

Business Insurance

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

Entire contents copyright 1998 by Grain Communications Inc. All rights reserved.

Insurers allowed to remain class for lawsuit against pipe makers

CAMDEN, N.J.—A class-action federal fraud suit brought by a group of insurers against manufacturers of polybutylene piping could go to trial as early as next January, according to an attorney for the insurers.

U.S. District Court Judge Joseph Rodriguez on July 15 rejected the defendants' motion to decertify the class.

Stewart C. Crawford of Stewart C. Crawford & Associates of Media, Pa., who represents the insurers, said the group of insurers now can seek damages under the federal

See Updates on next page

Insurers seek stakes in brokers KKR leads group in bid for Willis Corroon

By SARAH GODDARD

LONDON—Willis Corroon Group P.L.C. is ending speculation over its future after announcing last week that a consortium of insurers, private investors and management have made an acquisition bid for the broker.

Trinity Acquisition P.L.C., a consortium led by U.S. private equity firm Kohlberg Kravis Roberts & Co. L.P., last week issued a £951 million (\$1.56 billion) offer to acquire a majority stake in Willis Cor-

roon, the world's fourth-largest broker.

The proposed deal shifts the spotlight to the future plans of its chief London-based rival, Sedgwick Group P.L.C. Sedgwick is the world's third-largest broker.

Some risk managers say the investment in Willis would ensure that there remains for buyers a choice of multiple large brokers. Others are taking a wait-and-see attitude toward how the deal would affect corporate insurance buyers.

John Reeve, executive chairman of Willis Corroon, said that moving to pri-

vate ownership would allow the broker to focus on creating long-term shareholder value rather than short-term quarterly earnings.

KKR is investing up to £165 million (\$271.3 million) in Trinity and will provide bridge financing for the deal up to \$575 million.



Mr. Reeve

The other five members of Trinity are Guardian Royal Exchange P.L.C., Royal & SunAlliance Insurance Group P.L.C., Chubb Corp., Hartford Financial Services Group Inc. and Travelers Property Casualty Corp.

The insurers together have agreed to put £193 million (\$317.3 million) into Willis. KKR also has arranged \$475 million in senior debt financing from Chase Manhattan Bank.

Seven senior Willis executives, including

See Willis on page 21

Financial services consortium invests in USI

By JOANNE WOJCIK

SAN FRANCISCO—The plans for a consortium of insurers and one major bank to buy a majority stake in broker USI Holdings Inc. exemplify a metamorphosis occurring in the insurance industry, observers say.

USI last week announced that CNA Financial Corp., the Equitable Cos., Orion Capital Corp., Provident Cos. Inc., Travelers Insurance Cos., Zurich Centre Investments Inc. and Chase Manhattan Corp. made private equity investments totaling more than 50% in the San Francisco-based insurance brokerage.

Terms of the transaction were not disclosed, but USI



Mr. Mizel

will use the capital to redeem shares of outstanding common and preferred stock, and retain some of the proceeds for general corporate purposes, a company statement said.

"This is the first time in the history of our industry that the major financial services companies have all joined hands as equity investors in a distribution system," boasted Bernard H. Mizel, chairman and chief executive officer of San Fran-

cisco-based USI.

But risk managers aren't convinced that such consolidation is a blessing.

And one day after the USI announcement, Willis Corroon Group P.L.C. announced that a consortium of investors, including five insurance companies, had made a \$1.56 billion offer to acquire a majority stake in the broker (see related story).

"Insurers are devising all kinds of methods to have some influence over the distribution system," observed Russell Miller, president of San Francisco-based investment banker Russell Miller Inc.

See USI on page 22

Senate pension bill offers 401(k) test relief

Measure could become part of tax bill

By JERRY GEISEL

WASHINGTON—Bipartisan pension legislation introduced in the Senate last week would eliminate a layer of complexity for employers running non-discrimination tests on their 401(k) plans.

Employers would be able to run the same non-discrimination test—known as the 200%/2 percentage points test—on savings plans that have pretax, aftertax and employer matching features.

Allowing employers to run the same non-discrimination test on 401(k) deferrals, aftertax contributions and employer matching contributions, which are covered under Section 401(m) of the tax code, would replace a Byzantine, multistep testing procedure that the Internal Revenue Service put

in place nearly a decade ago and that has complicated non-discrimination testing of savings plans ever since.

The legislation, significantly broadened from an earlier draft (BI, July 13), would eliminate 401(k) non-discrimination testing altogether for employers that automatically enroll employees in their 401(k) plans and partially match employees' salary deferrals, while a third provision would allow employees in certain situations to boost contributions to their savings plans.

These proposed changes in the Senate proposal are drawing cheers from benefit professionals.

"Hooray for common sense; I believe these are three terrific things that will help employers and employees," said Margaret-Ann Cole, a principal with PwC Kwasha in Fort Lee, N.J.

The legislative package, as earlier reported, also would liberalize retirement plan cash-out rules, provide a new exemption from minimum distribution rules, accelerate vesting for employers' matching 401(k) contributions,

See Pensions on page 4

Media misdeeds should spur review of coverage: Experts

By RODD ZOLKOS

Several widely publicized incidents of inaccurate reports by major news organizations might not harden the media liability market, but they should prompt news organizations' risk managers to look closely at their insurance coverage, some experts suggest.

The four incidents have sparked allegations ranging from seriously flawed reporting to obtaining information through illegal means to fabrication of events and sources. The situations have resulted in apologies by the organizations, dismissals of employees and, in at least one case, a sizable cash settlement.

Media liability experts say the events taken together could strengthen plaintiffs attorneys' allegations in libel cases that reporters have invented information or gone about their business recklessly. And, in the worst case scenario for media liability insurance buyers, that ultimately could result in higher prices for the coverage.

The incidents this spring and summer

include a series of articles by The Cincinnati Enquirer on the business practices of Chiquita Brands International Inc. The newspaper ran a front-page apology three times for the articles and put the apology on its World Wide Web site. It also paid Chiquita a settlement of more than \$10 million.

In its apology, the newspaper said it had determined information in the stories was untrue and created a "false and misleading" impression of Chiquita's business practices. The apology further contended that some information in the stories was obtained illegally.

CNN and Time magazine, meanwhile, retracted and apologized for a report that aired on a cooperatively produced program in June that claimed the U.S. military had used chemical weapons on American defectors during the Vietnam War. In a statement aired repeatedly on CNN, the network said its "system of journalistic checks and balances" had failed in the preparation of the report. CNN fired two producers and re-

See Media on page 21

TO SUBSCRIBE CALL

1-800-678-9595

Updates

Insurers' class status upheld

Continued from previous page

Racketeer Influenced and Corrupt Organizations Act. The insurers allege that the three manufacturers engaged in "a pattern of racketeering" in devising "ways to conceal known and existing problems with (polybutylene) piping," according to court papers.

The insurers are suing to recover hundreds of millions of dollars they paid policyholders for leaking piping manufactured by Shell Oil Co., Hoechst Celanese Corp. and E.I. DuPont de Nemours & Co. (BI, Feb. 16).

Mr. Crawford said the case, *Northland Insurance Co. vs. Shell, DuPont and Hoechst Celanese*, is the first in which a group of insurers has been certified as a class in a class-action suit. He estimates insurance industry losses due to leaking polybutylene pipe at more than \$2 billion.

Kaiser sued again in Texas

AUSTIN, Texas—Kaiser Foundation Health Plan of Texas is facing a second lawsuit from the attorney general of Texas, this time claiming the health maintenance organization has improperly denied emergency care and claims.

The suit, filed earlier this month in state court in Austin, Texas, alleges Kaiser has violated a 1995 settlement agreement regarding its emergency care practices.

In that settlement of a 1994 suit, Kaiser agreed to hire a consultant to reprocess some claims filed by policyholders who were denied benefits for emergency care from June 1, 1992, through Oct. 1, 1994. The HMO also agreed to revise its emergency claims review criteria.

The new lawsuit seeks civil penalties of up to \$10,000 per violation and damages payable to claimants who suffered losses because of Kaiser's emergency care practices.

Kaiser said in a statement that it believes its "claims processing practices meet state laws and regulations, and we expect to win this case on its merits accordingly. Our members have the right to expect that their emergency claims benefits will be properly administered."

Last year, Kaiser reached a separate agreement with the Texas Department of Insurance, in which it agreed to pay a \$750,000 fine and make changes to its emergency care practices (BI, April 28, 1997).

CIGNA HealthCare fined

DENVER—Colorado Insurance Commissioner Jack Ehnes slapped a \$116,000 fine on CIGNA HealthCare of Colorado Inc. for various state insurance violations relating to its 1995 and 1996 business years.

In addition to policy form and producer credentialing violations, the health maintenance organization was fined for failing to handle complaints and grievances, including failing to respond to written appeals within the time frames set forth in its own internal standards, the department said. The examiners also reported 19 categories of errors relating to CIGNA's underwriting and rating practices.

The fines, levied against CIGNA earlier this month, came at the same time the Insurance Department fined Connecticut General Life Insurance Co. \$10,000 for policy form and producer credentialing violations.

In a statement, Mr. Ehnes said that market conduct examinations "revealed systematic problems throughout the companies" and that the "high frequency of errors is an issue of real concern and will necessitate a follow-up examination within 18 months to ensure that these problems have all been corrected."

Deryl Edmonds, general manager of CIGNA HealthCare of Colorado, said all the issues identified by the examiners have been corrected. Despite the violations, Mr. Edmonds said, no consumers or clients were harmed in any way.

Ireland sets new tax rate

DUBLIN, Ireland—An agreement between the Irish government and the European Union on a new corporate tax rate eliminates uncertainty over the tax position of captive insurance companies in Dublin, Ireland.

Captives operating out of Dublin's International Financial Services Centre now are subject to a European Union-approved 10% corporate tax rate.

That rate runs out at the end of 2005. The new tax rate, approved by the European Union last week, is 12.5%. Existing captives will remain entitled to the 10% rate until the end of 2005. Captives formed after July 22 will be subject to the 10% rate until the end of 2002, after which they will be subject to the 12.5% rate. Currently, there is no expiration date for the new rate.

David Smith, a marketing executive at the government-run Industrial Development Agency of Ireland, which promotes international investment in Ireland and oversees the marketing of the IFSC, said the new tax agreement sends a very positive message to captives operating, and seeking to operate, out of the IFSC.

Captives formed in the IFSC can cover operations across Europe—with the exception of Ireland—under the European Third Life and Non-Life Directives, both for direct and reinsurance business.

Mr. Smith said that captives are looking for tax certainty and that the slight increase in the tax rate is not an issue. He said he thinks the new tax agreement will ensure the future growth of the IFSC, which now has more than 140 captives.

Eamon O'Brien, managing director of Aon Insurance Managers (Dublin) Ltd. and chairman of the IFSC's insurance group, said he agrees that the new tax agreement will boost Dublin's attractiveness as a captive insurance domicile. "We are delighted it has now been finalized," he said.

AOL subpoenaed for user ID

SANTA ANA, Calif.—A publishing company successfully obtained from an Internet service provider the name of a person who set up what the publisher alleged was a defamatory World Wide Web site.

See Updates on page 22

Rehab deemed success

Hot real estate market key to making plan work: Analysts

By JUDY GREENWALD

NEWARK, N.J.—The rehabilitation of MBL Life Assurance Corp., formerly Mutual Benefit Life Insurance Co., can be termed a success with the expected sale announced earlier this month of its remaining individual life and individual and group annuity businesses to Los Angeles-based SunAmerica Inc., analysts say.

Just as the insurer's original downfall could be attributed to the real estate market, the upward turn in that sector appears to be the major factor behind the rehabilitation plan's success.

However, the sale also signifies

the approaching end of the insurer as an ongoing entity. Mutual Benefit, founded in 1845, was the largest life insurer failure on record when it was put in rehabilitation in 1991.

The failure was largely a result of soured real estate and mortgage investments and a subsequent cash flow drain caused by the withdrawal demands of panicky policyholders. MBL had been the fourth-oldest and 18th-largest insurer in the United States.

MBL reached an agreement to sell the life and annuity businesses to SunAmerica for about \$130 million in cash earlier this month. The deal, which is expected to close by the end of the year, is

structured as a reinsurance transaction, with MBL's life insurance and annuity businesses fully reinsured by a Sun unit, Anchor National Life Insurance Co.

The transaction will include policies backed by about \$5 billion in reserves, including \$3 billion of fixed annuity reserves, primarily comprised of 403(b) contracts.

At the end of a transition period estimated to be in June of 1999, which will coincide with the end of Mutual Benefit's rehabilitation, Anchor will assume responsibility for the businesses' servicing and administration.

Annuity contract holders and See MBL on page 16

Patient protection passes in House

But tough battles remain ahead

By JERRY GEISEL

WASHINGTON—Congress is one step closer—with several crucial steps to go—to passing patient protection legislation.

After hours of highly emotional and often highly partisan debate, the House of Representatives Friday passed legislation—developed by a Republican task force—to give patients, especially those in managed care plans, new rights. The bill passed 216-to-210.

The Senate could vote on somewhat different bills as soon as this week, though it is possible Senate consideration could be delayed until after the August congressional recess.

Among other things, the House bill would give patients in traditional health maintenance organizations the right to obtain coverage through point-of-service options, as well as di-

rect access to obstetricians/gynecologists and greater likelihood of receiving coverage for emergency room treatment.

The bill, H.R. 4250, also would set up a new system of internal and external review of health care plan coverage decisions, as well as making it easier for small employers to band together to self-insure their health care risks.

Passage of the bill sets the stage for the Senate to consider somewhat different measures developed by members in that body.

Judging, though, by the tone of the debate on the House floor, reaching a final agreement on a bipartisan bill in the remaining few weeks of the session could be extraordinarily difficult.

Democrats opposed to the House Republican bill described it as a sham.

See Patients on page 23

Directory deadline nearing

Business Insurance will publish its annual Directory of Property Loss Control Consultants in the Aug. 17 issue, which also will feature a Spotlight Report on property loss control.

The directory is published as an editorial service, and there is no charge to be included. A company must simply submit a completed questionnaire by the extended deadline of July 31. To be included in the listing, companies must provide unbundled property loss control/engineering services directly to corporate and institutional clients.

If your company meets these criteria and has not yet received a questionnaire, please request one immediately by calling Assistant Directory Editor Matt Scroggins at 312-649-5483.

Forum to feature ART experts

By RODD ZOLKOS

MIAMI—With speakers who are among the leading experts in alternative risk financing, the 8th World Captive and Alternative Risk Financing Forum will benefit anyone interested in "Maximizing Potential" of their risk financing programs.

Scheduled for Nov. 15 through 18 at the Doral Golf Resort & Spa in Miami, the forum will feature a broad spectrum of industry experts examining such topics as financing enterprise risks, reinsur-

ance, rent-a-captives, accessing capital markets and service provider selection.

Beyond the formal schedule, the forum's structure provides considerable opportunity for one-on-one discussions with panelists and peers during coffee breaks, meals and receptions.

Cosponsoring the conference, titled "Maximizing Potential," are *Business Insurance*, Skandia International Risk Management/SINSER and Tillinghast-Towers Perrin.

"We are very excited about the

lineup for this year's forum, which should be informative both to corporate executives who have long used captives to finance risk and to those who are considering them," said Kathryn J. McIntyre, publisher and editorial director of *Business Insurance* in Chicago.

A special two-hour session on Monday, Nov. 16, for those less familiar with captive concepts will address the basics of captives and risk financing. It will be presented by Nicholas Dove, president of Skandia International Risk Man-

See Forum on page 16

Inside

• Brokers and insurers involved in the transactions that will give insurers financial stakes in brokers need to make clear to risk managers what the acquisitions will mean to them, one of this week's editorials says. **PAGE 8**

• A U.K. ruling will increase awards to accident victims and may raise liability insurance rates as well. **PAGE 17**

• Unmanaged business risk is costing smaller U.K. companies profits, a survey shows. **PAGE 17**

Departments

Advertiser Index 19
Classifieds 18
Commentary.....21

For the Record 16
Insurance Services Guide 16
International 17
Legal Briefs 14
Opinions 18
Perspective 13
Ticker 23

Business Insurance (ISSN 0007-6864) Vol. 32, No. 30, is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to *Business Insurance*, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207. \$4 a copy and \$87 a year in U.S. \$105 in Canada and Mexico (includes GST). All other countries \$205 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444. Printed in U.S.A. Copyright 1998 by Crain Communications Inc.

Collapse losses mount

New York accident sparks claims from residents and businesses

By GAVIN SOUTER

NEW YORK—Liberty Mutual Insurance Group has received more than 130 claims so far from businesses and residents affected by the scaffolding collapse at a building project in Times Square last week.

The claims filed with Liberty Mutual, the project's liability insurer, range from individuals made homeless by the accident to businesses

seeking compensation after they were forced to close while the area was made safe.

While there were no firm estimates on how much the accident will cost businesses in the area, Mayor Rudolph W. Giuliani said losses will be in the "millions and millions of dollars."

According to Peter Kohlmann, vp of marketing at the Times Square Business Improvement District,

about 150 businesses were affected by the accident, including 65 businesses in an office block at 1500 Broadway; the Kit Kat Klub theater, where the Tony award-winning revival of "Cabaret" was playing; and the Millennium Hotel.

The accident happened July 21, when a temporary elevator tower, consisting of 20 stories of scaffolding, on the construction site at the

See Accident on page 19



PHOTO: KRT PHOTOS

About 150 businesses were affected by an accident in New York in which a temporary elevator tower containing scaffolding collapsed.

Hong Kong snarl finds few insured

By MICHAEL BRADFORD and YVETTE HIGGINS

HONG KONG—A massive cargo snarl at Hong Kong's Chek Lap Kok Airport is leaving many businesses with uninsured losses.

The computer problems that shut down freight operations at Hong Kong's new \$20 billion airport earlier this month left cargo handlers and customs officials unable to process goods arriving or departing. Shipments of food rotted before local restaurants could claim them, and crates of clothing and other goods bound for the United States and other countries faced long delays.

Shipments were beginning to move in and out of the airport last week.

Hong Kong Air Cargo Terminal Ltd., the company that processes most of the freight that moves through the airport, lifted a 13-day embargo that had been

placed on all shipments except perishables and urgent medical supplies. Asia Airfreight Terminal Co. Ltd., which deals with most of the remaining cargo, is handling only freight booked before the delays began.

Airport and cargo company officials have said normal operations probably will not be restored at least until late August. The airport is designed to handle 3 million tons of cargo annually.

Economic losses related to the cargo problems could reach more than \$1 billion, the Hong Kong government has said.

The losses stem from spoiled perishables, extra expenses to ship cargo out of the country by other means, lost profits and other problems related to the fiasco.

Insurance industry sources say it is likely that most of the losses are uninsured.

See Airport on page 15



PHOTO: AFP

Tons of cargo wait to be loaded onto planes at Hong Kong's Chek Lap Kok Airport. Computer problems at the new \$20 billion airport have delayed shipments.

More employers add legal benefits to mix

By GEORG SZALAI

A growing number of employers are adding or planning to add prepaid group legal plans to existing benefit packages, according to legal plan administrators and benefit consultants.

In particular, voluntary enrollment plans that call for employees to pay the full cost of the benefit through payroll deductions are gaining popularity, they say.

"Employers are looking to broaden the array of benefits they offer, but they don't want to put in more money," said Jim Brennan, president of the ARAG Group, formerly Midwest Legal Services, a legal network administrator based in Des Moines, Iowa.

A survey of 509 organizations released in March by Lincolnshire, Ill.-based consulting firm Hewitt Associates L.L.C. showed that the percentage of surveyed firms offering group legal benefits rose to 7% in 1997 from 4% in 1994. On top of that, 14% of the surveyed companies said they planned to offer legal benefits within the next three years.

"The Hewitt study is indicative of the state of our industry," said Mr. Brennan. "This is as feverish a time in this business as I have seen," he said.

Business for the ARAG Group has grown about 25% over the past two years, according to Mr. Brennan. Before that, growth was more like 7% to 10% a year, he said.

Other legal plan administrators also said they have experienced stronger growth over the past one to two years.

See Legal on page 19

The benefit of counsel

The percent of employers offering subsidized and non-subsidized group prepaid legal services to employees is increasing:



Source: Hewitt Associates L.L.C.

PPO network to grow

Beech Street, CAPP CARE agree to merger

By ROBERTO CENICEROS

IRVINE, Calif.—Self-insured employers and other health care payers would benefit from the merger of two privately held preferred provider organizations, a consultant says.

The planned merger of Beech Street Corp. and CAPP CARE Inc. will result in a strengthened network that will ease access for employers with multistate locations, said Dale Macrae, a principal with William M. Mercer Inc. in Orange, Calif.

In announcing the merger plans last week, Irvine, Calif.-based Beech Street and Newport Beach, Calif.-based CAPP CARE

said their merger will create a health care management company with the nation's largest independently owned preferred provider organization. The privately held companies did not disclose the terms of the deal.

Being independent "means we will have no insurance company ownership, no HMO ownership, no hospital ownership," said George Bregante, Beech Street's president and chief operating officer. For health plan customers, "that is very important, because they do not want to do business with a PPO that is owned by their competitors," Mr. Bregante said.

See Merger on page 19

Minnesota employer coalition contracts with PBM

By SALLY ROBERTS

MINNEAPOLIS—A Twin Cities health care coalition's new contract for prescription benefit management services is expected to lead to better health care management by providers, which could mean lower costs for employers.

The Buyers Health Care Action Group has entered into a three-year contract with Express Scripts/ValueRx to provide PBM services to the coalition's Choice Plus plan, which directly contracts with providers in the Minneapolis-St. Paul area.

While the Twin Cities coalition of 28 employers had offered its Choice Plus enrollees prescription drugs in the past, this is the first time the BHCAG has separately contracted with a PBM company for those services. Prescription drug benefits cur-

rently are offered through the coalition's administrator, Minneapolis-based HealthPartners.

The HealthPartners contract, though, expires at the end of 1999. BHCAG put its administrative services out to bid last August and the HMO did not submit a bid (BI, July 6).

A decision on a new administrator is expected by October.

ESI/VRx will begin offering pharmacy benefits Jan. 1. In addition to such traditional services as a pharmacy network, formulary, rebates and mail order prescription services, ESI/VRx also will provide customized consultation on data analysis, formulary development, disease management support services and medication adherence programs for consumers to each of the provider groups that contracts with

BHCAG.

The health care community has closely watched BHCAG since it began offering its employees the Choice Plus program, which now revolves around 17 care systems—groups of physicians and hospitals approved by the coalition to compete for patients based on coverage offered and rates. Under this approach, the coalition contracts directly with provider-based care systems, rather than relying on managed care companies as intermediaries (BI, Dec. 23/30, 1997).

According to Ann Robinow, executive director of care systems and finance for BHCAG, the decision to contract with a PBM was made as an effort to provide the individual care systems with the support and information needed to make the best decisions in managing patient medication

and total health care.

Tamra Lair, health care practice leader for Watson Wyatt Worldwide in Minneapolis and the project manager for the coalition, said that "the real emphasis was to get physicians a whole set of tools to manage pharmacy utilization for which they are now at risk."

Plymouth, Minn.-based ESI/VRx is the nation's largest PBM not owned by a pharmaceutical manufacturer. Such combinations have raised conflict-of-interest questions among some purchasers, as well as the federal government.

Ms. Robinow said ESI/VRx's independence was not "the deciding factor" in the coalition's choice, "but it was a plus."

"As an independent, it has the ability to make decisions and provide advice that is unencumbered," she said.

BI

Pensions

Continued from page 1

allow employees moving between public and private sectors to transfer account balances to 401(k) plans from 403(b) plans and vice-versa, and lower Pension Benefit Guaranty Corp. premiums for newly established plans that have unfunded liabilities.

Sen. Bob Graham, D-Fla., one of six sponsors of the Pension Coverage and Portability Act, described the bill as a "frontal attack on red tape" that has raised administrative costs and discouraged employers from offering pension programs.

The bill could go on a legislative fast track. Senate Finance Committee Chairman William Roth, R-Del., has a strong interest in including provisions from the package as part of a tax bill congressional Republican leaders are expected to assemble over the next few weeks, Sen. Graham said.

For employers with 401(k) plans, the measure's most significant and welcome administrative change involves the proposed return of multiple use of the 200%-2 percentage points non-discrimination test.

Under a 1986 tax law, employers had been able to use the liberal 200% test to separately test for non-discrimination in both 401(k) deferrals and 401(m) contributions.

But the IRS, making full use of the authority Congress also provided in the 1986 tax law, proposed rules in

1988 to bar employers from using the 200% test twice.

Those rules, which took effect in 1989, established a complex and tougher testing procedure that combines and compares 401(k) deferrals and 401(m) contributions. To pass this tougher test, employers in many cases had to reduce deferrals and contributions to 401(k) plans by higher-paid employees.

By restoring multiple use of the 200% test, employers not only will be able to run a much simpler test, but higher-paid employees also in many cases should be able to bump up their deferrals and contributions to savings plans.

"I love the fact that these multiple tests would be gotten rid of. They are a needless aggravation and a big nuisance," Ms. Cole said.

"This would be a very good change. The 200% test by itself is enough to assure non-discrimination," added Gary Blank, a retirement plan consultant in San Francisco.

Another change in the package would eliminate 401(k) plan non-discrimination testing and comparisons of deferrals by higher-paid vs. rank-and-file employees, though the appeal of this change to employers would be limited.

Under this provision, employers would not have to run the so-called ADP test, short for actual deferral percentage, so long as they:

- Automatically enrolled employees in their 401(k) plans and deferred at

least 3%—unless employees specifically objected—of an employee's salary to the plan.

- Matched 50% of employees' deferrals up to the first 5% of pay.

- Immediately vested matching contributions.

In addition, at least 70% of non-highly compensated employees each year would have to make salary deferrals to the plan to win exemption from the ADP test.

Under the legislation, the new combined employer/employee contribution limit would be 100% of an employee's compensation or \$30,000, whichever is less.

This change would be a boon to employees, especially lower-paid workers who are married to high-income spouses and who work for companies that make generous contributions to the lower-paid workers savings plans.

For example, an employee earning

'I love the fact that these multiple tests would be gotten rid of. They are a needless aggravation and a big nuisance,' says Margaret-Ann Cole.

Only a relative handful of employers now offer so-called automatic enrollment programs for 401(k)s, though that number is expected to rise in the wake of recent IRS rules that gave the service's blessing to the plans.

Still, while more employers likely would move to such programs if the programs were exempt from non-discrimination testing, the conditions employers would have to meet would limit widespread adoption.

"While this would appeal to some employers, it would not exactly sweep the earth," said Henry Saveth, an attorney with William M. Mercer Inc. in Washington.

Many employers would be reluctant to commit to a 50% match, while others would be deterred by the immediate vesting requirement of matching contributions, he said.

Another proposed change would help lower- and middle-income employees' ability to make higher contributions to their 401(k) plans. That change involves Section 415(c) of the tax code, which limits an employer and employee contributions to a defined contribution plan to \$30,000 or 25% of an employee's compensation, whichever is less.

\$30,000 a year at a company that contributed an amount equal to 10% of employees' salary to a profit-sharing plan, currently could only defer a maximum of 15% of salary, or \$4,500, to the 401(k) plan.

Under the Senate bill, though, the higher limit means that employee could defer up to \$10,000—the maximum deferral now allowed under law—to the 401(k) plan.

Other provisions in the legislation include:

- Modifying a rule that bars employers from automatically removing from their defined contribution plans terminating employees whose account balances ever exceeded \$5,000.

The Senate bill would eliminate this lookback rule and set the \$5,000 cash-out threshold at the time the employee terminates employment.

- Raising to 75 from 70½ the age at which retirees must take a "minimum distribution" from their defined contribution plans.

In addition, the first \$300,000 of a retiree's defined contribution plan account balance would be exempt from the minimum distribution rule and could remain in the plan.

- Accelerating 401(k) plan vesting.

Employers would have to vest matching contributions within three years if a cliff schedule is used and six years if a graded schedule is used. Currently, matching contributions must vest after five years if cliff vesting is used and after seven years if graded vesting is used.

- Allow employees who change jobs to transfer 401(k) account balances to 403(b) plans—the tax-exempt world's rough equivalent of 401(k) plans—and vice-versa. Such transfers now are barred.

- Give employers with up to 100 employees a tax credit of \$500 per year for the first three years after establishing a new pension plan.

- Eliminate fees—now ranging from \$100 to \$1,500—that the IRS charges employers for providing determination letters for pension plans. A determination letter is the IRS's official judgment that a pension plan meets all applicable Tax Code rules.

- Bar 401(k) and other savings plan participants from borrowing against their account balances with credit cards.

- Requiring defined contribution plans to provide annual statements to participants indicating the value of accrued benefits. Defined benefit plans would have to provide such statements at least every three years.

- Make clear that employers can establish payroll deduction individual retirement account programs for their employees.

- Allow employers with up to 100 employees to set up so-called SAFE plans that would be exempt from non-discrimination rules so long as certain rules were followed. Among other things, a SAFE plan would have to provide a minimum benefit equal to 1%, 2% or 3%—with the employer deciding what percentage to use—of an employee's compensation for each year of service.

Other provisions would somewhat ease defined benefit plan non-discrimination testing rules and extend the PBGC's missing participant program to multiemployer pension plans. **BI**

Contractors Liability? Come to the source.

At Construction Insurance Brokers we live up to our name. We're the specialists...handling virtually all classes and sizes.

These include:

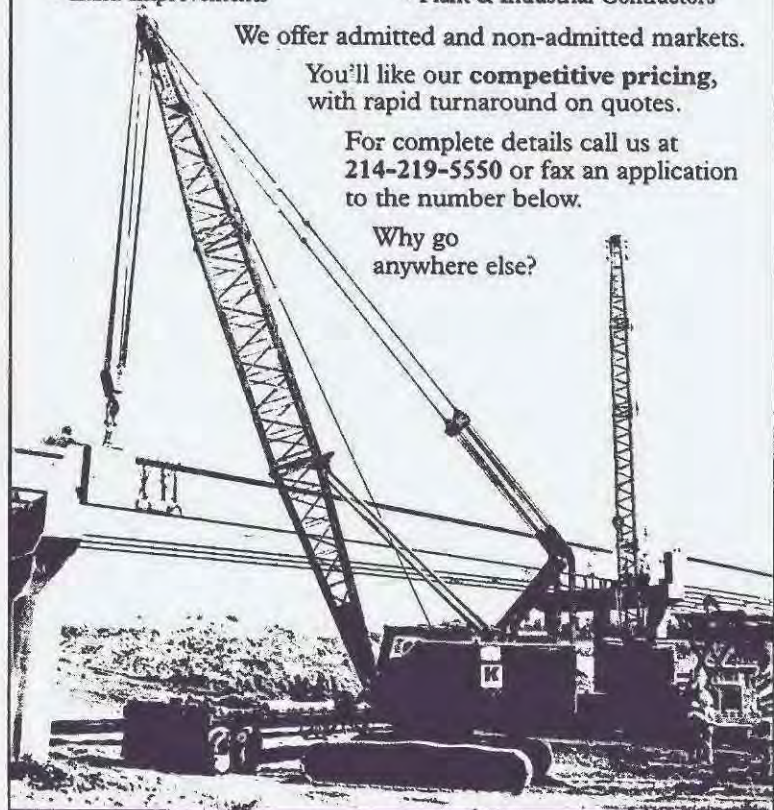
- Steel Erection/Fabrication
- Millwright/Rigging Contractors
- Equipment Manufacturing
- Land Improvements
- Pavers
- Graders
- Excavators
- Plant & Industrial Contractors
- Large Contractors
- Aerial Lift Dealers

We offer admitted and non-admitted markets.

You'll like our **competitive pricing**, with rapid turnaround on quotes.

For complete details call us at 214-219-5550 or fax an application to the number below.

Why go anywhere else?



CONSTRUCTION INSURANCE BROKERS, INC.
3110 Webb Avenue
Dallas, Texas 75205
214-219-5550
Fax 214-219-4447

Carvill

Reinsurance Intermediary

INDEPENDENCE
INTEGRITY
SERVICE

CONSISTENT PHILOSOPHY & PERFORMANCE

SINCE 1977

Atlanta Bermuda Chicago London Stamford

**How the healing
process begins.**

A COMPANY WORKED TO
AVOID INJURIES. YET,
ONE HAPPENED. WITH IMMEDIATE REPORTING, WAUSAU IS ABLE TO
QUICKLY FIND THE PROPER PHYSICIAN, BEGIN CASE MANAGEMENT AND
DEVELOP A RETURN-TO-WORK PROGRAM. WAUSAU CAREMANAGED
WORKERS COMP.SM NO WASTING TIME, OR MONEY. IT'S A SMARTER
WAY OF DOING BUSINESS,
FROM THE BUSINESS
INSURANCE EXPERTS,
WAUSAU INSURANCE.



The business insurance experts.



INTRODUCING A NEW 300-YEAR-OLD COMPANY.

We are proud to announce the worldwide merger
of Commercial Union and General Accident.





Regional operations:

CGU California

CGU Gulf

*CGU Hawkeye-
Security*

*CGU Indiana/
Ohio Valley*

*CGU Mid-
Atlantic*

CGU Midwest

*CGU
New Jersey*

CGU New York

CGU North Pacific

CGU Southeast

*CGU Southern
New England*

CGU Southwest

CU York

In June 1998, another chapter in insurance history was written. The new company – CGU – is one of the largest insurance companies in the world.

Although CGU is new, its ancestry is over 300 years old. Its origin dates back to 1696 in London to the oldest continuously operating insurance company in the world. Among its clients have been Winston Churchill, the *Titanic* and victims of the 1906 San Francisco Earthquake.

In each of four centuries, it has kept its commitments.

Today, CGU is doing business in all 50 states and operates in over 50 different countries worldwide.

In the United States alone, CGU has over 6,800 independent agents.

CGU has one goal – to be the premier insurance company offering personal, commercial, life and specialty products through independent agents and brokers.

CGU. The new 300-year-old company.


COMMERCIAL UNION


General Accident

P E R S O N A L • C O M M E R C I A L • L I F E • S P E C I A L T Y

CGU

Opinions

Let the buyers be aware

WHAT IS A RISK MANAGER to make of transactions last week in which groups of insurers are acquiring stakes in two major insurance brokers?

The answer to that depends on the extent to which the parties involved allay any concerns raised by risk managers who are not already clients of both the brokers and their insurer investors. The key to that will be open and frank discussions with risk managers about what the investments represent and what they bring to the table.

As we report in this week's issue, a group of five insurers is seeking a 19% stake in Willis Corroon Group P.L.C. as part of a proposed takeover of the company by Kohlberg Kravis Roberts & Co. L.P. Also last week, broker USI Insurance Services Inc. has reconstituted its ownership, selling more than 50% of its shares to five insurers and a bank.

In addition to those two deals, EXEL Ltd. earlier this month acquired a 25% stake in surplus lines broker Tri-City Brokerage Inc.

Those transactions certainly are good news for the brokers, giving them considerable new capital with which to make acquisitions and enhance services, while also promoting strong ties with leading insurers. The deals also appear to be good for the insurers, providing them with assured distribution outlets for their products in this competitive market.

Looked at in that light, they might also be very good deals for commercial insurance buyers by bringing new resources and insurance expertise to their brokers.

However, as we have seen in recent months, risk managers around the world are concerned about potential conflicts of interest in broker relationships with insurers. This concern is fueled by the fact that brokerage consolidation has resulted in a few megabrokers that have the potential to wield greater influence over how risks are placed.

The biggest controversy to date has centered on contingent commissions, which are paid by insurers to many brokers based on the volume or profitability of their business.

Risk managers who debated the issue during the Risk & Insurance Management Society Inc.'s annual conference earlier this year clearly were concerned that contingent commissions could compromise a broker who should be searching for the best deal for policyholders (*BI*, May 11).

Although many brokers have emphasized that the commissions are valid sources of compensation and do not influence the best placement of a client's risk, they are very aware that it is a sore subject for buyers.

The companies involved in last week's transactions,



therefore, cannot ignore that any ownership of a broker by insurers will come under increased risk manager scrutiny.

The brokers and insurers must make an extra effort to assuage any concerns of risk managers. First and foremost, the brokers and insurers need to discuss with clients their reasons behind the investments.

If the purpose is to support alternatives to the megabrokers, which will ensure the survival of a more competitive and vibrant brokerage community, then that is likely to be welcomed by buyers. Similar goals were cited by American International Group Inc. in 1994, when it made a \$200 million investment in Alexander & Alexander Services Inc. Both AIG and A&A took pains to assure clients that no favoritism would be shown to the investor.

But if the intent is to give buyers less choice over where their business is placed, risk managers certainly won't welcome that.

It is too soon to say what the investments in Tri-City, USI and Willis will mean for buyers, or whether this signals a new trend toward insurer ownership of insurance brokers.

But it is not too early for brokers and insurers to engage in a dialogue with their customers about where they fit in this new equation and to discuss how it will benefit not only the brokers' shareholders but also their policyholders.

Speak up on Social Security

THE COUNTRY'S RETIREMENT system will enter unknown territory if Congress approves comprehensive Social Security reform legislation.

Employers can—and must—help chart the way.

The country has never gone through a massive overhaul of Social Security before, but the fact that the system—which has been in place for more than six decades—demands reform is beyond question. The Social Security system was intended to provide supplemental retirement income, but it has become the primary—or only—source of old-age funds for too many Americans. When Baby Boomers begin retiring early in the next century, the system will experience severe financial strains its creators could not have foreseen in the 1930s.

But with myriad types and degrees of reform being bandied about in Congress, it is imperative that employers make their concerns known, and soon. Social Security reform isn't going to happen in a vacuum. Any changes made to a public-sector program will have profound ramifications for private-sector pension plans.

The ERISA Industry Committee accordingly deserves praise for its recent report, entitled "The Vital Connection." It provides employers with a description of the major reform initiatives Congress is likely to consider and spells out the potential pluses and minuses to employers of each. The

study does not, however, endorse a particular reform.

That's where individual employers come in. Any reform—such as an increase in the age of Social Security eligibility, or a cut in guaranteed benefits or allocating some of a worker's Social Security contribution to an individual savings account—is going to have an impact on employer-provided retirement benefits. Employees facing a cut in Social Security benefits, for example, might demand creation of defined benefit plans. The creation of individual retirement savings accounts funded by Social Security contributions would raise countless questions about administrative procedures and fiduciary liability.

Because employers ultimately could bear the brunt of reform's consequences, they must make their concerns known. Poorly designed and poorly executed reforms might save the Social Security system but destroy the employer-sponsored retirement system that has served millions of American workers so well.

We've long held that the Social Security system needs to be put on a new course to best serve the interests of the nation's employers and employees alike. If employers insist on being included in the upcoming congressional debate, they can help provide the map for charting that new course. Otherwise, they may find themselves in unfriendly waters.

Business Insurance

Reporting weekly on corporate risk,
employee benefit and managed health care news

Vice President/ Publisher/Editorial Director:	Kathryn J. McIntyre, ARM (Chicago)
Associate Publisher/Advertising Director:	Martin J. Ross III (New York)
Editor:	Paul D. Winston (Chicago)
Editor-at-Large:	Jerry Geisel (Washington)
Managing Editor:	Roseanne White (Washington)
Senior Editors:	Meg Fletcher, ARM (Chicago) Judy Greenwald (San Jose) Dave Lenkus (Tucson) Douglas McLeod (New York) Joanne Wojcik (Los Angeles) Regis J. Coccia (Chicago)
Assistant Managing Editor:	
Washington Editor:	Mark A. Hofmann (Washington)
Bureau Chiefs:	Sarah Goddard (London) Gavin Sauter (New York)
Graphics Editor:	Kathy L. Barnes (Chicago)
Copy Editors:	Todd J. Behme (Chicago) Mary B. Nick (Chicago) Richard Trout (Chicago)
Assistant Copy Editor:	Michael Bradford (New Orleans)
Associate Editors:	Roberto Ceniceros (Los Angeles) Robert Kazel (Chicago) Matthew MacDermott (London) Michael Prince (New York) Sally Roberts (Denver) Edwin Unsworth (London) Rodd Zolks (Chicago) Sandra L. Budde (Chicago) Matt Scroggins (Chicago) Amanda L. Milligan (Chicago) Amy R. Kepka (Chicago) Karen Brown Tucker (Chicago) Roger Schillerstrom (Chicago)
Directory Editor:	Siege Akins (New York)
Assistant Directory Editor:	
Editorial Assistant:	Robert L. Njesse (Chicago)
Production Assistant:	Blake Delany (New York)
Assistant to the Publisher:	Roger Lynch (New York)
Editorial Cartoonist:	Elizabeth McGahren (New York)
National Sales Manager:	Deborah D. Neale (Chicago)
Midwest Advertising Manager:	Cheryl Adesko (Chicago)
District Managers:	Lori Lieberman (Los Angeles) Elmer Kerstowski (Chicago)
Classified Advertising Manager:	
Sales Assistant:	Ronnie I. Drachman (New York)
Production Manager:	Barbara O'Brien (New York)
Director of Communications:	
Promotion Manager:	
EDITORIAL:	Chicago: 312-649-5398 Denver: 303-698-7601 London: 171-457-1400 Los Angeles: 213-651-3710 New Orleans: 504-269-9988 New York: 212-210-0100 San Jose: 408-774-1500 Tucson: 520-579-1937 Washington: 202-662-7200
ADVERTISING:	Chicago: 312-649-5276 New York: 212-210-0228 Los Angeles: 213-651-3710 New York: 212-210-0132
COMMUNICATIONS:	
SUBSCRIPTIONS:	Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

Keith E. Crain
Chairman
Merilee Crain
Secretary

Rance Crain
President
Mary Kay Crain
Treasurer

William A. Morrow
Executive Vice President/Operations
Robert C. Adams
Vice President/Production
Peter Johnson
Vice President/Circulation

G.D. Crain Jr.
Founder (1885-1973)

Mrs. G.D. Crain Jr.
Chairman (1911-1996)

S.R. Bernstein
Chairman-executive committee (1907-1993)

Published weekly at 740 Rush St., Chicago, Ill. 60611-2590, Fax 312-280-3174, E-mail: biweb@crain.com, Cable CRAINCOM. Offices: 220 E. 42nd St., New York, N.Y. 10017-5806, Fax 212-210-0704, CRAIN COM NYK; 2726 Prytanis, #6, New Orleans, La. 70130, Fax 504-269-0858; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax 202-638-3155; 6500 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90048-4947, Fax 213-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax 408-774-1155; New Garden House, 78 Hutton Garden, London EC1N 8JQ England, Fax 171-457-1440; 8157 N. Torrey Way, Tucson, Ariz. 85743, Fax 520-579-3476; 777 E. Speer Blvd., Denver, Colo. 80203-4214, Fax 303-733-2244, \$4 a copy and \$87 a year in U.S. \$105 in Canada and Mexico (includes GST). All other countries \$205 a year (includes expedited air delivery). DON MIERENDORF, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich., 48207-3185, or phone 888-446-1422 or 313-446-0450, Fax 313-446-6777. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: JOSEPH P. HANLEY, Crain News Service, 220 E. 42nd St., New York, N.Y. 10017-5806, 212-254-0890. For reprints or reprint permission contact: KAREN BROWN TUCKER, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, 312-649-5319, Fax 312-280-3174.

BPA www.businessinsurance.com **ABP**
TO SUBSCRIBE CALL 888-446-1422 • 313-446-0450 outside of the United States

REPENT WHAT'S PAST;
AVOID WHAT IS TO COME.

— SHAKESPEARE —



BI HELPS DECISION-MAKERS PREPARE FOR THE UNFORESEEN.

Even if the Titanic was destined to collide with an iceberg, better planning and more careful decision-making could have kept her afloat.

No matter how resilient a ship — or business — may appear, the unforeseen can render devastating results. That's why *BI's* readers need our in-depth coverage of reinsurance ... from the international players, to developments at the Monte Carlo Rendez-Vous to overall trends and issues in the

market. So, while the attention of buyers and sellers of insurance and reinsurance are focused on our three spotlight reports, you can tell them how your products and services protect their corporate assets.

Reach more than 153,000* commercial insurance and reinsurance executives, risk managers, intermediaries and others who rely on *BI* for information. With *Business Insurance* you can help them pass safely through dangerous waters. Call to reserve your advertising space today.

*Includes pass-along readership

REINSURANCE: International Markets

*Directory: Leading Reinsurers Worldwide
Distribution: Monte Carlo Rendez-Vous*

Issue Date: August 31
Closing: August 19

REINSURANCE: Rendez-Vous Report

Distribution: HMIS, IIAA, NAMIC

Issue Date: September 21
Closing: September 9

REINSURANCE: Trends & Issues

*Directory: Reinsurance Brokers
Distribution: ARIMA, NAIJ, PLUS*

Issue Date: November 9
Closing: October 28

**Business
Insurance**
www.businessinsurance.com

New York: 212-210-0133 • Fax: 212-210-0704 • Chicago: 312-649-5276 • Fax: 312-649-7937 • Los Angeles: 323-651-3710 • Fax: 323-655-8157

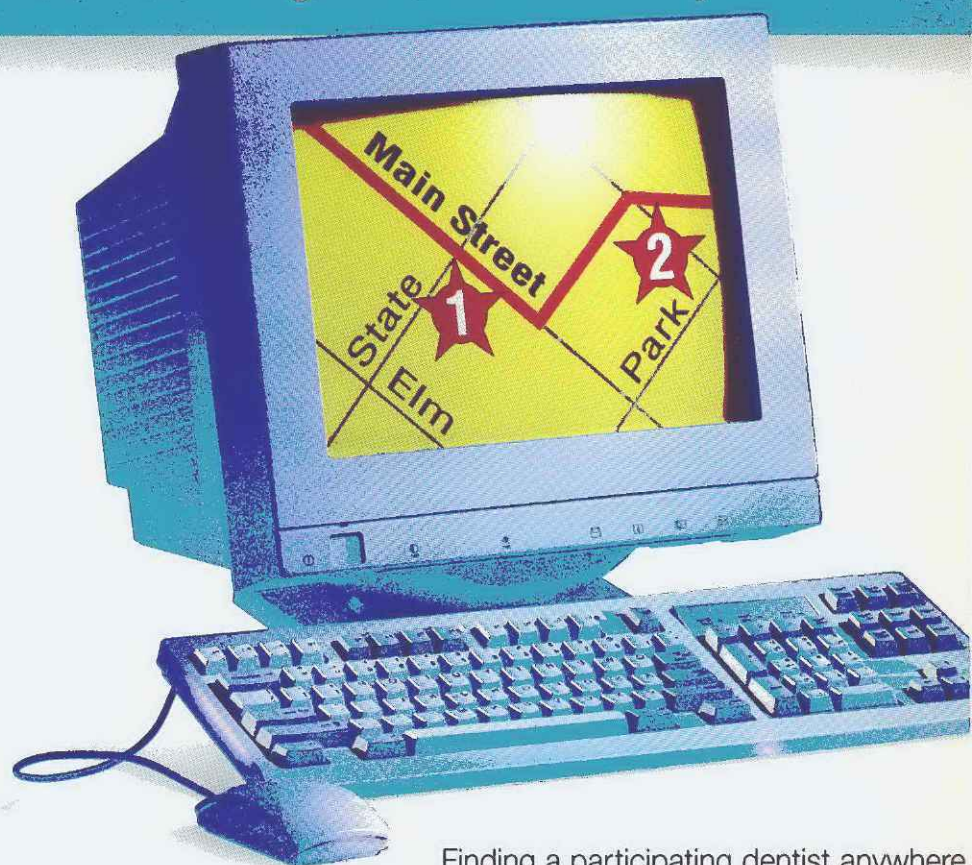
METLIFE MAKES YOUR

Only the MetLife Preferred Dentist Program has so many innovative



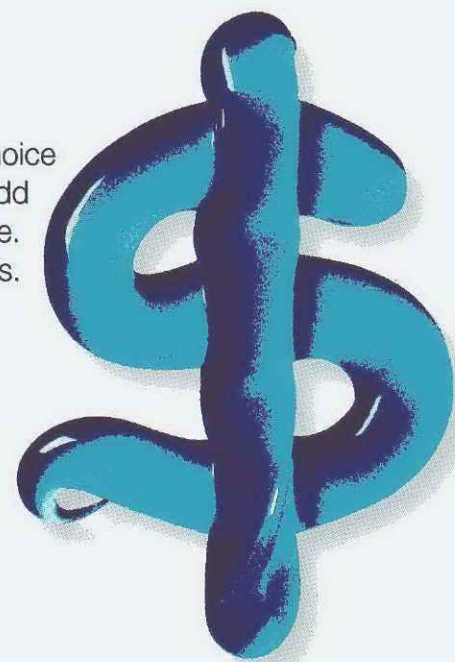
Preferred Dentist Program (PDP)

- Flexible plan designs for companies of all sizes
- Generous preventive care benefits to help minimize costly procedures later
- Freedom to choose dentists in and out of network
- Large, stable PPO with access to general and specialty dentists
- Negotiated fees typically 15-30% lower than community averages*
- Toll-free & internet dentist directories
- Responsive account service for smooth plan setup and ongoing support



Finding a participating dentist anywhere in the U.S. is a snap at www.metlife.com/dental. You'll even get directions!

Quality, choice
and savings add
up to better value.
That never hurts.

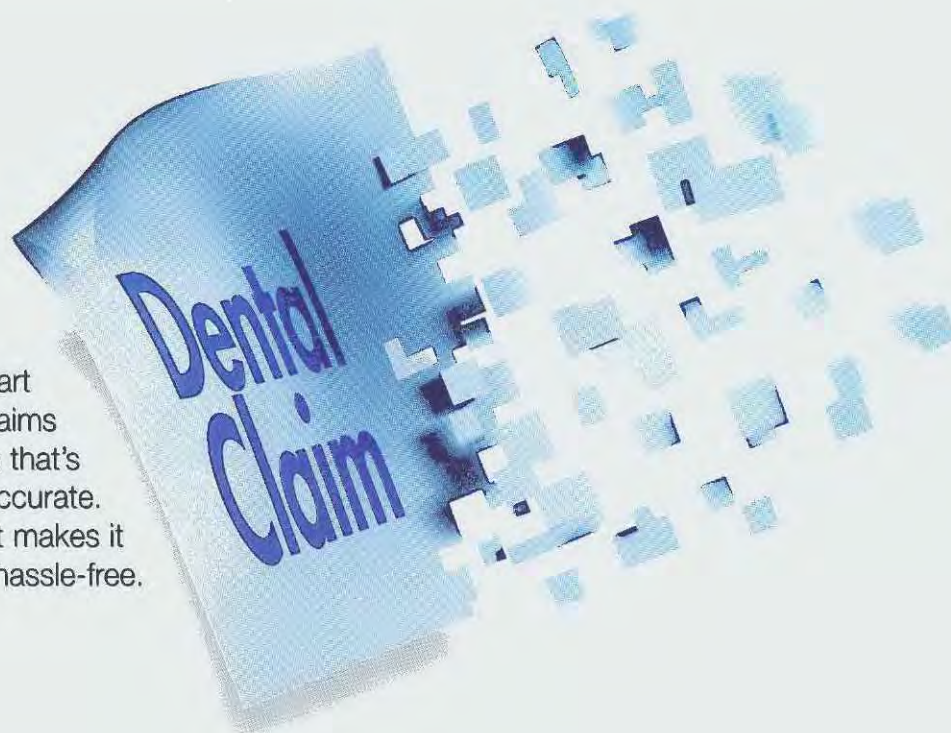


*Fee levels vary by geographic area.
©1998 Metropolitan Life Insurance Co. NY, NY.
PEANUTS ©United Feature Syndicate, Inc. H9806XHZ (exp0699) MLIC-LD

DENTAL WORK PAINLESS.

ways to ease the administration of your dental benefit plan.

State-of-the-art
electronic claims
processing that's
fast and accurate.
That makes it
hassle-free.



Millions are covered by MetLife
Dental Plans, backed by 35 years of dental
benefit experience. So you can relax.



Stringent credentialing standards ensure
confidence in the qualifications of participating dentists.
Don't you feel better already?

To see what a great value MetLife's PDP
is, contact your broker, consultant, MetLife
account representative, or call *toll free*:

1 877-MET-BtoB
(1 877-638-2862)

MetLife®

www.metlife.com/business

P R O P E R T Y



LOSS CONTROL

A Spotlight Report on
PROPERTY LOSS CONTROL
including BI's Directory of
PROPERTY LOSS CONTROL CONSULTANTS
and bonus distribution at ARIA

Publishing—August 17, 1998
Ad Closing—August 5, 1998

***Business
Insurance***[®]
www.businessinsurance.com

New York: 212-210-0133 ■ Fax: 212-210-0704
Chicago: 312-649-5276 ■ Fax: 312-649-7937
Los Angeles: 213-651-3710 ■ Fax: 213-655-8157

Strict policies will protect employers

Faragher and Ellerth decisions indicate sound loss control procedures can minimize liability

By Gerald L. Maatman Jr.

THE U.S. SUPREME COURT'S two June 26 landmark decisions in *Faragher vs. Boca Raton* and *Burlington Industries Inc. vs. Ellerth* establish a uniform standard for employer liability under Title VII of the Civil Rights Act of 1964 for sexual harassment committed by supervisory personnel. While the debate continues as to whether the rulings are pro-employee or pro-employer, the bottom line is simple: Employers should be prepared to be named in more lawsuits and to incur a much greater risk of liability.

The Supreme Court, voting 7-2 in each case, held in *Faragher* and *Ellerth* that employers may be held vicariously liable to a victimized employee under Title VII for the acts of supervisors that constitute sexual harassment, irrespective of the employer's policies and practices, and even if the employer lacks actual notice of the supervisor's conduct.

When the supervisor's sexual harassment results in an adverse tangible employment action—such as a termination, denial of a raise or promotion, or undesirable reassignment—suffered by the employee, the company's liability is absolute. When the supervisor's sexual harassment does not result in an adverse employment action, such as when the supervisor makes an unwelcome sexual advance or unfulfilled threats to deny job benefits unless the employee agrees to the sexual favors, the employee nonetheless may recover, though the claim is subject to an affirmative defense.

In turn, the affirmative defense has two components. First, the employer must prove that it exercised reasonable care to prevent and promptly correct any conduct constituting sexual harassment. Second, the employer must prove that the plaintiff unreasonably failed to take advantage of a personnel policy or procedure to report, prevent or correct any conduct amounting to sexual harassment.

An employer has the ultimate burden of proof to show sufficient facts to invoke the affirmative defense recognized in *Faragher* and *Ellerth*. The legal questions left unresolved by the Supreme Court portend that the future of sexual harassment litigation will focus on the issues underlying the affirmative defense. These issues most likely will center on the content of a company's personnel policies and practices; the timing, substance and sufficiency of a company's response to a complaint of sexual harassment; and the manner in which a plaintiff/alleged victim invoked the company's personnel policies with respect to sexual harassment. It is for these reasons that an employer's efforts at the prevention and correction of sexual harassment will be its main and, oftentimes, only practical defense in sexual harassment litigation involving acts of supervisory employees.

Faragher and *Ellerth* indicate that an employer with good loss control and risk management practices can avoid and/or minimize its exposure to liability for sexual harassment committed by its supervisory staff. A sound loss control and risk management program will solidify the elements of the affirmative defense. Risk managers, human resource professionals and corporate counsel should get their company's employment house in order to take advantage of the affirmative defense and to bulletproof their policies and practices.

Given the Supreme Court's rulings, it is expected that plaintiffs' attorneys will attempt to avoid the affirmative defense with arguments that the employee was unaware of the anti-sexual harassment policy (or that the company did not repeatedly communicate the policy to its workforce) or the employer failed to institute effective mechanisms for workers to report harassment without fear of reprisals. For these reasons, a good loss control and risk management program

should include the following components:

- A state-of-the-art sexual harassment complaint procedure.
- An orientation program for all new employees that communicates and documents the dissemination of the company's anti-sexual harassment policy.
- Management's institution of a "zero tolerance" program as to discrimination and harassment.
- Regular training—and documentation of that training—of supervisors regarding appropriate workplace behavior, enforced with performance appraisals and evaluations tied, in part, to a supervisor's adherence to and enforcement of the company's zero-tolerance program as to discrimination and harassment.
- Institution of an open-door policy and internal complaint review procedure.
- An exit interview form and exit interview protocol for all employees leaving the company for any reason.
- The use of a protocol for conducting internal investigations into allegations of sexual harassment.

Proper personnel policies will provide an employer with the full benefit of the affirmative defense. Such policies also will enable management to identify problem situations or to resolve employee grievances before the problems escalate into lawsuits. As a result of the *Faragher* and *Ellerth* rulings, all employers should have state-of-the-art personnel policies dealing with sexual harassment.

These personnel policies should be modeled upon the U.S. Equal Employment Opportunity Commission's Guidelines on Employer Liability for Sexual Harassment. The guidelines were issued March 19, 1990.

The guidelines specify that the personnel policy should define sexual harassment; prohibit sexual harassment as a matter of company policy; identify internal corporate mechanisms for complaints and redress for aggrieved employees; allow employees to submit complaints above and beyond their immediate supervisors; and prohibit retaliation or reprisals as a matter of corporate policy against any complaining parties.

The Supreme Court's rulings indicate that the affirmative defense can be established by proof that the plaintiff failed to bring a complaint of sexual harassment to the attention of the employer. In this respect, employers would be well served by instituting additional personnel policies designed to provide alternative mechanisms to workers to assert grievances, complaints and problems. One such personnel policy is an open-door policy and internal complaint review procedure. This policy enables an employer to identify personnel problems more quickly and to resolve problems before they mushroom into administrative charges and/or lawsuits.

The open-door policy and internal complaint review procedure also are of significant utility to an employer in warding off or defending against all types of employee-initiated claims. An employee's written complaint, supplied in accordance with the internal complaint procedure, locks him or her into a factual scenario that cannot be changed effectively at a later date. The absence of a contemporaneous oral or written grievance, in breach of the policy, makes it harder for an employee to assert—and easier for an employer to defend—a job-related claim at a later date in a subsequent lawsuit.

Use of an anti-sexual harassment complaint procedure, coupled with an open-door grievance policy, effectively establishes part of the employer's affirmative defense, as it blocks an employee from asserting a belated claim of sexual harassment—the employee would be hard-pressed to explain why he or she never complained about sexual harassment on a contemporaneous basis in light of the complaint

procedures in both policies.

The affirmative defense recognized by the Supreme Court is further solidified by proof of dissemination of personnel policies to the workforce. An employer must be able to show that there is no question among employees as to their rights and responsibilities under the company's policies with respect to what to do when a problem arises on the job in the context of sexual harassment. Given that the affirmative defense is dependent upon the workforce's awareness of personnel policies, proof of dissemination is critical. This proof could be established either electronically—with a digital signature through an intranet human resources-based system—or by written documentation with an acknowledgement form for all new and existing employees to fill out upon dissemination of any personnel policies to new hires or current employees.

Employers should put in place a mechanism to document the specific policies provided to employees during orientation. The appropriate management official that provides the orientation to each new hire should be required to complete a checklist to show the information and documentation disseminated to each new employee. These mechanisms will set up the necessary proof to demonstrate appropriate dissemination of required personnel policies. Once employees sign the acknowledgement and orientation forms, they will be hard-pressed to explain how they were unaware of the company's policies with respect to registering complaints of sexual harassment.

Given the rulings, employers are absolutely liable for quid pro quo sexual harassment committed by supervisors. This reinforces the notion that preventive training is the most important risk management device in this context. As discussed in the context of the zero-tolerance program, training on appropriate workplace behavior is critical. Training should be ongoing, well-documented and an essential corporate priority.

Plaintiffs' attorneys will attack an employer's proof for the affirmative defense by contending that an employee reasonably failed to pursue a complaint of sexual harassment because of fear of reprisal. As a result, consideration should be given by an employer to instituting a toll-free hot line number for any employee to report sexual harassment. The toll-free hot line number could keep confidential the identity of the aggrieved employee. When coupled with a strong protocol for investigating complaints and the zero-tolerance program, an employer will have a solid factual basis for combating a plaintiff's argument that a legitimate fear of reprisal justified his or her failure to register a complaint about harassment.

In this day and age, management's attitude towards harassment and discrimination in the workplace is critical. To further solidify the affirmative defense recognized by the Supreme Court, an employer is well served by demonstrating the existence of an attitude on the part of management—which can be documented and proved—that the company has zero tolerance for discrimination or harassment in the workplace.

First, corporate management should communicate the zero-tolerance policy to all employees on an annual basis. The policy statement should be signed by the chief executive officer or the president of the company. A similar notice should be posted on bulletin boards in each facility of the company, and it should be reprinted and made part of a corporate communications program such as newsletters.

The zero-tolerance program will serve the dual proof purposes of the affirmative defense by showing the existence of the applicable complaint procedure and awareness on the part of a potential plaintiff as to his or her responsibility for contacting the company with the complaint. An equally important component of a zero-tolerance program is the attitude of line managers and supervisors. When and if conduct constituting sexual harassment occurs in the workplace, management personnel need to act immediately and

See Supreme Court on next page

Supreme Court

Continued from previous page

affirmatively to combat the problem. Management personnel need to express the company's position of zero tolerance for this type of behavior. To that end, it behooves the interest of an employer to communicate to management personnel that it is their specific responsibility to put an end to any sexual harassment in the workplace they observe or hear about at any time.

Employers could do several things in this respect. First, supervisors should get sensitivity training regularly. Documentation of the training should be signed by each supervisor and put in his or her personnel file.

Second, each supervisor should be evaluated in performance appraisals with respect to his or her work in enforcing and abiding by the company's anti-sexual harassment policy. A portion of the performance appraisal—and perhaps even a decision as to whether to provide a supervisor with any pay increases—should be dependent, at least in part, upon his or her work in implementing the company's zero-tolerance program.

The *Faragher* and *Ellerth* rulings indicate that an employer must be able to promptly respond in an appropriate fashion to a complaint of sexual harassment. To prove the affirmative defense, an employer must show that it promptly investigated the complaint of sexual harassment and instituted disciplinary action in circumstances where the complaint was substantiated.

In this respect, an employer needs to be able to prove the existence of a protocol for what it does when it receives a complaint. The protocol must allow any aggrieved employee immediate access to multiple company decision-makers in order to register any complaints about conduct that allegedly constitute sexual harassment or discrimination. The protocol must be designed in a manner such that a complaining party is unable to argue that he or she decided not to complain because complaining would have been futile.

Second, an employer needs to be ready to immediately investigate any complaint of sexual harassment. The manner in which complaints are investigated is exceedingly important.

Third, an employer must be ready to institute prompt remedial measures, when and if necessary, to prevent any further recurrence of the harassment. It is also important that the remedial measures be documented in an appropriate form.

The affirmative defense also has implications for an employee who resigns or is terminated. At that point, an employer is presented with the last opportunity to flush out a complaint of sexual harassment—or, in other words, to assemble the facts necessary to prove the affirmative defense. As employees depart, a company should take that opportunity to lock them into any factual complaints—or, more importantly, the lack of any complaint—regarding their treatment on the job.

The absence of a complaint is of infinite aid in defending any subsequent charges. Often a disgruntled ex-employee asserts a charge of discrimination or harassment months after his or her departure in hopes of extorting a quick settlement. The documented exit interview helps to defeat such belated charges and to prove the affirmative defense. Moreover, if adverse information surfaces during the exit interview, the company can immediately investigate the problem and try to resolve it before litigation ensues.

Institution of loss control and risk management practices will enable an employer to bolster its potential defense to discrimination and harassment claims. To take advantage of the affirmative defense in *Faragher* and *Ellerth*, an employer needs documentary proof that:

- Its personnel policies comply with the EEOC's Guidelines On Employer Liability For Sexual Harassment.
- All employees know that sexual harassment is prohibited as a matter of company policy.
- All employees know that if they have any harassment or discrimination problems in the workplace, they have direct access to a management official.
- All employees know the company prohibits retaliation and reprisals against complaining parties.
- All supervisors know their responsibilities in the workplace include the enforcement and maintenance of the company's zero-tolerance program as to discrimination and harassment.
- All employees are informed of all these company

policies during new-hire orientation.

- A protocol exists for management officials to immediately investigate any allegations of harassment or discrimination.

- Supervisors undergo sensitivity training on discrimination and harassment issues at least once a year.

- The company maintains and enforces a zero-tolerance program with respect to discrimination and harassment.

- At the time any employee leaves the company, an exit interview is conducted to ascertain whether or not the employee had any problems in the workplace with respect to harassment and/or discrimination.

If these policies and procedures are implemented, a company will have instituted loss control and risk management devices to enable the employer to intervene in problem situations and to resolve them prior to the problems getting worse—and before employees feel the need to visit an attorney to assist in resolving their problems. Employee grievances will be identified through the complaint procedure and open-door grievance policy; complaints of harassment and discrimination will be uncovered during exit interviews; problems will be resolved immediately when the company follows its protocol for responding to complaints of harassment and discrimination; individuals harassing others will be disciplined as a result of the investigations, if and where warranted, that are carried out pursuant to the protocol; and management personnel will be accountable for implementing and enforcing the zero-tolerance program.

Therefore, these loss control and risk management devices will form a factual basis for the affirmative defense recognized in *Faragher* and *Ellerth*. This would be a solid foundation upon which to defend a company in any subsequent litigation. **BI**



Gerald L. Maatman Jr. is a partner in the law firm of Baker & McKenzie in Chicago. He is chairman of the firm's global and U.S. labor, employment and employee benefits practice groups.

Injury en route to appointment not compensable: Court

An employee's injury, sustained when she slipped on wet grass in her yard while walking to her automobile to go to a work-related appointment, did not "arise out of employment" and thus was not compensable under the Workers Compensation Act, according to the Supreme Court of Oklahoma.

Cheryl Worden was a field nurse for Odyssey/Americare of Oklahoma. She lived about 20 miles from her employer's office. She went to the office about once a week. Otherwise, she worked out of her home, scheduling appointments with patients and traveling to visit them. Ms. Worden was walking to her car to go to a patient appointment and slipped on wet grass in her yard, falling and injuring her foot and ankle. The grass was wet from rain. If not for the patient appointment, she would not have left the house. Ms. Worden filed for and was awarded workers compensation benefits.

The appellate court concluded that, while Ms. Worden was in the course of employment at the time of the injury, the injury did not arise out of employment. The court said that the question here is whether Ms. Worden's employment subjected her to a risk that exceeded the ordinary hazards to which the general public is exposed. The court concluded that it did not. The court emphasized that Ms. Worden's employment exposed her to no more risk from injury from wet grass than that encountered by any member of the general public. The court ordered that benefits be denied.

Odyssey/Americare of Oklahoma vs. Worden, Supreme Court of Oklahoma, Nov. 4, 1997. Rehearing Denied, Dec. 3, 1997. (BI/05/Jy.-\$10)

Benefit reduction not discrimination

In a case of first impression in Kentucky, the Court of Appeals ruled that reducing an income benefits award for

Legal Briefs

workers compensation by 10% beginning at age 65 did not amount to age discrimination in violation of the state constitution's due process and equal protection clauses.

Mary Jo Edwards, a 66-year-old woman, worked for Louisville Ladder Co. for about 30 years. In February 1993, Ms. Edwards fell and suffered a hip injury that was not work-related. Six months later, she returned to light duty. In September 1994, Ms. Edwards experienced pain in her lower back when she stooped to pick up some parts at work. She filed for workers compensation.

Ms. Edwards was awarded a 20% work-related disability; however, it was also directed that her benefits be reduced by 10% beginning at age 65 and by 10% each year thereafter, until and including age 70. This "tier-down" reduction was enacted by the state General Assembly in 1994. Ms. Edwards filed an appeal, arguing in it that the "tier down" provisions of the workers compensation law constituted age-based discrimination and violated her rights under the state constitution's due process and equal protection clauses. The appellate court said that a worker's level of compensation often decreases upon attaining the age of 65 as a result of retirement, reduction in work or other reasons. Thus, the court said the General Assembly had a rational basis for enacting the "tier down" provision. It was held to be constitutional.

Edwards vs. Louisville Ladder, Court of Appeals of Kentucky, Oct. 10, 1997. (BI/01/Ju.-\$10)

ERISA punitive damages ban upheld

ERISA does not provide a damages remedy for the denial of rights under a benefits plan or for breach of a fiduciary duty in the withholding of such benefits,

according to the 1st U.S. Circuit Court of Appeals.

In 1991, Charlotte Turner was diagnosed with breast cancer. The disease was at first treated by surgery, chemotherapy and radiation. In May 1993, tests showed that the cancer had metastasized, was beyond control by conventional therapies and threatened Ms. Turner with death within 12 to 18 months. Ronald Turner, Charlotte's husband, was employed by General Motors Corp., and Charlotte was covered by the health coverage that the Fallon Community Health Plan Inc. provided for family members of GM's employees. The plan expressly excluded "bone marrow transplant for treatment of solid tumors." The Turners sought to have the plan approve her participation in a clinical trial of bone marrow transplantation treatment. Mr. Turner brought suit in state court against the plan, seeking damages for failure to provide coverage. The case was transferred to the federal court, where the trial court ruled for the plan.

The appellate court said that the civil enforcement provisions of ERISA expressly provide relief to secure benefits under the plan rather than damages for a breach of the plan. The court emphasized that the U.S. Supreme Court has stressed that ERISA does not create compensatory or punitive damage remedies where an administrator of a plan fails to provide the benefits due under that plan. The trial court decision was affirmed.

Turner vs. Fallon Community Health Plan Inc., 1st U.S. Circuit Court of Appeals, Oct. 20, 1997 (BI/03/Ju.-\$10). **BI**

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

Airport

Continued from page 3

sured. Coverage for losses related to cargo delays is not widely available, and many Hong Kong businesses did not feel it was needed anyway. Hong Kong companies were counting on the new operation to be as efficient as cargo handling at the airport that was replaced.

"Kai Tak Airport was very efficient," and Hong Kong companies didn't worry much about long shipping delays, said a spokeswoman for the Hong Kong Federation of Insurers, an association of about 163 insurance companies. "So when (freight owners) buy insurance, they buy it for damage, not delay."

Most insurers don't write coverage for losses related to cargo delays because delays are frequent, she added, albeit on a much smaller scale than those that occurred at Chek Lap Kok.

While Hong Kong businesses are hardest hit by the cargo problems, companies in the United States and other countries are being hampered by delays, as clothing, furniture and other goods wait to be processed before they can leave Hong Kong. Some retailers currently are waiting for shipments of goods for the upcoming Christmas shopping season.

If businesses suffer financial losses because freight is late, they likely won't have coverage to make up those losses.

"I don't know that that would be covered, because there is no direct physical damage," said Robert B. Edgar, a consultant with Chubb & Son Inc. in Warren, N.J.

In the case of spoiled food, a policy

might cover such a loss if it were specifically written for that peril, he said. Policyholders will have to take a close look at their policies, he added. "You would have to look at whether rotting or contamination is covered."

A spokeswoman for the public relations firm representing HACTL, one of the airport's cargo handlers, said the company would not comment on the problems "because they are too busy." The problems with HACTL's freight processing system caused cargo to begin backing up shortly after the airport opened on July 6.

Asia Airfreight Terminal Co., the other cargo handler, says it has insurance written to limits of \$150 million for losses it suffers because of lost or damaged cargo. The coverage was placed in the United Kingdom by Sedgwick Ltd. in Hong Kong.

AAT as of last week had not filed claims against the coverage and was tracking some cargo that was missing, according to Debbie Hall, financial and administrative manager for the company.

She said less than 10% of the cargo handled by the company was unaccounted for as of last week.

While HACTL, AAT and shipping companies try to sort out the mess, it remains unclear exactly who is responsible and whether anyone's insurance will respond. The Hong Kong government has set up a task force to investigate the problem.

The problems began on opening day at the airport, when lengthy flight delays coincided with computer problems in the material handling system at the airport's cargo terminal.

See Sengwang, chief executive officer at AAT, said there were other

reasons for the cargo problems. For example, airport ramp operators mistakenly moved some cargo marked for his company to HACTL's warehouse.

"Wrong and late deliveries have had an adverse effect on AAT's operations, which has meant AAT has had to clear a backlog, which in some cases was freight three to four days old," Mr. Sengwang said.

And, he added, AAT is short on experienced staffers, with new hires still learning on the job.

Cargo handling was further hampered by a shortage of dollies used to move crates, Mr. Sengwang said.

Ms. Hall said AAT had been forced to handle extra cargo when HACTL stopped handling freight. The burden strained its new material handling system, which was not "operating at 100% efficiency" because it had only recently been installed, she added.

Mr. Sengwang said, "Intermittent breakdowns had contributed to the handling problems at the warehouse." He expects AAT to be operating normally by the end of this month.

The HACTL spokeswoman did say that dust from construction at the airport played a part in the computer problems, but she would not give details on how it affected the system.

Ms. Hall of AAT said its system was unaffected by the dust.

Although the computer systems that failed were operated by the freight handlers, some say the government's Airport Authority should take the blame for the foul-up.

The Airport Authority did not respond to a faxed list of questions about the cargo problems. Its insurance broker, Sedgwick Ltd., said in a

faxed response to questions that the broker is not authorized to speak on behalf of the Airport Authority or to release information on its insurance coverage.

Ms. Hall said the Airport Authority, which is responsible for the airport and its operations, should take responsibility for the cargo snafu.

"I think it's the airport," agreed Craig Holmes, a senior vp with J&H Marsh & McLennan in Charlotte, N.C., and an expert in business continuity and planning.

The Airport Authority is responsible for the actions of the cargo companies it licensed for the work, he added. "They are the ones who hired them."

And the computerized cargo handling system—even though it is not directly operated by the Airport Authority—is one of many functions that keep the facility running, he explained.

Meanwhile, cargo shippers were adding extra flights into and out of Hong Kong to help alleviate the congestion.

United Parcel Service of America Inc. added seven flights to handle shipments in and out of Hong Kong and reported that its operation at Chek Lap Kok was unaffected.

"We have self-handling rights," said a UPS spokesman. "The fact that we are not hooked into HACTL means we have had no problems."

UPS uses its own computers and employees to process shipments, enabling it to bypass the airport's cargo operation.

"We brought in the additional flights to meet demand," particularly for shipping apparel to retailers outside of Hong Kong, the UPS

spokesman said. "Our phones have been ringing off the hook over there," he added, as businesses learned that UPS was able to move cargo.

DHL Worldwide Express said it added a flight and began processing shipments with its own employees and systems after the problems overwhelmed HACTL.

At least one U.S. company took steps to avoid problems at the new airport.

Dell Computer Corp. ships a small quantity of computer components from Hong Kong, and "we did foresee problems," a spokeswoman for the Austin, Texas-based company said.

Dell made alternative shipping arrangements that were used when the cargo began piling up at Chek Lap Kok; the computer maker has therefore been able to avoid any disruption, she said.

Businesses affected by the problems could have taken steps that might have saved them money and aggravation, pointed out Mr. Holmes of J&H Marsh & McLennan. He explained that companies have to "define who their critical suppliers are" and make arrangements to use a secondary source if, for some reason, products cannot be delivered. "Traditionally, people get single suppliers and don't worry about a backup," he said.

Mr. Edgar of Chubb agreed, saying, "Businesses are too blasé about their planning approach. They don't direct enough time to it."

When losses do occur, many companies are surprised they don't have coverage, he said, because they failed to "take the time to distinguish what is covered under their insurance policies." **BI**

For the Record

EXEL buys 25% stake in Tri-City Brokerage

SAN FRANCISCO—Bermuda-based EXEL Ltd. has reached an agreement in principle to acquire 25% of the common stock of San Francisco-based wholesaler Tri-City Brokerage Inc. for \$8 million in cash.

The deal is intended to help Lloyd's managing agency The Brockbank Group P.L.C. develop a U.S. midmarket distribution strategy, according to EXEL. Brockbank is a unit of Bermuda-based Mid Ocean Reinsurance Co. Ltd., which is expected to merge with EXEL next month (*BI*, March 23). The Tri-City deal is conditional on completion of the merger.

John G. Hahn, president of Tri-City, the largest independent national wholesaler, said the company will use the proceeds of the deal to pursue new business opportunities.

Insurers seek review of ruling on comp law

WASHINGTON—A group of 11 insurer and employer organizations is supporting U.S. Supreme Court review of an appellate decision they say undermines a 1993 Pennsylvania workers compensation law that curbed unnecessary medical treatment and saved millions of dollars.

In an amicus brief filed earlier this month, the group seeks relief from the 3rd U.S. Circuit Court of Appeals' ruling in *Sullivan vs. Barnett*, which invalidated insurers' and self-insurers' authority to refuse some reimbursements for injured workers' medical treatment (*BI*, March 30). The request supports a petition to the Supreme Court to review the case.

Prior to the 1993 reforms, Pennsylvania was the only state to require that insurers pay medical bills for disputed treatment.

"The 1993 reforms created a fairer

method of resolving disputes and aligned Pennsylvania's law with that of other states," said Bruce Wood, assistant general counsel with the American Insurance Assn. in Washington, one of the insurer groups that filed the brief. The new law essentially required payment if a review found that the treatment was reasonable and necessary, plus 10% interest and attorney's fees.

Following those reforms, a group of injured workers sued, saying they were denied due process because the insurer's or self-insurer's action was not subject to advance notice and hearing. A federal district court upheld the law, but 3rd Circuit judges ruled that provision of the law was unconstitutional.

Ohio takes over Health Power HMO

COLUMBUS, Ohio—Ohio Insurance Department regulators are overseeing operations of Health Power HMO Inc., which was placed under supervision earlier this month, according to the HMO's parent company.

The HMO, a unit of Wilmington, Del.-based Health Power Inc., provides comprehensive health care services to nearly 32,000 enrollees, about 92% of whom participate in Ohio's Medicaid program and live in and around Cincinnati, Columbus and Dayton, Ohio.

Ironically, Securities and Exchange Commission rules required the publicly traded parent company to announce the regulatory action, though Ohio law prevents the state Insurance Department from confirming or denying a company has been placed in supervision, said Kip May, deputy superintendent of the Insurance Department.

That step, which is the lowest-level of regulatory action, is done without a court order to help a company regain its footing, while the more serious enforcement steps of rehabilitation and liquidation require court orders and thereby become public

record, Mr. May explained.

The HMO was placed under supervision "because of the subsidiary's failure to meet Ohio's minimum statutory net worth requirements for health insuring corporations," the HMO's parent said in a statement.

Ohio's law requires an HMO that offers basic as well as supplemental services to have minimum capital and surplus of \$1.7 million, according to Mr. May.

Ohio Insurance Superintendent Harold Duryee recently told members of the Ohio House Insurance Committee that regulators are not worried about Health Power's ability to pay short-term costs, but they are concerned about its potential long-term obligations, according to a statement made available by the department.

The parent company's board of directors, meanwhile, has authorized management to heighten efforts to divest itself of the HMO subsidiary, according to Dr. Bernard Master, chief executive officer and president. "Our board believes that stockholder value will be best served if the company focuses its efforts on the company's profitable subsidiaries, CompManagement Inc. and CompManagement Health Systems Inc.," he said.

Those two subsidiaries offer claims management, medical cost containment and managed care services for employers' workers compensation, among other things.

Missouri mandates more second opinions

JEFFERSON CITY, Mo.—Missouri residents covered by some health insurance plans will have greater access to second medical opinions when a new law takes effect Aug. 28.

Under S.B. 754, health maintenance organizations and health insurers must provide an enrollee facing major surgery or a debilitating disease with a second medical opinion or consultation from a willing

second physician. In addition, the cost to the enrollee cannot exceed what he or she would otherwise pay for an initial medical opinion or consultation from that second physician.

The law also requires that if a managed care organization does not employ or contract with a second physician who has the necessary expertise, it must arrange for a referral to an appropriate physician. In addition, managed care organizations must ensure enrollees obtain the second medical opinion at no greater cost than if the benefit were obtained from a physician in its network.

Sen. J.B. Banks, D-St. Louis, proposed the legislation as a result of his personal experience with a leg ailment. His first physician wanted to amputate his leg, while a second physician recommended treatment that allowed him to keep the leg, according to the senator's administrative assistant, Michelle Coleman.

While he was able to obtain a second opinion, his experience made him aware that many people may not have the resources to do so, she said.

Gov. Mel Carnahan signed the bill last month. Self-insured benefit plans are not subject to the law.

Effort on to protect patients from Y2K bug

WASHINGTON—A coalition of public and private health care organizations is launching a broad-based campaign to reduce potential Year 2000 risks to patients from date-sensitive medical devices and software programs.

The devices may include some heart monitors but not individual pacemakers.

At a news conference last week, the National Patient Safety Partnership called for a national education campaign. Information is critically needed by health care providers and patients because many manufacturers have not responded to repeated letters from the U.S. Department of Veterans Affairs seeking compliance informa-

tion, a coalition leader said.

The coalition also wants to establish a national clearinghouse of information about the compliance status of medical devices and information about how to contact manufacturers by Jan. 31, 1999.

"The vast majority of manufacturers are well aware of the problem and are working to solve it," said Stephen J. Northrup, executive director of the Medical Device Manufacturers Assn. in Washington. With the news conference last week, "I think they unreasonably scared the public about the scope of the problem," he said.

The U.S. Food and Drug Administration, which regulates medical devices, continues to monitor manufacturer compliance, a spokeswoman said.

"We feel like we have a clear handle on the nature of the problem... and we don't think it will be a major problem," she said.

Charter members of the coalition represent hospitals, doctors, nurses, veterans and related health care organizations.

Information in brief

Watson Wyatt Worldwide is buying the Northeast benefit consulting business of KPMG Peat Marwick L.L.P. The book of business, to be acquired effective Aug. 1, generates about \$15 million in revenues. Terms were not disclosed. . . **BWD Group Ltd.** agreed last month to pay \$1.2 million to settle a sexual harassment lawsuit brought by the U.S. Equal Employment Opportunity Commission on behalf of nine current and former employees of the Lake Success, N.Y.-based insurance broker. The suit alleged that corporate officers engaged in sexually offensive conduct such as propositioning female employees, touching female employees' breasts and buttocks, and questioning employees about the size and shape of clients' breasts. **BI**

MBL

Continued from page 2

participants under group annuity contracts will be able to exchange their MBL policies for policies modeled on Anchor National's own annuity products. Life insurance policyholders will be able to retain their current contracts, though it will be under SunAmerica's name, an MBL spokes-woman said.

A SunAmerica spokeswoman said the deal will help bolster SunAmerica's recent entry into the 403(b) market, which is the equivalent of 401(k) programs for non-profit, private employers.

MBL's sale of the annuity and life businesses is the final major step in the company's rehabilitation, whose estimated June 1999 conclusion is six months earlier than originally anticipated.

Shortly after it was put into rehabilitation in 1991, Mutual Benefit announced its plan to sell its group health, accident and life businesses, which had generated more than \$1 billion in revenues in 1990, to AMEV Holdings Inc., a New York-based

company owned by Dutch and Belgian insurers.

In 1992, Hartford Life Insurance Co. agreed to assume and reinsure the group's corporate-owned life insurance business, which had produced \$1.1 billion in 1990 premiums.

In addition, under its rehabilitation plan, a group of 14 life insurance companies guarantee the insurers' \$2 billion worth of separate account guaranteed investment contract business in exchange for managing its assets.

Including proceeds of the sale to SunAmerica, MBL is projected to have a total net value of at least \$800 million by the end of 1998. Under terms of a settlement with creditors that became final in February 1997, this will be divided between those creditors and eligible policyholders in a ratio of 70 per cent to 30%, or a total of \$240 million to policyholders (BI, Sept. 22, 1997).

Alan J. Bowers, MBL's president and chief executive officer, said in a statement, "With this announcement, we take a major step toward concluding the most successful life insurer rehabilitation in U.S. history."

The statement continued, "Despite

an estimated \$1 billion shortfall when the rehabilitation began, Mutual Benefit's policyholders retained their full account values and benefits, and continued to earn interest on their accounts. The sale will enable a smooth transition for policyholders to a top-quality company that offers long-term security and value."

The sale still needs the approval of the New Jersey Superior Court, which now oversees the rehabilitation. It is also subject to the approval of state insurance regulators, the National Organization of Life and Health Insurance Guaranty Assns., life insurers that manage the guaranteed investment contract business and MBL creditors.

During the rehabilitation period, policyholders have received full benefits, including death benefits, retirement benefits and hardship benefits, but access to their accounts has otherwise been limited and subject to penalties.

William D. Kennedy, vp of the Princeton, N.J.-based New Jersey Hospital Assn., MBL's largest policyholder group, whose hospital members' employees have a total of about \$800 million invested under its group

contract, said MBL executives obtained "the best deal the market was prepared to produce."

However, he noted that during the rehabilitation, participants have received only 5.1% interest, while there were variable annuities that offered as much as 7.5% for some periods during that time. "The long and the short of it is that it's a bad story with a decent ending," he said.

"The Sun transaction does provide Mutual Benefit policyholders with the stability of a highly regarded, well-run organization that will give them flexibility in terms of their contract options," said Michael Albanese, vp at Oldwick, N.J.-based A.M. Best Co.

"Every policyholder has been taken care of. It looks like a very positive result to me," said Francis DeRegnau-court, vp and senior credit officer at Moody's Investors Service Inc. in New York. "It's sort of the world running as it should be. That's what rehabilitation is all about," he said.

"Obviously, there's value in some of the pieces of MBL. They realize the best way to get that value was to sell this franchise to other active players in the industry rather than go it alone," said Mark Puccia, managing

director at Standard & Poor's Corp. in New York.

Analysts say the turn in the real estate market was the major factor behind MBL's successful rehabilitation.

Mr. Puccia said, "There's no doubt that a red-hot real estate market helped out enormously," said Mr. Puccia.

"If real estate had not come back, it may not have been possible," agreed Mr. DeRegnau-court of Moody's.

Larry Brossman, executive vp of Duff & Phelps Credit Rating Co. in Chicago, noted that Mutual Benefit was one of a half dozen major life insurance companies, including Executive Life Insurance Co., that were put into rehabilitation at about the same time because of either real estate or junk bond problems.

Any similar failures are now unlikely because of a combination of regulatory and rating agency scrutiny and risk-based capital guidelines, said Mr. Brossman.

Meanwhile, "it's the final unwinding" of one of the great Eastern mutuals, said Mr. Brossman of MBL. "As somebody who's been almost 40 years in this business, it's kind of sad to see."

Forum

Continued from page 2

agement in Bermuda, and D. Hugh Rosenbaum, a principal in London with Tillinghast-Towers Perrin.

At the same time, a "Risk Managers Round Table" will offer captive owners a chance to discuss tax, regulatory and financial security issues in an unstructured setting.

The panel for the session will include James D. Cameron, a partner in New York with the Baker & McKenzie law firm; and George Chaffee, president of Skandia International Risk Management (Vermont) Inc. It will be moderated by Robert J. Rosser, senior vp at Skandia International Risk Management, Bermuda.

After opening remarks by Ms. McIntyre Monday's sessions will continue with a keynote address moderated by Ms. McIntyre and featuring Brian M. O'Hara, chairman and chief executive officer of X.L. Insurance Co. Ltd. in Bermuda; and Roger Sell-ek, director-market risk at Lloyd's of London.

The keynote speakers will discuss how insurers, reinsurers and risk

managers can cooperate to maximize potential risk financing benefits in an environment marked by consolidation and unprecedented competition.

Monday afternoon will feature two pairs of concurrent sessions. The first includes a discussion of tax treaties, dividends and loan-backs. Baker & McKenzie's Mr. Cameron and Thomas M. Jones, a partner in Chicago with the Chicago-based McDermott, Will & Emery law firm, will examine the potential consequences of transactions between captives and their owners. Skandia's Mr. Chaffee will moderate the session.

At the same time, a session moderated by Tillinghast-Towers Perrin's Mr. Rosenbaum will look at the implications and investment potential offered by digital cash and electronic money. Denise L. Brown, a vp at Citicorp N.A. in Stamford, Conn.; and Frank Dunn, a vp with Citibank N.A. in New York, will be the speakers.

In the afternoon's second pairing, one session will address selecting captive service providers. The panel will include Charles A. Buikema, assistant vp and director of risk management at INOVA Health System in Springfield, Va.; and Susan Wilde Hughes, vp

health care practice at Aon Risk Services in Washington, D.C. Michael Maglaras, principal at Michael Maglaras & Co. in Stamford, Conn., will moderate that session.

The concurrent session will look at group captive case studies. Panelists will include Brian Donovan, president of SteelTank Insurance Co. in Lake Zurich, Ill.; and David A. Bossman, president of American Feed Industry RRG Inc. in Arlington, Va. Mr. Rosenbaum will moderate the session.

Tuesday begins with a pair of concurrent sessions, including a panel focusing on accessing the capital markets. Ms. McIntyre will moderate the panel, which will include Kevin Callahan, president and CEO of Aon Capital Markets Inc. in Chicago; and Neil Campbell, general manager of Zeneca Risk & Insurance Services in London.

At the same time, a session moderated by Skandia's Mr. Dove will focus on rent-a-captive programs. Panelists will include Doug Crowell, chief financial officer of Consolidated Personnel Corp. in Chesterfield, Mo.; Rick Shimer, chief financial officer of Cust-O-Fab Service Co. in Tulsa, Okla.; and Richard G. Turner, president of Commonwealth Risk Services Inc. in Philadelphia.

Tuesday morning's second pair of concurrent sessions will include a look at the reinsurance market. Speakers will include Albert J. Beer, president of Am-Re Managers Inc. in Princeton, N.J.; Philip M. Roels, vp for operations at Dorinco Reinsurance Co. in Mid-

land, Mich.; and Michael Schnur, managing director at Guy Carpenter & Co. Inc. in Chicago. Skandia's Mr. Rosser will moderate the session.

The other session in that pairing will look at third-party business issues. Wakefield, Mass.-based consulting actuary Joel S. Chansky and Dean Reynolds, director of risk management for Nissan North America Inc. in Torrance, Calif., will be the panelists, with Ms. McIntyre moderating.

Tuesday afternoon, a pair of concurrent sessions will include a discussion of financing enterprise risks. Panelists will include Scott Sanderson, senior vp with J&H/Marsh & McLennan Inc. in Minneapolis; and Thomas Seuntjens, a member of the treasury department management team at Honeywell Inc. in Minneapolis. The moderator will be Gregory Berg, a principal with Tillinghast-Towers Perrin in Weatogue, Conn.

At the same time another session will look at U.S. vs. international issues regarding rent-a-captives and insuring employee benefits through captives. Ms. McIntyre will moderate the session, which will include Karin Landry, Northeast Group and health care practice leader in Wellesley, Mass., at Watson Wyatt Worldwide; and Hugh O'Neill, group risk manager of DHL International Ltd. in Brussels, Belgium.

Tuesday's final session, to be moderated by Mr. Rosenbaum, will offer attendees an opportunity to follow up on earlier sessions or find out more about particular domiciles.

Wednesday morning will feature an in-depth examination of captive case studies. Sharing their companies' experiences will be Judy Lindenmayer, vp-Fidelity insurance and risk management at FMR Corp. in Boston; Herb Martin, corporate risk and quality manager at Pat Salmon & Sons. Inc. in Little Rock, Ark.; and Krister Nyman, president of Volvo Group Insurance for Volvo A.B. in Goteborg, Sweden. Mr. Rosenbaum will be the session's moderator.

An exhibit hall will be open during the opening reception Sunday, Nov. 15, and through the conference Monday and Tuesday.

Full registration for risk managers for the conference is \$975. Full registration for others is \$1,250, with a \$975 fee for subsequent registrants from the same company. The \$2,750 exhibitor's fee includes one full registration. Guest registration is \$100 with a full registration. The fee for the optional World Captive Golf Tournament Nov. 15 is \$170.

Special room rates for World Captive Forum attendees at the Doral Resort are \$190 per night, plus a daily resort charge of \$8.52 per night. Conference attendees also will enjoy a 10% discount on greens fees, a 50% discount on spa facilities fees and a 50% discount on tennis facilities fees.

For more information, contact the World Captive and Alternative Risk Financing Forum office at 4248 Park Glen Road, Minneapolis, Minn., 55416-9514; 612-928-4659; fax: 612-929-1318.

Services Guide

CPCU and IIA candidates

I guarantee you will learn more in less time with The Burnham System — or your money back
Ray Burnham, CPCU, CLU, ARM
19 Everett Street, Southbridge, MA 01550
Call 1-800-GET-CPCU Now!

FOR 1998 RATES AND
EDITORIAL CALENDAR
CALL 312-649-5340

Publishing August 17 in

Business Insurance

PROPERTY LOSS CONTROL

Directory: Property Loss Control Consultants

Distribution: ARIA

Ad Closing: August 5

For advertising information contact: Irais Amleshi,
Classified & Services Guide Advertising, 740 North Rush Street, Chicago, Illinois 60611.
Telephone (312) 649-5340 • Fax (312) 649-7937

"Be sure that you return it."

If you're racing through this issue of *Business Insurance* because you "borrowed" it from a colleague, you should have your own subscription. Then you'll be first on the list. You can take as much time as you like with all of *Business Insurance's* exclusive worldwide news of loss prevention, risk financing and benefit management every week.

To subscribe, use the card in this issue
or Call 1 (800) 678-9595 Toll-Free.

Ask about our special 20%-off group subscription rate for five or more subscriptions. A great way to save money. And avoid pass-along problems.

Subscription Rates in U.S. Dollars for 1 year, 52 Issues.

USA	\$87
Canada/Mexico	\$105*
All other countries	\$205
by expedited air.	\$205
* Price includes Canadian GST.	

Business Insurance

Subscription Dept.
965 E. Jefferson
Detroit, MI 48207
Outside the USA
Call (313) 446-0450

INTERNATIONAL

Global Briefs

Intermediary **Swire Blanch Ltd.** of London has acquired London-based reinsurance broker **Dunn & Carter Ltd.** for an undisclosed amount. **Swire Blanch**, owned by **Bloomington, Minn.-based E.W. Blanch Holdings Inc.** and **Hong Kong-based The Swire Group**, has 17 offices worldwide offering marine, non-marine, financial management, risk management and reinsurance brokering services. **Dunn & Carter's** main focus is London international market non-marine, excess-of-loss reinsurance. **Cory Moulton**, **Swire Blanch** president and chief executive officer, said the purchase will add extra capabilities to **Swire Blanch's** services globally. . . . German insurance and reinsurance companies **Munich Reinsurance Co. of Munich, Germany**, and **ERGO Verisicherungsgruppe A.G.**, of **Düsseldorf, Germany**, have announced plans to form a joint asset management company. The new company, tentatively named **Munich ERGO Asset Management GmbH**, will be based in Munich and manage investments with a market value of more than 200 billion deutsche marks (\$111.82 billion). **Munich Re** and **ERGO** claim investment profitability is becoming increasingly important in the insurance industry and said the joint venture will enable both companies to enhance earnings through potential synergies in their investment operations. . . . Twelve U.K. financial companies have been taken off the U.K. government's priority list for resolving claims of misleading private pension sales. The companies, which include insurers **Royal & Sun Alliance P.L.C.**, **Commercial Union P.L.C.**, **Guardian Royal Exchange P.L.C.**, **Norwich Union Insurance Group**, **Britannic Assurance P.L.C.**, and **Prudential P.L.C.**, have met government targets for dealing with priority cases. They must now deal with less pressing cases. In total, the U.K. government is monitoring the progress of 41 U.K. companies, including insurers, brokers and bankers, involved in the pension sales scandal from 1988 to 1994. . . . To mark the start of its campaign to gain an operating license in China, the **Liberty Mutual Insurance Co.** this month opened its first Chinese representative office in the **Chongqing**, formerly known as **Chungking**, the main commercial center of southwest **Sichuan province**. . . . The **London P&I Club**, a protection and indemnity mutual insurer for shipowners, has announced its sixth consecutive year of stable supplementary calls. The club makes supplementary calls to its member policyholders when it requires additional premium to meet claims. **John Lyras**, chairman of the **London Club**, said the insurer continues to focus on a selective, prudent underwriting policy, despite intense competition in the **P&I** market. . . . German insurance group **Aachener und Muenchener Beteiligungs AG** has sold **Rodutch Holdings B.V.** to French insurance group **Assurance Generales de France**. **Rodutch Holding B.V.** is a holding company for **Dutch Royal Nederland Insurance Group**. **AGF** will pay 1.35 billion deutsche marks (\$754.8 million), according to a **AMB** spokeswoman. . . . **Kerry Lockley** has been promoted to senior underwriter at **St. Paul Reinsurance Co. Ltd.**, the London market reinsurance operation of the **The St. Paul Cos. Inc.** of **St. Paul, Minn.** Ms. **Lockley** has worked as an underwriter for **St. Paul Re** for five years and now is the principal broker contact for property reinsurance risks in the **United Kingdom**, **South Africa** and **Scandinavia**.

Ruling hikes U.K. injury awards

By CAROLYN ALDRED

LONDON—A landmark House of Lords ruling will increase court awards to accident victims and could mean a hike in rates for U.K. liability insurance.

The law lords ruled in three test cases on July 16 that courts, when deciding on the amount of damages to be awarded to bodily injury claimants, should not factor in potential future gains to be made by investing an award in the stock market.

Instead, the law lords agreed that courts should base potential interest on an award on projected returns from investing in low-risk index-linked government securities, which offer an average rate of return of 3%, according to the ruling.

By contrast, investing in the stock market yields an estimated annual return of between 4% and 5%, the ruling stated.

The ruling, which has been welcomed by personal injury lawyers, will mean damage awards will increase substantially to reflect the lower investment returns over the life of a bodily injury victim.

The **Assn. of British Insurers** estimated that the ruling will mean an increase of £500 million (\$824 million) in bodily injury claims currently facing insurers. Hundreds of claims were on hold pending the House of Lords ruling.

As a result of the ruling, premiums for employers liability, professional indemnity and auto liability insurance are expected to rise substantially, the association

added.

Actuarial and risk management consultant **Tillinghast-Towers Perrin** agreed that the ruling will cost liability insurers more money.

"The House of Lords judgment will have a significant effect on the personal injury insurance business, which will ultimately affect both insurers and their customers," said **John Beck**, a principal of the London-based consultant.

"We expect the judgment to result in increased premiums and to have a significant short-term impact on insurers' profitability, as they adjust their reserves to the new levels," said Mr. Beck.

A risk manager said the ruling may hit employers. "Insurance costs are likely to be affected by

the House of Lords decision, and the insurance industry will no doubt look for innovative methods of financing compensation payments," said **David Gamble**, executive director for the **Assn. of Insurance & Risk Managers**.

"Plainly, the decision also highlights the importance of a comprehensive risk management strategy within organizations to reduce the number and scale of incidents which may lead to claims for compensation. Risk management plans and procedures will be reviewed and improved to ensure that they are loss sensitive, in light of this ruling," Mr. Gamble said.

The ruling also will impact the public sector significantly, warned **David Forster**, marketing manager. See Awards on next page

Unmanaged risk hurts profits: PwC

By MATTHEW MacDERMOTT

Some small and medium-sized U.K. companies are losing up to the equivalent of a full year's profit due to unmanaged business risk, according to a new survey.

Eighty-eight percent of the U.K. companies surveyed could not even give a formal definition of what they believe business risk to be, according to the survey, released by the U.K. subsidiary of New York-based **Pricewaterhouse Coopers L.L.P.**

The London office of **PwC** developed questions for a telephone survey of 450 U.K. "middle market" companies in the second quarter of this year as part of its quarterly "Barometer" surveys. **PwC** defines middle-market companies as those with annual revenue of between \$5 million and \$200 million (\$8.2 million and \$328.7 million).

The survey, released last week, showed that four out of 10 such companies surveyed admitted experiencing financial losses as a result of unexpected, unmanaged risk.

Of those companies that said they experienced a risk-related

loss, 60% had losses exceeding £100,000 (\$164,350) a year. Seven percent estimated their losses to be between £2 million (\$3.3 million) and £10 million (\$16.4 million) annually. In some cases, this amounted to losing a full year's profit.

Richard Anderson, a partner in **PwC's** London strategic risk management practice, said the survey highlights the need for U.K. middle-market companies to develop integrated risk management strategies that look at the "whole picture" of business processes, strategies and people factors.

He said risk management should be a key element of any aspect of business, from human resources to brand value to financial control.

The **PwC** survey showed that 46% of middle-market companies see their approach to risk management as flexible and responsive—i.e., it is event- or process-driven and looks only at individual risks when they occur.

Only 16% of those surveyed described their risk management strategy as being fully integrated.

Twenty-one percent of those See Manage on page 19

Exclusions won't eliminate insurers' Y2K losses: Expert

By EDWIN UNSWORTH

LONDON—Insurers face huge claims from Year 2000-related computer problems regardless of whether their policies contain exclusions, a computer technology expert contends.

Richard Coppel, chief executive of **Prove It 2000**, a manufacturer of software specifically designed to handle anticipated Year 2000 problems, said in a statement that insurance companies' exposure to claims is inevitable because they will have no

way of knowing what actually caused a computer system to malfunction. If an insurer knew what caused a problem and if the policyholder could have prevented it, the insurer could deny the claim, he said. But the burden of proof will be on the insurer.

The best way for insurers to minimize their exposures is not by issuing coverage exclusions, but by helping companies to take steps now to reduce their chances of suffering computer-related problems in 2000, Mr. Coppel stated.

"The possibility of a massive bill could be avoided if the insurance industry helped IT experts to specify what constitutes compliance and then introduced guidelines for companies to prove their systems are ready to move into the next century," he stated.

If insurers pursue their present course of excluding coverage of Year 2000-related losses, they not only may deprive themselves of premiums, as policyholders turn to other companies for coverage, but they also are failing to eliminate their exposures to the risks.

With the cause of computer-related losses often impossible to prove, many companies will remain covered for losses under See Claims on page 19

Web sites keeping an eye on Lloyd's

LONDON—Over recent years, Lloyd's of London has gradually opened up to the outside world, demystifying the nature of the market and how it does business.

Now, it has opened up its flagship headquarters in London to the outside world—via the Internet.

Anyone with a few minutes to spare and access to the World Wide Web can now see what architect **Sir Richard Rogers'** famous building on **Lime Street** really looks like on the inside.

The **Lloyd's** Web site (www.lloyds-london.com) was relaunched earlier this month with a new feature, a 3-D tour of its underwriting room. Web surfers can wander through a computer-generated model of the underwriting room, with explanations of features, such as the loss book, a ledger that records all major marine losses, and the famous **Lutine Bell**.

More intrepid visitors can virtually scale the escalators in the middle of the room to get a better view of the working market on the floor below or look upward

at the barrel-vaulted glass atrium.

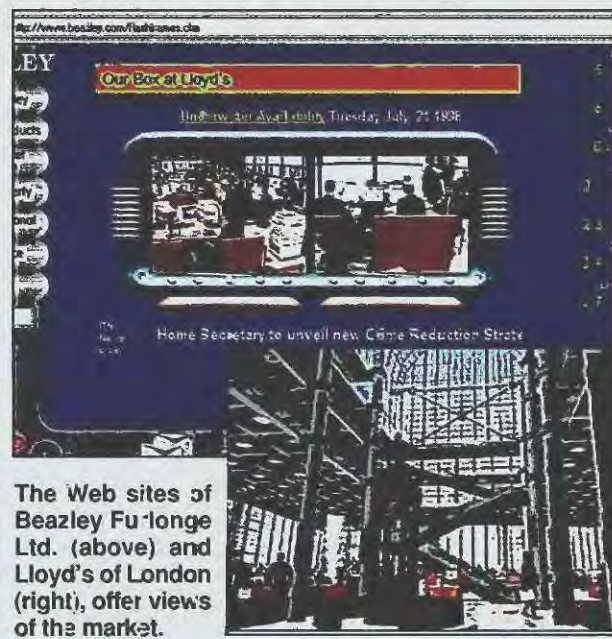
For a more realistic scene of the market, **Lloyd's** agency **Beazley Furlonge Ltd.** also has relaunched its site (www.beazley.com) and now offers real-time images of its underwriting boxes at **Lloyd's**.

The site uses a "Web cam" system of two cameras trained on the boxes where underwriters transact business. The pictures are updated every two minutes, giving viewers—especially **Lloyd's** brokers who need to visit the underwriters—a good idea of the traffic at the boxes. **Beazley** also provides updates of underwriters' availability each morning on its Web site.

Beazley has had a Web site since December 1996 but has beefed up the information available with the site's redesign.

In addition to the Web cams, the site now offers details of **Beazley's** major products and application forms that brokers can print in their offices and fax to **Beazley**.

—By Sarah Goddard



Awards

Continued from page 17

for Zurich Municipal, the United Kingdom's leading insurer in the public sector. "This is likely to cost local government and the National Health Service millions of pounds," he said.

"Increases in insurance premiums will account for most of these costs. But there will also be more expensive claims, paid directly from public funds, up to the agreed excess (retention) levels at which insurance policies would pay out," Mr. Forster noted.

One party, the Nottingham-based Assn. of Personal Injury Lawyers, was pleased with the judgment. The group described the ruling as a "momentous step forward in the fight to ensure accident victims gain fair compensation for severe injuries."

Frances McCarthy, vp of APIL, said that "severely injured accident victims already face the future with great uncertainty, and APIL has always felt it is completely unjust that they should be expected to make adventurous investments with compensation awards that are designed to cover high expenses such as future loss of earnings and the costs of long-term care, often for the rest of their lives."

She added that the "ruling will have a significant impact on the lives of those people most

severely injured through no fault of their own, who should now be able to invest their money in low- or risk-free schemes and face the future with some degree of confidence, without being penalized for their caution."

The three test cases involved a steel mill worker seriously injured when a hot steel bar pierced his skull at work, a handicapped boy injured because of treatment given to his mother before his birth, and a nurse injured in a car accident. All three victims had had their initial damage awards substantially reduced on appeal, when the Appeal Court judges had decided that the plaintiffs should not be placed in a special category different from ordinary investors and that the conventional discount of 4% to 5% for future investment earnings should be used when setting damage awards.

The Law Lords, however, overturned the Appeal Court's rulings. They supported the recommendations of the Law Commission—Britain's government-funded legal reform body—and a working party on damages headed by lawyer Sir Michael Ogden, which together recommended that basing discounts on investment in index-linked government securities, with return rates of 3%, was a more preferable, lower-risk option for accident victims.

As a result of the lords' ruling, steelworker Kelvin Page had his award increased by £186,000 (\$306,000) to £889,000 (\$1.5 million), 7-

year-old James Thomas' award increased by £300,000 (\$494,000) to £1.3 million (\$2.1 million), and former nurse Thelma Wells' award increased by £108,000 (\$178,000) to £1.2 million (\$2.0 million).

Meanwhile, the ABI has pointed out that the

government has the power to clarify the law. Under the Damages Act of 1996, the Lord Chancellor can set a discount rate for the courts to use. The ABI is urging the government to consult widely on the issue before setting any such rate. **B**

Jersey now a Designated Territory

ST. HELIER, Jersey—Its new status as a U.K. Designated Territory could give Jersey a boost in its efforts to build its offshore insurance sector, an island official says.

The designation, which the United Kingdom granted earlier this month, effectively means that providers of life insurance and pensions registered in Jersey can sell their products in the United Kingdom.

Of the 14 insurance companies and captives operating in Jersey, only one, Scottish Widows' Food & Life Assurance Society, currently would be able to take advantage of the new designation. However, Richard Syvret, director general of the Jersey Financial Services Commission, said he thinks the change will help attract more long-term life and pensions providers to Jersey.

He said having Designated Territory status

"will increase the island's competitiveness and its attractiveness to non-U.K. long-term insurers as a base for their international operations."

The designation follows an assessment of Jersey's insurance regulations by the Insurance Directorate of the U.K. Treasury, which concluded that the Insurance Business (Jersey) Law 1996 and the island's other regulatory practices provide adequate protection to policyholders.

Earlier this year, Jersey established a new, independent Financial Services Commission (BI, April 27) as part of its drive to increase its position as an offshore insurance center.

The U.K. government granted Guernsey, another of the Channel Islands, and the Isle of Man Designated Territory status in 1988.

—By Edwin Unsworth

The Professional Marketplace

RATES AND CLOSING TIME:

Rates: Display classified is \$171.00 per column inch, minimum of one inch. Straight classified is \$15.50 per line, minimum of 5 lines. Count 34 characters per line (include each space and punctuation as a character). Additional \$25.00 charge for all blind box ads. Only those responses which fit into a business size envelope will be forwarded. Responses are forwarded daily.

Closing: Published every Monday. Copy must be in typewritten form by 5:00 Tuesday, 6 days preceding publishing date. No verbal phone copy accepted. Most major credit cards accepted. Mail ads to, Irais Amleshi, Classified Advertising, 740 N. Rush St., Chicago, IL 60611. For more information call 312-649-5340, FAX 312-649-7937, or e-mail cadeszko@crair.com

HELP WANTED

RISK BASED SOLUTIONS

Reinsurance management organization based in Miami, Florida is seeking several Reinsurance/Insurance professionals.

Vice President of Operations: 10 years of reinsurance / insurance experience. Strong finance background required. Managed Care contracting experience preferred.

Account Manager: 5 years of healthcare experience with a focus in underwriting or claims. Finance background preferred. Travel required.

Senior Underwriter: 5 years of healthcare reinsurance or Employer Stop Loss underwriting experience. Managed care experience preferred.

Underwriting Assistant: 2 years of healthcare reinsurance / insurance experience.

Excellent growth potential and compensation package for qualified candidates. Fax resume and salary requirements to (305)262-9909.



Risk Based Solutions

HELP WANTED

HELP WANTED

SALES/MARKETING

GSG Associates, Inc. a work comp medical management company based in Southern California, is looking for a full time sales/marketing person with a proven track record to develop sales and marketing strategy, pursue and acquire new contracts. Use your expertise and innovative spirit to help our company grow and be rewarded for the effort. Requirements include experience and knowledge of the California workers' comp market (other states is a plus). Experience working with work comp insurers, TPAs, self-insureds, provider networks, employers, and industrial clinics. Send or fax resume with salary requirements in confidence to 626-585-9070, or visit our WEB site at www.neuimage.com/GSG/

HELP WANTED

CHIEF EXECUTIVE OFFICER

For Multi-Jurisdiction Public Entity Liability/Property Pool. The employer is a twelve year old non-profit risk sharing pool with annual contributions of \$10 million providing property & liability coverage to member Native American & Alaskan Native Housing Authorities and Tribally Designated Housing Entities throughout the U.S. It seeks a Chief Executive Officer to assume management responsibilities for all aspects of its operations in Albuquerque, New Mexico.

Applicants with a combination of the following qualifications are encourage to apply: A bachelor's degree in business administration; an advanced degree in business, finance planning or law is preferred; proven expertise in the property/casualty insurance/risk management field; management level experience at a property/casualty insurance entity with annual premiums exceeding \$5 million and at least 5 years experience in a large risk (exceeding \$100,000 in annual premiums) commercial underwriting or public entity risk pool underwriting. The successful applicant will demonstrate an ability to work with a culturally diverse membership, Board of Directors & staff. Salary negotiable based upon experience. Hiring subject to 7(b) of the Indian Self Determination Act (25 U.S.C. 450e(b))

Send resume & salary requirements to Human Resources Manager, AMERIND Risk Management Corporation, 2201 San Pedro, Bldg. #1, Suite 220, Albuquerque, NM 87110. September 30, 1998. NO PHONE CALLS.

HELP WANTED

CHIEF OPERATING OFFICER - personal lines and small-business commercial MGA. P&L responsibility. Staff and train sales/marketing staff. Develop marketing plans to secure insurer appointments. Perform market analysis. Develop affinity/program business. Agency/brokerage experience required. Very competitive salary plus bonus package. Based in Tallahassee, FL. Fax resume to (850)523-0223.

UNDERWRITING MANAGER

Immediately seeking experienced commercial underwriter to assume position overseeing a MGA National Program. Position requires hands on underwriting, broker contact, plus management of internal personnel. Salary commensurate with experience.

Send resumes to Business Insurance, Box 3080, 740 North Rush Street, Chicago, IL 60611-2590.

RISK INFORMATION SYSTEMS MANAGER

U S WEST, a Fortune 100 telecommunications company, is currently seeking a Risk Information Systems Manager in Denver, Colorado. This position is responsible to strategically define application development, data integration, web site development, system support, network, and other support for the Risk Management Group. Successful candidates must possess a BA/BS in Computer Science, Math or Business with an emphasis in Information Systems. At least 4 years' experience working with Risk Management Information Systems, Actuaries or in a Risk Management department with heavy analysis responsibilities, project management and development experience, as well as design and implementation of risk management hardware and software solutions required. An MBA, MIS or other related graduate degree an Associate Risk Management Certificate preferred.

U S WEST offers an excellent compensation and a benefits package that ranks in the top 5% in the nation. For immediate consideration, please send, fax or e-mail resume indicating job code "DK Risk Info Sys" to: U S WEST, Management & Professional Staffing, 1801 California St., P.O. Box 53, Denver, CO 80202; Fax: (303)896-5318; E-mail: recruit@uswest.com. Visit our web site at www.uswest.com.

An affirmative action/equal opportunity employer.

U S WEST

HELP WANTED



Aon Risk Services of Missouri
SENIOR MARINE Claims Adjuster

10 years experience in claims handling with insurance company or broker; emphasis on ocean cargo, brown water hull and protection and indemnity. Excellent benefits available. Salary commensurate with experience.

Written reply only to:

Meg Moore
Aon Risk Services of Missouri, Inc.
8182 Maryland Avenue
Clayton, MO 63105

HELP WANTED

MANAGER-RISK FINANCE INSURANCE

U S WEST, a Fortune 100 telecommunications company, has an immediate opening in Denver, Colorado, for a professional who will be responsible for management of property and casualty insurance programs, contract review, and client training programs as well as working with claims and a captive insurance company.

The successful candidate will possess an undergraduate degree in Business or related Risk Management field and 7-10 years experience, or a graduate degree (Finance or MBA) with 5-7 years experience (MBA preferred). Experience in project management, software tools, property/casualty insurance, risk management, and contract negotiation required. Professional certifications strongly preferred (ARM, CPCU). Excellent interpersonal, managerial, organizational, computer, and presentation skills necessary.

U S WEST offers an excellent compensation and a benefits package that ranks in the top 5% in the nation. For immediate consideration, please send, fax or e-mail resume indicating job code "DK Risk Fin Ins" to: U S WEST, Management & Professional Staffing, 1801 California St., P.O. Box 53, Denver, CO 80202; Fax: (303)896-5318; E-mail: recruit@uswest.com. Visit our web site at www.uswest.com.

An affirmative action/equal opportunity employer.

U S WEST

We're on the Web

Business Insurance Online!
www.businessinsurance.com

Business Insurance

Circulation Breakdown

Commercial Consumers

Administrative:

CEO's, Presidents, and Owners, ...2,710
Vice Presidents, General Managers and
Other Administrative Personnel 5,122

Financial:

Chief Financial Officers and Vice Presidents
of Finance 5,429
Secretaries, Treasurers, controllers and
other Financial Personnel 4,145

Risk/Employee Benefits:

Vice Presidents, Directors, Managers, and other
related department personnel of: insurance, risk,
employee benefits, personnel, compensation,
pension, safety, security, industrial relations,
human resources and employee/
labor relations 14,748

Sub-total 32,154

Associations 286

Government, Unions and

Educational Institutions 1,019

Commercial Consumers

Sub-total 33,459

Insurance Agents and Brokers 8,083

Insurance Companies 6,933

Accountants, Actuaries,

Attorneys & Consultants 2,705

Adjusters, Appraisers, TPAs, Captive Managers

& Health Care Providers 1,578

Others Allied to the Field 757

Total Qualified 53,525

Non-qualified/Paid Subscriptions 14

Single Copy Sales 27

TOTAL CIRCULATION 53,556

★ Source Business/Occupational
breakdown of qualified circulation,
November 24, 1997 Issue, as
submitted to BPA for December 1997
BPA Publisher's Statement

CAREER OPPORTUNITY

RISK MANAGER

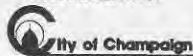
The City of Champaign is seeking qualified applicants for the position of Risk Manager in the Personnel Services Department. The employee in this position administers the risk management program to minimize the City's risk of loss from exposure to property, liability, and personnel perils. Responsibilities include, but are not limited to: managing the City's safety and loss control programs, including identifying risk control/loss control measures and systematically implementing them; financial administration of risk management programs, including determining reserves, analyzing use of insurance products, budget administration, including cost allocation of programs to various departments, classes of employees, and activities; and managing liability, property and worker's compensation claims.

A bachelor's degree in Public or Business Administration or a related field and three years' responsible experience in a risk management program or any equivalent combination of education, skills and abilities is required. Qualified applicants must be able to understand actuarial and statistical reports and analyze techniques as they relate to risk management decisions, and possess the ability to identify potential loss exposures and appropriate risk reduction techniques. Experience utilizing computer software related to risk management programs is required, along with good oral and written communication skills, and the ability to make presentations to groups. A valid driver's license is required by the first day of work. Prior experience in safety training or in implementing safety programs is desirable. Training in insurance practices and statistical decision making processes is desirable.

The starting annual salary range is \$43,405 - \$49,620, DOQ. Applications must be submitted no later than Friday, September 11, 1998 to:

City of Champaign • Personnel Services Department • 102 N. Neil Street • Champaign, IL 61820

Fax #217/351-1784



• Respect • Integrity • Competence • Teamwork • Service

The City of Champaign is an Equal Opportunity Employer. Qualified women, minorities and individuals with disabilities are encouraged to apply.

Manage

Continued from page 17

surveyed described their risk management approach as selective, i.e., they focused only on their greatest risk exposure; 9% described their risk management approach as structured; and 8% described their approach as partially integrated.

"Although most companies say they are managing risk, they only do so when the need or the problem arises," Mr. Anderson said.

"Effectively, they are closing the stable door after the horse has bolted," he said.

David Gamble, executive director of the U.K. Assn. of Insurance & Risk Managers, said there is no reason small companies cannot be good at risk management.

"Managers of small companies, once they understand risk, are among the best risk managers," Mr. Gamble said.

"The problem is, they lack sufficient time and resources to think about risks coming up to bite them," he said.

Mr. Gamble said large companies can encounter risks in one area, absorb them and pass on the lessons to other areas.

"But smaller companies are not so lucky," he said. "The first loss

may sink them."

Mr. Gamble said large companies with the best loss records are those that have developed a risk management culture right down the management line to the lowest-ranking employees.

He said smaller companies should take the same approach.

'Once small-company managers understand risk, they are among the best risk managers,' says PwC's Richard Anderson.

"Managing directors and finance directors should be working with all staff to promote risk management awareness and culture."

AIRMIC is looking at ways to boost its marketing and assistance to middle-market companies, particularly through easy product advice and Internet information services, Mr. Gamble said.

The survey found that fast-growing middle-market companies are more likely to have fully integrated risk management strategies.

While only 16% of all companies in the survey described their risk management approach as in-

tegrated, the percentage rose to 40% among companies forecasting annual growth of 40% or more.

"It is clear that the fastest-growing organizations realize the opportunities that risk management can bring beyond the confines of traditional financial control," PwC's Mr. Anderson said in a written statement on the report.

"At the same time," the statement continued, "these organizations have also been the most successful in avoiding losses and delivering added value."

Mr. Anderson said the challenge ahead for middle-market companies is to manage risk to their own advantage and use it both to grow and seek out new opportunities.

"Managing risk effectively not only minimizes the threat of loss but is critical in creating competitive advantage by improving the quality of decision making throughout the organization," he said.

For a free copy of the survey, write to Peter Bomer at Pricewaterhouse Coopers, 1 Embankment Place, London WC2N 6NN U.K., or telephone 44-171-213-5693 or send e-mail to peter.c.bomer@uk.pwcglobal.com. PwC's Barometer surveys also are on the Internet at www.pwcglobal.com/middlemarket/barometer.

Claims

Continued from page 17

standard data loss insurance policy, Mr. Coppel maintained.

Claims will be difficult to assess because, contrary to common belief, there will not be a sudden collapse of systems at midnight on Dec. 31, 2000, Mr. Coppel said. The Year 2000 problem will spread slowly through companies' computer systems and often not start to take effect until weeks or even months later.

The Year 2000 problem may take weeks or months to take effect, says Prove It 2000's Richard Coppel.

The Assn. of British Insurers has expressed similar views about year 2000 exposures.

While responses to a questionnaire sent to its members indicate that most commercial insurance policies will exclude year 2000 exposures, a report by the ABI's Science and Technology Committee concluded that "the potential ramifications of the millennium problem were considered to be so many and unpredictable that

the effectiveness of standard exclusion clauses was uncertain."

While Mr. Coppel acknowledged that there is no single solution to all of the problems that could affect computers in the year 2000, he said cures are available for some of the problems.

He maintained that losses will be greatest among small- to medium-sized businesses, where very little is being done to address the threat.

"Our feeling is (that) the insurance companies are much better placed than anybody else to push forward the issues to solve the problem," he said. Dealing with the Millennium Bug is mostly about project management, and insurers could tell companies that if they follow a particular route, and carry out certain procedures to minimize or eliminate the risk, then they could be eligible for coverage if losses still occur, he suggested.

Mr. Coppel acknowledged that one reason insurers are wary of giving advice is that they fear they could face legal action for negligence if a policyholder suffered a loss after following their loss prevention advice.

For this reason, Mr. Coppel said he welcomed a move earlier this month by President Clinton to promote legislation that would give businesses some degree of immunity from lawsuits if information they exchanged about fixing the bug inadvertently turned out to be inaccurate. **BI**

Legal

Continued from page 3

The administrators have stepped up marketing in recent years, said Bill Bolger, executive director of the National Resource Center for Consumers of Legal Services in Gloucester, Va.

"But you don't do that unless there is some success," he explained.

Although legal plans are not among the benefits most popular with employees, they serve their purpose, experts say.

"If it is the employee paying for it, then it is a no-brainer for an employer," said Andrew Zuckerman, employee benefit counsel at Milliman & Robertson in Washington.

"As benefit programs mature and more and more cafeteria systems come in, it is just another benefit to offer. It rounds out the whole benefit package," he said.

Janet Snyder, human resources

manager-benefits at Washington-based Amtrak, would agree. "We wanted to offer a full array of cafeteria-type benefits," she said.

So, in 1994, Amtrak introduced two voluntary legal plans from which employees can choose. Legal services seemed an easily understood and utilized benefit to add to Amtrak's existing benefit plate, she said.

For employers, legal plans also are "an easy and cheap benefit to offer," said Rick Wald, a Minneapolis-based principal with human resources consulting firm William M. Mercer Inc.

Because many plans are paid for by employees and because those employees need less education, as the legal benefits work largely the same way as managed care, the only cost for an employer often lies in administrative adaptations, consultants say.

Although plan administrators say that typically not more than 10% to 20% of employees enroll when voluntary plans are first offered, such plans are popular with users.

"Satisfaction rates are high, and they are well used, which is not true with all benefits," said Mr. Bolger.

But a Mercer study in May found little evidence for the claims by some consultants and legal plan administrators that legal plans can help attract and re-

tain employees. The questions Mercer asked employees referred to legal access plans that would provide free initial consultations and favorable rates for subsequent legal help.

While 50.6% of respondents expected that they might need legal

death of a young single mother who did not have a will, Ms. Douglas said. Mantech has a lot of young employees who need legal help with drafting wills and dealing with issues such as divorce and guardianship, she said.

Legal plans provide employees

'As benefit programs mature and more and more cafeteria systems come in, it is just another benefit to offer. It rounds out the whole benefit package,' says Andrew Zuckerman.

services some day and 30.6% said they would probably use a legal plan if it were offered as a benefit, only 11.2% said the availability of legal benefits would influence their choice of an employer. "This is a very modest impact," said Mr. Wald.

Still, some employers expect their legal plans will make a difference.

"I don't think too many other companies are offering legal plans in our area," said Regina Douglas, benefits manager at Mantech International Corp. in Fairfax, Va. She is evaluating proposals from two legal plan administrators.

The main incentive to offer a legal plan, however, was the recent

the opportunity to get legal advice and, in more comprehensive plans, also to get further legal services from lawyers who are part of a provider network. Therefore, the plans help employees with legal issues they face, such as drafting wills or getting consumer protection, at comparatively low rates.

Legal plans vary in comprehen-

siveness. The two basic forms offered are legal access plans and comprehensive legal plans. Access plans usually offer free and unlimited consultation with lawyers, mostly by phone, and referrals to obtain discounted legal services in case an employee needs more extensive work.

Comprehensive plans, by contrast, pay the full cost, from the beginning, for legal services. Some administrators, such as the ARAG Group, Hyatt Legal Plans and Lanham, Md.-based Advisory Communications Systems Inc., also include financial consulting services in their comprehensive plans.

The monthly premiums employees pay for voluntary enrollment range from a few dollars to about \$20 to \$25, depending on the features and services a plan offers.

Prior to June 30, 1992, employers could pay up to \$70 a year per employee for prepaid group legal plans without that amount being added to an employee's taxable income. **BI**

workers compensation services that CAPP CARE does not offer, while CAPP CARE has medical management services that Beech Street does not.

Dr. Edward Zalta, CAPP CARE chairman, said: "Customers will benefit from the advantages of working with fewer national PPOs and a greater geographic depth of the network."

"Our combined companies will also provide advanced technology-based administrative solutions to lower the cost of delivering health care," he said.

The transaction comes as PPOs, along with other managed care companies, merge to maximize operating efficiencies and leverage electronic administrative technology.

The deal is expected to close by the end of August. No obstacles to the merger are expected, Mr. Bregante said.

Merger

Continued from page 3

Some employers purchase services from both companies. The two organizations' networks now have a 70% overlap nationwide. Therefore, employers will be able to access a single network service covering 30% more geographical area than either company now provides, Mr. Bregante said.

Beech Street contracts nationwide with more than 4,300 hospitals and health care facilities, 320,000 provider locations and serves 15 million lives. CAPP CARE contracts with more than 4,700 facilities, 265,000 provider locations and serves more than 4.2 million lives.

Each entity will bring different areas of expertise to the new company, Mr. Bregante said. Beech Street now has

Tishman Construction Corp., the projects construction manager; set up a \$50,000 fund to provide assistance to individuals—not businesses—affected by the accident.

Mr. Giuliani almost immediately condemned the fund as "inadequate." However, the fund was meant only to provide funds for individuals in need of cash immediately after the accident, and by Friday, Liberty Mutual was paying claims to individuals under its normal claims paying process, a Liberty Mutual spokesman said.

Liberty Mutual last Thursday set up an 800 number for claimants to use and a walk-in claims center near the site. **BI**

Accident

Continued from page 3

Conde Nast building collapsed onto the street and surrounding buildings, killing one woman when a piece of debris broke through the roof of a residential hotel.

City officials evacuated several buildings, and much of the Times Square area was still closed late last week as a protective curtain was being placed around the Conde Nast building.

On Thursday last week Liberty Mutual, The Durst Organization, the building's developer; and

ADVERTISER

INDEX

Issue of July 27

ADVERTISER PAGE #

Burnham Systems 16

Business Insurance 9,12,20

Carvill America, Inc. 4

CGU Insurance Companies 6-7

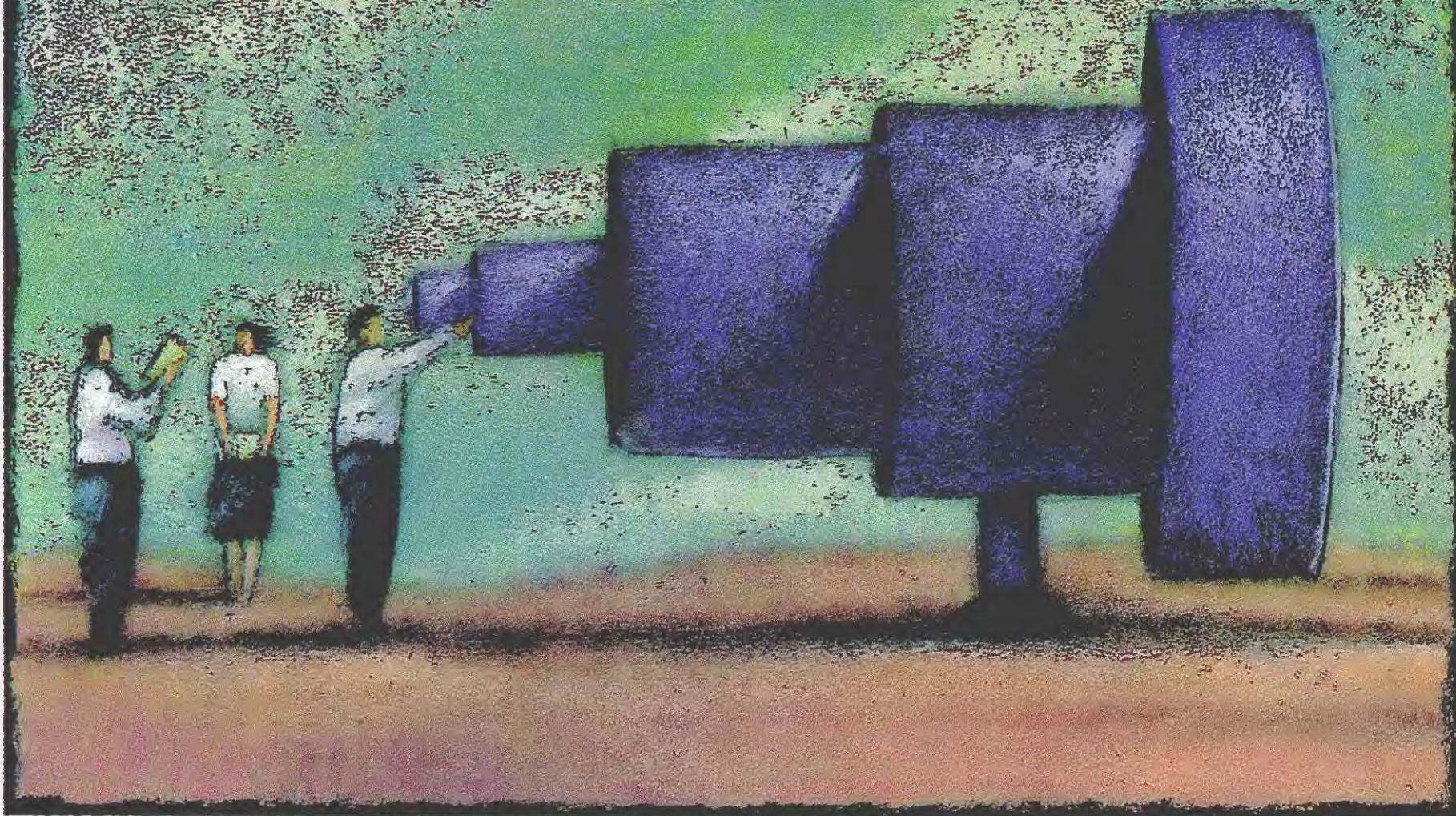
Construction Ins. Brokers 4

Liberty Mutual 24

Metropolitan Life Ins. Co. 10-11

Wausau Insurance Company 5

Want to know what's ahead?



Planning is the key to any successful venture. Whether you're a corporate executive—risk manager, employee benefits or health care manager—or among the many service providers to our industry—agent, broker, consultant, TPA, insurer or reinsurer—knowing what lies ahead will influence the plans you make today.

So take a look at our line-up of issues. Our targeted editorial spotlight reports, in-publication directories and special demographic editions all compliment the authoritative, in-depth news reporting and editorial leadership our readers and advertisers have come to rely on every week for thirty years.

As a corporate executive, you can't afford to let your subscription to *BI* to run out. As a service provider, you can't afford to miss an important marketing opportunity . . . to get your message into the hands of corporate decision-makers.

Call us today.

**Business
Insurance®**
www.businessinsurance.com

Issue Date	Editorial Feature	Demographic Section	Ad Closing
Aug 17	Property Loss Control ^{RS} <i>Directory: Property Loss Control Consultants</i> <i>Distribution: ARIA</i>	IT Government Relations	Aug 5
Aug 24	Ward's Results		Aug 12
Aug 31	Reinsurance: International Markets <i>Directory: Leading Reinsurers Worldwide</i> <i>Distribution: Monte Carlo Rendez-Vous</i>	GLOBAL FOCUS	Aug 19
Sep 7	Surplus Lines ^{RS, SS} <i>Directory: Surplus Lines Insurers & Wholesalers</i> <i>Distribution: NAPSLO</i>	ABT Leaders in Productivity	Aug 26
Sep 14	<i>Distribution: NAIC; IUMI</i>		Sep 2
Sep 21	Reinsurance: Rendez-Vous Report ^{RS} <i>Distribution: HMIS; IIAA; NAMIC</i>	IT Employee Recruiting & Training	Sep 9
Sep 28	Marine Market Report		Sep 16
Oct 5	International Benefits & Risk Management ^{RS} <i>Directory: International Insurers & Benefit Networks</i> <i>Distribution: ASHRM; Canadian RIMS; CIAB/CICE</i>	ABT IIAA Report	Sep 23
Oct 12			Sep 30
Oct 19		IT Fighting Fraud ^{SS}	Oct 7
Oct 26	Workers Compensation ^{RS} <i>Directory: Safety Consultants & Rehabilitation Services</i> <i>Information Resource: Workers Comp</i> <i>Distribution: BI Workers Comp Conference; Baden-Baden; PCU; MCEIRMC</i>	GLOBAL FOCUS	Oct 14

RS: Reader Service, SS: Starch Study

New York: 220 E. 42nd Street, NY 10017-5806 ■ Tel: 212-210-0133 ■ Fax: 212-210-0704
Chicago: 740 N. Rush Street, IL 60611-2590 ■ Tel: 312-649-5276 ■ Fax: 312-649-7937
Los Angeles: 6500 Wilshire Blvd., CA 90048-4947 ■ Tel: 213-651-3710 ■ Fax: 213-655-8157
Circulation: 965 E. Jefferson Ave., Detroit, MI 48207 ■ Tel: 800-678-9595 ■ Fax: 313-446-6777

Commentary

An eye on BI?

Internet lets users see and be seen

The World Wide Web continues to expand and offer a dazzling array of new features designed to lure visitors away from their jobs with information and entertainment.

One such development is digital camera technology that generally enables Web browsers to view videos or a series of images from cameras trained on especially interesting subjects.

As we report this week, Lloyd's of London agency Beazley Furlong Ltd. has placed cameras in its underwriting box, where visitors to its Web site, www.beazley.com, can be enthralled by the sight of people... *underwriting insurance*. To curtail the risk of all *Business Insurance* staff members abandoning their regular duties to engage in this brand of "Truman"-esque voyeurism, I have had to consider placing limits on their Internet access. No doubt many companies around the world will have to do the same, as employees with a yen for live-action insurance watch the Beazley box in the hopes of catching the underwriters in some act of shocking spontaneity.

In the early days of the Internet, when only the defense community and NASA had mainframes powerful enough to actually run video images without crashing the computer or taking six days to download, a prehistoric cousin of the video feed that enjoyed limited popularity was the screen shot of something notable. This was a still photo, updated periodically, that purported to show something really interesting and worth coming back to in case the image changed.

I recall one site—I am not making this up—that featured an image of a guy's refrigerator updated regularly (Look at that mold grow! Were there six cans of beer in there last hour?). Another was a site that featured a picture of a toilet bowl. One visit to the toilet cam was enough; I didn't want to be around when that image changed.

Yes, it was from these humble beginnings that the World Wide Web got its start and grew to the multimedia phenomenon it is today.

One of the more notorious sources of live images on the Web is not the Beazley box but the JenniCAM (www.jenni-cam.org), where a digital camera in the apartment of a Washington, D.C., woman provides choppy glimpses of and commentary on her everyday life.

The Beazley box and JenniCAM are not alone. An Internet search for "web cams" turned up 49 sites devoted to animals, insects and pets; 35 associated with colleges or universities; 202 indoor cameras; and 272 outdoor cameras.

This got me to thinking about whether people would visit the BI Web site in greater numbers if we put up a live camera in our editorial office in Chicago. I imagined the loyal following we would get from people curious about how a magazine is put out ("Why aren't they doing anything? They just sit there.").

No doubt, people would visit often in the hopes of seeing someone arrive before 9 a.m. They would thrill to our consumption of junk food, donuts and candy ("What's the point of eating Reduced Fat Oreos?").

They would marvel at the reams of press releases that come across our fax machine, watching on the off chance of seeing a staffer snatch their own missive from the machine and run screaming through the office. They would wait online in the hopes of being there on the one day each week that I spill coffee on myself ("I see a spot! There, on his sleeve!")

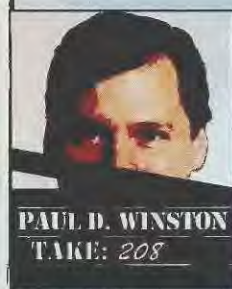
They would tune in after a noteworthy event, especially after a breaking event on a Friday (hurricanes, plane crashes, broker mergers or Supreme Court rulings), to watch us rip up pages and run around like chickens with our heads cut off as we revise page 1.

They could log on while being interviewed by a reporter to watch his or her face crumble as they say, "You're not going to quote me on that, are you?"

All this and so much more would be available to the person who would want a sneak peek behind the scenes at *Business Insurance*.

On second thought, maybe it's better that the public not see how *Business Insurance* is put out.

Editor Paul D. Winston and Publisher and Editorial Director Kathryn J. McIntyre publish columns on alternative weeks.



PAUL D. WINSTON
TAKE: 208

Media

primanded a correspondent.

Also over the past few months, a Boston Globe columnist resigned after admitting to fabricating information in her columns, while an associate editor for The New Republic was fired after the magazine said it had determined he had fabricated material in 27 articles written over the past three years.

"The Cincinnati Enquirer paid \$10 million before they were even sued," said Chad Milton, a senior vp at liability insurance underwriter Media/Professional Insurance in Kansas City, Mo. Mr. Milton said he doesn't expect CNN to be sued, but "the incident undercuts the credibility of the media in general. It makes it scarier."

Media/Professional does not cover any of the organizations involved in the recent incidents.

While the false reports in The Boston Globe or The New Republic also might not ultimately result in legal action, "that kind of thing lends credibility to claims in other cases that reporters have made things up," Mr. Milton said.

"It's conceivable that it could have that affect," said Leib Dodell, underwriting manager for the media liability program at Executive Risk Management Associates in Simsbury, Conn.

"But the experience that I think you'll find corroborated by most litigators is that jurors already approach these kinds of cases with that attitude," Mr. Dodell said. "That's why we've seen not just in the past six

weeks but over the past few years a sizable increase in the amount of jury awards."

Mr. Milton offered a similar view about the trend toward larger awards. "Our losses have been going up year by year," he said. "At the same time, the market has been softening year by year."

While reluctant to characterize the current media liability market as "soft," Mr. Dodell said, "I think it's certainly true that there are a number of markets out there, and there is significant competition both in terms of coverage and price."

Thomas Harrington, director of risk management for The New York Times Co., which owns The Boston Globe, said he doesn't expect the recent cluster of events to turn the media liability market.

"I wouldn't think so," Mr. Harrington said. "I think maybe long-term this could be a factor. But I don't think there's going to be any impact in the short-term, and I would think that any impact is going to be pretty subtle unless there is a continuation of the situation."

While conceding that it's difficult to predict what jurors will think, Mr. Harrington suggested that because the news organizations involved took quick action when the problems arose, it should send the message that they strive to report the news responsibly.

"I think with The Boston Globe, when they discovered there was a situation they took action to correct it," he said. "They sent a message that this would not be tolerated, as did the other organizations."

Mr. Dodell said so far he's seen no effect on either media liability coverage availability or pricing.

"I think it's to some extent coincidental... that there have been somewhat similarly themed incidents that hit the headlines in a short period of time," he said. He added that the incidents are the sorts of events news organizations and media liability underwriters are aware of as potential exposures.

"What it does reflect is the whole variety of problems that media organizations can find themselves getting into and why they need to take a close look at their coverage," Mr. Dodell said.

For example, he said the questions of gathering information illegally in The Cincinnati Enquirer case and the possibility of the paper being subpoenaed for information on how that information was obtained highlight a frequent gap in news organizations' coverage.

Newspapers frequently are subpoenaed for details on sources of information, he noted. But the legal costs associated with fighting such subpoenas might not be covered.

"It's not as infrequent as you might think," Mr. Dodell said. "But that may not be something that's covered at all."

And, he said, while incidents of reporters fabricating information might not occur as frequently, such incidents are not unheard of. "And as underwriters, we're aware these things can occur, and that's one of the things we're in the business of providing coverage for," Mr. Dodell said.

Willis

Continued from page 1

the executive board comprising Mr. Reeve, Tom Colrairie, Brian Johnson, George Nixon and Ken Pinkston, have agreed to invest in Trinity, committing a minimum of £100,000 (\$164,400) each to the deal.

Mr. Reeve said he anticipated the directors would commit substantially more than that amount. At the end of last year, the five board members held a total of 765,649 shares between them, either as ordinary shares, American Depositary Shares or ordinary shares held under restricted share plans to be released in February or November 2000. The latest Willis accounts for the year ended Dec. 31, 1997, show that individuals including executive directors held a total of 6% of Willis shares.

Although the Trinity offer could fail if another suitor offers 220 pence (\$3.66) or more per share of Willis, or if less than 90% of the broker's stockholders accept the offer, insurance analysts see little chance of that happening.

Instead, many see it as a good exit route for investors who have been stuck in an underperforming sector of the stock market. Willis shares last hit the 200 pence (\$3.29) mark in May 1994.

Willis executives have spent the past 18 months looking at various options available to the broker in order to thrive amid keen competition and the consolidation trend. The options considered included possible mergers with or acquisitions by competitors, strategic alliances with insurance companies or other financial services organizations, or continuing as a public company. At the same time, KKR had identified insurance brokerage as a sector in which it wanted to be involved, and it beat a path to Willis' door in late 1997.

Before the deal was announced, Trinity agreed to buy about half the Willis shares held by U.K. cor-

porate investor Phillips & Drew Fund Management Ltd., totaling 42,558,502 shares and representing just under 10% of Willis' issued share capital. Trinity will pay PDFM 201.75 pence (\$3.32) per share, including the 1.75 pence (2.9 cents) interim dividend announced the same day as the offer.

In total, Trinity has irrevocable undertakings representing 19.7% of Willis shares, including a further 39,742,692 shares from PDFM, Willis' largest single investor, 1,164,481 shares and 94,604 ADSs from the seven Willis executives, and 24,566 shares and 18,500 ADSs from independent

across its global network eventually will be investing in the organization.

This is not KKR's first foray into the insurance market. Previous acquisitions have included American Re Corp., subsequently sold to Munich Reinsurance Co., and it currently owns Swiss reinsurer Rhine Reinsurance Co. Ltd. and Florida-based specialty auto insurer Bristol West Insurance Co.

KKR has about \$6 billion of committed capital in an investment fund and invests on behalf of U.S. pension funds, banks and university endowments.

"We have a long-term horizon in investment," said Perry Golkin,

Taking Willis private

Willis Corroon Group P.L.C. stockholders on Dec. 31, 1997:

T Rowe Price & Associates and other American Depositary Shareholders:	39%
Unidentified shareholders investing through nominee companies:	26%
Phillips & Drew Fund Management Ltd. and its associates:	22%
Individuals:	6%
Banks and unidentified banks investing through nominees:	2%
Pension funds:	2%
Other corporate investors:	2%
Insurance companies:	1%

Source: Willis Corroon Group P.L.C.

Stockholders upon proposed deal:

Kohlberg Kravis Roberts & Co. L.P.	76%
Insurance companies: Chubb Corp., Guardian Royal Exchange P.L.C., Hartford Financial Services Group, Royal & SunAlliance Insurance Group, Travelers Property Casualty Corp.	19%
Willis Corroon management:	5%

Shares purchased over U.S. exchanges are purchased as American Depositary Shares, each worth five Willis Corroon shares.
PDFM has already sold half its shareholding to Trinity Acquisition P.L.C.

directors.

The independent directors, led by Michael Rendle, have officially recommended the offer to Willis stockholders.

KKR's investment strategy includes having management buy into organizations they acquire, and Willis is no exception. If the offer succeeds, KKR will hold about 76% of the company, the five insurers will hold about 19%, and Willis management initially will have about 5%. Management's share could rise to as much as 15% if it exercises stock options granted on the back of the investment. KKR expects that hundreds of Willis managers

a member of the firm at KKR based in New York.

Many—including Mr. Reeve—see that as one of the main benefits of the proposed deal.

By moving to private ownership, Willis will see a "very significant change in the culture prospectively," said Mr. Reeve.

On completing the deal, Willis "can take more risks and short-term pain to derive benefits in the medium term," said Mr. Reeve.

Willis' corporate gross revenues declined by 5.1% in 1997 to £694 million (\$1.14 billion). Pretax profits were up 4.3% last year to £95.5 million (\$156.4 million).

See Willis on next page

Willis

Continued from previous page

Removing the uncertainty of ownership that has been hanging over Willis' head for the past two years amid a wave of mergers and acquisitions among the global brokers will improve staff morale and help it attract new employees, broker teams and small brokerage operations, he said.

Mr. Reeve said that "whether real or otherwise," the specter of an acquisition "creates difficulties in a people business."

KKR will not interfere with the running of Willis should the deal be approved, said Mr. Golkin, but will work with the senior executives to develop the company.

In the past few months, Willis has followed an aggressive expansion strategy in Europe, buying minority shares in brokers in France, Germany and Italy (*BI*, July 20).

In all of those deals, Willis has the option to increase its holding to a majority stake over time, and Mr. Golkin said he foresees that occurring under the new ownership.

Many risk managers welcome the offer, not least because it retains choice at the global end of the broking industry.

"I've been concerned about the implications of the ongoing consolidation of megabrokers we have been witnessing in the past months," said Richard Reddaway, group insurance manager for pharmaceutical maker Glaxo-Wellcome P.L.C. in Middlesex, England.

Mr. Reddaway also welcomes the involvement of insurance companies in the proposed deal. This "reflects their desire to maintain their distribution network," he added.

Nigel Blore, controller, risk finance at U.K. telecommunications giant BT P.L.C., is among those risk managers who think it is too soon to

know how the takeover will affect corporate insurance buyers.

"It remains to be seen what this actually means for clients as a whole. Willis Corroon is not a major supplier to us, and the jury is out at the moment as to what this will mean as far as the service they will provide and where they are going in the future," he said.

Mr. Blore maintained that it will take time to assess whether it will prove preferable that Willis is remaining a major force in the market rather than being absorbed by one of the larger broking giants. "Independence for its own sake may not necessarily be a good thing unless they can be seen to be adding value to their clients," he said.

Both Royal & SunAlliance and GRE have held shareholdings in Willis in the past, but those shares were beneath the 3% threshold that requires public disclosure.

Becoming involved in the Trinity consortium is "a trade investment made by our investment people," said a spokesman for GRE in London. Because GRE's investment will be about 3% if the offer is accepted, the spokesman said it is unlikely to change the insurer's relationship with Willis.

A spokeswoman for Royal & SunAlliance in London echoed those views, saying there would be "no change to our business relationship" with Willis.

Royal & SunAlliance has shareholdings in a number of U.K., U.S. and continental European brokers, she said, and would look at other opportunities to invest in brokers if they arose.

For its part, KKR is betting brokers will continue to have a key part to play in the commercial insurance market.

"We reached the conclusion that the broker will always have a role in the insurance industry," said KKR's Mr. Golkin. Even though insurance

premiums are down in the soft market, even the most sophisticated of buyers can derive benefits from brokers, he added. "We think there is a role for brokers based on providing services."

KKR is not interested in buying a rival broker, said Mr. Golkin. Generally, though, in the insurance sector KKR is "very actively looking at all sorts of things...there could be more (acquisitions) down the line," he said.

If the proposal, which is expected to be concluded by the end of next month, is approved by shareholders, Willis will withdraw from the stock markets. Willis now is listed on the London, New York and Pacific stock exchanges. The proposal must also receive various government and regulatory approvals.

Trinity has offered 200 pence (\$3.29) for each Willis share, and £10 (£16.44) for each Willis ADS, one of which equals five Willis shares. This represents a 12% premium on Willis' closing price of 178.5 pence (\$2.93) per share on July 21, the day before the deal was announced. News of the deal sent Willis' share price soaring to close at 197.5 pence (\$3.25) on July 22.

Sedgwick shares also soared as markets speculated that it could be ripe for a take-over bid, closing at 146.5 pence (\$2.41) on July 22 from a closing price of 134 pence (\$2.20) per share the day before.

Roman Cizdyn, an insurance analyst with Merrill Lynch Group of Cos. in London, said, "Sedgwick has got to decide what it's going to do. There is now a scarcity value of large brokers..." Mr. Cizdyn said large brokers grow their revenues through acquisition. For that reason, Sedgwick may now become a target for either Aon Corp. or Marsh & McLennan Cos. Inc.

Willis stock closed at 198 pence (\$3.26) and Sedgwick closed at 144 pence (\$2.378) on July 24. **BI**

USI

Continued from page 1

With the consolidation of the brokerage industry in recent years, "insurance companies want to prevent a small handful of players from being the dominant force in any segment of the business," Mr. Miller explained.

As more and more brokers merged, "insurers got concerned that the balance of power would shift from the risk bearer to the distributor," he said.

"We're seeing consolidation throughout the industry. We're seeing changes in the way the industry is structured, and this is wholly in line with that," said an insurer source who asked not to be identified.

The investment also will enable USI to compete more effectively in a market increasingly dominated by megabrokers, such as Aon Corp. and J&H Marsh & McLennan Inc., other observers pointed out.

"The supply of capital for this company is very important given its growth strategy," said Jay Cohen, vp of Merrill Lynch & Co. in New York. "The company is very focused; it knows what it wants to achieve."

Forming relationships with these insurers and Chase Manhattan will give Mr. Mizel's USI more ideas and products to distribute, he said.

"It should be a healthy relationship—more than just a passive investment—so they will add value as owners of this company given his strategy of distributing different types of products," Mr. Cohen said.

USI, which was formed in 1994 with funding from private venture capital sources, has grown into the 11th largest insurance broker in the world, and seventh largest U.S. broker, with 1997 brokerage revenues of

\$236.2 million (*BI*, July 20).

While most of USI's growth can be attributed to acquisitions—it completed 72 transactions in four years—it also is generating new business through the cross-selling opportunities the acquisitions are providing, according to Mr. Mizel.

"USI is the only fully integrated financial services company in the United States," he said. "It is a company that offers a multiplicity of financial services—both insurance and other financial services—to middle-market customers."

USI's producers are "trained to think that if they do not offer a wide menu of products and services to their clients, that they not only are leaving all the profit on the table, but basically they're not serving the needs of their clients efficiently and effectively," Mr. Mizel said.

Besides general and specialty property/casualty insurance, USI also offers insurance-related financial services such as employee benefits, third-party administration, life insurance and related consulting and insurance wholesale operations.

While the new group of investors will hold a majority interest in the brokerage, USI's management will maintain control of operations.

In addition, USI's management—which also includes John Addeo, president and chief operating officer, and David L. Eslick, executive vp—will continue to own approximately 19% of the company, Mr. Mizel said.

Some of USI's initial backers also will retain part of their investment in USI, though he declined to specify how much.

"Nobody has a controlling vote in this company. The management of USI is overseeing the company," Mr. Mizel insisted.

The investment by these leaders in

the insurance and financial services industries will enable USI to meet its objective of offering a diverse assortment of financial products and services—in addition to traditional insurance—to its clients, Mr. Mizel explained.

The investment will enable "the perpetuation of this company and its ability to penetrate the middle market in a way that is not being accomplished by anybody in the United States," Mr. Mizel said.

USI targets mainly middle-market insurance buyers, defined as those with between 100 and 2,000 employees.

Mr. Mizel actually began recruiting the investors last year, with Zurich Centre Investments and Chase Manhattan coming aboard initially.

He explained that Switzerland-based Zurich Centre shared USI's vision of being a one-stop financial services market because that strategy already was being employed by banks throughout Europe.

Furthermore, Zurich Centre's recent acquisition of the Scudder Group will provide some additional cross-selling opportunities for USI, which next plans to expand into individual asset management and securities distribution, he added.

Last October, New York-based Chase Manhattan announced it was entering into a strategic alliance with USI to sell commercial property and casualty insurance products and employee benefit services to Chase's middle-market customers (*BI*, Oct. 13, 1997).

CNA President Dennis Chookaszian decided to invest because he shares USI's vision of the future, according to Mr. Mizel.

"Dennis is a great visionary in our industry. He is a man who sees things

See *USI* on next page

Updates

AOL subpoenaed for user ID

Continued from page 2

The move endorses what is becoming standard procedure among Internet service providers: that they will give up names of users only when forced to by court action, said Nicole Wong, an attorney at Hosie, Wes, Sacks & Brelsford in Menlo Park, Calif.

Freedom Communications Inc., the Irvine, Calif.-based parent company of the Orange County Register in Santa Ana, Calif., subpoenaed America Online Inc. for the name of a person who created a Web site that Freedom said contained defamatory statements about Register employees.

Dulles, Va.-based AOL followed its standard procedure, withholding information until it was obliged to release it by a court order, said a spokesman for the Internet service provider.

In another Internet-related case, New York University filed a complaint earlier this month seeking an injunction against a Web site operator that allegedly showed photographs of scantily clad women it said were taken with a secret camera in a university dormitory.

Contrary to what the site said, the photos were not of NYU students, the university said. The Web site operator removed the NYU name from the site after the suit was filed, an NYU spokesman said.

Carnival insured for damages

MIAMI—Carnival Corp. is insured for damages from a fire last week aboard one of its cruise ships, though it has not yet assessed the damages.

Howard Frank, vice chairman and chief operating officer of the Miami-based cruise line operator, said in a statement that it is "premature to assess exact damages."

A Carnival spokesman, who said the company has insurance to cover the losses, was unable to provide the names of the insurers.

The company is investigating the incident, the spokesman said late last week.

The July 20 fire broke out on the ship's aft mooring deck, which houses the laundry room, and spread to two higher decks. The ship, the *M.S. Ecstasy*, was carrying 2,575 passengers and about 900 crew members on the first day of a four-day cruise to Key West, Fla., and Mexico. It had just left Miami when the fire began.

No major injuries were reported; approximately 50 crew members trying to extinguish the flames were treated for smoke inhalation.

Passengers were accommodated in several Miami hotels at Carnival's expense. Carnival also is providing a full refund and a free future cruise to all passengers. Cruises that were to begin July 24 and July 27 were canceled, and those passengers will receive full refunds and a 50% discount on any cruise before Dec. 15, 1999.

The ship will undergo repairs and is expected to re-enter service July 31, according to a corporation statement.

Briefly noted

Employers throughout California will receive **workers compensation premium refunds** after Insurance Commissioner Chuck Quackenbush last week denied a motion to reconsider a finding that the State Compensation Insurance Fund improperly inflated medical legal expenses resulting in inflated experience modifications. The final amount of refunds has yet to be determined. . . . The tobacco industry has reached a **final settlement with Texas**, agreeing to pay \$17.3 billion to end the suit, which called for recovery of costs for treating smoking-related illnesses. . . . A recent Iowa state court ruling gave a green light to a **proposed merger** between Des Moines, Iowa-based Allied Mutual Insurance Co. and Columbus, Ohio-based Nationwide Mutual Insurance Co. The court found no evidence that Allied policyholders would be hurt by the transaction. . . . Two securities firms will pay Orange County, Calif., \$117.5 million to settle a suit filed by the county in connection with the **collapse of a county-run investment pool** in 1994. Both Morgan Stanley Dean Witter & Co., which agreed to pay the county \$69.6 million, and Nomura Securities International, which will pay \$47.9 million, denied any wrongdoing in connection with the pool's collapse, which stemmed from a risky investment strategy and resulted in \$1.6 billion in losses, leading the county to sue brokers, consultants and others that did business with the fund. . . . **Risk Capital Holdings Inc. and Securitas L.L.C.** are leading an investment group that plans to invest up to \$75 million in PennCorp Financial Group Inc., the New York-based insurance holding company. PennCorp's subsidiaries offer life insurance and accident and sickness insurance. . . . **Richard J. Quagliaroli** has been promoted to president of the commercial insurance operations of Hartford Financial Services Group to replace William Stanway, who will retire. Mr. Quagliaroli was previously executive vp of sales and regional operations for Hartford Commercial. . . . **Jay S. Fishman**, now vice-chairman of Travelers Property Casualty Corp. and chief executive officer of its Commercial Lines business, will become the company's president and chief executive officer with the formation of Citigroup, which is expected to be completed before the end of the quarter. Robert I. Lipp, now chairman and CEO, will remain chairman as well as become co-chief executive officer of Citigroup's Global Consumer Business. . . . On July 16, the Massachusetts Supreme Court upheld a 1996 judgment awarding \$2.5 million in damages to a 69-year-old woman who claimed silicone gel **breast implants** made by Baxter Healthcare Corp. made her sick. . . . A U.S. District Court judge in Los Angeles on July 13 granted **class-action status** to a group of San Fernando Valley and Simi Valley residents suing Rocketdyne over contamination allegedly caused by its Santa Susana Field Lab. . . . **Odwalla Inc.** pleaded guilty to shipping apple juice contaminated with E. coli and will pay a \$1.5 million fine in an agreement with the U.S. attorney. A 1996 E. coli outbreak blamed on the company's juice killed one child and sickened dozens. . . . U.S. District Judge Constance B. Motley late last week approved a revised sexual discrimination and harassment settlement ending the two-year-old lawsuit brought against **Salomon Smith Barney Inc.** by a class of current and former women securities brokers (*BI*, Nov. 24, 1997). Judge Motley denied final approval of the settlement earlier this month (*BI*, July 6).

Continued from previous page
much more clearly than other people in our industry, clearly understands what is happening in terms of the transformation of the distribution of financial services, and it's indicated by the kind of diversity he has in CNA," Mr. Mizel said.

"We have had multiple discussions regarding what was necessary to get even further penetration of CNA products through our company," he continued.

CNA is currently USI's largest insurance market, according to Mr. Mizel.

After CNA joined the syndicate of investors, Mr. Mizel approached Equitable, a subsidiary of AXA Group that is a leading direct writer of life insurance products with 7,500 career agents.

"Equitable was looking at alternative distribution systems," he explained. In addition, the access to Equitable's financial products will enable USI to pursue its objective of becoming individual asset managers, Mr. Mizel explained.

"This absolutely ties in," he said.

At the same time, USI will offer Equitable agents access to products and services that they currently cannot provide to their clients, such as employee benefits and property/casualty insurance, he added.

"Basically our objective is to double the size of

our sales team within the next two years with life agents," Mr. Mizel said.

USI currently has 325 producers with operations in 21 states.

"We share a common philosophy with USI to find innovative ways of responding to the evolving financial and insurance needs of middle-market business customers," said Michael Hegarty, vice chairman and chief operating officer of The Equitable Cos. and former vice chairman of Chase Manhattan.

Provident Group, which is partially owned by Zurich and has ties to Equitable and CNA through its EquiSource brokerage unit, will give USI access to disability income products.

"They also fit into our banking agenda because disability income is a very important type of sale to bank customers plus they are very interested in worksite marketing," Mr. Mizel explained.

Orion Group, a specialty underwriter, gives USI access to specialty commercial lines, and Travelers was included because its management had faith in USI's model, according to Mr. Mizel.

"We looked at it as a good investment in an industry that we feel we know very well," said a Travelers spokesman.

"For Orion it was a very simplistic decision. USI was a good existing business partner and they presented us with an excellent economic investment opportunity," said W. Marston Becker, chairman and CEO of Orion in Farmington,

New investors in USI

With new investors, USI Holdings Corp. will be divided as follows:

• 50%+

to be held by a syndicate composed of: Chase Manhattan Corp., CNA Financial Corp., The Equitable Cos., Orion Capital Corp., Provident Cos. Inc., Travelers Insurance Cos. and Zurich Centre Investments Inc.

• 19%

to be held by USI Holdings management

• Remainder

to be held by venture capitalists

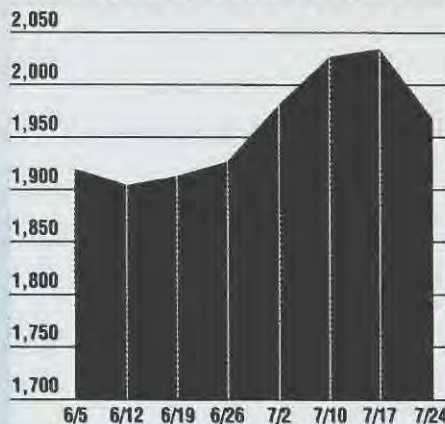
Source: USI Holdings Corp.

Conn.

Risk managers appear unconvinced that USI's move will provide more balance. "This is an example of the continuing erosion of competition in the brokerage industry," observed Steve Grebenstein, risk manager for the San Diego Transit Corp. "That's the concern of all the risk managers I know."

The other investors involved either declined to comment or did not return phone calls. **BI**

BI Insurance Index



Base=100 on Dec. 29, 1978

Source: Nordby International Inc. (nordby.com) Boulder, Colo.

PCS catastrophe options

As of July 24	Price bid/ask	Call spread	Price bid/ask
National Annual 1998			
60/80	6.0/10.0		
100/120	3.5/6.0		
120/140	1.0/6.0		
Southeastern September 1998			
40/60	2.4/3.3		
Northeastern September 1998			
100/150	0.9/—		
Florida September 1998			
40/60	1.0/2.4		
Western Annual 1998			
40/60	1.4/—		
80/100	1.0/2.0		
150C	0.9/—		
Eastern September 1998			
20/40	3.0/—		
40/60	2.5/3.5		

Total volume: 800 Total open interest: 19,415

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.

Source: Chicago Board of Trade

British Issues

Companies	Price pence	P/E	Div. pence	Yield %	52-week high-low
Gdn Royal Exch	359	5.3	12.1	3.3	495-266
Legal & Gen	736	21.3	13.3	2.2	785-400
Royal & Sun	677	18.2	22.8	3.3	825-488

Brokers

Lmbt Fenchurch	101	7.9	5.7	7.0	138-101
Lloyd Thompson	180	12.2	10.0	6.9	194-151
Sedgwick Grp	144	12.9	7.0	4.8	171-115
Willis Corroon	198	22.8	6.9	4.3	199-116

Note: Prices are July 24 closings; other numbers from July 23.

Source: Nordby International Inc. (nordby.com) Boulder, Colo.

BI Industry Stock Report JULY 20, 1998, THROUGH JULY 24, 1998

BROKERS

	Price	Weekly % change	Year to date % change	52-week High	Low	Vol.(000)
Aon Corp.	NYS 69.38	-2.97	18.34	75.56	50.00	1060
E.W. Blanch Holdings Inc.	NYS 36.19	-1.03	5.08	38.75	27.94	147
Gallagher Arthur J. & Co.	NYS 42.00	-7.31	21.96	46.56	33.56	131
Hill, Rogal & Hamilton	NYS 18.44	-1.67	-4.53	19.63	15.38	121
Kaye Group Inc.	NDO 7.00	1.82	5.66	9.00	5.88	4
Marsh & McLennan	NYS 59.63	-6.29	19.95	64.31	44.00	1920
Poe & Brown	NYS 40.38	-2.42	35.71	42.50	23.88	101
Sedgwick Group PLC	NYS 12.56	12.92	2.03	14.44	9.38	60
Willis Corroon Corp.	NYS 16.38	12.93	32.99	16.38	9.75	3004
BROKERS AVERAGE		1.12	14.86			

INSURERS/REINSURERS

	Price	Weekly % change	Year to date % change	52-week High	Low	Vol.(000)
ACE Ltd.	NYS 38.38	-7.25	19.30	43.00	25.63	602
Acceptance Insurance Cos.	NYS 23.56	-1.05	-2.58	28.63	21.13	149
AEGON N.V.	NYS 104.38	1.71	132.91	111.31	34.00	329
Aetna Life & Casualty	NYS 72.81	-8.48	3.19	118.13	66.31	2025
ALLAC Inc.	NYS 35.05	-7.43	37.16	38.25	22.13	1705
Allied Group Inc.	NYS 47.06	0.00	64.41	47.19	25.00	636
Allstate Corp.	NYS 45.50	-9.90	0.55	52.38	35.44	11734
AMBAC Indemnity Corp.	NYS 62.44	-2.25	35.73	65.94	38.94	1310
American Bankers Ins.	NDO 57.81	-0.54	25.85	66.06	32.19	1100
American Financial Group	NYS 40.69	-6.60	0.93	49.25	34.56	196
American General	NYS 70.75	-3.08	30.87	75.69	46.56	1841
American Heritage Life Ins.	NYS 24.50	-4.39	36.11	26.06	17.06	79
American Indemnity/Fin'l	NDO 11.44	-0.54	-17.57	15.50	9.50	8
American International	NYS 145.75	-3.91	34.02	153.50	93.75	5990
Argonaut Group	NYS 30.25	0.00	-10.70	38.13	29.25	77
AXA-UAP Group	NYS 66.50	-5.67	70.51	71.25	31.63	269
Baldwin & Lyons Inc.	NDO 24.00	0.00	-0.52	28.75	18.50	0
Berkley W.R. Corp.	NDO 36.94	-5.59	-15.81	49.88	35.69	1074
Berkshire Hathaway Inc.	NYS 72100.00	-4.50	56.74	84000.00	41300.00	3
Capital RE Corporation	NYS 35.94	-4.80	15.81	38.69	24.94	98
Capital Transamerica Corp.	NAS 21.50	1.18	0.88	28.13	19.00	63
Centris Group Inc.	NYS 11.94	-2.55	7.00	14.81	9.69	198
Charwell Re	NYS 30.00	0.00	-11.11	36.25	28.25	106
Chubb Corp.	NYS 77.88	-10.42	2.98	88.81	63.50	4716
CIGNA Corp.	NYS 68.50	-5.19	19.22	74.50	45.63	1451
CNA Financial Corp.	NYS 41.69	-6.97	-2.10	53.25	36.44	557
CNA Surety	NYS 13.75	-5.98	-10.93	16.75	12.88	433
EMC Insurance Group Inc.	NDO 12.81	-8.07	-3.30	15.88	12.25	32

	Price	Weekly % change	Year to date % change	52-week High	Low	Vol.(000)
ESG Re Limited	NDO 22.25	-3.26	-5.32	28.88	19.88	121
Enhance Financial Services	NYS 33.56	-7.09	12.82	37.56	22.75	386
Everest Reinsurance	NYS 37.50	-1.80	-9.09	45.25	33.00	921
Executive Risk Inc.	NYS 57.75	-7.60	-17.28	75.75	49.31	179
EXEL Ltd.	NYS 79.13	-4.02	24.85	84.00	52.75	1051
Fremont General Corp.	NYS 58.00	-1.38	5.94	62.13	36.75	402
Frontier Insurance Group	NYS 19.63	-8.19	-14.21	35.69	18.19	724
Gainsco Inc.	NYS 6.00	-4.95	-29.41	10.19	5.75	1596
General RE Corp.	NYS 243.50	-5.02	14.86	275.00	191.00	1693
Gryphon Holdings	NDO 15.38	-4.28	-8.21	19.38	14.75	253
Harleysville Group	NDO 22.63	5.23	-5.73	28.50	18.38	561
Hartford Steam Boiler	NYS 53.81	-5.90	46.26	59.56	33.25	439
HCC Insurance Holdings	NYS 21.44	-4.19	0.88	32.69	15.63	268
ING Groep N.V.	NYS 75.00	0.50	77.25	76.75	38.88	341
IPC Holdings Ltd.	NDO 27.38	-3.10	-14.95	33.25	27.38	216
Hartford Financial Services	NYS 52.69	-10.80	12.63	60.00	39.25	2260
LaSalle Re Holdings Ltd.	NYS 35.88	-1.37	1.41	42.94	30.50	85
Lile Re Corp.	NYS 89.00	4.63	35.53	89.00	49.75	432
Lincoln National	NYS 94.63	0.46	21.12	96.38	64.63	1030
MAIC Holdings Inc.	NYS 27.38	-0.68	2.20	30.38	20.13	52
Market Corp.	NYS 178.44	-2.53	14.29	187.00	135.00	9
MBIA Insurance Group	NYS 71.00	-8.09	6.27	80.94	56.50	1094
Meadowbrook Insur. Group	NYS 29.50	-2.88	13.19	35.00	21.88	26
Mid Ocean Ltd.	NYS 80.25	-3.75	47.93	84.88	52.75	547
MMI Cos. Inc.	NYS 21.69	-4.93	-13.68	27.88	20.75	82
Mutual Risk Mgmt. Ltd.	NYS 35.69	-7.75	19.21	39.94	22.63	642
NAC Re Corp.	NYS 50.81	-4.58	4.10	55.88	43.50	298
Navigator Group	NDO 18.13	-3.33	-3.49	22.50	17.00	11
Nobel Insurance Ltd.	NDO 0.59	5.56	-95.48	1.00	0.40	144
Nymagic Inc.	NYS 28.31	1.12	2.72	34.25	21.69	19
Ohio Casualty Corp.	NDO 44.50	-3.78	-0.28	51.75	41.56	459
Old Republic Int'l	NYS 27.88	-5.51	12.44	32.25	20.56	1205
Orion Capital Corp.	NYS 53.89	-8.62	15.61	59.25	39.06	516
Partner Re Ltd.	NYS 49.88	-3.04	7.55	52.50	39.44	99
Penn-America Group Inc.	NDO 12.50	-3.85	-39.02	23.00	12.25	63
Pennsylvania Manufacturer's Co	NDO 20.06	-3.31	19.78	23.75	16.25	23
Philadelphia Cons. Holding	NDO 20.56	-2.37	15.85	24.38	15.50	144
PXRE Corp.	NYS 30.06	0.84	-9.42	35.25	29.00	63
Reliance Group Holdings	NYS 18.25	-1.68	29.20	19.81	11.63	1336
Reliastar Financial Corp.	NYS 50.75	-1.81	23.22	52.44	33.63	1285

	Price	Weekly % change	Year to date % change	52-week High	Low	Vol.(000)
RenaissanceRe Holdings Ltd.	NYS 42.88	-5.90	-2.83	50.75	38.19	945
Risk Capital Holdings	NDO 24.88	0.51	11.80	25.50	19.75	567
RLI Corp.	NYS 44.00	-2.22	10.41	45.63	28.38	53
St. Paul Companies	NYS 38.25	-8.66	-6.78	47.19	35.25	1980
SCOR	NYS 68.19	-4.63	42.80	72.75	39.25	14
SAFECO Corp.	NDO 45.25	-3.98	-7.18	56.00	42.50	2934
SCPIE Holdings Inc.	NYS 32.88	-4.71	13.61	38.38	24.31	NA
Seibels Bruce Group	NDO 7.00	0.00	-6.67	8.94	6.63	30
Selective Ins. Group	NDO 21.50	-1.71	-20.37	29.25	21.50	188
Terra Nova Insurance Co. Ltd.	NYS 30.13	-8.71	14.76	35.00	22.25	202
TIG Holdings	NYS 21.75	-5.69	-34.46	36.56	21.75	492
Tokio Marine & Fire	NDO 51.50	1.35	-10.82	66.00	41.25	215
Torchmark Corp.	NYS 44.31	-3.54	5.04	49.81	34.81	1108
Transatlantic Holdings	NYS 85.63	3.63	19.76	85.63	67.44	282
Travelers Property Casualty	NYS 44.13	-1.12	0.28	46.06	34.88	1809
Travelers Corp.	NYS 66.50	-7.24	23.43	73.50	42.00	21435
Trenwick Group Inc.	NDO 34.38	-11.29	-8.64	41.75	33.38	67
Unico American Corp.	NDO 15.00	1.69	22.45	18.13	10.75	72
United Fire & Casualty	NDO 39.75	-3.34	-10.17	47.00	37.88	11
Unitrin	NDO 65.25	-5.09	0.97	74.13	56.25	381
UNUM Corp.	NYS 52.69	-10.60	-3.10	59.63	40.69	5178
Vesta Insurance Co.	NYS 18.44	-11.14	-68.95	64.75	17.94	266
Zenith National Ins.	NYS 28.19	0.22	9.47	30.50	24.50	76
INSURERS/REINSURERS AVERAGE		-3.63	8.89			

HEALTH MAINTENANCE ORGANIZATIONS

Foundation Health Systems Inc.	NYS	21.50	-13.13	-3.37	33.94	21.50	1109
Humana Inc.	NYS	26.94	-9.45	29.82	32.13	18.44	5465
Oxford Health Plans	NDO	9.13	-35.11	-41.37	89.00	9.13	16623
Pacificare Health Sys.	NDO	74.00	-14.64	47.26	88.88	46.75	308
Safeguard Health Enter.	NDO	8.56	-2.78	-51.39	14.88	6.00	100
Sierra Health Services	NYS	20.00	-12.81	-10.78	27.75	-20.00	100
United Healthcare Corp.	NYS	56.75	-8.65	14.21	73.94	42.44	6300
Wellpoint Health Networks	NYS	69.69	-5.27	64.94	75.00	38.63	100
HMOs	AVERAGE		-12.73	6.17			
ALL COMPANIES	AVERAGE		-5.08	9.90			



*We taught shipping clerk Joe Mattingly
the safest ways to lift packages.
[Especially one that's quite a handful.]*

Liberty Mutual is committed to reducing the impact of low back pain, so someone like Joe won't miss work, or the occasional piggyback ride with daughter Lisa. At our research center we analyze how variations in bending habits can affect the risk of low back pain. Our research has led to innovative products like Computask[™], a software program we use to evaluate workplace tasks and help recommend ways to ensure that Joe and daughter Lisa live safer, more secure lives.

➤ *There's more information we'd like to share. So please call John Ryan
at (617) 574-5842 or visit our website at <http://www.libertymutual.com>*

**LIBERTY
MUTUAL.** 
The freedom of Liberty