WEEK OF MARCH 29, 1982

business insurance®

Reporting weekly for corporate risk, employee benefit and financial executives/$1 a copy; $40 a year

update:

McDonald's battle appears to have abated

CHICAGO—After more than a year of intense competition from all corners of the industry, the fight to sell insurance to the more than 4,000 McDonald's restaurant franchises seems to have abated.

Only three large brokers and insurers actively competed for the workers compensation coverage recently up for renewal, in-

Continued on next page

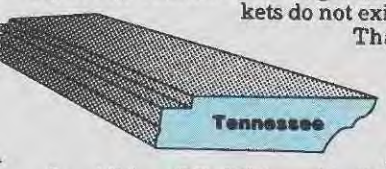
Tennessee mulls captive changes

By JERRY GEISEL

NASHVILLE, Tenn.—Tennessee, which first opened its door to captive insurance companies in 1978, wants to make that portal a little wider.

The Legislature this week may give final approval to a packet of bills drafted by the state Insurance Department to remove regulatory obstacles that may have discouraged companies from setting up captives in the state. The legislation also would vastly expand the lines of coverage a captive can offer.

Under S.B. 1599 passed last Thursday, an employer that wants to set up a captive in Tennessee no longer has to prove that adequate insurance markets do not exist in the United States.



That "needs" provision in the 1978 law may have been a psychological barrier for companies considering Tennessee as a captive domicile, said a spokesman in the Nashville office of consultant American Risk Management.

In addition, S.B. 2304 would allow pure captives—those owned by a single company—to offer all commercial property/casualty coverage lines, including workers compensation insurance, on a direct basis.

That would be a dramatic change from the existing law that limits direct underwriting by captives to professional liability, errors and omissions and comprehensive general liability exposures. Captives, however, have been allowed to reinsure other lines.

Finally, other bills have been introduced that would simplify reporting and filing requirements.

All the pending bills have been approved by committees in both the House and Senate. Tennessee's existing capital and surplus requirements of $750,000 for pure captives and $1 million for association captives would not be changed by the legislation.

Continued on page 21

Verdict in Rely case could hurt P&G later

By RHONDA L. RUNDLE

DENVER—The first jury verdict in a lawsuit involving Procter & Gamble Co.'s Rely tampon is a rare outcome in the annals of product liability litigation.

Both sides lost.

Plaintiff Doletha Dawn Lampshire was not awarded punitive nor compensatory damages despite a bout with toxic shock syndrome that she says nearly killed her. She had asked for $25 million from P&G.

However, the Denver federal court jury also ruled that Procter & Gamble had sold a defective product and was negligent in marketing Rely. But it also found that the company did not breach any warranties in selling its superabsorbant tampon.

Legal experts contacted by *Business Insurance* variously described the March 19 verdict as "a tie," a "mixed decision" or "a moral victory for the plaintiff." Most agreed, however, that P&G was the bigger loser because the outcome could set a nasty precedent for more than 400 pending Rely suits.

The precedent would be potent if other courts apply a doctrine of law called "collateral estoppel." It could be used by plaintiffs to brand P&G as negligent from the outset in future trials. Although controversial and not widely accepted, this principle has been used to avoid re-litigating the same facts in a number of asbestos product liability lawsuits in Texas.

Continued on page 26

California comp

Wage-loss proposal facing uphill battle

By RHONDA L. RUNDLE

CORONADO, Calif.—A proposed law that would bring the concept of wage replacement to California's litigation-plagued workers compensation system faces an uphill battle in the state Legislature.

Senate Bill 1749, introduced March 11, is California's first wage-loss bill and culminates many years of study by its sponsors, a coalition of employer groups bent on reforming the state's costly and inefficient workers compensation system.

The wage-loss approach varies under different state laws but basically aims to deliver benefits to injured workers to replace wages lost after an accident. Permanent partial disability benefits are eliminated, except for extreme impairments.

"We believe wage-loss is the direction the California Legislature should move to reform the system," said Paul Gladfelty, director of workers compensation for the California Manufacturers Assn., who outlined provisions of the bill at the California Self-Insurers Assn. annual meeting March 17-19 at the Del Coronado Hotel near San Diego.

He emphasized that more than 50% of California's permanent partial disability cases are for minor injuries rated at less than 15% disability. "There is a question as to whether those people are actually losing anything in lost wages," he pointed out.

If not, a wage replacement system could dramatically reduce payments to workers with minor injuries. This would help to offset increases in across-the-board weekly benefits contained in the bill.

The current system in California encourages an injured worker to litigate the extent of his or her injury since benefits are based on schedules that award benefits according to specific disability ratings, critics of the system argue.

To establish the injured worker's rating, both the employer and the employee feel compelled to hire their own doctors and attorneys and take the case to an appeals board. Too large a chunk of the workers compensation dollar is ending up in the pockets of forensic physicians and attorneys, employers complain.

Senate Bill 1749 would instead provide for the payment of wage replacement benefits, calculated at two-thirds of an injured worker's average weekly wage up to a maximum of $308. Disability ratings would be eliminated.

A worker who suffers amputation or other permanent bodily loss would receive additional benefits according to a schedule contained in the bill. But these highly serious injuries are infrequent and would not materially detract from the wage-loss philosophy embodied in the proposal, Mr. Gladfelty says.

Continued on page 25

Illustration: Amy Palmer

Court rejects 'dual capacity' suit against IPC

By EILEEN NORRIS

SACRAMENTO, Calif.—Companies are celebrating a court decision that could have a sobering effect on California's liberal trend to let employees sue their employers.

In a unanimous March 17 decision, a state appellate court reversed a Siskiyou County Superior Court jury ruling that allowed employee Winston S. Williams to sue International Paper Co. in its "dual-capacity" as employer and self-insurer of IPC's workers compensation risks.

The court also said the sole remedy open to Mr. Williams was through the workers compensation system. The only exception would be if an employer's negligence aggravated an employee's initial injury.

The lower court decision implied that all insurers and self-insured employers could be sued by employees who had already collected workers compensation benefits on the basis that an insurer monitors safety at a worksite.

While the appellate court decision in itself will not halt the erosion of the workers compensation

Continued on page 25

NEWSPAPER

INSIDE:

update:

Big Mac battle finally abates

Continued from previous page

dustry sources say: Marsh & McLennan Inc., administering the endorsed program with Insurance Co. of North America; Financial Guardian Inc., with a program for Great American Insurance Co.; and Frank B. Hall & Co. Inc., using Fireman's Fund Insurance Co.

Other broker/insurer combinations, including Corroon & Black of Boston/Employers of Wausau, Alexander & Alexander Inc./Eagle Star Insurance Co. and independent brokers/American International Group, dropped out of the competition.

Financial Guardian, the big wi ner in last year's competition for property/casualty insurance packages for the restaurants (*BI*, Oct. 12, 1981), won the workers compensation coverage on approximately 1,000 stores, according to President Donald Weber.

AIG, the former underwriter of the endorsed plan, did not continue its independent marketing blitz after an unsatisfactory showing last year, according to AIG. A spokesman for A&A said its McDonald's cients were attracted by other brokers' package plans.

Although neither M&M nor Hall would discuss their success or failure in attracting franchises, industry sources suggest M&M to be the big winner. One broker said M&M attracted additional restaurants to the corporation-endorsed plan with low rates and the promise of a new captive-insured plan by the end of 1982. M&M, under orders from Mconald's risk manager Jerry Lane, would not disc ss the account, and Mr. Lane was unavailable for comment.

CG, INA may join this week

NEW YORK—The offspring of the merger of INA Corp. and Connecticut General Corp., CIGNA Corp., may be born this week.

Regulators in Connecticut and Pennsylvania approved the merger last week, and lawyers expect green lights from Illinois and New Jersey in time to complete the merger by March 31.

2 more suits filed in rig sinking

NEW ORLEANS—Two lawsuits seeking a total of $321 million in damages have been filed in U.S. District Court here in the Feb. 15 sinking of the Ocean Ranger oil rig (*BI*, Feb. 22).

The two suits bring total damages sought so far for the sinking, which claimed 84 lives, to $323 million.

Barbara M. Watkins of New Orleans sued March 18 seeking $314 million for the estate of her late husband, Michael E. Watkins, an employee of rig owner Ocean Drilling & Exploration Co. The suit seeks $14 million in compensatory damages against ODECO and ODECO International Ltd. of New Orleans and four others. It also seeks $50 million in punitive damages against the six defendants.

Another suit seeking $7 million in compensatory damages was filed March 5 by the family of Ben
burg, Miss. Another $2 million suit was filed last month.

MGM victims want guarantee

PHILADELPHIA—Attorneys for victims of the Las Vegas MGM Grand Hotel fire are seeking to make sure enough liability insurance is available to pay claims stemming from the November 1980 fire that killed 84 people and injured hundreds of others.

In one of three motions brought before U.S. District Court Judge Louis C. Bechtle last week, attorneys sought to block the hotel firm from holding a meeting to consider swapping new preferred stock for existing common shares, which they claimed would drain large sums from the company and would interfere with claims payment.

Two other motions sought to force the firm to prepay or set aside in a trust what it still owes for retroactive insurance coverage and to curtail future settlements until coverage questions are resolved.

MGM Grand Hotels bought $170 million in back-dated liability insurance after the fire. It had $30 million in coverage before the fire, which has been exhausted (*BI*, March 1).

Hotel firm seeks indemnification

HOUSTON—In response to a fire victim's $2 million negligence suit, the firm managing the Westchase Hilton Hotel is seeking indemnification from those who designed, built and installed the hotel's alarm system (*BI*, March 22).

Westchase Hotel Corp. claims in a suit filed in U.S. District Court in Houston that the alarm system failed to perform properly during the March 6 fire, which killed 11 guests. Attorney Michael Terry, representing Westchase, says the suit is part of the company's answer to Douglas Cisco's $2 million lawsuit that names Westchase. Mr. Cisco was injured in the fire.

Named defendants include: Emhart Industries Inc., parent of Notifier Co., which manufactured the system; distributor Texas Electronic Systems Inc.; general contractor Beck Construction Co.; architect Robert Husmann; consulting engineers Brady, Lohrman, Pendleton; Way Engineering Co., which installed part of the system; and Britain Electric Co., another installer.

index

Vol. 16, No. 13—*Business Insurance* (ISSN 0007-6864) is published weekly at 740 Rush St., Chicago, Ill. 60611. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to *Business Insurance*, circulation department, 740 Rush St., Chicago, Ill., 60611; 312-649-5221.

NRC issues revised rules for nuclear plant insurance

By JOHN W. MILLIGAN

WASHINGTON—As early as this June, the Nuclear Regulatory Commission will require nuclear utilities to purchase on-site property insurance to offset massive cleanup costs of a major nuclear accident.

The utilities would have to purchase as much coverage as is available in the market and add to their limits as capacity grows. Currently, $740 million in primary and excess coverage is available.

The commission is not being totally inflexible, however. While utilities will be required to keep pace with capacity increases offered by their insurers, they will not be required to switch carriers just to purchase additional capacity, explains Jerome Geltzman, NRC assistant director for state and licensee relations.

The new requirement may be published in the *Federal Register* as early as this week, he said. The rule will take effect 90 days following its publication date. That would mean a June deadline for utilities that do not have primary and excess property insurance to the full limits available.

The commission made its decision out of concern for public health and safety, according to an NRC document that details the rule.

Yet many utilities question the rule's "practical effect," saying that most nuclear plant owners will buy property insurance as a matter of "good business judgment" regardless of the rule.

The Edison Electric Institute, a utility industry trade association based in Washington, is not strongly opposed to the new requirement since both primary and

Continued on page 22

ANI to offer excess coverage

NEW YORK—American Nuclear Insurers will provide $50 million in excess property insurance for nuclear utilities starting April 15 and is talking with an industry competitor about further increasing excess insurance capacity.

ANI plans additional increases this year in its primary property and foreign reinsurance programs as well, notes ANI President Bert C. Proom, who addressed ANI member companies during an annual meeting here recently. ANI is a commerical risk pool of 146 U.S. stock insurance companies and foreign insurance groups.

Starting April 15, ANI will provide at least $50 million—and perhaps closer to $100 million—in excess property insurance for nuclear utilities, possibly in cooperation with Nuclear Electric Insurance Ltd., a Bermuda-based captive insurer. This new capacity will be part of an eventual $500 million excess layer above $500 million in primary property insurance.

ANI officials met in Toronto recently with counterparts from NEIL to hammer out details of future capacity increases in the $500 million excess layer.

NEIL currently provides $290 million excess of $500 million, comprised of $229 million in post-loss premium assessments and $61 million in conventional reinsurance.

This program is called NEIL II, and the captive group also pro-

Continued on page 22

Insurer buys Nordstrom brokerage

By LEN STRAZEWSKI

MINNEAPOLIS—Quietly, almost secretively, broker Nordstrom Group Inc. has been acquired by American Financial Group, a large insurance holding company.

The union, a rare combination of an insurance company and a major brokerage, is another example of vertical integration in the insurance industry and raises new questions about Nordstrom's financial strength.

Nordstrom, one of the nation's 20 largest brokers until 1980, was an early casualty of the intense insurer rate competition and has seen revenues fall from a peak of about $14 million in 1977 to $12 million in 1979.

The brokerage began retrenching in 1980 with the help of a large loan from American Financial, parent of Great American Insurance Co., one of the brokerage's best markets. Loans from area banks had been terminated, Nordstrom executives then said (*BI*, July 28, 1980).

Although the broker had planned for 15% revenue growth in

Continued on page 26

errors & omissions

• A story in the March 22 issue of *Business Insurance* incorrectly stated that Aetna Casualty & Surety Co. filed a lawsuit in Washington against nine DES manufacturers. The suit actually was filed in U.S. District Court in Hartford, Conn.

• An article published March 22 gave an incorrect figure for the average cost of defending a sexual harassment lawsuit. The figure should be $30,000.

GM workers win profit-sharing plan for wage give-back

By JAMES C. LAWSON

DETROIT—General Motors Corp., in its struggle to regain profitability, may give its workers a piece of the action.

A profit-sharing plan, the first in General Motors' history, is part of a package of benefit and other contract improvements promised to members of the United Auto Workers union in exchange for wage concessions.

The proposed 30-month contract, which must be approved by GM union employees, also includes changes in the company's group life and health insurance plans.

The GM agreement is closely modeled after the UAW's agreement with Ford Motor Co., which went into effect March 1.

Industry analysts say the GM profit-sharing plan could prove to be more lucrative to workers than the Ford plan because workers are more likely to collect under GM's formula. The Ford plan, however, promises workers a bigger share of any profits.

Under the GM proposal, effective Jan. 1, 1983, hourly and non-bonus salaried employees will share 10% of the company's U.S pretax profits that exceed a total of 10% of its net worth and 5% of other company assets.

Assuming GM's total assets in 1983 are $25 billion ($16 billion in net worth, plus $9 billion in other assets) and the company's pretax profits are $4.5 billion (or a return on total assets of 18%), employees would share $236 million.

Under the Ford contract, employees with at least one year of service are eligible for profit-sharing when pretax profits exceed 2.3% of Ford's total U.S. automotive sales, according to Ed Snyder, a Ford spokesman in Dearborn, Mich.

The level of profit-sharing depends on the amount of profits, Mr. Snyder said.

For example, if pretax profits range between 2.3% to 4.6% of U.S. sales, workers will receive 10% of those profits. If pretax profits range between 4.6% and 6.9%, workers will receive a 12.5% split, and if pretax profits exceed 6.9%, workers are entitled to a 15% share.

Workers at both automakers will receive their first profit-sharing checks in March 1984 if their employers post the necessary profit in 1983.

Both the GM and Ford agreements extend life and health insurance coverage to laid-off workers with 10 or more years of service. Such workers would receive 24 months of health and life coverage under the new pacts, compared with 12 months under the 1979 con-

Continued on page 24

Limit use of attorney in comp case: Lawyer

By RHONDA L. RUNDLE

CORONADO, Calif.—You don't need a $20-an-hour mechanic to squirt water into your car radiator. And you don't necessarily need a $70-an-hour attorney to handle your workers compensation claims.

Yet some businesses routinely turn over every disputed claim to an attorney, said Sharon Louis Smith, associate counsel for the Southern California Rapid Transit District, during a talk on legal costs control at the recent California Self-Insurers Assn. meeting.

"This is absolutely revolutionary," Ms. Smith said. "But I recommend using an attorney only if a legal issue is involved in a work comp case. If a medical or other issue is involved, use an adjuster instead."

If you do need a lawyer, apply the same principles of prudent shopping you would use to get your car repaired, she advises. "You want to know exactly what work will be done and how much it will cost.

"Look at the amount in controversy," she stresses. "You wouldn't spend more to fix your car than the car is worth. Nor should you spend more to fight a claim than the difference between what the claimant demands and what you are offering to pay.

"We recently had a $2,800 bill from an attorney to handle a $210 dispute," recalled Ms. Smith. "That firm no longer works for the RTD on new cases."

Since she joined the RTD in September 1980, Ms. Smith has reviewed

Continued on page 23

Companies leaving multiemployer plans may escape claims

By JERRY GEISEL

WASHINGTON—Hundreds of companies that withdraw soon from multiemployer pension plans may not have to pay any of the plans' unfunded liabilities.

The Pension Benefit Guaranty Corp., the federal agency that insures workers' vested pension benefits, said last week that multiemployer plans can apply for permission to adopt rules that would exempt employers that go out of business or leave a particular area from paying withdrawal liability claims.

However, experts disagree on how many plans will ask for such an exemption. Nor is it known how many will receive such permission from the PBGC.

Under the rule, companies that stay in business or remain in the same geographic area after they withdraw from a multiemployer plan still would be slapped with withdrawal liability claims.

The exemption already applies to employers in the construction and entertainment industries.

The rule, which was published in the March 24 Federal Register, would allow plans to apply to the PBGC for permission to adopt withdrawal liability exemptions "similar" to those now covering those two industries.

The favorable effect on employers could be tremendous.

For example, if the Central States, Southeast & Southwest Areas Teamsters Fund adopted the exemption and applied it retroactively, Johnson Motor Lines Inc., a Charlotte, N.C., motor carrier that went out of business in June 1980, would no longer face a $16.9 million withdrawal liability claim.

Johnson and dozens of other employers have filed suit in federal courts challenging the constitutionality of the Multiemployer Pension Plan Amendments Act of 1980, which gave the plans the power to demand withdrawal liability payments.

But it is too soon to say how many plans will ask the PBGC for permission to adopt special withdrawal liability exemptions.

"I don't see that many plans will be motivated to apply for special treatment," said Michael Romig, director of employee benefits at the U.S. Chamber of Commerce. "None of the plans has expressed an interest in moving in this direction."

But Robert Nagle, the PBGC's executive director, said some plans will apply for the special withdrawal liability rules to encourage new employers to join. "Certainly, some plans will apply," Mr. Nagle said.

Pension experts have warned

Continued on page 21

Where have all the franchisors gone?

Few are living up to their promises. . .

By LEN STRAZEWSKI and DONNA LEIGH YANISH

Can small, regional insurance brokers or independent agents place and service your large corporate risk management program?

Some can, with the help of franchise, trade and service groups that sell advanced risk management services such as those offered by the national brokers.

Three years ago, most independent agents and brokers would have said that the big corporate risk management program was becoming more than they could handle.

Then came the "save the independent agent" movement, when a host of franchise companies, trade groups and service firms began promoting risk management service packages designed to help small companies compete with the national brokerages (see related story).

Today, only a few have lived up to their promises: ARM, Assurex, ISU and InsurorsGroup.

Graphic: Amy Palmer

Two of these—ARM and Assurex—have long-standing roots as agent/broker mutual support groups.

Assurex International of Columbus, Ohio, founded in 1954, is the grandfather of the broker support groups. More than 60 member regional brokerages purchase stock in the Assurex corporation and pay annual sliding-scale service fees of up to $6,500, or about 0.5% of annual revenues.

Assurex members buy a nationwide and international network of partners that can assist with servicing clients through their many offices and marketing clout and also through centralized risk management services from the Assurex Risk Management Institute.

They also are investing in the shared expertise of some of the larger regional brokers around the country, according to Executive Vp Robert Ashlock.

"Since Assurex partners are probably some of the largest independent brokers in their respective areas, many already have fully developed risk management service capability," he explains. "But when you are sitting in a room with 60 of your peers, sharing every trade secret you know, you are bound to learn something that will improve your ability to serve your clients."

The group's risk management institute, however, is the heart of the service program. The Assurex Risk Management Institute provides captive and self-insurance feasibility studies, risk management program design, claims management, loss-control engineering and loss analysis. The corporation also

Continued on page 12

. . .But many are still looking ahead

By DONNA LEIGH YANISH and LEN STRAZEWSKI

Who's saving "the American Agency System"?

It's been more than two years since a barrage of franchise groups appeared, offering small independent insurance agents the risk management skills they need to handle large corporate risks.

Most of the groups, however, are still on the drawing board.

With a few exceptions, agency franchise groups have sold several regional but few individual franchises, and service packages are mostly proposed but not yet available to member agents or their clients.

Money is apparently one drag on the franchisors' forward march, and many groups appear to have started on a shoestring that is becoming more frayed by the day.

ISU Cos. of San Francisco, one of the few franchise groups open for business and providing services to its nearly 100 members, tapped funds from Merrill Lynch, Pierce, Fenner & Smith and other investors to get a running start.

Amid rumors of financial difficulty, ISU recently raised its one-time franchise fee from $10,000 to $15,000 but expanded its geographic focus beyond California and Nevada to include Arizona and Washington.

President Thomas J. Ryan denied the franchisor was running out of money and told *Business Insurance* that the company had a commitment for $5 million of reserve funds over and above the $10 million in capital it attracted two years ago.

ISU raised its franchise fee because the California network is nearly complete and the franchise seems to be worth the additional charge, the company says.

Plans and promises continue to change at other franchise groups around the country. Insurance Consortium of America of Stamford, Conn., the only other group to have agency members, is seeking additional investment and changed its

Continued on page 13

Northbrook asks for $11 million from CU

By BILL DENSMORE

KANSAS CITY, Mo.—Northbrook Excess & Surplus Insurance Co. wants a court to award it $11 million in settlement costs from Commercial Union Insurance Co. because CU has failed to defend or pay claims in the Kansas City Hyatt Regency Hotel skywalk collapse.

"Having breached this duty to defend, Commercial Union is now in material breach of its entire insurance contract," Northbrook says.

The request is contained in a motion filed March 23 by attorneys for Northbrook, headquartered in Northbrook, Ill., before Jackson

thy J. O'Leary.

The motion is accompanied by a 55-page analysis of language contained in insurance policies issued to three defendants in skywalk suits. The motion is signed by Ronald A. Jacks and Paul W. Schroeder, two Northbrook lawyers with the Chicago law firm of Isham, Lincoln & Beale.

The motion is the latest escalation of a court battle involving 25 insurers over which ones will have to pay claims arising from the July 17 collapse of two suspended walkways that killed 114 people and injured at least 200 others.

Judge O'Leary is hearing arguments in a suit filed by Hyatt Corp. to determine how much of more

written for three skywalk defendants is available to Hyatt.

Northbrook has been defending Hyatt, which operated the hotel, as well as Hallmark Cards Inc. and subsidiary Crown Center Redevelopment Corp., the hotel's owners, and has paid $18.3 million in claims to injured people and families of those killed in the collapse.

Northbrook wrote a $25 million policy for Hyatt excess of a $1 million primary policy written by Occidental Fire & Casualty Co. of North Carolina. Both are part of a line of $201 million in insurance for Hyatt.

Commercial Union wrote a $1 million primary policy with a $100,000 retention and a separate

mark and its wholly owned subsidiary, Crown Center, as part of a five-policy program totaling $101 million in coverage.

Northbrook has recognized Crown Center/Hallmark as additional insureds on the Hyatt policy.

CU says its policies for Crown Center and Hallmark contained endorsements adding Hyatt as an additional insured. But it argues that Hyatt's intent was to obtain coverage from Hallmark's insurers during a brief span of time between completion of construction of the hotel high rise and the hotel's opening. Since the skywalks collapsed after that period ended, CU argues it doesn't owe Hyatt a defense or any indemnity.

there is no basis for Commercial Union's refusal to defend or settle claims in the Hyatt disaster; that CU's insurance policies require it to do so ahead of Northbrook; and that as a result of its refusal, CU has breached its policy contracts with its insureds. Therefore, Northbrook argues, CU is now obligated to pay all settlement costs to date, up to the $11 million limit of its two policies.

In addition, Northbrook argues, the next excess insurer on top of CU, American Insurance Co., is bound by the terms of the underlying CU policies to settle claims, which it also has not done. Therefore, Northbrook argues, American becomes liable for about $7 million

PBGC to pay for White Motor pensions

White Motor Co. ran out of gas in 1980, but most of the pension benefits promised to the bankrupt company's workers and retirees will be paid.

In the largest pension plan termination since the pension reform law was passed in 1974, the Pension Benefit Guaranty Corp. has agreed to take over seven pension plans sponsored by White, which made trucks and agricultural equipment.

The plans, which cover 6,857 participants, including 3,007 retirees, had just $28 million in assets, while Cleveland-based White promised to pay $96 million in benefits.

As a result, the PBGC, which was created in 1974 to guarantee workers' vested benefits through an insurance program, will take control of the plans and pay most of the benefits that were promised to White employees and retirees.

The PBGC estimates that it will have to pay $65 million for benefits that were promised but not funded. The average plan participant will receive $345 a month.

Without the PBGC guarantees, all the pension plans soon would have run out of money and the retirees and vested workers would have lost their retirement benefits.

The PBGC is expected to file a claim in U.S. Bankruptcy Court in Cleveland for unpaid employer pension contributions.

benefit beat

Dental plan

Schweizer Aircraft Corp., an Elmira, N.Y., manufacturer of gliders and agricultural aircraft, hopes to extract big savings with its new self-funded dental plan.

The new plan replaces coverage provided by Blue Shield of Central New York for the company's 300 employees and duplicates the previous coverage and offers the potential for savings of at least 25% and possibly as much as 40%, says Michael Coyle, an official with the Health Corp. of America in Wayne, Pa., the plan's administrator.

Schweizer last year paid more than $38,000 for dental coverage.

The self-funded dental plan, Schweizer Vp Paul Hardy says, helps the company improve its cash flow, gives it more financial control, improves cost containment and allows the employer to get a better look at utilization reports.

Employees are provided a maximum $1,000 in dental coverage each year. They pay only a $25 yearly deductible.

The plan picks up the majority of the costs, according to a schedule, of diagnostic, preventive and restorative dental services. However, the plan does not cover periodontic and prosthetic work, which also were not covered in the previous plan.

It pays 50% of charges for orthodontic services and partially pays for other dental work according to the schedule.

The plan's scheduled payments include:

- Single tooth extraction—$10.
- One-surface amalgam filling—$7.
- Cleanings—$9.
- X-rays (complete mouth)—$23.
- Root canal—$60 for one; $120 (for four).
- Fluoride treatments—$20.

Mental care

Kennedy Van Saun Corp., a mineral processing equipment manufacturer in Danville, Pa., has upgraded its mental care coverage limits and reduced the major medical deductible some employees must pay each year.

The changes are part of a three-year contract between the company and members of the United Steelworkers Local 7665.

Under the new contract, the lifetime maximum for mental care coverage, part of the company's major medical plan, has been raised to $50,000 from $10,000.

The company also has reduced the maximum annual major medical deductible for family coverage to $200. Previously, families were required to pay a $100 deductible for each family member using the plan, up to a maximum of three, per year.

The major medical plan, underwritten by Blue Cross of Pennsylvania, provides an 80% payment level for covered expenses.

Open season

The 9 million participants in the federal government's health insurance program will get a chance to switch plans this spring.

The Office of Personnel Management, the federal agency that oversees the 126 different federal health insurance plans, will hold an "open season" from May 3 to May 28.

Open seasons, which traditionally have been held in late November or early December, allow federal employees to shop around for plans with better benefits or lower costs.

But the 1981 open season for the federal health insurance program—the nation's largest—was canceled because of legal battles over benefit cutbacks, like coverage for voluntary abortions.

As a result, federal workers were unable to switch to lower-cost plans when premiums were hiked on Jan. 1 by an average of 31% (*BI*, Jan. 11).

The OPM says that it may hold a second open season from Nov. 22 to Dec. 10 so that federal workers and retirees can select health care plans for 1983.

Major medical

Major medical coverage has been increased for newsroom employees at the Observer-Dispatch and the Daily Press, two newspapers in Utica, N.Y., owned by the Gannett chain.

The upgraded plan, negotiated as part of a three-year contract with Local 129 of the Newspaper Guild representing reporters, photographers, copy editors and newsclerks, provides a new lifetime maximum of $100,000, up from $50,000.

Underwritten by the Equitable Life Assurance Society of the United States, the plan pays 80% of all claims with employees paying 20%. There is no deductible.

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Benefit beat keeps insurance and employee benefit managers informed on what other companies are doing and of current developments in the employee benefit field. We'd like to know if you've made any changes. Write James Lawson, Associate Editor, Business Insurance, 220 E. 42nd St., New York, N.Y. 10017; 212-210-0143.

Now from The Hartford Steam Boiler

A State-of-the-Art Program of Environmental Risk Inspection and Protection In a Single Package

Today more than ever, businesses face financial loss due to failures in environmental control.

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Now Hartford Steam Boiler has developed new answers to meet the challenges of keeping pollution control *under* control.

Hartford Steam Boiler combines the insurance know-how that has pioneered protection for over a century with the skills of our subsidiary, Radian Corporation. Together, we have the experts in the physical, environmental, engineering and regulatory sciences whose combined skills make possible a new environmental loss control package.

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THE HARTFORD STEAM BOILER INSPECTION & INSURANCE COMPANY

1866

editorial opinions

Leading the troops

WE LIKE WHAT we see, but we want to see more. As reported March 22, some benefit departments are creating new positions to employ full-time staff members to take charge of health care cost containment. The evolution of the health care manager post is encouraging, and we give a well-deserved pat on the back to Caterpillar Tractor Co., Levi Strauss & Co. and John Deere & Co., which already have created such positions.

With the other hand, we offer support and encouragement to Owens-Illinois Co., Atlantic Richfield Co. and Warner-Lambert Co., corporations that are just moving toward this type of cost-control strategy.

The foresight and conviction of these companies is encouraging. It hardly has to be added that we urge other companies to follow their example.

But even if every company were to appoint a full-time health care manager or develop a full cost-containment program within a more limited budget using available staff, we're not convinced that would be enough. We want to see more.

We want true cost-containment steps, not merely cost shifting from the employer to the employee. While we agree health insurance deductibles and co-payment provisions should be raised to keep pace with rising costs and to give the employee a pocketbook incentive to hold the line, these steps alone will not help contain health care costs.

To accomplish this, health care managers must be educators above and beyond anything else.

Employees, who have had health care benefits handed to them as a routine reward for getting a full-time job, are not tuned into the need for them to do anything to cut health costs, and yet they are the only ones who can do it. Someone else always has been paying their health care bills and not asking much of them in return. They need to be re-educated.

This means the benefit department must devise a way to get the word out to the employees that they *can* control their health care bills.

The health care managers' first task should be to choose a vehicle to communicate to employees what their role should be and what specific actions they can take in particular health care situations. When should they seek a second opinion on surgery? How do they find out if medical care can be provided on an outpatient basis to avoid high hospitalization costs? What tests can typically be done on a pre-admission basis to cut costs?

Whatever communication mode is chosen—group meetings, filmstrips, informational fliers or personalized correspondence—it should be treated with due respect—and class—to command the employees' attention. An informational memo tossed on an employee's desk in the middle of a busy day might be taken for nothing more than another flier recruiting members for the company softball team and consequently be ignored for days—or even pitched in the wastebasket.

And to know if the communication efforts are working, follow-up is needed to see if the message got across—and if not, why. Maybe the filmstrip was too cute to be taken seriously. Maybe the brochure explaining company cost-containment steps was written at a level two steps above the employees—or was just plain boring. If one route fails, another path has to be cleared because the word has to get out to the employee.

It is fair to demand that employees share more in the war on health care costs, but it's not fair to ask someone to drive a Sherman tank without at least telling him how.

First and foremost, the health care manager must be that platoon leader.

Cover test-tube baby costs

GRANTED, WE JUST lectured benefit departments to take steps to control health care costs, but we think sometimes it's only fair to spend a little more.

In the name of equity, health insurers should cover the costs an infertile couple incurs to conceive a child through advanced techniques possible only in a laboratory. We are discouraged that some insurers, as reported in the March 22 issue, don't agree with this and that others haven't dealt with the question yet.

With 100 or more test-tube babies expected to be born this year throughout the world, it hardly seems fair to classify in vitro fertilization as experimental and, therefore, not insurable.

And to go even further and label the process "nonnecessary" borders on a lack of sensitivity. Try telling a childless couple that laboratory fertilization, which might be the only way they can have a family, is "nonnecessary." Without insurance, the cost of the procedure—$1,500 and up—might prevent a couple from proceeding.

Several of the insurers polled in last week's issue said they would consider offering the coverage if their customers asked and were willing to pay possibly higher premiums. Benefit managers, it is time to speak up.

letters

Salary surveys have little validity

To the editor: I take issue with your report on the risk management salary survey by Logic Personnel Associates Inc. (*BI*, March 1). It is probably a classic in how to print a story with enough caveats to totally destroy any validity. Even Logic Associates disbelieved their own figures according to several statements by their spokesman.

My feelings regarding surveys of middle-management positions have been expressed frequently and loudly. To demonstrate, I have recently conducted a survey of editors. My findings reveal that the average editor is paid $33,750. The highest-paid editor is located in Oregon and currently earns $85,000 a year.

Five publications in New York were surveyed:

- One, a consumer publication with circulation of 3 million.
- Two internal publications distributed to a total number of 6,000 employees.
- A trade journal with a circulation of 26,000.
- A journal of a professional society.

The average salary of these five editors in New York is $27,250.

Granted, my sample includes only 14 publications. But you know and I know that this survey is about as valid as Logic Associates' assumptions about risk managers.

One cannot take a universe of goodness-knows how many thousands and draw conclusions based on 255 responses. Further, there is no differentiation between size of companies, responsibilities, exposures, etc.

I was also appalled to find out that Risk Management recently published the results of a survey done on the West Coast. I feel that any survey of salaries such as these only lead to confusion and misrepresentation.

While I know Logic Associates achieved their purpose of publicity and you have achieved your purpose of creating talk of your publication, I am not too sure the final result will reflect favorably on you, your publication or Logic Associates.

Ron Judd
Executive director
Risk & Insurance Management Society Inc.
New York

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ADVERTISING: New York: 212-210-0133; Chicago: 312-649-5276; Los Angeles: 213-651-3710
COMMUNICATIONS: New York: 212-210-0132
CIRCULATION: Chicago: 312-649-5221

Published by Crain Communications Inc., Chicago
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Published weekly at 740 Rush St., Chicago, Ill. 60611. Offices: 220 East 42nd St., New York, N.Y. 10017; Suite 515, National Press Building, Washington, D.C. 20045; 6404 Wilshire Blvd., Los Angeles, Calif. 90048; 5327 N. Central Expwy., Suite 200, Dallas, Texas 75205; 25 Bedford Square, London WC1B 3HG, England. $1 a copy. $40 a year in U.S. Canada and all other foreign add $14 for surface mail. Europe and Middle East only add $35 for air delivery. First-class mail to U. S. and Canada only, add $50. WILLIAM STRONG, *vp-circulation*. DIANE WALSH, *circulation manager*. ROGER DiGREGORIO, *fulfillment director*. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Dept., Business Insurance, 740 Rush St., Chicago, Ill. 60611 or phone 312-649-5221. Telex 25-4248; Cable CRAINCOM. Microfilm copies are available from University Microfilms, 300 Zeeb Rd., Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Rd., Wooster, Ohio 44691.

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DES judgment is first awarded against Squibb

By JOHN W. MILLIGAN

PHILADELPHIA—E.R. Squibb & Sons has lost its first DES lawsuit.

A county court in Philadelphia has awarded $2.1 million to Judith Axler, a 21-year-old woman who says she developed vaginal cancer because her mother took the anti-miscarriage drug diethylstilbestrol during her pregnancy.

Squibb, which is based in Princeton, N.J., had successfully defended three previous DES lawsuits that went to trial.

A verdict was reached March 25 in the Axler case, which was filed in 1978 and tried in the Court of Common Pleas for the county of Philadelphia before Judge Stanley N. Greenberg and a 12-member jury.

Ms. Axler was diagnosed in 1977 as having vaginal cancer, according to her attorney, Herbert F. Kolsby of Kolsby & Gorden in Philadelphia. Ms. Axler's mother took the Squibb-produced drug during her pregnancy, and the plaintiff alleged that this use led to her cancer.

While the drug manufacturer in DES cases often cannot be identified, Squibb was identified as the producer in this case since the mother's physician specifically prescribed the Squibb product.

Records showing that Ms. Axler's mother took Squibb-manufactured DES also were available from the pharmacist who filled the prescription, Mr. Kolsby says.

Damages awarded by the jury actually were $1.7 million, but this figure automatically grows to $2.1 million under an Award of Damages for Delay rule under the Pennsylvania Rules for Civil Procedure.

Under this rule, Mr. Kolsby explains, subsequent damage awards are automatically increased when the defendant fails to make a settlement offer prior to the award, or makes an offer that is rejected by the plaintiff and the subsequent award is 125% more than the rejected offer.

In such a situation, 10% is added to the court award per year from the time the complaint is first filed.

In the Axler case this totals about 24% since Ms. Axler's suit was filed six months after the damages for delay rule went into effect.

Squibb did not make a settlement offer in this case, Mr. Kolsby explained.

The award was for compensatory damages only and does not include punitive damages.

Mr. Kolsby would not comment on details of Squibb's insurance coverage, and company officials could not be reached for comment.

It is known, however, that Squibb's primary liability insurers until 1975 include American Motorists Insurance Co., Indemnity Insurance Co. of North America (now Insurance Co. of North America), Liberty Mutual Insurance Co. and The Hanover Insurance Co. (*BI*, Mar. 22).

Squibb's last primary insurer—American Motorists—was on the risk from 1968 to 1975.

Squibb was unable to purchase liability insurance against DES claims after Jan. 1, 1976.

However, Squibb—along with a second DES manufacturer, Eli Lilly & Co. Inc.—have filed separate suits in U.S. District Court in Washington against their respective insurers.

The drug companies argue that a recent decision from the District of Columbia Court of Appeals in Keene Corp. vs. INA—an asbestos case—should apply to DES cases as well.

The Keene ruling requires that all of a manufacturer's insurers—from the time a claimant is exposed to asbestos through diagnosis of an injury—are liable for damages paid to claimants.

Both Squibb and Lilly feel this reasoning should be applied to DES cases, lengthening their insurance coverage.

While the Axler suit was filed in 1978, Ms. Axler's vaginal cancer was diagnosed in 1977, according to her attorney. Ms. Axler's mother also took DES well before the date beyond which Squibb did not have liability coverage for DES claims. ■

PBGC may hike cost of termination cover

By JERRY GEISEL

WASHINGTON—The cost of mandatory government insurance that employers buy to protect workers' vested pension benefits soon may climb.

The Reagan administration's Cabinet Council has approved an increase in the termination insurance premiums the Pension Benefit Guaranty Corp. charges employers with pension plans.

Under the proposal, the premiums would rise to $6 per year per plan participant from $2.60, a 131% rise.

The PBGC, a government corporation created by the Employee Retirement Income Security Act, uses the premiums to guarantee vested benefits of workers and retirees if their company's pension plan folds with insufficient assets to pay promised benefits.

The increase, which still must be approved by the PBGC board of directors and by Congress, would be the first for single employer plans since Jan. 1, 1978, when premiums climbed to $2.60 per participant from $1.

The premium hike is needed because a sharp rise in plan terminations has boosted the PBGC's deficit.

For example, the PBGC will have to shell out $65 million to guarantee the pension benefits of 5,200 White Motor Co. employees and retirees after the truck and farm equipment manufacturer went bankrupt and didn't have enough money in its seven pension plans to pay promised benefits.

Insurance premiums for multiemployer pension plans, which cover an entire industry, are now $1.40 annually per plan participant and are scheduled to rise to $2.60 over the next seven years. There are no current plans to raise multiemployer premiums beyond the scheduled increases.

Tort reform

The nation's largest legal association doesn't want Congress to enact a federal product liability law.

Historically, changes in the tort law have been made at the state level—either by courts or by legislatures—and that is where control of product liability developments should remain, according to the American Bar Assn.

"As states, we are different, and our specific requirements have been developed and decided where they are understood—at the state level," said Ernest Y. Sevier, chairman-elect of the ABA's tort and insurance practice section.

Speaking before the Senate Commerce Consumer subcommittee, Mr. Sevier said that a draft bill proposed by Sen. Robert Kasten, R-Wis., that would pre-empt state product liability laws (*BI*, March 8) "is precisely the type of legislation that we oppose."

Jet crash suits

Survivors of the victims of a 1978 crash of a Canadian airliner cannot take advantage of California's more liberal product liability laws and sue manufacturers in the United States.

The Supreme Court last week declined to review an appellate court ruling that U.S. courts should not have jurisdiction in product liability suits filed in connection with the February 1978 crash of a Pacific Western Airlines Ltd. jet in Cranbrook, British Columbia.

Some of suits were filed in California against Boeing Co. of Seattle, Rohr Industries Inc. of Chula Vista, Calif., and McDonnell Douglas Corp. of St. Louis and Long Beach, Calif.

washington

In their brief to the Supreme Court, the plaintiffs pointed out that "California damage laws are more liberal than Canadian."

Forty-three people died when the Pacific Western Boeing 737 crashed upon landing while trying to avoid a snowplow left on the runway. The cause of the accident was blamed on poor communications between Canadian air traffic controllers and the improper use of a thrust reverser made by Rohr for Boeing.

The appellate court had affirmed a district court opinion that the case should be tried in Canada. The district court said that McDonnell Douglas was included in the suit only as a tactic to get the case heard in California.

Rohr had developed a thrust reverser for McDonnell Douglas that was allegedly superior to the one used by Boeing.

Hazardous wastes

Employers would be required to identify the hazardous substances their workers handle under a proposed Occupational Safety and Health Administration rule.

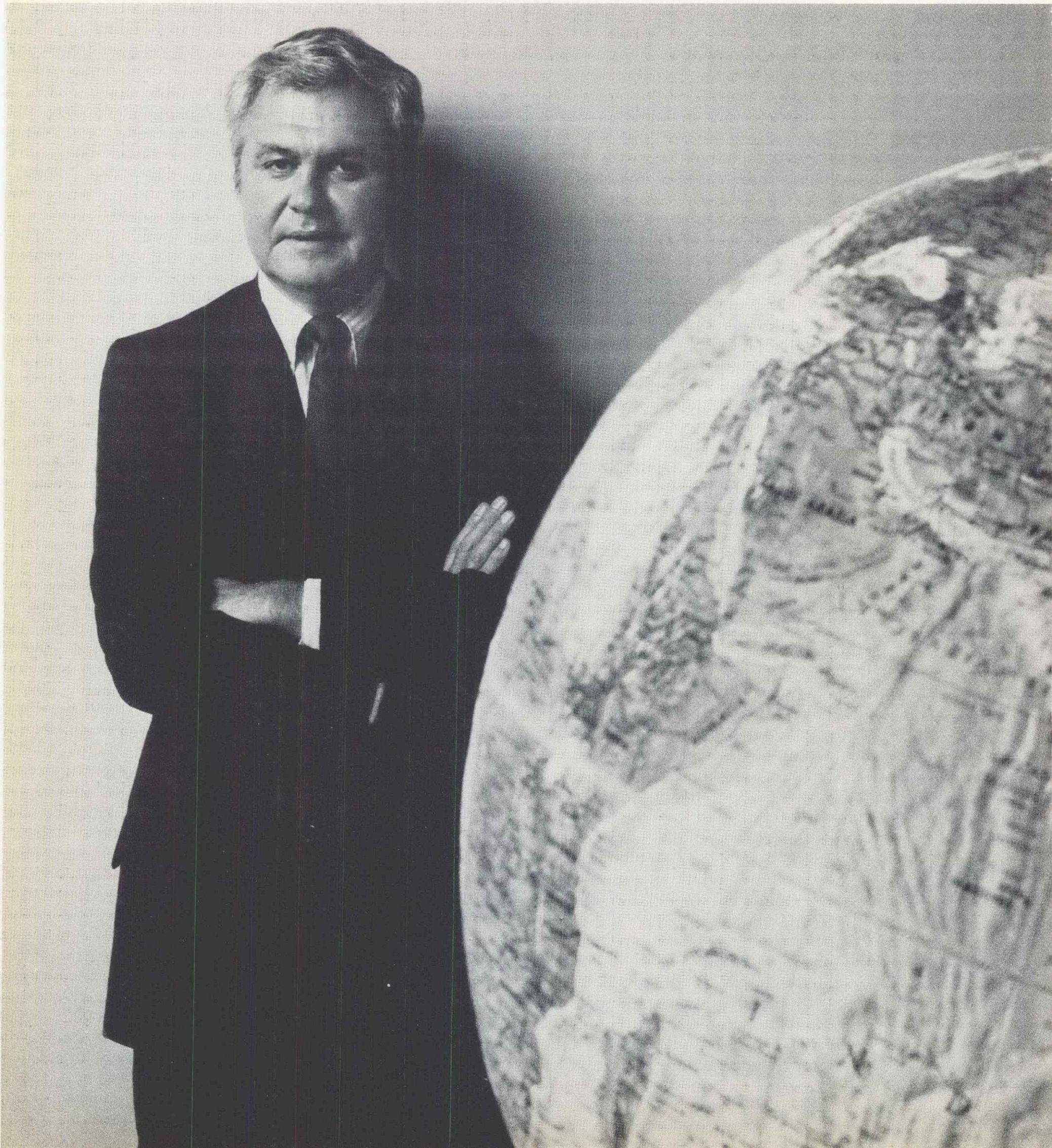
The proposal, published in the March 19 Federal Register, would mandate chemical manufacturers to use symbols to identify toxic substances and to set up educational programs to inform employees about precautionary measures they can take.

Companies would have two to 3½ years to comply with the standard on identification, depending on their size.

OSHA intends to hold a series of public hearings on the proposal in June in Washington.

For more information, contact Tom Hall at OSHA's Division of Consumer Affairs at 202-523-8024. ■

"I'd like to comment on AFIA is an old-fashioned company.



the commonly held opinion that We are. And we're proud of it."

Paul F. Butler
President & Chief Executive Officer

"Have you noticed the disfavor the idea of being an old-fashioned company has fallen into in recent years? With the exception of Smith Barney, I can't think of a single company that is looked upon favorably because they espouse old-fashioned values. Instead, there are two perceptions of old-fashioned and both are negative.

"First exists the perception that there is no advantage in doing business with a company that is characterized as old-fashioned. And second is the perception that a company can't be aggressive, progressive, innovative–pick any attribute of the modern company–if it's old-fashioned.

"I'd like to lay both of those misperceptions to rest right now.

"In many ways, AFIA does business in old-fashioned ways. And all of those ways are of benefit to you.

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Few franchisors make good on promises

Continued from page 3

operates a captive management subsidiary, General Management Ltd., in Bermuda.

With members in the United States, Canada, Australia and Europe, Assurex partners represent more than $1.5 billion in premium.

Associated Risk Managers International Inc. of Washington, D.C., began when small groups of local agents united to develop mass-marketed insurance package plans for members of trade associations.

In 1974, the groups incorporated ARM International, a not-for-profit corporation, to coordinate services and nationwide marketing for some 360 members in 35 states.

State ARM groups are still the backbone of the organization, according to Executive Director David Keppel III, and activity varies from state to state.

Local ARM groups sponsor the association insurance packages, but the national corporation offers captive management services, safety and loss-control services.

Another partnership group, Insgroup of Denver, is similar to the Assurex organization but does not offer centralized service. Member brokers share expertise.

Of the new agency franchise groups that came on the scene two years ago, only one, ISU Cos. of San Francisco, is actively offering risk management advice.

Built on the reputation of ISU Vp Donn McVeigh, formerly of the California consulting firm Warren McVeigh & Griffin, ISU's services have been tapped by its member agents in California and Nevada.

"Only a small percentage of our franchisees are actually involved in advanced risk management services," notes President Thomas J. Ryan. "What we are offering is a way for agents to keep the clients that seem to have grown bigger than they can handle on their own.

"On a per-risk basis, we also feel that ISU independents can compete with any of the larger brokers."

Last year, for example, an ISU agent in Anaheim, Calif., went head-to-head with Alexander & Alexander Inc. for the spectator liability insurance on Anaheim Stadium and the Los Angeles Rams. The agency won with broader coverage and a better price, he says.

Other franchisees have used ISU services, mostly the time and skills of Mr. McVeigh, to handle local corporations beginning to expand, especially West Coast-area real estate, hotel and restaurant chains and high-technology companies that are developing national products from a California base.

ISU has not yet taken on national service problems and probably won't be ready to for a few years, according to Mr. Ryan. "We are still very much a West Coast firm right now. If you are asking whether or not an ISU independent can handle a corporation with nationwide locations, I'd have to say no, not yet. But eventually, I hope that will be possible."

ISU, however, has curtailed some of its ambitious risk management service plans. While it has hired California adjuster Sidney Greenspan Inc. and the loss-control engineering firm FPE Inc. on retainer for its franchisees, the group no longer offers unlimited risk management services to all members.

Some ISU agents pay a retainer fee for risk management consulting services and others can buy assistance for an $82-a-day fee, according to Mr. McVeigh.

Only about 25 of the 100 ISU franchisees in California and Nevada currently pay the retainer, Mr. McVeigh says, but the others don't have an immediate need.

"Of those that are on retainer, we feel we can reposition them as competitive to national brokers," he says. "In the past year, we have done four captive feasibility studies and lots of cash-flow analyses—the same kinds of service a national brokerage would provide. There is no doubt that the agents are competitive."

ISU is also forming a Cayman-based reinsurer for its members, California Independents' Co.

Other agency franchise groups have tabled or completely dropped plans for risk management consulting services. Insurance Consortium of America in Stamford, Conn., the only other agency franchise organization that has actually sold franchises, has the design for a service package on the shelf, according to President Paul Burger, and it's not likely the services will ever appear.

"The average independent agent is a sophisticated but complacent guy. He has no incentive to want risk management services. He doesn't give a damn about risk management services and doesn't necessarily want to compete with national brokers," Mr. Burger says.

"We had service programs designed, but now we believe that independent agents—at least of the size we are seeking—should be broadening their horizon into non-insurance products like real estate, travel and income tax services. We are working to develop products in those areas," he adds.

Although this point of view seems to be taking hold among other franchise groups that are dropping service programs, independent consultants and former marketing-only groups are adopting the service package plans.

In Dallas, consultants RIMCO Risk Management Inc. and ETM Inc. are both offering to help agents with captive studies and cash-flow analyses. And in Santa Monica, Calif., InsurorsGroup, a division of Insurance Marketing Services Inc., is also building new risk management expertise.

InsurorsGroup recently contracted with Continental Risk Services Inc., a subsidiary of Continental Insurance Group, to operate a risk management hot line for its 200 members around the county. Although the service is still virtually untried, group executives expect members to regularly tap it.

The group hopes to expand to a maximum of 625 members and also offer reinsurance or Rent-a-Captive services to member agencies.

InsurorsGroup's largest member agencies, averaging $6 million in premium volume, are meeting this week in Bermuda to discuss the feasibility of operating a captive there or establishing a Rent-a-Captive program for members.

"It's pretty clear that in most cases, the company that pays more than $100,000 a year in insurance premium will probably wind up in some kind of non-traditional risk-funding program," notes InsurorsGroup President Tom Williams.

"So we think our agents need to have a centralized service to provide help is setting up those programs and specialized help in reaching the markets for special products," he explains.

InsurorsGroup also opened a New York office to help member agencies place specialty risks.

Mr. Williams is also chairman of Pan-American Insurance Management of Charlotte, N.C., which provides services to 24 agencies. ■

Franchisors

Continued from page 3

focus, according to President Paul Burger (see related story).

ICA has completely shelved plans for risk management and agency management services and now offers mass-marketed insurance packages that its approximately 40 members in Massachusetts and Connecticut can sell to local businesses.

The programs are not exclusive to ICA franchises, but the franchisor also provides leads and appointments for its members. For two leads a month and ICA marketing support, member agencies pay a $3,000 annual fee.

ICA hopes to expand to 180 members within 12 months, according to Mr. Burger, but growth hinges on additional investment capital.

Another fledgling franchise group, Insurance World Corp. of Englewood, Colo., found its additional funds by selling out for about $10 million to Lincoln National Corp., an insurance holding company.

Most of the funds will stay with the franchise group as additional capital, industry sources say.

"Our company had to have a much heavier financial position," says Michael Shinn, former president of Insurance World.

Selling out to an insurer gives the franchise added financial credibility, he explains.

A real estate franchise expert, Mr. Shinn formerly owned a Century 21 franchise and now owns a nine-state regional franchise for Red Carpet and is also an investor in that national realty franchise group.

Although he is no longer an officer of Insurance World, Mr. Shinn is still a member of the Insurance World board and maintains a minority ownership in the organization. He is also a paid consultant to the group and, according to at least one industry source, is still the driving force behind the franchise operation.

Mr. Shinn turned the Insurance World reins over to Michael H. Levy, a successful life insurance executive who came out of retirement to join the embryonic company and add a stronger insurance reputation.

With the help of advertising friends, Mr. Levy also redesigned Insurance World's brochures and advertisements and set the ball rolling for an advertising program costing more than $1 million.

The franchise will focus on personal lines-oriented agencies earning from $100,000 to $500,000 in commission. Most of the programs the franchise plans to directly offer relate to agency operation, such as advertising assistance and employee training, rather than services available to the buyer.

The group is, however, looking into offering some risk management programs.

While Insurance World has sold a few regional franchises in areas as far away as British Columbia, it still lacks agency members.

Other groups have died or are still in gestation. Brokers Trust, a Southern California-based franchise organization founded in mid-1979, was supposed to be a nationwide system of 5,000 agents and brokers by 1984 but is no longer active. Former Brokers Trust principals could not be reached for comment.

Brokers Trust, however, appears to be the only franchise group that has given up its plans. Other agency support groups, including less formal marketing and mutual assistance and mass-marketing firms, are trying to swell their ranks with membership and develop viable programs.

The groups include:

- **America One** of Lansing, Mich. Another embryonic franchise group, America One focuses on direct writers wanting to set up their own agencies.
- **Eagle 2000 Corp.** of South Haven, Mich. Still in the planning stages, this group will focus, at least at the outset, on personal lines, specifically in Indiana.
- **Insuramerica** of Chicago. Waiting for approval of its franchise program, Insuramerica will not discuss its services or member goals.
- **MarketCover** of Reston, Va. MarketCover calls itself a "marketing system," though technically it is a franchise group. It provides 14 mass-marketing programs targeting specialty risks like construction workers, security guards and medical malpractice.

Not all member agents, however, market all programs. Each agency chooses two or three programs it wants to offer and concentrates on those specialities.

The marketing system also offers programs for developing and implementing captives and pooling workers compensation premiums for reinsurance.

- **Marketforce International Inc.** of Kansas City, Mo. Marketforce says it is within a month of offering services to members.

These services will include surety bond and excess/surplus lines marketing and risk anaylsis. Financed largely by member dues, the group has a very small staff, including one risk analyst.

- **PrideMark Corp.** of Costa Mesa, Calif. Pridemark, using a "pride of lions" logo, is modeled after the Century 21 real estate franchise group. Principal Wayne Weld, formerly executive vp of Century 21, is offering a national advertising program and a risk placement hot line, but neither is yet operating.

PrideMark hopes to have some 3,500 mostly small, personal lines-oriented agent members in five years.

- **System VII** of Santa Fe Springs, Calif. This group plans to help individuals (frequently from the direct-writing ranks) to start their own independent agencies and is not offering risk management services.

Information groups are closer to associations than franchises. Several of these organizations began as informal gatherings of regional agents and brokers and evolved into more formal service corporations owned or operated by members. They include:

- **ARM (Associated Risk Managers) International Inc.** of Bethesda, Md. ARM is organized on a state or regional level, with each state or region incorporated as a separate entity, although there is a national federation.

Some local groups are more active than others, providing assistance in operating self-insurance programs, risk retention, captives and loss control. Most groups serve client pools that have gathered themselves together in associations.

- **Assurex International** of Columbus, Ohio. Assurex is a union of 71 foreign and domestic regional brokers. Members include Canada's second-largest insurance broker. Thomenson Saunders Whitehead. and Lloyd's of London brokerage C.E. Heath and average $20 million in annual premium.

It offers a variety of risk management and risk placement services (see related story).

- **Insgroup Corp.** of Denver. Insgroup is an association of agencies that are smaller than Assurex members but still relatively large and committed to commercial lines. Member agents provide all the services available to other members, but specialties aren't considered when deciding whether agents and brokers should be admitted in the group.

Currently, services provided include risk funding studies, risk retention studies and special aid in difficult risks, like oil and gas and longshore trucking. Captive insurance company feasibility services are on the drawing board.

- **InsurorsGroup** of Santa Monica, Calif. InsurorsGroup, a direct outgrowth of Insurance Marketing Services of Santa Monica, is expanding beyond marketing assistance.

The group, now headed by former agency group principal Tom Williams, has opened a New York office and plans agency management support, risk placing assistance and risk management services under special contract from Continental Risk Services, a subsidiary of Continental Insurance Group.

The organization hopes to establish a network of 625 agents in all trading markets, according to Mr. Williams.

Another group of agency support organizations mostly provide packaged insurance programs for members of trade associations.

Most are tied, although sometimes loosely, to specific insurance companies.

They include Famex, which was established by Fireman's Fund Insurance Cos.; Marketdyne, an affiliate of INA Corp.; Marketpac, an American International Group affiliate; and Marketing Management Inc., formerly independent but later purchased by Reliance Insurance Group.

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BI 3-29-82

ONCE AGAIN THE ANSWER IS AIG.

John Carey elected president of Allendale Mutual Insurance

comings & goings: industry

John J. Carey has been elected president and chief operating officer of Allendale Mutual Insurance Co. of Johnston, R.I., and its subsidiaries: New Providence Corp., Affiliated FM Insurance Co. and Appalachian Insurance Co. He also was elected a director of Allendale and its subsidiaries.

Allendale is a member of the Factory Mutual System.

Mr. Carey joined Factory Mutual in 1954. Most recently, Mr. Carey was executive vp of Allendale Mutual Insurance Co. He was also managing director of FM Insurance Co. Ltd., the London-based international subsidiary jointly owned by Allendale, Arkwright-Boston and two other companies in the Factory Mutual System.

Other insurer changes:

John R. Moran appointed executive vp in charge of insurance operations for Marine Office of America Corp., a subsidiary of The Continental Corp., in New York. Mr. Moran previously was chairman and president of First Insurance Co. Ltd. of Hawaii, a Continental subsidiary. Mr. Moran was replaced by **George P. Shea Jr.**, who was named president and chief executive officer. Mr. Shea was formerly vp, secretary and treasurer of the company. Also, **George T. Oda** named executive vp of First Insurance Co. Ltd. of Hawaii.

Robert E. Parnell named regional vp of American International Cos. in Philadelphia. He was Dallas branch manager.

Reinsurers

Jon W. Niggeman and **S. Lennart Barkinge** named senior vps at American Re-Insurance Co. in New York. Mr. Niggeman will head direct treaty underwriting. He was formerly vp of the treaty division. Mr. Barkinge will be responsible for all treaty production. He was previously a vp in the New York office.

Francis D. Ruyak elected vp for treaty underwriting at Constitution Reinsurance Corp. in New York. Mr. Ruyak was formerly assistant vp for treaty underwriting.

Two were promoted at the Dar Allen Reinsurance Agency Inc. in Chicago. **William J. Ullmann Jr.** named executive vp. Mr. Ullmann had been vp and general manager of the Chicago office. **John J. Clark** named vp. Mr. Clark was assistant vp in the Chicago office.

Excess/surplus

Eight new vps were elected at Shand, Morahan & Co. Inc. in Evanston, Ill. They are: **Joseph H. Bixler**, actuarial vp; **Donald J. Brayer**, production vp; **Lawrence J. Farano, Grant R. Hubbard, Joe J. Thackaberry** and **Richard P. Kropp**, underwriting vps; **Robert T. Reid** and **C. Roy Vince**, claims vps.

Frederick O. Sinclair appointed president of CIMACORP/Northeast in Cincinnati. He will be responsible for development and management of CIMACORP in New England and upstate New York. Mr. Sinclair was a vp at Fred S. James & Co. ■

london line

Sedgwick not seeking to buy U.S. brokerage

By STACY SHAPIRO

LONDON—Sedgwick Group Ltd., Great Britain's largest insurance brokerage, is not looking toward the United States for an acquisition target, according to one company official.

"Our policy is to expand our wholesale insurance business in the United States," said Sedgwick Secretary Frank Hitchman.

"But we do not have any plans at the moment to buy an American insurance broker," Mr. Hitchman continued.

But just how Sedgwick will expand in the U.S. market has not been disclosed. Some of the strategy may be included in the brokerage's annual report, due out this week, Mr. Hitchman said.

Whatever the Sedgwick formula, it seems to work. Estimated earnings grew 44% to $30 million pounds (approximately $54 million) from 20.8 million pounds ($37.4 million) in 1980. Gross revenues grew almost 25% to 168.8 million pounds ($303.8 million) in 1981 from 135.1 million pounds ($243.2 million).

New business flowed in from Australia, the Middle East and Europe, Mr. Hitchman said. Marine and offshore profits from the United Kingdom also improved.

Brokers switched

Western Airlines' new chief executive officer has switched Lloyd's brokers in the middle of a policy year.

But it's no big deal, says a broker at Crawley, Warren & Co. Ltd., which lost Los Angeles-based Western's account to Stewart Wrightson Insurance Broking Group.

"Western won't hurt us," he said. "The airline business is now a nightmare because you never know when you are going to get your premium."

A source in the London market says that Neil Bergt, Western's new chief executive, is moving the $5 million account to give more negotiating leverage to Alaska International Air, another airline that Mr. Bergt heads.

Alaska International Air has been with Stewart Wrightson since 1968.

Western Airlines has a good loss record and brings in a lot of premium to its London broker since 70% of its coverage is insured in the London market, the source pointed out.

"Mr. Bergt, through Stewart Wrightson, may be trying to use the airlines to get insurance clout," said the source, "and he may find cheaper premium quotes because of it.

"There is no other reason to move mid-term than to get leverage for something which has nothing to do with Western," the source said. ■

perspective

ETHICAL QUESTIONS

Risk managers must learn to walk a fine line

By Susan J. Alt

DOING BUSINESS successfully demands that we be pragmatic, adapt to many real-life situations and gauge our actions according to the results we want.

How risk managers deal with suppliers has more to do with the consequences of and their obligation to keeping their employers' interests foremost than with morals: sin vs. virtue or right vs. wrong.

Hard-and-fast rules are seldom practical when it comes to judging how we should behave in business dealings. When you ask yourself, "What is proper?" you have to look at the business conduct in this country, today's norms and the social climate.

It's imperative that we recognize the ethical dilemmas and issues that we face in the risk management and insurance business. By discussing them we can define our roles and improve our relationships.

When the subject arises, several reasons are often cited why risk managers don't want or need to follow the ethical standards developed for purchasing managers. These reasons include:

- "Nobody's perfect, so I won't try to be either."
- "Insurance is different from machines and supplies. The rules that apply to other purchasers don't apply to me."
- "The intangible service aspect of insurance dictates that personal relationships with suppliers be formed."

Hogwash. Buying insurance and risk management services is no different from any other corporate purchasing activity. When it comes to buying insurance and services from outside suppliers—banks, brokers, claims administrators or consultants—risk managers should use the same high standards as those developed for other purchasing managers.

In the process of trying to sell their wares to you, suppliers have a vested interest in building a good working relationship with you. We want you to buy from us, call us for a proposal or to quote a price. We know that if you like us, you'll be inclined to buy our products and services.

Most of us try to avoid compromising ourselves or our clients by trying to influence them in unethical ways. Yet, suppliers have been known to try to influence buyers. They have been known to provide lavish entertainment, expensive gifts, lucrative kickbacks and underhanded methods like bait-and-switch or spying on bidders to undercut competitors. If a buyer encourages suppliers to think we can get away with this, more suppliers will use these methods.

My point is that the buyer can control the situation. If the buyer opens the door to blatant influence-peddling, bribes or shady bidding practices, we'll quickly take the hint. Your signals will speak eloquently about how you make your purchasing decisions. And you'll soon find brokers, insurers and everybody else scrambling to curry your favor.

The buyer who acts professionally by spelling out the rules of the game to suppliers will come out ahead. The buyer who deals honestly and fairly with suppliers and who tells us tactfully that gratuities and underhanded practices are unacceptable will seldom be subjected to the shady offers we all hear about. When you make it clear that you are looking for the best combination of product, services and price, we'll treat you professionally. You'll get the best of our talents.

Susan J. Alt is a risk management consultant with The Wyatt Co. in Chicago and a former editor of Business Insurance.

We'll still try to impress on you, however, that we're the best suppliers with the quickest service, most innovative products, friendliest and brightest people and best value for your money. You, in turn, have to ask yourselves daily: "Am I exaggerating the job this supplier does because of his efforts to influence my judgment?"

If the answer is no, you may be doing everything right. Or you may not be doing enough soul-searching.

As insurance and related service buyers, risk managers have an obligation to do the right thing for their employers, for both the short and long run. But we all know that sometimes these short-term and long-term goals conflict.

For instance, is it better to take advantage of competition today and reduce your casualty premiums by 40% by going with a new broker and insurer? Or should you stick with your insurer and hope to hold premiums stable for over, say, five years? That's not an easily answered question.

The situation becomes even stickier when your decisions hinge on the basis of friendships or "owing a favor" to somebody. If considerations other than product features, price, service and value enter into the equation, your objectivity is eroding.

Let's get to some specific problems we have to handle as business people. We would all agree, I think, that it is perfectly all right to go to lunch or dinner with our broker or insurer or other supplier and let the supplier pick up the tab. It's not an unusual situation; a lot of business is done over meals.

In some cases, however, the line between what's proper and what's unethical grows blurry. Here are a few examples where the decision might be harder to make:

- Trips on corporate jets belonging to the broker or the insurer.
- Overnight trips when the risk manager accompanies the broker or insurer and the supplier picks up the tab.
- A trip by the risk manager and the broker to inspect plants or negotiate policy renewals. Some examples are visiting a plant in California with a weekend visit to Palm Springs at the broker's expense, or flying to London for talks with Lloyd's and taking a tour of the sights, at the broker's expense.

Continued on next page

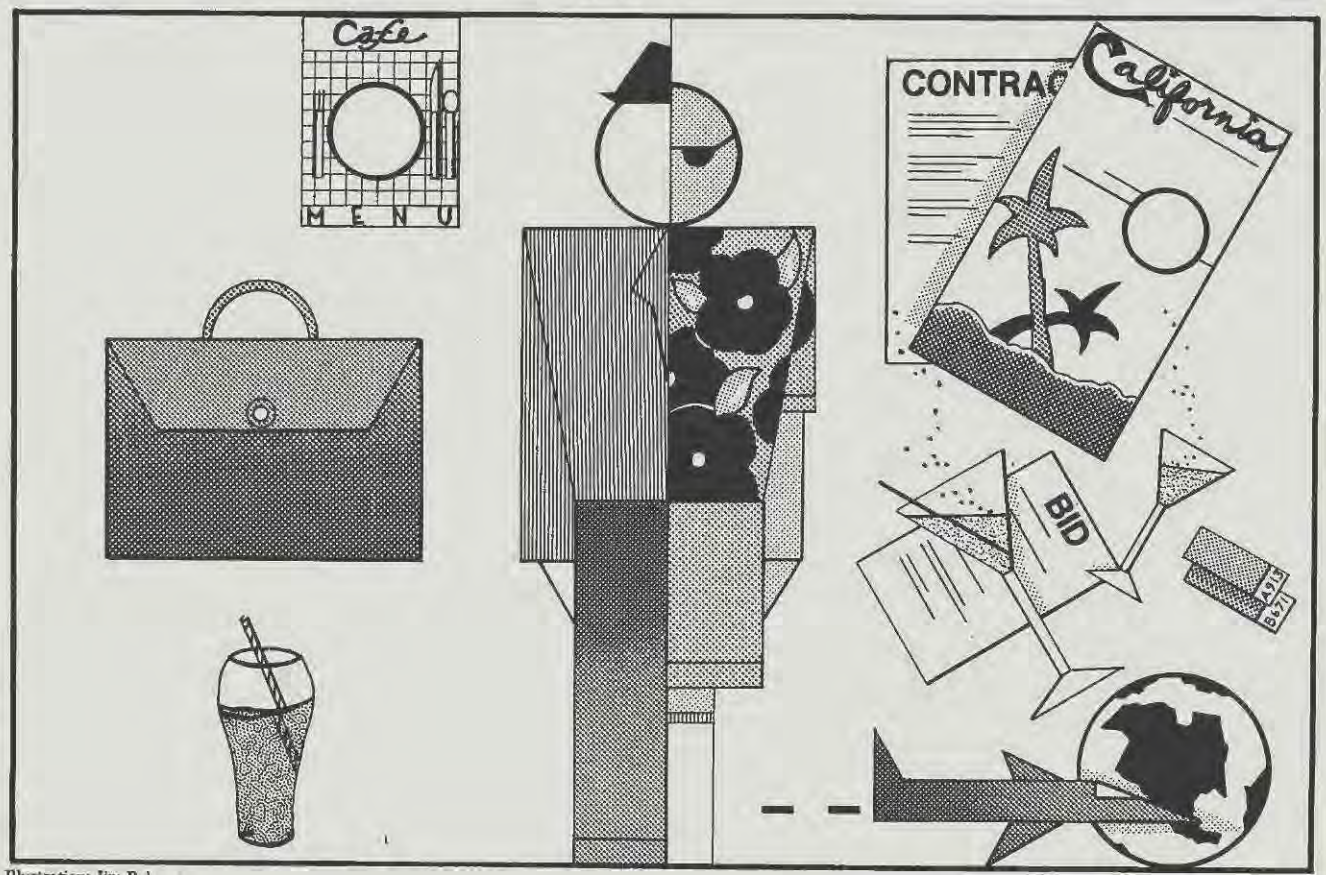
One association's ethical guidelines

THE NATIONAL Assn. of Purchasing Management advocates these three principles and the following standards of purchasing practice:

The principles are loyalty to the company, justice to those with whom the manager deals and faith in the profession.

The NAPM standards are:

- To consider, first, the interests of the company in all transactions and to carry out and believe in its established policies.
- To be receptive to competent counsel from his colleagues and to be guided by such counsel without impairing the dignity and responsibility of his office.
- To buy without prejudice, seeking to obtain the maximum ultimate value for each dollar of expenditure.
- To strive consistently for knowledge of the materials and processes of manufacturing, and to establish practical methods for the conduct of his office.
- To subscribe to and work for honesty and truth in buying and selling, and to denounce all forms and manifestations of commercial bribery.
- To accord a prompt and courteous reception, so far as conditions will permit, to all who call on a legitimate business mission.
- To respect his obligations and to require that obligations to him and to his concern be respected, consistent with good business practice.
- To avoid sharp practice.
- To counsel and assist fellow purchasing agents in the performance of their duties, whenever occasion permits.
- To cooperate with all organizations and individuals engaged in activities designed to enhance the development and standing of purchasing.



perspective

What risk managers hate to hear: 'It won't be any trouble, will it?'

By Michael J. Natale

THE FOLLOWING is based on incidents that occurred in the county risk management office in Suffolk County, N.Y.

The phone rings. . .

Risk manager: "Insurance and risk management office."

Cultural affairs office: "This is the cultural affairs office. I'm calling to advise you that a display of monumental sculpture is going to be held in the lobby of the County Center building next week. We have already agreed to be responsible for insuring these works. I understand we're self-insured, so you should think of a way to protect these sculptures."

RM: "How much are they worth? About $10,000 or $20,000?"

CA: "Approximately $127,000."

Risk manager drops phone.

RM: "Doesn't anyone realize that there's no security in the county building? Not only that, there's a transient population in there that likes to experiment with the furniture and anything that's not bolted down. They should have a field day with unprotected sculpture."

CA: "I'll help you all I can. Remember, the show's on next week. 'Bye."

* * *

RM: "Options, there must be options. Round-the-clock security for the show for the next several months would be too expensive, more than the show itself. A floater would mitigate the liability for damages. The best one available has a $500 deductible during the exhibit and $1,000 deductible in transit. I'll take it; after all, the premium is only $600. There are fourteen pieces of sculpture, so my maximum exposure during the exhibit is about $7,000, right? Wrong. More than one occurrence to each item could cause several applications of the deductible. Oh well, at least if someone pushes over the 10-foot sculpture supposedly worth $20,000 and it breaks into a million pieces, my insurer is on the hook.

"Hmmmm. . . .I would like to lessen my exposure, though, and the insurer's, too. I think we'll put stanchions up around each work and rope them off. At least this will keep people from putting their cigarettes out on their favorite piece of sculpture. Unfortunately, in this municipality, getting stanchions made in one week is virtually impossible. We only have 11,000 employees. Begging, cajoling and some veiled threats might bring some results. I can have four sets of stanchions by the start of the show. I need 14. Oh well. . . "

Telephone rings.

RM: "Insurance and risk management office."

CA: "By the way, one of the more valuable works is a set of 16 ceramic bowls, worth several thousand dollars."

RM: "How do ceramic bowls classify as monumental sculpture?"

CA: "Beats me, but they're in the show. 'Bye."

RM: "We might as well be giving away prizes. I can see it now: 'Stop by the County Center and get a free ceramic bowl,' the ads could say."

Knock on the door. The maintenance supervisor enters to save the day.

Maintenance supervisor: "I have some plexiglass that we can rig up as an enclosed display case for the bowls. I think we'll have the rest of the stanchions you'll need, too."

RM: "Great. One exposure is eliminated and additional stanchions are on the way.

* * *

"All I've been thinking about is damage to artwork. In the scale of things, this is pretty minor compared to the liability exposure presented by these monoliths. Since the county has high self-insured retentions, this becomes a real worry. Whenever possible, we should move everything against a wall or into a corner. I can't believe what one sculptor told me when I said his work would be in a corner. 'My work simply must have the sunlight strike it at the appropriate angle.' The sunlight simply must have struck him at the appropriate angle when he was young.

"The show starts Monday, and I've done all I can so I think I'll. . . "

Telephone rings.

RM: "Insurance and risk management office."

Community college: "Hello, this is the community college calling. We're having an exposition on campus celebrating life on Long Island. I just wanted to check with you on one of our guests. Bill Jones, a fourth-degree black belt in karate, is going to do a neat demonstration with a samurai sword. He gets a volunteer from the audience to lie on table, see? Then he has the volunteer hold a watermelon on his stomach. Using the powers of perfect concentration Bill learned in karate, he splits the watermelon with the sword without harming the volunteer. It's great. Now this doesn't present any liability problems for the county, does it?"

RM: "Aaaarrggghhh. . . "

* * *

Epilogue: From a review by Helen A. Harrison in the Nov. 29, 1981, New York Times on the monumental sculpture exhibit: "One wonders who indeed was the designer, or rather perpetrator, of this intimidating system of defenses."

Thank you, Helen. All risk managers want to design "intimidating defenses." ■

Michael J. Natale is assistant manager of the county insurance and risk management office in Suffolk County, N.Y.

Risk managers walk a fine line on ethical questions

Continued from previous page

- A broker or insurance company hosts a giant party at the RIMS conference. . .which is fine, yet involves inviting risk managers to smaller, lavish dinners for 150 of the firm's "closest friends" during the conference; providing a risk manager and friends with theater tickets, transportation and taking them to dinner during the conference, all at the supplier's expense; or arranging a five-day stay at a nearby resort for the risk manager and his or her family following the conference, at the supplier's expense.
- A supplier buys season tickets to the local professional football team's home games or the theater or opera and then issues a standing invitation to the risk manager.
- The risk manager calls a supplier and says he or she would very much like to attend a big event, but can't get tickets. The risk manager asks the supplier to pull some strings and "See what you can do," implying the supplier should pick up the tab.

I'm not passing judgment on anyone in these situations. Yet they can present real ethical dilemmas where the buyer is in a compromising position.

A brief digression here might help clarify the difference between "routine business entertainment" and what some would call unethical behavior. A senior corporate executive told the people in his department: "There's nothing wrong with going to the ball game with our broker, but I'll fire the first one who asks for a single ticket!"

What do you think, then, of the risk manager who repeatedly goes to the ball game with his broker? Does frequency make a difference? Is ethics a matter of degree? Where do you draw the line?

Not all our attention should be focused on favors for risk managers, though. These aren't the only situations that give rise to questions of ethics. Consider these scenarios:

- The insurance manager of Corporation X has used one insurance broker and one insurer for 19 years. He doesn't believe in competitive bidding for insurance programs. And he thinks it's useless to "test" the markets for price. He periodically asks the broker what the markets are doing, and says it's OK for the broker to get a second insurer's bid, if the broker wants to go to the trouble. Is this manager acting ethically? Is he keeping the corporation's interests foremost in his mind?
- There's a risk manager for a huge conglomerate who's extremely price-conscious when it comes to insurance. She is such a believer in competitive bidding that she goes out for new bids on the entire casualty program every year. She intends to beat down the markets so the premium savings can be used to demonstrate to the vp of finance what a great job she's doing. Is her behavior ethical?
- Envision the risk manager who believes in competitive bidding every few years, who carefully develops specifications, gets four bids and then quietly suggests to a new or the incumbent insurer that "if you put in a bid at $120,000, you'll be able to win or retain the business." This happens all the time. But is it ethical? Does it serve the interests of this risk manager's company over the long haul?
- The insurance manager for Widget Manufacturing Inc. is looking for a claims administrator to service Widget's self-insured workers compensation program. The Widget manager is approached by a claims service firm less than a year old. He is favorably impressed with the abilities and credentials of the firm's president, a 36-year-old go-getter. Widget generates about 1,000 claims a year, many of them difficult to adjust. The insurance manager knows the claims firm only has two employees, but this firm has the lowest price. He gives Widget's business to the new claims firm, knowing perfectly well that the firm will take a shellacking on this underpriced account. But he figures that "every new firm needs a guinea pig to start with." Is this an ethical decision? Are Widget's interests being properly served?
- The risk manager for a financially troubled company needs to save money this year on liability insurance, so he tells his broker, "Find me a price deal on this coverage. I don't care how you do it, but I need to shave 25% off the premium." The broker finds FBN Excess/Surplus Inc. to take the risk at a very low price. FBN reinsures 97% of the risk with 10 tiny reinsurers based in Guernsey. The premium is actually 30% below the expected losses for the year, based on the company's loss history.

The risk manager jumps at the opportunity to show these savings to his boss. The entire liability account is given to FBN without a single thought. (FBN, by the way, is short for Fly By Night.) Is this a proper purchasing decision? Has the risk manager acted ethically? Has the risk manager fulfilled his duty to investigate the stability of suppliers?

Each one of these situations presents a perplexing "judgment-call" scenario. These cases present a question of ethics, where there are few clear right or wrong answers.

The standards of conduct developed by the National Assn. of Purchasing Management are excellent guides for all of us, including risk managers, that are involved in purchasing any kind of products or services (see related story).

When in doubt about the ethics of what you are doing, use the practical guidelines on the NAPM list. They provide some useful insights into the situations we face daily, and can help to clarify the gray areas of ethical conduct. ■

AFIA now underwriting political risk coverage

markets

AFIA Worldwide Insurance, long an insurer of overseas property/casualty risks for U.S. multinational corporations, is now writing political risk coverage.

AFIA is jumping into the political risk marketplace to meet a demand seen by its six member insurance companies, according to James A. Dorrian, director of the organization's political risk division.

The member companies—The Hartford Insurance Group, The Home Insurance Co., Aetna Insurance Co., Fireman's Fund Insurance Cos., American Insurance Co. and St. Paul Fire & Marine Insurance Co.—already insure various property, liability, marine, accident and health risks for U.S. companies with overseas operations.

"It's inevitable for a company like AFIA to get into it," Mr. Dorrian says of the organization's entry into the poltical risk arena.

AFIA offers coverage that closely parallels that marketed by others, including protection for expropriation of fixed assets, confiscation of equipment, inconvertibility of currency, arbitrary calling of letters of credit and repudiation of contracts by a public buyer. The last peril includes the cancellation of both import and export licenses.

The organization is studying applications for political risk coverage on overseas business written by its member companies, Mr. Dorrian says, as well as a few applications submitted by brokers.

Mr. Dorrian says AFIA will be very selective in the business it writes. The company is avoiding nations like Libya and Lebanon that pose questionable risks.

"I'm not here to write that type of business," Mr. Dorrian says. "We want to run a good, solid political risk operation."

AFIA will reinsure its risks both in the United States and London.

And AFIA is providing additional insurance capacity at a time when two U.S. government sources —the Overseas Private Investment Corp. and the Federal Credit Insurance Assn.—may face budget cutbacks.

OPIC is a government agency insuring the overseas investment risks of U.S. multinationals, while FCIA is a private association of U.S. property/casualty companies that provides credit risk insurance. FCIA acts as an agent for the Export-Import Bank in a substantial portion of its coverage (*BI*, Oct. 12, 1981).

Should budget cuts force reductions in the agencies' operations, Mr. Dorrian observes, this will place greater pressure on the private sector to provide political risk insurance.

AFIA will compete for political risk business with American International Group, Lloyd's of London, Insurance Co. of North America, Chubb & Son Inc. and Continental Corp.

Mr. Dorrian, who joined AFIA in November, was formerly a vp for product analysis and planning at FCIA.

Hospital policies

St. Paul Fire & Marine Insurance Co. has been approved to write claims-made medical malpractice insurance policies for hospitals in New York.

Until recent regulatory action, occurrence policies—which cover claims occurring during the year the policy is in force—were the only medical malpractice insurance policy forms allowed in New York state.

Claims-made policies—the only form that St. Paul uses for medical malpractice risks—cover claims reported during the 12-month term of the policy, regardless of when the incident occurred.

Along with malpractice insurance, St. Paul also will offer New York buyers various risk management services.

Acquisitions

The St. Paul Cos. Inc. has reached an agreement in principle to acquire **I West Insurance Managers Inc.**, a wholesale insurance brokerage based in Stockton, California. ■

datebook

APRIL 1. Insurance Club of Pittsburgh 'I' Day meeting in Pittsburgh, sponsored by the Insurance Club of Pittsburgh; $27. Insurance Club of Pittsburgh, 825 Park Building, Pittsburgh, Pa. 15222; 412-471-7488.

APRIL 1-2. Administering Public Employee Health Plans conference in New Orleans, sponsored by Martin E. Segal Co.; $75. Mary L. Feldman, Conference Coordinator, Martin E. Segal Co., 730 Fifth Ave., New York, N.Y. 10019; 212-586-5660, ext. 434.

APRIL 2-4. Louisiana Surplus Line Assn. annual meeting in Houston, sponsored by the Louisiana Surplus Line Assn. $350 per couple; $225 per participant. Wayne Forest, c/o Corporate Marketing Services, Box 52193, New Orleans, La. 70152; 504-837-3700.

APRIL 5-6. Confined Space Entry workshop to be held in Tulsa, Oklahoma, sponsored by Loss Prevention Associates; $285. Loss Prevention Associates, Box 59888, Dallas, Texas 75229; 214-241-0396.

APRIL 5-7. Safety and Liability Prevention course in San Jose, Calif., sponsored by San Jose State University; $395. Engineering Institute, San Jose State University, San Jose, Calif. 95192; 408-277-2485.

APRIL 5-9. Basic Safety Management seminar in Houston, sponsored by the International Safety Academy; $535. Also **April 26-30** in Los Angeles. International Safety Academy, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

APRIL 5-9. Total Loss Control Management seminar in Cleveland, sponsored by the International Safety Academy; $535. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

APRIL 7-9. Oil Field Safety Training seminar in Houston, sponsored by International Safety Associates; $395. International Safety Associates, 126 Northpoint Drive, Suite 157, Houston, Texas 77060; 713-999-0000.

APRIL 8-9. Human Factors Engineering for Controlling Hazards course in Washington, sponsored by the International Institute of Safety & Health; $245; for three or more participants from the same company, $195. Harold M. Gordon, IISH, 5010A Nicholson Lane, Rockville, Md. 20852; 301-984-8969.

APRIL 12-14. Effective Loss Control Management course in Houston, sponsored by International Safety Associates; $395. International Safety Associates, 126 Northpoint Drive, Suite 157, Houston, Texas 77060; 713-999-0000.

APRIL 12-16. Occupational Respiratory Protection course in Los Angeles, sponsored by the Institute of Safety & Systems Management; $475. University of Southern California, Institute of Safety & Systems Management, Office of Extension & In-Service Programs, Los Angeles, Calif. 90007; 213-743-6523/6524.

APRIL 13-14. Health Care Cost Containment workshop in New York, sponsored by the Health Research Institute; $395. Workshop Coordinator, Health Research Institute, 49 Quail Court, Suite 200, Walnut Creek, Calif. 94598; 415-676-2320.

APRIL 13-14. How to Reduce Your Trucking Insurance Cost seminar in Washington, sponsored by the International Risk Management Institute Inc.; $435; $375 for two or more participants. International Risk Management Institute, Suite 208, Building III, 10300 N. Central Expressway, Dallas, Texas 75231; 214-363-9656.

APRIL 14-16. Safety for the Oil Field Industry seminar in Houston, sponsored by the International Safety Academy; $375. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

APRIL 15-16. Quantitative Techniques for Risk Management seminar in New York, sponsored by The College of Insurance; $475. The College of Insurance, 123 William St., New York, N.Y. 10038; 212-962-4111.

APRIL 18-21. Food Industry Institute program in Las Vegas, sponsored by the International Foundation of Employee Benefit Plans; members, $390; non-members, $465. International Foundation of Employee Benefit Plans, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-6700.

APRIL 18-23. 20th Annual Risk Management conference in Washington, sponsored by the Risk & Insurance Management Society; members, $420; non-members, $520. Partial conference, members, $350; non-members, $425. Conference Department, RIMS, 205 E. 42nd St., New York, N.Y. 10017.

APRIL 19-21. Assets Protection course in London, sponsored by the American Society for Industrial Security; members, $595; non-members, $650. ASIS, 2000 K St. N.W., Suite 651, Washington, D.C. 20006; 202-331-7887.

APRIL 19-22. Inspector Training seminar in Houston, sponsored by the International Safety Academy; $490. International Safety Academy, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

APRIL 19-23. Accredited Safety Auditors conference in Atlanta, sponsored by the International Loss Control Institute; $625. ILCI, Box 345, Loganville, Ga. 30249; 404-466-2208.

APRIL 19-23. Fundamentals of Industrial Hygiene Monitoring course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; $425. Also **June 14-18** in Long Grove. John N. Garis, Manager, NATLSCO, G-3, Route 22, Long Grove, Ill. 60049.

APRIL 20-21. Product Liability & Tort Law Reform conference in Arlington, Va., sponsored by the National Legal Center for the Public Interest; $285. J.J. Wuerthner Jr., National Legal Center for the Public Interest Conference Coordinator, 1101 17th St. N.W., Suite 810, Washington, D.C. 20036; 202-296-1683.

APRIL 20-22. Industrial Fire School course in Marinette, Wis., sponsored by The Ansul Co.; $650. Ansul Fire School, 1 Stanton St., Marinette, Wis. 54143; 715-735-7411.

APRIL 21-22. Fire Safety in Buildings conference in New York, sponsored by the Society of Fire Protection Engineers and the Engineering News Record; $477; two or more participants from the same company, $420. D. Peter Lund, Executive Director, Society of Fire Protection Engineers, 60 Batterymarch St., Boston, Mass. 02110; 617-482-0686.

APRIL 22-23. Management of Oil & Gas Exploration Risk seminar in Pittsburgh, sponsored by The Wharton School of the University of Pennsylvania; $795, plus $100 registration fee per organization. Registrar, 14th Floor, University Conference Center, 360 Lexington Ave., New York, N.Y. 10017; 212-953-9022. ■

Trust undervalued liabilities: Arbitrator

By JERRY GEISEL

SANTEE, Calif.—A multiemployer pension plan slapped a company with an excessive withdrawal liability claim because the plan overestimated its pension liabilities, a California arbitrator says.

In the first major test of the arbitration system to settle a dispute over withdrawal liability, arbitrator Sydney Kaufman said the Operating Engineers Pension Trust of Pasadena, Calif., overestimated its unfunded pension liabilities by using incorrect interest rate assumptions.

Mr. Kaufman reduced the withdrawal liability penalty the plan charged Woodward Sand Co., a family-owned sand delivery firm in Santee, to $198,554 from $264,254, a $65,700 reduction.

He also said the multiemployer plan must pay $10,000 arbitration costs.

Mr. Kaufman's decision is believed to be the first time an arbitrator has ruled on the size of a withdrawal liability claim since Congress passed the Multiemployer Pension Plan Amendments Act, the 1980 law that requires employers withdrawing from a multiemployer plan to pay a share of its unfunded vested benefits.

Under that law, Congress created an arbitration system through which an independent expert would attempt to resolve withdrawal liability disputes between multiemployer plans and member companies.

Although some pension experts say a number of withdrawal liability claims have been inflated by multiemployer plans trying to improve their financial condition, employers haven't tapped the arbitration option until now.

Instead, companies, stunned by enormous withdrawal liability claims that can exceed their net worths, have challenged the constitutionality of the Multiemployer Amendments Act in court.

The employers say they shouldn't have to pay for pension benefits promised participants by the plans. They say their liability should be limited to a fixed contribution rate that was agreed upon at the bargaining table.

The employers don't say, though, who should pay for the benefits that are underfunded.

But now that a withdrawal liability claim has been reduced, the arbitration process may look more appealing to employers, some experts believe.

"This is a showing that the arbitration process should be given a chance," said Baruch Fellner, associate general counsel of the Pension Benefit Guaranty Corp., the federal agency that guarantees workers' vested pension benefits.

"Go to arbitration. Give the statute a chance to work," Mr. Fellner added, noting that in many cases the exact amount of a withdrawal liability claim can't be fully measured until arbitration has been exhausted.

Woodward Sand is one of the estimated 78 employers that have filed suit against the Multiemployer Amendments Act. The sand distributor withdrew from the Operating Engineers Trust on Aug. 15, 1980, after it failed to reach a new collective bargaining agreement with the operating engineers' union (*BI*, Dec. 28, 1981).

On Aug. 31, 1981, the multiemployer plan told Woodward Sand that it had to pay a withdrawal liability claim of $264,524, about 31% of Woodward's net worth.

Woodward Sand filed suit in U.S. District Court for the Southern District of California. It told the court that the claim would "irreparably injure the business and seriously jeopardize the survival of Woodward."

The company, which had just 12 employees in the multiemployer plan, said the retroactivity of the act deprives the firm of its property without due process of law.

President Carter signed the Multiemployer Amendments Act on Sept. 26, 1980, but it applies to employers who left the multiemployer plans after April 28, 1980.

U.S. District Court Judge Leland Nielsen said even if Woodward Sand only had to make monthly withdrawal liability payments of $4,346.99, as suggested by the plan, the family-owned company would incur "serious hardship."

As a result, Judge Nielsen issued a preliminary injunction barring the plan from demanding payment of the claim, except through the arbitration process.

While Woodward Sand is relieved that the claim was reduced, the firm still intends to pursue its suit to have the multiemployer law declared unconstitutional, a spokesman said.

Attorneys representing the Operating Engineers Trust could not be reached for comment. ■

Companies may avoid pension claims

Continued from page 3

that prospective members are shunning multiemployer plans because they fear they may have to pay a share of the enormous unfunded liabilities. Without a stream of new employers, the plans could wither and die, the experts say.

But the availability of the exemptions could cause tension among the companies belonging to a multiemployer plan, said Ted Groom, an attorney with Groom & Nordberg in Washington.

For example, employers—particularly larger firms—that know they will stay in the plan probably would resist weakening withdrawal liability, not wanting to pay for companies that withdraw.

But companies that believe they soon may go out of business may press plan trustees, who represent employers and the union, to seek withdrawal liability exemptions.

However, the PBGC could deny such permission. By statute, the PBGC cannot approve an exemption for a plan if the agency determines that the exemption posed a "significant risk" to the PBGC pension insurance system.

For example, a plan that covers an industry with grave financial problems would not likely win PBGC approval for a withdrawal liability exemption.

The PBGC guarantees pension benefits of failed multiemployer plans through insurance premiums that the plans pay. The annual premium is now $1.40 per participant.

It would be up to the plan to decide when the withdrawal liability exemption would go into effect, subject to PBGC approval. A plan could apply an exemption retroactively.

Multiemployer plans that want to adopt the withdrawal liability exemption would be required to submit detailed financial information to the PBGC. That information includes:

- The number of plan participants, including retirees, active workers and vested beneficiaries during each of the last five years. This requirement could be satisfied by filing copies of Form 5500, a plan's financial record, for each of those years.
- A detailed description of the industry covered by the plan.
- A thorough analysis of the mobility of the industry's workforce and the existence of a consistent pattern of entry and withdrawal by employers. ■

Tennessee reviews captive rules

Continued from page 1

If the bills pass, as expected, "Tennessee would be a great deal more attractive" as a captive domicile, predicts James Davis, president of broker Corroon & Black's research and development division in Nashville.

Tennessee is among several states that are trying to lure captives through more favorable regulatory and legal climates.

Colorado, for example, in 1972 became the first state to pass a special captive law. So far, about 27 firms have established captives in the Rocky Mountain State, including aerospace manufacturer Boeing Co., which opened a Colorado captive in 1981 to reinsure errors and omissions coverage for architects, engineers and data processors (*BI*, June 8, 1981).

In addition, Virginia passed legislation in 1980 that allows Virginia-based corporations to set up captives in the state to cover commercial risks.

Last year, Vermont enacted legislation that makes it much easier for companies or trade associations to set up captives there.

The Vermont law only requires a firm to kick in $250,000 in capital and surplus to launch a captive, compared with Tennessee's $750,000 and Virginia's $2 million.

By liberalizing the state's 4-year-old captive law, Tennessee Insurance Department officials hope the state can lure employers who may be thinking of setting up captives elsewhere, as well as convince firms with existing captives offshore or in other states to relocate to Tennessee.

Currently, Tennessee has just five captives, compared with more than 1,000 in Bermuda and the 27 in Colorado.

In Vermont, tire manufacturer BFGoodrich Co. is the only company so far to have chartered a captive there (*BI*, Sept. 14, 1981), although six other corporations, whom state officials won't identify, have applied for captive charters.

No captives have been established yet under Virginia's 1980 captive law. ■

College changes schedule

LOS ANGELES—The western division of the College of Insurance here begins a new schedule for its basic educational program beginning April 5.

Courses leading to the Diploma in Risk & Insurance, formerly offered weekday mornings over a nine-month period, will now be offered Monday through Thursday from 3 to 6 p.m. and will continue year-round.

"Our new schedule has been adopted in response to the needs of both students and sponsoring employers," explained Mel Warshaw, director of the College's western division.

"We hope the result will be greater productivity for the employer coupled with more opportunity for the student to make appropriate and immediate application of material learned in class."

The College of Insurance western division also offers seminars and short courses in reinsurance, and excess and surplus lines. ■

NRC issues new coverage regulations

Continued from page 2
excess property insurance is available.

"So in essence, we're not concerned at all because we think we can meet the requirements," an association spokesman says.

Utilities that do not satisfy the requirement risk NRC enforcement action that could result in a fine or the suspension or revocation of their operating licenses, a commission spokesman says.

The requirement is actually a modified version of an earlier rule proposed by the NRC last fall (*BI*, Sept. 14, 1981) that went through a lengthy public comment period. The new version takes to heart some utility objections.

Starting from the date when the NRC first issues an operating license, nuclear utilities will be required to take "reasonable steps to obtain on-site property insurance available at reasonable costs and on reasonable terms from private sources. . . ."

Should the utility decide not to purchase insurance, it still must "demonstrate to the satisfaction of the Commission that it possesses an equivalent amount of protection covering the facility. . . ," the rule continues.

Additional provisions require that:

- The insurance will cover "reasonable" decontamination and cleanup costs resulting from an accident.
- Utilities must purchase both primary and excess coverage from one of several sources offering total limits of $740 million with a $5 million gap between the primary and excess layers.

Primary coverage may be secured from the two commercial pools—American Nuclear Insurers (ANI) and Mutual Atomic Energy Reinsurance Pool (MAERP), which jointly insure nuclear risks. This coverage also is available from Nuclear Mutual Ltd. (NML), an offshore captive insurer.

Excess coverage may be purchased from American International Group and Nuclear Electric Insurance Ltd. (NEIL), a second industry captive. Starting April 15, excess coverage in limited amounts also may be purchased from the ANI/MAERP risk pools (see story, page 2).

At the primary level, both the ANI/MAERP poools and NML offer $450 million in coverage. NML is scheduled to increase this to $500 million on Aug. 1 while ANI/MAERP will increase to $460 million on April 15, and hopefully to $500 million by January 1983.

At the excess level, AIG markets $45 million excess of $450 million, leaving a $5 million gap between $495 million and $500 million.

NEIL currently offers $290 million excess of $500 million, and ANI/MAERP hopes to provide at least $50 million excess of $500 million in some type of cooperative arrangement with NEIL.

NEIL would like to offer a full $500 million excess of $500 million by the first of next year.

- Utilities must take "reasonable steps" to obtain policy limit increases within 90 days of the availability of higher limits.
- Utilities that are prohibited by state or local law from purchasing certain types of on-site property insurance shall purchase the "specific amount of such insurance" that the NRC finds to be available to that utility, or obtain an equivalent amount of protection.

During the comment period that followed its original proposal, the commission found that at least three states—Texas, Louisiana and Idaho—prohibit certain municipal utilities from buying insurance from mutual insurance companies or participating in programs that include post-loss premium assessments.

MAELU is a risk pool formed by mutual property and casualty insurers, while both the NML and NEIL programs involve post-loss assessments.

- By April 1 of each year, utilities must report to the NRC the present level of their insurance coverage or alternative means of financial protection.

Those utilities that choose not to purchase coverage must demonstrate an "equivalent amount of protection" through self-insurance, a letter of credit or a bond.

The new rule does not include any specific penalties for non-compliance. Yet an NRC spokesman says there are several enforcement actions available to the commission, "ranging all the way up to revocation or not granting a license."

The commission also has the authority to levy fines and suspend an operating license, the spokesman adds.

In making its decision, the NRC concluded that "adoption of the on-site property damage insurance requirement, as modified, will better ensure that adequate protection for the health and safety of the public is achieved."

During the public comment period that followed its initial proposal, the notion of federally mandated property insurance was both supported and opposed.

Several comments supporting the requirement, primarily from private citizens and public interest groups, stated reasons that the commission described as "an undefined and non-quantifiable general benefit in protecting public health and safety."

Comments in opposition to the rule varied, although the NRC found that utilities and their representative groups generally oppose mandatory coverage because of recent self-initiated moves by the utility industry to obtain insurance following the Three Mile Island accident. This final rule is materially different from the NRC's initial proposal in several respects.

The proposed rule stated only that utilities had to purchase the "maximum available amount" of insurance. The NRC tempered that broad statement to clarify that it did not intend a utility to be at the mercy of insurers on prices and terms, adding they need to take "reasonable steps" to purchase the maximum amounts available.

The commission also makes it clear that utilities need not purchase "all risk" property insurance, but only sufficient coverage to guarantee cleanup costs.

The NRC further backed off an original provision requiring that insurance be in force from the time when nuclear fuel is first brought on-site. Recognizing that the likelihood of an accident requiring extensive cleanup is "extremely remote" when fuel is merely stored at a facility, the NRC now requires coverage only when the utility is licensed to operate a reactor. ■

ANI now offering excess coverage

Continued from page 2
vides extra expense insurance for the costs of replacement power.

Earlier this year, ANI announced plans to launch its own program to provide a total of $1 billion in primary and excess property insurance, but abandoned the plan when a majority of nuclear utilities chose the NEIL program instead.

ANI now hopes to "coordinate with and supplement the NEIL II middle layer and assist the utilities in reaching $1 billion of property protection," Mr. Proom said.

This is not the first time such coordination has been suggested by ANI.

In the $1 billion property program that ANI pursued unsuccessfully last year, the insurer hoped to structure its coverage with a $450 million primary layer to start. Following would have been a second layer of $350 million excess of $450 million, either on a retrospective premium basis or through a prefunded offshore captive. On top of this would rest a third layer of $200 million excess of $800 million to round out the package to $1 billion.

If ANI's middle layer of $350 million excess of $450 million did not attract a sufficient number of utilities to put the program in place, Mr. Proom last fall suggested that ANI and NEIL share this layer on a quota-share basis while maintaining their separate identities.

During a nuclear insurance conference last September (*BI*, Oct. 5, 1981), NEIL officials also expressed interest in purchasing ANI's $200 million excess of $800 million capacity if it was available on reasonable terms.

Mr. Proom said the ANI and NEIL officials met in Toronto recently to "work out details of making our excess insurance capacity compatible with the NEIL II program."

Neither Mr. Proom, NEIL officials nor insurance brokers would comment on the results of the meeting. Mr. Proom said an official statement would be forthcoming shortly.

ANI plans additional capacity boosts this year in its overall insurance program.

Again on April 15, it will increase its primary property insurance capacity to at least $460 million from its current level of $450 million.

This will be followed by additional increases throughout 1982, Mr. Proom said, toward the goal of providing $500 million in primary coverage by year's end.

ANI's only competitor at the primary property level is Nuclear Mutual Ltd., a second Bermuda-based industry captive insurer, which plans on increasing its primary capacity from $450 million to $500 million by Aug. 1 of this year.

With this planned increase in mind, Mr. Proom said, ANI must increase its primary capacity as well in order to maintain a "viable competitive position."

ANI anticipates further increases in its Foreign Property and Liability Pool, a separate risk pool providing reinsurance for nuclear reactors located overseas on a facultative basis. ANI hopes to increase its present $82 million in capacity to $100 million by Jan. 1, 1983. ■

Open rating tabled in Maine

PORTLAND, Maine—The Legislature's Joint Committee on Business Legislation has dropped a study bill proposing competitive rating for workers compensation insurance.

That move came after Insurance Superintendent Theodore Briggs said he opposed the bill, which would have allowed workers compensation insurers to compete on rates without receiving prior approval from the state.

At a recent hearing on the proposal, Mr. Briggs said he had no objection to the philosophy behind open comp rating, "but for Maine the timing is unbelievably poor."

"It would result in higher rates for employers much quicker than under the present prior approval system.

"While rates may go down for large employers under open rating, the overall pressure on rates is going to be upward and probably impact the small and medium-sized premium accounts the most," Mr. Briggs said. ■

riskWatch

MET hearing could mark break with the past

By JERRY GEISEL

CHICAGO—As a reporter who has followed and reported on the collapses of self-funded multiple employer trusts for five years, I first had a feeling of deja vu at a congressional hearing earlier this month on the problem.

Once again state and federal officials blamed each other for not controlling the METs, which have sprouted and failed in a largely unregulated environment, leaving thousands of participants with millions of dollars in unpaid medical and hospital bills.

The failure of self-funded METs has been attributed to third-party administrators charging high administrative fees while not putting enough aside to pay for claims.

State insurance officials told the special House Labor-Management Relations subcommittee hearing chaired by Rep. John Erlenborn, R-Ill., that self-funded MET problems were caused partly by Employee Retirement Income Security Act and apparent indifference by the Department of Labor, which administers ERISA.

The METs, whose low premiums often attract small firms that say they cannot obtain or afford medical coverage offered by commercial insurers, have filed with the Labor Department as employee benefit plans covered by ERISA, the state regulators say.

By calling themselves benefit plans, self-funded METs have found protection from the regulators through ERISA, which generally bars state regulation of employee benefits.

Mr. Geisel

At the same time, despite their pleas, the regulators said at the hearing, the Labor Department sometimes takes years to issue an advisory opinion letters on whether a MET really is an employee benefit plan protected by ERISA.

By the time the department issues the letter, which can aid state regulators in shutting down METs, the MET may have already collapsed, leaving millions of dollars in unpaid medical bills.

To make matters worse, several state insurance officials said the Labor Department won't make a judgment before an MET begins operations. In fact, a self-funded MET can operate for up to 19 months before it has to file basic financial information with the department.

Speaking on behalf of the Labor Department, Jeffrey Clayton, the newly appointed administrator of the Office of Pension and Welfare Benefit Plans, reiterated that state officials don't have to wait for an advisory opinion letters from the department before going to court to close an MET.

In nearly every case in which the department has been asked to rule on the status of a MET, it has found that the trust was not a benefit plan, Mr. Clayton said.

As a result, state regulators can feel almost certain that action taken against an MET will later be supported by the Labor Department and ultimately the courts, he said.

All these arguments and counterarguments are not new. In fact, they were outlined in a series of articles in early 1977 in *Business Insurance*.

And they were little comfort to MET victims, who told the subcommittee that they have had to work double shifts, or in one case, declare bankruptcy after they were stuck with enormous medical bills after an MET failed.

But there were encouraging developments that made the Chicago hearing a break from the past. The fact that a congressional panel held a hearing on METs is evidence that some congressmen finally are aware that MET failures have become a national issue and deserve their attention.

In fact, Rep. Erlenborn said at the conclusion of the hearing that he would consider introducing legislation to give state regulators more control over the financial operations of self-funded METs.

State officials, too, are taking the offensive. In Illinois, for example, Attorney General Tyrone Fahner and Insurance Director Philip O'Connor have formed a special task force to prosecute self-funded MET operators who defraud consumers.

Mr. Fahner also says he will work closely with other state attorney generals to track the trusts and their administrators as they move across the country.

And in California, the state Insurance Department is backing legislation that would give its regulators more power to determine if a MET is a bona fide ERISA trust, said Frank Damon, chief deputy insurance commissioner.

Other positive notes have been sounded. In Chicago, the local newspapers and television stations have been revealing new MET scandals almost every week.

While *Business Insurance* will continue to report and uncover the latest self-funded MET developments, this is one issue that is so big that we are willing to share the spotlight to focus attention on what could become, in the words of Mr. Fahner, "the most sophisticated and profitable white-collar crime in America."

While all these moves may come too late to help past MET victims, congressional and state action and widespread publicity may be the beginning of the end of the MET problem.

Trim the amount of litigation in work comp cases: Lawyer

Continued from page 3

the organization's panel of defense attorneys. Two firms out of the five used before she arrived survived her scrutiny. Ten others have been added.

This year the RTD will spend about $1 million to litigate more than 1,000 workers compensation claims, she estimates. These figures are a legacy of the RTD's former claims administration contract. Under a new contract with Fleming & Associates, begun in July, only eight cases have been referred to firms for legal defense.

"No more than about 100 claims should be litigated in any given year," Ms. Smith said. The RTD's legal costs should range from $150,000 to $300,000 a year, she believes. About 10,000 people are employed by the transit district.

Always ask yourself, "What do I get if I win?" counsels Ms. Smith. Sometimes it could be more costly to win the case than to settle at the outset.

"You can win the battle but lose the war," she said.

Question authority, she urges. If your attorney talks about taking a deposition on a case, ask why. There may be a cheaper way to get the information.

Somebody at your company needs to keep the big picture in focus, she said.

Is there somebody asking such questions as: "Why are we hiring an attorney on this case?" Many day-to-day questions can be answered without recourse to an attorney, she emphasized.

Periodically a manager in charge of workers compensation should review the open files and take stock of where the cases stand.

"You should be able to see why every legal step was taken on, such as cross-examination of a treating physician or taking of a deposition. Ask yourself whether the goal was accomplished by these things. They cost money. And consider what would have happened if an adjuster and not an attorney had been handling the claims," she said.

How can a company select a competent defense attorney to represent it in workers compensation cases?

"I think you're better off with small firms where you have some buying power," she notes. You want to be a major part of their action so that if you don't get the kind of service you need, you can take your "toys" and run.

The panel of 12 law firms that now represents the RTD includes three one-person companies.

"You know they're going to feel the loss of our business if they don't give us the service we want," she said.

"It's very important for defense attorneys to know the appeals board judges they argue before," Ms. Smith noted. "And if a firm says they know all the boards—phooey!"

Find out why a particular law firm already represents you. "And if the answer is that a particular firm has always represented you—ask yourself some questions. Have you ever seen a resume from anybody at the firm? Who, and why was the firm recommended in the first place?"

Remember that the ultimate objective of litigation is to explain a case to a jury, Ms. Smith said. That means that your attorney should be able to explain a case to you. Don't be put off from asking questions why certain actions are being taken.

"Look for expertise," she advises. If you are looking for a workers compensation defense attorney you might want experience with dual-capacity type lawsuits. You might want experience with products liability law—depending on your needs. Public entities may want special expertise.

Ms. Smith emphasized several times that the amount in controversy is not the amount of the claim. It is the difference between what the applicant is asking and what the employer is offering.

"If all you are arguing about is $2,100 and it's going to cost $3,000 to take it to court—think again," she advises. She concedes that employers may occasionally be justified in fighting such a claim to establish a certain precedent or principle. But not often.

"These kinds of cases had better be few and far between," she said.

How can an employer avoid hard feelings if the company switches to a different legal defense firm? Ms. Smith said she didn't think it was something to worry about.

"Unless you are willing to walk, you probably won't ever get the kind of service you want," she observed. Companies have to look at costs vs. payoffs in any business relationship. "You need the carrot and the stick." ■

Flooding to cost insurers $5 million

NEW YORK—Widespread flooding in parts of Indiana, Ohio and Michigan from March 12 through March 16 caused an estimated $5 million in insured losses, according to W.D. Swift, vp of property claims services at the American Insurance Assn.

The heaviest damage occurred in the Fort Wayne, Ind., and the Toledo, Ohio, areas.

The Insurance Services Office assigned the flooding Catastrophe No. 51. ■

GM workers win profit-sharing plan

Continued from page 2

tracts.

In addition, GM has agreed to monitor the effectiveness of its health coverage program, underwritten by Metropolitan Life Insurance Co., and initiate cost-containment measures, company officials said.

The cost-containment efforts would focus primarily on such areas as outpatient psychiatric services; foot surgery services; elective surgical services, X-ray and laboratory services; prescription drugs; physical therapy services; and hospital emergency room services.

Other health plan changes included in the GM proposal include:

- An increase in the number of hospice care pilot programs.
- Updating Medicare standards by providing coverage for prosthetic appliances and durable medical equipment.
- Changes in reinstatement rules for laid-off workers who return to their jobs at General Motors.

All other health, surgical, drug, dental and vision benefit programs agreed upon by both automakers in the 1979 contracts are maintained at their current levels in the new agreements.

Both the General Motors and Ford agreements include increases in life insurance coverage that could total as much as $6,000 per employee.

The life insurance increase becomes effective at GM on Sept. 20, 1982, while the Ford increases will not take effect until November.

The GM life insurance program is also underwritten by Metropolitan. The Ford plan is underwritten by John Hancock Mutual Life Insurance Co.

Both agreements also increased travel allowances for workers who must travel more than 40 miles to have a doctor determine an alleged disability.

In exchange for the profit-sharing plans, benefits and other contract improvements, the autoworkers agreed to give up two annual 3% pay increases and the equivalent of two weeks of paid time off per year.

The union also agreed to defer three cost-of-living raises for 18 months.

The GM proposal, which was finalized during a 33-hour negotiating session March 19 and 20, also cancels four scheduled plant closings and offers union employees discounts on new cars and trucks they purchase.

Smokers cost firms $36 billion: Council

WASHINGTON—Cigarette smoking is not only bad for workers' health, it is also bad business for employers, according to the Advisory Council on Education for Health.

In 1980, productivity losses attributed to employee cigarette smoking cost $36 billion, says the council, which is sponsored by the American Council of Life Insurance and the Health Insurance Assn. of America.

Studies cited by the council say that smokers spend 81 million more days off the job annually than people who have never smoked.

A pack-a-day smoker furthermore has a 50% greater chance of hospitalization than a non-smoking colleague, it says.

Group life and health insurance rates are also increased by smokers, it says. On the average, employers spend an additional $300 a year on extra insurance claims filed by smokers. ■

classified advertising

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Business Insurance

Circulation Breakdown*

Commercial Consumers

Administrative Management: owners, presidents, vps, etc.	6,823
Financial Management: chief financial officers, vps of finance, secretaries, treasurers, etc.	9,385
Insurance Management: vps, directors, managers of insurance, risk, benefits, compensation, safety, security, etc.	5,791
Government, Associations, Unions, Educational Institutions	1,001
Commercial Consumers Sub-total	**23,000**
Insurance Agents & Brokers	9,741
Insurance Cos.	4,735
Financial Institutions	303
Actuaries, Attorneys, Adjusters, Appraisers & Consultants	2,208
Others allied to the field	776
TOTAL	**40,763**

*Source: Business Occupational breakdown of qualified circulation Nov. 2, 1981 issue as submitted to BPA for December 1981 BPA Publisher's Statement

INSURANCE SYSTEMS SPECIALIST

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Textron Corporate Office is seeking a Property/Casualty Systems Specialist for its Risk Management and Insurance Department.

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California's wage-loss bill facing battle

Continued from page 1

The bill, which underwent several revisions before it was introduced in the Legislature two weeks ago, is sponsored by the California Manufacturers Assn., the California Self-Insurers Assn. and the California Chamber of Commerce.

"The outlook for passage is not good, maybe 50-50," conceded Mr. Gladfelty in response to a question at the self-insurers' meeting. "But we have to make a start somewhere. And we don't have a lock on all the good ideas."

In rapid-fire fashion, Mr. Gladfelty outlined why the manufacturers believe wage-loss could cure California's work comp woes:

- It's simple for both employers and employees to understand because it does not contain a multitude of complicated legal issues.
- Wage-loss responds directly to the economic needs of injured workers.
- It reduces the need for forensic physicians and attorneys in an adversary process.
- It increases benefits to workers who are seriously injured.
- Its objective is employment security rather than payment of damages after an injury.

The California proposal borrowed bits and pieces from wage-loss laws in several states, said Mr. Gladfelty. "We studied the Florida experience in the greatest depth," he added.

"We've been working on wage-loss for 11 years," said Joe Markey, legislative advocate for the California Self-Insurers Assn. and a strong proponent of the reform proposal. "I think wage-loss is the solution to many of our problems," he said.

The goal is to change a pattern of behavior and an attitude toward workplace injuries, he noted. Wage-loss stresses employment security—not damages. It also assures prompt payment of benefits so that employees don't have to sue, he said.

Mr. Markey said it was difficult to predict the level of employers' workers compensation costs under a new system because "we would be gauging future costs under the present attitude."

If attitudes do not change under wage-loss, it could cost more because weekly benefits will be higher, he acknowledged.

The ultimate objective is to achieve a better distribution of benefits so that more money is paid to seriously injured workers and less to ancillary groups such as attorneys and forensic doctors, he stressed.

Under wage-loss there is a strong incentive for employers to return an injured worker to the same job as soon as possible or to provide vocational rehabilitation training when necessary. The employer must pay the employee two-thirds of the difference between pre- and post-injury earnings unless the difference is less than 10%.

Although the primary aim of Senate Bill 1749 is to enact a wage-loss system, the proposal also includes other measures desired by employees. It tightens up the exclusive remedy rule by eliminating dual capacity exceptions permitted in a number of recent state court decisions.

The bill calls for a preponderance of the evidence test to replace liberal construction in favor of the applicant in cases heard before the Workers Compensation Appeals Board.

The bill toughens the dependents test by specifying that only legal dependents are eligible to receive workers compensation survivors benefits after the death of an employee.

The bill was introduced by four members of the Senate Industrial Relations Committee: Sens. Bill Greene, D-Los Angeles; Dan Boatwright, D-Contra Costa; Newton R. Russell, R-Los Angeles; and Ray Johnson, R-Shasta. ■

Florida's success not copied in other states

Most states are envious of Florida's success with its wage-loss system, but none has even come close to mobilizing the support needed to pass similar legislation.

Besides California (see story, page 1), both Louisiana and Delaware are still pushing wage-loss legislation, but neither of the states is optimistic about passing the bills—at least this year.

Efforts to pass wage-loss legislation in Maine, Washington and Oregon failed this year. It is unsure if bills will be introduced again in 1983.

Louisiana says it is very close to introducing a wage-loss bill while in Delaware, a wage-loss bill has made it through the House of Representatives but may be up for a battle on the Senate floor.

Under the wage loss or wage replacement concept, injured workers do not receive permanent partial disability benefits except for extreme impairment.

Instead, benefits are paid only for proven lost wages after an accident. If an injured worker returns to a lower paying job, he or she would be compensated for the difference in salary.

The attorney who developed the wage-loss concept for Florida believes states should count on spending two years before passing wage-loss legislation.

"It takes research, education and political fighting, and if done right, a state needs two legislative sessions to pull if off," says John Lewis, the Coconut Grove attorney who authored Florida's original proposal. He also has worked for wage-loss laws in Louisiana and Delaware.

In Florida, the weekly benefit for injured workers has increased to $228 from $130 since 1979, but by eliminating or reducing payments to those with permanent disabilities who can still work, compensation costs were greatly decreased.

Louisiana's wage-loss bill, which is expected to be introduced before May 1, will differ some from the Florida law, says Mr. Lewis.

Louisiana's proposal includes a higher level of benefits for amputees and injured workers who are totally disabled from an on-the-job injury.

And that state's bill includes a provision for wage-loss benefits to be calculated weekly rather than monthly as in Florida. That system put a burden on injured workers in that state.

Louisiana is also trying to establish a workers compensation administrator for the state, which is the only U.S. state that doesn't have a central agency where workers can file for workers compensation.

Employees in Louisiana are forced to file a lawsuit in circuit court if they cannot get satisfactory benefits from their employer.

Court overturns 'dual capacity' judgment

Continued from page 1

system in California since several other employee suits are pending in the courts, the employers hope it will set the stage for similar rulings. First, however, the International Paper decision must withstand an appeal to the state Supreme Court by the plaintiff's attorney.

But in the interim, the California Chamber of Commerce is "celebrating this one," said Susan Cavazos, its employee benefit manager.

"It would have greatly endangered self-insured employers in California," she said of the earlier lower court ruling.

"If the Supreme Court decides to hear the case, I'm sure the Chamber will want to file a friend-of-the-court brief in support of the appellate court's reversal," she said.

The California Self-Insurers Assn. is "delighted" with the court's ruling, said Joe Markey, its executive director. "We're glad to see justice rendered."

And the California Manufacturers' Assn. is cautiously happy with the court's ruling favoring employers, says Paul Gladfelty, director of workers compensation and unemployment insurance for the association.

He points out there are still other legal precedents floating around California (*BI*, May 11, 1981) and other states that allow employees to sue their employers outside the workers compensation system, which guarantees benefits to injured workers regardless of fault.

The business trade associations plan to be heavily involved in the Williams vs. IPC case if it reaches the state Supreme Court, but they're also trying to made inroads in the Legislature.

A package of workers compenstion reform bills expected to be introduced this week is aimed at tightening up the exclusive remedy provision of the Workers Compensation Act.

The appellate court ruling in the Williams case is important, employer groups say, because it proves that California's legal system may not be as liberal as once thought. And sources say the ruling could be a precedent in other dual-capacity cases.

"This is a helpful decision in limiting the misdirection that other courts have taken in the area of dual capacity," said IPC's attorney, Michael Lowe.

"Dual capacity is correct only where the employment status is totally coincidental," he added. "The fact of employment should be totally incidental for dual capacity to apply."

Mr. Williams, a lumber mill worker, was injured in 1974 as a California employee of New York-based IPC. He was badly burned in a sawdust exlosion and fire at IPC's Northern California plant and collected more than $120,000 in medical and disability benefits.

When the employee later sued IPC as the self-insured employer, he was awarded $825,000 by the county court, minus the $120,000 he had already collected in workers compensation.

IPC is self-insured for $50,000 and has excess workers compensation insurance with American Motorists Insurance Co., a subsidiary of the Kemper Group.

Under the plaintiff's theory, IPC was a self-insured employer that stepped into the role of insurer and failed to provide a safe work environment. "As such, the employer intentionally harmed Mr. Williams," said the plaintiff's first attorney.

"The employer, as workers compensation insurer, knew or should have know that Mr. Williams was substantially certain to be injured in a dust explosion," he added.

In California, the workers compensation statute states that if the employer is found to cause an employee's injury, the employee is entitled to a 50% increase in workers compensation benefits.

But the appellate court made clear that an employer who is legally self-insured for workers compensation liability "does not, by that fact, become a person other than the employer. . .and is protected from civil action by his employee under the exclusive remedy provided by the workers compensation system."

Still, the plaintiff's appellate court attorney, Bryce C. Anderson, is undaunted. He hopes the California Supreme Court will agree to hear the case.

"I knew it was an unsettled area of law and that the court could go either way. It's disappointing, but we're hopeful the high court will hear us," Mr. Anderson said. ■

Women enlist in institute

MALVERN, Pa.—The American Institute for Property & Liability Underwriters and the Insurance Institute of America has enrolled 33 National Assn. of Insurance Women chapters as new members and participants in their development fund, according to President Edwin S. Overman.

"It is encouraging to us in insurance education that the National Assn. of Insurance Women has endorsed and is actively supporting career path action among women in insurance," he said.

The number of local Insurance Women chapters that now participate in the insurance institutes' development fund has reached an all-time high, he said.

New members include Insurance Women chapters in: Jackson, Miss.; Orangeburg, Calif.; Asheboro, N.C.; Middletown, Ohio; Hillsboro, Ore.; Wichita, Kan.; Kokomo, Ind.; Sacramento, Calif.; Bakersfield, Calif.; Clifton, N.J.; Williamsport, Pa.; Philadelphia; Reston, Va.; Suffolk, Va.; Raleigh, N.C.; Warner Robins, Ga.; Marianna, Fla.; Acworth, Ga.; Macon, Ga.; Columbia, S.C.; Grand Rapids, Mich.; Flint, Mich.; Des Moines, Iowa; Salina, Kan; Honolulu; Merced, Calif.; Anchorage, Alaska; Billings, Mont.; Butte, Mont.; Eau Claire, Wis.; and Milwaukee. ■

Verdict in Rely case could hurt P&G later

Continued from page 1

But the Lampshire decision is not yet final, and P&G is expected to challenge the decison—first in post-trial motions it must file before March 29. Since the verdict was inconsistent, it is possible the jury didn't follow the court's instructions, suggested a P&G spokesperson.

"The Lampshire case is nowhere near over," he said. Each side is puzzled how there can be negligence but no money awarded in damages.

P&G attorneys are not talking about what form their motion might take, but legal experts who are not parties to the case speculate that P&G could ask the judge to reverse the jury determination on the basis that the evidence did not support the verdict. Or if the judge believes damages should be awarded, he might offer a retrial to the defendant.

Procter & Gamble says it is protected against any material financial losses or expenses arising out of Rely litigation by liability insurance and a $75 million reserve established when the product was withdrawn from the market in September 1980. The spokesperson would not identify the company's insurers but it is known that Commercial Union Insurance Co. is one of several underwriters on the risk, but not the lead one (*BI*, Oct. 13, 1980).

"We have a relatively small amount of self-insurance," said a P&G spokesperson. "But our insurance does include legal costs and punitive damages. Less than half the states prohibit insurance for punitive damages," he added.

Besides the legal costs of defending lawsuits filed against it, P&G has settled 20 to 30 cases out of court for small sums averaging a few thousand dollars, the spokesperson said. "These were mostly nuisance suits. Ten to 15 have been dismissed by courts before coming to trial."

From the plaintiff's point of view, the Lampshire outcome is a classic case of winning the battle but losing the war. The attorneys who represented Ms. Lampshire plowed new ground and won the case, but they will not be paid since their compensation was contingent upon damages won from the defendant

Legal observers believe, however, that the finding of negligence will encourage more plaintiffs to file suit. Some suggested that attorneys might be more picky about the cases they take to trial.

"You can bet that in the future the plaintiffs' bar will be sure to bring cases in which they can show real damage," noted one attorney.

This opportunity is just days away when the next Rely case comes to trial in Cedar Rapids, Iowa. Unlike plaintiff Lampshire in the Denver case, who suffered no permanent damages from toxic shock syndrome, the Iowa case involves a woman who allegedly died from the condition.

Why didn't the plaintiffs orchestrate a stronger case to be first to establish a big-dollar damage precedent?

"Plaintiffs are much less organized than people think," noted Paul Rheingold, a plaintiffs' attorney in New York who represents many clients in mass litigation cases. Defendants are actually more in control and better able to adjust the speed at which cases come to trial, he said.

"I think the significance of the decision is twofold," observed James A. Henderson Jr., a professor at the Boston University Law School. "It is conceivable that some jurisdictions might allow the offensive use of collateral estoppel so that future plaintiffs can use this verdict in their favor."

Although the U.S. judicial system is geared to exclude biased jurors, it is hard to find an unbiased jury after such a highly publicized case, noted Professor Henderson. The finding of negligence against P&G could function as a kind of psychological backdrop, he explained.

Because of the puzzling and perhaps inconsistent nature of the Lampshire decision, most legal observers think presiding Judge Sherman G. Finesilver will have a lot of options in deciding post-trial motions.

"Acting as a 13th juror, the judge could grant a motion for a new trial," suggested Jerry Phillips, a professor at the University of Tennessee Law School. "Or if he thinks the damages are too small—that there should be some—he might offer a retrial to the defendant."

Professor Phillips emphasized that the judge could not award damages without offering a retrial because this would be denying the defendant's basic right to trial by jury.

Another attorney expressed surprise at the inconsistent rulings by the jury on the issue of negligence and breach of warranty. "Normally, it takes more evidence to show negligence than breach of warranty," she said.

The decision is more akin to European courts' practice of awarding nominal damages to show an element of fault but without severely punishing the defendant, observed Frank Orbin, international counsel for Armstrong-Cork Co.

European courts may award "moral damages" when a loss is suffered that is not felt to be compensable, he explained. "Even if there is no economic loss, society may wish to make the point that there was fault." ■

Nordstrom acquired

Continued from page 2

1980, revenue estimates compiled by brokerage consultant Hales & Associates show revenues that year slipping again to only $10.8 million. Hales ranked Nordstrom as the 25th largest brokerage in the United States and Canada.

Rumors of a new ownership interest between Nordstrom and Cincinnati-based American Financial began circulating early last year, but neither the broker nor the insurer publicly announced stronger ties. Both are privately held companies.

Brokerage sources in Minneapolis told *Business Insurance* that they were aware of American Financial's interest but assumed the Nordstrom family retained ownership or controlling interest.

Nordstrom Executive Vp Robert Olson, formerly a Great American executive, according to the insurer's personnel department, would not even confirm the acquisition last week until he was informed that the ownership was public record, acknowledged in Great American's annual statement filed with the Ohio Insurance Department.

He refused, however, to discuss details of the acquisition or comment on the financial strength of Nordstrom. It is not known whether American Financial acquired ownership as payment for the 1980 loans.

Calls to American Financial were referred back to Mr. Olson. Nordstrom President John D. Nordstrom and Senior Vp Lou Golinvaux were not available for comment.

Only two other major brokers, the Ryan Agency Group and E.H. Crump Co. Inc., are controlled by insurance holding companies.

The Ryan agencies, including James S. Kemper & Co., are owned by Ryan Insurance Group Inc., which operates a small property/casulaty insurer and life insurance companies with independent sales forces. Reliance Insurance Group owns approximately 40% of Crump.

Prudential Insurance Co. of America formerly owned Bache Insurance Services but divested the brokerage to avoid conflicts with its own agency force and broker marketing.

Northbrook seeking $11 million

Continued from page 3

in additional settlement costs to date on top of the $11 million charged to CU. American's policy limit is $50 million.

Northbrook's argument hinges on several key points:

- Legal precedent requires insurance contracts to be interpreted only by their language, not by the intent of the parties who signed them. Therefore, CU can't claim, based on testimony of Hyatt's risk manager at a November court hearing, that Hyatt intended only be added to Hallmark's policies for construction-related risks because a policy can't be amended by word-of-mouth.

Moreover, Endorsement No. 27 to CU's $1 million primary policy expressly contained a provision that it applied to completed buildings. "Manifestly, the Kansas City Hyatt Hotel qualifies as a 'completed building' for which coverage should apply to all three insureds."

- Northbrook's excess policy was written so as to make it excess of any other underlying policies, including those of Crown Center and Hallmark. Thus, Northbrook says, it shouldn't have to defend or pay money until the entire $101 million Hallmark line is exhausted. CU's excess policy is written so that it is only excess to the $1 million CU primary policy, Northbrook concludes.
- Even if CU doesn't have any obligations to Hyatt, at the very least it should be defending Crown Center/Hallmark against any lawsuits that allege a claim within the coverage of the CU policies.

Northbrook cites Part I of Endorsement No. 3 to CU's $1 million primary policy to illustrate this argument. It reads, "When the amount of all claims or suits seeking damages as a result of one occurrence is in excess of the retained limit, the company shall have the right and duty to defend such claim or suit even if any of the allegations of the claim or suit are groundless, false or fraudulent. . . ."

In its motion, Northbrook also reveals language of a key endorsement to Commercial Union's $1 million primary policy.

The endorsement, No. 18, was aimed at adding Hyatt as an additional insured to the Crown Center/Hallmark line. One paragraph, however, excludes from CU's coverage any coverage provided by what was then, apparently, Hyatt's primary comprehensive general liability policy.

The Hyatt policy is identified in the endorsement by number and by the insurer—National Union Fire Insurance Co.— and the CU endorsement seeks to exclude from CU's coverage any risks covered by National Union's policy "and its renewals. . .covering operations of the Kansas City Hyatt Regency. . . ."

Northbrook argues that at the time of the skywalk collapse, Hyatt carried no relevant insurance from National Union; that the comparable policy in effect at the time was the $1-million primary Occidental policy; and, therefore, the exclusion isn't valid because the Occidental policy wasn't a "renewal" of the National Union policy.

Northbrook argues that even if CU was attempting to avoid coverage for risks accepted by Hyatt's insurers for hotel operations, it failed to do so.

And anyway, Northbrook argues, the skywalk collapse at the Hyatt may involve design and construction errors rather than operations. ■

British insurers fare better than expected

By ALAN CLIFTON
and PHIL V. OLSEN

THE FOURTH QUARTER and the final 1981 results of Britain's largest insurers were in each case better than the analysts, ourselves included, had been reckoning. And at least in part, the insurers can thank the U.S. risks they insured.

Both General Accident and Royal Insurance beat Best's 1981 estimated outcome for stock insurers with a statutory operating ratio (combined ratio) of 104.9% before policyholder dividends. Commercial Union with a combined ratio of 108.1% also was not as far adrift as we had feared.

One of the key reasons why the insurer performances were so good was very favorable experience on workers compensation. Commercial Union was particularly successful with this coverage. CU achieved a 30% growth in premium volume, way ahead of the 5% growth achieved by stock insurers in general, while its combined ratio fell broadly in line with the overall market.

Success in this line, however, may be short-lived. On one hand, experience is bound to deteriorate in 1982 as the recession shrinks payrolls and premium growth. Premiums also are suffering from rate competition, slowing growth still further. Claims frequency, judging by past recessions, also may accelerate this year and next, so combined ratios in this line seem destined to rise.

On the other hand, investment income returns from workers compensation should remain buoyant to keep the business in the black overall.

In other lines of coverage, homeowners coverage in the fourth quarter was good to British insurers active in the U.S. market. General Accident was just the wrong side of breaking even in this period, but both Royal and CU recorded combined ratios of less than 100% for the catastrophe-free closing three months of the year in the United States.

BI ticker

The bad news in homeowners insurance, though, was that 1982 started with severe weather losses in the United States that will impact this year's first-quarter results.

In the United Kingdom, freezing weather hurt insurers not only in January but also in the closing days of December 1981. And the losses are proving substantial.

The bad weather in Britain cost Royal an estimated $24 million in December and perhaps as much as $30 million in January. General Accident and Commercial Union got off more lightly but aggregate claims for the entire British property/casualty insurance industry from the freeze could well reach a mighty $500 million.

This total approximates the losses due to some of the more costly hurricanes suffered in the United States in previous years. For example, Hurricane Frederic caused an estimated $750 million in damage in September 1979.

Heavy losses in the United Kingdom, however, did not prevent the British insurers' home territory from being once again the most favorable of the major markets for these insurance groups. The experience of Royal Insurance, which has changed the way it presents results, aptly bears out this point.

Royal's territorial insurance results now show both the underwriting and investment income performances of its major operating subsidiaries. The insurer's 1981's results revealed worldwide general insurance earnings of 49.5 million pounds before taxation or 42% of its total pretax income of 117.6 million pounds.

By an interesting coincidence, the entire general insurance profit in 1981 was 49.5 million pounds, all earned in the United Kingdom. That means that all of Royal's overseas operations did no better in aggregate than break even.

Overall surpluses in the United States and Holland were offset by heavy operating deficits, even after crediting investment income, in such perennially troublesome markets as Australia and Canada.

In 1982 business is likely to remain tough for the big British insurance companies. They hope that Australian and Canadian experience will be better, but offsetting this, the insurers can expect British and U.S. markets to deteriorate. We are projecting flat to marginally better earnings from General Accident and Royal but another sizable decline at Commercial Union.

None of the Lloyd's insurance broking companies has yet published final 1981 results but news is imminent from both Sedgwick and Willis Faber.

Now that Alexander Howden's shares have disappeared from the London listings, following its acquisition by Alexander & Alexander Services Inc., there are only seven remaining major British brokers offering an avenue for investment in the sector, and Sedgwick (market capitalization $600 million) and Willis Faber (market capitalization $300 million) account for more than 60% of the total market value for Lloyd's insurance brokers of $1.46 billion.

By comparison with U.S. brokers, the British broking business appears small. Marsh & McLennan's market value alone is about $1.2 billion.

Pending the U.K. brokerage results, we note that stock prices have been quite strong both absolutely and relative to the rest of the equity market. Since our last contribution to this column, just over three months ago, the Lloyd's broking sector index has added about 10%, and in so doing, has beaten the broad market index by nearly 8%.

The main reason is not hard to find. Sterling has weakened against the U.S. dollar by more than 7% since early December 1981 and this trend should assist those Lloyd's brokers that handle substantial volumes of U.S. insurance business to record good profit results in the first six months of 1982.

Another factor that has probably had some effect on the buoyancy of share prices stems from the acquisition of Howden. Although it is now possible to deal in the common stock of Alexander & Alexander on the London Stock Exchange and an unofficial market exists in the A&A convertible debentures, British investors have been insufficiently encouraged to maintain their interest in A&A.

Many who had not sold their Howden shares before the takeover have subsequently sold their holdings of A&A common and debentures. Some of the proceeds, not unnaturally, have found their way back into the remaining listed Lloyd's brokers.

Favored stocks have included Minet and C.E. Heath, whose attractions are presumed to relate not only to the substantial beneficial exposure to the weakness of the pound sterling but also to their potential vulnerability to takeover. Acquisition activity, after all, has certainly not abated in the insurance broking industry.

Even before Jardine Matheson had completed its purchase of Bache Insurance Sevices, Reed Stenhouse had announced an offer to acquire Schiff Terhune. Meanwhile, in the United Kingdom, there has been news of other changes of ownership among some of the smaller Lloyd's brokers who, despite the masking affects of the sterling's weakness, have been finding life quite difficult.

The $64,000 question, after Alexander & Alexander and Howden announced their deal, used to be whether or not Sedgwick would try to take over one of the U.S. alphabet brokers. Now, if the share price action is any guide, the big question seems to have changed to which one Sedgwick will acquire. ■

British Issues

23 March Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence pence
Commi Union	147	12.3	16.86	11.5	148—144
Eagle Star	388	11.1	21.43	5.5	388—368
Genl Accident	322	7.3	23.21	7.2	324—320
Gdn Royal Exch	310	7.3	23.21	7.4	314—308
Phoenix	266	8.8	22.43	8.5	266—262
Royal	377	10.0	36.07	9.6	377—365
Sun Alliance	868	8.9	53.57	6.2	874—860
Brokers					
CE Heath	326	9.4	15.71	4.8	326—305
Hogg Robinson	114	8.8	8.57	7.5	115—111
JH Minet	170	10.0	6.80	4.0	170—162
Sedg Grp	159	10.2	8.57	5.4	159—150
Stenhouse Hldg	117	8.5	7.28	6.2	117—110
Stew Wrightson	213	9.7	17.14	8.0	213—203
Willis Faber	436	11.0	21.43	4.9	438—406

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

Alan H. Clifton, left, and Phil V. Olsen are analysts with London-based Kitcat & Aitken. They report quarterly on the British insurance industry for Business Insurance, in addition to supplying weekly earnings reports on British companies for BI Ticker.

BI Industry Stock Report

MAR. 23, 1982 3/17/82 THRU 3/23/82

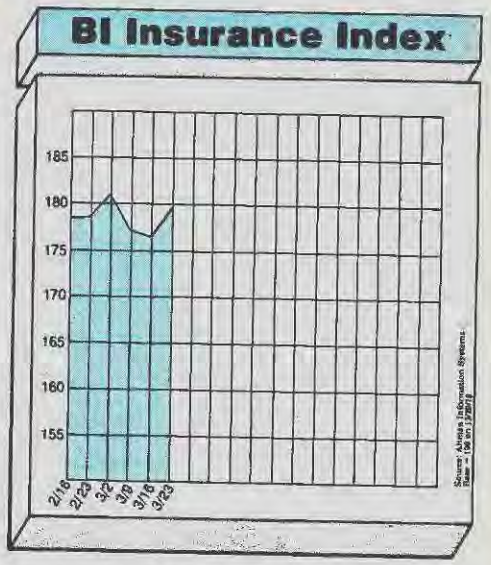
Insurance Cos.		Price	Chg	P E	S Div	Yld	High	Low	Vol (000)
Aetna Life & Cas Co	NYSE	46.88	5.3	7.7	2.52	5.4	46.88	45.00	641.0
American Bankers Ins Group	OTC	7.63	7.0	6.4	0.48	6.3	7.63	7.13	86.8
American Gen Ins Co	NYSE	42.75	4.6	6.4	2.20	5.1	42.75	40.75	88.7
American Indty Finl Corp	OTC	15.63	2.5	7.5	1.12	7.2	15.63	15.13	7.0
American Intl Group Inc	OTC	65.50	4.4	10.9	0.48	0.7	65.50	62.75	255.6
American Natl Ins Co	OTC	14.13	1.8	6.0	0.76	5.4	14.13	13.88	40.2
American Sts Life Ins Co	OTC	15.50	-1.6	5.0	0.80	5.2	15.50	15.50	0.2
Aneco Reins Ltd	OTC	2.00	0.0	0.0	0.00	0.0	2.00	2.00	31.0
Appalachian Natl Corp	OTC	2.63	0.0	0.1	0.00	0.0	2.63	2.63	0.4
Avemco Corp	AMEX	11.50	2.2	7.6	0.54	4.7	11.50	11.25	14.2
Banks Iowa Inc	OTC	35.00	0.0	5.4	1.48	4.2	35.00	35.00	0.2
Bitco Corp	OTC	31.00	0.0	4.7	1.92	6.2	31.00	31.00	16.6
Carolina Cas Ins Co	OTC	6.75	0.0	6.3	0.32	4.7	6.75	6.75	0.4
Chubb Corp	OTC	45.50	3.1	5.4	2.92	6.4	45.50	43.63	80.8
Combined Intl Corp	NYSE	21.50	6.2	5.8	1.80	8.4	21.50	20.13	222.4
Connecticut Gen Ins Corp	NYSE	49.63	2.8	5.7	2.04	4.1	49.63	47.88	237.6
Continental Corp	NYSE	27.38	3.3	6.9	2.60	9.5	27.50	26.50	349.5
Crawford & Co	OTC	12.25	0.0	9.6	0.56	4.6	12.25	12.25	1.1
Crown Life Ins Co	OTC	80.25	0.6	5.9	3.10	3.9	80.25	79.75	0.2
Crum & Forster	NYSE	33.00	0.4	5.4	1.64	5.0	33.00	32.50	282.9
Employers Cas Co	OTC	28.25	1.8	6.1	1.20	4.2	28.25	27.75	4.2
Equifax Inc	NYSE	29.88	4.8	8.6	2.60	8.7	29.88	28.38	12.2
Excelsior Ins Co	OTC	17.75	1.4	12.2	0.70	3.9	17.75*	17.50	0.6
Farmers Group Inc	OTC	34.13	1.9	9.7	1.24	3.6	34.13	33.13	196.0
First Colony Life Ins Co	OTC	63.63	0.6	18.9	1.02	1.6	63.63	63.25	3.3
Foremost Corp Amer	OTC	27.75	11.0	7.7	1.12	4.0	27.75	25.50	22.5
Great West Life Assurn Co	OTC	225.00	0.0	8.7	10.00	4.4	225.00	225.00	0.0
Hanover Ins Co	OTC	30.75	3.4	3.8	0.72	2.3	30.75	29.75	11.7
Hartford Steam Boiler Inspctn	OTC	38.00	-3.8	6.6	2.80	7.4	38.50	38.00	4.7
Jefferson Natl Life Ins Co	OTC	31.50	0.0	9.7	0.76	2.4	32.00	31.50	7.5
Kemper Corp	OTC	33.13	-0.4	5.4	1.80	5.4	33.13	32.75	59.5
Lincoln Natl Corp Ind	NYSE	40.63	0.3	6.6	3.00	7.4	40.75	39.75	182.6
Mgic Invt Corp	NYSE	51.75	0.0	12.7	1.28	2.5	51.75	51.75	0.0
Mission Ins Group Inc	NYSE	33.75	-0.7	5.9	1.20	3.6	34.00	33.50	43.8
Nationwide Corp Ohio	OTC	26.75	0.9	7.8	0.70	2.6	26.75	26.50	5.1
Northwestern Natl Life Ins	OTC	24.63	-0.5	5.1	1.36	5.5	24.75	24.50	62.3
Ohio Cas Corp	OTC	44.75	5.3	6.7	2.36	5.3	44.75	42.00	54.2
Old Rep Intl Corp	OTC	18.25	-0.7	4.3	0.92	5.0	18.25	18.13	36.3
Preferred Risk Life Ins Co	OTC	19.25	6.9	5.7	0.92	4.8	19.25	18.25	6.7
Provident Life & Acc Ins Co	OTC	47.50	1.1	5.9	2.44	5.1	47.50	47.00	6.4
Ryan Ins Group Inc	OTC	19.50	1.3	8.3	0.16	0.8	19.50	19.25	8.7
St Paul Cos Inc	OTC	48.13	5.5	6.3	2.60	5.4	48.13	45.13	167.1
Safeco Corp	OTC	39.25	5.4	6.8	2.20	5.6	39.25	37.25	178.4
Sri Corp	OTC	22.00	1.1	4.4	1.00	4.5	22.00	21.25	37.1
Seibels Bruce Group Inc	OTC	20.75	0.0	10.0	0.80	3.9	20.75	20.63	22.2
Statesman Group Inc	OTC	5.50	-2.2	4.3	0.15	2.7	5.63	5.50	12.5

MAR. 23, 1982 3/17/82 THRU 3/23/82

		Price	% Chg	P E	S Div	% Yld	High	Low	Vol (000)
Tokio Marine & Fire Ins Co	OTC	93.25	-0.8	7.4	1.00	1.1	94.00	92.75*	7.0
Travelers Corp	NYSE	49.88	3.9	5.9	2.88	5.8	49.88	47.88	460.9
United Fire & Cas Co	OTC	29.50	0.0	7.7	0.88	3.0	29.50	29.50	0.6
United States Fid & Gty Co	NYSE	45.25	0.8	7.6	3.60	8.0	45.63	45.00	115.4
United Svcs Life Ins Co	OTC	15.13	2.5	5.6	1.00	6.6	15.13	14.75	17.3
Uslife Corp	NYSE	20.63	6.5	4.2	0.84	4.1	20.63	19.50	318.1
Washington Natl Corp	NYSE	15.25	6.1	5.5	1.08	7.1	15.25	14.63	46.1
Zenith Natl Ins Corp	OTC	16.75	1.5	8.4	0.76	4.5	16.75	16.50	16.3
INSURANCE COMPANIES	AVERAGE			5.9		4.5			
Agents/Brokers									
Alexander & Alexander Svcs	OTC	29.50	4.0	9.9	1.94	6.6	29.50	28.50	127.3
Baldwin & Lyons Inc	OTC	35.00	0.0	6.3	0.80	2.3	35.00	35.00	1.6
Corroon & Black Corp	NYSE	19.88	0.6	11.2	1.76	8.9	19.88	19.88	14.7
Crump E H Cos Inc	OTC	8.38	0.0	15.5	0.40	4.8	8.38	8.38	7.9
Hall Frank B & Co Inc	NYSE	25.88	-0.5	9.8	1.70	6.6	26.00	25.63	53.5
Integrated Res Inc	AMEX	14.50	7.4	5.9	0.00	0.0	14.50	13.75	35.0
James Fred S & Co Inc	NYSE	22.00	3.5	10.3	1.60	7.3	22.00	21.25	44.7
Marsh & Mclennan Cos Inc	NYSE	33.38	0.4	10.2	2.00	6.0	33.38	32.50	216.7
Penncorp Fincl Inc	NYSE	6.38	6.2	5.1	0.16	2.5	6.38	6.00	105.3
Pinehurst Corp	OTC	8.63	0.0	0.0	0.00	0.0	8.63	8.63	1.9
Poe & Assoc Inc	OTC	8.88	1.4	10.1	0.80	9.0	8.88	8.75	0.6
Reed Stenhouse Cos Ltd	OTC	11.88	5.6	9.7	0.60	5.1	12.25	11.13	6.3
Rollins Burdick Hunter Co	OTC	18.75	5.6	11.7	1.32	7.0	18.75	17.75	11.4
AGENTS/BROKERS	AVERAGE			9.3		5.4			
Conglomerates/Holding Cos.									
American Express(Fireman's Fd)	NYSE	47.38	8.6	8.5	2.20	4.6	47.38	43.38	1,183.7
Anderson Clayton(Ranger/PanAm)	NYSE	30.00	4.8	6.1	1.32	4.4	30.00	28.25	56.0
Armco Inc	NYSE	21.00	-5.6	4.2	1.80	8.6	22.50	21.00	278.6
City Investing Co. (Home Ins.)	NYSE	21.88	6.7	6.3	1.60	7.3	22.00	21.13	278.9
CNA Finl Corp (CNA)	NYSE	14.25	-4.2	5.9	0.00	0.0	14.88	14.00	211.3
Control Data (Comml. Credit)	NYSE	32.38	10.2	7.3	0.55	1.7	32.38	29.63	1,163.6
General Re Corp	NYSE	80.88	5.4	9.9	2.16	2.7	80.88	79.00	133.9
Gulf Utd Corp	NYSE	17.25	0.0	5.8	1.32	7.7	17.75	16.88	104.4
INA Corp (Ins. Co. of NA)	NYSE	46.25	6.0	6.3	2.40	5.2	46.25	43.50	400.9
ITT (Hartford Group)	NYSE	24.50	-3.0	5.2	2.68	10.9	25.00	24.38*	856.2
Optimum Hldg Corp	OTC	9.00	0.0	6.9	0.00	0.0	9.00	9.00	3.2
Sears Roebuck & Co. (Allstate)	NYSE	18.88	3.6	9.2	1.36	7.2	18.88	17.38	3,970.4
Baldwin Utd Corp	NYSE	60.50	4.8	8.7	1.60	2.6	60.50	58.00	107.5
Teledyne Inc (Argonaut)	NYSE	118.25	5.5	5.9	0.00	0.0	120.25	113.75	555.1
Transamerica Corp (Occidental)	NYSE	19.38	0.6	5.6	1.40	7.2	19.50	19.13	866.4
CONGLOMERATES/HOLDING COS.	AVERAGE			6.8		3.6			

*Record high low since Jan. 1, 1981. System design: Altman Information Systems

BI Insurance Index



Insurance industry stocks posted broad gains, as did the rest of the market, with the *Business Insurance* stock index gaining 3.4 points to 179.9 from 176.5. Forty-five issues posted increases, only 11 declined and 16 were unchanged. The leading gains were posted by: Foremost Corp. American, 11.0%; Integrated Resources Co., 7.4%; American Bankers Insurance Group, 7.0%; Preferred Risk Life Insurance Co., 6.9%; and USLife Corp., 6.5%. The biggest declines were suffered by: Armco Inc., 5.6%; CNA Financial Corp., 4.2%; The Hartford Steam Boiler Inspection & Insurance Co., 3.8%; Statesman Group Inc., 2.2%; and American States Life Insurance Co., 1.6%. The *BI* index gained 1.9%, which was less than the strong showings in the three major stock market averages.

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Today, our National Energy Division keeps A&A the foremost energy insurance broker. This crack team of technical experts offers you the most comprehensive services available, with in-depth experience in every energy area. Oil. Gas. Coal. Utilities. Nuclear power. Shale oil. Tar sands. Synthetic fuels, solar and other alternative energy sources. Pipelines. Marine. Storage and distribution. And contractor and supplier services.

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Because members of our National Energy Division are strategically located at key energy centers across the country, it is easy for local offices to draw upon the expertise you need, no matter what energy area you specialize in. Together, we'll help analyze, design and service custom-made, cost-efficient risk management programs.

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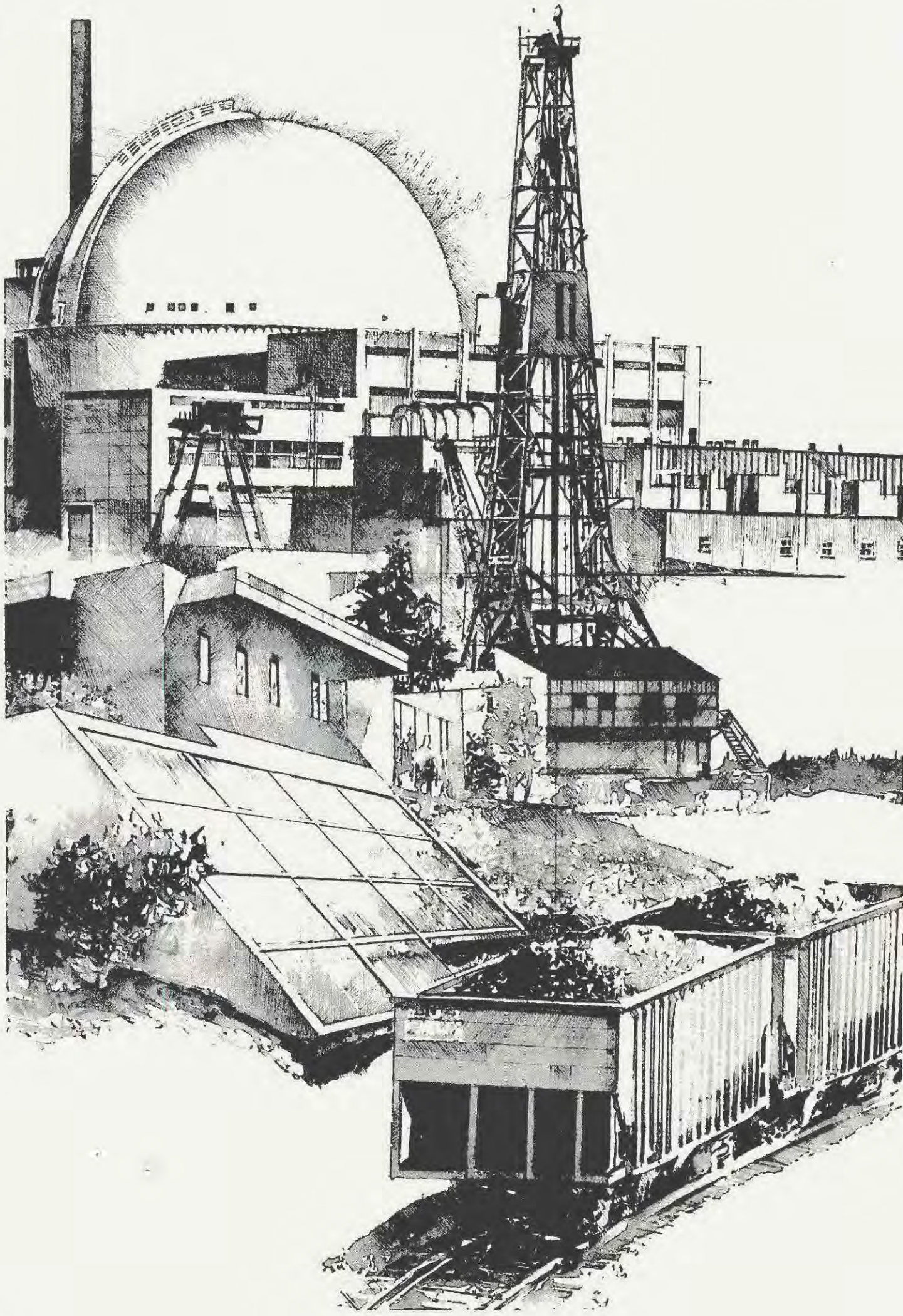
We think a big reason A&A has become one of the largest and most trusted insurance brokers worldwide is that we work the same way with every client. From the client's point of view.



Alexander & Alexander

From the client's point of view.