

Business Insurance

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

Entire contents copyright 1997 by Crain Communications Inc. All rights reserved.

Silicon Graphics shareholders to appeal fraud suit dismissal

SAN FRANCISCO—An attorney for the plaintiffs in one of the first lawsuits filed under a 1995 securities litigation reform law plans to appeal a federal judge's dismissal of the suit. U.S. District Judge Fern Smith of San Francisco last month dismissed a class-action securities fraud suit brought against Silicon Graphics Inc. of Mountain View, Calif., holding that the plaintiffs failed to meet a standard of "a strong inference of knowing or intentional misconduct" to prove Silicon Graphics had defrauded investors, a charge the software

See Updates on next page

State to study comp losses, drug test data

By MEG FLETCHER

A Tennessee initiative may help stem criticism of state laws that promote drug-free workplaces by allowing workers compensation insurers to give premium credits to employers that screen for drugs.

The drug-free workplace laws, which more states are considering, have drawn criticism that there is little credible data to demonstrate how much the mostly voluntary drug-screening programs help control losses or to justify the average 5% premium credit.

Tennessee, however, may be on to an approach that could help solve those problems, according to observers of the state's initiative.

The Tennessee program links an employer's reporting of basic drug-test program information with its workers comp loss data. That approach could yield more credible data about the impact of drug-free workplace programs that will help employers and state authorities.

Some insurance organizations, though, remain skeptical of the appropriateness of the premium credits.

"We simply don't know what works and what doesn't," said Keith Lessener, vp-safety and environment with the Alliance of American Insurers in Schaumburg, Ill.

"It's an open question whether the cost savings from drug-free workplaces will justify the premium credits granted," agreed a spokesman for the National Council on Compensation Insurance in Boca Raton, Fla.

Preliminary results from a Florida program indicated about a 5% reduction in average incurred losses as a result of a similar program.

However, determining statistically appropriate pre-

See Drugs on page 27

Drug testing may save dollars

Testing and other measures to maintain drug-free workplaces may net employers workers compensation premium credits in eight states



Source: The Alliance of American Insurers

GRAPHIC BY ADAM DOI

Taking product liability to task

Reform advocates await word on administration panel

By MARK A. HOFMANN

WASHINGTON—The possibility that the White House is creating a task force to negotiate product liability reform legislation is winning high marks from reform advocates.

Washington business circles were abuzz with unofficial reports last week that a task force—supposedly to be headed by Bruce Lindsey, one of President Clinton's closest advisers—was being formed to negotiate with congressional supporters of product liability reform. The task force supposedly also would include representatives of the Commerce and Justice departments, as well as the Small Business Administration.

A White House spokeswoman could



President Clinton

API WIDE WORLD PHOTOS

not confirm that a formal task force had been named, and noted that Mr. Lindsey was not in the office last week. She did confirm, however, that product liability reform was being discussed in the administration.

"Staff here and from various agencies are continuing to talk about ways to address the president's desire to reform product liability law while still maintaining that level of consumer protection that he's expressed concern

about in the past. It's the kind of thing that we routinely talk to agencies about on a variety of issues; it's a common practice," the spokeswoman said.

Pro-reform forces are enthusiastically greeting the creation of even an informal group to negotiate a solution to the long-running issue of product liability reform.

"It's a very positive step forward. The faster we get to the negotiating table, the better off we'll be," said Pat Rowland, executive director of the Arlington, Va.-based Product Liability Coordinating Committee.

The PLCC issued a statement last week saying it is "encouraged by President Clinton's action and (thinks) it is a step toward fulfilling his promise in

See Task force on page 31

Lloyd's profits top £1 billion due to diminished reserving

By SARAH GODDARD

LONDON—Lloyd's of London earned record profits for 1994, unburdened by the need to make significant additions to reserves.

Risk managers generally welcomed Lloyd's profitability, saying it will enhance stability in a much-needed market.

Lloyd's on Friday reported record profits of £1.1 billion (\$1.88 billion) for the 1994 underwriting year, which closed Dec. 31, 1996, under the market's three-year accounting system. That's a nearly fivefold gain over 1993 profits of £225 million (\$349.4 million) (BI, July 15, 1996). The 1993 profit was the market's first black ink after a five-year string of losses that totaled nearly £8 billion (\$12.56 billion).

Lloyd's Chief Executive Ron Sandler described the result as "extremely satisfying."

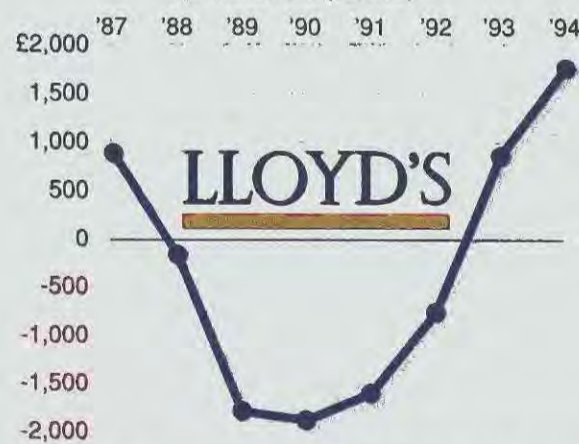
Before adjustments to reserves, Lloyd's underwriting profit for 1994 was £1.01 billion (\$1.73 billion), down 6.5% from £1.08 billion (\$1.68 billion) for 1993. Those figures reflect members' expenses.

Members' expenses, which include the 1.5% special contribution to the market's reconstruction and renewal plan as well as agents' profit commissions, totaled £654 million

See Lloyd's on page 4

Lloyd's strength continues

Lloyd's of London posts record profits for 1994* (in millions of pounds)



Source: Lloyd's of London

*Profits before members' expenses

GRAPHIC BY ADAM DOI

Ambiguity voids arbitration clause

By DAVE LENCKUS

SALT LAKE CITY—Policyholder attorneys hope Lloyd's of London underwriters will clarify conflicting policy clauses for resolving coverage disputes now that a federal court has ordered the underwriters to resolve one dispute in a U.S. court.

Even if Lloyd's does not clarify the policy language, the decision shows other courts that the policy is subject to more than one reasonable interpretation, policyholder attorneys said. That smacks of ambiguous policy language, and many courts resolve dis-

putes over unclear language in favor of policyholders, they noted.

A Salt Lake City federal court judge on May 6 barred a group of Lloyd's underwriters from sending a \$3.7 million coverage dispute to England for arbitration, even though the policy at issue contains a mandatory arbitration clause. The court blocked the underwriters' efforts because the policy also includes a provision—known as the service-of-suit clause—that subjects Lloyd's underwriters to U.S. court jurisdiction if the underwriters fail to pay any amount that "the assured" claims it is owed.

Policyholder attorneys offer widely varying estimates on how often Lloyd's underwriters have used the two clauses together within different types of policies, including primary and excess general liability policies. They do agree that the likelihood of the provisions appearing together increases with policies written since the late 1980s.

The Salt Lake City case centered on the conflicting provisions included in a project cancellation policy that EER Systems Corp. of Vienna, Va., purchased from Lloyd's underwriters in

See Arbitration on page 30

TO SUBSCRIBE CALL

1-800-678-9595

Updates

Shareholder suit to be appealed

Continued from previous page
company denied. The suit, filed in January 1996, sought unspecified damages from Silicon Graphics for allegedly making false statements about revenue growth.

Patrick Coughlin, a partner in the San Diego office of Milberg, Weiss, Bershad, Hunes & Lerach, confirmed that the ruling will be appealed.

Silicon Graphics attorney Bruce Vanjo, a partner in the Palo Alto, Calif., law firm Wilson, Sonsini, Goodrich & Rosati, said the ruling was the first major decision under the 1995 Private Securities Litigation Reform Act.

The law, enacted in an override of President Clinton's veto, is intended to reduce the incidence of frivolous lawsuits in securities cases. Another bill was introduced last month to block attempts to circumvent the federal act by filing actions in state courts (*BI*, May 26).

ISO to acquire AISG

NEW YORK—The Insurance Services Office Inc. plans to broaden its services to include claims data by acquiring the New York-based American Insurance Services Group Inc.

ISO has reached an understanding with AISG's owner, the American Insurance Assn. in Washington, and hopes to finalize the acquisition probably in late fall, said an ISO spokesman in New York.

However, the transaction is subject to ISO completing several steps, including a due-diligence analysis of AISG's operations and assets; discussions with AISG's subscribers; as well as negotiation and execution of a definitive agreement approved by the AISG board of directors.

The price of the acquisition and other specific terms are not being disclosed, the ISO spokesman said.

Plans are for ISO to absorb AISG's 125 employees as well as its property and liability claims information and technical advisory services.

AISG operates two primary databases: an integrated all-claims database used in 17,000 claims offices to resolve claims and determine claims-filing patterns; and a claims database underwriters use to evaluate risk.

AISG provides its services to more than 3,800 companies, including insurers, self-insurers, third-party administrators and state workers compensation funds.

AISG's Property Claim Services division is the leading source of claims data for catastrophes.

CGL exclusion is clear: Idaho

TWIN FALLS, Idaho—The phrase "sudden and accidental" in the standard pollution exclusion is unambiguous, the Idaho Supreme Court has ruled.

Continuing a recent trend among state supreme courts, the Idaho court said, "It is not reasonable to interpret 'sudden' to include an event that occurs over anything other than a short period of time."

The court also ruled that accidental means "an event that is unusual and not expected."

In *North Pacific Insurance Co. vs. Mai*, the dispute centered on a Superfund site for which the Environmental Protection Agency had deemed Leslie Mai a potentially responsible party.

As the owner and operator of the Grease Monkey & Bengal Car Wash in Pocatello, Idaho, Mr. Mai had used Ekotek Inc. between 1984 and 1987 to transport more than 33,000 gallons of waste oil to its reclamation and reprocessing facility in Salt Lake City. In 1988, the EPA began remediating the Salt Lake City site.

After Mr. Mai was informed he was a PRP, he turned to his insurer, North Pacific, for coverage.

North Pacific, a unit of General Accident Corp. of America, sought summary judgment denying coverage, citing the pollution exclusion in the policy.

The state supreme court said it did not have enough facts to grant summary judgment, but it did rule that the pollution exclusion was unambiguous. The case now will go back to a trial court.

"In the past five months alone, four state supreme courts have joined the ranks of courts finding that the word 'sudden' contained in the pollution exclusion is unambiguous and contains a temporal element," said Thomas W. Brunner, a partner at Wiley, Rein & Fielding in Washington, which is counsel to the Insurance Environmental Litigation Assn. The other three states are New York, Utah and Wyoming, bringing to 14 the total of state supreme courts that have found the "sudden and accidental" pollution exclusion unambiguous.

IRI strengthens management

HARTFORD, Conn.—Industrial Risk Insurers is expanding its management ranks to make the highly protected risk insurer more appealing to large policyholders.

With the creation of the new positions of chief operating officer and chief financial officer, the Hartford, Conn.-based HPR insurance pool will be better equipped to attract new policyholders, said Gail P. Norstrom, president and chief executive officer of IRI.

"We decided to specialize in larger, sophisticated insureds, so we have expanded our senior management in terms of competencies, skills and experience," Mr. Norstrom said.

The COO and executive vp is Kerras W. Campbell, previously a senior vp at Allendale Mutual Insurance Co.

The CFO and senior vp is James F. Casey, previously vp of cor-
See Updates on page 30

Primary beneficiaries

High retentions, low catastrophe losses aid reinsurer results

By JUDY GREENWALD

U.S. reinsurers continue to enjoy respectable results, despite the ongoing soft market's pressures.

Higher retentions, combined with a focus on excess-of-loss rather than pro rata business, continue to insulate reinsurers from any turbulence in the primary market, though both cedents and reinsurers benefited from the first quarter's relatively low catastrophe losses.



well as a move to write more pro rata business, which generates more premium but ties reinsurers more closely to the fortunes of the primary business.

Despite good results in the

But, some reinsurance observers

see signs of smaller retentions by primary insurers, as

quarter, reinsurers still feel the impact of the soft market.

"The marketplace is fiercely competitive, as everybody knows, but we are not optimistic that the marketplace will change in any positive way," said David Tritton, senior vp in charge of treaty underwriting and marketing for the Western half of the country for Princeton, N.J.-based American Re Corp.

The market "continues to be
See Reinsurers on page 29

Negotiations continue as lawsuits loom

Tobacco liability talks ongoing

NEW YORK—State attorneys general and the tobacco industry are continuing settlement talks as the trial date for the first of the states' suits against the cigarette manufacturers draws near.

The negotiations are focusing on tobacco companies' future liability and how much they would pay to settle lawsuits related to treating smoking-related illnesses. While reports have put the settlement amount at \$300 billion to \$400 billion, an attorney involved in the talks recently said such figures were not yet on the table (*BI*, May 12).

Negotiators are hoping to craft a settlement, which likely will need congressional approval, before the first trial is scheduled to begin in Mississippi in early July.

A committee headed by Louisiana Attorney General Richard Ieyoub has met to discuss whether to also pursue insurers of tobacco companies to contribute to any settlement. Mr. Ieyoub named 100 insurers in his state's lawsuit seeking to recover the costs of treating smoking-related illnesses. Insurers, though, deny liability for smoking claims, citing a tobacco-liability exclusion developed for

most policies in 1966 (*BI*, March 31). As negotiations continue, a class-action lawsuit scheduled for trial this week in Dade County Circuit Court seeks \$5 billion on behalf of around 60,000 current and former flight attendants who were exposed to secondhand smoke while working.

The case differs from those brought on behalf of smokers, who tobacco companies have successfully argued assented to the risks of smoking because they were aware of warnings on cigarette packages.

—By Michael Bradford

MGA market conduct important: Speaker

By JOANNE WOJCIK

KONA, Hawaii—Market conduct is the issue of the decade for managing general agents—especially as long as the soft market continues.

While the unscrupulous conduct of agents and brokers selling life insurance may have grabbed headlines so far, market conduct



should be a concern of those dealing in property/casualty lines as well, said Bill Marcoux, legislative counsel for the American Assn. of Managing General Agents.

"I urge you all to study your operations carefully," Mr. Marcoux, an attorney with LeBoeuf, Lamb, Greene & MacRae in San Francisco, said during a conference session. "Make sure you document what you're doing. This is not just a life insurance issue."

Separately, James Ryan, 1997-1998 president of the AAMGA and president of Market Finders Insurance Corp. of Louisville, Ky., also observed that "market conduct definitely is a serious problem today."

However, Mr. Ryan believes market conduct is a bigger problem for insurance companies than wholesalers, especially AAMGA members.

"It would be impossible for anyone who follows our code of ethics to intentionally violate market conduct," Mr. Ryan asserted during a roundtable discussion held during the AAMGA's annual meeting May 18-22 in Kona, Hawaii.

In fact, the association's bylaws recently were strengthened to require recertification if there's a majority change of ownership in an MGA, pointed out Charles T. Deering, immediate past president of the AAMGA.

While so far no member of the association has been "booted," the board has asked at least one mem-

See Conduct on page 19

Directory deadline for brokers

The deadline is nearing for companies to return questionnaires to be listed in the 26th annual *Business Insurance* directory of agents and brokers.

The directory will be published in the July 21 issue.

To qualify, agents and brokers must deal directly with corporate or institutional policyholders and generate at least \$500,000 in gross revenues from commercial retail brokerage insurance business.

If your company has not received a questionnaire, please request one immediately by calling Directory Editor Sandra Budde at 312-649-5279.

There is no charge to be listed in *BI* directories; companies need only complete and return a questionnaire by the extended deadline of June 20.

Inside

• It's time to move ahead with deregulation of commercial lines, this week's editorial says. **PAGE 8**

• Aviation war risk underwriters do not have to pay a \$150 million claim from Kuwait Airways Corp., a British court rules. **PAGE 23**

• Employee demand for long-term care benefits is low, but emp'oyers can help communicate the advantages of the coverage, a study shows. **PAGE 30**

Departments

Advertiser Index28
Classifieds.....26

Comings & Goings: Industry.....6
Global Briefs23
Insurance Services Guide.....24
International23
Letters.....8
Opinions8
Ticker31

Business Insurance (ISSN 0007-6864) Vol. 31, No. 22, is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to *Business Insurance*, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207. \$4 a copy and \$87 a year in U.S. \$105 in Canada and Mexico (includes GST). All other countries \$205 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444. Printed in U.S.A. Copyright 1997 by Crain Communications Inc.

Tips to cut premiums are all part of the plan

By RODD ZOLKOS

ALBUQUERQUE, N.M.—Careful planning, analysis and negotiations during renewals can produce insurance premiums below those that comparable entities pay, one risk management consultant suggests.

Steven P. Kahn, a principal with Advanced Risk Management Techniques Inc. of Lake Forest, Calif., detailed an approach for public entity risk managers to lower their premiums during a presentation at the annual conference of the Public Risk Management Assn. last month in Albuquerque, N.M.

In brief, Mr. Kahn's main tips for trimming premiums include:

- Holding a planning meeting in advance of renewals.
- Setting specific goals.
- Setting a realistic schedule.
- Reviewing the advantages of negotiation vs. bidding.
- Selecting an insurance broker or brokers carefully.

Other tips are: providing brokers and insurers with complete data, providing thorough coverage specifications and underwriting submissions; using insur-



ers efficiently, which may include reducing the number of companies on a risk; obtaining specimen policies; and analyzing quotes and negotiating coverage improvements.

"I think it's a good idea to start with a planning meeting," Mr. Kahn said. Those attending such a meeting should include the risk manager, finance director, purchasing manager, third-party administrator and any "other people who are going to have an effect on your renewal."

The meeting should consider initial renewal objectives, such as coverage changes, consideration of alternative programs, such as self-insurance or entering or leaving a pool, improved broker service or claims administration, or restructuring the existing insurance program.

A planning meeting also should identify needed data and how it will be collected, such as loss information, property values, details of the safety and fire protection program, exposure data and descriptions of the claims-handling program.

Public risk managers were advised to consider any particular programs the public entity offers that should be detailed to brokers and insurers. "If you have a park district that has a karate program, if

See **Renewal** on page 12

Flex plan contributions get a break from tax bite

HARRISBURG, Pa.—Employees in Pennsylvania no longer are being taxed on contributions made to flexible benefit plans to cover their health care expenses and premiums.

Legislation, H.B. 134, that was signed into law last month by Gov. Tom Ridge exempts contributions to flexible benefit plans from Pennsylvania's 2.8% state income tax. The law is retroactive to Jan. 1.

The new law will exempt from state taxes several major types of flexible plans. Those programs include:

- Premium conversion plans, in which employees pay a portion of a health insurance premium. The change in law means those contributions can be made with pre-tax dollars. For example, if an employee made \$50,000 in salary and paid \$1,000 toward a group health insurance premium through a premium conversion plan, his or her

state taxable income would be \$49,000, the same amount it would be for federal tax purposes.

- Flexible spending accounts. In these plans, employees make contributions to pay for expenses not covered by a health care plan,

'The focus is to make Pennsylvania more friendly to do business and invest in,' says Peter McCormick.

such as those that fall under a deductible or expenses such as dental services that a health care plan might not cover.

With the change in law, a \$500 employee contribution, for example, to a health care FSA would reduce his or her taxable income

by \$500.

- Flexible benefit plans that give employees a choice of applying credits that can be used to "purchase" benefits that are given certain values by employers or cashed out.

Under the change in law, flexible credits used to buy health care coverage would not be taxed even if the employee had the option to take those credits as cash. Credits taken as cash, though, would be taxed.

The flexible benefit plan provisions are part of a broader tax bill generally aimed at reducing corporate taxes in the state.

"The focus is to make Pennsylvania more friendly to do business and invest in," said Peter McCormick, a benefit consultant in the Pittsburgh office of Buck Consultants Inc.

The change in law is especially important for multi-state employ-

See **Flexible** on page 21

Regulators arrange coverage following Colorado RRG failure

DENVER—Policyholders of a financially troubled Colorado-domiciled risk retention group for dentists will be able to purchase coverage from a Tennessee-domiciled medical malpractice risk retention group.

National Dental Mutual Insurance Co., a risk retention group licensed by Colorado in 1987, was placed in liquidation April 10 after the Insurance Division determined the insurer was "operating in financially hazardous condition," said Beverly Day, chief of financial affairs in the Colorado Division of Insurance in Denver.

Financial reports submitted to the division showed the insurer had suffered losses in four of the last five years. As a result, National Dental Mutual's policy-

holder surplus dropped to \$1.4 million at year-end 1996, about \$100,000 below the minimum statutory surplus requirement of \$1.5 million. The insurer wrote \$339,115 in premiums in 1996.

Adding to the insurer's woes was a bankruptcy filing by A.W. Lawrence Agency Inc., its Texas-based management company, according to a report by Special Deputy Liquidator John A. Massengale. Mr. Massengale was appointed liquidator of the risk retention group in January after National Dental Mutual failed to submit a plan of operation that had been requested by Colorado regulators.

To ensure no disruption in coverage for the 400 to 450 dentists and dental groups in 36 states that are insured by Na-

tional Dental Mutual, Colorado regulators arranged for coverage through another risk retention group underwriting similar risks.

The new policies, issued by Doctors Insurance Reciprocal RRG of Tennessee, will provide the same \$1 million in limits and become effective retroactive to the date of the National Dental Mutual seizure.

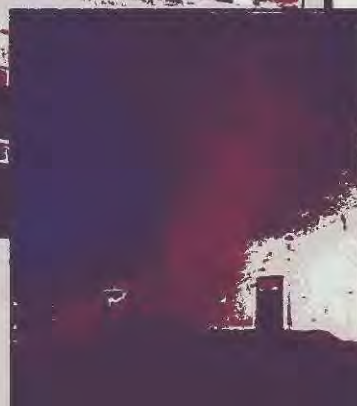
Doctors Insurance Reciprocal, licensed in 1990, holds an A rating from A.M. Best Co. Besides writing medical malpractice liability insurance for doctors, the risk retention group also has a small book of dental malpractice business, according to the Colorado Division of Insurance spokeswoman.

—By Joanne Wojcik



AP/WIDE WORLD PHOTOS

A grocery store in Cedar Park, Texas (above), was damaged when tornadoes hit central Texas, including Cedar Park, where a twister is shown at right.



Texas twisters raise cat losses

JARRELL, Texas—Deadly tornadoes and hailstorms that swept through central Texas last week could cost insurers as much as \$50 million in property losses.

The late-afternoon storms that spawned several tornadoes with winds up to 260 mph destroyed about 50 homes in Jarrell, Texas, and took 30 lives as the twisters cut a swath of devastation between Austin and Waco.

Approximately 50 boats were destroyed at a marina at Morgan's Point Resort, train cars were blown from tracks, and the roof of an Albertson's grocery store collapsed along the path of the storms.

An estimate of \$30 million to \$50 million in insured property losses by Southwestern Insurance Information Service is "fairly preliminary," according to Jerry Johns, president of the Austin-based insurer trade as-

sociation. "A lot of hail claims are slow coming in."

Gov. George W. Bush, who toured the area by helicopter, declared a portion of the region a disaster area. He described to reporters "a patch of earth where the life literally has been sucked out of it."

A subdivision hit by a tornado looked as if a giant broom had swept it clean, with concrete slabs the only remainder of the homes that once stood there. Fields were littered with dead cattle.

The storm's insured damages will add to catastrophe totals that reached \$860 million in the United States during the first quarter, according to the Property Claims Services division of the American Insurance Services Group Inc. That figure is well below the \$2.56 billion recorded during the same period in 1996.

—By Michael Bradford

Author slams trend of workplace suits

By MARK A. HOFMANN

WASHINGTON—The U.S. government may be the first in history "that has tried to ban small talk," at least in workplace situations, according to the author of a new study of employment law.

That wry remark by Walter Olson, author of "The Excuse Factory," drew appreciative chuckles last week from an audience at the Cato Institute, a libertarian think tank in Washington. Mr. Olson, who received national attention for his previous study of the legal system, "The Litigation Explosion," dryly noted that the Equal Employment Opportunity Commission was "obliging enough" to issue its mental health

PHOTO: MILES MOORE CRAIN NEWS SERVICE



Mr. Olson

guidelines (BI, May 5), just as his latest book, which deals with problems in employment law, was published.

The myriad rules, regulations and judicial interpretations that form employment law present employers with a "Kafkaesque Nightmare," said David Boaz, the Cato Institute's executive vp, as he introduced Mr. Olson.

"It used to be understood in America that a job was a contract," said Mr. Boaz.

But now "virtually anyone fired or not hired" can find some employment law under which to sue, he said. In many cases, "The legal system has been distorted to coddle the least deserving," Mr. Boaz said.

Mr. Olson gave numerous examples to bolster that contention, particularly regarding accommodations that must be made to avoid claims from poorly performing employees who claim to be the victims of a mental disorder. He cautioned his audience, though, that "mental health ac-

See **Olson** on page 28

Lloyd's

Continued from page 1
(\$1.12 billion) in 1994, up 2.8% over 1993.

Adjusting for overreserving actually released £82 million (\$140.2 million) to profits for 1994, compared with £859 million (\$1.33 billion) in additions to reserves in 1993 (see chart).

"The result is a consequence of generally good market conditions, the exercise of much-sharpened skills in pricing and the setting of terms by our underwriters, and a year that contained only a limited incidence of major catastrophes," said a statement from Lloyd's Chairman Sir David Rowland accompanying the 1994 global results.

All of Lloyd's major market sectors—marine, non-marine, aviation and motor—showed an overall profit in 1994.

Reserve strengthening

The introduction of Equitas has shifted Lloyd's reserving pattern.

(in millions of pounds)

	Additions to reserves for prior-year closed accounts	Additions to reserves for open years in runoff
1987	£194.7	£230.1
1988	356.3	221.4
1989	174.5	221.1
1990	247.1	677.7
1991	-180.1*	1,141.2
1992	-182.1*	1,017.6
1993	-485.0*	1,344.0
1994	-113.0	31.0

* Represents reserve releases in 1996 due to Equitas reserving procedure.
Source: Lloyd's of London

GRAPHIC BY ADAM DOI

Results for 1994 by market segment, before expenses, included:

• **Marine** business generated a profit of £565 million (\$966.2 million), or a profit equal to 44% of £1.29 billion (\$2.21 billion) in net premiums. In 1993, marine business generated profits of £526 million (\$816.9 million).

• **Non-marine** business recorded profits of £837 million (\$1.43 bil-

lion), or 28.6% of £2.93 billion (\$5.01 billion) in net premiums. Non-marine profits were £881 million (\$1.37 billion) in 1993.

Although 1994 was the year of the Northridge earthquake in California, which produced \$12.5 billion in insured damage, a stronger underwriting environment and high deductibles limited its impact on Lloyd's.

• **Aviation** business showed a profit of £148 million (253.1 million), or 30% of £498 million (\$851.6 million) in premiums. Aviation profits were £138 million (\$214.3 million) the year before.

• **Motor** business was the least profitable, especially as a percentage of premiums written, due primarily to heavy competition in the U.K. market. Motor profits were £117 million (\$200.1 million), or 12% of net premiums of £973 million (\$1.66 billion). In 1993, profits on motor business were £175 million (\$271.8 million).

Where Lloyd's showed marked improvement over its previous year's performance was in reserving costs.

There were "startling differences" between the prior-year liabilities for 1994 and 1993, said Mr. Sandler.

For the 1993 account, Lloyd's boosted reserves for open accounts in runoff by £1.34 billion (\$2.08 billion), though this was partly countered by releases from reserves for closed accounts totaling £485 million (\$753 million), for a net addition to reserves of £859 million (\$1.33 billion).

By contrast, in 1994 syndicates in runoff—primarily so-called "orphan" syndicates that had no successor to reinsure into—needed just £31 million (\$53 million) of reserves. Combined with £113 million (\$193.2 million) in releases from syndicates that had been overreserved in previous years, this resulted in an overall release to members of £82 million (\$140.2 million).

"1994 is a very different picture because we haven't got Equitas reserving," explained Mr. Sandler. Equitas Ltd. was set up last September to take over all Lloyd's pre-1993 liabilities, with the exception of life business. After an extensive procedure for reserving for those syndicate liabilities, Lloyd's has now effectively isolated itself from the problems of past-year liabilities, while a number of its competitors still face potential losses, he said.

Nevertheless, market executives are wary of becoming complacent.

"We need to concern ourselves with how able Equitas is to cope with its liabilities," said James Illingworth, director of Angerstein Underwriting Holdings P.L.C., which manages corporate capital and several Lloyd's agencies. Faith in Lloyd's will once again be shaken if Equitas proves to have insufficient resources, at least in the near future, he said. But on the upside, "anyone looking at Lloyd's now has to regard it as pretty good security."

Predictions for both the 1995 and 1996 underwriting years are still healthy returns. Lloyd's has upped its prediction of an £800 million profit for 1995 to £900 million, while the 1996 account is estimated to show a £600 million profit.

Philip Maidens, director of syndicate analysis with Sedgwick Oakwood Underwriting Agents Ltd., said that the estimate of 1995 returns "could be on the pessimistic side" and the final profit could be in line with 1994's earnings.

This mainly is due to the implementation of inception date allocation, which meant that from the beginning of 1995, premiums for risks were allocated to the year in which the risk was written, rather than when the policy is issued by Lloyd's Policy Signing Office. Many Lloyd's policies are renewed at Dec. 31, though the actual policies are not issued until early in the following year.

However, a spokesman for the Assn. of Lloyd's Members warned that "anyone should not expect these good results to continue into 1997 and 1998. The current trading conditions are diabolical and Lloyd's will be lucky to escape a market-wide loss in the current down cycle."

In general, U.K. risk managers welcomed Lloyd's 1994 profitability.

"Healthy profits are good because we want Lloyd's to be successful," said Derek Brighton, chairman of the Assn. of Insurance & Risk Managers, adding that insurance buyers need Lloyd's flexibility.

John Harris, risk and insurance manager with British Energy P.L.C., was "very pleased" with the result. "I still look on Lloyd's as a very serious market, particularly on the nuclear side," he said. While Mr. Harris said he never doubted Lloyd's security, he noted that "Equitas is still unproven as yet."

See Lloyd's on page 6

There are three sides to our story of success.

Customer Support Services

- Support desk with 24-hour performance
- State-of-the-art customer support tracking system
- Systems, Operations, Integration and other consulting engagements
- Training Centers
- On-site training and installation alternatives
- The Pyramid User Association
- Electronic Bulletin Board
- National and Regional User Meetings
- Account Executive Program

Customer Based Solutions

We wouldn't be at the forefront of software for the insurance industry if we didn't base our software designs on customer needs.

That's why a commitment to service is the foundation of our full line of Windows and DOS software. And why 92% of our customers rate our support calls as meeting or exceeding their expectation.

Windows Client/Server & DOS Software

Claims Administration Systems • Medical Cost Containment • Risk Management Systems • Case Management/UR • 1st Report • Paperless Office • Bill Re-Pricing

Windows • Oracle • Sybase • SqlServer NT • System Integration Consulting

Pyramid Services, Inc.

Customer-based solutions for performance-driven companies.



AN AON COMPANY

Call our corporate

office today and

find out how

Pyramid is uniquely

qualified to

maximize your

systems technology

for higher

productivity,

better performance

and greater peace

of mind.

203-743-6000,

Ext. 262



It
happens at
an annual meeting.

A GROUP OF FRANCHISES PLANNING
THE FUTURE. OR ASSOCIATION MEMBERS
REVIEWING THE PAST YEAR. EACH GROUP
DISCOVERS UNIQUE NEEDS FOR INSURANCE.
THEY EACH SEEK SOMEONE WITH A TRUE
UNDERSTANDING OF THEIR BUSINESS. ABLE TO
CUSTOMIZE COVERAGE, TO LOWER COSTS.

THEY TURN TO AN EXPERT,

WAUSAU.

The business insurance experts.



Lloyd's

Continued from page 4

Liz Taylor, group risk management director with Equifax Retail Services Ltd., welcomed the Lloyd's results as an indication of the general strength of the insurance market, but expressed concern about whether the underwriting cycle will turn in the next couple of years.

"The frightening thing about it is that business will be written in the next year or two at less than value," which will lead to losses and a hardening of rates, she said. "Risk managers don't like fierce market cycles.

I would like to see something more sensible," particularly because the boom-bust cycle does not promote good risk management, Ms. Taylor said.

Richard Reddaway, group insurance manager with pharmaceuticals giant Glaxo Wellcome P.L.C., welcomed the Lloyd's results as "clearly good news for everybody."

Corporate capital's entrance into the market has most likely brought new disciplines into the market, he added. "Clearly some of Lloyd's business practices had been wanting," though Lloyd's maintained its strengths of innovation and flexibility, he said. **BI**

AIG names two division heads

Joseph L. Boren has been named president of Commerce & Industry Insurance Co., the primary environmental insurance unit of American International Group Inc. in New York. Mr. Boren previously was executive vp and chief operating officer of C&I.

Also at AIG, **Paul Obolensky** was named president of AIG Insurance Management Services with responsibilities for worldwide captive management services.

Mr. Obolensky previously was president of Willis Corroon (Bermuda)

Comings & Goings

Ltd. and Willis Corroon Management (Bermuda) Ltd. And **John H. McCue** named senior executive-east of AIG's domestic brokerage group regional organization in New York.

Other insurer changes:

Harry W. Rhulen was elected to the new position of president and chief operating officer of Frontier Insurance Co. and Frontier Pacific Insurance Co. in Rock Hill, N.Y. **Mark**

Mishler was elected chief financial officer of both subsidiaries. **Walter A. Rhulen** remains the group's chairman and chief executive officer.

Stanley B. Tulin named executive vp and chief financial officer of The Equitable Cos. Inc. in New York. Mr. Tulin, who remains CFO of The Equitable Life Assurance Society of the U.S., succeeds **Jerry M. de St. Paer**, who is joining J.P. Morgan & Co. Inc. as a managing director in its insurance group.

Martin R. Brown joined Foremost Insurance Co. as vp and associate general counsel in Grand Rapids, Mich. Mr. Brown most recently was assistant counsel at State Farm Group.

Lauretta A. Girouard named vp-information services and **Carol G. Barton** named vp-manager, commercial property operations for Allendale Mutual Insurance Co. in Johnston, R.I.

Bradley S. Kuster named president of Union Insurance Co., a subsidiary of W.R. Berkley Corp. in Greenwich, Conn. Mr. Kuster, formerly vp-marketing at Union Standard Insurance Co., succeeds **Donald J. Veldkamp**, who will serve as chairman and CEO until the end of this year.

Phillip Goodrum named vp-business development for Providers' Assurance Corp. in Brentwood, Tenn.

Agents/brokers

George Brown, former vice chairman of Alexander & Alexander of California and former president and CEO of Jardine Insurance Brokers Inc., has joined Alburger Basso de Grosz Insurance Services Inc. as vice chairman in Belmont, Calif.

Forrest B. Gibbs Jr. named vp and controller of Willis Corroon North America in Nashville, Tenn., and **Geoffrey M. Peters** rejoined Willis Corroon International/Americas as a managing director in Radnor, Pa.

Lawrence J. Butwin is retiring as president of The Nathan Butwin Group and will remain chairman. His sons, **Richard S. Butwin** and **Robert E. Butwin**, have been named co-presidents of the Great Neck, N.Y.-based broker.

Dennis H. O'Hara named area president of Arthur J. Gallagher & Co.'s Irvine, Calif., office.

William A. Zimmer named CFO of Poe & Brown Inc. in Tampa, Fla., succeeding **James A. Orchard**, who was named executive vp in the broker's professional programs division.

Robert J. Kestenbaum joined York International Agency Inc. in Yonkers, N.Y., as principal and executive vp. Mr. Kestenbaum previously was managing director of the greater New York region for Alexander & Alexander Services Inc.

Reinsurance

John P. Verel joined Swiss Re America as managing director in the business ventures unit. Mr. Verel's responsibilities include working with clients in combining reinsurance coverage and capital investments.

Robert J. Mezzasalma named senior vp and treaty department manager at Winterthur Reinsurance Corp. of America in New York.

George T. O'Shaughnessy Jr. named CFO of American Re Corp. and American Re-Insurance Co. in Princeton, N.J. **Allen Zdroik** and **Andrew Rippert** named vps of domestic insurance company operations for American Re-Insurance Co. in Princeton. Mr. Zdroik will assume responsibilities for producing and underwriting facultative and treaty risk agreements while Mr. Rippert will be responsible for building finite risk pricing models and developing the company's financial analysis capabilities. **BI**

ALL ASSET MANAGERS

TALK ABOUT SERVICE. BUT WHAT'S

BEHIND THE PROMISES?



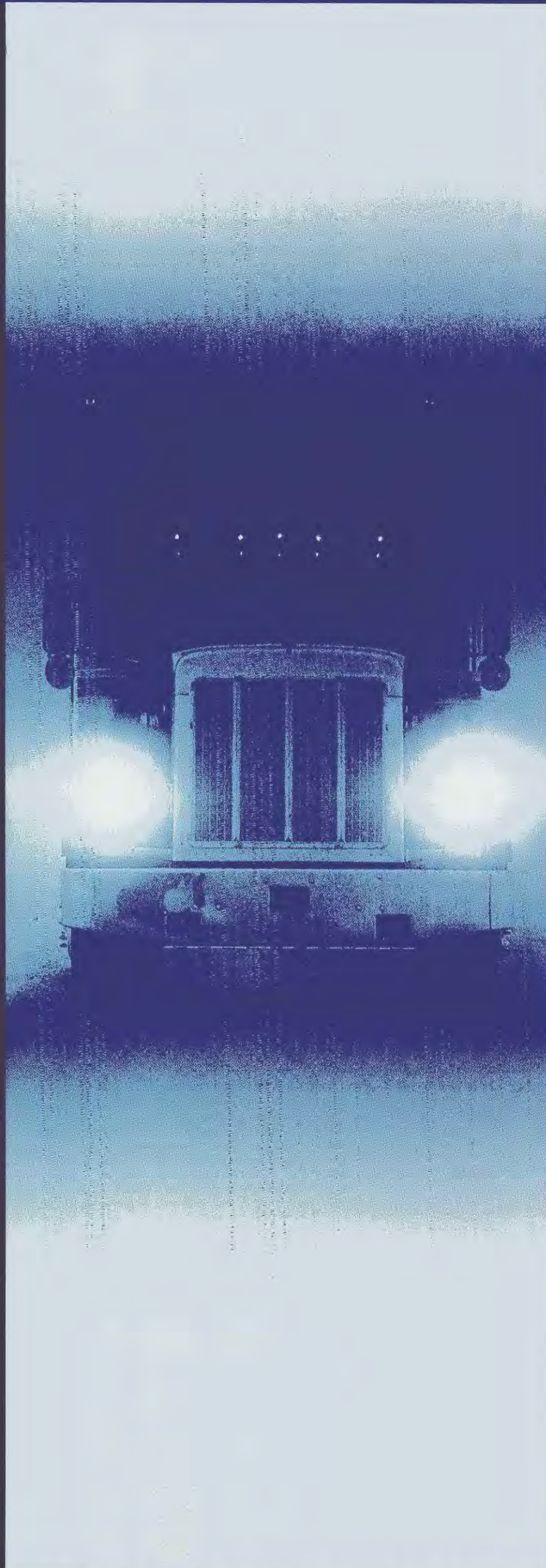
Do they give you their home phone numbers?

Do you get your investment accounting reports by the 5th business day of each month? Or year-end STAT, GAAP and tax reports in January? We'll tell you what's behind our service: substance. 1-888-CONNING.

ON-SITE
CLAIMS
ADJUSTERS

1-800
LOSS REPORTING
AND PPO
CHANNELING

A SYSTEM
THAT
INTERFACES
WITH YOUR
SYSTEM



These are just three of the customized solutions we've offered our clients in the transportation industry. At Alexsis, flexibility is our specialty – it's why we're so good at working with all kinds of complex businesses. Of course, our dedicated account executives, finesse with unions and optional cost management services set us apart, too. As a leading provider of claims management services, we can also put our 64 years of experience to work for you. Just call (313) 953-4434.

Alexsis[®]

THE RIGHT SOLUTION FOR YOU

A CNA Risk Management Claims Service Company

Opinions

Speeding up deregulation

IT COMES AS NO SURPRISE that the deregulation of commercial lines has to wind its way through a lengthy period of deliberation by regulators before it becomes a reality.

The National Assn. of Insurance Commissioners, after about two years of study, probably will need about three more months to complete a draft of a paper on deregulating commercial insurance transactions (*BI*, May 26).

Once that proposal is ready, it will be discussed for months by the NAIC before it wins the approval of, or is rejected by, the association of state regulators.

We can only hope that once the NAIC leaders have agreed that commercial lines insurance regulations should be reduced, that individual states will quickly do so.

Dismantling regulation of rates, forms and market restrictions for large commercial buyers is overdue. At this stage, in fact, it really is a bit like closing the door after the horses are out of the barn.

Over the past decade, large, sophisticated buyers of commercial insurance have left the traditional market—and therefore the constraints of state regulation—in droves, opting for self-insurance and a variety of alternative risk financing vehicles. They also are buying billions of dollars of insurance in Bermuda, where insurers are free to underwrite what the customer wants without first filing rates and forms with multiple regulators.

The trend to opt out of the conventional insurance market is now being followed in earnest by numerous middle-market companies, and even small companies are banding together to take advantage of alternative market benefits—not the least of which is freedom from the state regulatory system.

The current regulatory system, while intended to protect consumers, actually serves to restrain the nation's insurers from competing with the many alternative facilities and options, as well as some non-U.S. companies. It saddles them with billions of dollars of costs to comply with 50 sets of paperwork and hampers their ability to develop innovative and flexible coverage solutions for their policyholders. While this is not news to our readers, we wonder why it has taken the NAIC so long to recognize and act on this.

The NAIC's draft proposals to date for deregulating commercial lines coverage are welcome. They chiefly call for lifting regulation of rates, forms and market access for "industrial insureds," and also address problems of inconsistent form approval among all states and jurisdictions.

One of the issues the NAIC has yet to decide is what constitutes an "industrial insured." We hope that the bar is not set too high, excluding smaller, yet no less sophisticated, buyers from availing themselves of the benefits of deregulation.



Also to be determined is whether guaranty fund protection still will be imposed on policyholders eligible for deregulated coverage. Because the philosophy of deregulation is that sophisticated buyers can hold their own, we think guaranty fund protection is unnecessary.

Some argue that the guaranty fund protection exists not only to protect policyholders but also to protect the innocent third-party claimant that would have no one to pay a judgment if both the insurer and the policyholder went broke. There are a host of reasons that this concern is overblown. First, it's unlikely that both policyholder and insurer will go broke. Furthermore, the limits on claims payments by most guaranty funds are so low that in the event both the insurer and policyholder go broke, claimants would recover little. Finally, there is no guaranty fund protection for those self-insuring or using offshore insurers, which is a major reason for deregulating commercial lines in the United States: to make U.S. commercial insurers more competitive with offshore insurers.

Some surplus lines markets argue against deregulation, saying there is no need for it because they already are free from much regulation by the states. We think they actually may fear competition from newly deregulated insurers. However, they are unlikely to see any more competition than they already have from the surplus lines units of admitted companies—or from offshore markets like Bermuda.

Ultimately, the process of deregulation will shift responsibility for assessing the security of insurers to the buyers. As long as they are willing to assume that duty—and the risk of insurer failure—then regulators shouldn't stand in their way. *Caveat emptor.*

Letters

Marrying managed care and MSAs

To the editor: While many believe that the time for medical savings accounts has come, it may well have passed. These plans are typically offered by insurance companies desperate to stay in the group insurance market—even though they have little presence in

managed care. Managed care may well have made MSAs obsolete before their time.

One such company offers a \$1,500 deductible and 100% coverage of claims thereafter, suggesting that employees put \$750 a year into the plan. The insurance premiums are only 5% to 10% less than three different managed care alternatives, which are both health maintenance organization and point of service plans.

Fully managed plans now have—or soon will have—a lock on the marketplace, because their plans work. They reduce premium costs and keep benefit levels high.

We needed indemnity MSAs in 1980; we need managed care MSAs now!

MSAs and managed care are not incompatible. For example, an HMO could operate as it does now, providing 100% coverage af-

ter small copayments. It could then indicate that the first \$1,500 of benefit payments was the deductible, with perhaps half of this assigned against the MSA fund and the balance charged back to the employee. One impediment might be capitation arrangements, but even that problem can be overcome.

I don't think major managed care companies will embrace the new MSA law until Congress removes both the cap on company size and the cap on overall participation. Such plans require too much upfront computer programming for such a small return.

It is time that two good concepts join forces—MSAs and managed care.

Mark A. Mitchell
President
U.S. Benefit Consultants
Woodstock, Ga.

Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611; fax: 312-280-3174; e-mail: pwinston@crain.com

Business Insurance

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

Vice President/
Publisher/Editorial Director: Kathryn J. McIntyre, *MEM* (Chicago)

Associate Publisher/Advertising Director: Martin J. Ross III (New York)

Editor: Paul D. Winston (Chicago)

Editor-at-Large: Jerry Geisel (Washington)

Managing Editor: Roseanne White (Washington)

Senior Editor-International: Stacy Shapiro (London)

Senior Editors: Meg Fletcher, *MEM* (Chicago)

Judy Greenwald (San Jose)

Dave Lenckus (Tucson)

Douglas McLeod (New York)

Joanne Wojcik (Los Angeles)

Regis J. Coccia (Chicago)

Assistant Managing Editor:

Washington Editor: Mark A. Holman (Washington)

Bureau Chiefs: Sarah Goddard (London)

Gavin Sauter (New York)

Graphics Editor: Kathy L. Barnes (Chicago)

Copy Editors: Todd J. Behme (Chicago)

Sara J. Harty (Chicago)

Lee Velker (Chicago)

Associate Editors:

Michael Bradford (Dallas)

Deborah Shalowitz Cowans (Chicago)

Roberto Ceniceros (Los Angeles)

Robert Kazel (Chicago)

Michael Prince (New York)

Sally Roberts (Chicago)

Edwin Unsworth (London)

Rodd Zolks (Chicago)

Directory Editor: Sandra L. Budde (Chicago)

Assistant Directory Editor: Richard Trout (Chicago)

Assistant to the Publisher: Karen Brown Tucker (Chicago)

Editorial Cartoonist: Roger Schillerstrom (Chicago)

Eastern Advertising Manager: Stephen P. Lincoln (New York)

Midwest Advertising Manager: Robert L. Niesse (Chicago)

District Managers: Cynthia Quinn (New York)

Blake Delany (New York)

Roger Lynch (New York)

Elizabeth McGahren (New York)

Deborah D. Neale (Chicago)

Classified Advertising Manager: Cheryl Adeszko (Chicago)

Sales Assistant: Lori Lieberman (Los Angeles)

Sales Associate: Kerry Reynolds (New York)

Production Manager: Elmer Kerstowski (Chicago)

Director of Communications: Ronnie L. Drachman (New York)

Promotion Coordinator: Barbara O'Brien (New York)

EDITORIAL:

Chicago: 312-649-5398

Dallas: 214-361-2295

London: 171-457-1400

Los Angeles: 213-651-3710

New York: 212-210-0100

San Jose: 408-774-1500

Tucson: 520-579-1937

Washington: 202-662-7200

ADVERTISING:

New York: 212-210-0228

Chicago: 312-649-5276

Los Angeles: 213-651-3710

COMMUNICATIONS:

New York: 212-210-0132

SUBSCRIPTIONS:

Detroit: 800-678-9595

Business Insurance is published by Crain Communications Inc.

Keith E. Crain
Chairman

Merrilee Crain
Secretary

Rance Crain
President

Mary Kay Crain
Treasurer

William A. Morrow
Executive Vice President/Operations

Robert C. Adams
Vice President/Production

Peter Johnson
Vice President/Circulation

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

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

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

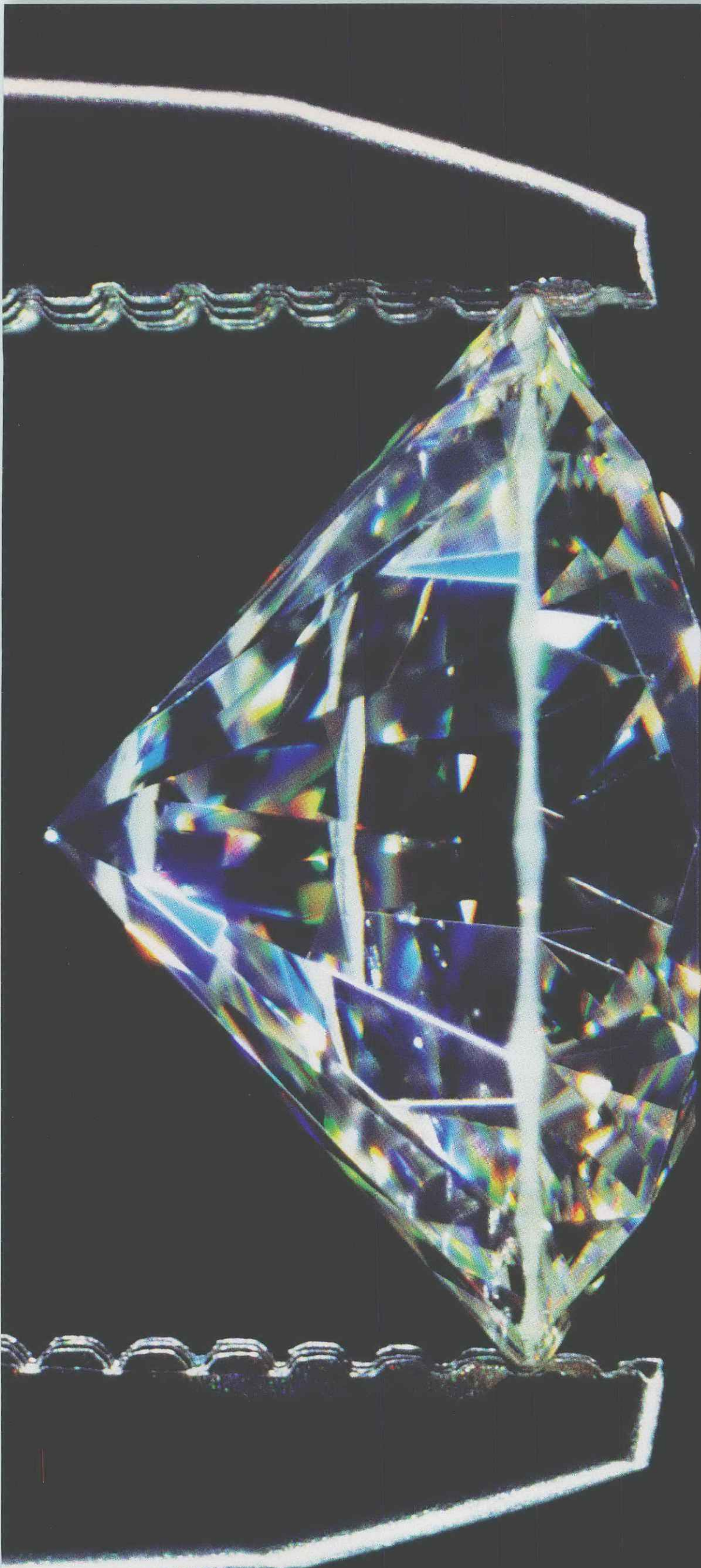
Published weekly at 740 Rush St., Chicago, Ill. 60611-2590, Fax 312-280-3174, E-Mail 76735.3045@CompuServe.com, Cable CRAINCOM. Offices: 22C E. 42nd St., New York, N.Y. 10017-3806, Fax 212-210-0704, CRAIN COM NYK, Suite 114, 8950 N. Central Expressway, Dallas, Texas 75231; Fax 214-696-1936; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax 202-638-3155; 6500 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90C48-4947, Fax 213-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax 408-774-1155; New Garden House, 78 Halton Garden, London EC1N 8JQ England, Fax 171-457-1440; 8157 N. Torrey Way, Tucson, Ariz. 85743, Fax 520-579-3476. \$4 a copy and \$87 a year in U.S. \$105 in Canada and Mexico (includes GST). All other countries \$205 a year (includes expedited air delivery). J.A. LEWELLEN, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich. 48207-3185, or phone 800-678-9595 or 313-446-0450, Fax 313-446-6777. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: JOSEPH P. HANLEY, Crain News Service, 220 E. 42nd St., New York, N.Y. 10017-5806, 212-254-0890. For reprints or reprint permission contact: KAREN BROWN TUCKER, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, 312-649-5319, Fax 312-280-3174.

www.businessinsurance.com

30 YEARS OF
Business Insurance
1967-1997

BPA
INTERNATIONAL

TO SUBSCRIBE CALL 800-678-9595 • 313-446-0450 outside of the United States



**YOU WOULDN'T
ENTRUST THE CUTTING
OF A DIAMOND TO ANYONE
BUT A SPECIALIST.
THE SAME SHOULD BE TRUE
FOR MANAGING YOUR
WORKERS' COMPENSATION
CLAIMS.**

Our specialized approach to claims management can reduce the cost per claim to as much as 40% below the industry average.

A trained specialist can see what the less experienced eye sometimes cannot...and can be trusted to make the right decisions at the right time in critical situations.

This is why, unlike companies that use generalist adjusters to review all claims, **AIG Claim Services, Inc. (AIGCS)** breaks down claims management into specific disciplines — employing specialists who focus on their individual areas of expertise.

Specialization means greater efficiency, which ultimately helps your employees return to work faster and drives down your overall claims costs.

In addition, our specialized approach is multifaceted...offering proven investigation services, managed care, early-return-to-work programs, and *IntelliRisk*[™], our real-time, Windows[®]-based risk management information system.

To find out how AIGCS' team of specialists, in concert with you and your broker, can build a workers' comp program with bottom-line results, call (212) 770-6393.

WORLD LEADERS IN INSURANCE AND FINANCIAL SERVICES
American International Group, Inc., 70 Pine Street, New York, NY 10270

AIG

Renewal

Continued from page 3

you have a school district that has a flight program, those are things that should definitely be in there," Mr. Kahn said.

Participants in that initial meeting also should set the schedule for the renewal process, review which coverages should be put to bid and determine which brokers the public entity should approach.

Topping the list of specific renewal objectives to be set are rate or premium targets. "I think you'll be far better off if you know what your proper-

ty rate, for example, will be at the end of the process," Mr. Kahn said. "You need to think about what it is you can achieve and set specific rate or premium targets."

Other specific objectives to be set are desired coverage improvements, desired additional services and any alternative coverage sources to be evaluated.

The timetable established for the process is another important element.

"One of the most important ways to reduce your costs is to make the best use of the time available," Mr. Kahn said. "I'm sometimes surprised by getting a call from somebody June

1 saying they want help with their July 1 renewal process. I tell them to

ods of selecting a broker, though he noted, "Whether you have the flexi-

'Other than just the renewal data, you also need to prepare good, clear, concise specifications,' says Steven P. Kahn of Advanced Risk Management Techniques Inc.

get an extension from their current carrier."

The consultant outlined four meth-

bility to use all of these will depend upon the bid laws in your jurisdiction."

The methods include negotiation with the current broker; assignment, in which the public entity evaluates the qualifications and marketing approaches of three to five brokers with one broker ultimately selected to obtain premium quotations; restricted bidding, in which three to five brokers are evaluated and the entity selects two to three to provide quotes; and open bidding, in which all brokers are allowed to provide quotes.

For public entities required to seek bids, the restricted bidding approach is preferable, Mr. Kahn advised. Under open bidding, "Usually you'll have two or three agents going to the same carriers, and the carriers won't like that," he said. "If there are ways you can avoid that, try."

The consultant noted that the broker's key function is marketing the customer's coverages, with servicing those policies being another important role. A wide range of other services may be provided by brokers, such as assisting with property valuations, answering insurance questions in contracts, studying fire protection and safety issues, developing special policy language, auditing claims handling and risk analysis.

"There are many brokers that can provide all of these services and many more," Mr. Kahn said. "But the list of those brokers is very short. And if you limit yourself to that short list, you may overlook a number of firms who are very good" at marketing coverages and servicing policies, he said.

In choosing a broker, the risk manager must understand the public entity's service needs. He or she also should carefully evaluate the broker's qualifications, interviewing brokerage personnel and considering issues of large national brokers vs. regional firms and using a single broker vs. multiple brokers.

While large national firms typically bring a number of service offerings to bear, it's possible they might not be as strong in one region as some regional brokers, Mr. Kahn said. Also, while using a single broker can help prevent any gaps in coverage, using multiple brokers can bring the benefit of additional expertise, particularly if the public entity has some special exposures, such as an airport.

In presenting data to underwriters, buyers should make sure to include all the information needed to accurately price the risk and should present their organizations in the best possible way, detailing such items as loss control efforts and superior claims-handling procedures.

"Other than just the renewal data, you also need to prepare good, clear, concise specifications," Mr. Kahn said. The renewal process should be detailed for underwriters, with coverages and options to quote on clearly detailed and loss and exposure data presented, usually in the form of an appendix to the coverage specifications.

"I personally don't think you should allow your broker to prepare coverage specifications and send them to the marketplace without you seeing them," Mr. Kahn said.

Mr. Kahn suggested that the risk manager needs to understand all the parties involved in the insurance placement: retail brokers, surplus lines brokers, managing general agents, insurers, reinsurance brokers and reinsurers. And the risk manager should seek to eliminate any unnecessary intermediaries, he advised.

"You want to try to eliminate those who are not adding something to the process," Mr. Kahn said. Reducing the number of intermediaries will not only help save money but also can reduce any problems of resolving claims if there is a loss, he said.

In advising the risk managers to seek and study specimen policies, Mr. Kahn noted that, "The carrier-

See **Renewal** on page 16

We've shown our clients that they can move mountains.



Our state guaranty fund clients faced a common challenge: a backlog of claims

administration work and a dramatically reduced staff. With our unprecedented array of

resources and expertise, we were able to respond with a single, integrated,

synchronized program that could handle all of their service needs. With both



government and business sectors seeking ways to excel in today's

cost-conscious environment, it's reassuring to know there is a solution.



Crawford The power to manage your changing environment.

<http://www.crawco.com>



How close ARE YOU TO A BRUSH WITH DISASTER?

Disaster strikes when you least expect it. And it's even worse if you're not prepared for it. If your reinsurer is spread too thin or plagued by past liabilities, its capital may be getting the squeeze.

And if this happens you could get pasted by a risk that you thought was covered.

So before you decide on a reinsurer, brush up on Signet Star.

We have the strength of over \$250 million of policyholders' surplus and the benefit of being a member of the W.R. Berkley group of companies. And our capital isn't being decayed by old environmental impairment and asbestos liabilities.

This outstanding position has earned us an "A" (Excellent) rating by A.M. Best and an "AA-" claims-paying ability rating from Standard and Poor's.

Our business is reinsurance and we are totally committed to it.

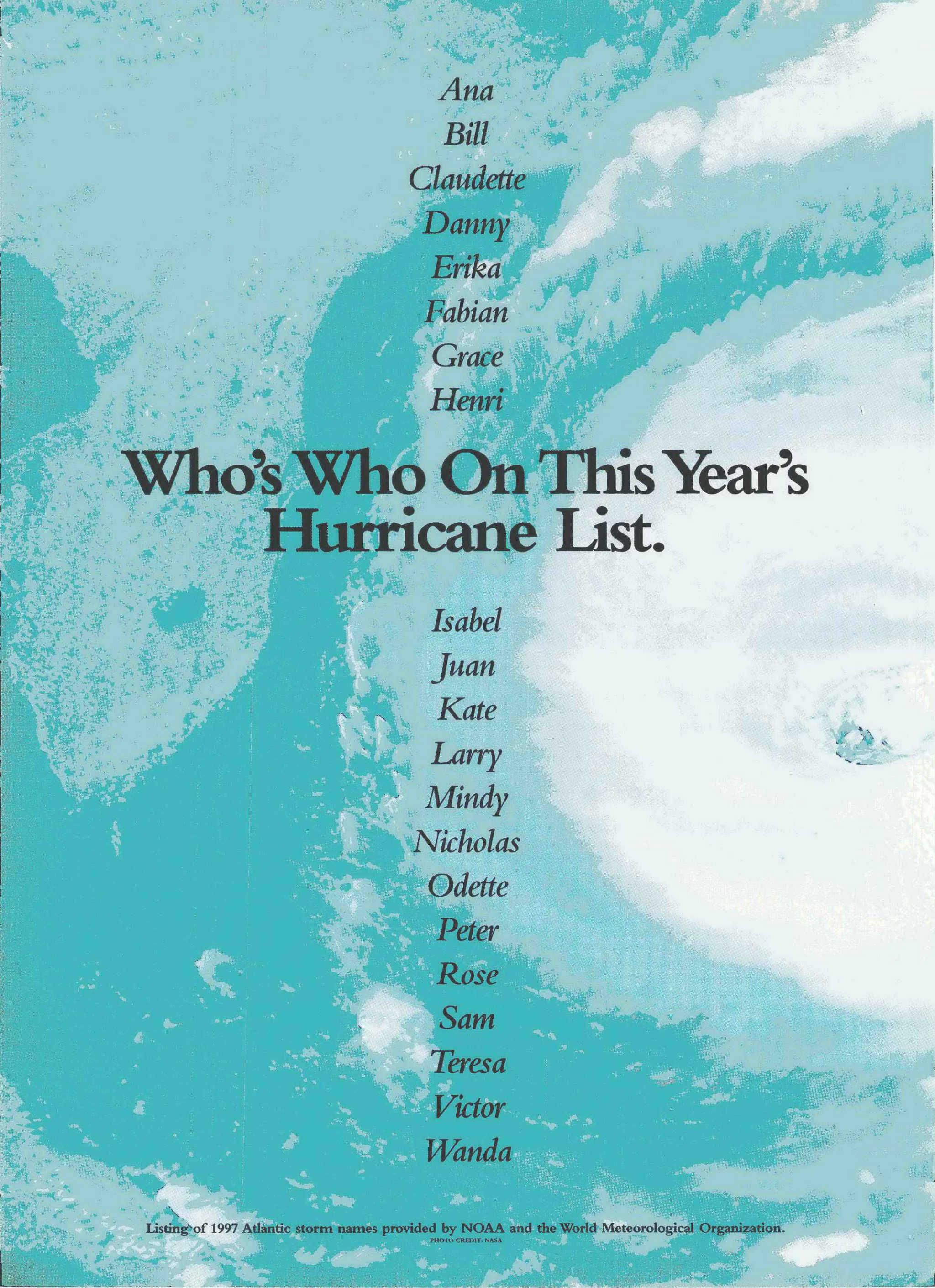
Signet Star has five operating divisions staffed with experts in their respective fields, and we're growing.

To avoid a brush with disaster call Signet Star.

Alternative Markets Division, Florham Park, New Jersey
Facultative ReSources, Inc.,
Stamford, Connecticut; Atlanta, Georgia; Schaumburg, Illinois
Fidelity & Surety Division, Schaumburg, Illinois
Latin American & Caribbean Division, Coral Gables, Florida
Property & Casualty Treaty Division, Florham Park, New Jersey



CAPITAL YOU CAN BANK ON.



Ana
Bill
Claudette
Danny
Erika
Fabian
Grace
Henri

Who's Who On This Year's Hurricane List.

Isabel
Juan
Kate
Larry
Mindy
Nicholas
Odette
Peter
Rose
Sam
Teresa
Victor
Wanda

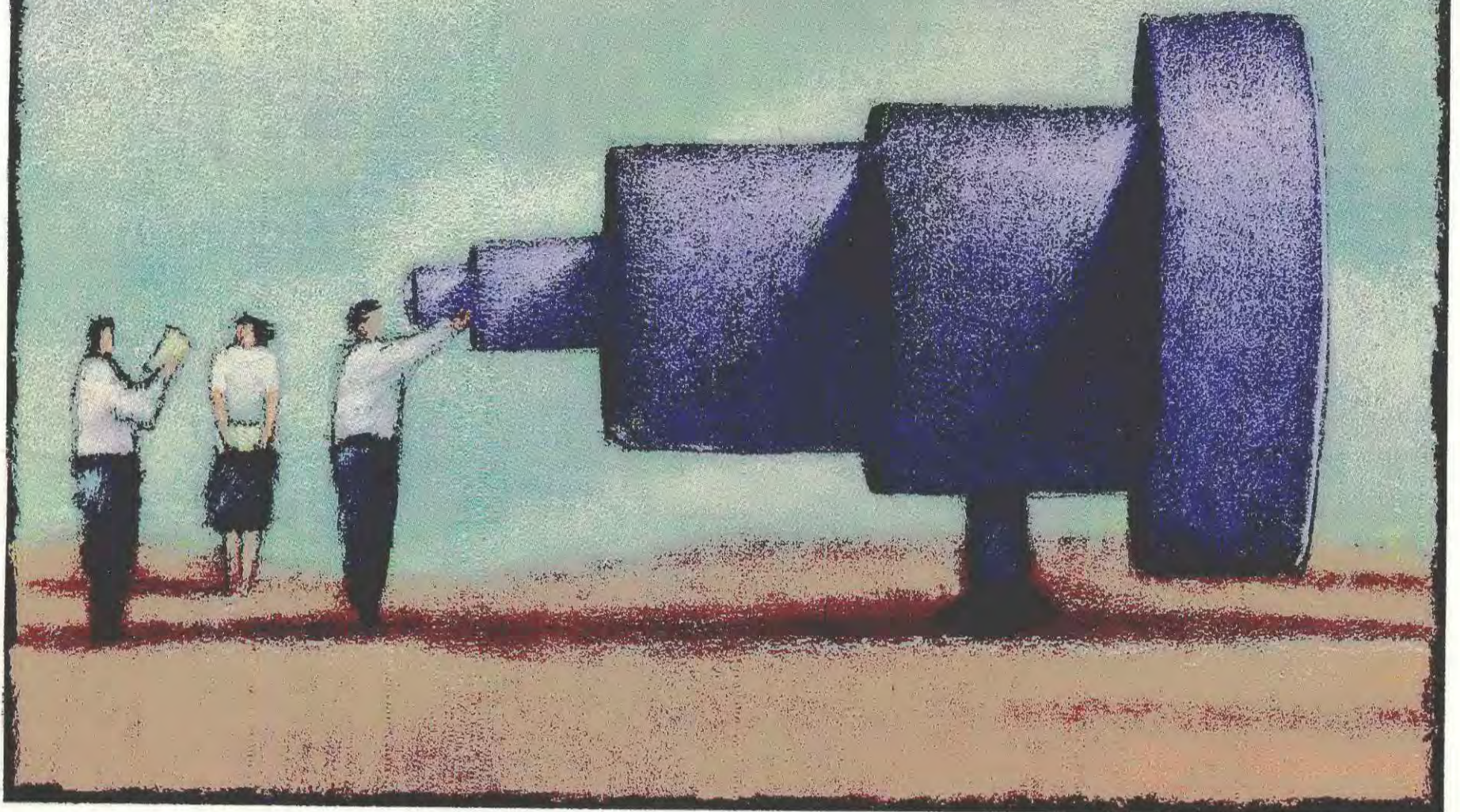
Who's Who For The Best In Reinsurance Broking.

GUY CARPENTER

With global catastrophes, you can know their names but never where or when they'll strike. That's why you need the finest in reinsurance capacity, security, and terms and conditions. Guy Carpenter delivers all that and more, with

services including detailed financial studies, retention analysis, and EQECAT's catastrophe modeling software. You already know the names of potential disasters...now you know the name of *the* broker to help cope with them.

Want to know what's ahead?



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

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

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

Call us today.

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

Issue Date	Editorial Feature	Demographic Section	Ad Closing
Jun 2	PRIMA Report	ABT Automation	May 20
Jun 9	Specialty Risks: Environmental & Professional ^{RS} <i>Directory: Environmental Risk Management Consultants</i> <i>Distribution: NAIC</i>		May 28
Jun 16		IT Reinsurance Recoveries	Jun 4
Jun 23	Benefits: Balancing Work & Family ^{RS, SS} <i>Directory: EAPs & Dependent Care Resources & Referral Services</i> <i>Distribution: AAHP; SHRM</i>		Jun 11
Jun 30			Jun 18
Jul 7	Midyear Market Report: Property/Casualty & Health Care ^{RS} <i>Information Resource: Property/Casualty & Health Care</i> <i>Distribution: IIS</i>	ABT Advertising & Promotion	Jun 24
Jul 14		GLOBAL FOCUS	Jul 2
Jul 21	Agent/Broker Profiles ^{RS} <i>Directory: Agents & Brokers</i>	IT Advertising & Promotion	Jul 9
Jul 28			Jul 16
Aug 4	Benefits: Managed Care Market Report ^{RS, SS} <i>Directory: Prescription Benefit Managers</i> <i>Information Resource: Benefit Products & Services</i> <i>Distribution: ARA</i>	ABT Government Relations	Jul 23
Aug 11			Jul 30
Aug 18	Property Loss Control ^{RS} <i>Directory: Property Loss Control Consultants</i>	IT Government Relations	Aug 6
Aug 25	Ward's 50 Benchmark Results		Aug 13

RS: Reader Service, SS: Starch Study

New York: 220 E. 42nd Street, NY 10017-5806 ■ Tel: 212-210-0133 ■ Fax: 212-210-0704
Chicago: 740 N. Rush Street, IL 60611-2590 ■ Tel: 312-649-5276 ■ Fax: 312-649-7799
Los Angeles: 6500 Wilshire Blvd., CA 90048-4947 ■ Tel: 213-651-3710 ■ Fax: 213-655-8157
Circulation: 965 E. Jefferson Ave., Detroit, MI 48207 ■ Tel: 800-678-9595 ■ Fax: 313-446-6777

Conduct

Continued from page 2

ber not to try to renew its membership, said Mr. Deering, who declined to identify the organization.

Among the circumstances that might lead to such requested non-renewal of AAMGA membership are serious financial problems or unethical activities.

In an effort to protect themselves from accusations of unscrupulous conduct, Mr. Marcoux suggested that managing general agents put a senior-level executive in charge of ensuring regulatory compliance.

That person not only should "ensure that your operations are being conducted fairly—certainly within the scope of the law—but also that you are...insulated from attacks either by insurance regulators, claimants attorneys or others," he advised those attending the AAM-

GA's annual business meeting.

Mr. Marcoux also urged the organization's members to become more politically active as they increasingly become the focus of regulators' and legislators' attention.

"You will be asked repeatedly what your position is on particular issues," Mr. Marcoux said. "The challenge of the AAMGA will be in picking leaders who can build a consensus around those issues."

For example, while the AAMGA has focused much of its attention on the activities of the National Assn. of Insurance Commissioners, the federal government is beginning to assert its influence over the sale of insurance, according to Mr. Marcoux.

The Department of Housing and Urban Development "is particularly concerned about redlining," he said, referring to the illegal practice of denying property coverage to businesses and homeowners in in-

ner-city neighborhoods.

"We may see comprehensive financial services reform legislation" in an effort to prevent perceived redlining activity, Mr. Marcoux warned.

Furthermore, "there is a debate in this country and in the international markets about how financial services should be run," he said.

"The push is coming from our international trading partners who believe we have an obsolete system of firewalls between the various financial services," he said.

Mr. Marcoux also advised MGAs to become familiar with the various proposals to deregulate commercial insurance.

Fortunately, "the ball is still in the air with respect to deregulation," Mr. Ryan said during the roundtable discussion. "But once a proposal is on the table, we're going to have to be prepared."

Mr. Deering questioned the ne-

cessity of insurance deregulation, however.

"We already have a deregulated market—the surplus lines industry," he asserted.

He also pointed out that even with the current regulatory structure, "we're experiencing the softest market in the history of the industry. So what's the problem?"

Mr. Deering predicted the AAMGA and the National Assn. of Professional Surplus Lines Offices, both based in Kansas City, Mo., eventually will collaborate on a joint position paper opposing deregulation.

"We're for state regulation, not federal regulation, and deregulation would invite federal regulation," he said.

But even as the issue of insurance regulation is debated in Washington, the AAMGA still has to keep its eye on state lawmakers and regulators, many of whom who "have a

profound misunderstanding of how this market operates," Mr. Marcoux said during the business meeting.

"This is evidenced most clearly and most recently when the NAIC adopted in December what they called their 'Unauthorized Entities Manual,'" according to Mr. Marcoux.

"This is supposed to be a book to help insurance department examiners, fraud investigators and others tackle insurance fraud, a laudable undertaking. But the NAIC's unauthorized manual is filled with inaccurate statements about the roles of MGAs, surplus lines insurers, surplus lines brokers and others."

Fortunately, the chairman of the NAIC's Unauthorized Insurers Committee called Mr. Marcoux two weeks ago and offered to work with the AAMGA and NAPSLO—both of which filed comments noting the inaccuracies—in redrafting the manual, Mr. Marcoux said. **BI**

Soft market can mean opportunity for MGAs

By JOANNE WOJCIK

KONA, Hawaii—Some managing general agents are finding creative ways to weather the prolonged soft market.



When Harold Anderson lost a market for a particular line of coverage, he decided to develop the program himself to shop around to insurers.

He assembled a team of underwriters to put the program together in-house and then showed it to a couple of insurers, even some that hadn't written program business before.

"We found it much to our advantage to go to a company president and show him our work product," said Mr. Anderson, president of Kenneth I. Tobey Inc. in Seattle. He did not elaborate on what kind of coverage his team put together.

In some cases, insurers were impressed with the MGA's work, especially when they discovered they wouldn't have to invest weeks or months of company time preparing the product in house before it could be sold, he recounted.

Now, instead of having just one market for the coverage, the MGA has several from which to choose.

And today, Mr. Anderson's firm has an entire department—called Product Development—devoted to developing new insurance products—something that in the past had been the exclusive domain of insurers.

"We're doing actually what the company would do with regard to putting a product together," he said. "This has been the key to our survival."

"Our organization has become the CostCo of the insurance industry," he said, referring to a popular chain of wholesale stores in the West that cuts prices by eliminating middleman mark-ups.

Mr. Anderson wasn't the only surplus lines industry expert advising MGAs to be more innovative.

One of the AAMGA's educational courses held during this year's annual meeting focused on ways to develop such program business.

And an industry panel discussion focused on challenges associated with the changing marketplace and ways to succeed in the 21st century.

"We can no longer depend on commissions alone. We're going to have to become more risk-takers," said Orville D. Jones, chairman and chief executive officer of Crump Insurance Services, a unit of Price Forbes North America in Dallas.

In some cases, MGAs may have to consider taking fees in lieu of commissions in response to pressure from buyers to cut costs, said Kevin P. Brooks, chairman and president of General Star Management Co. in Stamford, Conn.

"Risk managers are already asking what the wholesaler's 'cut' is," he said. Unfortunately, he added, "fees are not as profitable as commissions."

But other AAMGA members were more optimistic, pointing out that the pressure on cost containment will provide the impetus for MGAs to become more creative.

In the end, that could lead to greater revenues for wholesalers, pointed out Seth D. Freudberg, president and CEO of United National Insurance Co., a surplus lines insurer in Bala Cynwyd, Pa.

"We need to routinize innovation," Mr. Freudberg said, because "no single innovation works forever."

MGAs also need to constantly seek new markets, "or you will die," Mr. Freudberg warned. While the overall insurance market remains soft, "there have been market turns in specific lines," he pointed out. "For those MGAs who focus on lines that become hard, survival could depend on the ability to keep and find new markets."

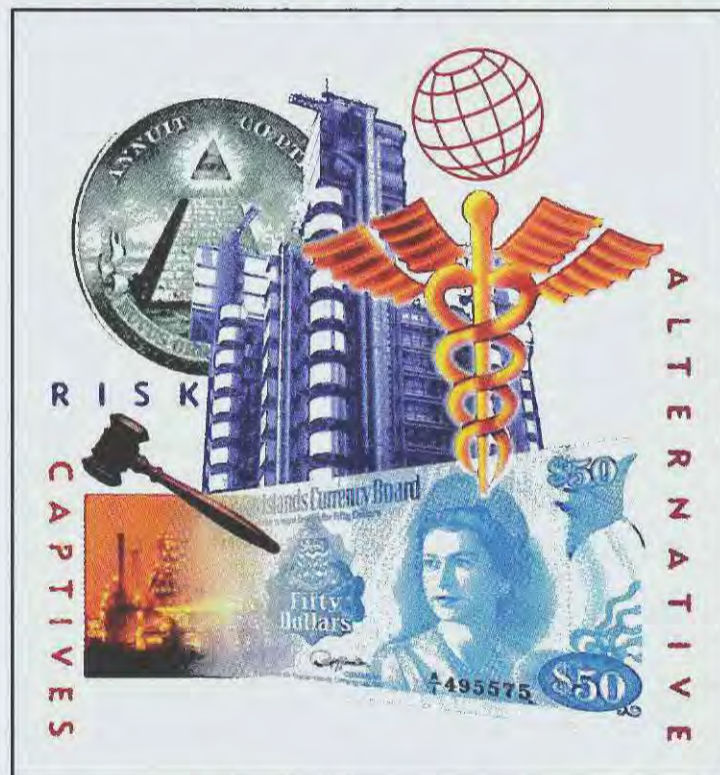
"MGAs also need to be very easy to do business with," he said, urging wholesalers to streamline their operations.

MGAs have a distinct advantage because they usually are small, entrepreneurial organizations, observed Peter Lane, president of Lloyd's North America in New York.

"It's doubtful that large organizations can be as flexible as MGAs," he said. "In fact, large organizations keep trying to break down their operating units."

"As long as buyers' needs change, there will be a need for MGAs," Mr. Lane assured. **BI**

7th World Captive and Alternative Risk Financing Forum



Completing the Concept

This year's program includes general sessions, roundtable discussions and concurrent workshops on the following:

- Basics of Captives and Risk Financing
- Risk Managers Round Table
- Selecting the Right Domicile for Your Captive
- Loss Reserves: The Complete Story
- The Tax and Regulatory Issues
- Latin American Captive Developments
- Reinsurance: Accessibility, Affordability, Necessity
- Rent-a-captives: A Time to Lease; A Time to Buy
- Group Health Care Captives
- Multiyear, Multiline: The Complete Risk Financing Solution?
- Fronting and Workers Compensation
- The Future Is Not What it Was
- Wheeling, Dealing and Stealing
- Captive Case Studies
- Plus, the World Captive Forum Golf Tournament

Save the Date:

November 16 - 19, 1997
Turnberry Isle Resort & Club
Aventura, Fla.
(Close to Miami & Fort Lauderdale Airports)

Keynote Speakers:

Heidi Hutter, Swiss Re America
Patrick G. Ryan, Aon Corp.

Sponsored by:

Business Insurance

Skandia
SINSER

Tillinghast - Towers Perrin

For a brochure, contact Judith Harrington,
WCF Conference Director, 612-928-4659
or fax: 612-929-1318

W O R K &

F

A

M

I

L

Y

WORK

FAMILY

B E N E F I T S

A Spotlight Report on
BENEFITS: BALANCING WORK & FAMILY
*including BI's Directory of EAPs &
DEPENDENT CARE RESOURCES & REFERRAL SERVICES
and bonus distribution at AAHP & SHRM*

Publishing — June 23, 1997
Ad Closing — June 11, 1997

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

New York: 212-210-0133 ■ Fax: 212-210-0704
Chicago: 312-649-5276 ■ Fax: 312-649-7799
Los Angeles: 213-651-3710 ■ Fax: 213-655-8157

INTERNATIONAL

European risk managers eye EPL claims

By CAROLYN ALDRED

LONDON—Employment practices liability is becoming a more significant risk management issue in Europe amid changes in European Union legislation and an increase in employee lawsuits.

High profile cases include last year's \$13 million settlement of a sex discrimination suit by former British Gas P.L.C. female employees (*BI*, June 24, 1996) and earlier this year a settlement by Ford Motor Co. with employees who claimed the company discriminated against minorities.

Employment practices, such as sexual discrimination, harassment and treating workers unfairly, "is a real risk management issue that companies should be addressing," said Nick Foord-Kelcey, U.K. technical director in London at Sedgwick U.K. Risk Services Ltd.

Employers must become increasingly aware of employment practice

issues such as discrimination, agreed Matt Dean, a senior assistant in the employment department of London law firm Simmonds & Simmonds.

Discrimination "is a risk management issue and an area which is becoming increasingly important," Mr. Dean added.

E.U. legislation is the "main motor for change in employment law," particularly in sexual discrimination cases, he said.

For example, currently awaiting passage before the European Commission is a proposal for a directive that would reverse the burden of proof in cases of sexual discrimination. This would place the onus on employers to provide conclusive evidence that the treatment was not illegal, giving employees the benefit of "any doubt concerning the exact interpretation of the facts."

The directive "will make life more difficult for employers to defend" sexual discrimination cases, said Sarah

Winter, an associate partner specializing in employment law for the Birmingham office of London law firm Eversheds.

During the past five years, Ms. Winter has noticed a "massive increase in (employment) claims against employers."

Stricter anti-discrimination laws across Europe, which would take precedence over weaker E.C. regulations, and a marked increase in employees' awareness have led to more claims in many areas of employment, such as racial and sexual discrimination, maternity rights and terms for involuntary layoff of employees, lawyers say.

As a result, many companies, even small businesses, are turning to lawyers to help draw up watertight employment policies and procedures, Ms. Winter noted.

The European Court of Justice also increasingly is being asked to rule on discrimination cases. Among the law-

suits that the court has recently ruled on is a German case relating to a job advertisement that specified that a female was required. The European Court of Justice ruled that when E.U. member nations implement the directive on equal opportunities for men and women in gaining employment, they must apply sanctions sufficient to prevent discrimination between the sexes. The court ruled that a ceiling of three months' salary in compensation laid down by German law, and a total of six months' salary in aggregate compensation, "did not represent an appreciable and dissuasive financial burden." The court noted that other German labor laws do not provide for similar caps on fines for violations.

Meanwhile, the European Commission has begun to draft a policy on sexual harassment in the workplace. A second round of consultations between E.U. member countries recently has begun, because current rules in

See *Liability* on page 25

Global Briefs

First-quarter figures from **The Institute of London Underwriters** show the aggregate tonnage of ships lost up 105% from the same period last year. Tonnage lost in this year's first quarter leapt to 295,547 gross tons for ships of 500 gross tons and above. The ILU described the trend as "disturbing" and warned that the figure most likely will increase as partial losses are reclassified as constructive total losses. . . . A new superagency is on the cards at Lloyd's of London with the proposed merger of **Murray Lawrence Members Agency Ltd. and Bankside Members Agency Ltd.** If the proposal is accepted by shareholders and Lloyd's regulators, the agency will be responsible for £730 million (\$1.2 billion) in capacity this year, more than 7% of the market's 1997 capacity of £10.3 billion (\$17.64 billion). . . . Ratings agency **Standard & Poor's Corp.** has equalized its claims-paying ability rating of French insurer **AXA-UAP Groupe** at AA- following the merger of AXA and UAP. This rating is a downgrade of AXA's rating from AA, but a boost over UAP's former A rating. S&P based its decision on several factors, including AXA-UAP's global presence, a strong strategic focus on insurance, high-caliber senior management and potential for improved profitability. But S&P warned that the group's capitalization, though "satisfactory" from a risk-based perspective, is "somewhat restricted" for an organization in the 'AA' range. Philippe Derieux, deputy financial officer at AXA-UAP, said the size of the organization's capitalization is "absolutely satisfactory to cover the insurance risks," adding that the insurer will not try to raise capital in the short term, as it would dilute shareholders' returns. . . . London broker **FirstCity Insurance Brokers Ltd.** has turned over some control of the organization's future to its staff by setting up an employee trust fund. All employees are eligible to join the plan, with their share of the value of assets in the fund determined by several factors. The trust controls 65% of the organization's equity and gives employees a say in major decisions affecting the company, including merger activity. . . . Terms of **The Tokio Marine & Fire Insurance Co. Ltd.**'s sale of its Houston General Insurance Co. unit to U.K. multiline insurer **Commercial Union Assurance Co. P.L.C.** are yet to be finalized, but will depend partly on the reinsurance for the runoff of the existing business. Fort Worth, Texas-based **Houston General** specializes in small to medium-size commercial coverages, and had policyholder surplus of \$38 million at the end of last year. . . . London-based **Colonia Baltica Insurance Ltd.**, created last November when **Colonia Insurance Co. (UK) Ltd.** and **Baltica Insurance Co. (UK) Ltd.** merged, has posted a £2.3 million (\$3.9 million) profit for 1996. **Colonia Baltica** is jointly owned by Cologne-based **Colonia Versicherung A.G.**, a member of the AXA-UAP Groupe, and **Trygg-Baltica Forsikring A/S** of Copenhagen.

'Alternative' soon to be mainstream?

By STACY SHAPIRO

LONDON—Alternative financial insurance and reinsurance arrangements are just picking up steam and not dying on the vine as some experts think, according to one of the world's largest insurance groups.

If alternative solutions are defined as custom-designed products that better address customers' needs, "then that day is just coming," said Steven Gluckstern, a member of the executive board of Switzerland-based Zurich Insurance Group and chairman of subsidiary Zurich Reinsurance Centre Inc.

Within medium to large corporations, "there's a tremendous change in the sophistication of the buyer of risk protection products, and they are forcing providers of those products like the Zurich into much more tailor-made solutions," he said.

Clients no longer are interested in buying products that insurers have stocked on their shelves, said Mr. Gluckstern. "The insurers that offer plain vanilla products are going by the wayside. They can't survive."

"We are undergoing dramatic changes in our business," added Rolf Hueppi, Zurich's chairman and chief executive officer, when announcing the company's 1996 results at a press conference in London last month.

Ten years ago, no one talked about new ways of doing reinsurance business, said Mr. Hueppi. Today, however, Zurich is the world's leading underwriter of structured financial reinsurance, he said. Financial reinsurance, such as finite risk reinsurance, accounts for about half of Zurich's global reinsurance business.

"But it's not only that" which is changing, said Mr. Hueppi. "Banking and insurance now overlap dramatically."

In Europe—particularly in France, Belgium and Spain—about two-thirds of all new life insurance policies are now sold by banks.

Last week, Zurich announced it would be part of a core group of shareholders owning between 24% and 30% of the newly privatized Bank Handlowy, one of the largest banks in Poland. Zurich and Bank Handlowy also intend to jointly establish life and non-life insurance companies in Poland.

To keep up with such changes, insurers need new skills, new facilities and new business, Mr. Hueppi said.

Zurich had an "exceptionally good year" in 1996, with net profits increasing 30.2% to 1.14 billion Swiss francs (\$846.3 million), said Mr. Hueppi. This included results of Kemper Corp., which was acquired last January

See *Zurich* on page 25

Claim doesn't fly for Kuwait Airways

By STACY SHAPIRO

LONDON—Aviation war risk underwriters do not have to pay a \$150 million claim by Kuwait Airways Corp. for spare parts the Iraqi government took during the invasion of Kuwait in 1990, a British Court of Appeals has ruled.

When Kuwait was invaded by Iraq in the early morning of Aug. 2, 1990, there were 15 Kuwait Airways aircraft at the airport valued at \$692 million and spare parts valued at about \$300 million. Iraqi troops removed the aircraft and spare parts over several days.

Just over a month later, Kuwaiti insurers and London-led aviation war risk reinsurers paid Kuwait Airways \$300 million, which was the maximum ground limit per occurrence, per location under the hull war risk coverage.

Kuwait Airways had recovered some of the aircraft and spare parts from Iraq since the end of the Gulf War but sought an additional \$500 million from war risk underwriters for the aircraft and spare parts that were lost, contending that the loss was more than one occurrence.

In a 1995 ruling, High Court Justice Rix agreed with the underwriters that the airline could not recover any more money from the underwriters under its policy because the loss was a single occurrence. Kuwait Airways decided not to appeal the decision with regard to the lost aircraft but did appeal to recover \$150 million in lost spare parts.

Late last month, the Court of Appeal agreed with one of the airline's arguments, finding that the \$300 million ground limit only pertained to the aircraft and not to the spare parts, which had a separate limit of \$150 million.

However, the Court of Appeal in a 2-1 decision ruled last week that the claim for the spare parts is excluded because underwriters never intended to indemnify spare parts for war risks on the ground under the policy, only for parts lost in transit.

"I would prefer to read the policy provisions as saying that the loss of spares on the ground by war is excluded, which must have been what was meant," ruled Lord Justice Staughton.

Kuwait Airlines might appeal the decision to the House of Lords.

Liability issues on agenda for Aussie entities

By KATE TILLEY

SYDNEY, Australia—Increasing liability claims and awards against local governments offer important lessons and opportunities for public entity risk managers.

That was the message from lawyers to delegates at the fourth annual Australian Public Risk & Insurance Managers' Assn. Conference.

Speakers warned risk managers that council officers can be sued personally; that employees as well as property owners and injured members of the public can sue councils; and that damage awards are escalating. They also issued a warning that businesses must take steps to ensure that they are in compliance with pertinent laws and regulations, as courts no longer are accepting ignorance as a

defense and are increasingly demanding that companies know and follow the law.

But one lawyer said the current cli-



mate allows public entity risk managers to demonstrate their skills.

Another lawyer, Chris Wood, a partner in the Sydney law firm McCabe Brown, said the 22 metropolitan councils in the state of New South

Wales have seen a 30% increase in the number of liability and professional negligence claims in the past five years.

The New South Wales government in 1995 capped payouts in workers compensation and compulsory third-party vehicle claims. Third-party coverage is required of all vehicles, personal and commercial, in all Australian states. But the downside has been an increase in general liability claims, as claimants sought other avenues to gain compensation for injuries.

Mr. Wood said the large liability claims, which "are invariably insured on the commercial market, with the cost being defrayed through excess insurers or reinsurers," are a lesser problem for local authorities than the smaller, high-frequency claims.

He called on the New South Wales government to implement a minimum claim amount to weed out small claims and to implement statutory defenses for local authorities, including rewards for "genuine risk management efforts."

Mr. Wood said the New South Wales government is unlikely to put a statutory cap on personal injury claims. APRIMA is lobbying for such a cap. But the government "is not adverse to considering other ways" to limit the impact of high-frequency, low-to-mid-range cost claims.

With local governments' deductibles ranging from \$10,000 Australian (\$7,760) to as high as \$100,000 Australian (\$77,600), the argument that insurance is affordable is invalid, he said.

See *Councils* on next page

Councils

Continued from previous page

Although the Australian liability market overall is soft, "soft rates are illusory if insurance is available" only to local governments with big retentions, he noted.

Mr. Wood said the New South Wales court system, in which the District Court uses arbitrators to try to resolve claims before they go to court, is contributing to councils' costs.

Too many District Court arbitrators reach decisions "designed to appease all parties," he said. "In other words, find for the plaintiff, but award reduced damages" to dissuade parties from seeking a court rehearing.

Mr. Wood said councils' possible defenses are being "ignored or misunderstood, deliberately or otherwise" by the majority of District Court arbitrators in an effort to find for injured plaintiffs. Although claimants bear the burden of proof, "the hurdles they are required to clear to establish liability are minimal."

"Can a system which forces government and local authorities to divert funds from other pressing areas to

meet small, high-frequency claims be said to be working?" he asked.

Attorney Michael Down, a Sydney partner with law firm Phillips Fox, warned public risk managers that they and other council employees can be sued personally. Government entities' employees traditionally enjoyed an immunity from prosecution as "servants of the Crown," but legislation has watered down that immunity, he noted.

In New South Wales, for example, the Law Reform (Vicarious Liability) Act 1983 and the Employees' Liability Act 1991 mean government employees can no longer enjoy immunity from tort suits and are being named personally in proceedings seeking damages for negligence, Mr. Down warned.

However, he said the Crown could not seek indemnity from an employee unless the conduct was serious and willful, or did not occur in the course of employment, or did not arise out of employment.

And the Federal Insurance Contracts Act 1983 prevents an employer's insurer from exercising, under subrogation rights, the employer's right to claim against an employee,

unless serious or willful misconduct has occurred.

He warned that penalties could include damages, interest and costs for both the claimant and the defendant's own defense costs.

Attorney Diane Beer, a partner with the Sydney firm Abbott Tout, said local authorities should implement legal compliance programs.

"Compliance is expensive but essential," she said, before warning that non-compliance is even more expensive. Breaches of some sections of the federal Trade Practices Act attracted penalties of up to \$10 million Australian (\$7.8 million) for a corporate entity, including a council, and \$500,000 Australian (\$388,200) for an individual. Councils cannot pay penalties imposed on officers personally, Ms. Beer said.

Successful compliance programs require commitment, an acceptance of responsibility by appropriate council officers, and education and training. A compliance program needs to be continually reviewed and updated as councils' activities, staff, the law and potential risks change, she said.

Ms. Beer warned council risk managers that they must be confident that

contractors are addressing risks when council functions are outsourced.

"When something goes wrong, who is responsible to the ultimate consumer?" she asked. "The public sector organization, the contractor, or an insurance company?"

Public sector entities should not assume that responsibility lies with the contractors. "Simply because a council has outsourced its garbage collection service, for example, does not mean that council is absolved of responsibility for the standard of the service, or liability to the user of the service."

But the message was not all bad for public risk managers. Marianne Robinson, manager-research with Sydney-based underwriter GIO Australia Ltd., said the environment created by the increase in liability claims means risk managers can prove their worth.

"Don't allow the legal profession to fill you with despair and despondency. Lawyers are not risk managers; they are reactive to things in the past. Don't get bogged down by the past," she said.

Courts today want to see implementation of sound risk management plans. Through due diligence defens-

es, they give risk managers "a platform" from which to sell their skills.

"At a time when the public sector dollar is rapidly diminishing, risk managers have the ideal opportunity to demonstrate how proactive risk management can save money," she said.

"Risk managers are, by definition, survivors. Daily they run the gauntlet of disinterest in their activities and damage control for the sins of others whose actions or policies have failed," Ms. Robinson said.

But by providing solutions to the developing problems, risk managers could help the public service dollar go further. The challenge for today's risk manager is to give up the "knowledge is power" style of management and ensure that knowledge is shared so risk management commitments and concepts filter down, she said.

"The dilemma facing risk managers is that for years they have endured lack of recognition and been regarded as simple insurance purchasers."

Suddenly the high profile given to corporate governance and legal compliance has created an environment in which they can achieve recognition, she said. **BI**

Services Guide

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

ARM Exam Prep Workshops
VA, TX, CA locations or yours
FALL Classes forming now
The Walden Group
(888) 681-RISK

We're on the Web

Business Insurance Online!
www.businessinsurance.com

SBPA SYSTEMS

Medical • Dental • Vision • Disability • Life
Self-Administrated Companies • TPA's
Managed Care Organizations • Insurance Companies
Eligibility, Billing, Agent Commissions and Claims
1-800-444-1189
10777 Westheimer, Suite 125 • Houston, TX 77042 • FAX 713-974-3544

For Everything You Need And Expect In
A Managed Health Care Administration System...

GET THE **FACTS**

Fully automated/integrated software and hardware solutions for the processing and administration of medical, dental, vision, drug, disability and COBRA claims for indemnity, PPO, HMO, and PHO plans. Related training, support, and consulting. All FACTS[®] products are year 2000 compliant. **FACTS' full featured product line includes systems for:** Managed Care; Workers' Compensation with Integrated Managed Care; Flexible Benefits; Pre-Authorization and Referrals; Premium Billing, Accounting, and Commissions; Claims Editing; EDI; Optical Imaging/OCR; Automatic Adjudication; POS; MICR Laser Check/EOB Encoding; Electronic Claim Workflow Distribution System; over 150 reports and custom report generator.

FACTS Services, Inc.

1575 San Ignacio, Suite 406, Coral Gables, FL 33146
(305) 284-7400

General Automation Value Added Reseller

For advertising information contact: Cheryl Butler-Adeszko.
Classified & Services Guide Advertising, 740 North Rush Street, Chicago, Illinois 60611.
Telephone (312) 649-5340 • Fax (312) 649-7799

Service program wins award

By KATE TILLEY

SYDNEY, Australia—A small town government's program to minimize its public liability by enhancing customer service has won an award of excellence from Australia's public-sector risk management association.

The town of Deniliquin, New South Wales, which is about 465 miles southwest of Sydney, implemented a customer service system five months ago to reduce the risk of disgruntled taxpayers taking legal action against its regional council (see related story).

The award for risk management excellence was presented at the Australian Public Risk & Insurance Management Assn.'s annual conference in Sydney last month.

The system has worked so well that the council is sharing its details with other local government councils via the National Local Government Customer Service Network, a program that brings together customer service representatives from different councils, so other councils can use it to minimize their risks.

The council developed its Customer Service Request Management System after acknowledging that unresolved complaints about things like slip and falls, potholes and problems with garbage collection or bothersome

dogs could generate adverse publicity and legal costs. By addressing these types of complaints right away, the council hopes to convince residents it is unnecessary to lodge a formal complaint or lawsuit in order to get satisfaction. "Our aim is to have problems identified, prioritized and fixed," said Kate Pitt, Deniliquin's customer service officer.

The system had to be accessible to the public, simple but comprehensive, and have built-in time limits to ensure customers know when their requests will be met, she said.

Requests for action also now have an easy-to-follow audit trail, which is helpful if the council is later involved in legal action, she noted. Requests for service are monitored to ensure they are followed.

The award was presented at the APRIMA Conference by Graeme Jeffries, account and risk manager of Jardine Australian Insurance Brokers in Adelaide, South Australia.

Customer service and, more specifically, reducing the risks associated with poor service also was the topic of an APRIMA Conference workshop.

"People want to be noticed; that's what customer service is all about," Alannah Sledge, president of the New South Wales Local Government Public Relations Assn. and customer relations manager with the Hawkesbury

Council, told the conference.

She said Australians want to be dealt with sensitively and want information that is up front, direct and clear.

"You don't necessarily have to solve the problem, but if you can identify a track they can follow to get a solution, they will be happier," she said.

Complaints should be seen as valuable sources of information about potential problems and a way of monitoring service levels, she added.

For example, Ms. Sledge said most local government forms that are filled out after a slip and fall are not user-friendly, and make the risk manager's job harder when they fail to gather needed information. She advised risk managers to get someone unfamiliar with the issue to "test drive" the form to ensure it is well-designed.

The risk of not addressing customer service is clear in a crisis situation, Ms. Sledge said. "You can reduce your risk of exposure by having a plan in place to deal with a crisis."

If an organization has a customer-service culture, it can create a "trust bank" within its community, and draw on that trust in a crisis by "cashing in" happy customers.

Ms. Sledge said staff must be trained to cope with crises and formal structures have to be in place beforehand to minimize the risk. **BI**

"Be sure that you return it."

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

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

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

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

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

Business Insurance

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

Zurich

Continued from page 23
(BI, April 17, 1995). About 31% of Zurich's gross life and non-life premiums of 27.4 billion Swiss francs (\$20.34 billion) originate in the United States.

Gross premiums for Zurich's reinsurance operations at year end totaled 3.6 billion Swiss francs (\$2.67 billion), a 22.7% rise from 1995. This includes New York-based Zurich Reinsurance Centre Holdings Inc. and Centre Reinsurance (Bermuda) Ltd. in Bermuda, which Mr. Gluckstern founded. Zurich has offered to buy the outstanding publicly held shares of ZRC and hopes to close the deal in the au-

turn (BI, Jan. 20). A ZRC minority shareholder late last month challenged the Zurich offer as inadequately priced (BI, May 26).

Much of Zurich's stellar performance is due to gains in investment income. While the group's total underwriting loss increased nearly 30% to 4.9 billion Swiss francs (\$3.64 billion), investment income rose 28% to 6.7 billion Swiss francs (\$4.97 billion).

The group increased its underwriting reserves 37% to 101.6 billion Swiss francs (\$75.43 billion), while it increased its capital and surplus 28% to 13.7 billion Swiss francs (\$10.17 billion).

Reserves were increased not so much because U.S. environmental and health hazard liabilities are grow-

ing but because the insurer takes a conservative approach to reserving, said Mr. Hueppi. None of Zurich's U.S. operations has reported a claim from a tobacco manufacturer in light of the recent settlement talks with smokers and state attorneys general

(BI, May 12; April 21), he added.

Meanwhile, the insurance group is investigating whether it wrote any life insurance policies for victims of the Holocaust, even though Zurich was one of the smallest players in the German life market before World War II.

The sums of money involved are so small that they are immaterial, said Mr. Hueppi. However, "we are taking this topic very seriously, not just emotionally, but we are cooperating" with Swiss authorities who are looking into the matter. **BI**

Liability

Continued from page 23
most member states "are aimed at condemning or remedying serious cases of sexual harassment and do little to prevent the problem from occurring," according to an E.C. report. The European Commission estimates that at least 30% of women in the workforce have been subjected to harassment.

This heightened focus on employment practices liability could lead to greater interest in insurance coverage for these risks, insurers say. Insurance is available in Europe either as a stand-alone EPL policy or through endorsements to directors and officers coverage, according to Sedgwick's Mr. Foord-Kelcey.

In Europe, the most common approach is to extend D&O policies to provide coverage for discrimination and other employment-related disputes, he said. But he added that many of these extensions cover only individuals, whereas most claims brought in Europe are against companies.

Mr. Foord-Kelcey said that many companies are uninsured for such risks, regarding employment disputes as a "cost of business." However, high-profile U.S. cases have alerted companies to the potential of catastrophic losses, he said.

In 1996, Texaco Inc. paid \$176.1 million to settle race discrimination claims with a group of employees, while the Equal Employment Opportunity Commission filed sexual harassment charges against Mitsubishi Motor Manufacturing Co. of America on behalf of at least 500 claimants (BI, Dec. 23, 1996).

Bermuda-based X.L. Insurance Co. Ltd., which last year launched a stand-alone policy offering employers up to \$100 million against employee lawsuits relating to such offenses as job discrimination, sexual harassment and wrongful dismissal, is getting some interest from European corporations, said Jim Ansaldi, senior vp-professional lines.

Mr. Ansaldi spoke to risk managers about the product at a seminar in Dublin last month.

Although he acknowledged that the issue has been largely confined to U.S. exposures to date, changing legislation throughout the world—including Europe, Japan, Israel and Australia—will increase the need for multinational operations to cover their exposures outside the United States.

Employment practices liability insurance is "a viable product to be sold in Europe," said Mr. Ansaldi, who predicted that in the next three to five years European discrimination law will be overhauled.

AIG Europe (UK) Ltd. two months ago launched stand-alone coverage for employment practice liability as well as D&O extension coverage for both individuals and corporate entities, said Alexander Baugh, a senior

vp.

Most of the interest in AIG Europe's stand-alone coverage so far has come from European companies with U.S. exposures, Mr. Baugh said. However, many of those companies are buying the coverage on a global basis and not just for U.S. subsidiaries.

Class-action suits are not as common in Europe as in the United States, but publicity about increasing discrimination compensation awards is making European companies more concerned about the issue, he said.

Lloyd's of London underwriter Ian West also is seeing an increasing number of European companies asking for employment practices coverage as an extension for their D&O coverage. Mr. West, who is the professional and financial lines underwriter for syndicate 702, says that companies are looking for the coverage for exposures outside the United States as well as U.S. exposures.

Syndicate 702, which is managed by Octavian Syndicates Management Ltd., also provides employment practices insurance through its commercial legal proceedings insurance, which is underwritten by legal expense underwriter Terry Mason. **BI**

Carvill

Reinsurance Intermediary

INDEPENDENCE
INTEGRITY
SERVICE

CONSISTENT PHILOSOPHY & PERFORMANCE
SINCE 1977

Atlanta Bermuda Chicago London Stamford



Focused Exclusively on Serving the ART Market.

Introducing CORE, a specialty underwriter of casualty lines for the Alternative Risk market. CORE underwrites excess insurance and treaty reinsurance in support of captives, rent-a-captives, self-insurers, pools, and similar structures.

CORE, a GE Capital Services Company, offers the stability, commitment, and responsiveness of a company focused exclusively on serving the ART market. Make CORE the center of your ART business.

CORE

Center of the ART WorldSM

CORE Group
1010 Washington Boulevard
Stamford, CT 06901
203.406.1900

CORE Group
Citicorp Center
One Sansome Street, Suite 1900
San Francisco, California 94104
415.951.1086

CORE Insurance Company is rated A++ (XV) by A. M. Best Company.

The Professional Marketplace

RATES AND CLOSING TIME:

Rates: Display classified is \$163.00 per column inch, minimum of one inch. Straight classified is \$14.00 per line, minimum of 5 lines. Count 34 characters per line (include each space and punctuation as a character). Additional \$22.00 charge for all blind box ads. Only those responses which fit into a business size envelope will be forwarded. Responses are forwarded daily.

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

HELP WANTED

HELP WANTED

Corporate controller

Republic Underwriters Insurance Group, a group of five property and casualty insurance companies writing primarily personal lines in the Southwestern United States, is searching for a Corporate Controller in its Dallas Home Office.

This position has overall responsibility for the accounting operations of the group, managing a staff of approximately 25 professional and clerical individuals, which includes operational accounting, financial reporting on a statutory, US GAAP, and Swiss GAAP basis, investment accounting, expense analysis and accounts payable. This position has significant interaction with the Company's senior management as well as personnel from the parent Company, Winterthur Swiss Insurance Company.

The successful candidate for this position must have a balance of strong technical accounting skills, including property and casualty insurance accounting, and demonstrated management and leadership abilities. This person will have 10 or more years experience split between public accounting and industry assignments, with previous management experience in the industry.

Republic offers a competitive compensation and benefit package. For confidential consideration, please mail your resume to: Republic Underwriters Insurance Company, Attn: Human Resources-CC, P.O. Box 660560, Dallas, TX 75266-0560, or fax to (214) 559-1133. We are an equal opportunity employer.

republic

HELP WANTED

HELP WANTED

PRODUCERS

Do Your Earnings Reflect Your Full Potential?

Near North Insurance Brokerage, Inc., one of the nation's largest independent brokerage firms, has been providing risk management consulting services for over 30 years. We are seeking highly successful professionals with proven expertise in Property/Casualty and Employee Benefits business production for our Los Angeles, Dallas, Washington, DC and Chicago offices. We have opportunities for:

PRODUCERS

The ideal candidate is a highly motivated professional with a successful record of new business development gained from a brokerage environment. We prefer individuals with a book of established business or the proven ability to generate new business. Account Executives currently in a service position who seek greater opportunity will also be given consideration.

We are a fast-paced, entrepreneurial firm providing services to a highly diversified client base. Technical resource support, leading edge systems technology and communications are just a few of the advantages available with our firm. You can expect an excellent compensation and benefits package and exceptional growth potential. Please mail or FAX (312-515-4457) resume with salary history to: Jeff Ludwig

NEAR NORTH INSURANCE BROKERAGE, INC.
875 N. Michigan Avenue
Chicago, IL 60611

A MEMBER OF THE NEAR NORTH NATIONAL GROUP
Equal Opportunity Employer

HELP WANTED

PROPERTY AND CASUALTY MARKETING

NJ agency seeks experienced individual with strong NJ commercial lines knowledge, and who has experience in maintaining positive insurance carrier relationships. EOE. Mail resume and salary requirements to:

DEPT PCM/B
P.O. Box 1268
Englewood Cliffs, NJ 07632

HELP WANTED

Business Insurance

Circulation Breakdown
Commercial Consumers

Administrative:
CEO's, Presidents, and Owners,2,200
Vice Presidents, General Managers and Other Administrative Personnel5,129

Financial:
Chief Financial Officers and Vice Presidents of Finance3,166
Secretaries, Treasurers, controllers and other Financial Personnel2,975

Risk/Employee Benefits:
Vice Presidents, Directors, Managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations17,043

Sub-total30,511

Associations293
Government, Unions and Educational Institutions946

Commercial Consumers
Sub-total31,747

Insurance Agents and Brokers8,558
Insurance Companies7,327
Accountants, Actuaries, Attorneys & Consultants2,831
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers1,624
Others Allied to the Field936

Total Qualified53,083

Non-qualified9
Single Copy Sales16

TOTAL CIRCULATION53,138

★ Source Business/Occupational breakdown of qualified circulation, November 25, 1996 Issue, as submitted to BPA for December 1996 BPA Publisher's Statement

Hewitt

Hewitt Associates LLC is a global management consulting firm specializing in human resource solutions. We help organizations become more effective by getting the best out of their people. We do this by using methods ranging from long-term management strategies to day-to-day administration and delivery of human resource service, all striving to create an engaged and effective workforce. Currently, we are seeking a Benefits Consultant to join our Benefits Practice at our national center in Lincolnshire.

BENEFITS CONSULTANT/AUDITOR

You will audit our clients' health care claims processed at major insurance companies throughout the country. Additional responsibilities include performing operational evaluations, compiling and analyzing findings, and writing reports detailing processes, conclusions and recommendations.

The ability to manage multiple tasks and projects is required. We seek an individual with a strong work ethic, orientation to detail and the commitment to meet tight deadlines. Between 50 and 60% domestic travel will be required.

We require a BA/BS and prefer 4-6 years experience in a medical claim administration setting. Supervisory capacity a plus. PC skills, including proficiency in Word, WordPerfect and Lotus 3.1 are essential.

For consideration, please send your resume to: Hewitt Associates LLC, 100 Half Day Road, Lincolnshire, IL 60069. Please use reference number 457. Equal Opportunity Employer. For more information, please visit our web site at www.hewittassoc.com

For a 1997 Classified Rate Card call: (312) 649-5340

HELP WANTED

HELP WANTED

Senior Associate
Insurance and Financial Services

Leading global executive search consulting firm seeks an exceptional individual to join the firm as a **Senior Associate** in the Insurance and Financial Services specialty practice based in New York City.

The individual we are seeking will play an important role in assisting leading property/casualty, reinsurance, life/health insurance and insurance brokerage firms in identifying, attracting and evaluating senior managers across all functions. Work would also include crossover into other areas of financial services including banking, investment banking and corporate finance. The role will be to assist in the completion of executive search consulting assignments including directing research, developing and evaluating candidates, and writing reports.

Experience in executive search consulting or management consulting is desirable and the individual should have a knowledge of insurance and/or financial services. An undergraduate degree is required and a graduate degree would be desirable. We offer an outstanding opportunity for career growth and development plus attractive compensation and benefits.

For confidential consideration please send resume and salary requirements to:

Business Insurance BOX 3039
740 N. Rush Street
Chicago, Ill 60611-2590

HELP WANTED

RISK MANAGER

The City of Spokane, Washington is currently recruiting for the above position. The individual we are seeking will have successfully demonstrated skills in:

- Ability to plan and supervise the work of subordinate employees.
- Providing technical advice on insurance and liability provisions to be included in construction contracts, leases and other agreements.
- Establishing and meeting risk management program goals and objectives.
- Preparing recommendations regarding methods of handling various risks.
- Identifying facilities, work processes, conditions and/or situations susceptible to potential loss and recommending improvement.
- Developing and implementing aggressive and effective loss control program.

MINIMUM EDUCATION AND EXPERIENCE: Graduation from an accredited four year college or university with a degree in business administration, public administration, insurance, risk or safety management or a closely related field. Four years of progressively responsible experience in the field of risk management, loss prevention, insurance administration or directly related field, preferable in the public sector with at least two years supervisory experience.

CPCU and/or ARM professional designations are desirable and will be considered in the selection process.

In addition to an excellent employee benefit package, the 1997 salary range is: \$49,694 - \$61,888 annually. Resumes should be sent as soon as possible and must be postmarked no later than JUNE 13, 1997. Apply to:

Human Resources Director
City of Spokane
808 West Spokane Falls Blvd.
Spokane, WA 99201-3327

PLACE YOUR CLASSIFIED AD ON BPA'S WEB PAGE!

Call (312) 649 - 5340

www.businessinsurance.com

Looking For An Educated, Informed Candidate To Fill A Job?

Then turn to nearly 154,000* readers of Business Insurance magazine. You are bound to find an array of qualified candidates when you place your ad in the Professional Marketplace.

Call today for advertising details: (312) 649 - 5340 • Fax your ad copy for a price estimate to: Cheryl Adeszko at (312) 649 - 7937

*Includes pass-along readership

Drugs

Continued from page 1
 premium credits is another difficult issue for employers and state officials.

Unless data collection is improved and program performance more accurately assessed, employers with effective workers comp programs may be subsidizing those with ineffective drug-test programs. That could cause overall workers comp rates to go up unfairly or insurers to bear a disproportionate share of the cost.

Robert Kriebel, coordinator of the Tennessee Department of Labor's Drug-Free Workplace Program, agreed that acquiring good data is important, "just so we have a statistical basis to make decisions."

Tennessee's program was mandated by the state's 1996 workers comp reform act, though the need for technical amendments to the act and approval of operating guidelines have delayed implementation until later this year.

The topic of determining statistically valid premium credits is increasingly important nationally, because a growing number of states are adopting or considering similar legislation as well as larger premium credits.

Eight states in the past few years have enacted some type of drug-free workplace premium credit, and eight more states considered similar bills during their current legislative sessions, according to the Alliance.

Alabama, Florida, Georgia, Ohio, Mississippi, Tennessee, Virginia and Washington have adopted the programs. Similar premium credit bills are pending in Hawaii, Illinois, Louisiana, Massachusetts, New York, South Carolina, Texas and Vermont.

Proposed premium credit amounts also are expanding beyond the typical 5% level, which states often adopt as part of reform negotiations.

For example, Georgia's new law calls for a 7.5% credit. In addition, Ohio's recently enacted law calls for tiered credits ranging from 6% to 20%, with random drug testing required to earn the higher discounts, according to the Alliance.

Most drug-free workplace programs do not require random testing, though that is considered the most effective approach.

A typical drug-free workplace program, like that proposed in Tennessee, includes some pre-employment and post-accident testing, in addition to testing for "reasonable suspicion" when a worker is behaving erratically.

Most programs test a worker's urine for alcohol, amphetamines, cocaine, opiates and cannabis-type substances.

The data collection component of the Tennessee program still is being determined, but an Alliance-backed proposal asks each participating employer to complete a simple form that asks when its program began, who does its testing, who serves as its medical review officer and the number of tests done. An employer would update the form annually and if it decides to disband the program or when state authorities ask for it.

A key component of the Tennessee drug-free workplace program is the NCCI's pledge to analyze the employer's workers compensation claims data in the context of the drug-free workplace program start date and other data. That and other comparisons are expected to yield an accurate

evaluation of the program's true effectiveness. Tennessee law then allows the percentage of premium credit in future years to be adjusted from the expected 5% to an "actuarially sound" number.

Tennessee's drug-free workplace program "is of high interest to a fairly good percentage" of the 1,800 employers that belong to the Tennessee Assn. of Business, said Bob Gaskill, vp of the Nashville, Tenn.-based group. The group represents employers of all sizes.

In states that allow premium credits for drug-free workplace programs, most employers attracted to such programs tend to be midsize—with premiums less than \$10 million—or smaller companies, because many large employers are self-insured, said Anne Allen, state affairs director for the Risk & Insurance Management Society Inc. in New York.

Mr. Gaskill said two key attractions of Tennessee's proposed program are the likely initial 5% discount as well as a reversal of presumption in a discharge case. As a result of the presumption, adjudicators will presume that a job-related injury involving a worker who tests positive was caused primarily by the presence of the drug, and workers comp benefits may be denied.

However, this presumption may be countered by the testimony of a medical review officer, for example, in cases in which the accident was not caused by the substance-abusing worker.

No such presumption exists now; instead, the presumption is that the employer is liable for a workers comp claim in an accident.

At least two unions in Tennessee also support drug-free

workplace programs to promote safety and jobs by enhancing employer competitiveness.

"We always promoted it, because it makes a safer work environment and helps us meet our schedules and hold costs down on jobs," said Jack Gatlin, business manager and financial secretary for the International Brotherhood of Electrical Workers Local 474 in Memphis. "It also keeps workers comp premiums low, which helps our contractors be more competitive."

"We don't want drugs or alcohol in the workplace, not only because it is dangerous for the individual person involved but it also can endanger co-workers," said James G. Neeley, president of the Tennessee's AFL-CIO Labor Council in Nashville.

Both union leaders serve on the state's 12-member Workers' Com-

pensation Advisory Council, along with a representative of the Tennessee association.

Legislators' increased interest in drug testing tracks what the majority of major employers are already doing. According to a 1996 American Management Assn. survey of major companies, the number of companies testing for drugs nearly quadrupled to 81% since 1987 (*BI*, April 29, 1996).

Employers implementing drug-free workplace programs also should be wary of the new liabilities they create. Employers must keep workers' results confidential and ensure that testing companies perform appropriately, said David Holcombe, risk manager of the International Speedway Corp. in Daytona Beach, Fla. He chairs RIMS' Government Affairs Committee. BI

Not quite clear where on earth to find it ?

It's clear. Your best resource is here !

1996 DIRECTORIES

Issue Date	Directory
Feb 5	Third-Party Administrators
Feb 19	Utilization Review Providers & Case Managers
Mar 4	Risk Management Consultants
Mar 18	Benefit Information & Claims Systems
Apr 22	Captive Managers
May 20	401(k) Plan Administrators
Jun 3	Alternative Risk Financing Facilities
Jun 24	EAPs & Dependent Care Resources and Referral Services
Jul 22	Agents & Brokers
Aug 5	Prescription Benefit Managers
Aug 19	Property Loss Control Consultants
Sep 2	Leading Reinsurers Worldwide
Sep 16	Surplus Lines Insurers & Wholesalers
Oct 14	Reinsurance Brokers
Oct 28	Benefit Communication Systems
Nov 4	Safety Consultants & Rehabilitation Services
Nov 11	Environmental Risk Management Consultants
Nov 18	International Insurers & Benefit Networks
Dec 2	Risk Management Information Systems
Dec 9	Employee Benefit Consultants
Dec '96	Managed Care Providers—HMOs, PPOs and POS Plans

If you're in immediate need, order now from our list of 1996 issues, while quantities last, call Dorothy Wood at 1-800-678-9595.

Are you looking for a list of agents and brokers, TPAs, HMOs or PPOs or POS Plans, captive managers, reinsurers, benefit consultants, or other suppliers of insurance services?

Search no more. Every year, *Business Insurance* compiles comprehensive directories of the insurance services providers that you need the most.

But these issues are so popular they might not make it past the first name on your company's routing slip. So when you're trying to locate lists of vendors you know must exist somewhere, don't go to the ends of the earth trying to find them.

Just take a look at the exclusive directories *BI* offers.

You're sure to find the ones that are right for you ...

To order your copies, call
1-800-678-9595.

1997 DIRECTORIES

Issue Date	Directory
Feb 3	Utilization Review Providers & Case Managers
Feb 17	Third-Party Administrators
Mar 3	Benefit Information & Claims Systems
Mar 17	Risk Management Consultants
Apr 14	Captive Managers
May 5	401(k) Plan Administrators
May 19	Alternative Risk Financing Facilities
Jun 9	Environmental Risk Management Consultants
Jun 23	EAPs & Dependent Care Resources and Referral Services
Jul 21	Agents & Brokers
Aug 4	Prescription Benefit Managers
Aug 18	Property Loss Control Consultants
Sep 1	Leading Reinsurers Worldwide
Sep 15	Surplus Lines Insurers & Wholesalers
Oct 6	International Insurers & Benefit Networks
Oct 27	Safety Consultants & Rehabilitation Services
Nov 10	Reinsurance Brokers
Nov 24	Benefit Communication Systems
Dec 1	Risk Management Information Systems
Dec 8	Employee Benefit Consultants
Dec 29	Managed Care Providers—HMOs, PPOs and POS Plans

To reserve your 1997 directory issues, call Dorothy Wood at 1-800-678-9595. For directory information, contact Ovie Dent at (312) 649-5398.

**Business
 Insurance**
<http://www.businessinsurance.com>

Olson

Continued from page 3
 commodation is just one very small corner of what lawyers call employment law."

Lawsuits over employment references have led to the "collapse of the job reference system" in numerous industries and professions, Mr. Olson said. This, in turn, has led to threats to public safety and tragedy, such as when incompetent pilots have not been adequately screened and then have caused air crashes, he said.

Employment law is "why many employers have found themselves tongue-tied" in job interviews. "Ours may be the first government in history that has tried to ban small talk," at least in job interviews and in other workplace situations, he said.

"Employment law keeps getting more stringent every year," warned Mr. Olson. In addition, the mere filing

of a job-related suit is likely to cause an employer financial woes. "To file a lawsuit, win or lose" is to inflict hundreds of thousands of costs upon an employer, he said.

Mr. Olson added that employment law, designed to protect workers, breaks every promise it implies. Fear of employment-related suits has prompted many employers to hire temporary workers rather than full-time employees whose age or other special status might serve as the basis for a lawsuit.

As employers attempt to meet the demands of employment laws, the workplace grows ever more bureaucratic and inflexible, he said. Employment laws can give an edge to skilled practitioners of office politics at the expense of other employees, he added.

Mr. Olson called for a return to an emphasis on "freedom of association," the doctrine that has traditionally governed U.S. workplace relationships. He cited a pair of Supreme

Court decisions from the early part of the century upholding that doctrine.

"We did have it figured out then; it's not beyond our wits to figure it out now," he said.

Mr. Olson shared the podium with Ricky Silberman, executive director of the Congressional Office of Compliance—which oversees Congress' efforts to comply with employment laws—and a former employment official in Republican administrations. Ms. Silberman agreed with many of Mr. Olson's points and added a few critiques of her own.

She was particularly critical of what she considered an application of affirmative action that promotes "mediocrity" in the workplace. Ms. Silberman condemned the view of some affirmative action proponents that "if proportional representation is to be realized," only African-Americans can be judged against other African-Americans, women against other women and so on. **BI**

Hospital denies plea for infection data

By LISA SCOTT
 Crain News Service

IOWA CITY, Iowa—A prestigious Iowa hospital is refusing to publicly release its nosocomial infection rate, and it has the backing of the state's hospital association, which says releasing such information isn't in the public's best interest.

Nosocomial infections are infections that patients acquire during their hospital stays.

In a case pending before the Iowa Supreme Court, the attorney for University of Iowa Hospitals & Clinics in Iowa City recently argued that releasing the hospital's infection rate would jeopardize the hospital's efforts to prevent such hospital-ac-

quired infections.

And in an amicus brief, the Assn. of Iowa Hospitals & Health Systems said releasing data on nosocomial infections would run counter to public interest.

Hospitals' case mix, procedure preference and sample size, among other factors, affect the data and make comparisons between facilities difficult, the association said. Analyzing hospitals' quality-improvement processes and infection-control programs would give consumers more useful information, it said.

The case dates back to 1994, when the 822-bed hospital refused to release its infection rate to Karen Burton, a 52-year-old retiree who was trying to pick a hospital at which to have elective ear surgery.

Ms. Burton, who has yet to have the procedure, sued the hospital, claiming its refusal violated the state's open-records law. The university facility is a state-owned institution.

It's absurd to ask people to choose whether and where to have surgery without giving them facilities' infection rates, Ms. Burton said. "It's basic risk information," she said. "If this weren't the health care arena, where there's a tradition of guild-like behavior, people wouldn't think twice about releasing this."

The hospital argues that infection-rate data must be kept confidential. If not, physicians and other clinical workers might stop reporting the information, hindering efforts to reduce nosocomial infections.

Technically, the case focuses on whether the Iowa open-records law requires such information to be made public. The hospital argues the law gives it discretion in the matter; Ms. Burton contends it doesn't.

A state trial court earlier had sided with Ms. Burton, ordering the hospital to release the information. The state Supreme Court's ruling on the hospital's appeal is expected this summer. **BI**

THE FIFTH ANNUAL
Business Insurance
 WORKERS COMPENSATION CONFERENCE

OCTOBER 27-29, 1997
 EMPLOYERS PRIVATE ROUNDTABLE

This roundtable session provides an opportunity for participants to voice their concerns about their workers compensation programs and share information to find solutions to common problems.

AGENDA HIGHLIGHTS

- ★ ERGONOMICS: EFFECTIVE WORKPLACE PRACTICES AND PROGRAMS
- ★ INTEGRATING DISABILITY MANAGEMENT
- ★ CREATIVE PERFORMANCE INCENTIVES FOR VENDORS AND PROVIDERS
- ★ EMPLOYEE ASSISTANCE PROGRAMS
- ★ COMBATING FRAUD
- ★ OUTCOMES MEASUREMENT
- ★ ON-SITE REHABILITATION AND RETURN TO WORK STRATEGIES
- ★ COST ALLOCATION SYSTEMS
- ★ RISK MANAGEMENT INFORMATION SYSTEMS
- ★ ALTERNATIVE RISK FINANCING

CONFERENCE SPONSORS

AIG CLAIM SERVICES, INC. • KEMPER INSURANCE COMPANIES
 GENEX SERVICES, INC. • INTRACORP • LIBERTY MUTUAL
 COMMONWEALTH RISK • WAUSAU INSURANCE COMPANIES

Presented by Business Insurance and
 IBF • International Business Forum

OCTOBER 27-29, 1997

Loews Santa Monica Beach Hotel
 Santa Monica, California

CONFERENCE CHAIR

Kathryn J. McIntyre
 Vice President, Publisher
 & Editorial Director
 Business Insurance

ADVISORY BOARD

Maddy E. Bowling
 Vice President, Workers Comp
 Managed Care
 Intracorp

Arnold Davenport
 Vice President,
 Risk Management
 Marriott International, Inc.

Dwight E. Davis
 President & COO
 Wausau Insurance Companies

Mary Stoik Dymond
 Director of Risk Management
 ACX Technologies Inc.

Jenny Parker Emery
 Total Health & Disability
 Management Practice Leader
 Towers Perrin

John Kessock, Jr.
 Chairman
 Commonwealth Risk

Elizabeth M. Lindner
 Executive Vice President
 Kemper National Insurance
 Companies

Peter C. Madeja
 President & CEO
 GENEX Services, Inc.

Christopher E. Mandel
 Director of Risk Management
 PepsiCo Restaurant Services

Jeffrey W. Pettegrew
 Vice President,
 Risk Management & Insurance
 Western Staff Services

John F. Ryan
 Vice President,
 Commercial Marketing
 Liberty Mutual

Richard A. Victor, Ph.D., J.D.
 Executive Director
 Workers Compensation
 Research Institute

Edward M. Welch
 Assistant Professor
 School of Labor &
 Industrial Relations
 Michigan State University

Stephen M. Wilder
 Vice President, Risk Management
 Walt Disney Company

WHO SHOULD ATTEND

Risk managers, loss prevention and safety managers, workers compensation, employee benefit executives, plus insurers, brokers, consultants, representatives from HMOs and PPOs, state and local government representatives, association members, attorneys and providers from a broad range of companies and institutions.

ACCREDITATION

International Business Forum has applied with the California Insurance Board as a course provider for CEU credits.

To register, please write or call International Business Forum, 7 Penn Plaza, Suite 901, New York, NY 10001.

To receive information about reception sponsorship or exhibit opportunities, contact Alexandra Scott, President & CEO, International Business Forum.



TEL: (212) 279-2525
 FAX: (212) 279-9307

ADVERTISER INDEX

Issue of June 2

ADVERTISER	PAGE #
AIG/Claim Services	9
Alexis Incorporated	7
American Financial Group, Inc.	20
Burnham Systems	24
Business Insurance	18,22,28
Guy Carpenter & Company	14-15
Carvill America, Inc.	25
Central Benefits	18R
Chubb Group of Insurance Co's	21
Conning & Company	6
Core Insurance Holdings	25
Crawford & Company	12
Facts Services Inc.	24
InPhoto Inc.	16
Liberty Mutual	32
Liberty Mutual/Risk Trac	17
Mastercare	18R
McWilliams Risk Mgmt, Inc.	24
Pyramid Services Inc.	4
SBPA Systems, Inc.	24
Signet Star Reinsurance	13
USF&G	10-11
Wausau Insurance Company	5

Reinsurers

Continued from page 2

very, very competitive, as competitive as I've seen it," said Richard J. Cole, chairman and CEO of Stamford, Conn.-based Chartwell Re Corp.

"We expect market conditions to continue to be very competitive, both domestically and in international markets as well as in the property cat market in Bermuda," said Susan Spivak, vp with Donaldson, Lufkin & Jenrette Securities Corp. in New York.

"The casualty hard market of the mid-'80s and the property hard market of the mid-'90s are over, and the low ebb of the underwriting cycle has taken over the reinsurance market, which means that the party's over," said Dennis Zetervall, CEO of Hartford, Conn.-based Hartford Re Co.

"I think the market maybe got a little drunk on the idea that it was easy to grow in the reinsurance business, and I think many reinsurers now are waking up to the fact they have to work twice as hard to accomplish half as much," said Mr. Zetervall.

The 46 reinsurers surveyed by the Reinsurance Assn. of America reported a 100.9% combined ratio for the first three months of 1997, compared with a 101.3% combined ratio for a similar group in the year-earlier quarter.

The Top 20 reinsurers, based on net premiums written, reported a 9.4% combined ratio. This compares with a 102.9% combined ratio for the 19 reinsurers that reported 1996 results.

Business Insurance has combined the 1997 and 1996 RAA results of American Re Corp. and Munich American Reinsurance Co. operations. Although the two are now operating as one company, the merger of the two legal entities will not be complete until

the third quarter, according to Mr. Tritton. When combined in this way, American Re inches ahead of General Re Corp. to the No. 1 spot based on net premiums written.

Business Insurance's survey includes results for the Berkshire Hathaway Group, which does not participate in the RAA survey.

The Top 20 also includes results of the Gerling Global Reinsurance Corp. of America, a unit of Germany's Gerling Group that was just formed in January and did not report 1996 results. Its \$92.1 million in net premiums written includes about \$45 million written by Gerling Global, with the remaining premium reflecting an unearned premium portfolio transaction from Gerling's U.S. branch, which is no longer writing new business, according to president and CEO Charles Troiano (*BI*, Jan. 27).

The 46 reinsurers in the RAA survey reported a 9.4% increase in net premiums written, to \$5 billion from \$4.57 billion. Excluding Gerling, the Top 19 reinsurers posted a 7.1% increase to \$4.64 billion from \$4.33 billion. Results were "certainly respectable," with no major property catastrophes and no great amount of emerging losses from any new mass torts on the casualty business, said Mike Schell, senior vp of North American underwriting for St. Paul Re.

The 100.7% combined ratio is "totally unexpected at this time in the cycle," said Bard E. Bunaes, chairman and CEO of Constitution Reinsurance Corp. in New York. "Obviously, the first quarter was basically catastrophe-free, and that impacted the re-

sults."

"I think at the end of the day we're all tied to natural catastrophes," said John Berger, president of USF&G Re Inc., a Morristown, N.J.-based unit of USF&G Corp.

"One thing that struck me is how good the numbers look. A lot of companies are showing strong growth, with low combined ratios, and given today's competition on the rating front, I wonder how that can be and how long that can continue," he added.

"I think the reported experience always lags the calendar accident

He noted, however, that "what we're seeing today for the first time in a while is some ceding companies getting quotes on lowering their retentions, which means that they think maybe the price of reinsurance is more attractive than keeping it net, and for companies to start thinking that way, in an environment where net premium growth is difficult to achieve, that tells you something about their view of the price of reinsurance."

Some observers also see an increase in pro rata business.

"We're seeing proportional business creep back," though on a controlled basis, in response to the demand of primary companies, particularly those who need capacity, said Craig

Elkind, a director at Standard & Poor's Corp. in New York. This business, which earns higher premiums, helps explain reinsurers' net premium growth, he noted.

However, Hoyt H. Wood Jr., senior vp-property and casualty reinsurance division at Employers Reinsurance Corp., said, "My suspicion is a lot of reinsurers are going looking" for quota-share business so they can show some growth.

"We aren't doing that," said Mr. Wood, who noted Employers Re's net written premiums are down 13.6%, to \$401.4 million, principally because it has moved some aviation business from Employers Re's U.S. operation to its Frankona Re subsidiary in Germany.

Pointing in particular to the premium growth among the lower-tier reinsurers based on net premiums written, which in some cases was more than 40%, Mike Smith, an analyst with Salomon

Bros. in New York, said, "My guess is you're looking at the effect of some insurance companies laying off some business, probably on a quota-share basis, business that those ceding companies know is underpriced, and they are laying it off on a segment of the reinsurance market that is hungry for premiums."

"You might say that it could be an example of cynical demand meeting naive capacity," said Mr. Smith.

"But I think overall, we do have a situation where insurance companies have recognized that they have extensive levels of risk exposure on their books and they're seeking to relieve some of their stress through the reinsurance mechanism," he said.

"What we're seeing now, I think, really, is the realization of the changes that came into the reinsurance market 10 years ago, the movement away from quota shares to excess-of-loss contracts that put most of the underwriting and pricing decision-making ability into the hands of the reinsurance underwriter," he said.

"That wasn't designed to do anything in 1986. That move was designed to protect this group in 1997, when primary pricing really started to fall apart, when underwriting discipline in the primary market started to collapse, and we're now seeing the beneficial effects of all that. That's why the underwriting results remain so stable," he said.

Nevertheless, "we continue to have an industry that is way overcapitalized," said Jerome Karter, president and CEO of SCOR U.S. Group in New York. If one projects first-quarter net premium and policyholder numbers forward, he said, there would be a premium-to-surplus ratio of "somewhere between 0.5- and 0.6-to-1, which obviously has an impact on the competitiveness of our market conditions," he said. **BI**

'I think the market maybe got a little drunk on the idea that it was easy to grow in the reinsurance business,' says Dennis Zetervall of Hartford Re Co.

Largest U.S. reinsurers' first-quarter 1997 results

Ranked by net reinsurance premiums written. All amounts in thousands of dollars.

Reinsurers	Net reinsurance premiums written 1997	Net reinsurance premiums written 1996	Policyholders surplus (reinsurers only)	Net income 1997	Losses & loss adjustment expenses	Loss ratio	Underwriting expenses	Expense ratio	Combined ratio 1997	Combined ratio 1996
1. American Re*	838,117	689,334	2,253,224	40,938	449,589	68.6	245,876	29.3	97.9	96.1
2. General Re	794,579	688,934	5,597,505	184,783	536,188	67.9	243,845	30.7	98.5	98.9
3. Berkshire Hathaway	447,500	406,300	N/A	N/A	99,900	101.4	5,400	5.5	106.9	115.3
4. Employers Re	401,417	464,409	4,342,755	101,872	296,539	70.5	139,249	34.7	105.2	103.7
5. Transatlantic/Putnam	254,373	251,932	960,717	31,700	176,435	74.5	64,941	25.5	100.0	101.2
6. Everest Re	234,387	223,389	798,632	36,096	167,142	70.8	72,045	30.7	101.5	105.2
7. Zurich Re Centre	178,419	176,622	700,275	11,464	138,238	75.0	56,212	31.5	106.5	103.9
8. Swiss Re America	169,915	180,758	1,185,481	76,152	126,681	67.7	62,204	36.6	104.3	104.4
9. Hartford Re Co.	167,133	150,661	N/A	N/A	127,388	79.2	45,614	27.3	106.5	115.8
10. St. Paul Re	165,182	193,223	N/A	N/A	140,727	72.9	51,744	31.3	104.2	104.7
11. TIG Re Co.	144,351	136,800	533,008	20,104	94,799	73.8	42,379	29.4	103.1	101.8
12. SCOR U.S. Group	137,782	71,146	411,960	18,179	111,509	69.9	48,330	35.1	105.0	106.0
13. Kemper Re	123,444	123,660	513,580	8,627	80,246	77.2	39,842	32.3	109.5	106.4
14. NAC Re	122,293	109,583	666,585	13,996	78,387	65.8	44,382	36.3	102.1	101.5
15. F&G Re	117,735	127,719	N/A	N/A	79,744	67.3	30,649	26.0	93.3	92.4
16. Constitution Re	108,160	136,019	367,203	12,439	87,816	73.6	32,804	30.3	103.9	102.0
17. Underwriters Re	98,191	92,253	591,841	10,160	68,767	75.8	25,903	26.4	102.2	102.7
18. Gerling Global Re	92,104	0	196,297	(12,627)	25,560	77.7	22,346	24.3	102.0	—
19. Chartwell Re	69,912	49,384	240,529	3,654	42,035	68.0	23,757	34.0	102.0	108.1
20. Signet Star Re	68,469	62,402	259,568	1,633	45,783	72.1	21,508	31.4	103.6	102.2
Totals for Top 20	4,733,463	4,334,528	19,619,160	559,170	2,973,473	71.5	1,319,030	27.9	99.4	102.9
Total for all companies	4,998,607	4,569,777	24,157,923	665,714	3,294,222	70.2	1,537,062	30.7	100.9	101.3

*BI estimate including the business of Munich American Reinsurance Co.

Source: Reinsurance Assn. of America and *Business Insurance*

Arbitration

Continued from page 1
1993.

The policy provided almost \$3.8 million of limits to cover some of EER's expenses if the U.S. space agency canceled a commercial satellite launch program, which EER was developing. The policy covered sums EER would owe sub-contractor Thiokol Corp. of Ogden, Utah, for its non-recurring costs to develop rocket motors for the project. Though EER purchased the coverage, Thiokol is the "named assured."

The National Aeronautics and Space Administration in 1994 canceled funding for the project after Congress trimmed NASA's budget that year.

Thiokol then sought nearly \$3.7 million under the policy from Lloyd's.

The underwriters refused to indemnify Thiokol. They argued that the funding revocation did not mean the project had been canceled.

Thiokol sued for coverage. The underwriters sought a stay of the litigation so the dispute could be arbitrated in England. They argued that the service-of-suit clause was meant to aid policyholders in forcing underwriters to arbitrate disputes and enforce arbitrators' coverage awards.

U.S. District Court Judge Dee Benson cited three reasons why the service-of-suit clause supersedes the arbitration clause and Thiokol may press its suit:

- Because the service-of-suit clause mentions "the assured," it is more specific than the arbitration clause and modifies that clause.

- The 10th U.S. Circuit Court of Appeals, whose decisions apply to Utah cases, has ruled that ambiguous policy language must be construed in favor of policyholders.

- In "harmonizing" conflicting policy provisions, the more reasonable interpretation is that Thiokol may sue Lloyd's in U.S. courts for coverage, while EER would be obligated to arbitrate any coverage dispute.

Lloyd's attorney Ethan Greenberg of Morgan, Lewis & Bockius L.L.P. in New York would not comment because the litigation is ongoing. But,

other insurer attorneys said the ruling conflicts with the limited case law on this issue.

Insurer attorney Perry Kreidman, a partner with Wilson, Elser, Moskowitz, Edelman & Dicker in Washington, noted that some reinsurance contracts contain both provisions. When coverage disputes have arisen, the reinsurers have submitted to U.S. court jurisdiction. In most cases, courts, including the 2nd U.S. Circuit Court of Appeals, have ruled that coverage disputes should be arbitrated, he said.

But, courts tend to look at policyholder/insurer and insurer/reinsurer disputes differently, said policyholder attorney David Steuber, a partner with Troop Meisinger Steuber & Pasich L.L.P. in Los Angeles. Insurers are used to resolving disputes in arbitration settings in London, he said.

"It also goes to show that when it serves insurers' purposes to argue that the service-of-suit clause trumps the arbitration clause, they'll do so," observed policyholder attorney Mark F. Rosenberg, a partner with Sullivan & Cromwell of New York.

Thiokol would not allow its law firm, Anderson Kill & Olick P.C. of New York, to comment.

Attorneys were divided on whether the ruling would influence other courts.

Noting that Judge Benson pointed out the uniqueness of this case's facts, particularly the court's interpretation that Thiokol was not the policyholder even though it was the "named assured," the case likely will not influence other courts, said insurer attorney Dean Hansell, a partner with LeBoeuf, Lamb, Greene & MacRae L.L.P. in Los Angeles.

Mr. Hansell and other attorneys, though, disagree with the court on that point. They say Thiokol is the policyholder, because it was the "assured."

Still, that distinction by Judge Benson gives courts an opportunity, if they want it, not to rely on the ruling, Mr. Rosenberg said.

He and other policyholder attorneys, though, said the case would influence other courts, because it shows reasonable minds can interpret the combined effect of the clauses differently.

"Once you get that first decision, it's easier to get the second, third and fourth courts to follow," Mr. Steuber said.

Policyholder attorneys hope the decision sends a message to Lloyd's. If the service-of-suit clause is meant only as an arbitration aid to policyholders, the clause should state that intention clearly, the attorneys said, echoing comments by Judge Benson.

Policyholder attorney William Greaney, a partner with Covington & Burling in Washington, said the underwriters' argument struck him as "an afterthought" to explain away their "mistake" of including both clauses in the policy. He noted that policyholders would not have to sue in U.S. courts to enforce the arbitration clause.

The underwriters' mistake was not guessing how the service-of-suit clause would be misinterpreted, said LeBoeuf's Mr. Hansell.

But, Judge Benson and some policyholder attorneys said a September 1971 letter from the Lloyd's Underwriters Non-Marine Assn. to the Lloyd's Insurance Brokers Committee raises questions about the underwriters' intentions. The letter, referring to a LeBoeuf letter to the Committee of Lloyd's, warns of potential market problems if Lloyd's underwriters weaken policyholders' rights under the service-of-suit clause and routinely complicate coverage litigation by trying to move the litigation to federal courts from state courts.

Policyholder attorneys say the letter shows the market traditionally used the service-of-suit clause to assure U.S. policyholders that they would not lose their rights to sue for coverage in U.S. courts. That was a valuable marketing tool for Lloyd's, the attorneys said.

"That's a very valuable piece of evidence," Mr. Steuber said.

Mr. Hansell said the letter is irrelevant because it does not deal with how the two disputed clauses in the EER policy would work in concert.

Even some policyholder attorneys are unsure how useful the letter will be in future cases.

Thiokol Corp. vs. Certain Underwriters at Lloyd's of London, U.S. District Court in Utah-Northern Division; No. 1:96-CV-028 B.

Updates

IRI strengthens management

Continued from page 2

porate development at Hartford Steam Boiler Inspection & Insurance Co.

IRI has been altering the makeup of its business since 1994, when it posted a net loss of \$163.3 million. The strategy of writing fewer but better risks paid off in 1996, when IRI made an \$11 million profit (BI, Jan. 13).

Partner bias ruling stands

WASHINGTON—The U.S. Supreme Court has let stand a lower court award to an accounting firm partner who had sued for age discrimination.

The justices declined to review a ruling by the 6th U.S. Circuit Court of Appeals that upheld a jury award to a former Ernst & Young L.L.P. partner who claimed his layoff at age 52 was due to age discrimination.

By refusing to take up *Ernst & Young L.L.P. vs. Simpson*, the justices declined to consider the firm's argument that partners cannot be legally considered employees and therefore are not entitled to anti-discrimination protection granted employees under various federal laws.

Some courts have considered partners to be part-owners and therefore exempt from the protections, while others have deemed partners to be covered by anti-discrimination laws designed to protect employees.

Asset management suit cleared

NEW YORK—A suit against John Hancock Mutual Life Insurance Co. charging that it mismanaged assets of Unisys Corp.'s pension plan will proceed to trial after the insurer failed to reopen an issue that would have postponed the action.

Judge Denny Chin of the U.S. District Court in New York denied a pretrial motion by Hancock in *Harris Trust & Savings Bank vs. John Hancock Mutual Life Insurance Co.* that would have reconsidered the issue of the insurer's fiduciary status under the Employee Retirement Income Security Act. Had Judge Chin ruled otherwise, "the case would have been as a practical matter over," said Harris Trust's attorney, Lawrence Kill of Anderson, Kill & Olick in New York.

In his decision, Judge Chin noted that both a federal appellate court and the U.S. Supreme Court have already ruled that Hancock was an ERISA fiduciary with respect to the non-guaranteed assets in the group annuity contract that is the focus of the litigation (BI, Dec. 20, 1993; Aug. 10, 1992).

The trial is set for July 22.

Briefly noted

Participants in Hartford, Conn.-based CIGNA HealthCare plans will no longer need a referral from their primary care physicians to obtain covered obstetrical or gynecological services. The new policy is effective immediately for CIGNA health plans across the country, except in California, where it goes into effect Jan. 1, 1998. . . Humana Inc. last week announced the introduction of "Humana Freedom Plans," which allow members to see any primary care physician or specialist without designating a primary care doctor or getting a referral. The plans are being introduced in Daytona, Fla., Texas and Kentucky, and should be available in most other Humana markets by mid-summer. . . Former Golden Eagle Insurance Co. owner John Mabee has agreed to pay \$69 million in unsecured loans he owes the company. Meanwhile, the court overseeing the company's conservation was expected to decide Friday between competing buyout offers from Liberty Mutual Insurance Co. and American International Group Inc. (BI, May 26). . . General Electric Co. cannot postpone payments for a \$100 million award for patent infringement until the U.S. Supreme Court decides whether or not to hear an appeal of the case, Chief Justice William Rehnquist said. GE argued it will probably win on appeal but would not be able to recover any money paid before then to shareholders of Fonar Corp., which won the patent infringement case. . . Chicago-based Rush Prudential Health Plans denies charges brought in a suit by the Equal Employment Opportunity Commission that it violated the Americans with Disabilities Act by not accommodating and ultimately firing an employee who was on disability leave for breast cancer. . . In a move cheered by agent groups, Agriculture Secretary Dan Glickman has ordered that sales and servicing of all crop insurance policies be handled by the private sector, beginning in the 1998 crop year, while the federal government will continue to subsidize, set terms and conditions and set rates for the insurance. . . Mitsubishi Motor Manufacturing of America has settled a sexual harassment lawsuit for an undisclosed amount. The suit concerned one incident of harassment and is separate from two larger pending suits. . . California employers' exposure to constructive discharge suits may be increased as a result of a state Supreme Court ruling last week. In *Mullins vs. Rockwell International Corp.*, the court ruled that the statute of limitations for such suits does not begin to run until after an employee is actually terminated, not when he or she is demoted or reassigned. . . The late Arthur Quern, former chairman and chief executive officer of Aon Risk Services Cos. Inc. who died in a plane crash last fall, will be honored June 6 at Gateway Foundation's 22nd annual Citizen of the Year Dinner, which recognizes an outstanding member of the Chicago community. . . Julie A. Martin has been named acting vp of the political risk insurance department of the Overseas Private Investment Corp. Ms. Martin was previously deputy vp in the political risk insurance department.

Life realities best pitch for LTC cover

By ROBERT KAZEL

Old age. Frailty. Disabling accidents and illnesses.

These are grim subjects, and understandably many people avoid dwelling on the prospect of becoming incapacitated. But a new survey suggests employers can do a better job of communicating these realities to workers to promote long-term care insurance.

The study, by New York-based William M. Mercer Inc., surveyed 132 companies that offer LTC benefits. Sixty-six employers responded, 94% of which have more than 1,000 employees.

LTC programs were first offered in 1987, and the number of employers offering them has increased. But employee demand at those companies remains low to moderate, Mercer researchers found. At nearly half of the employers responding, less than 5% of workers have enrolled in LTC plans, and in a quarter of the cases, between 5% and 9% have signed up for them.

Long-term care programs usually cover extended stays in nursing homes and skilled home health care, as well as adult day care, and frequently respite care and unskilled home care. Although often thought of as a program for infirm, elderly people, the benefits also can be used

by younger workers who have suffered accidents or catastrophic or chronic sickness.

"I think that employees are in denial for the need for such services," said Janice Stanger, head of Mercer's San Francisco-based long-term care task force. Or, many employees mistakenly think Medicare will cover the expenses for long-term care, she said.

Workers who make financial plans for retirement typically ignore the possibility of the "big wild card"—the need for long-term care, an expense that could wipe out savings earmarked for retirement, she said.

Many companies that offer LTC benefits could be making better efforts to teach employees why they are important, the survey indicates. Four out of 10 employers said that, given the chance to start over, they would communicate with employees more effectively during the LTC program's rollout and enrollment period.

"It's something that's very new and unfamiliar to most people," according to Ms. Stanger. "If the communication is not done right, you're going to get a pretty dismal participation rate."

Employers have not, however, gone so far as to encourage the purchase of LTC benefits by helping

employees defray premiums. All but one of the employers responding to the Mercer survey require employees to cover all the costs of the benefit. The sole exception reimburses workers for 20%.

Despite provisions in the Health Insurance Portability and Accountability Act that give tax-favored status to companies contributing to LTC premiums, employers' reluctance to do so is understandable, because most employers are looking to trim benefit expenditures, Ms. Stanger said. Eventually more employers may begin to shoulder part of the LTC cost burden, she said, but that likely would come at the expense of other benefits that workers now receive.

The survey found that most employers with LTC programs introduced them either to offer leading-edge benefits to employees or because they could be offered at little cost to the company. Seventy percent reported they are generally satisfied with their programs, with 17% saying it is too early to tell and 13% expressing negative opinions about LTC.

A free copy of the survey, "State-of-the-Art in Long-Term Care Insurance," may be obtained by contacting Mercer's Business Development Group, 212-345-4109.

Task force

Continued from page 1
 last year's veto statement—to support meaningful reform.”

The formation of an interagency group shows “that they are serious to finally resolve this after two decades,” said Victor E. Schwartz, the PLCC's general counsel and longtime reform advocate.

“I think it's a good idea. The Commerce Department has a long history on this topic going back to 1976. The Uniform Product Liability Act, which is the basis for current legislation, was developed in the Department of Commerce,” said Mr. Schwartz. He also noted that the UPLA was the basis for product liability reform legislation first introduced in the House by Rep. John D. Dingell, D-Mich., in 1979.

“In my mind, one of the most important people from the very beginning is John Dingell. He is the only one who was able to move a bill through a Democratic House,” Mr. Schwartz said.

Mr. Schwartz also praised the inclusion of representatives of the Justice Department and the SBA in the task force. “The Department of Justice has the tort expertise that is needed to make good judgment about the merits of the bill, and the Department of Justice was instrumental in developing the very successful General Aviation Act.”

That act, which set uniform product liability standards for certain classes of air-

craft, was signed into law by President Clinton in 1994.

“The presence of Small Business Administration is very good,” added Mr. Schwartz, noting that small business has been among the most vocal advocates of reform.

A spokesman for Rep. Dingell would not comment on whether the former chairman of the House Energy and Commerce Committee might have prodded the White House into action.

“He supports product liability reform and

‘If it helps move meaningful reform forward, then RIMS would obviously be very supportive,’ RIMS President Stephen M. Wilder says.

is pleased with any steps taken to move this forward. He has been concerned about this for some time,” said the spokesman.

A spokeswoman for Sen. Slade Gorton, R-Wash., said the White House had not contacted the senator regarding any product liability moves. Sen. Gorton was the chief sponsor of the product liability reform bill approved on a strict party line by the Senate Commerce Committee last month (BI, May 5).

Because of the lack of detail about the

White House's actions, some reform advocates reacted more guardedly to the reports.

“To the extent that this represents a decision on the part of the administration to basically see to conclusion a product liability reform measure, we certainly would welcome that. However, to the extent that this turns out to be another delaying tactic, we would be very disappointed,” said David Farmer, senior vp in the Alliance of American Insurers' Washington office.

Stephen M. Wilder, president of the Risk & Insurance Management Society Inc. in New York and vp-risk management for The Walt Disney Co. in Burbank, Calif., said, “If it helps move meaningful reform forward, then RIMS would obviously be very supportive, and we'd be happy to serve as a resource to the task force however we can help.”

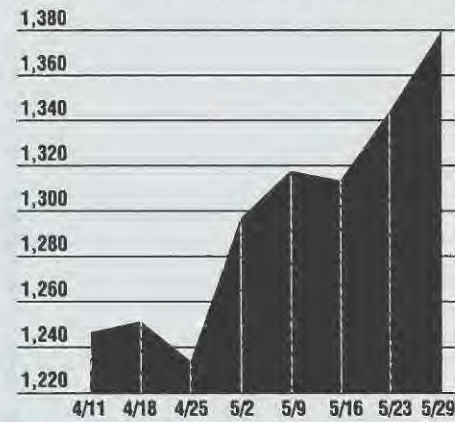
An opponent of uniform product liability standards said, however, that consumer groups are not pleased about the possibility that a White House task force will deal with the issue.

“We're not happy about it. It puts the onus on Clinton. He's already spelled out what's unacceptable to him,” said Rich Vuernick, legislative director for Citizen Action in Washington.

The president may be moving to protect himself, Mr. Vuernick said.

“I think the fact that it's interagency may give him a way to protect himself or insulate himself from the pressure the business community has put on him,” he said. **BI**

BI Insurance Index



Base=100 on Dec. 29, 1978
 Source: Nordby International Inc.

PCS catastrophe options

As of May 30			
Call spread	Price bid/ask	Call spread	Price bid/ask
Eastern September 1997			
40/60	3.2/3.8	California Annual 1997	
30/50	3.5/5	60/80	—/1.8
80/100	—/2.3	70/90	5/1.5
National Annual 1997			
80/100	3.5/6.0	40/60	1/3
120/140	—/4.5	70/90	.7/1.6
June Midwestern 1997			
10/20	5/1.5	Southeast September 1997	
		40/60	2.5/3.5
		80/100	5/1.9

Total volume: 90 Total open interest: 12,233
 For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.

Source: Chicago Board of Trade

Aetna leaves health insurer trade group

By LOUISE KERTESZ
 Crain News Service

HARTFORD, Conn.—Aetna U.S. Healthcare has pulled out of the American Assn. of Health Plans, a national health insurance trade group.

Aetna becomes the second major plan to leave the association. In 1995, CIGNA HealthCare dropped out.

The AAHP was formed in 1995 when the Group Health Assn. of America and the American Managed Care Review Assn. merged so that the managed care industry “could speak with one voice,” according to

HMO executives.

A source close to Aetna said the company has chosen to focus its resources on its internal operations. Aetna is continuing to digest its \$8.2 billion acquisition of U.S. Healthcare; the acquisition became effective last July. Aetna's annual AAHP dues, which are based on its number of enrollees, are \$800,000, or 4% of the AAHP's \$20 million budget.

“After extensive and amicable discussions, (Aetna) decided not to join for this year,” said an Aetna spokeswoman.

The spokeswoman called inaccurate a published report that

Aetna withdrew because other AAHP members would not contribute to quality and outcomes studies. That report also said Aetna was dissatisfied with the AAHP's efforts to counter the managed care public relations backlash of the past two years.

The spokeswoman said Aetna will continue to support AAHP programs, particularly the “Patients First Initiative,” an ongoing project to counter negative perceptions of managed care.

An industry source said CIGNA dropped out of the AAHP before that initiative began, partly out of frustration that the organization wasn't ef-

fective in countering the storm of bad publicity against HMOs.

CIGNA's decision was “not over any dispute,” said a CIGNA spokesman. “We reviewed our expenses, and we had our own state government affairs and federal affairs offices, and we felt our needs were being taken care of.”

Susan Pisano, AAHP director of communications, said: “Companies make their decisions based on what their internal resources and needs are. While Aetna is not our member at the moment, they have assured us they are supporting our programs.”

BI Industry Stock Report MAY 20, 1997, THROUGH MAY 23, 1997

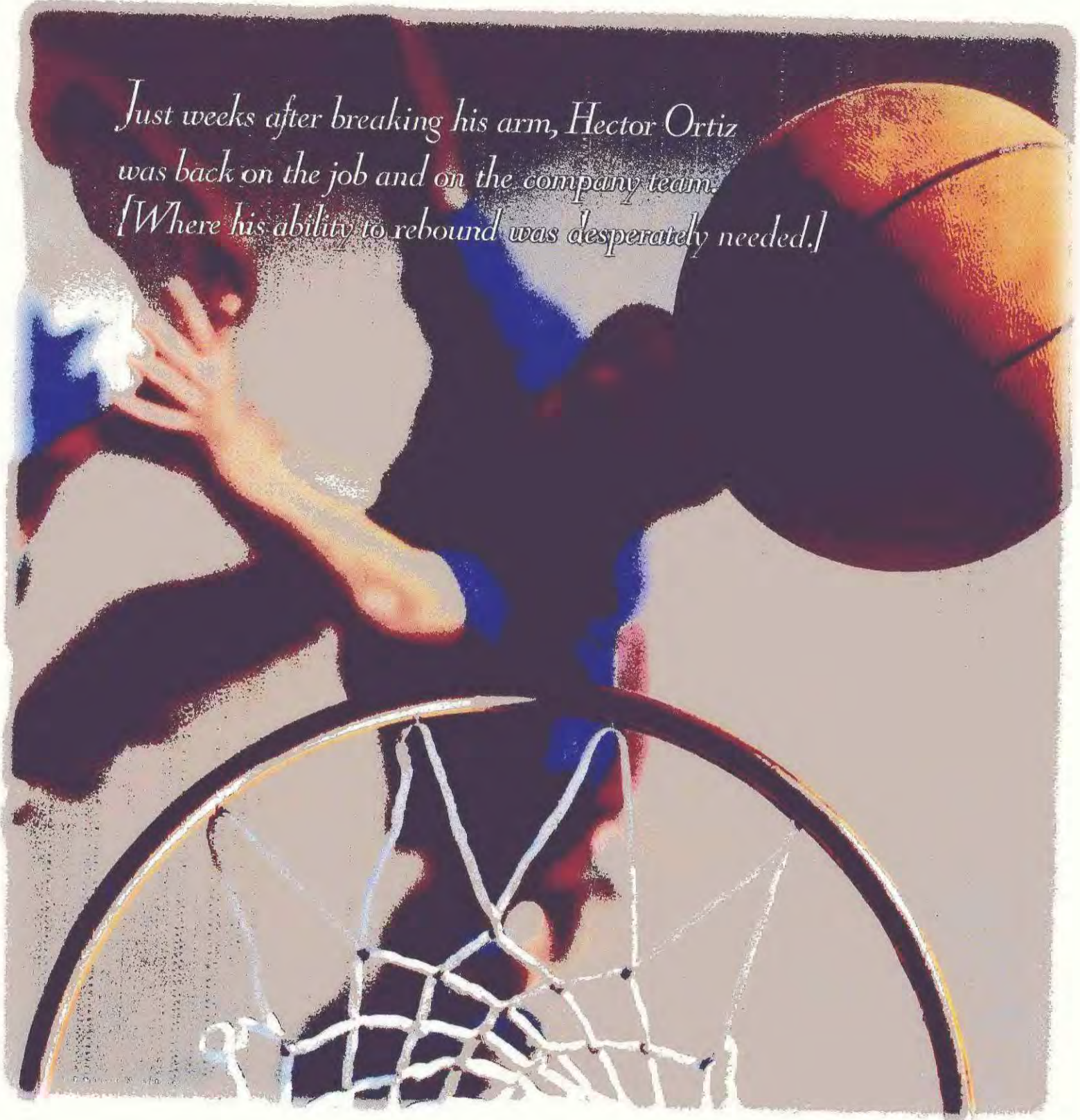
BROKERS							INSURERS/REINSURERS							HEALTH MAINTENANCE ORGANIZATIONS									
Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)			
Accordia Inc.	NYS	35.50	-1.05	22.41	37.13	27.25	83	Enhance Financial Services	NYS	41.75	-2.62	14.38	45.00	26.13	127	St. Paul Companies	NYS	71.63	1.60	22.17	74.50	50.63	861
E.W. Blanch Holdings Inc.	NYS	24.75	3.66	22.98	25.00	17.75	54	Everest Reinsurance	NYS	34.00	3.82	18.26	35.13	22.50	1006	SCOR	NYS	41.13	-5.46	19.64	43.50	34.00	16
Gallagher Arthur J. & Co.	NYS	31.75	-0.39	2.42	35.00	29.13	94	Executive Risk Inc.	NYS	52.13	3.99	40.88	52.13	32.50	22	SAFECO Corp.	NDO	43.50	1.02	10.30	44.00	32.00	1766
Hilb, Rogal & Hamilton	NYS	14.75	2.61	11.32	14.75	11.38	45	EXEL Ltd.	NYS	44.25	3.51	16.83	45.13	31.75	872	Seibels Bruce Group	NDO	7.25	-9.38	-12.12	11.50	5.88	3
Kaye Group Inc.	NDO	5.00	0.00	-4.76	7.00	4.38	1	Fremont General Corp.	NYS	35.13	5.24	13.31	35.88	21.50	531	Selective Ins. Group	NDO	44.25	-0.14	16.45	45.50	31.00	46
Marsh & McLennan	NYS	131.75	0.76	26.68	131.75	88.00	773	Frontier Insurance Group	NYS	54.88	1.62	43.46	56.25	32.63	222	Sphere Drake Holdings	NYS	8.88	1.43	0.00	10.50	8.13	33
Poe & Brown	NDO	30.00	1.05	13.21	30.00	23.50	125	Gainsco Inc.	NYS	8.25	-2.94	-14.29	10.88	8.13	233	TIG Holdings	NYS	27.00	0.93	-20.33	38.00	26.38	2091
BROKERS AVERAGE							INSURERS/REINSURERS AVERAGE							HEALTH MAINTENANCE ORGANIZATIONS AVERAGE									
0.95 13.47							0.95 13.47							0.94 11.01									

Top advancing issues: Argonaut Group, United Healthcare Corp., Reliance Group Holdings. Leading decliners: Seibels Bruce Group, CapMac Holdings Ltd., SCOR. Most active issue: Travelers Corp. The BI Index rose 2.7%; the Dow Jones 30 Industrials lost 0.2%; the S&P 500 increased 0.2% and the NYSE Composite gained 0.3%. Average P/E: Brokers, 17.8; Insurers/reinsurers, 39.2; HMOs, 32.1.

System design: Nordby International Inc.

WITH OUR POLICYHOLDERS WE ARE ENGAGED IN A GREAT MUTUAL ENTERPRISE. IT IS GREAT BECAUSE IT SEEKS TO PREVENT CRIPPLING INJURIES AND DEATH BY REMOVING THE CAUSES OF HOME, HIGHWAY AND WORK ACCIDENTS.

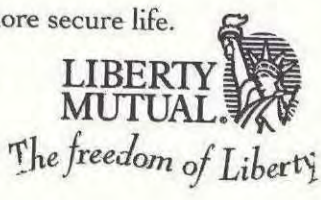
IT IS GREAT BECAUSE IT DEALS IN THE RELIEF OF PAIN AND SORROW AND FEAR AND LOSS. IT IS GREAT BECAUSE IT WORKS TO PRESERVE AND PROTECT THE THINGS PEOPLE EARN AND BUILD AND OWN AND CHERISH. ITS TRUE GREATNESS WILL BE MEASURED BY OUR POWER TO HELP PEOPLE LIVE SAFER, MORE SECURE LIVES.



Just weeks after breaking his arm, Hector Ortiz was back on the job and on the company team. [Where his ability to rebound was desperately needed.]

Liberty Mutual's managed care is as fast as Hector's fast break. After his accident, Hector's employer called our 24-hour claims service hotline. We found the right doctor to treat him, at the right price. A rehabilitation nurse coordinated a return-to-work plan. And through our on-site rehabilitation program, a therapist worked to help Hector properly do his job and avoid reinjury, so today Hector is back on the job (and on the boards) leading a safer, more secure life.

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



IT IS GREAT BECAUSE IT DEALS IN THE RELIEF OF PAIN AND SORROW AND FEAR AND LOSS. IT IS GREAT BECAUSE IT WORKS TO PRESERVE AND PROTECT THE THINGS PEOPLE EARN AND BUILD AND OWN AND CHERISH. ITS TRUE GREATNESS WILL BE MEASURED BY OUR POWER TO HELP PEOPLE LIVE SAFER, MORE SECURE LIVES.