

business insurance

Underwriters unload one of two salvaged satellites

WASHINGTON—One of the two salvaged satellites that insurance underwriters have been trying to sell since they were recovered on a 1984 space shuttle mission has been sold, according to the U.S. underwriter who negotiated the sale.

The \$79 million Palapa B2 has been sold to an unidentified party, said James Barrett, president of
Continued on next page

Reporting weekly for corporate risk, employee benefit and financial executives/\$1.50 a copy; \$60 a year
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House ready to act on risk retention bill

By JERRY GEISEL

WASHINGTON—House members' enthusiasm for a bill to expand the federal Risk Retention Act increases the chances the legislation will clear Congress this year.

House members say they are eager to act on the measure, H.R. 5225, which would allow businesses to pool liability risks and buy commercial liability insurance on a group basis, following the Senate's 96-1 approval of the bill earlier this month (BI, July 21).

At a House Commerce, Transportation and Tourism Subcommittee hearing last week, representatives endorsed quick action on the legislation.

"I believe it is time for action," said Rep. Norman Lent, R-N.Y.

A broad cross-section of businesses and trade associations want the risk retention legislation to pass this session, added Rep. Ron Wyden, D-Ore.

Passage of the legislation "is one step we ought to take now," Rep. Wyden added.

Lobbyists agree that it's likely the House will approve risk retention legislation this year.

"There is no reason why the House should not be able to move quickly to pass the legislation this year," said Jim Anderson, director of government relations for the National Assn. of Wholesaler-Distributors in Washington.

To ensure smooth passage of risk retention legislation, Reps. Wyden and Lent last week introduced a measure that is substantially the same as the bill approved by the Senate on July 17.

The new House measure replaces an earlier bill introduced by Rep. Wyden, H.R. 4301, that is substantially different from the Senate-approved bill.

The decision by House committee members to follow the Senate's approach to risk retention legislation rather than chart their own course augurs well for congressional approval, observers say.

If a measure similar to the Senate bill can clear the full Energy and Commerce Committee and the House, that would eliminate the need for a time-consuming conference committee to resolve differences between House and Senate versions.

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LTV bankruptcy filing may boost PBGC levy

By JERRY GEISEL

WASHINGTON—LTV Corp.'s bankruptcy filing could wallop the Pension Benefit Guaranty Corp. with its first multibillion-dollar claim and eventually lead to a \$20 PBGC premium.

If Dallas-based LTV terminates its underfunded pension plans, the agency could be forced to guarantee as much as \$2 billion in benefits that LTV promised to pension plan participants, but did not fund, says PBGC Executive Director Kathleen P. Utgoff.

Such a claim would not only set a record, but it also would exceed the \$1.7 billion deficit the agency has incurred over the past dozen years by taking over about 1,100 underfunded pension plans.

And, such a claim inevitably would force the PBGC to go to Congress to seek yet another premium increase to pay off the PBGC's deficit.

"There would be enormous pressures on an already financially troubled agency," Ms. Utgoff said.

If the LTV plans are terminated, Ms. Utgoff estimated that employers' annual PBGC premium could approach \$20 per defined benefit plan participant.

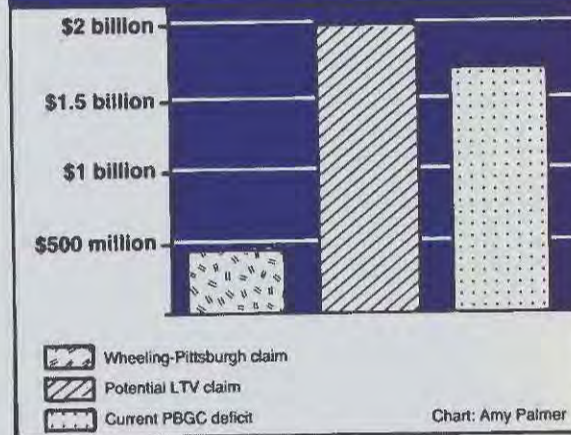
Earlier this year, Congress increased the premium to \$8.50 from \$2.60. But, Ms. Utgoff said shortly after the legislation was passed that a \$13.50 premium was necessary to pay obligations stemming from the largest claims faced by the agency: the 1985 terminations of underfunded pension plans by Wheeling-Pittsburgh Steel Corp. and Allis-Chalmers Corp.

The PBGC estimates that the Wheeling-Pittsburgh termination could cost the agency \$475 million, while the Allis-Chalmers claim is estimated at \$165 million.

A \$2 billion LTV claim would require at least an additional \$6 premium increase, Ms. Utgoff said.

When the PBGC was formed in 1974, employers paid an annual premium of only \$1 per plan participant.

How LTV's potential claims stack up



Pension experts also warn that an LTV termination may be only the beginning of a wave of terminations that could push the PBGC premium still higher.

For example, if LTV can shed its pension liability, its competitors in the troubled steel industry would be pressured to reduce their pension costs by likewise folding their plans.

"There is a snowball effect," said Ed Davis, managing director in the New York office of benefit consultant William M. Mercer-Meidinger Inc.

While the exact pension liabilities of other steel companies are not known, their combined liabilities are thought to exceed \$1 billion.

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Mutual Fire, Marine scrambles for cash

By MICHAEL BRADFORD

PHILADELPHIA—In an attempt to save itself from liquidation, Mutual Fire, Marine & Inland Insurance Co. is working on a plan to issue interest-bearing notes to its cedents and certain claimants while selling the bulk of its direct insurance business to an unrelated insurer.

The company has been under voluntary supervision by the Pennsylvania Insurance Department since June 13 and is not writing new business or paying claims during the 90-day period.

Mutual Fire, Marine's current surplus is less than \$10 million compared with \$23.7 million at year-end 1985.

The insurer's financial difficulties stem from defaults by limited partnerships on loans the insurer had guaranteed and growing underwriting losses on reinsurance business it assumed (BI, June 30).

Mutual Fire, Marine's management acknowledges that the rescue plan needs a

high percentage of participation by ceding companies, retrocessionaires and lenders involved in the financial guarantee program if it is to succeed.

The Insurance Department is expected to decide in mid-September, at the end of the 90-day supervision, if sufficient progress has been made to continue to implement the rescue plan. Otherwise, the department could extend the supervision or move to liquidate the mutual insurer.

"I have good days and bad days," says Robert C. Quigley, Mutual Fire, Marine's treasurer when asked how certain he is of the plan's success.

"It's doable," he says, but adds that the insurer will need as close to 100% participation as possible for the plan to be acceptable to the department.

"We'll have to be there in terms of having a consensus from the cedents and lenders," said Mr. Quigley, referring to companies that bought reinsurance from Mutual Fire, Marine and the lenders involved in the

'I have good days and bad days,' says Robert Quigley of Mutual Fire, Marine in predicting the plan's success.

financial guarantee program.

"It will be up to the state to come in and extend the supervision, lift it, or do something else," he added.

Mutual Fire, Marine, which ranked fifth last year among U.S. surplus lines insurers based on \$72.9 million in non-admitted premiums written in 1984, stopped writing new or renewal treaty reinsurance in March and direct insurance in April.

If Mutual Fire, Marine were liquidated, there would be no guaranty fund coverage for surplus lines or reinsurance and only

about nine states' guaranty funds could cover the financial guarantee claims. Guaranty fund laws are being amended to exclude payment for financial guarantees.

In 1985, Mutual Fire, Marine's premium volume fell far short of the insurer's expectations. Although the company had said it intended to slow its writings, the \$60.6 million in gross premiums was about half what the insurer expected to write last year.

Mutual Fire, Marine recorded a net loss of \$12.8 million in 1985, compared with a \$1.2 million loss the year before. Its year-end 1985 capital and surplus of \$23.7 million was down from \$35.5 million at the end of 1984.

The financial guarantee business, which was underwritten on behalf of the insurer by two managing general agents in 1983 and 1984, involved the issuance of surety bonds securing repayment of loans to around 91 lenders. The loans had been made to investors in limited partnerships, primarily oil and gas and real estate ventures.

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Beatrice liability underwriter denying coverage for toxic chemical lawsuit

Page 2

Investors expected to contribute \$185 million to form three new reinsurance companies

Page 3

Underwriter says satellite sold

Continued from page 1

International Technology Underwriters Inc. "A contract has been received by underwriters and approved," said Mr. Barrett. "Discussions continue for the sale of the Westar VI."

Brokers believe Palapa has been sold to the Indonesian government, which owned the probe when it failed to reach proper orbit in 1984, but Mr. Barrett would not comment on that report. He did say, however, the probe has not been sold to Teresat Inc. of New York, which also was negotiating to buy the satellite.

Mr. Barrett would not disclose the sale price, although underwriters said earlier they wanted \$30 million to \$40 million for each satellite (*BI*, Oct. 29, 1984).

U.S. underwriters led by Intec and Lloyd's of London underwriters became owners of the two satellites when they paid the owners about \$180 million after the craft failed to reach proper orbit in February 1984. The satellites were salvaged on a mission financed with \$10 million from the underwriters in November 1984 and are in storage at Hughes Aircraft Co. in California. The satellites need to be refurbished, Mr. Barrett said.

Rostenkowski opposes treaty

WASHINGTON—House Ways and Means Committee Chairman Dan Rostenkowski, D-Ill., doesn't like a proposed U.S.-Bermuda tax treaty and has complained to the Treasury Department that the treaty was signed without "meaningful" input from his committee and other members of Congress.

The proposed treaty, signed July 11, is awaiting Senate ratification. The treaty would exempt from U.S. federal excise taxes premiums paid by U.S. companies to Bermuda-based insurers and reinsurers, retroactive to Jan. 1, 1986 (*BI*, July 21).

"This proposed treaty is in direct contravention of the House and Senate tax reform proposals," Mr. Rostenkowski said in a letter to Treasury Secretary James A. Baker III.

Mr. Rostenkowski assured Secretary Baker that he and "many other members of Congress remain in favor of strong exchange of tax information agreements with other countries. . . . However, I strenuously object to the trading of tax benefits with countries that have no tax system in order to purchase such an exchange. Such a trade in this case sets an extremely bad policy precedent."

A spokesman said the Treasury would respond this week.

Meanwhile, Nuclear Mutual Ltd. and Nuclear Electric Ltd. in Bermuda have postponed until the end of the year consideration of a move to Barbados. Barbados-based companies are exempt from federal excise taxes under a similar treaty ratified earlier this year. The exemption would save the captives about \$8 million a year.

N.Y. finds no insurer collusion

NEW YORK—Insurers did not conspire to fix prices and limit availability, the New York Insurance Department has determined from the testimony of seven insurers on the pricing and availability of commercial general liability insurance.

"Although it is impossible to conclude for certain from the testimony alone that the companies did or did not conspire, their sworn testimony was that they did not. . . ." the department said in a published summary of the testimony released last week.

"Senior executives. . . of each of the companies testified under oath that they never met with other insurers in an effort to fix or raise rates or affect market shares, or to agree on a concerted plan to withdraw from certain lines of insurance in an effort to obtain tort reform."

Principals testifying were CIGNA Corp., Hartford Insurance Group, Utica National Insurance Group, Chubb Corp., American International Group Inc., Aetna Life & Casualty Co. and Fireman's Fund Insurance Cos. In addition, General Reinsurance Corp. was called on, as were the Insurance Services Office, Marsh & McLennan Cos. Inc. and its reinsurance brokerage subsidiary, Guy Carpenter & Co. Inc.

While the department decided it could not "pinpoint any one economic, social or judicial event" as the cause of the pricing and availability problems, it did conclude that insurers "are in part responsible for creating the competitive environment which spurred the crisis."

Briefly noted

A hearing on whether Constellation Reinsurance Co. should be liquidated was postponed to Aug. 14 by a New York State Supreme Court judge at the company's request, said a New York Insurance Department spokesman. Constellation reported a \$28.7 million policyholder surplus deficit as of Dec. 31 (*BI*, July 7). . . . **The Assn. of Biotechnology Companies** has asked Johnson & Higgins to investigate the possibility of forming an offshore captive insurer, said a J&H spokesman. The proposed company would provide product liability, directors and officers liability and other coverages now unavailable to biotechnology firms. . . . **Xerox Corp.** reported a 13% increase in second-quarter earnings to \$135 million, fueled by increasing profits at its Crum & Forster unit. Crum & Forster had earnings of \$60 million in the second quarter, compared with \$7 million in the second quarter of 1985. . . . Arthur Andersen & Co. has reached an agreement in principle with its former client, Seattle-based **Seafirst Corp.**, for an out-of-court settlement of a Seafirst lawsuit, an Andersen spokesman said. The suit alleged that audits should have warned bank officials earlier about problem energy-related loans (*BI*, July 14).

errors & omissions

● George E. Corde has been elected executive vp of Briarcliff Manor, N.Y.-based Frank B. Hall & Co. Inc., not just the broker's New York office, as was incorrectly reported in the July 21 issue.

American Mutual refuses Beatrice cover in toxic suit

By STEPHEN TARNOFF

CHICAGO—American Mutual Liability Insurance Co. is denying coverage for defense costs and any potential indemnity Beatrice Foods Co. must pay in a major toxic chemical lawsuit being tried in federal court in Boston.

The Wakefield, Mass.-based insurer sued Beatrice earlier this year in U.S. District Court in Chicago contending that the company breached conditions of policies American Mutual wrote during the 1970s for John J. Riley Co., with which Beatrice merged in 1978.

American Mutual contends that Beatrice failed, as required by the policies, to give timely notice of the toxic chemical litigation; incurred substantial expenses in the litigation without the consent of American Mutual; and treated the lawsuit as a self-insured claim.

In an answer and counter-claim, however, Beatrice contends that American Mutual breached its duty to defend; that the insurer was not prejudiced by the alleged late notice; that failure to give notice earlier was excusable; and that American Mutual was merely seeking a means to avoid providing coverage.

At issue in the American Mutual lawsuit is who will pay the very substantial defense costs and potentially millions more in indemnity to 33 plaintiffs who are suing Beatrice and W.R. Grace Co. in U.S. District

Court in Boston in the case of *Anderson vs. Cryovac*.

The first phase of the trial, which began March 10, ended two weeks ago, and as of late last week the jury was still deliberating whether chemicals disposed of by the two companies contaminated two municipal wells and whether the contamination was caused by negligence.

A verdict in favor of Beatrice and Grace in this first phase would end the litigation in favor of the defendants. However, that would leave unresolved the issue of whether American Mutual must pay the substantial defense costs to Beatrice.

Last week, spokesmen for Beatrice and American Mutual declined to comment on how much Beatrice had paid in defense costs in the four-year-old case, or what the limits of the policies are.

However, attorneys familiar with toxic tort litigation estimate that defense costs in such a case could easily amount to at least \$2 million dollars.

The plaintiffs in *Anderson* allege that chemicals from land owned by the two companies contaminated two wells in Woburn, which is located about 12 miles north of Boston, and that plaintiffs contracted various diseases, including leukemia, after drinking the water.

The wells were turned on during the mid-1960s and used intermittently until 1979.

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Surplus lines questionnaire deadline near

Time is running out for surplus lines marketers and insurers that wish to be included in *Business Insurance's* annual excess/surplus lines directories.

Underwriting managers, managing general agents, wholesale brokers and surplus lines insurers that have not already submitted a completed directory questionnaire to *Business Insurance* should contact Directory Editor Marilou Jones immediately by calling 312-649-5279.

Business Insurance will publish two directories in its Aug. 11 issue, which will contain its annual spotlight report on the excess/surplus lines market.

One directory will contain information on underwriting managers, managing general agents and wholesale brokers.

The other directory will list insurance companies that write more than 50% of their gross premium volume on a non-admitted basis.

The directories are published by *Business Insurance* as an editorial service; there is no charge for companies that want to be listed in the directories.

Lloyd's earmarks funds to cover PCW claims

By STACY SHAPIRO

LONDON—Lloyd's of London is earmarking 84% of the assets in its Central Fund to pay the maximum potential claims owed by members of PCW Underwriting Agencies Ltd. so PCW syndicate members can meet this month's Lloyd's solvency test.

Lloyd's set aside a record 225 million pounds (\$337.5 million) from its 260 million pound (\$390 million) Central Fund on July 18 to pay potential losses faced by PCW syndicate members.

A Lloyd's spokesman believes 225 million pounds represents the maximum amount of losses with which the PCW syndicates will be faced. Additional Underwriting Agencies (No. 3) Ltd., which manages the PCW syndicates, has not yet totaled the exact amount of the losses faced by the syndicates, the spokesman said, adding that the amount reserved from the Central Fund represents "the worst-case scenario."

Earmarking the assets from the Central Fund allows about 320 PCW syndicate members, including Lloyd's Chairman Peter Miller, to meet the July 25 solvency requirement and gives them time to negotiate a settlement with Lloyd's and 37 other defendants for payment of PCW losses.

Mr. Miller has said he expects a settlement by the end of the year. The earmarking "is solely a bridging operation for the purposes of this year's solvency test," Lloyd's announced. "This arrangement will continue until a settlement of the PCW affair is negotiated or until June 30, 1987, whichever is the earlier."

The Central Fund is designed to protect the policyholder if a Lloyd's member cannot pay a claim. Lloyd's says tapping the fund is a "last resort."

Lloyd's will require that all members' agents retain PCW syndicate members' personal reserves, special reserve funds and other assets to meet PCW losses, Lloyd's said.

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inside

✓ A New York security firm is ordered by a New York jury to pay more than \$1 million in damages to a jewelry manufacturer for failing to respond for more than 11 hours to burglar alarms at the company's Manhattan offices. **PAGE 27**



✓ This week's editorial stresses the importance of legislation expanding the federal Risk Retention Act to meet the needs of businesses and professionals still finding it difficult to secure or afford the limits of liability insurance they need, as well as to ensure that this long-term alternative to commercial insurance is available when the next capacity-short insurance marketplace arrives. **PAGE 8**

✓ Financial analyst Myron M. Picoult says that while fears that too much capital is flowing into the property/casualty insurance industry are overstated, the possibility still exists that the underwriting cycle could quickly turn competitive again. **PAGE 39**

✓ In the Perspective section, Los Angeles attorney Franklin L. Damon explores whether "families" of insurance companies can be held liable for the actions of their separate affiliates. **PAGE 21**

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Investors forming three new reinsurers

By DOUGLAS McLEOD

NEW YORK—Attracted by the continuing hard reinsurance market, investors have contributed—or are expected to contribute—at least \$185 million in capital to form three new reinsurance companies.

The reinsurers, now in various stages of development, are:

- Putnam Reinsurance Co., a casualty reinsurer organized by American International Group Inc., which will be capitalized with \$100 million (BI, March 31; July 21).
- United Republic Reinsurance Co., a Houston-based reinsurer capitalized with \$25 million from the United Savings Assn. of Texas, a savings and loan corporation.
- An as-yet unnamed reinsurance company planned by a group of individuals that includes William J. Gilmartin, 59, who last week announced his resignation as senior vp of CNA Insurance Cos. in Chicago.

Mr. Gilmartin said that his group hopes to raise \$60 million to \$100 million through a public stock offering later this year.

Putnam Re is the new name for the U.S. branch of S.A.I. Industrial Assurance Co. of Turin, Italy, which had been a member of a pool of insurers managed by North American Managers Inc., an AIG unit.

Putnam is writing middle- and upper-layer excess-of-loss treaty reinsurance for work comp and general casualty risks, as well as facultative reinsurance.

The company changed its name in April and filed a recapitalization plan with the New York Insurance Department under which Putnam would issue 1 million new shares valued at \$100 each, a department spokesman said.

AIG holds 200,001 Putnam shares for a total investment of \$20 million, an AIG spokeswoman said. Transatlantic Reinsurance Co., which is owned by AIG and six other unaffiliated insurers, holds 100,000 shares for a \$10 million investment, she said.

The remaining 699,999 shares have been privately placed with investors not affiliated with AIG, the Insurance Department spokesman said.

The AIG spokeswoman confirmed that Putnam has

received commitments for capital contributions of about \$70 million from four other investors, but she would not name them.

However, John Verel, vp-investment with New York-based Associated Madison Cos., confirmed that Associated Madison, an American Can Co. unit, is one of the four investors.

The New York Insurance Department has approved AIG's investment in Putnam and the applications of the other four investors, a department spokesman said.

Putnam, which started writing business July 1, is being managed by the officers and staff of Transatlantic Reinsurance, the AIG spokeswoman confirmed.

The new reinsurer is writing middle- and upper-layer excess-of-loss treaty reinsurance for workers compensation and general casualty risks, as well as facultative reinsurance, the spokeswoman said.

Putnam's maximum line is \$2 million per risk, she said, adding that brokers may make a single underwriting submission for coverage with both Transatlantic Reinsurance and Putnam.

Licensed in 34 states, Putnam intends to write U.S.-source business and "home foreign" business, consisting of the foreign risks of U.S. companies, according to a June 30 letter
Continued on page 34

Evacuees seek \$600 million

By JUDY GREENWALD and JENNIFER PELLET

MIAMISBURG, Ohio—Lawsuits filed since the July 8 train derailment that led to the evacuation of more than 30,000 people in a southwestern Ohio town seek more than \$600 million in punitive and compensatory damages.

No fatalities or serious injuries have been reported as a result of the accident, which released a cloud of toxic white phosphorous gas, a local fire department official said.

The evacuation is believed to be the largest in history following a train derailment. Federal authorities are investigating the cause of the accident.

Named as defendants in a suit filed in U.S. District Court for the Southern District of Ohio, Western Division, were CSX Corp., based in Richmond, Va., and subsidiaries CSX Transportation Inc. in Richmond and the Bal-

timore and Ohio Railway Co. in Columbus, which operates the railroad. Also named was the Columbus, Ohio-based Union Tank Car Co., which manufactured the tank car carrying the phosphorous.

One suit, which seeks certification as a class action, states that more than 35,000 people were evacuated as a result of the derailment, and seeks damages of at least \$10,000 per class member.

The suit was filed by the Cincinnati-based law firm of Waite, Schneider, Bayless & Chesley, one of the firms that had been named to represent victims of the Union Carbide Bhopal disaster.

The second suit, which was filed in the Court of Common Pleas, County of Montgomery, in Ohio, names CSX Transportation Co. as a defendant, as well as chemical firms Albright & Wilson Inc., based in Fernald, Ohio, and ERCO Co. Inc. in Islington, Ontario.
Continued on page 6

Midwives find liability cover

By JERRY GEISEL

WASHINGTON—Licensed nurse-midwives, after months of scouring the market, are getting professional liability insurance coverage.

But, they will have to pay more than double the premium for one-fourth the limits and accept coverage on a claims-made policy rather than an occurrence form.

The American College of Nurse-Midwives in Washington last week announced the formation of a new insurance program, written by CNA Insurance Cos. and reinsured by nine other insurers, to provide up to \$1 million of professional liability coverage to licensed nurse-midwives.

"It is a happy day," said ACNM President Susan Yates, noting that coverage purchased by many members on a stop-gap basis through other nursing groups is now expiring.

A previous ACNM group program, written by Mutual Fire, Marine & Inland Insurance Co. of Philadelphia and covering about 1,300 of the association's 2,500 members, was canceled a year ago by the insurer.

Mutual Fire, Marine is now under voluntary supervision of the Pennsylvania Insurance Department.

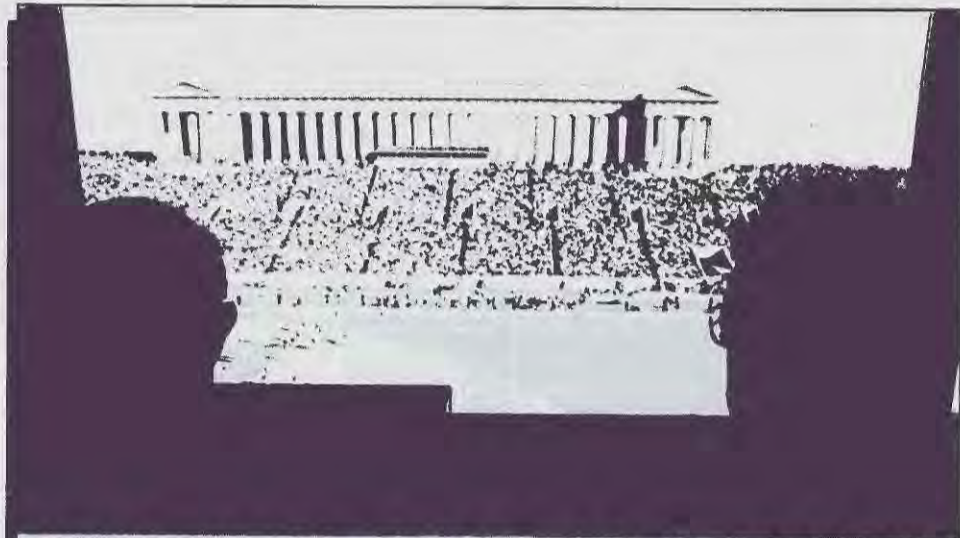
State approval of the new claims-made policy by all 50 states is expected quickly and policies are expected to be written in the next few weeks, ACNM officials said.

While the nurse-midwives are relieved to have found coverage, members will pay more than double the premiums for one-fourth of coverage they had paid under the Mutual Fire occurrence-based program.

For example, the basic premium for a policy with a \$250,000 annual per-claim limit and \$250,000 annual aggregate limit, will be \$2,500, said James J. Canavan, senior manager, professional liability special markets at CNA. The premium to be charged for policies with \$500,000 and \$1 million limits was not available last week.

The nurse-midwives had paid about \$1,000 for \$1 million of coverage written on an occurrence form through the Mutual Fire program (BI, June 24, 1985).

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Liability insurance problems threaten to empty the Chicago Park District's Soldier Field, home of the Super Bowl-champion Chicago Bears.

Short of goal

Lack of cover could break Bears' lease

By MEG FLETCHER

CHICAGO—The Chicago Bears say they will decide this week whether they will abandon the Chicago Park District's Soldier Field because the stadium owner is failing to obtain adequate insurance under the terms of the Bears' long-term lease.

The park district earlier this month said it had acquired \$49 million in liability insurance excess of \$26 million in an effort to satisfy the Chicago Bears, which have been questioning the validity of their lease at Soldier Field.

The lease, which locks the Super Bowl champions into playing at the lakefront stadium until the year 2000, requires that the Bears be named as insureds under the park district's liability insurance and that the limits of the insurance be at least \$100 million.

The Bears are complaining that not only is the district short of the required limits but also that the excess insurance purchased to date requires participation in claims payments.

"The Bears are going to be forced to make other arrangements early next week and will do so," Don H. Reuben, a partner with Isham, Lincoln & Beale in Chicago who represents the Bears, threatened in a letter sent to the park district last week.

However, Mr. Reuben said in an interview last week that the final decision would be made this week.

"No one in private industry would behave this way," Mr. Reuben said of the park district's failure to satisfy the insurance requirements. "They can get it—it's just a question of dollars."

The \$49 million in excess coverage,
Continued on page 34

N.Y. allows restrictive claims-made forms

By ROBERT A. FINLAYSON

NEW YORK—New York regulations governing claims-made liability insurance policy forms allow claims-made forms that are more restrictive than the one developed by the Insurance Services Office.

While the rules, which take effect Aug. 1, limit claims-made coverage to certain specialty and jumbo risks, they don't include many of the provisions for which risk managers and brokers fought so hard during the debate over ISO's claims-made commercial general liability form.

John Reiersen, chief examiner with the New York Insurance Department's property/casualty bureau, acknowledges that ISO's claims-made CGL policy "goes far beyond

our minimum standards in many areas."

But he does not consider this a problem for insurance buyers because of the severe restrictions the department has placed on the use of claims-made forms.

The department intended these regulations to prevent insurers from marketing claims-made policies to unsophisticated insurance buyers, he says.

However, risk managers are concerned that the New York rules would wipe out many of the protections now built into ISO's claims-made form by allowing insurers to write claims-made coverage in New York on forms that comply with the state's minimum standards but are less favorable to the policyholder than the ISO form.

"While I welcome the limitations New

York has imposed on the use of claims-made coverage, I am deeply concerned that the New York Insurance Department has eliminated many of the safeguards which RIMS and other groups fought so hard to see included in ISO's CGL form," says Jon Harkavy, general counsel and director of governmental affairs for the Risk & Insurance Management Society in New York.

Meanwhile, ISO is disappointed by New York's action to limit use of claims-made coverage, a spokeswoman for the insurer trade group said, adding that ISO will "aggressively pursue" approval of its claims-made CGL form for all lines of liability insurance in New York and in the 10 other states that limit or prohibit its use.
Late last year, the New York Insurance

Department rejected ISO's claims-made CGL policy, pending the promulgation of regulations governing the use of claims-made coverage. However, the department did approve ISO's new occurrence CGL policy.

To date, 39 states have approved ISO's claims-made CGL form, five states—including New York—have or are expected to restrict its use, while six others still bar its use entirely (BI, July 21).

In announcing the new claims-made rules, the New York Insurance Department said claims-made policies "tend to provide less protection than occurrence coverage" and are "more complicated and confusing."

"On balance, across-the-board application
Continued on next page

Claims-made

Continued from previous page of the claims-made policy form for all types of liability coverages would be an unwarranted and inappropriate change in the traditional insurance system and, therefore, not in the public interest," the department concluded.

But, the department said it will continue to approve claims-made policy forms for specific types of commercial liability risks, where substantial availability problems have been experienced, or where risks embody exposures with long-tail or latent injury characteristics.

In general, New York's rules allow the use of claims-made policies for specialty lines, like directors and officers liability, and ultra-hazardous risks, such as environmental impairment liability.

The rules also allow insurers to write large business risks on a claims-made basis, but only when

the policy has been individually approved by the department. This requirement takes on considerable importance in view of a recent *Business Insurance* survey that found insurers are looking to write most large commercial accounts on a claims-made basis (BI, July 21).

In another important requirement, the rules state that commercial umbrella policies can be written on a claims-made basis only when the underlying coverage is permitted to be written on a claims-made form. However, with excess insurers preferring the claims-made form, there may be times when only claims-made excess insurance is available for risks not approved for the claims-made form on a primary basis.

Most of the potential problems Mr. Harkavy and others see in New York's minimum standards relate to the application of the extended reporting period or tail coverage.

This tail coverage is important because if policies purchased after

New York's rules allow claims-made forms for specialty lines and certain jumbo risks.

the first claims-made policy have a later retroactive date than the first claims-made policy or are written on an occurrence basis, there would be a gap in coverage for claims filed after the expiration of the first claims-made policy.

The New York rules require insurers to offer a 60-day automatic extended reporting period on claims-made policies. For public entities, this automatic tail must be 90 days. ISO's policy form includes a five-year automatic tail for no additional premium.

Also, the New York rules specify that an insurer need only offer pol-

icyholders a three-year optional tail for an additional premium. And, for certain risks—professional liability, D&O, and excess insurance—New York requires insurers to offer only a one-year optional tail.

This optional tail coverage must have limits equal to 100% of the original policy limits, when a claims-made policy has been in effect for three or more years. But the insurer need only offer optional tail coverage limits of 50% of the original policy limits to policyholders that have had claims-made coverage for fewer than three years. The rules do not specify how much premium insurers can charge for optional tail coverage.

In addition to the automatic tail, the ISO claims-made form mandates that policyholders be offered tail coverage with limits equal to the expiring policy's aggregate limit. This coverage, however, responds only to claims involving incidents reported 60 days after

the policy expires and to claims filed more than five years after the policy expires for incidents that were reported during the policy period or within the 60-day tail.

The premium for this tail coverage under the ISO form can be no more than 200% of the original policy premium.

In another difference between the New York rules and the ISO form, New York specifies that coverage under a claims-made form is triggered by written notice of a claim or lawsuit from the policyholder or the claimant. This does not preclude an insurer from using written notification of an incident to trigger coverage, the rules say.

This appears to be more stringent than the ISO form, which allows verbal or written notice of a claim to trigger coverage.

The New York regulations do include one provision that is more favorable to the policyholder than the ISO policy form: Only the policyholder may change the retroactive date of a claims-made policy.

But RIMS' Mr. Harkavy says this requirement offers little protection, because an insurer could simply tell a policyholder that the policy will not be renewed unless the policyholder agrees to change the retroactive date.

Other minimum standards set forth in the New York regulations are similar to provisions included in ISO's claims-made CGL policy. The rules state that for all claims-made policies:

- The policy must contain a notice "conspicuously displayed in bold face type" on the declaration page indicating that the coverage is written on a claims-made basis.

- When a policyholder changes from an occurrence to a claims-made policy, the new insurer must maintain in the policy file a signed statement from the policyholder acknowledging receipt of information from the insurer describing the "limited scope of coverage and potential coverage gaps inherent in the claims-made form." The department must approve this statement in advance.

- Insurers must advise policyholders 30 days prior to cancellation or non-renewal of the availability, premium and importance of buying tail coverage. This requirement does not apply to cancellations due to non-payment of premium or fraudulent activities by the policyholder.

- Insurers must give policyholders 60 days from the cancellation or renewal date to submit written acceptance of tail coverage.

Lines of business that can be written on a claims-made basis under the New York regulations include:

- "Jumbo" risks, defined as businesses with \$100 million or more in gross revenues and an annual CGL premium on a claims-made basis of \$500,000 or more, but only upon approval of the Insurance Department.
- Completed operations liability.

- Directors and officers liability.
- Employee benefit liability.

- Errors and omissions liability.
- Excess liability, defined as coverage written excess of \$1 million in primary coverage or a \$15 million self-insured retention.

- Pollution and environmental impairment liability.

- Public entity liability.
- Product liability.

- Professional liability, including medical malpractice liability.

Any commercial liability policy may be written on a claims-made basis without departmental approval if at least 90% of the liability insurance premium for the policy is attributable to product liability and/or completed operations liability risk.

The rules also prohibit motor vehicle insurance from being written on a claims-made basis. ■



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Train wreck

Continued from page 3

The phosphorous was being shipped from ERCO to Albright & Wilson when the train derailed. Both chemical firms are subsidiaries of London-based Albright & Wilson Ltd., according to an ERCO spokesman, who said the car was leased from the railroad by Albright & Wilson.

The second suit, which states at least 25,000 people were evacuated, seeks \$90 million in compensatory damages and another \$160 million in punitive damages.

Richard Shipley, a CSX senior claims agent, said the company is self-insured for losses stemming from personal injury claims, but would supply no further details.

CSX, however, is a member of Railroad Assn. Insurance Ltd., a captive recently formed by nearly a dozen railroads. RAIL provides \$50 million excess of \$50 million of claims-made liability coverage,

**The Federal
Railroad
Administration
blames the wreck
on a 'sun kink.'**

including third-party liability, evacuation and sudden and accidental pollution coverage.

Spokesmen for Albright & Wilson and ERCO would supply no insurance information, citing the litigation. A Union Tank official said company policy prohibited the release of insurance information.

On July 11, the Baltimore & Ohio Railroad placed an ad in The Journal Herald, a Dayton newspaper, asking anyone who had incurred "medical expense, hospital expense or similar expense" as a result of the derailment to contact the railroad.

A CSX spokesman said the claims office has received 1,000-1,200 calls. "Some claims have been settled. As to the number settled or in litigation, I do not have those figures," he said.

"The claims are being handled by our risk management department," he added. "No outside agency has been involved."

According to court papers, claimants who were reimbursed for expenses were asked to sign releases of all present and future claims related to the derailment.

The law firm representing the plaintiffs in Common Pleas Court—Louisville, Ky.-based Gardner, Ewing & Souza—filed a motion for a temporary restraining order to prohibit the defendants from obtaining these releases. But Judge John W. Kessler ruled the releases were acceptable.

Judge Kessler said, however, that "this court suggests, but does not order" that the railroad "in further demonstration of its good faith" notify claimants of the lawsuits before they sign the release.

According to Capt. Billy Ring of the Miamisburg Fire Department, 17,000 people in the Miamisburg vicinity originally were evacuated after the 15 cars, one of which contained the phosphorous, derailed and released the gas.

A subsequent attempt to remove the damaged chemical tanker led to a second leak that caused the evacuation of approximately 30,000 nearby residents, said Capt. Ring. The toxic cloud was about 1 mile wide, 10 to 15 miles long and 1,000 feet high, he said.

An investigation of the accident is in progress, confirmed spokesmen for both CSX and the National Transportation and Safety Board.

"There are basically three types of probable causes: the operation of the train—if it's moving too fast or too slow; the mechanics—a ball bearing overheating or something; or the tracks—poor maintenance or something obstructing the train's path," the NTSB spokesman said.

The Federal Railroad Administration, which also is investigating the cause of the accident, said the incident was caused by a "sun kink."

"A sun kink is when a rail is heated up by the sun and sort of warps, swinging out so the width between the tracks is wider than the wheels of the train," said the FRA spokeswoman.

"As the train went over that spot there were no rails for it to come in contact with, so it derailed," the spokeswoman added.

Although sun kinks are rare because rail is laid and anchored to permit heat expansion and cold contraction, "for some reason, in Miamisburg, the anchoring that holds the rail to the ties gave way, allowing it to come out of alignment when it expanded," said another FRA spokesman. ■

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opinions

Dreams that may come true

WE ADMIT TO being optimistic in March when we called for Congress to pass amendments expanding the scope of the Risk Retention Act by the end of the summer.

But, the prospect is looking better since the Senate this month passed this important legislation and members of the House of Representatives now are enthusiastically championing the measure (see story, page 1).

The legislation could be passed by the House next month, if representatives would simply accept the well-written Senate bill and refrain from being diverted by needless discussion of addlebrained amendments and tangential issues.

One amendment the House should quickly dismiss is any consideration of forcing risk retention groups to join the state guaranty associations.

Risk retention groups do not require a solvency net. We're not saying that one of these group self-insurance funds never will go broke, but the threat of insolvency of a risk retention group is too small to drag self-insurers into the guaranty funds.

The state system of insurer-supported guaranty funds for covering claims filed against insolvent commercial insurers currently has its own problems, and its role in the commercial insurance marketplace is being re-examined. Many insurers contend that large commercial insurance buyers should not be protected by this safety net because the system simply cannot support the growing volume of high-priced commercial insurance company insolvencies.

It's also obvious that members of risk retention

groups would not want to be assessed for insolvencies in the insurance industry—whose failure to meet their needs created the demand for the groups—while the insurance industry would not want to pick up the tab for any self-insurance failures.

Members of the House also should learn from the Senate action and avoid getting bogged down during their consideration of the risk retention legislation by any discussion of amendments to the McCarran-Ferguson Act or mandates for additional data reporting by insurers. These are important issues that deserve consideration on their own merits, but not as part of the risk retention legislation.

Some members of the House may question if speedy action on the risk retention legislation is needed now that the commercial insurance industry has finally provided insurance to the one group whose insurance problems grabbed the attention and sparked the sympathy of the Senate: nurse-midwives (see story, page 3).

The answer is a resounding yes, as the leaders of the American College of Nurse Midwives say.

There are too many other businesses and professionals still finding it difficult—if not impossible—to find or afford the limits of liability insurance they need.

It's important that this legislation be passed now to meet the current needs of these businesses and professionals and also to ensure that this long-term alternative to commercial insurance is available when the next capacity-short insurance marketplace arrives.

letters

Employers should beware the 'Son of COBRA!'

To the editor: Watch out for Son of COBRA! When Congress finds out it missed the boat on this one, there's sure to be further government encroachment on mandating employee benefits.

One of the more onerous provisions of Public Law 99-272 (Consolidated Omnibus Budget Reconciliation Act) requires most employers to provide health care coverage to former employees and widowed and divorced spouses (BI, July 7; June 2). The intent of Congress was to make "affordable" group health care coverages available to a large portion of the currently uninsured population with the employee paying the cost of the coverage.

There's been a lot of discussion about how to determine 102% of "actual costs." To be sure, the 2% is a drop in the bucket compared to the actual administrative costs of enrollment and monthly billing, but have you thought about the magnitude of the 100%?

If an employer sponsors a relatively rich level of health care benefits (e.g., first-dollar hospital, low deductible, dental, prescription drugs, etc.), the actual costs for covering a middle-age employee, wife and three kids could easily exceed \$500 per month. With this kind of price tag and no job, I'd be more concerned with making the rent payment than buying affordable group insurance. Costs for former employees will actually be much higher than similarly situated active workers because of adverse selection and loss of coordination-of-benefits savings.

One of the popular misconceptions is

that actual costs for a particular employee is the premium rate charged by an insurer. The premium rate is simply an average over the entire employee population base—developed for billing purposes and administrative simplicity. The actual health costs per employee vary by age and family size and, to a lesser extent, sex and geographic location. These are the factors that insurers use in their manual rate books.

In the absence of regulations to the contrary, employers can recognize these various factors in determining 100% of actual costs. Sex-distinct rating, however, is explicitly prohibited.

Of course, employers always have the option of subsidizing rates for continued coverage and maintaining some sort of affordability for the good of the populace. If employers voluntarily absorb this cost, then many people will avail themselves of this offering and Congress will have achieved its goal.

If, on the other hand, employers charge 102% of actual costs, no one will be able

to afford it and the program will fail. This will bring in the next round of mandated benefits—the proposed Access to Health Care Act or Son of COBRA, proposed by Sen. Edward Kennedy and Rep. Fortney (Pete) Stark. This bill would require employers to pay the costs for four more months after a layoff (BI, May 12).

Congress has placed employers in a very difficult position: Either voluntarily subsidize the cost of continued coverage or face the threat of further mandated benefits. Like the commercial says, "Pay me now... or pay me later."

Our representatives need to be made aware of the problems created by legislation drafted in a vacuum. Future employee benefits legislation should not be attempted without a hearing and input from employers who will foot the bill.

Steven Ferruggia
Vp and Group Actuary
Frank B. Hall Consulting Co.
National Benefit Services Division
Briarcliff Manor, N.Y.

Elaboration needed on alcohol-accident link

To the editor: In her "Speaking Out" contribution (BI, June 16), Loretta G. Wiedrich states that "one-third to two-fifths of all accidents that happen at work are alcohol-related." I expect that many of your readers, like myself, would be very interested in learning more about this facet of her article.

Details about the statistical basis for this conclusion, elaborations as to how "alcohol-related" was defined and evaluated in conjunction with the collection of those statistics and information about the ways in which alcohol contributed to on-the-job accidents she has studied could be very useful to others involved in the management of workers compensation programs, be they insurers or employers.

Tim Wisecarver
Actuary

Washington State Department

of Labor & Industries
Olympia, Wash.

■ Ms. Wiedrich replies: "In many workplace accidents it cannot be fully known if or how much alcohol caused or was part of the accident. The figure that one-third to two-fifths of the workplace accidents are alcohol-related is from the National Institute of Occupational Safety and Health.

"Alcohol-related" means that without the presence of alcohol in the bloodstream or the aftereffects of the ingestion of alcohol, such a hangover, there is a likelihood that the accident would not have occurred.

"Alcohol contributes to accidents through poor decision making. A worker under the influence of alcohol acts in ways he would not normally, taking unnecessary or dangerous chances. Physical strength is also diminished."

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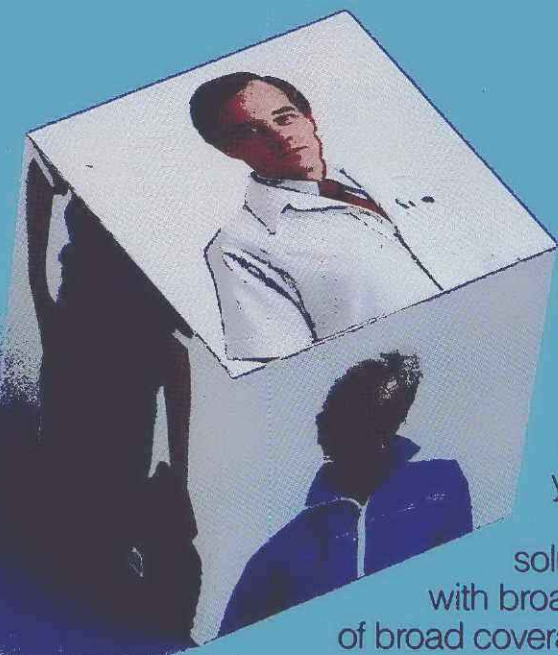
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Merrett plans to acquire claims adjuster

By STACY SHAPIRO

LONDON—Merrett Holdings P.L.C., one of Lloyd's of London's largest underwriting agencies, plans to acquire Robert Bishop Ltd., the well-known London claims adjuster, both companies announced last week.

Merrett has owned 19.9% of Bishop's shares since Bishop was formed in 1979. Merrett now is in final discussions with Bob Bishop, chairman and chief executive of the claims adjuster, to purchase

london

the remaining shares, both parties said last week. If the purchase is completed, Mr. Bishop will remain the chairman and chief executive.

Kenneth Randall, managing director of Merrett, will not say exactly how much Merrett will pay for Bishop, although he did confirm that the price will be more than 1 million pounds (\$1.5 million). Bishop is well-known in

London for its expertise in insurance loss adjusting, reinsurance runoffs and claims investigations.

While Bishop also provides services for Lloyd's syndicates other than Merrett's, Mr. Randall does not foresee any conflict of interest if Merrett acquires the claims adjuster. "It certainly acts for other Lloyd's syndicates, but we do not see it as a commercial conflict of interest," he said. Loss adjusting "is a line of business that we think is attractive," he added. "We see ourselves expanding further into

loss adjusting in the future" by expanding Bishop's activities or through acquisitions.

Brooks & Dooley

It appears that the vast majority of members of Lloyd's of London syndicates managed by Brooks & Dooley (Underwriting) Ltd. will release expelled Lloyd's underwriter Raymond Brooks from any liability arising out of alleged misappropriation of the syndicates' funds.

About 400 members of Brooks & Dooley syndicates had until July 25 to accept Mr. Brooks' offer to help return more than 2 million pounds (\$3 million) in syndicate funds. At least 82% accepted the offer by July 18, said Jack Alston, chairman of Brooks & Dooley.

The agreement was made on the condition that at least 90% of the names—or less, if agreed to by Mr. Brooks—agree to release "from any liability" Mr. Brooks, Lloyd's underwriter Terence Dooley and their associates. Mr. Alston said last week the offer had a good chance of being fully accepted by July 25.

In 1984, Lloyd's charged Mr. Brooks, along with Mr. Dooley, of benefiting from reinsurance placed for the syndicates with Fidentia Marine Insurance Co. of Bermuda. Lloyd's expelled Mr. Brooks, while Mr. Dooley was temporarily suspended (*BI*, July 16, 1984; Dec. 18, 1985).

Since then, about 400 Lloyd's members belonging to the Brooks & Dooley syndicates have tried to reclaim money they believe they are owed (*BI*, March 18, 1985).

According to the provisional settlement negotiated with the Brooks & Dooley names committee, Mr. Brooks and his associates will transfer to a trust fund assets totaling more than 2 million pounds (\$3 million), even though Fidentia reportedly earned 6.2 million pounds (\$9.3 million) of profit on the reinsurance (*BI*, July 21).

Mr. Alston points out, however, that the syndicates also would receive more than 3 million pounds (\$4.5 million) from Fidentia to meet reinsurance claims made by the syndicates. Fidentia has already met claims made by the syndicates that exceed premiums by 1.4 million pounds (\$2.1 million) and remains liable to meet further claims up to 1.6 million pounds (\$2.4 million), he said. Also, Mr. Alston and others have negotiated with the Inland Revenue Service to reduce members' tax liability on the returned funds, said Mr. Alston.

"I trust you will now realize that we have all done our utmost to achieve the best possible result on your behalf, bearing in mind all the circumstances," Mr. Alston told members in a letter.

Aviation brokers

Several U.S. airlines are switching aviation insurance brokers, according to brokers in London. Since May, London brokers confirm that:

- American Airlines Inc. has switched its London broker to Alexander Howden Ltd. from C.E. Heath P.L.C. American Airlines' U.S. broker remains Alexander & Alexander Services Inc., Howden's ultimate parent.

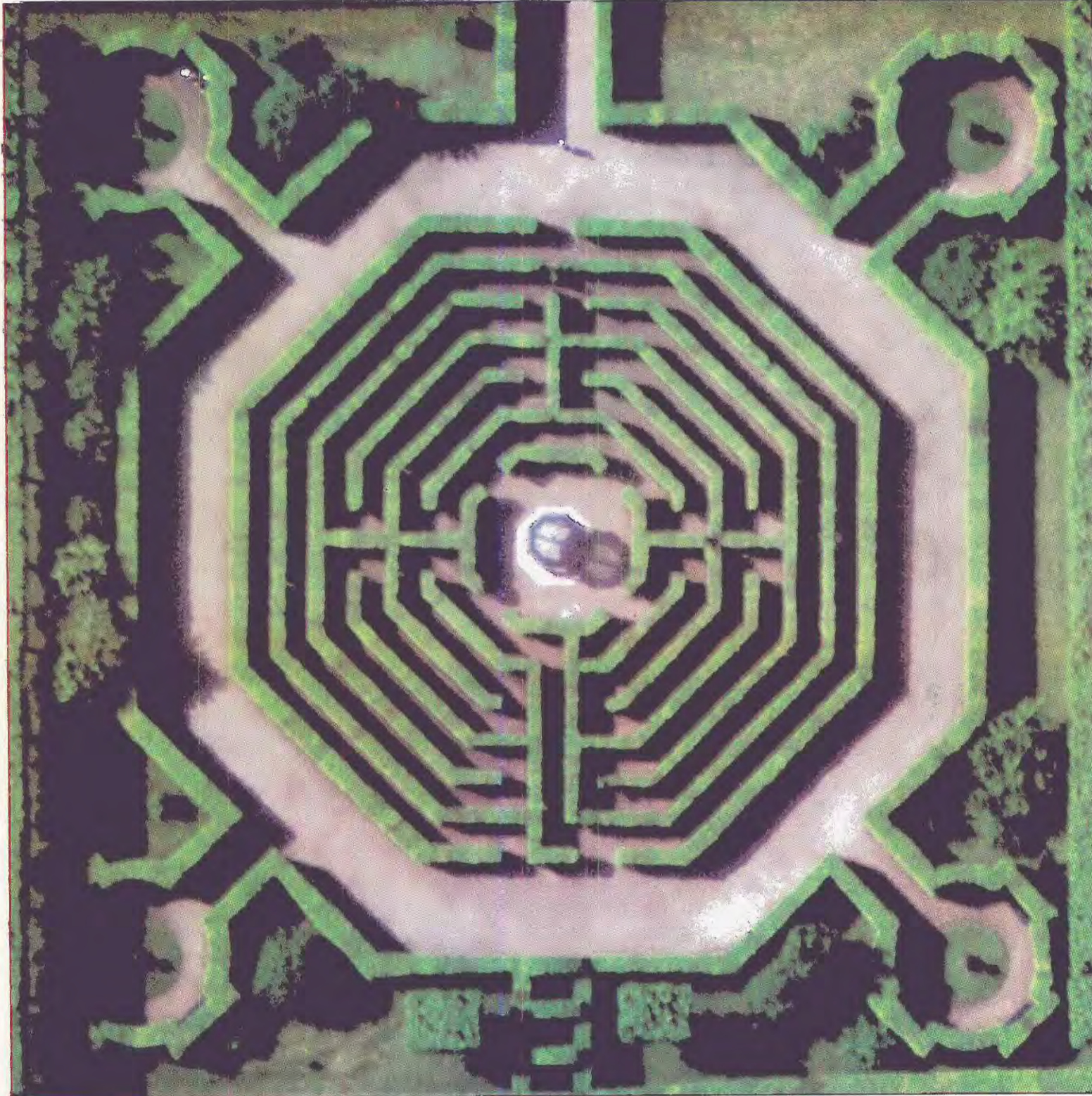
- American Airlines does not renew its hull and liability insurance until November.

- United Airlines Inc. has eliminated surplus lines broker Stewart Smith Inc. in the handling of its hull and liability account. United's U.S. retail broker remains Rollins Burdick Hunter Co. in Chicago and London broker Stewart Wrightson Holdings P.L.C., parent of Stewart Smith.

- United also renews its hull and liability insurance in November.

- Piedmont Airlines has moved its liability insurance account to Heath from Leslie & Godwin Holdings P.L.C. Heath already handles Piedmont's hull insurance account. In addition, Piedmont's U.S. broker is now Alexander & Alexander, rather than Frank B. Hall & Co. Inc., which owns Leslie & Godwin.

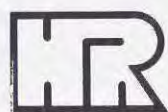
- Piedmont renews its hull and liability insurance on May 1, 1987. ■



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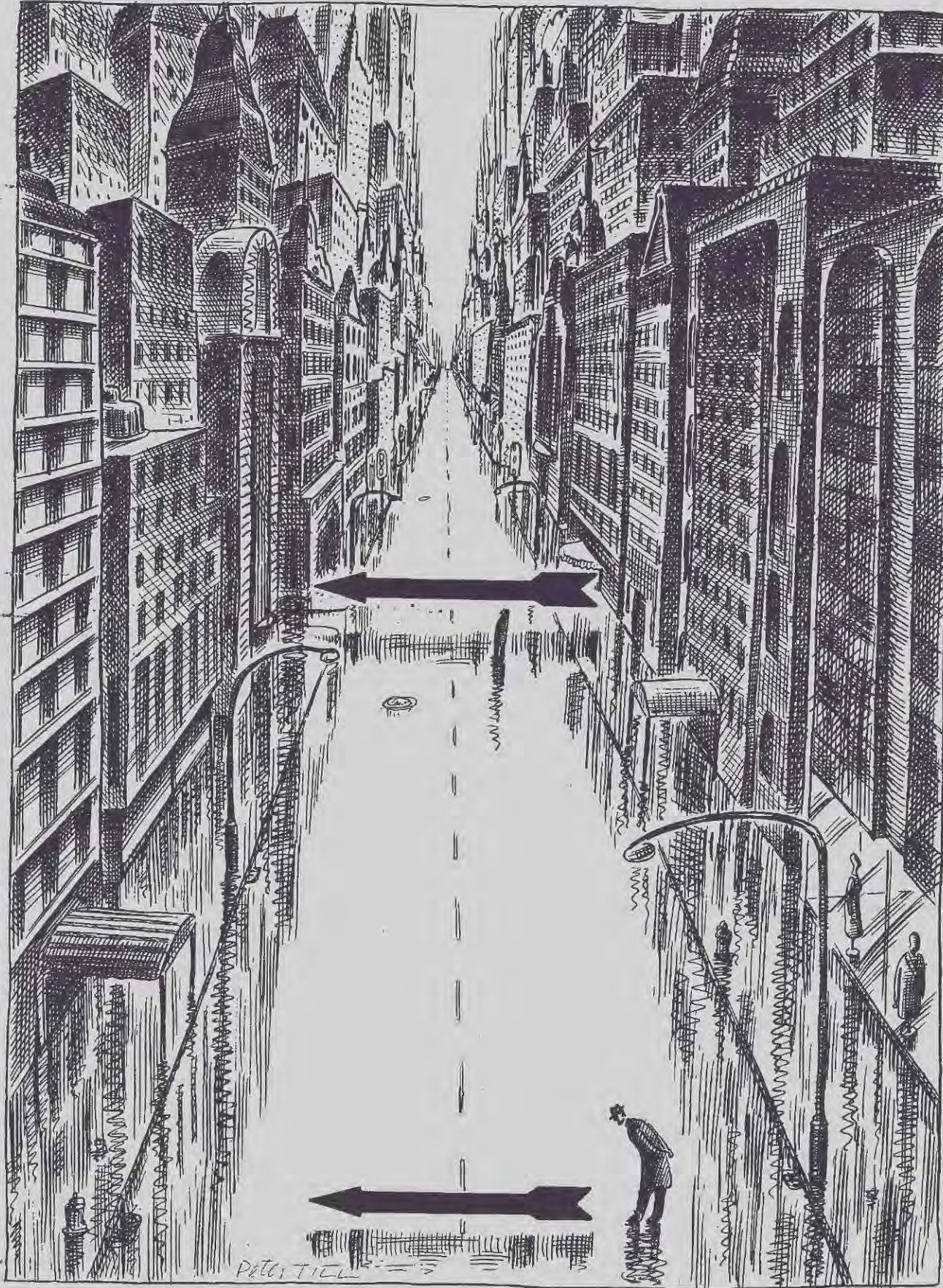
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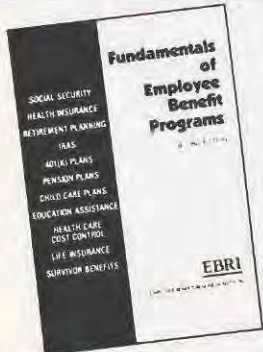
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New Caterpillar contract includes pension, profit-sharing changes

benefit beat

United Auto Workers employees and retirees will receive improved pension and profit-sharing benefits under a new contract with Peoria, Ill.-based Caterpillar Tractor Co.

The 28-month contract also includes improvements in health care benefits, said a spokesman for the UAW in Detroit.

Caterpillar officials were unavailable for comment.

Specifically, the contract includes the following pension plan improvements:

- For retirements effective on or after June 1, 1986, with less than 30 years of credited service, monthly pension benefits under the defined benefit pension plan will increase by \$3.05 per month per year of credited service over the term of the contract.

- For employees under age 62 with 30 or more years of service who retire on or after June 1, monthly benefits will increase to \$1,075 from \$950 effective June 1.

- Effective March 1, 1987, this benefit will increase to \$1,150 per month. And, on Jan. 1, 1988, the benefit will increase to \$1,205 per

month.

- Current retirees—those whose retirements began before June 1—who had 30 or more years of credited service will receive an increase of \$1 per month per year of credited service, plus two lump-sum payments of \$200 to be paid in December 1986 and December 1987. Retirees with fewer than 30 years of credited service will receive a proportionately reduced payment, the union spokesman said.

In addition to the pension improvements, the agreement includes an early retirement incentive, the spokesman said.

"At the company's option, it may offer a supplement of \$300 per month to encourage voluntary early retirements in order to stabilize employment at any location," he explained.

The offer would first be made to employees 55 and older. If a further reduction in the workforce is needed, the supplement would then be offered to employees whose age and years of service total 85, he said.

The supplement, which will be offered in addition to employees' regular pension benefits, will be paid as follows:

- For employees retiring before age 60, the supplement will be paid until age 62.

- For employees retiring after age 60 but before age 63, the supplement will be paid for 24 months after early retirement.

- For employees retiring after age 63 but before age 65, the supplement will be paid until the time the retiree reaches age 65 or for six months after retirement, whichever is later.

- For employees retiring after age 65, the supplement will be

payable for three months after retirement.

In addition, future payouts under the profit-sharing plan also will increase between 75% and 80% as a result of a change in the payment structure mandated in the contract, the UAW spokesman said.

Under the change, the current formula—which is based on hourly wages—will be converted to a percentage of annual base pay plus a cost-of-living adjustment, he said.

The contract also calls for the establishment of a preferred provider organization, the spokesman said. However, no details have been finalized.

A joint committee on health care, composed of UAW and Caterpillar representatives, will develop and implement the programs.

Changes in Caterpillar's self-insured and self-administered first-dollar coverage medical plan under the new contract include:

- Charges for equipment and supplies for outpatient surgery in an approved physician's office will be covered. The plan currently covers only surgical fees.

- Pre-admission testing performed within seven days of admission to the hospital will be covered.

Both changes take effect Sept. 1. The UAW and Caterpillar also will develop a voluntary case management program for long-term illnesses, the UAW spokesman said.

The agreement was ratified earlier this month by 71% of the 17,000 active employees, the spokesman said.

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JULY 31. ISO Commercial Property Forms workshop in Blue Bell, Pa., sponsored by the Insurance Society of Philadelphia; \$105 for members; \$120 for non-members. Also Aug. 21 in Georgetown, Del.; Oct. 23 in Philadelphia; Nov. 18 in Stanton, Del. Insurance Society of Philadelphia, 737 Public Ledger Building, Philadelphia, Pa. 19106; 215-627-5306.

AUG. 3-6. Corporate Benefits Management conference in Monterey, Calif. sponsored by the International Foundation of Employee Benefit Plans; \$530 for members; \$605 for non-members; IFEBP, 18700 Bluemound Road, P.O. Box 60, Brookfield, Wis. 53008-0069; 414-786-6700.

AUG. 3-8. The Basic Course in Reinsurance in Tarrytown, N.Y., sponsored by the College of Insurance; \$895 for college sponsors; \$1,050 for non-sponsors. Ronnie Kranis, The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

AUG. 4-5. Employee Benefit Communications: A Changing Environment Offers New Choices conference in New York, sponsored by Business Insurance; \$625; 10% discount to additional registrants from the same organization. Ann Vazquez, Registrar, B.I. 220 E. 42nd St., New York, N.Y. 10017; 212-210-0137.

AUG. 5. ISO Commercial General Liability Policy workshop in Rover, Del., sponsored by the Insurance Society of Philadelphia; \$105 for members; \$120 for non-members. Also Aug. 19 in Blue Bell, Pa.; Oct. 16 in Stanton, Del.; Nov. 4 in Philadelphia. Insurance Society of Philadelphia, 737 Public Ledger Building, Philadelphia, Pa. 19106; 215-627-5306.

AUG. 7-8. Governmental Insurance Conference in Austin, Texas, sponsored by the Professional Development Institute; \$245. Professional Development Institute, North Texas State University, P.O. Box 13288, Denton, Texas 76203-3288; 817-565-2483.

AUG. 8. Hazardous Waste Management for Small Generators course in Los Angeles, sponsored by the Institute of Safety and Systems Management, University of Southern California; \$135. Institute of Safety and Systems Management, University of Southern California, Office of Extension and In-service Programs, 3500 S.

Figueroa St., Suite 102, Los Angeles, Calif. 90007; 213-743-6523.

AUG. 11-12. Health Care Cost Containment Workshop in Minneapolis, sponsored by Health Research Institute; \$495. Also Sept. 22-23 in New Orleans; Oct. 6-7 in San Francisco; Oct. 27-28 in Boston; Nov. 10-11 in New York; Nov. 17-18 in Dallas; Dec. 8-9 in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

AUG. 11-12. Captive Insurance Seminar in Stowe, Vt., sponsored by Risk Alternatives Inc.; \$395; \$450 within two weeks of seminar. Also Oct. 6-7 in St. Thomas, Virgin Islands. December 8-9 in Charleston, S.C. Risk Alternatives Inc., P.O. Box 707, Salado, Texas 76571; 817-947-5048.

AUG. 11-15. Hazardous Materials: Handling & Disposal course in Los Angeles, sponsored by the Institute of Safety and Systems Management, University of Southern California; \$700. Institute of Safety and Systems Management, University of Southern California, Office of Extension and In-service Programs, 3500 S. Figueroa St., Suite 102, Los Angeles, Calif. 90007; 213-743-6523.

AUG. 13. Advanced Health Care Cost Containment Workshop in Minneapolis, sponsored by Health Research Institute; \$250. Also Sept. 24 in New Orleans; Oct. 8 in San Francisco; Oct. 29 in Boston; Nov. 12 in New York; Nov. 19 in Dallas; Dec. 10 in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

AUG. 14-15. Labor/Management Health Care Cost Containment Workshop in Minneapolis, sponsored by Health Research Institute; \$250. Also Oct. 9-10 in San Francisco; Oct. 30-31 in Boston; Nov. 13-14 in New York; Nov. Dec. 11-12 in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

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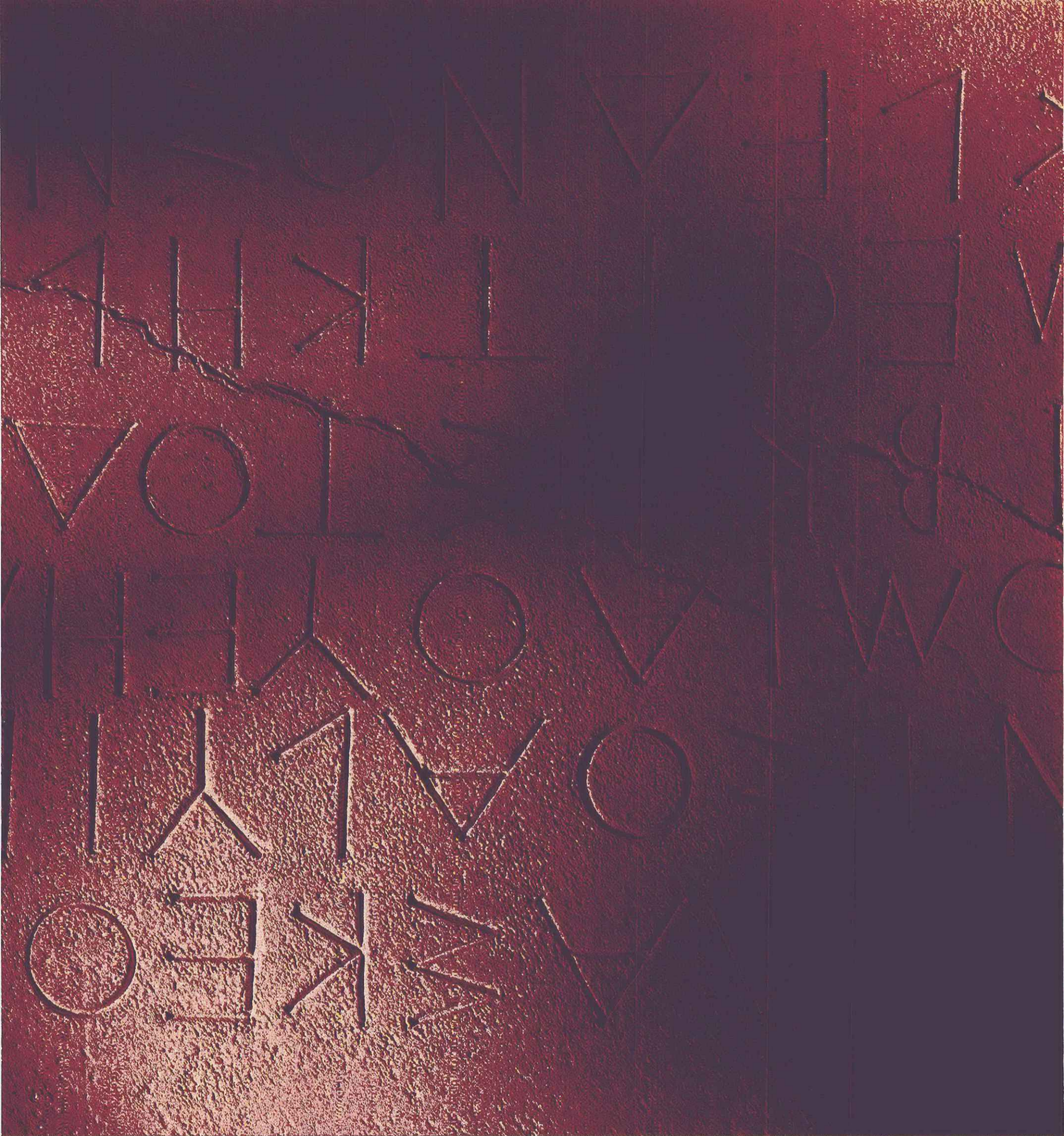
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PIERCING THE VEIL

'Families' of insurance companies may face new liabilities

By Franklin L. Damon

A CURRENT ISSUE THAT HAS great significance in the insurance industry concerns the circumstances under which a regulatory agency or a court may disregard the separate existence of corporations that are part of a "family" of insurance companies or that are otherwise affiliated in some fashion as part of a single marketing or underwriting enterprise.

Many insurers have found it expedient to separate their business and underwriting activities among more than one company within their family.

The motivation for such diversification arises from a number of considerations: achieving favorable tax treatment, isolating various lines of insurance into separate companies, isolating primary insurance from reinsurance activities and dealing with reserve and surplus requirements that would restrict underwriting without the formation of multiple corporate entities.

While most regulators and courts recognize separate corporations exist as such within a group of affiliates, the public, the regulators and the industry acknowledge the reality that large groups of affiliates are single enterprises for many purposes.

For example, A.M. Best Co. reports on a group basis for families of holding companies. These families typically advertise and market under group designations to cultivate an image of size and substance.

Problems can arise from this tension between the technical separateness of affiliated companies and the reality of integrated operations. Specifically, this tug of form vs. substance can appear in either a regulatory or judicial context when it is claimed that fairness to policyholders, or to others, requires disregarding the separate corporate existence of affiliated insurance companies.

While this concept is familiar in law, under the rubric of alter ego, it may be ripe for new applications in the insurance industry.

Consider first the instance of Mission Insurance Co. MIC is owned by Mission Insurance Group Inc., which also owns several other insurance companies. In October 1985, MIC was placed under conservatorship by the California Department of Insurance because of insolvency.

A parent of MIC—Mission American Insurance Co.—had been formed, prior to the department's action, to replace MIC in the marketplace. The department indicated it would consider seizing Mission American, the parent, as well as MIC itself.

One regulator stated that the Mission affiliates were "so intertwined that you've essentially got to take control of all of them" (BI, Nov. 11, 1985).

When it appeared that MIC might be liquidated, some industry executives stated that as long as Mission Insurance Group was supporting Mission American and abandoning MIC, all Mission Insurance Group assets should be seized as part of the conservatorship.

A holder of a Mission reinsurance policy filed suit in Alaska, seeking to "pierce the corporate veil" and hold liable American Financial Corp., owner of 49.9% of Mission American Group, and Carl

speaking out

Lindner, owner of American Financial Corp. (BI, Nov. 18, 1985).

While the California Insurance Code appears to be clear that if a company is liquidated, other admitted insurers writing a similar type of business must pay an assessment into the California Insurance Guaranty Fund, some insurance companies took the position that they would not do so in light of the fact that Mission American owned other assets.

After Mission was placed in conservatorship, some insurance commissioners around the country issued cease-and-desist orders to affiliates of MIC, pending the outcome of the conservation action against it in California.

The ostensible rationale for such orders was that in the event MIC was liquidated, assets of affiliated companies might be used to help defray the costs of liquidation. Also, regulators did not want to allow affiliates of MIC to place new business on their books if MIC, by far the largest insurer affiliate of the group, were to be liquidated.

Thus, a serious issue arose, at least potentially, even though only one company in the group created a financial threat: Would its affiliates' assets be resorted to before, or together with, the invocation of other remedies?

Fortunately for the public and the insurance industry, Mission, while still in conservation, appears not to be headed for liquidation. A solution arrived at by the California Department of Insurance, and approved by a state court a few months ago, would avoid liquidation.

A similar issue has arisen in a private lawsuit involving the MGM Grand Hotel in Las Vegas, Nev.

Part of the aftermath of the disastrous fire that swept through the MGM Grand on Nov. 28, 1980, is the claim against insurers that issued property damage and business interruption policies to the MGM Grand. MGM Grand claims that its losses have not been fully compensated under its policies; it seeks the balance of its policy limits from American Protection Insurance Co. and the remainder of its loss coverage from an insurer providing a higher-layer of coverage, Insurance Co. of North America. American Protection is a member of the Kemper Group.

Through a series of pooling and reinsurance agreements, AMPICO passed along to its affiliates—and to certain unaffiliated reinsurers—all of the premiums and 100% of the risk under the policy. Other Kemper affiliates were joined as parties in the lawsuit subsequent to its commencement in early 1982.

While part of the dispute concerning the joinder of AMPICO's affiliates has to do with whether AMPICO will be able to pay the large amount of damages claimed against it (more than \$30 million, plus a substantial added interest factor), a further issue has to do with whether MGM Grand's claims of bad faith may provide the basis for an award of punitive damages not just against AMPICO but also against the other Kemper affiliates.

In recent hearings in the U.S. District Court in Nevada, MGM Grand argued that it would be inequitable and contrary to public policy to limit a punitive damage award to the yardstick of AMPICO's net worth alone, and that the collective net worth of the Kemper Group should provide the yardstick for punitive damages if, in fact, the activities at issue were really those of Kemper collectively.

In a May 30, 1986 order, the federal court in Nevada rejected arguments that only the company that issued the MGM Grand policy—that is, only AMPICO—could be liable and that other companies in the Kemper Group could not be liable to MGM Grand because they acted only as reinsurers, or only participated in the risk via pooling arrangements that are of no concern to the policyholder.

The court

acknowledged the general rule that there is no contractual relationship, and hence no basis for liability, between a policyholder and a reinsurer.

However, the court distinguished the case before it, in which MGM Grand alleged a "significant community of interest between the officers and directors" of the affiliates and AMPICO.

The court referred to evidence indicating that the companies in the Kemper Group share income, losses and employees, noting specifically assertions by MGM Grand that:

- AMPICO has no separate offices or files.
- AMPICO's affairs are actually handled by Lumbermen's Mutual Casualty Co., another corporation in the Kemper Group.
- The MGM Grand claim was handled by a single Kemper home office.
- A single legal department serves all the Kemper Group companies.
- Witnesses who gave depositions on behalf of American Protection testified they worked for Kemper in adjusting the MGM Grand claim.

On the basis of such evidence, the court concluded that material issues of fact had been raised as to MGM Grand's alter-ego theory and that whether there was liability on the part of the other Kemper companies was a matter for the jury to decide.

The case is scheduled to go to trial later this year.

If the MGM Grand case results in a judgment against AMPICO and any of its affiliates, the case could set a significant precedent in the insurance industry. The precedent would be all the more noteworthy if punitive damages are awarded against the Kemper Group.

The increasing use of bad-faith claims to seek punitive damages against insurance companies would indicate that all families of insurance companies could be the subject of bad-faith claims asserted against them on a group basis, irrespective of the fact that the policyholder/plaintiff had a policy only with one company in the group.

The Mission proceedings and the MGM Grand litigation are harbingers of future controversies concerning the application of the alter-ego doctrine to affiliated groups of insurance companies.

The ongoing debates concerning vindication of the expectations of policyholders, protection of the public in insurance matters and equitable apportionment of burdens among insurers in regulatory context all point in the direction of increasing resort to the alter-ego doctrine in the insurance industry as a means of piercing the veil of separate corporate structures to get to the underlying economic reality of implied operations.

The court acknowledged the general rule that there is no contractual relationship, and hence no basis for liability, between a policyholder and a reinsurer.

The public, the regulators and the industry itself also acknowledge the reality that large groups of affiliates are, in fact, single enterprises for many purposes.

Franklin L. Damon is a partner in the law office of Wyman, Bautzer, Rothman, Kuchel & Silbert in Los Angeles. Formerly, Mr. Damon held the position of chief deputy insurance commissioner for the State of California.

To buy or lease: That is the question

By The Insurance Institute of America

The following question and answer are drawn from the curriculum for the Associate in Risk Management designation awarded by the Insurance Institute of America. They represent the type of question asked, and possible answers to, the three examinations for the A.R.M. designation.

This month's material, taken from the December ARM 56 national examination, highlights some of the ways the choice between buying and leasing an asset is likely to affect a firm's risk management costs.

Q: A commercial resort wishes to provide electric golf carts for the use of its golfing guests, but it is unsure whether to buy or lease these vehicles. One of the criteria by which the resort is making this decision is the impact any physical damage losses to the carts may have on the resort's cash flow and income statement.

Listed below are four alternatives the resort is considering:

A.R.M. exercises

- Buying the carts and paying for any damage to them through a funded reserve that will meet the requirements of Federal Accounting Standards Board Statement No. 5.

- Buying the carts and fully insuring them against physical damage at manual premium rates.

- Buying the carts, paying for any losses up to \$3,000 per year (on all carts collectively) as a current expense, and borrowing funds for any losses aggregating more than \$3,000 annually.

- Leasing the carts, which would remain the property of the lessor.

For each alternative describe any cash outlays (other than the purchase of the carts) required to implement that alternative and when (if ever) the cost of any physical damage to the carts will appear on the resort's income statement.

A: • Using an FASB 5 funded reserve to pay losses requires cash outlays to establish and maintain the

loss fund. (If extraordinarily high losses exceed the amount of the fund, cash also may need to be paid out to cover these excessive losses.) Under tax law, the cost of damage to the carts appears on the resort's income statement in the year when the losses are paid, regardless of the existence of the FASB 5 funded reserve.

(Notice that the question pertains to the time the expense appears, not its amount.)

- If the resort fully insures against cart damage, the only required cash outlay is the related insurance premium. Because the coverage is manually rated, the number and size of insured losses does not affect the cost of insurance. No expense for cart damage ever appears on the firm's financial statement.

- Under this combination of retention and borrowing, the two types of required cash outlays are, one, payments for retained losses that do not exceed \$3,000 annually and, two, repayment of principal and interest on

any funds borrowed to finance losses over \$3,000.

The retained portions of losses appear on the resort's income statement in the year the losses occur; any losses financed with borrowed funds never appear on the income statement as losses, but instead, as repayments of principal plus interest.

- If the resort decides to lease the carts, rather than buy them, its only cash outlays are the lease payments, which may or may not include a risk premium for potential cart damage.

Any damage to the carts, presumably financed by the lessor rather than the lessee resort, never appears in any form on the resort's financial statements. The leasing arrangement shifts the entire burden of any such losses to the lessor.

The sample questions and answers used in this column are taken from the Associate in Risk Management designation curriculum of the IIA. For more information on the content of the A.R.M. program, write Dr. G.L. Head, Vp, Insurance Institute of America, P.O. Box 314, Malvern, Pa. 19355.

Bank's error voids blanket bond coverage

A bank was held not to have relied on or acted "on the faith of" a forged guarantor's signature so as to permit recovery under the terms of a blanket bond policy, a Pennsylvania appellate court said.

In 1979, the U.S. National Bank in Johnstown, Pa., extended a line of credit to Summit Mines Co., a partnership of Clifford L. Jones and Harold Walters. The credit line of \$200,000 was later increased to \$400,000. Accounts receivable were collateral.

Part of the paperwork involved required signatures of Mr. Jones, Mr. Walters and their wives. National was able to verify the signature of all but Mrs. Jones. National did not inquire into her credit and had no contact with her.

National was covered under a bankers blanket bond issued by Reliance Insurance Co.

Mrs. Jones' signature was determined to have been forged, and the Summit loans were defaulted. National filed a claim with Reliance on its bond, but it was rejected. National sued but lost in trial court.

The appellate court concluded the phrase "on the faith of" clearly signified something done "in reliance upon." Thus, it concluded National had not relied on Mrs. Jones' signature in awarding the loan and no recovery could be had under the bankers blanket bond policy. *U.S. National Bank in Johnstown vs. Reliance Insurance*, Superior Court of Pennsylvania, Dec. 13, 1985 (BI/01/My.-\$5).

Forged signature

May a group medical insurer be subrogated to its policyholder's right to recover against third parties for the insured's medical expenses? Not according to a decision of the Supreme Judicial Court of Maine.

Diane Gerard, who was injured in a motor vehicle accident, was covered under her husband's group medical insurance plan for the employees of McCain Foods Inc. Under the plan, McCain paid out more than \$20,000 for her medical expenses.

The plan contained no subrogation clause. Ms. Gerard later sued those allegedly responsible for her injuries. Thereafter, McCain brought this action seeking to have a declaratory judgment issued that it

These abstracts were prepared by Cases Unlimited Inc. A copy of an entire decision may be obtained by sending a check for \$5 made out to Cases Unlimited to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. List the number for each opinion.

legal briefs

was subrogated to the Gerards' right to recover against the parties for Diane's medical expenses.

While the McCain suit was pending, the Gerards settled their suit against the third parties and received an amount in excess of her medical expenses. The trial court ruled against McCain.

On appeal, McCain argued that it was entitled to equitable subrogation even though its employee group plan contained no subrogation clause.

But, the court said equitable subrogation is not available where a person pays a debt in performing of his own obligations that person is the primary obligor. It said medical plans are agreements that medical services will be provided for a specified period "whenever needed" upon payment of a fee. Thus, it said McCain had a primary obligation to pay medical expenses and was not entitled to subrogation. *McCain Foods Inc. vs. Gerard*, Supreme Judicial Court of Maine, March 25, 1985 (BI/05/My.-\$5).

Business interruption damages

The damages for which an insurer was liable for business interruption under a fire insurance policy were \$504,000, where the insurer and the insured acknowledged that they were bound by the appraiser's decision and the appraisers found the amount to which the insured was entitled was \$504,000, according to an Oregon appellate court.

Vancouver Furniture Co. Inc. operated two retail furniture stores—one designated the downtown store and the other the warehouse store. Industrial Indemnity Co. insured the downtown store, including coverage for business interruption.

In 1981, a fire damaged the downtown store. During the 168-day period that the downtown store was unusable, Vancouver transferred sales personnel from the downtown store to the warehouse store and submitted a claim for business interruption.

Industrial disputed the amount and, pursuant to the policy, the issue was submitted for appraisal. The appraisers found that if only the downtown store was considered, the loss was \$504,000. If both were considered, the loss was fixed at \$175,000.

Industrial tendered the latter sum. Vancouver rejected the tender and filed suit. The court awarded

Vancouver \$504,000, less the amount tendered.

On appeal, Industrial argued that under the "resumption of operations" provision of the policy, Vancouver was required to and did make use of its second facility to carry on the operations of the downtown store and, thus, could not recover losses based on consideration of that store alone.

But, the court said that Industrial could not have it both ways. "If plaintiff was required to transfer its downtown operations to the warehouse facility," it said, "at least some of the 'ordinary' expenses of the latter were necessarily incurred for the purpose of reducing the loss and were, therefore, recoverable under the 'expense to reduce loss' provision." *Vancouver Furniture vs. Industrial Indemnity*, Court of Appeals of Oregon, Aug. 7, 1985 (BI/05/Ju.-\$5).

Apportioning liability

An insurer that has issued a policy naming a debtor as the insured and a creditor as the loss payee was not required to share in fire loss payments to the debtor, according to an Illinois appellate court.

The Farm Store was insured for a total of \$100,000, by six insurance companies. California Union Insurance Co., a seventh insurer, had issued a policy for \$125,000, naming the Farm Store as insured and Kraml Dairy Inc., which had a secured note for nearly \$80,000 from Farm Store, as the loss payee.

All of the policies contained identical "other insurance" or apportionment clauses. In December 1980, an explosion caused \$125,000 in damages at Farm. Thereafter, Aetna Insurance Co., one of the insurers, brought this action against Cal Union seeking to require it to participate in the apportionment of the loss with the other insurers.

On appeal, Cal Union argued its policy covered a different interest than the other insurers, that being Kraml's security interest. Therefore, Cal Union maintained, it should not participate in the proration of the loss since the proration clause applied only to cases where the insurance covers the same interest. The court pointed out that Kraml had purchased the fire insurance from Cal Union, rather than Farm and ordered judgment for Cal Union on the issue of apportionment. *Aetna Insurance Co. vs. California Union Insurance Co.*, Appellate Court of Illinois, Sept. 6, 1985, rehearing denied Oct. 4, 1985 (BI/01/Jy.-\$5).

RCA Syndicate resumes writing on IIE

The once-deactivated RCA Syndicate No. 1 Ltd. is again doing business on the Illinois Insurance Exchange.

"We fired it up," said Roger DiRocco, vp of the syndicate's parent, Reinsurance Co. of America in Chicago.

RCA Syndicate was one of the first syndicates formed on the exchange in 1982, but it ceased underwriting in 1984 (BI, Sept. 2, 1985).

"This is a propitious time to reactivate," Mr. DiRocco said. The market is allowing the syndicate to write the business at what it's worth and to realize some profit," he added.

The reactivation of the RCA Syndicate follows the formation of several new IIE syndicates in the last 18 months. There now are 22 syndicates on the exchange, though five of them are inactive.

Almost all of the new syndicates, which account for more than half of those on the IIE, are primarily writing direct property/casualty insurance, both primary and excess lines. The original IIE syndicates, including RCA Syndicate, almost exclusively wrote reinsurance policies.

Mr. DiRocco was unable to say what business the reactivated RCA Syndicate will write.

"We haven't decided totally... we have to develop a market plan," he said shortly after the syndicate's reactivation was approved by the IIE board.

According to the IIE's latest annual statement, RCA Syndicate's gross premium volume totaled \$172,882 for 1985, compared with \$549,371 in 1984 and \$254,676 in 1983.

Net income for RCA Syndicate was \$287,107 in 1985, compared with a \$61,812 gain in 1984, a \$13,922 net loss in 1983, and a \$2,688 gain in 1982.

William MacMillan will be the manager of the reactivated RCA Syndicate.

In addition, another syndicate on the IIE is now doing business under a new name.

NUA Syndicate, which began writing business last July on the IIE, is now called LUA Underwriting Syndicate Inc., says London United Investments P.L.C., which owns the syndicate and two other U.S. subsidiaries based in Chicago.

Those subsidiaries—NUA Management Inc. and NUA Holdings Inc.—are now going under the names of LUI Management Inc. and LUI Holdings Inc.

LUI Management manages not only LUI Syndicate, but also CalFed Insurance Syndicate Inc., which opened on the Illinois exchange this spring.

The new names of the three U.S. subsidiaries reflect their true identity and ownership by incorporating the initials "LUI," said Ronnie Driver, chairman of London United Investments.

The name changes were made "because it's in keeping with what we are," Mr. Driver said. The names initially were not changed when the syndicate was formed last year because "we hadn't thought of tidying the whole thing together... it's an afterthought," he said.

Fine arts underwriter

A notice of intent to incorporate a company to underwrite property insurance and reinsurance covering fine arts risks has been filed with the New York Insurance Department.

Nordstern Insurance Co. of America will be domiciled in New York and is expected to begin operations by the first of the year, said Harold Tract, a senior partner

markets

in the New York law firm of Kroll, Tract, Harnett, Pomerantz & Cameron.

The company will be capitalized at \$1 million, he said.

Coverage limits to be provided by the new company have not been determined yet, he said. Principal officers also have not yet been determined, he said.

While the notice filed with the New York department lists 13 individuals, including Mr. Tract and other members of his firm as proposed incorporators, "All of the stock of the proposed company will be subscribed to by Nordstern General Insurance Co. of Germany," said Mr. Tract. Nordstern of Germany will then be the parent company of Nordstern of America, he added.

In addition, another notice of intent to incorporate has been filed for Guaranty Reinsurance Co., Mr. Tract said, though he added that "the project has been put on hold at the moment."

The proposed initial capital of the company is \$3 million and it would underwrite fidelity and surety insurance and municipal bond guarantees.

Mr. Tract could not say when work on the project will resume.

While 13 individuals, including Mr. Tract and other members of the firm, are listed as the proposed incorporators of Guaranty Re, Mr. Tract said it's not yet known who will own the company.

Although representing insurance companies is a specialty of Kroll, Tract, Harnett, Pomerantz & Cameron, Mr. Tract said he does not believe that investing in a new insurer will create a conflict of interest.

"We incorporate several insurance companies each year under the laws of many states, so this definitely is not a conflict," he said.

New dental plan

Delta Dental Plans of New Jersey Inc. has formed a new capitated dental plan.

Flagship Health Systems Inc., which will begin enrollments in the fall, will operate like a health maintenance organization, said a spokeswoman for Delta. The plan, whose headquarters are in Parsippany, will be offered only in New Jersey, she added.

Under the plan, enrollees will select a dentist from Flagship's panel of providers at the beginning of each plan year. However, members will have the option to select a new dentist each year, she said.

Dentists will receive a fixed monthly payment for each member assigned to them, she said. Enrollees will be required to pay a copayment on certain procedures, like restorative services, she said.

Delta Dental Plan of New Jersey is located at 299 Cherry Hill Road, P.O. Box 222, Parsippany, N.J. 07054; 201-334-6300.

Benefit consultant

Pension Consultants Inc., a West Hartford, Conn.-based consulting firm, has formed a group benefits department.

The new department will evaluate existing benefit plans, redesign plans to increase efficiency and cost-effectiveness and offer employee benefit communication consulting services.

"Our role is to provide clients with independent advice, as they seek to hold down costs while offering employees attractive, competitive benefits," said Edward Fishman, president of Pension

Consultants.

Mr. Fishman said the firm's current pension consulting clients include small- and medium-sized corporations, professional firms, banks and municipalities, mostly based in Connecticut.

Pension Consultants is located at 1260 New Britain Ave., West Hartford, Conn. 06110; 203-521-3100.

Acquisitions

Corroon & Black Corp., the nation's sixth-largest brokerage, has acquired Hill-Forgus & Associates Inc., an Albuquerque, N.M.-based insurance brokerage that specializes in surety bonds for the construction industry in New Mexico. The agency will be consolidated with Corroon & Black of New Mexico Inc., located at 5345 Wyoming N.E., Suite 202, Albuquerque, N.M. 87109; 505-821-4777.

San Francisco-based ABI Management Inc., the nation's 23rd-largest brokerage, has acquired Jacobs-Fendig Inc. of Tampa, Fla. The general insurance agency will remain at 3800 Bay-to-Bay

Blvd., Tampa 33629; 813-831-6434.

New offices

CIGNA Corp. is consolidating nine Chicago-area offices into a new office at 525 Monroe St., Chicago, Ill.; 60606; 312-645-2460.

The Brookfield, Wis.-based International Foundation of Employee Benefit Plans has opened an office in Canada for its Canadian Certified Employee Benefit Specialist and intern programs at 121 Bloor St. E., Toronto, Ontario M4W3M5; 416-962-7900.

The Riverside, Calif. branch office of Fireman's Fund Insurance Cos. has relocated to 301 Vanderbilt Way, P.O. Box 50002, San Bernardino, Calif. 92412-0002; 714-884-8500.

The FPE Group has relocated its New York-area office to The Office Center at Princeton Meadows, 666 Plainsboro Road, Suite 1100, Plainsboro, N.J. 08536; 609-799-4545.

Pacific Insurance Agency has opened a new headquarters in San Diego, Calif. The independent agency is located at 3635 Ruffin Road, P.O. Box 20160-X 92120-0160; 619-541-1900.

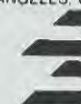
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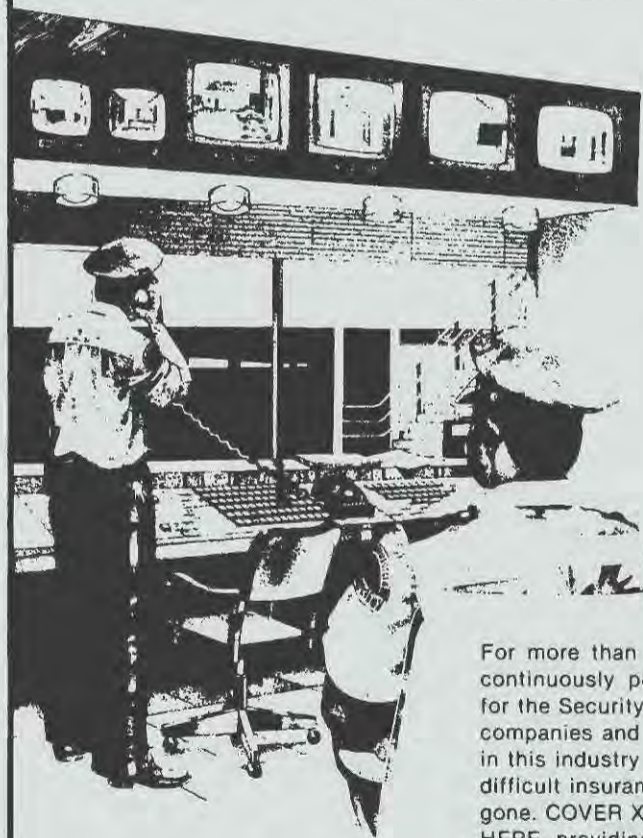
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Maatman named Lumbermen's president

Gerald L. Maatman will succeed Rudi F. Landolt as president of Lumbermen's Mutual Casualty Co. of Long Grove, Ill., the largest Kemper Group unit, when Mr. Landolt retires in June 1987.

Mr. Maatman also will succeed Mr. Landolt as Kemper Group's chief insurance officer. In addition, Mr. Maatman was elected vp of Kemper Corp. and executive vp of Kemper's property/casualty insurance companies.

Also at Kemper, Robert F. Ballus elected executive vp responsible for insurance field operations.

George H. Kasbohm elected vp-undewriting, Alfred K. Kenyon elected vp-claims, C. David Sullivan elected vp and assistant manager of claims.

In other insurer changes:
Mordecai Schwartz named vp and head of the corporate actuarial department at CIGNA Corp. in Philadelphia. He was most recently vp and actuary of



Mr. Maatman



Mr. Landolt

CIGNA's Connecticut General Life Insurance Co. subsidiary.

Judson W. Virden named regional vp-special accounts for Allendale Insurance of Seattle, a member of the Factory Mutual System.



Mr. Ballus

Richard Vreeland elected vp of Chubb & Son Inc. of Warren, N.J. Mr. Vreeland also retains his responsibilities as manager of the Chubb Group's Houston branch. He previously was manager of Chubb's Roseland, N.J. branch.

Thomas Warnke named senior vp-insurance operations staff of Crum & Forster Corp. of Morristown, N.J. Mr. Warnke previously was vp and counsel at Crum & Forster.

Brian Moore elected senior vp of Reliance Insurance Co. of Philadelphia. Mr. Moore previously was vp-research and planning



Mr. Warnke

comings & goings: industry

Agents/brokers

Herbert Hill elected president of ISU/Thoits Insurance Service Inc. of Palo Alto, Calif. Mr. Hill previously was senior vp in charge of commercial lines.

Gary J. Hanson named president of Pasadena-based Rollins Burdick Hunter of California Inc., a subsidiary of Rollins Burdick Hunter Co. of Chicago. Mr. Hanson previously was a senior vp in charge of the production department for a Los Angeles-based brokerage.

John D. Stancik appointed vp-risk management at Arthur J. Gallagher & Co. of Rolling Meadows, Ill., responsible for National Risk Management Services, International Special Risk Services Inc. and National Accounts and for developing proprietary products. Mr. Stancik previously was area president of Arthur J. Gallagher & Co. of New York Inc.

Daniel N. Green, Gary S. Karasik and T. Michael Rosier appointed vps in the Tampa, Fla., office of Poe & Associates Inc.

Leland J. Buchele, Richard Knapp, Joan W. Korn, Kert E. Leviha, Richard G. Murdock, Yoshitaka Nakagawa, Frank G. Pirrone, Anthony B. Polito and William B. Zachry III named vps in Johnson & Higgins' Princeton,

N.J., Consulting Resource Center.

Kevin W. Conboy appointed president of CPI Insurance Group Inc. of Cedar Knolls, N.J. Mr. Conboy previously was senior vp and managing director of Jardine, Emmett & Chandler Inc.

Keith J. Kenway named vp of C.I.S. Northwest Inc., a managing general agent, surplus lines and Lloyd's correspondent facility of The Crump Cos. Inc. Mr. Kenway is manager of the liability department of C.I.S. Northwest.

James F. Tegtmeyer named vp and bond manager for Pacific Insurance Agency in San Diego. Mr. Tegtmeyer joined the insurance agency in 1985 as an account executive.

Excess/surplus

Jane Vander Velde elected vp and manager of the casualty department at Stewart Smith East Inc. in New York. Ms. Vander Velde joined Stewart Smith in Chicago in 1979 and was transferred to New York as assistant vp in 1984.

Also at Stewart Smith East, Patricia A. Bernasconi elected vp-professional and financial services, and Jack Scott named vp-casualty. Ms. Bernasconi rejoins Stewart Smith from Cameron & Colby Co. Inc.'s New York office, where she was an underwriter and corporate secretary. Mr. Scott rejoins Stewart Smith from American Federal Group Ltd. in New York, where he served as vp-casualty.

Jeffrey M. Homes named senior vp of Agway Indemnity Insurance Co. of Lakeland, Fla., a subsidiary of Agway Insurance Co. of Syracuse, N.Y. Mr. Homes retains his responsibilities as president of Golden Eagle Group Inc. and Golden Eagle Group of Georgia Inc., the exclusive managing general agent in Georgia for Agway Indemnity.

Other suppliers

Franklin D. Sanders named president of Aegis Insurance Services Inc., effective Aug. 1. Mr. Sanders replaces R. Brian Jarman, who resigned as of July 1. Mr. Sanders presently is managing director of the First Boston Corp.

Dr. John J. Mahoney named director of Alexander & Alexander Human Resource Management Health Strategies Group. Previously, he was corporate medical director for GTE Corp. Dr. Mahoney was physician to President Ford from 1975-1976.

Larry R. Toepper has joined Self-Insurers Service Inc. as vp-loss control services. SIS is a subsidiary of Chicago-based Rollins Burdick Hunter Co. Prior to joining SIS, Mr. Toepper was a staff consultant for NATLSCO.

John M. Rademacher joined Pilko & Associates Inc. of Houston as senior environmental management consultant. Mr. Rademacher previously was vp of environmental, health and regulatory affairs for Velsicol Chemical, a division of Northwest Industries Inc.

James F. Goodman appointed partner and principal consultant of Warren, McVeigh & Griffin's new Chicago office. He previously was a senior consultant in the company's Newport Beach, Calif., office.

Douglas Holden elected a principal with the Portland, Ore., office of Milliman & Robertson Inc. Consulting Actuaries. Also, Drew Davidoff and Silvio Ingui elected principals in Milliman & Robertson's New York office and Mark Trieb named principal in the Dallas office.

Anne S. O'Brien has joined The

Johnson Cos., a Langhorne, Pa.-based benefit consultant, as manager of the flexible benefits department. Previously, she had been group department manager and vp of the CMS Employee Benefits/Consulting Group. Also, Dr. Arthur E. Wolf has joined the company as a senior consultant.

Craig F. Stanovich promoted to senior consultant at J.H. Albert International Insurance Advisors Inc. in Needham Heights, Mass. Mr. Stanovich has been with the firm since November 1983.

Dr. Cynthia K. Hosay promoted to vp for health care cost management of Martin E. Segal Co. in New York. Dr. Hosay has been with the consulting firm since 1983 as director of health care cost management. Also at Segal, Robert Pernicka named vp of the New England region, Gary F. Jenkins promoted to vp of the Northwest region and Glen E. Cline appointed vp of the Southwest region.

Timothy C. Smith named managing vp of Anistics Inc.'s San Francisco and Los Angeles offices. Prior to joining the Alexander & Alexander Services Inc. affiliate, Mr. Smith was vp of insurance management services at Industrial Underwriters, a Crum & Forster unit.

Robert E. Ford and Gregory L. Trout have joined the staff of Advanced Risk Management Techniques in Laguna Hills, Calif. Most recently, Mr. Ford was vp and manager of Tillinghast, Nelson & Warren Inc.'s Los Angeles risk management division.

Reinsurers

James F. Dowd, president and chief executive officer of New York-based Skandia America Group, will take over as president and CEO of Skandia American Reinsurance Corp., replacing George E. Ratcliffe, who is retiring Sept. 1. Mr. Ratcliffe joined Skandia in 1976 after serving as president and director of Constellation Reinsurance Co.

John H. Ritz named vp at Philadelphia-based Reliance Reinsurance Management Inc. Previously, Mr. Ritz was vp-underwriting division of Maryland Casualty Co.

Signet Reinsurance Co. in Morristown, N.J., elected Kenneth D. Johnson as senior vp and chief claims officer. Mr. Johnson also remains president of Reinsenco Inc., Signet Re's claims service subsidiary.

John T. Webb named chief underwriting officer in addition to his current title of senior vp at NWNL Reinsurance Co. Mr. Webb will be responsible for the company's treaty and facultative underwriting operations.

HMOs

Douglas C. Werner named president and chief executive officer of Western Health Plans Inc. of San Diego, Calif. Previously, he was senior vp for a health care provider.

Michael L. Silgen appointed president and chief executive officer of MetLife HealthCare Network of Wisconsin, a health maintenance organization affiliated with Metropolitan Life Insurance Co. Previously, Mr. Silgen served as director of operations for Dean Care, HMO of the Dean Medical Center in Madison, Wis.

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update

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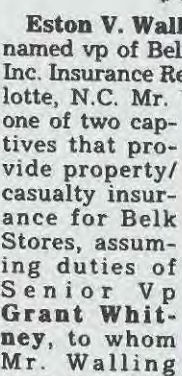
Allied-Signal names benefits director

Joseph Duva has been named director of employee benefits at Allied-Signal Inc. in Morristown, N.J. He will design and implement Allied-Signal's employee benefits programs as well as consult on benefit-related issues. He reports to Ron McGurn, staff vp-compensation and benefits. Prior to joining Allied-Signal, which is involved in aerospace, electronics, automotive and advanced materials and chemicals, Mr. Duva was director of employee benefits and compensation at SCM Corp. in New York City. He received a bachelor of science degree in accounting from New York University. Mr. Duva is a trustee of the Society of Certified Employee Benefit Specialists, a member of the American Management Assn. Human Resources Council and the National Assn. of Manufacturers' Subcommittee on Health.



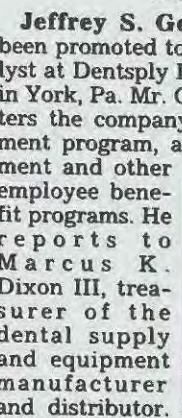
Mr. Duva

Eston V. Walling, 45, has been named vp of Belk Stores Services Inc. Insurance Reciprocal in Charlotte, N.C. Mr. Walling oversees one of two captives that provide property/casualty insurance for Belk Stores, assuming duties of Senior Vp Grant Whitney, to whom Mr. Walling reports. Previously, Mr. Walling was director of risk management at Royal Crown Cos. in Atlanta. He holds a bachelor of science degree in industrial technology from Tennessee Polytechnic Institute in Cookeville and a master of business administration degree from West Georgia College in Carrollton.



Mr. Walling

Jeffrey S. Gelburd, 30, has been promoted to senior risk analyst at Dentsply International Inc. in York, Pa. Mr. Gelburd administers the company's risk management program, as well as retirement and other employee benefit programs. He reports to Marcus K. Dixon III, treasurer of the dental supply and equipment manufacturer and distributor. Mr. Gelburd—who joined Dentsply in 1981 as insurance administrator—previously served as risk analyst. He holds a bachelor of arts degree in history from York College of Pennsylvania. Mr. Gelburd holds the Associate in Risk Management designation.



Mr. Gelburd

Joel R. Culmone, 41, has been named vp-human resources at Orion Group in Farmington, Conn. He is responsible for the design and implementation of personnel programs and policies, including employee benefits, compensation and training for Orion Group, an insurance holding company. Mr. Culmone replaces William Baxter, who has left the company. Mr. Culmone reports to Salvatore Cali, senior vp-corporate services division. Prior to joining Orion Group, Mr. Culmone was director of compensation and benefits at Yale New Haven Hos-

comings & goings: buyers

pital in New Haven, Conn. He received a bachelor of science degree in biomedical engineering from the New York Institute of Technology in New York City. In addition, Mr. Culmone is a member of the American Society of Personnel Administrators and the American Compensation Assn.

Jayne E. Capers, 28, has been

named benefits manager at International Service Systems Inc. in New York City. In this newly created position, Ms. Capers will be responsible for managing ISS's union and non-union welfare plans as well as claims supervision. She reports to Bettina B. Brown, vp, risk management. Prior to this promotion, Ms. Capers—who joined ISS in

1981—was benefit administrator for ISS, which provides cleaning services, mechanical maintenance, energy control and security. She received a bachelor of arts degree in education from Hunter College in New York City.

Also at ISS, Janis H. Arbitblit, 29, has been named insurance analyst. In this newly created position, Ms. Arbitblit will produce loss analysis reports and oversee correspondence between attorneys. She reports to Bettina B. Brown. Prior to joining ISS, Ms.

Arbitblit worked at Bankers Trust Co. in New York City. Ms. Arbitblit received a bachelor of science degree from Montclair State College in Upper Montclair, N.J.

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Security firm held liable for late response

By JENNIFER PELLET

NEW YORK—A jewelry manufacturer is entitled to more than \$1 million in damages from a private security firm that failed to respond for more than 11 hours to burglar alarms at the jewelry maker's offices, a state court jury ruled.

The New York Supreme Court jury found Holmes Protection Inc. guilty of gross negligence and breach of contract in its response to alarms set off during a 1979 burglary at Rand & Paseka Manufacturing Co. Inc. in Manhattan.

The security firm has moved to dismiss the jury's verdict.

After breaking into Rand & Paseka's offices, the burglars took approximately 2½ hours to carry 430 pounds of gold down 10 flights of stairs to the street, according to Norman Senior, an attorney with the New York firm of Greenfield, Eisenberg, Stein & Senior, representing the jewelry maker.

The July 1 jury award consisted of \$527,661 in compensatory damages and \$500,000 in punitive damages. Lawyers for both sides said they were aware of no other New York cases in which an alarm company has been found liable for compensatory and punitive damages based on gross negligence.

Rand & Paseka filed its amended complaint against New York-based Holmes in the state Supreme Court on July 20, 1982, charging gross negligence and breach of contract to provide security.

According to the amended complaint, Holmes received alarm signals indicating that the jewelry manufacturer's safes were open shortly after 1:30 p.m. on Satur-



Burglars took 430 pounds of gold from safes inside the Manhattan offices of Rand & Paseka after canceling the alarm.

day, March 31, 1979.

The complaint states that for at least 15 years before the 1979 burglary—years during which Holmes provided security services to Rand & Paseka—the jewelry manufacturer's offices had never been opened after 1 p.m. on a Saturday and that such an opening should have been recognized as illegal and unauthorized.

Any entry into the Rand offices automatically triggered a signal at Holmes, which would be an alarm situation if Holmes did not receive a coded signal from Rand & Paseka within a designated time, according to Louis Mangone, an attorney with Mangone & Schnapp, repre-

senting Holmes.

According to Mr. Senior, the burglars entered the offices, triggered a routine signal at Holmes and followed up with Rand's correct opening code. Four minutes later, the burglars turned off Rand's three safe alarms and again gave Holmes the correct opening signal for these alarms.

The complaint states that Holmes did not receive any signal or further notification that the premises and safes had been closed and did not notice that the safes were left open until approximately 9 p.m.

Holmes employees did not arrive to investigate the opened safes

until about 11:50 p.m. and, Holmes' failure to investigate the opening of the safes and unauthorized entry was a breach of the agreement with Rand, the complaint said.

Mr. Senior says the description of Rand's usual operating days in the alarm company contract did not include Saturday and that an opening signal on Saturday or Sunday should have been treated as an alarm condition, regardless of the response codes submitted.

"Employees at Holmes testified that the corporate policy is that if an alarm condition exists with the type of safe involved, the response time should be 15 minutes," he said.

Rand & Paseka, which had jeweler's block and general package insurance policies with Insurance Co. of North America, a CIGNA Corp. unit, filed claims for merchandise loss, transit losses, damage to safes, business interruption and additional expenses incurred as a result of the burglary, which totaled \$976,122, according to the complaint.

After INA rejected these claims, Rand & Paseka sued the insurer in U.S. District Court and received a \$501,628 settlement toward merchandise loss, the complaint says.

Rand & Paseka's complaint against Holmes charged the security firm with gross negligence and demanded \$445,372 in compensatory damages—representing the difference between the INA settlement proceeds and the \$947,000 value of the merchandise stolen—and \$2 million in punitive damages.

Holmes' stated in its answer to the amended complaint that the loss was partially Rand's fault and that any damages awarded against it should be reduced proportionately to reflect contributory negligence.

In addition, a provision in Holmes' contract with the jewelry firm limited Holmes' liability—regardless of whether the security firm were found negligent—to an amount equal to Holmes' annual fee for providing security services, the answer said.

"The jury found Holmes guilty of gross negligence as well as breach of contract; this enabled them to disregard the contract provision limiting the alarm company's liability to a refund of their annual fee of \$8,000," said Mr. Senior, attorney for the jewelry maker.

INA did not pursue a subrogation claim against Holmes to recover the insurance money paid to Rand for the stolen merchandise, according to Mr. Senior.

"Most probably the uncertainty of outcome—you can't prove that what happened could have been prevented—and the cost of litigation were fundamental in the decision to pay the claim without pursuing the question of negligence," an INA spokesman said.

According to Mr. Mangone, a motion to dismiss the claim charging lack of evidence to support a finding of gross negligence or an award of punitive damages, is pending before State Supreme Court Justice Irad S. Ingraham.

"Holmes made a mistake in considering the burglary a normal opening because the correct codes were submitted; that was negligence. But that mistake would have had to have been willful, wrongful and reckless for it to be gross negligence," he said.

Mr. Mangone says none of the stolen merchandise was recovered and no arrests were made.

The attorney said Holmes was insured through The Home Insurance Co., but could not provide details. However, both The Home and Holmes refused to discuss insurance coverage.

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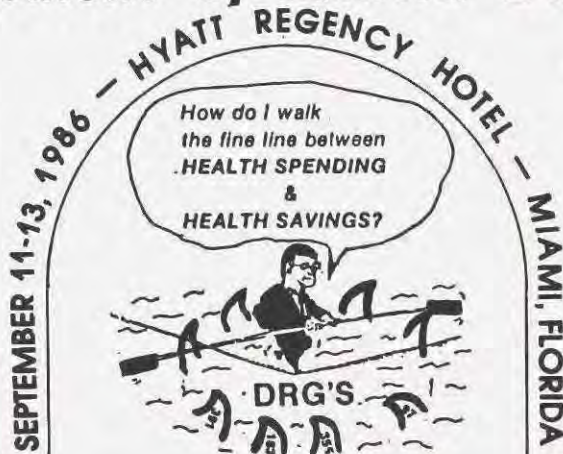
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PCW reserve

Continued from page 2
It is unlikely that more than 10 million pounds (\$15 million) in cash will be paid from the reserve within the next 12 months to pay claims, Lloyd's said, because most of the PCW losses involve long-tail liability claims applying to policies in force between 1979 and 1983.

In addition, Lloyd's has informed the British Department of Trade and Industry of the arrangement so that Lloyd's complies with the requirements of the Insurance Companies Act of 1982, Lloyd's said.

The DTI issues a solvency certificate to Lloyd's each year under the act, which allows Lloyd's to trade in Britain. The solvency certificate also must be filed with certain U.S. state insurance regulators, the first being New York on Sept. 1.

PCW members so far have refused to pay claims pending against the syndicates, charging that negligence, fraud and mismanagement by former syndicate underwriters caused the losses to accumulate. They are threatening to file lawsuits in the United States

The Lloyd's Central Fund can now be used for any purpose 'where, in the opinion of the council, it is expedient for the advancement and protection of the interests of the members of the society. . . ' Lloyd's says.

and Britain against Lloyd's and 37 other defendants to retrieve funds to pay these losses.

The scope of the losses was first discovered last year, following Lloyd's investigation into the alleged misappropriation of at least 39 million pounds (\$58.5 million) in PCW syndicate funds for the benefit of PCW directors.

Richard Beckett Underwriting Agencies Ltd., a successor agency to PCW, asked PCW members last year to pay a cash call of about 62 million pounds (\$93 million) to meet potential claims for the years 1979-1982.

The cash call was a discounted figure to pay for total losses, which were then estimated at 130 million pounds (\$195 million) (BI, Aug. 12, 1985).

When PCW members refused to

pay the losses, Lloyd's last year set aside 64.8 million pounds (\$97.2 million) from the Central Fund to meet the losses, said a Lloyd's spokesman, which marked the first time a significant amount was reserved from the Central Fund.

The amount earmarked from the fund this year includes last year's reserve, which so far has not been used to pay claims, the spokesman said.

Following the latest reserve, the Lloyd's Central Fund now only contains about 35 million pounds (\$52.5 million) to pay claims if other Lloyd's members default on their obligations. However, Lloyd's does not believe the Central Fund will be exhausted by any other defaults this year, noted a Lloyd's spokesman.

To replenish the fund, the Coun-

bylaw, members were required to contribute to the Central Fund an amount equal to 0.45% of their previous year's actual premium income, Mr. Lord explained. But in the future, "there will be no limit" on the amount Lloyd's can require members to contribute to the fund.

The amount to be contributed will be fixed each year by a special resolution of the council that will require a separate majority among the non-working members of the council. Any Lloyd's member who fails to contribute to the fund can be forced by the council to resign from Lloyd's.

Mr. Lord said that the change in the way the Central Fund is financed had nothing to do with the PCW losses. "This was not deliberately set up to deal with PCW," he said, although "it may look rather convenient."

Nurse-midwives' coverage

Continued from page 3

The current stop-gap coverage purchased from other nursing associations was costing some nurse-midwives as little as \$85 a year, but as those nursing insurance programs renew, the insurers are excluding coverage for nurse-midwives.

"We thought (a \$1,000 premium) was high. We no longer think it was so high," Ms. Yates said.

The nurse-midwives' new program was developed after the National Assn. of Insurance Commissioners approached CNA and Aetna Life & Casualty Co. with the idea of forming an insurance consortium to supply the nurse-midwives with coverage.

"This joint effort of the NAIC and private insurers further demonstrates the industry's resourcefulness and willingness to work together to try to solve difficult availability problems generated by the liability crisis facing society today," said Maryland Insurance Commissioner Edward Muhl, who also is vp of the NAIC.

In addition to CNA and Aetna, other insurers participating in the nurse-midwives' program are: United States Fidelity & Guaranty Co., American International Group Inc., Crum & Forster, Liberty Mutual Insurance Co., Royal Insurance Co., Travelers Insurance Co., CIGNA Corp. and Maryland Casualty Co.

Victor O. Schinnerer & Co. Inc., the underwriting management subsidiary of Marsh & McLennan Cos. Inc., is the program's service agent.

The nurse-midwives also say they were able to secure coverage because they launched a successful education campaign that gave insurers a better understanding of the professional training nurse-midwives receive. For example, ACNM members have to meet the certification requirements of the college as well as being licensed by states.

Between 800 and 1,200 ACNM members are expected to opt for coverage during the program's first full year. Projections of annual premiums were not available last week.

The insurance problems of nurse-midwives had created considerable concern in Congress, where the midwives testified in favor of expanding the Risk Ret-

ention Act of 1981 after being rejected by more than a dozen insurers.

The current legislation, S. 2129, passed this month by the full Senate and pending before a House committee, would make it easier for businesses, trade groups and municipalities to purchase all forms of commercial casualty insurance—except workers compensation—on a group basis, or to form captive insurers.

The legislation, also championed by other associations, would remove state obstacles to self-funding, allowing trade groups to operate a special kind of captive insurance company—called a risk retention group—to serve members in all states after being licensed in one state.

Karen Ehrnman, ACNM government relations coordinator, told senators that speedy formation of a captive insurance company to replace the canceled coverage would be impossible without passage of the risk retention legislation.

Under the original 1981 Risk Retention Act, the freedom to form national risk retention groups to serve members across the country without having to be licensed in every state applies only to groups established to self-insure or purchase product liability and completed operations insurance.

Some business lobbyists worry that now that the nurse-midwives have found coverage, they might stop lobbying on behalf of the risk retention legislation and the proposal might die.

They say the risk retention legislation would not have moved this quickly if the nurse-midwives had not actively lobbied.

Ms. Ehrnman insists, though, that those fears are unfounded.

"We will testify. We will support the bill," Ms. Ehrnman said.

While the trade group has secured coverage, passage of the legislation will help to ensure that members never again will face the prospect of going bare if insurers refuse to write coverage, she added.

"We want other options. I never want to be in the position of no options," Ms. Ehrnman said.

cil of Lloyd's approved a new bylaw just four days before the funds were earmarked for the PCW losses.

The bylaw, which replaces the 1927 Central Fund Agreement, allows Lloyd's to use the Central Fund for purposes other than to pay claims because of defaults by members, explained Lloyd's Chief Executive Alan Lord.

According to Lloyd's, the fund can now be used for any purpose "where, in the opinion of the council, it is expedient for the advancement and protection of the interests of the members of the society. . ."

Also under the new bylaw, the council can increase the Central Fund by asking for additional contributions from Lloyd's members and through borrowing.

Prior to the adoption of the new

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

Index No. 41294/1986
NOTICE OF SALE OF 100% OWNERSHIP INTEREST IN MIDLAND INSURANCE COMPANY AND INVITATION TO BID

In the Matter of
the Liquidation of
MIDLAND INSURANCE COMPANY,
Insurer.

Notice is hereby given that on the 8th day of December, 1986, at two o'clock in the afternoon of that day, or as soon thereafter as counsel may be heard in IAS Part 12, Room 331 of the Supreme Court of the State of New York, County of New York, 60 Centre Street, New York, New York 10007, a hearing will be held before the Court (the "Hearing"), to consider the motion (the "Motion") of James P. Corcoran, the Superintendent of the State of New York as Liquidator (the "Liquidator") of Midland Insurance Company ("Midland") (by Andrew A. Alberti, Acting Special Deputy Superintendent of Insurance and Agent in Charge), for an order authorizing and approving the sale, transfer, assignment and conveyance to the qualified third party purchaser making the highest and best offer thereof, of a 100% ownership interest in Midland free and clear of any and all claims, liens, mortgages, encumbrances and interests of every kind and nature whatsoever and without representations and warranties of any kind by either the Liquidator or the New York State Department of Insurance. All such claims, liens, mortgages, encumbrances and interests, if any, shall be discharged pursuant to and in accordance with the priorities set forth in Article 74 of the New York Insurance Law. The Liquidator will only consider bids that are all cash or cash equivalents. The reasons for the sale and the further terms of the transaction are more fully described in the affidavit in support of the Motion and exhibits thereto. A copy of the Motion together with the affidavit in support thereof and all exhibits may be examined at the office of the Clerk of this Court or may be obtained from counsel for the Liquidator (for a nominal fee to cover the cost of photocopying) at the address set forth below. The Court, on the recommendation of the Liquidator, may impose such other terms and conditions as may be announced at the Hearing to be in the best interests of the liquidation estate. The Liquidator reserves the right to reject any bid or bids, which, in the Liquidator's sole and exclusive discretion, are deemed inadequate or insufficient or which may be contrary to the best interests of the liquidation estate.

All interested parties are invited to submit to the Counsel for the Liquidator (at the address set forth below) firm and detailed written offers to purchase the aforementioned 100% ownership interest on or before the 7th day of October, 1986, (the "Final Date for Submission of Offers"). At a minimum each such interested party shall submit to the Liquidator in writing the dollar amount of its bid (together with a deposit payable in the form of a cashier's or certified check in an amount equal to 10% of such bid) and the following information: the bidder's name; office and mailing addresses; telephone number; date and place of formation or incorporation (if a partnership or corporation and, if a corporation, the names of the principals charged with control of the corporate entity) or date and place of birth (if an individual or group of individuals); name, address and telephone number of bidder's legal counsel; name, address and telephone number of bidder's accountants; and name(s), address(es), telephone number(s) and account number(s) of bidder's principal bank(s) and investment bank (if applicable) plus such other and further information as may be required by the Liquidator in his sole and exclusive discretion.

All deposits received by the Liquidator on or prior to the Final Date for Submission of Offers will be held by the Liquidator in an interest bearing account until the closing of a sale of the 100% ownership interest in Midland to a Highest Qualified Bidder (as such term is hereinafter defined). A deposit received from the Highest Qualified Bidder will be applied to the purchase price at the closing. However, if the Highest Qualified Bidder fails or refuses to close for any reason whatsoever, such bidder's deposit will be forfeited. At the conclusion of the initial bidding process, the bidder who has submitted the highest and best offer to the Liquidator (the "Highest Bidder") will be so notified by the Liquidator and will be required to furnish to the Liquidator and to Mr. Corcoran in his capacity as regulator of insurers for the Department of Insurance (the "Regulator") certain additional information. A schedule of such additional information may be obtained from Counsel for the Liquidator at the address set forth below. Any Highest Bidder required to submit additional information to the Liquidator and the Regulator will remain under a continuing obligation to update such information so that the information remains accurate at all times during the bidding process and through the date of closing.

Upon receipt of such additional information from the Highest Bidder, the Regulator in his sole and exclusive discretion and pursuant to applicable provisions of the Insurance Law of the State of New York, will review and assess the additional information and determine whether or not such Highest Bidder qualifies to acquire a 100% ownership interest in Midland (a Highest Bidder who is found to be qualified is hereinafter referred to as a "Highest Qualified Bidder"). If the Highest Bidder fails to qualify, the Liquidator will direct the next Highest Bidder to submit to the Liquidator and the Regulator additional information and such process will continue until a Highest Qualified Bidder is obtained. Once a Highest Bidder has qualified as a Highest Qualified Bidder, the Liquidator will (i) inform all other bidders, (ii) issue a press release announcing the results of the auction, and (iii) on December 8, 1986 seek the Court's authorization and approval of the sale of the 100% ownership interest in Midland to the Highest Qualified Bidder.

At the time of submission of bids all bidders must acknowledge in writing that they (i) have had an opportunity to review the Motion, the affidavit in support thereof and all exhibits thereto as well as any and all pertinent instruments, documents or other items necessary to enable each bidder to make its offer and (ii) have reviewed and understand the terms and conditions of the proposed transaction.

All sales, transfers and related taxes, fees and other charges, if any, shall be the sole responsibility of the purchaser.

The Liquidator shall not be responsible for any brokerage fees or commissions in connection with the sale.

The 100% ownership interest in Midland is being sold as is, where is, without representations and warranties of any kind whatsoever by the Liquidator and the New York State Department of Insurance.

For further information and to submit offers contact: William F. Jerome, Esq., Counsel for the Liquidator, 123 William Street, New York, New York 10038 (212) 341-6720.

Dated: New York, New York
July 9, 1986

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Mutual Fire

Continued from page 1

Defaults among 620 of the partnerships have resulted in gross losses of around \$60 million and Mutual Fire, Marine's current exposure under the program is about \$180 million. Premiums totaling \$13.4 million were written to cover bonded exposures of \$435 million in principal and interest.

Also contributing to the insurer's financial ills were heavy hits on assumed reinsurance during 1982 through 1984. Insurers ceding business to Mutual Fire, Marine have reported losses and incurred-but-not-reported loss reserves of around \$160 million, of which about \$40 million is secured by Mutual Fire, Marine by letters of credit or trust funds.

Since the voluntary supervision order, Mutual Fire, Marine has been working on a three-point rescue plan that will allow:

- The insurer to issue "surplus notes" in the amounts of obligations due the lenders under the financial guarantee program and to companies that ceded business to the Philadelphia-based insurer.

- These notes would earn 10% interest and would become payable in quarterly installments beginning at the close of the first quarter of 1992, according to a draft of the proposed plan.

- But, payments could be made only out of funds Mutual Fire, Marine has in excess of legal surplus requirements and would be made on a pro-rata basis to both lenders and ceding companies.

- Insurers ceding business to Mutual Fire, Marine to make recoveries directly from Mutual Fire, Marine's retrocessionaires.

- A large portion of Mutual Fire, Marine's total book of direct insurance business to be sold to an unrelated insurer or insurers. Company officials are negotiating with insurers now but would not identify them.

Additional business still on Mutual Fire, Marine's books would be run off by a new servicing company formed by the officers and employees of Mutual Fire, Marine and other investors.

The mutual insurer would not be allowed to begin writing policies again until the Insurance Department was confident it was financially stable enough to re-enter the market as a risk-taker.

The focal point of Mutual Fire, Marine's plan is issuance of the surplus notes, or subordinated reimbursement notes as they are termed in the legal documents.

Under the proposal, lenders owed money under the financial guarantee program will be issued the notes with the opening amount equal to unpaid losses due the lender as of March 31. Future losses incurred by defaults of the limited partnerships will increase the value of the note.

Reinsurance recoveries for losses under the financial guarantee program will not be commingled with

other funds, but will be delivered to a trustee designated by the Insurance Department to handle claims. The trustee will pay the reinsurance recoveries to the lenders on a claims-specific basis and the sum paid to the lender will reduce the amount of its surplus note.

Recoveries made by Mutual Fire, Marine from the investors through subrogation would be delivered to the trustee for distribution.

However, at their option, the lenders can gain the right to control the collection efforts against defaulting investors, using Mutual Fire, Marine's rights to seize collateral pledged by the partnerships' investors.

Recoveries made by lenders will first be applied to collection costs, then credited on a pro rata basis between the lender and reinsurers that made payments on the loss. The lender, however, would have the right to use the amount of the reinsurer's credit to offset any other payments due the lender from the reinsurer.

The notes issued to the lenders will reflect credits and charges until 1992. At that point, all losses under the policies should have been reported. In the meantime, Mutual Fire, Marine has sued more than half the defaulted partnerships in an effort to force them to pay the loan balances and plans to sue the remainder.

Mr. Quigley said the insurer also has sued Worldsurance Inc. and its parent, Financial Guardian Group Inc., and probably will seek arbitration of disputes with Surety Intermediaries of New York, the MGAs that wrote the financial guarantee program on behalf of Mutual Fire, Marine.

The insurer contends that Worldsurance did not exercise due diligence required to assess the financial status of the partnerships it insured while Surety Intermediaries exceeded its underwriting authority.

However, other litigation threatens the success of this portion of the rescue plan.

Mutual Fire, Marine ceded 70% of the exposure on the financial guarantee program to a group of 17 domestic and Bermuda-based reinsurers. According to Mr. Quigley, 14 of the reinsurers have sued to rescind the reinsurance agreement, alleging fraud and other charges.

Mr. Quigley declined to identify the reinsurers because they are being asked to participate in the rescue plan.

In addition, one reinsurer of the financial guarantee business is claiming a reinsurance agreement never existed, while the other two reinsurers are insolvent, according to Mr. Quigley. The insolvent reinsurers are Union Indemnity Insurance Co. of New York and American Fidelity & Fire Insurance Co. in Woodbury, N.Y.

Mutual Fire, Marine has moved to dismiss the legal action brought in New York by the reinsurers or to have the claims resolved through

arbitration.

In addressing Mutual Fire, Marine's losses under its assumed reinsurance, the plan also calls for the issuance of surplus notes to the ceding companies. The plan also gives cedents the ability to collect directly from Mutual Fire, Marine's retrocessionaires.

The ceding companies' cooperation, says Mr. Quigley, is critical to the plan's success.

Some of the ceding companies were involved in the proposal's development, with many of the large ceding companies used as "a sounding board" early in the plan's development, Mr. Quigley noted.

Under the plan, the cedents would be issued surplus notes initially in the amount of Mutual Fire, Marine's "net retained obligations." This would be calculated by the ceding company and would include outstanding loss reserves and reserves for IBNR losses, unearned premiums and loss adjustment expenses, less recoveries from retrocessionaires.

In a letter to potential participants in the plan, Mutual Fire, Marine President Richard Guilfoyle emphasized the importance of retrocessionaires agreeing to pay losses directly to ceding companies.

"The agreement of all retrocessionaires to pay retrocession recoveries directly to the ceding insurers instead of the Mutual is required if the proposal is to be implemented," he wrote.

The reason is that direct access to the retrocessionaires by the ceding companies provides an important incentive for the ceding companies to support the rescue plan for Mutual Fire, Marine. It guarantees them payment of their claims unlike their prospects of Mutual Fire, Marine were to be liquidated.

In liquidation, all reinsurance proceeds are pooled and reinsurance claims are paid to the extent funds are available.

Another key part of this portion of the plan involves letters of credit and trust funds established by Mutual Fire, Marine and some of its retrocessionaires.

Mutual Fire, Marine is asking the ceding companies "to release any letters of credit, trusts or other security previously established by (Mutual Fire, Marine) as security for its obligations under the reinsurance treaty," according to Mr. Guilfoyle's letter. The insurer needs the funds to invest and earn investment income.

Further, Mr. Guilfoyle explains in his letter to potential participants, "unauthorized retrocessionaires must agree, where necessary, to transfer existing or appropriate security for reinsurance recoverables to enable the ceding insurers to obtain financial statement credit."

At least two creditors of Mutual

Fire, Marine, support the portion of the plan that involves their recoverables.

Anthony J. Kuczinski, vp and chief operating officer of Mutual Marine Office Inc. in New York, said, "I think at this point, (the plan is) the best way to go. It avoids liquidation and leaves the issue in the hands of those most concerned."

June figures showed that Mutual Marine Office was owed around \$9.5 million in paid and unpaid losses by Mutual Fire, Marine.

Mutual Fire, Marine was part of a pool of five insurers for which Mutual Marine Office holds underwriting authority.

Mutual Fire, Marine had a 4% participation in the pool, which wrote ocean marine, inland marine and aviation business.

"Our business had nothing to do with their demise," said Mr. Kuczinski.

Mr. Kuczinski noted Mutual Marine Office terminated the relationship with Mutual Fire, Marine in December 1985 because the company "had a suspicion" that financial difficulties were looming for the Philadelphia-based company.

At Colonial Penn Insurance Co. in Philadelphia, which is owed \$5.5 million in paid and unpaid losses, primarily on municipal liability business ceded to Mutual Fire, Marine, Senior Vp Harry Perlet said the plan is "a much better alternative for all involved than some scenario that would cause a shutdown of the company."

Mr. Perlet added, "We're in the process of working with the Mutual Fire, Marine people to make sure all the exposures are identified."

Both Mutual Marine Office and Colonial Penn, however, are waiting for Mutual Fire, Marine to complete its financial projections before committing fully to the plan.

Finally, Mutual Fire, Marine's direct written insurance business would be handled by selling a large portion of that business to an unrelated insurer or insurers.

The purchasing insurer would assume the liabilities under the policies and receive from Mutual Fire, Marine an amount of loss reserves discounted to their net present value.

"There is a large book of business that the Insurance Department would like to move out of the Mutual," Mr. Quigley said. "We're talking to other parties."

A spokesman for the Insurance Department said the business was professional liability insurance, mostly medical malpractice. Mr. Quigley called it "a substantial part of our direct book."

The insurer reports in its annual statement that it has earned over the years \$5.9 million in medical

malpractice insurance premiums on which it reports \$4.6 million in losses and loss expenses incurred.

Selling off this business would "go a long way to ensure success of the plan," said Mr. Quigley.

To create some liquidity, Mutual Fire, Marine has sold some assets and is negotiating to sell others.

UMI Holdings Inc., a subsidiary of the insurer, pumped \$157,000 into Mutual Fire, Marine's coffers with the sale of stock in International Advisory Services Inc., International Reinsurance Syndicate and Keystone Brokers Inc.

In addition, Mutual Fire, Marine is negotiating to sell its 50% interest in 1760 Market Street Associates, a limited partnership that holds the title to the UMI Building where the insurer is headquartered.

Earlier this month, Mr. Quigley said Mutual Fire, Marine was close to completing the sale of the building and that it would generate around \$4 million for the insurer.

In addition, UMI Inc., formed by officers and employees Mutual Fire, Marine and outside investors to run off any business remaining in the company, is negotiating to purchase UMI Reinsurance Co. from UMI Holdings, which is a subsidiary of Mutual Fire, Marine.

The sale of UMI Re should generate about \$7.5 million for the insurer, Mr. Quigley said. ■

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New Jersey alters insurer rules

TRENTON, N.J.—The state Insurance Department wants most commercial insurance policies written in New Jersey to contain clear statements of the grounds an insurer will use when it decides not to renew coverage.

The proposal was among several amendments announced by the department last week to recently relaxed regulations that govern most insurers' ability to terminate policies in New Jersey.

The department is giving interested parties until Aug. 20 to comment on the proposals, which would go into effect no earlier than Oct. 5.

Insurers oppose the amendment because they do not want to be limited by contract to specific reasons for not renewing a policy and also do not want to face possible court interpretations of those guidelines, according to Robert J. Sullivan, vp of government affairs for Crum & Forster Corp. in Morristown, N.J.

"We do intend to have discussions with the department on it," said Mr. Sullivan, a spokesman for a group of about six insurers who spent 10 months hammering out the new, more relaxed regulations in return for accepting a market assistance program.

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update

CONFERENCE REPORT

Issue Date: August 18

Ad Closing: August 6

BI editors report on the Business Insurance Employee Benefit Communications Conference: A Changing Environment Offers New Choices.

**business
insurance**

Employee Benefit Communications: /

It's becoming increasingly clear that employers must effectively communicate benefit programs so that employees can make informed choices.

This Conference focuses on the changing healthcare environment and the communication alternatives available to employers.

• SPEAKERS • SPEAKERS • SPEAKERS • SPEAKERS • SPEAKERS • SPEAKERS

Douglas M. Bartlett
Director, Employee Benefits U.S.
NCR CORPORATION
Panelist, *Computer Communications*
Case Study: *Computer Communications*
in conjunction with Hewitt Associates

Thomas D. Stroud, Director of Market Support
HUMANA INC., Group Health Division
Panelist, *Communicating Healthcare Alternatives:*
The PPO

Kathryn Collura
Communications Consultant,
HEWITT ASSOCIATES
Case Study: *Computer Communications*
in conjunction with NCR Corporation.

Michael J. DiStefano
Manager, Domestic Benefits
COLGATE-PALMOLIVE COMPANY
Case Study: *Print & AV Go Hand In Hand*

Julio Esteban, Jr.
VP, Manager Communication Consulting Svcs.
ALEXANDER & ALEXANDER INC.
Pre-Retirement Counseling

Karen B. Greenbaum
Principal
WILLIAM M. MERCER-MEIDINGER INC.
Case Study: *Computer Communications*
in conjunction with Sara Lee Corporation

Gary Grom
Executive Director, Human Resources
SARA LEE CORPORATION
Panelist, *Computer Communications*
Case Study: *Computer Communications*
in conjunction with William M. Mercer-Meidinger Inc.

Pamela Keeler
Director, Advanced Benefit Communications
METROPOLITAN LIFE INSURANCE COMPANY
Panelist, *Computer Communications*
Case Study: *Computer Communications*

Pamela Kekich
Principal
KWASHA LIPTON
Case Study: *Print & AV Go Hand In Hand*

Kathryn McIntyre, A.R.M.
Editor
BUSINESS INSURANCE
Opening Remarks

Dennis B. McKoy
Senior Vice President
JOHNSON & HIGGINS
Case Study: *Computer Communications*
in conjunction with RCA Corporation

Alfred Malecki
Publisher
BUSINESS INSURANCE
EBC Awards Luncheon

John D. Moynahan, Jr.
Executive Vice President
METROPOLITAN LIFE INSURANCE COMPANY
Keynote Speaker
Moderator: *Communicating Healthcare Alternatives*

Robert Normyle
VP, Sales & Marketing
US HEALTHCARE, NEW YORK
Panelist, *Communicating Healthcare Alternatives:*
The HMO

Eileen Nash
Director, External Communications
EQUITABLE GROUP & HEALTH INSURANCE COMPAN
Panelist, *Communicating Healthcare Alternatives:*
The Indemnity Plan

• AGENDA • AGENDA • AGENDA • AGENDA • AGENDA • AGENDA • AGEN

Keynote Address

Mr. Moynahan's dynamic address will set the tone for the *Business Insurance* 1986 Conference, as he describes today's changing healthcare environment and the developing trends in the marketplace.

Panel: *Communicating Healthcare Alternatives*

This three part panel will discuss how to best communicate the unique features of a particular type of healthcare plan so that employees can make informed choices. Speakers will point out weaknesses in how employers communicate alternative plans and how alternatives can be effectively communicated.

The Indemnity Plan: The changing healthcare environment has transformed the traditional plan to include innovative cost containment programs. *Equitable* suggests that as employees become active healthcare consumers, employers must develop comprehensive communication programs that motivate employees to get involved with their healthcare choices.

The PPO: The entry of preferred insurance into the marketplace requires the employee to have a greater understanding of the services provided. *Humana* stresses that while effective communications are essential for the total understanding of the plan, the employer must also assure employees that the quality of services has not been sacrificed for a lower cost plan.

The HMO: Healthcare management in the form of HMOs is in an evolutionary stage, suggests *US Healthcare*. The widening range of benefits — health programs such as health check and dental plans — point toward the need for increased communication by employers so that employees can make educated choices.

Panel: *Computer Communications*

This panel consists of employee benefit specialists whose companies are on the cutting edge of communications technology. Discussions will focus on why their companies opted for computer communications and how they combined market trends with technological innovations to implement state-of-the-art interactive communication vehicles.

Metropolitan Life blended the skills of benefits, technological and communication experts to develop an employee communications program called "SHOWCASE." Employees can directly access information about their benefits from interactive computer terminals housed in kiosks in the company lunchroom and lobby.

NCR Corporation is using NCR pc's as communication vehicles and interactive decision aids in employee retirement planning. NCR developed "EstiMATE," a software package that enables employees to do long-range forecasting of their future retirement income.

RCA Corporation's interactive communication system is tapped by employees for benefits data approximately 7,000 times a month. The system is designed to expand the applications to include interactive video, job postings, local health provider information and more.

Hanes Group, a subsidiary of Sara Lee Corp., developed a program using microcomputer disks to introduce a new 401(k) feature to their Retirement Savings Plan. In one-on-one meetings, employees were able to experiment with the percent of deferred pay and immediately see the impact of their decisions on take-home pay and benefit projections.

EBC Awards Luncheon

Recognizing outstanding communications programs, Alfred Malecki, Publisher, Business Insurance, presents the EBC Awards on August 4th.

Case Study Sessions

Informal workshops will be presented as concurrents giving you the opportunity to attend all sessions.

Total Benefits Communication

Bell Atlantic Enterprises' communication program, "A Wave in Benefits," is a 1985 award winning example of a total communication effort, effectively communicating the full range of benefits. Mr. Olsen will review the program, including such aspects as management objectives, budgetary considerations and strategies.

Print & AV Go Hand In Hand

This session will focus on how *Colgate-Palmolive* combined audio-visual and unique print to build a 1985 EBC award winning communications program, "More Financial Power." They chose a marketing approach to introduce a new 401(k) feature to their employee savings plan, by using identifiable packaging and slogans. Mr. DiStefano and Ms. Kekich will explain why Colgate chose this approach and will give an overview of the components of the program.

Computer Communications Workshops

The Computer Communications panelists, along with their consultant or marketing firm, will provide personal computers so that attendees may have an unprecedented opportunity to experiment with these communications vehicles.

Changing Environment Offers New Choices

Come to the BI Conference ... listen, learn and contribute. The choice is yours!

August 4 and 5
The Marriott Marquis Hotel, New York City

SPEAKERS • SPEAKERS • REGISTRATION INFO • REGISTRATION INFO

Peter O'Donnell
 Director, Employee Benefits
 RCA CORPORATION
 Panelist, *Computer Communications*
Case Study: Computer Communications
 in conjunction with Johnson & Higgins

Don Olsen
 Manager, Benefit Plans
 DELL ATLANTIC ENTERPRISES CORPORATION
Case Study: Total Benefits Communication

Frank Pirrone
 Assistant Vice President
 JOHNSON & HIGGINS
Case Study: Computer Communications
 in conjunction with RCA Corporation

Steve Ramsey
 Communications Consultant
 HEWITT ASSOCIATES
Case Study: Computer Communications
 in conjunction with NCR Corporation

Herb Zeltner
 President
 HERBERT ZELTNER CONSULTING INC.
You Be The Judge

The BI Conference opens Sunday, August 3, with registration check-in and a cocktail reception from 5-7pm. Sessions begin Monday, August 4 at 8:30am. The conference adjourns Tuesday, August 5 at 3:45pm. The cost is **\$625**. A 10% discount is offered to additional registrants from the same company. The fee includes sessions, workbook, and educational materials, and scheduled functions.

Payment required with registration. All registrations will be confirmed.

Cancellations must be received in writing. A refund will be made on cancellations received prior to July 1. A **\$100** service charge will apply to cancellations received after July 1. No refund will be made on cancellations received less than 5 business days prior to the conference. If your plans change, you may substitute the name of another person from your company without penalty.

To register, complete the form and send it with your payment to:
Business Insurance, Communication Services Department,
220 E. 42nd St., Suite 930, New York City, NY 10017
 For information call: **Ann Vazquez, Registrar, at (212)210-0137.**

HOTEL ACCOMMODATIONS

We have set aside a block of rooms at a special **\$125** room rate at the new Marriott Marquis Hotel in New York City. These rates are available to Conference Registrants only, and will be honored until July 14. You must mention the *Business Insurance Benefits Conference* when making your reservations. Hotel cards will be included with your Conference Registration Confirmation. Or call the Marriott Marquis Hotel at (212)704-8700; or toll free at (800)228-9290.

Awards Luncheon

The EBC Awards Presentation Luncheon will be held on Monday, August 4th. A luncheon ticket is included with your Conference registration. A limited number of additional seats are available. Tickets are **\$60** each, available on a first come-first serve basis; **reservations required.** Contact Registrar.

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Task Force Sessions

In an all new format, this session provides a challenging forum for attendees. You can select employer specific task force units to discuss and evaluate proposed communications problems, and then present your findings to all. Use the registration form to pre-select one of these communication issues:

- Communicate plan changes from first-dollar medical coverage to co-payment with deductible.
- Improve participation in a two-year old 401(k) program.
- Introduce a flexible employee benefits program.
- Induce part of your employee population to take early retirement.
- Update a long standing, but not very effective communications program.
- Design a communications program for top level executives only.

Pre-Retirement Counseling Programs: New Approaches

Rather than designing a pre-retirement counseling program, Mr. Esteban proposes that 'retirement planning education' be presented as a 'life planning' vehicle built into a company's total benefits package. He suggests that employee groups be broken down by age periods and that the design of such programs meet the specific needs of each group.

You Be The Judge

Mr. Zeltner returns to the BI Conference to lead attendees in an energetic session. He will introduce selected audio-visual programs submitted to the EBC competition, offering insight as to what other industry professionals are doing in this medium.

Please register me for the 1986 BI Conference BI 7/28
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A Changing Environment Offers New Choices
August 4 and 5 • The Marriott Marquis Hotel in New York City

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Introduce a flexible employee benefits program.

Induce part of your employee population to take early retirement.

Update a long standing, but not very effective communications program.

Design a communications program for top level executives only.

*The size of each session is limited, each Task Force will be filled on a first-come, first-serve basis

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Risk retention

Continued from page 1

Subcommittee members and witnesses rejected suggestions last week that Congress should drop consideration of the legislation now that a group of nurse-midwives have found insurance coverage (see story, page 3). Supporters of the bill used the nurse-midwives as an example of a group that could not find commercial liability insurance.

Since many other groups and businesses still cannot obtain affordable liability insurance, Congress shouldn't give up now, Rep. Wyden noted.

"Our constituents, day-care centers, truckers... don't want us to fold up the tent," said Rep. Wyden. "They have real needs. They want the bill to pass this session."

Subcommittee Chairman Rep. James Florio, D-N.J., said even if the current liability insurance crunch eases and coverage again becomes plentiful and competitively priced, the risk retention legislation still should be passed so that alternative funding mechanisms are in place when the next crisis strikes.

"Even if the crisis is easing, it does not detract from our interest," Rep. Florio said. "If we want to avoid the cycle in the future, we should be thinking of different types of alternatives."

Passage of the risk retention legislation also could have a positive effect on insurers' marketing decisions, an attorney said.

"They (insurers) would try harder to stay in the market if they knew clients could form their own risk retention groups," said Michael Mullen, an attorney with the Washington law firm of Crowell & Moring.

The risk retention legislation is designed to give businesses risk-financing alterna-

tives if commercial liability coverage is unaffordable or unavailable.

Under the legislation, businesses, trade groups and municipalities could establish risk retention groups, a type of captive insurance company, to self-fund all commercial casualty exposures, except workers compensation.

After a risk retention group meets the capitalization and other regulatory requirements of one state, it could operate in other states without having to be licensed in each state.

However, under amendments hammered out by representatives of the National Assn. of Insurance Commissioners and business groups that were added to the Senate bill by Sens. Slade Gorton, R-Wash., and Wendell Ford, D-Ky., risk retention groups would be required to:

- Supply an operating plan to regulators in each state in which it intends to operate before conducting business there. This operating plan would have to include a rating schedule, coverages to be offered and limits.

- Submit to regulators in every state in which it operates a copy of the annual financial statement that it files in its domicile. That statement would have to be certified by an independent accountant with an opinion on loss reserves by a qualified actuary.

- Exclude coverage for punitive damages or intentional, fraudulent or criminal conduct to the extent such coverage is prohibited by state law.

In addition, a risk retention group that engaged in repeated, knowing and willful fraudulent conduct in one state could be enjoined from operating in other states.

Besides making it much easier for businesses to set up risk retention groups, the legislation also would pre-empt state laws

that generally bar businesses from banding together and purchasing casualty insurance as a group.

The legislation, if enacted by Congress, would result in a major expansion of the 1981 Risk Retention Act. That act only allows the establishment of risk retention and purchasing groups to cover product liability and completed operations exposures.

At last week's hearing, insurers, regulators and agents honored their pledge—made when the Gorton-Ford amendments were added to the Senate bill—not to oppose the legislation.

James Kimble, senior counsel for the American Insurance Assn. in Washington, said he was especially relieved that the subcommittee was not considering any amendments to the bill that would overhaul the McCarran-Ferguson Act or require insurers to report detailed financial information to the federal government.

Such amendments, which AIA President Robert Vagley earlier said would force the association to oppose the legislation, were discussed—but not formally proposed—when the Senate approved the legislation.

Sen. Frank Lautenberg, D-N.J., the lone senator that voted against the risk retention legislation on the Senate floor, renewed his pitch for an amendment to require risk retention groups to be covered by state guaranty funds.

Sen. Lautenberg warned claims might not be paid if a risk retention group went broke and did not participate in guaranty funds.

But just as the Senate rejected Sen. Lautenberg's proposal, House subcommittee members and witnesses did not like the idea.

Rep. Wyden noted even if a state established guaranty funds just for risk retention groups, it would mean that well-designed and structured risk retention groups would

have to bail out groups that fail.

"It is a mistake to allow... unrelated risk retention groups to subsidize each other," Rep. Wyden said.

Alan Page, a vp with Johnson & Higgins in New York, noted that buyers interested in captive-type programs, like risk retention groups, typically are quite sophisticated and only would be interested in participating in well-designed programs.

This buyer sophistication "eliminates weak projects" and the need for a guaranty fund mechanism, Mr. Page said.

Rep. Lent noted the public is far better protected if businesses band together and form risk retention groups than if they go bare.

"How is the public protected if the company goes bare?" Rep. Lent asked. In addition, the legislation gives state regulators sufficient power to stop unsoundly structured risk retention groups from operating, Rep. Lent said.

Meanwhile, the General Accounting Office in a report released last week found that state regulators often still don't understand the 1981 Risk Retention Act.

In a survey of 51 insurance departments, the GAO found that one-third of the officials to which it was referred either didn't understand the scope of the act's provisions or the extent to which they had authority over risk retention and purchasing groups.

"This confusion may have affected the formation of risk retention and purchasing groups," the GAO said, noting that three product liability risk retention groups currently are operating and four purchasing groups have been established.

It also may have hindered the groups' ability to operate under the act, because the departments' perceptions of risk retention and purchasing groups were unfavorable. ■

Three new reinsurers

Continued from page 3

sent by Putnam to reinsurance brokers.

According to a July 2 letter to brokers, Putnam also intends to avoid large exposures to professional liability, directors and officers liability, environmental impairment liability and surety risks, brokerage sources say.

American International Group plans to formally announce details of Putnam's formation shortly, the AIG spokeswoman said.

Meanwhile, United Republic, a Texas-domiciled reinsurer, also started writing business July 1 after receiving its charter from the state Insurance Department in late June, according to Rex L. Davis, president and chief executive officer.

United Republic intends to write excess-of-loss property treaty reinsurance, though it may consider some casualty risks submitted by property reinsurance clients, according to Mr. Davis, a former chairman and president of Ranger Insurance Co., a subsidiary of Anderson, Clayton & Co. of Houston.

United Republic will not write facultative reinsurance, he added.

The reinsurer's maximum capacity is \$250,000 for property risks, and will vary for casualty business depending on the nature of the risk, according to Mr. Davis.

United Republic has not placed any retrocessional coverage for itself and will write on a net-line basis. "We simply did not want to get into the problem of finding retrocessions in this marketplace," Mr. Davis explained.

Although currently admitted in Texas only, the reinsurer plans to become admitted "in as many states as

possible," Mr. Davis said.

Still on the drawing board is the reinsurer that brokerage sources say is being planned by Mr. Gilmartin and four other individuals.

Mr. Gilmartin said he could not confirm or deny the number of other individuals involved, and he declined to identify any of the other organizers since, as of last Wednesday, they had not notified their employers of their intention to form the new company.

He also declined to confirm or deny that the name being considered for the new company is United States Reinsurance Corp.

Mr. Gilmartin did say that he is taking early retirement from CNA to participate in the formation of the new reinsurer, which will be headquartered in the Morristown, N.J., area.

He added that the organizers hope to complete a public stock offering that will raise \$60 million to \$100 million in capital in time for the reinsurer to participate in year-end 1986 reinsurance renewals.

"It's important to us that we not let this renewal season pass without our participating in it," he said.

The new reinsurer will write "pretty much the same sort of thing I wrote at CNA," Mr. Gilmartin added: pro rata and excess-of-loss treaty reinsurance for all property and casualty lines except surety.

The reinsurer will not write facultative risks, he said.

Mr. Gilmartin said he could not comment on the reinsurer's per-risk capacity, since it will depend in part on the amount of retrocessional coverage available. He also declined to comment on other aspects of the reinsurer's formation, including the investment banking firm that will handle the stock offering. ■

Stadium coverage falls short of goal

Continued from page 3

which is underwritten by the new American Excess Insurance Assn., brings to \$75 million the amount of park district insurance available to respond to Bears-related liability claims.

However, the policy includes a one-third quota-share participation by the park district, meaning the district—or the Bears if they were the defendants—would have to pay one-third of any claim exceeding \$26 million.

The park district acquired the additional insurance shortly after the lease-mandated deadline of 30 days before the start of the first game of each season, which is Aug. 15 this year, sources say.

Now, the park district is seeking the additional \$25 million in coverage, district sources say.

The Bears could benefit from the shortfall in the park district's insurance if it invalidates the lease, which the team finds onerous. That would free them to consider options like building a stadium in the suburbs.

The park district is paying \$190,500 for the \$49 million in excess insurance on a claims-made basis from the recently established American Excess line slip (BI, May 26), according to Jack Mathews, park district treasurer.

That policy applies only to Bears-related claims, while the district's underlying coverages apply to all the district's liability exposures. The district also has underlying occurrence-based coverage, which attaches above a \$500,000 self-insured retention.

The underlying coverage consists of a \$500,000 layer written by National Union Fire Insurance Co. of Pittsburgh, Pa., and a \$25 million excess layer underwritten by Fireman's Fund Insurance Cos., which was obtained earlier this year Mr. Mathews said (BI, Jan. 20).

The coverage was placed through broker D.J. McCarthy & Co. in Glenview, Ill., Mr. Mathews said.

Both the Bears and the park district are named policyholders on each others' liability policies.

The Bears have \$1 million in general liability coverage with a \$3 million annual aggregate, Mr. Mathews said. He was unable to identify the insurer.

A related question concerns whether the still-to-be chosen Soldier Field beer concessionaire can meet a requirement in the Bears' lease that the concessionaire have \$100 million in liquor liability insurance, park district sources said.

Three bidders for the contract have maximum insurance limits ranging from \$25 million to \$50 million, Mr. Mathews said. Last year's concessionaire had \$110 million in coverage for its dramshop exposure at multiple stadiums.

The park district already is considering its strategy if the Bears question the validity of the stadium lease over the issue of inadequate liability insurance.

The district considers the \$75 million in coverage it has already obtained as "substantial performance" under the contract, said Alexander Polikoff, the district's special legal counsel. He is an attorney with a group known as Business and Professional People For the Public Interest.

Consequently, the Bears cannot "walk away" from the lease agreement, although the park district could be made to pay for any claims the Bears were forced to pay between \$75 million and \$100 million, he said. In addition, if the Bears obtained the missing \$25 million in coverage, they could argue that the district should pay for it, Mr. Polikoff said.

The district has told the Bears that it will pay no more than \$94,000 for an additional \$25 million excess of \$75 million in limits.

Mr. Mathews outlined alternatives to the problem of inadequate limits of liquor liability insurance, including: not selling beer; selling it only outside the stadium; giving the Bears a hold-harmless agreement for the exposure; or the reducing the park district's share of beer sale proceeds to help the concessionaire afford the expensive coverage.

The concessionaires are receiving quotes for liquor liability insurance at a rate of about \$6,000 per \$1 million of coverage, Mr. Mathews said. ■

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Canadian broker forming insurers

TORONTO—Johnson & Higgins Willis Faber Ltd. is forming three insurers to write excess liability coverage for Canadian-based businesses.

The first of the facilities, Canadian Excess Liability Insurance Co., expects to offer limits of \$25 million excess of \$10 million for general liability risks by Jan. 1.

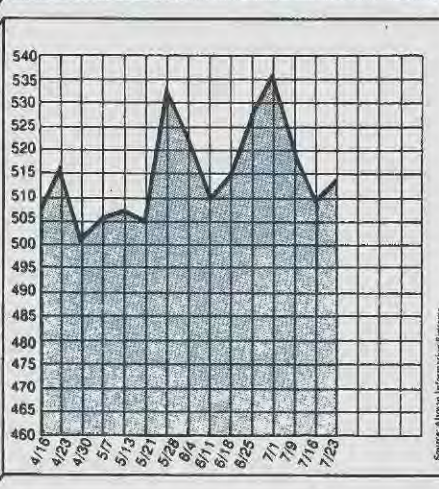
The other companies, Canadian Excess Professional Liability Insurance Co. and Canadian Excess Directors and Officers Liability Insurance Co., will offer the same limits and will be modeled after Canadian Excess Liability.

"If we're successful with the first one, we'll clone it for the second and third," said Brian W. Jones, J&HWF senior vp.

The facilities each will be capitalized with a minimum of \$25 million and will be owned by policyholders. ■

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BI Insurance Index



Industry not yet suffering from glut of new capital

By MYRON M. PICOULT
Special to Business Insurance

ONE OF THE more interesting games that investors have played in recent weeks is assessing the statutory capital position of the property/casualty insurance industry with respect to its adequacy and prognosticating whether the industry is now overcapitalized.

If the industry were overcapitalized, the theory is that insurance company managements would be ready to embark on a new suicidal mission to oblivion.

It is to be noted that the theory and its implementation cropped up coincidentally with stocks going into a tailspin because of the recent legislative action in Florida and fears that such laws would become a new standard. Subsequent to the Florida legislation, recently enacted insurance regulations in New York and Illinois have proved to be much more reasonable.

Furthermore, the uneasiness over the accumulation of excess capital also relates to appreciation in bond portfolios and how companies perceive their current capital ratios.

A representative grouping of multiline and strictly property/casualty companies that we track showed a ratio of premiums written to statutory surplus averaged 2.46-to-1 as of March 31. This compares to a ratio of 2.54-to-1 as of March 31, 1985, and a ratio of 2.50-to-1 at year-end 1985.

These ratios appear to be remarkably stable given the sharp increases in premiums written over the past few quarters and the lack, to date, of any meaningful earnings gains. The stability reflects the infusion of some \$8 billion in capital, raised by the industry over the past 18 months, as well as some profits garnered from the appreciation of bond portfolios.



Mr. Picoult

Myron M. Picoult is senior vp and senior insurance analyst with Oppenheimer & Co. in New York. He is the past president of the Assn. of Insurance & Financial Analysts and a member of the New York Society of Security Analysts.

We continue to find it difficult to believe that property/casualty insurers have already developed an appetite to engage in cutthroat competition at this stage of the underwriting recovery. Hence, we feel that concerns about the industry being overcapitalized are overstated. . . .

We continue to believe that, for most underwriters, their premium-to-surplus ratios will deteriorate somewhat over the next several quarters as premium gains continue to outpace statutory surplus accumulation.

Another factor to be aware of is the constraint imposed by the tight reinsurance environment. The inability of primary insurers to lay off business to reinsurers means that the ceding companies will continue to retain more risk for their own accounts. This, too, exacerbates the premium-to-surplus relationship.

As previously noted, perceptions about capital ratios are clearly influenced by the underwriting cycle. Specifically, the ratios are viewed differently both by insurance company managements and regulators, depending upon whether the cycle is improving or deteriorating.

For example, a 3.5-to-1 ratio, which is clearly on the high side, is not viewed as ominously when the underwriting cycle is improving as it would be if the industry's fundamentals were heading south.

Statutory accounting requires that bond investments be carried at amortized values. Hence, unrealized appreciation or depreciation is not recognized. This leads to distortions such as in 1982, when bond portfolios were under water by as much as 20%, and today, when they are at a premium of 5% to 7%.

In 1982, it was not unusual to mark a bond portfolio to market and find that a company literally did not have any statutory surplus left. Conversely today, marking the bond portfolios to market enhances surplus.

Some investors have feared that this feeling of accumulated wealth will cause insurance company managements to become more aggressive in seeking business and hence bring on the demise of the underwriting cycle.

Admittedly, it is difficult to argue that

property/casualty managements do not feel more comfortable today vis-a-vis 1982. However, realizing gains in bond portfolios may not be as opportune as some think when reinvestment rates are calculated.

The sharp decline in the yield curve has enhanced the value of high-yielding, older bonds but also has sharply reduced reinvestment rates.

Still another factor to recognize is the premium-to-surplus ratio itself. It does not provide any insight into a company's mix of business. More work has to be done with respect to developing "risk-adjusted, premium-to-surplus ratios."

In fact, to the extent that accident-year data can be developed and overlaid on reported calendar-year results, more realistic combined ratios can be developed. A 2.5-to-1 premium-to-surplus ratio for a company with a 105% combined ratio means more than a comparable premium-to-surplus ratio for a company with a 115% combined ratio.

We will admit that current combined ratios may not be comparable to those posted by insurers several years ago because of changes in the amount of long-tail business being written, which tends to distort combined ratios. Nonetheless, insurer managements should "risk adjust" their premium-to-surplus ratios and report them together with the more "traditional" ratio.

Put another way, more insurance company managements should pay attention to balance sheet items.

We continue to find it difficult to believe that property/casualty insurers have already developed an appetite to engage in cutthroat competition at this stage of the underwriting recovery. Hence, we feel that concerns about the industry being overcapitalized are overstated and have been taken out of context.

Unfortunately, the industry's past record is so blemished that it does not permit one to give the industry the benefit of the doubt. Deeds are the only things that will count this time around.

British Issues

22 July Companies	Price	P/E	Div.	Yield	1 Week High-Low
	pence		pence	%	pence/pence
Comml Union	312	28.4	15.9	5.4	318-311
Genl Accident	840	15.3	35.2	4.2	858-835
Gdn Royal Exch	900	17.3	46.5	5.5	915-895
Royal	848	14.1	40.8	4.8	858-839
Sun Alliance	700	23.3	28.2	4.0	718-692

Brokers	Price	P/E	Div.	Yield	1 Week High-Low
	pence		pence	%	pence/pence
CE Heath	522	7.9	39.4	7.6	530-515
Hogg Robinson	321	11.1	15.5	5.0	320-314
JH Minet	260	10.0	14.1	5.4	261-252
Sedg Gp	352	13.5	19.0	5.4	347-333
Staw Wrightson	463	14.7	19.0	4.1	462-439
Willis Faber	415	15.4	16.2	3.9	415-403

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

BI Industry Stock Report

July 23, 1986 7/17/86 thru 7/23/86

Brokers	Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol.(000)	Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol.(000)									
Alexander & Alexander Svcs	NYSE	37.50	-1.3	0.4	1.00	2.7	37.63	37.00	332.6	NYSE	44.50	-0.3	0.0	2.60	5.8	44.63	43.50*	639.4							
Baldwin & Lyons Inc	OTC	23.50	-4.1	58.7	0.16	0.7	27.50	23.50	1.7	OTC	350.00	0.0	3.5	0.00	0.0	350.00	350.00	0.3							
Corroon & Black Corp	NYSE	39.00	-2.5	20.9	0.65	1.7	40.25	39.00	161.0	OTC	45.50	-1.1	12.2	1.36	3.0	46.25	45.50	2.5							
Crump E H Cos Inc	OTC	28.75	1.8	22.3	0.25	0.9	29.13*	28.50	251.5	OTC	41.38	0.9	14.8	1.00	2.4	41.38	41.25	349.3							
Gallagher Arthur J & Co	OTC	27.00	3.8	21.8	0.20	0.7	27.50	26.25	379.6	AMEX	17.50	0.7	22.2	0.00	0.0	17.75	16.88*	55.9							
Hall Frank B & Co Inc	NYSE	24.88	3.1	0.0	0.00	0.0	25.00	24.25	72.2	NYSE	37.88	8.2	0.4	0.30	0.8	38.00	36.00	715.9							
Marsh & McLennan Cos Inc	NYSE	64.50	7.7	22.7	1.50	2.3	64.50	60.00	384.1	OTC	24.50	-6.7	0.0	0.45	2.0	26.25	24.50*	124.4							
Poe & Assoc Inc	OTC	12.50	0.0	0.0	0.53	4.3	12.50	12.50	6.3	OTC	850.00	0.0	8.5	18.00	2.1	850.00	840.00	0.1							
AGENTS/BROKERS AVERAGE									2.7 1.7																
Conglomerates & Holding Cos.																									
American Express(Fireman's Fd)	NYSE	60.50	4.5	11.5	1.36	2.2	60.50	58.63	3,535.2	OTC	25.38	0.5	55.2	0.56	0.9	25.38	25.13	131.2							
Anderson (Layton/Ranger/PanAm)	NYSE	55.88	-3.5	31.9	0.00	0.0	0.00	0.0	0.0	OTC	59.75	0.0	16.3	0.60	2.0	31.00	30.25	232.4							
Arco Inc	NYSE	7.25	-7.9	0.0	0.00	0.0	7.63	6.75*	2,552.7	NYSE	39.25	0.0	16.6	0.72	1.8	39.25	39.25	21.6							
Berkley W R Corp	OTC	33.50	-1.5	26.0	0.24	0.7	34.25	33.25	275.7	NYSE	51.88	3.7	11.7	2.00	3.9	51.88	50.13	365.7							
Berkshire Hathaway Inc del	OTC	2845.00	0.0	29.8	0.00	0.0	2845.00	2725.00	0.5	OTC	96.50	-0.5	15.3	2.40	2.5	97.50	96.50	52.3							
CIGNA Corp	NYSE	62.63	-0.2	0.0	2.60	4.2	62.63	61.50	858.8	OTC	33.00	0.0	13.0	0.87	2.6	33.00	33.00	1.3							
DNA Fint Corp (CNA)	NYSE	56.00	-2.0	17.7	0.00	0.0	57.00	55.63	376.6	OTC	30.75	0.0	16.3	0.60	2.0	31.00	30.25	232.4							
General Re Corp	NYSE	61.00	2.5	37.7	0.88	1.4	61.00	59.00	744.0	NYSE	39.25	0.0	16.6	0.72	1.8	39.25	39.25	21.6							
ITT (Wartford Group)	NYSE	54.25	2.4	29.5	1.00	1.8	54.25	53.00	2,959.0	NYSE	51.88	3.7	11.7	2.00	3.9	51.88	50.13	365.7							
Sears Roebuck & Co. (Allstate)	NYSE	43.00	2.1	12.3	1.76	4.1	43.00	42.50	3,742.9	PAC	3.63	0.0	0.0	0.00	0.0	4.38	2.88	570.0							
Teledyne Inc (Aryonaut)	NYSE	295.38	-5.9	10.8	0.00	0.0	311.13	295.38*	212.3	OTC	54.63	0.2	19.4	1.40	2.6	55.00*	54.50	95.2							
TeleAmerica Corp (Occidental)	NYSE	35.25	-0.7	15.5	1.68	4.8	36.00	34.75	836.0	OTC	35.00	-1.4	0.0	0.00	0.0	35.50	34.50	61.1							
CONGLOMERATES/HOLDING COS. AVERAGE									27.4 0.3																
Insurers																									
Aetna Life & Cas Co	NYSE	60.50	3.4	13.3	2.64	4.4	60.50	58.38	1,256.2	OTC	84.25	4.5	19.5	3.00	3.6	84.50	82.00	129.6							
American General Corp	NYSE	42.38	3.0	12.8	1.12	2.6	42.63	41.25	1,100.1	OTC	33.25	-2.6	12.2	0.78	2.3	34.38	33.13*	195.3							
Ameron Heritage Life Invst Co	NYSE	42.13	1.5	15.5	1.32	3.1	42.13	40.75	4.1	NYSE	33.25	-5.7	0.0	0.76	2.3	35.00	33.25	98.8							
American Intdy Fint Corp	OTC	19.75	0.0	0.0	1.12	5.7	19.75	19.63	11.7	OTC	23.00	0.0	12.6	0.70	3.0	23.25	22.50	42.1							
American Intl Group Inc	NYSE	132.75	8.0	24.7	0.44	0.3	132.75	124.63	720.7	OTC	27.50	0.9	9.6	0.84	3.1	27.75	27.38	72.1							
Aneco Reins Ltd	OTC	2.13	-5.6	0.0	0.00	0.0	2.25	2.13	1.5	OTC	43.00	2.4	26.1	1.50	3.5	43.25	42.75	441.3							
Avenco Corp	NYSE	28.25	8.7	14.9	0.50	1.8	28.25	26.25	14.5	OTC	54.38	0.0	14.7	1.68	3.1	55.25	54.38	206.7							
Business Hens Assurn Co Amer	OTC	27.50	-0.9	16.6	1.10	4.0	28.00	27.50	32.1	OTC	18.25	0.0	0.0	0.80	4.4	18.25	18.00	61.1							
Chubb Corp	NYSE	68.88	0.4	135.0	1.56	2.3	68.88	67.50	376.2	OTC	20.50	12.3	0.0	0.80	3.9	20.75	20.50	5.7							
Combined Intl Corp	NYSE	56.00	-0.4	11.2	2.24	4.0	58.25	56.00	484.6	OTC	5.75	2.2	61.1	0.05	0.9	5.75	5.75	47.2							
INSURANCE COMPANIES AVERAGE																	9.2 1.9								

Poe & Associates

Second-quarter net income at Poe & Associates Inc., the nation's 13th-largest brokerage, jumped 121.7% to \$1.19 in 1986 from \$535,000 in 1985. For the first half, the brokerage's net income increased 126.1% to \$2.38 million in 1986 from \$1.05 million in 1985.

Gross revenues for the second quarter rose 21.7% to \$8.04 million in 1986 from \$6.6 million in 1985.

Revenues for the first half rose 28.0% to \$16.25 million from \$12.7 million in 1985.

In addition, Poe & Associates earlier this month announced it had purchased 505,454 shares, or 11.9%, of its outstanding common stock and acquired options to purchase an additional 202,663 shares, or 4.8%, at a price of \$10.50 per share. The options are exercisable prior to Dec. 10. Poe stock sold at \$12.50 per share over the counter on July 22.

Marsh & McLennan

Second-quarter net income at Marsh & McLennan Cos. Inc., the world's largest brokerage, rose 59.9% to \$64.6 million in 1986 from \$40.4 million in 1985.

In addition, M&M reported net income rose 54.6% to \$129.7 million in the first half of 1986 from \$83.9 million in the first half of last year.

Gross revenues surged 36.2% in the second quarter to \$453.4 million from \$332.8 million in the second quarter of 1985. Gross revenues for the first half rose 37% to \$897.6 million from \$655 million.

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