, is a partner in the subsidiary of Walker Sullivan, "but we've filed for a trademark on the term, and we have to police it to keep it."

Mr. Barker said Mr. White first used the term "structured settlements" to describe annuity payments. The company filed an application to have it registered as a trademark with the U.S. Patent and Trademark Office stating the first commercial usage of the term was in 1975.

Brokers Johnson & Higgins, however, filed a notice of opposition to the trademark application. "Our position is that the term is a common vernacular expression that describes particular types of settlements," a J&H spokesman said.

Structured Settlements Co. hasn't heard from the patent office on the objection to its application. "Until then, we have to defend our usage as best we can," Mr. Barker said. That includes writing letters to publications and industry groups that use the term without acknowledging the trademark.

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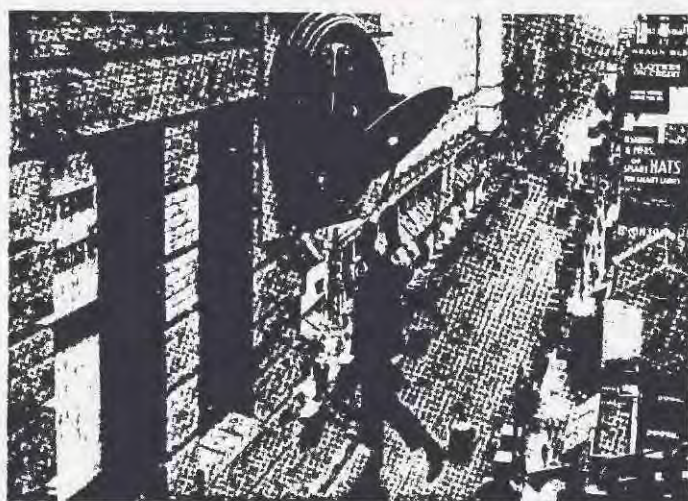
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Periodic payments gain popularity

Continued from page 1
casualty insurer.

The big boom in the use of periodic payments also is developing new specialists in the insurance business. Companies are springing up that say they will help negotiate periodic payments and broker the annuities. Major commercial insurance brokers have formed new divisions for this type of work (see related story on page 20).

A 1979 Internal Revenue Service ruling cleared the way for the use of periodic payments in liability awards, settling the uncertain tax consequences of the arrangement. The ruling affirmed Revenue Code Section 104(a)(2) that excludes from gross income for tax purposes "the amount of any damages received (either by suit or agreement) on account of personal injuries or sickness."

It was "a catalyst" for more periodic payment agreements, said Robert J. McLucas, director of liability claims for The Travelers Insurance Cos. "Until then, structured forms of claim settlements were few and far between. The ruling got the industry charged up about them."

Opposition by plaintiffs' attorneys to periodic payments also is dissipating. The American Trial Lawyers Assn. sponsored a seminar on the topic at its annual convention in San Francisco last week, spreading the word on the payment structure that was first used in California and the Southeast.

The New York plaintiffs' bar endorsed the concept earlier this year, which removed a major obstacle to the growth of periodic payments on the East Coast. Some attorneys are even structuring their own fees over time as part of settlements negotiated for their clients.

"It looks to us as though structured forms of settlements should be used wherever possible," said Norm Schindler, regional coordinator for The St. Paul Cos., one of five major insurers including Aetna that discussed their use of structured settlement with *Business Insurance*. The Travelers, The Hartford Insurance Group and Insurance Co. of North America also scoured their files for statistics on periodic payments.

In the first six months of 1981, these five insurers closed nearly 1,400 claims with periodic payments, almost the number of periodic payments they arranged in all of 1980. And in 1980, the number of cases involving periodic payments among the same five insurers had almost tripled from 1979 when just more than 500 were arranged.

In the first five months of this year, 1,004 claims against Aetna policyholders were settled with periodic payments. Fifteen percent involved workers compensation claims, 10% malpractice claims and the rest commercial and personal liability claims. In all of 1980, Aetna used periodic payments in 1,129 cases, a big jump from 419 in 1979.

The Travelers' use of structured forms of settlements was "infinitesimal before 1979," said Mr. McLucas, citing the then-uncertain tax consequences. In 1980, the company structured settlements for 179 liability claims. As of May 31 this year, 249 claims were closed with periodic payment agreements.

The Hartford arranged 92 structured claims settlements in 1979, according to Rudolph H. Brushwood, director of auto claims. Mr. Brushwood, who supervises The Hartford's use of periodic payments for commercial liability claims as well as auto claims, said the company used the method of

settlement in 100 cases in 1980 and in 61 cases through June of this year.

Lanny Larcinese, director of claim product management at Insurance Co. of North America, is designing a program "where we'll explore all pending claims for possible annuity settlement," he said. "Sometimes it's not a matter of a monetary cutoff point."

"Certain injuries lend themselves to annuity settlements more than others," he said. Injuries requiring long-term medical care, for example, are best for annuities.

The St. Paul is "accelerating our use of structured claim settlements," Mr. Schindler said. The company arranged 30 of them in 1980 and 40 during the first six months of this year.

Fireman's Fund Insurance Cos. arranged for 40 claims to be settled with periodic payments in the past year, "a considerable increase over the previous year," said Robert R. Buell, senior vp of property/liability claims.

CNA also is active in structuring settlements of its liability claims, according to several industry sources, but CNA officials declined to be interviewed.

The minimum value of claims settled with periodic payments varies from one commercial casualty underwriter to another.

Aetna structures claim settlements "across the board, not only in cases of big awards but for claims in the \$10,000 to \$50,000 range as well," Mr. Mason said.

The Travelers also has arranged structured forms of settlements for claims valued as low as \$5,000, while The St. Paul doesn't usually go below \$100,000, according to Mr. Schindler. Fireman's Fund considers claims valued at less than \$200,000 "difficult to develop the proper structure," Mr. Buell said.

Typically, a commercial casualty insurer structures the periodic payments by purchasing an annuity

from a life insurance company for a single premium. The annuity provides for a series of payments to be made in the future to the claimant.

Annuity price wars (see related story on page 20) have made bargain hunters out of some liability insurers, but a few of the major users of structured forms of settlements keep annuity premium in-house. Companies like Aetna, The Travelers and The Hartford most often purchase annuities from their subsidiary life insurance companies.

The Travelers' use of annuities generated \$14 million in premiums during the first six months of this year. Some \$10 million of that went to the company's life subsidiary. The Hartford places "as many

annuities as possible" with Hartford Life Insurance Co., Mr. Brushwood said.

"We handle any claims with a value of less than \$200,000 in-house," The Travelers' Mr. McLucas explained. "Over that amount we process through a broker, asking for competitive quotes, one of them being Travelers Life Insurance Co. We take the lowest quote regardless of whether it's Travelers'."

In claims where The Travelers is named with other defendants, "we prefer not to have squabbling over who gets the annuity so they're also sent outside," the claims director explained. In addition, every 15th claim to be settled with an annuity is sent outside "so we can keep

Continued on next page

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Insurers structure more liability awards

Continued from previous page
 tabs on the competitiveness of our life company," Mr. McLucas added. At The Hartford, Mr. Brushwood said the company uses its life subsidiary where The Hartford is the sole defendant. "Where there are multiple carriers involved, we work together."

Brokers who market annuities and life insurance companies that sell them are highly critical of casualty companies that keep their annuities in-house. "At the very least, it gives the appearance of self-wheeling," said Mike Bodker, vp/actuary of First Colony Life Insurance Co. of Lynchburg, Va.

An annuity purchased in-house at a higher price than the open market would charge leaves the claimant with less benefit for the price and the liability policyholder with a bigger loss on its record. And, reinsurers can get burned.

"They are leaving themselves open to questions from their excess reinsurers," said Frank Barker, a partner in Structured Settlements Co. in Los Angeles, the leading broker of annuities.

If the purchase of an in-house annuity at a high price puts the casualty insurer over its retention, the company's reinsurer is brought onto the claim, and the primary company decreases its share of the cost.

"It's a problem," conceded a reinsurance executive who requested anonymity. "As most treaties are written, control is with the primary insurer. We can use our powers of persuasion to try and get the primary insurer to buy the annuity on the open market, but we don't make the final decision."

At Aetna, which uses its life insurance company almost exclusively when purchasing annuities, Mr. Mason dismissed the criticism as sour grapes from brokers who want a commission.

"We feel it would be a waste of money to use outside brokers to market annuities when our own people have the expertise," he said. "If we settle a claim with a lump sum, we don't call on other insurers or brokers to evaluate the settlement. The same is true for the purchase of an annuity. It's an

Aetna claim; it has nothing to do with other insurers or brokers."

While spokesman for liability insurance companies wax eloquently on the advantages of annuities, praising the flexibility and social responsibility of financing benefits over a period of time, the concept is not without critics.

"Annuities aren't priced to allow for inflation," said Phillip Carroll, chairman of the committee that drafted a model periodic payment of judgments law for the National Conference of Commissioners on Uniform State Laws.

"We see a need for annuity companies to rethink their pricing methods and come up with something that's tied to an index such as the discount rate for U.S. Treasury bills," Mr. Carroll said.

But besides annuities, periodic payments are sometimes financed by trusts through purchase of bonds or Treasury bills.

The increased use of trusts will come in the future, said attorney Francis Sheerin, who heads Frank B. Hall & Co.'s structured claim settlement division on the East Coast.

He said that trusts have their limitations, a maximum life span of 30 years in some cases. But for some claimants, such as people approaching retirement age who could supplement their pension with settlement income, a trust could work well, he added.

Patrick Hindert, president of Benefit Designs Inc., a St. Louis

How settlements work

Here's how annuities were used to settle two liability claims against two Travelers Insurance Co. policyholders:

• Travelers bought an annuity for \$135,000 from INA Life to settle a product liability claim against Coleco Industries, a swimming pool manufacturer sued on behalf of a 9-year-old boy who suffered permanent brain damage when he nearly drowned in 1975 in a Coleco pool (BJ, May 11). The annuity could be worth as much as \$2.3 million if the boy lives to age 67.

The annuity guarantees the boy or his beneficiaries a monthly income of \$1,006.77, compounded annually at 13%, for at least 20 years and then until the boy's death. The annuity also provides for a lump sum of \$35,000 to be paid 10 years from the day of the settlement.

• Travelers financed a more complex settlement with an annuity from its own life insurance subsidiary to provide a monthly income for a 3-year-old girl who was injured in a car accident that killed her parents and siblings.

Travelers was a co-defendant in the case; the other insurer settled for a lump sum of \$500,000. For its part, Travelers annuity provides \$200 per month for eight years, a total of \$19,200; then \$400 per month for six years, totaling \$28,800; \$1,000 per month for four years, totaling \$48,000; \$150 per month for eight years, totaling \$14,400; then \$200 per month for 61 months, for a total \$12,200. If the child lives to age 34, she will receive a lump sum of \$451,702.23.

The cost of the annuity was \$111,666.67 and will produce an income for the injured child that could total \$573,702.

company that negotiates personal injury claim settlements, also is somewhat skeptical of the periodic payment boom.

"These settlements have opened up a whole Pandora's box of potential tax problems," he said. "Most people don't understand the complex issues that are involved in structuring settlements."

He contended that insurers don't recognize potential problems with taxes on reserves and the effect of these settlements on surpluses.

Some also question the stability of the market for annuities because they strain a life insurance company's reserves, and annuity markets open and close with the rise and fall of interest rates.

Sports owners mull strike cover

Continued from page 2

averting strikes rather than insuring against them.

But football and hockey owners admit they've considered it.

"We've considered it, but given baseball's situation, we're not pursuing it at this time," said Vince Lombardi Jr., assistant executive director of the National Football League Management Council, the NFL's bargaining arm.

Right now, NFL team owners fear they wouldn't be able to find a market with losses piling up at Lloyd's and other markets, including U.S.- and Bermuda-based insurers, that underwrote the baseball strike insurance.

Football players' admiration of the solidarity of their baseball counterparts during the strike has caused "a great deal of concern" among NFL owners, he said.

Both National Hockey League owners and players, anticipating possible sticky negotiations, have looked into strike coverage.

NHL franchise owners have inquired "to see if this kind of insurance is available, but it's not been pursued any farther than that," said NHL President John Ziegler.

"It's been discussed, but we have an excellent atmosphere for negotiating with our players and 15 months to go before our contract expires," he said.

Players have also shown interest in the coverage, said Toronto agent William J. Sutton, an extensive handler of sports insurance. Mr. Sutton said he fielded questions last year from the NHL Players' Assn. about coverage. Despite inquiries with London markets where he found "receptive" underwriters, nothing developed.

Insurers willing to write strike coverage for sports owners are probably as willing to insure players against the same risks, he said.

Management, through bad faith or no bargaining at all, can cause a strike as much as can labor, Mr. Sutton contended.

Strike insurance has not been

discussed in the boardrooms of the National Basketball Assn. and the North American Soccer League. Their basic contract agreements are still years from expiration.

In basketball, "The essential terms of our basic agreement are in place until 1986," said David Stern,

executive vp of the NBA, but he wouldn't rule out the possibility that owners may have to take up the insurance question someday.

NASL attorney Stephen Brenner dismissed the notion of strike insurance in soccer for the near future.

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Firm fighting pension law

Continued from page 1
badly underfunded. This means employers who now want to withdraw from a plan face a huge withdrawal liability bill.

But Johnson and Republic say the new law violates the Constitution besides creating a financial nightmare for employers.

Johnson and Republic say the act violates the due process clause of the Constitution because it gives plan trustees the power to determine withdrawal liability but does not give employers the opportunity to directly challenge the decision.

At the same time, the act's retroactivity violates the due process clause that bars Congress from imposing severe liabilities without warning, the suit says.

President Carter signed the bill Sept. 26, 1980, but it applies to all withdrawals after April 28, 1980.

Johnson, which had incurred severe business losses, ended 35 years of operations last August, seven weeks before the bill was signed.

When Johnson closed, the provisions of ERISA were in effect. Under these rules, Johnson's liability would have been limited to a maximum of 30% of its net worth, which was about \$6.8 million.

No Johnson officer was aware of the new amendments until October 1980 when the firm received a letter from the pension fund, detailing its intent to file a withdrawal liability claim against the firm.

On June 23, Johnson received the Central States claim: \$16,658,936.34, payable immediately or in monthly installments of \$280,680.50 starting July 1.

The method used by Central States trustees to calculate Johnson's withdrawal liability, one of four permitted under the statutes, allocates Central States' unfunded vested benefits to Johnson in proportion to Johnson's contributions to the fund compared to all contributions received by the fund.

If Johnson fails to make any monthly withdrawal payment, Central States has the right, after giving Johnson 60-days notice, to require immediate payment of the remaining balance plus interest.

The huge claim puts the firms in an "impossible position," according to an affidavit signed by Robert Riss, Johnson's chairman of the board and chief executive officer of Republic Industries.

"If we refuse to make the payments demanded by Central States, we may immediately become liable for an amount double our net assets. (Republic's net assets are \$7.5 million, including Johnson's net worth of \$6.8 million.) If we did pay, we would immediately be bled of our net assets at such a rate that we would pay, every two months, an amount approaching Republic's total annual 1980 income," Mr. Riss said.

The brief, however, points out another issue besides money.

"If Johnson is relegated to the procedures prescribed by the statutes for the resolution of the withdrawal liability dispute, it will be irreparably deprived of its constitutional rights to trial by jury and to a judicial hearing prior to the taking of its property," according to the brief.

The Johnson brief concedes that an employer can protest the amount of withdrawal liability set by the plan trustees to arbitrators. But its constitutional rights still would be violated because it would be required to make withdrawal liability payments during arbitration hearings, it says.

In addition, compulsory arbitration violates Johnson's right to access to the courts and a jury trial to resolve the withdrawal liability claim, Johnson contends.

When Congress enacted the multiemployer amendments, it deliberately made the law retroactive

to prevent a mass exodus of employees from multiemployer plans while it was hammering out the final provisions of the new law.

But Johnson says Congress didn't have the right to impose liability on an employer for a past act.

Because Johnson didn't know when it closed that it would be hit with a withdrawal liability claim, it didn't have the opportunity to choose between continuing to operate at a loss or potential destruction because of the withdrawal payment, according to the brief.

If the withdrawal liability law had been in effect when Johnson closed, company officials would have tried to keep Johnson going "in the hope of an ultimate turnaround rather than face the prospects of the staggering liability imposed" by the Multiemployer Amendments Act, Mr. Riss said. ■



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Loss control makes it an uplifting meet

Continued from page 3

merce, balloonists from four continents and 14 countries descended on Battle Creek between June 20 and June 28. They had 100 hot-air balloons in tow, Mr. King said.

Participants performed "precision navigation and other navigational tasks in pursuit of a trophy and the prestige of being named Ballonist of the Year."

Kellogg was the major sponsor and set up the insurance program with Alexander & Alexander.

Two types of insurance were purchased: a \$10 million general liability policy from The Hartford Insurance Group that covered the grounds and the crowd, and \$10 million of "air meet liability" ex-

cess insurance from Lloyd's of London through Southeast Aviation to cover mishaps surrounding the balloon flights.

Neither policy had a deductible. The insurance bill was just \$17,000 out of total sponsorship and investment costs of more than \$100,000.

The balloonists, however, had each purchased his own primary insurance against liability and property damage.

Mr. King said that it is coverage they carry all the time, "almost like an automobile policy." The average cost is \$300 to \$400 per year with coverage averaging \$300,000 to \$500,000.

But the loss-control group kept

losses to a minimum. Mr. King said losses came to slightly less than \$2,000 and were paid by the balloonists directly or their insurers. He said balloon insurance packages generally carry small deductibles of about \$250 but that balloonists will sometimes reimburse a claimant literally out of their own pocket on the spot.

The loss-control group included a professional adjuster, a veterinarian, a local farmer, an expert in crops and crop value and a member of the Kellogg risk management staff.

The group became the liaison between balloonists and landowners before and during the event.

"We could have run into a situation where a balloonist who did not speak any English landed in someone's cornfield and caused damage," Mr. King said. "To preclude such a thing from occurring, we established the liaison committee to resolve any problems or damages to farmland."

The committee was called into action when a television news helicopter pursuing a balloon over a pasture caused a stampede of cows that knocked over a fence.

"We have rural cows, not urban cows, and they're not used to helicopters," he said. "The loss-control committee got together with the farmer and resolved the problem."

The committee also had to con-

tend with a nervous "rural" buffalo who was disturbed by a balloon travelling overhead. The animal ran into a barbed-wire fence.

Altogether, about 20 incidents during the 10-day contest caused minor animal and crop damage, Mr. King said.

"It was a new experience" with several special risks to consider, he said, including the large number of visitors (approximately 700,000, or almost three times the number that visit the Kellogg plant each year).

Mr. King said organizers also had to be prepared for fires from the highly volatile propane gas that the balloons carried. Balloons were filled three miles away from the airport and the landing site.

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*Source: Business/Occupational breakdown of qualified circulation, Nov. 3, 1980 issue, Dec. 1980 BPA Publisher's Statement.

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California considers new cash-flow rules

Continued from page 1

said they believe the plans violate the state's minimum rate law governing workers compensation insurance.

The controversial cash-flow issue in California may have moved closer to resolution with the release last week of a set of rules proposed by the governing committee of the Workers Compensation Insurance Rating Bureau.

It's now up to Insurance Commissioner Robert C. Quinn, who requested the recommendation, to approve the rules. Shortly after assuming office last January, Mr. Quinn asked the rating bureau to draft a rule change in the workers compensation manual to regulate use of premium collection plans.

Two bulletins issued in April and December of last year by former Commissioner Wesley J. Kinder attempted to set such rules, but they seemed to raise more questions than they answered (*BI*, May 5, 1980; Jan. 19, 1981). Critics of bulletins 80-7 and 80-7A called them unclear and doubted Mr. Kinder's authority to take action without holding public hearings.

If clear rules are adopted, however, these companies likely will bow to competitive pressures and start selling them.

"There's little doubt there will be more players in the field," says John Richman, vp for workers compensation at Fireman's Fund Insurance Cos. and a member of the rating bureau's governing committee. "But there will also have to be cutbacks of some plans," he adds.

"I expect most companies will enter the market once the rules are clear," agrees Bill Lachner, vp of INA Special Risk Facilities in Los Angeles, an originator of cash-flow plans.

"The INA won't write them on risks smaller than \$500,000, but this might open new markets for risks in the \$200,000 to \$500,000 premium range," he says. It is more difficult to control smaller risks because financial information is harder to obtain, he adds.

But as long as interest rates remain in the 15% to 25% range, these plans are going to be popular, Mr. Lachner emphasizes. "We're living in a different era now, where all companies—large and small—are interested in delaying cash payouts as long as possible."

Some insurers who have opposed use of cash-flow plans fear they threaten California's minimum rate law. They credit that law with creating a uniquely competitive environment for workers compensation in the state. "The system works, so why tamper with it?" they ask.

But more and more businesses are forced to self-fund their losses to capture the cash-flow benefits they forfeit when they buy conventional workers compensation insurance, other insurers stress. "We need a product that will keep businesses in the insurance marketplace by sharing a portion of our investment income with them," they argue.

There seems to be a consensus among industry leaders close to the cash-flow issue that the rating bureau's draft rules are a compromise that will appease companies with differing views and interests.

The governing committee, comprising representatives of several insurance companies, also gets high marks for clear writing and careful definition of terms in its draft rules. "From a technical standpoint, I take my hat off to them," the president of one insurance company says.

Cash-flow plans are tantamount to a below-market-rate commercial loan, explains Thomas R. Brown, chairman of the California Casualty Group and a member of the rating bureau's governing committee.

Consequently, a measure of the competitiveness of the plans is the interest rate charged by the insurance company on uncollected premium. The proposed rules set the minimum at the discount rate established by the Federal Reserve Bank of San Francisco, currently 14%.

This index was selected because it is relatively stable compared with the prime and other lending rates, Mr. Brown explains. It is a much more competitive rate than the prime rate, which was specified in Mr. Kinder's December bulletin as the appropriate charge on a deferred premium.

The policyholder also must calculate the cost of a surety bond or irrevocable documentary letter of credit to back up the promissory note given to the insurer. Issuing banks charge between 0.5% and 1% for a letter of credit depending upon the credit-worthiness of the customer.

Some companies may be unable to obtain such a letter of credit and might find the cost of a surety bond prohibitive. Consequently, the use of cash-flow plans could be limited to companies in a strong financial position. Such financial instruments also may be more readily available to large companies than to small ones.

The interest rate charged on the promissory note may not be crucial to all policyholders. If a company's workers compensation losses are low, it may expect to get the interest back in the form of a dividend at the end of the policy period.

California law prohibits guaranteed dividends, however, so risk managers probably will seek the most competitive interest rate possible on the promissory note.

The Insurance Department suspects that some insurance companies currently are writing cash-flow plans that charge extremely low rates of interest—less than 10%—or none at all. Such violations will be easier to detect if the proposed rule is adopted.

Insurers will be required to file information about their premium payment agreements with the rating bureau to establish an "audit trail." Officials at the rating bureau and the Insurance Department have pledged to enforce the new rules if they are approved by the commissioner.

Much of the controversy in the governing committee meetings focused on the security to be required of policyholders to back up promissory notes held by insurers in lieu of cash premium.

The proposed rules specify that either a surety bond or an irrevocable documentary letter of credit will pay the insurer when the insurer certifies a policyholder has defaulted on obligations specified in the promissory note. This differs from a "clean" letter of credit, which obliges the issuer to pay on demand without qualification.

If the bank intends not to renew or extend a letter of credit it must notify the insurer at least 45 days

before termination or the letter of credit is automatically extended for an additional period. The insurer can draw on demand the face amount of the note before the letter of credit collateral is withdrawn.

Commissioner Quinn is expected to scrutinize this section of the rules very carefully. He must decide whether the Insurance Department will accept this form of collateral to support the promissory note as an admitted asset for purposes of statutory accounting and as a security deposit to guarantee payment of workers compensation awards.

A positive decision is critical to workers compensation insurers. Without it, writing cash-flow plans will deplete their surplus. The large multiple-line insurance companies might continue to offer the plans under such conditions but smaller workers compensation specialty companies could not afford

to do so.

"I think there is a 100% chance of litigation over this if the commissioner does not agree," declares the president of a workers compensation specialty carrier.

"Commissioner Quinn is acutely aware of the concern and will try to address this along with consideration of the bureau rules," says a spokesman in the Insurance Department.

The rating bureau and the Insurance Department hope to schedule public hearings on the proposed rules in early October. The commissioner is expected to act before the end of the year, aiming at a Jan. 1, 1982, effective date.

The rating bureau will hold meetings this week to explain the rules to insurance company representatives: Monday, July 20, at the Mission Insurance Group building in Los Angeles and Tuesday, July 21, at the Mutual Life building in San Francisco. ■

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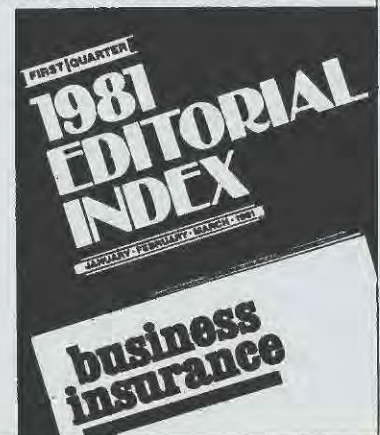
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Commercial rocket covered

Continued from page 3
liabilities," says the landowners' attorney, G.P. Hardy III. "They were concerned that their acquiescence (to allow launches) would make them defendants in the event of a catastrophe."

"Suppose the rocket hits a super-market or a shrimp boat," Mr. Hardy said. "Or suppose the fail-safe devices don't work and the rocket goes in the wrong direction and hits the South Texas Nuclear Project. The potential liability is beyond imagination."

Mr. Hardy suggested the companies consider purchasing "substantial" umbrella coverage over \$25 million, but adds that no specific amount of excess insurance was discussed. "The odds may be a million-to-one against any ship being hit, but it would be the business of an underwriter to determine the odds and set the premium accordingly. If written properly, costs should be high but not prohibitive, he said."

Fate of wrap-up policy for shuttle undetermined

SEATTLE—The proposed wrap-up product liability program to cover contractors for the National Aeronautics and Space Administration's space shuttle is all but dead, says one risk manager.

The policy lives on, says another. Who is right may be answered within a month when the wrap-up policy is presented to underwriters for pricing.

If available and adopted by contractors, the wrap-up policy would put all companies involved in space shuttle manufacturing and assembly under one product liability policy. Contractors are now protected against product liability suits for their work on the space shuttle by their individual policies.

Efforts to put the package together began 1½ years ago, which seemed like plenty of time to meet the first flight of the space shuttle Columbia. It wasn't.

"It's safe to say the wrap-up policy is pretty well dead," says Robert E. Butler, corporate director of risk management at Lockheed Aircraft Corp. and a member of the wrap-up policy committee.

A questionnaire passed out to 150 contractors and subcontractors several months ago drew mostly negative or neutral responses, Mr. Butler says. "Lockheed was neutral on it. We were waiting to be convinced that it would work. I gathered there was not enough interest shown to go on with it."

Lockheed and other major contractors already have product lia-

inhibitive, he said."

Since the launch site was moved, the first rocket was delivered and the engines test-fired. If all goes well, the first test launch—to an altitude of 20 to 50 miles—will be late this month. Long-range plans call for the first near-Earth orbit launch in late 1982 and the first geo-orbit launch in late 1983.

"The rocket is so simple that not much can go wrong," Mr. Hannah said. "It's as basic as you can get. There's nothing new about it. We're using technology that has been around for years and are simplifying and taking the best of everything we can find."

Known as the "Percheron Project," the 55-foot-tall, 4-foot-wide rocket built by GCH is propelled by liquid oxygen/propane fuel and should carry a 1- to 1½-ton payload into near-Earth orbit, Mr. Hannah said. Clusters of up to seven rockets would be needed to put a satellite into geo-orbit.

bility policies and, "I guess we feel we're well enough covered," Mr. Butler says. "We're carrying more than \$500 million worth. If you take that \$500 million and add it to what Rockwell and others have, you're talking numbers big enough that, personally, I'm not worried."

But Robert H. Hoff, corporate insurance manager at Boeing Co. in Seattle who chaired the wrap-up policy committee, says each of the major shuttle contractors have purchased \$700 million worth of product liability insurance from a market that has a total capacity of about \$700 million.

"If we had an \$800 million loss, theoretically the market could only pay \$700 million," he says.

Determining who is at fault for losses to third parties in a space shuttle mishap would be long and involved, Mr. Hoff says. The wrap-up policy could help clear this up.

"Instead of having to determine exactly who is at fault, the insurance company would defend all the contractors involved at the same time," he says.

The policy is being designed to act as the contractors' primary product liability insurance, he says. "Hopefully the minimum amount would be for \$500 million. We don't know the pricing yet, since we are still putting it together."

Mr. Hoff says the policy should be ready to submit to underwriters within a month.

"It is not dead," Mr. Hoff says. "It still lives."

A fail-safe device that Mr. Hannah claims is equal to self-destruct systems used by NASA relies in part on a 600-foot cable that releases if the launch is successful, but guides the rocket into the ground if it is aborted.

Mr. Hannah has great confidence in the rocket, its safety systems and the people who built them, he said. GCH's engineering staff of about 30 consists of half former NASA employees and 50% industry-trained technicians.

Mr. Hannah and Gary C. Hudson, founder of GCH, met in 1979 during a seminar. Mr. Hannah became interested in the commercial prospects of space after reading a 1976 article in Smithsonian magazine.

"I felt there was a market for cheaper launches not covered by NASA," he said. "We will be supplementing, not competing with NASA."

Four companies have expressed interest in using the Percheron rocket to place satellites in orbit, Mr. Hannah said, adding that two of the companies are major ones.

"I think there is great potential and if we are successful, there will be four or five companies following us into the launch business," he said.

Before this happens, each will have to clear governmental hurdles that are likely to be raised. Under the Outer Space Treaty of 1967, the federal government is responsible for the safety of any launches from this nation and must guarantee that they are for peaceful purposes. Right now, however, no single agency is vested with the authority to carry out this responsibility.

NASA, the Federal Aviation Administration and the State Department technically could all step in as regulators, but so far have not.

"The FAA says it has the right to deny us access to controlled airspace," Mr. Hannah said.

"They have the potential to stop us or slow us down. One-on-one, we've had no trouble getting a response from the government people, but they have to go through a structure and that structure is not designed to facilitate what we're doing."

NASA General Counsel S. Neil Hosenball said, "The group is acting responsibly by coming to the agencies it might have to deal with in the future. At least they are not going off on their own."

As to the question of insurance coverage, Mr. Hosenball said, "The company claims to have \$25 million of coverage. We require users of the Space Shuttle and our expendable rockets to take out \$500 million of liability coverage; \$25 million is not much."

Stockbrokers covet E&O cover

NEW YORK—The woes of John Muir & Co., beleaguered by at least four lawsuits filed by irate investors, underscores the need for stockbrokers errors and omissions insurance in today's litigious society.

"We've been looking for some of our own," says James Stradtner, an insurance analyst with Alex Brown & Co. in Baltimore.

Indeed, National Union Fire Insurance Co. receives five to 10 inquiries a week for errors and omissions insurance for stockbrokers, mutual funds and investment advisors—a product it plans to market within two months. "The stumbling block is pricing it," says Chris Watson, who runs the insurer's banking division.

National Union and American Home, a sister company in American International Group, are working out the pricing now. Another AIG company, Lexington Insurance Co., already offers errors and omissions insurance for discounters and small investment houses.

The pricing obstacle has been long overcome by Shand Morahan & Co., Evanston, Ill.,-based underwriting managers. It has for the past few years offered stockbrokers, mutual funds and financial advisers a special package with five optional parts as well as a separate cover for directors and officers liability and errors and omissions insurance.

Shand Morahan's Mutual Fund and Investment Advisory, Professional and Directors and Officers Liability Policy has enjoyed "tremendous demand," reports Hedda Wagnaar, a senior underwriter.

Roughly 70 companies have bought this insurance coverage, which is only available to firms registered with the Securities and Exchange Commission and able to pay a minimum annual premium of \$5,000.

Specifically, rates per \$1,000 of coverage rest on the firm's size, financial position, loss experience and personnel base. "I've seen policies for \$1 million go for \$5,000 to \$40,000 a year, depending on the exposure," comments Ms. Wagnaar. She adds that legal fees can swell the cost of any litigation.

Liability limits tend to fall between \$1 million and \$5 million because "we feel the exposure is in that range," Ms. Wagnaar says.

Shand's policy carries four minimum deductibles: \$5,000 for individual coverage, \$10,000 for all officers, \$10,000 to \$250,000 for corporate reimbursement and the same for total corporate coverage.

In addition to errors and omissions, Don Brayer, assistant vp for Shand Morahan, says the Stockbrokers Combination Blanket Bond and Professional and Directors & Officers (Partners) Liability Insurance takes in directors and officers liability, as the name implies; fiduciary liability, a comprehensive blanket bond and/or a partnership bond.

Others underwriting errors and omissions insurance for stock brokers, mutual funds and investment advisors, either in package or individual form, include the First State Insurance Co., Insurance Co. of North America and Lloyd's of London.

John Muir executives refused to say if the firm has any insurance to cover its legal costs in defending pending lawsuits and any resulting damage awards.

—Lisa Bergson

Work comp benefits skyrocketing

NEW YORK—Insurance costs for work-related injuries and illnesses have increased at a rate far greater than inflation, according to figures released by Marsh & McLennan Inc.

In the past six years, benefit levels for workers compensation have increased more than 300% in two states, more than 200% in six states and by more than 100% in 22 others, according to the report.

The maximum weekly workers compensation benefit in Alaska at

the beginning of the year was \$650, a 372% jump over the January 1975 maximum of \$175, according to the insurance broker.

Maine recorded the largest percentage increase. On Jan. 1, its weekly maximum benefit was \$399, a 381% hike over the maximum of \$83 in effect six years ago.

Mississippi had the lowest weekly maximum benefit at the beginning of the year, \$98. That was a 56% increase over the maximum of \$63 paid in January 1975. ■

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TTE

Aneco: Twisting tale of takeover attempts

Continued from page 3

ness—\$1.8 million in 1980—may say more about market conditions than it does about Aneco's management. From 1979 to 1980, Aneco's net premiums grew from \$637,538 to \$1.8 million. At the same time, losses from these activities almost doubled, from \$119,000 to \$204,598 (BI, June 15).

To compensate for such dour results, Aneco diversified into other markets, giving it the Byzantine structure of a miniature American International Group. "You have to have separate companies to conform to the laws regulating their different activities," explains Edward Mallozzi, a former director and chief underwriter of Aneco.

Among Aneco's various divisions are: Aneco Syndicate Ltd., which was one of the original members of the New York Insurance Exchange; the Insurance Profit Center, marketed by the Aneco Marketing Co., which gives corporations a means of funding self-insured plans without going the captive route; the Atrain Consulting Corp., which provides reinsurance consulting; Aneco Insurance Agency and Aneco Insurance Co., which respectively broker and underwrite excess/surplus lines insurance; and the Aneco Group of America, Aneco's Delaware holding company for its U.S. operations. All have fared little better than Aneco's reinsurance business.

For instance, while commissions and fees

from Aneco and Atrain soared to \$203,000 in 1980 from \$18,000 in 1979, their operating losses for the period increased to \$188,796 from \$5,000.

The pattern continued into the first quarter of this year, when revenues of \$89,557 failed to match operating expenses of \$128,720, leaving losses of \$39,163.

Aneco's management attributes the hefty expenses to "start-up costs." In 1979, corporate expenses of \$596,738, including \$197,369 in furniture and fixtures and \$101,608 in leases, was ascribed to the establishment of new subsidiaries. In 1980, start-up costs were the culprit again, bloating Aneco's expense ratio 15 points to 46%, according to Robert Mulderig, Aneco's vp and director.

Then, too, the migrations of Aneco's top executives, particularly Mr. Mallozzi, take a toll on the company's coffers.

Mr. Mallozzi, on Aneco's board since 1978, had a 10-year consulting contract to evaluate each reinsurance proposal made to the firm. In compensation, Mr. Mallozzi's consulting firm, Atrain, received \$61,250 for the period of Sept. 15, 1978, to Dec. 13, 1978, and \$82,250 for Jan. 1, 1979, to May 21, 1979.

At that point, Aneco bought Atrain, a wholly owned subsidiary of Andrew Edwards & Co., a reinsurance intermediary, for 47,004 capital shares with a market value of \$500,000. "It was a shell company," Mr. Mallozzi now says of Atrain. "But Aneco needed to get Atrain for my contract."

Ironically, Aneco now has Atrain but not Mr. Mallozzi. He says "personal business reasons" compelled him and co-director Andrew Barile to return this spring to their former digs at Andrew Edwards. Indeed, Mr. Barile, the former president of Aneco's U.S. holding company, and Mr. Mallozzi each remained 25% shareholders of Andrew Edwards throughout their tenure at Aneco.

To avoid a conflict of interest, however, they refrained from voting on the price Aneco paid for Atrain, as did fellow Andrew Edwards shareholders Robert Mulderig and Francis Mulderig, Aneco's chairman. Final approval of the sum was granted by John Muir.

Such transactions, albeit delicate, do not sit well with all of Aneco's shareholders. "Some people might look at their losses and at their very high overhead and come to the conclusion that the management is just using Aneco to cover its own expenses," comments Jeff Calmus, Federated's attorney.

"They have a lot of subsidiaries and activities that don't seem to come to much," Mr. Calmus says.

For its part, Federated filed a lawsuit in May to prevent Mr. Barile and Mr. Mallozzi from selling 174,000 shares of Aneco back to the Aneco Group of America, the subsidiary Mr. Barile had just left. Mr. Mallozzi claims the sale in fact occurred, enriching the two former directors by what Federated's Mr. Calmus estimates to be \$700,000.

Recently, Aneco and Andrew Edwards further severed their business interests. Robert Mulderig's confirmed that he and his father, Francis, had sold their 8% interest in Andrew Edwards as well.

Nonetheless, any plans Cayman Re has to replace Aneco's somewhat depleted board with its own slate of directors have been mired by a spate of lawsuits. And now there is "internal questioning" among some of Cayman Re's chiefs, according to Klaus Gebhardt, a Cayman Re director and president of INTEX Management Co., a risk management services firm in Texas.

Cayman Re officers and directors, almost a third of whom represent Canadian business interests, include Michael Scott, chief executive officer and a former Toronto consultant in corporate acquisitions and insurance and reinsurance; Paul Miller, president and a former director of Employers Reinsurance Corp.; James Gill, vp and director of Cayman Islands-based Absit Insurance Management; and Timothy Ridley, secretary and a Cayman Islands attorney.

Aneco charges in its civil suit against Cayman Re, Federated Re and Muir that they all were engaged in a "secret" plot to seize control of Aneco. Both Federated Re and Muir are accused of using inside information, resulting from their close dealings with Aneco—allegations that both firms patently deny.

As Raymond Dirks, the general partner of Muir, sees it, Aneco is suing just to "prevent us and a couple of other shareholders from voting at the annual meeting. The management is afraid they'll be voted out."

Asserting he is "neutral on this deal," Mr. Dirks says that "Aneco is a resource as long as it has someone with insurance expertise running it; it doesn't have to be Mulderig."

Perhaps not incidentally, the SEC in New York is investigating whether Muir has gotten in the habit of pressuring the many small companies it takes public into buying each other's stock, thereby bolstering prices.

Financial briefs

Stenhouse Holdings Ltd.

The chairman of Stenhouse Holdings Ltd. says the purchase of the Christopher Moran Group's underwriting syndicates for 3.1 million pounds is a good deal even if they have to be sold soon under a revised Lloyd's of London self-regulation bill.

"Your board believes that, irrespective of the Lloyd's bill, the acquisition and merger will benefit SHL and its shareholders," Stenhouse Chairman Herbert Houghton told shareholders in announcing the final acquisition of the syndicates.

The purchase, however, may be short-lived if Stenhouse and other Lloyd's brokers have to divest their brokerage operations from their underwriting groups.

"At this stage, it is not clear what the final outcome will be, but we are of the opinion that should divestment be required, the transaction would still prove beneficial to shareholders," Mr. Houghton said.

The four Moran underwriting management companies have been merged with Stenhouse Reed Shaw Ltd. The companies—Harman, Hedley Agencies Ltd., Redgrove & Everington Ltd., Hedley & Redgrove Agencies Ltd. and Harman, Gardner-Roberts Ltd.—manage seven active Lloyd's syndicates and the underwriting affairs of 190 members.

The Stenhouse control over the Moran syndicates has already resulted in the removal of E.R.P. Wilson as underwriter for Harman, Hedley Agencies Ltd. Mr. Wilson has been replaced by Elvin E. Patrick, who was once deputy underwriter of the managed syndicates.

RMCA Re

RMCA Re is a new Singapore-based company formed by Fireman's Fund Insurance Co. and seven foreign companies to write reinsurance business globally with an emphasis on Asia. RMCA Re has an authorized capital in Singapore dollars equivalent to \$23.5 million and an issued and funded capital of \$5.6 million.

Fireman's Fund has a 22.5% ownership in the company and a 22.5% ownership in RMCA Pte. Ltd., which manages the reinsurance company.

British Issues

7/14 Companies	Price	P/E	Div.	Yield	1 Week High—Low
Comm Union	178	12.1	15.45	8.7	178—173
Eagle Star	308	10.3	21.43	7.0	313—306
Genl Accident	330	8.0	19.29	5.8	330—326
Gdn Royal Exch	330	8.5	22.14	6.7	330—326
Phoenix	274	8.0	21.29	7.8	282—274
Royal	365	10.1	34.29	9.4	372—365
Sun Alliance	886	8.9	47.14	5.3	896—886

Brokers

CE Heath	283	11.1	15.00	5.3	283—275
Hogg Robinson	105	8.0	8.14	7.7	105—103
Alex Howden	127	8.2	10.00	7.9	127—122
JH Minet	134	13.4	6.50	4.8	134—130
Sedg Grp	136	11.8	7.14	5.2	136—132
Stenhouse Midg	93	8.5	6.64	7.1	93—90
Stew Wrightson	218	11.5	17.14	7.9	218—215
Willis Faber	365	12.6	17.14	4.7	365—357

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

BI Industry Stock Report

JULY 14, 1981										7/8/81 THRU 7/14/81									
Insurance Cos.	Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol.	(000)	Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol.	(000)	
Aetna Life & Cos Co	NYSE	39.38	1.6	6.6	2.32	5.9	40.00	39.13	475.5	Statesman Group Inc	OTC	7.50	-1.6	6.3	0.15	2.0	7.63	7.50	16.8
American Bankers Ins Group	OTC	7.63	1.7	12.1	0.44	5.8	7.75	7.50	60.0	Tokio Marine & Fire Ins Co	OTC	157.00	-0.6	17.4	1.03	0.7	159.25	157.00	1.2
American Gen Ins Co	NYSE	42.88	-1.7	6.6	2.00	4.7	44.00	42.75	92.9	Travelers Corp	NYSE	47.75	1.9	5.6	2.88	6.0	47.75	46.88	197.2
American Indty Finl Corp	OTC	17.38	1.5	6.6	1.12	6.4	17.38	17.13	5.5	United Fire & Cas Co	OTC	40.00	0.0	10.4	1.00	2.5	40.00	40.00	0.4
American Intl Group Inc	OTC	56.50	0.0	10.8	0.40	0.7	57.25	56.50	179.2	United States Fid & Cty Co	NYSE	46.38	-1.3	6.1	3.20	6.9	47.00	46.13	76.7
American Natl Ins Co	OTC	14.00	0.9	6.3	0.68	4.9	14.00	13.88	28.2	United Svcs Life Ins Co	OTC	18.13	0.9	5.8	1.00	7.1	18.50	18.13	21.9
American Sta Life Ins Co	OTC	20.00	6.7	6.6	0.72	3.6	20.00	18.75	2.1	Usiflife Corp	NYSE	26.50	-1.9	6.5	0.76	2.9	27.13	26.50	184.3
Aneco Reins Ltd	OTC	3.50	-9.7	0.0	0.00	0.0	3.88	3.50	13.4	Washington Natl Corp	NYSE	31.00	-4.6	9.2	1.08	3.5	33.00	31.00	91.0
Appalachian Natl Corp	OTC	2.50	0.0	7.1	0.00	0.0	2.50	2.50	0.0	Zenith Natl Ins Corp	OTC	17.00	6.2	10.0	0.60	3.5	17.00	16.25	15.2
Avenco Corp	AMEX	10.50	2.4	8.9	0.50	4.8	10.63	10.50	3.0	INSURANCE COMPANIES									
Banks Iowa Inc	OTC	31.50	6.8	5.2	1.44	4.6	32.00	31.50	3.4	AVERAGE									
Bitco Corp	OTC	43.00	-1.1	6.1	2.16	5.0	43.50	43.00	1.7										
Carolina Cas Ins Co	OTC	7.50	0.0	5.4	0.32	4.3	7.50	7.50	0.7	Agents/Brokers									
Central Natl Finl Corp	OTC	10.00	0.0	3.7	0.65	6.5	10.00	10.00	0.2	Alexander & Alexander Svcs	OTC	33.75	0.0	11.2	1.84	5.5	33.75	33.25	123.4
Chubb Corp	OTC	45.63	-4.9	5.5	2.68	5.9	48.13	45.63	110.8	Baldwin & Lyons Inc	OTC	34.50	0.0	5.9	0.80	2.3	34.50	34.50	5.8
Combined Intl Corp	NYSE	22.50	3.4	6.4	1.60	7.1	22.50	22.13	63.4	Corroon & Black Corp	NYSE	24.00	1.6	11.2	1.76	7.3	24.00	24.00	22.3
Connecticut Gen Ins Corp	NYSE	50.50	4.7	6.5	1.76	3.5	50.50	48.50	63.2	Crump & H Cos Inc	OTC	15.13	4.3	13.9	0.40	2.6	16.00	14.63	33.5
Continental Corp	NYSE	28.88	3.1	7.8	2.40	8.3	29.13	27.63	124.3	Hall Frank B & Co Inc	NYSE	25.38	-0.5	9.3	1.60	6.3	26.00	25.38	18.2
Crawford & Co	OTC	17.00	-2.9	13.3	0.52	3.1	17.25	17.00	8.6	Integrated Res Inc	AMEX	16.00	-1.5	7.3	0.00	0.0	16.25	15.75	26.7
Crown Life Ins Co	OTC	110.00	-8.3	9.2	2.80	2.5	120.00	110.00	0.2	James Fred S & Co Inc	NYSE	25.00	-2.4	11.0	1.60	6.4	25.75	25.00	17.0
Cum & Forster	NYSE	33.50	0.4	5.8	1.44	4.3	33.88	33.00	63.8	Marsh & McLennan Cos Inc	NYSE	38.25	1.3	12.5	2.00	5.2	38.75	37.50	102.3
Employers Cas Co	OTC	38.75	2.0	5.9	1.20	3.1	38.75	38.25	7.5	Pennacorp Finl Inc	NYSE	6.63	-1.9	7.4	0.16	2.4	6.75	6.63	78.3
Equifax Inc	NYSE	24.38	-2.5	7.5	2.40	9.8	24.50	24.25	2.3	Poe & Assoc Inc	OTC	11.00	0.0	9.7	0.80	7.3	11.00	11.00	1.4
Excelsior Ins Co	OTC	16.00	0.7	32.7	0.70	4.4	16.00	15.50	3.3	Reed Stenhouse Cos Ltd	OTC	12.00	6.7	10.4	0.56	4.7	12.00	11.25	8.0
Farmers Group Inc	OTC	33.63	-0.7	10.6	1.12	3.3	34.00	33.63	244.8	Rollins Burdick Hunter Co	OTC	25.25	-1.9	13.2	1.24	4.9	25.75	25.25	15.3
First Colony Life Ins Co	OTC	43.00	22.9	14.1	0.80	1.9	44.00	35.00	24.0	AGENTS/BROKERS									
Foremost Corp Amer	OTC	31.00	1.6	9.6	0.80	2.6	31.00	30.50	9.6										
Great West Life Assurn Co	OTC	250.00	0.0	10.1	10.00	4.0	250.00	250.00	0.0	Conglomerates/Holding Cos.									
Ganover Ins Co	OTC	32.75	-2.2	4.4	0.72	2.2	33.50	32.75	8.3	American Express(Fireman's Pd)	NYSE	44.88	-2.4	8.4	2.00	4.5	46.00	44.88	1,232.5
Hartford Steam Boiler Insphn	OTC	48.50	0.0	9.8	2.60	5.4	48.50	48.50	1.9	Anderson Clayton(Ranger/Panam)	NYSE	24.25	0.0	6.6	1.20	4.9	24.25	24.13	19.5
Jefferson Natl Life Ins Co	OTC	35.50	-6.6	32.0	0.64	1.8	37.75	35.50	10.4	Armco Inc	NYSE	31.63	-2.7	8.1	1.64	5.2	32.50	31.63	180.1
Imper Corp	OTC	34.25	4.2	5.3	1.60	4.7	34.25	33.38	44.4	City Investing Co. (Home Ins.)	NYSE	25.38	-1.9	7.4	1.60	6.1	26.88	26.38	408.7
Incoln Natl Corp Ind	NYSE	42.50	2.4	6.0	3.00	7.1	42.50	41.50	29.9	CNA Finl Corp (CNA)	NYSE	16.00	4.9	6.3	0.00	0.0	16.00	15.63	30.7
glo Invt Corp	NYSE	35.50	-1.7	9.6	1.28	3.6	36.00	35.38	209.6	Control Data (Comm. Credit)	NYSE	67.75	-1.6	8.0	1.00	1.5	68.50	67.13	320.6
Ission Ins Group Inc	NYSE	46.00	-0.5	8.6	1.00	2.2	46.75	46.00	26.1	General Re Corp	NYSE	76.88	0.3	10.4	1.76	2.3	78.63	76.88	118.9
ationwide Corp Ohio	OTC	24.75	0.0	7.1	0.70	2.8	24.75	24.75	3.2	Gulf Utid Corp	NYSE	22.00	1.1	8.0	1.28	5.8	22.13	21.75	56.8
Northwestern Natl Life Ins	OTC	27.63	-0.5	6.8	1.36	4.9	28.00	27.63	12.7	INA Corp (Ins. Co. of NA)	NYSE	43.50	0.3	6.1	2.40	5.5	44.00	43.50	308.3
Nio Cas Corp	OTC	44.00	-1.1	7.6	2.04	4.6	44.63	44.00	22.8	ITT (Hartford Group)	NYSE	23.88	-1.7	5.7	2.60	9.0	29.38	28.88	1,072.0
Id Re Intl Corp	OTC	16.13	-0.8	4.4	0.92	5.7	16.38	16.13	47.6	Reliance Group Inc	NYSE	93.50	9.4	8.1	3.00	3.0	98.50	93.75	97.9
Inehurst Corp	OTC	6.38	0.0	0.0	0.00	0.0	6.50	6.25	7.6	Sears Roebuck & Co. (Allstate)	NYSE	13.75	1.4	9.5	1.36	7.3	19.00	18.50	1,184.2
ferred Risk Life Ins Co	OTC	18.00	-1.4	6.0	0.80	4.4	18.25	18.00	2.4	S & H Co. (Bayly Martin & Fay)	NYSE	33.75	-1.5	14.5	1.00	3.0	34.25	33.75	11.4
rovident Life & Acc Ins Co	OTC	48.00	0.0	7.1	2.20	4.6	48.00	48.00	111.9	Teledyne Inc (Argonaut)	NYSE	155.00	-3.9	9.5	0.00	0.0	163.00	153.00	361.1

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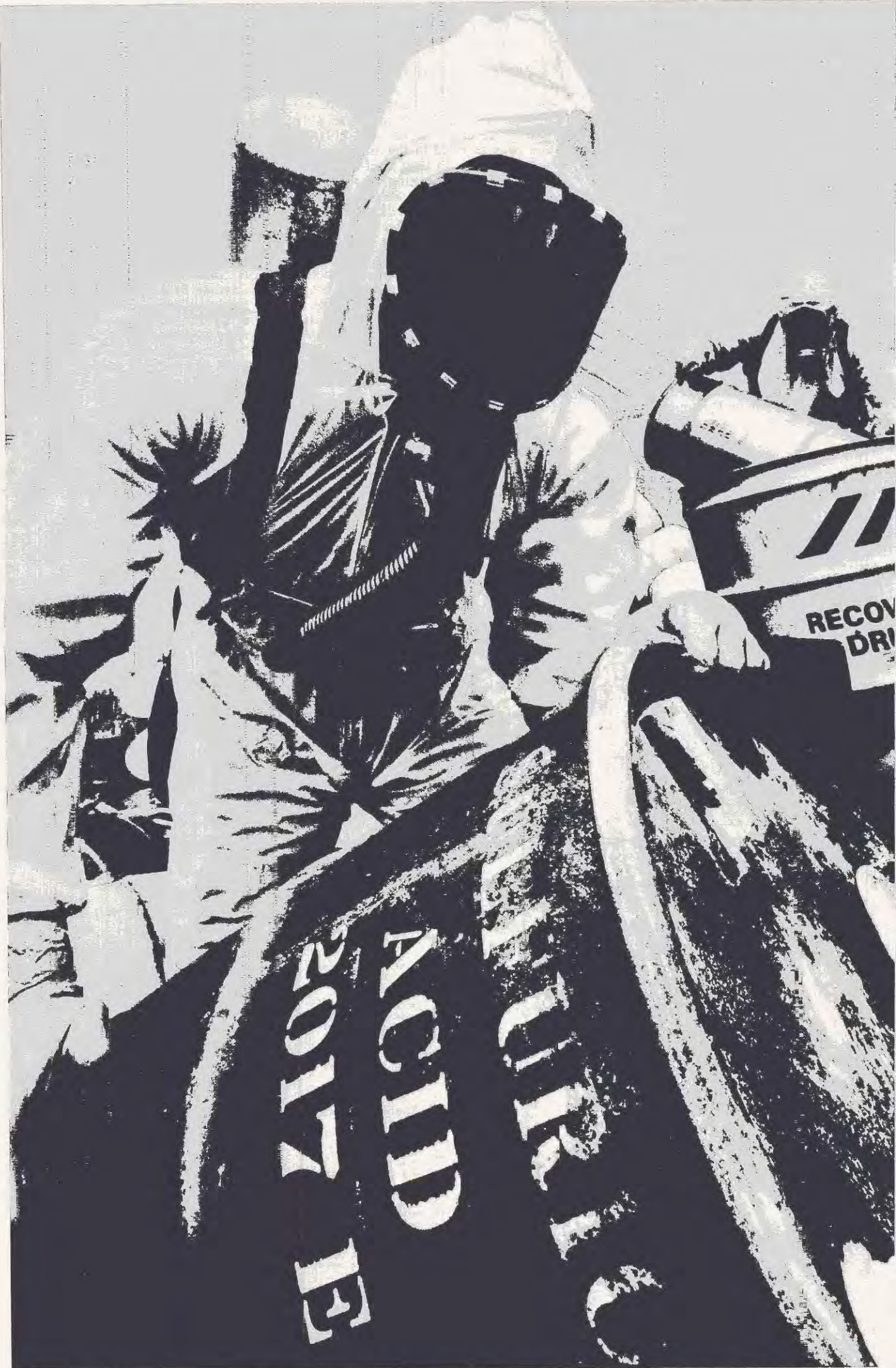
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