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update

A&A delays reporting results, but admits fourth-quarter loss

NEW YORK—Alexander & Alexander Services Inc., the nation's second-largest insurance brokerage company, declared a 25-cent regular dividend for the fourth quarter of 1983, even though it says it suffered a fourth-quarter loss and will not report fourth-quarter and year-end results until late this month.

A&A announced last week that the upcoming financial results will show

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Storm brews over 501(c)(9)s

Proposal on House floor would deter employers from using tax-exempt trusts

By JERRY GEISEL

WASHINGTON—Employers will lose one of the most cost-efficient ways of funding their long-term employee benefit obligations if Congress approves legislation pending on the floor of the House of Representatives.

Severe funding restrictions contained in a deficit reduction bill, H.R. 4170, will make it virtually impossible for employers to use tax-exempt 501(c)(9) trusts to insure long-term disability benefits and post-retirement health care benefits.

The bill, which has already cleared the House Ways and Means Committee, will affect the security of employees' benefits by eliminating a financial incentive employers have to set aside money to pay for future benefits.

A 501(c)(9) trust, named for that section of the Internal Revenue Code authorizing it, allows employers to receive tax deductions for contributions to the trust. The trust assets and the interest they earn are not taxed.

The trusts, set up by employers of all sizes, pay for a wide variety of benefits, especially health care and long-term disability. Employers have set up some 9,400 such trusts.

Under the bill, which attempts to close employee benefit and other types of tax shelters, the reserves held by a trust cannot exceed 75% of the average benefits paid out during an employer's previous and current tax years.

For example, if a trust paid out $100,000 in benefits in 1983 and $150,000 this year, new contributions would be barred if they boosted the trust's reserves to more than $93,750.

The Senate Finance Committee last week, however, rejected reserve limits on the trusts after a dramatic debate between Sens. Robert Packwood, R-Ore., and John Danforth, R-Mo. The Senate bill simply says no more than 25% of benefits paid out by a trust can go to highly compensated employees, a limitation that will affect few companies (see

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Graphic: Amy Palmer

Employer lobbying pays off as Senate rejects limitations on benefit reserves

By JERRY GEISEL

WASHINGTON—A Senate panel isn't buying the House Ways and Means Committee's plan to severely restrict the funding of 501(c)(9) trusts.

In an impressive victory for the benefit community—one of the few it has tallied recently on Capitol Hill—the Senate Finance Committee last week decisively rejected proposals to place limits on reserves accumulated by the trusts to pay for promised benefits.

During the last week, committee Chairman Robert Dole, R-Kan., almost daily tried to get the committee to consider proposals to limit 501(c)(9) trust reserves as part of a $50 billion deficit reduction bill, S. 2062.

The committee, which was expected to complete work on that bill late last week, also was considering other benefit changes (see story, page 28).

It seemed, at first, that reserve restrictions on the trusts, which provide a wide variety of employee benefits, would sail through the committee.

Just two weeks ago, the Ways and Means Committee in closed sessions approved such a plan as part of its deficit reduction legislation, H.R. 4170.

Senate committee members, facing heavy pressure from the Treasury Department, which believes the trusts are being abused by small companies in tax-avoidance schemes and should be curbed, had been expected to follow the lead of the House panel.

Under the Ways and Means Committee bill, now awaiting action on the House floor, reserves held by a trust cannot exceed 75% of the average benefits paid out during an employer's previous and current tax years.

Experts say this limit would severely crimp the ability of employers to adequately fund their long-term benefit obligations (see accompanying story).

Without heavy lobbying by employers and

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Self-insurers plan to fight bill barring reserve writeoffs

By STEPHEN TARNOFF

WASHINGTON—Self-insurers are still hoping to brew up a big enough protest to defeat a proposal that would bar them from taking tax deductions for reserves established to pay workers compensation claims.

The proposal is moving to a vote on the House and Senate floors following recent passage of a deficit reduction bill, H.R. 4170, by the House Ways and Means Committee and the expected approval of a revenue bill by the Senate Finance Committee late last week.

Spokesmen for the National Council of Self-Insurers and the Risk & Insurance Management Society say it is not too late to gut the measure, which is considered detrimental to business in general but particularly to corporations that self-fund their workers compensation risks.

However, as of late last week, only the NCSI had begun an organized effort to fight the proposed legislation.

Moreover, some say that it will take a huge lobbying effort on the part of business to eliminate the provision, which affects tax practices in many areas besides the self-funding of workers compensation risks. Others say the only way it will be defeated is if the final deficit reduction bill is killed in its entirety.

The measure, which would change the rules for accrual tax accounting, was formulated by the Treasury Department and is one of

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Manville bankruptcy boosts costs for other defendants

By STEPHEN TARNOFF

Companies defending asbestos injury suits say they are paying more money to claimants since Manville Corp. was removed from the litigation, but this extra cost has not been as great as they had feared.

However, they are paying significantly more in defense costs, have rung up other legal expenses and have had their credit ratings reduced since Manville took its asbestos litigation problems to bankruptcy court.

Manville filed for reorganization under Chapter 11 of the Federal Bankruptcy Act in August 1982 and, under provisions of the bankruptcy act, all litigation against it has been stayed.

However, asbestos injury lawsuits have continued to be tried and/or settled without the participation of Manville, the largest asbestos producer and the favorite target of plaintiffs. And, at least some of Manville's share of settlements and awards to asbestos claimants has been passed on to its co-defendants.

Pointing out that they cannot blame all of the increases in claims costs on the Manville bankruptcy, the co-defendants are reporting cost increases of as much as 50% and as little as 10% since Manville was removed from the litigation.

Manville often contributed 25% to 30% toward settlements and jury awards before it filed for bankruptcy. And, sometimes it paid much more.

For instance, under a formula used in Texas in 1982 when Manville was still involved in the litigation, Manville paid 51% of costs if four defendants were named in a suit. The other three asbestos companies contributed about 16% each.

If there were 10 defendants, Manville paid 26% and the others paid 8.2%. If there were 14 defendants, Manville paid 19.47% and the others paid 6.19%.

Now, at least for one co-defendant, the tables are turning significantly.

Harry Day, general counsel for Raymark Corp. in Trumbull, Conn., says that preliminary data indicates that Raymark's average per-case settlement costs were 50% higher in 1983 than in 1982.

Moreover, "one of the most telling statistics," according to Mr. Day, is that Raymark generally paid 8% to 9% of a settlement before Manville dropped out; it is now paying about 13% to 14%.

Some of this increase is attributable to other factors, like inflation, Mr. Day points out.

Eagle-Picher Industries Inc. paid an average of

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NEWSPAPER

Premium hike needed soon, PBGC chief says

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bankrupt Braniff International Corp., is flying again. The agency now hopes to reap the fruits of an agreement with the company to terminate several underfunded pension plans in exchange for giving the PBGC $1 million in cash, a percentage of the new company's revenues, stock and warrants.

Mr. Tharp, formerly the PBGC's deputy executive director and vp of General Investment Funds, the in-house pension manager of General Tire & Rubber Co., has spent much of his first few weeks as executive director working with congressional committees to pass the two bills, H.R. 3930 and S. 1227, that would overhaul the PBGC single-employer insurance program.

PBGC officials have long argued the insurance program must be revamped. They contend it is now too easy for employers that want to improve their balance sheets to dump underfunded pension plans onto the PBGC.

Under ERISA, the PBGC has the right to collect 30% of a company's net worth to guarantee workers' and retirees' basic pension benefits if it terminates an underfunded plan.

But, some companies with little or no net worth and big pension liabilities have realized that it may be cheaper to dump the plan—and pay the penalty—than to continue to fund the plan.

> Mr. Tharp says that companies should have the right to terminate overfunded pension plans. 'One of the great strengths of the private pension plan system is that it is voluntary,' he says.

The House legislation, introduced by Reps. William Clay, D-Mo., and John Erlenborn, R-Ill., would bar employers from folding a pension plan until all liabilities were fully funded (*BI*, Oct. 31, 1983).

The Clay-Erlenborn legislation has drawn criticism because it would, among other things, virtually give labor unions total control in deciding whether an employer could terminate a plan.

Mr. Tharp hopes the controversy over the union "veto" provision, which does not appear in the Senate bill introduced by Sen. Don Nickles, R-Okla., as well as other roadblocks can be resolved so that a bill can be enacted this year.

Until Congress enacts these changes, legislators are unlikely to overhaul the Multiemployer Amendments Act, Mr. Tharp said.

More than 140 suits challenge the constitutionality of the 1980 law, many of which argue that Congress did not have the right to make employers pay for benefits promised by the plans.

Prior to the law's enactment, an employer's liability was limited to what it promised to contribute—usually expressed as a percentage of a worker's hourly pay. This led to plan deficits because employers fought to contribute as little as possible while the plans promised big benefits.

But, under the withdrawal liability rules in the 1980 law, employers must pay a share of the plan's unfunded vested benefits when they leave the plan. This withdrawal liability can exceed a company's net worth if it withdraws from a badly underfunded plan.

This fear of withdrawal liability is producing the desired effects, Mr. Tharp notes. Employers are taking a more active interest to see that the plans are better funded, he said.

While the PBGC and congressional committees have spent a lot of time dealing with the problem of underfunded pension plans, Mr. Tharp says it's ironic that the termination of overfunded plans has become a major issue.

This controversy has emerged during the past two years as companies found that they could recapture hundreds of millions of dollars from overfunded plans. Plan surpluses grew rapidly during the stock market boom of 1982-83 as asset values soared.

Mr. Tharp agrees that companies do have the right to terminate overfunded plans. "One of the great strengths of the private pension plan system is that it is voluntary," he says.

The PBGC, for example, has given the green light to companies like Occidental Petroleum Corp. to terminate overfunded plans and replace them with defined contribution plans that are not covered by the PBGC insurance program.

But Mr. Tharp says the PBGC is troubled by spinoff terminations, for which several companies have applied to the agency for permission.

For example, Celanese Corp., a New York-based producer of chemicals, fibers and plastics, has asked the PBGC for permission to split its defined benefit plan into two plans to recover about $300 million in surplus assets.

The company wants to split its pension plan into one for employees and one for retirees, with the excess assets going into the retirees' plan. Celanese then will terminate the plan to recover assets and purchase annuities from an insurer to pay retirees' benefits.

Spinoff arrangements worry PBGC officials because the assets left in the employees' plan may not be enough to pay promised benefits if, for example, the stock market takes a plunge.

Then, if the company goes out of business, the PBGC will have to assume yet another underfunded plan.

While the termination of overfunded plans concerns Mr. Tharp, he says the problem should not be blown out of proportion.

Currently, the PBGC is considering about 60 requests for terminations of overfunded plans. These plans have about 87,000 participants and about $1 billion in excess assets, a small percentage of the $600 billion in assets maintained by private pension plans, he said.

Not all the news at the PBGC is bad, Mr. Tharp points out. When Braniff Inc. resumed flying earlier this month, the PBGC had a special reason to salute the event.

An agreement reached last year with Braniff called for the company to give the PBGC $1 million in cash when the carrier took to the air. The agreement also calls for Braniff to pay the PBGC an amount equal to 10% of the revenues Braniff receives annually for flying federal employees.

In addition, the PBGC received several hundred thousand shares of the new Braniff stock, plus warrants to purchase additional Braniff shares.

In exchange for these benefits, which former PBGC chief Mr. Jones said had a potential value of between $10 million and $12 million, the PBGC dropped a $47.2 million bankruptcy court claim against Braniff resulting from the termination of three underfunded Braniff plans.

Mr. Tharp said that, like Mr. Jones, he intends to work out innovative arrangements when appopriate to avoid lengthy litigation that a troubled company might not survive. ■

Cost of work comp benefits up 270% in 10 years: Study

WASHINGTON—The amount of workers compensation medical and indemnity benefits paid between 1972 and 1981 increased 270%, according to a recent report.

In addition, self-insurers are paying a larger portion of the benefits, the report says.

Employers that self-insure their work comp risks paid 20.2% of the estimated $15 billion in workers compensation indemnity and medical benefits paid in 1981, compared with 15.3% of $4 billion in 1972.

During the same 10-year period, insurers' payments decreased to 63.6% of benefits paid in 1981 from 66.1% in 1972. Payments made by state funds also decreased in that same period: 16.2% in 1981, down from 18.6% in 1972.

The annual report, put together by UBA Inc., a Washington-based employer-supported research group, uses estimates supplied by the Social Security Administration.

The facts and figures in the report include only medical care payments and cash indemnity payments to injured workers, said Charles Little, executive assistant to the president of UBA.

The state of Maine has the dubious distinction of being ranked as the state having the largest percentage increase in workers compensation medical and indemnity costs between 1972 and 1981.

Maine's costs increased 883% in that 10-year period, compared with New York, which ranked last among the states with an increase of 114% in the same period.

The national average over the 10-year period was 275.5%.

The other states and their percentage increases are:

Washington, D.C., 693%; Wyoming, 673%; Alaska, 578%; New Hampshire, 489%; Virginia, 432%; New Mexico, 424%; Colorado, 416%; Minnesota, 415%; Nevada, $414%; and Iowa, 407%.

Also West Virginia, 396%; Georgia, 394%; Rhode Island, 393%; Oregon, 387%; South Carolina, 384%; Washington, 383%; Kentucky, 379%; Arkansas, 371%; Vermont, 370%; Oklahoma, 369%; Hawaii, 359%; Kansas, 357%; and Utah, 355%.

Also Louisiana, 352%; Pennsylvania, 346%; Maryland, 329%; Texas, 329%; Illinois 324%; South Dakota, 323%; Nebraska, 320%; North Carolina, 313%; Montana, 300%; Alabama, 298%; Idaho, 293%; Ohio, 290%; and Wisconsin, 286%.

Also California, 286%; Mississippi, 274%; North Dakota, 255%; Tennessee, 250%; Connecticut, 239%; Massachusetts, 227%; Florida, 216%; Delaware, 193%; Missouri, 186%; Michigan, 176%; Arizona, 163%; Indiana, 150%; New Jersey, 121%; and New York, 114%.

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Additional information on the report is available from UBA Inc., 600 Maryland Ave. S.W., Suite 603, Washington D.C. 20024.

Armco closes two reinsurers

Continued from page 2

Armco Special Risks is being phased out "as a result of the tax position of our parent company. We are not able to offset underwriting losses with tax credits," he said.

"We're not pulling out of insurance altogether," he added, citing at least nine other Armco units that are still writing business.

Armco announced earlier this year that it hoped to sell most of its insurance subsidiaries to Allianz Versicherungs A.G. of West Germany (*BI*, Feb. 6).

In Bermuda, Mead Corp.'s captive insurer, Westbury Reinsurance Ltd., has requested a temporary "suspension" from the newly formed Bermuda Risk Exchange.

"At this time, we're really not looking to further expand our underwriting activities in this kind of venture. We asked them to suspend us at least until this summer so we could evaluate where we wanted to go with this, with Bermuda business in general," explains John T. Webb, senior vp of underwriting at Mead Reinsurance Corp. in Dayton, Ohio.

Members of the exchange trade risks among themselves via their captives, bypassing the commercial reinsurance market and heavy brokerage costs (*BI*, Nov. 14, 1983).

The 17-member exchange isn't worried about losing Westbury's participation. Westbury is expected to resume active participation in the exchange later this year.

"This really won't reduce our capacity by any significant proportion," notes Robert J. Rosser, manager of underwriting services for the exchange and assistant vp at Hudson Underwriting Ltd., a unit of Skandia America Group.

Spokespersons in Dayton for both Mead Re and its parent, Mead Corp., stress that Mead Re is not closing down or withdrawing in other areas of business.

In London, Community Reinsurance Corp. Ltd., a consortium of eight insurers and reinsurers, has ceased underwriting, says Nigel Haygarth, the company's director.

The underwriters participating in the venture decided to close the operation because many of them now own affiliates in London and want to devote full attention to their own interests, he says.

The companies that held an equal interest in Community Re are: La Belgique Cie d'Assuarances of Belgium; Copenhagen Reinsurance Co. of Denmark; Iron Trades Mutual Insurance Co. Ltd. of Great Britain; Hansa International Insurance Co. Ltd. of Sweden; Norden Skadeforsikring A/S of Norway; Pearl Assurance P.L.C. of Great Britain; La Providence IARD of France; and Sampo Mutual Insurance Co. of Finland.

Community Re, which was founded in 1972, specialized in writing non-marine excess-of-loss reinsurance. It generated a net premium volume of 6.25 million pounds in 1983.

One of the shareholders in Community Re, Copenhagen Re, is forming another London operation in partnership with other Scandanavian insurers.

The new company, Norse Reinsurance Co. Ltd., is registered in Guernsey with paid-up capital of 2 million pounds.

Norse Re will underwrite short-tail property coverage and a small amount of marine reinsurance.

Besides Copenhagen Re, the other underwriters with shares in Norse Re are Svenska Veritas Insurance Co. Ltd. of Sweden; Norges Brannkasse Mutual Insurance Co. of Norway; Allmanna Brand Mutual Insurance Co. of Sweden; Securitas Insurance Co. Ltd. of Sweden; Almindelig Brandforsikring A.F. of Denmark; and Forenede Gruppe A/S of Norway. ■

A toast to safety

Continued from page 3

tion—that's immeasurable," he says.

About 60 full- and part-time workers were employeed at the structure, including tour guides, cashiers and construction workers involved in the restoration. Some have lost their jobs; others are waiting to be assigned to postions elsewhere within the company until Greystone can be reopened.

Studies are under way to determine what steps need to be taken before the structure can be reopened, the spokesman says.

opinions

You can force a change

LOBBYING FOR WHAT you believe in can make a difference.

Only a week ago, the Senate Finance Committee appeared to be on the verge of adopting a Treasury Department proposal that would have made it virtually impossible for employers to use 501(c)(9) trusts to fund long-term benefit obligations, like long-term disability and post-retirement health care coverages. A similar proposal, part of a deficit reduction package, is now pending on the House floor.

Faced with the threat of losing the most cost-efficient technique of funding their long-term benefit promises, employers fought the Treasury Department's proposal as it was being considered by the Senate committee—and they won.

But the victory was possible only because employers banded together and worked hard.

First, a letter drafted by the Assn. of Private Pension & Welfare Plans, which warned that the proposal would mean employers could not fund benefits on an actuarially sound basis, was read by Sen. Robert Packwood, R-Ore., just as the Finance Committee was prepared to vote on the proposal. Committee Chairman Robert Dole, R-Kan., delayed the vote after Sen. Packwood read the letter, giving employers and trade associations the time they needed to mobilize their resources. Then, companies like General Electric Co., Kerr-McGee Corp. and Metropolitan Life Insurance Co., as well as benefit consultants, worked to convince committee members that the proposal would have a disastrous effect.

That solid, professional lobbying effort paid off. Last week, the proposal was solidly defeated and a much more acceptable proposal by Sen. Packwood was adopted. Employers, however, should not get complacent. They must convince the full House to delete the proposal when the deficit reduction bill is voted on, probably later this month.

They must be made aware that the Treasury Department proposal—which limits reserves held by a trust to 75% of the average benefits paid out over the most recent two years—simply makes no sense.

For instance, if companies do not adequately pre-fund long-term disability benefits, disabled workers might not collect anything if their employer later goes out of business.

And, if limitations are placed on trust reserves, more companies probably would buy long-term disability coverage from insurers—at a higher price. Since employers receive tax deductions when they pay insurance premiums, federal revenues would be reduced—which is just the opposite of the Treasury Department's goal.

Finally, the proposal bucks the trend of encouarging employers to pre-fund benefit obligations. ERISA set minimum funding standards for pension plans, while the Financial Accounting Standards Board is proposing that employers list post-retirement benefit liabilities on their balance sheets.

Convincing the House of all these points will take another concerted effort. One victory does not mean the war is won.

letters

Consultants' societies can set the record straight

To the editor: Somehow I think the subtitle, "A Few Bad Apples Can Spoil the Image of the Others," for the Perspective article by Charles A. McAlear entitled "Picking a Consultant" (*BI*, Feb. 20) does not properly describe the point Mr. McAlear was trying to make in developing titles or descriptive adjectives for risk and insurance management consultants.

He definitely indicated that most, not just a few, of these individuals were poorly educated, lacking experience, extensively biased and often self-serving, which obviously leads one to conclude the good ones are in the minority. I believe the subtitle is as inaccurate as his descriptions of the consultants supposedly running amok in the marketplace.

Upon reading the response of a fellow independent consultant, Warren Brockmeier, to Mr. McAlear's article, obviously Mr. McAlear knew there were two professional societies, namely the Insurance Consultants' Society and the Institute of Risk Management Consultants, which he simply just as obviously chose to ignore.

If his choosing was because he may have forgotten the names of each society or he did not know some of the principles or code of ethics of each society, and hence, the standards an individual must meet to qualify for continuing membership, I trust by now he has read the article "Consultants' Societies Promote High Standards" in the same issue, and does now know at least something of their purpose and reason for existence.

I would hazard a guess, or better yet, state with virtual certainty that Mr. McAlear's personal experience with risk and insurance management consultants, which lead him to his descriptive categorization, was not the result of having dealt with an independent consultant who was a member of either society.

Admittedly, not all the individuals who are "consultants" belong to either of these two societies. Some simply cannot qualify for various reasons such as not having sufficient experience, education, being truly independent, etc. However, their not belonging does not necessarily mean they automatically would fit one of the many "categories" Mr. McAlear described.

Although the three principals of First Risk Management Co., of whom I am one, are members of ICS and adhere to its standards, our firm utilizes a semiannual peer review directed specially toward maintaining a "Tiffany" image.

Besides having monthly general consultant staff meetings, where new concepts are discussed and ideas are exchanged, we also hold quarterly specific risk management meetings as well. In addition, we subscribe to and each of us attends several continuing education meetings sponsored by a given CPCU chapter, the World Trade Institute, American Management Assns., etc.

Mr. McAlear's closing comment was that it is now time for consultants to clean up their ranks and their image. Frankly, I do not think the ranks and image of the members of either of two societies need to be cleansed. By the fact that they are members and each year continue to qualify for membership, there is really no further "cleaning up" necessary.

I suggest Mr. McAlear acquaint himself with a few of the members of each society. Your Feb. 20 issue of *Business Insurance* certainly gives him an inkling as to whom some of them are.

Alvin E. Mangold
President
Insurance Consultants' Society
Feasterville, Pa.

A new association

To the editor: With reference to the article, "Tightening Reinsurance Capacity Catching Many Insurers Off Guard" (*BI*, March 5), I want to go on record that I am no longer associated with Global Surplus Insurance Services. I was interviewed at a time prior to my leaving Global and before Global Surplus and the Protective National Insurance Co. of Omaha decided to terminate their MGA contract.

Management was not in the habit of communicating with employees or managers, so the information given to Ms. Rundle must be considered in this light. I do not wish to have any of my friends, associates or producers feel that the information published in your trade journal is misleading.

H.P. Schlander
Pasadena, Calif.

Now for an article on brokers

To the editor: I consider *Business Insurance* a resource for my business. As a true consultant, I was especially interested in the issue on risk management consultants (*BI*, Feb. 20).

Of the several articles, two Perspective articles caught my attention. One commented on "bad apples" and what a consultant (or broker, for that matter) shouldn't be; another, "The Time for a Consultant," was written by an insurance broker.

The last article parallels the surgeon general writing a report about the advantages of cigarette smoking.

A true broker, by definition, is a commission-oriented insurance technician paid by the insurance company. A true consultant is an insurance technician paid by the insurance buyer. Both serve a valuable function.

In your next risk management consultant special, I'd like to expound on the function of a true consultant or, if you prefer, "The Time for a Broker" in your next broker special issue.

R.W. Glenn
R.W. Glenn Insurance Consultants
Greensboro, N.C.

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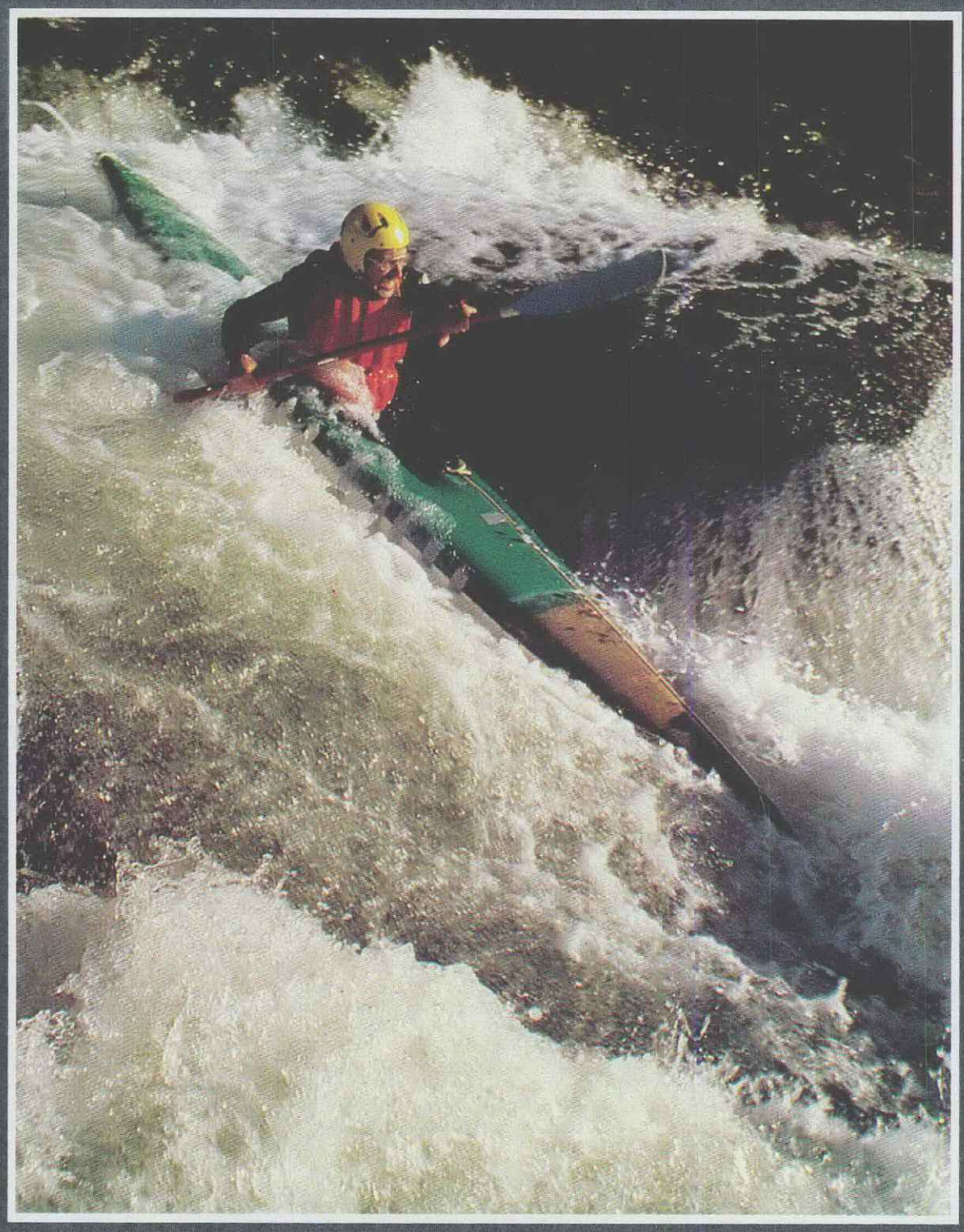

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Attempt to settle dispute over bush fire claims fails

By STACY SHAPIRO

LONDON—A British High Court will determine who should pay about $100 million in claims arising from last year's Australian bush fires now that attempts to settle the case have failed, attorneys say.

Primary and excess liability insurers for the Southern Electricity Commission of Victoria, which concedes liability for two of the fires, are refusing to pay the claims, claiming that facts were misrepresented when two Sedgwick Group P.L.C. units placed the utility's coverage in 1982 (*BI*, Jan. 30).

Earlier this month, attorneys for the SECV, Sedgwick and the utility's underwriters received a two-day recess in the trial to determine who will pay the claims to work out a settlement. However, Sedgwick attorney Michael Waller told the court later that the attempt failed. He predicts the trial could last another eight months.

Attorneys for the SECV have testified that the utility did not misrepresent any facts regarding the risk and argued that Sedgwick should be held responsible for the losses if the court ruled the underwriters do not have to pay.

If the court orders Sedgwick to pay the claims, the company says it has errors and omission insurance to cover the loss. In fact, according to evidence introduced in court, some of the SECV's liability insurers are also on Sedgwick's E&O risk, meaning they could end up paying no matter how the court decides. Sedgwick denies it acted improperly.

The SECV's coverage, which exceeds $50 million per occurrence, is led by Gerling Konzern Allgemeine Versicherungs A.G. of West Germany, and includes more than 10 underwriters participating in two excess layers.

Howden bonuses

The former chairman of Alexander Howden Group P.L.C. issued bonuses of up to $50,000 to four former Howden directors, including former Howden Deputy Chairman Michael Glover, Howden and Mr. Glover confirm.

But, both Mr. Glover and a Howden spokesman say that these payments are not connected with the $55 million that former Chairman Kenneth Grob and four ex-Howden executives are accused of misappropriating from Howden's underwriting affiliates.

As a result, Howden and A&A are not taking any action to recover these bonuses, the spokesman said.

According to Howden, the other beneficiaries of these bonuses are Gordon Pope, who is currently a Howden director and secretary of Alexander Howden Insurance Brokers Ltd.; Malcolm Reynolds, a former Howden director and secretary; and Alan Turner, former director of Sphere Drake Underwriting Management Ltd, a Howden subsidiary.

Mr. Glover, who retired from his post at Howden last year, told *Business Insurance* that "the situation is simple. In 1976-77, Ken Grob did give me some personal payments—or bonuses—and I was pleased to have them."

Mr. Glover, who still serves as a consultant to Howden's parent, Alexander & Alexander Services Inc., says he believes he received the bonuses because he was "doing a good job.

"He (Mr. Grob) made some gifts which I was happy to receive...anybody who wants to give me another $50,000 is welcome. I would be glad to take it," Mr. Glover said.

Mr. Grob's attorneys refused to comment.

According to a Howden spokesman, A&A and Howden discovered the payments during the special audit conducted in 1982 that discovered the missing Howden underwriting funds.

The spokesman says that Mr. Glover and the others who received bonuses have cooperated with the Lloyd's investigation into the problems at Howden.

"There was no misappropriation on my part and I fully and freely cooperated with the Committee of Lloyd's," Mr. Reynolds stated.

"I was asked (by Lloyd's) about personal gifts from Mr. Grob and I explained to them, but I thought the answers were entirely confidential," said Mr. Glover.

The bonuses were made public earlier this month when press reports said that the Lloyd's report on the Howden affair mentioned them. However, neither Mr. Glover nor the Howden spokesman said they had seen a copy of the report.

Messrs. Pope and Turner could not be reached for comment.

Syndicate losses

Lloyd's of London members who have paid nearly 20,000 pounds for underwriting losses at marine syndicates 895, 898 and 899 will decide today whether to sue underwriting agency Spicer & White (Underwriting Agencies) Ltd. and the Corp. of Lloyd's.

The members' law firm, Clifford-Turner, has recommended in a letter that grounds for a lawsuit exist.

"The responsibility for insuring that names remain within their limits must rest on their underwriting agents," a letter from the law firm says.

The firm also says Lloyd's may be liable for some portion of the loss even though Lloyd's is "immune from liability" under the Lloyd's Act of 1982. However, counsel notes that the immunity from liability clause has never been tested in the courts.

"The names...do have a reasonable cause of action against Lloyd's for the loss and damage under consideration here and...Lloyd's should be joined as a defendant in any proceedings brought by them," the letter reads.

The dispute arose from underwriting losses at marine Syndicates 895, 898 and 899 during 1980-1982 when Bryan Spencer was the underwriter for the syndicates. During that time, the syndicates lost 13.1 million pounds, overwrote their premium limit by 20% in 1980, 66% in 1981 and 113% in 1982 and made some reinsurance arrangements that are not unrecoverable, according to a Spicer & White report issued in October.

The syndicates were closed last year and remaining business is being run off. But, Spicer & White is asking members to pay 4.36 million pounds for the losses.

As of last month, Spicer & White said 90.8% of the cash call had been collected. But, 13 members are refusing to pay all or part of the cash call, the underwriting agency says.

Spicer & White also is trying to recover reinsurance for the syndicates, but the success has been "mixed," according to the report.

Iranian insurance

The state-owned Iran Insurance Co. says it will write hull war risk insurance for oil tankers bound for Iranian ports at a lower rate than London underwriters are now quoting.

The Iranian insurer says it will rate hull war risks bound for Iran's Kharg Island at $1 per $100 of insured value. Earlier this month, Lloyd's of London underwriters doubled its hull war risk rates for these tankers to $1.50 per $100.

To back up the coverage offer, Iran's Central Bank has transferred $100 million to an undisclosed London bank to pay any claims costs.

Also, London underwriters generally have increased the rates they are charging for cargo war risk coverage for ship headed to Kharg Island. Underwriters are now quoting a rate of 75 cents per $100 in insured value, up from 50 cents.

However, cargo war risk rating for ships bound for Kharg Island is being conducted on a "held-cover" basis, which means underwriters can boost their rates whenever they want.

Meanwhile, the British Parliament is debating whether to declare the Persian Gulf a war zone following the Iraqi attack on the British bulk carrier Charming. The ship, which was heavily damaged, was insured for $2 million by Lloyd's underwriters.

If the gulf is declared a war zone, crew members' life insurance policies would probably not cover any fatalities because of war exclusions. ■

london line

Pollution lawsuit rejected

LOS ANGELES—Businesses cannot use the federal Superfund law to force other companies to clean up hazardous wastes, a U.S. District Court judge has ruled.

Judge Lawrence T. Lydick recently ruled that the provisions of the Comprehensive Environmental Response and Liability Act of 1980, better known as CERCLA or the Superfund, can only be used by the U.S. Environmental Protection Agency, not by private parties.

In doing so, he dismissed a December 1983 suit by Cadillac Fairview/California Inc., a Los Angeles real estate development firm.

Cadillac Fairview, which bought 100 acres in Los Angeles in 1976 without realizing that a portion of the land was once used as a hazardous waste dump site, filed suit under CERCLA against Shell Oil Co. and Dow Chemical Co., among others (*BI*, Dec. 19, 1983).

The land has been found to contain toxic wastes, which Cadillac Fairview claims were deposited by Shell, Dow and others between October 1942 and April 1955, and perhaps as recently as 1972.

Cadillac Fairview, which says it was not informed of this when it purchased the property, also sued Cabot, Cabot & Forbes Interim Inc., the successor to the company that sold it the land.

The site is listed by the state's "mini-Superfund" program as one of the worst toxic waste health hazards in California.

Michael Seaton, president of the Cadillac Fairview, calls the decision "an obvious disappointment." He says the company has not yet decided if it will appeal.

He says he is not certain how much cleanup would cost. ■

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Rostenkowski opposes health tax cap

By JERRY GEISEL

WASHINGTON—The chairman of the House Ways and Means Committee doesn't want the Reagan administration's proposed cap on tax-free health insurance benefits.

Rep. Daniel Rostenkowski, D-Ill., says he opposes the administration's plan to limit the amount of employer-paid health insurance that can be provided tax-free to employees.

Mr. Rostenkowski told the National People's Action on Health Care Benefits that he will not let the health care tax proposal get out of his committee, though he did not specify his objections to the proposal.

Under the proposal, employees would have to pay federal income and Social Security taxes on that portion of an employer-provided health insurance premium that exceeds $70 a month for individual coverage and $175 a month for family coverage.

washington

Benefit advisers

The Labor Department's Advisory Council on Employee Welfare and Pension Benefit Plans has two new members.

The new members, who will serve three-year terms, are: James Miller, a partner with the accounting firm of Deloitte, Haskins & Sells in Pittsburgh, and Donald Pond, vp and actuary with Connecticut Mutual Life Insurance Co. in Hartford, Conn.

Mr. Miller will represent the accounting profession and Mr. Pond will represent insurers on the 15-member council, which advises the secretary of labor on issues relating to the Employee Retirement Income Security Act of 1974.

Three current members also were reappointed to the council. They are:

- Leland McCullough, a partner with Greene, Callister & Nebeker, a Salt Lake City law firm.
- Lawrence Smedley, associate director of the AFL-CIO's Department of Occupational Safety, Health and Social Security in Washington.
- Jozetta Srb, a research associate at Cornell University's School of Industrial and Labor Relations in Ithaca, N.Y.

Mr. McCullough represents employers, while Mr. Smedley represents employee organizations and Ms. Srb represents the general public.

Heavy reading

One of the hottest-selling books in Washington is 1,833 pages long and weighs in at 3½ pounds.

The supplemental report of the House Ways and Means Committee on the Tax Reform Act of 1984, H.R. 4170, is selling briskly at $21 a copy, according to its publisher, the Government Printing Office.

The book is in demand by lobbyists, who stood in long lines at the GPO's main book store in Washington to get the first copies. The book contains the actual deficit reduction bill (1,023 pages) approved by the Ways and Means Committee (*BI*, March 12), as well as an explanation of the bill's provisions (810 pages).

The best-seller, which also explains the employee benefit provisions in the legislation including new funding restrictions on 501(c)(9) trusts is, however, doomed to obsolescence.

Once the bill reaches the House floor for a vote, congressmen are likely to make at least some changes before giving the legislation final approval.

That will mean a new, probably bigger and more expensive report will have to be published by the GPO.

And the reports won't stop there. Another volume will be published on the Senate version of the deficit reduction bill as well as on the final bill that will emerge from a House-Senate conference committee.

Risk and benefit managers can order a copy of the House report by writing the Superintendent of Documents, Government Printing Office, Washington, D.C. 20401. Specify Report 98-432, Part 2.

PBGC official

Financial consultant Roderick J. O'Neil has been named associate executive director of the Pension Benefit Guaranty Corp.

In the new position, Mr. O'Neil, 53, will be responsible for the pension insurance agency's policy development and also will be involved in legal, budget and management planning issues.

Mr. O'Neil has served as a legal and management officer for the commonwealth of Puerto Rico. He also was the assistant to the finance chairman of General Tire & Rubber Co. Earlier in his career, Mr. O'Neil helped establish several small private companies.

FSA changes

The tax code can be modified to wipe out abusive flexible spending accounts without destroying the entire FSA concept, an employer group says.

The Washington Business Group on Health suggests that so-called Zero Balance Reimbursement Accounts, or ZEBRAs, which allow employees to reduce their salaries by unlimited amounts to pay for uncovered benefit expenses after they are incurred, should be outlawed.

In addition, caps on the amount of money an employee could contribute to an FSA may be necessary.

"Allowing employees to purchase several pairs of eyeglasses as an enhancement of wardrobe rather than a health care need circumvents the intent of FSAs," the group says.

"Establishing qualified medical expenses for which FSA dollars can be used would be a reasonable modification."

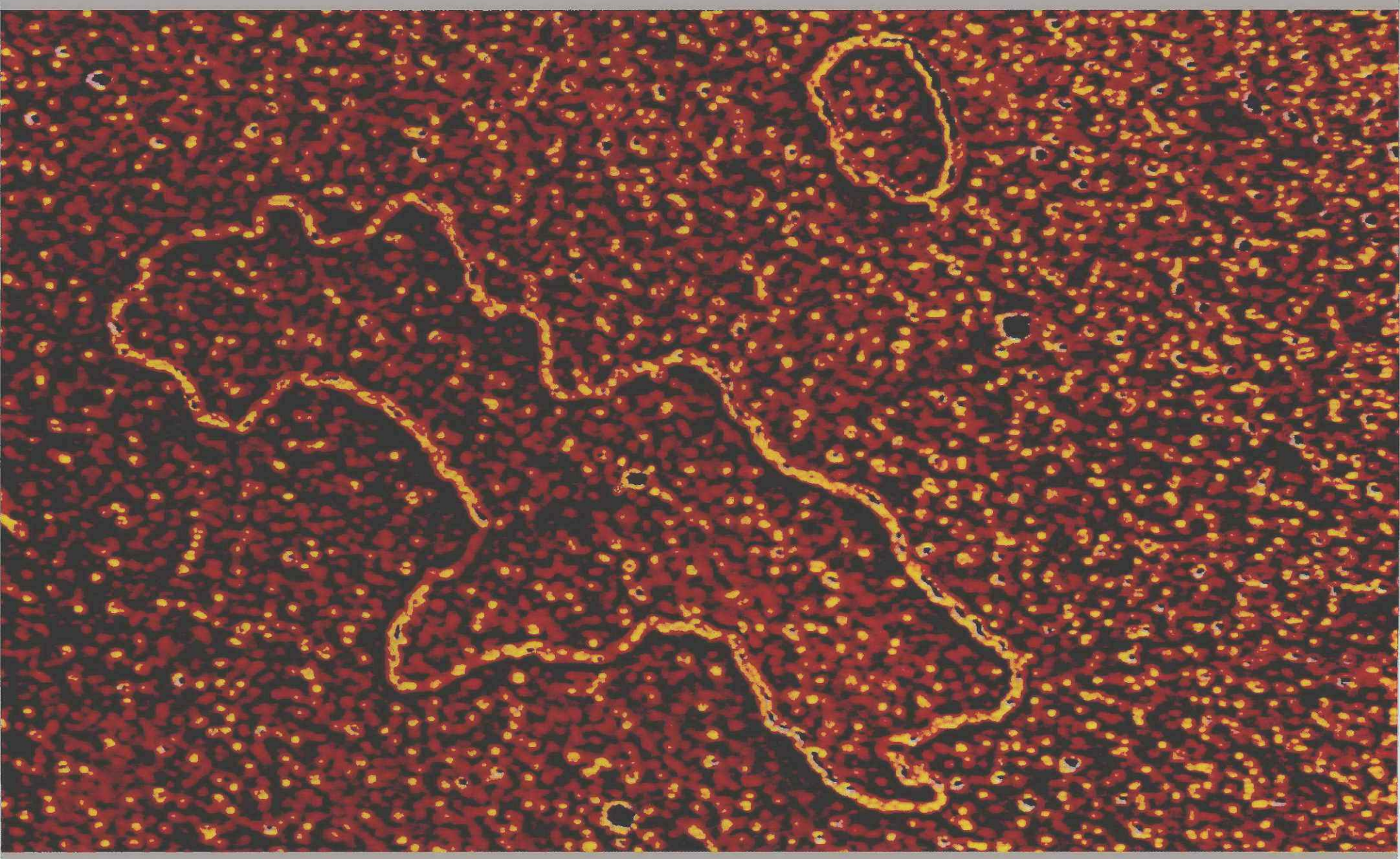
The group's suggestions were in response to a Feb. 10 news release by the Internal Revenue Service that implied that most FSAs are invalid (*BI*, Feb. 20).

Railroad safety

New safety rules published by the Federal Railroad Administration require railroads to investigate the cause of all signal failures.

Previously, railroads did not have to investigate minor signal malfunctions or any other problems that did not create potential safety problems. ■

DOES SOMETHING LIKE THIS BELONG IN A PENSION PORTFOLIO?



If you happen to think that investment in DNA research is a little exotic for a pension fund or profit sharing plan, you're not alone.

For all the glamour of genetic engineering, robotics, and other high tech investments, many pension managers still write them off as too risky.

What they don't realize is that it's possible to approach even such normally speculative investments conservatively, intelligently, and systematically.

In fact, in our Investment Group at CIGNA we manage portfolios of just such investments, in exactly that way, for a limited number of pension fund clients.

And if that surprises you, so will the fact that in the three-year period ending December 1983, these Special Opportunities funds rose in value by 88.2%.*

Of course, whether or not investments such as these belong in your portfolio depends on your portfolio.

But no matter what investment strategy you're following, we'd like you to know that the business approach responsible for the growth of our Special Opportunities portfolios operates in every investment unit at CIGNA.

Each of those units functions as an autonomous and specialized "business within a business," within our Investment Group.

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We don't look for one good year.

Or count on the occasional inspiration.

We're committed to the value of a long-term and disciplined investment philosophy.

In the last five years, for example, the return on the pooled equity fund managed by CIGNA Investment Management Company ranked in P.I.P.E.R.'s top performance quartile.**

So, even if DNA doesn't belong in your portfolio, perhaps our Investment Group still belongs in your plans.

CIGNA

CIGNA Investment Management Company, Hartford, CT 06152.

*Past performance is not necessarily indicative of future performance. **P.I.P.E.R. -- universe of pooled equity funds of banks and insurance companies for the five-year period ending 12/31/83.

New Jersey regulator resigns amid criticism

TRENTON, N.J.—Citing unwarranted legislative criticism and harassment, New Jersey Insurance Commissioner Joseph F. Murphy is stepping down from the post he has held for the past two years.

Mr. Murphy, 68, who was appointed by Gov. Thomas H. Kean, told the governor in a letter dated March 1 that recent "demigodic" behavior of the Legislature involving auto insurance has turned into harassment, which he finds personally offensive.

No-fault automobile insurance has been a controversial topic in New Jersey during the past year and a recent rate increase has stirred the ire of legislators and the public.

This harassment, according to Mr. Murphy's letter, has reached a level seriously prejudicial to the effective administration of the department.

Mr. Murphy's resignation takes effect April 16. A new commissioner has not been named.

Besides working for the New Jersey Insurance Department, Mr. Murphy served as deputy superintendent of insurance in New York from 1952 to 1955. He has worked as legal counsel for Continental Corp. in New York and retired in 1980 as Continental's executive vp in charge of corporate and legal affairs. After his retirement, he became a partner in the New York law firm of LeBoeuf, Lamb, Leiby & MacRae.

Mr. Murphy has not announced his future plans.

No license?

RIVERSIDE, Calif.—The California Insurance Department is trying to put out of business a health care firm that the department says is operating as an insurance company without a license and in violation of state laws.

The department will conduct a hearing April 12-13 to determine if a preliminary injunction is warranted to close Totalcare International Inc., which it says has been operating partly as an insurer and partly as a health maintenance organization.

Employers were led to believe that a portion of a fee they paid the company would buy hospitalization coverage for enrolled employees, but no insurer was ever involved, departmental investigators say.

Totalcare has been in operation here for about two years, contracting with employers and physicians as a prepaid health care plan, though it has not contracted with hospitals. The company currently has an estimated 2,000 persons enrolled in Riverside and nearby San Bernadino counties.

The Insurance Department has issued a cease-and-desist order against Totalcare and, in a separate action, the state Department of Corporations has issued a temporary restraining order, prohibiting the company from assuming any new business. A hearing on the restraining order is scheduled for April 6.

Alliance selects Washington chief

WASHINGTON—The Alliance of American Insurers has named a new head for its Washington office.

David Farmer, who currently directs the Alliance's Southeastern region in Atlanta, will become vp in charge of the Washington office.

Mr. Farmer, who will begin work in Washington June 1, also has been an attorney and director of legislation with the Professional Insurance Agents of America in Washington. In addition, he has held positions with Aetna Casualty & Surety Co. in Washington and San Diego.

Mr. Farmer replaces Andre Maisonpierre, who left the Alliance to direct the Reinsurance Assn. of America in Washington. Tom O'Day, an assistant vp, will run the Alliance office until Mr. Farmer assumes his new position. ■

around the states

Workers comp pool

OKLAHOMA CITY—Some 26 retail merchants in Oklahoma are expecting to cut 35% off their workers compensation premium costs now that they've formed a self-insurance pool.

The Oklahoma Retail Merchants Group Self Insurance Assn. was chartered March 1 through the Oklahoma Retail Merchants Assn. It will provide savings to its members through advance discounts on premium, return of surplus premium and safety engineering services.

The member retailers will pay their workers compensation premium, less advance discounts, into the group fund instead of to a commercial insurer. That fund serves as a premium pool, from which claims are paid. At the close of the year, surplus premium can be returned to the members, according to Summit Consulting Inc. in Lakeland, Fla., the group's self-insurance administrator.

The amount returned is based on the surplus available and the individual loss ratio of each member.

HMO law opposed

PROVIDENCE, R.I.—Blue Cross & Blue Shield of Rhode Island has filed suit in a U.S. District Court to fight the "mandated option" requirement of the state's HMO Act.

The dual-choice provision in the law requires employers to offer employees the opportunity to join a health maintenance organization licensed under the state HMO Act.

BC/BS is suing in its capacity as an employer and bases its complaint primarily on the state law's pre-emption provision of the federal Employee Retirement Income Security Act.

BC/BS contends that its employee benefit plan is governed by ERISA, which has precedence over the Rhode Island HMO Act, and its plan cannot be affected by the state law.

Defendants in the case are the Rhode Island Department of Health, the Department of Business Regulation and Ocean State Master Health Plan, one of two in-state HMOs and the only one affected by the proceedings.

The defendants contend the state's HMO Act, including the mandated option provision, is an insurance law that is not preempted by ERISA.

Action on the suit should come within a month, said William J. Waters, the state Health Department's assistant director for health policy. ■

CIGNA International restructures staff

CIGNA International, a subsidiary of Philadelphia-based CIGNA Corp., has restructured its executive staff following CIGNA's acquisition of AFIA Worldwide Insurance.

James A. Morone will head international field operations for CIGNA International. Area managers outside the United States will report to Mr. Morone. He had been AFIA's chief operating officer since April 1973.

William F. Crowley was named head of U.S. field operations and will be responsible for multinational account underwriting offices outside the United States. He had been area vp for AFIA's North American operations.

Douglas P. Chaloult will head property/casualty underwriting. He has held a similar post at CIGNA International as a senior vp since August 1979.

Joseph J. Talarico, senior vp of international claims for CIGNA, will head CIGNA International's claims management operation.

Other insurer changes:

William J. Collins named executive vp and chief operating officer of Fremont Indemnity Co. in Los Angeles. Mr. Collins had been vp-operations at the insurer. He will continue to manage the company's workers compensation operations and will direct marketing, underwriting and claims services in the home office.

Warner H. Gustavson elected vp and medical director at Wausau Insurance Cos. in Wausau, Wis. He replaces Dr. Roy B. Larsen who retired. Dr. Gustavson joined Wausau in 1963 as associate medical director.

Four were promoted at Insurance Corp. of Hannover in Los Angeles. **Herbert W. Palmberger** named senior vp and secretary; **Frederick C. Easty** named senior vp-underwriting; **James H. Frank** named vp-legal and claims; and **Ronald D. Huxley** named vp-underwriting.

Jess D. McCavitt named senior vp-claims for Ranger Insurance Co. in Houston. Mr. McCavitt was most recently vp-claims at General Reinsurance Corp. Ranger Insurance is a subsidiary of Anderson, Clayton & Co.

Leo M. Carey named corporate vp of The United States Health Care Systems Inc. in Willow Grove, Pa., and will head its HMO of Florida subsidiaries. He had been director of plan operations at Rutgers Community Health Plan of New Jersey.

comings & goings: industry

Excess/surplus

Walter A. Greenup named president of Sayre & Toso Inc. in Los Angeles. Mr. Greenup has served as executive vp of the managing general agency since 1974. He also is a senior vp of Mission Insurance Group Inc., Sayre & Toso's parent company. He succeeds **Westley M. Heyward,** who became executive vp of Mission in charge of managing general agency and reinsurance subsidiaries.

Peter M. Wallner joined Maclean, Oddy & Associates Inc.'s underwriting division as a vp. Mr. Wallner will develop and service national programs underwritten by Dallas-based Maclean, Oddy. He previously was in charge of property/casualty treaty underwriting at Scor Reinsurance Co. Maclean, Oddy is a subsidiary of Sedgwick Group P.L.C.

William F. Caplice Jr. and **Matthew M. Murphy** elected vps at L.W. Biegler Inc. in Chicago. Mr. Caplice will be responsible for professional liability underwriting. He had been assistant vp of the Biegler railroad department. Mr. Murphy will be in charge of placing treaty reinsurance agreements. He previously was assistant vp for claims and regulatory activities.

Reinsurers

Milo J. Zurbrigen elected executive vp and chief operating officer of Three Arches Managers Inc., a subsidiary of NWNL Reinsurance Co. in New York. He will retain his post as senior vp at NWNL Re. At Three Arches, Mr. Zurbrigen is responsible for operations and broker facultative underwriting.

Other suppliers

Ezra B. Trice Jr. named senior vp of the catastrophe division of Crawford & Co. in Mobile, Ala. He had been operations supervisor of the branch. The division will be relocated soon to the company's Atlanta office. Mr. Trice succeeds **Christopher G. Hume Jr.**, who retired March 1.

Seven were promoted at Buck Consultants Inc. in New York. **William J. Arnone** and **Michael W. Peskin** named benefit consultants. **Richard K. Beck, Patricia J. Conger, Stephen D. Diamond, Anthony M. Malizia** and **Donna L. Weinstein** named consulting actuaries.

Sam B. Tillman appointed vp of Employers' Consultants Inc. in New Orleans. Mr. Tillman had been a senior consultant for Johnson & Higgins. ECI is an employee benefit consulting and actuarial firm.

Mr. Tillman

William M. Mercer-Meidinger Inc. announced the selection of four managing directors. **John N. Moorhouse** will head the Southeastern area of the company's Central region and will be located in the Atlanta office. **Arlen G. Ferguson** will be regional coordinator for compensation and consulting in the new Southern region and consult on executive compensation from Houston. **Daniel T. Cox** will head the Chicago office and continue to consult on major accounts. **Lucian B. Acuff** was named corporate coordinator for the communications resource center in Chicago.

Agents/brokers

Andrew H. Marks named branch manager and **Joseph B. Dillenbeck** named deputy branch manager of Reed Stenhouse Inc. of New York. Mr. Marks is also executive vp of the New York unit and senior vp of Reed Stenhouse Inc. Mr. Dillenbeck is senior vp of Reed Stenhouse Inc. of New York.

Blair Funderburke named president of James P. Poole & Co. of Atlanta, a subsidiary of Poe & Associates Inc. Mr. Funderburke had been the agency's vp. ■

Far too often, when it's time to try and collect on your insurance claim, you find out just how good that "good deal" you got really is.

Recently, the New York Times brought to light the fact that corporations are having difficulty getting their insurance companies to promptly and fairly settle and pay their claims.

As these corporations are discovering, the true cost of an insurance policy can entail a great deal more than just what your premiums add up to. The speed, efficiency, fairness and resourcefulness of your insurance company (or the lack thereof) when it comes to preventing and settling claims can also figure into your ultimate cost.

That's why at AFIA, we feel that settling a claim properly means more than just a fair settlement. It also means better than fair service. It means a commitment to use all our resources to help you settle your claim quickly and efficiently.

Since 1918, AFIA has built its reputation on integrity and dependability. In no area of insurance are those two qualities more important than claims service.

Our international network of claims experts allows us to be on the spot anywhere in the world, wherever and whenever you need us. But having worldwide resources and dependability is only half of what is needed to do the job properly. The other half is having the imagination, and the will, to do the extraordinary when necessary.

There isn't an insurance company anywhere that couldn't cite examples showing how good their claims service is. You know the type of examples we mean. The true test, however, is to ask a corporation or its insurance broker–the people who really live with the service–how they feel their insurance company performs.

So we would like to invite you to speak with our insureds or with your broker. Ask them the tough questions: find out how they really feel about AFIA's claim service. They'll tell you.

And you'll discover that no matter where in the world you are, and no matter what happens to your company, you'll want AFIA there to take care of it.

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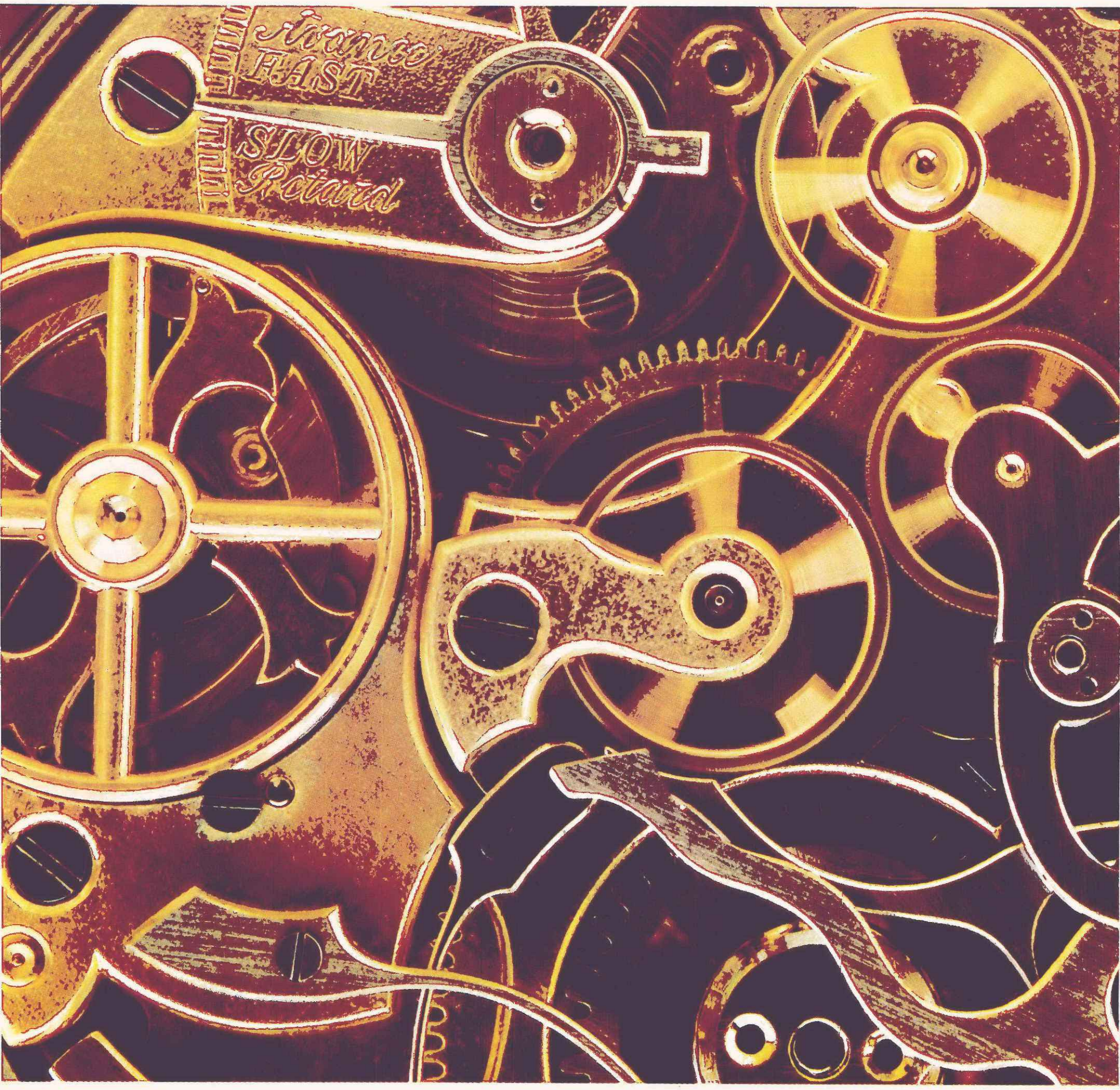

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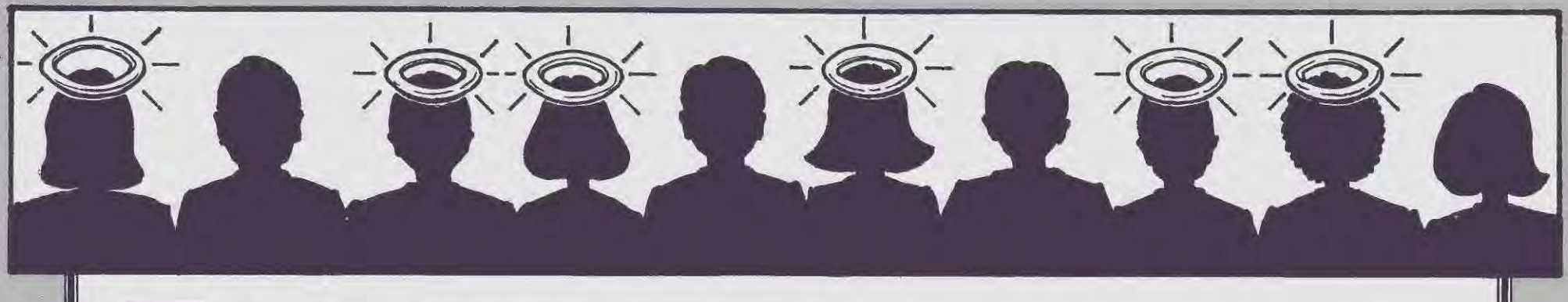

THE CREAM OF THE CROP

Most consultants win kudos from their clients

By Leonard J. Silver

speaking out

THE ARTICLES "Picking a Consultant," by Charles A. McAlear, and "The Time for a Consultant," by Robert Harder (*BI*, Feb. 20), were good examples of the old saying, "It ain't what you do, but the way that you do it."

I agree that each of these gentlemen has a right to speak his mind as he sees things. However, to have both of these articles back-to-back in an issue featuring the role of the consultant was somewhat less than evenhanded.

Both articles were ablaze with bold headlines. Both gave a small acknowledgment to the fact that, indeed, there are good consultants. . .and then went on demeaning a worthwhile and professional calling with clarion blasts. . .blasts at every shortcoming ever perceived or imagined to have been committed by a consultant or that will or might be committed by a consultant in the future, ad infinitum.

Together, both articles resounded with criticism that, though perhaps deserved by individuals, certainly is not deserved by professional risk management consultants as a group.

I think that the articles, especially as presented, were unfair. At no time can I recall any *Business Insurance* issue similarly blasting agents and brokers with back-to-back salvos, filled with chain and buckshot and aimed indiscriminately.

I'm pleased that I can recall no such articles because they would have been undeserved by the truly professional insurance agent or broker caught in the onslaught against the incompetent and inept.

And there *are* incompetent, inept and inadequate yet seemingly dedicated agents and brokers!

And there are agents and brokers who squander their clients' money on worthless products that neither cover the risk properly nor are marketed to the clients' benefit, who bill for products, but never read the specifications.

Leonard J. Silver is president of First Risk Management Co. in Feasterville, Pa., and past president of the Insurance Consultants Society.

Mr. Harder proclaims the virtues of brokers by castigating risk management consultants for not having more stringent qualifications established by law!

We are the first to welcome qualification requirements (which is why the Insurance Consultants Society and Institute of Risk Management Consultants have established and enforced their own), but we point out that consultants neither pass laws nor establish legal regulations specifying qualifications.

Also, Mr. Harder proclaims that the public is better protected in their dealings with insurance brokers than in their dealings with consultants because (at least in Ontario where, by the way, we are accredited to practice) brokers are required to "maintain certain minimum standards of errors and omission insurance and a $10,000 bond."

First of all, the question is now which better protects the public, for both the agent/broker and the risk management consultant have distinctly separate roles to play.

Second, what really protects the public is talent, knowledge, dedication and experience. No law requires us to carry E&O insurance. We do, and for far more than minimum amounts. No law requires us to be bonded because, unlike brokers, we handle no client funds nor are we required to protect our clients. We do so out of professional dedication.

We insist that our people continue their education even after reaching the age of trifocals. We have peer review within. We start with good human material and we forever train and retrain. And we read our clients' policies—every word of them—and we discuss them and ponder them and research them.

Yes, your risk management services issue did contain positive comments about the views on and use of consultants by Fortune 500 companies.

The consultants that Messrs. McAlear and Harder were referring to obviously were related to their experiences with consultants servicing less gigantic insureds. And that's where our efforts often bring the most benefit, I believe.

Had you run articles with blaring headlines about the benefits that professional risk management consultants have brought to Fortune 5,000 or Fortune 2,500,000 companies, you might have covered:

- How consultants uncover, evaluate and recommend treatment of significant risks that the client never realizes existed and that the insurance agent or broker never discovered.
- How the vast majority of policies that we receive on behalf of our clients need significant correction or modification to benefit and protect our client.
- How the consultant develops a non-insurance program that reduces the client's exposure to risk and insurance expenses.
- How the independent consultant recommends that the client sue an insurer, assists with the suit, testifies in court and helps the client win what it was entitled to in the first place.
- How the independent consultant takes the mystery out of insurance for the small to middle-sized clients (that have no on-staff risk manager) and educates their executives and management people in an area that costs them large sums of money each year.
- How independent professional consultants not only save clients literally millions of dollars per year, but actually retrieve very significant sums previously improperly charged, before the consultant was on the scene.
- How the consultant persuades a client that it should hire a competent on-staff risk manager.

There are incompetent agents and brokers. There are thousands of them.

Conversely, though, it is a small community in relation to the huge agent/broker population. There are superb, competent, qualified, dedicated, professional agents and brokers. I thank the Lord for them and our clients appreciate them. We recommend their services, when asked.

Likewise, there are equally superb, competent, qualified, dedicated, professional consultants. That was acknowledged fleetingly in both of Messrs. McAlear's and Harder's articles. Thank you very much.

How about banner headlines and clarion calls for the beneficial services of the really good, hard-working and dedicated risk management consultants just to keep things evenhanded? No. Not necessary.

Most professional risk management consultants (independent ones, at least) keep a low profile and let their good work speak loudly for them.

But, a little more balanced treatment couldn't hurt, could it? ■

Graphic: Roger Schillerstrom

perspective

The future of human resources requires a redirection

By Kenneth P. Shapiro

management

IN MY last column (*BI*, Jan. 16), I discussed these six challenges for human resource managers:

- Managing employee expectations in a time of slower growth.
- Improving our ability to develop managers.
- Closing the communications gap between management and employees in an era of change and increasing demands on employees.
- Nurturing innovation and an entrepreneurial spirit.
- Controlling people costs and improving the return on the compensation dollar.
- Sustaining improved productivity.

No quick fixes or single program can respond to these challenges. Rather, a tailored, comprehensive, sustained approach is needed. This will require innovation, fresh thinking and new directions—five of which are outlined below:

- **A strategic focus.**

A recent study compared the human resources department emphasis of high-performing vs. average-performing companies.

More than half of the human resources executives in the high-performance firms saw their role as primarily strategic—the personnel heads in the average-performing companies saw their job as administrative, with only one-tenth of them emphasizing strategy.

The more successful companies will continue to be those where strategic personnel planning takes place.

- **Improved selection and retention.**

New human resources challenges emphasize the need to ensure a better employee-company and employee-job fit. This is particularly necessary in an environment where there is pressure for equal opportunity.

This challenge will require mounds of additional employee selection/retention data: reference checks; availability of spouse employment at the time of transfer; correlation of job with employee background; correlation of job with employee value system.

We are likely to see a significant growth in psychological and sociological research in this area.

- **New approaches to employee appraisals.**

First, appraisals need to reinforce the positive. Successful companies design appraisal processes where employees can win. Second, feedback on performance, based upon specific incidents, should be close to the event. Third, new approaches are needed recognizing the immediate superivisor is often the weak link in the appraisal chain.

- **The training and development process.**

It is estimated that although U.S. industry spends $30 billion per year on employee training, less than 1% has an effective system for measuring the impact and value of the worker training programs. This area clearly represents a fertile area for improvement, innovation and effectiveness.

- **Managing culture change.**

In the the book, "In Search of Excellenece," Messrs. Peters and Waterman state that "the dominance and coherence of culture is an essential qualtiy in the excellent company."

Managing culture is a central human resource function. Climate and culture can be measured and changed, and human resource strategies, policies and practices are often central to the formation or modification of the corporate values system. ■

Kenneth P. Shapiro is president of Hay Huggins Co. Inc. in Philadelphia. His column on management appears regularly in Business Insurance.

books & ideas

Coming to terms with insurance words

By Carol Cain

"Dictionary of Insurance," Sixth edition
By Lewis E. Davids
Rowman & Allanheld, 81 Adams Drive, Totowa, N.J. 07512
338 pages; $21.95

"WORDS ARE LOADED PISTOLS," according to Jean-Paul Sartre in Geoffrey Wolff's "Inklings."

If so, then Mr. Davids' "Dictionary of Insurance" has enough ammunition to shoot down any confusion arising over insurance and related terms.

"Since English is not a 'dead' language and insurance is far from being a 'dead' subject, it appears that many of the terms cannot be frozen into an unalterable context," Mr. Davids says in the preface of this revised edition.

The 318 pages of definitions include meanings of terms that may differ from region to region, or insurer to insurer.

Besides insurance terms, Mr. Davids also includes words and phrases associated with other fields, such as law, statistics, accounting, government, taxation and real estate.

The terms deliberately are defined briefly so that the book will serve as a ready reference for someone who is trying to quickly interpret materials dealing with insurance or the variety of related fields.

Unfortunately, the book strives for brevity too often.

For example, the definition of risk is simply: "A person or thing insured. Uncertainty as to the outcome of an event when two or more possibilities exist."

The defintion of risk in Webster's "Second College Edition New World Dictionary of the American Language" is not only three times longer, but much clearer and exhaustive.

The space Mr. Davids saves by writing short definitions, however, is put to excellent use by including abbreviations at the beginning of each letter. X.C.L. (excess current liabilities) and and L.E.A. (Loss Executives Assn.) are just a couple of the more than 100 abbreviations listed.

The abbreviations enhance the book's worth as a reference source for risk managers, employee benefit managers and other corporate executives.

Mr. Davids, who is a professor of bank management in the College of Business and Administration at Southern Illinois University in Carbondale, Ill., also includes a directory of insurance and related organizations and the addresses of state insurance commissioners in his lexicon. ■

Carol Cain is an associate editor at Business Insurance.

Grocer's policies exclude punitive damage awards

legal briefs

PUNITIVE damages are not in the category of damages for "bodily injury" or "personal injury," a Missouri appellate court ruled. And, punitive damages never are awarded as compensation.

Schnuck Markets Inc., a grocery store chain, was covered under blanket liability insurance policies issued by Transamerica Insurance Co. as the primary insurer and Mission Insurance Co. as the umbrella insurer. Schnuck had 12 lawsuits pending against it, each of which sought punitive damages.

Transamerica and Mission informed Schnuck that it could obtain its own attorneys regarding the punitive damage claims. Schnuck brought a breach of contract action against both insurers. The trial court ruled in favor of Transamerica and Mission.

At issue here was the interpretation of a policy provision requiring the insurers to "pay. . .all sums which the insured shall become legally obligated to pay as damages because of bodily injury or property damage. . . ."

Schnuck argued that the phrase "all sums which the insured shall become legally obligated to pay" also included liability for the punitive damage payments.

But, Schnuck's interpretation eliminated the qualifying language, which the court considered critical.

According to the appeals court, the policies for Schnuck provided no coverage at all for punitive damages.

Schnuck Markets Inc. vs. Transamerica Insurance Co., Missouri Court of Appeals, April 19, 1983; Motion for transfer to the Supreme Court denied May 26, 1983 (*BI*/05/M.-$5).

Distinguishing dental work

Placement of crowns and bridges on teeth in the course of treatment for malposition of the jaw did not fall within the meaning of "dentistry" in an exclusionary provision of a group health insurance policy, according to the District of Columbia Court of Appeals.

The Medical Service of the District of Columbia and Group Hospitalization Inc. entered into a group medical health benefits contract with the Transit Employees' Health & Welfare Fund, which excluded medical expenses for or in connection with dentistry.

Dean Goss, an employee of the fund, was covered under the policy. His wife consulted a dentist for severe facial pain and headaches suffered over five years.

The dentist diagnosed her problem as tempormandibular joint syndrome. Treatment for the syndrome involved insertion of a "splint," which relieved the pain, but created a gap between her upper and lower teeth.

The dentist that diagnosed TMJ syndrome referred her to another dentist for placement of crowns and bridges in order to maintain the jaw position and correct the gap.

Mr. Goss filed claims for the services of both dentists. Medical Service refused to pay $1,405 of the second dentist's bill. This suit followed. The trial court ruled for the insurer.

The appellate court noted that the term "dentistry" was not defined in the medical policy contract.

Mr. Goss argued, on appeal, that the second dentist's treatment should be considered in light of the objective of both dentists in attempting to achieve the medically necessary correction of a malpositioned jaw.

The court agreed that the services performed were directly related to, and required by, the medical condition created by the misplacement of Mrs. Goss' jaw.

Thus, the court concluded that the treatment of the second dentist was not dentistry as that term appeared in the group medical insurance policy. Coverage was awarded.

Goss vs. Medical Service of the District of Columbia and Group Hospitalization Inc., District of Columbia Court of Appeals, June 13, 1983 (*BI*/01/A.-$5). ■

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

The Perspective section, which is a forum for readers' opinions, is compiled and edited by Assistant Copy Editor Claudette Dampier. She can be reached at 312-649-5282.

Reinsurance shift criticized

Continued from page 3

But participants at the two-day reinsurance conference, sponsored by City Financial Conference Services, echoed Mr. Bowes' thoughts by saying reinsurers may have been too rash in abandoning proportional reinsurance.

Robert Kiln, chairman of R.J. Kiln & Co. Ltd., a Lloyd's of London underwriting agency, said that reinsurers may have overcorrected a bad situation. He said that any underwriter who believes that it can exactly calculate year-end figures by underwriting excess-of-loss coverage is practicing "folly.

"I share Mr. Bowes' views of the 'unwisdom' of moving from proportional to non-proportional reinsurance," he said. "The danger for everyone going into non-proportional is gearing. With proportional business, the volume of premium measures the liability you've got, but non-proportional is much different. The loss ratios are much more dynamic."

Some conference participants said they can understand, however, why reinsurers are moving out of proportional into non-proportional reinsurance.

"At last the proportional market has begun to come to its senses and realized that, for a long time, it has not been following the fortunes of the primary market, and that high commission terms and reserve requirements have shored up the edifice of inadequate primary rates, especially in the majority of industrialized countries," said David Vermont, deputy chairman of broker Sedgwick Payne Ltd., a subsidiary of Sedgwick Group P.L.C.

But, Mr. Vermont could not predict what the effect of the move to excess-of-loss reinsurance will be.

"The increasing dearth of proportional capacity and the effort of underwriters to get a fair price for the cover they offer by switching to. . .non-proportional business probably means that the shakeout of the excess-of-loss market has not yet gone far enough."

Conference participants agreed that ceding companies and reinsurers should discuss the best ways to cede risks, instead of fleeing from one type of reinsurance into another.

Dr. Archim Kann, chairman of Frankona Reinsurance Co. of West Germany, recommended that reinsurers writing proportional reinsurance could charge ceding companies interest when premiums are not paid on time, just as ceding companies might charge interest if claims are not paid.

Dr. Kann also noted that Frankona and other companies are moving more and more into facultative reinsurance, in which each risk is reinsured individually.

"It is the only way in which we have slight control and the only way we can control underwriting," he said.

Dr. Kann noted that his company's facultative department is the only area in which staff has been increased.

"In my own house, we see an increasing amount of facultative business," agreed Willis Faber's Mr. Bowes.

British regulators monitoring rates

By STACY SHAPIRO

LONDON—The British Department of Trade and Industry wants information about any British-based insurers or reinsurers that are still accepting business at cut rates, says the department's assistant secretary.

"We take some comfort from recent reports that companies are now hardening their rates and are being more selective in the business that they are willing to write," the DTI's Michael Hoddinott told the recent Reinsurance at Any Price Conference.

"It appears that not all companies may be adopting this reasonable approach, however, and we would very much welcome being told about any instance where business is still being taken on uncommercial terms," he said.

"In such circumstances, we will require precise details of the company involved and of the particular business being written if we are to follow up such reports effectively," he added.

The DTI, a new cabinet department that combines the former British Trade and Industry departments, is responsible for regulating the nation's insurance and reinsurance industries.

Its prime objective, according to Mr. Hoddinott, is to protect policyholders.

To do this, the department "probably goes further than almost any other European country" to regulate the reinsurance as well as the direct insurance industry, Mr. Hoddinott said.

For instance, the department:

- Examines and authorizes all new insurers and reinsurers that wish to do business in Great Britain.

"The powers given to the secretary of state to ensure that only people who are fit and proper are able to hold particular positions is a very important aspect of our supervision," said Mr. Hoddinott, adding that these powers apply equally to specialist reinsurers and companies that write both direct insurance and reinsurance.

- Monitors insurance and reinsurance companies already doing business in Britain by examining their accounts, checking their major reinsurers and analyzing reinsurance business accepted in four categories: casualty, property, marine and aviation.

"The information provided will, in due course, enable us to make a better assessment as to the adequacy of reserves set up by companies and the reliability of a company's reserving methods," Mr. Hoddinott said.

The department recently set up a study "to find out which companies are likely to be particularly exposed to claims for asbestosis, byssinosis and other industrial diseases" and to establish that these companies are adequately reserved, he noted.

However, Mr. Hoddinott will not say which companies are being investigated.

The department also can intervene in an insurance company's business by asking for more information or stopping it from underwriting. It also liquidates insurers and reinsurers that do not follow regulations.

British regulators have been criticized for not being strong enough to take on the British insurance industry, particularly after incidents two years ago involving Kenilworth Insurance Co., Alexander Howden Group P.L.C. and Minet Holding P.L.C.

Mr. Hoddinott admits that the department does have its weaknesses.

London conference

LONDON—The shifting reinsurance market captured the attention of more than 150 people at the fourth of a series of "Changing World Insurance Markets" conferences sponsored by City Financial Conference Services.

Brokers, insurers, reinsurers and British risk managers, meeting March 6 and 7 at London's Royal Lancaster Hotel, voiced their concern over the solvency of reinsurers, the types of coverage that reinsurers are offering and the perceived tightening of reinsurance capacity.

Those attending the conference entitled "Reinsurance at Any Price?" said that the United States has not yet felt the effects of dwindling reinsurance capacity because U.S. insurers do not rely as much on reinsurance as many foreign underwriters.

However, they added, all world insurance markets, including the United States, will eventually feel the effect of the hardening market.

"It is true, of course, that as supervisors, our remoteness from companies and lack of involvement in their daily affairs present us with additional problems," he said. "Information. . .may be somewhat out of date by the time we receive it.

"Furthermore, we lack management's own intimate knowledge of a company's business and the people with whom it deals, and it may be some time before we learn of strategic or other major developments that may have a crucial effect on a company."

There are areas, however, that the department is carefully watching.

For instance, the department is paying close attention to the major effect overcapacity is having on premium rates.

The DTI is "concerned" that individual insurers and reinsurers are taking proper account of long-tailed business and make sure that they can pay claims when they finally are filed, Mr. Hoddinott explained.

Companies, therefore, must have adequate reinsurance, as well as take into account inflation and unpredictable liabilities, Mr. Hoddinott added.

"We take a keen interest in techniques being developed for improving the basis of companies' reserving methods," he said. "Much work is being done by actuaries in this field, both in the United Kingdom and elsewhere. Certainly, we would consider giving support for the development of reserving techniques if that was thought to be useful."

And, like the insurance industry itself, the DTI probably pays closest attention on the security of companies to meet their debts.

The department is welcoming proposals to set up a central information system that could assess the quality of the reinsurance companies' purchases.

"We would like to see companies and their brokers using their muscle by insisting on receiving information as necessary from their reinsurers and to decline to make arrangements when this is not forthcoming. The establishment of a centralized agency for the dissemination of information would help to make this a realistic proposition," he said.

For the moment, the department has formulated no plans to add to existing requirements for the disclosure of information about general reinsurance business, Mr. Hoddinott noted.

However, he warned those attending the conference that the department may take action in other areas, such as rules on reserving, if insurers and reinsurers show they have lax security.

"If the industry does not take the initiative and a major incident were to arise reflecting deficiencies in (reserving), there could be pressure for further regulation to lay down more clearly defined reserving standards," Mr. Hoddinott said. ■

Reinsurers don't need more rules: Attorney

By STACY SHAPIRO

LONDON—The U.S. reinsurance industry doesn't need more regulation; it needs greater self-discipline, says Sol Kroll, a senior partner in the New York law firm of Kroll, Pomerants & Cameron.

More regulation affecting fronting, reinsurance solvency and the practices of reinsurance intermediaries may only harm the industry rather than help it, Mr. Kroll says.

Instead, the reinsurance industry should be allowed to flourish as it has in the past, unencumbered by government regulation, Mr. Kroll told the Reinsurance at Any Price Conference in London earlier this month.

"Given the perspective of the history of government deregulation of other industries in the United States over the past several years, it would certainly be a sociopolitical and economic folly to conceive that the control of reinsurance by regulation could in any way enhance the operations of the industry," he said.

"Free enterprise conducted by honorable men with utmost good faith can adequately and fully meet the contractual promises and commitments to their insurance constituency on the basis of sound economic management without either the prodding or the limitations prescribed by regulation."

Nevertheless, it appears that U.S. regulators want to continue to tighten reinsurance regulations, Mr. Kroll pointed out.

He said that U.S. regulators are currently devoting their attention to closer regulation of insolvency margins, even though most states now require numerous disclosures of financial information on the annual statements that insurers are required to file.

And, Mr. Kroll noted, "The promulgation of Regulation 82 in New York, dealing with fronting, may not be far away."

Regulation 82, which was proposed by the New York Insurance Department in 1982, would severely limit the use of unlicensed reinsurance in New York and would virtually eliminate fronting arrangements among captive insurance companies and locally licensed insurers withough prior regulatory approval (*BI*, Feb. 7, 1983; Jan. 10, 1983).

The proposal has been strongly criticized by most segments of the insurance industry.

"We foresee that the spirit of Regulation 82 will not be published as a regulation, but rather may be issued as a statement of position or a circular letter by the Insurance Department. But, we also feel that this is merely a harbinger of things to come."

Other regulations affecting the reinsurance industry are being contemplated also, Mr. Kroll noted.

For instance, regulators in both New York and California have issued regulatory letters and bulletins regarding the use of letters of credit, he said.

The National Assn. of Insurance Commissioners, as well as the Illinois Insurance Department, are considering proposals to establish anti-fraud regulations with "sweeping police powers and immunities granted to regulatory officials," he said.

And, the Canadian government is considering legislation that would restrict reinsurance placements with non-Canadian companies and that would regulate reinsurers more closely.

But, Mr. Kroll said that the regulators perhaps have "reacted too sharply to the pressures of the moment," explaining that officials are issuing regulations in light of celebrated cases like the fall of Kenilworth Insurance Co. and the problems with Promotora De Occidente de Panama S.A., the Panamanian reinsurance intermediary better known as POSA.

These failures have produced an awareness of the chance that legitimate insurance practices, like fronting or the use of letters of credit, can be abused, he noted.

To sum up his argument that the reinsurance industry does not need additional regulations, Mr. Kroll referred to the remarks that Horst K. Jannott, chairman of Munich Reinsurance Co., made to the Reinsurance Offices Assn. last year.

Mr. Jannott said, "There should be no room (in reinsurance) for trickery, speculation or fumbling, let alone fraud. There are black sheep in every industry, but in few sectors such as insurance is it so vitally important to mobilize every available self-cleaning facility to remove any stains that appear."

Mr. Kroll then added, "The job before us, as we see it, will be to preserve economy of motion by keeping regulation to a minimum in those areas of solvency, cession and assumption limitiations, fronting and regulation of intermediaries.

"This can only call for the exercise of greater self-discipline in the reinsurance marketplace, and it is up to the industry to provide the leadership examples of that self-discipline." ■

Underwriters pay the price for past mistakes: Insurer

LONDON—Insurers' and reinsurers' mistakes of the past are catching up with them, says one British insurance company official.

Companies are facing severe losses for which many are not prepared, said Peter Foley, managing director for non-life operations at British National Insurance Co. Ltd. in London, at the Reinsurance at Any Price Conference. And, compounding this problem, investment income is not growing as quickly as expected.

Additionally, liability awards are still increasing and some insurers do not have adequate reserves to cover large losses, he said. And, "sloppy" business practices at some insurers are now coming to light, he said, referring to improper reserving and insurers' hasty expansion into other financial services sectors.

Mr. Foley told the conference that, "Nineteen eighty-three closed out with the announcements of major changes at several companies in this business. The impact of this is that we are going to to see more changes at companies, particularly in the executive suite.

> 'The full impact of (insurers' mistakes) has not been seen,' says British National's Mr. Foley.

"We are going to have to start paying the price for many of the things done during the sloppy period of the late 1970s and early 1980s. The full impact of this has not been seen and falls under the iceberg approach, in which less than 25% is visible with 75% lying underneath the surface," Mr. Foley noted.

British National, Mr. Foley's own company, is owned by Armco Insurance Group Inc., which is experiencing it share of troubles. Armco added $75 million to reserves in the fourth quarter of 1983 to meet expected liabilities and it hopes to sell most of its property/casualty subisidiaries, including British National, to Allianz Versicherungs A.G. of West Germany (*BI*, Feb. 6).

Although the situation in the property/casualty insurance industry is now bad, it may well get worse, he suggested.

"A headline in a recent edition of the Financial Times was labeled, 'U.S. Bank Failures Can Continue at a Rate of One a Week.' I think we will be seeing similar announcements over the next several years, but the heading will be about our business (and) the failure rate will be much more than one a week."

To combat the possibility of massive business failures in the insurance industry, Mr. Foley said that insurance markets throughout the world should join together to create an organization similar to the International Monetary Fund to bail out faltering insurers.

"We have the means to recycle some of the excess capital while, at the same time, address effectively the problems of companies that are being impacted by the activities outside their control, as we have seen in Latin America," Mr. Foley stated.

"It is going to require the commitment from all sectors of our business to work together and put in place this facility. . .With very few survivors, who will be able to deal with the difficulties?"

Mr. Foley said, though, that companies can learn from their mistakes and help avoid insolvency. Planning, he noted, must be conducted on a day-to-day, not just an annual, basis.

Insurance companies also will have to examine the security of their reinsurance far more closely than ever before, he said. For instance, an insurer should:

- Assess what reinsurer investments and assets should be considered when conducting a solvency analysis.
- Analyze premium figures, including the source of those premiums and the ratio of gross written premium to net written premium.
- Consider the reinsurer's tax liabilities.
- Examine the footnotes on the reinsurer's balance sheet.

Also, both insurers and reinsurers must decide whether they want to be solely underwriters or if they want to expand into alternative financial services, he suggested.

"If we want to be underwriters, we have to get down and set out guidelines and underwrite. Or, if we are going to be a mechanism that participates in (diverse) financial areas, we will have to be able to quantify the cost and the cost of lending our capital," Mr. Foley commented.

"We cannot continue to dabble in both areas because we will reach the point of being put out of business."

Finally, insurers will have to attract good, new talent to keep the industry running.

"The people side of the equation is an area we much too often overlook," Mr. Foley said. ■

Assessing reinsurers pays off, insurer says

By STACY SHAPIRO

LONDON—John Germaine, reinsurance and overseas manager for National Farmers Union Mutual & Avon Group, can boast that the insurer has collected all but a few hundred pounds of its reinsurance claims.

In today's market, with widespread fears of reinsurer insolvencies, poor security and court battles over reinsurance claims, Mr. Germaine's boast is impressive. Not many insurers may be able to beat the record posted by NFU, which is based in historic Stratford-on-Avon.

Mr. Germaine says the secret to his reinsurance success is simple: a mix of common sense, the ability to read a balance sheet and keeping his ear to the ground.

"There is little doubt that the time and effort necessary to expend to formulate reinsurance strategy is increasing," Mr. Germaine said at the Reinsurance at Any Price Conference earlier this month.

"The amount of time taken up in trying to assess solvency worthiness alone is clearly substantial. At the end of the day, one must ask the question, 'Is it worth the cost?'

"Well, I suppose the best answer that I, personally, can give is to say that I am proud that my own group's losses from inability to collect from reinsurers have amounted to only a few hundred pounds.

"On balance, I think there can be little doubt that the time and the trouble was indeed well-worthwhile," he said.

The NFU Mutual & Avon Group, which principally insures farms and estates in Britain, spends nearly 9 million pounds ($13.2 million) annually on reinsurance, Mr. Germaine said. Although the insurer is regarded as well-reserved, it depends on its reinsurance to pay very large claims, he noted.

"Reinsurance is especially important for a mutual company such as the NFU," Mr. Germaine added, "because there are no shareholders to go to for further equity capital if the going gets rough. Our reinsurance must work."

To select its reinsurers, the insurer first reads the companies' balance sheets, but Mr. Germaine points out that some key questions aren't always answered. For instance, are investments reported at book or market value? If they are listed at market value, will a change in the market affect claims-paying abilities?

What local practices affect the way the balance sheet reads? "How can I, just from the balance sheet, tell if technical reserves are really overstated?" Mr. Germaine asked.

Balance sheet practices vary from nation to nation, Mr. Germaine explained. For instance, Finnish companies list additional surplus as technical reserves. And, West German insurers list property investments on their balance sheets at the lowest possible value.

Added to these nation-to-nation differences are the worldwide problems of currency translations.

Sometimes, ceding companies depend on intermediaries to place their reinsurance, Mr. Germaine points out, but he questions whether a broker will always recognize its duties to its clients.

He said that NFU taps a variety of intermediaries "in order to try and spread my panel of advisers widely.

"For pro-rata coverage, I place about one-half on a direct basis and the balance is handled by selected major brokers," he said.

Besides balance sheets and brokers' advice, Mr. Germaine said he keeps his ear to the ground to hear what others in the market are saying about reinsurers.

"May I say a word or two about gossip?" Mr. Germaine asked the conference partipants.

"My own position is somewhat unusual in that I am located not in one of the major world insurance markets but in the attractive and historic country town of Stratford-on-Avon.

"Stratford-on-Avon is quite a pleasant place to visit for a day, which may be at least part of the reason why we are fortunate enough to receive a regular flow of news-bearing visitors," he said. "Mr. A tells us that a company has severe problems with a class of business. Mr. B tells us that a company has crippling fire losses.

"Comments such as these may not, in themselves, always be conclusive, but they do certainly put us on alert and help us to know where it is perhaps best to proceed with caution."

Considering that Mr. Germaine is based not far from London and that his company's emphasis is on secure reinsurers, one would think that NFU would place much of its reinsurance with Lloyd's of London syndicates. But that's not the case, he said.

"Although there are many advantages in reinsuring at Lloyd's, there are certain disadvantages," he noted. He explained that Lloyd's underwriters do not usually venture from London, while reinsurance company underwriters will come to NFU headquarters to do business.

In fact, Mr. Germaine said that Lloyd's is designed to minimize contact between the ceding company and the reinsurer. As a result, Lloyd's underwriters sometimes will quote rates based on market trends rather than individual experience.

"I should perhaps, in all fairness, add that this feeling usually comes to mind where Lloyd's quotations are higher than those obtainable from companies," he added. "When they are cheaper, I put it down to Lloyd's flair and versitility.

"That's the reinsurance buyer for you." ■

Rubber firm forms benefits administrator

Beneplan Strategies is a new third-party health care plan administrator created by Dayco Corp., a rubber and plastic products manufacturer based in Dayton, Ohio.

Among the services to be offered by the new company are plan formation and cost-containment consulting, claims processing and customized data reporting.

Dayco's interest in establishing a third-party administrator began when the parent company, which employs more than 12,000 people in 15 states, first began self-insuring and later started to self-administer its 26 different medical plans, says David S. Gutridge, Dayco's senior vp and chief financial officer.

The new administration firm will initially concentrate its business in southwestern Ohio, though Mr. Gutridge says the company will later branch into regional and national markets.

Ralph Zimmerman, a Dayco corporate vp, has been named president of Beneplan Strategies. Its offices will be located at 333 W. First St. Dayton, Ohio 45402.

markets

Chicago PPO

The first Chicago-area preferred provider organization, Preferred Health Systems, opened its doors to interested employers March 7.

The 90-member physician panel, practicing mainly at West Suburban Hospital in Oak Park, Ill., is offering 10% to 20% discounts on prenegotiated fees to companies who will agree to direct employees to the PPO's members and turn around claims payment within 20 days.

PPO physicians have agreed to freeze their fees to contracting employers through the end of the year, and West Suburban Hospital has agreed to freeze its fees through October 1985.

The PPO will also offer companies prospective, concurrent and retrospective utilization review data on employees that use preferred providers. Utilization reviews will also help the hospital and physicians stay on course in providing efficient care, according to Dr. Kenneth M. Blair, vp of Preferred Health Systems.

Other services offered by the PPO include consulting with employers to devise suitable incentives for employees to use preferred providers and communicating the PPO concept to employees.

The group is currently negotiating with seven hospitals and other physicians to extend the Preferred Health Systems network throughout the Chicago area.

New HMO

HealthMaster is a new health maintenance organization in Nashville, Tenn., formed by Physicians Health Plan Ltd. and two area health care facilities.

HealthMaster is in the process of receiving necessary regulatory approvals. The plan will be marketed and administered by Corroon & Black Benefits Inc. of Nashville beginning this spring.

So far, Nashville Memorial and St. Thomas hospitals have agreed to participate in the new HMO.

Reorganization

American Mutual Hardware Insurance Co. has formed a new Eastern regional office in Atlanta. The company's new Eastern region includes its New England, Mideastern and Southern divisions and will provide sales and administrative functions for clients in 24 states.

The new Eastern region will be managed by Resident Senior Vp James L. Durmer. The new office is located at 2600 Century Parkway, P.O. Box 1583, Atlanta, Ga.

Claims and loss services and a sales office will continue to be operated in services offices in Woburn, Mass., and Florence, Ky.

Besides the Eastern region, American Hardware also operates a Central region, based in Minneapolis, and a Western region, based in Menlo Park, Calif. The insurer writes a variety of commercial and personal lines.

Federal qualification

HMO of Florida Inc., a subsidiary of United States Health Care Systems Inc., has received federal qualification from the Office of Health Maintenance Organization to operate a prepaid medical care program in northeast Florida.

Acquisitions

Burns & Wilcox Ltd., a managing general agency based in Southfield, Mich., has acquired the St. Louis branch office of **Worldinsurance Inc.** The office will be merged with Burns & Wilcox's St. Louis office.

INSTECH Inc., a Milwaukee-area independent agency, has merged with three other area agencies: **Meigs & Cope, Wilson Insurance Services** and **Morgan & Associates.** All three of these agencies will operate as separate INSTECH divisions. INSTECH has also moved to larger offices at 450 N. Sunnyslope Road, Brookfield, Wis. 53005; 414-785-9490.

Howard W. Wease, president of **Bayly, Martin & Fay of Oregon Inc.** in Portland, Ore., has signed a letter of intent to acquire the minority interest in the company now held by **Bayly, Martin & Fay International Inc.** The company will operate under the name of **Wease & Co. Inc.**

New offices

AFIA Worldwide Insurance has opened a new Switzerland office at Lavaterstrasse 53, 8002 Zurich, Switzerland; 202-52-12. Telex: 815861 AFIA CH.

The **New York Insurance Exchange** has purchased a building at 151 William St. in New York, near the exchange's current headquarters. ■

Manville bankruptcy boosts co-defendants' costs

Continued from page 1

$6,900 to dispose of cases through November 1983, up 11% from 1982.

Eagle-Picher General Counsel James Ralston agrees that a number of variables contributed to the increase, but adds that "there's no doubt Manville's absence has caused some of that increase."

New York-based Keene Corp. has experienced only a "slight increase" since Manville filed for bankruptcy, says Vp and General Counsel Howard Mileaf.

And, inflation and a "mix of serious cases" that were settled in 1983 also contributed to the larger disposition costs, he said, especially the number of severe cases.

Keene's average settlement costs per case rose to $2,700 in 1983 from just less than $2,500 in 1982.

Another co-defendant has experienced almost no increase in claims costs.

"We anticipated there would be some impact from Manville's bankruptcy because they were the biggest player and were paying the biggest share of settlements," says Lawrence Hart, controller for Louisiana Pacific Corp. in Portland, Ore., whose Fibreboard Corp. subsididary is a major asbestos defendant.

"But I don't think we've seen evidence that that's happened," he said. "There has not been a marked increase" in the amounts per case paid by Fibreboard.

Manville's reorganzation bid also has increased the pressure on co-defendants to settle, some say, pointing out that plaintiffs have not been willing to give the co-defendants a break just because Manville is not participating.

"They're not really giving us any discount," says Peter Liebert, an attorney representing Fibreboard, who is with the Philadelphia firm of Liebert, Short, Fitzpatrick & Lavin.

> 'You're kidding yourself if you don't think you're paying more, and you're kidding yourself if you think you will get it all back in bankruptcy court,' says one insurance company spokesman.

Jack Urquhart, an outside attorney for Nicolet Industries Inc., agrees that co-defendants aren't seeing discounted claims and, because of the theory of joint and several liability, they sometimes are forced to settle for a higher amount than they would have before Manville filed for bankruptcy.

In addition, some plaintiffs are contending at trial that they were exposed to the co-defendants' products more frequently than they had claimed when Manville was part of the litigation, some attorneys say.

Although Nicolet was a small asbestos supplier, plaintiffs are recalling having used Nicolet's products more often now that Manville is out of the litigation, Mr. Urquhart adds.

"It's a misleading situation," adds Mr. Liebert, a Fibreboard attorney. "A false picture is being portrayed to the jury that is prejudicial to the co-defendants."

Co-defendants are faced with a dilemma, explains Mr. Urquhart of the Houston firm of Holtzman & Urquhart. They can either settle for a higher amount or risk being hit with a huge jury award—without Manville picking up any of the tab.

Fred Baron, a plaintiff's attorney with the Dallas firm of Fred Baron & Associates, agrees there is more pressure to settle.

He says that plaintiffs are willing to settle for 20% to 25% less than they would if Manville were still involved in the litigation.

However, if the case goes to trial, the plaintiffs' attorneys usually demand the full amount, Mr. Baron says. This encourages co-defendants to settle rather than try cases. "There's much more pressure to settle," he says.

While the degree to which Manville's absence from the litigation is affecting claims costs may be debatable, there's no debate that Manville's absence has increased co-defendants' defense costs, caused other legal expenses and hurt some of these companies' ability to secure loans.

"Manville provided more of the legal firepower, lawyers and research than any other company," says Eagle-Picher's Mr. Ralston.

"Everyone needs to become marginally more prepared," he adds.

Originally, the absence of Manville meant the absence of an arsenal of lawyers and medical experts, adds Mr. Day of Raymark. "That was fairly dramatic at the outset, but has been pretty much absorbed into the system."

Additional costs also come into play because some companies are aggressively participating in Manville's reorganization proceedings in the bankruptcy court in New York to defend their interests. For instance, Keene, GAF Corp. and Owens-Illinois Corp. have taken a large role in Manville's bankruptcy proceedings.

Eagle-Picher has hired a New York law firm to participate in the bankruptcy proceedings. "It's cost us a considerable amount of money," says Mr. Ralston.

"There is some additional expense by appearing in bankruptcy court proceedings but they are not all that significant," says Robert H. Beber, GAF's senior vp and general counsel.

In addition, the co-defendants legal costs could increase substantially when they attempt to recover from Manville and two other bankrupt asbestos producers the additional amounts they contend they have paid because of their non-participation.

Mr. Ralston of Eagle-Picher says it is possible companies will have to litigate in bankruptcy courts in three different jurisdictions—New York, Philadelphia and Chicago—to recover from Manville, UNR Industries Inc. and Amatex Corp.

Some attorneys say that even if co-defendants seek to recover from Manville in the bankruptcy courts, they could very well recover less than what Manville would have contributed if its litigation had not been stayed.

"You're kidding yourself if you don't think you're paying more, and you're kidding yourself if you think you will get it all back in bankruptcy court," one insurance company spokesman said.

For many of the co-defendants, Manville's bankruptcy has made it more difficult to obtain loans and issue bonds and they sometimes have to pay higher interest rates.

A few months after Manville filed for Chapter 11, a number of companies had their securities ratings lowered by the major rating organizations, in large part because of the Manville bankruptcy (*BI*, Nov. 1, 1982).

Eagle-Picher, for example, had its financial statements qualified and debt-rating lowered after the bankruptcy, says Mr. Ralston.

But, the co-defendants report that problems with banks and rating organizations have eased somewhat with time.

"It is a problem," adds Mr. Hart of Fibreboard. "While it has not cleared up exactly, we have worked out a satisfactory arrangement" with lenders.

Following the bankruptcy, GAF also encountered resistance from lenders, in part because its revolving agreement with a 10-bank consortium included two banks that were major Manville creditors, says Mr. Beber.

"Certainly (the bankruptcy) had an effect," he adds, although he notes that the company has been able to secure all of the funds it has required.

Although they have been outweighed by the problems, the co-defendants say they have reaped a few benefits stemming from Manville's Chapter 11 filing.

Manville's absence has led to increased cooperation among co-defendants litigating cases, which has resulted in some savings, some attorneys say.

In addition, evidence that was very prejudicial to Manville—and often prejudicial to the co-defendants, too—is no longer introduced in some cases. ■

Workplace deaths reduced in 1983

CHICAGO—Accidental workplace deaths decreased 3% in 1983, despite a 1% increase in employment, the National Safety Council reports.

The council estimates there were 11,200 workplace deaths last year, a reduction of 300 from the previous year.

The workplace fatality rate in 1983 for all industries was 11 per 100,000 workers, down from 12 per 100,000 workers in 1982. Death rates stayed stable or declined in almost all industry categories, the council says.

However, workplace accidents cost $32.1 billion last year, up from $31.4 billion in 1982, it says, attributing the rise to higher medical and compensation costs. ■

Comp deductions

Continued from page 1

numerous proposals being considered by Congress to raise revenue and reduce the federal deficit. Benefit practices are also being scrutinized (see stories, pages 1 and 28).

Of primary concern to self-insurers is that the proposal would nullify the 9th U.S. Circuit Court of Appeals' decision in the Kaiser Steel case handed down last September.

The court ruled that Kaiser could deduct its reserves for uncontested workers compensation claims because it complied with the "all-events" test, which requires:

- All events governing the fact of the employer's liability occur during the tax year. For workers compensation, courts have said that the only event determing liability is the worker's injury.
- The amount of the liability can be determined with "reasonable accuracy."

The House bill, however, amends the "all-events" test with a so-called "economic performance" test, under which deductions wouldn't be allowed until an employer's liability is actually discharged by payment from a reserve fund.

Spokesmen for the National Council of Self-Insurers, the Risk & Insurance Management Society and the National Assn. of Insurance Brokers say they will continue to fight to defeat the bill on the House and Senate floors.

The NCSI has urged employers to contact members of the House Ways and Means and Senate Finance Committees, as well as other congressmen, to protest the bill.

It has also sent letters to members of both committees, adds NCSI Executive Director Douglas F. Stevenson.

In a "Call for Action," sent to all NSCI members, Mr. Stevenson wrote that the deductibility of loss reserves by self-insurers as well as other accounting practices are "severely threatened" by the proposed legislation.

"This affects not just our own workers compensation loss reserve problem, but also payments into a 501(c)(9) trust fund for group medical plans, for pensions, for supplemental unemployment benefits, and plant shutdown situations," he wrote.

The letter also urges members to enlist the support of their companies' accounting and governmental affairs departments because the ramifications of the bill extend beyond work comp.

"How much fervor we can generate is a question," Mr. Stevenson added last week, noting that much will depend on how much influence council members can exert on their company executives.

But, "If we can alert all affected areas, there should be a storm of protest. I think something can be done."

Mr. Stevenson also sent a letter to Senate Finance Committee Chairman Robert Dole, R-Kan., in which he called the bill "foolish discriminatory legislation" that would not accomplish the desired effect of raising substantial revenue.

Jon Harkavy, RIMS director of governmental affairs, said a legislative alert has been issued to RIMS members, but an overall lobbying strategy won't be mapped out until the Senate Finance Committee finalizes its deficit reduction bill.

"It's not too late," Mr. Harkavy said of the chance to change the provision. "I don't regard it as a 'fait accompli' by any means."

A RIMS representative recently testified before a House Ways and Means subcommittee opposing the measure.

The NAIB also is taking steps to stifle passage of the provision, notes Executive Director Donald Jordan.

The NAIB is in contact with the risk management community, has alerted its members to the legislation and has contacted various congressmen, citing the organization's opposition to the legislation, Mr. Jordan says.

But it has not yet advised brokers to take any action, pending receipt of a task force report on the impact of the legislation, Mr. Jordan adds. The report may be available this week.

According to Marc Levey, a tax attorney who was the lawyer for the government in the Kaiser Steel case at the trial court level but now represents self-insurers, the impact of the legislation would be devastating to business and requires a strong lobbying effort to defeat it.

Since 1920, the "hallmark of all accounting" has been the "all-events" test, says Mr. Levey, who is with the San Francisco office of the law firm Baker & McKenzie.

This measure creates a "morass of technical gobbledygook" in an area that has been clear.

"It's like taking your cleanup batter out of the lineup and playing without him," he says.

"In trying to solve one problem—Kaiser Steel—it (the government) is creating an entire cobweb of problems. It's kind of like pulling bricks from the bottom of a building."

The government had an opportunity to seek a Supreme Court review of the appellate decision in the Kaiser case and did not, he noted. Now it is trying to close down a whole industry by making chaos of a well-understood provision.

"It may cure the problem the IRS sees in self-insurance, but it creates a myriad of problems for taxpayers in various industries," he said.

Mr. Levey added that Congress probably won't perceive the difficulties it would be creating by passing the proposal unless those involved in workers compensation, economists and tax practitioners inform the legislators.

Walter Vinyard, an attorney with the Washington firm of Zuckert, Scoutt & Rasenberger, said that passage of the measure really will depend on whether the political mood in Congress allows passage of any deficit reduction bills. He added, however, "It's extremely difficult to change tax bills on the floor of either house."

The proposed loss reserve legislation apparently caught self-insurance and risk management organizations by surprise, leaving them little opportunity to oppose it at the committee level.

Mr. Harkavy says there were no hearings on the measure in either the Senate or the House.

"The House and Senate pretty much rammed this through," he said.

"It was somewhat like a runaway locomotive," agreed Ron Stasch, risk manager for Federal-Mogul Corp. in Detroit and a member of the Loss Reserve Deduction Committee, a coalition of risk management interests that is pushing other legislation that would allow deductions for self-insured loss reserves and for premiums paid to captive insurers (*BI*, April 26, 1982). This bill, H.R. 2642, is currently sponsored by Rep. Bill Frenzel.

Risk managers and self-insurers oppose the current proposal disallowing tax deductions for work comp loss reserves because they say it treats self-insurers and those that insure their risks unequally, could force self-insurers back into the commercial market and does not accomplish its purpose of raising revenue, only accelerating its collection.

"We don't see it as a revenue-raising measure for the Treasury," says RIMS' Mr. Harkavy. "It also heightens the unequal situation between those who self-insure and those who don't."

Companies that purchase insurance coverage in the commercial market are allowed to take tax deductions for the amount of their premiums.

In testimony for RIMS before the House Ways and Means Committee, James McIntyre, former director of the U.S. Office of Management and Budget, said passage of the proposal could drive work comp self-insurers back into the commercial market.

"Nullifying the deduction in the Kaiser case will create a situation where an employer who utilizes a traditional insurance carrier to provide workers compensation coverage will receive a deduction while a self-insurer will not," Mr. McIntyre said.

"Many self-insured employers who desire such a tax deduction may indeed switch, either totally or partially, to a commercial insurer."

Most self-insurers say they can control their workers compensation costs better by self-insuring than by buying commercial coverage.

Some also say that the revenue generated by the legislation would not be as large as the government anticipates.

"For the small dollars we are talking about here, this approach to eliminate companies' ability to take reasonable deductions on an accrual accounting basis is just not reasonable," adds P. Richard Hackenburg, staff vp and assistant treasurer of Allegheny International in Pittsburgh and a member of the Loss Reserve Deduction Committee.

"To legislate out this particular case (Kaiser) would be improper and flies in the face of generally accepted accounting principles."

The expected income to the government stemming from elimination of the all-events test in all areas of business is $303 million in 1984, $643 million in 1985, $646 million in 1986 and $603 million in 1987.

Howard Weber, director of insurance for 3M Corp. in St. Paul, Minn., said the legislation will eliminate a risk management option and is financially detrimental to self-insurers.

"Any action by Congress which delays the recognition of expense from a tax-deductibility standpoint is harmful to U.S. business," he says.

"The effect of passage would be to add an additional financial burden for anyone considering self-insurance for workers compensation.

"It changes the financial equation," he said. "It reduces the viability of self-insurance plans."

Some say that the legislation was an attempt to circumvent the Kaiser decision. The IRS did not ask the Supreme Court to review the case, they say, out of fear that the high court would rule in Kaiser's favor.

Instead, the IRS sought to have the effect of the ruling changed by having Congress pass the legislation.

Paul Bayer, corporate manager of workers compensation for Crown Zellerbach Corp. in San Francisco, said it was a "left-hand run" around the Kaiser decision. "From my perspective, that's very clear," he said.

Mr. Bayer, who is also a vp of the National Council of Self-Insurers, said Crown Zellerbach was moving toward deducting workers compensation loss reserves but has been stalled now.

It recently established the in-house staff it needed to determine with reasonable certainty what the reserves would be, an element of the all-events test. But now it is awaiting the outcome of the proposal.

"Given the (Kaiser) decision, we would do it tomorrow," Mr. Bayer said. "But now that I'm ready, I don't know if the government is."

Larry Fiedler, director of risk management and insurance for Carter Hawley Hale Stores in Los Angeles, adds that the impact of the legislation on his company "would not be material," but "I would definitely be opposed to the bill. There's no question about that."

Mr. Fiedler said that as a retailer the company does not have that many long-tail injuries for which to establish reserves.

The legislation would have more of an impact on large manufacturers with substantial product liability and workers compensation risks, he added. ■

Airline group may revive captives

Continued from page 2

losses from non-aviation disasters like a loss of an airline's computer reservation system.

The IATA's broker, Minet-Intergremium A.G. in Zurich, Switzerland, is studying the proposed program. It the group goes ahead with the coverage, the insurance is expected to be provided by a consortium of insurers led by Gerling Konzern in Cologne, West Germany, Zurich International Insurance Group of Zurich and American International Group Inc. of the United States.

These insurers may then reinsure a portion of the risk with the two IATA captives.

The IATA already sponsors two other group insurance plans for its members. They are:

- A workers compensation group coverage program for 27 foreign airlines that travel in the United States. The coverage is led by Utica National Insurance Group, while broker Alexander & Alexander Inc. provides claims handling services for the airline.

Mr. Kelly says members have saved "considerable amounts of money" through this plan, adding that the 21 airlines participating in 1981, the plan's first year of operation, saved $2 million off standard wok comp rates.

- A hull insurance deductible insurance program for 20 international airlines, including some U.S. air carriers. Begun in 1982, this program covers the cost of deductibles that aviation underwriters impose on hull policies for loss of engines. These deductibles commonly run from $150,000 per engine to $650,000 per engine.

This program is brokered by Reed Stenhouse Cos. Ltd. ■

Parks' special pool cuts coverage costs

Continued from page 3
with more than 3,000 acres.

This steep rate increase prompted the Rockford district in late 1980 to conduct a feasibility study to establish a self-insurance program for itself.

"We had a broker find out costs for administration and for engineers for risk management," he said. But in the end, the park district found it was not large enough to make a self-insurance program practical.

This led Mr. Elliott to investigate the possibility of pooling risks with other park districts and self-insuring them that way.

He bounced the idea off Mr. Hopkins, and they ultimately invited about 50 park districts to join the discussion.

Thirty-six interested park districts ended up hiring broker Arthur J. Gallagher & Co. to conduct a feasibility study of a pooling arrangement, which was chaired by Mr. Elliott. Gallagher, of Rolling Meadows, Ill., now administers the agency program.

While rising workers compensations insurance costs gave birth to the formation of the Park District Risk Management Agency, the group ended up self-insuring several different coverages and purchasing workers compensation insurance, as well as two other types of coverage, in the commercial market.

Self-insured through a combined loss fund are property risks, including physical damage to any park district property—except boiler and machinery risks—and any losses stemming from thefts by employees or outsiders; general liability risks and commercial auto exposures.

The group's self-insured limits are $25,000 per occurrence and $190,000 aggregate.

Above those limits, it has purchased excess insurance with limits of $25 million.

"Based on our evaluation of the losses for the past five years, we expect our (self-insured) losses to come in at $140,000," said John Durkin of Gallagher.

The group also purchases primary coverage for workers compensation, public officials' liability and boiler and machinery risks.

"We evaluated the losses for workers compensation—they're a little more volatile—and decided not to expose the group to that kind of liability," Mr. Durkin said.

The workers comp coverage, up to statutory limits, is written by Employee Benefits Insurance Co. of Illinois in Chicago.

The public officials' coverage, which has a $1 million limit, is written by Hartford Specialty Co. in Hartford, Conn. and the boiler and machinery coverage, with a $5 million limit, is underwritten by American Casualty Co. of Reading, Pa., in Chicago.

The group's excess coverage is written by several insurers with International Surplus Lines Insurance Co. in Chicago writing the first layer.

It not only provides excess coverage for the risks covered by the group's combined loss fund, but also provides public officials' liability coverage excess of the $1 million primary policy.

No excess coverage is provided above the $5 million boiler and machinery policy.

The liability coverage provided through the self-insured combined loss fund offers the agencies some special coverage especially needed by park districts, including host liquor liability, special events and police professional liability coverage.

"That's what really made the program work," Mr. Durkin commented.

In the past, park districts were forced to buy one-day coverage for special events, like a Fourth-of-July fireworks display, and sometimes they forgot to purchase it, Mr. Durkin said. But with the new policy, these special risks are covered and the districts are paying less.

"Our limits of liability increased eightfold, from $3 million to $25 million, and we've got more coverage, more ancillary-type coverages," said Schaumburg's Mr. Baer.

"We tripled our coverage for a lesser premium," said Jim McCarte, business manager with the Skokie Park District and chairman of the PDRMA's loss prevention committee.

And Batavia's Ms. Dobbs said: "Our umbrella liability was $2.5 million; now it's $25 million and we're covered for every conceivable thing."

Not every park district needs all the special coverages in the policy, but someday they might, noted Rockford's Mr. Elliott.

For instance, liquor is prohibited in the Rockford parks, but if the park board allows it at some point in the future, that liability will be covered without an increase in the district's premium, he said.

Other districts don't have police forces, but under the group's policy, they have the coverage if they need it.

But in a few cases, the coverage does not quite cover all of a particular park district's needs, Mr. Elliott noted. For example, the Rockford district has an excursion boat and trolley car operation, necessitating additional coverage that is purchased outside the group.

The park districts also have to bond their public officials individually.

Some of the park districts that participated in the feasibility study decided for a variety of reasons that the group was not for them, Mr. Hopkins said. One, the only forest preserve district involved in the study, discovered that its county already had a self-insurance program it could participate in. Others were concerned about taking business away from brokers in their communities, Mr. Hopkins said.

And some were concerned that by using Gallagher, the services they purchased would not have been put out to bid, which is required for most expenditures by governmental bodies.

However, when the park districts decided to conduct the pooling feasibility study, it solicited proposals from six brokers and then chose Gallagher, Mr. Hopkins said. The group also obtained several legal opinions that, according to Illinois law, professional services are not subject to the bidding rule, so the contract with Gallagher to administer the pool would not have to be bid, he added.

Applications for membership in the Park District Risk Management Agency will be accepted this summer; however, no new members will be admitted until next January. ■

Gun firms, retailer not liable for shooting

Continued from page 2

dangerous. The suit noted that the gun was not equipped with safety devices, and expert witnesses pointed out at the trial that it did not fire reliably and could be set off without touching the trigger.

In addition, Mr. Turley argued that the defendants were liable because of the dangerous nature of handguns.

The suit alleged the defendants "designed, manufactured and sold to the general public, for profit, a product which carries enormous risks of injury to users and bystanders while affording little or no socially acceptable purpose."

Zale's attorney, Randal Mathis of the Dallas firm of Strasburger & Price, countered that the defendants should not be held liable because the gun had been misused and tampered with during the seven-year period between the time the gun was first sold and the date of the shooting.

The defendants noted that the gun had been used negligently by the high school student who shot Mr. Clancy. The student was "waving the gun recklessly" at the time it was accidently fired, a brief filed with the court stated.

Zale also pointed out in a court brief that Mr. Clancy had already received a $50,000 settlement from his assailant.

In addition, Zale filed a motion for summary judgment to dismiss the suit because the plaintiffs did not cite a specific defect in the product and because the plaintiffs' suit represented a "non-justiciable political question" that should be considered by the legislature instead of a court.

Although Judge Hecht did not rule on Zale's motion, both he and the jury agreed that none of the defendants were liable for Mr. Clancy's injuries.

Zale attorney Mr. Mathis said after the trial that the arguments presented by Mr. Turley could lead to "frightening ramifications" for both handgun manufacturers and marketers if they are accepted by a court.

He said that if the judge had decided in favor of Mr. Clancy, a manufacturer would be automatically liable for gun-related personal injuries, no matter what the circumstances.

This, he added, would have made it difficult or impossible for these companies to purchase liability insurance.

"The case was very significant to the insurance industry because, if this basis for a lawsuit is accepted by the courts, it means a gun manufacturer is responsible for personal injuries with a gun no matter what the circumstances."

A spokesman for Zale would not comment on the company's insurance coverage. However, Zale owns an insurance subsidiary, Zale Indemnity Co., which insures some of its parent company's risks, according to A.M. Best Co.

Arms Corp. of America purchased a two-year extension of its liability coverage when it went out of business in 1975, notes Julien A. Zander Jr., Armsco Distributing Co.'s agent. However, this coverage expired one day before the shooting and would not cover the incident, he said, adding that he did not know the insurer or the limits.

Mr. Zander also would not detail Armsco's coverage, though he said that the company's current product liability insurer had told the company that it would not pay an award if Armsco lost the suit and that Armsco did not contest this decision.

Armsco officials referred insurance questions to Mr. Zander.

Officials at Rogers would not comment on their coverage.

Mr. Turley says he has filed a motion asking for a new trial, explaining that he believes the jury never considered whether the gun was unreasonably dangerous.

If that motion is rejected, he said he will appeal to the Texas Court of Appeals.

Mr. Turley is also going ahead with suits he has filed for about 20 other gunshot victims in state and federal courts across the nation, he said.

However, some of his opponents think the Dallas court decision indicates that other suits will also be unsuccessful.

"I tend to think (Mr. Turley is) not going to go much further," said a spokesman for the National Rifle Assn. in Washington. He explained that the allegations against gun manufacturers and dealers in many of the other suits are much less specific than in the Clancy case. ■

Move to limit cafeteria benefits fails

By JERRY GEISEL

WASHINGTON—Employers that fear Congress may eliminate or cut back cafeteria benefits can breathe easier—at least for now.

The Senate Finance Committee last week tentatively declined to consider a proposal by Sen. John Danforth, R-Mo., that would bar cafeteria benefit plans from offering more than $3,000 in annual tax-free benefits per participant.

The Danforth proposal also would have prevented cafeteria plans from offering non-statutory benefits, like extra vacation days, as options.

In addition, cafeteria plans could not have offered deferred compensation benefits. For instance, under the proposal, a 401(k) salary reduction feature could not have been part of a cafeteria plan.

Sen. Danforth, who had earlier suggested the elimination of all cafeteria plans by repealing Section 125 of the Internal Revenue Code, said the growth of benefits should be curtailed.

"We have stacked the deck in favor of fringe benefits" by giving them tax-free status, he said.

> 'We have stacked the deck in favor of fringe benefits,' Sen. Danforth of Missouri contends.

But, after it became apparent that he couldn't command support from a majority of committee members, Sen. Danforth tentatively withdrew his proposal.

In other action last week, the Finance Committee voted to:

- Extend a freeze on maximum pension benefits and contributions for two additional years.

The proposal, identical to one already approved by the House Ways and Means Committee, extends until 1988 a cap on how much an employer may contribue to a defined contribution plan and how large a benefit may be paid by a defined benefit plan.

Under current law, the maximum annual contribution an employer may make to a defined contribution plan is $30,000, while the maximum annual benefit that a defined benefit plan may offer is $90,000.

- Extend through 1985 a moratorium that bars the Treasury Department from issuing new rules on the taxation of benefits not covered by a specific section of the tax code. The current moratorium expired last Dec. 31.
- Change the order of withdrawals from pension plans that are solely funded by employees.

Under the committee's proposal, an employee that wanted to withdraw funds from the plan would first withdraw the accumulated interest, which is taxable, before he could withdraw his own contributions.

The House Ways and Means Committee earlier voted to ban such plans entirely.

Neither proposal, however, would affect individual retirement programs like Individual Retirement Accounts and Keogh plans.

- Allow churches that have religious objections to withdraw from the Social Security program.

This provision only would apply to churches that joined the program after Jan. 1, 1984, the effective date of a section in the Social Security Amendments Act of 1983 that requires all non-profit employers, including religious organizations, to participate in Social Security.

However, under the Finance Committee proposal, employees of religious organizations that drop out of Social Security still could participate in the program by paying the FICA tax rate charged to the self-employed. That tax is 11.3.%, including a 2.7% tax credit.

- Gradually increase over the next several years the amount of money an employee with a non-working spouse can contribute annually to an IRA to $4,000.

The current annual limit is $2,250.

- Allow tax deductions for the contributions doctors make to capitalize a physician-owned medical malpractice insurance company.

In addition, the committee last week was still considering a proposal to tax retirees on premiums their former employers pay for group life insurance coverage that exceeds $50,000. Such coverage is now tax-free to the retiree.

The proposal only would apply to employees younger than 55 on Jan. 1, 1984.

All the committee's recommendations are tentative until a committee report is published. ■

Photo: Index/Stone International, Inc.

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House proposal imperils 501(c)(9) trusts

Continued from page 1
accompanying story).

The 75% reserve limit set in the House Ways and Means Committee bill might be workable for benefits like health care coverage, where payments for a claim usually are made within a year and an employer's liability to provide benefits ends when an employee leaves a company, consultants say.

But such a reserve would be wholly inadequate for long-term benefit obligations like long-term disability or post-retirement health care, where the promise to pay benefits may extend for decades.

A 30-year-old employee, for example, who is totally disabled may receive LTD benefits for the next 35 or 40 years.

"LTD is a long-term obligation," said Donald McKinnon, a principal in the Stamford, Conn., office of benefit consultant William M. Mercer-Meidinger Inc. "Payments can go on longer than for any other benefit. It is most similar to a pension plan in its long-term nature."

Because of these long-term payments, a prudent employer using a 501(c)(9) trust should maintain reserves of at least 500% to 900% of the previous year's benefits, compared with the Ways and Means' proposed limit of 75% of the average of benefits paid out over a two-year period, said John Hickey and Peter Hutchings, partners at consultant Kwasha Lipton in Fort, Lee, N.J.

Without an adequate reserves in a trust, disabled employees could lose promised benefits if their employer ran into economic difficulty and went out of business. Under law, assets in a 501(c)(9) trust must be used to pay for participants' benefits.

Many employers would turn to the commercial market to buy LTD coverage if they no longer could set up adequate reserves, but that would increase their LTD costs by 10% to 20% a year, said Frank Finkenberg, a consulting actuary at Buck Consultants Inc. in New York.

A 501(c)(9) trust can fund LTD benefits at a much lower cost than buying insurance because an employer doesn't have to pay for a third party's profit. In addition, interest earned on the reserves in the trust can be used to fund future expenses.

"A trust can provide (LTD) coverage on a more economical basis than buying insurance from an insurer that is in business to make money," said Fredrick Rumack, Buck's director of tax and legal services.

"The trusts have served as a way to provide benefits at a lower cost," another consultant agrees.

The 75% limit on reserves makes even less sense for the growing number of employers that want to use the trusts to fund in advance their post-retirement health care benefits, experts say.

Like LTD benefits, the corporate obligation to provide post-retirement health care coverage, which usually supplements benefits provided to retirees through the federal Medicare program, can extend for years. The average 65-year-old retiree can expect to live and be eligible to collect benefits for another 14 years.

Because of that long-term obligation to provide post-retirement health care benefits, which are very expensive, an employer might want to have a reserve that is equivalent to 10 to 15 times what a company paid out in its most recent year.

For many employers, basing the size of a trust reserve for post-retirement benefits on recent benefit costs simply would be inappropriate, said Kwasha Lipton's Mr. Hutchings.

For example, if a company had few retirees but a large active workforce nearing retirement age, its current health care costs for retirees would not be an accurate standard with which to measure its future costs.

Unlike LTD benefits, which are probably covered by more 501(c)(9) trusts than any other benefit, few employers now fund post-retirement health care benefits through these trusts. Employers now fund these benefits on a pay-as-you-go basis, either by buying coverage from insurers or by self-funding.

But that could change. The Financial Accounting Standards Board has proposed that promises to provide post-retirement health care benefits be recognized as a liability on a company's balance sheet (*BI*, May 30, 1983).

As a result, if the FASB adopts that proposal, employers will be looking for ways to fund post-retirement benefits, such as through a 501(c)(9) trust, to prevent their balance sheet from being swamped by liabilities.

"It is ironic. The FASB wants these obligations to be recognized but Congress may prevent the sound funding of these obligations," said Mercer-Meidinger's McKinnon.

Experts say retirees could wind up paying the price if employers are barred from setting up adequate reserves to fund post-retirement benefits.

"What if a firm is shut down. . . . Where will the dollars come from to pay the benefits?" asked Theresa Stuchiner, a partner with Kwasha Lipton.

The importance of employer-provided post-retirement health care plans will grow if the Medicare program, which is in grave financial trouble, is cut back.

"Little consideration has been given to how the Treasury Department proposal would affect employees' benefit security," said Buck's Mr. Rumack. "There will be less incentive to fund benefits. . .so benefits will be less secure."

Currently, the Pension Benefit Guaranty Corp., a federal agency, guarantees workers' and retirees' basic pension benefits when companies fail and haven't fully funded their pension programs.

But no agency guarantees retirees' health care benefits. Medicare only pays for about 40% of the elderly's medical and hospital bills, while Medicaid only provides coverage for those at the poverty level.

"Employees will be the ultimate losers" if their employers can't adequately fund post-retirement benefits, said Mr. McKinnon.

And, it will be legislators who will feel the pressure to come to the aid of the retirees who suddenly lose their benefits.

"I don't think the Ways and Means Committee understands the implications of what they have done," said Ms. Stuchiner. ■

Employers win victory in Senate

Continued from page 1
benefit trade associations, this provision might have been incorporated in the Senate bill, too.

In fact, the odds were not favoring employers when Mr. Dole, about two weeks ago, first introduced the idea to restrict trust reserves.

But with a vote imminent, Sen. Robert Packwood, R-Ore., read before the committee a letter from the Assn. of Private Pension & Welfare Plans, a benefits lobbying group, warning that the reserve restriction would prevent the trusts from funding benefits on an actuarially sound basis (*BI*, March 12).

Sen. Dole then delayed the vote to give Sen. Packwood and Treasury Department officials time to draft a new trust proposal that would be acceptable to Sen. Packwood, a key defender of employee benefit plans.

That delay gave benefit lobbyists and employers time to contact committee members and staff members to warn them that the reserve restrictions could do irreparable damage to the trusts.

"In the Senate, we had time on our side. The letter bought us time," said Ed Davey, executive director of the APPWP.

"We went all out," Mr. Davey explained, commending in particular the strong lobbying efforts of General Electric Co., Kerr-McGee Corp. and Metropolitan Life Insurance Co.

By the time the Finance Committee was finally ready to vote March 14 on a compromise proposal drafted by the Treasury Department, the benefit community had the upper hand.

The Treasury's compromise plan would have, among other things, taxed investment income earned by trust reserves at the maximum corporate rate of 46%. Currently, interest earned on trust funds is not taxed at all.

A dramatic debate over the plans developed between Sen. Packwood and Sen. John Danforth, R-Mo., who wanted the tighter restrictions because he said employers are overfunding the trusts to shield income from taxes. But, as the debate drew to a close, benefit lobbyists knew they had enough votes to defeat reserve restrictions.

In the end, 12 committee members voted against the Treasury Department proposal, while only four supported it.

Then, the committee informally approved a proposal by Sen. Packwood, R-Ore., that would bar trusts from paying more than 25% of benefits to highly compensated employees, such as those who own more than 5% of a company's stock. That proposal is aimed exclusively at small professional companies, where some abuses of 501(c)(9) trusts have occurred.

"We won," exhulted Mr. Davey after the vote. "It demonstrates that when the benefits community marshals its resources, it can be effective."

Benefit lobbyists, Mr. Davey continued, didn't have the same opportunity to get their views across in the House Ways and Means Committee because its voting sessions were closed.

Despite the Finance Committee victory, employers must not become complacent, said Mr. Davey.

"There still is that House bill floating about," warned John Hickey, a partner at consultant Kwasha Lipton in Fort, Lee, N.J. A vote by the full House is expected later this month.

Before then, employers must work to convince House members to delete the trust reserve restriction in the House Ways and Means Committee bill. It will involve educating House members about 501(c)(9) trusts, said Mr. Davey, adding many legislators probably didn't understand the impact of the reserve restriction when they voted for it.

That Congress and the Treasury Department should devote so much time to 501(c)(9) trusts is surprising given their uncontroversial nature.

For more than 50 years, the trusts, named for that section of the tax code authorizing them, have been a cost-effective way for employers to fund many of their employee benefit programs, particularly long-term disability coverages.

The employer recieves a tax deduction when it makes a contribution to the trust; trust assets and interest earned on accumulated reserves are not taxed.

These advantages have appealed to a growing number of employers. As a result, the number of trusts has increased from about 7,000 three years ago to about 9,400 today.

But abuses have cropped up, especially since Congress in 1982 cut back and then froze the maximum benefits that can be offered by defined benefit pension plans and the maximum contributions that can be made to defined contribution plans, like profit-sharing plans.

Small companies, on advice from aggressive actuaries and consultants, looked for new ways to reduce their taxable income and find vehicles to allow assets to grow tax-free.

A 501(c)(9) trust became, for some professional companies, particularly in California, a new tax shelter or a supplementary pension plan.

In an example provided by Sen. Danforth, three dentists would incorporate and set up a trust.

The dentists would get tax deductions for the contributions, which would be used to fund very generous severance benefits to supplement their pensions.

Their contributions to the trust would earn interest tax-free. Later, presumably when the dentists were in a lower tax bracket, they would retire, disband the trust and collect the huge severance benefits.

"Tax journals are promoting the trusts as ways of sheltering income," Sen. Danforth said. "We are going to have loss of revenue. . .if we don't do something," Sen. Danforth told the Finance Committee.

The proposals to place limits on the reserves was clearly aimed at stopping these abuses.

"There have been abuses (of trusts) by small employers. . .not unlike in the pension area where owners get most of the benefits," Sen. Packwood said.

While both Sens. Packwood and Danforth wanted to stop abuses, they differed on the methodology.

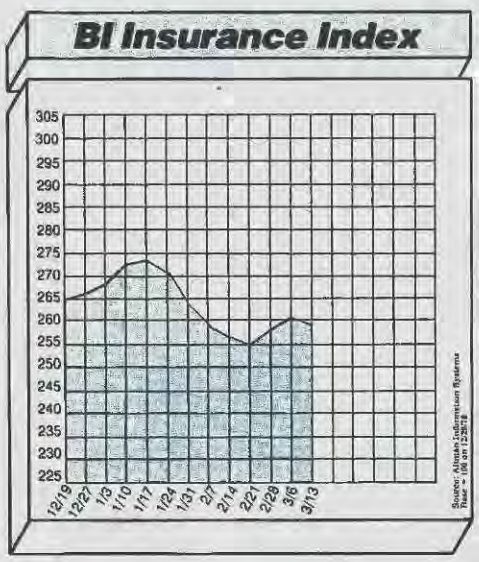
Sen. Danforth said if companies are not allowed to deduct the cost of future salaries, why should companies, through trusts, be allowed to deduct the cost of future benefits.

"We don't want overfunded trusts. That is what is at issue," Sen. Danforth said.

"Reserves are needed to pay for future benefits," which are a promise to employees from employers, responded Sen. Packwood. He said there was no evidence of abuse in trusts that are part of collective bargaining arrangements or among those sponsored by large employers.

The only evidence of abuse seems to be in so-called top-heavy plans, where company owners get all or most of the benefits, he said.

A simple proposal to place limits on benefits that can go to highly compensated employees, which the Finance Committee approved, would stop the abuses without damaging bona fide plans, Sen. Packwood said. ■



The *Business Insurance* stock index hit the skids during the trading period ending March 13, as the index of insurance industry stocks fell 1.7 points to 259.0 from 260.7. The index had posted gains in the previous two weeks, which ended a six-week slump. During the latest period, 28 insurance industry stocks closed downward, 19 issues posted gains and 14 companies' results remained unchanged. The largest gains were reported by Aneco Reinsurance Co. Ltd., 8.3%; USLife Corp., 6.8%; Tokio Marine & Fire Insurance Co., 5.6%; CNA Financial Corp., 5.2%; and Travelers Corp., 3.8%. The largest losses were posted by Optimum Holding Corp., 17.6%; Reed Stenhouse Cos. Ltd., 8.7%; Crawford & Co., 8.2%; Corroon & Black Corp., 7.8%; and E.H. Crump Cos. Inc., 7.8%. The *Business Insurance* index posted a 0.6% decline, while the New York Stock Exchange composite rose 0.3% and the Dow Jones 30 industrials climbed 1.1% during the same period.

British Issues

13 Mar Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence	pence
Comml Union	181	N/A	16.86	9.3	181—	176
Genl Accident	493	13.3	27.14	5.5	493—	485
Gdn Royal Exch	533	13.7	30.71	5.8	533—	525
Phoenix	436	19.0	26.00	6.0	447—	433
Royal	560	13.4	40.72	7.3	560—	545
Sun Alliance	1400	16.1	78.57	5.6	1400—	1387
Brokers						
CE Heath	328	8.2	22.86	7.0	328—	325
Hogg Robinson	206	15.8	9.43	4.6	206—	175
JH Minet	150	11.5	7.57	5.0	150—	141
Sedg Grp	225	11.3	11.43	5.1	225—	217
Stew Wrightson	320	10.7	22.57	7.1	320—	310
Willis Faber	687	14.3	30.00	4.4	687—	668

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

Buyers to benefit as insurers switch from mutual ownership

By LEN STRAZEWSKI

BUSINESSES THAT purchase employee benefits or property/casualty insurance from mutual insurers may receive a windfall in cash or stock if the insurer decides to convert to a stock company.

And the prospect of such a payoff is becoming more likely, two accountants say, as the need for capital and a more favorable tax status pressure policyholder-owned mutuals to start selling stock.

"Many corporate and individual insurance policyholders will enjoy unexpected profits if their insurer is among the large number of mutual insurance companies expected to convert to public shareholder-owned companies in the next few years," explains Robert L. Posnak, partner in charge of insurance practice at the accounting firm of Ernst & Whinney in New York.

Mr. Posnak and his colleague Stephen C. Eldridge, partner in charge of tax consulting at Ernst & Whinney, recently led a seminar on insurer demutualization in New York for about 150 insurance company executives. Many of those attending were mutual executives examining the likelihood of changing their companies' structures.

"There are a number of compelling reasons behind this growing demutualization trend," Mr. Posnak says. "Publicly held insurance companies have much greater access to capital, their corporate structures are somewhat less inhibited by regulation and they have the ability to use stock options and other incentives to compete for management talent.

"Certain tax developments have given additional impetus to the demutualization of life insurance companies."

The proposed Tax Reform Act of 1984, H.R. 4170, which has been approved by the House Ways and Means Committee as a deficit-reduction measure, would place a heavy tax burden on mutual life insurers, the accountants and other industry watchers say. The legislation could be an incentive for a mutual to switch to stock ownership if it is eventually enacted.

As of last week, however, the Senate Finance Committee has not been able to agree on its version of the bill (see story, page 1).

Although this proposal would not affect property/casualty insurers, the other reasons for demutualization, especially the need for increased capital, also may attract these insurers, the accountants say.

"Armed with the advantages of stock ownership, the mutual companies will be better positioned to develop new and more innovative products, thus improving their own competitive position and heightening marketing competition overall," Mr. Posnak says.

Approximately 100 mutual insurers have switched to stock ownership in the past several years, Messrs. Posnak and Eldridge say, and many more are considering the change.

However, before mutuals can sell stock to raise capital, they must complete filings with both state and federal regulatory bodies and propose a plan to buy out the existing policyholders' ownership.

Mutual insurers can either offer policyholders a straight cash payment or generate enough common shares through the stock offering to replace the policyholders' equity with stock equity. Either way, this means money for insurance buyers.

Other conversion methods are possible also, the accountants say, but require more study.

"One very interesting method of payment that may be considered is the issuance of preferred stock," Mr. Eldridge says. "Policyholders probably would not be taxed until they dispose of the stock, and then only at capital gains rates. And the insurance company paying out the preferred stock would be able to count it as part of its capital."

Mutual insurers also may attempt to pay their policyholders a dividend equal to the value of their ownership in the insurance company. This technique has some additional advantages for the insurer because the company probably will be able to take a tax deduction for the dividends paid, thus virtually doubling its ability to pay off policyholders, the accountants say.

Messrs. Posnak and Eldridge have also examined the prospect for long-term premium reductions as a means of buying out policyholders. The technique has some appeal, the accountants say, because it would not reduce the insurer's capital.

However, such discounts may violate various state insurance codes and should be researched carefully in any state in which a mutual insurer does business.

Exchange Mutual Insurance Co. of Buffalo, N.Y., a small insurer that specializes in automobile insurance but also sells workers compensation, comprehensive general liability and commercial multiperil package coverages, is one property/casualty mutual looking expand its capital through the sale of stock, according to Treasurer Edward Yablecki.

"Our main goal is to raise approximately $12.5 million in additional capital through the sale of common stock," he explains. "It's not easy to expand when you are policyholder-owned, and we have planned for some time to open a Western division, but that takes money."

Exchange Mutual, which wrote about $14 million in premium in 1982, according to A.M. Best Co., made its first stock offering early this year, but found investor reception cool.

"The stock market was in terrible shape and by Feb. 14, when the market began to turn around, our prospectus was stale and needed updating. We will try again in April," Mr. Yablecki says.

After examining several of the possible means to buy out policyholders, Exchange Mutual now plans to offer policyholders a straight cash payment. Since approximately 60% of its 64,000 policyholders are small personal insurance buyers, a stock replacement plan would have demanded the generation of vast quantitities of stock.

"It was just too complicated for a company of our size," he says.

The costs of the demutualization, exclusive of taxes and legal fees, however, will be tremendous. Contingent upon the acceptance of its stock offering, the insurer expects to pay its policyholders a total of about $9 million or nearly all of its present policyholder surplus.

While the demutualization should work for Exchange Mutual, Messrs. Posnak and Eldridge say, they note that several issues remain to be studied.

These issues include "uncertainities regarding tax-loss carryovers, the tax benefits of asset improvements and the tax treatment of cash settlements with policyholders," they say.

Companies that already purchase insurance from mutual insurers may indeed receive a windfall from demutualization, experts say, but don't change your benefit or risk management plan to a mutual just to plan for some future cash advantage. The demutalization boom could fizzle.

Alice Cornish, an insurance industry analyst for Lehman Bros. Kuhn Loeb in New York, agrees that tax proposals could provide an incentive for some mutual life insurance companies to consider changes, but she doesn't expect a massive transformation of the insurance industry.

"The demutualization process is so complicated and untested that it's hard to believe there will be some mass movement."

Myron M. Picoult, senior vp and senior insurance analyst with Oppenheimer & Co. in New York, agrees. Although some property/casualty insurers may be interested in demutualization, big property/casualty mutuals probably already have adequate capital and smaller insurers may not have the resources to make the change.

"Many of the smaller mutuals are fighting for survival now and are short on cash. I just don't think there's enough money around for these companies to demutualize. Moreover, laws would have to be changed to make the demutualization process less complex," he says. ■

BI Industry Stock Report

MAR. 13, 1984 — 3/7/84 THRU 3/13/84

Insurance Cos.		Price	% Chg.	P/E	$ Div.	% Yld.	High	Low	Vol. (000)
Aetna Life & Cas Co	NYSE	34.88	-1.1	11.4	2.64	7.6	36.38	34.88	2,088.2
American Bankers Ins Group	OTC	13.38	-1.8	9.4	0.50	3.7	13.38	13.00	29.2
American General Corp	NYSE	20.88	0.0	6.3	0.90	4.3	20.88	20.25	957.1
American Indty Finl Corp	OTC	21.00	-2.9	18.3	1.12	5.3	21.63	21.00	7.1
American Intl Group Inc	OTC	52.25	-1.9	9.1	0.44	0.8	52.25	51.25*	1,662.5
American Natl Ins Co	OTC	23.50	-6.1	7.3	0.96	4.1	23.75	23.25	127.4
Aneco Reins Ltd	OTC	3.25	8.3	9.6	0.00	0.0	3.25	3.13	14.7
Avemco Corp	AMEX	17.13	-2.8	11.1	0.58	3.4	17.88	17.00	10.3
Banks Iowa Inc	OTC	51.50	1.0	19.1	1.52	3.0	51.50*	51.00	1.5
Bitco Corp	OTC	16.50	-7.0	0.0	1.33	8.1	17.75	16.50	8.9
Carolina Cas Ins Co	OTC	4.75	0.0	0.0	0.00	0.0	4.75	4.75	1.2
Chubb Corp	OTC	67.25	-1.1	9.8	3.12	4.6	67.75	67.25	253.8
Combined Intl Corp	NYSE	33.25	0.0	8.6	2.00	6.0	33.38	33.25	171.8
Continental Corp	NYSE	27.00	1.9	142.1	2.60	9.6	27.00	26.75	222.5
Crawford & Co	OTC	14.00	-8.2	9.9	0.66	4.7	15.25	14.00	6.7
Crown Life Ins Co	OTC	122.00	1.7	8.0	3.20	2.6	122.00	120.00	34.6
Employers Cas Co	OTC	32.00	0.0	7.2	1.20	3.8	32.00	32.00	44.7
Equifax Inc	NYSE	25.50	-1.9	10.1	1.60	6.3	26.00	25.50*	18.0
Farmers Group Inc	OTC	38.75	-4.3	9.5	1.52	3.9	40.13	38.25	277.1
Foremost Corp Amer	OTC	24.25	0.0	11.2	0.96	4.0	24.25	24.25	17.0
Fremont Gen Corp	OTC	14.38	1.8	0.0	0.48	3.3	14.50	14.25	224.0
Great West Life Assurn Co	OTC	300.00	0.0	10.8	12.00	4.0	300.00	300.00	0.5
Hanover Ins Co	OTC	50.50	0.0	6.6	0.88	1.7	50.75	49.75	8.5
Hartford Steam Boiler Inspctn	OTC	53.00	2.9	9.1	3.00	5.7	53.00	51.50	23.0
Jefferson Natl Life Ins Co	OTC	41.50	1.2	18.4	0.76	1.8	41.50	40.00	7.7
Kemper Corp	OTC	37.88	-0.7	8.1	1.80	4.8	38.13	37.75	22.5
Lincoln Natl Corp Ind	NYSE	29.88	-1.2	7.3	1.68	5.6	30.00	29.50	100.2
Mission Ins Group Inc	NYSE	21.13	-0.6	0.0	0.50	2.4	21.13	21.00	122.2
Nationwide Corp Ohio	OTC	41.75	0.0	15.3	0.70	1.7	0.00	DID NOT	TRADE
Northwestern Natl Life Ins	OTC	38.00	0.0	9.5	1.50	3.9	38.25	37.75	61.6
Ohio Cas Corp	OTC	44.88	0.8	9.3	2.68	6.0	44.88	43.88	70.1
Old Rep Intl Corp	OTC	32.25	-3.4	6.9	0.90	2.8	33.00	32.25	100.7
Orion Cap Corp	NYSE	24.00	-3.5	11.8	0.76	3.2	24.38	23.75	24.3
Preferred Risk Life Ins Co	OTC	20.13	0.6	7.1	0.74	3.7	20.50	20.00	12.3
Provident Life & Acc Ins Co	OTC	68.50	-1.4	7.2	2.60	3.8	69.00	68.50	5.1
St Paul Cos Inc	OTC	56.13	-3.2	8.7	3.00	5.3	56.88	56.00	88.7
SAFECO Corp	OTC	58.00	-2.3	8.1	2.60	4.5	58.75	58.00	110.4
Sri Corp	OTC	16.50	-3.6	8.3	0.68	4.1	16.50	16.13	81.1
Seibels Bruce Group Inc	OTC	18.25	-2.0	11.9	0.80	4.4	18.50	18.25*	13.6
Statesman Group Inc	OTC	10.25	-2.4	8.9	0.15	1.5	10.25	9.50	119.6
Tokio Marine & Fire Ins Co	OTC	126.25	5.6	25.5	0.96	0.8	126.25*	118.75	16.5
Travelers Corp	NYSE	34.00	3.8	8.3	1.92	5.6	34.13*	32.50	1,127.5
United Fire & Cas Co	OTC	29.50	0.0	10.5	1.60	5.4	29.50	29.50	0.0
United States Fid & Gty Co	NYSE	58.75	1.7	9.7	4.16	7.1	58.75	58.00	163.6
United Svcs Life Ins Co	OTC	25.25	-0.5	7.2	1.00	4.0	25.50	25.25	3.5
Uslife Corp	NYSE	27.50	6.8	7.5	0.96	3.5	27.50	25.13	445.4
Washington Natl Corp	NYSE	22.63	1.7	12.0	1.08	4.8	22.63	21.25*	73.3
Zenith Natl Ins Corp	OTC	13.50	1.9	9.1	0.60	4.4	13.50	13.25	4.3
INSURANCE COMPANIES	AVERAGE			10.5		4.0			
Agents/Brokers									
Alexander & Alexander Svcs	NYSE	19.88	0.6	0.0	1.00	5.0	20.63	19.75	109.5
Baldwin & Lyons Inc	OTC	37.00	0.0	68.5	0.80	2.2	37.00	37.00	4.0
Corroon & Black Corp	NYSE	23.75	-7.8	14.8	1.00	4.2	25.00	23.63	53.6
Crump E H Cos Inc	OTC	11.25	2.3	15.0	0.40	3.6	11.25	10.75	47.4
Emett & Chandler Cos Inc	OTC	9.75	-2.5	26.4	0.00	0.0	10.00	9.75	0.0
Hall Frank B & Co Inc	NYSE	22.88	2.2	24.1	1.35	5.9	23.25	22.63	269.9
Integrated Res Inc	AMEX	23.25	-2.1	7.5	0.00	0.0	23.75	23.25	86.1
Marsh & Mclennan Cos Inc	NYSE	44.63	0.0	12.8	2.20	4.9	44.63	43.50	195.0
Poe & Assoc Inc	OTC	5.00	0.0	0.0	0.00	0.0	5.00	5.00	1.4
Reed Stenhouse Cos Ltd	OTC	11.88	-8.7	15.5	0.60	5.1	12.50	11.88	125.1
AGENTS/BROKERS	AVERAGE			19.1		3.5			
Conglomerates/Holding Cos.									
American Express(Fireman's Fd)	NYSE	29.25	1.7	11.6	1.28	4.4	29.63	29.00	2,777.2
Anderson Clayton(Ranger/PanAm)	NYSE	29.25	-6.4	32.9	1.32	4.5	30.38	28.63	17.3
Amco Inc	NYSE	19.13	0.7	0.0	0.40	2.1	19.13	18.38	247.0
Baldwin Utd Corp	NYSE	2.13	-5.6	0.0	0.00	0.0	2.38	2.13*	203.3
CIGNA Corp	NYSE	40.25	1.9	7.7	2.60	6.5	40.50	38.88	1,203.2
City Investing Co. (Home Ins.)	NYSE	32.88	1.5	8.1	1.80	5.5	33.13	32.50	716.8
CNA Finl Corp (CNA)	NYSE	25.50	5.2	9.0	0.00	0.0	25.75*	24.13	60.8
Control Data (Comml. Credit)	NYSE	37.50	6.0	8.9	0.66	1.8	37.50	35.50	859.2
General Re Corp	NYSE	58.25	-2.5	13.7	1.44	2.5	59.13	58.25	226.4
ITT (Hartford Group)	NYSE	40.13	2.2	9.0	2.76	6.9	40.13	38.00	1,566.3
Optimum Hldg Corp	OTC	3.50	-17.6	26.9	0.00	0.0	4.25	3.50*	7.1
Sears Roebuck & Co. (Allstate)	NYSE	34.63	1.8	9.1	1.76	5.1	34.63	33.63	2,230.9
Teledyne Inc (Argonaut)	NYSE	167.13	2.1	11.2	0.00	0.0	167.13	164.50	530.0
Transamerica Corp (Occidental & Fred S. James)	NYSE	23.75	3.8	8.6	1.56	6.6	23.75	22.75	476.7
CONGLOMERATES/HOLDING COS.	AVERAGE			14.2		2.9			

*Record high/low since Jan. 1, 1983

System design: Altman Information Systems

Financial briefs

Aneco Re

Aneco Reinsurance Co. Ltd. of Bermuda reports that 1983 net income increased 122%, to $746,018 from $355,984, in 1982. Written premiums increased 46% to $15.5 million in 1983 from $10.6 million in the previous year.

In addition, Aneco announced that it hopes to increase its capital by about $17 million. About $10 million of this amount will be raised by a new offering of convertible preferred stock. The company says it will register the offering with the Securities and Exchange Commission within a month. ■

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