Week of June 9, 1980

business insurance

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IRS pulls back

The IRS this week will shelve proposals to force faster vesting: **Page 2.**

New addition

Allis-Chalmers Corp. of Milwaukee has established a Tennessee captive, the third in that state: **Page 31.**

Claims trickle in

Claims from the Mt. St. Helens volcano eruptions are only trickling in to insurers: **Page 35.**

Changes brew in Congress

Bill would revamp health care plans

By SHEILA SIMLER

WASHINGTON—Employers could be forced into a radically different method of providing health care benefits under legislation to be introduced in Congress this week.

The National Health Care Reform Act of 1980, proposed by Rep. Richard A. Gephardt (D-Mo.) and Rep. Dave A. Stockman (R-Mich.), would overhaul the nation's health care delivery and benefit system to create more competition and lower costs.

New health plans and tax incentives would force the overhaul, say the bill's sponsors, who outlined how it would work in a series of interviews.

The bill would open the door for health care providers to form new health plans under federal qualification. "The possible delivery options are so vast and varied that we cannot prejudge and predefine them," Rep. Stockman told *Business Insurance*.

Tax laws would be changed to reward employes who enroll in less expensive plans with less reimbursement. "We feel that as a matter of good tax policy, we shouldn't encourage the unchecked future growth of employer health benefit exclusions," he said.

In a sense, this bill takes the theory of the Health Maintenance Organization Act another step further. As the HMO Act provided incentives for the creation of prepaid health care plans, this bill provides incentives for the creation of new types of health plans with varying benefit levels.

Existing health plans would be encouraged to seek federal qualification to stay competitive and offer customers the best tax advantage, but qualification would be elective.

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Health Reform

Gephardt

Stockman

Risk Retention

Stevenson

Risk pooling act gains new backers

By JERRY GEISEL

WASHINGTON—The Risk Retention Act, orphaned in the Senate Commerce Committee after a massive victory in the House last March, now has a parent.

Sen. Adlai Stevenson (D-Ill.) says he will push to get the Commerce Committee to vote on the bill (S. 1789) as soon as possible. He predicts favorable committee and floor action.

"I am reasonably confident that it will be possible to get favorable action in the Commerce Committee in ample time for action by the Congress in this session," Sen. Stevenson said.

The Risk Retention Act also has a major new supporter. Chances of getting the legislation passed were greatly bolstered last week by the decision of the National Assn. of Manufacturers to endorse the Risk Retention Act. The NAM is one of the most powerful business groups on Capitol Hill.

After months of straddling the fence, NAM backed the bill because it believes it will help business, particularly smaller firms, by boosting competition in the liability insurance market, said NAM staffer David Sloane.

It is expected that NAM members, which total 12,300 companies nationwide, will soon begin a massive grass roots lobbying effort to convince members of the Senate Commerce Committee to vote for the bill.

The Risk Retention Act, which removes state regulatory constraints and allows firms to band together to self-insure their product liability exposures through federally chartered pools, has been floundering in the Commerce Committee for want of an active Senate sponsor.

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Asbestos firms lose in first shipyard trial

By ELLIS SIMON

LOS ANGELES—The first of more than 1,000 asbestos product liability suits to come to trial here ended with a $1.2 million compensatory payment for the plaintiff.

No punitive damages were awarded last week by the Los Angeles superior court against the defendants: Johns-Manville Corp. and Raybestos-Manhattan.

Johns-Manville is insured by The Travelers Insurance Co. and a bevy of excess insurers. The asbestos maker and its insurers are now in court to determine the insurers' liability for asbestos awards (*BI*, April 7).

Aetna Life & Casualty is the primary insurer for Raybestos-Manhattan.

The defendants are expected to request a new trial and judicial review of the verdict. Under California law, the judge can change the jury's award.

The 1,000 cases pending here were brought by employes of the Long Beach Naval Shipyard who worked with asbestos.

The jury found in this first case that Richard Hogard, the plaintiff, suffered from asbestosis, a scarring of the lung tissue.

The defendants had argued Mr. Hogard suffered from bronchitis.

Four other defendants in the case settled out of court for $50,000. ■

NEWSPAPER

Vision plan probe
Page 3

Review and inspection brace new civic arena

By MARY ANN MATLOCK

HARTFORD, Conn.—When 13,000 fans gather in the Hartford Civic Center Coliseum June 12 to rock and roll with the Marshall Tucker Band, no amount of stomping can bring the roof down, city officials pledge.

"This new structure is different. It had fairly intense review and inspection," said Jordan Rich, director of public works.

The original roof on the center collapsed in January 1978 under four inches of snow (*BI*, Feb. 6, 1978). The Travelers Insurance Co. paid $14.1 million under policies it issued on the original center, but it is suing the original civic center's designers and material suppliers to recover those insurance payments.

The Travelers also underwrites the insurance package for the redesigned center, which opened in February.

Reconstructing the civic center from the rubble of its tainted past took more than new building material. More than two years, $32 million and a special redesigned building philosophy of review

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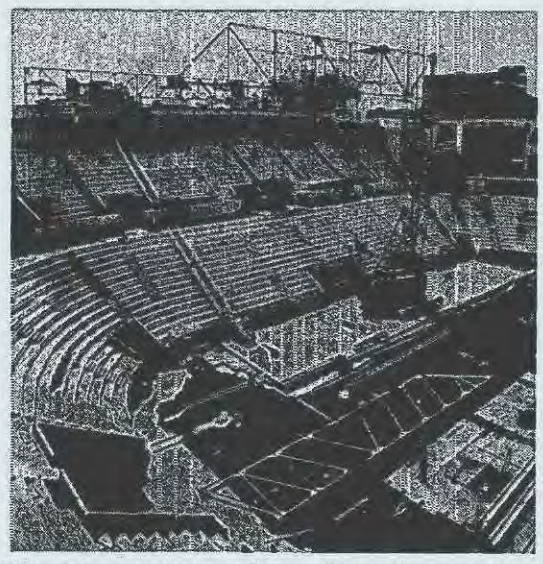

More than two years, $32 million and new review and inspection procedures contributed to the redesigned civic center in Hartford, Conn.

for your information

Worker fired for refusing task can be awarded back pay

CHICAGO—A worker fired for turning down an assignment that seems unsafe can be awarded back pay, the 7th Circuit U.S. Court of Appeals ruled here.

The decision in the Marshall vs. N.L. Industries case expands the recent U.S. Supreme Court decision that workers can't be fired for refusing a task they honestly believe to be unsafe (*BI*, March 3).

The worker in Marshall vs. N.L. Industries had already accepted an arbitration award reinstating his job but not missed pay when the Labor Department sued for his back pay. The arbitration award does not stop the Labor Department from suing to win back pay, the judges ruled.

"We're delighted by the decision," said an OSHA spokesman. OSHA seeks to win back pay in any discrimination case, he said. "Since the Supreme Court neglected to address back pay in its decision, the circuit court affirmed what we're already practicing."

PBGC premium up for vote

WASHINGTON—The Senate Finance Committee June 10-11 will consider and vote on legislation (S. 1076) raising termination insurance premiums and providing mandatory federal coverage of terminating multiemployer pension plans.

The Senate bill would boost the annual premium paid to PBGC, now set at 50 cents per participant, to $3.40 per participant. A bill passed last month by the House of Representatives (*BI*, June 2) calls for hiking the premium to $2.60 per participant.

Quick action on the legislation is needed if Congress is to meet its July 1 deadline on extending federal pension guarantees to the eight million participants of multiemployer pension plans.

M&M merger attempt fails

TORONTO—Marsh & McLennan, succeeding in its bid for U.K. broker C.T. Bowring, failed at another large merger attempt.

An unpublicized bid to merge M&M's Canadian insurance unit with Dale-Ross Holdings Ltd., holding company for the third largest Canadian brokerage, was rejected by Canada's Foreign Investment Review Agency.

Under the aborted proposal, shareholders of Dale-Ross common stock would have been issued one preferred share of the merged firm for each Dale-Ross share.

Had the merger succeeded, M&M would have been in direct competition with Canada's largest broker, Reed Stenhouse. Reed Stenhouse often refers to its dominance in the Canadian market by calling itself "the Marsh & McLennan of Canada."

Bill would extend health cover

WASHINGTON—Employers must provide health insurance coverage to full-time workers through age 70 under a Carter Administration proposal now under review in Congress.

At present, full-time employes become Medicare beneficiaries at 65. But the older workers would remain under employers' coverage and use Medicare only as a secondary payer under the Carter proposal.

The government would save roughly $170 million in fiscal 1981 if Congress approves the measure. The House Budget Committee recommends its passage, but the Ways and Means and Senate Finance committees say the measure is "too controversial."

Prospects for passage depend on how desperate Congress is to balance the budget.

EPA to change waste rules

WASHINGTON—The Environmental Protection Agency is preparing to revise regulations setting insurance and financial responsibility requirements for facilities storing hazardous waste.

EPA regulations now demand that operators of hazardous waste storage plants have liability insurance of $1 million per occurrence and $2 million aggregate for sudden and accidental pollution.

The agency is considering demanding additional insurance to cover nonsudden gradual pollution. The EPA will hold a public hearing from 9 a.m. to 5 p.m., July 1 in the HHS North Building Auditorium, 330 Independence Ave. S.W., Washington, D.C.

Persons wishing to submit oral or written statements should notify Geraldine Wyer, public participation officer, Office of Solid Waste, U.S. EPA, 401 M St. S.W., Washington, D.C. 20460.

Damages from sudden and accidental pollution are usually covered under comprehensive general liability policies. Only two insurers, Wolreich & Anderson and most recently Shand Morahan, offer coverage for gradual and nonsudden pollution liability.

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IRS withdraws faster vesting rule

By JERRY GEISEL

WASHINGTON—The Internal Revenue Service this week will back off from imposing tougher vesting standards on pension plans, but intends to stop automatically approving some plans.

In revised proposed regulations expected to be published this week in the Federal Register, the IRS has eliminated five earlier proposed factors it said it would consider in determining whether a pension plan discriminates against rank-and-file employes (*BI*, April 21).

The IRS, however, still wants to adopt a new rule of testing all plans that use a 4-40 vesting schedule before it will issue a tax qualification. Currently any plan that uses a 4-40 vesting schedule can be tax-qualified without an examination for discrimination. All plans using other ERISA vesting schedules are already examined before tax qualification is granted.

In its earlier proposed regulations, the IRS put all pension plans on notice that they could lose their tax qualification if they were found to discriminate against a group of employes.

In determining whether discrimination exists, the IRS had intended to examine employe turnover rate, average vesting of terminating employes, average vesting of employes and average time remaining for full vesting of current employes.

Instead of only using these specific factors, the IRS wants to use a far broader and more easily complied with facts-and-circumstances test to determine if discrimination exists in favor of highly compensated employes. This facts-and-circumstances test will make it clear that a plan does not discriminate even if a substantially higher percentage of highly compensated employes vest compared with the rank-and-file.

"A reasonable disparity in vesting will be tolerated between the prohibited group (highly compen-

Continued on page 30

New Standards

The IRS wants to use a far broader and more easily complied with facts-and-circumstances test to determine if discrimination exists in favor of highly compensated employes.

La. self-insures comp

By JILL KAPLAN

BATON ROUGE—Louisiana will self-insure its workers compensation program with a plan that could save the state as much as $5 million.

The state will also begin a new safety program designed to decrease accidents on the job and cut losses further.

Louisiana now pays $10 million annually for workers compensation insurance and is expected to dish out $14 million in 1980-81. By self-insuring, the state hopes to keep costs around $9 million.

The growing gap between premiums paid and losses incurred prompted a study and recommendation to self-insure by the Louisiana legislative fiscal office. Losses this year are projected to be $3.2 million.

Six additional staff members will be hired to administer the new workers compensation program, said Wayne Grant, an assistant commissioner who helped plan the program. Two to three others will monitor a private claims administration service still to be hired.

Bids for claims administration are being accepted this week.

Three safety or loss control engineers will monitor the safety program and analyze losses in all state agencies, hold safety seminars for the heads of those agencies and make status reports to Gov. David Treen.

The governor is also expected to sign an executive order that would create a bureau of loss control in each state agency.

The cost for administering the workers compensation system—including the hiring of six staff members and the outside claims adjusting service—is estimated to be $412,000, Mr. Grant said.

For the past 20 years, the state has purchased its workers compensation insurance through a single agent, R.D. Bushnell Insurance Co. of Alexandria, La. The insurer currently is Rockwood Insurance Co. of Pennsylvania.

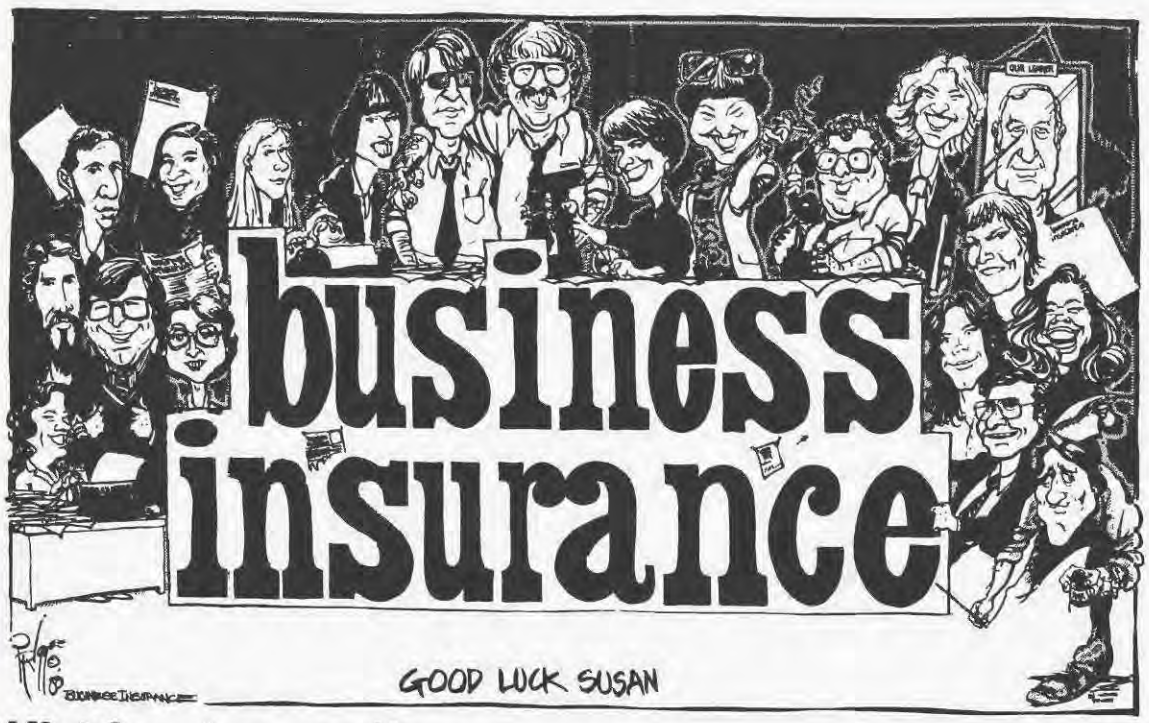
The self-insurance program will go into effect July 1 and will be overseen by E.L. Henry, commissioner of the office of administration. ■

Friday the 13th

Brokers beware!

It will be an unlucky day for brokers who miss the June 13 deadline. That's the last day to return completed questionnaires to be listed in the annual *Business Insurance* Agent/Broker Profiles issue.

If you need a questionnaire, call Stacy Shapiro, 312-649-5398.



Wishing her well

Susan Alt, former editor of *Business Insurance*, left for her new job at The Wyatt Co. in Chicago with a bit of *BI* nostalgia to hang in her new office. The cartoon and the caricatures of *BI* editorial staffers were drawn by *BI* cartoonist Milt Priggee and given to Ms. Alt at her farewell dinner.

Big N.Y. product risks to be experience rated

By STUART EMMRICH

ALBANY—Product liability insurance buyers in New York will soon pay rates based on loss experience for unusual, large and hard-to-place risks.

The New York rating law is the toughest product liability insurance rating law in the land.

Despite insurer warnings that the regulation may result in a tighter market, New York insurance commissioner Albert B. Lewis approved a regulation enforcing the law, effective Oct. 1 for new policies and Jan. 1, 1981, for renewals.

The law was passed by the legislature last year in response to insurance buyers' demands for better price and availability of product liability insurance. In researching the law, the insurance department couldn't find any other state that has forced experience rating, said Donald Gabay, first deputy insurance commissioner.

The new regulation does allow insurers some leeway in setting rates and accepting risks for so-called (a) rated classifications based on premium and loss statistics, but Mr. Lewis rejected an insurer-proposed amendment that would have allowed them to retain a great deal of autonomy in writing the policies (*BI*, May 19).

The regulation allows debits or credits based on engineering, inspection or other reports.

"This regulation, by its very nature, contradicts itself," said Carole Banfield, vp of the Insurance Services Office.

"(A) rating is by definition a class of risks that does not generate statistics that allow them to be experience-rated. Applying actuarial standards is not going to help if there isn't a large enough number of risks to generate the proper data."

Ms. Banfield said the current soft market for product liability insurance in New York would probably not be chilled by the new regulation, but she warned this would not always be the case.

"If it is rigidly interpreted and kept to its current inflexibility, then it will impact the market at some point," she said.

Mr. Gabay scoffed at insurers' arguments that the regulation would have a detrimental effect on the market. "This should not affect availability. It should not dry up the market. I just don't see that happening," he said.

Temporary service firm shuns hazardous jobs

By JACK THORNTON

MILWAUKEE—If you have hazardous jobs in your factory that your own full-time employes won't perform, don't try to hire a temporary worker from Manpower Inc. to do the job.

Manpower, the nation's largest temporary help services firm, shuns a variety of dangerous industrial jobs and checks the risk in other jobs before supplying a worker. It wants to protect its employes and to control its workers compensation costs, now running $4 million a year on 600,000 temporary workers.

"We take a pretty hard line in our industrial division," said Joseph C. Barry, corporate insurance manager at Manpower here. "We have partnership with our (temporary) employes and with our insurer. We will not accept a lot of assignments."

Manpower recently revised its list of prohibited jobs, to keep its employes away from dangerous chemicals. Other jobs Manpower won't fill include working in deep trenches or underground, dancing on logs, working more than one story off the ground, mixing paints, wrecking and operating some types of machinery.

Punch presses, however, are no longer prohibited because "they all have the guards they should have. Employes really can't get hurt unless they disobey the rules," said Daryl Motte, national director of industrial services for Manpower.

Manpower compiled the new prohibited chemicals list based on reports from the Occupational Safety and Health Administration and the Environmental Protection Agency.

The chemicals are asbestos, benzene, benzedrine, arsenic, vinyl chloride, chloromethyl ether, mustard gas, styrene and butadiene and their relatives.

"Our big thing is OSHA," Mr. Barry said. "We have been cited by them right along with the customer, the manufacturer. There is also a moral issue here. We wouldn't send an employe to any job where we wouldn't feel that our own children would be safe."

To ensure jobs are what customers say they are, Manpower checks. "We go right to the specific job location and look at the machine to make sure it has all the safeguards OSHA requires. We talk to the supervisor. We want to be sure that both the job site and the work are safe."

One thing Manpower asks is

Continued on page 35

Hard line
Dancing on logs is one job that Manpower won't fill.

Delta Dental woes worry some buyers

By STACY SHAPIRO

MINNEAPOLIS—No one is canceling a program with Minnesota Delta Dental because its president is a convicted felon, but some clients and potential clients of the dental plan service say they don't like its management problems.

Sources in Minnesota say that Honeywell Inc. is threatening to remove its dental plan from Delta Dental unless Mr. Thompson is immediately dismissed.

"Let's just say we're concerned with their management problems," said Al Brosius, director of corporate insurance and risk management at Honeywell. "We're hopeful they will resolve them."

But if Delta doesn't, removing the account "is one of the options we're considering," he said.

Honeywell is a long-standing client of Delta Dental. In 1974, Honeywell received a check for an overcharge that the dental service said was caused by a bookkeeping error. A former Delta Dental employe charges the error would have been ignored if he hadn't brought it to the Delta Dental board's attention. (*BI*, May 26).

At Dayton Hudson Corp. in Minneapolis, employe benefits manager Fred Hamacher is putting in a dental plan. Though he rejected Delta Dental as too small to handle the account, he admits, "My feelings about them are negative. You always wonder if it happened once, has it happened before?"

Mr. Thompson, convicted April 28 of forgery, remains as president of Delta Dental while petitioning the Minnesota supreme court July 15 for a retrial. The board of directors voted 12-8 to allow Mr. Thompson to remain as president (*BI*, May 26).

He was convicted of altering loss reports in a December 1978 letter to the Virginia (Minn.) School District, which lowered Delta Dental's profit on the account to $12,000 when it should have been shown as $29,000. Mr. Thompson cannot presently be barred from his position.

Under ERISA, however, Mr. Thompson could not remain as president of Delta Dental if all his appeals were exhausted and he were sentenced, says a Department of Labor spokesman.

The act states that no person who has been convicted of a felony, "shall serve or be permitted to serve as an officer to any employe benefit plan" during or for five years after such conviction (Section 411, Title I-ERISA).

Robert Ulsaker, former marketing director for Delta Dental says he first found the falsified loss ratios for the school district in February 1979. He says he took his findings to Arthur Gillen, Delta's general counsel (*BI*, May 19).

Mr. Ulsaker was fired from Delta Dental because of performance, said a Delta Dental spokesman.

Mr. Ulsaker, however, denies that was the reason he was fired. "Things were going good. I had a good salary." He says he was removed because he wouldn't take misleading loss ratios to Delta's clients.

"The brokers and accounts want nothing to do with Delta Dental," Mr. Ulsaker said.

But Delta Dental's increased business for the first quarter of this year doesn't show buyer reluctance.

Delta Dental's first-quarter revenues are up 18.7% compared with last year. Revenues for the first quarter of 1980 total $6,496 million compared with $5,471 million for the first quarter of 1979, Minnesota Delta Dental reports.

The revenues include premium income, fees from administrative service only contracts and other income.

Some current subscribers of Delta Dental compliment it for quick claims service and inexpensive rates. They say they are reserving final judgment on their association with Delta Dental until Mr. Thompson's appeals are exhausted.

"I'm kind of on a hold pattern," says John Wilson, a partner in Wilson, McShane Corp., an administrator for two of Delta Dental's clients.

"Mr. Thompson has been convicted but he hasn't been sentenced. If he gets a slap on the wrist then the judge himself thought the crime didn't warrant a serious punishment.

"But if he is sentenced and he isn't replaced, then it would be difficult to do business with Delta Dental," he says.

Dentists participating in the dental plan are satisfied with the service and stay out of its corporate affairs, said Robert A. Harder, executive director of the Minnesota Dental Assn. "We have taken an arms-length position."

Two thousand of the MDA's 2,500 members are participating Delta Dental dentists. ■

Minn. official to probe vision plan

ST. PAUL—Tom O'Malley, assistant insurance commissioner in charge of enforcement, is the appointed investigator of Minnesota Vision Services, a prepaid vision care plan administered from the home of Onan A. Thompson.

The plan is being investigated for operating as a health care plan without proper authority from the state of Minnesota (*BI*, May 26).

If Minnesota Vision Services is a nonprofit health service organization as it markets itself to be, then it is operating in violation of state law, says Bob Clayton, special assistant attorney general for the state.

A nonprofit health service organization must be regulated by the insurance department under statute 62C of the health insurance code and must have a certificate of authority from the department, says Mr. Clayton.

"Minnesota Vision Services does not have a certificate of authority," he said.

Dr. Milton Mootz, president of MVS, says the plan is regulated by the insurance department under an enabling act from the legislature.

But Jay Koleski, assistant insurance commissioner who has been with the department for 30 years, contends MVS is not licensed with the insurance department.

"Is it possible that they have a certificate of authority and we don't know about it? The answer is no," he said.

Questions also have arisen about who has marketed the vision plan for the past two years.

Dr. Mootz told *BI* two weeks ago that Gene Kindle of Kindle, Bolter Marketing Associates Inc. in Minneapolis is the official marketer, but he now maintains he clarified that statement.

"I told you that Onan (Thompson) and Kindle made a proposal and we were disappointed with Kindle's services and terminated him Nov. 30, 1978."

Kindle, a partner in Kindle, Bolter Marketing said he has never been an official marketer for MVS, clarifying a May 26 *BI* article.

"We only acted as a broker and only until November 1978. We had a contract to sell vision plans to small groups and that doesn't make us an official marketer. We took the applications to Onan Thompson. The man in charge was Onan Thompson," Mr. Kindle said.

But Dr. Mootz says MVS discontinued Mr. Thompson's services when it hired Mr. Kindle. "Mr. Kindle was our marketer under contract for about two years. We discontinued Onan Thompson's services when we hired him."

Before Mr. Kindle, "Mr. Thompson was our sole marketer," he says.

There has been no official MVS marketer since 1978, Dr. Mootz said. Dr. Bill Akre, a participating doctor of MVS, "signed a couple of small contracts in the interim, but we haven't had much business," he said. MVS now has 23 group vision plans, Dr. Mootz said.

But Dr. Akre says he hasn't sold any plans. "I haven't sold any contracts. I don't think contracts have been sold in the last two years."

Dr. Mootz says he hopes business will pick up when MVS is moved to Mid-America Vision Service Corp. in Des Moines later this month. Mid-America will market and administer the vision plan from its Iowa base.

"We've lost some business because we didn't have a marketing person," says Dr. Mootz.

—*Stacy Shapiro.*

Aluminum workers pay more for care

benefit beat

ALUMINUM industry workers will pay higher health insurance deductibles like their steel worker brethren under a new three-year contract negotiated by the United Steel Workers.

Deductibles will be hiked to $75 from $50 per individual and to $150 from $100, a change won by employers fighting to control the cost of health insurance benefits. The lifetime maximum health benefit, however, was doubled to $100,000.

The aluminum industry contract, patterned after the United Steel Workers' basic contract with the steel industry (*BI*, April 28), covers about 40,000 workers represented by the USW.

Under the contract, pensions for already retired workers will be increased 10% to 100% depending on length of service. The pension multiplier was also increased $4 per month per year of service to a maximum of $22.25. That's up from the previous $18.25 for higher-paid workers. Pensions for those in lower pay brackets will jump to $18.25 from $14.25 per month per year of service.

Aluminum workers were not forced to divert future cost-of-living wage adjustments to finance the pension improvements as steel workers were, the union said. The aluminum industry is in better financial shape than the steel industry.

Other health care coverages such as vision and dental were also improved and a new benefit, home health care, was added. It will pay for home health care costs and up to 100 nurse and therapist visits per year.

Deere HMO

Quad Cities Health Plan, an independent practice association HMO in Moline, Ill., has enrolled 3,800 from the ranks of Deere & Co. employes and dependents in the Quad Cities area of Iowa and Illinois. Deere spearheaded the creation of the plan.

Enrollment in the HMO, which has been underway for two weeks in Iowa and a month in Illinois, is now limited to the 16,000 Deere workers and their dependents in the area. Enrollment will later be opened up to other area employers who backed the concept, and eventually to the community.

Other employers who backed a drive initiated by Deere include Caterpillar Tractor Co., International Harvester, Alcoa and J.I. Case.

Deere hopes through the HMO to gain some leverage over "rampantly rising health care costs. The only way we could help with escalating costs was to become more directly involved," said Kevin Stokeld, manager health care at Deere.

Dental review

Peoria, Ill.-area dentists as well as patients will be examined under a new quality care review program initiated by Caterpillar Tractor Co. with the help of the Peoria District Dental Society.

Employes and their dependents in the Peoria region who wish to participate will choose a dentist from a list of about 20 supplied by the company's employe benefits department. The dentist will examine and interview the individual and submit a report to a staff of dental professionals who will review the quality of care.

The program was initiated "to give employes a chance to have services reviewed by an impartial panel and to monitor the quality of care received the area," said Beverly Brown, Caterpillar's dental benefits supervisor.

About 56,000 area employes are eligible for the program, which the company hopes to expand to all company employes nationwide. Although only a few have signed up for the fledgling program so far, Ms. Brown said she is happy with the response.

The company will pay the cost of the dental exams, which are expected to average $30 to $50 each. "In terms of dollars the company spends on dental care, we feel that's a very minor expense," Ms. Brown said.

Early retirement

An early retirement plan and an increase in district-paid health insurance premiums are included in a new arbitrated contract between the Tucson Education Assn. and the Tucson Unified School District.

The two-year contract covering about 3,100 teachers offers two early retirement options. Teachers age 55 to 59 with 10 years of district service may choose to take unused sick leave pay in a lump sum; those age 55to 62 who choose to receive unused sick leave payments over a period of years will have their health insurance premiums paid by the district.

The district will increase its annual health insurance premium payments to $500 from $430. Connecticut General underwrites the basic health insurance plan, but teachers may opt to participate in PIMA Care Plan, a health maintenance organization. The health insurance premium increase is estimated to cost the district an additional $224,000 a year.

Fund contribution

Contributions by employes to East and Gulf Coast dock workers' pension and welfare funds will rise by one-third over the life of a three-year master contract reached between stevedoring firms and the International Longshoremen's Assn. The pact covers 50,000 workers at more than 30 ports from Maine to Texas, with the exception of New Orleans.

Employers' pension fund contributions will increase by 25 cents per hour per person in each of the three years in the contract. The present contribution rate is $2.25 per hour.

Health and welfare fund contributions would rise by 17 cents per hour in the first and second years of the accord and by 16 cents in the final year. The current hourly contribution is $1.50 per person.

The union and employers in each port must still meet before the Oct. 1 expiration of the old contract to negotiate how contributions to the benefit funds are to be applied.

•

Made any benefit changes? Write Valerie Berg, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611 or call 312-649-5430.

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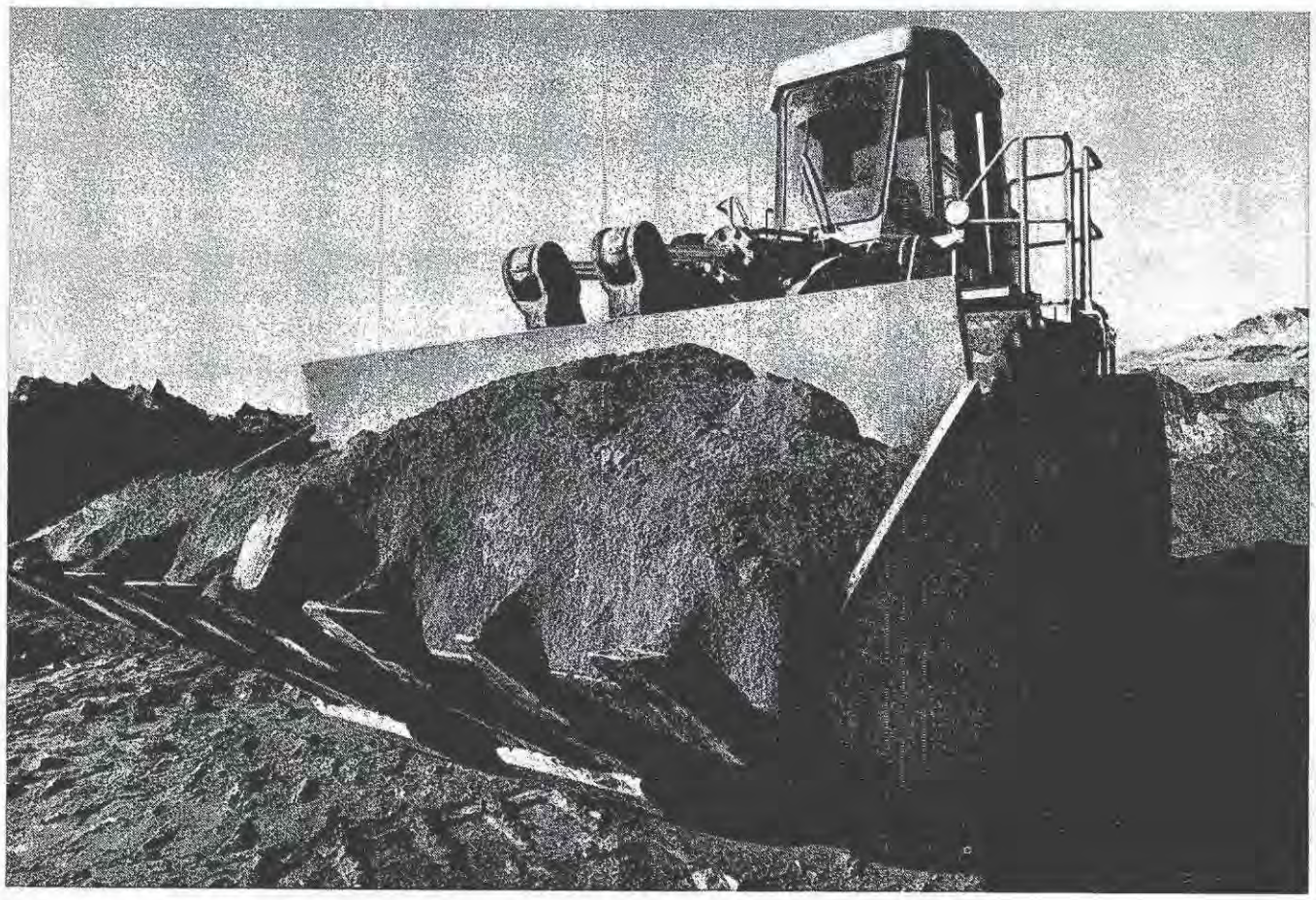

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Mariel Coombes is president and CEO of Arizona Custom Manufacturing, Arizona Custom Steel, and Eagle Erectors . . . three mid-size firms busy growing in the fields of steel fabrication and low-structure erection. Like all presidents of successful firms, she faces a myriad of challenges every day. But she's found that a solid relationship with Wausau Insurance Companies can help her meet many challenges faster, better, more profitably.

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editorial opinions

Recipe for success

"UNDER NEW management" glares at you from the sign hanging in the window of an old favorite restaurant. You hesitate going in, wondering if the new management has changed the cherished menu, wrecked the best recipe or destroyed the atmosphere of the place.

With a new editor this issue, *Business Insurance* is under new management. Although I'm new to the job, I'm not new to *BI* or to many of you. I met many of you in my first couple years as a reporter on *BI*. In the past 15 months as news editor and managing editor I've met more readers and managed the day-to-day news gathering operation that produces *BI* each week.

McIntyre

I like our menu of news and features, so you can expect to recognize *BI* when you read it each week. The editorial content and focus of *BI* is the creation of 13 years and four editors before me, each building on the success of the one before and creating a better newsmagazine. I will carry on the tradition.

We have a good recipe for producing a magazine that helps risk and benefit managers do their jobs better, our prime purpose for publishing *BI*. This seems like an opportune time to share it with you.

We strive to keep you informed of the latest innovations in risk management and employe benefit management, including changes in program design, marketing and financing. We describe for you the latest projects of colleagues across the country, believing that a new technique in one company can be adapted to another's needs to improve the art of insurance management.

We explore problems confronting risk and benefit managers, tapping the experts for their solutions. We create a forum in which the experts can disagree, enlightening each other and you on important issues of the day.

We keep you up-to-date on the markets, answering: Who is selling what, to whom and for what price? The markets work best, *BI* contends, when buyers and sellers can make informed decisions, taking into account what is happening now, what the predictions are and what has happened in the past. We put these markets developments in prespective for you.

We alert you to the latest developments in government regulation while the rules are on the carving board. We assemble for you an analysis of the regulations and how they would affect your businesses.

We want to give you the information you need—and will encourage you on this page—to take stands on pending government regulation. The support, opposition and suggestions of the commercial insurance community can shape regulation into what will work best for everyone.

Be sure *BI* will never be content to deliver the standard fare. We will look for new and better ways to assemble in one magazine all the information you need to do your jobs well.

We'll dig deeper into issues, identify new developments earlier and tell you in clearer, more commanding articles how you and others are shaping the future of risk management and employe benefit management.

The atmosphere of *BI* will be nurtured as a publication that seeks new ideas, presents all sides to a controversy and recognizes no sacred cows. If a topic involves insurance markets, risk management, employe benefit management or loss prevention, you can be sure you'll read about it in *BI*.

Worse than not knowing what lurks behind the "new management" sign at a favorite restaurant is missing the sign and bustling in, expecting a familiar face only to find a stranger.

BI is no stranger to you; I'm not either. I encourage you to call me with compliments and criticisms, to suggest a story idea or advocate an editorial position. Your contributions to *BI* strengthen it as your publication—a community newsmagazine for the commercial insurance community.

My number is in the masthead below. I hope to hear from you soon.

letters

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

Testy reaction

To the editor: Your recent editorial "Shortsighted reaction" (May 26) reminded me of a recent article in the Wall Street Journal.

The Journal investigated the beginnings of the Love Canal problem, and turned up the following information: The dump site was lined with impermeable clay before waste disposal and was covered with the same clay after disposal, in accordance with the most up-to-date waste disposal standards required by the federal government. The site was sold to a school system only after there was a threat of condemnation of the property if the property were not sold to the school system. Hooker warned the school system that the site was used as a disposal area for chemicals. The school system built a school on the dump site. The school system then sold other areas of the dump site to developers for home construction.

While sympathy on the part of the Hooker president may have been a more desirable reaction, I can certainly understand his reaction when the news media have been dumping all the adverse publicity on Hooker, when probably more of the responsibility lies with the governmental units in the area. Several experts believe the pollution problem was caused by the disturbance of the clay dump liner. If I were blamed for a host of problems primarily caused by someone else, I would be testy also.

Kenneth Bush
Grand Rapids, Mich.

Refreshing change

To the editor: I just wanted to say how refreshing it was to read the May 26 Editorial opinion column entitled "Shortsighted reaction." It was a positive step that was taken and if more of "big business" would as you said "express sympathy for those whose health and lives may be threatened, instead of sounding so defensive," the public would have more confidence in "big business."

I work for one of the top insurance brokerages, but I'm writing this as an individual impressed by the human sound of the editorial—for a refreshing change.

Margaret Keefe
New York, N.Y.

Practicing medicine

To the editor: It has come to my attention that you had a short article in your April 21 issue entitled "Midwife alternative."

The author of this article may be well motivated, but I am somewhat dismayed that a publication that states in its masthead that it is "the national newsweekly of loss prevention, risk financing and employe benefit management" is getting into the business of practicing medicine. It appears that there may be further confusion in that the first paragraph discussed expensive doctors and an alternative, and then in the fourth paragraph, they talk about Blue Cross/Blue Shield programs paying the same for the nurse-midwifery deliveries.

The American College of Obstetricians and Gynecologists does definitely support the practice of nurse-midwifery in hospitals as a team concept. However, to have a publication entitled *Business Insurance* deciding what is good medicine seems to me to have about the same rationale as if I attempted to suggest to the insurance companies how to set their rates.

Dr. Ervin E. Nichols
Director-practice activities
American College of Obstetricians & Gynecologists
Washington, D.C.

Note of thanks

To the editor: I want to publicly thank *Business Insurance* and the panel of judges that elected me Risk Manager of the Year. It is a privilege and an honor that I will never forget. I also want to thank the hundreds of kind people who have extended their congratulations.

The most gratifying aspect was the nomination by my staff and former superior, Bob Cone. Winning was anticlimactic to this highest of personal tributes.

Finally, while I can't stand humility and I hate to disappoint the readers, I am not the superhuman portrayed in the press. Instead, I am fortunate to have followed people with the vision of Bob Lee, who is now with Bendix, and to have been surrounded by many dedicated and talented risk managers. Without their contributions and selfless dedication, I would not have even been a contestant. Clinton, Bieniek, Fagan, Scheuering, Edford, Fuller, Kuebler, Rado, Weeks, Connelly, Wiebrecht and Antonak—these are the risk managers of the year; I am only the recipient of the plaudits for their efforts.

I graciously accept and deeply appreciate the impact the award has had on me personally and on the risk management process at General Motors Corp.

Thomas Hallett
Director of risk management
General Motors Corp.
Detroit, Mich.

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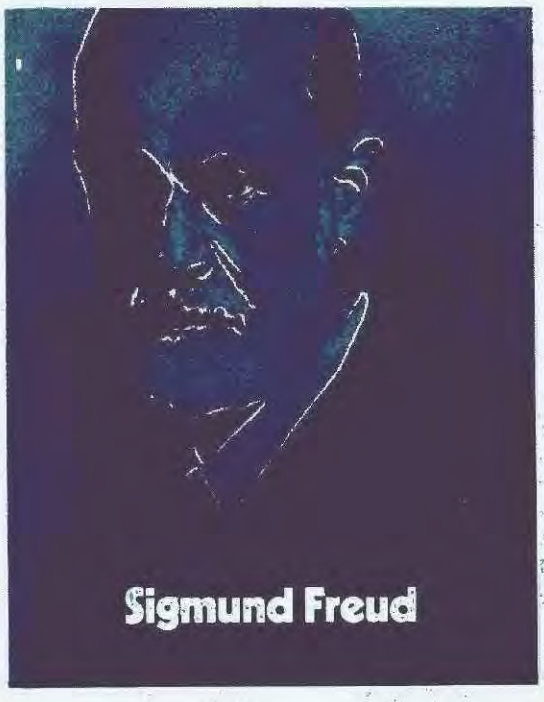

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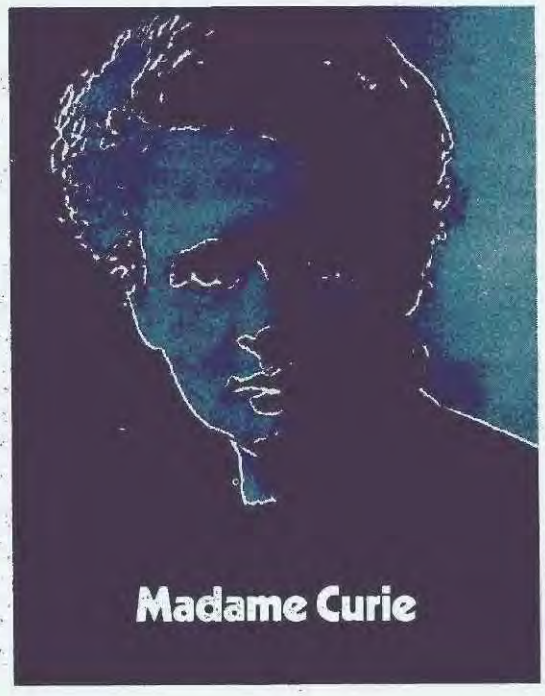
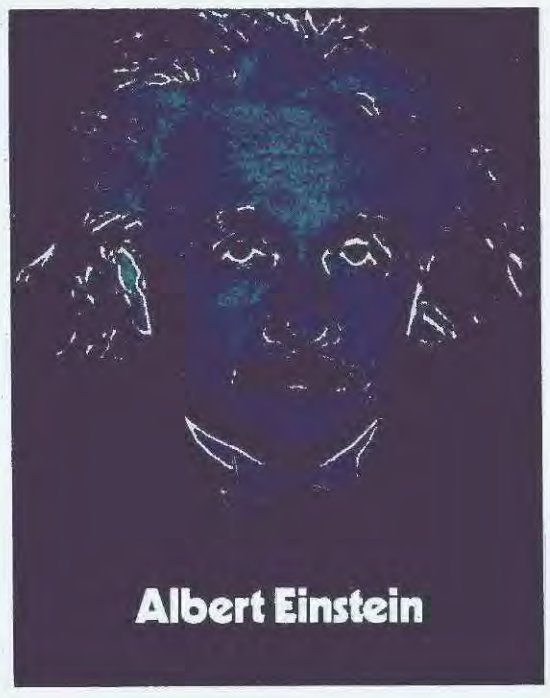


Madame Curie



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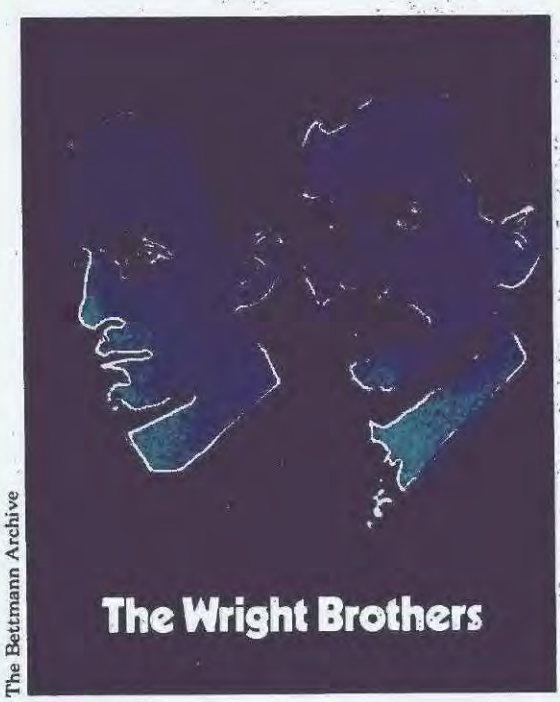

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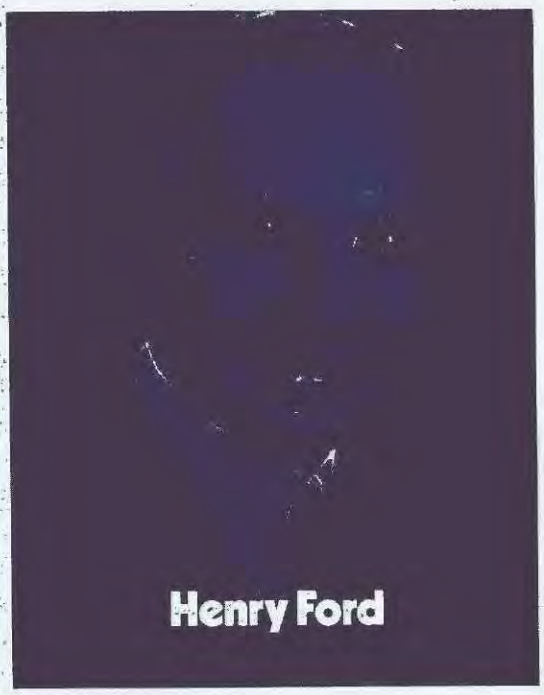
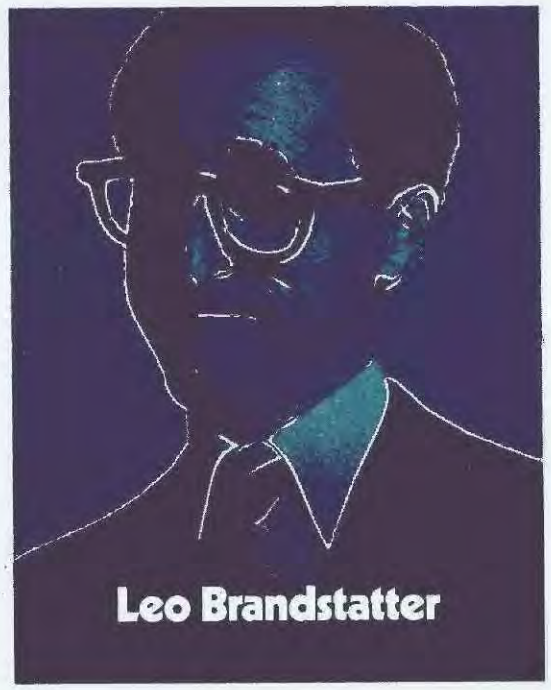


Henry Ford



Leo Brandstatter

The Bettmann Archive

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Then Madame Curie.

Then Einstein, the Wright brothers, Henry Ford and Leo Brandstatter.

Leo Brandstatter?

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Delaware senate to vote this week on wage-loss bill

DOVER, Del.—The Delaware senate will vote this week on a wage-loss workers compensation bill only slightly amended from its original form (*BI*, May 12).

The proposal (S.B. 582), sponsored by Sen. William Murphy, would make Delaware the first state to follow Florida's lead in adopting the wage-loss concept in paying workers compensation claims.

Employers' insurance premiums would automatically be reduced by 7.5% under the bill.

Changes from the original bill include limiting an injured worker's maximum benefit to 80% of pre-injury spendable income. The change would prevent those with high incomes from receiving more income in benefits than they were taking home before being injured.

Iowa is now the only state that calculates benefits on 80% of a worker's spendable income. In the 49 other states, workers compensation benefits are two-thirds of gross wages, said John Lewis, a Florida attorney instrumental in the passage of Florida's wage-loss plan.

Impairment benefits for amputees are boosted under the revised bill. In addition, the amendment restores free choice of physician to the injured worker.

A medical panel would be created to arbitrate all disputes if a worker wishes to appeal a decision.

The new bill was hammered out by representatives of business, labor and the insurance industry. While labor has not thrown its full support behind the bill, the building trades—a key and vocal faction—are expected to offer their full endorsement.

Second place
The proposal would make Delaware the first state to follow Florida's lead.

Gov. Peter duPont has also privately indicated he will sign the legislation, said Robert Byrd, director of governmental affairs for the state Chamber of Commerce.

Recently, Delaware insurance commissioner David H. Elliott spared employers an additional $8 million in premiums by denying a 19.7% increase in workers compensation rates.

"This significant increase request would certainly place a tremendous burden on the business community," Mr. Elliott said, "and especially the small businesses in Delaware at a time when they can least afford it."

Delaware employers have suffered from some significant workers compensation premium increases mandated by law, Mr. Elliott said.

The commissioner added that he could not justify any further increases in workers compensation rates until the Delaware system is refined.

"I also want to see injured workers get their claim filed quickly, have complete and appropriate medical assistance and get adequate compensation during their time lost due to injuries," Mr. Elliott said. ■

HIAA officers

Robert R. Shinn, chairman and chief executive officer of Metropolitan Life, has been elected chairman of the Health Insurance Assn. of America. Ian M. Rolland, president and chief executive officer of Lincoln National Life, was named vice chairman.

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riskWatch

Schwartz leaves mark on U.S. consciousness

By JERRY GEISEL

WASHINGTON—Two months after he came to Washington to head a newly formed federal government task force trying to find answers to the nation's product liability problems, Victor Schwartz was ready to quit.

"I was miserable," the former University of Cincinnati law professor recalled of his first few months in Washington four years ago. He didn't understand how the bureaucracy worked—the science of knowing which buttons to push.

Geisel

But Mr. Schwartz stayed on, not wanting to admit defeat. Besides, he realized, "The job fit me like a glove, and after being at the bottom of the curve, things could only get better."

Mr. Schwartz is leaving the federal government in August. But his departure, to become a professor of law at American University, is after finishing his job as the Commerce Department's No. 1 product liability expert.

Mr. Schwartz feels good about his tenure and tenacity in Washington, but can point to only limited success for his recommendations of changes in tort law. The model bill he authored for the Commerce Department has been adopted by only one state after 18 months, and the Risk Retention Act that grew out of his studies languishes in the Senate.

That a task force director has helped formulate state and federal legislation at all in the space of a few years testifies to Mr. Schwartz's remarkable ability to learn and understand the bureaucracy. No one doubts he has raised the country's consciousness about product liability problems.

He arrived in Washington in July 1976 almost by accident. He had completed his tenth year as a professor of tort law, mostly at the University of Cincinnati, and was due to take some time off.

A short newsletter item describing the formation of a government task force to explore why product liability insurance premiums were shooting up intrigued Mr. Schwartz, and he wrote a letter to Secretary of Commerce Elliott Richardson offering to serve as a consultant. The Commerce Department was very interested in Mr. Schwartz and wanted him—pronto.

Mr. Schwartz was immediately asked to become director of the infant Interagency Task Force on Product Liability. At the time it seemed like a hopeless job.

Product liability hysteria had seized the insurance industry and businesses generally; incredible figures and horror stories were being tossed around. National insurers were advertising that the annual number of product liability cases filed had hit a million.

Mr. Schwartz's research strategy to get to the root of the problem involved a massive telephone survey designed to reveal how much businesses were paying for product liability insurance and what their claims experience was. Other surveys probed the legal system.

The final report of the Interagency Task Force on Product Liability was published on Nov. 1, 1977. Its publication was a bombshell.

With a single stroke, the report went a long way toward demolishing the myth that product liability was the result of a legal system gone haywire. To be sure, uncertainties in the law contributed to the problem, but insurance industry pricing practices and the fact that some manufacturers made unsafe products were equally to blame.

He drafted a uniform product liability law for the states, aiming to eliminate some of the uncertainties that make it so hard to measure corporate liability risk.

To correct the problem of "panic-pricing," Mr. Schwartz and other Commerce Department officials came up with the Risk Retention Act. Its rationale is if insurers don't price their product according to risk, businesses should be able to finance risks using federally chartered pools. And when the model product liability bill encountered a rocky reception in January 1979, he spent six months going over 1,700 pages of public comments, producing a second draft that won the support of businesses and consumers.

Those who know Mr. Schwartz well doubt if his departure from government will be permanent. A federal judgeship for a man who has continually sought to balance conflicting interests is a natural result, Washington observers speculate.

'Counterproductive' coverage

CIA criticizes K&R plans

WASHINGTON—The Central Intelligence Agency brands kidnap and ransom insurance policies as counterproductive to deterring rising terrorist attacks.

"The growing popularity of these insurance policies increases the likelihood that terrorist kidnappers will achieve their monetary goals," the CIA says in its latest report on international terrorism.

"While the kidnap insurance increases the chances of a victim being freed safely, its existence is counterproductive in the long run, defeating deterrence policies," the report says.

The CIA's predictions of growing terrorist attacks, however, could fuel demand for kidnap and ransom insurance policies.

Terrorists are shifting their sights from random bombings to assassinations, making terrorism a deadlier threat than ever, the report shows.

Last year, 587 persons—including a record 12 Americans—died in terrorist attacks around the world. That compares with 432 victims of terrorist attacks in 1978.

Citizens of the industrialized democracies of Western Europe and North America continue to be the preferred targets of terrorists. In the last decade, 40% of international terrorist victims came from North America; 33% lived in Western Europe.

The CIA report dashes hopes that international terrorism is waning. Several terrorist groups have been improving their operational security and sophistication. "This would allow them to better adapt to government countermeasures, thus increasing the likelihood of more frequent—and occasionally more sophisticated—attacks in the future," the report says.

In addition, terrorists may now believe that a larger number of casualties are necessary to generate the amount of publicity previously evoked by less bloody incidents, the report says.

Representatives of affluent countries, particularly government officials and business executives, are likely to remain terrorists' main targets. "Americans and U.S. property will continue to be attacked on occasion, although improvements in U.S. official and corporate security should deter many potential attacks by small bands," the report says.

West German terrorists, many of whom have been caught and jailed in the last two years, are likely to step up the pace of their terrorist activities to renew their "revolutionary credentials," the report warns. ■

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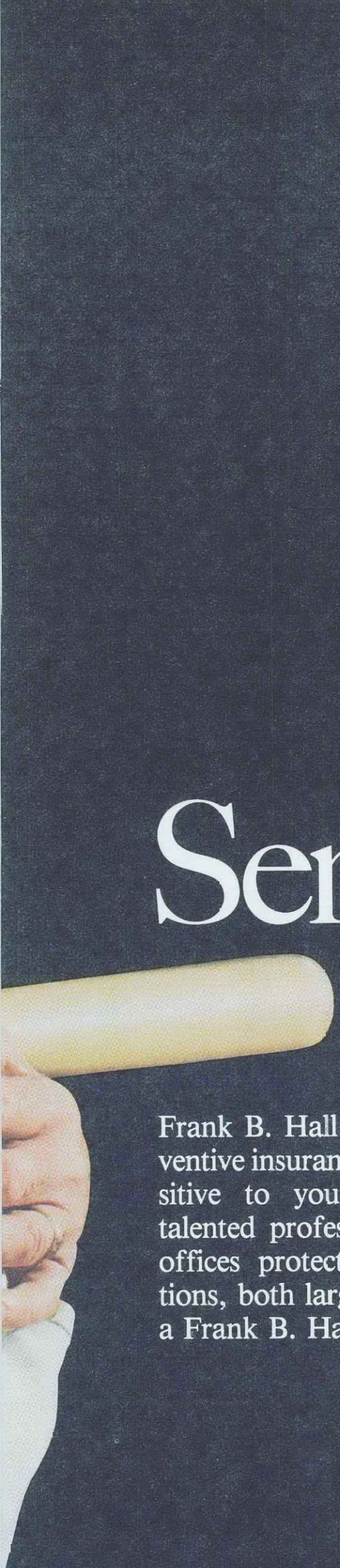

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Court nixes builders' liability time limit

CHEYENNE—Wyoming builders can now be held liable for design or construction defects after 10 years, because the state supreme court declared a 1973 state law unconstitutional.

The court reversed a Sheridan County district court ruling that dismissed a Sheridan couple's lawsuit on the grounds that more than 10 years had passed since the home was built.

William and Cindy Phillips sued ABC Builders Inc. in September 1979 after the basement and foundation walls of the house, completed in May 1969, collapsed because of heavy rains. They charged ABC Builders with a breach of implied warranty and said the 1973 statute was unconstitutional because it granted immunity from liability only to a limited class of citizens.

The supreme court, while agreeing with the couple's contention, said the law further violated the state constitution by closing the courts to persons seeking compensation for damages caused by faulty home construction or design.

"The statute, both in theory and in application, is totally inconsistent with the spirit and the letter of our state constitution," the court said in an opinion written by chief justice John F. Raper. The Wyoming constitution requires courts to be open without delay or denial to all persons seeking compensation for injuries.

The court said the law was not a "statute of limitations"—which AEC Builders contended—but a grant of immunity from lawsuits.

The Wyoming court's ruling relied partly on an Illinois supreme court decision that held the Illinois legislature could not pass laws "granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise."

The case was remanded to the Sheridan County district court where the lawsuit will proceed.

around the states

Budget increase

HARRISBURG—The Pennsylvania legislature has been asked to approve a 3.1% increase in the state's medical malpractice administration budget to $1.3 million from $1 million.

The major reason for the increase is to cover expenses for additional arbitration panels in the coming fiscal year, a state insurance department spokesman said. The additional panels will attempt to handle the nearly 2,000 backlogged malpractice claims as well as more than 1,200 expected to be filed during the fiscal year starting July 1 (*BI*, Nov. 12, 1979).

The legislature is also being asked to repeal the $15 million ceiling on the catastrophe fund from which claim settlements are paid so the fund can be increased to handle the case backlog.

Pennsylvania's 1976 arbitration law requires that medical malpractice cases be heard before a state arbitration panel which decides whether damages should be awarded. Panel decisions can be appealed in the courts.

Regulator leaves

HARRISBURG—James R. Farley has been named acting Pennsylvania insurance commissioner, replacing Harvey Bartle III, who has been appointed acting Pennsylvania attorney general.

Mr. Farley, chief counsel for the insurance department for the past year, will serve until Gov. Richard Thornburgh appoints a permanent commissioner. The governor has not yet submitted a name to the state senate for confirmation, but it is expected that Mr. Farley will not be the permanent appointee, a department spokesman said.

Fla. bills pass

TALLAHASEE—Eight bills to change the wage-loss workers compensation law in Florida have passed the state house insurance committee here.

The proposed revisions would:

- Give employers an additional 10 days to pay an injured worker's benefits.
- Require subcontractors to provide their employes with workers compensation coverage.
- Grant increased authority to the workers compensation commissioner.

Compensation bureau chief Baxter Swing, who served as acting director of the new division, has now been named full-time director.

Record award

ST. PAUL—The Minnesota supreme court has upheld a $1.75 million damage award to a teenage girl whose body was scarred by burns 10 years ago when her flannel pajamas caught fire on a kitchen stove.

The award included $1 million in punitive damages against Riegel Textile Corp. of New York, maker of the flammable fabric. The punitive damages award may be the largest in Minnesota history, said the attorney for the girl, Lee Ann Gryc of St. Paul, now 15. She was also awarded $750,000 for her injuries, pain and suffering.

The court said Riegel knew its "flannelette" cotton fabric could burn with explosive speed, even though it met federal safety standards in effect when the accident happened in 1969.

Evidence in the trial included a company internal memo warning that the firm was sitting on a "powder keg" because of the fire-prone pajama fabric.

A Ramsey County jury had awarded the $750,000 last year but the company appealed. In upholding the punitive damages, the court said Riegel had "acted in reckless disregard of the public for purely economic reasons."

Higher benefits

MADISON—Disabled workers in Wisconsin will receive higher workers compensation benefits under a law (S. 472) signed recently by Gov. Lee Dreyfus.

Under the measure, benefits for permanent partial disability would be increased to $70 a week from $65 and the maximum weekly payment for temporary total disability will be boosted to $233 from $218. The legislature turned down more drastic changes in the program, adhering largely to the original bill developed by a labor-management advisory committee. ■

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California Market

A SPECIAL REPORT ON A REGIONAL INSURANCE MARKET

The pioneer spirit is alive and well in the California insurance market. Fertility manifests itself to Golden State buyers in imaginative solutions to problems and

Continued on page 15B

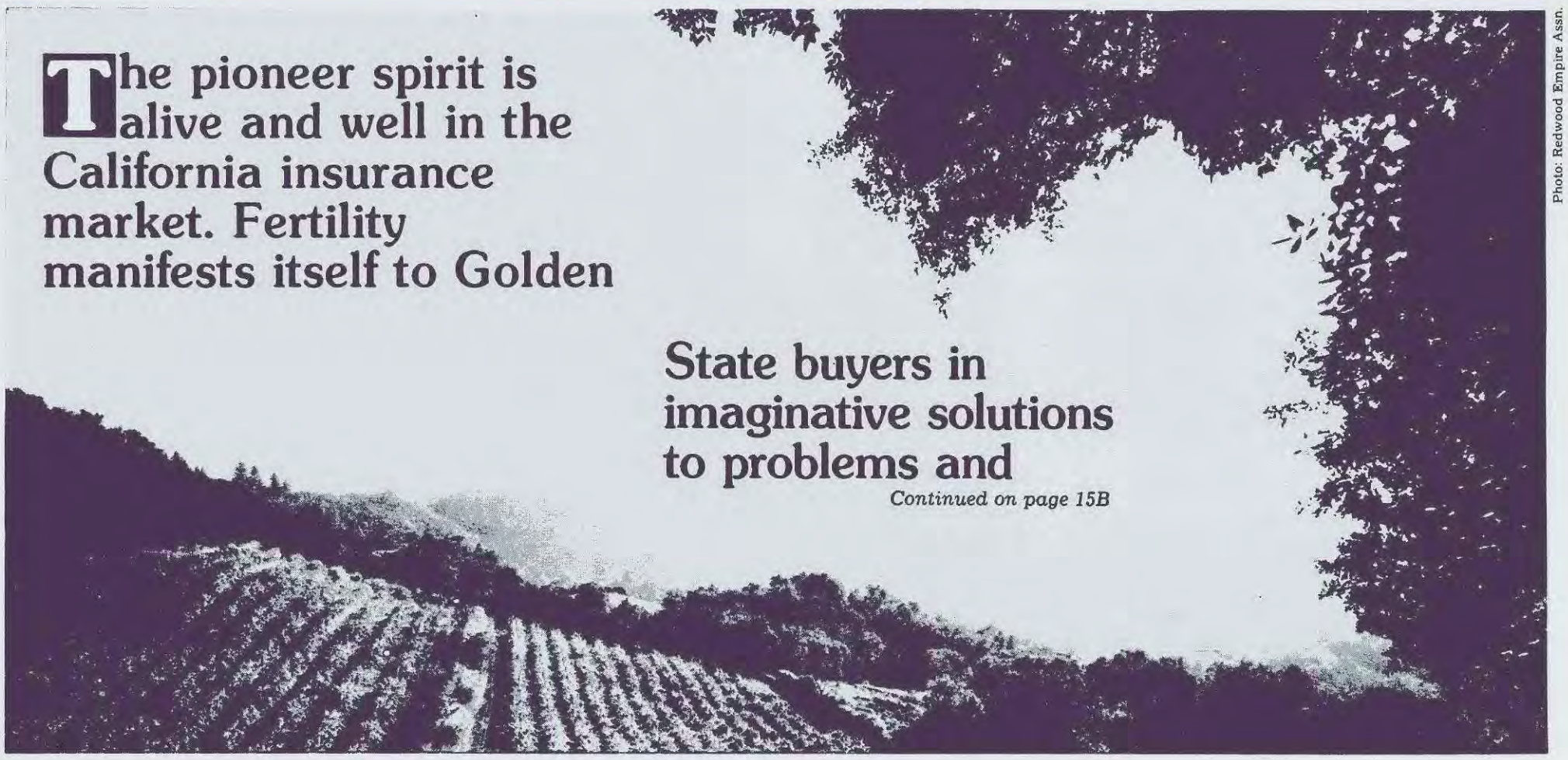


Photo: Redwood Empire Assn.

Insurers thrive in rich business soil

By RHONDA L. RUNDLE

LOS ANGELES—"This is a great market to do business in," insurers chorus here. "It's big, it's profitable and the state's open rating laws spur keen competition."

An insurance buyer here has a lot of options.

By sheer size alone, the California market is impressive. The Golden State ranks eighth among economic powers in the world, ahead of such sovereign countries as Canada, Italy and India.

The state's $23 billion insurance industry contributed nearly $480 million in premium tax last year to the general fund. It's little wonder the wheels of state government are still rolling in the wake of Proposition 13.

Nearly every major insurance company in the United States is doing business in California. Among the major property/casualty companies, only Fireman's Fund is domiciled in the state, but most of the Eastern giants have regional headquarters in Los Angeles or San Francisco.

A three-mile stretch along L.A.'s Wilshire Boulevard is home to Insurance Co. of North America, The Hartford Insurance Co. and Liberty Mutual, to name only three.

Both Aetna Insurance Co. and Transamerica Co. own and occupy high-rise towers in the downtown financial district of San Francisco.

But the big-name national companies do not have a corner on this enormous market. Perhaps more than anywhere else in the country, regional and local specialty companies play an important role in the underwriting business in their home state.

After size, the single most important factor in the California market is the file-and-use rate and policy form system, insurers stress. Only workers compensation insurance rates are regulated.

In most other states, insurers must submit the policy forms and rates to the state insurance department for prior approval, a slow, laborious bureaucratic process. In California, insurance companies merely file their policies and rates with the commissioner, then send their producers into the marketplace.

"California welcomes new business," enthuses Max Henderson, president of the Swett & Crawford Group in Los Angeles. "We're all from somewhere else anyway—California is fundamentally a transient society and it's easier for marketers to create buyer acceptance."

Combined with the open rating system, this receptivity has attracted a lot of foreign capital to California. You don't often see it, say insurers, because it takes the form of reinsurance.

One place where foreign capital is highly visible is at Allianz Insurance Co., founded in Los Angeles four years ago with capital furnished by Allianz Versicherungs A.G., the biggest insurance company in West Germany. "It's also among the 10 biggest in the world," notes Frank Raab, president of the California subsidiary.

Allianz writes all lines of commercial property and casualty business and has made tremendous market share inroads in its brief lifetime. Allianz is the first new boiler and machinery market in the U.S. in more than 20 years, a federal official recently told Mr. Raab.

Ironically, despite industry accolades for open competition, the state's only regulated line, workers compensation, has been far and

Continued on page 15O

Brokers' climate

Price remains king in hectic Los Angeles

By DAVE GALANTI

LOS ANGELES—The insurance brokerage climate in Southern California is like its network of freeways: scattered, hectic and always congested.

Price is king here, say most L.A. brokers, making their scramble for risks all the more interesting.

The marketplace is dominated by the big alphabet houses, although regional brokers are strong in developed specialties. Marsh & McLennan is generally thought to be the biggest, both in personnel and premium volume, followed by Frank B. Hall & Co., Johnson & Higgins, Alexander & Alexander and Fred S. James & Co.

At M&M, vps Harland Campbell and Larry Sundstrom note that California's open-filing rate and form regulation

Continued on page 15I

Gentlemen's rules reign in Bay Area

By MARGARET LeROUX

SAN FRANCISCO—Brokers in Northern California compete by gentlemen's rules but are as sophisticated in technique as their counterparts in the East and Midwest, say risk managers for national and international corporations based here.

"The main difference is the absence of the harsh gameplaying of New York and Chicago brokers," said Richard Soper, director of risk and insurance management for Levi Strauss & Co. here.

Other risk managers agree. "The names are the same as any other major market," the risk manager for a national consumer products company noted, "but their methods are perhaps more gentlemanly."

Continued on page 15F

Travelers leads insurers in dividend payments

LOS ANGELES—How do the top-writing California workers compensation insurers stack up on the basis of their dividend-paying records?

The Travelers Insurance Cos., California Casualty Indemnity Exchange and Transportation Insurance Co. rank one, two and three based on 1979/1977 statistics, according to a study prepared by Robert I. Willar, a consultant in the risk management department of Bayly, Martin & Fay here.

This may come as a surprise to many industry observers, because none is among the 10 largest California writers by premium volume. Travelers ranks 11th, California Casualty Indemnity is 21st and Transportation Insurance Co. is 20th in premium volume.

Although companies compete vigorously for business on the basis of these dividends, statistics on past performance are hard to come by, as any risk manager who has negotiated a renewal knows.

"I wanted to shed some light on carrier dividend paying performance by looking at actual statistics," Mr. Willar explained. "The whole subject of workers compensation dividends tends to confuse and frustrate our clients."

One reason for the confusion and frustration is that brokers, agents and underwriters are prohibited by law from promising dividends at sales presentations. Although dividends may significantly reduce the net cost of loss funding, the risk manager doesn't know in advance by how much.

Also, dividends are only paid 12 to 24 months after policy expiration. Thus, the policyholder receives no immediate feedback reinforcing the cause-and-effect relationship between premiums, losses and dividends.

That makes it tough for a buyer to determine whether he or she might have saved money with an insurance company because the policy was negotiated up to two years earlier.

The competitive feature of workers compensation dividend earnings is greater in California than in other states because the rating system here sets a fixed premium for risks by size and loss experience. Price competition among insurers focuses on the dividend return.

It's also important to note that potential dividends are merely one aspect of the bottom line costs of insurance, Mr. Willar says. He estimates that loss control and adjustment may contribute up to 80% of long-term savings in a well-managed risk treatment program.

An insurer's dividend-paying record is of special interest to accounts under $100,000, Mr. Willar says. These smaller accounts are usually more susceptible to the vagaries of an insurer's overall experience and dividend declaration.

Large accounts, in comparison, are usually subject to a retention or "cost-plus" type dividend plan in which a dividend is almost a direct function of favorable loss experience.

"Of course, the board of directors at an insurance company might decide to declare only a percentage of indicated dividend, thereby diluting the magnitude of any return," Mr. Willar said. Thus, even a large account has a vested interest in the insurance company's overall dividend payout performance.

In the accompanying chart, dividend-paying performance is measured by dividends paid as a percentage of written premiums. Dividends are assumed to be paid 12 to 24 months after the end of the policy period.

Two insurers listed in the chart but not ranked in the top 10 companies by performance seem to think this is a fair standard, Mr. Willar reports.

"It might be more correct to say that they didn't hoot and howl over the results," he said.

Also, Mr. Willar points out the potential distortion that occurs when an underwriter writes participating policies in one company and pays dividends but writes nonparticipating policies in another company and doesn't pay dividends.

For instance, INA writes participating business in Pacific Employers Group and nonparticipating business in Insurance Co. of North America.

"In this situation, PEG would not show any dilution in its dividend payout percentage, whereas a carrier who writes both par and nonpar business in the same company would show some dilution," he explains.

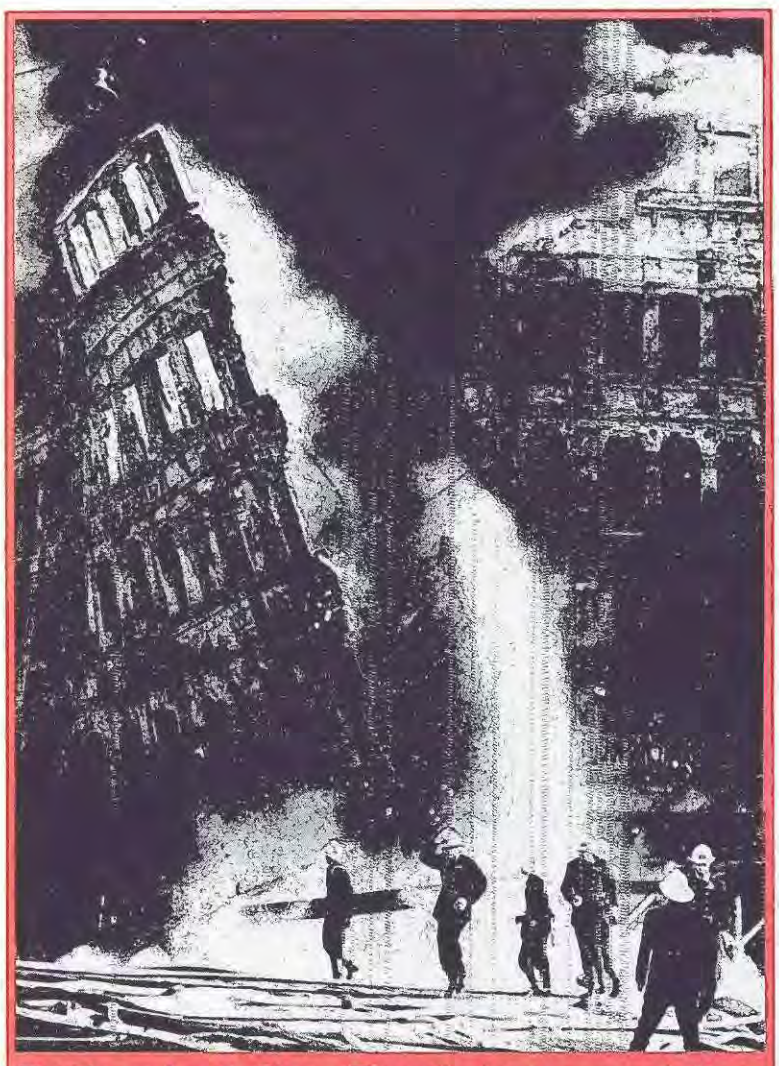
In evaluating this data, it is also important to note that the state fund is often a market of last resort. By law, it is required to write any business that comes through the door.

Consequently, a portion of the fund's premium volume is involuntary and results from substandard risks. This dilutes its dividend payout percentage. ■

California Work Comp Insurers' Dividend-Paying Record ($000)

Company	Dividend $ as % of written premium (1977 premiums)	Dividend $ paid (1979)
Travelers (11)	28.95%	$15,510
Calif. Cas. Ind. Exchange (21)	28.31	6,422
Transportation Ins. Co. (20)	28.25	3,848
Liberty Mutual (2)	27.09	33,350
Calif. State Fund (1)	22.12	94,816
USF&G (19)	21.29	5,159
Empl. of Wausau (14)	20.80	9,563
American Motor (22)	18.85	4,242
Royal Indemnity (24)	16.88	2,421
Beaver Ins. Co. (26)	14.79	1,028
EBI (9)	14.67	5,664
Fremont Ind. (3)	14.14	15,113
Fic. & Cas. of N.Y. (23)	13.66	1,626
Pac. Employers (7)	13.22	8,546
Assoc. Ind. (6)	12.98	13,446
Republic Ind. (13)	12.77	5,950
Industrial Ind. (4)	12.36	13,445
Hartford A & I (15)	11.80	5,192
Argonaut (12)	11.28	5,156
Mission (5)	10.71	8,824
Total Industry	15.77	318,174

( ) indicates ranking by premium volume
Source: California Department of Insurance Statistics
Compiled by Robert I. Willar/Bayly, Martin & Fay



Buyers find innovations in California markets

Continued from page 15A

entrepreneurism that pits small regional agencies against national brokers in fierce competition for business.

"Insurance buyers in the East and Midwest should look to the West," said Stephen Horn, broker with the San Francisco firm Jones Horn. "There's a lot of creative solutions to their problems here. If you buy insurance in the West, you probably have better coverage."

"Historically, the West has been a trend-setter," said Thomas J. Grogan, senior vp at Marsh & McLennan in San Francisco, "and we'll continue to be."

California's reputation as a trend-setter in underwriting is enforced by open rating here.

"In other states you have to put up with the bureaucracy setting rates," said Edmond Gillette, president of Johnson & Higgins in San Francisco. "Here, practically the only thing the underwriters can't do is discriminate."

Enjoying the freedom of open rating, Edwin A. Flinn, president of Clifton & Co., added praise for California's insurance regulators. "The regulatory climate here is far better than most states'. The insurance department's ability to police the strength of insurance companies makes a safer atmosphere in which to do business."

Most brokers cite the broad form comprehensive general liability policy, which originated in California, as one of the state's major contributions to the industry.

New layers

California is also credited with originating the difference in conditions form and developing new ways of layering excess coverages.

The excess and surplus market is also a major factor in a broker's day-to-day business.

In San Francisco, the E/S market is used not only by the giant national brokers, but also by small regional firms.

"The E/S brokers are the real entrepreneurs; they're the ones who bailed out the municipalities in 1974," said Michael McAuliffe, principal in the regional brokerage firm of Kaine & McAuliffe. Competing successfully against the nationals for a sizable chunk of public entity business, Kaine & McAuliffe has used the E/S market since the early 1970s.

Although competition from the superstock companies in the current soft market has taken some of the edge off surplus lines, few West Coast brokers expect that situation to last.

Captives and self-insurance are two other giant trends in California business, brokers say. "You probably see more self-insurance by small companies in this state than any other," Clifton & Co.'s Mr. Flinn said.

Captive trend

Bob Nevins, managing partner in the firm of Dinner Levison, is confident the trend to captives is still strong on the West Coast. "Far from being on the downturn, there have probably been more captives established in Southern California in the past five years than ever before," he said.

California brokers tend to be more enthusiastic about their business environment and more optimistic about the future than their counterparts on the East Coast. They credit the continuing attractiveness of the business and weather climates for keeping the area growing.

They readily admit the stereotypes about Californians being offbeat are firmly entrenched in the minds of the rest of the country, but as one broker noted, "Maybe it's better that the rest of the country doesn't realize how good we have it out here." ■

Photo: S.F. Visitors Bureau

In San Francisco, the E/S market is used not only by the giant national brokers, but also by the small regional brokers.

Kinder seeks open-rate work comp

LOS ANGELES—California employers would find more flexible workers compensation insurance products and not be forced to self-insure if the state dumped its minimum rate law, contends insurance commissioner Wesley J. Kinder.

But workers compensation insurers in the state want continued regulation of their rates, arguing it is crucial to the soundness of the workers compensation system here.

Mr. Kinder disagrees. "If prior approval is necessary for solvency, we need it in all lines," he said in a major address to the National Assn. of Insurance Commissioners in Denver last March.

Reform, the commissioner contends, would stimulate creative marketing innovation, permit greater underwriting flexibility and solve some of the inequities built into the current rate structure.

In particular, the insurance department blames the state's minimum rate law for driving many large companies to self-insurance. If the law were repealed, large accounts would get the proper consideration from the start, Mr. Kinder says. "Cash-flow plans would be unnecessary."

Insurer's fear
'It would be chaos,' Stanley Zax says of open rating.

Paid-loss retrospectively rated plans, a form of cash-flow policy attractive to big companies, have been a hot topic in California in recent months. Last April, the insurance department approved the plans under a strict set of rules (*BI*, May 5).

Commissioner Kinder has stressed in public and private meetings that his views on workers compensation rate deregulation do not portend a bureaucratic drive by the insurance department to amend the system.

Coming on top of two consecutive years of rate increase denials, however, the commissioner's remarks have sent jitters through the insurance industry.

Thomas R. Brown, president of the California Workers Compensation Institute, an insurer trade group, expressed his thoughts in a recent address to the annual CWCI meeting in San Francisco.

"The California workers compensation system is under siege," he declared shortly after describing relations between the industry and its regulatory agency as an "adversary relationship."

Other insurance company executives have told *Business Insurance* they consider Mr. Brown's language too strong, but they say there has been a fundamental shift in insurers' attitudes toward the insurance department.

At the heart of the California system is the so-called minimum rate law, more properly described as a fixed rate law. The minimum rate is calculated on a fixed 65% to 35% ratio of policyholder losses to insurer expenses.

This extremely generous expense loading results in relatively high earnings that are divided between insurance company profits and dividends returned to the policyholders.

Of course insurers don't want to tinker with a system that takes the burden of pricing decisions off their shoulders and also creates a tidy profit, says Marcus W. Ramsey, chief of the rate regulation division in the insurance department.

Indeed, one of the major industry arguments against open rating is the difficulty of developing a creditable loss data base upon which to determine rates for more than 300 workers compensation classifications.

"It would be chaos," sums up Stanley R. Zax, president of Zenith Insurance Co., a specialty insurer that writes workers compensation exclusively in California. Under open rating, he predicts, there would be fierce rate cutting that could end in multiple insurer insolvencies.

"You're going to get unsophisticated, uninformed competition attracted to the insurance cash-flow game," Mr. Zax says. "That's like taking a social obligation and turning it into an auction."

Mr. Zax fears open competition could make workers compensation into another product liability insurance fiasco. The current ground rules have attracted many investors into the marketplace here and that has created a healthy, profitable industry with ample capacity, he explains.

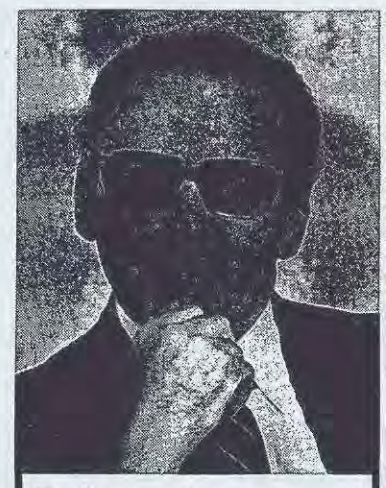
Workers compensation is social insurance requiring substantial state protection, is another argument stoutly proclaimed by the insurance industry.

"An injured worker has never lost one cent of benefits in California," declares David L. McIntyre, president of Fremont Indemnity Co. in Los Angeles. "We've had this system since 1914 and it has had some very beneficial results for consumers."

The system doesn't work perfectly, insurers admit, but the rating structure ensures adequate policy pricing and therefore dramatically reduces the possibility for insurer insolvencies, they argue.

Rejecting these arguments, Mr. Kinder insists workers compensation is not a special case. Actually, he said, "It's the one line of property and casualty insurance most conducive to open competition."

The law is structured for the industry, says Lawrence Baker.



Reform view
'Cash-flow plans would be unnecessary,' says Wesley Kinder.

Losses are relatively stable, insurance buyers are well-informed and there is tremendous potential for vigorous price competition among the more than 260 workers compensation insurance companies doing business in California, he says. That competition, in turn, would create strong incentives for loss control.

What would be the impact of open competition on the state fund, currently writing about 20% of the premium in the California market?

"We're asking ourselves that same question," says fund president E.A. (Sandy) Sandberg. "I'm not sure that I know what system commissioner Kinder has in mind when he talks about open competition."

Assuming it would mean no more prior approval of rates, he says, one could expect private insurers to become much more selective in their underwriting practices because they would attempt through competitive pricing to write the desirable risks.

That might mean more undesirable risks would be left to the state fund, which is required to write all business presented to it, Mr. Sandberg suggests.

Unlike most other states with a competitive state fund, he points out, California does not have an assigned risk pool for substandard workers compensation risks. ■

Exec stands alone on issue

Standing alone among his peers in support of open rating for California workers compensation risks is Lawrence C. Baker Jr., president of the Argonaut Insurance Co. in Menlo Park.

And it is interesting to note that until joining Argonaut in January 1975, Mr. Baker was chief deputy commissioner in the California insurance department.

"I think the California minimum rate law has been structured to aid the insurance industry, not the customer," he observed. That orientation has contributed to the loss of large policyholders to self-insurance, a phenomenon more prevalent here than in other parts of the country, he adds.

"I expect there are a lot of insureds who don't really have a fundamental desire to self-insure, but the economics of the system force them into that posture. With open competition, the insurance industry could better meet the needs of its consumers."

There's no logical support for rate regulation of workers compensation, Mr. Baker contends. Insurers support it for three reasons, he says:

- It is comfortable because insurers know the rules.
- Insurers don't have a high degree of confidence in their ability to make pricing decisions in workers compensation because they have abdicated that responsibility to the rating bureau.
- Insurers perceive they make more money under the present system. They probably do, Mr. Baker adds, but not indefinitely.

"I suspect that this system ultimately leads to the destruction of the business. Cartels do not survive because they do not respond to the needs of their customers."

Under an open rating system, some companies would undoubtedly fail, Mr. Baker believes. But not many.

HOT: Sunny business climate creates bullish markets

By LOUISE HARRIS

Map: Toby Roberts

LOS ANGELES—California's sunny business climate continues to pour big bucks into the state's tax coffers, Ronald Reagan's presidential campaign and the bottom-line underwriting results of the Golden State's flourishing domestic insurers.

Besides Orange County, a long-time beneficiary of Los Angeles spillover growth, California's recession-resistant agriculture, aerospace and government industries are creating bullish insurance markets in Fresno, Santa Clara Valley and Sacramento.

Orange County, located 40 miles south of Los Angeles, heads the list of premium growth markets. The 26-city area has a well-mixed industrial base, evenly divided among manufacturing (26%), trade (24%), services (20%) and government (13%).

Over the past five years the county has enjoyed industrial growth to match its celebrated home construction boom. During the first few months of 1980, major growth in food processing and manufacturing and

Continued on page 15D

Photo: Rhonda Rundle

No loss
'An injured worker has never lost one cent,' says David McIntyre.

Industry growth spurs service expansion

Continued from page 15C

aerospace industries created over 700 new jobs in the southern section of the county.

Nearly every major broker and underwriter, if not already in the area, has recently opened a branch there to take advantage of that growth.

Ed Schumaker, vp at Bayly, Martin & Fay, followed the trend to Orange County. "There's a large labor market and land is available for industrial parks. We're finding that corporate offices are moving from Los Angeles into the area and that manufacturing firms are building new facilities here, too," he said.

Jack Schweinfurth of Los Angeles-based Emett & Chandler, agrees. "There's definitely increased movement into the area, especially firms with $10 million to $20 million in sales."

Brokers disagree as to whether or not risks can be insured more cheaply in Orange County than in Los Angeles, but certain premiums are hitting rock bottom in the area. Competition is fierce.

Bill Hall of Cal Co., a San Mateo-based regional broker, reports that competition is almost creating demand since buyers reason they may as well increase their coverage while the rates are low.

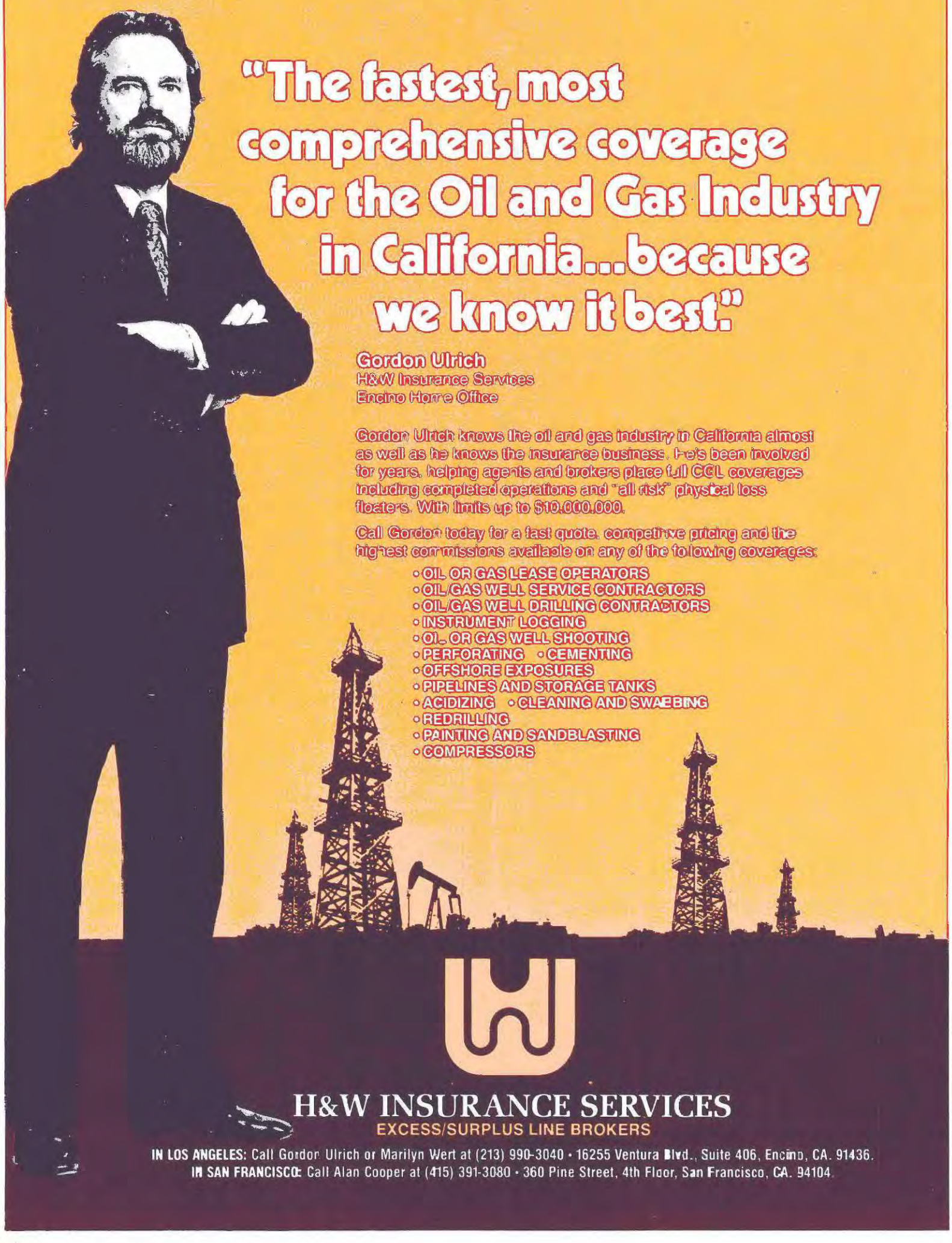
Rapid expansion and breakneck competition also characterize Santa Clara County, located below the southern point of San Francisco Bay. The total land area of the county exceeds 1,300 square miles, but only the northern section has seen remarkable industrial growth, spurred by a high concentration of electronics manufacturers. The uppermost western section of the county is nicknamed "Silicon Valley," an epithet derived from the base material used in semiconductors.

Responding to the insurance demand, brokers and insurers have covered the market, either through local branch offices or from San Francisco strongholds. Those reporting growth in the area include brokers Alexander & Alexander, The Nordstrom Group, Financial Guardian Insurance Group and Albert M. Bender Co., and insurer Fremont Indemnity.

San Jose, located 20 miles from a manufacturing nucleus, has become a growth region in its own right. Marsh & McLennan recently opened an office there and other brokers have put it at the top of their expansion lists.

Thomas Grogan, head of M&M's San Francisco office, is particularly optimistic about San Jose's potential.

"Someday it will be the second largest city in California. It has room to spread out, whereas San Francisco is stopped by geography," he says.



Here's how the hotspots are glowing:

Orange County

California's leading premium growth market is booming with new commercial and home construction, slowed somewhat since sky-high interest rates hit last March. Nearly every major insurer and brokerage firm has opened an office here in the past five years or plans to open one in the near future.

Santa Clara County

The density of electronics manufacturing firms in this county at the southern tip of San Francisco Bay has earned it the nickname "Silicon Valley." With plenty of sprawling space around it, San Jose is one of the fastest growing cities in the U.S. and California's number two insurance industry hotspot.

Sacramento

Government is still a growth industry in the Golden State despite the passage of Proposition 13—the state capital at Sacramento is the beneficiary. Industry sources rank the city and surrounding area third among California hotspots.

Fresno

In the heart of the San Joaquin Valley, Fresno is the center of California's gigantic agribusiness industry. Economic growth is also due in part to land availability and a lower overall cost base.

San Diego County

No longer just a Navy town, San Diego is attracting corporate headquarters from out-of-state and Los Angeles. The northern part of the county promises to be a particularly hot growth area because of its large labor pool and proximity to Southern Los Angeles County.

Ventura County

Although environmental restrictions have halted Ventura's growth in the past, business is now starting to roll. Mission Insurance Co. is opening a branch there that will serve the area's primary industries of food processing and agriculture. Some brokers contend that the area can be adequately served from Los Angeles.

Marin County/East Bay

San Francisco's bedroom communities are now blossoming into commercial zones. Fireman's Fund is reputed to be one of the largest employers in Marin County. Communities east of San Francisco like Walnut Creek and Hayward are attracting brokers including Bayly, Martin & Fay and Albert M. Bender Co.

San Bernardino/Riverside

This is one of the few remaining areas within reasonable distance of Los Angeles where land and housing costs are still accessible. Industrial Indemnity vp Jerry Miller sees the region as a future hotspot, especially now that commuting costs are climbing. ■

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S.F. brokers play by gentlemen's rules

Continued from page 15A

At Foremost-McKesson Inc., Alan Pearce, assistant treasurer and director of risk and insurance management, described the broker market here as provincial. "Brokers here don't hound you for an account like they do in other major markets," he said.

Marsh & McLennan tops the list of leading brokers in Northern California as it does nationally. With offices in the Embarcadero Center, M&M is a neighbor to one of its largest clients, Levi Strauss & Co.

Thomas J. Grogan, senior vp, heads the 300-person M&M operation in San Francisco (exclusive of the William M. Mercer employe benefits division). Gross revenues for M&M's Northern California office are estimated at $13.5 million.

"We have a good cross-section of business represented in this office," Mr. Grogan said, "everything from agriculture to light manufacturing, retailing and electronics."

J&H history

Up the street from the Embarcadero Center—about halfway up Nob Hill—are the offices of Johnson & Higgins, a broker that dates its California history back before the great earthquake.

J&H was established as a marine claims office in 1883 and marine business still accounts for more than one-fourth of the San Francisco office's revenues. It employs 220 people.

Edmond S. Gillette Jr., a San Francisco resident for 30 years, is president of the office.

"From a business standpoint, it's a real advantage to have been here as long as I have," he said. "You become a real part of the community; you know everyone."

The impact of the large national brokerage firms is much stronger here than in other big cities. The San Francisco Bay area ranks fifth in the top 100 Standard Metropolitan Statistical Areas with a population of slightly more than three million.

"We have the same top five alphabet firms battling it out here as you'll find in other major metropolitan markets," Mr. Gillette said. "We feel the competition more keenly here because the numbers are smaller."

"This is essentially a small community," he contined. "Every broker knows every client they'd like to have on their books."

The top five national brokers all maintain Northern California headquarters in San Francisco. Alexander & Alexander has a staff of 75 and premium volume approaching $50 million. Knowledgeable sources in the Northern California insurance industry describe A&A in San Francisco as "a real comer. . a firm to keep your eye on."

Photo: Margaret LeRoux

Good mix

'We have a good cross-section of business in this office,' says M&M's Thomas Grogan.

Fred S. James & Co. has made a name for itself in workers compensation and Frank B. Hall & Co. enhanced its commercial client list recently with the signing of The Gap stores, a nationwide chain of jeanswear retailers.

Though the atmosphere is relaxed, the competition is aggressive, fueled by soft markets and sliding revenues nationally.

Market woes

The current soft market "has the troops as frustrated today as they were a year ago," said Mr. Gillette of J&H. "We anticipate the highly competitive atmosphere will be with us through the end of the year."

However, if the trend doesn't turn around soon, "the insurance market is going to come to a reckoning," Mr. Gillette predicted, "especially if the securities market doesn't turn around."

Almost all large stock insurance companies are seeing their assets diminished by 20% or more because of a downturn in the bond market, Mr. Gillette noted. "I don't anticipate any immediate dire results, but we could see some serious loss of strength by some

Continued on page 15H

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Photo: Abigail Lennon

San Francisco, the city by the bay, is also the city of stiff but gentlemanly competition among insurance brokers.

S.F. brokers compete under gentlemen's rules

Continued from page 15F

insurance companies."

National brokers in Northern California find local growth providing increasingly stiff competition. Regional firms, including Dinner Levison Co., Clifton & Co. and Albert M. Bender Co., compete with larger houses.

From a merger of two old San Francisco family insurance agencies in 1970, Dinner Levison has grown into a major force in the insurance market of Northern California. Its branch office in Newport Beach is expected to be a stronghold in the hot Orange County market.

Dinner Levison will also have an office in downtown Los Angeles by the end of 1980, says Bob Nevins, managing partner. "We'll probably expand out of the state by 1981," he added.

The firm's main office is in the heart of San Francisco's business district and employs 160 people. The Newport Beach office has a staff of 12.

Mr. Nevins estimates gross revenues for 1980 at $8 million. "That's a little off our projected increase for the year, but it reflects the reduced commission levels brought on by the current market."

Dinner Levison's local character and close client relations have been its marketing strengths, winning it several key local accounts.

Questions asked

In the case of the Bay Area Rapid Transit System, which Dinner Levison won three years ago, "It was on the basis of services we could provide rather than price," he said.

The regional firm also specializes in risk analysis and contract review, unusual for a local broker. "We look at so much and ask so many questions, we scare some people," Mr. Nevins said.

Another broker that makes its competitive force felt on the West Coast is Clifton & Co. The 16-year-old firm, whose 1980 gross may reach $6.5 million, has carved out a solid place for itself in California.

"We're not up and coming; we've arrived," said Marshall P. Stuart, senior vp. Mr. Stuart and Edwin A. Flinn, president, spoke with *BI* from the company's headquarters in the same Embarcadero Center complex that houses Marsh & McLennan.

Both firms have executive offices with spectacular views of the east side of San Francisco Bay.

Clifton's San Francisco staff of 80 is supplemented by 60 in offices in L.A., Seattle, Portland and Reno. They serve about 500 clients.

The demand for risk management services and more service for the firm's employe benefit clients suggested the recent acquisition of two subsidiaries, Security Consultants Inc. and Pacific Administrative Services Inc.

PAS provides claims services for Clifton clients that self-insure employe benefits.

Employe benefits work provides a new challenge for Clifton: how to cope with the skyrocketing cost of health care.

Greater variety

Mr. Stuart predicted the "demise of the fully insured group health plan as we've known it. With the growth and flourishing of third-party administrators, there's a greater variety to programs we offer our clients."

In property/casualty insurance, Mr. Flinn noted continuing competition and a movement of business back to the large stock companies.

"Even though the excess and surplus markets are continuing to flourish, we're seeing a lot of business return to the super-stocks," he said.

"We're now able to negotiate terms such as long-tail coverage in the liability market that we haven't been able to obtain in years," he said.

Other brokers agree. The fertility of the California marketplace has made San Francisco a dream for buyers and a bustle of competition for local brokers. ■

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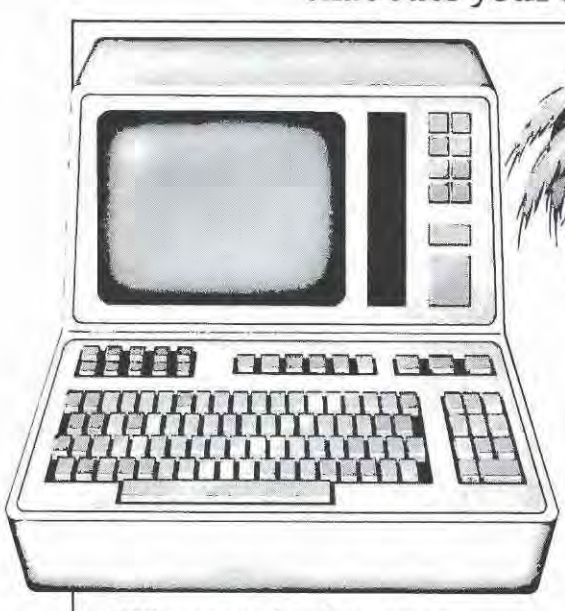

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Brokers in L.A. focus on price war

Continued from page 15A

allow the freewheeling L.A. brokers to work creatively.

"We've had just about everything imaginable out here," Mr. Sundstrom said. "And I think the prices break here in California faster than they do almost any place. The cycle swings here also seem more dramatic and happen faster than other places, and that includes New York."

The biggest problem for a broker in Southern California right now is keeping the client's insurance programs from being bent by the market winds.

"We brokers here have a responsibility to present a stable program to our risk managers," Mr. Sundstrom says. "We have to show them where the swings are headed, let them know what's ahead and try to soften the blows."

Photo: Dave Galanti

"Price is of the utmost importance," says Robert Degner.

Softer market

That can be difficult. L.A. brokers say an already soft market has seemingly grown softer in recent weeks. One broker outlined the situation:

"We were testing the waters for one of our clients, which is a very large corporation. Last year, we were able to provide that client with a 33% reduction in premiums. This year, the market that was handling the risk came in at another 55% reduction on top of that. The problem was that when we looked around, that bid was higher than two other highly respected markets."

Regional L.A. brokers say local risk managers are a loyal group that stays by its brokers year after year. More brokers, however, say price cutting by insurers results in broker switching by policyholders.

"Someone with a hot deal can come in and undermine us and waste a lot of money that we've invested in getting the risk," says Robert Degner, executive vp of the Fred S. James & Co. Los Angeles office. "Even a guy with about $1 million in commissions behind him has enough clout with the markets these days to do it to you.

"Price is of the utmost importance these days to the buyers here," he adds. "You can talk all you want about professionalism and creativity, but I don't know a risk manager that can go to his financial officer and say that he turned down a 25% decrease in premium to stay with the same broker."

Mr. Degner is part of a minority that says California brokers and insurance buyers have not always been as innovative as some might believe, but for good reason.

"I'm a subscriber to the belief that California companies haven't gone as much to things like captives because of the flexibility here," he says.

Few captives

"Of course, individual firms here have been leaders. Carnation, for example, was one of the first to go to a captive, although it got into trouble," he says, referring to the Internal Revenue Service's successful challenge.

"In general, however, we don't get too involved with captives because when you have a soft market with plenty of capacity, you can handle a lot of risks well in the primary market."

Historically, the California market has always been a maverick, with roots deeply imbedded in its

Continued on next page

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California traditions shape style

The lineup of the biggest brokers in San Francisco and Los Angeles closely tracks the national ranking assembled annually by *Business Insurance*, but broker colleagues in the East and Midwest see a separate market with its own relaxed style.

In California, big brokers have offices that share the corporate name but also have individual styles shaped by the traditions of the state.

San Francisco brokers, pursuing "old money" and established accounts, are known for their gentlemanly approach to selling and service.

Trendy and brash, Los Angeles brokers ride the boom town tradition and fuel a hot, price-competitive market.

San Francisco brokers are known for their long-term relationships with their clients, while account changes are much more frequent in Los Angeles.

A San Francisco-based broker who also does business in L.A. noted the South has a reputation as being "much more pricey." "It's the overwhelming aspect of the business down there."

Top 5 in the North

1. Marsh & McLennan
2. Johnson & Higgins
3. Frank B. Hall/Fred S. James
4. Dinner Levison
5. Clifton & Co.

Top 5 in the South

1. Marsh & McLennan
2. Frank B. Hall
3. Johnson & Higgins
4. Alexander & Alexander
5. Fred S. James

Brokers in L.A. focus on price war

Continued from previous page

own native soil. At one time, the market was dominated by West Coast-based brokers and insurers.

"The big Eastern firms came out here years ago and tried to do business the way they did back in the East," says Sam Alcorn, senior vp for Bayly, Martin & Fay, headquartered here. "What happened is that they got their tail whipped.

"They either had to adapt to West Coast companies (such as Pacific Indemnity or Fireman's Fund) or not do too well," he added. "What finally happened to change that was that the Eastern firms expanded. The Chubb Group bought Pacific Indemnity, for example, and changed a lot of the way we did business."

L.A. brokers say the city and region have amazingly diverse commercial risks. Aviation is a giant field here. Preeminent for years among brokers in this area was Frank B. Hall & Co.

Business search

Recently, however, brokers say much of this business has moved to Bayly, Martin & Fay. In addition, control of Hall's aviation business has moved to New York. Hall officials, however, do not agree, saying the Hall office in general has grown both in personnel and volume in recent years.

In a market dominated by growth, one natural by-product is a persistent search for new business to build premium coffers. In pursuing profits, brokers have expanded in the Orange County and San Diego markets to the south, which are smaller than L.A. proper but perhaps more untouched.

Both the alphabet and regional brokers have made the move to Orange County and San Diego for two reasons: Southern California's dependence on the auto makes travel time-consuming and difficult, and both areas have seen massive influx of new business from the colder, union-bound Midwest and East.

"In New York, a broker can walk from building to building and see a lot of risk managers," says Dick Hess, president of Beverly Hills-based Schiff Terhune of California. "Here, it might be an hour or an hour-and-a-half drive between the two."

"That explains why so many brokers and companies have opened offices in Orange County," says Schiff Terhune vp Richard R. Friese. "The distance and growth here have made it a separate market. And the offices there are strong."

However, there may be another reason for doing business in Orange County, brokers say. Often Orange County underwriters are more aggressive in desiring new business than their Los Angeles counterparts and the same risk may be written for less premium in Orange County than in Los Angeles. Newer offices in Orange County have greater pressure from the home offices to build a substantial book of business, some observers say.

Competition remains

"But the larger risks are still here and there is plenty of competition to get them," says Vernon Dockendorf, president of Penn General Agencies in Los Angeles. "Producers may have the appearance of more hustle there, but the older, more mature producers here do just as well."

Brokers predict competition will also come upon another turf: the medium-sized commercial risk.

"We've seen much more big broker competition since they realized that commissions alone weren't going to do it today," says Leonard Lawrence, president of Emett & Chandler. "They've had to go out and develop new business as one answer to the crunch."

The market fertility, though, may have one bad side effect, Mr. Lawrence says.

"The competition that concerns us is not the big brokers, because we think that we can handle them. We worry about the little guy that has a market that wants to buy business. He's maybe not as professional as he should be and can cause problems later." ■

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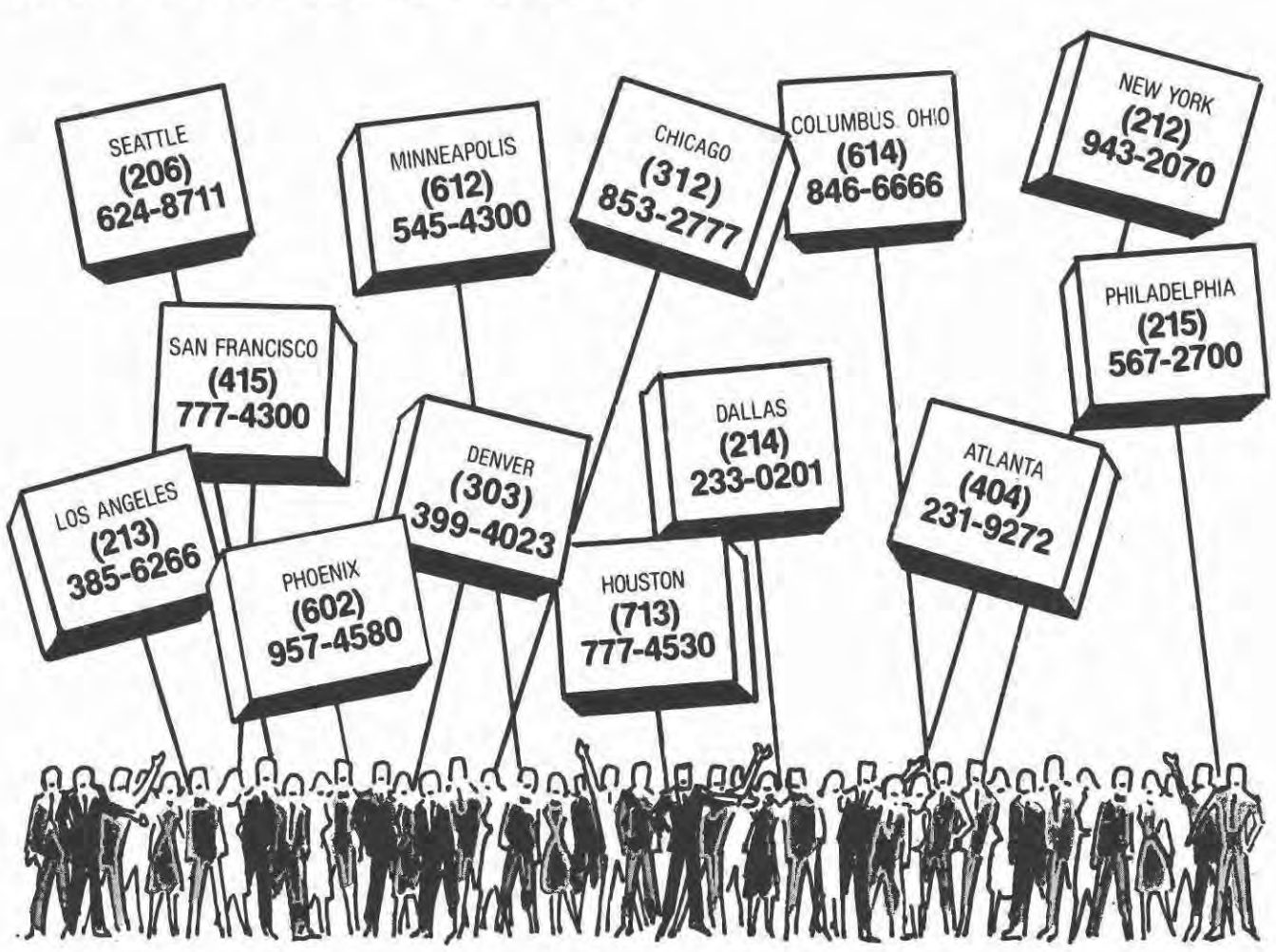

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ISU hopes to join the alphabet brokers

By DAVE GALANTI

SAN FRANCISCO—Thomas J. Ryan wants to add a few more letters to the alphabet.

When risk managers start shopping for their yearly corporate insurance needs, Mr. Ryan is hoping they will soon add ISU to their lists, which already include M&M, A&A and J&H.

ISU, or more properly, ISU Companies Inc., intends to be a nationwide franchise chain of 2,000 independent insurance agencies with commissions of more than $200,000. Mr. Ryan, who is president of ISU, says the expertise his firm intends to supply to his agencies will allow them to compete with Marsh & McLennan, Alexander & Alexander and Johnson & Higgins on big risks.

ISU is concentrating its first effort in its home state, looking to fill franchise positions in California's five regions. The state is the home of another franchise group, Brokers Trust, in Santa Barbara.

Backed with $10 million by former Transamerica Corp. president Edward L. Scarff and investment firm Merrill Lynch & Co., ISU offers a range of services to agencies that includes risk placement help, money management programs, capital value guarantee and training and educational programs.

Selling point
'Buyers equate independence with personal service,' contends Thomas Ryan of ISU.

In return, the franchise firm is asking for $10,000 upfront and 6% of the agency's monthly gross revenues.

"Buyers want their broker to be knowledgeable in two areas," Mr. Ryan said. "They want brokers to be knowledgeable in insurance and also in a specialty, whether it be toolmaking or steel production."

"Buyers would like to see their agents get into automation," he added.

Independence is also important to buyers, Mr. Ryan said.

"Buyers equate independence with personal service," he explained. "Because our agents own their own businesses, we think this can be the clincher in getting clients. Not only do they have more time to spend with policyholders than the national brokerages, but clients also will find they are treated better because they are relatively much more important to the local agent than to the national broker."

The first task, however, is to convince the buyers that this is true and that the services he provides to the ISU agents are useful. Then, he says, sales will be up to the agent.

"The first thing an agent has to prove to a buyer is that he has the tools of the trade," he said. "The problem now is that a buyer may like the local agent as a person, but he may doubt the agent's ability to handle his risk. We hope to turn that around, so that the agent can proceed to convince the buyer that he will be successful for him."

Mr. Ryan is banking on his own 25 years of big-broker experience. He was formerly president and chief executive of Fred S. James & Co. and senior vp of Marsh & McLennan Inc.

He is also counting on a growing lineup of industry notables, including education and training vp A. Russell Chaney, formerly of Fireman's Fund; risk management services vp Donn P. McVeigh, formerly of Warren, McVeigh & Griffin, and national services vp Peter B. Hawes, formerly with Alexander & Alexander and regional broker Dinner Levison Co.

The franchising concept is not new and was researched long before ISU formed last fall. Russell Miller Inc., a firm providing specialty services to insurance-related companies, devoted one full-time person to the initial legwork over the past year. Mr. Miller, principal of the firm, is a director of ISU.

"What we're trying to keep here is what the agent holds dearest: the ownership of his company," Mr. Miller said. "Franchising does that to the greatest extent possible. Of course, you have to give up something to get something, just as you give up some of your independence when you get married or take on a partner. But ISU is based on the theory that good people together do better than a good person alone."

When the initial growth is completed, ISU will encompass 50 regions with 40 brokers per region. Each region will have a staff territorial consultant who will act as liaison between ISU headquarters and the agencies and provide day-to-day insurance expertise. Mr. Ryan aims to be set by 1982.

The 40 agents in each territory will be selected from a screened group of 200, Mr. Ryan says. Each agency will be judged on four criteria: It must be solely in insurance; it must have been in existence three or more years or the principal must have had 10 years insurance experience; it must have a good reputation, and it must primarily sell commercial insurance.

A formula juggling profitability, growth record, commission business and other factors will also be used to determine whether the agent will meet ISU requirements.

By the end of 1980, the list of prime territories will grow beyond California to include parts of Texas, Florida, New York, Connecticut and Illinois. Eventually, the network will extend nationwide and into Canada, Mr. Ryan says.

Mr. Ryan outlined four key areas of the ISU services:

• Insurance expertise. "What is a national broker?" asked Mr. Hawes, who is charged with providing backup services. "It's basi-

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cally an information network that gets producers the right answer at the right time."

ISU plans to establish that network via territorial consultants, a national 24-hour "answer line" that will research agents' questions and an information center to coordinate and issue reports on insurance matters.

"The answer line's goal is to deliver unbiased research in response to franchisees' direct questions," he said. "The info center will use professional people on our staff who have access to libraries and experts everywhere. At first, we may be calling on the friends we've known in the industry for help. As we go on, however, we will expand our savvy and build an information bank here."

ISU also hopes to finance insurance-related research via a special $50 per month research and development fee. This fee, charged to franchisees one year after they join ISU, could provide more than $1 million a year to ISU for its research operations.

• Education and training. ISU's human resource department, headed by Mr. Chaney, plans to hold educational seminars for ISU members and evaluate programs held by other groups. Mr. Ryan contends, however, that ISU will not duplicate the efforts of others, such as the independent agency groups.

"We're not out to reinvent the wheel," he added. "But there is a need for some types of information not being presented now: the nuts and bolts of training the college grad to be an expert on insurance, for example."

• Financial services. One of the more controversial aspects of the ISU package has been its capital value guarantee. Under the ISU plan, franchisees will be able to sell their agencies to ISU at any time for a price equal to annual gross revenues.

ISU cannot force agencies to sell, however, and any agency wanting to sell could probably get a better price from a big broker, Mr. Ryan says.

"The main reason for this is so our members can take this value and go to the bank with it," he said. "Banks can use this guarantee as viable collateral, which will allow our broker to borrow money against his business for expansion."

ISU also plans to offer other financial services, including Visa and Master Card financing for personal lines collection, Mr.Ryan says.

• Marketing. ISU plans to use television, radio, magazine and newspaper ads to distinguish ISU brokers in the minds of insurance consumers.

"We want our brokers to have a leg up on the competition when they enter a buyer's office," Mr. Ryan said.

"We want the buyer to already know who the broker is and the amount of knowledge behind him. Our advertising will separate ISU brokers from the nameless people who are the American agency system."

ISU is a controversial subject among brokers, however, because of the participation of Merrill Lynch and the reputation of Mr. Ryan as a high-powered executive. Although most industry observers publicly take a wait-and-see attitude, many privately ask whether ISU could turn into another national brokerage. Others wonder whether ISU's "real goal" is to make a profit buying and selling agencies.

Mr. Ryan says he's heard the rumors and they are false.

"There is so much to be done out there that we don't have to compete with other organizations to succeed," Mr. Ryan said. "We want to be an advisory service for the independent agent.

"We don't want to get into the business of managing agencies," he continued. "If we do have someone sell to us, we'll turn around and sell it to one of our members or broker it away. We're interested only in making this franchise operation work." ■

ISU aim

'What we're trying to keep is what the agent holds dearest,' says Russell Miller.

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San Francisco contenders

Regional brokers challenge nationals

By MARGARET LeROUX

SAN FRANCISCO—The increasingly competitive stance of the small to medium-sized brokers is bolstering the challenge to national brokers waged by large regional firms.

Two tough contenders are the San Francisco firms Jones Horn Inc. and Kaine & McAuliffe Insurance Brokers.

"We often find ourselves in competition with the alphabet houses," said Stephen Horn II, executive vp at Jones Horn. He clearly relishes this challenge to the big names.

"We find ourselves up against the alphabets' second string, which gives us a competitive advantage," he continued. "We can offer clients the attention of the principals of the firm, something the large nationals can't promise."

Michael McAuliffe, principal at Kaine & McAuliffe, stresses the same competitive advantage against the national brokers.

"Our small size is one reason for our success," Mr. McAuliffe said of his firm with estimated 1980 revenues of more than $5 million. "Both our clients and underwriters know they're dealing with one of the principals, not a person far down the ladder in the corporate structure."

Competing for business with the nationals is an added incentive to doing business on the West Coast, he added. "When you've competed successfully for business in San Francisco, you know you've competed with the cream of the crop."

Jones Horn, whose 1980 revenues are estimated at $1.4 million, services clients "who aren't in the Fortune 500 but are numbered among the large regional companies," Mr. Horn said. Clients, including contractors, wholesalers, developers and retailers, "require the philosophy of risk management, but for most, the alternatives to insurance are just becoming viable."

The brokerage is computerizing operations with the ambitious plan of "being a totally paperless office by 1985," Mr. Horn said.

At present there are problems synthesizing microfilm with computer technology. "We need a computer for a retrieval system, but computers can only give us numbers, not images," he explained. "You can't rate a risk with just numbers; you have to see it."

Advantage
'Both our clients and underwriters know they're dealing with one of the principals,' says Michael McAuliffe.

Photo: Margaret LeRoux

The broker predicted a bleak future for small firms that don't streamline and become cost-effective. "Whether or not an account is cost-effective may well be a determining factor in seeking new business in the future," he said.

Another major challenge to brokers is the cost of the delivery system.

"The whole insurance industry costs too much. It's the most inefficient system from both the broker's and buyer's point of view," Mr. Horn complained.

He estimated that 50% of the paperwork the firm gets back from insurance companies is wrong. "I can't conceive of any other industry where that level of error would be tolerated."

Mr. Horn applauded the current trend back to the general agency system. "We'd rather be doing the paperwork ourselves," he said. "We do it better than the insurance companies."

Jones Horn is the result of mergers that date the firm back to the turn of the century. Located on the fringes of what was once the bawdy waterfront district of San Francisco, Jones Horn headquarters has a notorious past. In its early life the building was a house of prostitution.

The design of the building was retained, which explains why there are so many small offices within the two-story structure.

The seeds of Kaine & McAuliffe were planted 33 years ago by Richard McAuliffe, who is still an active member of the firm. His son Michael joined him 10 years ago after studying at The College of Insurance in New York and gaining underwriting experience with the Lloyd's of London syndicates affiliated with Stewart Wrightson.

Kaine & McAuliffe has made a mark on the public entity market as broker for the Redwood Empire, the first joint powers agreement to encompass all lines of insurance. In all, the firm has 30 public entities among its clients and has maintained a separate public entity division since 1972.

"Public entity business has undergone radical changes in the past couple years," Mr. McAuliffe noted. "Two years ago the business was practically unmarketable. Now it's not at all uncommon to see price reductions of 25% on renewals for the same amount of coverage.

"It's a real challenge to maintain our credibility with clients when there is such a fluctuation in the marketplace," he added.

Mr. McAuliffe predicted the insurance market in California today "is at a crossroads. We're close to the beginning of a bottoming out of the soft market and we're probably going to see some violent changes ahead." ■

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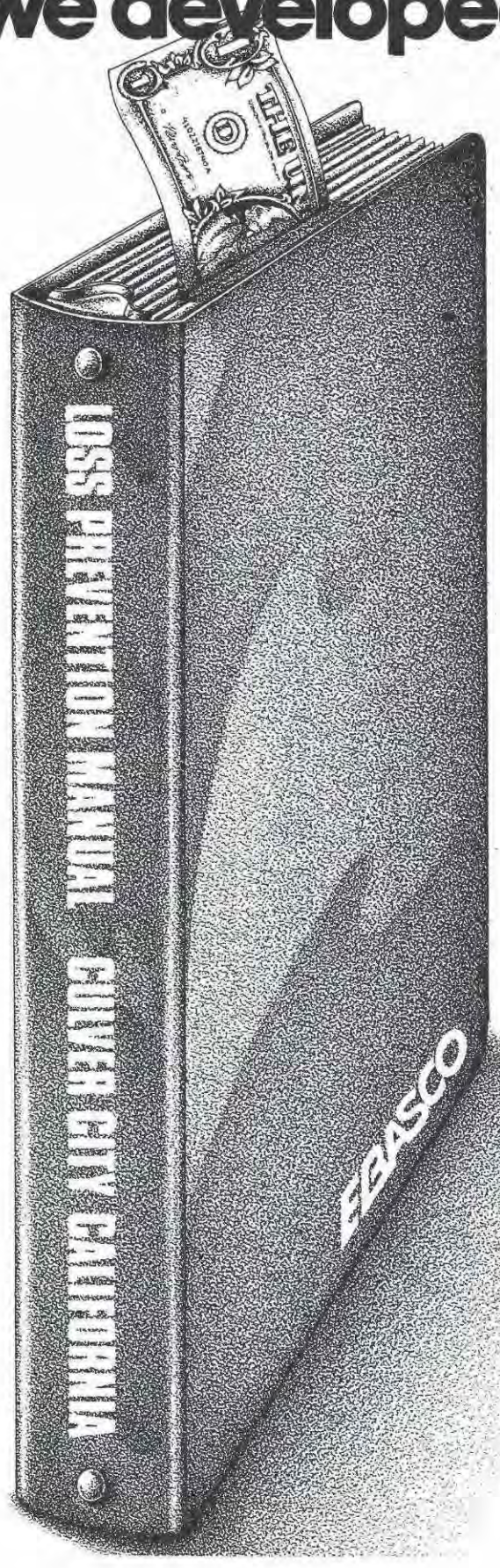

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Healthy business climate nurtures insurer growth

Continued from page 15A

away the most profitable in the past two years.

The $2.9 billion California market represents 30% of the nation's workers compensation premium dollars, according to a recent study published by stock analysts Moseley, Hallgarten & Estabrook.

Since other property/casualty insurance business has been fraught with rampant rate-cutting, profitability has evaporated in California as elsewhere around the country.

California's minimum rate law for workers compensation insurance, however, fixes premiums at profitable levels, so nearly every insurer in the state has been struggling to increase its market share of workers compensation insurance business.

Investment dollars

Since workers compensation insurance premiums are linked to payrolls, California's three-year employment boom has put premium dollars into the investment portfolios of insurance companies. That phenomenon may be short-lived, however.

"We're in an era now of declining profitability," reports Stanley R. Zax, president of Zenith Insurance Co., one of many specialty workers compensation insurers in California.

These companies say the state's rating structure puts extra emphasis on loss prevention, claims management and other services in which they excel, competing successfully with the national heavyweights.

Workers compensation insurers also specialize by risk. Employe Benefits Insurance Co., for example, writes more than half of the state's logging risks. Western Employers Insurance Co. handles only large accounts. Argonaut Insurance Co. bills itself as a specialty insurer for workers compensation risks with multistate exposures.

Given the relative profitability of the workers compensation system, insurers are loathe to change it.

Commissioner's view

In recent months, state insurance commissioner Wesley J. Kinder has suggested that open competition of workers compensation would spur new marketing innovations, enhance underwriting flexibility and eliminate other inequities he perceives in the system **(See related story, 15C).**

Nearly all California insurers are opposed.

The industry, on the other hand, supports a pending legislative proposal that would increase benefits to injured workers to $280 from $154—an 81% increase, in exchange for administrative reforms designed to decrease litigated claims (*BI*, May 26).

There is widespread insurance industry, labor and business support for the bill, which could be enacted this summer. ■

Big chunk

The $2.9 billion California market represents 30% of the nation's work comp premiums.

Extortion cover

Hull & Co. (California) Inc. has introduced a policy covering products extortion against manufacturers, wholesalers, retailers and service risks. Coverage is available to limits of $20,000. More information is available from Hull & Co. in Santa Ana, Calif.

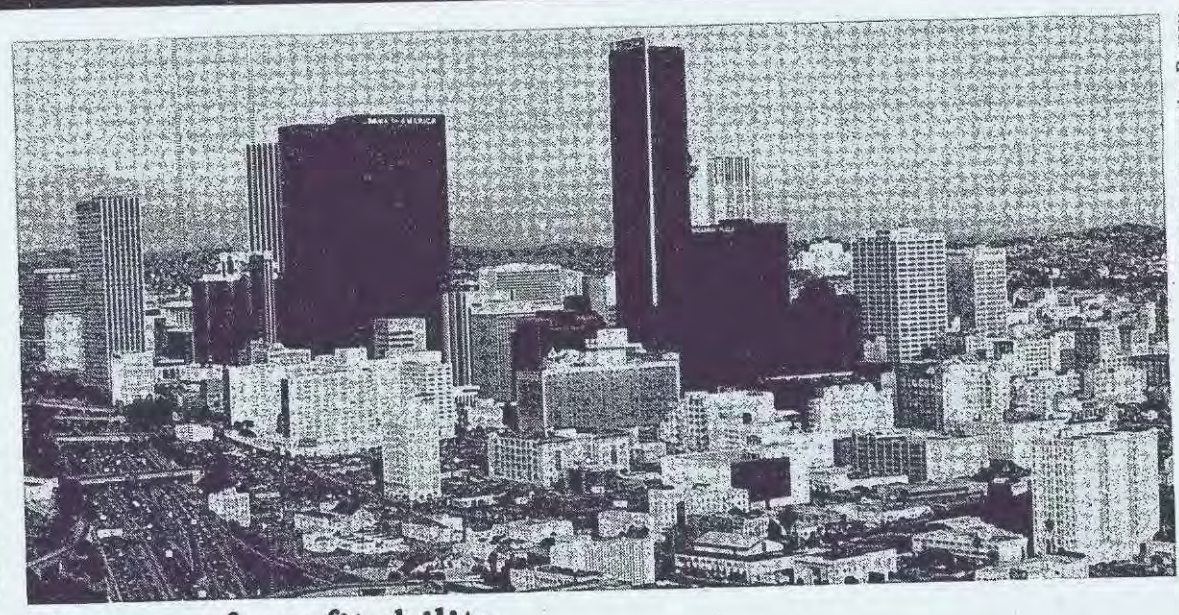
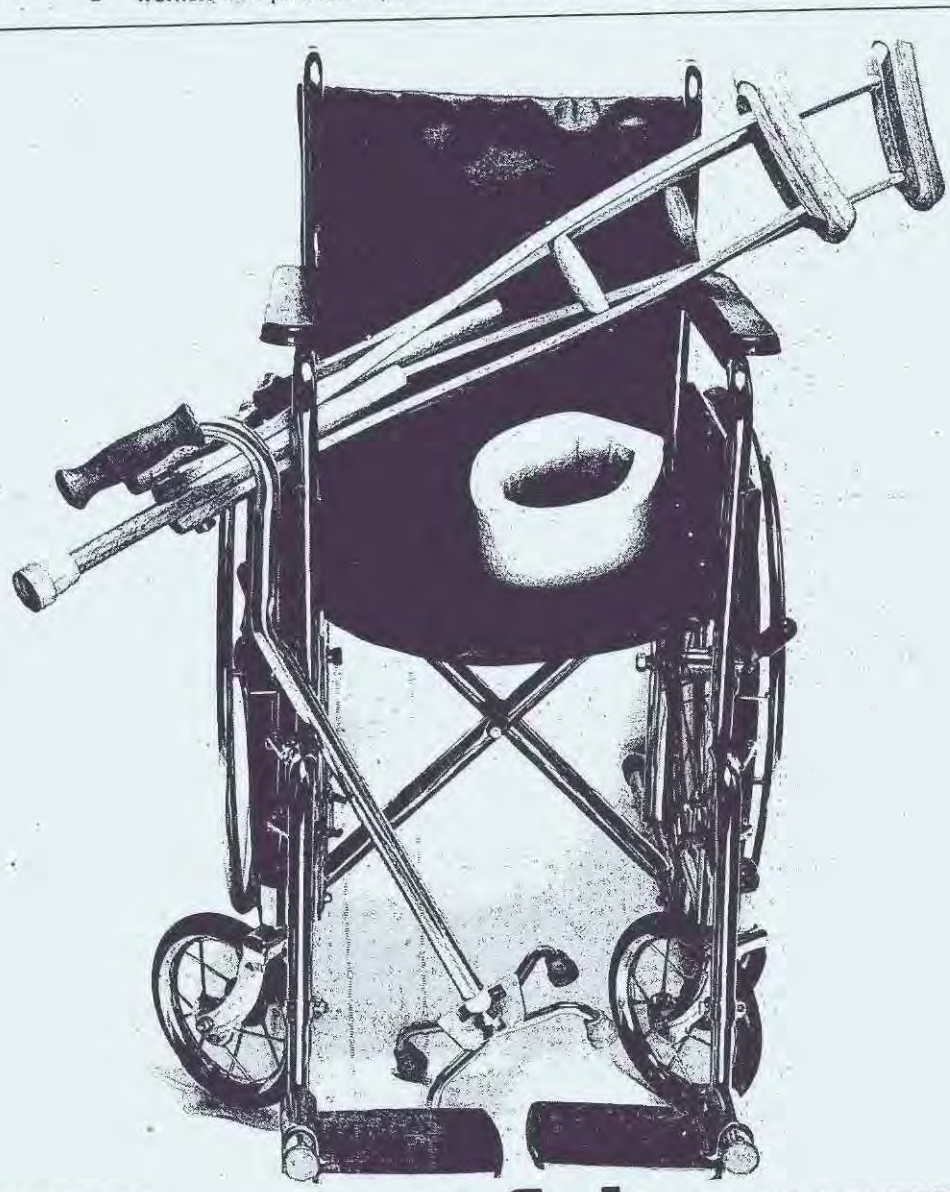


Photo: L.A. Convention Bureau

Picture of profitability

California's three-year employment boom has put workers compensation premium dollars into insurers' investment portfolios. Above is a view of bustling downtown Los Angeles.



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Six leading California firms

Argonaut restores its surplus strength

Photo: Rhonda Rundle

MENLO PARK, Calif.—Crippled by the California physicians malpractice crisis a few years ago, Argonaut Insurance Co. has restored its surplus strength and is flexing its underwriting muscle once again.

Argonaut's two specialty lines, workers compensation and hospital professional liability insurance, earned net premiums last year of $243 million. Surplus grew 145% to $237.9 million, an extremely strong buffer to absorb unexpected losses.

Success story

Lawrence Baker, left, and John Pasqueletto have seen Argonaut regain profitability.

"Unlike other California workers compensation specialty carriers, Argonaut has the capability of offering a specialized market to national accounts with multistate exposures," contends president Lawrence C. Baker Jr. Other companies may be licensed in 50 states, he argues, but they lack the local facilities to give good service outside the West.

Argonaut has been using some of its accumulating capital to expand geographically, adding to its 32 offices across the country and upgrading services at existing locations.

"We want to increase our market share in California," Mr. Baker said. Since November, Argonaut has aggressively pursued new hospital liability risks in the state. Up to now, the company's principal writings in that line have been in the Midwest.

"We don't expect to knock the Truck Insurance Exchange out of its predominant position in the hospital business here," Mr. Baker said. "But California's a huge market and there's lots of room for competition."

No other insurer can offer hospitals the variety of policy options available through Argonaut, Mr. Baker contends. Among the alternatives are claims-made and deductible coverages, as well as quota-share participation in which the policyholder assumes a percentage of liability on each claim up to an aggregate policy limit.

California is a promising market for Argonaut's hospital insurance line, but premium volume in the market is declining nationwide, Mr. Baker says. "We've had a great many companies go self-insured as premium levels rise. Last year, total writings dropped 10% across the country," he said.

Many workers compensation insurers target their underwriting to relatively small, medium or large risks, but Argonaut handles small commercial accounts as well as jumbo risks.

> Argonaut has pursued new California hospital liability risks.

"We've always had the know-how to handle unusual, high hazard accounts," Mr. Baker added. "We've got some very large, heavy construction projects, including power plant wrap-up jobs, subway construction, mining risks and offshore oil drilling."

Until 1974, Argonaut was also an important market for medical malpractice insurance. Under previous management, the company expanded very quickly in that line during the early 1970s. But it didn't charge enough premium and in 1974 incurred a heavy underwriting loss. Company surplus dropped to $28 million at the end of 1974 from $128 million at the end of 1973.

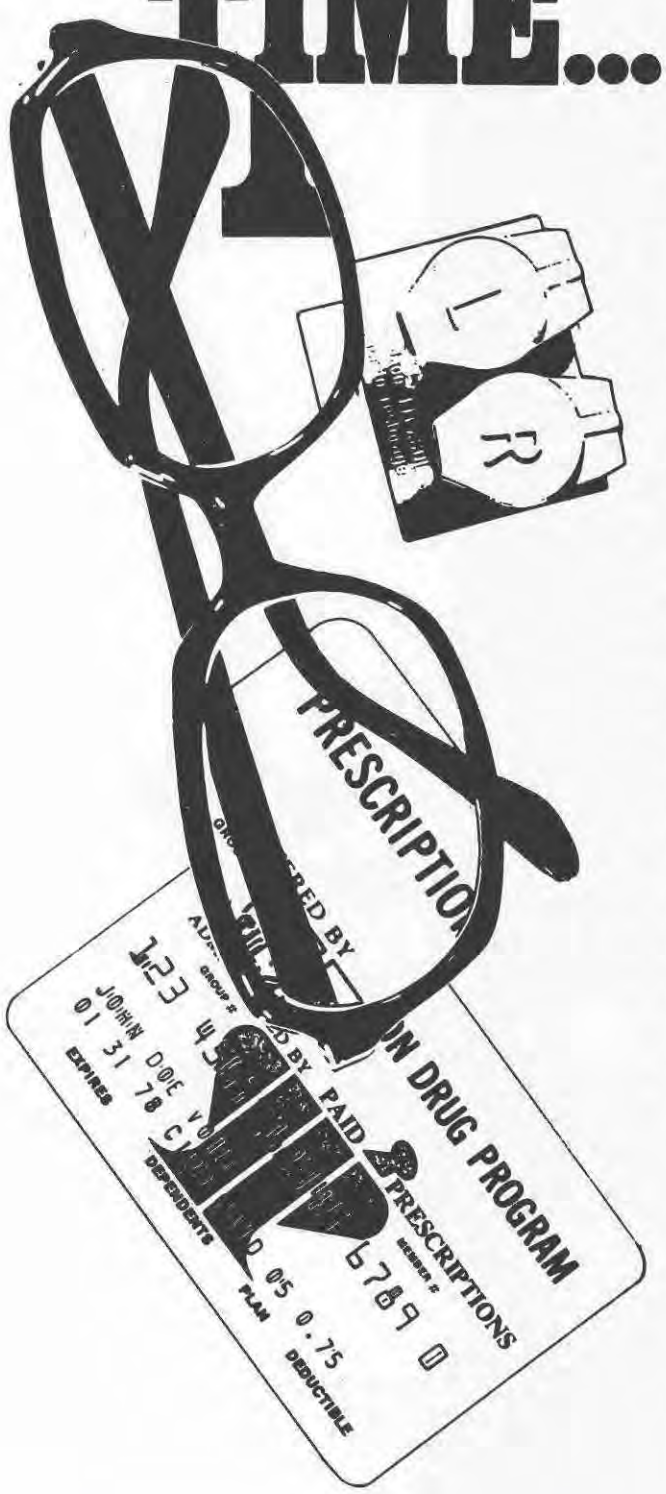
A number of top management people left and Mr. Baker, then chief deputy insurance commissioner for California, was drafted to bail out the ailing insurer. "We had to make some very dramatic changes in order to ensure the company's survival," he admitted.

Argonaut largely abandoned the physicians malpractice insurance market, continuing only to write the coverage in Hawaii and a few risks in Nevada and Northern California.

Mr. Baker's prescriptions seemed to have worked a cure. Although company surplus grew slowly at first, it has grown dramatically in the last two years. Argonaut regained its underwriting profitability in 1978 and is in very sound financial shape today.

Argonaut's relatively small home office is in Menlo Park, a quiet suburban community 40 miles south of San Francisco. The company is very decentralized, with 19 full-service offices around the country serving all 50 states and seven Canadian provinces. ■

IT'S ABOUT TIME...



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Bache brokerage unit continues its expansion

SAN FRANCISCO—Emerging virtually unscathed from this spring's collapse in the silver commodities market, the Bache Group is proceeding with its plan to become a major force in the insurance brokerage business.

"If anything, the silver market debacle has created an even greater impetus for Bache to diversify its operations into the insurance industry," declares Bernard Mizel, president of Bache's California subsidiary, Albert M. Bender Co. Bender is spearheading the security firm's insurance business expansion drive.

The broker division is the 14th largest commercial producer in the U.S. according to the 1979 *Business Insurance* ranking and should improve its status next year with acquisitions.

Bender should complete its acquisition of New York firm Ter Bush & Powell of Schenectady, N.Y., by early July, added Mr. Mizel.

Some industry observers feared that Bache might not be able to finalize this $10 million deal following its highly-publicized brokering of silver speculations for the Texas billionaire Hunt brothers.

Late last March, the Bache Group disclosed that the Hunts were unable to meet a $100 million call for collateral in the face of plummeting silver prices. The firm has since reported, however, that the Hunts eventually paid off their entire debt to the Bache Group.

The purchase of Ter Bush & Powell is the first major step in the march to make Bache's brokerage operations bigger business.

Bache has launched an aggressive acquisition program to establish insurance brokerage offices in major population centers throughout the United States.

"If you want to grow, you can do it internally or you can do it through acquisitions," observes Mr. Mizel. "Internally takes too long and we think we can be successful in finding other firms that are compatible with our company."

The ultimate objective, however, is to make the Bache Group the nation's leading financial services "one-stop vendor," able to provide property and casualty insurance, life and employe benefits programs, self-insurance administration, financial planning, tax shelters, securities, bonds and commodities investment services.

The Bache Group already has such services available in New York and California, says Mr. Mizel. "If we handle this thing correctly and get positioned within the next five years, we will be able to offer these services in all major cities throughout the country."

Such rapid growth often breeds problems of its own, but Mr. Mizel is not concerned. "We're carefully monitoring existing accounts," he notes, "and we have developed enough acquisition expertise to avoid many of the pitfalls that historically trip up fast-growing firms."

To avoid a lack of experienced managers, Bache is seeking to buy strong regional brokers with principals who are willing and can carry on the business after the sale.

Also, brokers acquired by Bache retain their own identities and are not physically merged into Bache or Bender, he added. Some accounting adjustments are necessary to mesh financial results, but the acquisition is encouraged to continue its style and retains a substantial degree of autonomy.

Mr. Mizel expects Bache to set up a holding company to write the insurance brokerage operations under the name Bache Insurance Services and allow each office to assume the Bache label while retaining the old identification in hyphenated names such as Bache-Bender or Bache-Ter Bush ■

Growth plan

'We think we can be successful in finding firms that are compatible,' says Bernard Mizel.

Fremont works its way near top

LOS ANGELES—Ask any knowledgeable broker what the up-and-coming insurance companies are in California and it's a safe bet Fremont Indemnity Co. will rank high on the list.

Ten years ago Fremont was an obscure specialty company writing workers compensation coverage in Southern California. Today Fremont is among the top five workers compensation insurers in the state, No. 2 in Arizona and building business in Oregon.

Workers compensation is still the bread-and-butter line for Fremont, but strictly speaking, the company is no longer a specialty insurer. Fremont does not underwrite primary liability, but it is into most other forms of casualty and property coverages, especially package programs.

And corporate ambitions are even bigger. "In the future, we'll be much more of a general store," says Fremont president David L. McIntyre. Eventually, he sees Fremont vying with industry giants such as Fireman's Fund, INA and Aetna Life & Casualty.

In 1963, at age four, the company was acquired by a group led by Lee E. McIntyre, who is now the chairman of the

Continued on next page

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Big on work comp

Fremont works its way up near the top

Continued from previous page
corporation. When Fremont went public three years ago, the McIntyre family retained about 36% of the stock. Two sons, James A. and David L., serve as presidents of the corporation and the indemnity company, respectively.

Fremont's growth in the 1970s has been impressive. Premium income has increased tenfold to more than $200 million in 1979 from about $20 million in 1974. While the company is absorbing that spurt and underwriting competition stiffens, growth is expected to slow to a healthy 15% to 20% in the next decade.

The insurance company's plans to diversify into other lines reflects the desire not only to become a multiline insurer, but also to keep pace with the one-stop shopping trend. Fremont considers itself at a marketing disadvantage with agents who want to put "the whole ball of wax together" for a client with multiple exposures.

"Everybody is trying to combine different coverages," David McIntyre explained. An insurer will offer to write the general liability on a risk but insist on scoring the workers compensation, too. Fremont has been held back by its lack of a primary liability product, which it is now developing.

But Fremont has been a successful excess liability market since the early 1970s. Comstock Insurance Co., with an initial capitalization of $5 million, was spun off in January to take over and expand the corporation's special risk and excess liability coverages.

Unlike Fremont with its heavily regional orientation, Comstock will write business nationwide. Comstock president Harry Degner plans surplus lines status for the company in all 50 states.

Besides workers compensation, Fremont is known for its specialized package programs, tailormade to small and medium-sized risks in such commercial businesses as restaurants, liquor stores and service stations. "Our largest individual book of business is restaurant package programs we've been writing for a number of years through the RIC General Agency in Orange County," Mr. McIntyre said.

Since packages were introduced into the industry a dozen years ago, they have been tremendous moneymakers for insurers. In today's fiercely competitive market, however, rates have plummeted, sinking the profitability of these products along with them.

Fremont won plaudits from brokers a few years back when spectacular court awards drove insurers out of the liquor liability market in California. Fremont continued to offer the coverage through its package program.

That kind of consistency has played a key roll in Fremont's success, believes its chief executive officer. Fremont made its tremendous market share gains during the 1974-75 tight insurance market crisis. While other major insurers were drawing in the reins, Fremont was gobbling up their old business.

Besides Comstock, Fremont General Corp.'s other affiliates include two life insurance companies acquired last year, Commercial Bankers Life Insurance Co. and Menlo Life Insurance Co.; two reinsurance companies, Fremont Reinsurance Co. Ltd. (Bermuda) and Fremont Insurance Co., and a number of commercial finance and leasing companies and underwriting managers and agencies. ■

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MEMBER, MISSION INSURANCE GROUP INC.

The Mission Group earns high marks for market stability

LOS ANGELES—The Mission Insurance Group here has a knack for knowing when to get into an underwriting line, industry sources marvel.

The group has been expanding its business in California's profitable workers compensation market since 1977. Today, nearly three-quarters of the group's insurance companies' underwriting is in workers compensation, 90% in California and Arizona.

Workers compensation underwriting income jumped to $5.7 million in 1979 from $1.6 million in 1978. That was more than enough to offset losses totaling $4.2 million in commercial general liability and multiperil lines. These markets nationwide have generally been beset with overcompetition and rate-cutting.

Mission Group also gets high marks for being a very stable market, one that can be depended upon when the underwriting cycle turns sour. Many companies shut the production window in August 1975, but the Mission continued to write both new and renewal business.

Contrary to the decidedly conservative image suggested by such stability and the staid, dignified demeanor of Mission executives, brokers describe the company as being very "aggressive" and "entrepreneurial."

"We're risk takers," declares E.R. "Dick" DeRosa, group president. The Mission is not afraid to break new ground or handle difficult or unusual risks, he says. This attitude harkens back to the Lloyd's of London link established through Sayre & Toso, the oldest member of the Mission Group.

Specializing in excess/surplus lines underwriting and marketing since 1906, Sayre & Toso has been ideally situated to benefit from the foreign influx of underwriting capital into the U.S. in recent years. In 1979 the firm topped the list of leading excess/surplus brokers compiled by *Business Insurance* (Sept. 17, 1979).

The California regulatory environment has created a very hospitable environment for the excess/surplus lines business, points out Mr. DeRosa. That's because insurers do not need prior approval of individual forms. Brokers can be more creative.

The Mission's enthusiasm for creative underwriting does not extend to cash-flow plans, however. The paid-loss retrospectively rated policy for workers compensation, in particular, stirred the California industry recently when the department of insurance first questioned and then approved its use under

Photo: Rhonda Rundle

"We're risk takers," says E.R. "Dick" DeRosa, president of the Mission Group.

certain carefully detailed conditions.

These policies discriminate against small policyholders, contends Mr. DeRosa. "Where do you draw the line?" he asks. "If you offer them to a $1 million-policyholder, can you refuse the same plan to the $900,000 account?"

Such approaches endorse the use of investment income in the rate-making process "which is absurd and should not be encouraged," argues Mr. DeRosa.

The Mission Group's newest member is the Enterprise Insurance Co., formed last year to furnish "handcrafted" all-lines protection for large risks and industry associations that generate $500,000 or more in annual premium.

The group's other insurance subsidiaries include the Mission, Holland-America and Mission National. Pacific Reinsurance Management Corp. and Mission Re Management Corp. provide commercial treaty and facultative reinsurance.

Sayre & Toso's sister managing general agencies within the Mission Group are George S. Kausler Ltd. of New Orleans and Carillon Managers International Insurance Services Inc. ■

Harbor stores capacity for tight market days

LOS ANGELES—Harbor Insurance Co., a multiline commercial insurer of hard-to-place property and casualty risks, refuses to cut its underwriting throat to win business. As a result, it hasn't been writing much.

"Our underwriting posture is not a deliberate company policy, but reflects the best judgment of our seasoned underwriting team," explained Mac Henderson, president of Swett & Crawford Group, Harbor parent and subsidiary of the giant Continental Corp.

"Putting long-tail business on the books at inadequate rates is a sure way to go to hell in a handbasket," Mr. Henderson declared.

Harbor's surplus outstrips its annual premium volume, highly unusual for insurers that usually maintain a premium writing ratio closer to two or three times surplus.

This tremendous stored capacity will put Harbor in a prime position to write risks once the market tightens again, as it did in 1974-75. At that time, Harbor was able to write gap and low-level excess liability at very profitable premium rates.

Harbor's virtual underwriting moratorium is frustrating to its producers, Mr. Henderson admits. Swett & Crawford surplus lines brokers are hard-pressed to write risks for their captive market and must scramble alongside their competitors for the cheapest markets.

There's no moratorium on creative underwriting ideas, however, Mr. Henderson says. But the ideas should come from the buyers, he stresses. "They are the ones who best know their needs. Working with their broker, they can bring us proposals that will better serve their needs than the products we develop here."

To strengthen this entrepreneurial spirit at Swett & Crawford, Mr. Henderson plans to build up the group's brokerage arm in coming months. By the end of the year, he says, renewed aggressiveness from Swett & Crawford will be felt in the marketplace.

Harbor is also looking around for new areas of opportunity where it can make a move on the market. Excess coverage for self-insured employe benefit programs is one new product for which the insurer has high hopes.

"We're also looking at the inland marine business, motion picture coverages and the accident and health business," Mr. Henderson said.

Business is still brisk in the directors and officers liability line, where Swett & Crawford ranks No. 2 nationwide behind American Home. In many instances, Swett & Crawford has been able to meet market demand for higher limits of D&O liability insurance by using domestic and London markets to place excess coverage over primary coverage.

Swett & Crawford is a long-standing Lloyd's correspondent. It has close contacts with London brokers and a joint venture interest in Guest Spencer & Co. Ltd. that provides ready access to the world market.

Harbor got in on the ground floor writing D&O coverages but the company's reputation was really built on creative underwriting of complex risks such as large construction projects, railroads and utilities.

"The ability to underwrite a risk outside the parameters of many companies is our trademark," Mr. Henderson said. Harbor has been known to issue quotes on a sizable risk within days.

Careful selection of reinsurance facilities is critical to Harbor because its underwriting generates so much long-tail business. Mr. Henderson explains: "When a big claim is settled 15 years after an accident, you want to be sure the reinsurer is going to still be around."

Besides Harbor Insurance Co., other Swett & Crawford subsidiaries include RFC Intermediaries, Buffalo Reinsurance and Unionamerica Insurance Co. Ltd. ■

Photo: Rhonda Rundle

Harbor may expand into inland marine, says president Mac Henderson.

Zenith sticks with work comp

ENCINO, Calif.—Look at almost any industry today and you'll see the advantages of specialization, says Stanley R. Zax, president of Zenith Insurance Co. "Our business is no different," he notes. "If management can focus its attention on one line, it's bound to do a better job."

Zenith Insurance Co. is one specialty workers compensation insurer in California that is not "caught in a ego trip to expand," Mr. Zax stresses. Founded in 1949, the company did flirt with other lines until the late 1970s, when it abandoned those coverages shortly before the present management took over.

"We studied the company before we bought it," Mr. Zax said. "At the same time, we noticed that all the other specialty carriers were diversifying into other lines. That created an opportunity for someone to go back to the basics, stick to the comp business and do it better than anybody else. We aimed to become the Cadillac in this market."

Mr. Zax joined the company in late 1977 after he and a group of

Continued on next page

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Specialized attention

Zenith carves its niche in workers comp

Continued from previous page
investors acquired a controlling interest in the company from the City National Bank of Beverly Hills. Coming off a three-year stint as president of the Great American Insurance Co., Mr. Zax knew the California market, perceived the opportunities there and had an impression of the difficulties national insurers experience trying to compete in California's distinctive workers compensation environment.

"When we took over the company in 1977, we had to reevaluate the direction of the company and what it was doing," Mr. Zax recalled. The company was weak in its statutory capital and a program was launched to curtail its growth and shore up reserves. This resulted in a period of withdrawal, when direct premium underwriting dropped to about $60 million from a high of $75 million the year before.

Although reflected in the 1978 accounting figures, that fitness program really took place in 1977, Mr. Zax says. "At that time we ceased doing business with some companies and ceased writing what we considered were weak underwriting risks."

The company also set about boosting its service capability to policyholders, including safety programs and claims management. Today, for example, Zenith operates a special unit to handle back cases, comprising about a third of the total workers compensation claims. "These are specialists among the specialists," Mr. Zax noted.

Last year the company also began publishing a monthly newsletter for producers that capsulizes recent developments on the workers compensation scene, as well as procedural changes at Zenith. "Very professional, very informative," several brokers told *Business Insurance*.

Zenith does suffer from some of the same marketing problems that other specialty insurers experience, Mr. Zax concedes. "Agents come to us and say, 'We're having a hard time placing the liability on this account and the other company insists they have to have the workers compensation to support a bad liability.' " Insurers discount other lines of business in order to get the workers compensation that is so profitable in California.

"That's not selling workers compensation on its merits," Mr. Zax complained. Nor do arbitrary production goals contribute to good underwriting, he adds. "We're not in business to write business, we're in the business to make a profit. Perhaps we'll expand less, but we'll have a better opportunity over the years of having an above-average profit."

Zenith is particularly proud of its impressive loss ratio—the measure of professional underwriting. According to an information memorandum published by stock analysts Bear Stearns last year, Zenith's low loss ratio of about 67% ranks No. 2 behind Fremont Indemnity Co. among U.S. stock companies. That is 14% less than the national average. ■

California sets employe benefit trends

West Coast Viewpoint

By MICHAEL F. WADE

PLAN SPONSORS, consultants, insurance companies and others of the employe benefit community have often looked to California for trends and practices that will affect benefit planning throughout the country.

California is a major economic region and our employe practices and benefit programs cover employes throughout the country, influencing benefit planning in many areas.

It would be unfair to attempt to stereotype a "typical Californian," but one could project the business community as relatively young, aggressive, innovative and usually open to new ideas. These same traits extend to most areas of our employe benefit planning.

In addition to the typical defined contribution or defined benefit retirement plan, qualified retirement planning might include the employe stock ownership plan that was developed for two employers in the Bay Area by attorney Louis Kelso with Jim Zischke. Interestingly, both companies successfully transferred ownership to their employes and now have reverted once again to more conventional approaches to providing post-retirement income benefits.

The floor plan provides a supplement to establish a minimum benefit level under a defined contribution plan, usually a profit-sharing plan, with the defined contribution plan the dominant benefit. Most floor plans in the past 15 years were confined to the medium-sized employer, but considerable interest in this approach has recently been generated among larger employers in the electronics industry.

Target benefit plans and money purchase past service plans were widely used, but the limitations under the Internal Revenue Code (415) and participation requirements of ERISA have limited their effectiveness.

The plan administrator must keep a wary eye on the California courts. In a number of rulings they have required premature distributions of qualified plan assets as settlements in divorce cases. A major challenge arises: should the plan administrator make the required distributions and disqualify the plan, or should he or she protect the plan's qualified status and be faced with possible court action?

Life insurance schedules for medium- and larger-size employers customarily replace the traditional companion AD&D benefit with a voluntary AD&D schedule and the premium waiver provision has been eliminated in many cases. Care must be taken when paying death benefits, as one-half of a group death benefit may be payable to a divorced spouse under California Community Property Law.

Medical expense benefits do not follow any particular pattern, but they are usually free of inside limits that would transfer claim costs to the participant. The relatively high costs of hospital and other medical services, with room and board rates exceeding $200 per day in some major urban areas, have encouraged high maximum benefit limits of $500,000, $1 million and in many cases no maximum limit.

Many medical plans are partially or fully self-funded, including plans with as few as 25 participants. On minimum premium contracts California is attempting to assess premium taxes on claim payments as well as deposits for reserves, pooling charges and retentions.

Because of the uncertainty regarding the payment of these taxes, the split-funded or administrative service only contracts are the primary funding vehicle if an insurer is to provide claim payment services.

Health maintenance organizations have proliferated in California, with the largest being the Kaiser hospital system and the recently qualified Ross-Loos Medical Group in Los Angeles. Although these organizations are well financed and have a long history of operation, the group benefit plan sponsor must carefully review the financial structure and service facilities of each of the many alternatives.

California has experimented with many different approaches to providing dental expense benefits. In addition to the typical scheduled benefit approach or the comprehensive dental plan, incentive dental and plans that pick up 70% of the costs with 30% copayment have from time to time enjoyed widespread popularity.

Because of the early acceptance of dental benefits in California, many plans have been neglected and now require review to update them to current benefit levels and

Continued on page 15V

Michael F. Wade

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MARKETING
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Document decisions in product design

By William G. Welzenbach

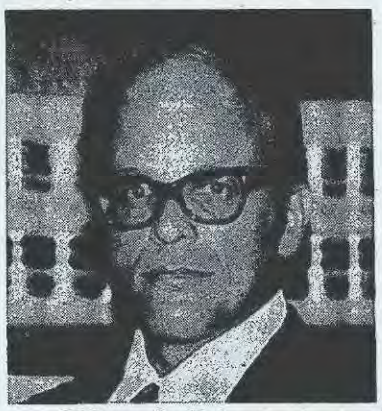
CALIFORNIA manufacturers face the heavy burden of proving in court that their products embody the safest feasible design under new product liability standards established in a recent California supreme court decision, Barker vs. Lull Engineering Co.

To protect themselves against this move toward true strict liability, manufacturers should document their policy decisions when designing a new product. Such records could prove invaluable in a product liability defense.

The Barker vs. Lull decision went to the heart of defining a design defect in a product liability action, setting up a two-pronged test. The product is defective if:

• It fails to perform as safely as an ordinary consumer would expect when used in an intended or reasonably foreseeable manner, or

West Coast Viewpoint



William G. Welzenbach

• The manufacturer fails to prove the benefits of the design that caused the injury outweigh the risk inherent in the design.

The first instruction is somewhat analogous to the Uniform Commercial Code's warranty of fitness and merchantability and allows the plaintiff to recover if the product does not perform as an ordinary consumer would expect.

Because in some instances a consumer might not know what to expect or how safe a product could have been designed, the court added the second instruction.

The confusion resulting from this unprecedented shift from the plaintiff's burden of showing the existence of a defect to the defendant's burden of showing there is no safer, feasible alternative design is apparent in some of the appellate court decisions attempting to apply the Barker vs. Lull instructions.

One such case is Garcia vs. Joseph Vince Co., in which a student was injured by a sharp-tipped sabre going through his facemask during a school fencing meet. The court stated that even if it were assumed that the mask was used in a reasonably foreseeable manner, the plantiff must show an alternative design to meet his burden of proof.

Barker vs. Lull did not alter the need for demonstrating the availability of a reasonable alternative design, but simply shifted to the defendant the burden of proving the unreasonableness of an alternative.

Although California product liability seems to be moving closer to true strict liability in the Barker vs. Lull opinion, the California supreme court moved it a step in the opposite direction in another case that held comparative negligence was a defense in a product liability suit.

In Daly vs. General Motors Corp. the plaintiff alleged that the door latch on a car was defective because it opened upon impact. General Motors was able to introduce testimony showing the overall safety design features of the car, to prove that the product was not defective.

Following the Daly case, manufacturers can use comparative negligence as a defense in product liability actions. The manufacturer can mitigate its liability by the proportion of negligence shown by the plaintiff's misuse of the product.

An interesting variation in the factors that can be weighed in a design defect case was presented by the appellate court decision in Cavers vs. Cushman Motors Sales Inc. The issue here was the manufacturer's alleged failure to warn of a golf cart's tendency to tip when turning sharp corners.

The court held that in cases involving warning of "defects," the trial court should consider:

• The consumer's normal expectations of how the product will perform.

• Degrees of simplicity or complication in the operation or use of the product.

• The nature and magnitude of the danger.

• The likelihood of injury.

• The feasibility and beneficial effect of including a warning.

Where California product liability law will lead in the future is open to debate. The supreme court in Barker vs. Lull stated in a footnote that it may extend the manufacturer's liability to products whose "norm is danger." Yet the opinion also makes clear that the court is not going to make the manufacturer an insurer.

•

William G. Welzenbach is a partner in the Los Angeles law firm of King, Williams & Welzenbach.

Juror considerations

Jurors may weigh the following factors in deciding whether a product design is defective:

- Gravity of the danger posed by the design.
- Likelihood that such a danger would materialize.
- Mechanical feasibility of a safer alternative design.
- Financial cost of an improved design.
- Adverse consequences to the product and the consumer that would result from an alternative design.
- Avoidability of injury by care in use of the product, including the effect of instructions and warnings.

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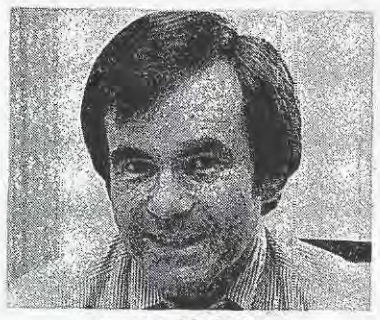
Courts erode the exclusive remedy rule

By JOSEPH M. MILLER

West Coast Viewpoint



Joseph M. Miller

JUDITH LEE GALLAGHER probably should have stayed home on Feb. 20, 1970. Dominic Magliulo, her boss, probably should have stayed home, too. If they had, they would have avoided the trouble that occurred that day when Ms. Gallagher came in to work at Mr. Magliulo's bar and restaurant, the Crow's Nest, at San Francisco's Pier 37, in her regular job as a waitress.

Mr. Magliulo, who also worked on the premises as a bartender, got mad at her, tried to pull her out of the kitchen, hit her and threw her down after she admonished him not to touch her.

Ms. Gallagher filed a claim before the California workers compensation appeals board and also filed a civil action in superior court against her employer alleging, among other things, that Mr. Magliulo had intentionally assaulted her and had also engaged in such wanton and willful conduct as to demonstrate a reckless disregard for her safety.

The California appellate court concluded that under the circumstances, Ms. Gallagher was not limited to a workers compensation claim. In other words, she could file a workers compensation claim and a civil action or she could choose one of them.

Ms. Gallagher, Edward Renteria, James Edward Douglas and Thomas P. Mitchell have probably never met each other. Yet each was the principal in a case contributing to the erosion of the "exclusive remedy rule" in California. As a general proposition, the workers compensation system has provided the exclusive remedy for claims by an employe against an employer for job-related injury or death.

In recent years certain significant inroads have been made into the exclusive remedy rule. When an employe successfully sues the employer in a civil action, there may be problems of insurance coverage, particularly in the somewhat gray area of intentional torts.

In addition, there appears to be some likelihood in California that the courts will soon permit an injured worker to sue for "bad faith" handling of his workers compensation claim, comparable to the bad faith actions that have been brought under other types of insurance.

Although such claims would normally be brought against the insurer, it is not difficult to imagine a scenario where a claim of bad faith would be brought against a self-insured employer. A successful plaintiff in a bad faith claim may recover punitive damages as well as compensatory damages.

Ms. Gallagher's case involved an intentional assault by the employer against an employe. The other inroads are of equal interest.

Mr. Renteria worked as an investigator for the Orange County department of social services. Bypassing the workers compensation system entirely, Mr. Renteria filed a civil action for damages against his employer and certain fellow employes, contending they had inflicted mental anguish and emotional distress on him by treating him in a rude and degrading manner, placing him under surveillance, subjecting him to lengthy interrogations and discriminating against him because of his Mexican-American descent.

Although Orange County contended that the workers compensation system had exclusive jurisdiction to provide a remedy for the wrongs alleged by the complaint, the appellate court disagreed and found the civil action was proper. The court seemed to believe that mental suffering was not a compensable injury under workers compensation and therefore a claim for mental suffering, in the absence of physical injury, could be brought in a civil action.

Risk managers, corporate insurance managers and insurance brokers should carefully review their liability coverage to determine whether it is adequate in the light of these developments. The time is long past where it could be taken for granted that a job-related injury automatically comes under workers compensation.

•

Joseph M. Miller, an attorney, is a certified specialist in workers compensation law. He is counsel to the management labor law firm of Seyfarth, Shaw, Fairweather & Geraldson, with offices in Los Angeles, Chicago, Washington, New York and Miami.

Exceptions to rule

Exceptions to the exclusive remedy rule, carved out by the California courts, are as follows:

- Where the employer stands in a dual capacity:

The employer manufactures a product for sale to the general public. The employe is injured on the job as the result of a defect in the product.

The employer is a doctor and negligently treats the employe for an industrial injury.

The insurance company hires investigators whose activities cause emotional harm to the employe.

- Where the employer has intentionally assaulted the employe.
- Where the employer has intentionally inflicted emotional distress upon the employe and there is no physical injury or other work-related disability.

California sets the trend in benefit plan design

Continued from page 15T

more appropriate plan design.

Vision care plans have been established particularly among governmental groups and negotiated plans. Group legal has seen some support since its status was enhanced in the Revenue Act of 1978. It is expected that group homeowners plans will be offered on a mass marketed basis once their tax status has been clarified.

Flexible compensation offers an alternative to the plan sponsor who wishes to allow participants some discretion as to individual plan design. This technique was successfully pioneered by TRW in Redondo Beach in the late 1960s and now enjoys a resurgence since it was also granted favorable status by the 1978 Revenue Act.

While some larger employers are looking to the cafeteria or flexible compensation approach, some smaller employers in the electronics industry have been successful in attracting younger workers by offering only a limited benefit program to meet the catastrophic situation, but substituting four or six weeks of vacation after only six months of employment.

This overview of benefit planning in California cannot list the many state statutes and regulations affecting employe benefit plans. A particular concern to California employers, however, is that many of these state regulations d. not parallel similar federal regulations.

In addition to the California Community Property Law, we must comply with the Fair Employment Practice Act, which applies to employes over age 40 without the age 70 limitation of the Age Discrimination in Employment Act.

Another inconsistency is the federal estate tax exclusion on certain distributions from qualified plans, which is not granted under the California inheritance tax law. ▪

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Michael F. Wade is a consultant with the The Wyatt Co., directing the firm's San Francisco group benefit consulting practice. He currently serves as the president of the 275-member Northern California Employe Benefits Council.

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Staying in business

Competition creates risk-funding options

By DAVID R. HOSKINS

WHY DO AGENTS fear alternative risk financing? If you ask that question of 100 agents, 99 will tell you, "If my client self-insures I'll lose commission income. Why should I sell something that cuts my own throat?"

Let's dig a little deeper into this whole mystery of alternative risk financing. Let's face it, there is probably only a handful of people who really understand the subject; for most others, the logical consequence of ignorance is fear.

Add to this the usual ostrich-like approach of many insurance companies and it's little wonder agents would be opposed to these relatively complex new ideas.

West Coast Viewpoint

David R. Hoskins

Unfortunately for status quo buffs, time marches on. Insurers soon realized that in spite of their vocal opposition, corporate buyers would find alternatives to traditional insurance and a number of forward-looking companies, notably AIG and INA, took positive steps to serve these buyers.

A new breed of risk/money managers was stripping away the mystique of the insurers. The corporate goal was to lower the cost of risk with pre-tax dollars, including the value of money.

At 20% interest, buyers have to find ways to hold onto money. Everyone wants to pay for services when rendered and insurance should be no different. It didn't take shrewd corporate buyers very long to understand that insurers were getting huge returns on invested unearned premiums and loss reserves.

Risk managers also wanted to be free to pick and choose claims handling and other management services—not be forced to take insurer services as part of the premium. The popular term "unbundling" was coined to describe this method of purchasing services.

New, privately owned service firms have sprung up all over the country and one need only look at ESIS (INA), NATLSCO (Kemper), UAC (Continental) or Scott-Wetzel (The Home) to realize the major insurers are following the pattern of "unbundling" services.

A few years ago only $1 million-plus premium payers looked at these risk financing options. Today that number can be as low as $250,000 depending on exposures, losses and interest rates. The agent must either accept smaller commercial accounts as his market or gear up to recommend and service alternative risk financing programs.

It is not surprising that most agents immediately think of self-insurance when alternative risk funding is mentioned. For years the only real alternative to traditional insurance was some form of self-insurance or self-funding. The insurance companies weren't inclined to offer much help and a few jumbo accounts were offered favorable cash flow plans... and this was only 10 years ago.

Today, agents and insurers realize there are too many advantages on their side of the ledger to "lose an account to self-insurance."

Legitimate insurers have one big advantage neither self-insurance nor captives can guarantee: tax deductibility of insurance premiums as an ordinary business expense. As the IRS continues its attack on self-insurers' loss reserves and premiums paid to captives, this advantage of the traditional insurer becomes that much more significant.

Insured plans are by no means always a better solution, but they are frequently overlooked by those selling captives or self-insurance. These insured programs are particularly effective on smaller accounts (those with less than $750,000 in annual losses) or where the client is concerned about potential tax problems.

One "insured" alternative is the "paid-loss retro." Unfortunately, the term has hung on and it only partially describes a variety of risk financing techniques. A more accurate description would be an "insured cash-flow plan with

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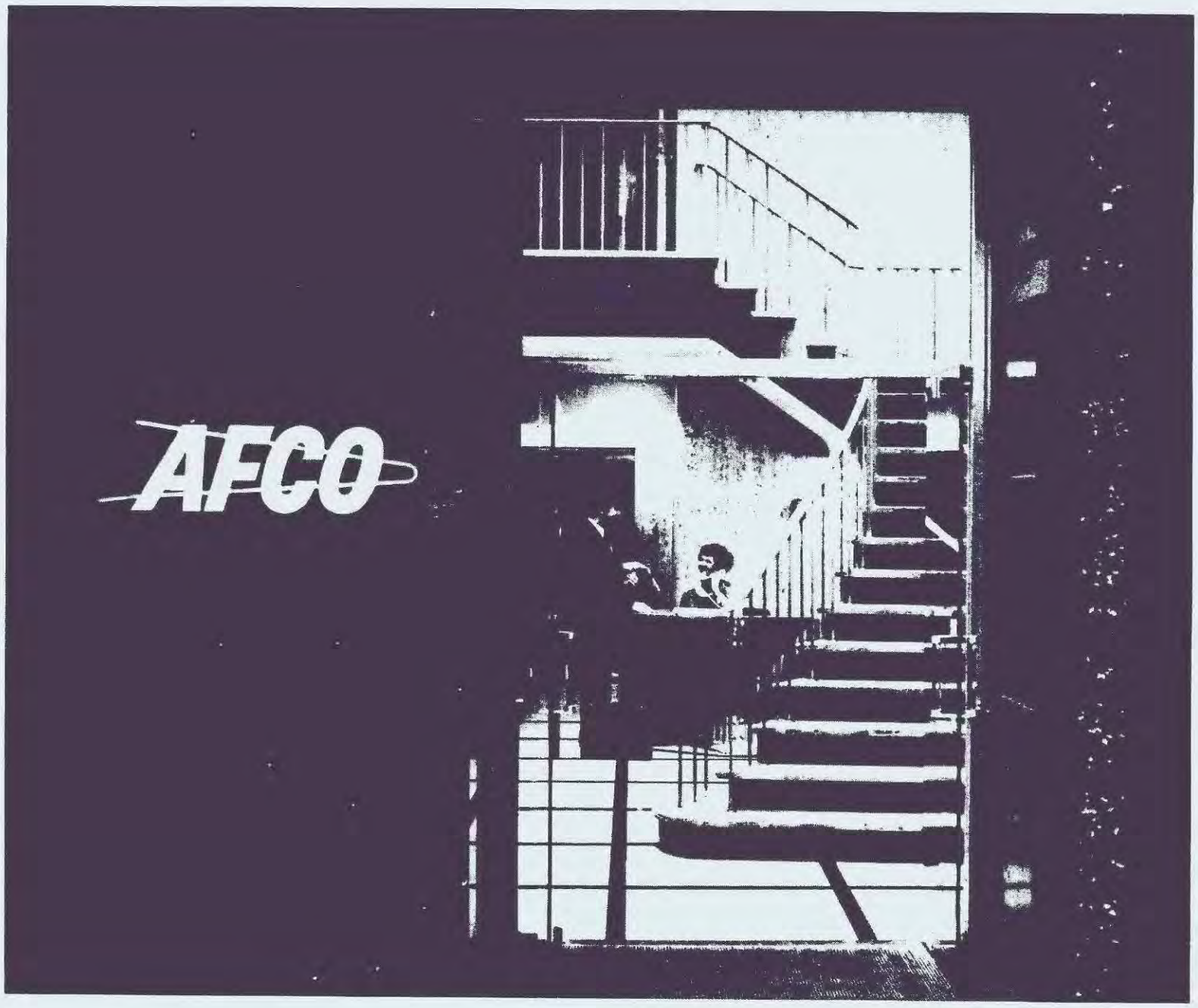

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Insurance provides alternative

Continued from previous page
transfer of risk at an appropriate level."

The object of these plans is to free up cash. The concepts are relatively simple: If an insured program can be constructed so the client pays only for claims as they are paid and expenses as they are incurred, then essentially the same thing as self-insurance is accomplished.

Unfortunately, insurers are required by statutory accounting principles to collect 100% of their billed premiums within 90 days. How then can the insurer postpone collecting the difference between the paid claims and the earned premium?

To satisfy the accountants and insurance commissioners, an arrangement must be made to "loan" the policyholder the difference, and the policyholder gives a promissory note on the amount "borrowed." The note is usually written at a very preferred interest rate and some insurers will further require the note be secured by an irrevocable letter of credit.

Insured option

The bottom line on paid-loss retro plans is that they are very close to self-insurance.

Two words of caution, however. First, the IRS frowns on these plans if there isn't some legitimate transfer of risk. In other words, there must be a reasonable maximum premium on the loss ratable portion or the IRS may consider it a sham and treat it like self-insurance.

Second, the note payable is considered tax deductible only for accrual basis taxpayers. Here the client's chief financial officer and CPA must always have the final word.

The bottom line on these plans is very close to true self-insurance. The costs for claims handling and loss control tend to be about the same.

The cost of excess insurance for the self-insurer is usually a little higher than the non-subject portion or excess coverage in an insured plan. Aggregate stop-loss coverage may not always be available to a self-insurer at any price, whereas it is a very routine part of any insured program.

After looking at many plan comparisons, the differences boil down to:

- Agent commission.
- Insurance company profit and overhead.
- State premium taxes. (Some states charge a self-insurer's tax.)

These last three items may be significant or inconsequential depending on the size of the account and the loadings attributed to each item. Usually, they are far outweighed by the after-tax benefits, particularly if the plans are being compared with captives and their associated capitalization costs.

Many clients believe the bottom line is so close that they opt for the insured programs to avoid the scrutiny of the IRS and their own board of directors.

What about commissions or fees? Clearly, the agent or broker must be paid adequately for his services to produce a profit for his firm.

Buyers need to realize that many of the unique risk financing techniques in use today were developed by brokers who were willing to commit money to research and development. These think-tanks were funded by commission dollars that came from all clients and the benefits of these non-income producing operations go back to those same clients.

Also, agents and brokers must realize that many of the alternative risk financing methods will reduce commission income, which must be offset by fees for services rendered.

Every state has specific laws regarding the charging of fees by agents or brokers and they should be evaluated thoroughly.

•

David R. Hopkins founded H & W Risk Management Services in 1979 in Irvine, Calif. Formerly the president, Mr. Hopkins currently serves on the company's advisory panel.

Risk Financing Alternatives Checklist

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Exposure(s): _____ **Date:** _____

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Self-Insurance											
Captive Insurance Co.											
Fronted											
Direct											
Rented											
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Ill. court limits liability of firms that fail to warn

By JERRY GEISEL

SPRINGFIELD—A manufacturer cannot be held liable in Illinois for failing to warn that its products could cause harm unless the firm knew the products were dangerous.

In product liability cases involving failure to warn, an injured consumer not only has to prove the product was dangerous, but also that the manufacturer knew of the potential harm, the Illinois supreme court said in a precedent-setting decision.

"The significance of the case is that companies are not going to be held liable if they did not warn of something of which they either had no knowledge, or in the exercise of reasonable care could not have had knowledge," said Chicago attorney D. Kendall Griffith, who represented defendant Parke Davis & Co.

Lower courts in other states have ruled that a manufacturer could be held liable for damages caused by its products even if the firm didn't know of the potential harm. Insurers have been concerned that these rulings would grow, substantially increasing exposure to product liability losses.

Precedent set

Companies are not liable for injuries if they do not warn of dangers of which they had no knowledge.

The Illinois case involved a 1973 incident at Central DuPage Hospital. Ellen Woodill entered the hospital on Nov. 22 to give birth. At the time, the fetus was in "high station"; it had not dropped in preparation for delivery. Her doctor gave her an intravenous injection of the drug Pitocin, manufactured by Parke Davis, to induce uterine contractions.

Ms. Woodill's baby boy was born with brain damage, permanent blindness and quadriplegia.

The Woodills filed suit in circuit court against Parke Davis, contending the drug manufacturer should have warned physicians and patients that it was dangerous to use Pitocin while a fetus was in the high station.

The circuit and appellate courts dismissed major portions of the suit and the Woodills appealed the lower court rulings to the state supreme court.

But in its decision published late last month, the Illinois supreme court upheld the earlier lower court rulings.

"To hold a manufacturer liable for failure to warn of a danger of which it would be impossible to know based on the present state of human knowledge would make the manufacturer the virtual insurer of the product, a position rejected by this court," said Justice William G. Clark, who wrote the decision.

Although manufacturers are expected to warn of dangers that may arise from the use of a drug,"that liability should be based on there being some manner in which to know of the danger. Otherwise the warning itself, which is the focus of liability, would be a meaningless exercise," Justice Clark said.

Had the supreme court overturned the lower court rulings and found Parke Davis liable, the liability of manufacturers in Illinois would have been greatly expanded, said attorney Mr. Griffith.

The case now goes back to circuit court to determine whether Parke Davis should have known of the possible dangers associated with use of Pitocin. ■

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Aviation losses match premiums paid

By JOHN H. MILLER

london line

LONDON—Aviation losses are exactly matching the $470 million premium income that reaches the aviation market from world sources, according to figures given to a U.K. risk conference.

"During 1979, 19 airline jets were totally destroyed at a cost of some $200 million, and other accidents in which significant damage occurred accounted for a further $50 million," John H. Hine, managing director of British Aviation Insurance Co. and a leading U.K. underwriter told delegates.

Eight hundred and eighty passengers were killed, requiring an estimated $220 million to satisfy resultant claims. The total figure of $470 million is believed to be equal to the total worldwide airline premium income.

"But in addition, considerable sums are needed to defray minor damage losses and claims for mislaid baggage," he said.

Mr. Hine, speaking at an aviation risk conference organized by Risk Research Group, warned that premium rates have been falling continuously for nine years, but there are signs that the market is now "bottoming out."

The greatest sufferers have been reinsurers who had watched events unfold with increasing dismay. Reinsurers have now refused to support markets in which there was a continuing excess of losses over premium income, he pointed out, so that direct insurers have had to become more selective in their acceptances.

This trend has become apparent in the light aircraft field and is now being felt in the placing and renewals of larger risks.

"This is a change of attitude on the part of the London market, which has usually put larger airline accounts first when trying to correct market downturns," Mr. Hine said.

"This time it is following the example of U.S. insurers, who usually start corrective measures with the smaller aircraft lines. There is much yet to be done, but as confidence returns I expect to see a steady improvement in many directions."

The high cost of small claims was attacked by Mr. Hine, who warned they are consuming a large part of premium income. "The cost of overhauling jet engines shut down in flight because of some mechanical malfunction used to be considered a normal part of an airline's overhead," he said.

"Now by reason of static levels of excesses, 50% or more of the cost is often borne by insurers. Add to this the considerable administrative expense, and there is an obvious area for investigation.

"Similarly with baggage, where premiums are often severely eroded by legal liability claims for loss or damage."

This type of loss, when it is not accompanied by an aircraft accident, ought to be treated as part of normal trading risks, Mr. Hine suggested. "This would leave insurers free to deal with the aftermath of catastrophic accidents, which after all is their main purpose in life," he explained.

Mr. Hine also criticized the size of claims sought by U.S. lawyers.

"They must be resisted in the interests of the whole aviation community. No lasting benefit will accrue to insurers who pay claims without being satisfied that the amounts are reasonable.

"But it is best to settle claims as fairly and quickly as possible, so recently insurers have joined in setting up a fund following each accident from which provisional payments can be made. The main problem here is to find an appropriate level of compensation, especially when lawyers on a contingent fee basis are involved in the U.S. But the technique is promising and is likely to continue."

Grim view

U.K. risk managers can expect more disputes over claims and more insurer insolvencies in the early 1980s as underwriting experience worsens in the next turn of the insurance cycle, a leading Lloyd's underwriter told members of the Assn. of Insurance & Risk Managers in Industry & Commerce.

With nearly 800 insurance companies operating in the U.K., of which 160 are overseas companies, a perilous situation may put the crunch on some of the weaker insurers, said Bob Kiln at a recent conference on the problems of the next decade.

"If London is to survive and prosper, it is essential that underwriters and brokers have the right integrity," he said.

"I'm not talking of Lloyd's or the major insurance companies, who will certainly meet all claims on them from the U.S. or elsewhere. But the complicated amount of reinsurance and retrocession round the world may well lead to slower collection of large claims from some quarters if the market gets difficult."

That pessimistic view was echoed by Richard N. Bowes of international broker Willis Faber Dumas. Every sane insurance buyer wants to pay an economic rate for his coverage, Mr. Bowes said, "but he also wants continuity of cover, as otherwise he's doing a

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bad job for his company."

Lloyd's has already taken steps to improve its security, such as hiking members' deposit levels (*BI*, Jan. 7). But "I think there's need for some of the smaller London companies, or the agents of overseas companies operating in the London market, to increase their security," said Mr. Kiln, who has been in the business 42 years.

"This may have to be done by greater government supervision than applies at present or by the introduction of a voluntary code in the London market.

"This would cover methods of accounting and auditing and suitability of assets, minimum reserves for long-tail business and solvency margins. Perhaps brokers can develop their selection process into something like an approved code of solvency or conduct. In addition, some control must be exercised over overseas companies that operate in London through unofficial agencies or contact offices," he added.

Looking even further ahead, to the 1990s, Mr. Kiln said the London market will by then be fighting hard to keep its share of world business. But before then, there will undoubtedly be "failure and losses for some."

"We've not yet got through all the scandals of the last few years and there will certainly be others to come," he predicted. "I see a pretty gloomy prospect regarding profits, and there's going to be hard grafting for everybody for the next three years at least."

Many direct insurers and reinsurers have so far failed to keep proper reserves for long-tail claims, he said

Regarding security, Sandy Clark, Alexander & Alexander vp, agreed with the speakers that most brokers, especially multinationals, have a "very good security system for their clients."

Drug suits

More than 12 U.K. parents are preparing to file suits against Richardson-Merrell Laboratories of Wilton, Conn., after a Florida jury awarded $20,000 to Elizabeth and Michael Mekdeci over Ms. Mekdeci's use of the drug Bendectin during pregnancy (*BI*, April 21), says the U.S. attorney who has agreed to file the lawsuits.

The 12 include Anne Turnbull of West Lothian and Anne-Marie Young of Livingston, both in Scotland, whose babies were born with defective fingers. Both women took the drug, known in Britain as Debendox, to combat nausea during pregnancy.

They have retained George Kokus, the attorney for the Mekdecis. He said in London that he will file suit for them in the U.S. in the next two months, adding he believes the Florida case shows the drug could contribute to deformities even though the Mekdecis were awarded much less than the $12 million originally sought.

The U.K. government has no plans to withdraw the drug from sale after checking with the Committee for Safety of Medicines.

Fraud crackdown

LONDON—The insurance and shipping industries are mounting efforts to crack down on marine claims fraud and encourage stricter underwriting on potentially hazardous vessels.

Lloyd's marine underwriters are alarmed at the number of bogus ship claims filed, which reportedly total many millions of dollars each year. Though marine rates have been largely unaffected so far, it is estimated that Far East underwriters have paid out $100 million in fraudulent marine claims since 1977 alone (*BI*, Jan. 7).

In addition, Lloyd's of London and Scotland Yard investigators are probing possible fraud in the sinking of the Salem, an $84 million tanker that reportedly went down Jan. 17 following an explosion in the Atlantic about 110 miles off the coast of Senegal (*BI*, Feb. 11).

To deal with the problem, U.K. and U.S. insurance and shipping experts will discuss preventive measures at a conference June 26-27 at the Waldorf Astoria Hotel in New York.

Heading the effort is Clifford A.L. Clark, a London shipbroker and president of the Federation of National Assns. of Shipbrokers & Agents.

The International Maritime Industries Forum is also encouraging marine underwriters to impose stricter standards on insuring ships and is seeking talks with insurers and underwriters on new standards.

Many unsafe ships are insured and allowed to sail, says Ronald Illian, chairman of the maritime group. Shippers have suggested that insurers classify hazardous vessels for underwriting purposes and are also urging legislation to prohibit unsafe ships from sailing.

Ship repair costs

Ship repair costs, which can adversely affect marine insurance results if they soar too high, are likely to rise 10% to 12% in the next few months, while prices of machinery and other spare parts will go up by 25%.

This forecast is made by Lloyd's Shipping Economist, one of the market's major publications. It estimates that the shipbuilding industry has grave problems of over-capacity in its repair yards, so there is plenty of room for competition in this field.

But prices are likely to fluctuate sharply, as two Japanese repair yards are quoting in dollar terms prices 6% up from last year, while other Japanese repairers are submitting tenders up 14% from 1979.

Stronger link

Corroon & Black may decide to increase its holding in Lloyd's broker J.H. Minet to 30% if the Fisher report opens the way, London market sources believe.

The U.S. broker has been buying shares in Minet for the past few months and has reached the 20% limit any outside group may hold. It is anticipated the two groups will set up a joint committee to coordinate future international expansion.

Unsuited perk

The $500 suit—a popular perk for British businessmen in the past couple of years—is about to become a thing of the past.

The British government is cracking down on this and other benefits that the country's employers have found are convenient ways to compensate key workers without adding to their already heavily taxed income.

The custom-made suit is probably the most well-known of those perks, with businessmen lining up in droves to have themselves fitted with a new set of clothes paid for by their employers.

Until recently, the employe just had to pay a tax of 10% on the worth of the suit, which the company would later agree to sell to its wearer at a price of usually 5 or 10 pounds sterling. Then the employer would pay a tax on that small income.

But the government has now stiffened the tax requirements that doom the future of these clothing arrangements.

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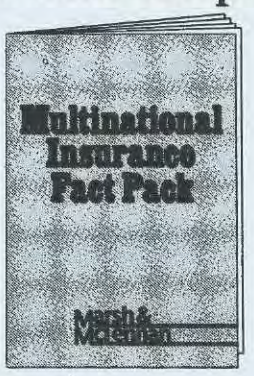

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perspective

The London scene

Photo: Kathryn J. McIntyre

Regulations reshape benefit plans

By Joseph Duva

THE UNITED KINGDOM, another country coping with rampant inflation, recently completed a hectic period of redesigning employe benefit plans, similar to that of the U.S. during the four or five years after the enactment of ERISA. As in the U.S., a lot of money was spent complying with the regulations and requirements of the new earnings-related pension scheme that took effect April 6, 1978.

This is the situation as I have seen it during a recent visit to London:

U.K. employe benefit issues seem to have settled down since the 1978 battles over contracting-in versus contracting-out of the state system. The result: 10.2 million of the 11 million employes covered by occupational pension schemes contracted-out.

More companies now integrate their benefit schemes with social security in one way or another, a major change from five years ago. The most common method of integration is "notational" deduction from a member's salary and it is this modified salary on which both the member's contributions and pension benefits are based.

Most U.K. schemes are contributory and based on final pay. A large number of schemes include both staff and workers in the same plan.

Before the contracting-out decision, portability of pension benefits was commonplace because of a five-year vesting requirement. However, this has slowed down considerably because of complications in transferring guaranteed minimum pensions required of contracting-out plans, which must be revalued by a cost-of-living factor.

There are, however, still a number of items on the back burners that may emerge at any time as legislative pressures increase. These are:

- Mandated cost-of-living increases for retirees above the guaranteed minimum pension level.
- Mandatory revaluation of that portion of a terminated vested employe's accrued pension above the guaranteed minimum pension level and further legislation on portability.
- Mandatory disclosure to employes.

With a Conservative Party government in power, I believe the pressures for these changes have softened somewhat. But recently the government announced that inflation was running at 20%; if inflation continues at its present high level, there will undoubtedly be a stronger demand for some of these items, especially mandatory increases for retirees and revaluation of terminated vested employes' accrued pension.

I've been told that the Occupational Pensions Board will issue an opinion in the next 18 months dealing with the questions of revaluation and portability.

I also understand that the present Conservative government has switched off the involvement of unions in shaping government legislation and that the unions are now turning to other areas.

Recently, I was able to obtain a 1979 survey of U.K. pension schemes. The companies included in the survey are mainly the larger U.K. firms. Although the survey covers only a relatively small proportion of the plans in the U.K., those included in the survey account for more than half the total members of occupational pension schemes.

This survey showed that 87% of the schemes granted post-retirement increases in pensions, with 40% of these granting automatic increases averaging 3% to 4%. Of those schemes that have given nonautomatic increases, the great majority, 62%, review them annually.

This type of action by the private sector will forestall government regulation, U.K. firms hope.

In what is probably an effort to avoid government legislation similar to ERISA, the National Assn. of Pension Funds will soon issue a code of practice detailing minimum or acceptable standards in the area of disclosure to employes.

This area has been gaining increasing importance in the U.K. and was probably triggered by the need to communicate to employes the highly complicated decision to contract-in or contract-out of the state scheme. I understand that the new code of practice will include not only pension scheme booklets, but also audiovisuals and employe benefit statements. The code would assume voluntary compliance.

During a visit to the U.K., I was also interested to see the extent to which ideas and practices in the U.S. affect those in the U.K. For example, the earliest developments in U.K. pension scheme design were influenced by our salary-graded plans in the U.S. A recent survey showed that the most commonly used (35%) definition of final salary was "average salary over the best three consecutive years ending in the last 10 years."

In contrast, the 1975 Bankers Trust survey of U.S. plans indicated the overwhelming trend in the U.S. toward the use of a five-year average.

Later, the U.K. was also influenced by the swing in the U.S. away from group annuity policies to trust funds, with no specific allocations for individual members, and by the emphasis on investments rather than insurance.

U.K. benefit managers see their U.S. counterparts drowning in a sea of paper created by ERISA. However, there are indications that ERISA itself has begun to affect the U.K.

Pension plans established in the U.K. by branch operations of a U.S. parent are subject to the provisions of ERISA if the company wants to obtain qualification of the plan.

Of course, most U.S. enterprises in the U.K. are not branches but are separate legal entities. There have been suggestions that U.K. subsidiary operations of a U.S. parent might also be required to prepare ERISA reports. ■

Joseph Duva is director of employe benefits and compensation of the SCM Corp. in New York.

perspective

Alternative financing

Cash-flow analysis helps pick risk plan

By Robert Willar

MONEY HAS A time value. A dollar to be paid out a year from now is less costly to a firm than a dollar to be paid out today. This is true because a dollar that is not paid out today can be invested and will yield additional income. Therefore, the timing as well as the magnitude of cash flows in loss-funding programs is a critical factor in evaluating alternative financial strategies.

The profitability of investments is a measure of money's time value to a firm. Some firms will have many relatively attractive investment opportunities but insufficient cash flow to fund those plans. Additional cash flow from any source would be ploughed back into the business to reap the substantial investment return available. The time value of money for a firm of this type is relatively high.

Other firms will generate funds in excess of the availability of relatively attractive investment opportunities. Additional cash-flows from any source here would probably be invested in historically lower-yielding money market instruments. The time value of money for a firm of this type is relatively low.

A cash-flow analysis for three loss-funding programs shows the relative impact of potential investment profitability on the true cost of the program and can help you choose what you need. The three programs to be considered are:

- Insurance.
- Self-insurance.
- A captive insurance company.

A discounted cash-flow analysis encompasses a five-year program period and results in an after-tax net present cost figure for each program at each assumed discount rate. The discount rate is the only variable in this analysis. All other assumptions are fixed because the object here is to show the impact of potential investment profitability.

Let's consider an insured program first. This kind of program is loss sensitive in that it is subject to a retention-type dividend plan. A retention plan is similar to retrospective rating except that return premiums are not contractually guaranteed and are not paid as early after policy expiration.

The tax implications of the insured program are obvious. Premiums paid to the insurer are tax deductible while return premiums are taxable to the policyholder as ordinary income.

The range of cumulative five-year ATNPC figures for this program is from a low of $1.6 million at a 20% after-tax discount rate to a high of $2.5 million at a 2% after-tax discount rate (see chart).

Because the total premium paid to the insurer is tax deductible, a tax shelter is provided for loss reserves. With favorable loss experience, this program returns premiums in the form of dividends at regular intervals. These two factors are of considerable importance when the time value of money to the firm is high.

The second program to be considered is self-insurance. This program reflects the purchase of excess insurance above a self-insured retention and loss-control and adjusting services within the self-insured retention.

The tax implications under this program are not as obvious as under an insured approach. Generally, only paid losses and expenses are tax deductible. There does, however, appear to be some support for deducting loss reserves for workers compensation claims when the incident has occurred, the claim is uncontested and the dollar amount of the claim is readily establishable. For purposes of this analysis, only paid losses and expenses are considered tax deductible.

The range of cumulative five-year ATNPC for this program ranges from a low of $1.17 million at a 20% after-tax discount rate to a high of $2.18 million at a 2% after-tax discount rate (see chart).

Expense factors under this program tend to be relatively low, as services and excess insurance are procured on an "unbundled" basis. In addition, there is no prepayment of loss reserves. Thus, cash outflows are postponed until the last possible moment. This latter point is of considerable importance when the time value of money to the firm is high.

The final program to be considered is a captive insurer. This program is the most sophisticated form of risk retention. For this analysis, the captive is assumed to be a wholly owned foreign subsidiary exclusively writing its parent's U.S. risks.

The tax implications of the captive program are the least straightforward of the three alternatives considered. The Internal Revenue Service has challenged the tax deductibility of premiums paid to a captive. This issue, in all likelihood, will not be resolved for quite some time. For this reason, the cost of the captive program is calculated with and without the tax deductibility of premiums.

In simplified terms, the tax implications of a captive are:

- If premiums are tax deductible, underwriting and investment income of the captive will be attributed to the parent and taxable as ordinary income.
- If premiums are not tax deductible, paid losses and expenses can be taken as a deduction with investment income attributed to the parent as taxable ordinary income.

The range of cumulative five-year ATNPC figures for the captive with premium tax deductibility ranges from a low of $1.9 million at a 20% after-tax discount rate to a high of $2.1 million at a 4% after-tax discount rate (see chart).

Expense factors under this program tend to be relatively high in light of the required fronting and management fees. There is, in effect, a prepayment of loss reserves by the parent. The captive, however, can generate investment income on these funds.

A key issue here is the rate of return the captive can generate on loss reserves versus the potential return the parent can generate on alternative available investment opportunities. This point is of considerable impor-

Robert Willar is a staff consultant in the risk management department of Bayly, Martin & Fay insurance brokerage in Los Angeles.

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The workers compensation publication tells us that in most states executives are subject to a maximum individual payroll of $500 per week, but in California the limit is $400 and in Pennsylvania it is $600. The intricate definitions of engineers (code 8601), draftsmen (code 8810) and drivers (code 7380) are reported, as are the rules for auditing travel time and overtime; the effect of a bonus on payroll limitations; treatment of joint ventures in Texas, and the merits of retrospective rating.

Z'ev Kronish, who holds an M.B.A. degree from The College of Insurance, has handled corporate risk management and benefits administration. He is now in the claims department at National Health & Welfare Mutual Life Insuance Assn.

Loss Funding Program Analysis

Five Year After Tax Net Present Cost (ATNPC) (000)

Program	2% After Tax Discount Rate		4% After Tax Discount Rate		10% After Tax Discount Rate		20% After Tax Discount Rate	
	ATNPC	RANK*	ATNPC	RANK	ATNPC	RANK	ATNPC	RANK
Insurance	$2545	4	$2412	4	$2070	2	$1649	2
Self-Insurance	$2184	3	$2021	1	$1618	1	$1172	1
Captive**								
Premium Tax Ded.	$2126	1	$2145	2	$2107	3	$1907	3
Premium Not Tax Ded.	$2136	2	$2198	3	$2247	4	$2210	4

*1 Lowest Cost/4 Highest Cost

**No opportunity cost of capital has been charged on the initial capitalization funds. If this charge were made, the captive ATNPC would increase by the following: 2%/+$23; 4%/+$51; 10%/+$163; 20%/+$499.

tance when the time value of money to the parent is high.

Without premium tax deductibility, the range of cumulative five-year ATNPC for the captive ranges from a low of $2.1 million at a 20% after-tax discount rate to a high of $2.2 million at a 10% after-tax discount rate (see chart).

Once again the important issues here are the relatively high expense factor, the prepayment of loss reserves and the relative rate of return on those loss reserves. In addition, the absence of tax sheltering for the loss reserves now affects ultimate net cost. However, the impact, compared to the tax deductible, only becomes significant when the time value of money to the parent is quite high.

Given the assumptions presented, my conclusions are:

- Firms with relatively limited additional potential investment profitability would find the captive program (with or without tax deductibility of premiums) the most attractive loss-funding approach. At the 2% after-tax discount rate (time value of money to the parent), the captive can earn more on its funds than the parent. Self-insurance proves to be somewhat more costly than the captive, while the loss-sensitive insured program proves to be significantly more expensive.
- As potential investment profitability increases, self-insurance becomes a more attractive loss-funding program than either a captive or an insured approach. At the 4% after-tax discount rate (time value of money to the parent), the captive can earn as much on its funds as the parent, but the higher cost elements of running the captive program ultimately result in a more expensive approach than self-insurance. Once again, a loss-responsive insured program proves to be the least attractive.
- At relatively high levels of investment profitability, self-insurance becomes an even more attractive approach than either a loss-responsive insured program or a captive. At the 10% after-tax discount rate or higher (time value of money to the parent), the captive cannot earn as much on its funds as the parent. Self-insurance provides the greatest postponement of cash outflows. The parent's funds are being profitably invested in the highest possible yield.

A loss-responsive insured program at relatively high levels of investment profitability proves to be the second most attractive program. In essence, the insured program is providing greater tax sheltering and quicker return premiums than a captive. ■

The umbrella manual is a worthy attempt to keep up with the thirst for independent information.

Commercial insurance has come a long way in only a few years. There are undoubtedly many firms that still rely exclusively on primary coverage, which in today's environment is as dangerous as going bare. For the most part, the corporate consumer is highly sophisticated.

The risk administrator recognizes that buying coverage in layers calls for complex knowledge because umbrella policies are as variable as the weather. Valuable for the added limits of liability, the umbrella can create coverages routinely omitted from basic plans.

Some interesting observations:

- Crum & Forster states "occurrence" means either an accident or happening or event, which is liberal;
- Royal Globe omits "completed operations hazard" from its list of definitions, probably a favorable factor in the authors' view;
- Employer's Insurance of Wausau declares that personal injury includes discrimination because of race, religious creed or national origin.

As a comprehensive picture of a type of coverage available from more than 30 insurers, the umbrella volume rates our appreciation.

The third book in this series contains the admonition that the broad form property damage rider "is the most misunderstood and confusing of all the general liability endorsements." It is of benefit chiefly to contractors, the authors note, but add it holds advantages for manufacturers, retailers, wholesalers and service organizations.

The book is a fascinating didactic exercise in the remedies available for insurance restrictions. Almost 100 pages are devoted to exclusions in the general liability policy.

A major controversial exclusion centers on the degree of property in someone's care, custody or control. Reporting that this is often a source of litigation, the authors cite some cases.

The authors have delved into the world of exclusions to provide the risk manager with the broadest comprehension of various options, but the raw material so ably assembled could benefit from an injection of editorial finesse and a fresher format. ■

legal briefs

Certificate provision binds policyholder, S.D. high court rules

THE SOUTH DAKOTA supreme court held that a certificate issued to an employe was part of a group life insurance policy and that a provision therein requiring proof of insurability was binding upon the employe.

A Ms. Halverson, a state employe, was covered under a group life insurance program underwritten by Metropolitan Life Insurance Co. Employes could choose coverage in multiples of their salary. Ms. Halverson initially elected coverage equal to her $8,000 salary.

A certificate of insurance was issued to her, which included a provision that proof of insurability be provided to the insurer before coverage would be increased. Ms. Halverson had her insurance increased to two times her salary by making an adjustment on her payroll card. The insurer was neither notified of the change nor furnished evidence of insurability.

In fact, Ms. Halverson was suffering from cancer at the time of the increase. She later quit work and elected to convert her group policy to an individual policy. Based on the payroll data, Metropolitan issued her a policy for $16,000.

After her death, her husband, as beneficiary, sought payment of the $16,000. Metropolitan offered only $8,000. The husband sued for the full amount but lost in the trial court.

The appellate court pointed out that the certificate contained several substantive terms and conditions that could not be found in the master policy and without which the policy was incomplete. The court concluded the certificate was to be construed as an integral part of the policy binding on Ms. Halverson. *Halverson* vs. *Metropolitan Life Insurance Co.*, South Dakota supreme court, Dec. 28, 1979 (BI/04/Ju.-$4).

Timely notice

A federal appellate court ruled that in view of the extended time between significant events following an operation and the insurer's knowledge of a medical malpractice claim, it was clear the policy's notice requirement had not been complied with.

A doctor participated in an operation in April 1973. A malpractice claim arose from the operation and a suit was filed in 1973, although the doctor was not named as a defendant at the time. The suit was amended in May 1974 to include the doctor.

A default judgment was entered against all the defendants in November 1974. The doctor's attorney had the default judgment set aside.

The doctor was insured under a policy issued by Professional Mutual Insurance Co. The policy required the insurer receive written notice when a policyholder became aware of any alleged injury covered. Also, the policy provided that if a claim were made or suit brought, the policyholder was to immediately forward various documents to the insurer.

It was not until December 1976 that the doctor told the insurer he had been sued. The insurer did not participate or defend him.

In October 1977 a verdict was returned against the doctor. The doctor sued the insurer seeking recovery for its failure to defend him. The trial court dismissed the case.

The appellate court concluded the inordinate delay in notifying the insurer was "beyond all period of reason," that the lapse of time was so great and the events of such importance that the combination was sufficient to demonstrate prejudice against the insurer. *Montgomery vs. Professional Mutual Insurance Co.*, U.S. Court of Appeals for the 10th Circuit, Jan. 4, 1980 (BI/05/Ju.-$4).

Sistership exclusion

The Delaware supreme court ruled that a sistership exclusion in property damage insurance policies excluded coverage for damages resulting from the withdrawal or repair of any defective product when the defect had been discovered and the product withdrawn before it failed in use.

A general contractor was covered under three property damage policies. Each policy excluded coverage for damages claimed for the withdrawal, repair or loss of use of the contractor's products or work completed by or for the contractor if the products, work or property were withdrawn from the market or use because of a defect or deficiency.

The contractor was sued by a city for costs incurred in hiring a second contractor because of a deficiency in design of a concrete pedestal constructed by the first contractor. The contractor's insurer refused to defend the suit. The contractor settled with the city and, in turn, sought to recover those costs in the present suit against the insurer. The trial court ruled in favor of the insurance company.

The appellate court said the discovery of a defective product alone was not an event for which the insurer was providing protection. Thus, the court concluded that any damages flowing from the discovery alone were excluded under the sistership exclusion because they resulted from the withdrawal and repair of a defective product. *Charles E. Brohawn & Brothers vs. Employers Commercial*, supreme court of Delaware, Dec. 10, 1979 (*BI*/04/My.-$4). ■

These abstracts were prepared by Cases Unlimited Inc. Copies of the entire decision may be obtained by sending a check for $4 made out to Cases Unlimited to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please list the number for each opinion.

Ryan Agency plans Lloyd's broker link

markets

THE RYAN AGENCY Group in Chicago is planning a joint venture with Lloyd's broker R.K. Harrison to establish a Ryan Group London office to place U.S. risks and reinsurance with London insurers.

Ryan will own 65% to 70% of the operation and retains an option to purchase a portion of the Lloyd's broking business, said Ryan president Patrick Ryan.

"We're waiting to see what Lloyd's will finally allow us to buy," he explained, referring to the Fisher report now in progress. "Then we will buy whatever we can, with an investment not to exceed $1 million."

The Ryan group, which includes general commercial lines brokerage Youngberg-Carlson in Chicago, Yarchin & Co. in Boston and a banking specialty broker Scarborough & Co. in Chicago, will slowly move business from Lloyd's brokers Harris Dickson and Stewart Wrightson to the smaller Harrison.

Changing market

Buyers can expect changes in the insurance market in the 1980s, says the chairman of the Alliance of American Insurers.

"The brokers will be risk bearers," said John A. Schoneman at the Alliance's recent annual meeting. "Insurance companies will direct market more and more of the available business in competition with agents and brokers."

Small insurers, especially those serving specialized markets, will always have a role to play, he said. "I do not foresee anything remotely similar to the concentration we see in the Big Four in the automobile business or the Seven Sisters of energy."

New reinsurer

American Independent Reinsurance Co., a direct writing company primarily oriented toward treaty reinsurance, has been organized by John R. Zech, former chief executive officer of National Reinsurance Co.

The Stamford-based reinsurer was initially capitalized for $20 million and its organizers say additional capital from new sources is anticipated. Among the principal original backers are H.F. Amundsen Co. of Los Angeles, owners of Home Savings and Loan Assn., the nation's largest, and German shipping magnate D.K. Ludwig, it was learned.

Serving as principals of the new firm along with Mr. Zech will be Ronald Martin, executive vp in charge of production, and Ray Osterhout, executive vp in charge of underwriting. Both worked under Mr. Zech at National Re, a subsidiary of The Continental Insurance Cos.

American Independent acquired the 26 state licenses of the Metropolitan Fire Assurance Co., a dormant insurer domiciled in New York but located in Hartford, in order to begin operation.

Corporate plans call for American Independent to concentrate on treaty reinsurance of multiple property/casualty lines primarily for domestic insurers, Mr. Zech said. The company also expects to offer actuarial and underwriting services for its clients.

Claim evaluation

Vincent J. Mangano Associates Inc., a defense-oriented claim consultation company, has been formed to provide investigative, negotiation and litigation services for underwriters and self-insureds. Services include risk analysis, claim audit/evaluation and litigation supervision, as well as structured settlement and rehabilitation techniques for injury claims.

The firm is at 66 Woodside Ave., Westport, Conn. 06880; 203-227-4447.

Lloyd's authority

Lloyd's of London has appointed Hokanson-Anderson Insurance Agency of Marshfield, Mass., as a correspondent, granting the agency underwriting and binding authority on behalf of Lloyd's underwriters.

Hokanson-Anderson and its affiliate Group Insurance Service Center Inc., also of Marshfield, specialize in the sales and administration of self-funded hospitalization and benefit programs.

Kemper sale

Kemper Corp. has sold LaBow, Haynes Co. Inc., a Seattle-based insurance brokerage, to a group headed by Robert S. LaBow, president of LaBow, Haynes.

Kemper officials said the move reflects a change in marketing strategy that eliminated plans to become a factor in the insurance brokerage business.

Actuarial firm

A new actuarial consulting firm, Tierney Associates Inc., will specialize in providing computer-based solutions to difficult benefit administrative problems.

The firm will function as a plan manager as well as plan adviser, said founder Thomas P. Tierney, and will also do pure actuarial and operations research work. Tierney Associates is at 855 Worcester Road, Framingham, Mass. 01701; 617-872-1773.

Kemper service

Kemper Insurance Cos. will push service rather than new products in 1980 to try to stay ahead of the pack in the tight, competitive property/casualty market, corporate officials say.

"I'm not shutting the door on new products but our emphasis in 1980 will be on service," said Joseph E. Luecke, chief executive officer for Kemper Corp., following its annual stockholders meeting.

To try to outdo the competition this year, Kemper will encourage its personnel and agents to try harder to provide courteous, efficient service, said Rudolph F. Landolt, senior vp and chief insurance officer. "We're asking the staff to make a commitment to the kind of service we're giving."

The company is also obtaining agents' opinions about the quality of Kemper service, he said.

Shorter policy periods, adopted during the 1974-75 economic slump, make it easier for Kemper to withstand the current inflation because rates are adjusted annu-

"Our best agents give us a hard time."

Jack Riffle, President,
Utica National Insurance Group

They complain. They criticize. They hardly ever leave well enough alone—and they dish out more advice than a mother-in-law and accountant put together.

Yet we're crazy about them. We'd be crazy if we weren't.

Not only because their complaints are often valid, their criticism constructive, and their advice helpful.

But because their minds are the kinds of minds we can always profit from getting a piece of.

The minds of truly independent agents. Open. Imaginative. Free-thinking.

When our agents volunteer their candid viewpoints, they're doing us a great favor. Through their independent eyes, they're allowing us to see, respond to, keep in stride with the ever-growing needs of an ever-changing society. And, quite frankly, to keep up with our competition as we otherwise couldn't.

So eager are we for their criticism, in fact—we actually ask for trouble. Each year since 1966, we've invited representative groups of agents from across the country to join top home office executives and me for national and regional agent advisory board meetings.

We listen. We discuss. We even leave the room for a while and let the agents talk about us behind our backs.

But most important of all, we act on their advice.

In the last few years, they've prompted us to institute company-wide standards. Revise rates. Plunge into new markets and improve existing products. And much, much more.

The result of this constant give-and-take of ideas and insights has been a very special, very satisfying relationship between agent and company.

And, we might add, record sales and profits for both.

Our best agents give us a hard time.

We can't thank them enough.

Like to hear more about us and our agents? Write to me, Jack Riffle, for the complete picture

Utica National Insurance Group
Insurance that starts with you.

Utica Mutual Insurance Company/Graphic Arts Mutual Insurance Company/Utica National Life Insurance Company. Principal Office: New Hartford, N.Y.
Regional Offices: Atlanta, Boston, Dallas, Los Angeles, New Hartford, New York City, Richmond.

ally instead of every three or five years, Mr. Luecke said.

Property/casualty net premiums, which represent about 60% of Kemper insurance sales and 63% of first-quarter 1980 sales, were up by 7.3% to $730 million in 1979 from $680 million in 1978. Accident and health insurance showed an underwriting loss of $2.3 million in 1979 even though sales were up 13.2%.

Workers compensation insurance also showed an underwriting loss of $186,000 last year, a decrease from 1978 underwriting losses of $5.4 million. General liability, however, showed an underwriting gain of $2 million last year, compared with an underwriting loss of that amount in 1978.

Kemper Reinsurance Co.'s operating earnings last year increased 29.3% over 1978.

Kemper companies will probably be hit hard with personal lines claims from the Mt. St. Helens volcano eruptions, but Mr. Landolt said it has few commercial risks in the area.

Broker crackdown

The New York State insurance department plans to crack down on brokers who place risks in excess and surplus markets without properly shopping admitted markets.

Revisions being considered for Regulation 41, which governs use of excess and surplus markets, call for tighter scrutiny of the five rejections brokers must receive from admitted insurers before they can seek coverage from nonadmitted markets, said Dan Gabay, first deputy superintendent of insurance.

Mr. Gabay outlined the proposed changes at a meeting of the New York State Excess & Surplus Lines Assn. here recently.

The proposal could tighten access to the excess/surplus market, if brokers have been shortchanging the admitted markets as the insurance department suspects.

Other changes would increase trust fund deposits by alien insurers to $1.5 million from $300,000 and require surplus lines insurers to be licensed three years in their home state before New York brokers can place risks with them. Insurers presently need only be licensed one year.

In addition, nonadmitted insurers would have to report New York premium revenues to the department by producer and line of business, a double check on state premium tax revenues. Policies would have to include notice that insurers are not backed by the state guaranty funds, too.

Brokers would not be required under the proposed revisions to submit a risk to the New York Free Trade Zone, but would have to state on an affidavit whether or not they advised their client of this market.

Free Trade Zone insurers can write high premium and exotic risks without prior approval on rate and form.

"New York risks should be placed with licensed insurers to the extent possible," Mr. Gabay told the excess and surplus brokers. Too often, brokers place business in the nonadmitted markets first and get their rejections from licensed companies after the fact, he said.

One underwriter whose name appeared on a rejection affidavit list had been dead for five years, Mr. Gabay remarked.

Work comp

California's newest specialty workers compensation insurer is Redwood Fire & Casualty Insurance Co. which recently hung out its shingle on busy Wilshire Boulevard here.

Redwood is one of 13 members of the Berkshire Hathaway group of insurance companies that have a combined surplus of nearly $300 million and over $500 million in assets.

"Our long-term objective is to build a multiline, multistate insurance operation," declares Frank R. DeNardo, Redwood president. In the immediate future, however, Redwood will limit its operations to underwriting workers compensation risks in California, Mr. DeNardo hastens to add.

Although Redwood plans to write all sizes of firms, it prefers accounts of $10,000 to $15,000 in premiums, says Mr. DeNardo. About 200 producers are currently marketing Redwood's facilities to buyers.

The new insurer planned to enter the California market 18 months ago when market conditions were less competitive, Redwood executives admit. The timetable was delayed however, by a slow-moving application for a certificate of authority from the California department of insurance.

Despite the delay and a trend to fewer profits from workers compensation nationally, Redwood is enthusiastic about making its mark in the Golden State, says Mr. DeNardo.

Mr. DeNardo is also senior vice president of the National Indemnity Co.'s California Division, another member of the Berkshire Hathaway group. Other Redwood officers include Michael P. Mackey, vp, and Everett J. Souza, vp-controller.

Acquisitions

Buckalew-Pryor & Co. of Houston has merged with **Rollins Burdick Hunter** and will operate as Rollins Burdick Hunter Agency of Texas Inc. Buckalew-Pryor has concentrated on insurance services for industrial, petroleum and commercial accounts.

George V. Kane, president of RBH of Texas, says the merger will enhance the firm's production and service capabilities in the Houston area.

Corroon & Black Corp. will acquire **McWethy Brothers Inc.**, an insurance agency firm in Aurora, Ill.

The acquisition is for C&B stock and is subject to approval of both firms. The present management team of McWethy Brothers will continue to manage the business as a division of **Corroon & Black of Illinois.**

Osterloh & Durham Insurance Brokers of North America Inc., in Van Nuys, Calif., has acquired **Kirkside Aviation,** an agency formerly headquartered in Tarzana, Calif. Osterloh & Durham is a publicly held insurance agency.

A.F. Osterloh, III, president and chairman of the board, said the acquisition was made to aid the firm's growth in aircraft-related risks.

Armco Financial Services Corp. has completed its acquisition of **The American Druggists Insurance Co.** in Cincinnati.

New offices

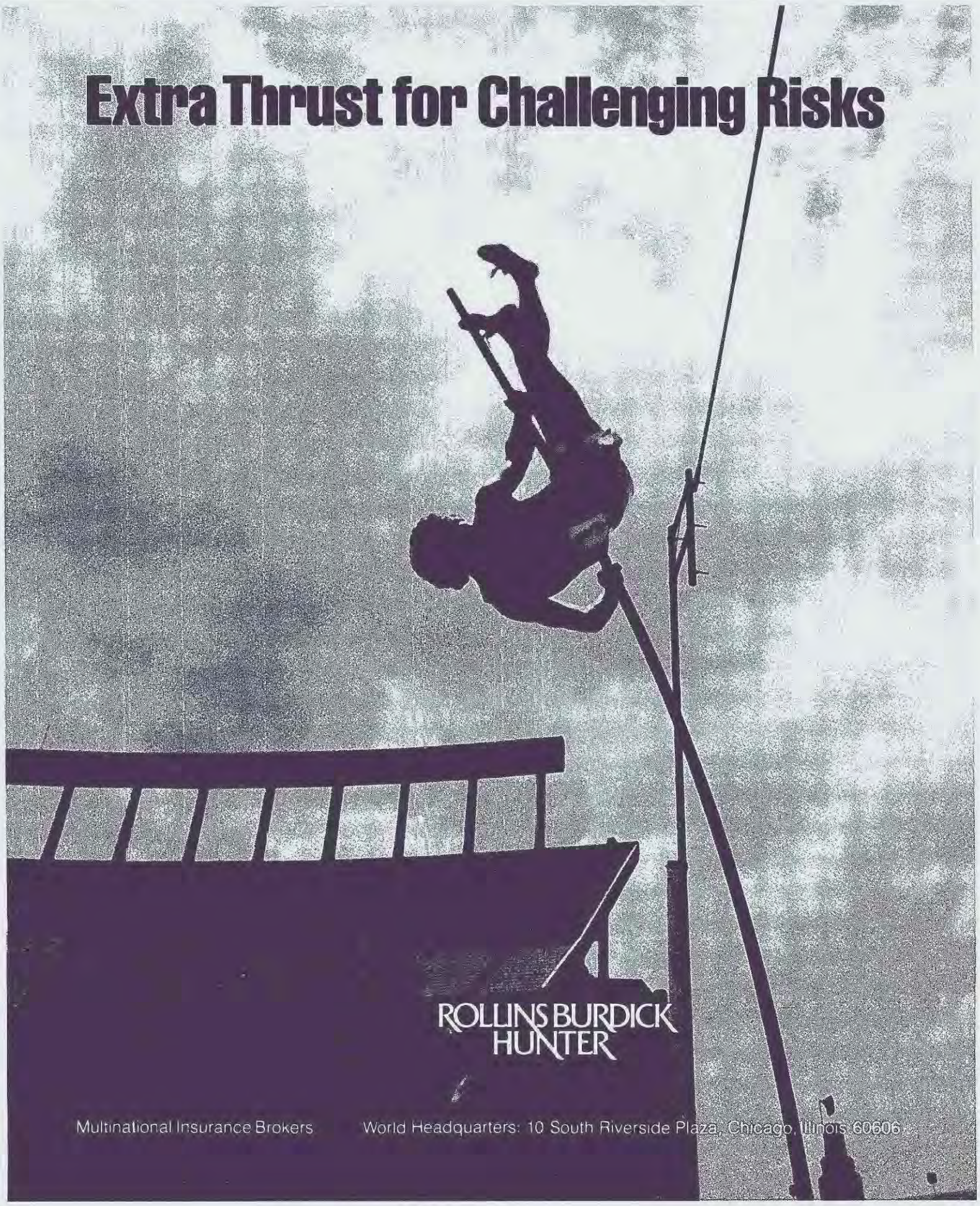
The Rooney Group appraisal firm has moved to 933 N. Mayfair Road, Milwaukee, Wis. 53226; 414-476-6500.

The Houston Rehabilitation Group has opened a new office at 575 Black Oak Ridge Road, Wayne, N.J. 07470; 201-628-8080.

Swett & Crawford has opened a branch office at 650 S. Cherry St., Suite 1255, Denver, Colo.; 303-320-1263.

Fireman's Fund Insurance Cos. has opened a branch office at 1 Continental Towers, 1701 Golf Road, Rolling Meadows, Ill. 60008; 312-981-8600.

Armco Risk Management Inc. is relocating to 11380 Reed Hartman Highway, Cincinnnati, Ohio 45241; 513-745-8145. ■



Peter S. Godfrey

Reed Stenhouse names new senior vp

NEW YORK—Peter S. Godfrey has been named senior vp of sales and marketing for Reed Stenhouse Inc., U.S. parent company of Reed Stenhouse's 16 U.S. operating subsidiaries.

Mr. Godfrey moves into his new position from president of Reed Stenhouse Inc. of Massachusetts. The new senior vp position was created to help Reed Stenhouse manage its U.S. growth.

Godfrey

Richard H. Pierpont becomes branch manager and senior vp of Reed Stenhouse Inc. of Massachusetts, replacing Mr. Godfrey. Mr. Pierpont had been with Marsh & McLennan in Chicago.

Also at Reed Stenhouse of Massachusetts, Martin G. Buckoski, Linda B. Hardenbergh and David C. Mechem have been named vps.

Other broker changes:

P. Brendan O'Halloran named senior vp and manager of Reed Stenhouse's branch in Fort Lauderdale, Fla.

Charles M. Burton elected chairman of Corroon & Black of Texas in Houston; **John S. Drew** promoted to president and chief executive officer.

Robert C. Hug Jr. named chief executive officer of Corroon & Black of Memphis Inc., continuing as president of the Memphis subsidiary.

Donald B. Goldstein named vice chairman of Corroon & Black, Engel-House Insurance Inc. in Birmingham Ala.; **H. Ray Smith** named president.

H. Don Akin and **James P. Douglass** named assistant vps of Bayly, Martin & Fay's Tulsa division.

Douglass

Pearl A. Pelatt named account executive in employe benefits for Kindler & Laucci in Los Angeles.

Walter C. Sexton named assistant vp-casualty underwriting for the London Agency Inc., an Atlanta-based managing general agency specializing in excess/surplus lines.

William P. Noble named property and marine underwriting manager of David C. White Agency Inc. and Lawrence Excess Ltd. of Lynbrook, N.Y.

Thomas L. Bishop elected chairman of the board of Biddle, Bishop & Smith Inc. in Philadelphia. **Frederick A. Tucker** named president and **James T. McKenna** named vp and treasurer of the same firm.

James R. Mummey named service manager for the property/casualty department of Mack & Parker Inc. in Chicago.

Insurer changes

Edward D. Howe elected chairman of the board of Fred C. Church Inc. in Lowell, Mass; **John F. Reilly Jr.** elected president.

C. David Boynton named regional manager of excess and special risks for the New York metropolitan region of the U.S. Insurance Group.

Thomas L. Uehlin named general manager of St. Paul Fire & Marine Insurance Co.'s Atlanta service center; **Timothy R. Morse** elected underwriting officer-institutional medical.

Christian S. McCarthy named vp of RFC Intermediaries in Parsippany, N.J.

Vincent H. Petreccia promoted to associate director of business accounts for Metropolitan Property & Liability Insurance Co.

Peter R. Barker appointed vp for production and marketing of treaty reinsurance for Andrew Edwards & Co. of New York and Bermuda.

Burton Covitz appointed manager of the workers compensation section of CNA.

Eugene Salgo and **Terrance E. Hansen** promoted to regional vp and assistant regional vp, respectively, of the Sacramento office of Maryland Casualty Co.; **Dale E. Perkins** promoted to resident manager of the Denver branch office.

Donald A. Lindow elected chairman and continues as chief executive officer and **E. L. Cox** elected president and chief operating officer of Michigan Mutual Insurance Co. in Detroit.

Lindow

comings & goings: industry

Other suppliers

Tracy Sanford promoted to manager-workers compensation at U.S. Administrators.

Peter F. McCoy named manager of the Malden, Mass., branch office of Underwriters Adjusting Co.

Edward L. French named executive vp of the United Enterprise Security Corp. in Dallas.

Michael E. Herbert and **Susan H. Namm** elected charter president and vp, respectively, of the Assn. of Connecticut HMOs.

Larry Reece Huss named life and employe benefit consultant at Picton-Cavanaugh Inc.

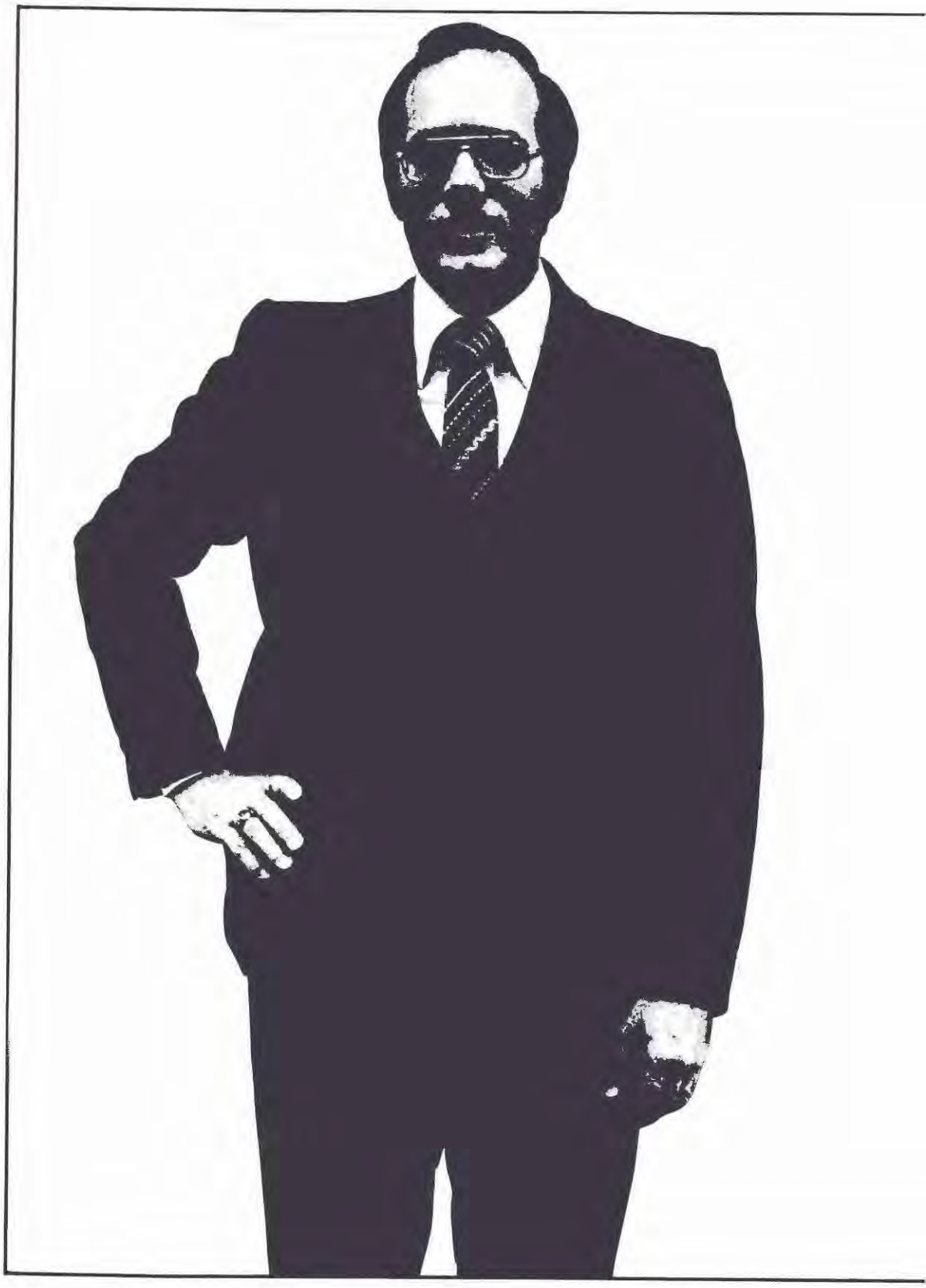
Claire L. Wolkoff and **Howard Fine** named associate actuaries at Buck Consultants Inc.

Daniel J. Bense named assistant vp of AIG Risk Management Inc. in New York.

Kenneth E. Berg named president of the FPE Group in San Francisco, a fire protection engineering and consulting firm; **Jerry Perstein** named senior vp; **MacDonald Curless** and **Edward K. Vining** named vps; **Peter K. Schontag** named assistant vp, and **Diane L. Snow** named assistant vp and secretary/treasurer.

Richard V. Rupp named president of H&W Risk Management Services Inc. ■

Norman F. Cook elected vp-property underwriting for Crum & Forster Managers Corp.



Prudential introduces group legal plan

products & services

A NEW GROUP legal policy, Prudential Plus, is available to California employers and union groups with 50 or more persons.

The plan offers services that are mainly defense-oriented rather than plaintiff-oriented: debt collection defense, bankruptcy, real estate transfers, wills, consumer protection, auto license suspension and optional divorce and criminal defense benefits.

A preventive legal care office will provide direct access to attorneys through a 24-hour toll-free number. Problems that cannot be assisted by phone will be assigned to an outside attorney.

Participating attorneys agree to accept the indemnified amount as 100% of their legal fees for most services after a $10 initial consultation fee payable when the lawyer takes the case. A few contested legal matters are indemnified, but may not be fully covered by the policy.

If a policyholder uses a nonparticipating attorney, an indemnified amount is paid for each covered service.

Prudential Plus includes several options. One excludes divorce and criminal matters and costs an individual about $3.50 a month and a family about $6.50. Another plan, which includes all services, has average monthly rates of $5 for a single person and $10.50 for family coverage. Actual rates for each group will be based on employe demographics.

Auto dealers

The Ryan Agency Group will soon introduce a package property and liability plan for automobile dealerships insured with the Virginia Surety Co., a branch of the Ryan Insurance Group of brokers and insurers.

The new package will tap the automobile expertise of the corporation that now sells and underwrites automobile repair coverage through auto dealers around the country, says president Pat Ryan.

PAC liability

Political action committees can now buy a liability insurance package from National Union Fire Insurance Co. of Pittsburgh.

Directors, officers and employes of PAC—formed by corporations, unions, professional and trade associations and other nonparty organizations to solicit campaign funds—are exposed to risks not usually covered by their present insurance. The new PAC coverage, soon to be available in most states, protects management against legal action resulting from unintentional noncompliance with Federal Election Commission guidelines or related statutory laws and regulations.

Business package

Louisiana businesses can now obtain a comprehensive business policy introduced by Continental Insurance. The CBP combines most commercial coverages in one policy with one premium.

The simplified, multiperil package can be tailored to a client's specifications and is designed to provide all property and liability coverages a business needs, except for workers compensation.

Claims auditing

Claims auditing services are available to reinsurers, excess insurers, self-insurers and captives from Miller & Gilbert of San Francisco and Los Angeles.

The firm also is developing a comprehensive claims course to train adjusters and claims supervisors. The course will concentrate on coverage analysis, case law interpretation, tort law and internal claims unit procedures.

Work comp history

Employers can receive information on a job applicant's previous workers compensation claim history through a new service from Equifax Services Inc.

The Workers Compensation Records Report is designed primarily for employers of hourly-paid workers. Information is compiled from state records or from one or two of the applicant's former employers in states where records are not available.

The reports contain information on the nature of an injury or accident, the type and percentage of disability and the date and amount of any compensation or settlement. ■

How will a risk manager benefit using the Bellefonte Companies?

Art Boynton, Manager —Corporate Risks, answers:

He'll find a group of people intent on developing a positive long term relationship with him and his agent or broker. He'll work with a corporate risk department that wi'l provide a market not only this year, but next year, too . . . and the year after. And he'll get sensitive, sensible handling of primary insurance programs involving Worker's Comp, General and Automotive Liability.

The corporate risk group is located in Dallas, home office for Bellefonte's insurance division.

We'd like to tell you more about us; and we'd like to know more about you. Write to me for more information. Bellefonte Insurance Company, 1221 River Bend Drive, Dallas, Texas 75247. 214/689-8333 Subsidiary of Armco.

ARMCO

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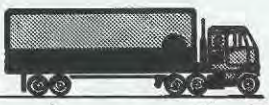

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Telex, 95-5494. Cable, saex ins-hike.

info

• **Annual Fire Protection Products Guide** features descriptions and application information on hand-portable and wheeled extinguishers, pre-engineered fire suppression systems, custom and truck-mounted fire suppression systems and fire suppression agents. For a free copy, write Sara M. Lambrecht, The Ansul Co., Marinette, Wis. 54143.

• Have you ever installed a fire detection and control system only to have it removed months later because the fire code changed? If so, Johnson Controls is offering a booklet that could help you meet the new fire codes without getting burned. The booklet provides guidelines on how to choose the best **fire safety system** for a building and how to ensure it works properly. For a free copy, write Johnson Controls, 507 E. Michigan St., Milwaukee, Wis. 53202.

• A newsletter entitled **Formulating a Retirement Policy for the '80s, A New Ballgame** is available from Kwasha Lipton, consulting actuaries and employe benefit services. For a free copy, write Department M, Kwasha Lipton, 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.

• A **Claims Administration System** brochure is available free from the System Development Corp. Write Arthur L. Slotkin, vp and general manager, SDC Corporate Services, 2500 Colorado Ave., Santa Monica, Calif. 90406.

• St. Paul Risk Services Inc. is offering a brochure kit describing its services and answering questions often asked of **self-insurers.** A smaller brochure is designed specifically for hospitals. To receive these free materials, write Jon A. Roeder, marketing officer, St. Paul Risk Services Inc., 424 Hamm Building, 408 St. Peter St., St. Paul, Minn. 55102.

• **Employer Options in Dealing with HMOs:** Is Minimum Compliance Always Best? is the name of a newsletter from Kwasha Lipton. For a free copy, write Department M, Kwasha Lipton, 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.

• Four **studies of accident investigations** following fatalities related to scaffolds, ladders, fixed machinery and roofs, ceilings and floors are available to assist compliance, safety and health officers in making inspections. Limited numbers of each study are available free through the OSHA Publications Office, Room S-1212, U.S. Department of Labor, Washington, D. C. 20210.

• The **ERISA Survival Kit** explains a step-by-step process to achieve compliance for group life, health and disability income plans. For a free copy, write Stephen L. Smith, vp-product development, Unionmutual, 2211 Congress St., Portland, Maine 04122.

• A booklet outlining the services and educational programs offered by the International Foundation of Employe Benefit Plans is available. **Design for a New Decade** also provides advice on effective benefit plan management. For a free copy, write International Foundation of Employe Benefit Plans, 18700 Bluemound Road, P.O. Box 69, Brookfield, Wis. 53005.

• The International Safety Academy rents films on such subjects as safety management and supervision, industrial health and hygiene and security plant protection. For a free Catalog of **Rental Safety and Training Films,** write the ISA, P.O. Box 19600, Houston, Tex. 77024.

• Interested in captive insurance companies? Risk Management Ltd. has published **Captive Insurance Companies:** The European Location—Guernsey—Channel Islands. For a free copy, write Michael A. Ward, managing director, Risk Management Ltd., Union Street, St. Peter Port, Guernsey, Channel Islands.

• **Earthquake Risk Analysis** and why trustees and owners should be concerned about it are included in a pamphlet from the Group 10 Systems division of Albert C. Martin & Associates. The pamphlet outlines steps in an earthquake analysis program. For a free copy, write Henry Burlage Jr., director, Group 10 Systems, Union Bank Square, 445 S. Figueroa St., Los Angeles, Calif. 90071.

• **North American Managers** can provide a foreign businessman in the U.S. with an opportunity to work with an insurance company from his native country. A member of the American International Group, NAM specializes in commercial lines for domestic clients as well as foreign businesses in the U.S. For a free brochure describing NAM, write product information, corporate communications, American International Group, 102 Maiden Lane, New York, N.Y. 10005.

• Inflation and its impact on employe benefit costs was the topic covered at a series of seminars sponsored by Meidinger & Associates Inc. Texts of the speeches delivered are available free in the publication **Controlling Benefit Costs.** Write Roy Zander, Meidinger & Assoc. Inc., Suite 1800, 20 N. Wacker Drive, Chicago, Ill. 60606.

• Interested in the international benefit scene? The **Worldwide Benefit Review,** published by William M. Mercer, summarizes the political, economic and social developments during the past year that have affected benefits. The free review indicates how companies are responding and forecasts trends for the coming year. Write William D. Welsford, director, William M. Mercer International, 11211 Avenue of the Americas, New York, N.Y. 10036.

• Kwasha Lipton has released a new bulletin titled: Will **100% Vesting After Three Years Service** Become a New Requirement for Most Retirement Plans? For a free copy, write Department M, Kwasha Lipton, 429 Sylvan Ave., Englewood Cliffs, N.J. 07632. ■

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BI-69

Settlement uses municipal bonds

By JOHN MAES

HARTFORD—In a new twist in structured settlements, an 18-year-old Connecticut youth who is totally disabled will receive damage payments from insured tax-free municipal bonds.

The $2.25 million settlement, the largest out-of-court settlement for a single personal injury case in New York State, was covered by insurance, *Business Insurance* learned.

Aetna Life & Casualty was the insurer for defendant Country Club Chevrolet of Oneanta, N.Y., and Public Service Mutual Insurance Co. of New York was one of the insurers for defendant Lake Delaware Boys' Camp. Their shares of the settlement are unknown.

The use of structured settlements in liability cases is gaining popularity as a way to provide continuing payments to plaintiffs at a lower cost than a lump-sum settlement (*BI*, Aug. 20, 1979).

Arthur H. Schatz, Hartford attorney for plaintiff Christopher Seymour, said he sought the high-yield, tax-exempt municipal bond arrangement because the youth must spend the rest of his life in the hospital at a cost of $30,000 to $40,000 annually. "In the event of an extended lifespan, the investment income will have to hold up against inflation, which is especially high for medical services," he said.

The tax-free municipal bonds were the only investment with a yield high enough to pay for the boy's care and provide sufficient security against inflation, he said. "I sought income that would cover this cost several times over, providing a surplus for reinvestment."

Mr. Schatz, working with investment brokers Merrill Lynch Pierce Fenner & Smith, established a $1.1 million face value portfolio for the youth that will return about $129,525 per year on municipal bond issues.

Another package with a face value of about $400,000 has been established for Mr. Seymour's parents.

Both investments are insured against default on principal or interest by the American Municipal Bond Assurance Corp. of Milwaukee.

The settlement came shortly before the case was slated for trial.

The Seymour youth was injured in July 1977. He was thrown from the back of a pickup truck he and three others were riding on the way to dispose of garbage from the boys' camp.

The truck had been rented from the Chevy dealer. Country Club Chevrolet had a $250,000 primary liability insurance policy and a $1 million excess liability insurance policy underwritten by Aetna Life & Casualty, *BI* learned.

Mr. Schatz suggested the size of the settlement indicates that businesses should review their liability insurance limits because inflation and spiraling medical costs could make multimillion-dollar settlements more frequent.

"The businessman should be aware of the need for massive coverages. What used to be $1 million in coverage a few years ago is not adequate now," he said. ■

Rubincam handles S&L risks

comings & goings: buyers

Paul R. Rubincam, 40, has been elected president of Cal Fed Insurance Agency Inc. in Los Angeles and will assume risk management responsibilities for the parent concern, California Federal Savings & Loan Assn. Mr. Rubincam, who reports to Walter A. Obers, executive vp for subsidiaries, replaces **Joseph R. Philbin,** who is now a senior vp at the parent company. Mr. Rubincam joined Cal Fed Insurance as an executive vp in November 1979 and before that worked for Great American Insurance, 20th Century Insurance and H.F. Ahmanson & Co. Mr. Rubincam has a bachelor's degree from Princeton, is on the board of the CPCU South Coast chapter and is also on the advisory board and faculty of the Insurance Educational Assn.

* * *

The city of Tucson, Ariz., has named **Roger Scott,** 31, claims administrator to replace **Roy Cotten,** who left the city. Mr. Scott, who reports to city risk manager Terry Anderson, previously was workers compensation claims adjuster for Tucson's account with the state compensation fund. He has a bachelor's degree from Arizona State University.

* * *

McCafferty

Sybron Corp. in Rochester, N.Y., has promoted **Frank McCafferty,** 45, from insurance manager to director of risk management. In this newly created position, Mr. McCafferty will be responsible for all corporate insurance and product liability activities. A new insurance manager will not be named. Mr. McCafferty, who reports to treasurer Joel Kocen, joined Sybron headquarters in 1974 after working with Aldrich & Cox Inc. of Buffalo, N.Y., for six years. He previously was an adjuster and claims supervisor with Liberty Mutual Insurance Co. Mr. McCafferty has a B.S. degree in business administration from the University of Buffalo, his CPCU designation and is president of the upstate chapter of RIMS.

* * *

Doris Ramsey, director of risk management at Rohr Industries Inc. in Chula Vista, Calif., has been elected president of Aircraft Builders Council Inc., an aircraft industry insurance organization. Mrs. Ramsey, who has been on the ABC board of directors since 1976, has worked at Rohr for the past 30 years, 25 of them in the risk management area. She is a past president of the local RIMS chapter. Mrs. Ramsey replaces Martin Sherry as ABC president.

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Disasters dent Travelers in 1979

BI ticker

NATURAL and man-made disasters made the biggest dent in 1979 earnings for The Travelers Corp. An unusually heavy hurricane season was partly responsible for weather-related losses of $32 million, company officials said. The Travelers lost $250,000 on the American Airlines DC10 that crashed last year and $1.15 million in death claims for passengers. Total claims in the roof collapse at the Hartford Civic Center were $14.2 million, but reinsurance reduced The Travelers' share of the loss to $1.9 million.

St. Paul

This year promises to be a difficult one for insurers, and officials of St. Paul Cos. say they are already seeing signs of it. Operating earnings declined 10% to $36.4 million, a drop company officials said was expected. Fire and marine coverages, which account for 90% of earnings, represented about 50% of the decline.

"Since 1978, we've said that we anticipated difficulty in the 1979-80 period," president Waverly G. Smith told stockholders at the company's recent annual meeting. "We said that we expected a decline in the growth rate of operating earnings—or even a small short-term actual decline in operating earnings. We have not feared ruin, nor a repeat of 1974. But some decline. And the decline in the future could get modestly worse in degree and length."

Hartford Steam

Hartford Steam Boiler Inspection & Insurance Co. recently completed the purchase of all outstanding shares of stock of A.E. International Inc. of Richland, Wash., making that firm a division of HSB. A.E. International is a consulting and research and development organization that provides acoustic emissions inspection services and systems. It also develops such inspection systems for field services testing.

General Re

Stockholders of General Reinsurance Corp. have approved a two-for-one split of the company's common stock, effective June 12. Each of the company's 10.8 million issued and outstanding shares will be doubled and the par value will be reduced to 50 cents from $1.

Nationwide Corp.

Nationwide Corp. has declared a dividend of 16.5 cents per share for the first quarter of 1980. The dividend will be payable June 23 to shareholders of record June 2. ■

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Reviews strengthen roof

Continued from page 1
and inspection went into the work.

The review and inspection procedures cost about $600,000, said Mr. Rich of Hartford.

Ellerbe Associates in Bloomington, Minn., redesigned the civic center. Its work was reviewed by Burton & Van Houten of West Hartford before and during actual reconstruction.

In addition, Hartford Steam Boiler Inspection & Insurance Co., was hired on a contract basis to test all steel, metals and welds.

"All firms reviewed each other's work. All changes, problems were reviewed by all. All had to agree on a correction or change," Mr. Rich said.

This contrasts with the steps taken during the building of the original civic center in 1972.

I don't think they had the number of people we had in review and inspection. It's not a normal procedure, but it's not a bad idea," he said.

The big budget, $600,000, would not normally be allotted for review because "municipalities try to stretch every dollar they can," he said.

However, in Hartford, "this is the way we will look at projects in the future," Mr. Rich said.

Money for the reconstruction came from an insurance settlement and government grants.

The Travelers Insurance Co. paid out $12.3 million in property coverage, $1.5 million in business interruption coverage and $268,000 for the scoreboard, said a spokesman. Of this settlement, $1.9 million was assumed by Travelers and the rest by reinsurers. But Travelers and its reinsurers have not assumed liability for the original disaster and have waged a fight to get their money back.

That battle started Sept. 5, 1978. The insurers filed suit in superior court in Hartford and charged 22 defendants, including Bethlehem Steel Co., designers Fraioli-Blum-Yesselman of Hartford and architects Kling & Associates of Philadelphia, with negligence and use of defective products.

Other money used in the rebuilding came from grants of $5 million from Connecticut and $6.5 million each from the federal government.

IRS backs away from a speedier vesting standard

Continued from page 2
sated) and the rank and file" said an IRS source in describing the soon-to-be released proposal.

Attorneys, employers and consultants commenting on the earlier proposal charged that the factors in testing discrimination were so vague that companies would be forced to opt for one of two expensive "safe harbors" to protect them from any finding of discriminatory vesting.

The first option would have required 100% vesting after three years of service. The second option essentially would have required 20% vesting for each year of service.

Most companies today offer first and full vesting after 10 years of service under so-called cliff vesting schedules.

New regulations

In the revised regulations, the IRS is seeking to eliminate a source of confusion and concern to the agency and the public.

Companies using the so-called 4-40 vesting schedule—40% vesting after four years of service—have automatically received a determination letter entitling them to favorable tax status. The plans were then randomly audited.

If the IRS then found a pattern of discrimination, such as only highly compensated employes vesting, the plan would be disqualified or restructured.

Now the IRS will be testing these plans for discrimination before granting a determination letter of tax qualification. "It doesn't make sense to have a more stringent test in operation than in getting a determination letter," said Michael Melton, attorney-adviser in the Treasury Department's Office of Legislative Counsel.

"It is inefficient to us and unfair to taxpayers who have had no guidance on whether the plan will be acceptable in operation," Mr. Melton said in an address to the International Foundation of Employe Benefit Plans conference in Washington.

Companies using vesting schedules slower than 4-40, such as the popular 10-year cliff vesting plan, have always been audited by the IRS before receiving tax qualification status and so are not affected by the IRS proposal.

IRS examination

Since 1942, the IRS has been looking at pension plans to see whether they discriminate. "The standards for testing are not new," Mr. Melton said. What is new is that regardless of the vesting schedule a firm adopts, the IRS will examine the plan before it issues a determination letter. ■

No change

Companies using vesting schedules slower than 4-40 have always been audited by the IRS.

Not insured

General Dynamics Corp. is uninsured for expropriation losses if the Quebec government is allowed to seize all of the assets of Asbestos Corp. in Montreal. W.A. Armstrong, director of corporate insurance for General Dynamics Corp. in St. Louis, said the firm does not carry expropriation coverage. General Dynamics owns 54% of Asbestos Corp. The Quebec superior court ruled last month that the provincial government is within its rights to seize the Quebec assets of Asbestos Corp. under provincial expropriation legislation passed last year. Asbestos Corp. is appealing the decision.

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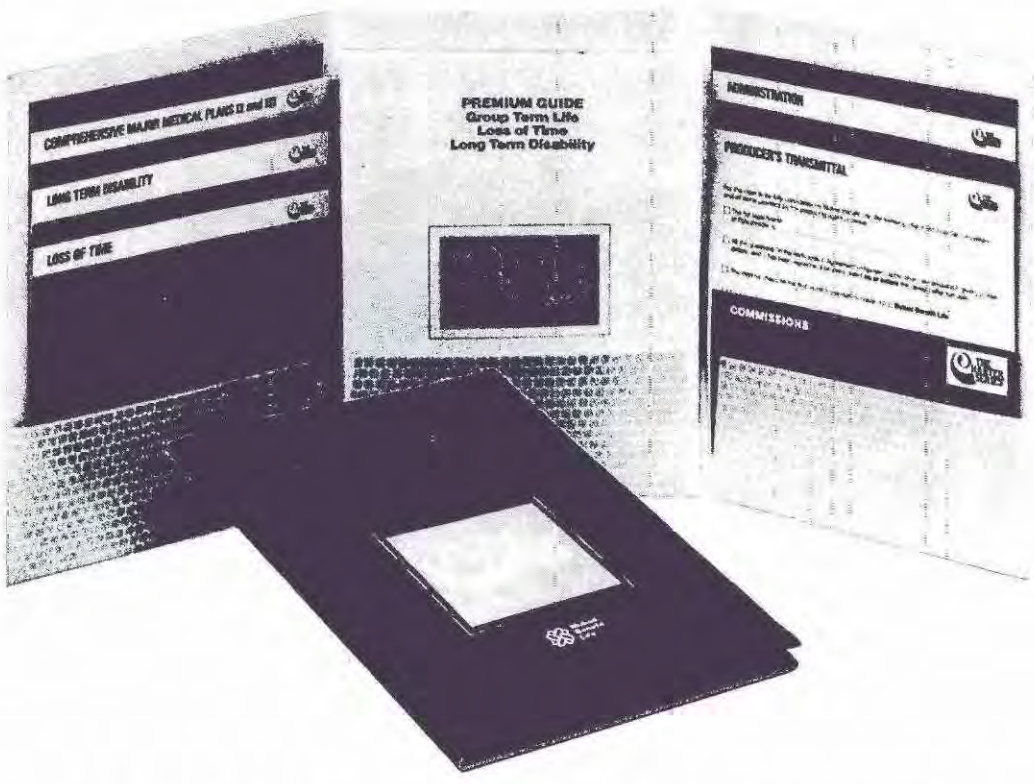

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Allis-Chalmers gives Tennessee its third captive

By JOHN MAES

NASHVILLE—Tennessee's third captive insurance company, a firm established by Allis-Chalmers Corp. of Milwaukee, will begin operations here this month.

The captive, Financial Services Insurance Co. of Tennessee, will underwrite workers compensation coverage, product liability and auto liability for the parent corporation, said Ronald J. Burns, president of Allis-Chalmers Credit Corp.

The captive is a subsidiary of Allis-Chalmers Financial Corp., a wholly owned subsidiary of Allis Chalmers Corp.

Limits of coverage to be written by the captive are still being negotiated with The Travelers Insurance Co., which will act as fronting insurer for the venture, Mr. Burns said.

Financial Services will be capitalized at $2.5 million; the anticipated premium volume was not disclosed.

Motivation

'We're forming the captive to assure available coverages and provide cost controls,' Mr. Burns said.

Allis-Chalmers is forming the captive, Mr. Burns said, "to assure available coverages and provide cost controls," though he declined to say how much the corporation hopes to save through the venture. Previously, The Travelers insured the risks to be covered through the captive, he said.

Corroon & Black will manage the captive.

The parent company is not concerned that the Internal Revenue Service challenges tax deductions for premiums paid to a captive, Mr. Burns said, but he would not comment on whether Allis-Chalmers will take the deductions.

Currently there are no plans for the captive to write third-party business.

The Milwaukee-based corporation employs 29,000 workers in 25 plants in the U.S. and abroad. It manufactures heavy earth-moving and agricultural equipment and other material-handling products. Last year it recorded some $1.97 billion in sales.

Its Tennessee operations include a plant in Brownsville that produces air conditioning and heating equipment, an air filtration equipment manufacturing installation at Elizabethton and a facility at La Follette that produces heavy machinery.

Financial Services is the third captive insurer to set up shop in Tennessee since the state enacted its captive insurance law in early 1979 to attract more business and industry.

The two other captives currently operating in Tennessee are Parthenon Insurance Co., a subsidiary of Nashville-based Hospital Corp. of America, and the Hospital Underwriting Group Inc., a captive for a hospital group. ■

New officers

The Southern Alberta Risk & Insurance Management Society in Calgary has elected new officers for 1980-81.

Elected are: president, Bill Robinson, Gulf Canada Ltd.; vp, Janny Brouwer, Burns Foods Ltd.; treasurer, Chuck Gardner, Brascan Resources Ltd., and secretary, Liz Macdonald, Petro-Canada Enterprises Inc.

N.Y. exchange nears goal

NEW YORK—The New York Insurance Exchange is steaming toward its first-year goal with nearly $7 million in annualized premiums in tow, says president Donald E. Reutershan.

If the new market stays on course, it should meet or exceed its goal of $40 million to $50 million for the year (*BI*, April 7). From March 31 through May 20, the exchange wrote policies for $6.8 million in premium.

Quota share reinsurance treaties, by which a reinsurer receives a percentage of premium to absorb a given percentage of loss, have dominated the exchange business so far, Mr. Reutershan told *BI*.

Combined surplus for the 19 underwriting syndicates exceeds $80 million. The exchange's first combined statement, including financial data on the 14 syndicates active on the March 31 opening, will soon be filed with the New York insurance department, Mr. Reutershan noted.

That statement will show only a combined surplus for those 14 syndicates—$63 million—but it will not report revenues or losses because no premium had been paid to the syndicates before March 31. Each of the five syndicates joining the fleet since then had minimum capital of $3.5 million or more.

The exchange will use the filing to become an approved reinsurer in other states.

The exchange will also seek to be an approved reinsurer in Canada, but not an admitted insurer there. Being an admitted insurer demands an office in Canada and under its enabling legislation, the exchange can only conduct business at its New York headquarters, he explained.

Canadian brokers have advocated admitted status for the exchange (*BI*, June 2).

Meanwhile, in an effort to placate members concerned about the exchange's placing slip, the NYIE board of governors on May 23 approved an exchange abstract that would include information similar to that contained on the placing slip, but would be left with syndicates rather than submitted to the central processing facility.

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31.		AUG 4	Jul 23
32.	Spotlight Report: Pensions & Retirement Programs	AUG 11	Jul 30
33.		AUG 18	Aug 6
34.	PROPERTY/LIABILITY: THE YEAR AHEAD	AUG 25	Aug 12
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Risk act gets backer

Continued from page 1

By contrast, the bill's smooth and quick passage through the House March 10 on a 332-17 vote was largely because of the leadership of Rep. Richardson Preyer (D-N.C.), a member of the Interstate and Foreign Commerce Committee.

Supporters of the pooling legislation, such as the National Assn. of Wholesaler-Distributors, have argued that sufficient support exists on the committee, but the drive to get the bill passed couldn't shift into high gear until a committee member fought for passage.

"We need someone to take the lead," said Dirk Van Dongen, executive vp of the NAW. "We think we have the votes."

The measure, however, still faces many hurdles that make its chance of Commerce Committee passage uncertain, despite Sen. Stevenson's push.

Sen. Howard Cannon (D-Nev.), the powerful committee chairman who remains undecided on the legislation, is a key obstacle. Sen. Cannon is widely considered to be a close friend of the insurance industry, which is largely opposed to the measure.

Furthermore, time is simply running out on the bill. Much of August will be lost as Congress breaks for the Democratic and and Republican national conventions. The current session of Congress is also expected to end in October because of the national and congressional elections to be held in November.

Although Sen. Stevenson himself gave earlier indications of being undecided about the bill, his staff insists the Illinois Democrat always has backed the measure and will continue to do so.

Mr. Stevenson is especially concerned that the high cost of product liability insurance may retard product innovation.

The Risk Retention Act may offer some relief by giving the machine tool firms an alternative to high-priced product liability insurance from insurers, according to Sen. Stevenson's staff.

Representatives of insurance industry trade groups argue that product liability insurance is competitively priced and that the days of "panic pricing" are long over. ■

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Bill would revamp health care system

Continued from page 1

Tax laws would be changed to provide tax-free rebates to employes who enroll in less expensive, federally qualified health plans. Employes choosing expensive, employer-paid health plans would be taxed on a portion of the premium.

Employers would earn tax deductions only for contributions to federally qualified health plans.

The sponsors contend their bill would stimulate competition among health plans and be more effective at containing national health expenditures than existing cost-based reimbursement and other regulations such as health planning.

"The basic issue in reforming the financial structure of the health care delivery system isn't how much of its resources America will devote to health care, but who should decide how much," Rep. Gephardt said.

"The answer is to permit the American people to make the decision on what resources they wish to devote to health care.

"But this can be done only if each customer has a choice among competing providers of health care and if the customer has an economic stake in his decision," Rep. Gephardt said.

Workers would be offered a broad variety of health insurance plans, but tax incentives would apply only to so-called "qualified" plans.

Plan requirements

In order to qualify, plans would have to annually market information to employes about coverage and cost.

The plan would have to cover basic care and take all applicants in an area, regardless of their health status, on a first-come, first-served basis.

For a premium, a qualified plan at the least would be required to cover all basic health care after a worker had incurred $2,900 in out-of-pocket expenses.

Plans would compete by offering coverage that isn't required or by lowering the employes' out-of-pocket deductible, the bill sponsors say.

Employers could continue to contribute any amount they want to an employe's health benefit, but any amount over a set contribution limit would be taxable to the employe.

The tax-free contribution limit would be based on the community average of past premiums, with a grandfather provision for all workers who were previously receiving higher contributions from their employers for health benefit plans.

Workers selecting qualified plans costing less than the employer's contribution would then collect a tax-free rebate up to $500.

If employes select a plan that costs more than the employer's contribution, they would have to pay the difference out of their own pockets.

Employers would try to limit their cost to the tax-free contribution limits, the sponsors predict. Workers interested in cash rebates would choose plans that cost less than what their employers could provide tax-free, the legislators believe.

Workers could switch plans annually.

To protect workers from a plan's bankruptcy, a guaranty fund would be created to ensure that coverage is available for the duration of outstanding contracts. A new entity, the Health Benefits Assurance Corp., would control the fund and check a plan's financial viability before the secretary of Health and Human Services qualifies it.

Choice of plans

This corporation would be private, operating within the Treasury Department. The Treasury secretary would select the five-person-corporation board.

Fee-for-service plans, Rep. Gephardt and Rep. Stockman say, would remain a viable mode of medical delivery and could function in qualified plans. Some persons will be willing to pay more for such plans that allow a choice of physicians.

Insurance companies could market new health packages and, in effect, become providers. Likewise, hospitals could take over the role of insurance companies by forming their own plans.

While the Gephardt-Stockman bill relies heavily on free-market forces to contain health expenditures, it is less confining than other competition bills introduced in the 96th Congress. Measures such as that introduced by Rep. Al Ullman (D-Oregon) (*BI*, Nov. 12, 1979) limit employes' choices of benefits to a set number of health insurance plans and require one of the plans to be a health maintenance organization.

The bill's appeal to health care providers is virtual elimination of federal regulation in exchange for risking their survival in a free market. The bill abolishes health planning, including the certificate-of-need process.

Avoiding regulation

"If hospitals and doctors are required to engage in economic competition, there isn't any need for government regulation of prices or of government determination of what services may be provided or what medical equipment may be purchased by whom or what facilities may be constructed," Rep. Gephardt said. "These kinds of regulation aren't necessary, and would interfere with fair competition."

The bill, which was written over nine months, isn't expected to come up for action by Congress this session.

The sponsors, however, are optimistic that the bill could be passed and be successful in controlling health care costs.

It would take only a few conscientious consumers to start the change in the system, the sponsors contend. As word of $500 rebates spreads, more employes would search out less expensive plans and ask their employers to contribute their health care benefits to less expensive plans, the congressmen predict.

Although employers would not be forced by law to contribute to any plan, only payments to qualified plans will entitle the employer to a tax deduction for benefit costs. ■

Sheila Simler is Washington editor of Modern Healthcare, another Crain Communications Inc. magazine. Her reporting on this bill appeared in June 1980 issue of Modern Healthcare.

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JULY 7-11. Industrial Product Noise Control Institute in Schenectady, N.Y., sponsored by Union College; $595. Union College graduate studies and continuing education, Wells House, 1 Union Ave., Schenectady, N.Y. 12308; 518-370-6288.

JULY 9. One-Day Benefit Briefing in Indianapolis, sponsored by the International Foundation of Employe Benefit Plans; $100 for members, $125 for nonmembers. Also **July 10** in Kansas City. IFEBP, 18700 W. Bluemound Rd., P.O. Box 69, Brookfield, Wis. 53005; 414-786-6700.

JULY 10-11. International Risk Management Seminar in New York, sponsored by American Management Assns. in New York; $420 for members, $480 for nonmembers. AMA, 135 West 50th St., New York, N.Y. 10020; 212-586-8100.

JULY 14-18. Auditing Safety Program Management Seminar for corporate safety directors only, in Atlanta, sponsored by the International Loss Control Institute; $575. ILCI, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

JULY 14-18. Fundamentals of Modern Safety Management Seminar in Atlanta, sponsored by the International Loss Control Institute; $425. ILCI, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

JULY 19-20. Fireground Commander Seminar in Toronto, sponsored by the National Fire Protection Assn.; $70 for members, $80 for nonmembers. Also **August 2-3** in Minneapolis. NFPA, Ina L. Miller, division for continuing education, 470 Atlantic Ave., Boston, Mass. 02210; 617-482-8755.

JULY 21-22. Fundamentals of Pension Design and Funding Seminar in Atlanta, sponsored by the Wharton School; $670. Heidi E. Kaplan, Dept. 20 NR, university conference center, 360 Lexington Ave., New York, N.Y. 10017; 800-223-7450.

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JULY 22. Computer Recovery Operations Seminar in St. Louis, sponsored by Data Processing Security Inc.; free. Also **July 29** in Detroit and **Aug. 5** in Chicago. CRO seminar program, Data Processing Security Inc., 200 East Loop 820, Fort Worth, Tex. 76112; 817-457-9400.

JULY 28-30. Testing and Measurement in the Hydraulics Laboratory Seminar in Milwaukee, sponsored by the Milwaukee School of Engineering; $295. Ken Rosenbecker, Fluid Power Institute, Milwaukee School of Engineering, P.O. Box 644, Milwaukee, Wis. 53201; 414-272-8720, ext. 206.

AUG. 4-8. Loss Control Management Seminar in Atlanta, sponsored by the International Loss Control Institute; $450. ILCI, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

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AUG. 13-15. Making Project Management Work Workshop in Schenectady, sponsored by Union College; $295, $250 for team registration. Union College, graduate studies and continuing education, tion, Schenectady, N.Y. 12308; 518-370-6288.

AUG. 17-20. American Risk & Insurance Assn. Meeting in Chicago; $30 for members, $40 for nonmembers. Richard Johnson, Brooks Hall, University of Georgia, Athens, Ga. 30602; 404-542-4290.

AUG. 18-22. The Development and Growth of a Modern Safety Program Seminar in Sacramento, sponsored by the International Loss Control Institute; $525. ILCI, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

AUG. 27-29. Cause and Origin of Fires and Explosions Seminar in Chicago, sponsored by the National Assn. of Fire Investigators; $100. NAFL, 53 W. Jackson Blvd., Chicago, Ill. 60604; 312-939-6050.

SEPT. 3-5. PASCAL for Beginners Course in Schenectady, sponsored by Union College; $385. Union College, graduate studies and continuing education, Schenectady, N.Y. 12308; 518-370-6288. ■

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Volcano losses fall in coverage cracks

By HARRIET KING

SEATTLE—Commercial losses in waterways, on land and in the air suffered from the violent eruptions of Mt. St. Helens volcano probably fall in the cracks of insurance coverage, say brokers, insurers and corporate officials.

Claims are only trickling in so far, to the surprise of insurers that are still trying to determine the amount of insured losses. Total losses caused by the volcano have been estimated at as much as $1 billion and federal aid for the disaster is being sought.

Losses to shippers who can't maneuver in ports clogged with volcanic silt, ash damage to automatic teller machines at banks and massive clean-up operations and damage to aircraft are all suspected to be either uninsured or within policy deductibles.

The volcanic explosions did not cause ships to run aground, nor inflict direct damage to ships. The mud did create shoals in the Columbia River, blocking several ports including those in Portland and Vancouver.

"You cannot put these losses in any certain category. We have had some delays of marine shipments and some spoilage, but it is undetermined what is covered," says Robert Nelson, claims manager for Durham & Bates Agencies in Portland.

Photo: Wide World

Ash prints

Up to half an inch of volcanic ash fell in the Spokane, Wash., area from massive clouds formed by Mt. St. Helens' eruptions.

Port losses

"We have had lots of inquiries but it looks like losses will be borne by shipowners or owners of cargo. We are advising customers, however, to keep a tally of losses and we will take it up at a later date," Mr. Nelson said.

Ports that had business losses are not likely to be covered, says Mr. Nelson, nor will Portland's drydock be covered for a lack of business income.

The Army Corps of Engineers estimates it will cost $229 million to repair damage to navigation, flood control and water systems in Southwest Washington. That includes $44 million to dredge the Columbia River navigation channel; $121 million to dredge the Cowlitz River to reduce flood hazards; $48.5 million to build settlement ponds in the Cowlitz Basin and $14 million to repair damaged water systems in Washington towns such as Longview, Kelso, Castle Rock and Toutle.

On land, bank automated teller machines in the Northwest were damaged by abrasive, gritty ash. In Portland, which received a light ash dusting, 39 out of 43 automated teller machines were damaged. David S. Sutton, vp of the First National Bank of Oregon, said, "The only ones not affected were located indoors.

"This is costing us money because acts of God are not covered by insurance or our repair contracts," said Mr. Sutton. The cost to repair the machines could be as much as $11,000.

The ash is abrasive and is electronically conductive, wreaking havoc on the photo-printed automatic teller machines and their circuit boards.

A major bank equipment manufacturer, Diebold Inc. of Canton, Ohio, has a special 18-person disaster response team cleaning affected machines. Each machine needs about eight hours of cleaning, Mr. Sutton said, at a cost of $37 an hour.

Machines shut

"When we discovered the problem, we shut the automatic teller system down and tried to seal up the machines with plastic and tape to prevent more ash from getting in," Mr. Sutton said. "But tens of thousands of people use those machines every weekend and so many people just ripped off the plastic. If more ash falls, we will need to do a better job of notifying customers not to use the machines."

In many instances, losses are not so much from physical damage as from labor to clean up ash and equipment. Typical is the Cowlitz County Public Utility District, which suffered $5,000 damage to utility lines and poles in the Toutle River Valley that was flooded and inundated with mud. A week later, heavy ash fell on transmission facilities, resulting in numerous electrical power outages.

"Our major cost is in labor, for which we have no insurance coverage as yet," says Bob Blodgett, comptroller. "We feel that we can qualify for federal disaster relief disbursement. We did secure flood insurance on several key buildings."

Airplane damage

In the air, ash damage to airplanes may no longer be covered, although some coverage hasn't been ruled out.

Avemco Inc. of Baltimore insures about 3,000 planes in the Northwest, says James Dodds, vp-underwriting. "We anticipate claims but whether we pay off depends on the circumstances," Mr. Dodds said.

"From a comprehensive point of view, ash damage is covered if it does not go beyond a reasonable span of time when it would appear as mechanical failure. A normal policy specifically excludes the mechanical breakdowns due to wear and tear. However, if we were to have a dramatic number of sudden engine failures, then we would have to consider this as something beyond the ability of the average plane owner to take care of."

The FAA has issued a four-page bulletin to every registered airplane owner in the country, warning of what ash can do to airplanes and engines. Avemco now considers aircraft owners duly warned of potential hazards. The insurer paid one claim from "a guy who went out to look at the volcano, flew into the dust and had a power loss. But the FAA has warned them now. We considered the ash hazard no different from the hazard faced by owners who live in deserts or sandy areas. It is up to the aircraft owner to maintain the plane."

Insurers are surprised that relatively few claims have been filed. "So far claims are mostly for clean-up. Nothing has been severe," said Bob Oaks, manager of Factory Mutual's adjustment division. "We do insure some sawmills and pulp and paper operations, but no one has had major equipment damage. It has mostly been clean-up of parking lots, roofs and other relatively minor things.

"Most damage will be below a company's deductible. Commercial accounts have large deductibles so we will not have a lot of payout. However, it is hard to anticipate what we have never had happen before," Mr. Oaks said.

The Hartford's claims experience is similar, said Judy Cornwell, claims manager. "We have had seven claims in our Seattle office. Six were for autos and the other was a business interruption in Ellensburg, Wash. A restaurant had to close because of ash. We have to send this claim to our home office for review because we cannot make a commitment without some careful checking."

Direct damage

Whether the claims will be paid will be a matter of interpretation. "Under business interruption coverage, you have to have direct damage triggered by an eruption or possibly because it was closed because of an order of civil authority, such as the police or health department. If the latter is true they will have a maximum two-week coverage," she said.

"We do not really know how many claims we will get. Our Spokane office had 15 claims, mostly for autos. Portland has none. Our office in Yakima, a particularly hard-hit area, has had no claims.

"I have been in touch with many insurance companies," Ms. Cornwell said. "They are wondering where all the claims are."

The Hartford is recommending vehicle fleet owners not repair ash-damaged vehicles immediately, "because we only repair once for each incidence of eruption." ■

Temporary service looks for safe work

Continued from page 3

why a temporary worker is being sought, Mr. Barry said. There is always the possibility that the firm's regular workers consider the job too dangerous.

"We turn down jobs if we can't inspect the premises," Mr. Barry said. "Sometimes we even find OSHA violations on these jobs when we inspect. We help the customers solve those problems, too."

Manpower also checks out its workers to be sure they can do the work they say they can and it provides them with the usual safety equipment, Mr. Barry said. Supervision by the customer company is also important, he continued. An untrained or poorly supervised worker has a much greater chance of being injured on the job.

"Our records show that the vast majority of the injuries are caused by employe error," Mr. Barry said.

As a final safeguard, Manpower instructs its employes to call in immediately if they are asked to do a job different from the one contracted for by the firm.

Varying rates

In nearly every state, Manpower's temporary industrial workers are classified as freight handlers for workers compensation rates, a decision handed down years ago by the Interstate Rating Bureau.

The rates vary widely, starting at about $2.50 per $100 of wages in North Carolina and reaching more than $19 per $100 in New York.

By contrast, office workers with their low injury risk have rates averaging only 38 cents per $100, Mr. Barry said. About 70% of Manpower's assignments are white-collar and office jobs, he noted, while only 30% are industrial.

There are two big exceptions to the freight handler classification: California and Texas.

California insists that temporaries be classified as if they were full-time workers, Mr. Barry said, which causes an auditing nightmare for insurance companies. Texas reserves seven classifications for temporaries and loaned workers, he said.

Except in three states where it's self-insured, Manpower buys insurance from CNA Insurance Co. of Chicago.

In the states where Manpower self-insures, its claims are handled by regional specialists: Workmen's Compensation Service Co. in Ohio; Martin Boyer Co. in Illinois, and R.L. Kautz in California.

Manpower's workers compensation insurance package with CNA is a retrospectively rated plan with a $250,000 self-insured retention. CNA pays any claims exceeding $250,000 and CNA reimburses Manpower if its losses are less.

Biggest bill

Even with its tough stand on not filling dangerous jobs and buying a retro workers compensation plan, Manpower's $4 million workers compensation costs are its biggest insurance bill.

The risk of being named in and losing product liability suits is considered minor. CNA provides insurance against the risk in the retro package.

In a consumer product liability suit, the courts generally have held Manpower's customer, but not Manpower, liable because supervision rights are the customer's, Mr. Barry said. ■

"Sometimes we even find OSHA violations," says Joseph Barry.

Health benefit in works

Manpower Inc. is experimenting with providing medical and hospital insurance to temporaries working 30 hours a week or more.

Temporary help firms traditionally haven't provided employe benefits to workers they place.

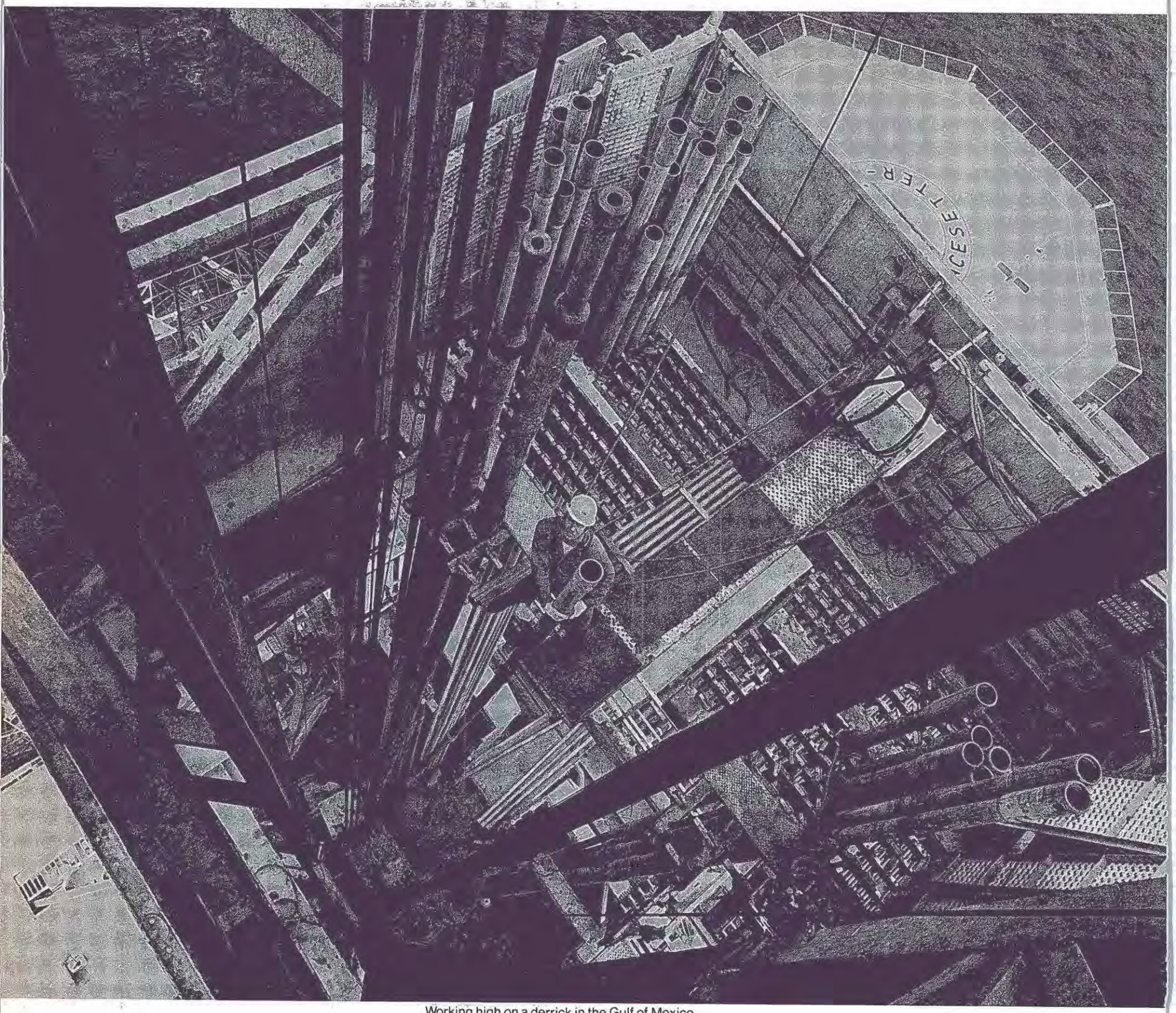
Manpower has been testing a health insurance benefit for temporaries who work steadily for four years in Houston and the past year in Santa Barbara, Calif.

The company fears the health insurance benefit could hurt rather than help the relationship with its temporaries when claims are rejected because the worker hasn't put in enough hours.

Results from the test areas are too inconclusive for the firm to make a decision soon, said Joseph C. Barry, corporate insurance manager.

Mr. Barry opposes the introduction of national health insurance. Being forced to pay for health insurance benefits would reduce the competitive edge temporary firms have in placing workers, he says.

How A&A looks at offshore drilling



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